

2002-03

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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Contents

1	Meeting of Senate	2803
2	Government Documents	2803
3	Order of Business—Rearrangement.....	2804
4	Sport—Australian Cricket—Steve Waugh	2804
5	Sport—Australian Davis Cup Tennis Team.....	2804
6	Spam Bill 2003 Spam (Consequential Amendments) Bill 2003	2805
7	Order of Business—Rearrangement.....	2806
8	Legislative Instruments Bill 2003 Legislative Instruments (Transitional Provisions and Consequential Amendments) Bill 2003	2806
9	Questions	2806
10	Question on Notice—Answer and Explanation	2806
11	Motions to Take Note of Answers.....	2807
12	Petitions	2807
13	Notices.....	2807
14	Postponements.....	2809
15	Environment—Tasmania—Styx Valley	2810
16	Privileges—Standing Committee—Reference.....	2810
17	Hours of Meeting—Variation	2811
18	Law and Justice—Violence Against Women.....	2811
19	Trade—Free Trade Agreement—Environment	2811
20	Trade—Free Trade Agreement.....	2811
21	Rural and Regional Affairs and Transport References Committee— Extensions of Time to Report	2812
22	Foreign Affairs, Defence and Trade References Committee—Leave to Meet During Sitting	2812
23	Committees—Change in Membership	2812
24	Department of the Senate—Senate Senior Executive Officers’ Interests— Document	2812

25	Senators' Interests—Standing Committee—Register of Senators' Interests—Document	2813
26	Public Works—Joint Statutory Committee—14th, 15th and 16th Reports of 2003	2813
27	Documents	2813
28	Broadcasting Services Amendment (Media Ownership) Bill 2002 [No. 2]	2813
29	Maritime Transport Security Bill 2003 Non-Proliferation Legislation Amendment Bill 2003	2814
30	Governor-General's Message—Assent to Laws	2814
31	Legal and Constitutional Legislation Committee—Proposed Reference	2814
32	Notices	2814
33	Rural and Regional Affairs and Transport Legislation Committee— Report—Draft Aviation Transport Security Regulations 2003	2816
34	Order of Business—Rearrangement	2816
35	Taxation Laws Amendment Bill (No. 5) 2003	2816
36	Legislative Instruments Bill 2003 Legislative Instruments (Transitional Provisions and Consequential Amendments) Bill 2003	2817
37	Order of Business—Rearrangement	2821
38	Defence Legislation Amendment Bill 2003	2821
39	Order of Business—Rearrangement	2822
40	Family Law Amendment Bill 2003	2822
41	Order of Business—Rearrangement	2823
42	Age Discrimination Bill 2003 Age Discrimination (Consequential Provisions) Bill 2003	2823
43	Adjournment	2824
44	Attendance	2824

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 GOVERNMENT DOCUMENTS

The following government documents were tabled:

Audio-Visual Copyright Society Ltd (Screenrights)—Report for 2002-03.

Australian Broadcasting Corporation—Equity and diversity—Report for 1 September 2002 to 31 August 2003.

Australian Land Transport Development Programme—Progress report for 2002-03.

Australian Public Service Commission—State of the Service—Report for 2002-03.

Australian Rail Track Corporation Limited (ARTC)—Report for 2002-03.

Backing Australia's ability: Real results real jobs—

Australian Government's innovation report—2003-04.

Commonwealth Government's innovation report—2002-03.

Commonwealth Electoral Act 1918—2003 Redistribution into electoral divisions—Queensland—Report, together with composite maps [2] showing boundaries as determined by the augmented Electoral Commission and compact disc containing suggestions and comments, objections and comments, transcript of proceedings at public hearings into public objections and copy of report.

Copyright Agency Limited—Report for 2002-03.

Corporations and Markets Advisory Committee—Report for 2002-03.

Defence Housing Authority—Report for 2002-03.

Higher Education Funding Act 1988—Report on determinations made under the Act in respect of 1999, 2000, 2001 and 2002.

Maritime Industry Finance Company Limited—Report for 2002-03.

National Institute of Clinical Studies Limited—Report for 2002-03.

Productivity Commission—Report—No. 26—Review of TCF assistance, 31 July 2003.

Takeovers Panel—Report for 2002-03.

Treaties—

Bilateral—Text, together with national interest analysis and annexures—Exchange of letters constituting an Agreement between the Government of Australia and the Government of the Italian Republic on the Civil Registry Documentation to be Submitted by Australian Citizens Wishing to Marry in Italy, done at Rome on 10 February and 11 April 2000.

List of multilateral treaty action under negotiation, consideration or review by the Australian Government as at December 2003.

Multilateral—Text, together with national interest analysis and annexures—Agreement Establishing an International Foot and Mouth Disease Vaccine Bank, done at London on 26 June 1985. [Withdrawal]

3 ORDER OF BUSINESS—REARRANGEMENT

The Minister for the Arts and Sport (Senator Kemp) moved—That government business notice of motion no. 1 standing in the name of the Minister for Local Government, Territories and Roads (Senator Ian Campbell) for today, relating to the hours of meeting for 2 December 2003, be postponed till a later hour.

Question put and passed.

