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1 MEETING OF SENATE

The Senate met at 12.30 pm. The President (Senator the Honourable Paul Calvert) took the chair and read prayers.

2 GOVERNMENT DOCUMENT

The following government document was tabled:

Australian Competition and Consumer Commission—Telecommunications reports for 2001-02—Report 1: Telecommunications competitive safeguards; Report 2: Changes in prices paid for telecommunications services in Australia; Report 3: Telstra's compliance with price control arrangements.

**3 ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL (NO. 1) 2002
AUSTRALIAN HERITAGE COUNCIL BILL 2002
AUSTRALIAN HERITAGE COUNCIL (CONSEQUENTIAL AND TRANSITIONAL
PROVISIONS) BILL 2002**

Order of the day read for the further consideration of the bills in committee of the whole.

In the committee

ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL (NO. 1) 2002—

Consideration resumed of the bill, as amended—and of the amendment moved by Senator Brown:

Schedule 1, page 11 (after line 7), after item 4, insert:

4B After Subdivision FA

Insert:

Subdivision FB—Native vegetation**24D Requirement for approval to clear native vegetation**

- (1) A person must not take an action that will lead or is likely to lead to clearing of native vegetation in excess of 1,000 hectares in any period of 5 years if the action will have or is likely to have an adverse impact on any of the following:
 - (a) the habitat of flora or fauna;
 - (b) ecological processes;
 - (c) the genetic diversity of flora and fauna and their potential for evolutionary development in the wild;
 - (d) greenhouse gas emissions;
 - (e) erosion, salinisation and other forms of land degradation;
 - (f) wetlands, waterways and water resources;
 - (g) landscape quality.

Civil penalty:

 - (a) for an individual—5,000 penalty units;
 - (b) for a body corporate—50,000 penalty units.
- (2) Subsection (1) does not apply to an action if:
 - (a) an approval of the taking of the action by the person is in operation under Part 9 for the purposes of this section; or

- (b) Part 4 lets the person take the action without an approval under Part 9 for the purposes of this section; or
- (c) there is in force a decision of the Minister under Division 2 of Part 7 that this section is not a controlling provision for the action and, if the decision was made because the Minister believed the action would be taken in a manner specified in the notice of the decision under section 77, the action is taken in that manner; or
- (d) the action is an action described in subsection 160(2) (which describes actions whose authorisation is subject to a special environmental assessment process), or the giving of an authorisation (however described) of such an action.

24E What is *native vegetation*?

In this Act:

clearing, in relation to native vegetation, means:

- (a) lopping native vegetation; or
- (b) destroying native vegetation; or
- (c) removing native vegetation.

native vegetation means vegetation that is indigenous to the land, local government area, Territory or State in question.

Debate resumed.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 9

Senators—

Allison (Teller)	Cherry	Murray	Ridgeway
Bartlett	Greig	Nettle	Stott Despoja
Brown			

NOES, 45

Senators—

Barnett	Eggleston	Kirk	Ray
Bishop	Ferguson	Knowles	Scullion
Boswell	Ferris	Lees	Stephens
Buckland (Teller)	Forshaw	Lightfoot	Tchen
Calvert	Harris	Ludwig	Tierney
Campbell, George	Heffernan	Lundy	Troeth
Chapman	Hill	Marshall	Watson
Colbeck	Hogg	Mason	Webber
Collins	Humphries	McGauran	Wong
Cook	Hutchins	Moore	
Crossin	Johnston	Patterson	
Denman	Kemp	Payne	

Question negatived.

Senator Lundy moved the following amendment:

Schedule 1, page 11 (after line 7), after item 4, insert:

4A After Subdivision F of Division 1 of Part 3

Insert:

Subdivision FA—Protection of the environment from greenhouse actions

24B Requirement for approval of greenhouse actions

- (1) A person must not knowingly, intentionally or recklessly take a greenhouse action that has, will have or is likely to have a significant impact on the environment.

Civil penalty:

- (a) for an individual—5,000 penalty units;
(b) for a body corporate—50,000 penalty units.

- (2) Subsection (1) does not apply to an action if:
- (a) an approval of the taking of the action by the person is in operation under Part 9 for the purposes of this section; or
- (b) Part 4 lets the person take the action without an approval under Part 9 for the purposes of this section; or
- (c) there is in force a decision of the Minister under Division 2 of Part 7 that:
- (i) the action is not a controlled action; or
- (ii) the action is a controlled action but this section is not a controlling provision for the action.

24C What is a *greenhouse action*?

In this Act, a *greenhouse action* means any of the following:

- (a) establishing an industrial plant which emits, or is likely to emit, more than 500,000 tonnes of carbon dioxide or carbon dioxide equivalent per year; or
- (b) any other action, series of actions, or policies which will lead, or are likely to lead, to the emission of more than 500,000 tonnes of carbon dioxide or carbon dioxide equivalent per year.

