

2004

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

No. 6

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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 **GOVERNMENT DOCUMENT**

The following government document was tabled:

Alcohol Education and Rehabilitation Foundation Ltd—Report for 2003-04.

3 **ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION AMENDMENT BILL 2004**

The Minister for Justice and Customs (Senator Ellison), at the request of the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) and pursuant to notice, moved government business notice of motion no. 1—That the following bill be introduced:

A Bill for an Act to amend the *Aboriginal and Torres Strait Islander Commission Act 1989*, and for other purposes.

Question put and passed.

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

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

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*Consideration of legislation:* Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the next day of sitting which is more than 14 days after today.

4 **ORDER OF BUSINESS—REARRANGEMENT**

The Minister for Justice and Customs (Senator Ellison) moved—That government business notice of motion no. 2 standing in his name for today, relating to a proposal for capital works in the Parliamentary Zone, be postponed till 6 December 2004.

Question put and passed.

5 **NATIONAL SECURITY INFORMATION (CRIMINAL PROCEEDINGS) BILL 2004  
NATIONAL SECURITY INFORMATION (CRIMINAL PROCEEDINGS) (CONSEQUENTIAL  
AMENDMENTS) BILL 2004**

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

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*In the committee*

**NATIONAL SECURITY INFORMATION (CRIMINAL PROCEEDINGS) BILL 2004—**

Consideration resumed of the bill, as amended—and of the amendments moved by Senator Brown:

Clause 25, page 16 (line 3), omit subclause (4).

Clause 27, page 20 (line 31), omit subclause (5).

Clause 28, page 22 (line 6), omit subclause (7).

Clause 29, page 24 (after line 21), at the end of the clause, add:

- (6) It is a requirement of a closed hearing that a court notify in open court at a time proximate to a closed hearing the reason or reasons for holding the closed hearing.

Debate resumed.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 2

Senators—

Brown	Nettle (Teller)
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NOES, 42

Senators—

Allison	Eggleston (Teller)	Knowles	Patterson
Bartlett	Ellison	Lees	Ray
Bishop	Faulkner	Ludwig	Ridgeway
Buckland	Ferris	Lundy	Santoro
Campbell, George	Fifield	Mackay	Scullion
Carr	Forshaw	Marshall	Stephens
Cherry	Greig	McLucas	Tchen
Colbeck	Hogg	Moore	Webber
Collins	Hutchins	Murphy	Wong
Conroy	Johnston	Murray	
Crossin	Kirk	O'Brien	

Question negatived.

Senator Greig moved the following amendments together by leave:

Clause 27, page 19 (line 22) to page 20 (line 7), omit subclauses (1) and (2).

Clause 27, page 20 (lines 9 and 10), omit “a proceeding is covered by paragraph 14(a) (about a proceeding involving a trial) and, under section 26,”.

Clause 27, page 20 (line 11), after “time”, insert “before or”.

Clause 28, page 22 (lines 1 to 5), omit subclause (6), substitute:

- (6) If the proceeding is covered by paragraph 14(b) (about extradition proceedings), the court must adjourn the proceedings for the purpose of holding a hearing to decide whether to make an order under section 31 in relation to the calling of the witness.

Debate ensued.

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

Senator Greig moved the following amendments together by leave:

Clause 29, page 23 (lines 25 to 28), omit paragraphs (3)(a) and (b).

Clause 29, page 23 (line 33) to page 24 (line 1), omit “the defendant, the legal representative or”.

Debate ensued.

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

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

Clause 29, page 24 (after line 7), after subclause (3), insert:

- (3A) In considering whether to make an order under subsection (3) in relation to a legal representative of the defendant, the matters the court should consider include but are not limited to:
  - (a) the period in active practice without either previous criminal convictions or adverse findings in disciplinary matters;
  - (b) previous experience in handling confidential information;
  - (c) the effectiveness of any implied or express undertaking to use such information only for the purpose of defending an accused in the relevant court proceedings.

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

Clause 29, page 24 (lines 18 to 21), omit subclause (5), substitute:

- (5) The court must make the record available to, and only to:
  - (a) a court that hears an appeal against, or reviews, its decision on the hearing; and
  - (b) the parties to proceedings, unless the court determines that the provision of the record or part of the record to the parties would prejudice national security.

