

2004-06

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

No. 74

WEDNESDAY, 1 MARCH 2006

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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 Political Exchange Council—Report for 2004-05.

Commonwealth Grants Commission—Report—State revenue sharing relativities—2006 update.

*Migration Act 1958*—Section 486O—Assessment of appropriateness of detention arrangements—

Commonwealth Ombudsman's reports—

Personal identifier 014/05, 1 December 2005.

Personal identifier 016/05, 1 December 2005.

Commonwealth Ombudsman's reports 014/05 and 016/05—Government response, 28 February 2006.

Treaties—List of multilateral treaty actions under negotiation, consideration or review by the Australian Government as at February 2006.

**3 SPORT—AUSTRALIAN WINTER OLYMPIC TEAM—COMMONWEALTH SUPPORT**

The Minister for Justice and Customs (Senator Ellison), at the request of the Minister for the Arts and Sport (Senator Kemp) and Senator Lundy and pursuant to notice, moved government business notice of motion no. 1—That the Senate—

- (a) congratulates the Australian Olympic Team for achieving an outstanding result at the Winter Olympics in Torino;
- (b) particularly congratulates medal winners Dale Begg-Smith and Alisa Camplin in helping the Australian team achieve its second best result at the Winter Olympics;
- (c) congratulates the Olympic Winter Institute and the Australian Institute of Sport on their key contributions to the preparation of the Australian Winter Olympic team; and
- (d) acknowledges the important contribution of the Australian Sports Commission to the preparation of the team.

Question put and passed.

**4 BROADCASTING SERVICES AMENDMENT (SUBSCRIPTION TELEVISION DRAMA AND COMMUNITY BROADCASTING LICENCES) BILL 2006**

The Minister for Justice and Customs (Senator Ellison), at the request of the Minister for Communications, Information Technology and the Arts (Senator Coonan) and pursuant to notice, moved government business notice of motion no. 2—That the following bill be introduced:

A Bill for an Act to amend the *Broadcasting Services Act 1992*, and for other purposes.

Question put and passed.

Senator Ellison presented the bill and 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 Ellison moved—That this bill be now read a second time.

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*Explanatory memorandum:* Senator Ellison tabled an explanatory memorandum relating to the bill.

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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.

5 **OFFSHORE PETROLEUM BILL 2005**

**OFFSHORE PETROLEUM (ANNUAL FEES) BILL 2005**

**OFFSHORE PETROLEUM (REGISTRATION FEES) BILL 2005**

**OFFSHORE PETROLEUM (REPEALS AND CONSEQUENTIAL AMENDMENTS) BILL 2005**

**OFFSHORE PETROLEUM (ROYALTY) BILL 2005**

**OFFSHORE PETROLEUM (SAFETY LEVIES) AMENDMENT BILL 2005**

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

---

*In the committee*

Consideration resumed of the bills—and of the amendments moved by Senator Milne in respect of the *Offshore Petroleum Bill 2005*:

Page 2 (after line 12), after clause 2, insert:

**2A Object**

The object of this Act is to ensure that any offshore activities relating to petroleum exploration, recovery, storage and transport are carried out in a way that is consistent with the principles of ecologically sustainable development, especially in relation to the conservation of marine resources.

Clause 6, page 15 (line 20), after “safe”, insert “and in accordance with the principles of ecologically sustainable development”.

Clause 6, page 19 (after line 12), after the definition of *petroleum*, insert:

*petroleum activity* means operations carried out under a permit, lease, licence, authority or consent under the Act or the regulations and, in particular, any of the following operations:

- (a) seismic or other surveys;
- (b) drilling;
- (c) construction and installation of a facility;
- (d) operation of a facility;
- (e) significant modification of a facility;
- (f) decommissioning, dismantling or removing a facility;
- (g) construction and installation of a pipeline;
- (h) operation of a pipeline;
- (i) significant modification of a pipeline;

- (j) decommissioning, dismantling or removing a pipeline;
- (k) storage, processing or transport of petroleum;

Clause 6, page 19 (after line 32), after the definition of *pipeline provisions*, insert:

***principles of ecologically sustainable development*** means but is not limited to the following:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
- (c) the principle of inter-generational equity—that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;
- (e) improved valuation, pricing and incentive mechanisms should be promoted.

Page 251 (after line 7), after clause 243, insert:

**243A Approved environment plan required for a petroleum activity**

- (1) A person must not carry out a petroleum activity unless there is an environment plan approved by the designated authority in force for the activity.

Penalty: 100 penalty units.

- (2) The contents of an environment plan must be in accordance with the regulations.

Page 251 (after line 7), after clause 243, insert:

**243B Activities must comply with approved environment plan**

A person carrying out a petroleum activity for which there is an approved environment plan in force must not carry out the activity in a way that is contrary to the environment plan.

