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1 MEETING OF SENATE

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

2 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Local Government, Territories and Roads (Senator Ian Campbell) moved—That government business notice of motion no. 1 standing in his name for today, relating to the consideration of legislation, be postponed till the next day of sitting.

Question put and passed.

3 CONSTITUTION—SECTION 57—MINISTERIAL STATEMENT—DOCUMENT—CONSIDERATION

Order of the day read for the adjourned debate on the motion of the Minister for Defence (Senator Hill)—That the Senate take note of the statement and document.

Debate resumed.

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

4 QUESTIONS

Questions without notice were answered.

5 LAW AND JUSTICE—AUSTRALIAN FEDERAL POLICE—ANSWER TO QUESTION

Senator Ludwig moved—That the Senate take note of the answer given by the Minister for Justice and Customs (Senator Ellison) to a question without notice asked by Senator Ludwig today relating to the Australian Federal Police and counter terrorism.

Debate ensued.

Question put and passed.

6 FAMILY AND COMMUNITY SERVICES—POVERTY—HOUSING AFFORDABILITY—ANSWER TO QUESTION

The Leader of the Australian Democrats (Senator Bartlett) moved—That the Senate take note of the answer given by the Minister for Family and Community Services (Senator Patterson) to a question without notice asked by Senator Bartlett today relating to poverty and housing affordability.

Question put and passed.

7 PETITIONS

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

Senator Kirk, from 393 petitioners, requesting that the Senate ensure that David Hicks' rights are met under the Geneva Convention as it applies to prisoners of war, and that he be returned to Australia and entitled to a civil trial if charged with any crime.

Senator McLucas, from 214 petitioners, requesting that the Senate oppose proposed changes to Medicare and ensure bulk billing for all Australians.

8 NOTICES

Notices of motion:

Senator O'Brien: To move on the next day of sitting—That there be laid on the table, no later than 2 pm on Wednesday, 15 October 2003, the following documents concerning the voyage of the MV *Cormo Express*:

- (a) the import risk analysis report concerning the return of the sheep stranded aboard the vessel to Australia; and
- (b) the latest Master's report revealing mortality aboard the vessel. (*general business notice of motion no. 638*)

The Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Cook): To move on the next day of sitting—That the time for the presentation of reports of the Foreign Affairs, Defence and Trade References Committee be extended as follows:

- (a) an examination of the Government's foreign and trade policy strategy—to the last sitting day in 2003; and
- (b) the performance of government agencies in the assessment and dissemination of security threats in South East Asia in the period 11 September 2001 to 12 October 2002—to the last sitting day in March 2004. (*general business notice of motion no. 639*)

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

- (a) notes that:
 - (i) the United States (US) Government has 10 600 nuclear warheads, of which nearly 8 000 are considered operational,
 - (ii) the Chinese Government has approximately 400 nuclear warheads, and
 - (iii) the US and Chinese Governments both signed the Comprehensive Nuclear Test Ban Treaty on 24 September 1996 but neither nation has ratified the Treaty; and
- (b) calls on the Government to urge the leaders of the US and China to pursue nuclear disarmament initiatives. (*general business notice of motion no. 640*)

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

- (a) notes that:
 - (i) the People's Republic of China has forbidden Falun Gong practitioners practising their beliefs and has systematically attempted to eradicate Falun Gong by persecuting its practitioners,
 - (ii) the persecution of Falun Gong practitioners within China includes torture and murder, and that women are targeted with various forms of sexual violence, including rape, sexual assault and forced abortion, and
 - (iii) the People's Republic of China has taken measures to conceal these atrocities, such as the immediate cremation of victims, the blocking of autopsies, and the false labelling of deaths as from suicide or natural causes;
- (b) calls on the People's Republic of China to immediately cease its persecution of Falun Gong practitioners, release all Falun Gong practitioners who are currently in detention, and allow Falun Gong practitioners to pursue their personal beliefs;

