

2002-03

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 80

WEDNESDAY, 18 JUNE 2003

Contents

1	Meeting of Senate	1871
2	Government Documents	1871
3	Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2]	1871
4	Matters of Public Interest	1874
5	Questions	1875
6	Foreign Affairs—Iraq—Weapons of Mass Destruction—Answers to Questions	1875
7	Notices	1875
8	Selection of Bills—Standing Committee—Report No. 6 of 2003	1878
9	Postponements	1880
10	Rural and Regional Affairs and Transport Legislation Committee— Extension of Time to Report	1880
11	Foreign Affairs, Defence and Trade—Joint Standing Committee—Leave to Meet During Sitting	1881
12	Departmental and Agency Contracts—Order for Production of Documents—Variation	1881
13	Textbook Subsidy Bill 2003	1882
14	Foreign Affairs, Defence and Trade References Committee—Proposed Reference	1883
15	ASIO, ASIS and DSD—Joint Statutory Committee—Reference	1883
16	Legal and Constitutional References Committee—Leave to Meet During Sitting	1884
17	Scrutiny of Bills—Standing Committee—5th Report and Alert Digest No. 6 of 2003	1884
18	Auditor-General—Audit Report No. 50 of 2002-03—Document	1884
19	Documents	1884
20	Acts Interpretation Amendment (Court Procedures) Bill 2003 Export Market Development Grants Amendment Bill 2003 Australian Prudential Regulation Authority Amendment Bill 2003	1885

21	Rural and Regional Affairs and Transport Legislation Committee— Report—Wheat Marketing Amendment Bill 2002	1885
22	Environment, Communications, Information Technology and the Arts References Committee—Proposed Reference	1885
23	Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2]	1887
24	Government Documents—Consideration	1889
25	Adjournment	1889
26	Attendance	1890

1 **MEETING OF SENATE**

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

2 **GOVERNMENT DOCUMENTS**

The following government documents were tabled:

Australian National University—Report for 2002.

Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 October to 31 December 2002.

Australian River Co. Limited—Report for 1 December 2001 to 30 November 2002.

Gene Technology Regulator—Quarterly report for the period 1 October to 31 December 2002.

3 **AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION LEGISLATION AMENDMENT (TERRORISM) BILL 2002 [No. 2]**

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

In the committee

Bill taken as a whole by leave.

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

Question—That the bill be agreed to—divided in respect of clause 4.

Clause 4 debated.

Senator Ellison, by leave, moved the following amendment:

Schedule 1, item 24, page 37 (after line 4), at the end of Division 3, add:

34Y Cessation of effect of Division

This Division ceases to have effect 3 years after it commences.

On the motion of Senator Ellison further consideration of clause 4 and of the amendment was postponed.

Senator Ellison moved the following amendments together by leave:

No. 1—Schedule 1, item 24, page 6 (lines 29 and 30), omit the definition of *approved lawyer*.

No. 2—Schedule 1, item 24, page 7 (after line 6), after the definition of *issuing authority*, insert:

lawyer means a person enrolled as a legal practitioner of a federal court or the Supreme Court of a State or Territory.

No. 3—Schedule 1, item 24, page 11 (lines 5 to 11), omit subsection 34C(3B), substitute:

- (3B) In consenting to the making of a request to issue a warrant authorising the person to be taken into custody immediately, brought before a prescribed authority immediately for questioning and detained, the Minister must ensure that the warrant to be requested is to permit the person to contact a single lawyer of the person's choice (subject to section 34TA) at any time that:
- (a) is a time while the person is in detention in connection with the warrant; and
 - (b) is after:
 - (i) the person has been brought before a prescribed authority for questioning; and
 - (ii) the person has informed the prescribed authority, in the presence of a person exercising authority under the warrant, of the identity of the lawyer whom the person proposes to contact; and
 - (iii) a person exercising authority under the warrant has had an opportunity to request the prescribed authority to direct under section 34TA that the person be prevented from contacting the lawyer.

No. 4—Schedule 1, item 24, page 11 (lines 12 to 29), omit subsection 34C(3C).

No. 5—Schedule 1, item 24, page 13 (lines 9 and 10), omit “an approved lawyer”, substitute “a lawyer of the person's choice”.

No. 6—Schedule 1, item 24, page 13 (after line 17), at the end of subsection 34D(4), add:

Note 3: A warrant authorising the person to be taken into custody and detained must permit the person to contact a single lawyer of the person's choice, so the warrant must identify such a lawyer.

No. 7—Schedule 1, item 24, page 13 (after line 17), after subsection 34D(4), insert:

- (4A) The warrant may specify times when the person is permitted to contact someone identified as a lawyer of the person's choice by reference to the fact that the times are:
- (a) while the person is in detention in connection with the warrant; and
 - (b) after:
 - (i) the person has been brought before a prescribed authority for questioning; and
 - (ii) the person has informed the prescribed authority, in the presence of a person exercising authority under the warrant, of the identity of the lawyer whom the person proposes to contact; and
 - (iii) a person exercising authority under the warrant has had an opportunity to request the prescribed authority to direct under section 34TA that the person be prevented from contacting the lawyer.