Clause 29, page 24 (after line 21) at the end of the clause, add:

- (6) Notwithstanding subsection (5), if a court makes an order under subsection 31(5), the court may make the record of the closed hearing, or part of the record of the closed hearing, available to the public, unless the court determines that the publication of the record or part of the record would prejudice national security.

Senator Brown moved the following amendment:

Clause 31, page 27 (lines 5 and 6), omit subclause (8).

Debate ensued.

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

Senator Brown moved the following amendment:

Clause 31, page 27 (after line 6), at the end of the clause, add:

- (9) Where a court makes an order permitting information to be disclosed as being subject to the Attorney-General’s non-disclosure certificate, the court must be satisfied that the amended document or substitution document to be adduced as evidence would provide the defendant with substantially the same ability to make his or her defence as would disclosure of the source document.

Debate ensued.

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

Senator Greig moved the following amendment:

Clause 32, page 27 (lines 17 to 29), omit subclauses (2) to (4).

Debate ensued.

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

Question—That the bill, as amended, be agreed to—divided in respect of clause 33.

Clause 33 agreed to.

Question—That the bill, as amended, be agreed to—divided in respect of Part 4.

Part 4 debated and agreed to.

Senator Brown moved the following amendment:

Page 32 (after line 15), at the end of Part 4, add:

**39A Court orders in relation to security clearances**

- (1) It is within the competence of a court in considering all the circumstances of a case, to determine whether a defendant's legal representative requires a security clearance before he or she can access information, and a court may so order.
- (2) A court may order that specified material not be disclosed to a defendant's legal representative unless he or she holds a security clearance at a specified level.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 2

Senators—

Brown Nettle (Teller)

NOES, 44

Senators—

Allison	Colbeck	Greig	Moore
Barnett	Collins	Hogg	Murray
Bartlett	Crossin	Hutchins	O'Brien
Bishop	Denman	Johnston	Patterson
Boswell	Eggleston	Knowles	Payne
Brandis	Ellison	Lightfoot	Ray
Buckland	Faulkner	Ludwig	Ridgeway
Campbell, George	Ferguson	Marshall	Scullion
Campbell, Ian	Ferris	Mason	Stephens
Chapman	Fifield	McGauran (Teller)	Tchen
Cherry	Forshaw	McLucas	Webber

Question negatived.

Bill, as amended, agreed to.

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**NATIONAL SECURITY INFORMATION (CRIMINAL PROCEEDINGS) (CONSEQUENTIAL AMENDMENTS) BILL 2004—**

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

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The National Security Information (Criminal Proceedings) Bill 2004 to be reported with amendments and the National Security Information (Criminal Proceedings) (Consequential Amendments) Bill 2004 to be reported without amendments.

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

On the motion of the Minister for Justice and Customs (Senator Ellison) the report from the committee was adopted.

Senator Ellison moved—That these bills be now read a third time.

Question put.

The Senate divided—

AYES, 35

Senators—

Barnett	Eggleston	Knowles	Patterson
Bishop	Ellison	Ludwig	Payne
Buckland	Ferguson	Lundy	Ray
Campbell, George	Ferris	Mackay	Scullion
Carr	Fifield	Marshall	Sherry
Colbeck	Forshaw	McGauran (Teller)	Stephens
Collins	Hutchins	McLucas	Tchen
Crossin	Johnston	Moore	Webber
Denman	Kirk	O'Brien	

NOES, 7

Senators—

Allison (Teller)	Brown	Murray	Ridgeway
Bartlett	Greig	Nettle	

Question agreed to.

Bills read a third time.

6 **AVIATION SECURITY AMENDMENT BILL 2004**

Order of the day read for the adjourned debate on the motion of the Minister for the Environment and Heritage (Senator Ian Campbell)—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 Allison moved the following amendments together by leave:

Page 2 (after line 11), after clause 3, add:

**4 Cessation of operation of Act**

This Act ceases to operate at the expiration of four years after its commencement.

Schedule 1, item 4, page 5 (lines 21 to 23), omit paragraph 74H(1)(j).

Debate ensued.

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

Bill agreed to.

Bill to be reported without amendment.