- (c) welcomes the re-establishment of dialogue between the People's Republic of China and representatives of the Dalai Lama in September 2002 and its progress since that time;
- (d) encourages the People's Republic of China to increase the level of contact with the Dalai Lama and to proceed with a substantive dialogue on the political status of Tibet;
- (e) expresses its deep concern at reports that Tibetan monk Nyima Drapka, who had been imprisoned by the People's Republic of China since 2002, recently died after being brutally beaten for refusing to recant his separatist beliefs;
- (f) calls on the People's Republic of China to:
 - (i) immediately release all prisoners being held in relation to non-violent protest activities, such as calling for an independent Tibet,
 - (ii) make public the whereabouts of Tenzin Delek Rinpoche and others detained and imprisoned in relation to his case, the charges against them, any evidence supporting the charges, and their medical conditions, and
 - (iii) repeal all laws and regulations which permit it to interfere in religious affairs and which infringe the right to freedom of religion;
- (g) urges the People's Republic of China to agree to an immediate visit, without conditions, by the United Nations Special Rapporteur on Religion, who has not visited China since 1994;
- (h) notes that the People's Republic of China continues to restrict the right to freedom of association for workers; and
- (i) calls on the People's Republic of China to repeal all laws and regulations which prohibit workers from organising collectively, and to ratify International Labour Organisation Conventions 87 and 98, which protect the freedom of association and the right to bargain collectively. (*general business notice of motion no. 641*)

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

- (a) notes that the United States (US) Government continues to detain more than 600 detainees at Guantanamo Bay and, in particular, that:
 - (i) none of the detainees has been charged with any criminal offence,
 - (ii) reports indicate that the detainees include children as young as 13 years of age,
 - (iii) by classifying the detainees as 'unlawful combatants', the US has stripped them of the rights and protections that would have otherwise been available to them as prisoners of war under the Geneva Conventions,
 - (iv) by holding the detainees at Guantanamo Bay, the US has prevented them from challenging the legality of their detention under US law, and
 - (v) it is proposed to try the detainees before military tribunals, which lack independence, do not adhere to the usual rules of evidence, severely limit the right to appeal and are subject to Presidential direction;
- (b) notes that the US refuses to recognise the jurisdiction of the International Criminal Court (ICC), which was established to put an end to impunity for the very worst crimes against humanity and, in particular, that the US:
 - (i) maintains its refusal to ratify the Rome Statute,
 - (ii) has adopted a national security strategy which seeks to ensure that its military efforts 'are not impaired by the potential for investigations, inquiry, or prosecution by the International Criminal Court',

- (iii) has enacted the American Servicemembers' Protection Act of 2001, which prohibits US cooperation and intelligence sharing with the ICC, restricts US participation in United Nations' peacekeeping forces, and authorises the use of military force in order to retrieve US personnel being held by or on behalf of the ICC,
 - (iv) has entered into agreements with a number of states under Article 98 of the Rome Statute to prevent the prosecution of American citizens for crimes against humanity,
 - (v) has suspended \$47.6 million in military aid and \$613 000 in military education programs to 35 of the world's poorest countries, which refused to enter into Article 98 agreements with it, and
 - (vi) is currently pursuing additional Article 98 agreements with other nations, including Australia; and
- (c) expresses concern at the US disregard for fundamental human rights and the principles and institutions of international law in these instances. (*general business notice of motion no. 642*)

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

- (a) congratulates the winner of the 2003 Nobel Peace Prize, Ms Shirin Ebadi, who is the first Muslim woman and the first Iranian, to receive the prize;
- (b) notes that Ms Ebadi, a lawyer, judge, lecturer, writer and activist is a dedicated fighter for the human rights of women, refugees and children and holds the view that human rights are compatible with Islam;
- (c) also notes that the Nobel Committee highlighted this approach to her religion as one element in their choice, saying Ms Ebadi promotes an interpretation of Islamic law that recognises the harmony between human rights, democracy and equality before the law;
- (d) acknowledges the work of Ms Ebadi and others fighting for human rights in Muslim countries who promote respect for human rights within Islam; and
- (e) also acknowledges the work done by the Australian Council for Islamic Education, the umbrella organisation for 20 Muslim colleges nationwide, in its landmark *Muslim Schools' Charter*, which condemns violence and hatred in the name of any religion, including Islam, and which promotes tolerance and understanding in the broader Australian community. (*general business notice of motion no. 643*)

The Minister for Local Government, Territories and Roads (Senator Ian Campbell): To move on the next day of sitting—That, on Thursday, 16 October 2003, the sitting of the Senate shall be suspended from 10.30 am to 2 pm, to enable senators to attend a National Remembrance Service honouring the victims of the terrorist attacks in Bali.