No. 8—Schedule 1, item 24, page 15 (line 28), omit “is an approved lawyer or”.

No. 9—Schedule 1, item 24, page 26 (line 18), omit subparagraph 34NA(6)(a)(iii).

No. 10—Schedule 1, item 24, page 27 (lines 15 and 16), omit “an approved lawyer at any time when the person is in custody or”, substitute “a single lawyer of the person’s choice when the person is in”.

No. 11—Schedule 1, item 24, page 27 (line 29), omit “or (iii)”.

No. 12—Schedule 1, item 24, page 31 (after line 28), after section 34T, insert:

34TA Limit on contact of lawyer of choice

- (1) The person (the *subject*) specified in a warrant issued under section 34D that meets the requirement in paragraph 34D(2)(b) may be prevented from contacting a particular lawyer of the subject’s choice if the prescribed authority before whom the subject appears for questioning under the warrant so directs.
- (2) The prescribed authority may so direct only if the authority is satisfied that, if the subject is permitted to contact the lawyer:
 - (a) a person involved in a terrorism offence may be alerted that the offence is being investigated; or
 - (b) a record or thing that the person may be requested in accordance with the warrant to produce may be destroyed, damaged or altered.
- (3) This section has effect despite paragraph 34F(9)(a).
- (4) To avoid doubt, subsection (1) does not prevent the subject from choosing another lawyer to contact, but the subject may be prevented from contacting that other lawyer under another application of that subsection.

34TB Questioning person in absence of lawyer of person’s choice

- (1) To avoid doubt, a person before a prescribed authority for questioning under a warrant issued under section 34D may be questioned under the warrant in the absence of a lawyer of the person’s choice.

Note: As the warrant authorises questioning of the person only while the person is before a prescribed authority, the prescribed authority can control whether questioning occurs by controlling whether the person is present before the prescribed authority.

- (2) This section does not permit questioning of the person by a person exercising authority under the warrant at a time when a person exercising authority under the warrant is required by another section of this Division not to question the person.

Example: This section does not permit the person to be questioned when a person exercising authority under the warrant is required by section 34H or section 34HAA to defer questioning because an interpreter is not present.

No. 13—Schedule 1, item 24, page 32 (line 1), omit “(whether the adviser is an approved lawyer or not)”.

No. 14—Schedule 1, item 24, page 32 (lines 25 and 26), omit “an approved lawyer other than the legal adviser”, substitute “someone else as a legal adviser”.

Debate ensued.

Senator Greig moved the following amendments to Senator Ellison's proposed amendments nos 3, 7 and 12 together by leave:

Amendment (3), subsection (3B), after "warrant" (first occurring), insert "requiring a person to appear before a prescribed authority for questioning, or".

Amendment (3), after subsection (3B), insert:

(3BA) If a person is unable to identify or engage a single lawyer of the person's choice in accordance with subsection (3B), the prescribed authority must assist the person by locating a lawyer competent and available to advise in the circumstances.

Amendment (7), after subsection (4A), insert:

(4B) If a person is unable to identify or engage a lawyer of choice in accordance with subsection (4A), the prescribed authority must assist the person by locating a lawyer competent and available to advise in the circumstances.

Amendment (12), before subsection 34TB(1), insert:

(1A) To avoid doubt, this section must not operate unless a person before a prescribed authority for questioning under a warrant has:

(a) been informed of his or her right to a lawyer of choice or his or her right to assistance from the prescribed authority to engage a lawyer competent and available to advise in the circumstances; and

(b) exercised a free choice either to require the presence of a lawyer of choice or for questioning to proceed without a lawyer of choice being present.

(1B) To avoid doubt, this section must not operate and questioning must not commence, where the person has exercised their right to a lawyer of choice, before the arrival of the person's lawyer of choice unless the prescribed authority is satisfied on application by the Director-General that there is a threat of an imminent terrorist act.

Debate ensued.

The Leader of the Opposition in the Senate (Senator Faulkner), by leave, moved together the following amendments to Senator Ellison's proposed amendment no. 12:

No. 1—Subsection 34TA(2), after "satisfied", insert ", on the basis of circumstances relating to that lawyer,".

No. 2—Paragraph 34TA(2)(a), after "may", insert ", as a real possibility,".

No. 3—Paragraph 34TA(2)(b), after "may" (second occurring), insert ", as a real possibility,".

Debate ensued.

At 12.45 pm: The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Collins) reported progress.

4 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

At 2 pm—

5 QUESTIONS

Questions without notice were answered.

6 FOREIGN AFFAIRS—IRAQ—WEAPONS OF MASS DESTRUCTION—ANSWERS TO QUESTIONS

The Leader of the Opposition in the Senate (Senator Faulkner) moved—That the Senate take note of the answers given by the Minister for Communications, Information Technology and the Arts (Senator Alston) and the Special Minister of State (Senator Abetz) to questions without notice asked today relating to the existence in Iraq of weapons of mass destruction.