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

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

**7 FAMILY AND COMMUNITY SERVICES AND VETERANS' AFFAIRS LEGISLATION  
AMENDMENT (2004 ELECTION COMMITMENTS) BILL 2004**

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

Message no. 11, dated 30 November 2004—A Bill for an Act to amend the law relating to social security, veterans' entitlements and family assistance, and for related purposes.

The Minister for the Environment and Heritage (Senator Ian Campbell) 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 Ian Campbell moved—That this bill be now read a second time.

Debate ensued.

*At 12.45 pm:* Debate was interrupted while the Leader of the Opposition in the Senate (Senator Evans) was speaking.

**8 MATTERS OF PUBLIC INTEREST**

Matters of public interest were discussed.

*Suspension of sitting:* On the motion of the Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) the sitting of the Senate was suspended at 1.53 pm till 2 pm.

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*At 2 pm—*

**9 QUESTIONS**

Questions without notice were answered.



**10 DEFENCE—FINANCIAL ADMINISTRATION—ANSWER TO QUESTION**

The Leader of the Opposition in the Senate (Senator Evans) 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 Evans today relating to the financial administration of the Department of Defence.

Debate ensued.

Question put and passed.

**11 FOREIGN AFFAIRS—IRAQ—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 Defence (Senator Hill) to a question without notice asked by Senator Bartlett today relating to health conditions in Iraq.

Question put and passed.

**12 NOTICES**

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

- (a) acknowledges the threats facing the endangered Asian elephant throughout its natural range, including live trade, human-elephant conflict and poaching for ivory tusks, hide and meat;
- (b) notes that:
  - (i) the Asian elephant is listed as an Appendix I species under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES),
  - (ii) Appendix I species are those whose trade must be subject to particularly strict regulation, and only authorised in exceptional circumstances,
  - (iii) Australia has been a party to CITES since 1976,
  - (iv) implementation of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* serves as Australia's way of meeting its international obligations as a CITES party,
  - (v) under the Act, CITES Appendix I species cannot be imported for the purpose of exhibition, and zoos must prove that they are able to meet the biological and behavioural needs of the animals if importation is for reasons such as conservation breeding,
  - (vi) Australian zoos have requested permission from the Australian Government to import nine Asian elephants from Thailand as part of a captive breeding program,
  - (vii) research undertaken by Oxford University in 2002 and supported by peers has identified that zoos are unable to meet the biological and behavioural needs of elephants in captivity, as elephants in captivity suffer from stress and boredom leading to abnormal behaviours and have a greater incidence of infant mortality and early death, and
  - (viii) the proposed captive breeding program offers no conservation benefit to the Asian elephant species as no offspring will ever be returned to the wild and elephants do not breed successfully in captivity; and
- (c) calls on the Government to:
  - (i) reject the proposal that would allow the impending and any future importation of elephants from Thailand to Australian zoos,

- (ii) work with the zoo association and non-government organisations to undertake an assessment of welfare conditions for elephants currently held in Australian zoos, and
- (iii) earmark funding from the Regional Natural Heritage Program addressing biodiversity hotspots in the Asia Pacific region, for in situ conservation projects that will help to address the threats facing the Asian elephant in Thailand and other range states. (*general business notice of motion no. 27*)

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

- (a) notes that Friday, 3 December 2004, is International Day of People with a DisAbility;
- (b) further notes:
  - (i) the valuable and willing contribution made by people with disabilities to the development, strength and diversity of the Australian community,
  - (ii) that people with disabilities continue to experience barriers to employment, education, premises, technology, transport, accommodation, support and services that diminish their access to full participation in the community, and
  - (iii) that many people with disabilities and their carers live in poverty with increasing concern about the adequacy of future income and social support; and
- (c) calls on the Government to address barriers to participation by leading an active response to unmet need, reviewing funding arrangements through the Commonwealth-State/Territory Disability Agreement, providing increased access to education, employment and training options, reinstating a permanent Disability Discrimination Commissioner, and expediting the completion of standards under the *Disability Discrimination Act 1992*. (*general business notice of motion no. 28*)

Senator Allison: To move on the next day of sitting—That there be laid on the table by the Minister representing the Minister for Employment and Workplace Relations, no later than 5 pm on 6 December 2004, any determinations made by the Minister under subsections 22(1) and (2) of the *Air Passenger Ticket Levy (Collection) Act 2001*. (*general business notice of motion no. 29*)

