

2004-06

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 79

THURSDAY, 30 MARCH 2006

Contents

1	Meeting of Senate	2049
2	Telecommunications (Interception) Amendment Bill 2006	2049
3	Questions	2065
4	Industrial Relations—Answers to Questions	2065
5	Environment—Christmas Island—Answer to Question.....	2065
6	Hillsong Emerge—Personal Explanation.....	2065
7	Hours of Meeting and Routine of Business—Variation	2066
8	Mental Health—Select Committee—First Report	2066
9	Petitions	2066
10	Notices.....	2067
11	Selection of Bills—Standing Committee—Report No. 3 of 2006	2068
12	Postponement	2070
13	Orders of the Day Discharged	2071
14	Children—Sexual Assault.....	2071
15	Science and Technology—Genetic Use Restriction Technologies	2071
16	Environment—Climate Change	2072
17	Environment—Climate Change—Great Barrier Reef	2072
18	Parliamentary Zone—Capital Works Proposal—Approval	2073
19	Protecting Children from Junk Food Advertising Bill 2006.....	2073
20	Publications—Standing Committee—11th Report	2074
21	Legislation Committees—Additional Information—Budget and Additional Estimates 2005-06.....	2074
22	Treaties—Joint Statutory Committee—72nd Report—Document.....	2075
23	Regulations and Ordinances—Standing Committee—Document	2075
24	Legislation Committees—Reports—Additional Estimates 2005-06	2075
25	Economics Legislation Committee—Report—Annual Reports.....	2075
26	Foreign Affairs, Defence and Trade References Committee—Report— Australia’s Relationship with China	2075
27	Community Affairs References Committee—Report—Response to the Petition on Gynaecological Health Issues	2076

28	Employment, Workplace Relations and Education References Committee— Government Response—Unfair Dismissal and Small Business Employment	2076
29	ASIO, ASIS and DSD—Joint Statutory Committee—Government Response—Review of Division 3 of Part III of the <i>Australian Security Intelligence Organisation Act 1979</i>	2076
30	Maritime Legislation Amendment Bill 2005 [2006] Jurisdiction of Courts (Family Law) Bill 2005 [2006]	2076
31	ASIO, ASIS and DSD—Joint Statutory Committee—Government Response—Review of Division 3 of Part III of the <i>Australian Security Intelligence Organisation Act 1979</i> —Consideration	2076
32	Documents	2077
33	Indexed Lists of Departmental and Agency Files—Order for Production of Documents—Document	2077
34	Family Assistance, Social Security and Veterans' Affairs Legislation Amendment (2005 Budget and Other Measures) Bill 2006	2078
35	Cancer Australia Bill 2006	2083
36	Family Law Amendment (Shared Parental Responsibility) Bill 2006	2085
37	Appropriation Bill (No. 3) 2005-2006 Appropriation Bill (No. 4) 2005-2006	2098
38	Advance to the Finance Minister—2004-05	2099
39	Committees—Changes in Membership	2099
40	Adjournment	2099
41	Attendance	2100

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 TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL 2006

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

In the committee

Consideration resumed of the bill, as amended—and of the amendments moved by the Minister for Justice and Customs (Senator Ellison):

Schedule 1, item 9, page 10 (line 27), omit “device.”, substitute “device; or”.

Schedule 1, item 9, page 10 (after line 27), after paragraph 108(2)(g), add:

- (h) accessing a stored communication by an officer or staff member of the Australian Communications and Media Authority engaged in duties relating to enforcement of the *Spam Act 2003*.

Schedule 1, item 9, page 26 (lines 17 to 25), omit section 138, substitute:

138 Employee of carrier may communicate information to enforcement agency

- (1) An employee of a carrier may, for a purpose or purposes connected with the investigation by the Australian Communications and Media Authority of a serious contravention or with the performance of its functions relating to enforcement of the *Spam Act 2003*, and for no other purpose, communicate to an officer or staff member of the authority the following:
 - (a) lawfully accessed information other than foreign intelligence information;
 - (b) stored communications warrant information.
- (2) An employee of a carrier may, for a purpose or purposes connected with the investigation by any other enforcement agency of a serious contravention, and for no other purpose, communicate to an officer or staff member of the agency the following:
 - (a) lawfully accessed information other than foreign intelligence information;
 - (b) stored communications warrant information.

Debate resumed.

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

Consideration resumed of the following amendments moved by Senator Ellison and postponed on 29 March 2006:

Schedule 1, item 9, page 9 (lines 12 and 13), omit paragraph 108(1)(b), substitute:

- (b) the person does so with the knowledge of neither of the following:
 - (i) the intended recipient of the stored communication;
 - (ii) the person who sent the stored communication.

Schedule 1, item 9, page 9 (after line 18), after subsection 108(1), insert:

- (1A) Without limiting paragraph (1)(b), a person is taken for the purposes of that paragraph to have knowledge of an act referred to in paragraph (1)(a) if written notice of an intention to do the act is given to the person.

Note: For giving notice, see section 28A of the *Acts Interpretation Act 1901*.

Debate resumed.

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

Senator Stott Despoja moved the following amendment:

Schedule 1, item 9, page 12 (after line 24), after subsection 113(2), insert:

- (2A) Without limiting subsection (2), the affidavit shall set out:
- (a) the name or names by which the person is known; and
 - (b) details (to the extent these are known to the chief officer) sufficient to identify the telecommunications and stored communications services the person is using, or is likely to use; and
 - (c) the number of previous applications (if any) for warrants that the agency has made and that related to the person or to a service that the person has used; and
 - (d) the number of warrants (if any) previously issued on such applications; and
 - (e) the date on which such warrants (if any) were issued; and
 - (f) particulars of the use made by the agency of information obtained by access under such warrants.

Debate ensued.

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

Senator Ludwig moved the following amendment:

Schedule 1, item 9, page 12 (after line 28), at the end of section 113, add:

- (4) Without limiting subsection (2), the affidavit must set out:
- (a) the name or names by which the person is known; and
 - (b) details (to the extent these are known to the chief officer) sufficient to identify the telecommunications services the person is using, or is likely to use; and
 - (c) the number of previous applications (if any) for warrants that the agency has made and that related to the person or to a service that the person has used; and
 - (d) the number of warrants (if any) previously issued on such applications; and
 - (e) particulars of the use made by the agency of information obtained by interceptions under such warrants.

Debate ensued.

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

Senator Stott Despoja moved the following amendments together by leave:

- No. 1—Schedule 1, item 9, page 14 (line 28), omit “reason.”, substitute “reason; and”.

No. 2—Schedule 1, item 9, page 14 (after line 28), at the end of subsection 116(2), add:

- (g) whether the stored communication is likely to include information which is subject to legal professional privilege.

No. 3—Schedule 1, item 9, page 15 (after line 17), at the end of section 118, add:

- (4) A stored communications warrant must prohibit the collection of legally privileged information unless the contraventions to which section 116(1)(d) applies are punishable by imprisonment for a period, or a maximum period, of at least 7 years.

No. 4—Schedule 1, item 9, page 29 (line 19), after “information”, insert “or information subject to legal professional privilege”.

Debate ensued.

The question was divided—

Question—That amendments nos 1 and 2 be agreed to—put and negatived.

Question—That amendment no. 3 be agreed to—put and negatived.

Question—That amendment no. 4 be agreed to—put and negatived.

Senator Ludwig moved the following amendments together by leave:

Schedule 2, page 62 (after line 26), after item 3, insert:

3B At the end of section 9B

Add:

- (3) A warrant under section 9, in a case in which subparagraph 9(1)(a)(ia) applies, shall not authorise the interception or further use of communications which are subject to legal professional privilege.

Schedule 2, page 63 (after line 30), at the end of the Schedule, add:

11 After section 47

Insert:

47A Warrant not to authorise interception of material subject to legal professional privilege

A warrant issued under section 46, in a case to which subparagraph 46(1)(d)(ii) applies, shall not authorise the interception or further use of communications which are subject to legal professional privilege.

Debate ensued.

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

Senator Ludwig moved the following amendment:

Schedule 1, item 9, page 15 (after line 17), at the end of section 118, add:

- (4) Without limiting subsection (2), the warrant may specify that:
 - (a) stored communications which were transmitted prior to a specified date may not be accessed; and
 - (b) only stored communications sent to or by certain named persons may be accessed.

Debate ensued.

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

Senator Stott Despoja moved the following amendments together by leave:

Schedule 1, item 9, page 19 (after line 18), at the end of Division 3, add:

124A Subject of warrant to be notified

- (1) The chief officer must notify a person in respect of whom a stored communications warrant is issued of the existence of the warrant as soon as practicable following the issue of the warrant.
- (2) Subsection (1) does not apply in relation to a warrant where, in the opinion of the chief officer, notification would prejudice the investigation in relation to which the warrant is sought.
- (3) If subsection (2) applies, then the chief officer must notify the person in respect of whom a stored communications warrant is issued of the existence of the warrant immediately once such notification would not longer prejudice the investigation.

Schedule 2, page 63 (after line 30), at the end of the Schedule, add:

11 After section 48

Insert:

48A Subject of warrant to be notified

- (1) The chief officer must notify a person, in respect of whom a warrant is issued under section 46B, of the existence of the warrant as soon as practicable following the issue of the warrant.
- (2) Subsection (1) does not apply in relation to a warrant where, in the opinion of the chief officer, notification would prejudice the investigation in relation to which the warrant is sought.
- (3) If subsection (2) applies, then the chief officer must notify the person, in respect of whom a stored communications warrant is issued, of the existence of the warrant, immediately once such notification would not longer prejudice the investigation.

Debate ensued.

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

Senator Stott Despoja moved the following amendments together by leave:

Schedule 1, item 9, page 27 (lines 8 to 26), omit subsection 139(3), substitute:

- (3) A contravention to which this subsection applies is a contravention of a law of the Commonwealth, a State or a Territory that is a serious offence.

Schedule 1, item 9, page 27 (line 29), omit “paragraph (3)(a) or (b)”, substitute “subsection (3)”.

Schedule 1, item 9, page 28 (lines 1 and 2), omit paragraph 139(4)(e).

Debate ensued.

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

Senator Ludwig moved the following amendments together by leave:

Schedule 1, item 9, page 32 (after line 21), after subsection 150(1), insert:

- (1A) The chief officer must cause a review to be conducted annually of all information or records to which paragraph (1)(a) applies, in order to determine whether the records should be destroyed in accordance with subsection (1).

Schedule 1, item 9, page 33 (after line 9), at the end of Division 1, add:

151A Other records to be kept in connection with access to stored communications

The chief officer of an enforcement agency shall cause:

- (a) particulars of each telephone application for a stored communications warrant made by the agency; and
- (b) in relation to each application by the agency for a stored communications warrant, a statement as to whether:
 - (i) the application was withdrawn or refused; and
 - (ii) a warrant was issued on the application; and
- (c) in relation to each stored communications warrant, particulars of:
 - (i) the warrant; and
 - (ii) the day on which, and the time at which, each access of stored communications under the warrant occurred; and
 - (iii) the name of the person who carried out each such interception; and
 - (v) each service from which stored communications were accessed under the warrant; and
- (d) particulars of each use by the agency of lawfully obtained information; and
- (e) particulars of each communication of lawfully obtained information by an officer or staff member of the agency to a person other than an officer or staff member of the agency; and
- (f) particulars of each occasion when, to the knowledge of an officer of the agency, lawfully obtained information was given in evidence in a relevant proceeding in relation to the agency;

to be recorded in writing or by means of a computer as soon as practicable after the happening of the events to which the particulars relate or the information or statement relates, as the case may be.

Debate ensued.

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

Senator Ludwig moved the following amendment:

Schedule 1, item 9, page 33 (line 28), omit “3”, substitute “6”.

Debate ensued.

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

Senator Stott Despoja moved the following amendments together by leave:

Schedule 1, item 9, page 37 (line 26), omit “year.”, substitute “year; and”.