Debate ensued.

At 2 pm: The President resumed the chair and the Temporary Chair of Committees (Senator Cook) reported progress.

4 QUESTIONS

Questions without notice were answered.

5 QUESTION ON NOTICE—ANSWER AND EXPLANATION

Senator Allison, pursuant to standing order 74, asked the Minister for Health and Ageing (Senator Patterson) for an explanation of an answer not being provided to question on notice no. 1602 (notice given 7 July 2003) relating to the Pan Pharmaceuticals product recall.

Senator Patterson provided an explanation.

Senator Allison moved—That the Senate take note of the explanation.

Debate ensued.

Question put and passed.

6 MINISTER FOR FAMILY AND COMMUNITY SERVICES—ANSWERS TO QUESTIONS

Senator Bishop moved—That the Senate take note of the answers given by the Minister for Family and Community Services (Senator Vanstone) to questions without notice asked today.

Debate ensued.

Question put and passed.

7 NOTICES

The Chair of the Community Affairs References Committee (Senator Hutchins): To move on the next day of sitting—That the time for the presentation of the report of the Community Affairs References Committee on poverty and financial hardship be extended to 27 November 2003. (*general business notice of motion no. 543*)

Senator Ridgeway: To move on the next day of sitting—That the Senate—

(a) notes that:

- (i) the United States (US) Under Secretary of Commerce, Mr Grant Aldonan, has stated publicly that the US wishes to challenge reference pricing as part of the free trade agreement negotiations with Australia, saying, according to the *Australian Financial Review* of 13 August 2003, 'there is a sense of unfairness in the US' because US consumers paid high prices under a free market while consumers in Australia and elsewhere benefited from low 'reference prices' under schemes like the Pharmaceutical Benefits Scheme (PBS),
- (ii) the price of pharmaceuticals and the PBS would increase significantly in Australia if our PBS 'reference pricing scheme' was diminished or abandoned, and
- (iii) any free trade agreement with Australia must pass the US Congress; and

(b) calls on the Australian Government to:

- (i) advise the US that it will not agree to change Australia's 'reference pricing' on the PBS and remove the matter from US free trade agreement negotiations, and
- (ii) bring any free trade agreement to the Parliament for ratification. (*general business notice of motion no. 544*)

Senator Stott Despoja: To move on the next day of sitting—That the Senate—

(a) notes that:

- (i) the Fifth Meeting of States Parties to the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (the 'Mine Ban Treaty'), will be held in Bangkok from 15 September to 19 September 2003,
- (ii) not more than half the countries in the Asia-Pacific region have banned landmines, while about twelve countries continue to produce and use them, making the Asia-Pacific region the most prolific producer and user of landmines of any region in the world, and
- (iii) mine casualties were recorded in 13 of the 16 mine-affected countries within the Asia-Pacific region in 2002;

(b) welcomes the Australian Government's ongoing financial commitment to landmine clearing within the Asia-Pacific region; and

- (c) calls on the Australian Government to increase efforts to encourage other Asia-Pacific countries to sign and ratify the Mine Ban Treaty, through its bilateral discussions with the relevant countries and through its dialogue with forums such as the Association of South East Asian Nations. (*general business notice of motion no. 545*)

The Leader of the Australian Democrats (Senator Bartlett): To move on the next day of sitting—That there be laid on the table by the Minister representing the Minister for the Environment and Heritage (Senator Hill), no later than 3 pm on 21 August 2003, the following documents:

A copy of any correspondence from the Minister for the Environment and Heritage (Dr Kemp) to the Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) in which the Minister for the Environment and Heritage indicated a willingness not to prosecute fishers under the *Environment Protection and Biodiversity Conservation Act 1999* for the incidental capture of members of listed threatened species, listed migratory species and listed marine species in Commonwealth areas if the fishers were operating in accordance with fishing concessions granted under the *Fisheries Management Act 1991*. (*general business notice of motion no. 546*)

The Leader of the Australian Democrats (Senator Bartlett): To move on 21 August 2003—That the Senate—

- (a) notes that:
- (i) according to Amnesty International reports, at least 6 031 prisoners were executed between 2000 and 2003,
 - (ii) Australia has ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, thereby undertaking not to execute anyone within Australia,
 - (iii) the preamble to the Second Optional Protocol indicates the intention of the parties to undertake an international commitment to abolish the death penalty and sets out the belief of the parties that the ‘abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights’, and
 - (iv) pursuant to the *Mutual Assistance in Criminal Matters Act 1987*, the Government may refuse to provide assistance to foreign countries with respect to a criminal investigation if the provision of assistance may result in the death penalty being imposed; and
- (b) calls on the Australian Government to reaffirm its commitment to work towards the international abolition of the death penalty. (*general business notice of motion no. 547*)