Debate ensued.

Question put and passed.

7 NOTICES

Senator O'Brien: To move on the next day of sitting—That there be laid on the table, no later than immediately after motions to take note of answers on Thursday, 19 June 2003:

- (a) draft regulations to be made under the Energy Grants (Credits) Scheme Bill 2003;
- (b) draft regulations to be made under the Energy Grants (Credits) Scheme (Consequential Amendments) Bill 2003; and
- (c) records of any meetings at which members of industry or other groups with a potential to be affected by the passage of these bills were permitted to examine the draft regulations referred to above. (*general business notice of motion no. 480*)

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

- (a) notes the report on the health of Iraqi children by UNICEF published in May 2003, which indicates that:
 - (i) acute malnutrition rates in children under five have nearly doubled since the previous survey in February 2002 and 7.7 per cent of children under five are suffering from acute malnutrition and, without treatment are at very high risk of dying,
 - (ii) unsafe water from disrupted water services and the resulting rapidly increasing rates of diarrhoea may be playing a significant role in this malnutrition, and
 - (iii) one in ten children is in need of treatment for dehydration;
- (b) notes the 19 May 2003 update from the United Nations (UN) Office of the Humanitarian Coordinator for Iraq, which indicates that in Iraq:
 - (i) distribution systems have broken down, largely owing to a lack of running costs at the Minister of Health and prevalent insecurity,
 - (ii) there are shortages of vaccines across the country, and
 - (iii) public health programs and disease control and surveillance have not yet been fully re-established; and

- (c) calls on the Federal Government to seriously address these issues through its representations to the UN and the United States of America and by increasing its contribution to the rebuilding of Iraq through health services for Iraq's children. (*general business notice of motion no. 481*)

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

- (a) condemns the most damaging effects of the Government's proposed reforms to Medicare, which will create a user-pays, two-tiered health system in Australia and dismantle the universality of Medicare;
- (b) acknowledges that the first of the damaging effects of the Government's reform package is to cause bulk-billing rates to decline further, and that these reforms do nothing to encourage doctors to bulk bill any Australians other than pensioners and concession cardholders but make it clear that the Government considers bulk billing to be a privilege that accrues only to a subset of Australians, not an entitlement that all Australians have as a result of the Medicare charge;
- (c) notes that the second most damaging effect of the Government's proposed changes to Medicare is the facilitation and encouragement of higher and higher co-payments to be charged by medical practitioners, and that a central plank of the Government's package is the facilitation of co-payments to be charged by doctors who currently bulk bill Australian families, as well as to make it easier for doctors who currently charge a co-payment to increase the amount of this co-payment; and
- (d) notes, with concern, that the Government seeks to allow private health funds to offer insurance for out-of-pocket expenses in excess of \$1 000, a measure which, if implemented, would inflate health insurance premiums as well as be a real step towards a user-pays system in Australia where people who can afford co-payments and insurance premiums will be treated when they are sick, whereas those individuals and families on lower incomes will be forced to go without medical assistance. (*general business notice of motion no. 482*)

Senator Evans: To move on the next day of sitting—That the Health Legislation Amendment (Medicare and Private Health Insurance) Bill 2003 be referred to the Select Committee on Medicare for inquiry and report by 9 September 2003. (*general business notice of motion no. 483*)

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

- (a) notes that the International Criminal Court's Prosecutor commenced office in the Hague on 17 June 2003;
- (b) reaffirms its support for the International Criminal Court and the important role that it will play in bringing to justice those who commit crimes against humanity;
- (c) welcomes the adoption by the European Union of a revised Common Position on the International Criminal Court, obliging member states to cooperate with the court; and
- (d) urges the Government to decline any request from a country seeking to enter into an agreement with Australia pursuant to Article 98 of the Rome Statute, which would grant its citizens immunity from prosecution in the International Criminal Court. (*general business notice of motion no. 484*)

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

- (a) notes that 19 June 2003 marks the 58th birthday of Burmese democratic leader Daw Aung San Suu Kyi, who is under unlawful detention in Burma;

- (b) recalls with horror the massacre on 30 May 2003, facilitated by the Burmese military regime and resulting in the death of approximately one hundred people and the detention and disappearances of several hundred others;
- (c) calls upon the Government to pressure the Burmese military regime to comply with United Nations resolutions to implement the results of the 1990 Burmese elections;
- (d) calls upon the Government to ensure that any projects, including the proposed 3-year humanitarian assistance and training programs, remain suspended until the democratic parliament is convened;
- (e) recognises the Committee Representing People's Parliament as the legitimate body to convene a democratic Parliament in Burma, according to the 1990 election result;
- (f) calls upon the Government to exert economic and diplomatic pressure, including through restrictions on trade and investment, a tourism boycott and a downgrading of diplomatic relations against Burma until the regime enters into official dialogue with Daw Aung San Suu Kyi; and
- (g) calls upon the Burmese regime to immediately release Daw Aung San Suu Kyi, U Tin Oo, Min Ko Naing and all political prisoners and restore democracy. (*general business notice of motion no. 485*)