Schedule 1, item 9, page 37 (after line 26), at the end of subsection 162(1), add:

- (c) the number of warrants issued in relation to applications that the agency made during that year, where the warrant specified conditions or restrictions under subsection 118(2); and
- (d) the categories of serious contraventions to which the applications related; and
- (e) the number of warrants that permitted:
 - (i) 1 telecommunications service to be accessed; and
 - (ii) 2 to 5 telecommunications services to be accessed; and
 - (iii) 6 to 10 telecommunications services to be accessed; and
 - (iv) more than 10 telecommunications services to be accessed.

Schedule 1, item 9, page 38 (line 1), omit “renewal applications”, substitute “further warrant applications”.

Schedule 1, item 9, page 38 (line 6), omit “warrants.”, substitute “warrants; and”.

Schedule 1, item 9, page 38 (after line 6), at the end of subsection 162(2), add:

- (c) the number of warrants issued in relation to applications that the agency made during that year, where the warrant specified conditions or restrictions under subsection 118(2); and
- (d) the categories of serious contraventions to which the applications related; and
- (e) the number of warrants that permitted:
 - (i) 1 telecommunications service to be accessed; and
 - (ii) 2 to 5 telecommunications services to be accessed; and
 - (iii) 6 to 10 telecommunications services to be accessed; and
 - (iv) more than 10 telecommunications services to be accessed.

Schedule 1, item 9, page 38 (line 14), omit “evidence.”, substitute “evidence; and”.

Schedule 1, item 9, page 38 (after line 14), at the end of section 163, add:

- (c) how many of the proceedings described in paragraph (b) above resulted in a conviction; and
- (d) how many of the arrests made during that year were made on the basis of information obtained in accordance with a stored communications warrant issued in relation to a serious offence; and
- (e) how many of the arrests made during that year were made on the basis of information obtained in accordance with a stored communications warrant issued in relation to an offence, not being a serious offence, which is punishable by imprisonment; and
- (f) how many of the arrests made during that year were made on the basis of information obtained in accordance with a stored communications warrant issued in relation to a civil contravention.

Debate ensued.

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

Senator Ludwig moved the following amendments together by leave:

Schedule 2, page 63 (after line 30), at the end of the Schedule, add:

13 After section 61A

Insert:

61B Annual reports on warrant applications

- (1) The chief officer of a law enforcement agency must, as soon as practicable, and in any event within 3 months, after each 30 June, give to the Minister a written report that sets out:
 - (a) the number of warrant applications made in that year to which subparagraph 46(1)(d)(ii) applied; and
 - (b) the reasons given to the issuing authority for each warrant application; and
 - (c) the occasions on which the agency has obtained, in execution of a warrant to which subparagraph 46(1)(d)(ii) applies, information to which it was not entitled under the warrant; and
 - (d) the occasions on which a warrant to which subparagraph 46(1)(d)(ii) applies has been issued, but no contact has been made with the person who is subject to the warrant, by the person under investigation for the serious offence.
- (2) The Minister must cause a copy of the report provided to the Minister under subsection (1) to be tabled in each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

Schedule 2, page 63 (after line 30), at the end of the Schedule, add:

15 After section 61A

Insert:

61D Destruction of information obtained under a B-party warrant

- (1) The chief officer of a law enforcement agency:
 - (a) must ensure that every record or report comprising communications obtained in accordance with a warrant in a case to which subparagraph 46(1)(d)(ii) applies is kept in a secure place that is not accessible to people who are not entitled to deal with the record or report; and
 - (b) must cause to be destroyed any record or report referred to in paragraph (a):
 - (i) as soon as practicable after the making of the record or report if the chief officer is satisfied that no civil or criminal proceeding to which the material contained in the record or report relates has been, or is likely to be, commenced; and
 - (ii) within the period of 5 years after the making of the record or report, or within each period of 5 years thereafter, unless, before the end of each 5-year period, the chief officer is satisfied that, in relation to the material contained in the record or report of a matter, civil or criminal proceedings have been, or are likely to be, commenced and certifies to that effect; and

(c) must caused to be destroyed any information in any form which is not material to the investigation in relation to which the warrant was issued.

(2) Subsection (1) does not apply to a record or report that is received into evidence in legal proceedings or disciplinary proceedings.

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

Senator Ludwig moved the following amendment:

Schedule 1, page 43 (after line 12), at the end of Part 1, add:

Telecommunications Act 1997

9A After subsection 280(1)

Insert:

(1A) To avoid doubt, section 108 of the *Telecommunications (Interception and Access) Act 1979* applies to access to stored communications despite any provision in Division 2.

9B After subsection 282(2)

Add:

(2A) Subsections (1) and (2) do not apply where section 108 of the *Telecommunications (Interception and Access) Act 1979* applies.

Debate ensued.

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

On the motion of Senator Ellison the following amendments, taken together by leave, were agreed to:

Schedule 1, item 19, page 45 (line 14), omit “or 3-2”.

Schedule 1, page 45 (after line 20), after item 20, insert:

Intelligence Services Act 2001

20A Paragraph 14(2A)(a)

Omit “Part III of the *Telecommunications (Interception) Act 1979*”, substitute “Part 2-2 of the *Telecommunications (Interception and Access) Act 1979*”.

Schedule 1, page 46 (after line 9), after item 24, insert:

Telecommunications Act 1997

24A Section 5

Omit “*Telecommunications (Interception) Act 1979*”, substitute “*Telecommunications (Interception and Access) Act 1979*”.

24B Subsection 313(7)

Omit “interception services”, substitute “interception or access services”.

24C Subsection 313(7)

Omit “under the *Telecommunications (Interception) Act 1979*”, substitute “or a stored communications warrant under the *Telecommunications (Interception and Access) Act 1979*”.

24D Subsection 313(8)

Omit “interception services”, substitute “interception or access services”.

24E Subsection 313(8)

After “intercepted”, insert “or accessed”.

24F Subsection 324(2)

Omit “*Telecommunications (Interception) Act 1979*”, substitute “*Telecommunications (Interception and Access) Act 1979*”.

24G Section 332K (note)

Omit “*Telecommunications (Interception) Act 1979*”, substitute “*Telecommunications (Interception and Access) Act 1979*”.

Senator Stott Despoja moved the following amendment:

Schedule 2, page 62 (before line 5), before item 1, insert:

1A At the end of section 6DA

Add:

- (5) Despite subsection (1), a person holding an appointment to the Administrative Appeals Tribunal may not issue a warrant under Part VI in cases to which subparagraph 46(1)(d)(ii) applies.

Debate ensued.

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

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1.

Schedule 1, as amended, debated and agreed to.

Senator Ludwig moved the following amendments together by leave:

Schedule 2, item 3, page 62 (line 26), at the end of subsection 9(3), add:

- ; or (c) communications made to or from a telecommunications service used or likely to be used by that person is likely to provide information relevant to the particular activities prejudicial to security which are stated in the application.

Schedule 2, page 62 (after line 26), after item 3, insert:

3A Subsection 9B(4)

After “previously been issued”, add “unless subparagraph 9(1)(a)(ia) applies to the further warrant, in which case no further warrant may be issued”.

Schedule 2, item 9, page 63 (lines 16 to 25), omit subsection 46(3), substitute:

- (3) The Judge or nominated AAT member must not issue a warrant in a case in which this section applies unless the person making the application on behalf of the enforcement agency sets out evidence in an affidavit at the time of its application, or in the case of a telephone application, within one day after the day on which the warrant is issued, that:
 - (a) the agency has exhausted all other methods of identifying the telecommunications services used, or likely to be used, by the person involved in the offence or offences referred to in paragraph (1)(d); and
 - (b) interception of communications made to or from a telecommunications service used or likely to be used by that person would not otherwise be possible; and

- (c) communications intercepted from the communications service will not breach any person's legal professional privilege.

Schedule 2, page 63 (after line 30), at the end of the Schedule, add:

12 At the end of subsection 49(5)

Add “, unless the warrant is issued in a case to which subparagraph 46(1)(d)(ii) applies, in which case no further warrant may be issued”.

Schedule 2, page 63 (after line 25), after item 9, insert:

9A After section 46

Insert:

46AB Limitation on use of information derived from B-party warrants

Types of persons—A-party, B-party, C-party

- (1) A person who would be likely to assist in connection with the investigation of a serious offence or serious offences is known as an A-party.
- (2) A person who receives a communication from, or sends a communication to, a person described in subsection (1) is known as a B-party.
- (3) A person other than a person described in subsection (1) who receives a communication from, or sends a communication to, a person described in subsection (2) is known as a C-party.

Use derivative-use indemnity applies to communication from C-party

- (4) A warrant to which subparagraph 46(1)(d)(ii) applies can not be issued in respect of a person described in subsection (3) merely as a result of the action described in subsection (3).
- (5) The provisions of this Act do not apply to any communication made by a person described in subsection (3) merely as a result of the action described in subsection (3) and any information given by such a person is not admissible in evidence against the person in:
 - (a) any criminal proceedings other than a proceeding for a serious offence; or
 - (b) any civil proceedings.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 30

Senators—

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

NOES, 33

Senators—			
Abetz	Coonan	Lightfoot	Ronaldson
Adams	Eggleston	Macdonald, Ian	Santoro
Barnett	Ferris (Teller)	Macdonald, Sandy	Scullion
Boswell	Fierravanti-Wells	Mason	Troeth
Brandis	Fifield	McGauran	Vanstone
Calvert	Heffernan	Nash	Watson
Campbell, Ian	Humphries	Parry	
Chapman	Johnston	Patterson	
Colbeck	Kemp	Payne	

Question negatived.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 2.

Question—That Schedule 2 stand as printed—put.

The committee divided—

AYES, 31

Senators—			
Abetz	Eggleston	Lightfoot	Payne
Adams	Ferris (Teller)	Macdonald, Ian	Ronaldson
Barnett	Fierravanti-Wells	Macdonald, Sandy	Santoro
Boswell	Fifield	Mason	Scullion
Brandis	Heffernan	McGauran	Troeth
Calvert	Humphries	Nash	Vanstone
Chapman	Johnston	Parry	Watson
Colbeck	Kemp	Patterson	

NOES, 30

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

Schedule agreed to.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 2, items 1 to 4.

Schedule 2, items 1 to 4 debated and agreed to.

Senator Stott Despoja moved the following amendments together by leave:

Schedule 2, item 5, page 62 (line 29) to page 63 (line 1), omit the item, substitute:

5 At the end of section 46A

Add:

46B Warrant for B-party interception

- (1) Where an agency applies to an eligible Judge for a warrant in respect of a person and the Judge is satisfied, on the basis of the information given to the Judge under this Part in connection with the application, that:

- (a) Division 3 has been complied with in relation to the application; and
- (b) in the case of a telephone application—because of urgent circumstances, it was necessary to make the application by telephone; and
- (c) there are reasonable grounds for suspecting that a particular person is using, or is likely to use, more than one telecommunications service; and
- (d) there is a substantial likelihood that information to be intercepted under the warrant would assist in connection with the investigation by the agency of a serious offence by a person who is expected to contact the person subject to the warrant; and
- (e) having regard to the matters referred to in subsection (2), and to no other matters, the Judge should issue a warrant authorising such communications to be intercepted;

the Judge may, in his or her discretion, issue such a warrant.