Senator Nettle: To move on 21 August 2003—That the Senate—

- (a) notes:
- (i) the strong campaign for ‘fair trade’ being conducted by the Australian Council of Trade Unions (ACTU) and its United States (US) counterpart, the American Federation of Labor-Congress of Industrial Organisations (AFL-CIO), in relation to the current Free Trade Agreement being negotiated by the US and Australia, and
 - (ii) the unanimous support at the ACTU Congress for freezing current Australian tariff levels, excluding public services, incorporating enforceable International Labour Organisation (ILO) standards and adopting anti-dumping provisions in any trade deals; and

- (b) calls on the Federal Government to:
 - (i) openly declare its exclusion of Australian cultural industries and standards from the Australian-US Free Trade Agreement,
 - (ii) remove public services and other services of national or social significance from the Free Trade Agreement negotiating table, and
 - (iii) include enforceable ILO standards and environmental standards in all trade deals with Australia. (*general business notice of motion no. 548*)

Senator Brown: To move on the next day of sitting—That the Senate—

- (a) notes that community, church, chamber of commerce, union and other non-government organisations are pushing for the establishment of a Truth and Reconciliation Commission in the Solomon Islands; and
- (b) calls on the Australian Government to offer the Solomon Islanders financial, technical and other support for the establishment of such a commission. (*general business notice of motion no. 549*)

Senator Brown: To move on the next day of sitting—That the Senate—

- (a) recognises that as many as 170 Indo-Pacific bottlenose dolphins are being held in primitive sea pens in the Solomon Islands;
- (b) notes that a recent inspection by Solomon Island non-government organisations and Australian diplomatic staff indicates that six of these dolphins have died from starvation in the past week and the remaining dolphins are lying motionless in overcrowded and shallow pools contaminated by faeces, and a number have blistered due to exposure to the sun; and
- (c) calls on the Australian Government:
 - (i) to provide immediate veterinary attention to the dolphins, and
 - (ii) after the dolphins have received veterinary attention, to press the Solomon Islands' authorities for their immediate release. (*general business notice of motion no. 550*)

8 CORPORATIONS AND FINANCIAL SERVICES—JOINT STATUTORY COMMITTEE— LEAVE TO MEET DURING SITTINGS

Senator Ferris, by leave and at the request of the Chair of the Parliamentary Joint Committee on Corporations and Financial Services (Senator Chapman), moved—That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold public meetings during the sittings of the Senate on 19 August and 20 August 2003 from 4.30 pm, to take evidence for the committee's inquiry into Australia's insolvency laws.

Question put and passed.

9 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES COMMITTEE—EXTENSIONS OF TIME TO REPORT

Senator Ridgeway, by leave and at the request of the Chair of the Environment, Communications, Information Technology and the Arts References Committee (Senator Cherry), moved—That the time for the presentation of the following reports of the committee be extended to 16 September 2003:

- (a) the role of libraries as providers of public information in the online environment; and
- (b) environmental regulation of the Ranger, Jabiluka, Beverley and Honeymoon uranium operations.

Question put and passed.

10 POSTPONEMENTS

Items of business were postponed as follows:

Business of the Senate notice of motion no. 2 standing in the name of the Leader of the Australian Democrats (Senator Bartlett) for today, relating to the disallowance of the Migration Amendment Regulations 2003 (No. 1), as contained in Statutory Rules 2003 No. 57, postponed till 9 September 2003.

General business notice of motion no. 528 standing in the name of Senator Stott Despoja for today, relating to human rights in Hong Kong, postponed till 20 August 2003.

General business notice of motion no. 542 standing in the name of Senator Mackay for today, relating to the cancellation of the ABC program *Behind the News*, postponed till 20 August 2003.

A postponement notification was announced in respect of business of the Senate notice of motion no. 1 standing in the name of Senator Brown for today, relating to the disallowance of Amendment 41 of the National Capital Plan (Gungahlin Drive Extension), to be postponed till 4 November 2003.

Pursuant to standing order 67, Senator Lundy requested that the question for the postponement of the notice of motion be put.

Statements by leave: Senators Lundy and Brown, by leave, made statements relating to the matter.

Senator Brown, by leave, withdrew the notification of postponement.