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

- (a) calls on the Government to:
 - (i) rule out the establishment of any new United States (US) military bases in Australia,
 - (ii) rule out future use of Australian territory for US military training exercises,
 - (iii) rule out the transformation of any Australian ports into regular US military 'transit points',
 - (iv) inform the Senate of any formal or informal approaches made by the US Government to the Australian Government or Department of Defence in relation to any further deployment of US troops to Australia, or the establishment of any US military bases in Australia, and
 - (v) close the US military spy base at Pine Gap; and
- (b) condemns the Government's ill-considered pursuit of closer military ties with the US, without parliamentary consultation or debate and despite the threat to Australia's national interest that this policy poses. (*general business notice of motion no. 486*)

Senator Bishop: To move on the next day of sitting—

- (1) That the following matters be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report:
 - (a) the adequacy of current arrangements within the Department of Defence for the health preparation for the deployment of the Australian Defence Forces (ADF) overseas;
 - (b) the adequacy of record keeping of individual health and treatment episodes of those deployed, and access to those records by the individual;
 - (c) the adequacy of information provided to individual ADF members, pre-deployment, of the likely health risks and anticipated remedial activity required;

- (d) the adequacy of current arrangements for the administration of preventive vaccinations, standards applied to drug selection, quality control, record keeping and the regard given to accepted international and national regulation and practice;
 - (e) the engagement in this process of the Department of Veterans' Affairs and the Repatriation Medical Authority for the purposes of administering and assessing compensation claims; and
 - (f) the adequacy of the current research effort focussing on outstanding issues of contention from the ex-service community with respect to health outcomes from past deployments, and the means by which it might be improved.
- (2) That, in undertaking the inquiry, the committee consider recommendations for an improved system within the Defence and Veterans' administrations which will give greater assurance to the individual that their health risks are minimised, and fully recorded for the purposes of future compensation where justified.

Senator Bishop: To move on the next day of sitting—That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report:

The options and preferences for a revised system of administrative review within the area of veteran and military compensation and income support, including:

- (a) an examination and assessment of the causes for such extensive demand for administrative review of decisions on compensation claims in the veterans and military compensation jurisdictions;
- (b) an assessment of the operation of the current dual model of internal review, Veterans' Review Board/Administrative Appeals Tribunal, its advantages, costs and disadvantages;
- (c) an assessment of the appropriate model for a system of administrative review within a new, single compensation scheme for the Australian Defence Forces and veterans of the future, including compensation claim preparation, evidentiary requirements, facilitation of information provision and the onus of proof;
- (d) identification of policy and legislative change required to amend the system at lowest cost and maximum effectiveness; and
- (e) an assessment of the adequacy of non-means tested legal aid for veterans, the appropriateness of the current merits test and its administration, and options for more effective assistance to veteran and ex-service claimants by ex-service organisations and the legal industry.

8 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 6 OF 2003

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

SELECTION OF BILLS COMMITTEE

REPORT NO. 6 OF 2003

1. The committee met on Tuesday, 17 June 2003.
2. The committee resolved to recommend—That—
 - (a) the *provisions* of the Taxation Laws Amendment Bill (No. 5) 2003 be *referred immediately* to the Economics Legislation Committee for inquiry and report on 11 August 2003;

- (b) the *provisions* of the Trade Practices Amendment (Personal Injuries and Death) Bill 2003 be *referred immediately* to the Economics Legislation Committee for inquiry and report on 20 August 2003;
- (c) the *provisions* of the Export Market Development Grants Amendment Bill 2003 be *referred immediately* to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report on 24 June 2003; and
- (d) the following bills *not* be referred to committees:
- Acts Interpretation Amendment (Court Procedures) Bill 2003
 - Australian Film Commission Amendment Bill 2003
 - Australian Prudential Regulation Authority Amendment Bill 2003
 - Criminal Code Amendment (Terrorist Organisations) Bill 2003
 - Defence Amendment (Parliamentary approval for Australian involvement in overseas conflicts) Bill 2003
 - Defence Legislation Amendment Bill 2003
 - Excise Tariff Amendment Bill (No. 1) 2003
 - Customs Tariff Amendment Bill (No. 2) 2003
 - Health and Ageing Legislation Amendment Bill 2003
 - Health Care (Appropriation) Amendment Bill 2003
 - Health Legislation Amendment Bill (No. 1) 2003
 - Industrial Chemicals (Notification and Assessment) Amendment Bill 2003
 - National Handgun Buyback Bill 2003
 - National Health Amendment (Private Health Insurance Levies) Bill 2003
 - Private Health Insurance (ACAC Review Levy) Bill 2003
 - Private Health Insurance (Collapsed Organization Levy) Bill 2003
 - Private Health Insurance (Council Administration Levy) Bill 2003
 - Private Health Insurance (Reinsurance Trust Fund Levy) Bill 2003
 - Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Bill 2002
 - Ozone Protection and Synthetic Greenhouse Gas Legislation Amendment Bill 2003
 - Ozone Protection (Licence Fees—Imports) Amendment Bill 2003
 - Ozone Protection (Licence Fees—Manufacture) Amendment Bill 2003
 - Product Stewardship (Oil) Legislation Amendment Bill (No. 1) 2003
 - Sexuality Anti-Vilification Bill 2003
 - Superannuation (Government Co-contribution for Low Income Earners) Bill 2003
 - Superannuation (Government Co-contribution for Low Income Earners) (Consequential Amendments) Bill 2003
 - Superannuation (Surcharge Rate Reduction) Amendment Bill 2003
 - Taxation Laws Amendment Bill (No. 6) 2003
 - Taxation Laws Amendment (Personal Income Tax Reduction) Bill 2003
 - Trade Practices Legislation Amendment Bill 2003
 - Workplace Relations Amendment (Award Simplification) Bill 2002
 - Workplace Relations Amendment (Choice in Award Coverage) Bill 2002

Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003.

The committee recommends accordingly.

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

Bills deferred from meeting of 17 June 2003

Customs Amendment Bill (No. 1) 2003
 Customs Tariff Amendment Bill (No. 1) 2003
 Customs Legislation Amendment Bill (No. 2) 2003
 Health Legislation Amendment (Medicare and Private Health Insurance) Bill 2003
 Migration Legislation Amendment (Sponsorship Measures) Bill 2003
 National Transport Commission Bill 2003
 National Transport Commission (Consequential Amendments and Transitional Provisions) Bill 2003
 New Business Tax System (Taxation of Financial Arrangements) Bill (No. 1) 2003.

Jeannie Ferris
 Chair
 18 June 2003.

Senator McGauran moved—That the report be adopted.

Question put and passed.

9 POSTPONEMENTS

Items of business were postponed as follows:

General business notice of motion no. 1, under committee reports and government responses, standing in the name of the Chair of the Standing Committee of Senators' Interests (Senator Denman) for 19 June 2003, proposing amendments to the resolutions on senators' interests, postponed till 11 September 2003.

General business notice of motion no. 478 standing in the name of Senator Ridgeway for today, relating to forestry practices in Tasmania, postponed till 19 June 2003.

**10 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—
 EXTENSION OF TIME TO REPORT**

Senator McGauran, by leave and at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan), moved—That the time for the presentation of the report of the committee on the provisions of the Civil Aviation Amendment Bill 2003 be extended to 24 June 2003.

Question put and passed.

11 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—LEAVE TO MEET DURING SITTING

The Chair of the Joint Standing Committee on Foreign Affairs, Defence and Trade (Senator Ferguson), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 476—That the Foreign Affairs Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold a public meeting during the sitting of the Senate on Monday, 23 June 2003, from 5.30 pm to 6.30 pm, to take evidence for the committee's inquiry into Australia's relationship with Indonesia.

Question put and passed.

12 DEPARTMENTAL AND AGENCY CONTRACTS—ORDER FOR PRODUCTION OF DOCUMENTS—VARIATION

The Chair of the Finance and Public Administration References Committee (Senator Forshaw), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 426—That the order of the Senate of 20 June 2001, as amended on 27 September 2001, for the production of documents relating to departmental and agency contracts, be amended as follows:

- (a) paragraph (1), omit "the tenth day of the spring and autumn sittings", substitute "2 calendar months after the last day of the financial and calendar year";
- (b) at the end of paragraph (2)(b), add "the commencement date of the contract, the duration of the contract, the relevant reporting period and the twelve-month period relating to the contract listings"; and
- (c) paragraph (7), after "first", insert "and second".

Accordingly, the order was amended to read as follows:

- (1) There be laid on the table, by each minister in the Senate, in respect of each agency administered by that minister, or by a minister in the House of Representatives represented by that minister, by not later than **2 calendar months after the last day of the financial and calendar year**, a letter of advice that a list of contracts in accordance with paragraph (2) has been placed on the Internet, with access to the list through the department's or agency's home page.
- (2) The list of contracts referred to in paragraph (1) indicate:
 - (a) each contract entered into by the agency which has not been fully performed or which has been entered into during the previous 12 months, and which provides for a consideration to the value of \$100 000 or more;
 - (b) the contractor, the amount of the consideration and the subject matter of each such contract, **the commencement date of the contract, the duration of the contract, the relevant reporting period and the twelve-month period relating to the contract listings**;
 - (c) whether each such contract contains provisions requiring the parties to maintain confidentiality of any of its provisions, or whether there are any other requirements of confidentiality, and a statement of the reasons for the confidentiality; and
 - (d) an estimate of the cost of complying with this order and a statement of the method used to make the estimate.