4 SPORT—AUSTRALIAN CRICKET—STEVE WAUGH

The Minister for the Arts and Sport (Senator Kemp), also on behalf of Senator Lundy, pursuant to notice, moved government business notice of motion no. 2—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 retirement from international cricket;
- (b) notes that Steve Waugh has been Australia's most successful captain and most 'capped' player and has guided Australian cricket through arguably its most successful period;
- (c) congratulates Steve Waugh for being an outstanding role model for Australian youth and for his important role in fostering participation in junior cricket;
- (d) congratulates Steve Waugh on his involvement in charitable causes both in Australia and overseas;
- (e) acknowledges and supports the contribution of the Australian Sports Commission to the development of young Australian cricketers, particularly through the Australian Institute of Sport cricket program; and
- (f) notes the deep commitment held by Australians to cricket and supports the Commonwealth in its endeavours to support Australian cricket.

Question put and passed.

5 SPORT—AUSTRALIAN DAVIS CUP TENNIS TEAM

The Minister for the Arts and Sport (Senator Kemp), pursuant to notice, moved government business notice of motion no. 3—That the Senate—

- (a) congratulates the captain of the Australian Davis Cup tennis team, John Fitzgerald and finals players Lleyton Hewitt, Mark Philippoussis, Todd Woodbridge and Wayne Arthurs on the exceptional win in the final of the 2003 Davis Cup against Spain;
- (b) congratulates all other team members for their outstanding contributions to the team effort and all others involved in supporting the Australian team over the course of the 2003 Davis Cup campaign;
- (c) notes that the win by the Australian team is the 28th time that Australia has secured the Davis Cup;
- (d) congratulates the members of the team for the inspiration their win will provide to Australian youth and the impact their efforts will have in fostering participation in junior tennis; and
- (e) acknowledges and supports the contribution of the Australian Sports Commission to the development of young Australian tennis players, particularly through the Australian Institute of Sport tennis program and its support for Tennis Australia's participation partnership program, 'Tennis over Australia'.

Question put and passed.

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

Messages from the House of Representatives were reported disagreeing to the amendments made by the Senate to the following bills:

Message no. 463, dated 1 December 2003—Spam Bill 2003.

Message no. 464, dated 1 December 2003—Spam (Consequential Amendments) Bill 2003.

Ordered, on the motion of the Minister for the Arts and Sport (Senator Kemp), that the messages be considered in committee of the whole immediately.

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

In the committee

SPAM BILL 2003—

Senator Kemp moved—That the committee does not insist on its amendments to which the House of Representatives has disagreed.

Debate ensued.

Question put.

The committee divided—

AYES, 41

Senators—

Barnett	Evans	Ludwig	Sherry
Bishop	Ferguson	Lundy	Stephens
Brandis	Forshaw	Macdonald, Sandy	Tchen
Buckland	Harradine	Mackay	Tierney
Campbell, George	Harris	Marshall	Troeth
Campbell, Ian	Hogg	Mason	Watson
Carr	Hutchins	McGauran (Teller)	Webber
Chapman	Kemp	McLucas	Wong
Collins	Kirk	O'Brien	
Cook	Lees	Payne	
Crossin	Lightfoot	Scullion	

NOES, 9

Senators—

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

Question agreed to.

SPAM (CONSEQUENTIAL AMENDMENTS) BILL 2003—

Senator Kemp moved—That the committee does not insist on its amendments to which the House of Representatives has disagreed.

Question put and passed. All Australian Democrats senators, by leave, recorded their votes for the noes.

Resolutions to be reported.

The Deputy President (Senator Hogg) resumed the chair and the Chair of Committees reported that the committee had considered messages nos 463 and 464 from the House of Representatives relating to the Spam Bill 2003 and the Spam (Consequential Amendments) Bill 2003 and had resolved not to insist on the amendments made by the Senate to which the House had disagreed.

On the motion of Senator Kemp the report from the committee was adopted.

7 ORDER OF BUSINESS—REARRANGEMENT

The Minister for the Arts and Sport (Senator Kemp) moved—That intervening business be postponed till after consideration of government business order of the day no. 6 (Legislative Instruments Bill 2003 and a related bill).

Question put and passed.

8 LEGISLATIVE INSTRUMENTS BILL 2003

LEGISLATIVE INSTRUMENTS (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) 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.

On the motion of the Minister for Justice and Customs (Senator Ellison) consideration of the bills in committee of the whole was made an order of the day for a later hour.

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

At 2 pm—

9 QUESTIONS

Questions without notice were answered.

10 QUESTION ON NOTICE—ANSWER AND EXPLANATION

Senator Hutchins, pursuant to standing order 74, asked the Minister representing the Minister for Health and Ageing (Senator Ian Campbell) for an explanation of an answer not being provided to question on notice no. 2004 (notice given 10 September 2003) relating to blood products manufactured from hepatitis C positive plasma.

Senator Ian Campbell indicated that an answer would be provided.

Senator Hutchins moved—That the Senate take note of the minister's response.

Question put and passed.

Suspension of sitting: Due to the presence of fumes in the Senate chamber, the sitting of the Senate was suspended by the President from 3.09 pm to 3.34 pm.

11 MOTIONS TO TAKE NOTE OF ANSWERS

Motions to take note of answers were called on but no motion was moved.