11 COMMUNITY AFFAIRS REFERENCES COMMITTEE—REFERENCE

The Chair of the Community Affairs References Committee (Senator Hutchins), pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 4—That the following matters be referred to the Community Affairs References Committee for inquiry and report by the first sitting day of the 2004 winter sittings:

- (a) the history of post-transfusion Hepatitis in Australia, including when Non-A, Non-B Hepatitis (Hepatitis C) was first identified as a risk to the safety of blood supplies in Australia and internationally;
- (b) the understanding of Hepatitis C by blood bankers, virologists and liver specialists during the past 3 decades, including when Hepatitis C was first identified as a virus transmissible through blood;
- (c) when the first cases of post-transfusion Hepatitis C were recorded in Australia;
- (d) when the Australian Red Cross and the plasma fractionator Commonwealth Serum Laboratories first become aware of infections from blood contaminated by Hepatitis C, and the actions taken by those organisations in response to those infections;
- (e) the process leading to the decision by the Australian Red Cross not to implement testing (such as surrogate testing) for Hepatitis C once it became available;
- (f) the likelihood that Hepatitis C infections could have been prevented by the earlier implementation of surrogate testing and donor deferral;
- (g) the implications for Australia of the world's most extensive blood inquiry, Canada's Royal Commission (the Krever Report);

- (h) the implications for Australia of the recent criminal charges against the Canadian Red Cross for not implementing surrogate testing for Hepatitis C in the 1980s;
- (i) the Commonwealth's involvement in the provision of compensation to victims of transfused Hepatitis C, including the use of confidentiality clauses in those compensation payments;
- (j) the high infection rate of Hepatitis C for people suffering from haemophilia;
- (k) the extent to which Australia has been self-sufficient in blood stocks in the past 3 decades;
- (l) the importation of foreign-sourced blood plasma for use in the manufacture of blood products and its potential role in the proliferation of Hepatitis C infected blood;
- (m) the number of Australians who have been infected with Hepatitis C through blood transfusion;
- (n) the impact that blood-transfused Hepatitis C has had on its victims and their families; and
- (o) what services can be provided or remedies made available to improve outcomes for people adversely affected by transfused Hepatitis C.

Question put and passed.

12 ECONOMICS LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT

Senator Ferris, at the request of the Chair of the Economics Legislation Committee (Senator Brandis) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 540—That the time for the presentation of the report of the Economics Legislation Committee on the provisions of the Financial Services Reform Amendment Bill 2003 be extended to 21 August 2003.

Question put and passed.

13 RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE—EXTENSION OF TIME TO REPORT

The Chair of the Rural and Regional Affairs and Transport References Committee (Senator Ridgeway), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 539—That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on forestry plantations be extended to 8 October 2003.

Question put and passed.

14 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION REFERENCES COMMITTEE—EXTENSION OF TIME TO REPORT

Senator Ludwig, at the request of the Chair of the Employment, Workplace Relations and Education References Committee (Senator George Campbell), amended Senator George Campbell's notice of motion by leave and, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 536—That the time for the presentation of the report of the Employment, Workplace Relations and Education References Committee on the refusal of the Government to respond to the order of the Senate of 21 August 2002 for the production of documents relating to financial information concerning higher education institutions be extended to 15 October 2003.

Question put and passed.

15 DEATH OF MRS ALICE ELLEN KELLY

Senator Ridgeway, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 537—That the Senate—

- (a) notes:
- (i) the great loss suffered by the Indigenous community and the Catholic communities of New South Wales and Victoria following the death of Mrs Alice Ellen Kelly on 30 June 2003, and
 - (ii) that Alice was a senior custodian of the Mutthi Mutthi people of south-western New South Wales and is survived by 10 children, 53 grandchildren, 109 great-grandchildren and 5 great-great grandchildren; and
- (b) recognises the contributions made by Alice to the Indigenous and non-Indigenous community during her lifetime, including:
- (i) the integral role in preserving the Aboriginal heritage of the Mutthi Mutthi people in the Mungo National Park area,
 - (ii) imparting vital anthropological and archaeological knowledge of the Willandra Lakes area,
 - (iii) receiving the Aboriginal Woman of the Year award in 1988, and
 - (iv) participating on many government and non-government committees concerned with land preservation and cultural heritage, including the World Heritage Committee.

Question put and passed.

16 HEALTH—DIABETES

Senator Ferris, at the request of Senator Barnett and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 541—That the Senate notes:

- (a) that children in Australia who have type 1 or insulin dependent diabetes face the future of long-term health and social consequences of this disease and its complications;
- (b) that people with type 1 diabetes also have to inject themselves between two and five times each day, monitor their blood glucose levels (BGL) and maintain the balance between too high BGL which leads to complications and too low BGL which can lead to hypoglycaemia, in which the person can lose consciousness;
- (c) the complications of type 1 diabetes, which include:
 - (i) cardio-vascular disease such as heart disease,
 - (ii) kidney disease,
 - (iii) ulcers and limb amputation, and
 - (iv) retinopathy that is still the leading cause of blindness in Australians under the age of 65;
- (d) that of every 100 Australians with diabetes, it is estimated that:
 - (i) over 75 will develop heart disease,
 - (ii) 43 will have severe kidney disease by the time they are 50 years old,
 - (iii) 60 to 70 will have mild to severe forms of nervous system damage,
 - (iv) 24 will develop retinopathy after 5 years, almost 60 after 10 years and all 100 after 20 years, and
 - (v) one will have had an amputation, as a result of diabetes;