Penalty: 100 penalty units.

Page 251 (after line 7), after clause 243, insert:

**243C Operations must not continue where new environmental risk identified**

A person carrying out a petroleum activity for which there is an approved environment plan must not carry out the activity after the identification of:

- (a) any significant new environmental effect or risk; or
- (b) a significant increase in an existing environmental effect or risk arising from the activity;

unless the new or increased effect or risk is provided for in the environment plan.

Penalty: 100 penalty units.

Debate ensued.

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*Documents:* The Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck) tabled the following documents:

Offshore Petroleum Bills—Copies of maps—

Current areas as set out in the *Petroleum (Submerged Lands) Act 1967*.

Proposed areas under the Offshore Petroleum Bill 2005.

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Debate continued.

Question—That the amendments be agreed to—put.

The committee divided—

#### AYES, 7

Senators—

Allison  
Bartlett

Brown, Bob  
Milne

Murray  
Nettle

Siewert (Teller)

#### NOES, 46

Senators—

Adams  
Barnett  
Brandis  
Brown, Carol  
Campbell, George  
Carr  
Chapman  
Colbeck  
Crossin  
Eggleston (Teller)  
Ferguson  
Fielding

Fierravanti-Wells  
Fifield  
Forshaw  
Hill  
Hogg  
Humphries  
Johnston  
Kirk  
Lightfoot  
Ludwig  
Macdonald, Ian  
Marshall

Mason  
McGauran  
McLucas  
Moore  
Nash  
O'Brien  
Parry  
Payne  
Polley  
Ray  
Ronaldson  
Santoro

Scullion  
Sherry  
Stephens  
Sterle  
Troeth  
Trood  
Watson  
Webber  
Wong  
Wortley

Question negatived.

Bills agreed to.

Bills to be reported without amendments.

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The Acting Deputy President (Senator Crossin) resumed the chair and the Chair of Committees (Senator Hogg) reported accordingly.

On the motion of Senator Colbeck the report from the committee was adopted.

Senator Colbeck moved—That these bills be now read a third time.

Debate ensued.

Question put.

The Senate divided—

AYES, 46

Senators—

Adams	Fielding	Marshall	Scullion
Barnett	Fierravanti-Wells	Mason	Sherry
Brandis	Fifield	McEwen	Stephens
Brown, Carol	Forshaw	McLucas	Sterle
Carr	Hogg	Moore	Troeth
Chapman	Humphries	Nash	Trood
Colbeck	Hurley	O'Brien	Watson
Crossin	Hutchins	Parry	Webber
Eggleston (Teller)	Johnston	Patterson	Wong
Ellison	Kirk	Payne	Wortley
Faulkner	Ludwig	Polley	
Ferguson	Lundy	Ronaldson	

NOES, 6

Senators—

Bartlett	Milne	Nettle
Brown, Bob	Murray	Siewert (Teller)

Question agreed to.

Bills read a third time.

**6 JURISDICTION OF THE FEDERAL MAGISTRATES COURT LEGISLATION AMENDMENT  
BILL 2005 [2006]**

Order of the day read for the adjourned debate on the motion of the Minister for Justice and Customs (Senator Ellison)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

The Senate resolved itself into committee for the consideration of the bill.

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*In the committee*

Bill taken as a whole by leave.

Senator Ludwig moved the following amendment:

Schedule 1, item 1, page 3 (line 7), before “Part IVA”, insert “section 46 or 46A of Division 8, Part IV,”.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 30

Senators—

Bartlett	Hogg	McLucas	Siewert
Brown, Bob	Hurley	Milne	Stephens
Brown, Carol	Hutchins	Moore	Sterle
Campbell, G (Teller)	Kirk	Murray	Webber
Carr	Ludwig	Nettle	Wong
Crossin	Lundy	O'Brien	Wortley
Faulkner	Marshall	Polley	
Forshaw	McEwen	Ray	

NOES, 33

Senators—

Adams	Ellison	Lightfoot	Ronaldson
Barnett	Ferguson	Macdonald, Ian	Santoro
Boswell	Ferris	Mason	Scullion (Teller)
Brandis	Fierravanti-Wells	McGauran	Troeth
Calvert	Fifield	Minchin	Trood
Campbell, Ian	Hill	Nash	Watson
Chapman	Humphries	Parry	
Colbeck	Johnston	Patterson	
Eggleston	Kemp	Payne	

Question negatived.

Bill agreed to.

Bill to be reported without amendment.

The President resumed the chair and the Temporary Chair of Committees (Senator Crossin) reported accordingly.

On the motion of Senator Ellison the report from the committee was adopted and the bill read a third time.

