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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 ADMINISTRATION—DEPARTMENT OF PARLIAMENTARY SERVICES—STATEMENT BY PRESIDENT

The President made a statement relating to the Department of Parliamentary Services, the appointment of Ms Hilary Penfold, QC, as Secretary of the department and the departure of Mr Michael Bolton and Mr John Templeton.

The Leader of the Opposition in the Senate (Senator Faulkner), by leave, moved—That the Senate take note of the statement.

Debate ensued.

Question put and passed.

3 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 15 OF 2003—VARIATION

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), by leave, moved—That the order of the Senate of 26 November 2003 adopting the 15th report of 2003 of the Selection of Bills Committee (*see entry no. 10, 26 November 2003*) be varied as follows:

In respect of the Financial Services Reform Amendment Bill 2003:

(a) the Corporations Amendment Regulations 2003 (No. 8), as contained in Statutory Rules 2003 No. 282, and Batch 6 of the Corporations Amendment Regulations (draft regulations), and any amendments proposed to the bill, also be referred to the committee; and

(b) the committee report on 2 December 2003.

Debate ensued.

Senator Conroy moved the following amendment:

Omit “2 December”, substitute “3 December”.

Debate ensued.

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

Main question, as amended, put and passed.

4 ADMINISTRATION—COMCOVER INSURANCE—STATEMENT BY LEAVE

The Special Minister of State (Senator Abetz), by leave, made a statement relating to Heath Lambert Australia Pty Ltd and the provision of reinsurance brokerage services to Comcover.

The Leader of the Opposition in the Senate (Senator Faulkner), by leave, moved—That the Senate take note of the statement.

Debate ensued.

Question put and passed.

5 PETITIONS

The following 3 petitions, lodged with the Clerk by the senators indicated, were received:

Senator Brown, from 20 petitioners, requesting that the Senate establish an inquiry into all aspects of live animal exports from Australia.

Senator Brown, from 1 143 petitioners, requesting that the Senate urge the Government to give sympathetic consideration to all Afghan asylum seekers who apply for permanent protection visas.

By Senator Crossin, from 194 petitioners, requesting that the Senate take action to ensure that students from any background have an equal opportunity to study at university.

6 NOTICES

Notices of motion:

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

(a) notes:

- (i) the numerous claims made by the Prime Minister (Mr Howard) that Iraq possessed weapons of mass destruction as justification for the Government's decision to commit Australia to war, including his statement to the Parliament on 4 February 2003 that, 'The Australian Government knows that Iraq still has chemical and biological weapons and that Iraq wants to develop nuclear weapons',
- (ii) the lack of evidence to date of weapons of mass destruction in Iraq, that would support the Prime Minister's claims, and
- (iii) the establishment in June 2003 of an inquiry into intelligence on Iraq's weapons of mass destruction by the Parliamentary Joint Committee on ASIO, ASIS and DSD, due to report on 2 December 2003, and that:
 - (A) the committee is comprised of 4 Government members and 3 Australian Labor Party members, and that no other parliamentary party is represented,
 - (B) in conducting the inquiry, the committee has been limited in its powers and has not been able to review information provided by, or by an agency of, a foreign government where that government does not consent to the disclosure of the information,
 - (C) the inquiry has been conducted in secret, with the exception of a single public hearing that did not hear evidence from any member of parliament or government agency,
 - (D) relevant government ministers were able to censor submissions from government agencies before they were submitted to the committee, and the final report will not be released without the approval of those ministers, and
 - (E) a similar inquiry in Britain has heard public testimony from senior members of parliament and public servants, and defence and foreign affairs experts and officials; and

(b) condemns the lack of transparency and accountability in relation to the Government's claims of evidence concerning Iraq and weapons of mass destruction. (*general business notice of motion no. 722*)

