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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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No. 165

TUESDAY, 18 SEPTEMBER 2007

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1 MEETING OF SENATE

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

2 GOVERNMENT DOCUMENTS

The following government documents were tabled:

Broadcasting Services Act 1992—Australian Communications and Media Authority—Report—Local content levels investigation, June 2007.

Crimes Act 1914—Authorisations for the acquisition and use of assumed identities for 2006-07—Australian Federal Police.

Criminal Code Act 1995—Preventative detention and control orders—Reports for 2006-07.

Health Services Australia Ltd (HSA Group)—Statement of corporate intent 2007 to 2010.

IIF Investments Pty Limited, IIF (CM) Investments Pty Limited, IIF BioVentures Pty Limited, IIF Foundation Pty Limited and IIF Neo Pty Limited—Reports for 2005-06.

Migration Act 1958—Reports for the period 1 March to 30 June 2007—

Section 91Y—Protection visa processing taking more than 90 days.

Section 440A—Conduct of Refugee Review Tribunal (RRT) reviews not completed within 90 days.

Superannuation (Government Co-contribution for Low Income Earners) Act 2003—Quarterly report on the Government co-contribution scheme for the period 1 April to 30 June 2007, together with report for 2006-07.

Sydney Airport Demand Management Act 1997—Quarterly report on the maximum movement limit for Sydney Airport for the period 1 April to 30 June 2007.

Treaties—

Bilateral—Text, together with national interest analysis and annexures—

Treaty between Australia and the State of the United Arab Emirates on Mutual Legal Assistance in Criminal Matters (Hobart, 26 July 2007).

Treaty on Extradition between Australia and the State of the United Arab Emirates (Hobart, 26 July 2007).

Multilateral—Explanatory statement 5 of 2007—Amendments, adopted at London in July 2007, to the Annex of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78).

3 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION

The Minister for Fisheries, Forestry and Conservation (Senator Abetz), pursuant to notice, moved government business notice of motion no. 1—That—

(1) On Tuesday, 18 September 2007:

(a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to adjournment;

(b) the routine of business from 7.30 pm shall be government business only; and

- (c) the question for the adjournment of the Senate shall be proposed at 10 pm.
- (2) On Thursday, 20 September 2007:
- (a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm 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 12.45 pm till not later than 2 pm, and 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 be proposed after the Senate has finally considered the bills listed below, including any messages from the House of Representatives:
 - Australian Crime Commission Amendment Bill 2007
 - Australian Technical Colleges (Flexibility in Achieving Australia's Skills Needs) Amendment Bill (No. 2) 2007
 - Classification (Publications, Films and Computer Games) Amendment (Terrorist Material) Bill 2007
 - Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007
 - Communications Legislation Amendment (Information Sharing and Datacasting) Bill 2007
 - Families, Community Services and Indigenous Affairs Legislation Amendment (Further 2007 Budget Measures) Bill 2007
 - Families, Community Services and Indigenous Affairs Legislation Amendment (Child Disability Assistance) Bill 2007
 - Financial Framework Legislation Amendment Bill (No. 1) 2007
 - Health Insurance Amendment (Medicare Dental Services) Bill 2007
 - Health Legislation Amendment Bill 2007
 - Higher Education Endowment Fund Bill 2007
 - Higher Education Endowment Fund (Consequential Amendments) Bill 2007
 - Higher Education Support Amendment (Extending FEE-HELP for VET Diploma and VET Advanced Diploma Courses) Bill 2007
 - Indigenous Education (Targeted Assistance) Amendment (Cape York Measures) Bill 2007
 - Judges' Pensions Amendment Bill 2007
 - Federal Magistrates Amendment (Disability and Death Benefits) Bill 2007
 - National Greenhouse and Energy Reporting Bill 2007
 - Quarantine Amendment (Commission of Inquiry) Bill 2007
 - Social Security Amendment (2007 Measures No. 1) Bill 2007
 - Social Security Amendment (2007 Measures No. 2) Bill 2007
 - Social Security Legislation Amendment (2007 Budget Measures for Students) Bill 2007
 - Superannuation Legislation Amendment Bill 2007
 - Tax Laws Amendment (2007 Measures No. 4) Bill 2007
 - Taxation (Trustee Beneficiary Non-disclosure Tax) Bill (No. 1) 2007
 - Taxation (Trustee Beneficiary Non-disclosure Tax) Bill (No. 2) 2007

Tax Laws Amendment (2007 Measures No. 5) Bill 2007
 Tax Laws Amendment (2007 Measures No. 6) Bill 2007
 Telecommunications (Interception and Access) Amendment
 Bill 2007
 Trade Practices Amendment (Small Business Protection) Bill 2007
 Trade Practices Legislation Amendment Bill (No. 1) 2007.

Debate ensued.

Question put.

The Senate divided—

AYES, 34

Senators—

Abetz	Chapman	Humphries	Nash
Adams	Colbeck	Johnston	Parry (Teller)
Barnett	Cormann	Joyce	Patterson
Bernardi	Eggleston	Lightfoot	Ronaldson
Birmingham	Ellison	Macdonald, Ian	Scullion
Boswell	Ferguson	Macdonald, Sandy	Trood
Boyce	Fierravanti-Wells	Mason	Watson
Brandis	Fisher	McGauran	
Bushby	Heffernan	Minchin	

NOES, 32

Senators—

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

Question agreed to.