## 7 TAX LAWS AMENDMENT (2005 MEASURES NO. 6) BILL 2005

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Defence (Senator Sandy Macdonald)—That this bill be now read a second time.

Debate resumed.

Senator Sherry moved the following amendment:

At the end of the motion, add “but the Senate:

- (a) calls on the Government to bring forward a separate bill on consolidation measures for greater certainty for business;
- (b) condemns the Government for unnecessary delays in bringing forward key changes to defend the mutuality principle, leading to great uncertainty for the clubs industry;
- (c) recognises problems of coverage, delays and other major policy flaws such as the child care tax offset;

- (d) rejects the Government's mismanagement of health policy which has seen one million Australians miss out under cuts by the Minister for Health and Ageing (Mr Abbott) to the extended Medicare safety net notwithstanding 'ironclad' guarantees from the Minister and the failure to deliver a Commonwealth dental program;
- (e) condemns the Government for refusing to agree to align the definition of facilitation payments in the criminal and tax codes, providing scope for Australian Wheat Board-type kickback payments to be tax deductible; and
- (f) condemns the Government for failing to advance meaningful tax reform".

Debate ensued.

Question—That the amendment be agreed to—put.

The Senate divided—

#### AYES, 28

Senators—

Brown, Bob	Hogg	McLucas	Sherry
Brown, Carol	Hurley	Milne	Siewert
Campbell, George	Hutchins	Moore	Stephens
Carr	Kirk	Nettle	Sterle
Crossin	Lundy	O'Brien	Webber (Teller)
Faulkner	Marshall	Polley	Wong
Forshaw	McEwen	Ray	Wortley

#### NOES, 32

Senators—

Adams	Eggleston (Teller)	Humphries	Patterson
Barnett	Ellison	Joyce	Payne
Boswell	Ferguson	Kemp	Ronaldson
Brandis	Ferris	Lightfoot	Santoro
Campbell, Ian	Fielding	Mason	Scullion
Chapman	Fierravanti-Wells	McGauran	Troeth
Colbeck	Heffernan	Minchin	Vanstone
Coonan	Hill	Nash	Watson

Question negatived.

Senator Murray moved the following amendment:

At the end of the motion, add "but the Senate:

- (a) expresses its concern at the continuing impact of the removal of the Commonwealth dental health program; and
- (b) recommends that any tax revenue that results from the removal of the tax offset for solely cosmetic dental procedures is directed towards meeting public dental health needs".

Question—That the amendment be agreed to—put and negatived.

Main question put and passed.

Bill read a second time.

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At 12.45 pm—

**8 MATTERS OF PUBLIC INTEREST**

Matters of public interest were discussed.

*Suspension of sitting:* On the motion of the Minister for the Arts and Sport (Senator Kemp) the sitting of the Senate was suspended at 1.56 pm till 2 pm.

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*At 2 pm—*

**9 QUESTIONS**

Questions without notice were answered.

**10 ECONOMY—ANSWERS TO QUESTIONS**

Senator Sherry moved—That the Senate take note of the answers given by the Minister for Finance and Administration (Senator Minchin) to questions without notice asked by Senators Sherry and George Campbell today relating to the economy.

Debate ensued.

Question put and passed.

**11 FOREIGN AFFAIRS—AUSAID—ANSWER TO QUESTION**

Senator Siewert moved—That the Senate take note of the answer given by the Minister for Communications, Information Technology and the Arts (Senator Coonan) to a question without notice asked by Senator Siewert today relating to AusAID.

Question put and passed.

**12 PETITIONS**

The following 2 petitions, lodged with the Clerk by the senators indicated, were received:

Senator Heffernan, from 2 101 petitioners, requesting that the Senate take action to restrict children's exposure to Internet pornography.

Senator Hogg, from 299 petitioners, requesting that the Senate take action to ensure that enough medical professionals are trained to maintain the quality care provided by hospitals and other health services.

**13 NOTICES**

Senator O'Brien: To move on the next day of sitting—That the Senate notes that:

- (a) over a decade in office the Howard Government has established a new low for government integrity and accountability; and
- (b) the Howard Government's record is littered with scandals involving rorts, waste and incompetence. (*general business notice of motion no. 387*)

The Leader of the Australian Democrats (Senator Allison): To move on the next day of sitting—That the following matter be referred to the Employment, Workplace Relations and Education References Committee for inquiry and report by 7 November 2006:

Sexual and reproductive health education in Australia, with particular reference to:

- (a) the current state of school based sex education, with reference to the effectiveness of current arrangements in ensuring that all students have access to developmentally appropriate, comprehensive, inclusive, evidence based and medically accurate information which encompasses:
  - (i) sexual development,
  - (ii) non-exploitive sexual relationships, and
  - (iii) reproductive health including the full range of contraceptive choices, safe sex practices and sexually transmitted infections (STIs);
- (b) the importance of sex education in reducing unplanned pregnancies and abortions in Australia;
- (c) the appropriate role and adequacy of training and support for teachers and school nurses providing sex education;
- (d) the need for appropriate accountability mechanisms to ensure that sex education is consistent with good practice;
- (e) the analysis of overseas sexuality and reproductive health education models and their potential application to the Australian context;
- (f) the opportunities for current funding arrangements and agreements between the Commonwealth and state governments to better ensure access to comprehensive evidence based sexuality and reproductive health information;
- (g) the need for a national strategy for lifelong sexuality and health education, with adequate funding for general public information and education campaigns on existing services and new and emerging issues such as new forms of contraception and outbreaks of STIs;
- (h) the role of school based sex education, within a national coordinated approach to the sexual and reproductive health of the Australian population;
- (i) the development of national guidelines for preventative sexual and reproductive health care for young people by general practitioners and other primary care providers; and
- (j) the examination of the potential of school based or school linked health centres for providing sexuality and reproductive health education and health care for young people.

The Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck): To move on the next day of sitting—That on Monday, 27 March 2006:

- (a) the hours of meeting shall be 2.30 pm to 6.30 pm and 7.30 pm to 10.30 pm; and
- (b) the routine of business shall be:
  - (i) question time, and
  - (ii) the items specified in standing order 57(1)(a)(iii) to (xi).

The Leader of The Nationals in the Senate (Senator Boswell): To move on the next day of sitting—That the Senate—

- (a) congratulates the Howard/Vaile Government on measures to increase the number of doctors in Australia by lifting the cap on full fee paying places for medicine from 10 per cent to 25 per cent; and
- (b) notes that all Labor premiers at the Council of Australian Governments' meeting embraced this initiative that will effectively offer up to an additional 400 students the opportunity to study medicine each year. (*general business notice of motion no. 388*)

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the Senate—

- (a) notes that:
  - (i) 20 March 2006 is the third anniversary of the invasion of Iraq by coalition forces,
  - (ii) the suffering of the Iraqi people continues and there is no end in sight, and
  - (iii) global opinion is that the Iraq war is a mistake; and
- (b) calls on the Government to withdraw Australian troops from Iraq immediately and implement a comprehensive aid program instead. (*general business notice of motion no. 389*)

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

- (a) notes that:
  - (i) Ms Cornelia Rau was discovered detained in Baxter Detention Centre on 3 February 2005, almost 13 months ago, with an untreated mental illness,
  - (ii) Ms Rau has not been compensated for her 10 months of detention, and
  - (iii) Ms Rau is currently receiving sickness benefits; and
- (b) calls on the Government to ensure that Ms Rau is properly compensated for her ordeal as a matter of urgency. (*general business notice of motion no. 390*)

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

- (a) notes:
  - (i) that this week is the annual ‘Science Meets Parliament’ event,
  - (ii) the critical role of science in the protection of the environment and the development of new technologies and industries,
  - (iii) the recent appointment to the board of the Commonwealth Scientific and Industrial Research Organisation (CSIRO) of people with ties to the fossil fuel industry, and
  - (iv) the increasing level of political interference in scientific publications and commentary; and
- (b) calls on the Government to develop procedures for merit-based selection of independent CSIRO board members and to improve the public visibility of the activities of that board. (*general business notice of motion no. 391*)

#### 14 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 2 OF 2006

The Chair of the Selection of Bills Committee (Senator Ferris) tabled the following report:

##### SELECTION OF BILLS COMMITTEE REPORT NO. 2 OF 2006

1. The committee met in private session on Tuesday, 28 February 2006 at 4.26 pm.
2. The committee resolved to recommend—That—
  - (a) the *provisions* of the Family Assistance, Social Security and Veterans’ Affairs Legislation Amendment (2005 Budget and Other Measures) Bill 2006 be *referred immediately* to the Community Affairs Legislation Committee for inquiry and report by 24 March 2006;

- (b) the *provisions* of the OHS and SRC Legislation Amendment Bill 2005 be *referred immediately* to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 9 May 2006; and
  - (c) the *provisions* of the Telecommunications (Interception) Amendment Bill 2006 be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report by 27 March 2006.
3. The committee resolved to recommend—That the following bills *not* be referred to committees:
- Bankruptcy Legislation Amendment (Fees and Charges) Bill 2006
  - Cancer Australia Bill 2006
  - Health Legislation Amendment (Pharmacy Location Arrangements) Bill 2006
  - Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006
  - Tax Laws Amendment (2006 Measures No. 1) Bill 2006.

*The committee recommends accordingly.*

4. The committee considered a request to reconsider the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005 and agreed to consider the bill at its next meeting.