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

- (a) congratulates Steve Waugh on his achievements and service to Australian cricket throughout his time as captain and player in the Australian team and notes his decision to retire from such service;
- (b) further recognises the important role that Steve Waugh has played in fostering junior cricket in Australia, and the role of Commonwealth funding in supporting such cricket development in Australia; and
- (c) notes the deep commitment held by Australians to cricket and supports the Commonwealth in its endeavours to support Australian cricket. (*general business notice of motion no. 723*)

The Minister for Local Government, Territories and Roads (Senator Ian Campbell): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend legislation about fisheries, and for related purposes. ***Fisheries Legislation Amendment (High Seas Fishing Activities and Other Matters) Bill 2003.***

The Deputy Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Buckland): To move on the next day of sitting—That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Monday, 1 December 2003, from 4 pm to 9 pm, to take evidence for the committee's inquiry into the administration of the Australian Transport Safety Bureau in relation to the crash of Whyalla Airlines aircraft VH-MZK on 31 May 2000. (*general business notice of motion no. 724*)

Senator Brown: To move on the next day of sitting—That the provisions of the ASIO Legislation Amendment Bill 2003 be referred to the Legal and Constitutional Legislation Committee for inquiry and report by 31 March 2004.

Senator Brown: To move on the next day of sitting—That the Criminal Code Amendment (Terrorist Organisations) Bill 2003 be referred to the Legal and Constitutional Legislation Committee for inquiry and report by 31 March 2004.

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 business of the Senate notice of motion no. 1 standing in his name for 3 sitting days after today for the disallowance of the Inclusion of Species in the List of Threatened Species, made under section 178 of the *Environment Protection and Biodiversity Conservation Act 1999* and gazetted on 6 August 2003.

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

7 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Revenue and Assistant Treasurer (Senator Coonan) moved—That the order of general business for consideration today be as follows:

- (a) general business order of the day no. 12 (Reconciliation Bill 2001 [2002]); and
- (b) consideration of government documents.

Question put and passed.

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 business of the Senate order of the day no. 4, relating to the presentation of the report of the committee on the provisions of the Maritime Transport Security Bill 2003, be postponed till a later hour.

Question put and passed.

8 POSTPONEMENTS

Items of business were postponed as follows:

General business notice of motion no. 708 standing in the name of Senator Brown for today, relating to logging in Tasmania's Styx Valley, postponed till 2 December 2003.

9 COMMUNITY AFFAIRS REFERENCES COMMITTEE—EXTENSIONS OF TIME TO REPORT

The Chair of the Community Affairs References Committee (Senator Hutchins), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 712—That the time for the presentation of reports of the Community Affairs References Committee be extended as follows:

- (a) poverty and financial hardship—to 4 March 2004;
- (b) children in institutional care—to 30 April 2004; and
- (c) Hepatitis C in Australia—to 17 June 2004.

Question put and passed.

10 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTINGS

The Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Cook), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 713—That the Foreign Affairs, Defence and Trade References Committee be authorised to hold public meetings during the sittings of the Senate to take evidence for the committee's inquiry into 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, on the following days:

Thursday, 27 November 2003, from 6.30 pm

Friday, 28 November 2003, from 9 am to 4.25 pm.

Question put and passed.

11 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES COMMITTEE—EXTENSION OF TIME TO REPORT

The Chair of the Environment, Communications, Information Technology and the Arts References Committee (Senator Cherry), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 714—That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts References Committee on the Australian telecommunications network be extended to 12 February 2004.

Question put and passed.

12 SPORT—RUGBY WORLD CUP—AUSTRALIAN WALLABIES

The Minister for Revenue and Assistant Treasurer (Senator Coonan), at the request of the Minister for the Arts and Sport (Senator Kemp) and pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 1—That the Senate—

- (a) congratulates the Australian Rugby Union on staging the most successful Rugby World Cup since its inception in 1987;

- (b) congratulates the Australian Wallabies on an outstanding 2003 Rugby World Cup campaign;
- (c) conveys, on behalf of all Australians, the nation's pride and congratulations for the performances of all the team members who played in the team over the course of the competition;
- (d) expresses its thanks to all the team support staff and others who have contributed to the success of the team;
- (e) thanks the Australian people who supported teams from all countries that participated in the 2003 Rugby World Cup;
- (f) notes the contribution made by Commonwealth agencies and departments to the successful staging of the 2003 Rugby World Cup; and
- (g) acknowledges the contribution of the Australian Sports Commission to the development of young Australian rugby players, particularly through the rugby program at the Australian Institute of Sport.