4 CONSIDERATION OF LEGISLATION—AUSTRALIAN CRIME COMMISSION AMENDMENT BILL 2007

The Minister for Fisheries, Forestry and Conservation (Senator Abetz), pursuant to notice, moved government business notice of motion no. 2—That—

- (a) the following bill be introduced: A Bill for an Act to amend the *Australian Crime Commission Act 2002*, and for related purposes [*Australian Crime Commission Amendment Bill 2007*]; and
- (b) the provisions of paragraphs (5) to (8) of standing order 111 not apply to the bill allowing it to be considered during this period of sittings.

Debate ensued.

Senator Stott Despoja moved the following amendment:

At the end of the motion, add:

; and (c) the bill not be further considered until Thursday, 20 September 2007.

Debate ensued.

Senator Stott Despoja, by leave, withdrew the amendment.

Question put and passed.

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

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

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

5 **TRADE PRACTICES LEGISLATION AMENDMENT BILL (NO. 1) 2007**

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 Senator Murray:

No. 1—Schedule 2, page 6 (after line 12), after item 3, insert:

3D After subsection 51AAB

Insert:

51AAC Unfair contract terms

- (1) A corporation must not, in trade or commerce, in connection with:
 - (a) the supply or possible supply of goods or services to a person (other than a listed public company); or
 - (b) the acquisition or possible acquisition of goods or services from a person (other than a listed public company);
 include in a contract, arrangement or understanding, or proposed contract, arrangement or understanding, an unfair term.
- (2) A person must not, in trade or commerce, in connection with:
 - (a) the supply or possible supply of goods or services to a corporation (other than a listed public company); or
 - (b) the acquisition or possible acquisition of goods or services from a corporation (other than a listed public company);
 include in a contract, arrangement or understanding, or proposed contract, arrangement or understanding, an unfair term.
- (3) A term is to be regarded as unfair for the purposes of subsections (1) and (2) if, contrary to the requirements of good faith and in all the circumstances, it causes a significant imbalance in the parties' rights and obligations arising under the contract, arrangement, or understanding, or the proposed contract, arrangement or understanding, to the detriment of the consumer or small business.

- (4) An unfair term is void.
- (5) The contract will continue to bind the parties if it is capable of existing without the unfair term.
- (6) This section only applies to a contract, arrangement or understanding, or proposed contract, arrangement or understanding entered, or proposed to be entered into, on or after the commencement of this section.

No. 2—Schedule 2, page 6 (after line 12), after item 3, insert:

3E After subsection 51AC(1)

Insert:

- (1A) For the purposes of this section *unconscionable conduct* includes any action in relation to a contract or to the terms of a contract that is unfair, unreasonable, harsh or oppressive, or is contrary to the concepts of fair dealing, fair-trading, fair play, good faith and good conscience.

Senator Murray, by leave, withdrew amendment no. 2.

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

Senator Murray moved the following amendment:

Schedule 2, page 6 (after line 12), after item 3, insert:

3F Subsections 51AC(9) and (10)

Repeal the subsections.

Debate ensued.

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

Senator Murray moved the following amendment:

Schedule 2, page 6 (after line 12), after item 3, insert:

3G After section 81A

Insert:

81B Divestiture for abuses of market power

- (1) The Court may, on the application of the Commission, if it finds that a corporation has contravened section 46, by order, give directions for the purpose of securing the reorganisation or division of the corporation into separate and distinct entities including directions for the disposal or divestiture of all or any of the shares in or assets of the corporation to facilitate the reorganisation or division of the corporation.

Debate ensued.

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

Senator Murray moved the following amendment:

Schedule 2, page 6 (after line 12), after item 3, insert:

3H After subsection 95ZF(4)

Insert:

- (5) The Commission will:

- (a) commence monitoring prices, costs and profits relating to the supply of goods or services by a corporation once that corporation has attained a market share of 25% of:
 - (i) the national market for the goods or services; or
 - (ii) a State or Territory market for goods or services;
- (b) table a report in both Houses of Parliament on the monitoring at six monthly intervals.

Commercial confidentiality

- (6) The Commission must, in preparing a report required under subsection (5), have regard to the need for commercial confidentiality.

Commission to send the corporation a copy of the report

- (7) The Commission must send the corporation a copy of the report required under subsection (5) on the day it tables the report.

Public inspection

- (8) The Commission must also make copies of the report required under subsection (5) available for public inspection as soon as practicable after the report has been tabled.

Debate ensued.

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

Senator Sherry moved the following amendments together by leave:

Schedule 3, item 7, page 11 (line 4), omit “Omit “\$3,000,000”, substitute \$10,000,000”, substitute “Repeal the subsection”.

Schedule 3, item 8, page 11 (line 6), omit “Omit “\$30,000,000”, substitute “\$10,000,000”, substitute “Repeal the subsection”.