Senator Wong: To move on 15 October 2003—That the Senate—

- (a) notes that:
 - (i) 15 October 2003 marks the 50th anniversary of the first atomic test conducted by the British Government in northern South Australia,
 - (ii) on this day, 'Totem 1', a 10 kilotonne atomic bomb, was detonated at Emu Junction, some 240 kilometres west of Coober Pedy,
 - (iii) the Anangu community received no forewarning of the test, and
 - (iv) the 1984 Royal Commission report concluded that Totem 1 was detonated in wind conditions that would produce unacceptable levels of fallout, and that the decision to detonate failed to take into account the existence of people at Wallatina and Welbourn Hill;

- (b) expresses its concern for those Indigenous peoples whose lands and health over generations have been detrimentally affected by this and subsequent atomic tests conducted in northern South Australia;
- (c) congratulates the Kupa Piti Kungka Tjuta – the Senior Aboriginal Women of Coober Pedy – for their ongoing efforts to highlight the experience of their peoples affected by these tests;
- (d) condemns the Government for its failure to properly dispose of radioactive waste from atomic tests conducted in the Maralinga precinct; and
- (e) expresses its continued opposition to the siting of a low-level radioactive waste repository in South Australia. (*general business notice of motion no. 644*)

Senator Ferguson: To move on the next day of sitting—That the Parliamentary Joint Committee on ASIO, ASIS and DSD be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 16 October 2003, from 4.30 pm to 7.30 pm, in relation to its inquiry into the accuracy of intelligence prior to the war in Iraq. (*general business notice of motion no. 645*)

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

- (a) notes:
 - (i) that the following motion was adopted unanimously at the National Party of Australia Federal Conference on Sunday, 12 October 2003:

‘That as a matter of urgency, this Conference of the National Party of Australia:

 - (a) Endorses the strong Federal Coalition policy on Development incentives for the ethanol industry as taken to the last Federal Election,
 - (b) Supports a 10 year excise exemption for ethanol,
 - (c) Endorses a mandate of 10% Australian-produced ethanol content for fuel sold in Australia to achieve the Federal Government’s policy of a target of 350 million litre production of biofuel by 2010, and
 - (d) Notes the ALP and minor parties opposition to ethanol, including their opposition to mandating 10% Australian produced ethanol content for fuel sold in Australia’,
 - (ii) the significant benefits derived from alternative fuels in terms of air quality, public health, regional development and energy security, and
 - (iii) the Government’s May 2003 budget decision to impose an excise on alternative fuels from 2008;
- (b) corrects the National Party motion with respect to paragraph (d), pointing out that the Australian Democrats strongly support alternative fuels, including ethanol, and made a submission in September 2003 to Cabinet calling for targets to be set to increase alternative fuel use in Australia; and
- (c) urges the Government to:
 - (i) reverse its budget decision and not impose an excise on ethanol, other biofuels, LPG, CNG and LNG for at least 10 years, and
 - (ii) conduct a review of the timetable and incentives required for industry to meet a mandated level of 10 per cent ethanol content in petrol. (*general business notice of motion no. 646*)

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

- (a) notes that 12 October to 17 October 2003 marks Australia's first national Anti-Poverty Week;
- (b) affirms that poverty is a form of violence and an abuse of the right of all people to live with dignity;
- (c) condemns the Howard Government's attack on public services including housing, education and health, and its complacency about unemployment, under-employment and insecure employment;
- (d) supports the call by the heads of eight churches in Australia to the Prime Minister (Mr Howard), premiers and chief ministers to convene a national forum with the purpose of developing a national strategy to eliminate poverty in Australia;
- (e) urges all Australian governments to make poverty eradication a priority; and
- (f) recalling the goals of the 2000 Millennium Declaration, calls on the Commonwealth Government to increase its commitment to international poverty eradication by meeting the United Nations official development assistance target of 0.7 per cent of gross domestic product. (*general business notice of motion no. 647*)