Question put and passed.

13 PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL—APPROVAL

The Minister for Revenue and Assistant Treasurer (Senator Coonan), at the request of the Minister for Family and Community Services (Senator Patterson) and pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 2—That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being security upgrade works proposed by the Joint House Department for the Parliament House loading dock.

Question put and passed.

14 TRADE—FILIPINO BANANAS

Senator Cherry 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. 717—That the Senate—

- (a) notes that:
 - (i) a draft import risk assessment on the importation of Filipino bananas released in July 2002 concluded, based on the best science available, that such imports should not be approved due to the unmanageable risk of the introduction of diseases like moko, and
 - (ii) the Filipino Government has challenged the Australian Government at the highest levels to overturn this decision; and
- (b) calls on the Australian Government to:
 - (i) defend the science-based analysis of the import risk assessment process and to release the final report on Filipino bananas as soon as possible, and
 - (ii) defend Australia's quarantine standards in trade negotiations against pressure to water them down.

Question put and passed.

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

Senator McGauran, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 715—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the draft Aviation Transport Security Regulations 2003 be extended to 2 December 2003.

Question put and passed.

16 FAMILY AND COMMUNITY SERVICES—PUBLIC AND COMMUNITY HOUSING

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 711—That the Senate—

- (a) notes the finding of the Australian Bureau of Statistics that 99 900 people were homeless in Australia on census night 2001;
- (b) further notes that there are 200 000 people on waiting lists for public and community housing;
- (c) condemns the Federal Government's move away from public housing through a reduction in its financial commitment to the Commonwealth-State Housing Agreement and its increasing reliance on private rental subsidies over support for direct provision of housing; and
- (d) calls on the Federal Government to:
 - (i) review rent assistance to ensure that it more adequately helps jobless tenants who are unable to access public or community housing and who cannot afford home ownership, and
 - (ii) commission an independent review of the tax treatment of investment housing property with the aim of restructuring arrangements so that tax concessions are provided in a cost-effective way and only for investment in housing for low-income earners, as a means of addressing the need for affordable housing.

Question put and negatived.

17 SCIENCE AND TECHNOLOGY—GENETICALLY-ENGINEERED CROPS—LABELLING

Senator Nettle amended her 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. 719—That the Senate—

- (a) notes that:
 - (i) the European Union has recently introduced labelling of animal feed and of highly processed ingredients derived from genetically-engineered (GE) crops, neither of which are currently labelled under the Australian regulatory system, and
 - (ii) Australian farmers face great uncertainty because the 3-year study by the Minister for Agriculture, Fisheries and Forestry (Mr Truss) into whether it is possible to grow and process genetically-modified (GM) produce without contaminating non-GM produce will not be complete until July 2004, and a commercial release of GM canola has already been approved; and
- (b) calls on the Australian Government to:

- (i) exempt any changes to the GE regulatory and labelling system in Australia from the current free trade agreement negotiations with the United States of America,
- (ii) ensure that the Government maintains the ability to improve and extend the labelling laws, to bring them into line with international best practice, and
- (iii) ensure that the federal regulatory system protects the rights of Australian consumers and farmers to GE-free food.

Question put and passed.