Schedule 3, page 11 (after line 6), after item 8, insert:

8A Subsection 51AC (11)

Repeal the subsection.

Debate ensued.

Question—That the amendments be agreed to—put and negatived. All Australian Democrats senators, by leave, recorded their votes for the ayes.

Senator Sherry moved the following amendment:

Page 11 (after line 11), at the end of the bill, add:

Schedule 4—Other matters

1 Subsection 86(1A)

After “any matter arising under”, insert “section 46,”.

2 After subsection 155(1)

Insert:

- (1A) The power under subsection (1) can be exercised at any time prior to the commencement of substantive proceedings in a matter before the courts.

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 Kirk) resumed the chair and the Temporary Chair of Committees reported accordingly.

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

At 2 pm—

6 QUESTIONS

Questions without notice were answered.

7 ANSWERS TO QUESTIONS

Senator Carr moved—That the Senate take note of the answers given by ministers to questions without notice asked today.

Debate ensued.

Question put and passed.

8 FOREIGN AFFAIRS—UNITED NATIONS PEACEKEEPING—ANSWER TO QUESTION

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

Question put and passed.

9 DEATH OF FORMER MEMBER PETER ROBERT CLEELAND

The Deputy President (Senator Hogg) informed the Senate of the death, on 16 September 2007, of Peter Robert Cleeland, a member of the House of Representatives for the division of McEwen from 1984 to 1990, and from 1993 to 1996.

10 PETITIONS

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

Senator Hogg, from 53 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 Webber, from 25 petitioners, requesting that the Senate legislate to require that all Internet service providers offer a 'clean feed' Internet service to all households, schools and public libraries that blocks access to websites containing child pornography, acts of extreme violence and X-rated material.

11 NOTICES

Notices of motion:

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

- (a) notes that:
 - (i) thirteen Melbourne men accused of terrorist-related crimes have been held for nearly 2 years in the maximum security Acacia unit in Barwon prison; segregated, shackled, regularly strip-searched, and confined to their cells for more than 20 hours every day,
 - (ii) Justice Bongiorno, in a bail application hearing earlier in September 2007, said the conditions lacked any justification and risked undermining the rule of law by treating the men in the same way as the state's worst convicted contract killers, stating that 'I find the conditions in Barwon very troubling from the court's perspective. The state runs Barwon prison. What is the reason why ... people need to be treated in the way that ... the accused in this case have been treated? ... It is extremely difficult not to see this as some sort of pre-emptive punishment being imposed', and
 - (iii) the trial, which may last for 6 months, is due to begin in February 2008;
- (b) considers that it is unacceptable for accused prisoners to be awaiting trial for 2 years in punitive conditions akin to criminals convicted of the most heinous crimes; and
- (c) urges the Government to ensure fair and reasonable remand conditions and the expeditious conduct of trial proceedings for these accused. (*general business notice of motion no. 912*)

Senators Siewert and Milne: To move on the next day of sitting—That—

- (a) the Senate:
 - (i) notes the dire state of agricultural production addressed in the latest report from the Australian Bureau of Agricultural and Resource Economics', *Australian Crop Report: 18 September 2007, No. 143*,
 - (ii) recognises the severe impact of a series of ongoing poor seasons on the livelihoods of Australian farmers and the knock-on effect on the well-being of associated rural communities, and
 - (iii) notes the need to ensure the security of Australian food production; and
- (b) the following matters be referred to the Rural and Regional Affairs and Transport Committee for inquiry and report by 30 June 2008:
 - (i) the scientific evidence available on the likely future climate of Australia's key agricultural production zones, and its implications for current farm enterprises and possible future industries,
 - (ii) the need for a national strategy to assist Australian agricultural industries to adapt to climate change, and
 - (iii) the adequacy of existing drought assistance and exceptional circumstances programs to cope with long-term climactic changes.

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

- (a) notes that the Government:
 - (i) has announced an additional \$1 million to help the people of Lebanon clear unexploded cluster munitions, and
 - (ii) describes itself as taking a ‘leading role’ in negotiating a new treaty to limit the use of cluster weapons; and
- (b) calls on the Government to show real international leadership and delay the impending purchase of new cluster weapons until after the Oslo negotiations to limit the spread of cluster weapons. (*general business notice of motion no. 913*)

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

- (a) notes that:
 - (i) the Tasmanian Government is moving to water down its firearms laws,
 - (ii) the proposed changes, in clear breach of the National Firearms Agreement, would allow minors, aged between 12 and 16 years, to use powerful weapons in Tasmania in the bush, providing they are under adult supervision,
 - (iii) under the agreement, the states resolved to implement laws requiring ‘genuine reasons for owning, possessing or using a firearm’,
 - (iv) until the agreement and the gun buyback in 1996, guns were the weapon of choice for suicide in Tasmania, and
 - (v) Tasmania has a suicide rate 65 per cent higher than the rest of Australia; and
- (b) calls on the Government to intervene and insist that the Premier of Tasmania (Mr Lennon) and the Tasmanian Government uphold the agreed undertakings, which were negotiated after the Port Arthur massacre. (*general business notice of motion no. 914*)