Jeannie Ferris

Chair

1 March 2006.

Senator Ferris moved—That the report be adopted.

Question put and passed.

#### 15 LEAVE OF ABSENCE

Senator Bartlett, by leave, moved—That leave of absence be granted to Senator Stott Despoja for the period 27 February to 1 March 2006, on account of ill health.

Question put and passed.

Senator Ferris, by leave, moved—That leave of absence be granted to Senator Abetz for 1 March and 2 March 2006, on account of government business overseas.

Question put and passed.

#### 16 POSTPONEMENTS

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator McLucas for today, proposing the reference of a matter to the Community Affairs References Committee, postponed till 2 March 2006.

General business notice of motion no. 386 standing in the name of the Chair of the Community Affairs References Committee (Senator Moore) for today, relating to an extension of time for the committee to report, postponed till 2 March 2006.

#### 17 NOTICE OF MOTION WITHDRAWN

The Chair of the Rural and Regional Affairs and Transport References Committee (Senator Siewert) withdrew general business notice of motion no. 376 standing in her name for today, relating to an extension of time for the committee to report.

**18 MENTAL HEALTH—SELECT COMMITTEE—EXTENSION OF TIME TO REPORT**

The Chair of the Select Committee on Mental Health (Senator Allison), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 382—That the time for the presentation of the report of the Select Committee on Mental Health be extended to 28 April 2006.

Question put and passed.

**19 FAMILY AND COMMUNITY SERVICES—AGED CARE**

The Leader of the Australian Democrats (Senator Allison) amended general business notice of motion no. 384 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes the recent reports of abuse of residents of aged care nursing homes; and
- (b) calls on the Government and all state and territory governments to protect older Australians by:
  - (i) exploring the introduction of a form mandatory reporting of suspected abuse,
  - (ii) exploring the potential benefits of pre-employment police checks for aged care workers, and
  - (iii) supporting the protection of whistleblowers.

Question put and passed.

**20 FOREIGN AFFAIRS—IRAN—NUCLEAR WEAPONS**

The Leader of the Australian Democrats (Senator Allison), also on behalf of Senator Stott Despoja, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 385—That the Senate—

- (a) notes:
  - (i) the current speculation about Iran's capabilities and intentions with regard to its possible development of nuclear weapons,
  - (ii) with deep concern, the threat of military action being considered against Iran, including the possible use of tactical nuclear weapons, and
  - (iii) successive resolutions in the United Nations General Assembly on negative security assurances and guarantees from the nuclear weapon states that nuclear weapons will never be used against non-nuclear armed states, and the importance of that principle in ensuring that non-nuclear weapon states have no motive to acquire nuclear weapons;
- (b) urges the Government to pursue a resolution of the Iranian crisis based on the following principles:
  - (i) no use of any military intervention whatsoever by any party, for any reason,
  - (ii) a clear commitment by all nuclear-armed parties not to use nuclear weapons in this situation, and to recommit to the doctrine of no 'first use' of nuclear weapons,
  - (iii) a clear commitment by all parties to the global elimination of nuclear weapons, including reaffirmation of the Final Declaration of the 2000 Non-Proliferation Treaty Review conference, and relevant UN General Assembly resolutions, including the L28 resolution sponsored by Japan and Australia,

- (iv) the implementation of the 1995 Non-Proliferation Treaty Resolution on a nuclear-weapon-free zone in the Middle East and the implementation of the annual consensus-adopted UN General Assembly resolutions on the 'Establishment of a nuclear-weapon-free zone in the region of the Middle East',
  - (v) a diplomatic path to the removal of tensions between the United States of America, Israel and Iran, involving compromise on all sides (except where the development or threat of nuclear weapons is concerned), recognising the legitimate security concerns of all parties including Israel and Iran, and refraining absolutely from inflammatory statements, and
  - (vi) encouragement of all states parties to the Nuclear Non-Proliferation Treaty to remain within that framework and all non-states parties to join that regime; and
- (c) conveys the text of this resolution to all UN Security Council missions and their foreign ministers or secretaries of state, and the Governments of Iran and Israel.

Question put.

The Senate divided—

#### AYES, 7

Senators—

Allison	Brown, Bob	Murray	Siewert
Bartlett (Teller)	Milne	Nettle	

#### NOES, 49

Senators—

Adams	Fielding	Ludwig	Polley
Barnett	Fierravanti-Wells	Lundy	Ray
Boswell	Fifield	Macdonald, Ian	Ronaldson
Brandis	Forshaw	Marshall	Scullion
Brown, Carol	Heffernan	Mason	Sterle
Campbell, George	Hogg	McEwen	Troeth
Carr	Humphries	McGauran	Trood
Chapman	Hurley	McLucas	Vanstone
Colbeck	Hutchins	Moore	Wong
Crossin	Johnston	Nash	Wortley
Eggleston	Joyce	Parry	
Ferguson	Kirk	Patterson	
Ferris (Teller)	Lightfoot	Payne	

Question negatived.