18 HEALTH—WORLD AIDS DAY

Senator Nettle, also on behalf of Senator Stott Despoja, amended Senator Stott Despoja's 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. 716—That the Senate—

- (a) acknowledges that Monday, 1 December 2003 is World AIDS Day;
- (b) notes that a report released by the Joint United Nations Program on HIV/AIDS and the World Health Organization on 25 November 2003, indicates that:
 - (i) 42 million people around the world are infected with HIV,
 - (ii) 8 000 people die of AIDS-related illnesses every day,
 - (iii) 14 000 new HIV infections occur every day,
 - (iv) 13.2 million children are now orphans as a result of the AIDS virus, and
 - (v) 95 per cent of people with AIDS live in the world's poorest countries;
- (c) acknowledges the crucial role played by the Global Fund to Fight AIDS, Tuberculosis and Malaria (the 'Global Fund') in combating the AIDS pandemic;
- (d) notes that:
 - (i) in its first three rounds of funding, the Global Fund approved \$3 billion over 2 years for more than 220 programs in 121 of the worst affected countries, including \$555 million to programs in South Asia, East Asia and the Pacific,
 - (ii) \$224 million has already been disbursed to more than 60 countries, and
 - (iii) the Global Fund is facing a significant shortfall in funding which is jeopardising its ability to disburse funds to countries who have had program proposals approved, and to fund new rounds of grants;
- (e) also notes that in 2001, Australia endorsed the United Nations Declaration of Commitment on HIV/AIDS, which called for the establishment of a global HIV/AIDS and health fund;
- (f) expresses its concern that Australia is one of only two of the world's wealthiest countries yet to make a contribution to the Global Fund; and
- (g) urges the Australian Government to support the Global Fund as a key global initiative that is enabling countries to strengthen their own national response to HIV/AIDS, and to seriously consider making a significant contribution to the Global Fund by the end of 2004.

Question put and passed.

19 HEALTH—MEDICARE—BULK BILLING

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 720—That the Senate—

- (a) notes that:
 - (i) the Government's revised Medicare package proposes to increase the patient rebate for general practitioner services for two groups of Australians as an incentive to encourage bulk billing for these people, and
 - (ii) the Government proposes to introduce discriminatory safety nets which endorse substantial out-of-pocket expenses for medical services;
- (b) condemns the Government for:
 - (i) undermining the principle of universality by failing to propose measures to increase bulk billing for all Australians,
 - (ii) encouraging higher private fees for medical services, which will cause hardship for many Australians and discourage them from seeing doctors, and
 - (iii) relying on safety nets in place of strengthening Medicare; and
- (c) calls on the Government to:
 - (i) increase the patient rebate for all Australians, and
 - (ii) develop a plan to promote bulk billing as an essential means of ensuring timely, affordable access to primary health care.

Question put and passed.

20 STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) AMENDMENT BILL 2003**SOCIAL SECURITY AMENDMENT (FURTHER SIMPLIFICATION) BILL 2003**

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

Message no. 448, dated 26 November 2003—A Bill for an Act to amend the *States Grants (Primary and Secondary Education Assistance) Act 2000*, and for related purposes.

Message no. 449, dated 26 November 2003—A Bill for an Act to amend the *Social Security Act 1991*, and for related purposes.

The Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) 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 Macdonald moved—That these bills be now read a second time.

On the motion of Senator Buckland the debate was adjourned.

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

Question put and passed.

On the motion of Senator Ian Macdonald the resumption of the debate on the States Grants (Primary and Secondary Education Assistance) Amendment Bill 2003 was made an order of the day for a later hour.

21 CUSTOMS LEGISLATION AMENDMENT BILL (NO. 2) 2002

A message from the House of Representatives was reported agreeing to the amendments made by the Senate to the following bill:

Message no. 451, dated 26 November 2003—Customs Legislation Amendment Bill (No. 2) 2002.

22 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—REPORT—GENERAL AGREEMENT ON TRADE IN SERVICES AND AN AUSTRALIA-US FREE TRADE AGREEMENT

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

Foreign Affairs, Defence and Trade References Committee—Voting on trade: The General Agreement on Trade in Services and an Australia-US Free Trade Agreement—Report, dated November 2003, *Hansard* record of proceedings, documents presented to the committee, form letters and submissions [166].

