

2004-05

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

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**1 MEETING OF SENATE**

The Senate met at 9.30 am. The President (Senator the Honourable Paul Calvert) took the chair and read prayers.

**2 GOVERNMENT DOCUMENTS**

The following government documents were tabled:

Australian Industry Development Corporation—Report for 2004-05.

Australian Institute of Health and Welfare—Australia's welfare 2005—Seventh biennial report.

Australian Public Service Commission—State of the Service—Report for 2004-05.

Federal Court of Australia—Report for 2004-05.

Federal Magistrates Court—Report for 2004-05.

Fisheries Research and Development Corporation—Report for 2004-05.

Human Rights and Equal Opportunity Commission—Report for 2004-05.

International Labour Organisation—Submission report on ILO instruments adopted in June 2004.

National Capital Authority—Report for 2004-05.

**3 UNPARLIAMENTARY LANGUAGE—STATEMENT BY LEAVE**

The Minister for the Environment and Heritage (Senator Ian Campbell), by leave, made a statement withdrawing remarks he made during the adjournment debate on 29 November 2005.

*Statements by leave:* The Leader of the Opposition in the Senate (Senator Evans), Senator Ian Campbell, the Leader of the Australian Greens (Senator Bob Brown) and Senators Forshaw, Murray, Lundy and Faulkner, by leave, made statements relating to the matter.

**4 ORDER OF BUSINESS—REARRANGEMENT**

The Minister for Justice and Customs (Senator Ellison) moved—That government business notice of motion no. 1 standing in the names of the Minister for the Arts and Sport (Senator Kemp) and Senator Lundy for today, relating to Commonwealth support for football, be postponed till a later hour.

Question put and passed.

**5 STATUTE LAW REVISION BILL (NO. 2) 2005  
DEFENCE (ROAD TRANSPORT LEGISLATION EXEMPTION) BILL 2005**

The Minister for Justice and Customs (Senator Ellison), also at the request of the Minister for Defence (Senator Hill) and pursuant to notice, moved government business notices of motion nos 2 and 3—That the following bills be introduced:

A Bill for an Act to make various amendments of the statute law of the Commonwealth, to repeal certain obsolete Acts, and for related purposes.

A Bill for an Act to provide for members of the Australian Defence Force and others to be exempt from State and Territory road transport laws in certain circumstances, and for related purposes.

Question put and passed.

Senator Ellison presented the bills and moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Ellison moved—That these bills be now read a second time.

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*Explanatory memoranda:* Senator Ellison tabled explanatory memoranda [2] relating to the bills.

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*Consideration of legislation:* Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.

Senator Ellison moved—That the bills be listed on the *Notice Paper* as separate orders of the day.

Question put and passed.

**6 WORKPLACE RELATIONS AMENDMENT (WORK CHOICES) BILL 2005**

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Abetz)—That this bill be now read a second time.

Debate resumed.

*At 12.45 pm:* Debate was interrupted while Senator Ludwig was speaking.

**7 MATTERS OF PUBLIC INTEREST**

Matters of public interest were discussed.

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*At 2 pm—*

**8 QUESTIONS**

Questions without notice were answered.

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*Distinguished visitors:* The President welcomed members of a parliamentary delegation from Israel led by the Speaker of the Knesset, Mr Reuven Rivlin, and, with the concurrence of honourable senators, invited the Speaker to take a seat on the floor of the chamber.

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Further questions without notice were answered.

**9 FINANCE—BOARD OF THE RESERVE BANK OF AUSTRALIA—APPOINTMENT—  
ANSWER TO QUESTION**

Senator Sherry moved—That the Senate take note of the answer given by the Minister for Finance and Administration (Senator Minchin) to a question without notice asked by Senator Sherry today relating to the appointment of Mr Robert Gerard to the Board of the Reserve Bank of Australia.

Debate ensued.

Question put and passed.

**10 WOMEN—ABORTION—STATEMENT BY LEAVE**

The Leader of The Nationals in the Senate (Senator Boswell), by leave, made a statement relating to an article in the *Daily Telegraph* of 30 November 2005 concerning the abortion pill RU486.

**11 PETITIONS**

The following 3 petitions, lodged with the Clerk by the senators indicated, were received:

Senator Moore, from 5 055 petitioners, requesting that the Senate undertake an inquiry and review into proposed changes to industrial relations.