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the Senate endorse the commitment of the Prime Minister (Mr Howard) that ‘the final decision to go ahead with the project [Gunns Limited’s proposed pulp mill] would be subject to all environmental considerations being fully satisfied’. (*general business notice of motion no. 915*)

Senator Nettle: To move on 20 September 2007—That the Senate—

- (a) notes recent statements by the Australian Nuclear Science and Technology Organisation that it ‘cannot give a firm time as to when the Lucas Heights nuclear reactor would be operational’; and
- (b) calls on the Government to use the reactor’s temporary closure as an opportunity to permanently close this nuclear white elephant. (*general business notice of motion no. 916*)

Senator Nettle: To move on 20 September 2007—That the Senate—

- (a) notes:
 - (i) the tragic loss of more than 70 lives in the devastating bushfires that have raged across Greece since August 2007,
 - (ii) the loss of livestock, native fauna and flora and thousands of acres of mature trees,
 - (iii) that the Australian Government has donated \$3 million in aid to Greece via the Greek Red Cross, and

- (iv) that the Australian Government further promised a number of Australian bushfire experts to assist Greek authorities; and
- (b) calls on the Government to:
 - (i) investigate expanding the scope of Australian aid to Greece, and
 - (ii) pledge Australian aid for appropriate replacement tree planting programs. (*general business notice of motion no. 917*)

Notice of motion withdrawn: The Chairman of the Standing Committee on Regulations and Ordinances (Senator Watson), pursuant to notice of intention given on 17 September 2007, withdrew business of the Senate notice of motion no. 1 standing in his name for today for the disallowance of the Investigation Principles 2007, made under subsection 96-1(1) of the *Aged Care Act 1997*.

12 POSTPONEMENTS

The following items of business were postponed:

General business notice of motion no. 897 standing in the name of Senator Bartlett for today, relating to National Child Protection Week, postponed till 19 September 2007.

General business notice of motion no. 911 standing in the name of the Leader of the Family First Party (Senator Fielding) for today, proposing the introduction of the Alcohol Toll Reduction Bill 2007, postponed till 19 September 2007.

13 CONSIDERATION OF LEGISLATION

The Minister for Fisheries, Forestry and Conservation (Senator Abetz), pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 3—That the government business orders of the day relating to the Social Security Amendment (2007 Measures No. 1) Bill 2007 and the Social Security Amendment (2007 Measures No. 2) Bill 2007 may be taken together for their remaining stages.

Question put and passed.

14 PUBLIC ACCOUNTS AND AUDIT—JOINT STATUTORY COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Parry, at the request of Senator Watson and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 904—That the Joint Committee of Public Accounts and Audit be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 19 September 2007, from 11.15 am to 1.15 pm, to take evidence for the committee's review of Auditor-General's reports.

Question put and passed.

15 COMMUNITY AFFAIRS—STANDING COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Parry, at the request of the Chair of the Community Affairs Committee (Senator Humphries) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 905—That the Community Affairs Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 20 September 2007, from 3.30 pm, to take evidence for the committee's inquiry into the cost of living pressures on older Australians.

Question put and passed.

16 PRIVILEGES—STANDING COMMITTEE—REFERENCE

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved matter of privilege notice of motion no. 1—That the following matter be referred to the Committee of Privileges:

Whether false or misleading evidence was given to the Legal and Constitutional Affairs Committee or any other Senate committee concerning the Government's knowledge of the rendition of Mr Mamdouh Habib to Egypt, and whether any contempt was committed in that regard.

Question put and passed.

Statements by leave: The Minister for Fisheries, Forestry and Conservation (Senator Abetz) and Senators Nettle and Stott Despoja, by leave, made statements relating to the motion.

17 FOREIGN AFFAIRS—RUSSIA—NUCLEAR SAFEGUARDS

The Leader of the Australian Democrats (Senator Allison), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 906—That the Senate—

- (a) notes the recommendations of Dr Donald R. Rothwell, Professor of International Law at the Australian National University, on the minimum requirements the Government should pursue in its negotiations with the Russian Federation (Russia) on a nuclear safeguards agreement, which include:
 - (i) Australia requesting Russia to ratify the International Atomic Energy Agency Additional Protocol which it signed in March 2000,
 - (ii) if Russia fails to ratify the Additional Protocol, Australia seeking to incorporate the essential terms and conditions of the Additional Protocol into the bilateral agreement, and
 - (iii) Australia seeking to incorporate binding human rights and democracy clauses into any such agreement; and
- (b) urges the Government to:
 - (i) consider also including a clause stipulating a time frame for disarmament in any bilateral agreement, and
 - (ii) reconcile its wider responsibilities to non-proliferation, disarmament and human rights before any benefits to the Australian economy when negotiating the nuclear safeguards agreement with Russia.

Question put.

The Senate divided—

AYES, 32

Senators—

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

NOES, 34

Senators—

Abetz	Colbeck	Humphries	Parry (Teller)
Adams	Cormann	Johnston	Patterson
Barnett	Eggleston	Joyce	Payne
Bernardi	Ellison	Lightfoot	Ronaldson
Birmingham	Ferguson	Macdonald, Ian	Scullion
Boswell	Fierravanti-Wells	Macdonald, Sandy	Trood
Boyce	Fifield	Mason	Watson
Bushby	Fisher	McGauran	
Chapman	Heffernan	Nash	

Question negatived.