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

- (a) notes that:
 - (i) Monday, 13 October 2003, is the 160th anniversary of the founding of B'nai B'rith,
 - (ii) B'nai B'rith is the largest Jewish community service organisation in the world today, with branches in 51 countries including Australia, and holds non-government organisation consultative status at the United Nations (UN), UNESCO and the UN Commission on Human Rights,
 - (iii) for 160 years B'nai B'rith has provided continuing support and assistance to both Jewish and non-Jewish people in Australia and throughout the world, particularly those in need or sick, the aged and people suffering persecution, and
 - (iv) that B'nai B'rith continues to promote the ideals and principles of peace, philanthropy, support for science and the arts, relief from suffering and the advancement of humankind; and
- (b) congratulates B'nai B'rith on its 160th anniversary. (*general business notice of motion no. 648*)

Intention to withdraw: The Chairman of the Standing Committee on Regulations and Ordinances (Senator Tchen), pursuant to standing order 78, gave notice of his intention, at the giving of notices on the next day of sitting, to withdraw notices of motion standing in his name as follows:

Business of the Senate notice of motion no. 1 for 9 sitting days after today for the disallowance of the Administrative Decisions (Judicial Review) Amendment Regulations 2003 (No. 1), as contained in Statutory Rules 2003 No. 115 and made under the *Administrative Decisions (Judicial Review) Act 1977*.

Business of the Senate notice of motion no. 1 for 10 sitting days after today for the disallowance of the Medical Indemnity Subsidy Scheme 2003, made under subsection 43(1) of the *Medical Indemnity Act 2002*.

Business of the Senate notices of motion nos 1 and 3 to 6 for 11 sitting days after today for the disallowance of the following instruments:

Criminal Code Amendment Regulations 2003 (No. 9), as contained in Statutory Rules 2003 No. 184 and made under the *Criminal Code Act 1995*.

Electoral and Referendum Amendment Regulations 2003 (No. 1), as contained in Statutory Rules 2003 No. 188 and made under the *Commonwealth Electoral Act 1918*.

Fishing Levy Amendment Regulations 2003 (No. 1), as contained in Statutory Rules 2003 No. 134 and made under the *Fisheries Management Act 1991* and the *Fishing Levy Act 1991*.

Great Barrier Reef Marine Park Amendment Regulations 2003 (No. 2), as contained in Statutory Rules 2003 No. 200 and made under the *Great Barrier Reef Marine Park Act 1975*.

Marriage Amendment Regulations 2003 (No. 2), as contained in Statutory Rules 2003 No. 198 and made under the *Marriage Act 1961*.

Senator Tchen, by leave, made a statement relating to the notice of intention.

9 POSTPONEMENTS

Items of business were postponed as follows:

General business notice of motion no. 466 standing in the name of Senator Lees for 14 October 2003, relating to the introduction of the Protection of Biodiversity on Private Land Bill 2003, postponed till 2 December 2003.

General business notice of motion no. 637 standing in the name of Senator Brown for today, relating to the cancellation of the SBS program *Insight*, postponed till 14 October 2003.

10 IMMIGRATION—MANAGEMENT OF DETENTION CENTRES—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Allison, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 635—That there be laid on the table by the Minister for Immigration and Multicultural and Indigenous Affairs, no later than 3 pm on Thursday, 16 October 2003:

- (a) the default notice issued to Australasian Correctional Management under the Government's general agreement contract to manage detention centres; and
- (b) the report prepared for the Department of Immigration and Multicultural and Indigenous Affairs by Knowledge Enterprises in 2001 on management of detention centres.

Question put and passed.

11 FINANCE—CALCULATION OF THE IBNR LEVY—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Evans, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 634—That there be laid on the table by the Minister for Revenue and Assistant Treasurer, no later than 5 pm on Tuesday, 14 October 2003, all documents held by the Australian Government Actuary relating to its calculations of the Incurred But Not Reported (IBNR) levy following the collapse of the medical defence organisation United Medical Protection, including the formulae used to calculate the estimated unfunded liabilities for IBNR claims.

Question put and passed.

**12 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—
REFERENCE**

Senator Mackay, at the request of Senator O'Brien and pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 1—That the draft Aviation Transport Security Regulations 2003 provided to the Rural and Regional Affairs and Transport Legislation Committee under cover of letter dated 19 September 2003 be referred to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 27 November 2003.