- (3) If a list under paragraph (1) does not fully comply with the requirements of paragraph (2), the letter under paragraph (1) indicate the extent of, and reasons for, non-compliance, and when full compliance is expected to be achieved. Examples of non-compliance may include:
 - (a) the list is not up to date;
 - (b) not all relevant agencies are included; and
 - (c) contracts all of which are confidential are not included.
- (4) Where no contracts have been entered into by a department or agency, the letter under paragraph (1) is to advise accordingly.
- (5) In respect of contracts identified as containing provisions of the kind referred to in paragraph (2)(c), the Auditor-General be requested to provide to the Senate, within 6 months after each day mentioned in paragraph (1), a report indicating that the Auditor-General has examined a number of such contracts selected by the Auditor-General, and indicating whether any inappropriate use of such provisions was detected in that examination.
- (6) In respect of letters including matter under paragraph (3), the Auditor-General be requested to indicate in a report under paragraph (5) that the Auditor-General has examined a number of contracts, selected by the Auditor-General, which have not been included in a list, and to indicate whether the contracts should be listed.
- (7) The Finance and Public Administration References Committee consider and report on the first **and second** year of operation of this order.
- (8) This order has effect on and after 1 July 2001.
- (9) In this order:
 - “**agency**” means an agency within the meaning of the *Financial Management and Accountability Act 1997*;
 - “**autumn sittings**” means the period of sittings of the Senate first commencing on a day after 1 January in any year;
 - “**previous 12 months**” means the period of 12 months ending on the day before the first day of sitting of the autumn or spring sittings, as the case may be; and
 - “**spring sittings**” means the period of sittings of the Senate first commencing on a day after 31 July in any year.

Statement by leave: Senator Forshaw, by leave, made a statement relating to the motion.

Question put and passed.

13 TEXTBOOK SUBSIDY BILL 2003

Senator Stott Despoja, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 479—That the following bill be introduced:

A Bill for an Act to subsidise students’ purchases of educational textbooks when studying at education institutions, and for related purposes.

Question put and passed.

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

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

14 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—PROPOSED REFERENCE

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 2—That the following matters be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 18 August 2003:

The role, operation and effectiveness of Australia's security and intelligence agencies in the lead-up to the Iraq war, including:

- (a) the discrepancies, if any, between claims made by the Australian Government and its agencies concerning Iraq and Iraq's weapons of mass destruction (WMD) program and information supplied by Australia's intelligence agencies;
- (b) the discrepancies, if any, between information gathered by Australian intelligence agencies concerning Iraq and Iraq's WMDs before the war and the actuality of the WMD program discovered after the conflict;
- (c) the discrepancies, if any, between Australia and other nations, including the United States of America, in intelligence received regarding Iraq and Iraq's WMD program; and
- (d) any other matters relating to claims concerning Iraq or Iraq's weapons of mass destruction.

Question put.

The Senate divided—

AYES, 10

Senators—

Allison (Teller)	Cherry	Murray	Ridgeway
Bartlett	Greig	Nettle	Stott Despoja
Brown	Lees		

NOES, 37

Senators—

Barnett	Crossin	Knowles	Patterson
Bishop	Denman	Ludwig	Ray
Boswell	Ellison	Lundy	Scullion
Buckland	Faulkner	Mackay	Tchen
Campbell, Ian	Ferguson	Marshall	Watson
Carr	Heffernan	Mason	Webber
Chapman	Hogg	McGauran (Teller)	Wong
Colbeck	Humphries	McLucas	
Collins	Johnston	Moore	
Cook	Kirk	O'Brien	

Question negatived.

15 ASIO, ASIS AND DSD—JOINT STATUTORY COMMITTEE—REFERENCE

The Leader of the Opposition in the Senate (Senator Faulkner) amended his notice of motion by leave and, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 474—That, pursuant to section 29 of the *Intelligence Services Act 2001*, the following matter be referred to the Parliamentary Joint Committee on ASIO, ASIS and DSD for inquiry and report by 2 December 2003:

- (a) the nature and accuracy of intelligence information received by Australia's intelligence services in relation to:
 - (i) the existence of,

- (ii) the capacity and willingness to use, and
- (iii) the immediacy of the threat posed by, weapons of mass destruction (WMD);
- (b) the nature, accuracy and independence of the assessments made by Australia's intelligence agencies of subparagraphs (a)(i), (a)(ii) and (a)(iii) above;
- (c) whether the Commonwealth Government as a whole presented accurate and complete information to Parliament and the Australian public on subparagraphs (a)(i), (a)(ii) and (a)(iii) above during, or since, the military action in Iraq; and
- (d) whether Australia's pre-conflict assessments of Iraq's WMD capability were as accurate and comprehensive as should be expected of information relied on in decisions regarding the participation of the Australian Defence Forces in military conflict.

Question put and passed. Senators Murray and Cherry, by leave, recorded their votes for the noes.