- (2) The matters to which the Judge must have regard are:
 - (a) how much the privacy of any person or persons would be likely to be interfered with by intercepting under a warrant communications made to any telecommunications service used by the person in respect of whom the warrant is sought; and
 - (b) the gravity of the conduct constituting the offence or offences being investigated; and
 - (c) how much the information referred to in paragraph (1)(d) would be likely to assist in connection with the investigation by the agency of the offence or offences; and
 - (d) to what extent methods (including the use of a warrant issued under section 46) of investigating the offence or offences that do not involve the use of a warrant issued under this section in relation to the person have been used by, or are available to, the agency; and
 - (e) how much the use of such methods would be likely to assist in connection with the investigation by the agency of the offence or offences; and
 - (f) how much the use of such methods would be likely to prejudice the investigation by the agency of the offence or offences, whether because of delay or for any other reason.
- (3) The Judge must not issue a warrant in a case in which this section applies unless the person making the application on behalf of the enforcement agency states in an affidavit at the time of its application, or in the case of a telephone application within one day after the day on which the warrant is issued, that:
 - (a) the agency has exhausted all other methods of identifying the telecommunications services used, or likely to be used, by the person involved in the offence or offences referred to in paragraph (1)(d); and
 - (b) interception of communications made to or from a telecommunications service used or likely to be used by that person would not otherwise be possible; and

- (c) communications intercepted from the communications service are not likely to breach any person's legal professional privilege.

Schedule 2, item 6, page 63 (lines 2 and 3), omit the item, substitute:

6 Section 47

Omit "or 46A", substitute ", 46A or 46B".

Debate ensued.

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

Senator Stott Despoja moved the following amendment:

Schedule 2, item 10, page 63 (line 29), omit paragraph 49(3)(a), substitute:

- (a) if section 46B applies, up to 14 days; or

Debate ensued.

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

On the motion of Senator Ellison the following amendments, taken together by leave, were debated and agreed to:

Schedule 2, item 7, page 63 (lines 8 and 9), omit subparagraph 46(1)(d)(ii), substitute:

- (ii) another person is involved with whom the particular person is likely to communicate using the service; and

Schedule 2, page 63 (after line 30), at the end of the Schedule, add:

11 After paragraph 100(1)(ec)

Insert:

- (ed) in relation to applications of a kind referred to in paragraph (a), (b), (c), (d) or (e), the relevant statistics about applications of that kind that relate to warrants in relation to which subparagraph 46(1)(d)(ii) would apply if the warrants were issued; and
- (ee) how many Part 2-5 warrants issued during that year on application made by the agency or authority were warrants in relation to which subparagraph 46(1)(d)(ii) applied; and
- (ef) how many Part 2-5 warrants renewed during that year on application made by the agency or authority were warrants in relation to which subparagraph 46(1)(d)(ii) applied; and

12 After paragraph 100(2)(ec)

Insert:

- (ed) in relation to applications of a kind referred to in paragraph (a), (b), (c), (d) or (e), the relevant statistics about applications of that kind that relate to warrants in relation to which subparagraph 46(1)(d)(ii) would apply if the warrants were issued; and
- (ee) how many Part 2-5 warrants issued during that year were warrants in relation to which subparagraph 46(1)(d)(ii) applied; and
- (ef) how many Part 2-5 warrants renewed during that year were warrants in relation to which subparagraph 46(1)(d)(ii) applied; and

13 At the end of paragraphs 101(1)(a), (b) and (c)

Add “and”.

14 After paragraph 101(1)(d)

Insert:

- (da) in relation to periods of a kind referred to in paragraph (a), (b), (c) or (d), the averages of the periods of that kind that relate to warrants in relation to which subparagraph 46(1)(d)(ii) applied; and

15 At the end of paragraphs 101(2)(a), (b) and (c)

Add “and”.

16 After paragraph 101(2)(d)

Insert:

- (da) in relation to periods of a kind referred to in paragraph (a), (b), (c) or (d), the averages of the periods of that kind that relate to warrants in relation to which subparagraph 46(1)(d)(ii) applied; and

Senator Stott Despoja moved the following amendment:

Schedule 2, page 63 (after line 30), at the end of the Schedule, add:

12 After subsection 49(2A)

Insert:

- (2B) Without limiting subsection (2), a warrant issued under section 46B must state that the warrant does not include the storage of:
 - (a) any communications that do not involve the person suspected of an offence under paragraph 46(1)(b); or
 - (b) any communications not material to the investigation on which the application for the warrant was based;
 and that recordings of any such communications must be destroyed immediately once the agency determines that this section applies.

Debate ensued.

Senator Stott Despoja, by leave, withdrew the amendment.

Senator Stott Despoja moved the following amendment:

Schedule 2, page 63 (after line 30), at the end of the Schedule, add:

13 After section 60

Insert:

60A Dealing with information obtained under a section 46B warrant

- (1) The chief officer of a law enforcement agency:
 - (a) must ensure that every record or report comprising communications obtained in accordance with a warrant under section 46B is kept in a secure place that is not accessible to people who are not entitled to deal with the record or report; and
 - (b) must cause to be destroyed any record or report referred to in paragraph (a):

- (i) as soon as practicable after the making of the record or report if the chief officer is satisfied that no civil or criminal proceeding to which the material contained in the record or report relates has been, or is likely to be, commenced; and
 - (ii) within the period of 5 years after the making of the record or report, and within each period of 5 years thereafter, unless, before the end of each 5-year period, the chief officer is satisfied that, in relation to the material contained in the record or report of a matter, civil or criminal proceedings have been, or are likely to be, commenced and certifies to that effect.
- (2) Subsection (1) does not apply to a record or report that is received into evidence in legal proceedings or disciplinary proceedings.

Debate ensued.

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

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 2. Schedule 2, as amended, debated.

Question—That Schedule 2, as amended, be agreed to—put.

The committee divided—

AYES, 33

Senators—

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

NOES, 30

Senators—

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

Schedule agreed to.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 3.

Schedule 3 debated.

Question—That Schedule 3 stand as printed—put.

The committee divided—

AYES, 46

Senators—

Adams	Fifield	Marshall	Polley
Barnett	Forshaw	Mason	Ray
Bishop	Hogg	McEwen	Ronaldson
Brandis	Humphries	McGauran	Scullion (Teller)
Calvert	Hurley	McLucas	Stephens
Campbell, George	Hutchins	Minchin	Troeth
Chapman	Johnston	Moore	Watson
Colbeck	Kemp	Nash	Webber
Eggleston	Lightfoot	O'Brien	Wong
Ellison	Ludwig	Parry	Wortley
Ferris	Lundy	Patterson	
Fierravanti-Wells	Macdonald, Sandy	Payne	

NOES, 7

Senators—

Allison	Milne	Nettle	Stott Despoja
Bartlett (Teller)	Murray	Siewert	

Schedule agreed to.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 4.

Schedule 4 agreed to.

On the motion of Senator Ellison the following amendments, taken together by leave, were debated and agreed to:

Schedule 5, item 35, page 85 (lines 1 to 5), omit the item, substitute:

35 Section 82

Repeal the section.

Schedule 5, page 85 (after line 5), at the end of the Schedule, add:

36 At the end of paragraph 86(1)(a)

Add “and”.

37 After paragraph 86(1)(b)

Insert:

and (ba) is entitled to have full and free access at all reasonable times to the General Register and the Special Register; and

38 Paragraph 86(1)(c)

After “agency”, insert “or the General Register or Special Register”.

39 At the end of section 86

Add:

- (3) The Ombudsman’s powers include doing anything incidental or conducive to the performance of any of the Ombudsman’s functions under this Part.

Question—That the bill, as amended, be agreed to—divided in respect of Schedules 5 and 6.

Schedule 5, as amended, and Schedule 6 debated and agreed to.

Bill, as amended, agreed to.
Bill to be reported with amendments.

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

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

Senator Ellison moved—That this bill be now read a third time.

Debate ensued.

Question put and passed.

Bill read a third time.

At 2 pm—

3 QUESTIONS

Questions without notice were answered.

Distinguished visitors: The President welcomed members of a parliamentary delegation from the Islamic Republic of Pakistan led by the Speaker of the National Assembly, the Honourable Chaudhary Amir Hussain, and, with the concurrence of honourable senators, invited the Speaker to take a seat on the floor of the chamber.

Further questions without notice were answered.

4 INDUSTRIAL RELATIONS—ANSWERS TO QUESTIONS

Senator Hurley moved—That the Senate take note of the answers given by the Minister for Fisheries, Forestry and Conservation (Senator Abetz) to questions without notice asked today relating to changes to industrial relations.

Debate ensued.

Question put and passed.

5 ENVIRONMENT—CHRISTMAS ISLAND—ANSWER TO QUESTION

Senator Siewert moved—That the Senate take note of the answer given by the Minister for the Environment and Heritage (Senator Ian Campbell) to a question without notice asked by Senator Siewert today relating to Christmas Island.

Question put and passed.

6 HILLSONG EMERGE—PERSONAL EXPLANATION

Senator Hutchins, by leave, made a personal explanation relating to comments made in the House of Representatives by the Member for Lindsay (Miss J Kelly) on 29 March 2006.

7 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION

The Minister for Communications, Information Technology and the Arts (Senator Coonan), by leave, moved government business notice of motion no. 2—That, on Thursday, 30 March 2006:

- (a) the hours of meeting shall be 9.30 am to adjournment;
- (b) consideration of general business and consideration of committee reports, government responses and Auditor-General's reports under standing order 62(1) and (2) shall not be proceeded with;
- (c) the routine of business from not later than 4.30 pm shall be government business only;
- (d) divisions may take place after 4.30 pm; and
- (e) the question for the adjournment of the Senate shall not be proposed till after the Senate has finally considered the bills and items listed below, including any messages from the House of Representatives:
 - Telecommunications (Interception) Amendment Bill 2006
 - Family Law Amendment (Shared Parental Responsibility) Bill 2006
 - Family Assistance, Social Security and Veterans' Affairs Legislation Amendment (2005 Budget and Other Measures) Bill 2006
 - Appropriation Bill (No. 3) 2005-2006
 - Appropriation Bill (No. 4) 2005-2006
 - Issues from the Advance to the Finance Minister as a final charge for the year ended 30 June 2005
 - Cancer Australia Bill 2006.

Question put and passed.

8 MENTAL HEALTH—SELECT COMMITTEE—FIRST REPORT

The Chair of the Select Committee on Mental Health (Senator Allison) tabled the following report and documents:

Mental Health—Select Committee—A national approach to mental health: From crisis to community—First report, dated March 2006, Hansard record of proceedings, documents presented to the committee, additional information published by the committee, additional information provided with answers to questions on notice and submissions [558].

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

Senator Allison, by leave, moved—That the Senate take note of the report.

Debate ensued.

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

9 PETITIONS

The following 5 petitions, lodged with the Clerk by the senators indicated, were received:

Senator Hogg, from 84 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.

Senator Kemp, from 4 petitioners, requesting that the Senate oppose any change in the design or colour of the Australian national flag.

Senator Stott Despoja, from 24 petitioners, requesting that the Senate take action to regulate pregnancy counselling in Australia, including banning misleading and deceptive advertising.

Senator Stott Despoja, from 981 petitioners, requesting that the Senate take action to ensure that Austudy recipients are eligible for rent assistance.

Senator Stott Despoja, from 82 petitioners, requesting that the Senate oppose legislation to abolish universal student union fees.