- (e) type 2 diabetes is costing Australians a staggering \$3 billion a year with the bill for each sufferer averaging nearly \$11 000 in expenditure and benefits according to the Ausdiab Study (26 September 2002) but, on a per person basis, the cost of type 1 diabetes is higher, with people with type 1 diabetes accounting for 10 per cent of the diabetic population but 42 per of the economic burden;
- (f) that Australia has one of the highest rates of type 1 diabetes in the world;
- (g) the important work of the Juvenile Diabetes Research Foundation to highlight the concerns of Australians with type 1 diabetes and, specifically, the watershed event 'Kids in the House' held in Parliament House, Canberra, during the week beginning 17 August 2003;
- (h) the outstanding work by Australian researchers to find a cure for type 1 diabetes through pancreatic islet cell transplantation;
- (i) that research is essential to finding a transplant procedure that is safe and available to children with type 1 diabetes; and
- (j) the need for support from the Australian Government to establish:
 - (i) a national clinical islet cell transplant centre to advance islet cell transplantation, and
 - (ii) a research grant to attract the world's best scientists and ensure Australia's position at the forefront of global research.

Question put and passed.

17 DEATH OF MR CHARLIE DONOVAN

Senator Ridgeway, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 538—That the Senate notes:

- (a) with sadness, the death of Mr Charlie Donovan on 23 July 2003;
- (b) that Charlie was a pioneer Indigenous sportsperson in athletics and in rugby league during the 1950s and 60s and played with Canterbury Bankstown, Parramatta, and South Sydney Rugby League Football Clubs; and
- (c) Charlie's love of the South Sydney Rugby League Football Club with whom he played and later worked as a volunteer gear man for many years, with the club recently rewarding him with a 'Life Membership' award.

Question put and passed.

18 SCIENCE AND TECHNOLOGY—NATIONAL SCIENCE WEEK

Senator Ridgeway, at the request of Senator Stott Despoja and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 535—That the Senate notes that:

- (a) 16 August to 24 August 2003 is National Science Week;
- (b) National Science Week is an annual nation-wide celebration of science, innovation and technology with the aim of inspiring curiosity, discussion and debate about science and its impact in our world;
- (c) during National Science Week numerous universities, private companies, museums, galleries and research centres will offer members of the public access to their facilities and staff;
- (d) National Science Week events are being held in every state and territory and will look at topics as diverse as the science of sex, drugs and rock'n'roll to that of code breaking machines and burping sheep; and

- (e) as 2003 is the Year of Freshwater, this will be the focus for National Science Week 2003 and school students are encouraged to 'investigate freshwater' during the week.

Question put and passed.

19 DOCUMENTS

The following documents were tabled by the Clerk:

Dairy Produce Act—

Dairy Structural Adjustment Program Scheme 2000 Amendment (No. 11).

Declaration of industry services body—Dairy Australia Limited, dated 1 July 2003.

Supplementary Dairy Assistance Scheme 2001 Variation (No. 6).

Farm Household Support Act—

Dairy Exit Program Scheme Amendment 2003 (No. 1).

Farm Help Re-establishment Grant Scheme Amendment 2003 (No. 2).

Medical Indemnity Act—Regulations—Statutory Rules 2003 No. 208.

Social Security (International Agreements) Act—Regulations—Statutory Rules 2003 No. 207.

Telecommunications (Consumer Protection and Service Standards) Act—Telecommunications (Customer Service Guarantee) Direction No. 1 of 1999 (Amendment No. 1 of 2003).

20 UNPROCLAIMED LEGISLATION—ORDER FOR PRODUCTION OF DOCUMENT—DOCUMENT

The following document was tabled pursuant to standing order 139(2):

Unproclaimed legislation—Document providing details of all provisions of Acts which come into effect on proclamation and which have not been proclaimed, including statements of reasons for their non-proclamation and information relating to the timetable for their operation, as at 31 July 2003, dated August 2003.

21 COMMUNICATIONS LEGISLATION AMENDMENT BILL (NO. 2) 2003

A message from the House of Representatives was reported transmitting for the concurrence of the Senate the following bill:

Message no. 367, dated 18 August 2003—A Bill for an Act to amend legislation related to communications, and for related purposes.