12 PETITIONS

The following 5 petitions, lodged with the Clerk by the senators indicated, were received:

Senator Brandis, from 98 petitioners, requesting that the Senate take action to reverse funding cuts to the Australian Broadcasting Corporation to allow for the restoration of the educational programming budget and the reinstatement of *Behind the News*.

Senator Moore, from 733 petitioners, requesting that the Senate reject the Government's proposed plans to fully privatise Telstra.

Senator Nettle, from 671 petitioners, requesting that the Senate reject the proposed changes to higher education and invest in the public higher education sector.

Senator Nettle, from 25 petitioners, requesting that the Senate oppose proposed changes to Medicare, abolish the Private Health Insurance Rebate and ensure bulk billing for all Australians.

Senator Stott Despoja, from 10 petitioners, requesting that the Senate take action to ensure the principle of equitable access to universities remains fundamental to higher education policy and to oppose any bill to further increase fees.

13 NOTICES

The Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan): To move on the next day of sitting—That the time for the presentation of the following reports of the Rural and Regional Affairs and Transport Legislation Committee be extended to 11 March 2004:

- (a) the administration of the Civil Aviation Safety Authority;
- (b) the import risk assessment on New Zealand apples; and
- (c) the administration of AusSAR in relation to the search for the *Margaret J.* (*general business notice of motion no. 733*)

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

- (a) notes that:
 - (i) the Province of Manitoba in Canada has mandated the use, by 2005, of 10 per cent ethanol blends in 85 per cent of gasoline sold and has established a tax preference for ethanol that is produced and used in Manitoba, and
 - (ii) Manitoba will also establish an Agri-Energy Office, a 'one-stop-shop' for information on agri-energy initiatives such as ground bio-diesel, manure methane capture, wind power and ground source heat pumps, and will promote public awareness and education on the environmental benefits of increased ethanol use; and
- (b) urges the Federal Government to consider mandating the use of ethanol and other alternative fuels. (*general business notice of motion no. 734*)

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

- (a) notes that in October 1992, the United Nations General Assembly declared 3 December to be the International Day of Disabled Persons, which has since been renamed in Australia as the International Day of People with a Disability;

- (b) notes further:
 - (i) the enormous contribution that people with disabilities, their families and carers make to their individual communities and the development of the entire Australian community, and
 - (ii) that this often occurs within a context of ongoing discrimination, disadvantage, and economic and social hardship; and
- (c) calls on the Government to undertake a leadership role by ending all forms of discrimination against people with disabilities through the development of a comprehensive International Human Rights Convention for People with Disabilities. (*general business notice of motion no. 735*)

Senator Cherry: To move on 4 December 2003—That the Senate—

- (a) notes that on 14 October 2003 the Western Australian Farmers Federation Grains Council passed a resolution recommending to the Primary Industries Ministerial Council that:
 - (i) the Gene Technology Grains Committee be restructured to provide proportionate representation of both genetically-modified (GM) and non-GM growers,
 - (ii) no costs or liabilities be imposed on a sector of the agricultural industry without the involvement and approval from that industry,
 - (iii) no sector of agricultural industry be faced with unmanageable problems,
 - (iv) prior to the introduction of GM crops, the Gene Technology Grains Committee must demonstrate widespread accurate and unbiased industry education of the canola stewardship principles and protocols and proof of widespread acceptance of these principles and protocols,
 - (v) research be undertaken to gauge market tolerance levels of GM grain prior to acceptance of 1 per cent of adventitious presence, and
 - (vi) legislative changes be implemented to ensure that compliance with management plans is a legal requirement, not voluntary as proposed, to ensure that the GM industry is responsible for the containment of their GM product; and
- (b) calls on the Minister for Agriculture, Fisheries and Forestry (Mr Truss) to ensure that these resolutions are debated at the next Primary Industries Ministerial Council, in recognition of the widespread concern in the grains industry about the introduction of genetically-modified crops and the cost implications for farmers. (*general business notice of motion no. 736*)

Senator Cherry: To move on 4 December 2003—That the Senate—

- (a) notes that:
 - (i) Macquarie Broadcasting (the owners of Sydney radio stations 2GB and 2CH) and Southern Cross Broadcasting (the owners of 2UE) have announced that their newsrooms and other elements of their sales and administration departments will be merged,
 - (ii) 2UE and 2GB are the two largest commercial radio news providers in the country, with news services syndicated to dozens of other stations; and that the merging of their services represents a significant reduction in diversity of opinions in radio, and
 - (iii) the proposed arrangement appears to be contrary to the objectives of the *Broadcasting Services Act 1992* that promote diversity, and may breach the ‘two station’ control rule in the Act; and

- (b) calls on the Australian Broadcasting Authority to conduct a thorough review of the proposed arrangement to ensure that the objectives and provisions of the Act have been fully complied with. (*general business notice of motion no. 737*)

Senator Nettle: To move on the next day of sitting—That there be laid on the table, by 3 pm on 4 December 2003, the following:

- (a) all correspondence and documents, including e-mails, between the Department of Health and Ageing (the department) and the National Prescribing Service (NPS) and/or the Minister for Health and Ageing and/or the pharmaceutical drug companies Lilly and GlaxoSmithKline concerning the recent Pharmaceutical Benefits Scheme listing of Thiazolidinediones (Actos – Pioglitazone, and Avandia – Rosiglitazone) and the role of the NPS in conducting an education campaign about the drugs;
- (b) all correspondence and documents, including e-mails, between the department, the NPS and their new drug working group concerning a departmental request that the NPS should not conduct an education campaign about the Thiazolidinedione group of drugs; and
- (c) reports and/or correspondence from the Australian Adverse Drug Reaction Committee and/or the Therapeutic Goods Administration concerning adverse effects of Pioglitazone and Rosiglitazone directed at health practitioners, the department, the Pharmaceutical Benefits Advisory Committee, and the Minister. (*general business notice of motion no. 738*)

Senator Nettle: To move on the next day of sitting—That there be laid on the table, by 3 pm on 4 December 2003, those parts of the audit report on the Sepon mine project in Laos referred to by the Minister for Finance and Administration in his statement to the Senate on 25 November 2003 which relate to the environmental and social impacts of the project. (*general business notice of motion no. 739*)

Senator Brown: To move on the next day of sitting—That the Senate calls on the Prime Minister (Mr Howard) and the Leader of the Opposition (Mr Latham) to promote reform policies to halt logging of the Tarkine, which contains Australia's largest temperate rainforest. (*general business notice of motion no. 740*)

The Minister for Local Government, Territories and Roads (Senator Ian Campbell): To move on the next day of sitting—That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the ASIO Legislation Amendment Bill 2003, allowing it to be considered during this period of sittings.

Document: Senator Ian Campbell tabled the following document:

Consideration of legislation—Statement of reasons for introduction and passage of the ASIO Legislation Amendment Bill 2003 in the 2003 spring sittings.

14 POSTPONEMENTS

Items of business were postponed as follows:

General business notice of motion no. 467 standing in the name of Senator Lees for today, relating to the introduction of the Encouraging Communities Bill 2003, postponed till 13 May 2004.

General business notice of motion no. 542 standing in the name of Senator Mackay for today, relating to the cancellation of the ABC program *Behind the News*, postponed till 10 February 2004.

General business notice of motion no. 732 standing in the name of Senator Brown for today, relating to detention centres on Nauru and Manus Islands, postponed till 3 December 2003.

15 ENVIRONMENT—TASMANIA—STYX VALLEY

Motion determined as not formal: Senator Brown requested that general business notice of motion no. 708 standing in his name for today, relating to logging in Tasmania's Styx Valley, be taken as formal.

An objection was raised and the motion was not proceeded with as a formal motion.

Proposed suspension of standing orders: Senator Brown, pursuant to contingent notice, moved—That so much of the standing orders be suspended as would prevent him moving a motion relating to the conduct of the business of the Senate, namely a motion to give precedence to general business notice of motion no. 708.

Debate ensued.

Question put.

The Senate divided—

AYES, 9

Senators—

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

NOES, 43

Senators—

Abetz	Collins	Johnston	Payne
Barnett	Conroy	Kirk	Scullion
Bishop	Cook	Lightfoot	Sherry
Brandis	Denman	Ludwig	Stephens
Buckland	Eggleston	Lundy	Tchen
Calvert	Evans	Mackay	Tierney
Campbell, George	Ferguson	Marshall	Troeth
Campbell, Ian	Ferris	Mason	Watson
Carr	Forshaw	McGauran (Teller)	Webber
Chapman	Humphries	McLucas	Wong
Colbeck	Hutchins	O'Brien	

Question negatived.

16 PRIVILEGES—STANDING COMMITTEE—REFERENCE

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 matter of privilege notice of motion no. 1—That the following matter be referred to the Committee of Privileges:

Having regard to the material submitted to the President by the Rural and Regional Affairs and Transport Legislation Committee, whether there was any attempt improperly to interfere with a witness before the committee, and whether any contempt of the Senate was committed in that regard.

Question put and passed.

17 HOURS OF MEETING—VARIATION

The Minister for Local Government, Territories and Roads (Senator Ian Campbell) amended his notice of motion by leave and, pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 1—That, on Tuesday, 2 December 2003:

- (a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to 11.30 pm; and
- (b) the question for the adjournment of the Senate shall be proposed at 10.50 pm.

Question put and passed.

18 LAW AND JUSTICE—VIOLENCE AGAINST WOMEN

Senator Stott Despoja, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 731—That the Senate—

- (a) notes:
 - (i) the recent launch of the report, *Not a minute more: Ending violence against women*, by the United Nations Fund for Women,
 - (ii) that the report was launched to mark the 10th anniversary of the Vienna World Conference on Human Rights, when women's rights were placed on the international agenda for the first time, and
 - (iii) that Australian women are still subjected to violence; and
- (b) urges the Government to demonstrate leadership by encouraging reform of Australia's legal and criminal justice system, to break down the structures and processes that generate violence.

Question put and passed.

19 TRADE—FREE TRADE AGREEMENT—ENVIRONMENT

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 700—That the Senate, noting that the Australia-United States free trade agreement is in the final stages of negotiation, calls on the Government to:

- (a) carry out an environmental impact assessment of the agreement prior to its signing and ratification; and
- (b) ensure that the agreement does not inhibit Australia's ability to reduce greenhouse gas emissions, including by giving United States coal and electricity companies the right to challenge or seek compensation from Australian governments which act to ameliorate global warming.

Question put and passed.