10 NOTICES

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

(a) notes:

- (i) the Make Poverty History campaign's White Band Day on Sunday, 2 April 2006,
- (ii) the continuing tremendous efforts of the many non-government organisations involved in the Make Poverty History campaign, in pursuit of their commitment to the Millennium Development Goals,
- (iii) the Government's response to the tsunami crisis and aid budget increase and the understanding that this response may serve as a guide to Australia in supporting the Make Poverty History campaign to achieve its goal of halving world poverty by 2015,
- (iv) that Australia has the capacity to assist the campaign in a particularly constructive and valuable way, and
- (v) that an end to world poverty is attainable with the assistance and determination of nations such as Australia; and

(b) calls on the Government to continue to increase the proportion of budget funding for aid in the 2006 budget, consistent with its commitment to helping developing countries reduce poverty and achieve sustainable development. (*general business notice of motion no. 413*)

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

(a) notes that:

- (i) the 50th Session of the Commission on the Status of Women was held in New York from 27 February to 10 March 2006, and
- (ii) the themes for this session were enhanced participation of women in development – an enabling environment for achieving gender equality and the advancement of women, taking into account education, health and work – and equal participation of women and men in decision-making processes at all levels; and

(b) urges the Government to sign the Optional Protocol to progress these issues more effectively and set an example for other countries around the world which have not yet signed the Optional Protocol. (*general business notice of motion no. 414*)

Senators Stott Despoja and Bartlett: To move on 10 May 2006—That the following bill be introduced: A Bill for an Act to amend the *Marriage Act 1961* to provide for same-sex unions, and for related purposes. **Same-Sex Unions Bill 2006**. (*general business notice of motion no. 415*)

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

- (a) notes that:
- (i) the Chinese Ambassador to Australia, Madam Fu Ying, stated in December 2005 that China does not have sufficient uranium for both its weapons and civilian energy programs,
 - (ii) Australian yellowcake needs to go to conversion, enrichment and processing facilities before being allocated to declared civilian nuclear power stations,
 - (iii) most of the conversion, enrichment and processing facilities are not declared facilities and are therefore not covered by International Atomic Energy Agency (IAEA) safeguards, and
 - (iv) those facilities that are declared are only declared at the discretion of the Chinese Government, and therefore are voluntary and can at any time be removed from IAEA safeguards;
- (b) recognises therefore that by exporting uranium to China, Australia will be supporting, either directly or indirectly, the Chinese nuclear weapons program in contravention of the Nuclear Non-Proliferation Treaty; and
- (c) opposes and condemns the export of uranium to China. (*general business notice of motion no. 416*)

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

- (a) notes:
- (i) the statement by the Prime Minister, Mr Howard, on 28 March 2006 that ‘whilst India is not a signatory to the [Nuclear Non-Proliferation] treaty, everybody knows that her behaviour since exploding a device in 1974 has been impeccable’,
 - (ii) that India conducted nuclear tests in 1998, prompting the Australian Government to sever defence links with India,
 - (iii) that India resumed missile testing in 2001, using an intermediate range ballistic missile capable of carrying a nuclear warhead,
 - (iv) that India has still not become a party to either the Comprehensive Test Ban Treaty nor the Nuclear Non-Proliferation Treaty, and
 - (v) India has a well-developed, active and secret program to outfit its uranium enrichment program and circumvent other countries’ technology export control efforts, according to a recently-released report by the United States of America-based Institute of Science and International Security; and
- (b) calls on the Prime Minister to rule out any change to the Government’s policy of refusing to permit the sale of uranium to India. (*general business notice of motion no. 417*)

11 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 3 OF 2006

Senator Scullion, at the request of the Chair of the Selection of Bills Committee (Senator Ferris), tabled the following report:

SELECTION OF BILLS COMMITTEE

REPORT NO. 3 OF 2006

1. The committee met in private session on Wednesday, 29 March 2006 at 4.22 pm.

2. The committee resolved to recommend—That—
- (a) the *provisions* of the Health and Other Services (Compensation) Amendment Bill 2006 be *referred immediately* to the Community Affairs Legislation Committee for inquiry and report by 9 May 2006;
 - (b) the National Health and Medical Research Council Amendment Bill 2006 be *referred immediately* to the Community Affairs Legislation Committee for inquiry and report by 2 May 2006;
 - (c) upon its introduction into the House of Representatives, the *provisions* of the Petroleum Retail Legislation Repeal Bill 2006 be *referred immediately* to the Economics Legislation Committee for inquiry and report by 2 May 2006;
 - (d) upon its introduction into the House of Representatives, the *provisions* of the Australian Nuclear Science and Technology Organisation Amendment Bill 2006 be *referred immediately* to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 2 May 2006;
 - (e) upon its introduction into the House of Representatives, the *provisions* of the Australian Research Council Amendment Bill 2006 be *referred immediately* to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 2 May 2006;
 - (f) the *provisions* of the Renewable Energy (Electricity) Amendment Bill 2006 be *referred immediately* to the Environment, Communications, Information Technology and the Arts Legislation Committee for inquiry and report by 9 May 2006;
 - (g) the Australian Broadcasting Corporation Amendment Bill 2006 be *referred immediately* to the Environment, Communications, Information Technology and the Arts Legislation Committee for inquiry and report by 2 May 2006;
 - (h) upon its introduction into the House of Representatives, the *provisions* of the Australian Trade Commission Legislation Amendment Bill 2006 be *referred immediately* to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by 2 May 2006;
 - (i) upon its introduction into the House of Representatives, the *provisions* of the Export Market Development Grants Legislation Amendment Bill 2006 be *referred immediately* to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by 2 May 2006;
 - (j) the Migration Amendment (Employer Sanctions) Bill 2006 be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report by 2 May 2006;
 - (k) the *provisions* of the Federal Magistrates Amendment (Disability and Death Benefits) Bill 2006 be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report by 2 May 2006;
 - (l) the *provisions* of the Law Enforcement Integrity Commissioner Bill 2006, the Law Enforcement Integrity Commissioner (Consequential Amendments) Bill 2006 and the Law Enforcement (AFP Professional Standards and Related Measures) Bill 2006 be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report by 11 May 2006; and

- (m) the *provisions* of the Customs Legislation Amendment (Border Compliance and Other Measures) Bill 2006 be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report by 2 May 2006.
3. The committee resolved to recommend—That the following bills *not* be referred to committees:
- Age Discrimination Amendment Bill 2006
 - General Insurance Supervisory Levy Imposition Amendment Bill 2006
 - Superannuation Legislation Amendment (Trustee Board and Other Measures) Bill 2006.

The committee recommends accordingly.

4. The committee *deferred* consideration of the following bills to the next meeting:

Bill deferred from meeting of 28 February 2006

Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005

Bills deferred from meeting of 29 March 2006

ASIO Legislation Amendment Bill 2006
 Aviation Transport Security Amendment Bill 2006
 Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) (Consequential Amendments) Bill 2006
 Fuel Tax Bill 2006 and the Fuel Tax (Consequential and Transitional Provisions) Bill 2006
 Maritime Transport and Offshore Facilities Security Amendment (Security Plans and Other Measures) Bill 2006
 Protection of the Sea (Powers of Intervention) Amendment Bill 2006
 Tax Laws Amendment (2006 Measures No. 2) Bill 2006.

Jeannie Ferris
 Chair
 30 March 2006.

Senator Scullion moved—That the report be adopted.

Senator Marshall moved the following amendment:

At the end of the motion, add “but, in respect of the provisions of the Australian Nuclear Science and Technology Organisation Amendment Bill 2006 and the provisions of the Australian Research Council Amendment Bill 2006, the Employment, Workplace Relations and Education Legislation Committee report on 10 May 2006”.

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

Main question, as amended, put and passed.

12 POSTPONEMENT

The following item of business was postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Bartlett for today, proposing the reference of matters to the Community Affairs References Committee, postponed till 10 May 2006.

13 ORDERS OF THE DAY DISCHARGED

The Minister for the Environment and Heritage (Senator Ian Campbell), by leave, moved—That the following government business orders of the day be discharged from the *Notice Paper*:

No. 19 Workplace Relations Amendment (Better Bargaining) Bill 2005.

No. 20 Workplace Relations Amendment (Small Business Employment Protection) Bill 2005.

No. 21 Workplace Relations Amendment (Extended Prohibition of Compulsory Union Fees) Bill 2005.

No. 22 Workplace Relations Amendment (Right of Entry) Bill 2004.

Question put and passed.

14 CHILDREN—SEXUAL ASSAULT

Senator Bartlett, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 334—That the Senate—

- (a) notes that the recent Australian Local Government Association (ALGA) conference passed a resolution calling on ‘the Federal Coalition Government, the Opposition and all federal politicians to develop a national strategy in partnership with state and local governments and key stakeholders to address the issue of sexual assault on children in Australia’;
- (b) congratulates the ALGA for demonstrating its commitment to this important national issue;
- (c) notes that the Government will be convening two national conferences on abuse of children, which will bring together key stakeholders responsible for the care and protection of children; and
- (d) expresses its support for the ALGA resolution and calls on all politicians to develop a national strategy on this crucial and pressing matter in partnership with state, territory and local governments and key stakeholders.

Question put and passed.

15 SCIENCE AND TECHNOLOGY—GENETIC USE RESTRICTION TECHNOLOGIES

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 406—That the Senate—

- (a) notes:
 - (i) that the Australian Government has not as yet stated a public policy position on genetic use restriction technologies (GURTs), and has not yet undertaken a process of public consultation on GURTs, and
 - (ii) the recommendation of a working group at the United Nations meeting on the Convention on Biological Diversity (CBD) in Brazil on Friday, 24 March 2006, to uphold the existing de facto moratorium on GURTs, which is expected to be confirmed by the CBD’s plenary session in the week beginning 27 March 2006; and
- (b) calls on the Australian Government to:
 - (i) cease all Australian Government advocacy of measures that would undermine the CBD’s moratorium on GURTs,
 - (ii) place a ban on research, development and use of GURTs in Australia, and

- (iii) instruct all official delegates to future CBD meetings to advocate a complete and permanent international ban on GURTs.

Question put and negatived.

16 ENVIRONMENT—CLIMATE CHANGE

Senator Milne, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 411—That the Senate—

(a) notes:

- (i) the comments by the Prime Minister of the United Kingdom (UK), Mr Tony Blair, made in the House of Representatives on 27 March 2006, about the need for Australia to re-engage with global efforts to tackle climate change,
- (ii) that the UK has released a new climate change program setting out the UK agenda for action on climate change, including a stricter emissions cap on industry,
- (iii) that the Conservative Party in the UK has committed itself to emission targets for 2010, 2020 and 2050 and has said that targets ‘must be locked in through binding commitments, stretching decades into the future and reinforced by market-based emissions-trading mechanisms’, and
- (iv) that during the South Australian election campaign, the South Australian Liberal Parry committed to a 60 per cent cut by 2050 and to reduce the state’s emissions by 20 per cent by 2020; and

- (b) calls on the Government to follow the lead of the other conservative parties by setting emission abatement targets and putting a price on carbon in order to send the clear signal that industry and the financial sector need if they are to invest in the new technologies required.

Question put and negatived.

17 ENVIRONMENT—CLIMATE CHANGE—GREAT BARRIER REEF

Senator Milne, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 412—That the Senate—

(a) notes that the Federal Government’s *Climate Change: Risk and Vulnerability* report states that:

- (i) both the Great Barrier Reef and the Wet Tropics are very sensitive to changes in temperature and that an increase of as little as 2°C could have devastating effects,
- (ii) climate model projections suggest that within 40 years water temperatures could be above the survival limit of corals, and
- (iii) the value and uniqueness of World Heritage listed areas are already established and these should be given prominence in adaptation research and planning;

(b) further notes that:

- (i) the World Heritage Committee considers that the Great Barrier Reef is one of many World Heritage sites that will become increasingly affected by climate change – other prime examples include the Kilimanjaro National Park, biosphere reserves such as the Cape Floral Region in South Africa and cultural sites such as the Venice Lagoon which is threatened by the rise in sea level, and

(ii) at the World Heritage Committee meeting of climate change experts at the United Nations Educational, Scientific and Cultural Organization Headquarters in Paris on 16 and 17 March 2006, the Australian Government joined with the United States of America in arguing against the Great Barrier Reef being listed as World Heritage in Danger because of climate change; and

(c) calls on the Government to support inclusion of the Great Barrier Reef on the World Heritage in Danger list because of climate change.

Question put.

The Senate divided—

AYES, 29

Senators—

Allison	Hogg	Milne	Stephens
Bartlett	Hurley	Moore	Stott Despoja
Bishop	Hutchins	Murray	Webber
Campbell, G (Teller)	Kirk	Nettle	Wong
Conroy	Ludwig	O'Brien	Wortley
Crossin	Marshall	Polley	
Evans	McEwen	Ray	
Forshaw	McLucas	Siewert	

NOES, 34

Senators—

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

Question negatived.