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

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

Debate ensued.

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

23 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) moved—That government business order of the day no. 6 (Medical Indemnity Amendment Bill 2003 and a related bill) be considered from 12.45 pm till not later than 2 pm today to enable second reading speeches to be made.

Question put and passed.

24 INTERNATIONAL TAX AGREEMENTS AMENDMENT 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.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Minister for Revenue and Assistant Treasurer (Senator Coonan) the bill was read a third time.

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

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

In the committee

SPAM BILL 2003—

Consideration resumed of the bill, as amended—*and of the amendment moved by Senator Lundy:*

Schedule 1, page 40 (line 18), at the end of paragraph 3(a), add:
 (v) not for profit political lobby groups;
 (vi) trade unions;

Debate resumed.

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

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

Schedule 1, clause 3 debated and agreed to.

Senator Lundy moved the following amendments together by leave:

Schedule 2, page 44 (lines 28 to 30), omit paragraph 6(1)(b).

Schedule 2, page 44 (after line 16), after clause 4, insert:

4A When an electronic message is not a designated commercial electronic message

An electronic message is not a designated commercial electronic message if the relevant electronic account holder has previously indicated a desire not to receive messages of that kind from the sender.

Schedule 2, page 43 (after line 26), after paragraph 4(2)(b), insert:

(ba) the electronic address was obtained for the commercial purpose not more than 6 months before the commercial electronic message was sent; and

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

26 MEDICAL INDEMNITY AMENDMENT BILL 2003**MEDICAL INDEMNITY (IBNR INDEMNITY) CONTRIBUTION AMENDMENT BILL 2003**

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

Debate resumed.

On the motion of the Minister for Local Government, Territories and Roads (Senator Ian Campbell) the debate was adjourned till a later hour.

Suspension of sitting: On the motion of Senator Ian Campbell the sitting of the Senate was suspended till 2 pm.

At 2 pm—

27 QUESTIONS

Questions without notice were answered.

28 TRADE—FREE TRADE AGREEMENT—AUSTRALIAN WHEAT BOARD—ANSWER TO QUESTION

Senator O'Brien moved—That the Senate take note of the answer given by the Minister for Defence (Senator Hill) to a question without notice asked by Senator O'Brien today relating to the proposed Australia-United States free trade agreement and the Australian Wheat Board.

Debate ensued.

Question put and passed.

29 URGENCY MOTION WITHDRAWN

The Deputy President (Senator Hogg) informed the Senate that Senator Brown and the Leader of the Australian Democrats (Senator Bartlett) had withdrawn the urgency motion which they had indicated they intended to move today.

30 FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE—GOVERNMENT RESPONSE—FUNDING MATTER UNDER THE DAIRY REGIONAL ASSISTANCE PROGRAM

The Minister for Defence (Senator Hill) tabled the following document:

Finance and Public Administration References Committee—Report—A funding matter under the Dairy Regional Assistance Program—Government response.

Senator O'Brien, by leave, moved—That the Senate take note of the document.

Question put and passed.

31 SCRUTINY OF BILLS—STANDING COMMITTEE—GOVERNMENT RESPONSE—ENTRY AND SEARCH PROVISIONS IN COMMONWEALTH LEGISLATION

The Minister for Defence (Senator Hill) tabled the following document:

Scrutiny of Bills—Standing Committee—4th report of 2000: Entry and search provisions in Commonwealth legislation—Government response, dated August 2003.

32 NATIONAL CRIME AUTHORITY—JOINT STATUTORY COMMITTEE—GOVERNMENT RESPONSE—LAW ENFORCEMENT IMPLICATIONS OF NEW TECHNOLOGY

The Minister for Defence (Senator Hill) tabled the following document:

National Crime Authority—Joint Statutory Committee—Report—The law enforcement implications of new technology—Government response.