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

Senator Ian Campbell moved—That this bill be now read a second time.

On the motion of Senator Moore the debate was adjourned till the next day of sitting.

22 NATIONAL CAPITAL PLAN (GUNG AHLIN DRIVE EXTENSION)—MOTION FOR DISALLOWANCE

Senator Brown, pursuant to notice, moved business of the Senate notice of motion no. 1—That Amendment 41 of the National Capital Plan (Gungahlin Drive Extension), made under the *Australian Capital Territory (Planning and Land Management) Act 1988*, be disallowed.

Debate ensued.

Question put.

The Senate divided—

AYES, 9

Senators—

Allison (Teller)	Cherry	Murray	Ridgeway
Bartlett	Greig	Nettle	Stott Despoja
Brown			

NOES, 42

Senators—

Abetz	Denman	Kirk	Payne
Barnett	Eggleston	Knowles	Ray
Bishop	Evans	Ludwig	Scullion
Boswell	Ferris (Teller)	Lundy	Sherry
Buckland	Forshaw	Marshall	Stephens
Campbell, George	Harris	Mason	Tchen
Carr	Hill	McGauran	Troeth
Colbeck	Hogg	McLucas	Watson
Collins	Humphries	Moore	Webber
Cook	Hutchins	O'Brien	
Crossin	Johnston	Patterson	

Question negatived.

23 POSTPONEMENT

Senator Brown, by leave, amended business of the Senate notice of motion no. 3 standing in his name for today, to read as follows:

To move—That item 3 of Schedule 1 of the Parliamentary Entitlements Amendment Regulations 2003 (No. 1), as contained in Statutory Rules 2003 No. 149 and made under the *Parliamentary Entitlements Act 1990*, be disallowed.

Senator Brown, by leave, moved—That business of the Senate notice of motion no. 3 standing in his name for today, be postponed till the next day of sitting.

Question put and passed.

24 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE—REPORT—POSTAL SERVICES LEGISLATION AMENDMENT BILL 2003

Pursuant to order, the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee (Senator Eggleston) tabled the following report and documents:

Environment, Communications, Information Technology and the Arts Legislation Committee—Provisions of the Postal Services Legislation Amendment Bill 2003—Report, dated August 2003, *Hansard* record of proceedings and submissions [6].

Report ordered to be printed on the motion of Senator Eggleston.

25 ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL (NO. 1) 2002
AUSTRALIAN HERITAGE COUNCIL BILL 2002
AUSTRALIAN HERITAGE COUNCIL (CONSEQUENTIAL AND TRANSITIONAL
PROVISIONS) BILL 2002

Order of the day read for the further consideration of the bills in committee of the whole.

—————
In the committee

ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL (NO. 1) 2002—

Consideration resumed of the bill, as amended—and of the amendment moved by Senator Lundy (see entry no. 3).

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 35

Senators—

Allison	Collins	Hutchins	O'Brien
Bartlett	Cook	Kirk	Ray
Bishop	Crossin	Ludwig	Ridgeway
Bolkus	Denman	Lundy	Sherry
Brown	Evans	Marshall	Stephens
Buckland (Teller)	Faulkner	McLucas	Stott Despoja
Campbell, George	Forshaw	Moore	Webber
Carr	Greig	Murray	Wong
Cherry	Hogg	Nettle	

NOES, 37

Senators—

Alston	Ellison	Lees	Santoro
Barnett	Ferguson	Lightfoot	Scullion
Boswell	Ferris	Macdonald, Ian	Tchen
Brandis	Harradine	Macdonald, Sandy	Tierney
Calvert	Harris	Mason	Troeth
Campbell, Ian	Heffernan	McGauran	Vanstone
Chapman	Hill	Minchin	Watson
Colbeck	Humphries	Murphy	
Coonan	Johnston	Patterson	
Eggleston (Teller)	Kemp	Payne	

Question negatived.

Senator Brown moved the following amendment:

Schedule 1, item 31, page 33 (after line 4), after subsection 324L(5), insert:

- (5A) To avoid doubt, if the Minister by instrument removes all or part of a place, or a National Heritage value of a place in accordance with this section, the instrument is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 35

Senators—

Allison	Collins	Hutchins	O'Brien
Bartlett	Cook	Kirk	Ray
Bishop	Denman	Ludwig	Ridgeway
Bolkus	Evans	Lundy	Sherry
Brown	Faulkner	Marshall	Stephens
Buckland (Teller)	Forshaw	McLucas	Stott Despoja
Campbell, George	Greig	Moore	Webber
Carr	Harradine	Murray	Wong
Cherry	Hogg	Nettle	

NOES, 34

Senators—

Abetz	Ellison	Lightfoot	Santoro
Barnett	Ferguson	Macdonald, Ian	Scullion
Boswell	Ferris	Macdonald, Sandy	Tchen
Brandis	Heffernan	Mason	Tierney
Campbell, Ian	Humphries	McGauran	Troeth
Chapman	Johnston	Minchin	Vanstone
Colbeck	Kemp	Murphy	Watson
Coonan	Knowles	Patterson	
Eggleston (Teller)	Lees	Payne	

Question agreed to.