18 TRANSPORT—PUBLIC TRANSPORT

The Leader of the Australian Democrats (Senator Allison), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 907—That the Senate—

- (a) notes that the Metropolitan Transport Forum, comprising of 19 Melbourne municipal councils and 17 associated organisations and members, at a forum at the Melbourne Town Hall on 30 August 2007, has called on the Government to contribute to funding public transport services throughout Australia to meet the needs of public transport users for the following reasons:
- (i) public transport contributes to the economic performance and liveability of cities and reduces car dependence and the costs of road congestion, estimated to be \$10 billion nationally in 2005 and \$20 billion by 2020,
 - (ii) one suburban train can remove 5 kilometres of cars from congested roads,
 - (iii) public transport enables Australia to respond to rising fuel prices and environmental sustainability,
 - (iv) petrol will continue to increase beyond \$US70 per barrel with increasing world demand for oil, and only one barrel of oil being discovered for nine barrels being produced,
 - (v) public transport assists in access to jobs, education and services for people who cannot afford a car or who are unable to drive, including students, the poor, people with disabilities and the elderly, and helps to reduce socio-economic problems, social isolation and inequity,
 - (vi) public transport helps reduce health costs by reducing the effect of accidents and pollution on the national health bill and hospitals,
 - (vii) in-built walking to and from transport nodes contributes to regular physical activity, essential in reducing risks of cardio-vascular disease, hypertension, obesity, diabetes, depression, bowel and other cancers,
 - (viii) by increasing demand – Melbourne’s public transport use increased by 20 per cent in the past 2 years, and
 - (ix) in an independent Melbourne survey, more than 4 out of 5 respondents (83 per cent) said that the issue of public transport infrastructure would be of importance when deciding who they would vote for in the next federal election; and
- (b) urges the Government to reverse its policy of denying public transport any funding in its transport budget determinations.

Question put.

The Senate divided—

AYES, 9

Senators—

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

NOES, 53

Senators—

Abetz	Cormann	Kirk	Patterson
Adams	Crossin	Lightfoot	Payne
Barnett	Eggleston	Ludwig	Polley
Bernardi	Evans	Lundy	Ray
Birmingham	Ferguson	Macdonald, Sandy	Ronaldson
Bishop	Fierravanti-Wells	Marshall	Scullion
Boswell	Fifield	Mason	Sterle
Boyce	Fisher	McEwen	Trood
Brown, Carol	Hogg	McGauran	Watson
Bushby	Humphries	McLucas	Webber
Campbell	Hurley	Moore	Wortley
Carr	Hutchins	Nash	
Chapman	Johnston	O'Brien	
Colbeck	Joyce	Parry (Teller)	

Question negatived.

19 INDIGENOUS AUSTRALIANS—NATIONAL CLOSE THE GAP DAY

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 910—That the Senate—

- (a) notes that Tuesday, 18 September 2007 is National Close the Gap Day, a day on which Australians across the nation are coming together to show their support for closing the 17-year life expectancy gap between Aboriginal and Torres Strait Islanders and other Australians; and
- (b) calls on all federal, state and territory governments to take action to achieve health equality for Aboriginal and Torres Strait Islanders within 25 years by:
 - (i) increasing annual Indigenous health funding by \$450 million to enable equal access to health services,
 - (ii) increasing Indigenous control and participation in the delivery of health services, and
 - (iii) addressing critical social issues, such as housing, education and self-determination, which contribute to the Indigenous health crisis.

Question put.

The Senate divided—

AYES, 8

Senators—

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

NOES, 54

Senators—

Abetz	Cormann	Joyce	Parry (Teller)
Adams	Crossin	Kirk	Patterson
Barnett	Eggleston	Lightfoot	Payne
Bernardi	Evans	Ludwig	Polley
Birmingham	Ferguson	Lundy	Ray
Bishop	Fielding	Macdonald, Sandy	Ronaldson
Boswell	Fierravanti-Wells	Marshall	Scullion
Boyce	Fifield	Mason	Sterle
Brown, Carol	Fisher	McEwen	Trood
Bushby	Hogg	McGauran	Watson
Campbell	Humphries	McLucas	Webber
Carr	Hurley	Moore	Wortley
Chapman	Hutchins	Nash	
Colbeck	Johnston	O'Brien	

Question negatived.

20 FAMILY AND COMMUNITY SERVICES—HOUSING AFFORDABILITY

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 908—That the Senate calls on the Government to:

- (a) review all taxes, grants and concessions, including negative gearing, capital gains tax exemptions and first home owners grants, to assess their impact on the housing market; and
- (b) work with the states and territories to develop an evidence-based national affordable housing plan.

Question put.