## 21 SEPARATION OF CHURCH AND STATE

The Leader of the Australian Democrats (Senator Allison), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 383—That the Senate—

(a) notes that:

- (i) on the Australian Broadcasting Corporation's *Insiders* program on Sunday, 26 February 2006, the Treasurer (Mr Costello) said that he thinks 'we can offer a tolerant Australia which respects the rights and liberties of all as long as we've got agreement on a few key points. One is a secular state', and

- (ii) on Monday, 27 February 2006 during question time, the Minister for Finance and Administration (Senator Minchin) said ‘It is a fact that in Australia, as a long part of the Western tradition, there is a separation of church and state’; and
- (b) calls on the Government, if it is serious about a secular state, to take steps to:
  - (i) remove religious references from statutory oaths and pledges,
  - (ii) abolish official parliamentary prayers,
  - (iii) remove tax advantages that solely apply for religious purposes, and
  - (iv) consider other ways of achieving a true separation of church and state.

Question put.

The Senate divided—

#### AYES, 7

Senators—

Allison	Brown, Bob	Murray	Siewert
Bartlett (Teller)	Milne	Nettle	

#### NOES, 50

Senators—

Adams	Fielding	Lundy	Ray
Barnett	Fierravanti-Wells	Macdonald, Ian	Ronaldson
Boswell	Fifield	Marshall	Scullion
Brandis	Forshaw	Mason	Sterle
Brown, Carol	Heffernan	McEwen	Troeth
Campbell, George	Hogg	McGauran	Trood
Carr	Humphries	McLucas	Vanstone
Chapman	Hurley	Moore	Watson
Colbeck	Hutchins	Nash	Webber
Crossin	Johnston	Parry	Wong
Eggleston	Joyce	Patterson	Wortley
Ferguson	Kirk	Payne	
Ferris (Teller)	Ludwig	Polley	

Question negatived.

#### 22 ENVIRONMENT—NORTHERN TERRITORY—MCARTHUR RIVER MINE—PROPOSED EXPANSION

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 380—That the Senate—

(a) notes:

- (i) that on 23 February 2006 the Northern Territory Minister for Natural Resources, the Environment and Heritage, Ms Marian Scrymgour, recommended against the proposed expansion of the McArthur River mine proposed by Xstrata Plc.,
- (ii) the potential impact on the environment, tourism and fisheries industries dependent on local ecosystems, should the mine be approved,
- (iii) the strong opposition of local Indigenous communities to the contamination of traditional fishing grounds and living areas,
- (iv) the impossibility of conducting open cut mining in a waterway without serious environmental consequences, and

(v) that Ms Scrymgour recommended against this proposal on the grounds that it failed to meet the tests of science or sustainability; and

(b) commends Ms Scrymgour on this decision.

Question put.

The Senate divided—

#### AYES, 7

Senators—

Allison	Brown, Bob	Murray	Siewert (Teller)
Bartlett	Milne	Nettle	

#### NOES, 50

Senators—

Adams	Fielding	Lundy	Ray
Barnett	Fierravanti-Wells	Macdonald, Ian	Ronaldson
Boswell	Fifield	Marshall	Scullion
Brandis	Forshaw	Mason	Sterle
Brown, Carol	Heffernan	McEwen	Troeth
Campbell, G (Teller)	Hogg	McGauran	Trood
Carr	Humphries	McLucas	Vanstone
Chapman	Hurley	Moore	Watson
Colbeck	Hutchins	Nash	Webber
Coonan	Johnston	Parry	Wong
Eggleston	Joyce	Patterson	Wortley
Ferguson	Kirk	Payne	
Ferris	Ludwig	Polley	

Question negatived.

### 23 HEALTH—TOBACCO PRODUCTS—YOUNG PEOPLE

The Leader of the Australian Democrats (Senator Allison), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 378—That the Senate—

(a) recognises that:

- (i) smoking continues to be a major cause of death and disability in Australia,
- (ii) more than 25 per cent of adolescents aged 12 to 17 in Australia in 2004 smoked cigarettes at least weekly, and
- (iii) research estimates that an adolescent who starts smoking today will smoke for a minimum of 16 years if male and 20 years if female;

(b) notes that the tobacco industry depends on its ability to attract young people to use its products in order to encourage them to become addicted;

(c) concurs with the Action on Smoking and Health Australia campaign that is calling on supermarkets to follow the lead of Coles in Tasmania by reducing its tobacco display to small rows of plain brand names and prices; and

(d) calls on the Federal Government and state and territory governments to protect the health of Australian children and young people by requiring that:

- (i) smoking-tobacco products are kept out of sight in all retail outlets,

- (ii) quit smoking messages are placed at all points of retail for tobacco products, and
- (iii) tobacco sales through vending machines are banned.