Senator Nettle moved the following amendments together by leave:

Schedule 1, page 67 (after line 20), after item 38, insert:

38A At the end of subsection 523(1)

Add:

; and (f) a funding decision or recommendation.

Schedule 1, page 67 (after line 20), after item 38, insert:

38B Section 524 (heading)

Omit “not”.

Schedule 1, page 67 (after line 20), after item 38, insert:

38C Subsection 524(1)

After “decision”, insert “or recommendation”.

Schedule 1, page 67 (after line 20), after item 38, insert:

38D Subsection 524(2)

Omit “not”.

Schedule 1, page 67 (after line 20), after item 38, insert:

38E Subsection 524(3)

Omit “not” (first occurring).

Schedule 1, page 67 (after line 20), after item 38, insert:

38F Section 524A

Omit “not”.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 2

Senators—
Brown Nettle (Teller)

NOES, 48

Senators—

Abetz	Colbeck	Hutchins	Payne
Allison	Collins	Johnston	Ray
Bartlett	Crossin	Knowles	Ridgeway
Bishop	Denman	Lees	Scullion
Boswell	Faulkner	Lightfoot (Teller)	Sherry
Brandis	Ferguson	Ludwig	Stephens
Buckland	Forshaw	Macdonald, Sandy	Stott Despoja
Calvert	Greig	Marshall	Tchen
Campbell, George	Harris	Mason	Tierney
Campbell, Ian	Hill	McLucas	Troeth
Chapman	Hogg	Moore	Watson
Cherry	Humphries	Murray	Webber

Question negatived.

The following amendment moved by Senator Brown was reconsidered:

Schedule 1, item 31, page 33 (after line 4), after subsection 324L(5), insert:

(5A) To avoid doubt, if the Minister by instrument removes all or part of a place, or a National Heritage value of a place in accordance with this section, the instrument is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Question—That the amendment be agreed to—put again, by leave.

The committee divided—

AYES, 32

Senators—

Allison	Cherry	Hogg	Nettle
Bartlett	Collins	Hutchins	Ray
Bishop	Crossin (Teller)	Ludwig	Ridgeway
Bolkus	Denman	Lundy	Sherry
Brown	Faulkner	Marshall	Stephens
Buckland	Forshaw	McLucas	Stott Despoja
Campbell, George	Greig	Moore	Webber
Carr	Harradine	Murray	Wong

NOES, 33

Senators—

Abetz	Ferguson	Lightfoot	Scullion
Barnett	Ferris (Teller)	Macdonald, Sandy	Tchen
Boswell	Harris	Mason	Tierney
Brandis	Heffernan	McGauran	Troeth
Calvert	Hill	Minchin	Vanstone
Campbell, Ian	Humphries	Murphy	Watson
Chapman	Johnston	Patterson	
Colbeck	Knowles	Payne	
Coonan	Lees	Santoro	

Question negatived.

The Minister for Defence (Senator Hill) moved the following amendments together by leave:

Schedule 1, item 8, page 13 (after line 35), at the end of subitem (1), add:

Note: So far as those Subdivisions have effect in relation to places and actions outside the Australian jurisdiction, those Subdivisions apply only to persons with a jurisdictional connection with Australia or the external Territories. See subsection 5(3) of that Act.

Schedule 1, item 31, page 24 (lines 10 to 15), omit subsection 324D(3), substitute:

- (3) The regulations must prescribe criteria for the following:
- (a) natural heritage values of places;
 - (b) indigenous heritage values of places;
 - (c) historic heritage values of places.

The regulations may prescribe criteria for other heritage values of places.

- (4) To avoid doubt, a criterion prescribed by the regulations may relate to one or more of the following:
- (a) natural heritage values of places;
 - (b) indigenous heritage values of places;
 - (c) historic heritage values of places;
 - (d) other heritage values of places.

Schedule 1, item 31, page 25 (after line 12), after subsection 324E(7), insert:

- (7A) If the place is wholly or partly in a foreign country, the Minister must inform the following of the fact that the nomination has been made, unless the Minister rejects the nomination under this section:
- (a) the Minister responsible for foreign affairs;
 - (b) if another Minister has administrative responsibilities relating to the place (if it is wholly in a foreign country) or to a part of the place that is in a foreign country—that other Minister.