The Senate divided—

AYES, 9

Senators—

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

NOES, 50

Senators—

Abetz	Crossin	Lightfoot	Patterson
Adams	Eggleston	Ludwig	Payne
Barnett	Evans	Lundy	Polley
Bernardi	Ferguson	Macdonald, Sandy	Ray
Birmingham	Fierravanti-Wells	Marshall	Ronaldson
Bishop	Fifield	Mason	Scullion
Brown, Carol	Fisher	McEwen	Sterle
Bushby	Hogg	McGauran	Trood
Campbell	Humphries	McLucas	Watson
Carr	Hurley	Moore	Webber
Chapman	Hutchins	Nash	Wortley
Colbeck	Joyce	O'Brien	
Cormann	Kirk	Parry (Teller)	

Question negatived.

21 ADMINISTRATION—QUEENSLAND LOCAL GOVERNMENT—DOCUMENT

The President tabled the following document:

Administration—Queensland local government—Letter to the President of the Senate from the then Premier of Queensland (Mr Beattie) responding to the resolution of the Senate of 13 August 2007, dated 11 September 2007.

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

Question put and passed.

22 DOCUMENTS

The following documents were tabled by the Clerk:

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

Aged Care Act—Investigation Amendment Principles 2007 (No. 1) [F2007L03718]*.

Australian National University Act—Fees Statute 2006—Tuition Fees Order 2007 [F2007L03667]*.

Broadcasting Services Act—

Broadcasting (Hours of Local Content) Declaration No. 1 of 2007 [F2007L03668]*.

Broadcasting (Hours of Local Content) Declaration No. 1 of 2007 (Amendment No. 1 of 2007) [F2007L03725]*.

Census and Statistics Act—Statement No. 2 of 2007—List of businesses for the Australian Institute of Criminology.

Civil Aviation Act—Civil Aviation Safety Regulations—

Airworthiness Directives—Part 105—

AD/AS 355/85 Amdt 4—Sliding Door Rear Fitting Pin [F2007L03660]*.

AD/ATR 42/19 Amdt 1—Fuel Tank Safety Fuel Airworthiness Limitations [F2007L03663]*.

AD/BELL 206/171—Tail Rotor Blades [F2007L03708]*.

AD/BELL 222/43—Tail Rotor Blades [F2007L03710]*.

AD/BELL 407/30—Tail Rotor Blades [F2007L03711]*.

AD/BELL 430/11—Tail Rotor Blades [F2007L03712]*.

AD/DAUPHIN/85 Amdt 2—CPT 609 Crash Position Transmitter Beacon Antenna [F2007L03662]*.

AD/DHC-8/133—Main Landing Gear System [F2007L03681]*.

AD/ECUREUIL/109 Amdt 4—Sliding Door Rear Fitting Pin [F2007L03661]*.

AD/SD3-30/23 Amdt 2—Propeller Attaching Bolts [F2007L03714]*.

Instrument No. CASA EX45/07—Exemption – Airbus 380 runway and taxiway width [F2007L02697]*.

Environment Protection and Biodiversity Conservation Act—Conservation theme for prioritising nominations for listing Threatened Species, Threatened Ecological Communities and Key Threatening Processes for the assessment period commencing 1 October 2008 [F2007L03593]*.

Family Law Act—Family Law (Superannuation) Regulations—Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Amendment Approval 2007 (No. 1) [F2007L03687]*.

Food Standards Australia New Zealand Act—Australia New Zealand Food Standards Code – Amendment No. 93 – 2007 [F2007L03630]*.

Health Insurance Act—

Health Insurance (Gippsland and South Eastern New South Wales Mobile MRI Trial) Determination HS/05/2007 [F2007L03671]*.

Health Insurance (Positron Emission Tomography) Determination HS/05/07 [F2007L03685]*.

Higher Education Support Act—

Higher Education Provider Approval (No. 10 of 2007)—Sarina Russo Schools Australia Pty Ltd [F2007L03647]*.

Other Grants Guidelines 2006—Amendment No. 5 [F2007L03649]*.

Industrial Chemicals (Notification and Assessment) Act—Cosmetics Standard 2007 [F2007L03680]*.

Northern Territory National Emergency Response Act—

Northern Territory National Emergency Response (Other Areas) Declaration 2007 (No. 1) [F2007L03682]*.

Northern Territory National Emergency Response (Other Areas) Declaration 2007 (No. 3) [F2007L03683]*.

Northern Territory National Emergency Response (Town Camps) Declaration 2007 (No. 1) [F2007L03684]*.

Social Security (Administration) Act—

Social Security (Administration) (Declared relevant Northern Territory area — Finke or Aputula) Determination 2007 [F2007L03693]*.

Social Security (Administration) (Declared relevant Northern Territory area — Imanpa) Determination 2007 [F2007L03689]*.

Social Security (Administration) (Declared relevant Northern Territory area — Mutitjulu) Determination 2007 [F2007L03691]*.

Social Security (Administration) (Declared relevant Northern Territory area — Titjikala) Determination 2007 [F2007L03692]*.

Social Security (FaCSIA) (Exempt Northern Territory Persons) Determination 2007 [F2007L03694]*.

Telecommunications (Interception and Access) Act—Telecommunications (Interception and Access) (Staff members of Western Australia Police) Declaration 2007 [F2007L03688]*.

Therapeutic Goods Act—Therapeutic Goods Order No. 75—Standard for Haematopoietic Progenitor Cells derived from Cord Blood [F2007L03598]*.