18 PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL—APPROVAL

The Minister for the Environment and Heritage (Senator Ian Campbell), at the request of the Minister for Justice and Customs (Senator Ellison) and pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 1—That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being the construction of the National Portrait Gallery.

Question put and passed.

19 PROTECTING CHILDREN FROM JUNK FOOD ADVERTISING BILL 2006

Senator Bartlett, at the request of the Leader of the Australian Democrats (Senator Allison) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 409—That the following bill be introduced:

A Bill for an Act to amend the *Broadcasting Services Act 1992* to encourage healthier eating habits among children and to prohibit the advertising of junk food during certain times, and for related purposes.

Question put and passed.

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

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

20 PUBLICATIONS—STANDING COMMITTEE—11TH REPORT

Senator Scullion, at the request of the Chair of the Standing Committee on Publications (Senator Watson), tabled the following report:

PUBLICATIONS COMMITTEE

11TH REPORT

The Publications Committee reports that it has met in conference with the Publications Committee of the House of Representatives.

The Committee, having considered documents presented to the Senate since 1 March 2006, recommends that the following be printed:

Australian Competition and Consumer Commission—Telecommunications report—Telstra's compliance with price control arrangements—2004-05.

Department of Agriculture, Fisheries and Forestry—Reports—
2003-04—Corrigendum.
2004-05—Corrigendum.

Foreign Investment Review Board—Report for 2004-05.

National Occupational Health and Safety Commission—Report for 1 July to 31 December 2005 [Final report].

Queensland Fisheries Joint Authority—Report for 2003-04.

Wheat Export Authority—Report for 2004-05.

Senator John Watson
Chairman
30 March 2006.

Senator Scullion moved—That the report be adopted.

Question put and passed.

21 LEGISLATION COMMITTEES—ADDITIONAL INFORMATION—BUDGET AND ADDITIONAL ESTIMATES 2005-06

Senator Scullion, at the request of the chairs of the respective committees, tabled the following additional information received by the committees:

Budget estimates 2005-06 (Supplementary)—Employment, Workplace Relations and Education Legislation Committee—Additional information received between 3 March and 30 March 2006—

Education, Science and Training.

Employment and Workplace Relations.

Additional estimates 2005-06—

Economics Legislation Committee—Additional information received between 15 February and 28 March 2006—Treasury portfolio.

Employment, Workplace Relations and Education Legislation Committee—Additional information received between 15 February and 30 March 2006—Employment and Workplace Relations.

Legal and Constitutional Legislation Committee—Additional information received between 13 February and 29 March 2006—Attorney-General's portfolio.

22 TREATIES—JOINT STATUTORY COMMITTEE—72ND REPORT—DOCUMENT

Senator Scullion, on behalf of the Joint Standing Committee on Treaties, tabled the following document:

Treaties—Joint Statutory Committee—72nd report—Treaties tabled on 29 November 2005 (2)—Erratum.

23 REGULATIONS AND ORDINANCES—STANDING COMMITTEE—DOCUMENT

Senator Scullion, at the request of the Chairman of the Standing Committee on Regulations and Ordinances (Senator Watson), tabled the following document:

Regulations and Ordinances—Standing Committee—Delegated legislation monitor—Disallowable legislative instruments tabled in the Senate in 2005, dated March 2006.

24 LEGISLATION COMMITTEES—REPORTS—ADDITIONAL ESTIMATES 2005-06

Pursuant to order, Senator Scullion, at the request of the chairs of the respective committees, tabled the following reports, dated March 2006, and documents:

Additional estimates 2005-06—

Economics Legislation Committee—Report and Hansard record of proceedings [2 vols].

Finance and Public Administration Legislation Committee—Report and Hansard record of proceedings [2 vols].

Rural and Regional Affairs and Transport Legislation Committee—Report, Hansard record of proceedings and documents presented to the committee.

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

25 ECONOMICS LEGISLATION COMMITTEE—REPORT—ANNUAL REPORTS

Pursuant to order, Senator Scullion, at the request of the Chair of the Economics Legislation Committee (Senator Brandis), tabled the following report:

Economics Legislation Committee—Annual reports referred to legislation committees—Report no. 1 of 2006, dated March 2006.

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

Statement by leave: Senator George Campbell, by leave, made a statement relating to the matter.

26 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—REPORT—AUSTRALIA'S RELATIONSHIP WITH CHINA

Pursuant to order, the Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Hutchins) tabled the following report and documents:

Foreign Affairs, Defence and Trade References Committee—China's emergence: Implications for Australia—Report, dated March 2006 and submissions [2].

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

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

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

27 COMMUNITY AFFAIRS REFERENCES COMMITTEE—REPORT—RESPONSE TO THE PETITION ON GYNAECOLOGICAL HEALTH ISSUES

Pursuant to order, the Chair of the Community Affairs References Committee (Senator Moore) tabled the following report and documents:

Community Affairs References Committee—Response to the petition on gynaecological health issues—Report, dated March 2006, Hansard record of proceedings, documents presented to the committee and submissions [7].

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

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

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

28 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION REFERENCES COMMITTEE—GOVERNMENT RESPONSE—UNFAIR DISMISSAL AND SMALL BUSINESS EMPLOYMENT

The Minister for the Environment and Heritage (Senator Ian Campbell) tabled the following document:

Employment, Workplace Relations and Education References Committee—Report—Unfair dismissal and small business employment—Government response, dated January 2006.

29 ASIO, ASIS AND DSD—JOINT STATUTORY COMMITTEE—GOVERNMENT RESPONSE—REVIEW OF DIVISION 3 OF PART III OF THE AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION ACT 1979

The Minister for the Environment and Heritage (Senator Ian Campbell) tabled the following document:

ASIO, ASIS and DSD—Joint Statutory Committee—Report—ASIO's questioning and detention powers: Review of the operation, effectiveness and implications of Division 3 of Part III of the *Australian Security Intelligence Organisation Act 1979*—Government response, dated March 2006.

**30 MARITIME LEGISLATION AMENDMENT BILL 2005 [2006]
JURISDICTION OF COURTS (FAMILY LAW) BILL 2005 [2006]**

Messages from the House of Representatives were reported agreeing to the following bills without amendment:

Message no. 307, dated 29 March 2006—Maritime Legislation Amendment Bill 2005 [2006].

Message no. 308, dated 29 March 2006—Jurisdiction of Courts (Family Law) Bill 2005 [2006].

31 ASIO, ASIS AND DSD—JOINT STATUTORY COMMITTEE—GOVERNMENT RESPONSE—REVIEW OF DIVISION 3 OF PART III OF THE AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION ACT 1979—CONSIDERATION

Senator Ray, by leave, moved—That the Senate take note of the document tabled earlier today (*see entry no. 29*).

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

32 DOCUMENTS

The following documents were tabled by the Clerk:

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

Civil Aviation Act—Civil Aviation Safety Regulations—Manual of Standards Part 172 Amendment (No. 1) 2006 [F2006L00929]*.

Customs Act—Tariff Concession Order 0516783 [F2006L00789]*.

Defence Act—Section 51X—Utilisation of the Defence Force to protect Commonwealth interests against violence if specified circumstances arise—Report, dated 27 March 2006; and order, dated 10 March 2006.

Environment Protection and Biodiversity Conservation Act—Instrument amending list of key threatening processes under section 183, dated 23 March 2006 [F2006L00968]*.

Financial Management and Accountability Act—Financial Management and Accountability Net Appropriation Agreement (Australian Public Service Commission) Variation (2006) [F2006L00964]*.

Fisheries Management Act—

Bass Strait Central Zone Scallop Fishery Management Plan 2002—Bass Strait Central Zone Scallop Fishery Total Allowable Catch Determination 2006 [F2006L00930]*.

Northern Prawn Fishery Management Plan 1995—NPF Directions Nos—
94—Gear Requirements [F2006L00932]*.
97—Protected Area Closures [F2006L00931]*.

Migration Act—Migration Regulations—Instruments—

IMMI06/004—Organisations that may sponsor Short Stay Business Visitors [F2006L00804]*.

IMMI06/017—Migration Occupations in Demand [F2006L00912]*.

National Health Act—

Arrangement No. PB 22 of 2006—IVF/GIFT Program [F2006L00965]*.

Determinations Nos—

PB 15 of 2006 [F2006L00938]*.

PB 17 of 2006 [F2006L00942]*.

PB 18 of 2006 [F2006L00950]*.

Telecommunications (Carrier Licence Charges) Act—Determination under paragraph 15(1)(b) No. 1 of 2006 [F2006L00868]*.

Workplace Relations Act—Directions to Inspectors, dated 27 March 2006 [F2006L00983]*.

* Explanatory statement tabled with legislative instrument.

33 INDEXED LISTS OF DEPARTMENTAL AND AGENCY FILES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT

The following document was tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 July to 31 December 2005—Statement of compliance—Department of Veterans' Affairs.

34 FAMILY ASSISTANCE, SOCIAL SECURITY AND VETERANS' AFFAIRS LEGISLATION
AMENDMENT (2005 BUDGET AND OTHER MEASURES) BILL 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.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

The Leader of the Opposition in the Senate (Senator Evans) moved the following amendments together by leave:

Schedule 3, page 23 (after line 10), after item 2, insert:

2A Clause 32 of Schedule 1

Omit the clause, substitute:

32 Income test

This is how to work out an individual's reduction for adjusted taxable income:

Method statement

- Step 1.* Work out the individual's **income free area** using clause 33.
- Step 2.* Work out whether the individual's adjusted taxable income exceeds the individual's income free area.
- Step 3.* If the individual's adjusted taxable income does not exceed the individual's income free area, the individual's **income excess** is nil.
- Step 4.* If the individual's adjusted taxable income exceeds the individual's income free area, the individual's **income excess** is the individual's adjusted taxable income less the individual's income free area.
- Step 5.* The individual's **reduction for income** is 20% of the income excess.
- Step 6.* Work out the **combined income free area** using clause 33A.
- Step 7.* Work out whether the total of the individual's adjusted taxable income and the adjusted taxable income of the individual's partner for that year exceeds the combined income free area.
- Step 8.* If the total of the individual's adjusted taxable income and the adjusted taxable income of the individual's partner for that year exceeds the combined income free area, the individual's **income excess** is nil.

- Step 9.* If the total of the individual's adjusted taxable income and the adjusted taxable income of the individual's partner for that year does exceed the combined income free area, the individual's **income excess** is the individual's adjusted taxable income less the individual's income free area.
- Step 10.* The individual's combined **reduction for income** is 20% of the income excess.
- Step 11.* The individual's **reduction for income** is the greater of the amounts calculated in steps 5 and 10.

Schedule 3, page 23 (after line 10), after item 2, insert:

2B After clause 33 of Schedule 1

Insert:

33A Combined income free area

The combined income free area is \$250,000.

Schedule 3, item 3, page 23 (lines 11 to 13), omit the item, substitute:

3 Application of amendments

- (1) The amendments made by items 1 and 2 apply in relation to the 2005-2006 income year and later income years.
- (2) The amendments made by items 2A and 2B apply in relation to family tax benefit for the 2006-2007 income year and later income years.
- (3) The amount referred to in item 2B will not be subject to indexation on 1 July 2006, but will be subject to indexation in accordance with the Act for the 2007-2008 income year and later income years.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 29

Senators—

Allison	Hogg	Moore	Sterle
Bartlett	Hurley	Murray	Stott Despoja
Bishop	Hutchins	Nettle	Webber (Teller)
Campbell, George	Ludwig	O'Brien	Wong
Conroy	Marshall	Polley	Wortley
Crossin	McEwen	Ray	
Evans	McLucas	Siewert	
Faulkner	Milne	Stephens	

NOES, 32

Senators—

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

Question negatived.