Senator Nettle, from 4 545 petitioners, requesting that the Senate take action to alter the definition of marriage to include recognition of same sex couples.

Senator Wortley, from 1 258 petitioners, requesting that the Senate take action to ensure that the proposed changes to industrial relations will not adversely affect Australian employees.

**12 NOTICES**

Senator Ludwig: To move on the next day of sitting—That item 2 [Division 1.4E—Sponsorship: trade skills training (incorporating Subdivisions 1.4E.1 to 1.4E.4)] of Schedule 7 of the Migration Amendment Regulations 2005 (No. 9), as contained in Select Legislative Instrument 2005 No. 240 and made under the *Migration Act 1958*, be disallowed.

The Leader of the Australian Democrats (Senator Allison): To move on the next day of sitting—That the Senate—

(a) notes that:

- (i) the Sea Shepherd Conservation Society's ship, the *Farley Mowat*, will leave Melbourne in early December 2005 on its way to Antarctica to stop Japanese whalers slaughtering whales in Australian waters in the Antarctic Whale Sanctuary,
- (ii) Japan plans to double its kill of minke whales and target, for the first time in 2 decades, the endangered humpback whale and fin whale,
- (iii) the Government charged the *Farley Mowat* \$800 when it docked in Melbourne, arguing that it was a commercial vessel, despite the absence of cargo, and
- (iv) the Department of Immigration and Multicultural and Indigenous Affairs threatened to impose a \$5 000 fine on one of the crew of the *Farley Mowat* for not having a visa, despite the fact that she had already been granted one;

- (b) questions why the Government has been so antagonistic to the *Farley Mowat* and why it did not itself send vessels to intervene in this kill;
- (c) urges the Government to return the erroneous \$800 charge imposed on the *Farley Mowat*; and
- (d) wishes the *Farley Mowat* a successful mission and thanks it for its efforts on behalf of whales. (*general business notice of motion no. 338*)

Senator Lundy: To move on the next day of sitting—That the Senate condemns the Howard Government's targeted attack on women in Australian society through its extreme industrial relations changes and the changes contained in the so-called welfare to work proposals. (*general business notice of motion no. 339*)

Senator Sherry: To move on the next day of sitting—That there be laid on the table by the Minister representing the Treasurer, no later than 2.30 pm on Friday, 2 December 2005, all correspondence in relation to the nomination and appointment of Mr Robert Gerard to the Board of the Reserve Bank of Australia, from 1 January 2003 until 1 December 2005, between:

- (a) the Department of the Treasury and the Treasurer (Mr Costello);
- (b) the Department of the Prime Minister and Cabinet and the Prime Minister (Mr Howard); and
- (c) the Attorney-General (Mr Ruddock) and the Treasurer. (*general business notice of motion no. 340*)

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

- (a) notes with sincere regret the death of Mr John Patrick Ducker, AO, former member of the New South Wales Legislative Council, on 25 November 2005;
- (b) acknowledges the contribution made by Mr Ducker to the Australian Labor Party, the Australian Council of Trade Unions, the New South Wales Labor Council and to the wellbeing of people of Australia through his leadership of the trade union movement;
- (c) recognises his contribution to public life through his service to the New South Wales Public Service Board, many community organisations and public companies; and
- (d) expresses sincere sympathy to the Ducker family in their loss. (*general business notice of motion no. 341*)

### 13 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 14 OF 2005

Senator McGauran, at the request of the Acting Chair of the Selection of Bills Committee (Senator Eggleston), tabled the following report:

#### SELECTION OF BILLS COMMITTEE REPORT NO. 14 OF 2005

1. The committee met in private session on Tuesday, 29 November 2005 at 4.26 pm.
2. The committee resolved to recommend—That the *provisions* of the Australian Citizenship Bill 2005 and the Australian Citizenship (Transitionals and Consequentials) Bill 2005 be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report by 27 February 2006.

3. The committee resolved to recommend—That the following bills *not* be referred to committees:

Anglo-Australian Telescope Agreement Amendment Bill 2005  
 Tax Laws Amendment (Improvements to Self Assessment) Bill (No. 2) 2005.