Question put and negatived.

**24 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—FAMILY AND COMMUNITY SERVICES—AGED CARE**

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

The need for the Government to:

- (a) treat the allegations of sexual abuse in residential aged care facilities as a matter of national priority; and
- (b) restore public confidence in residential aged care in Australia by investigating these allegations and reporting openly on the findings.

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

**25 SCRUTINY OF BILLS—STANDING COMMITTEE—1ST REPORT AND ALERT DIGEST NO. 2 OF 2006**

Senator Webber, at the request of the Chairman of the Standing Committee for the Scrutiny of Bills (Senator Ray), tabled the following report and document:

Scrutiny of Bills—Standing Committee—

1st report of 2006, dated 1 March 2006.

Alert Digest No. 2 of 2006, dated 1 March 2006.

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

**26 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—BUDGET ESTIMATES 2005-06**

Senator Patterson, at the request of the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee (Senator Eggleston), tabled the following additional information received by the committee:

Environment, Communications, Information Technology and the Arts Legislation Committee—Budget estimates 2005-06 (Supplementary)—Communications, Information Technology and the Arts portfolio—

Volume 1—Broadcasting.

Volume 3 and attachments—Arts and Sport.

**27 FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE—ADDITIONAL INFORMATION**

The Chair of the Finance and Public Administration References Committee (Senator Forshaw) tabled the following documents:

Finance and Public Administration References Committee—Reports—

Government advertising and accountability—Additional information.

Matters relating to the Gallipoli Peninsula—Additional information.

Senator Forshaw moved—That the Senate take note of the documents.

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

**28 AUDITOR-GENERAL—AUDIT REPORT NO. 31 OF 2005-06—DOCUMENT**

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

Auditor-General—Audit report no. 31 of 2005-06—Performance audit—Roads to recovery: Department of Transport and Regional Services.

Senator O'Brien, by leave, moved—That the Senate take note of the document.

Debate adjourned till the next day of sitting, Senator O'Brien in continuation.

**29 TAXATION—DEDUCTIBLE GIFT RECIPIENT STATUS—ENVIRONMENT GROUPS—ORDER FOR PRODUCTION OF DOCUMENTS—STATEMENT BY LEAVE**

The Parliamentary Secretary to the Minister for Defence (Senator Sandy Macdonald), by leave, made a statement relating to the order of the Senate of 21 June 2005 for the production of documents concerning deductible gift recipient status for environment groups (*see entry no. 21, 21 June 2005*).

*Statements by leave:* Senators Webber, Patterson, Carr and the Leader of the Australian Greens (Senator Bob Brown), by leave, made statements relating to the matter.

**30 DOCUMENTS**

The following documents were tabled by the Clerk:

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

Australian Bureau of Statistics Act—Proposal No. 1 of 2006—2006 Census of Population and Housing and Post Enumeration Survey.

Defence Act—Determinations under section 58B—Defence Determinations—

2006/6—Post indexes and hardship grades.

2006/7—Overseas conditions of service – deployment allowance.

2006/8—Remote location leave travel – amendment.

Disability Services Act—Disability Services (Rehabilitation Services) Guidelines 2006 [F2006L00643]\*.

National Health Act—Determination HIB 05/2006 [F2006L00608]\*.

\* Explanatory statement tabled with legislative instrument.

**31 DEPARTMENTAL AND AGENCY CONTRACTS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS**

The following documents were tabled pursuant to the order of the Senate of 20 June 2001, as amended:

Departmental and agency contracts for 2005—Letters of advice—

Education, Science and Training portfolio agencies.

Environment and Heritage portfolio agencies.

Treasury portfolio agencies.

**32 COMMUNITY AFFAIRS LEGISLATION COMMITTEE—APPOINTMENT OF MEMBER**

The Acting Deputy President (Senator Moore) informed the Senate that the President had received a letter nominating a senator to be a member of a committee.

The Minister for the Arts and Sport (Senator Kemp), by leave, moved—That Senator Carol Brown be appointed as a participating member of the Community Affairs Legislation Committee.

Question put and passed.

**33 MINISTERS OF STATE AMENDMENT BILL 2005****TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL 2006**

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 291, dated 28 February 2006—A Bill for an Act to amend the *Ministers of State Act 1952*, and for related purposes.

Message no. 292, dated 1 March 2006—A Bill for an Act to amend the *Telecommunications (Interception) Act 1979*, and for related purposes.