Senator McLucas moved the following amendments together by leave:

Schedule 5, page 25 (line 2), omit “**Reducing allocation of child care places**”, substitute “**Allocation of child care places**”.

Schedule 5, page 25 (after line 14), after item 2, insert:

2A Section 206

Before “The Minister”, insert “(1) Subject to subsection (2),”.

Schedule 5, page 25 (after line 14), after item 2, insert:

2B Paragraph 206(a)

Repeal the paragraph, substitute:

- (a) procedures relating to the allocation of child care places to approved child care services, provided that such procedures:
 - (i) must specify that child care places may only be allocated if an application is received from a person able to provide approved child care services; and
 - (ii) must specify that decisions about the allocation of child care places are to be reviewed by the Secretary at least monthly;

Schedule 5, page 25 (after line 14), after item 2, insert:

2C Paragraph 206(b)

Repeal the paragraph, substitute:

- (b) matters to be taken into account in working out the number (if any) of child care places to be allocated to approved child care services, provided that the guidelines specify that the primary matters to be taken into account are the relative needs of:
 - (i) different areas of Australia for the kinds of child care places to be allocated; and
 - (ii) people in each area who have work, training or study commitments;

Schedule 5, item 4, page 26 (lines 6 and 7), omit paragraph 207A(1)(a), substitute:

- (a) that number has exceeded, for a continuous period of at least 12 months, the number of child care places provided by the service; or

Schedule 5, item 4, page 26 (after line 25), after subsection 207A(4), insert:

- (4A) If the Secretary reduces under this section the number of child care places allocated to an approved child care service, the Secretary must, within 7 days after the day on which the reduction takes effect, allocate the same number of places to one or more other approved child care services.

Schedule 5, item 4, page 27 (after line 11), after section 207B, insert:

207C Details to be included in annual report

The Secretary must include, in the annual report made under section 232, details of

- (a) the number and the location of child care services which have been subject to a decision to reduce the number of child care places allocated to them;

- (b) the number and location of child care services which have been allocated places taken from other services; and
- (c) the number and location of child care services which have applied for places or for additional places but not been allocated those places or those additional places.

Debate ensued.

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

Senator McLucas moved the following amendments together by leave:

Schedule 6, page 29 (after line 7), after item 1, insert:

1A At the end of clause 16 of Schedule 2

Add:

- (3) The Secretary may grant an extension to this period of up to an additional 40 weeks if the Secretary is satisfied that a person has a legitimate reason for delaying his or her application for carer allowance.
- (4) Without limiting subclause (3), a legitimate reason may be that:
 - (a) the person may be unable to readily access relevant services or advice; or
 - (b) the person may have a medical condition that would prevent him or her from applying; or
 - (c) the person may have a psychological condition that would prevent him or her from applying; or
 - (d) the person may have caring responsibilities that would prevent him or her from applying; or
 - (e) the person was unaware of the carer allowance; or
 - (f) the person was unaware of his or her entitlement to the carer allowance; or
 - (g) the person was unaware that the allowance is not income or asset tested; or
 - (h) the person experienced a delay in having a disability assessment undertaken; or
 - (i) the person underestimated at an earlier date the ongoing needs of his or her child; or
 - (j) there was a delay in the diagnosis of the child.

Schedule 6, page 29 (after line 9), after item 2, insert:

2A At the end of clause 17 of Schedule 2

Add:

- (3) The Secretary may grant an extension to this period of up to an additional 14 weeks if the Secretary is satisfied that a person has a legitimate reason for delaying his or her application for carer allowance.
- (4) Without limiting subclause (3), a legitimate reason may be that:
 - (a) the person may be unable to readily access relevant services or advice; or
 - (b) the person may have a medical condition that would prevent him or her from applying; or

- (c) the person may have a psychological condition that would prevent him or her from applying; or
- (d) the person may have caring responsibilities that would prevent him or her from applying; or
- (e) the person was unaware of the carer allowance; or
- (f) the person was unaware of his or her entitlement to the carer allowance; or
- (g) the person was unaware that the allowance is not income or asset tested; or
- (h) the person experienced a delay in having a disability assessment undertaken; or
- (i) the person underestimated at an earlier date the ongoing needs of the person from whom he or she is caring; or
- (j) there was a delay in the diagnosis of the person for whom he or she is caring.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 27

Senators—

Allison	Hurley	Milne	Siewert
Bartlett	Hutchins	Moore	Sterle
Bishop	Kirk	Nettle	Stott Despoja
Conroy	Ludwig	O'Brien	Webber (Teller)
Evans	Marshall	Polley	Wong
Faulkner	McEwen	Ray	Wortley
Hogg	McLucas	Sherry	

NOES, 31

Senators—

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

Question negatived.

Question—That the bill be agreed to—divided in respect of Schedule 6.

Schedule 6 debated.

Question—That Schedule 6 stand as printed—put.

The committee divided—

AYES, 29

Senators—

Abetz	Ellison	Macdonald, Ian	Scullion
Adams	Ferguson	Mason	Troeth
Barnett	Ferris	McGauran	Trood
Boswell	Fierravanti-Wells	Nash	Vanstone
Brandis	Fifield	Parry	Watson
Chapman	Heffernan	Patterson	
Colbeck	Johnston	Ronaldson	
Eggleston (Teller)	Lightfoot	Santoro	

NOES, 26

Senators—

Allison	Hurley	Milne	Sterle
Bartlett	Hutchins	Moore	Stott Despoja
Bishop	Kirk	O'Brien	Webber (Teller)
Conroy	Ludwig	Polley	Wong
Evans	Marshall	Ray	Wortley
Faulkner	McEwen	Sherry	
Hogg	McLucas	Siewert	

Schedule agreed to.

Bill agreed to.

Bill to be reported without amendment.

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

On the motion of the Minister for Ageing (Senator Santoro) the report from the committee was adopted and the bill read a third time.

35 CANCER AUSTRALIA BILL 2006

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

Message no. 306, dated 29 March 2006—A Bill for an Act to establish Cancer Australia, and for related purposes.

The Minister for Ageing (Senator Santoro) 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 Santoro moved—That this bill be now read a second time.

Debate ensued.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Senator Stott Despoja moved the following amendments together by leave:

Clause 14, page 6 (line 5), at the end of subclause (1), add “in accordance with the merit selection process required by subsections (3) to (7)”.

Clause 14, page 6 (after line 7), at the end of the clause, add:

- (3) The Minister must by writing determine a code of practice for selecting and appointing the Chief Executive Officer and any acting Chief Executive Officer which sets out general principles on which selection and appointment is to be made, including but not limited to:
 - (a) merit;
 - (b) independent scrutiny of appointments;
 - (c) probity;
 - (d) openness and transparency.
- (4) After determining a code of practice under subsection (3), the Minister must publish the code in the *Gazette*.
- (5) Not later than every fifth anniversary after a code of practice has been determined, the Minister must review the code.
- (6) In reviewing a code of practice, the Minister must invite the public to comment on the code.
- (7) A code of practice determined under subsection (3) is a legislative instrument.

Clause 25, page 9 (line 10), after “members”, insert “one of whom is a person who has had or currently has cancer”.

Clause 27, page 10 (line 6), at the end of subclause (1), add “in accordance with the merit selection process required by subsections (3) to (7)”.

Clause 27, page 10 (after line 8), at the end of the clause, add:

- (3) The Minister must by writing determine a code of practice for selecting and appointing the Advisory Council members (including the Chair) which sets out general principles on which selection and appointment is to be made, including but not limited to:
 - (a) merit;
 - (b) independent scrutiny of appointments;
 - (c) probity;
 - (d) openness and transparency.
- (4) After determining a code of practice under subsection (3), the Minister must publish the code in the *Gazette*.
- (5) Not later than every fifth anniversary after a code of practice has been determined, the Minister must review the code.
- (6) In reviewing a code of practice, the Minister must invite the public to comment on the code.
- (7) A code of practice determined under subsection (3) is a legislative instrument.

Debate ensued.

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

Senator Stott Despoja moved the following amendment:

Clause 37, page 14 (line 13), at the end of subclause (1), add “, including a summary description of any advice or reports provided by the Advisory Council to the Chief Executive Officer”.

Debate ensued.

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

Bill agreed to.

Bill to be reported without amendment.

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

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

36 FAMILY LAW AMENDMENT (SHARED PARENTAL RESPONSIBILITY) BILL 2006

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

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Explanatory memorandum: The Minister for Justice and Customs (Senator Ellison) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

Senator Stott Despoja moved the following amendment:

Page 3 (after line 11), after clause 3, add:

4 Review of operation of Act

- (1) Within 2 years of the day on which this Act receives the Royal Assent, the Minister is to arrange to receive from the Australian Institute of Family Studies a report which the Institute has prepared on the review of the operation of the effectiveness and implications of the amendments made by this Act, with particular regard to:
 - (a) the impact of mandatory dispute resolution; and
 - (b) the extent to which the following people have equal access to services:
 - (i) people in rural or remote areas;
 - (ii) people with culturally and linguistically diverse backgrounds;

- (iii) indigenous people;
 - (iv) people with health or mental health issues;
 - (v) people with low incomes;
 - (vi) people without access to technology;
 - (vii) any other group identified by the Institute; and
- (c) any change in exposure to violence and abuse of both children and adults; and
- (d) how effective the changes have been in achieving better outcomes for children, particularly the presumption of equal shared parenting and the new structure established by this Act for determining children's best interests.
- (2) The Minister must cause a copy of the report to be laid before each House of the Parliament with 5 sitting days of that House after the day on which the Minister receives the report.

Debate ensued.

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

Question—That the bill be agreed to—divided in respect of Schedule 1, item 3.

Schedule 1, item 3 debated and agreed to.

Senator Stott Despoja moved the following amendments together by leave:

Schedule 1, item 3, page 4 (lines 18 to 22), omit the definition of *family violence*, substitute:

family violence means one of the following acts that a person commits against another person with whom he or she is in a family and domestic relationship:

- (a) assaulting or causing personal injury to the person;
- (b) kidnapping or depriving the person of his or her liberty;
- (c) damaging the person's property, including the injury or death of an animal that is the person's property;
- (d) behaving in an ongoing manner that is intimidating, offensive or emotionally abusive towards the person;
- (e) causing the person or a third person to be pursued:
 - (i) with intent to intimidate the person; or
 - (ii) in a manner that could reasonably be expected to intimidate, and that does in fact intimidate, the person;
- (f) threatening to commit any act described in paragraphs (a) to (c) against the person.

Schedule 6, item 1, page 136 (line 19), omit paragraph 68N(b).

Schedule 6, item 1, page 140 (lines 6 to 9), omit paragraph 68R(3)(b).

Schedule 6, item 1, page 140 (after line 19), after paragraph 68R(5)(b), insert:

- (ba) have regard to the need to protect all family members from family violence and the threat of family violence and, subject to that, to the child's right to spend time and communicate with both parents and other people significant to the child's care, welfare and development, provided it is not contrary to the best interests of the child; and

Debate ensued.

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

Senator Ludwig moved the following amendment:

Schedule 1, item 3, page 4 (lines 18 to 22), omit the definition of *family violence*, substitute:

family violence means:

- (a) conduct, whether actual or threatened, by a person towards, or towards property of, a member of the person's family that causes that or any other member of that person's family to fear for, or to be apprehensive about, his or her personal well being or safety; or
- (b) conduct, witnessed by a child, in which a person intentionally causes physical or psychological harm to a member of the person's family.

Debate ensued.

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

Senator Stott Despoja moved the following amendment:

Schedule 1, page 4 (line 2) to page 34 (line 7), omit “equal shared parental responsibility” (wherever occurring), substitute “joint parental responsibility”.

Debate ensued.