Question put and passed.

13 NOTICE OF MOTION WITHDRAWN

Senator Mackay, at the request of Senator Hutchins, withdrew general business notice of motion no. 601 standing in the name of Senator Hutchins for today, relating to compensation for Hepatitis C sufferers.

14 TRUTH IN FOOD LABELLING BILL 2003

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 636—That the following bill be introduced:

A Bill for an Act to enable consumers to know the country of origin, the extent of genetic manipulation and the chemical residues in food, and for related purposes.

Question put and passed.

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

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

15 HEALTH—SMOKING—DOCUMENT

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

Health—Smoking—Letter to the President of the Senate from the Premier of Queensland (Mr Beattie) responding to the resolution of the Senate of 11 September 2003, dated 7 October 2003.

16 PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL—DOCUMENT

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

Parliament Act—Parliamentary Zone—Capital works—Proposal, together with supporting documentation, relating to the installation of four accessible pram ramps at the junction of the Parade Ground and Federation Mall, Parliament House.

Notice of motion: The Minister for Local Government, Territories and Roads (Senator Ian Campbell), by leave, gave a notice of motion as follows: To move on the next day of sitting—That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposal by the Joint House Department for the installation of four accessible pram ramps at the junction of the Parade Ground and Federation Mall.

**17 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—
REPORT—REVIEW OF THE DEFENCE ANNUAL REPORT 2001-02**

The Chair of the Joint Standing Committee on Foreign Affairs, Defence and Trade (Senator Ferguson), tabled the following report:

Foreign Affairs, Defence and Trade—Joint Standing Committee—Review of the Defence annual report 2001-02—Report, dated September 2003.

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

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

**18 SCIENCE AND TECHNOLOGY—RIO TINTO TECHNOLOGY—ORDER FOR
PRODUCTION OF DOCUMENTS—STATEMENT BY LEAVE**

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), by leave, made a statement relating to the order of the Senate of 9 October 2003 for the production of documents concerning Rio Tinto Technology and the report “Beyond Kyoto: Innovation and Adaptation” (*see entry no. 9, 9 October 2003*).

Statements by leave: Senators Brown and Carr, by leave, made statements relating to the matter.

**19 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—
REPORT—REVIEW OF FOREIGN AFFAIRS AND TRADE PORTFOLIO ANNUAL
REPORTS 2001-02**

The Chair of the Joint Standing Committee on Foreign Affairs, Defence and Trade (Senator Ferguson), tabled the following report and documents:

Foreign Affairs, Defence and Trade—Joint Standing Committee—Review of Foreign Affairs and Trade portfolio annual reports 2001-02—Report, dated October 2003 and *Hansard* record of proceedings.

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

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

**20 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—
STATEMENT—REVIEW OF IMMIGRATION DETENTION CENTRES AND THE
TREATMENT OF DETAINEES**

Senator Payne, on behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, made a statement by way of a report and tabled the following documents:

Foreign Affairs, Defence and Trade—Joint Standing Committee—Immigration detention centres and the treatment of detainees—*Hansard* record of proceedings and submissions [11].

The Leader of the Australian Democrats (Senator Bartlett), by leave, moved—That the Senate take note of the statement.

Debate ensued.

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

**21 ASIO, ASIS AND DSD—JOINT STATUTORY COMMITTEE—REPORT—PRIVATE
REVIEW OF AGENCY SECURITY ARRANGEMENTS**

Senator Sandy Macdonald, on behalf of the Parliamentary Joint Committee on ASIO, ASIS and DSD, tabled the following report:

ASIO, ASIS and DSD—Joint Statutory Committee—Private review of agency security arrangements—Report, dated August 2003.

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

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

**22 NATIONAL CAPITAL AND EXTERNAL TERRITORIES—JOINT STANDING
COMMITTEE—REPORT—PROPOSAL FOR PAY PARKING IN THE PARLIAMENTARY
ZONE**

The Chair of the Joint Standing Committee on the National Capital and External Territories (Senator Lightfoot) tabled the following report:

National Capital and External Territories—Joint Standing Committee—Not a town centre: The proposal for pay parking in the Parliamentary Zone—Report, dated October 2003.

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

Debate ensued.

