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1 MEETING OF SENATE

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

2 AGED CARE AMENDMENT (RESIDENTIAL CARE) BILL 2006

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

Explanatory memorandum: The Minister for Justice and Customs (Senator Ellison) tabled a correction to the explanatory memorandum relating to the bill.

Debate resumed.

At 2 pm: Debate was interrupted while Senator Humphries was speaking.

3 QUESTIONS

Questions without notice were answered.

4 ANSWERS TO QUESTIONS

Senator O'Brien moved—That the Senate take note of answers given by ministers to questions without notice asked by Opposition senators today.

Debate ensued.

Question put and passed.

5 NOTICES

The Chair of the Economics Committee (Senator Brandis): To move on the next day of sitting—That the Economics Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 19 October 2006, from 3.30 pm, to take evidence for the committee's inquiry into petrol pricing in Australia. (*general business notice of motion no. 588*)

Senators Murray and Heffernan: To move on the next day of sitting—That the Senate—

- (a) notes the fundamental human rights and protections contained in the United Nations (UN) Convention on the Rights of the Child, and notes in that regard:
 - (i) the release on 11 October 2006 of the UN Secretary-General's 'Study on violence against children', which sheds light on the scale and impact of violence done to children across cultures, classes and ethnic origins,
 - (ii) that the report states that the majority of violence perpetrated on vulnerable children around the world is carried out by people who are part of their daily lives, and
 - (iii) that the Human Rights and Equal Opportunity Commission urges the Government to consider the report's recommendations to counter violence against children; and

- (b) supports the Government investing heavily to protect children in Australia from violence, including by:
 - (i) investing in violence prevention programs that address immediate risk factors, such as lack of parent-child attachment, family breakdown, abuse of alcohol and/or drugs,
 - (ii) developing economic and social policies that address in a substantial way significant economic and social circumstances such as poverty, income gaps and other forms of inequality that negatively affect children, and
 - (iii) placing the issue of child abuse and neglect front and centre in the Council of Australian Governments' processes. (*general business notice of motion no. 589*)

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

- (a) notes that 15 October to 21 October 2006 is Anti-Poverty Week;
- (b) acknowledges that the main aims of Anti-Poverty Week are to:
 - (i) strengthen public understanding of the causes and consequences of poverty and hardship around the world and in Australia, and
 - (ii) encourage research, discussion and action to address these problems, including action by individuals, communities, organisations and governments;
- (c) expresses concern about the unacceptably high levels of poverty in Australia and the growing gap between rich and poor;
- (d) recognises that children growing up in poverty face poorer health, education, employment and life outcomes (the National Centre for Social and Economic Modelling suggests that more than 10 per cent of Australian children can be said to be growing up in poverty);
- (e) acknowledges that a disproportionate percentage of Indigenous Australians live in poverty and that studies show that nearly half of all Indigenous children live in families where incomes are below the Henderson poverty line;
- (f) supports using Australia's strong economy to improve the living standards and life chances of all Australians; and
- (g) urges the use of poverty impact statements in government reporting and decision-making. (*general business notice of motion no. 590*)

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

- (a) recognises the devastating impact of the continuing drought on Australian communities;
- (b) acknowledges the scientific consensus that climate change is impacting on Australia's water resources; and
- (c) calls for a national water summit to address Australia's water crisis. (*general business notice of motion no. 591*)

Senators Bartlett and Lundy: To move on 19 October 2006—That the Senate—

- (a) notes:
 - (i) that 19 October 2006 is the fifth anniversary of the sinking of the boat known as the SIEV X, which was bound for Australia and sank with the loss of 353 lives, including 146 children,

- (ii) that a ceremony was held on 15 October 2006 at Weston Park, Yarralumla, on the shores of Lake Burley Griffin in Canberra to mark the anniversary and to display a proposed memorial, featuring 353 decorated wooden poles, which was created by people from more than 200 church, school and community groups from every state and territory in Australia, and
- (iii) the continuing grief that is still suffered by those who lost husbands, wives, mothers, fathers and children in the event;
- (b) calls on the National Capital Authority to give permission for the proposed SIEV X memorial to be established as a permanent memorial on the Canberra lakeshore as soon as possible; and
- (c) expresses its regret and sympathy at the tragic loss of so many innocent lives. (*general business notice of motion no. 592*)

The Minister for Justice and Customs (Senator Ellison): To move on the next day of sitting—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Long Service Leave (Commonwealth Employees) Amendment Bill 2006
Parliamentary Superannuation Amendment Bill 2006.