20 TRADE—FREE TRADE AGREEMENT

Senator Ridgeway 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. 728—That the Senate—

- (a) notes that:
 - (i) the final round of formal negotiations for the proposed Australia-United States (US) free trade agreement are being held in Washington, in the week beginning 30 November 2003, and

- (ii) both the Australian Government and the US Government have indicated that they are seeking to conclude this agreement before Christmas 2003;
- (b) notes further that:
 - (i) the Foreign Affairs, Defence and Trade References Committee tabled the report, *Voting on trade: The General Agreement on Trade in Services and an Australia-US free trade agreement*, on 27 November 2003, and
 - (ii) a key recommendation of this report was that Parliament should have a greater role in developing and voting on major international trade agreements; and
- (c) calls on the Government to give Parliament the opportunity to scrutinise and debate the finalised text of the proposed Australia-US free trade agreement before it is signed.

Question put and passed.

**21 RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE—
EXTENSIONS OF TIME TO REPORT**

The Chair of the Rural and Regional Affairs and Transport References Committee (Senator Ridgeway) 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. 729—That the time for the presentation of reports of the Rural and Regional Affairs and Transport References Committee be extended as follows:

- (a) forestry plantations—to 11 March 2004; and
- (b) rural water resource usage—to 24 June 2004.

Question put and passed.

**22 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—LEAVE TO
MEET DURING SITTING**

Senator Buckland, at the request of the Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Cook) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 730—That the Foreign Affairs, Defence and Trade 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 Tuesday, 2 December 2003, from 7.30 pm to 8.30 pm, in relation to its inquiry on 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.

Question put and passed.

23 COMMITTEES—CHANGE IN MEMBERSHIP

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

The Minister for Finance and Administration (Senator Minchin), by leave, moved—That Senator O'Brien be appointed as a participating member of the Finance and Public Administration Legislation and References Committees.

Question put and passed.

**24 DEPARTMENT OF THE SENATE—SENATE SENIOR EXECUTIVE OFFICERS'
INTERESTS—DOCUMENT**

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

Department of the Senate—Register of Senate senior executive officers' interests incorporating notifications of alterations of interests of senior executive officers lodged between 20 June and 27 November 2003, dated December 2003.

25 SENATORS' INTERESTS—STANDING COMMITTEE—REGISTER OF SENATORS' INTERESTS—DOCUMENT

The Chair of the Standing Committee of Senators' Interests (Senator Denman) tabled the following document:

Senators' Interests—Standing Committee—Register of senators' interests incorporating notifications of alterations of interests of senators lodged between 20 June and 27 November 2003, dated December 2003.

26 PUBLIC WORKS—JOINT STATUTORY COMMITTEE—14TH, 15TH AND 16TH REPORTS OF 2003

Senator McGauran, on behalf of the Parliamentary Standing Committee on Public Works, tabled the following reports:

Public Works—Joint Statutory Committee—

14th report of 2003—Development of off-base housing for Defence at Queanbeyan, NSW, dated December 2003.

15th report of 2003—Respecified Christmas Island immigration reception and processing centre, dated December 2003.

16th report of 2003—Community recreation centre on Christmas Island, dated December 2003.

Senator McGauran, by leave, moved—That the Senate take note of the reports.

Debate ensued.

Question put and passed.

27 DOCUMENTS

The following documents were tabled by the Clerk:

Aged Care Act—

Information Amendment Principles 2003 (No. 1).

Quality of Care Amendment Principles 2003 (No. 1).

Environment Protection and Biodiversity Conservation Act—Instrument amending list of specimens suitable for live import under section 303EB, dated 3 November 2003.

National Health Act—Declaration No. PB 17 of 2003.

Therapeutic Goods Act—Instrument of approval under section 23AA, dated 7 October 2003.

28 BROADCASTING SERVICES AMENDMENT (MEDIA OWNERSHIP) BILL 2002 [NO. 2]

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

Message no. 462, dated 1 December 2003—A Bill for an Act to amend the *Broadcasting Services Act 1992*, and for other purposes.

The Minister for Finance and Administration (Senator Minchin) 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 Minchin moved—That this bill be now read a second time.

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

**29 MARITIME TRANSPORT SECURITY BILL 2003
NON-PROLIFERATION LEGISLATION AMENDMENT BILL 2003**

Messages from the House of Representatives were reported as follows:

Message no. 460, dated 1 December 2003—Maritime Transport Security Bill 2003, agreeing to the amendments made by the Senate.

Message no. 461, dated 1 December 2003—Non-Proliferation Legislation Amendment Bill 2003, agreeing to the amendment made by the Senate.

30 GOVERNOR-GENERAL'S MESSAGE—ASSENT TO LAWS

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

27 November 2003—Message No. 45—

Communications Legislation Amendment Act (No. 1) 2003 (Act No. 114, 2003)

Farm Household Support Amendment Act 2003 (Act No. 115, 2003)

Financial Sector Legislation Amendment Act (No. 1) 2003 (Act No. 116, 2003).

31 LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE—PROPOSED REFERENCE

Senator Brown, pursuant to notice, moved business of the Senate notice of motion no. 1—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.

Debate ensued.

Question put.