16 LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Mackay, at the request of the Chair of the Legal and Constitutional References Committee (Senator Bolkus) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 477—That the Legal and Constitutional References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Wednesday, 18 June 2003, from 5.50 pm.

Question put and passed.

17 SCRUTINY OF BILLS—STANDING COMMITTEE—5TH REPORT AND ALERT DIGEST NO. 6 OF 2003

The Chairman of the Standing Committee for the Scrutiny of Bills (Senator Crossin) tabled the following report and document:

Scrutiny of Bills—Standing Committee—

5th report of 2003, dated 18 June 2003.

Alert Digest No. 6 of 2003, dated 18 June 2003.

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

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

Question put and passed.

18 AUDITOR-GENERAL—AUDIT REPORT NO. 50 OF 2002-03—DOCUMENT

The Deputy President (Senator Hogg) tabled the following document:

Auditor-General—Audit report no. 50 of 2002-03—Information support services—

Managing people for business outcomes, year two: Benchmarking study.

19 DOCUMENTS

The following documents were tabled by the Clerk:

Australian Bureau of Statistics Act—Proposals Nos 8 and 9 of 2003.

Environment Protection and Biodiversity Conservation Act—Instrument amending list of threatened species under section 178, dated 28 May 2003.

Social Security Act—Social Security (Declaration of Visa in a class of Visas—Qualifying Residence Exemption) Determination 2003.

**20 ACTS INTERPRETATION AMENDMENT (COURT PROCEDURES) BILL 2003
EXPORT MARKET DEVELOPMENT GRANTS AMENDMENT BILL 2003
AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY AMENDMENT BILL 2003**

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

Message no. 320, dated 17 June 2003—A Bill for an Act to amend the *Acts Interpretation Act 1901*, and for related purposes.

Message no. 321, dated 18 June 2003—A Bill for an Act to amend the *Export Market Development Grants Act 1997*, and for related purposes.

Message no. 322, dated 18 June 2003—A Bill for an Act to amend the *Australian Prudential Regulation Authority Act 1998*, and for related purposes.

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) 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 Ian Campbell moved—That these bills be now read a second time.

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

Consideration of legislation: Senator Ian Campbell moved—That the bills be listed on the *Notice Paper* as separate orders of the day.

Question put and passed.

**21 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—
REPORT—WHEAT MARKETING AMENDMENT BILL 2002**

Pursuant to order, the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan) tabled the following report:

Rural and Regional Affairs and Transport Legislation Committee—Wheat Marketing Amendment Bill 2002—Report, dated June 2003, *Hansard* record of proceedings [5 vols], documents presented to the committee, form letters [487] and submissions [45].

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

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

Debate ensued.

Question put and passed.

**22 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS
REFERENCES COMMITTEE—PROPOSED REFERENCE**

Senator Brown, pursuant to notice, moved business of the Senate notice of motion no. 1—That the following matter be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by 20 August 2003:

The burning of Australia's biggest tree, in Tasmania, having regard to:

- (a) its discovery;
- (b) what protective measures were put in place;
- (c) why these protective measures failed;
- (d) whether any rescue is possible;

- (e) how to prevent similar episodes;
- (f) any related matters; and
- (g) the role of the Commonwealth in all these issues.

Debate ensued.

Senator O'Brien moved the following amendment:

Omit all words after "That", substitute "in regard to the recent inadvertent burning of Australia's biggest tree in Tasmania, the Senate:

- (a) notes that Forestry Tasmania had measures in place to protect the tree;
- (b) expresses its concern that the tree has been burnt;
- (c) calls on the Tasmanian Government to determine whether any rescue is possible; and
- (d) calls on the Federal Government to work with the Tasmanian Government to determine how the protective measures failed on this occasion and to ensure that similar episodes do not occur in the future".

Debate ensued.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 39

Senators—

Barnett	Crossin	Kirk	Patterson
Bishop	Denman	Ludwig	Ray
Boswell	Ellison	Lundy	Santoro
Brandis	Evans	Macdonald, Ian	Scullion
Buckland (Teller)	Ferguson	Macdonald, Sandy	Sherry
Calvert	Forshaw	Mackay	Stephens
Campbell, George	Hogg	Mason	Tchen
Carr	Humphries	McLucas	Watson
Colbeck	Hutchins	Moore	Webber
Cook	Johnston	O'Brien	

NOES, 10

Senators—

Allison (Teller)	Cherry	Murray	Ridgeway
Bartlett	Greig	Nettle	Stott Despoja
Brown	Lees		

Question agreed to.

Main question, as amended, put.

The Senate divided—

AYES, 39

Senators—

Barnett	Crossin	Kirk	Patterson
Bishop	Denman	Ludwig	Ray
Boswell	Ellison	Lundy	Santoro
Brandis	Evans	Macdonald, Ian	Scullion
Buckland (Teller)	Ferguson	Macdonald, Sandy	Sherry
Calvert	Forshaw	Mackay	Stephens
Campbell, George	Hogg	Mason	Tchen
Carr	Humphries	McLucas	Watson
Colbeck	Hutchins	Moore	Webber
Cook	Johnston	O'Brien	

NOES, 9

Senators—

Allison (Teller)	Cherry	Murray	Ridgeway
Bartlett	Greig	Nettle	Stott Despoja
Brown			

Question agreed to.