Documents: Senator Ellison tabled the following documents:

Consideration of legislation—Statements of reasons [2] for introduction and passage of the bills in the 2006 spring sittings.

Senator Nettle: To move on 19 October 2006—That the Senate—

- (a) notes that 5 years ago on 19 October an unnamed boat, now referred to as SIEV X, carrying approximately 421 asylum seekers sank in international waters, with 353 people drowning, including 146 children, 142 women and 65 men; and
- (b) remembers these victims and expresses its condolences to the families involved. (*general business notice of motion no. 593*)

6 LEAVE OF ABSENCE

Senator Ferris, by leave, moved—That leave of absence be granted to Senator Ian Campbell from 16 October to 19 October 2006, on account of government business overseas.

Question put and passed.

7 INDIGENOUS AUSTRALIANS—INDIGENOUS GOVERNANCE AWARDS

Senator Bartlett, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 572—That the Senate—

- (a) congratulates:
 - (i) the Cairns-based WuChopperen Health Services for winning the 2006 Indigenous Governance Award for an organisation established longer than 10 years, and

- (ii) the Wagga Wagga-based Gannambarra Enterprises for winning the 2006 Indigenous Governance Award for an organisation established fewer than 10 years; and
- (b) acknowledges the work of Reconciliation Australia and BHP Billiton in hosting the Indigenous Governance Awards and recognises the achievements of all the eight finalists in the awards and pays tribute to the positive contribution they are making for Indigenous Australians and the wider community.

Question put and passed.

8 FOREIGN AFFAIRS—HIMALAYAS

The Leader of the Australian Greens (Senator Bob Brown) requested that general business notice of motion no. 585 standing in his name for today, relating to China and Tibet, be taken as formal.

Statements by leave: Senators George Campbell and Bob Brown, by leave, made statements relating to the motion.

Postponement: Senator Bob Brown, by leave, moved—That general business notice of motion no. 585 be postponed till the next day of sitting.

Question put and passed.

9 FAMILY AND COMMUNITY SERVICES—CARERS WEEK

Senator Siewert, also on behalf of Senators Humphries, McLucas and Bartlett, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 587—That the Senate—

- (a) notes that 15 October to 21 October 2006 is Carers Week;
- (b) notes that the theme of Carers Week 2006 is ‘Anyone, Anytime’, the objective of which is identifying carers and empowering them to access support services;
- (c) recognises that there are approximately 2.6 million carers in Australia who provide unpaid help and assistance to a relative or friend, who could not otherwise manage because of disability, mental illness, chronic condition or frailty;
- (d) notes that almost everyone will provide care at some time during their life;
- (e) notes that approximately 1.2 billion hours of informal care are currently provided by family carers, as recently found by Access Economics in its report, *The economic value of informal care*;
- (f) acknowledges the enormous contribution made by carers to Australian society, often at great personal cost;
- (g) recognises the social and economic value of carers to the community; and
- (h) calls on all levels of government, businesses and schools to consider adopting carer-friendly work practices and learning environments.

Question put and passed.

**10 INTELLIGENCE AND SECURITY—JOINT STATUTORY COMMITTEE—REPORT—
REVIEW OF RE-LISTING OF AL-QA’IDA AND JEMAAH ISLAMIYAH AS TERRORIST
ORGANISATIONS**

Senator Ferguson, on behalf of the Parliamentary Joint Committee on Intelligence and Security, tabled the following report:

Intelligence and Security—Joint Statutory Committee—Review of the re-listing of Al-Qa’ida and Jemaah Islamiyah as terrorist organisations—Report, dated October 2006.

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

Debate ensued.

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

11 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 Regulations—Instruments Nos—

CASA 321/06—Direction – number of cabin attendants [F2006L03351]*.