The Senate divided—

AYES, 8

Senators—

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

NOES, 36

Senators—

Barnett	Crossin	Kirk	O'Brien
Bishop	Denman	Lightfoot	Ray
Buckland	Evans	Ludwig	Sherry
Campbell, George	Ferguson	Mackay	Stephens
Carr	Forshaw	Marshall	Tchen
Chapman	Hogg	Mason	Tierney
Colbeck	Humphries	McGauran (Teller)	Watson
Collins	Hutchins	McLucas	Webber
Cook	Johnston	Minchin	Wong

Question negatived.

32 NOTICES

The Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone), by leave and on behalf of the Minister for Local Government, Territories and Roads (Senator Ian Campbell), gave notices of motion as follows: To move on the next day of sitting—

No. 1—That paragraph (1) of standing order 115 be amended to read as follows:

- 115** (1) After the second reading, a bill shall be considered in a committee of the whole immediately, unless:
- (a) the bill is referred to a standing or select committee; or
 - (b) no senator has:
 - (i) circulated in the Senate a proposed amendment or request for amendment of the bill, or
 - (ii) required in debate or by notification to the chair that the bill be considered in committee of the whole.

No. 2—

- (1) That estimates hearings by legislation committees for the year 2004 be scheduled as follows:
- 2003-04 additional estimates:**
 Monday, 16 February and Tuesday, 17 February and, if required, Friday, 20 February (*Group A*)
 Wednesday, 18 February and Thursday, 19 February and, if required, Friday, 20 February (*Group B*)
- 2004-05 Budget estimates:**
 Monday, 24 May to Thursday, 27 May and, if required, Friday, 28 May (*Group A*)
 Monday, 31 May to Thursday, 3 June and, if required, Friday, 4 June (*Group B*)
 Monday, 1 November and Tuesday, 2 November (*supplementary hearings—Group A*)
 Wednesday, 3 November and Thursday, 4 November (*supplementary hearings—Group B*).
- (2) That the committees consider the proposed expenditure in accordance with the allocation of departments to committees agreed to by the Senate.
- (3) That committees meet in the following groups:
- Group A:**
 Environment, Communications, Information Technology and the Arts
 Finance and Public Administration
 Legal and Constitutional
 Rural and Regional Affairs and Transport
- Group B:**
 Community Affairs
 Economics
 Employment, Workplace Relations and Education
 Foreign Affairs, Defence and Trade.
- (4) That the committees report to the Senate on the following dates:
 Wednesday, 24 March 2004 in respect of the 2003-04 additional estimates, and
 Thursday, 17 June 2004 in respect of the 2004-05 budget estimates.

**33 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—
REPORT—DRAFT AVIATION TRANSPORT SECURITY REGULATIONS 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—Draft Aviation Transport Security Regulations 2003—Report, dated December 2003, *Hansard* record of proceedings, documents presented to the committee and submissions [3].

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

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

Question put and passed.

34 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) moved—That intervening business be postponed till after consideration of government business order of the day no. 3 (Taxation Laws Amendment Bill (No. 5) 2003).

Question put and passed.

35 TAXATION LAWS AMENDMENT BILL (NO. 5) 2003

Order of the day read for the adjourned debate on the motion of the Minister for Family and Community Services (Senator Patterson)—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.

Senator Sherry moved the following amendment:

Schedule 1, item 14, page 15 (lines 11 to 16), omit subsection (2C).

Debate ensued.

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

On the motion of Senator Sherry, also on behalf of Senator Murray, the following amendment was debated and agreed to:

Schedule 5, page 54 (after line 18), after item 4, insert:

4A After subparagraph 57A(2)(b)(iii)

Insert:

or (iv) a public ambulance service;

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 6.

Schedule 6 debated and agreed to.

Question—That the bill be agreed to—divided in respect of Schedule 8.

Schedule 8 agreed to.

Bill, as amended, agreed to.
Bill to be reported with an amendment.

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

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

36 **LEGISLATIVE INSTRUMENTS BILL 2003**
LEGISLATIVE INSTRUMENTS (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 2003

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

In the committee

LEGISLATIVE INSTRUMENTS BILL 2003—

Bill taken as a whole by leave.

On the motion of the Minister for Justice and Customs (Senator Ellison) the following amendment was debated and agreed to:

Clause 4, page 4 (line 5), omit “indicate”, substitute “indicates”.

Senator Greig moved the following amendment:

Clause 7, page 8 (table item 4), omit the table item.

Debate ensued.

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

Senator Greig moved the following amendments together by leave:

Clause 7, page 11 (table item 24), omit the table item.

Clause 44, page 46 (table item 44), omit the table item.

Clause 54, page 58 (table item 51), omit the table item.

Debate ensued.

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

Explanatory memoranda: Senator Ellison tabled supplementary explanatory memoranda [2] relating to the government amendments to be moved to the bills.

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

Clause 11, page 16 (after line 12), at the end of the clause, add:

- (9) Subsection (1) applies in respect of a decision to issue a replacement certificate in the same manner as it applies to the original decision to issue a certificate under section 10.

Senator Ellison moved the following amendment:

Clause 12, page 16 (line 30) to page 17 (line 9), omit subclause (2), substitute:

- (2) A legislative instrument, or a provision of a legislative instrument, has no effect if, apart from this subsection, it would take effect before the date it is registered and as a result:
- (a) the rights of a person (other than the Commonwealth or an authority of the Commonwealth) as at the date of registration would be affected so as to disadvantage that person; or
 - (b) liabilities would be imposed on a person (other than the Commonwealth or an authority of the Commonwealth) in respect of anything done or omitted to be done before the date of registration.