23 AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION LEGISLATION AMENDMENT (TERRORISM) BILL 2002 [NO. 2]

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—and of the amendments moved by the Minister for Justice and Customs (Senator Ellison)—and of the amendments moved by Senator Greig to Senator Ellison's proposed amendments nos 3, 7 and 12—and of the amendments moved by the Leader of the Opposition in the Senate (Senator Faulkner) to Senator Ellison's proposed amendment no. 12 (see entry no. 3).

Debate resumed.

The question for Senator Faulkner's amendments to Senator Ellison's proposed amendment no. 12 was divided—

Question—That Senator Faulkner's amendment no. 1 to Senator Ellison's proposed amendment no. 12 be agreed to—put and passed.

Question—That Senator Faulkner's amendments nos 2 and 3 to Senator Ellison's proposed amendment no. 12 be agreed to—put and passed.

Bill further debated.

Question—That Senator Greig's amendments to Senator Ellison's proposed amendments nos 3, 7 and 12 be agreed—put and negated.

Bill further debated.

Question—That amendments nos 1 to 11, 12, as amended, and 13 and 14 be agreed to—put and passed.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 24, section 34AA.

Question—That Schedule 1, item 24, section 34AA stand as printed—put and negatived.

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

Schedule 1, item 24, page 32 (after line 5), after subsection 34U(2), insert:

Legal adviser to be given copy of the warrant

- (2A) A person exercising authority under the warrant must give the legal adviser a copy of the warrant. This subsection does not:
- (a) require more than one person to give the legal adviser a copy of the warrant; or
 - (b) entitle the legal adviser to be given a copy of, or see, a document other than the warrant.

Schedule 1, item 24, page 36 (after line 20), after section 34V, insert:

34VA Lawyers' access to information for proceedings relating to warrant

The regulations may prohibit or regulate access to information, access to which is otherwise controlled or limited on security grounds, by lawyers acting for a person in connection with proceedings for a remedy relating to:

- (a) a warrant issued under section 34D in relation to the person; or
- (b) the treatment of the person in connection with such a warrant.

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

Schedule 1, item 24, page 33 (line 13), omit "2", substitute "5".

Schedule 1, item 24, page 35 (line 36), omit "2", substitute "5".

Schedule 1, item 24, page 36 (line 20), omit "2", substitute "5".

Senator Faulkner moved the following amendment:

Schedule 1, item 24, page 19 (after line 17), at the end of section 34G, add:

- (10) A person who is or has been before a prescribed authority for questioning under warrant may not disclose any information about the questioning or the production of records or things unless authorised to do so in writing by the prescribed authority.

Penalty: Imprisonment for 5 years.

- (11) Subsection (10) does not apply to contact between the person and the Inspector-General of Intelligence and Security or the Ombudsman under:

- (a) sections 10 and 13 of the *Inspector-General of Intelligence and Security Act 1986*; or
- (b) section 22 of the *Complaints (Australian Federal Police) Act 1981*;

as the case may be.

Senator Greig moved the following amendment to Senator Faulkner's proposed amendment:

Omit subsection (11), substitute:

(11) Subsection (10) does not apply to:

(a) contact between the person and the Inspector-General of Intelligence and Security or the Ombudsman under:

- (i) sections 10 and 13 of the *Inspector General of Intelligence and Security Act 1986*; or
- (ii) section 22 of the *Complaints (Australian Federal Police) Act 1981*;

as the case may be; or

(b) contact between the person or the person's lawyer of choice and a court or another lawyer for the purposes of seeking a remedy in relation to the warrant, the treatment of the person in connection with the warrant, or the questioning or custody of the person in connection with the warrant.

Debate ensued.

Question—That Senator Greig's amendment to Senator Faulkner's proposed amendment be agreed to—put and passed.

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

Senator Ellison moved the following amendments together by leave:

Schedule 1, item 24, page 8 (lines 32 and 33), omit subsection 34B(5).

Schedule 1, item 24, page 9 (lines 1 to 7), omit subsections 34B(6) to (8).

Schedule 1, item 24, page 9 (lines 8 to 12), omit subsection 34B(9).

Debate ensued.

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

24 GOVERNMENT DOCUMENTS—CONSIDERATION

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

Gene Technology Regulator—Quarterly report for the period 1 October to 31 December 2002. Motion to take note of document moved by Senator Ludwig and agreed to.

25 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 7.34 pm till Thursday, 19 June 2003 at 9.30 am.

26 ATTENDANCE

Present, all senators except Senators Hill and Payne* (* on leave).

HARRY EVANS
Clerk of the Senate