Schedule 1, item 31, page 25 (line 23), after “place”, insert “wholly in the Australian jurisdiction”.

Schedule 1, item 31, page 27 (line 4), after “place”, insert “wholly in the Australian jurisdiction”.

Schedule 1, item 31, page 27 (after line 29), at the end of section 324G, add:

- (6) If the Minister requests the Australian Heritage Council to assess whether a place meets any of the National Heritage criteria, and the place is wholly or partly in a foreign country and not the subject of a nomination, the Minister must inform the following of the fact that the Council is making the assessment:
- (a) the Minister responsible for foreign affairs;
 - (b) if another Minister has administrative responsibilities relating to the place (if it is wholly in a foreign country) or to a part of the place that is in a foreign country—that other Minister.

Schedule 1, item 31, page 29 (after line 9), after subsection (2), insert:

- (2A) The Minister must not include in the National Heritage List a place that is wholly or partly in a foreign country unless:

- (a) the Minister is satisfied that the national government of the foreign country has agreed to the inclusion in the List of the place so far as it is in the country; and
- (b) the Minister has informed:
 - (i) the Minister responsible for foreign affairs; and
 - (ii) if another Minister has administrative responsibilities relating to the place (if it is wholly in a foreign country) or to a part of the place that is in a foreign country—that other Minister;of the proposal to include the place in the List and given the Ministers informed a reasonable opportunity to comment in writing whether the place should be included in the List; and
- (c) the Minister responsible for foreign affairs has agreed to the inclusion in the List of the place.

Schedule 1, item 31, page 29 (line 14), after “place”, insert “in the Australian jurisdiction”.

Schedule 1, item 31, page 30 (after line 20), after subsection (5), insert:

- (5B) The Minister must not alter the boundary of the listed place under subparagraph (5)(a)(ii) so as to include within the altered boundary an area in a foreign country unless:
 - (a) the Minister is satisfied that the national government of the foreign country has agreed to the inclusion in the List of the place including the area; and
 - (b) the Minister has informed:
 - (i) the Minister responsible for foreign affairs; and
 - (ii) if another Minister has administrative responsibilities relating to all or part of the area—that other Minister;of the proposal to alter the boundary in that way and given the Ministers informed a reasonable opportunity to comment in writing whether the boundary should be altered in that way; and
 - (c) the Minister responsible for foreign affairs has agreed to the inclusion in the List of the place including the area.

Schedule 1, item 32, page 44 (line 31) to page 45 (line 4), omit subsection 341D(3), substitute:

- (3) The regulations must prescribe criteria for the following:
 - (a) natural heritage values of places;
 - (b) indigenous heritage values of places;
 - (c) historic heritage values of places.

The regulations may prescribe criteria for other heritage values of places.

- (4) To avoid doubt, a criterion prescribed by the regulations may relate to one or more of the following:
 - (a) natural heritage values of places;
 - (b) indigenous heritage values of places;
 - (c) historic heritage values of places;
 - (d) other heritage values of places.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 32

Senators—

Abetz	Coonan	Knowles	Payne
Barnett	Ferguson	Lees	Santoro
Boswell	Ferris (Teller)	Lightfoot	Scullion
Brandis	Harris	Macdonald, Sandy	Tchen
Calvert	Heffernan	Mason	Tierney
Campbell, Ian	Hill	McGauran	Troeth
Chapman	Humphries	Minchin	Vanstone
Colbeck	Johnston	Patterson	Watson

NOES, 32

Senators—

Allison	Cherry	Hutchins	Nettle
Bartlett	Collins	Kirk	O'Brien
Bishop	Cook	Ludwig	Ray
Bolkus	Crossin (Teller)	Lundy	Ridgeway
Brown	Denman	Marshall	Stephens
Buckland	Forshaw	McLucas	Stott Despoja
Campbell, George	Greig	Moore	Webber
Carr	Hogg	Murray	Wong

The ayes and noes were equal and so the question was negatived.

After 6.50 pm: The Acting Deputy President (Senator Brandis) resumed the chair and the Chair of Committees (Senator Hogg) reported progress.

26 GOVERNMENT DOCUMENT—CONSIDERATION

The following government document tabled earlier today was considered:

Australian Competition and Consumer Commission—Telecommunications reports for 2001-02—Report 1: Telecommunications competitive safeguards; Report 2: Changes in prices paid for telecommunications services in Australia; Report 3: Telstra's compliance with price control arrangements. Motion to take note of document moved by Senator Cherry and agreed to.

27 ADJOURNMENT

The Acting Deputy President (Senator Brandis) proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 8.34 pm till Wednesday, 20 August 2003 at 9.30 am.

28 ATTENDANCE

Present, all senators except Senator Mackay.

HARRY EVANS
Clerk of the Senate