Debate ensued.

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

Senator Greig moved the following amendment:

Clause 12, page 16 (line 30) to page 17 (line 9), omit subsection (2), substitute:

- (2) A legislative instrument, or a provision of a legislative instrument, has no effect if, apart from this subsection, it would take effect before the time at which it is registered and as a result:
- (a) the rights of a person (other than the Commonwealth or an authority of the Commonwealth) as at the time of registration would be affected so as to disadvantage that person; or
 - (b) liabilities would be imposed on a person (other than the Commonwealth or an authority of the Commonwealth) in respect of anything done or omitted to be done before the time of registration.
- (2A) To avoid any doubt, subsection (2) applies to a legislative instrument that takes effect before the time at which it is registered either:
- (a) because it is expressed to take effect before that time; or
 - (b) by virtue of the operation of subsection 3(2) of the *Acts Interpretation Act 1901*.

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:

Clause 17, page 21 (lines 7 to 13), omit subclause (1), substitute:

- (1) Subject to section 18, before a rule-maker makes a legislative instrument, and where the proposed instrument is likely to restrict competition or have a direct, or a substantial indirect, effect on:
- (a) business; or
 - (b) any other sector of the community; or
 - (c) human rights or civil liberties; or
 - (d) the natural, Aboriginal, cultural or built environment;
- the rule-maker must ensure that appropriate consultation is undertaken.

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

Clause 20, page 23 (after line 7), after subclause (1), insert:

- (1A) The Secretary must cause steps to be taken to ensure that legislative instruments that are registered are available to the public.

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

Clause 23, page 25 (line 12), at the end of subclause (1), add “and annotate the Register as so rectified to explain the nature of the rectification, the date and time it was made and the reason for it”.

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

Clause 42, page 40 (line 18), after “moved and”, insert “(where relevant)”.

Clause 42, page 40 (line 35), after “moved and”, insert “(where relevant)”.

Question—That the bill, as amended, be agreed to—divided in respect of clause 43.

Question—That clause 43 stand as printed—put and negatived.

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

Clause 37, page 38 (lines 11 and 12), omit the note, substitute:

Note: Section 44 provides that certain instruments are exempted from the operation of section 42.

Clause 44, page 42 (line 32), omit “Sections 42 and 43 do not”, substitute “Section 42 does not”.

Clause 44, page 43 (line 8), omit “Sections 42 and 43 do not”, substitute “Section 42 does not”.

Clause 45, page 46 (lines 4 and 5), omit “, 42(1) or (2) or 43(2)”, substitute “or 42(1) or (2)”.

Clause 45, page 46 (lines 11 and 12), omit “, 42(1) or (2) or 43(2)”, substitute “or 42(1) or (2)”.

Clause 47, page 47 (line 33), omit “or 43(2)”.

Clause 47, page 48 (line 1), omit “or 43(3)”.

Clause 47, page 48 (line 4), omit “or 43(3)”.

Clause 47, page 48 (line 15), omit “or 43(2)”.

Clause 47, page 48 (line 17), omit “or 43(3)”.

Clause 47, page 48 (lines 22 to 26), omit subclause (5).

Clause 48, page 48 (line 29), omit “or 43”.

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

Clause 44, page 43 (lines 6 and 7), omit all the words from and including “unless” to the end of subclause (1), substitute:

unless the instrument is a regulation, or the enabling legislation or some other Act has the effect that the instrument is disallowable.

Clause 44, page 43 (line 11), after “enabling legislation”, insert “or by means of some other Act”.

Senator Greig moved the following amendment:

Clause 44, page 42 (line 32) to page 43 (line 7), omit subclause (1).

Debate ensued.

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

Senator Greig moved the following amendment:

Clause 44, page 45 (table item 34), omit “2B, or 12, subsection 13(1), section 20B,”.

Debate ensued.

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

LEGISLATIVE INSTRUMENTS (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 2003—

Bill taken as a whole by leave.

Senator Ellison moved the following amendment:

Schedule 1, item 6, page 9 (lines 5 to 20), omit subsection 46B(3), substitute:

- (3) An instrument to which this section applies, or a provision of such an instrument, has no effect if, apart from this subsection, it would take effect before the date of its notification under subsection (5) and as a result:
 - (a) the rights of a person (other than the Commonwealth or an authority of the Commonwealth) as at the date of notification would be affected so as to disadvantage that person; or
 - (b) liabilities would be imposed on a person (other than the Commonwealth or an authority of the Commonwealth) in respect of anything done or omitted to be done before the date of notification.

Debate ensued.

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

Senator Greig moved the following amendment:

Schedule 1, item 6, page 9 (lines 5 to 20), omit subsection 46B(3), substitute:

- (3) An instrument to which this section applies, or a provision of such an instrument, has no effect if, apart from this subsection, it would take effect before the time of its notification under subsection (5) and as a result:
 - (a) the rights of a person (other than the Commonwealth or an authority of the Commonwealth) as at the time of notification would be affected so as to disadvantage that person; or
 - (b) liabilities would be imposed on a person (other than the Commonwealth or an authority of the Commonwealth) in respect of anything done or omitted to be done before the time of notification.
- (3A) To avoid any doubt, subsection (3) applies to an instrument that takes effect before the time of its notification under subsection (5) either:
 - (a) because it is expressed to take effect before that time; or
 - (b) because of the operation of subsection 3(2).