Veterans' Entitlements Act—Statements of Principles concerning—

Anxiety Disorder No. 101 of 2007 [F2007L03579]*.

Anxiety Disorder No. 102 of 2007 [F2007L03580]*.

Peritoneal Adhesions No. 103 of 2007 [F2007L03581]*.

Peritoneal Adhesions No. 104 of 2007 [F2007L03582]*.

Shin Splints No. 105 of 2007 [F2007L03583]*.

Shin Splints No. 106 of 2007 [F2007L03585]*.

* Explanatory statement tabled with legislative instrument.

23 QUARANTINE AMENDMENT (COMMISSION OF INQUIRY) BILL 2007

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

Message no. 652, dated 17 September 2007—A Bill for an Act to amend the *Quarantine Act 1908*, and for other purposes.

The Minister for the Arts and Sport (Senator Brandis) 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 Brandis moved—That this bill be now read a second time.

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

24 NATIONAL GREENHOUSE AND ENERGY REPORTING BILL 2007

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

Message no. 653, dated 18 September 2007—A Bill for an Act to provide for the reporting and dissemination of information related to greenhouse gas emissions, greenhouse gas projects, energy production and energy consumption, and for other purposes.

The Minister for the Arts and Sport (Senator Brandis) 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 Brandis moved—That this bill be now read a second time.

Explanatory memorandum: Senator Brandis tabled a revised explanatory memorandum relating to the bill.

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

25 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION—STANDING COMMITTEE—REPORT—SOCIAL SECURITY AMENDMENT (2007 MEASURES NO. 2) BILL 2007

Pursuant to order, Senator Nash, at the request of the Chair of the Employment, Workplace Relations and Education Committee (Senator Troeth), tabled the following report and documents:

Employment, Workplace Relations and Education—Standing Committee—Social Security Amendment (2007 Measures No. 2) Bill 2007 [Provisions]—Report, dated September 2007 and submissions [11].

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

26 **TAX LAWS AMENDMENT (2007 MEASURES NO. 4) BILL 2007**
TAXATION (TRUSTEE BENEFICIARY NON-DISCLOSURE TAX) BILL (NO. 1) 2007
TAXATION (TRUSTEE BENEFICIARY NON-DISCLOSURE TAX) BILL (NO. 2) 2007
TAX LAWS AMENDMENT (2007 MEASURES NO. 5) BILL 2007

Order of the day read for the adjourned debate on the motion of the Minister for Fisheries, Forestry and Conservation (Senator Abetz)—That these bills be now read a second time.

Debate resumed.

Question put and passed.

Bills read a second time.

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

In the committee

TAX LAWS AMENDMENT (2007 MEASURES NO. 4) BILL 2007—

Bill taken as a whole by leave.

Senator Murray moved the following amendments together by leave:

Schedule 5, page 98 (after line 17), before item 27, insert:

26A Subsection 10(2)

Insert:

de facto relationship means a relationship between two people living together as a couple on a genuine domestic basis, where the relationship is not a marital relationship:

- (a) in determining whether two people are in a *de facto* relationship, the circumstances of the relationship must be considered as a whole. Without limiting the generality of this paragraph, those circumstances may include:
 - (i) the length of their relationship;
 - (ii) how long and under what circumstances they have lived together;
 - (iii) whether there is a sexual relationship between them;
 - (iv) their degree of financial dependence or interdependence, and any arrangements for financial support, between or by them;
 - (v) the ownership, use and acquisition of their property, including any property that they own individually;
 - (vi) their degree of mutual commitment to a shared life;
 - (vii) whether they mutually care for and support children;
 - (viii) the performance of household duties;
 - (ix) the reputation, and public aspects, of the relationship between them;
 - (x) the existence of a statutory declaration signed by both persons stating that they regard themselves to be in a *de facto* relationship with the other person;
- (b) a *de facto* relationship may be between two people of the same gender.

Note: A person in a marital relationship is taken to be legally married—see subsection 8A(2) of the *Superannuation Act 1976*.

Schedule 7, page 112 (after line 26), after item 65, insert:

65A Subsection 995-1

Insert:

beneficiary relationship—for the purposes of this Act, a person had a beneficiary relationship with another person at a particular time if the person has a marital or de facto relationship with the person and ordinarily lived with that other person on a permanent and *bona fide* domestic basis at that time.

65B Subsection 995-1(1)

Insert:

de facto relationship means a relationship between two people living together as a couple on a genuine domestic basis, where the relationship is not a marital relationship:

- (a) in determining whether two people are in a de facto relationship, the circumstances of the relationship must be considered as a whole. Without limiting the generality of this paragraph, those circumstances may include:
 - (i) the length of their relationship;
 - (ii) how long and under what circumstances they have lived together;
 - (iii) whether there is a sexual relationship between them;
 - (iv) their degree of financial dependence or interdependence, and any arrangements for financial support, between or by them;
 - (v) the ownership, use and acquisition of their property, including any property that they own individually;
 - (vi) their degree of mutual commitment to a shared life;
 - (vii) whether they mutually care for and support children;
 - (viii) the performance of household duties;
 - (ix) the reputation, and public aspects, of the relationship between them;
 - (x) the existence of a statutory declaration signed by both persons stating that they regard themselves to be in a de facto relationship with the other person;
- (b) a de facto relationship may be between two people of the same gender;
- (c) to avoid doubt, two people may still be in a de facto relationship if they are living apart from each other on a temporary basis.