CASA 371/06—Instructions – for approved use of P-RNAV procedures [F2006L03353]*.

CASA EX44/06—Exemption – flight data recording [F2006L03344]*.

Customs Act—Tariff Concession Orders—

0611601 [F2006L03322]*.

0611946 [F2006L03321]*.

0611947 [F2006L03323]*.

Financial Management and Accountability Act—Financial Management and Accountability Determinations—

2006/61 – The Telstra Public Share Offer Account Variation and Abolition 2006 [F2006L03366]*.

2006/62 – Telstra Sale Special Account Establishment 2006 [F2006L03368]*.

2006/63 – Business Services Trust Account Variation and Abolition 2006 [F2006L03369]*.

2006/64 – Business Services Special Account Establishment 2006 [F2006L03374]*.

2006/66 – Intellectual Property Special Account Establishment 2006 [F2006L03371]*.

2006/67 – Australian Building Codes Board Account Variation and Abolition 2006 [F2006L03373]*.

2006/69 – Ranger Rehabilitation Account Variation and Abolition 2006 [F2006L03377]*.

2006/70 – Ranger Rehabilitation Special Account Establishment 2006 [F2006L03378]*.

2006/71 – Australians at War Account Variation and Abolition 2006 [F2006L03379]*.

2006/72 – Australians at War Special Account Establishment 2006 [F2006L03380]*.

Fisheries Management Act—Fish Receiver Permits Declaration 2006 [F2006L03343]*.

Higher Education Support Act—

Higher Education Provider Approval (No. 16 of 2006)—Dixon Elliott Pty Ltd [F2006L03365]*.

Higher Education Provider Approval (No. 17 of 2006)—Swan TAFE [F2006L03367]*.

Social Security Act—

Social Security (Asset-test Exempt Income Stream (Market-linked) – Payment Factors) (FACS) Principles 2005 [F2006L03341]*.

Social Security (Partially Asset-test Exempt Income Stream – Exemption) (FACS) Principles 2005 [F2006L03340]*.

Veterans' Entitlements Act—Veterans' Entitlements (Veterans' Children Education Scheme) Eligible Child Determination 2006 No. R26/2006 [F2006L03356]*.

* Explanatory statement tabled with legislative instrument.

12 CHILD SUPPORT LEGISLATION AMENDMENT (REFORM OF THE CHILD SUPPORT SCHEME—NEW FORMULA AND OTHER MEASURES) BILL 2006

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

Message no. 408, dated 12 October 2006—A Bill for an Act to amend the law relating to child support, 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.

On the motion of Senator Santoro the debate was adjourned and the resumption of the debate made an order of the day for a later hour.

**13 DEFENCE FORCE (HOME LOANS ASSISTANCE) AMENDMENT BILL 2006
TAX LAWS AMENDMENT (2006 MEASURES NO. 4) BILL 2006**

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

Message no. 410, dated 12 October 2006—A Bill for an Act to amend the *Defence Force (Home Loans Assistance) Act 1990*, and for related purposes.

Message no. 407, dated 12 October 2006—A Bill for an Act to amend the law relating to taxation, and for related purposes.

The Minister for Ageing (Senator Santoro) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

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

Explanatory memorandum: Senator Santoro tabled a revised explanatory memorandum relating to the Tax Laws Amendment (2006 Measures No. 4) Bill 2006.

On the motion of Senator Santoro the debate was adjourned till the next day of sitting.
Consideration of legislation: Senator Santoro moved—That the bills be listed on the *Notice Paper* as separate orders of the day.
Question put and passed.

**14 CORPORATIONS (ABORIGINAL AND TORRES STRAIT ISLANDER) BILL 2006
CORPORATIONS AMENDMENT (ABORIGINAL AND TORRES STRAIT ISLANDER
CORPORATIONS) BILL 2006
CORPORATIONS (ABORIGINAL AND TORRES STRAIT ISLANDER) CONSEQUENTIAL,
TRANSITIONAL AND OTHER MEASURES BILL 2006**

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

Message no. 411, dated 16 October 2006—A Bill for an Act to provide for Aboriginal and Torres Strait Islander corporations, and for related purposes.