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

Question—That the bill be agreed to—divided in respect of Schedule 1, item 13, section 61DA and item 31, sections 65DAA and 65DAC.

Schedule 1, item 13, section 61DA and item 31, sections 65DAA and 65DAC agreed to.

Senator Ludwig moved the following amendments together by leave:

Schedule 1, item 13, page 19 (line 3), omit “**equal shared parental responsibility**”, substitute “**joint shared parental responsibilities**”.

Schedule 1, item 13, page 19 (line 7), omit “equal shared parental responsibility”, substitute “joint shared parental responsibilities”.

Schedule 1, item 13, page 19 (line 27), omit “equal shared parental responsibility”, substitute “joint shared parental responsibilities”.

Schedule 1, item 13, page 19 (lines 29 and 30), omit “**equal shared parental responsibility**”, substitute “**joint shared parental responsibilities**”.

Schedule 1, item 29, page 27 (lines 20 and 21), omit “equal shared parental responsibility”, substitute “joint shared parental responsibilities”.

Schedule 1, item 30, page 27 (lines 24 and 25), omit “equal shared parental responsibility”, substitute “joint shared parental responsibilities”.

Schedule 1, item 31, page 28 (line 6), omit “equal shared parental responsibility”, substitute “joint shared parental responsibilities”.

Schedule 1, item 31, page 28 (line 24), omit “equal shared parental responsibility”, substitute “joint shared parental responsibilities”.

Debate ensued.

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

Question—That the bill be agreed to—divided in respect of Schedule 1, item 13.

Schedule 1, item 13 debated and agreed to.

Senator Stott Despoja moved the following amendments together by leave:

No. 1—Schedule 1, item 8, page 6 (lines 9 and 10), omit “ensure that the best interests of the child are met by”.

No. 2—Schedule 1, item 8, page 6 (line 11), omit paragraph 60B(1)(a), substitute:
 (a) except when it would be contrary to the best interests of children, ensuring that the children have the benefit of both of their parents having a meaningful involvement in their lives; and

No. 3—Schedule 1, item 8, page 7 (line 3), at the end of subsection 60B(2), add:
 ; (f) children have the right to live free from abuse, neglect or family violence.

No. 4—Schedule 1, item 9, page 8 (line 5), omit “subsections (2) and (3)”, substitute “subsection (3)”.

No. 5—Schedule 1, item 9, page 8 (lines 6 to 15), omit subsection 60CC(2) and the heading to subsection 60CC(3).

No. 6—Schedule 1, item 9, page 8 (line 8), before “the” (first occurring), insert “subject to paragraph (b),”.

No. 7—Schedule 1, item 9, page 8 (lines 25 to 27), omit paragraph 60CC(3)(c).

No. 8—Schedule 1, item 9, page 9 (line 36) to page 10 (line 16), omit subsection 60CC(4).

No. 9—Schedule 1, item 17, page 21 (after line 36), after subsection 63C(2C), insert:

(2D) The primary focus of a parenting plan must be the best interests of the child. Parenting plans must consider:

- (a) a child’s rights to stability, security and adequate and responsible care;
- (b) a child’s own social networks and their ongoing ability to maintain such networks;
- (c) a child’s school, sporting and other leisure activities;
- (d) any other special needs of the child.

No. 10—Schedule 1, item 18, page 22 (line 28), at the end of paragraph 63DA(2)(c), add “and of the factors used for determining those best interests”.

Debate ensued.

The question was divided—

Question—That amendments nos 1 to 6 and 10 be agreed to—put and negatived.

Question—That amendments nos 7 to 9 be agreed to—put and negatived.

Senator Siewert moved the following amendment:

Schedule 1, item 8, page 6 (after line 22), after subsection (1), insert:

- (1A) For the purposes of subsection (1), meaningful involvement means a relationship in which the child is not at risk of exposure to family violence, abuse or neglect.

Debate ensued.

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

Senator Stott Despoja moved the following amendment:

Schedule 1, item 9, page 8 (after line 14), after subsection 60CC(2), insert:

- (2A) For the avoidance of doubt, the reference in paragraph (2)(a) to meaningful relationship means a relationship in which the child has not been and is not at risk of being exposed to abuse, neglect or family violence.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 20

Senators—

Bartlett	Ludwig	Moore	Sterle
Campbell, George	Lundy	Polley	Stott Despoja
Hogg	Marshall	Ray	Webber (Teller)
Hurley	McEwen	Sherry	Wong
Kirk	Milne	Siewert	Wortley

NOES, 23

Senators—

Abetz	Colbeck	Heffernan	Nash
Barnett	Eggleston	Humphries	Patterson
Boswell	Ellison	Johnston	Troeth
Brandis	Ferguson	Lightfoot	Trood
Calvert	Ferris	Macdonald, Ian	Watson
Chapman	Fierravanti-Wells	McGauran (Teller)	

Question negatived.

Senator Stott Despoja moved the following amendment:

Schedule 1, item 9, page 8 (lines 25 to 27), omit paragraph 60CC(3)(c), substitute:

- (c) the willingness and ability of each of the child's parents to facilitate, and encourage, a close and continuing relationship between the child and the other parent, except where such a relationship would be otherwise contrary to the best interests of the child;
- (ca) paragraph (c) does not apply where the child has been, or is at risk of being, exposed to abuse, neglect or family violence in the relationship with the other parent;

Debate ensued.

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

Question—That the bill be agreed to—divided in respect of Schedule 1, item 9, section 60CC.

Schedule 1, item 9, section 60CC debated and agreed to.

Senator Siewert moved the following amendments together by leave:

Schedule 1, item 11, page 12 (after line 23), after subsection 60I(1), insert:

- (1A) Despite references in this Act to genuine efforts to resolve a dispute, a family dispute resolution practitioner is authorised to certify that a dispute is not suitable for dispute resolution and no further action may then be taken in relation to the matter in accordance with this Subdivision.

Schedule 1, item 11, page 14 (after line 26), after subsection 60I(8), add:

- (8A) A family dispute resolution practitioner must accept a sworn statement by a parent that violence or abuse has occurred as evidence of that violence or abuse.

Debate ensued.

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

Question—That the bill be agreed to—divided in respect of Schedule 1, item 11, section 60I.

Schedule 1, item 11, section 60I debated and agreed to.

Senator Ludwig moved the following amendments together by leave:

Schedule 1, page 20 (after line 26), after item 16, insert:

16AA At the end of subsection 63C(1)

Add:

- ; and (d) the cooling-off period referred to in subsection (1AA) has expired.

16AB After subsection 63C(1)

Insert:

- (1AA) A *cooling-off period* is a period of seven days after a parenting plan is made, revoked or varied during which either party may advise in writing that he or she does not wish to make, revoke or vary the parenting plan and accordingly, the parenting plan is not made, revoked or varied, as the case may be.

Schedule 1, page 21 (after line 36), after item 17, insert:

17A Section 63D

Repeal the section, substitute:

63D Parenting plan may be varied or revoked by further written agreement

- (1) A parenting plan may be varied or revoked by agreement in writing between the parties to the plan.
- (2) Any variation or revocation under subsection (1) takes effect after the cooling-off period has expired.

Debate ensued.

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

Senator Stott Despoja moved the following amendments together by leave:

Schedule 1, item 25, page 26 (line 18), at the end of paragraph 64D(1)(b), add “, provided the child’s parents and other persons to whom the parenting order applies can show that they have obtained independent written legal advice prior to signing the parenting plan”.

Schedule 1, item 25, page 26 (line 19), omit “, in exceptional circumstances,”.

Debate ensued.

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

Question—That the bill be agreed to—divided in respect of Schedule 1, item 41.

Schedule 1, item 41 debated.

Question—That Schedule 1, item 41 stand as printed—put.

The committee divided—

AYES, 22

Senators—			
Abetz	Colbeck	Humphries	Scullion (Teller)
Adams	Ferguson	Mason	Troeth
Barnett	Ferris	Nash	Trood
Boswell	Fierravanti-Wells	Parry	Watson
Brandis	Fifield	Ronaldson	
Chapman	Heffernan	Santoro	

NOES, 24

Senators—			
Bartlett	Hogg	McEwen	Siewert
Bishop	Hurley	Milne	Sterle
Campbell, George	Kirk (Teller)	Moore	Stott Despoja
Conroy	Ludwig	Polley	Webber
Evans	Lundy	Ray	Wong
Faulkner	Marshall	Sherry	Wortley

Item negatived.

Senator Ferguson asked that the question on Schedule 1, item 41 be put again.

Leave was granted for the question to be put again.

Question—That Schedule 1, item 41 stand as printed—put.

The committee divided—

AYES, 25

Senators—			
Abetz	Ellison	Johnston	Scullion (Teller)
Adams	Ferguson	Mason	Troeth
Barnett	Ferris	McGauran	Trood
Boswell	Fierravanti-Wells	Nash	Watson
Brandis	Fifield	Parry	
Chapman	Heffernan	Ronaldson	
Colbeck	Humphries	Santoro	

NOES, 22

Senators—			
Bartlett	Hogg	Milne	Stott Despoja
Bishop	Hurley	Polley	Webber
Campbell, George	Kirk (Teller)	Ray	Wong
Conroy	Ludwig	Sherry	Wortley
Evans	Lundy	Siewert	
Faulkner	McEwen	Sterle	

Item agreed to.

Senator Ellison moved the following amendments together by leave:

No. 1—Schedule 1, item 3, page 4 (after line 22), at the end of the definition of *family violence*, add:

Note: A person reasonably fears for, or reasonably is apprehensive about, his or her personal wellbeing or safety in particular circumstances if a reasonable person in those circumstances would fear for, or be apprehensive about, his or her personal wellbeing or safety.

No. 2—Schedule 1, item 43, page 33 (lines 11 to 17), omit subitems (1) and (2), substitute:

- (1) Section 60CC of the new Act applies to orders made on or after commencement.
- (2) The amendments made by items 13, 29 and 30 of this Schedule apply to parenting orders made on or after commencement.

No. 3—Schedule 1, item 43, page 33 (lines 26 and 27), omit subitem (6), substitute:

- (6) The amendment made by item 22 of this Schedule applies to parenting orders made on or after commencement.

No. 4—Schedule 1, item 43, page 34 (lines 1 to 3), omit subitem (8), substitute:

- (8) Sections 65DAA, 65DAB, 65DAC and 65DAE of the new Act apply to parenting orders made on or after commencement.

No. 5—Schedule 1, Part 2, page 34 (after line 7), at the end of the Part, add:

44 Grounds for discharging or varying parenting orders

The amendments made by this Schedule are taken not to constitute changed circumstances that would justify making an order to discharge or vary, or to suspend or revive the operation of, some or all of a parenting order that was made before commencement.

Note: For the need for changed circumstances, see *Rice and Asplund* (1979) FLC 90-725.

Debate ensued.

The question was divided—

Question—That amendment no. 1 be agreed to—put and passed.

Question—That amendments nos 2 to 4 be agreed to—put and passed.

Question—That amendment no. 5 be agreed to—put and passed.

The Leader of The Nationals in the Senate (Senator Boswell), at the request of the Leader of the Family First Party (Senator Fielding), moved the following amendment:

Page 3 (after line 11), after clause 3, add:

4 Review of operation of Act

- (1) Within 2 years of the day on which this Act receives the Royal Assent, the Minister must conduct a review of the operation of the effectiveness and implications of the amendments made by this Act in increasing the propensity of equal parenting.
- (2) The review required by subsection (1) is to be completed within 6 months of commencement.
- (3) The Minister must cause a copy of the report of the review to be laid before each House of the Parliament within 5 sitting days of that House after the day on which the Minister receives the report.

Debate ensued.

Question—That the amendment be agreed to—put and negatived. Senator Fielding's vote, by leave, was recorded for the ayes.