33 DOCUMENTS

The following documents were tabled by the Clerk:

Superannuation Industry (Supervision) Act—Requests from Minister to APRA, dated 1 July 2002; and 5 [2] and 6 February, and 30 May 2003.

General business was called on.

34 RECONCILIATION BILL 2001 [2002]

Order of the day read for the adjourned debate on the motion of Senator Ridgeway—
That this bill be now read a second time.

Debate resumed.

At 6 pm: Debate was interrupted while Senator Heffernan was speaking.

35 ROUTINE OF BUSINESS—VARIATION

The Minister for the Arts and Sport (Senator Kemp), by leave, moved—That consideration of government documents under general business and consideration of committee reports, government responses and Auditor-General's reports not be proceeded with today.

Question put and passed.

General business concluded.

**36 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—
REPORT—MARITIME TRANSPORT SECURITY BILL 2003**

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

Rural and Regional Affairs and Transport Legislation Committee—Provisions of the Maritime Transport Security Bill 2003—Report, dated November 2003, *Hansard* record of proceedings, documents presented to the committee and submissions [8].

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

37 ORDER OF BUSINESS—REARRANGEMENT

The Minister for the Arts and Sport (Senator Kemp) moved—That, at 7 pm, intervening business be postponed till after consideration of government business order of the day no. 7 (Ozone Protection and Synthetic Greenhouse Gas Legislation Amendment Bill 2003 and two related bills).

Question put and passed.

Suspension of sitting: On the motion of Senator Kemp the sitting of the Senate was suspended till 7 pm.

—————
At 7 pm—

**38 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**

Order of the day read for the adjourned debate on the motion of the Minister for Local Government, Territories and Roads (Senator Ian Campbell)—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

**OZONE PROTECTION AND SYNTHETIC GREENHOUSE GAS LEGISLATION
AMENDMENT BILL 2003—**

Bill taken as a whole by leave.

Senator Brown moved the following amendment:

Schedule 1, page 3 (after line 19), after item 4, insert:

4A Paragraph 3(a)

After “atmosphere”, insert “and of synthetic greenhouse gases”.

4B Subparagraph 3(c)(i)

After “substances”, insert “and synthetic greenhouse gases”.

Debate ensued.

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

Senator Brown moved the following amendment:

Schedule 1, item 5, page 3 (lines 20 to 22), omit the item, substitute:

5 Subparagraph 3(c)(ii)

Repeal the subparagraph, substitute:

- (ii) encourage the use of natural refrigerants; and
- (iii) avoid the need for air conditioning;

Debate ensued.

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

Senator Brown moved the following amendments together by leave:

Schedule 1, page 4 (after line 30), after item 13, insert:

13A Subsection 7(1)

Insert:

natural refrigerant means a naturally occurring substance that, in equipment or installations, transports heat energy for refrigeration or air conditioning purposes.

Schedule 1, page 6 (after line 6), after item 21, insert:

21A Subsection 7(1)

Insert:

split system refrigeration and air conditioning equipment means equipment that has components in two locations, usually inside and outside the building.

Schedule 1, page 7 (after line 16), after item 27, insert:

27A After subsection 13(2)

Insert:

- (2A) A person must not import pre-charged split system refrigeration or air conditioning equipment.

Debate ensued.

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

Senator Brown moved the following amendment:

Schedule 1, page 16 (after line 26), at the end of paragraph 65D(b), add:
 (iii) programs to promote the use of natural refrigerants;
 (iv) programs to reduce the use of air conditioning;

Debate ensued.

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

Bill agreed to.

OZONE PROTECTION (LICENCE FEES—IMPORTS) AMENDMENT BILL 2003—

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

OZONE PROTECTION (LICENCE FEES—MANUFACTURE) AMENDMENT BILL 2003—

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

The Ozone Protection and Synthetic Greenhouse Gas Legislation Amendment Bill 2003 to be reported without amendments and the Ozone Protection (Licence Fees—Imports) Amendment Bill 2003 and the Ozone Protection (Licence Fees—Manufacture) Amendment Bill 2003 to be reported without requests for amendments.