Message no. 412, dated 16 October 2006—A Bill for an Act to amend the *Corporations Act 2001*, and for related purposes.

Message no. 413, dated 16 October 2006—A Bill for an Act to deal with transitional and consequential matters relating to the enactment of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* and to amend the *Native Title Act 1993*, and for related purposes.

The Minister for Ageing (Senator Santoro) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

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

Explanatory memorandum: Senator Santoro tabled a revised explanatory memorandum relating to the Corporations (Aboriginal and Torres Strait Islander) Bill 2006.

On the motion of Senator Santoro the debate was adjourned and the resumption of the debate made an order of the day for a later hour.

15 TRADE MARKS AMENDMENT BILL 2006

A message from the House of Representatives was reported agreeing to the following bill without amendment:

Message no. 409, dated 12 October 2006—Trade Marks Amendment Bill 2006.

16 MEMBERS OF PARLIAMENT—ENTITLEMENTS—PROPOSED DISAPPROVAL

Senator Murray, pursuant to notice, moved business of the Senate notice of motion no. 1—That clauses 11.1, 11.2 and 11.3 of Determination 2006/18: Members of Parliament – Entitlements, made pursuant to subsections 7(1), 7(2) and 7(4) of the *Remuneration Tribunal Act 1973*, that provide for the aggregation of the charter and communications allowances of a member representing an electorate of 10,000 km² or more, be disapproved.

Debate ensued.

Question put.

The Senate divided—

AYES, 33

Senators—

Allison	Evans	Lundy	Ray
Bartlett	Faulkner	McEwen	Siewert
Bishop	Fielding	McLucas	Stephens
Brown, Bob	Forshaw	Milne	Webber
Brown, Carol	Hogg	Moore	Wong
Campbell, George	Hurley	Murray	Wortley
Carr	Hutchins	Nettle	
Conroy	Kirk (Teller)	O'Brien	
Crossin	Ludwig	Polley	

NOES, 35

Senators—

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

Question negatived.

17 LEGAL AND CONSTITUTIONAL AFFAIRS—STANDING COMMITTEE—REPORT—CRIMES AMENDMENT (BAIL AND SENTENCING) BILL 2006

Pursuant to order, Senator Patterson, at the request of the Chair of the Legal and Constitutional Affairs Committee (Senator Payne), tabled the following report and documents:

Legal and Constitutional Affairs—Standing Committee—Crimes Amendment (Bail and Sentencing) Bill 2006—Report, dated October 2006, Hansard record of proceedings, document presented to the committee and submissions [14].

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

18 LEAVE OF ABSENCE

Senator Patterson, by leave, moved—That leave of absence be granted to Senator Sandy Macdonald for 16 October 2006, for family reasons.

Question put and passed.

19 AGED CARE AMENDMENT (RESIDENTIAL CARE) BILL 2006

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

Debate resumed.

Explanatory memorandum: The Minister for Ageing (Senator Santoro) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

Debate continued.

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.

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

Schedule 1, item 1, page 3 (line 11), after “1986”, insert “that was purchased on or after 20 September 2007”.

Schedule 1, item 1, page 3 (line 24), after “1991”, insert “that was purchased on or after 20 September 2007”.

Senator McLucas moved the following amendments together by leave:

Schedule 1, heading, page 3 (line 4), at the end of the heading, add “**and unannounced support contacts**”.

Schedule 1, page 4 (after line 31), at the end of the Schedule, add:

4 After section 54-3

Insert:

54-3A Unannounced support contacts by the Aged Care Standards and Accreditation Agency

- (1) Every residential aged care facility must be subject to at least one unannounced support contact by the Aged Care Standards and Accreditation Agency every year.
- (2) The residential aged care facility must not be given any prior notice of the support contact.
- (3) The Assessment Team conducting the support contact must assess the facility against all Quality Outcomes of the Aged Care Standards and Accreditation Agency.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 32

Senators—

Allison	Evans	McEwen	Ray
Bartlett	Faulkner	McLucas	Sherry
Bishop	Fielding	Milne	Siewert
Brown, Bob	Hurley	Moore	Stephens
Brown, Carol	Hutchins	Murray	Sterle
Campbell, G (Teller)	Kirk	Nettle	Webber
Conroy	Ludwig	O'Brien	Wong
Crossin	Lundy	Polley	Wortley

NOES, 33

Senators—

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

Question negatived.