*The committee recommends accordingly.*

Alan Eggleston  
 Acting Chair  
 30 November 2005.

Senator McGauran moved—That the report be adopted.

Question put and passed.

**14 FOREIGN AFFAIRS—MR NGUYEN TUONG VAN**

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 336—That the Senate calls on the Government to do everything possible to extradite Mr Nguyen Tuong Van from Singapore to prevent his impending execution.

Question put.

The Senate divided—

**AYES, 32**

Senators—

Allison	Faulkner	McEwen	Sherry
Bartlett	Forshaw	McLucas	Siewert
Bishop	Hogg	Milne	Stephens
Brown, Bob	Hurley	Moore	Sterle
Brown, Carol	Kirk	Murray	Stott Despoja
Campbell, George	Ludwig	Nettle	Webber (Teller)
Crossin	Lundy	O'Brien	Wong
Evans	Marshall	Polley	Wortley

**NOES, 36**

Senators—

Abetz	Coonan	Johnston	Nash
Adams	Eggleston	Joyce	Parry
Barnett	Ellison	Kemp	Payne
Boswell	Ferguson	Lightfoot	Ronaldson
Brandis	Fielding	Macdonald, Ian	Santoro
Calvert	Fierravanti-Wells	Macdonald, Sandy	Scullion
Campbell, Ian	Fifield	Mason	Troeth
Chapman	Heffernan	McGauran (Teller)	Trood
Colbeck	Humphries	Minchin	Vanstone

Question negatived.

**15 FOREIGN AFFAIRS—JAPAN—WHALING PROGRAM**

Senator Siewert amended general business notice of motion no. 318 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes the imminent arrival of the Japanese whaling fleet in the Southern Ocean and its intention to commence whaling under the greatly expanded JARPA II whaling program;

- (b) recognises the leadership that the Australian Government has shown to date on this issue;
- (c) notes that the radical expansion of the Japanese whaling program gives rise to new opportunities to challenge JARPA II;
- (d) urges Australia to commence a claim against Japan under the United Nations Convention on the Law of the Sea challenging the legality of JARPA II, and requesting provisional measures to halt the program while this claim is heard; and
- (e) urges the Australian Government to examine actions it could take under other treaty measures, such as the Antarctic Treaty System.

Question put.

The Senate divided—

AYES, 32

Senators—

Allison	Faulkner	McEwen	Sherry
Bartlett	Forshaw	McLucas	Siewert
Bishop	Hogg	Milne	Stephens
Brown, Bob	Hurley	Moore	Sterle
Brown, Carol	Kirk	Murray	Stott Despoja
Campbell, George	Ludwig	Nettle	Webber (Teller)
Crossin	Lundy	O'Brien	Wong
Evans	Marshall	Polley	Wortley

NOES, 36

Senators—

Abetz	Coonan	Johnston	Nash
Adams	Eggleston	Joyce	Parry
Barnett	Ellison	Kemp	Payne
Boswell	Ferguson	Lightfoot	Ronaldson
Brandis	Fielding	Macdonald, Ian	Santoro
Calvert	Fierravanti-Wells	Macdonald, Sandy	Scullion
Campbell, Ian	Fifield	Mason	Troeth
Chapman	Heffernan	McGauran (Teller)	Trood
Colbeck	Humphries	Minchin	Vanstone

Question negatived.

16 HUMAN RIGHTS—SEXUALITY DISCRIMINATION

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 337—That the Senate—

- (a) congratulates Geoff and Jason for their same-sex marriage ceremony held in Sydney on Friday, 25 November 2005 and broadcast on radio and wishes them a long, healthy and happy relationship;
- (b) accepts the petition being presented in the week beginning 28 November 2005 by 4 545 people calling for changes to the *Marriage Act 1961* to include recognition of same-sex couples;
- (c) notes that the Government, with the support of the Australian Labor Party, is yet to recognise the legitimacy of same-sex marriage and, by doing so, infringes the rights of all people to be free from discrimination based on sexuality; and
- (d) calls on the Government to end this unfairness against same-sex couples, so that people like Geoff and Jason no longer face discrimination.



Question put.