The Minister for the Arts and Sport (Senator Kemp) 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 Kemp moved—That these bills be now read a second time.

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

Question put and passed.

**34 JOINT COMMITTEES—APPOINTMENT OF HOUSE MEMBERS**

Messages from the House of Representatives were reported informing the Senate of the appointment of members of the House of Representatives to joint committees, as follows:

Message no. 289, dated 28 February 2006—Broadcasting of Parliamentary Proceedings—Joint Statutory Committee—Mr Cadman in place of Mr Baldwin.

Message no. 290, dated 28 February 2006—Parliamentary Library—Joint Standing Committee—Mr Broadbent, Mr Georgiou, Mr Wakelin and Mr Anderson.

**35 TAX LAWS AMENDMENT (2005 MEASURES NO. 6) BILL 2005**

Order of the day read for the further consideration of the bill.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Minister for the Arts and Sport (Senator Kemp) the bill was read a third time.

**36 FINANCIAL FRAMEWORK LEGISLATION AMENDMENT BILL (NO. 2) 2005**

Order of the day read for the adjourned debate on the motion of the Minister for the Arts and Sport (Senator Kemp)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

The Senate resolved itself into committee for the consideration of the bill.

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*In the committee*

Bill taken as a whole by leave.

Senator Murray, also on behalf of Senator Sherry, moved the following amendments together by leave:

Schedule 3, page 24 (after line 3), before item 3, insert:

**2A After section 19**

Insert:

**19A Consolidated register of special appropriations**

- (1) The Minister must cause to be tabled in each House of Parliament not later than 31 August each year a list:
  - (a) identifying all special appropriations and citing the statutory provision which establishes each one; and
  - (b) specifying the date of establishment of each special appropriation and the expected duration of the special appropriation; and
  - (c) specifying the purpose for which each special appropriation is established; and
  - (d) specifying the amount expended under each special appropriation during the previous financial year.
- (2) For the purposes of this section, *special appropriation* means a provision which appropriates money and which does not specify the amount of money so appropriated and includes a standing appropriation.

Schedule 3, page 24 (after line 3), before item 3, insert:

**2B After section 20**

Insert:

**20A Consolidated Register of Special Accounts**

The Minister must cause to be tabled in each House of Parliament not later than 31 August each year a list:

- (a) identifying all Special Accounts established in accordance with section 20 or 21 of this Act; and
- (b) specifying the date of establishment of each Special Account and the expected duration of the Account; and
- (c) specifying the purpose for which each Special Account is established; and
- (d) specifying the amount credited to each Special Account at the close of the previous financial year and the amount expended from the Account during that year.

Debate ensued.

Question—That the amendments be agreed to—put and negatived.

Senator Sherry, also on behalf of Senator Murray, moved the following amendment:

Schedule 3, page 24 (after line 3), before item 3, insert:

**2C Before section 28**

Insert:

**27A Time limits for special appropriations**

- (1) If a provision of an Act:

- (a) has effect immediately before the commencement of this Act; and
  - (b) appropriates money; and
  - (c) does not specify the amount of money so appropriated;
- the appropriation of money by that provision, unless otherwise provided by the Parliament, ceases to have effect at the expiration of the fourth year after the day the *Financial Framework Legislation Amendment Act (No. 1) 2006* receives the Royal Assent.
- (2) Amounts otherwise payable under a special appropriation which ceases to have effect under subsection (1) are to be paid from money appropriated by the Parliament for that purpose.
  - (3) An appropriation under subsection (2) must not have effect for more than four financial years.

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*At 6.50 pm:* The Acting Deputy President (Senator Marshall) resumed the chair and the Temporary Chair of Committees reported progress.

### 37 GOVERNMENT DOCUMENTS—CONSIDERATION

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

Commonwealth Grants Commission—Report—State revenue sharing relativities—2006 update. Motion to take note of document moved by Senator Watson and debated. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

Australian Political Exchange Council—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.

*Migration Act 1958*—Section 486O—Assessment of appropriateness of detention arrangements—Government response to the Commonwealth Ombudsman's reports 014/05 and 016/05, 28 February 2006. Motion to take note of document moved by Senator Bartlett and agreed to.

*Migration Act 1958*—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 014/05, 1 December 2005. Motion to take note of document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

*Migration Act 1958*—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 016/05, 1 December 2005. Motion to take note of document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

38 **ADJOURNMENT**

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

Debate ensued.

*Time expired:* The debate reached the limit of 40 minutes.

The Senate adjourned at 7.44 pm till Thursday, 2 March 2006 at 9.30 am.

39 **ATTENDANCE**

Present, all senators except Senators Abetz\*, Bishop\*, Conroy and Stott Despoja\* (\* on leave).

**HARRY EVANS**  
Clerk of the Senate