Bill, as amended, further debated.

Senator Nettle moved the following amendment:

Schedule 1, page 3 (after line 6), before item 1, insert:

1A Paragraph 2-1(1)(e)

After “gender”, insert “, sexual orientation”.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 30

Senators—

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

NOES, 33

Senators—

Abetz	Eggleston	Kemp	Santoro
Adams	Ellison	Lightfoot	Scullion
Barnett	Ferguson	Mason	Troeth
Bernardi	Fielding	McGauran	Trood
Boswell	Fierravanti-Wells	Nash	Vanstone
Brandis	Fifield	Parry (Teller)	Watson
Calvert	Humphries	Patterson	
Chapman	Johnston	Payne	
Colbeck	Joyce	Ronaldson	

Question negatived.

Senator Nettle moved the following amendment:

Schedule 1, page 4 (after line 31), at the end of the Schedule, add:

4 Subsection 44-11(1) (at the end of the definition of *member of a couple*)

Add:

; and (c) includes a same sex partner.

Debate ensued.

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

Bill, as amended, agreed to.

Bill to be reported with amendments.

The Acting Deputy President (Senator Hutchins) 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.

20 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Ageing (Senator Santoro) moved—That government business order of the day no. 2 (Privacy Legislation Amendment (Emergencies and Disasters) Bill 2006) be postponed till the next day of sitting.

Question put and passed.

21 HIGHER EDUCATION LEGISLATION AMENDMENT (2006 BUDGET AND OTHER MEASURES) BILL 2006

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

Debate resumed.

Senator Wong moved the following amendment:

At the end of the motion, add “but the Senate condemns the Government for:

- (a) jeopardising Australia’s future prosperity by reducing public investment in tertiary education, as the rest of the world increases its investment;

- (b) failing to invest in education, training, distribution and retention measures to ensure that all of Australia has enough doctors, nurses and other health care professionals to meet current and future health care needs;
- (c) massively increasing the cost of the higher education contribution scheme, forcing students to pay up to \$30 000 more for their degree;
- (d) creating an American style higher education system, where students pay more and more, with some full fee degrees costing more than \$200 000, and nearly 100 full fee degrees costing more than \$100 000;
- (e) massively increasing the debt burden on students with total higher education loan program debt now over \$13 billion and projected to rise to \$18.8 billion in 2009;
- (f) failing to address serious concerns about standards and quality in the higher education system, putting at risk Australia's high educational reputation and fourth largest export industry; and
- (g) an inadequate and incoherent policy response to the needs of the university system to diversify, innovate and meet Australia's higher education needs".

Debate ensued.

At 9.50 pm: Debate was interrupted while Senator Crossin was speaking.

22 ADJOURNMENT

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

Debate ensued.

Documents: Senator Conroy, by leave, tabled the following documents:

Employment—Independent contractors—Copies of—

Letters from—

Adviser, Workplace Relations, Employment, Industry and Small Business (Jamie Briggs), Office of the Prime Minister, to Mr Tony McNulty, dated 2 June 2006.

Member for Hughes (Mrs Vale) to Mr Clarence Gibbs, dated 18 August 2006.

Minister for Employment and Workplace Relations (Mr Andrews) to the Member for Hughes (Mrs Vale), dated 9 August 2006.

Media release—Minister for Employment and Workplace Relations (Mr Andrews)—‘New protections in independent contractors bill’, dated 3 May 2006.

Debate continued.

Document: Senator Barnett, by leave, tabled the following document:

Vietnam and Singapore—Study tour report, 23 July to 3 August 2006—
'Australia's overseas aid, the work of World Vision and tackling the obesity epidemic', by Senator Barnett.

Debate continued.

The Senate adjourned at 10.26 pm till Tuesday, 17 October 2006 at 12.30 pm.

23 ATTENDANCE

Present, all senators except Senators Ian Campbell*, Sandy Macdonald*, Marshall* and Stott Despoja* (* on leave).

HARRY EVANS
Clerk of the Senate