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

23 DOCUMENTS

The following documents were tabled by the Clerk:

Australian Crime Commission Act—Regulations—Statutory Rules 2003 No. 252.

Class Rulings CR 2003/87-CR 2003/89.

Crimes Act—Regulations—Statutory Rules 2003 No. 248.

Customs Act—Regulations—Statutory Rules 2003 No. 249.

Financial Sector (Collection of Data) Act—Exemption under section 16, dated 1 October 2003.

Goods and Services Tax Ruling—

GSTR 2000/23 (Notice of Withdrawal).

GSTR 2003/12.

Health Insurance Act—

Determination—HIA/s3GC(3)/No. 1 of 2003.

Health Insurance (Amendment) Determination HS/06/2003.

Medical Indemnity Act—Regulations—Statutory Rules 2003 No. 250.

Product Ruling—

PR 2001/90 (Notice of Withdrawal).

PR 2003/40 (Addendum), PR 2003/58 and PR 2003/59.

Superannuation Industry (Supervision) Act—Regulations—Statutory Rules 2003 No. 251.

24 SPAM BILL 2003**SPAM (CONSEQUENTIAL AMENDMENTS) BILL 2003**

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

Message no. 422, dated 9 October 2003—A Bill for an Act about spam, and for related purposes.

Message no. 423, dated 9 October 2003—A Bill for an Act to deal with consequential matters relating to the enactment of the *Spam Act 2003*, and for related purposes.

The Minister for Revenue and Assistant Treasurer (Senator Coonan) 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 Coonan moved—That these bills be now read a second time.

Consideration of legislation: Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.

25 NATIONAL CAPITAL PLAN (GUNG AHLIN DRIVE EXTENSION – BLACK MOUNTAIN NATURE RESERVE)—MOTION FOR DISALLOWANCE

Senator Brown, pursuant to notice, moved business of the Senate notice of motion no. 2—That Amendment 46 of the National Capital Plan (Gungahlin Drive Extension – Black Mountain Nature Reserve), made under section 19 of the *Australian Capital Territory (Planning and Land Management) Act 1988*, be disallowed.

Debate ensued.

Question put and negatived.

26 CONSTITUTION—SECTION 57—MINISTERIAL STATEMENT—DOCUMENT—CONSIDERATION

Order of the day read for the adjourned debate on the motion of the Minister for Defence (Senator Hill)—That the Senate take note of the statement and document.

Debate resumed.

Question put and passed.

27 AUSTRALIAN PROTECTIVE SERVICE AMENDMENT BILL 2003

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 amendment moved by the Minister for Justice and Customs (Senator Ellison):

Schedule 1, item 1, page 6 (after line 15), after the definition of *ordinary search*, insert:

vehicle includes any means of transport (and, without limitation, includes a vessel and an aircraft).

Debate ensued.

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

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

Schedule 1, item 1, page 10 (after line 3), after section 18E, insert:

18F Modification of sections 18A, 18B, 18C, 18D and 18E to confer powers on the Australian Federal Police

References to a protective service officer

- (1) A reference in:
- (a) section 18A; and
 - (b) section 18B; and
 - (c) section 18C (other than subsection 18C(3));
- to a protective service officer includes a reference to a member or a special member of the Australian Federal Police.

References to a person, place or thing in respect of which the Protective Service is performing functions

- (2) In relation to the exercise of a power under section 18A, 18B or 18C by a member or a special member of the Australian Federal Police, a reference in sections 18A, 18B, 18C, 18D and 18E to a person, place or thing in respect of which the Protective Service is performing functions includes a reference to a person, place or thing in respect of which the Protective Service has functions.

References to an offence to which section 13 applies

- (3) In relation to the exercise of a power under section 18A, 18B or 18C by a member or a special member of the Australian Federal Police, a reference in:
- (a) paragraph 18A(1)(a); and
 - (b) subsection 18B(1); and
 - (c) paragraph 18D(5)(b); and
 - (d) paragraph 18E(3)(a);

to an offence to which section 13 applies includes a reference to an offence to which section 13 would apply if references in subsection 13(2) to a person, place or thing in respect of which the Protective Service is performing its functions were references to a person, place or thing in respect of which the Protective Service has functions.