The Senate divided—

AYES, 7

Senators—

Allison	Brown, Bob	Nettle	Stott Despoja
Bartlett	Milne	Siewert (Teller)	

NOES, 51

Senators—

Abetz	Ferguson	Lightfoot	Polley
Adams	Fielding	Ludwig	Ronaldson
Barnett	Fierravanti-Wells	Lundy	Santoro
Bishop	Fifield	Macdonald, Ian	Scullion
Boswell	Forshaw	Macdonald, Sandy	Sherry
Brown, Carol	Heffernan	Marshall	Stephens
Calvert	Hogg	McEwen	Sterle
Campbell, George	Humphries	McGauran (Teller)	Troeth
Chapman	Hurley	McLucas	Vanstone
Coonan	Johnston	Minchin	Webber
Crossin	Joyce	Moore	Wong
Eggleston	Kemp	Nash	Wortley
Ellison	Kirk	Parry	

Question negatived.

#### 17 SPORT—AUSTRALIAN FOOTBALL—COMMONWEALTH SUPPORT

The Minister for the Arts and Sport (Senator Kemp), also on behalf of Senator Lundy, pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 1—That the Senate—

- (a) congratulates:
  - (i) the Australian Socceroos on their historic qualification for the 2006 World Cup in Germany and wishes them all the best for the World Cup campaign,
  - (ii) the Matildas on their outstanding results achieved recently and wishes them all the best for their campaign against China, and
  - (iii) Football Federation Australia for undertaking a comprehensive reform agenda in the sport of football over the past 2 years including the implementation of the recommendations of the Crawford Report;
- (b) notes the key work undertaken by Mr David Crawford in producing a blueprint for the reform of football in his report of the Independent Soccer Review Committee into the structure, governance and management of soccer in Australia;
- (c) acknowledges the important contribution of the Australian Sports Commission to the reform program and supports its development of young football players, particularly through the Australian Institute of Sport Football program; and
- (d) notes the commitment held by many Australians to football and supports the Commonwealth in its endeavours to support Australian football.

Question put and passed.

**18 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—ENVIRONMENT—KYOTO PROTOCOL**

The Acting Deputy President (Senator Moore) informed the Senate that Senator Milne had proposed that the following matter of public importance be submitted to the Senate for discussion:

On the eve of the first meeting of the Parties to the Kyoto Protocol in Montreal, the urgent need for the Australian Government to ratify the Kyoto Protocol and to commit to more stringent greenhouse gas reduction targets for the period 2013 to 2017.

The proposal was supported by four senators and the matter was discussed.

**19 ASIO, ASIS AND DSD—JOINT STATUTORY COMMITTEE—REPORT—REVIEW OF DIVISION 3 OF PART III IN THE AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION ACT 1979**

Senator Ferguson, on behalf of the Parliamentary Joint Committee on ASIO, ASIS and DSD, tabled the following report:

ASIO, ASIS and DSD—Parliamentary Joint Committee—ASIO's questioning and detention powers: Review of the operation, effectiveness and implications of Division 3 of Part III in the *Australian Security Intelligence Organisation Act 1979*—Report, dated November 2005.

Senator Ferguson moved—That the Senate take note of the report.

Debate ensued.

Debate adjourned till the next day of sitting, the Leader of the Australian Greens (Senator Bob Brown) in continuation.

**20 SCRUTINY OF BILLS—STANDING COMMITTEE—13TH AND 14TH REPORTS AND ALERT DIGEST NO. 14 OF 2005**

Senator Eggleston, at the request of the Deputy Chairman of the Standing Committee for the Scrutiny of Bills (Senator Mason), tabled the following reports and document:

Scrutiny of Bills—Standing Committee—

13th report of 2005, dated 30 November 2005.

14th report of 2005—Accountability and standing appropriations, dated 30 November 2005.

Alert Digest no. 14 of 2005, dated 30 November 2005.

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

**21 AUDITOR-GENERAL—AUDIT REPORT NO. 18 OF 2005-06—DOCUMENT**

The Acting Deputy President (Senator Kirk) tabled the following document:

Auditor-General—Audit report no. 18 of 2005-06—Performance audit—Customs compliance assurance strategy for international cargo: Australian Customs Service.

Senator Ludwig, by leave, moved—That the Senate take note of the document.

Debate ensued.

Debate adjourned till the next day of sitting, Senator Payne in continuation.