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

On the motion of the Minister for Defence (Senator Hill) the report from the committee was adopted and the bills read a third time.

39 SPAM BILL 2003

SPAM (CONSEQUENTIAL AMENDMENTS) BILL 2003

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

In the committee

SPAM BILL 2003—

Consideration resumed of the bill, as amended—*and of the amendments moved by Senator Lundy (see entry no. 25).*

Debate ensued.

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

Bill, as amended, agreed to.

SPAM (CONSEQUENTIAL AMENDMENTS) BILL 2003—

Bill taken as a whole by leave.

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

Schedule 1, page 17 (after line 9), after item 63, insert:

63A At the end of section 535

Add:

- (3) A warrant may not be issued under this section in relation to a breach of the *Spam Act 2003*, where a person's sole connection to a breach of the *Spam Act 2003* is as a recipient of unsolicited commercial electronic messages.

Schedule 1, page 18 (after line 4), after item 68, insert:

68B At the end of section 542

Add:

- (6) Nothing in this section authorises an inspector to search or seize an article in relation to an actual or suspected breach of the *Spam Act 2003* if that article belongs to a person whose sole connection to a breach of the *Spam Act 2003* is as a recipient of unsolicited commercial electronic messages.

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

Schedule 1, page 17 (after line 11), after item 64, insert:

64A At the end of section 537

Add:

- ; (e) in relation to a breach of the *Spam Act 2003*, the warrant must specify:
- (i) the owner of the computer data;
 - (ii) the nature of the class of data being sought from a computer.

Schedule 1, item 71, page 22 (line 24), at the end of subsection 547D(5), add:

- ; and (e) where a warrant is issued in relation to a particular breach of the *Spam Act 2003*, specify the kind of electronic files that may be searched.

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

Schedule 1, page 18 (after line 4), after item 68, insert:

68A At the end of section 542

Add:

- (5) Nothing in this section authorises an inspector to search or seize an article in relation to an actual or suspected breach of the *Spam Act 2003* without a warrant issued under Division 3 unless the owner of the article (or a person who the inspector believes on reasonable grounds to have the authority of the owner of the article) has consented to the article being searched or seized.

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

Schedule 1, item 71, page 19 (line 10), omit paragraph 547A(2)(a), substitute:

- (a) the occupier of the premises, who also meets the conditions under paragraph 547D(4)(a) or (b), has consented to the entry; or

Senator Greig moved the following amendment:

Schedule 1, item 71, page 24 (lines 20 and 21), omit subsection 547H(3).

Debate ensued.

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

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

Schedule 1, item 71, page 24 (lines 3 and 4), omit “the occupier of the premises, or the occupier’s employees and agents, if they were available at the time, provided”, substitute “the owner of the equipment, or the owner’s employees and agents, were able to or required by law to, at the time, provide”.

The Minister for the Arts and Sport (Senator Kemp) moved—That the committee report progress and ask leave to sit again.

Question put and passed.

The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Sandy Macdonald) reported that the committee had considered the bills, made progress and asked leave to sit again.

Ordered, on the motion of Senator Kemp, that the committee have leave to sit again on the next day of sitting.

40 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—CHANGES IN MEMBERSHIP

The Deputy President (Senator Hogg) informed the Senate that the President had received a letter requesting changes in the membership of a committee.

The Minister for the Arts and Sport (Senator Kemp), by leave, moved—That Senators Kirk and Collins replace Senators Cook and Hogg, respectively, on the Foreign Affairs, Defence and Trade References Committee for the committee’s inquiry into 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, during the periods of absence of Senators Cook and Hogg on 28 November 2003.

Question put and passed.

41 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 10.51 pm till Friday, 28 November 2003 at 9 am.

42 ATTENDANCE

Present, all senators except Senators Denman and Knowles* (* on leave).

HARRY EVANS
Clerk of the Senate