65C Subsection 995-1(1)

At the end of the definition of *spouse*, add “and includes a person who is in a beneficiary relationship”.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 33

Senators—

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

NOES, 37

Senators—

Abetz	Colbeck	Heffernan	Parry
Adams	Coonan	Humphries	Patterson
Barnett	Cormann	Johnston	Payne
Bernardi	Eggleston	Joyce	Ronaldson
Birmingham	Ellison	Lightfoot	Scullion
Boswell	Ferguson	Macdonald, Ian	Trood
Boyce	Fielding	Mason	Watson
Brandis	Fierravanti-Wells	McGauran (Teller)	
Bushby	Fifield	Minchin	
Chapman	Fisher	Nash	

Question negatived.

Bill agreed to.

TAXATION (TRUSTEE BENEFICIARY NON-DISCLOSURE TAX) BILL (NO. 1) 2007—

Bill, taken as a whole by leave, agreed to.

TAXATION (TRUSTEE BENEFICIARY NON-DISCLOSURE TAX) BILL (NO. 2) 2007—

Bill, taken as a whole by leave, agreed to.

TAX LAWS AMENDMENT (2007 MEASURES NO. 5) BILL 2007—

Bill taken as a whole by leave.

Explanatory memorandum: The Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck) tabled a supplementary explanatory memorandum relating to the government amendment and requests for amendments to be moved to the bill.

On the motion of Senator Colbeck the following request for an amendment was debated and agreed to:

That the House of Representatives be requested to make the following amendment: Schedule 10, item 1, page 137 (lines 10 and 11), omit subparagraph 376-65(5)(a)(ii), substitute:

- (ii) each episode of the series is at least one half of a commercial hour in duration, except where the film is predominantly made using cell, stop motion, digital or other animation, in which case each episode is at least one quarter of a commercial hour in duration; and

On the motion of Senator Colbeck the following request for an amendment was agreed to:

That the House of Representatives be requested to make the following amendment: Schedule 10, item 1, page 137 (lines 17 and 18), omit subparagraph 376-65(5)(b)(ii), substitute:

- (ii) each episode of the series is at least one half of a commercial hour in duration, except where the film is predominantly made using cell, stop motion, digital or other animation, in which case each episode is at least one quarter of a commercial hour in duration; and

On the motion of Senator Colbeck the following amendment was agreed to:

Schedule 10, item 1, page 161 (after line 16), at the end of Division 376, add:

376-275 Review in relation to certain production levels

The Minister must, before the end of 12 months after the commencement of this Division, initiate a review of the effect of this Division in relation to levels of production by the Australian independent production sector compared to levels of production by Australian television broadcasters.

Bill, as amended, agreed to subject to requests.

The Tax Laws Amendment (2007 Measures No. 4) Bill 2007 to be reported without amendments, the Taxation (Trustee Beneficiary Non-disclosure Tax) Bill (No. 1) 2007 and the Taxation (Trustee Beneficiary Non-disclosure Tax) Bill (No. 2) 2007 to be reported without requests for amendments and the Tax Laws Amendment (2007 Measures No. 5) Bill 2007 to be reported with an amendment and requests for amendments.

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

On the motion of Senator Colbeck the report from the committee was adopted and the Tax Laws Amendment (2007 Measures No. 4) Bill 2007, the Taxation (Trustee Beneficiary Non-disclosure Tax) Bill (No. 1) 2007 and the Taxation (Trustee Beneficiary Non-disclosure Tax) Bill (No. 2) 2007 read a third time.

At 7.30 pm—

27 GOVERNOR-GENERAL'S MESSAGE—ASSENT TO LAWS

A message from His Excellency the Governor-General was reported, informing the Senate that he had assented to the following laws:

14 September 2007—Message No. 97—

Therapeutic Goods Amendment Act 2007 (Act No. 140, 2007)

Northern Territory National Emergency Response Amendment (Alcohol) Act 2007 (Act No. 141, 2007).

28 AUSTRALIAN CRIME COMMISSION AMENDMENT BILL 2007

Order of the day read for the adjourned debate on the motion of the Minister for Fisheries, Forestry and Conservation (Senator Abetz)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill, taken as a whole by leave, debated and agreed to.

Bill to be reported without amendment.

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

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

29 QUARANTINE AMENDMENT (COMMISSION OF INQUIRY) BILL 2007

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill, taken as a whole by leave, debated.

At 10 pm: The Acting Deputy President (Senator Kirk) resumed the chair and the Temporary Chair of Committees reported progress.

30 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 11.26 pm till Wednesday, 19 September 2007 at 9.30 am.

31 ATTENDANCE

Present, all senators except Senators Forshaw*, Kemp* and Troeth* (* on leave).

HARRY EVANS
Clerk of the Senate