Senator Boswell, at the request of Senator Fielding, moved the following amendments together by leave:

Schedule 1, item 8, page 7 (after line 13), after section 60B, insert:

60BA Public policy to be considered when applying Part

The Parliament of Australia, in recognising the fundamental need of every child to experience the love, guidance and companionship of both parents in an every day setting after their separation or divorce, declares that it is the public policy of the Commonwealth to maximise the time and involvement each parent is willing and able to contribute in raising their child or children after the parents have separated or dissolved their marriage and to encourage parents to share the duties and responsibilities of child-rearing to affect this policy.

Schedule 1, item 13, page 19 (after line 34), after section 61DB, insert:

61DC Orders made in disputes over where child lives

- (1) In disputes involving where a child is to live, the court shall make a parenting order according to the best interests of the child in the following order of preference:
 - (a) the child to live with both parents jointly; or
 - (b) the child to live with either parent; or
 - (c) the child to live with any other person determined by the court to be suitable and able to provide an adequate and stable environment suitable for raising the child.
- (2) In making a parenting order in favour of one parent, the court must consider among any other factors:
 - (a) whether one parent is more likely than the other parent to facilitate and encourage the most parenting time and involvement of the other parent; and
 - (b) whether or not each parent is able to provide the parenting time they request.
- (3) A parenting order may not be made on the basis of a parent's gender or race.

Schedule 1, item 13, page 19 (after line 34), after section 61DB, insert:

61DD Statement of reasons for parenting orders

- (1) If a court does not order that the child is to live with both parents jointly, the court shall state in its decision the specific findings of fact upon which the order that the child not live with both parents jointly is based.
- (2) An objection by a parent to an order that the child live with both parents jointly or conflict between the parents is not a sufficient basis for a finding that the order is not in the best interests of the child.

Schedule 1, item 13, page 19 (after line 34), after section 61DB, insert:

61DE Modification of parenting order

- (1) In considering an application for the modification or termination of a parenting order, the court shall recognise evidence of substantial or repeated failure of a parent to adhere to the parenting order.

- (2) The court shall include in its decision on an application made in accordance with subsection (1) the reason for modifying or terminating the parenting order if either parent opposes the modification or termination order.

Schedule 1, item 13, page 19 (after line 34), after section 61DB, insert:

61DF Presumption of parenting time

- (1) In an application for a parenting order in accordance with this Part, there is a rebuttable presumption that maximising the parenting time and the involvement which each parent is willing and able to contribute in raising their child is in the child's best interests.
- (2) Maximising parenting time is achieved by ensuring that:
- (a) the parent is not denied the ability to spend as much parenting time as that parent is willing and able to contribute; and
 - (b) the parent does not have his or her requested time reduced when to do so would result in increasing the amount of parenting time the other parent contributes to exceed 50%.
- (3) The presumption in subsection (1) may be rebutted by demonstrating with specific reasons that it is not in the best interests of the child after consideration of clear and convincing evidence with respect to any or all relevant factors set out in subsection 68F(2).
- (4) The burden of proof for rebutting the presumption of parenting time is on the objecting parent or party.

Debate ensued.

Question—That the amendments be agreed to—put and negatived. Senator Fielding's vote, by leave, was recorded for the ayes.

Senator Boswell, at the request of Senator Fielding, moved the following amendments together by leave:

Schedule 1, item 13, page 19 (after line 34), after section 61DB, insert:

61DG Domicile of child pending making of an interim parenting order

Unless it is shown on written application by either parent to the Registrar to be detrimental to the best interests of the child, the child as far as practical shall spend time with both parents equally during the time that the court considers an application on where the child shall live.

Schedule 1, page 32 (after line 4), after item 36, insert:

36A After section 67M

Insert:

67MA Change of domicile of a child

- (1) In the absence of an order to the contrary, a parent that has a child living with him or her as a result of a parenting order shall notify the other parent if he or she plans to change the location of the child for more than thirty days together with the reason for the change of location, unless there is written consent by the other parent to the change.

- (2) To the extent possible, notice must be served personally or given by certified mail, not less than forty-five days before the proposed change in location and proof of service of the notice required by this section must be filed with the court that issued the parenting order.
- (3) A parent who is notified of a change of location of a child may apply to the court to seek modification of the parenting order.
- (4) Failure to give notice of a change of location of a child or failure to show good cause for the change of location of a child may be factors to be considered in determining whether the location was changed in good faith.

Debate ensued.

Question—That the amendments be agreed to—put and negatived. Senator Fielding's vote, by leave, was recorded for the ayes.

Senator Boswell, at the request of Senator Fielding, moved the following amendment:

Schedule 1, page 32 (after line 6), after item 37, insert:

37A After section 67Y

Insert:

67YA Parent's right of access to records of child

Notwithstanding any other provision of this Act, unless the court orders otherwise, access to records and information relating to a minor child, including but not limited to medical, dental, law enforcement and school records, shall not be denied to a parent that does not have the child living with him or her.

Debate ensued.

Question—That the amendment be agreed to—put and negatived. Senator Fielding's vote, by leave, was recorded for the ayes.

Senator Boswell, at the request of Senator Fielding, moved the following amendment:

Schedule 1, page 32 (after line 6), after item 37, insert:

37B After section 67Z

Insert:

67ZA Malicious false accusations

- (1) Evidence of a malicious false report of child abuse or family violence is admissible in proceedings between parties relating to where the child lives or relating to parenting time and the court shall make a finding on the matter of a malicious false report.
- (2) If a court makes a finding of a malicious false report of child abuse or family violence made before or during a proceeding in accordance with this Part, the finding shall be grounds for the court to restrict the parent-child relationship between the child and the person found by the court to have made the malicious false report.

- (3) If a court determines, based on the evidence presented to it, that an accusation of child abuse or family violence made during a proceeding is malicious and false and the person making the accusation knew it to be malicious and false at the time the accusation was made, the court may award reasonable costs, not to exceed all costs incurred by the party accused as a direct result of defending the accusation, against the person determined by the court to have made the malicious and false report. For the purposes of this Part, *person* includes a witness, a party, or a party's legal representative.
- (4) On application by any person requesting the ordering of costs against another party under this Part, the court shall issue a direction for the other party to show cause why the requested costs should not be imposed and shall schedule a hearing on the matter not later than 15 days after a direction is given in accordance with this subsection.
- (5) For the avoidance of doubt, the remedy provided by this section is in addition to any other remedy provided by law.

Debate ensued.

Question—That the amendment be agreed to—put and negatived. Senator Fielding's vote, by leave, was recorded for the ayes.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1.

Schedule 1, as amended, debated and agreed to.

Senator Stott Despoja moved the following amendments together by leave:

Schedule 5, item 5, page 133 (lines 3 to 9), omit paragraphs 68M(2)(b) to (e), substitute:

- (b) a person with whom the child is to live under a parenting order; or
- (c) a person who is to spend time with the child under a parenting order; or
- (d) a person who is to communicate with the child under a parenting order; or
- (e) a person who has parental responsibility, or a component of parental responsibility, for the child.

Schedule 8, item 48, page 153 (lines 3 to 5), omit subparagraphs 26B(1A)(a)(ii) to (iv), substitute:

- (ii) a person is to spend time with a child; or
- (iii) a person is to communicate with a child; or
- (iv) a person is to have parental responsibility, or a component of parental responsibility, for a child; or

Schedule 8, item 49, page 153 (lines 20 to 22), omit subparagraphs 37A(2A)(a)(ii) to (iv), substitute:

- (ii) a person is to spend time with a child; or
- (iii) a person is to communicate with a child; or
- (iv) a person is to have parental responsibility, or a component of parental responsibility, for a child; or

Schedule 8, item 64, page 157 (lines 14 and 15), omit subparagraphs 65Q(1)(a)(ii) and (iii), substitute:

- (ii) a person is to spend time with a child; or
- (iii) a person is to communicate with a child; and

Schedule 8, item 74, page 159 (lines 1 to 8), omit paragraphs 67K(1)(a) to (caa), substitute:

- (a) a person with whom the child is living under a parenting order;
or
- (b) a person who is to spend time with the child under a parenting order; or
- (c) a person who is to communicate with a child under a parenting order; or
- (caa) a person who has parental responsibility, or a component of parental responsibility, for the child under a parenting order; or

Schedule 8, item 75, page 159 (lines 11 to 17), omit subparagraphs 67Q(a)(ii) to (v), substitute:

- (ii) a person with whom the child is to live under a parenting order; or
- (iii) a person who is to spend time with the child under a parenting order; or
- (iv) a person who is to communicate with the child under a parenting order; or
- (v) a person who has parental responsibility, or a component of responsibility, for the child;

Schedule 8, item 77, page 159 (line 26 to 33), omit paragraphs 67T(a) to (caa), substitute:

- (a) a person with whom the child is to live under a parenting order;
or
- (b) a person who is to spend time with the child under a parenting order; or
- (c) a person who is to communicate with the child under a parenting order; or
- (caa) a person who has parental responsibility, or a component of parental responsibility, for the child under a parenting order; or

Schedule 8, item 78, page 160 (lines 1 to 7), omit subparagraphs 68B(1)(b)(ii) to (v), substitute:

- (ii) a person with whom the child is to live under a parenting order; or
- (iii) a person who is to spend time with the child under a parenting order; or
- (iv) a person who is to communicate with the child under a parenting order; or
- (v) a person who has parental responsibility, or a component of parental responsibility, for the child; or

Schedule 8, item 88, page 161 (lines 21 to 25), omit paragraphs (a) to (ab) of the definition of *responsible person*, substitute:

- (a) with whom the child is supposed to live under the order; or
- (aa) who is supposed to spend time with the child under the order; or
- (ab) who is supposed to communicate with the child under the order;
or

Schedule 8, item 90, page 162 (lines 3 to 8), omit paragraphs 70M(3)(a) to (ab), substitute:

- (a) a person with whom the child is supposed to live under the order; or
- (aa) a person who is supposed to spend time with the child under the order; or
- (ab) a person who is supposed to communicate with the child under the order; or

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

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

37 APPROPRIATION BILL (NO. 3) 2005-2006

APPROPRIATION BILL (NO. 4) 2005-2006

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

Question put and passed.

Bills read a second time.

No amendments or requests for amendments to the bills were circulated and they were not considered in committee.

The Minister for Justice and Customs (Senator Ellison) moved—That these bills be now read a third time.

Debate ensued.

The Senate continued to sit till midnight—

FRIDAY, 31 MARCH 2006 AM

Debate continued.

Question put and passed.

Bills read a third time.

38 **ADVANCE TO THE FINANCE MINISTER—2004-05**

Order of the day read for the consideration of the statement in committee of the whole.

In the committee

The Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck) moved—That the committee approves the statement of Issues from the Advance to the Finance Minister as a final charge for the year ended 30 June 2005.

Question put and passed.

Resolution to be reported.

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

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

39 **COMMITTEES—CHANGES IN MEMBERSHIP**

The President informed the Senate that he had received letters requesting changes in the membership of committees.

The Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck), by leave, moved—That senators be discharged from and appointed to committees as follows:

Community Affairs Legislation Committee—

Appointed—Substitute member: Senator Siewert to replace Senator Nettle for matters relating to Family and Community Services

Environment, Communications, Information Technology and the Arts Legislation Committee—

Appointed—Substitute member: Senator Fierravanti-Wells to replace Senator Patterson for the committee's inquiry into the Australian Broadcasting Corporation Amendment Bill 2006

Environment, Communications, Information Technology and the Arts References Committee—

Appointed—Participating members: Senators McLucas, Nash and Scullion

Parliamentary Library—Joint Standing Committee—

Appointed—Senators Hutchins and Webber.

Question put and passed.

40 **ADJOURNMENT**

The President proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 12.51 am till Tuesday, 9 May 2006 at 12.30 pm.

41 ATTENDANCE

Present, all senators except Senators Bob Brown, Carr, Fielding* and Joyce (* on leave).

HARRY EVANS
Clerk of the Senate