Debate ensued.

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

Bill agreed to.

The Legislative Instruments Bill 2003 to be reported with amendments and the Legislative Instruments (Transitional Provisions and Consequential Amendments) Bill 2003 to be reported without amendments.

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

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

37 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Justice and Customs (Senator Ellison) moved—That intervening business be postponed till after consideration of government business order of the day no. 7 (Defence Legislation Amendment Bill 2003).

Question put and passed.

38 DEFENCE LEGISLATION 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—and of the amendments moved by the Leader of the Australian Democrats (Senator Bartlett):

Clause 2, page 2 (table item 8, column 1), after “26”, insert “, 26AA, 26AB, 26AC”.

Schedule 2, page 19 (after line 19), after item 26, insert:

26AA Section 3 (definition of spouse)

Omit “of the opposite sex to the person”.

26AB Section 3 (definition of widow)

Omit the definition, substitute:

widow, in relation to a deceased person, means the woman who was the spouse of the deceased person at the time of his or her death.

26AC Section 3 (definition of widower)

Omit the definition, substitute:

widower, in relation to a deceased person, means the man who was the spouse of the deceased person at the time of his or her death.

Debate resumed.

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

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

Clause 2, page 2 (table item 8, column 1), after “26”, insert “, 26A, 26B, 26C, 26D, 26E, 26F”.

Schedule 2, page 19 (after line 19), after item 26, insert:

26A Section 3 (after the definition of incapacitated person)

Insert:

interdependency relationship means a relationship between 2 persons that is acknowledged by both and that involves:

- (a) residing together; and
- (b) being closely interdependent; and
- (c) having a continuing commitment to mutual emotional and financial support.

26B Section 3 (after the definition of *operational service member*)

Insert:

partner means the spouse or person with whom the person is involved in an interdependency relationship.

26C Paragraph 5(1)(b)

Omit “spouse”, substitute “partner”.

26D Paragraph 5(1)(c)

Omit “spouse”, substitute “partner”.

26E Paragraph 20(2)(d)

Omit “spouse”, substitute “partner”.

26F Subparagraph 20(2)(e)(i)

Omit the subparagraph, substitute:

- (i) is owned by the person, or by the person and the person’s partner as joint tenants (whether or not the partner is also an entitled person) and is not owned by any other person; and

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

On the motion of the Minister for Local Government, Territories and Roads (Senator Ian Campbell) the report from the committee was adopted and the bill read a third time.

39 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Local Government, Territories and Roads (Senator Ian Campbell) moved—That intervening business be postponed till after consideration of government business order of the day no. 4 (Family Law Amendment Bill 2003).

Question put and passed.

40 FAMILY LAW AMENDMENT BILL 2003

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

Debate resumed.

Senator Greig moved the following amendment:

At the end of the motion, add “and the Senate:

- (a) commends the Government for the measures contained in this bill to minimise the trauma for children who provide evidence in the Family Court regarding their experience of abuse, particularly the power of the Family Court to take evidence by audio and video link;
- (b) expresses concern that children who are the victims of abuse also experience trauma when providing evidence in criminal proceedings against those who have abused them and that, in these circumstances, the trauma is often exacerbated through strenuous cross-examination and the requirement to provide evidence at committal proceedings in addition to the criminal trial;
- (c) notes that while most state jurisdictions have access to closed circuit television systems, evidence indicates that these systems are not always used to facilitate the giving of evidence by victims of child sex abuse;
- (d) expresses concern that children in some states are more likely to experience a higher level of trauma when giving evidence regarding abuse than children in other states, given the different arrangements which apply from state to state;
- (e) notes evidence which indicates that the trauma experienced by victims of child sex abuse may deter them from reporting such abuse and may therefore prevent the perpetrators of such abuse from being brought to justice; and
- (f) calls on the Government to provide leadership on this issue and to work with the states through the Council of Australian Governments to put in place uniform national arrangements designed to minimise the trauma experienced by victims of child abuse in the criminal justice system”.

Debate ensued.

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

Main question, as amended, put and passed.

Bill read a second time.

On the motion of the Minister for Justice and Customs (Senator Ellison) consideration of the bill in committee of the whole was made an order of the day for the next day of sitting.

41 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Justice and Customs (Senator Ellison) moved—That intervening business be postponed till after consideration of government business order of the day no. 5 (Age Discrimination Bill 2003 and a related bill).

Question put and passed.

42 AGE DISCRIMINATION BILL 2003

AGE DISCRIMINATION (CONSEQUENTIAL PROVISIONS) BILL 2003

Order of the day read for the adjourned debate on the motion of the Minister for Family and Community Services (Senator Patterson)—That these bills be now read a second time.

Debate resumed.

At 10.50 pm: Debate was interrupted while Senator Kirk was speaking.

43 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 11.12 pm till Wednesday, 3 December 2003 at 9.30 am.

44 ATTENDANCE

Present, all senators except Senators Knowles*, Ian Macdonald, Moore and Murphy (* on leave).

HARRY EVANS
Clerk of the Senate