**22 HEALTH—TOBACCO—ORDER FOR PRODUCTION OF DOCUMENT—DOCUMENT**

Pursuant to the order of the Senate of 27 June 2002, the Acting Deputy President (Senator Kirk) tabled the following document:

Health—Tobacco—Australian Competition and Consumer Commission—Final report to the Australian Senate—Tobacco issues.

Senator Bartlett, by leave, moved—That the Senate take note of the document.

Question put and passed.

**23 DOCUMENTS**

The following documents were tabled by the Clerk:

*[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]*

Banking Act—Banking (Foreign Exchange) Regulations 1959—Direction relating to foreign currency transactions and to Zimbabwe; and variations of exemptions—Amendment to annexes [F2005L03697]\*.

Broadcasting Services Act—Broadcasting Services (International Broadcasting) Guidelines 2005 [F2005L03712]\*.

Customs Act—

Customs By-laws Nos—

0540005 [F2005L03751]\*.

0540006 [F2005L03748]\*.

Tariff Concession Revocation Instrument—

23/2005 [F2005L03731]\*.

24/2005 [F2005L03732]\*.

25/2005 [F2005L03733]\*.

26/2005 [F2005L03734]\*.

27/2005 [F2005L03735]\*.

28/2005 [F2005L03737]\*.

Defence Act, Naval Defence Act and Air Force Act—Select Legislative Instrument 2005 No. 276—Defence (Inquiry) Amendment Regulations 2005 (No. 2) [F2005L03686]\*.

Financial Management and Accountability Act—Adjustments of Appropriations on Change of Agency Functions—Directions Nos—

10 of 2005-2006 [F2005L03709]\*.

11 of 2005-2006 [F2005L03715]\*.

Food Standards Australia New Zealand Act—Direction under section 11, dated 28 October 2005; and statement of reasons.

Higher Education Support Act—Commonwealth Grant Scheme Guidelines, dated 26 November 2005 [F2005L03802]\*.

National Health Act—

Arrangement No. PB 36 of 2005—Chemotherapy Pharmaceuticals Access Program [F2005L03742]\*.

Declaration No. PB 30 of 2005 [F2005L03723]\*.

Determination No. PB 32 of 2005 [F2005L03727]\*.

Private Health Insurance Complaints Levy Act—Select Legislative Instrument 2005 No. 274—Private Health Insurance Complaints Levy Amendment Regulations 2005 (No. 1) [F2005L03690]\*.

\* Explanatory statement tabled with legislative instrument.

#### 24 ANTI-TERRORISM BILL (NO. 2) 2005

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

Message no. 250, dated 30 November 2005—A Bill for an Act to amend the law relating to terrorist acts, and for other purposes.

The Minister for the Environment and Heritage (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 Ian Campbell the debate was adjourned and the resumption of the debate made an order of the day for a later hour.

#### 25 WORKPLACE RELATIONS AMENDMENT (WORK CHOICES) BILL 2005

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Abetz)—That this bill be now read a second time.

Debate resumed.

*At 6.50 pm:* Debate was interrupted while Senator O'Brien was speaking.

#### 26 GOVERNMENT DOCUMENTS—CONSIDERATION

The following government document tabled earlier today (*see entry no. 2*) was considered:

Human Rights and Equal Opportunity Commission—Report for 2004-05. Motion to take note of document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

The following orders of the day relating to government documents were considered:

Department of Defence—Report for 2004-05. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Indigenous Business Australia—Report for 2004-05. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Administrative Appeals Tribunal—Report for 2004-05. Motion to take note of document moved by Senator Bartlett and agreed to.

Equal Opportunity for Women in the Workplace Agency—Report for 2004-05. Motion to take note of document moved by Senator Marshall and debated. Debate adjourned till Thursday at general business, Senator Sherry in continuation.

General business orders of the day nos 18, 19 and 20 relating to government documents were called on but no motion was moved.

*At 7.20 pm—*

**27 ADJOURNMENT**

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

Debate ensued.

The Senate adjourned at 7.58 pm till Thursday, 1 December 2005 at 9.30 am.

**28 ATTENDANCE**

Present, all senators except Senators Ferris\*, Hutchins, Ray\* and Watson (\* on leave).

**HARRY EVANS**  
Clerk of the Senate