Modification of paragraph 18A(2)(d)

- (4) In relation to the exercise of a power under section 18A by a member or a special member of the Australian Federal Police, paragraph 18A(2)(d) is modified in the following way:
- (a) if a member exercises the power—the reference in paragraph 18A(2)(d) to subsection 19(3) or 20(2) of this Act is taken to be a reference to subsection 64A(1) of the *Australian Federal Police Act 1979*; and
 - (b) if a special member exercises the power—paragraph 18A(2)(d) is taken to be omitted.

References to the day on which a thing was delivered into the custody of a police officer

- (5) In relation to a thing seized under section 18C by a member or special member of the Australian Federal Police, a reference in subsections 18D(1), (6) and (7) to the day on which the thing was delivered into the custody of a police officer is taken to be a reference to the day on which the thing was seized.

Schedule 1, page 10 (after line 3), at the end of the Schedule, add:

2 After subsection 21(4)

Insert:

- (4A) The powers conferred, and duties imposed, by this Part on members and special members of the Australian Federal Police are in addition to, and not in derogation of, any other powers conferred, or duties imposed, by any other law of the Commonwealth or the law of a State or Territory, and this Part is not intended to exclude or limit the operation of any other law of the Commonwealth or the law of a State or Territory in so far as it is capable of operating concurrently with this Part.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

**28 FAMILY ASSISTANCE LEGISLATION AMENDMENT (EXTENSION OF TIME LIMITS)
BILL 2003**

Order of the day read for the adjourned debate on the motion of the Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald)—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.

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

That the House of Representatives be requested to make the following amendments:

Schedule 1, item 1, page 3 (line 9), omit “2”, substitute “3”.

Schedule 1, item 2, page 3 (line 31), omit “2”, substitute “3”.

Schedule 1, item 3, page 4 (line 5), omit “2”, substitute “3”.

Schedule 1, item 4, page 4 (line 8), omit “3”, substitute “4”.

Schedule 1, item 5, page 4 (line 10), omit “3”, substitute “4”.

Schedule 1, item 6, page 4 (lines 12 to 29), omit “2001” (wherever occurring), substitute “2000”.

Schedule 1, item 7, page 5 (line 6), before “2001-2002”, insert “2000-2001 or”.

Schedule 1, item 8, page 5 (line 9), before “2001-2002”, insert “2000-2001 or”.

On the motion of Senator Greig the following amendment was debated and agreed to:

Schedule 1, page 4 (after line 6), after item 3, insert:

3A Section 70

Repeal the section, substitute:

70 Debts due to the Commonwealth

- (1) Subject to subsection (2), if an amount has been paid by way of family assistance, the amount is a debt due to the Commonwealth only to the extent to which a provision of:
 - (a) this Act; or
 - (b) the *Data-matching Program (Assistance and Tax) Act 1990*; expressly provides that it is.
- (2) Where an overpayment is made and:
 - (a) the overpayment is the result solely of an administrative error made by the Commonwealth; and
 - (b) the person receiving the overpayment did not contribute to the error and received in good faith the payment or payments that gave rise to that proportion of the debt;
 the overpayment is not a debt due to the Commonwealth.

Senator Greig moved the following amendments together by leave:

Schedule 1, page 4 (after line 6), after item 3, insert:

3B At the end of paragraph 77(1)(f)

Add “including the fair instalment repayment options provided for in section 91; and

- (fa) that the person must be offered a choice of the methods of recovery specified in section 82”.

Schedule 1, page 4 (after line 6), after item 3, insert:

3G At the end of section 91

Add:

- (6) In this section, where an overpayment has been made and the overpayment was not caused by deliberate fraud or omission by or on behalf of the person receiving the payment, then the arrangement entered into under subsection (1) or (1A) must not (unless the debtor agrees) require repayment:
 - (a) at a rate greater than half the rate at which it was received; and
 - (b) over a period of time less than twice as long as the period during which the overpayments were received.

Debate ensued.

At 9.50 pm: The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Lightfoot) reported progress.

29 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 10.22 pm till Tuesday, 14 October 2003 at 12.30 pm.

30 ATTENDANCE

Present, all senators except Senators Heffernan, Knowles*, Ridgeway and Watson (* on leave).

HARRY EVANS
Clerk of the Senate