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

- (a) notes the release of the report, *The enduring effects of war: health in Iraq 2004*;
- (b) notes that the report finds:
  - (i) that the risk of death from violence in the 18 months after the invasion was 58 times higher than in the 15 months before the invasion, while the risk of death from all causes was 2.5 times higher,
  - (ii) 32 per cent of children are chronically malnourished and 17 per cent are underweight,
  - (iii) since April 2003, at least 400 women and girls, some as young as eight, have been raped during or after the war, and
  - (iv) in 2003 over a quarter of primary care centres closed, over half of primary care facilities no longer provide family planning services and between 30 per cent and 40 per cent of women deliver their babies without qualified help; and

- (c) calls on the Government to:
  - (i) support a comprehensive independent investigation of casualties and the state of health in Iraq, and
  - (ii) increase humanitarian aid to Iraq to address health needs, in particular the re-establishment of safe, accessible primary health facilities. (*general business notice of motion no. 30*)

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

- (a) notes:
  - (i) ongoing concern about the political situation in Burma,
  - (ii) the continued detention of Daw Aung San Suu Kyi and reports that this detention has been extended by the military regime in Burma, and
  - (iii) the recent release of student leader Minko Naing and his call for urgent action to pursue democratic reform and national reconciliation; and
- (b) calls on the Government:
  - (i) to urge the Burmese junta to fully engage with the United Nations (UN) Secretary General Kofi Annan and the UN Special Envoy Tan Sri Razali Ismail in their work to find a political solution to Burma's problems,
  - (ii) to reiterate Australian demands for the release of the National League for Democracy's Vice-Chairman, U Tin Oo, and all the remaining political prisoners, and for the immediate and unconditional release of Daw Aung San Suu Kyi,
  - (iii) to support the Committee Representing People's Parliament mandate as the legitimate body to convene a democratic Parliament in Burma, according to the 1990 election result, and
  - (iv) support the Burmese National League for Democracy's call for the UN Security Council to convene a special session to consider what further measures the UN can take to encourage democratic reform and respect for human rights in Burma. (*general business notice of motion no. 31*)

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

- (a) notes that:
  - (i) international observers, including the International Election Monitoring Mission of the Organisation of Security and Cooperation in Europe have reported that the recent presidential election in Ukraine has fallen well short of international standards,
  - (ii) reported irregularities include suspiciously high voter turnout in several regions, the fraudulent use of absentee voting, intimidation of voters at some polling stations, abuse of state resources and overt media bias,
  - (iii) in such circumstances the officially declared results of the election cannot be taken to properly represent the will of the Ukrainian people, and
  - (iv) a resolution to the current political crisis in Ukraine can only be achieved through a new election, which is conducted in a transparent manner that meets international standards;
- (b) calls on the Government of Ukraine to:
  - (i) ensure the safety and welfare of all its citizens, including those taking part in peaceful demonstrations as part of the exercise of their democratic rights,

- (ii) hold a new presidential election based on democratic principles that:
  - (A) ensures absentee ballots are cast in a free and democratic manner, and are not subject to abuse,
  - (B) allows both presidential candidates equal and unbiased access to the mass media of Ukraine in the period leading up to the new election date, and
  - (C) ensures that international observers participate at all levels of the election process to achieve a result that is acceptable to all parties;
- (c) requests the President of the Senate to transmit this resolution to the outgoing President of Ukraine, Leonid Kuchma, the Parliament of Ukraine and the Ukrainian Ambassador to Australia; and
- (d) urges the Australian Government to make further representations to the above effect. (*general business notice of motion no. 32*)

The Leader of the Opposition in the Senate (Senator Evans), the Leader of the Australian Democrats (Senator Bartlett) and Senators Brown and Lees: To move on the next day of sitting—That the following matters be referred to the Finance and Public Administration References Committee for inquiry and report by 15 August 2005:

- (1) The administration of the Regional Partnerships program and the Sustainable Regions program, with particular reference to the process by which projects are proposed, considered and approved for funding, including:
  - (a) decisions to fund or not to fund particular projects;
  - (b) the recommendations of area consultative committees;
  - (c) the recommendations of departmental officers and recommendations from any other sources including from other agencies or other levels of government;
  - (d) the nature and extent of the respective roles of the administering department, minister and parliamentary secretary, other ministers and parliamentary secretaries, other senators or members and their advisers and staff in the process of selection of successful applications;
  - (e) the criteria used to take the decision to fund projects;
  - (f) the transparency and accountability of the process and outcomes;
  - (g) the mechanism for authorising the funding of projects;
  - (h) the constitutionality, legality and propriety of any practices whereby any members of either House of Parliament are excluded from committees, boards or other bodies involved in the consideration of proposed projects, or coerced or threatened in an effort to prevent them from freely communicating with their constituents; and
  - (i) whether the operation of the program is consistent with the Auditor-General's 'Better Practice Guide for the Administration of Grants', and is subject to sufficient independent audit.
- (2) With respect to the future administration of similar programs, any safeguards or guidelines which might be put in place to ensure proper accountability for the expenditure of public money, particularly the appropriate arrangements for independent audit of the funding of projects.
- (3) Any related matters.

Senator Brown: To move on 7 December 2004—That the Senate—

- (a) notes that Colombian Greens' politician and former presidential candidate, Ingrid Betancourt, together with her campaign manager, Clara Rojas, were kidnapped by Revolutionary Armed Forces of Colombia (FARC) guerrillas in February 2002 and remain in captivity in the jungle;
- (b) considers that political violence in Colombia will only be stopped if real negotiations take place and all hostages, including Ms Betancourt and Ms Rojas, are freed; and
- (c) calls on the Government to pressure the Uribe Government and FARC to negotiate now for a humanitarian agreement to release the hostages. (*general business notice of motion no. 33*)

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

- (a) congratulates the Alice Springs Aboriginal Housing Organisation, Tangentyere Council, on celebrating 25 years since its incorporation;
- (b) notes that Tangentyere Council is one of the largest Aboriginal organisations in Central Australia, incorporating 18 Aboriginal housing associations;
- (c) acknowledges the organisation was formed in the 1970s by Aboriginal people like Geoff Shaw and Eli and Wenten Rubuntja;
- (d) recognises that Tangentyere Council has played a key role in providing basic services, such as running water and shelter, to Aboriginal people living on the fringes of Alice Springs and has ensured that there are now special purpose leases and permanent housing for their members; and
- (e) congratulates the members and executive of Tangentyere Council, its Executive Director, William Tilmouth, and staff for their ongoing commitment, dedication and work. (*general business notice of motion no. 34*)

Senator Nettle: To move on the next day of sitting—That there be laid on the table by the Minister representing the Minister for Trade, no later than 4 pm on Tuesday, 7 December 2004, the final letters and any attachments and annexures exchanged between the governments of Australia and the United States of America (US) to finalise the free trade agreement between Australia and the US. (*general business notice of motion no. 35*)

Senator Brown: To move on 6 December 2004—That the Senate—

- (a) notes that:
  - (i) the Murray River is in crisis and urgently needs water to prevent irreversible loss of red gums, waterbirds and wetlands, and
  - (ii) disagreement between the Commonwealth and state governments has stymied implementation of their November 2003 commitment to return 500 gigalitres of water to the Murray River within 5 years;
- (b) urges the Commonwealth and state governments to act immediately to break the impasse; and
- (c) requests the Government to report to the Senate, on or before 8 December 2004, on when water will actually be returned to the Murray River. (*general business notice of motion no. 36*)

Senators Nettle and Brown: To move on the next day of sitting—That the Senate—

- (a) notes the report of the International Red Cross into the treatment of prisoners at Guantanamo Bay, Cuba, and the report's conclusion that interrogation techniques amounted to torture;

- (b) expresses concern that such techniques, which contravene international standards, may have been used on Australian prisoners, David Hicks and Mamdouh Habib, who are being held at Guantanamo Bay; and
- (c) calls on the Government to act immediately to return David Hicks and Mamdouh Habib to Australia. (*general business notice of motion no. 37*)

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

- (a) notes that 1 December 2004 was West Papuan National Day, the 43rd anniversary of the 1961 West Papuan Declaration of Independence from Dutch colonial rule; and
- (b) calls on the Australian Government to urge the Indonesian Government to lift the ban on the flying of the Papuans' morning star flag. (*general business notice of motion no. 38*)

Senator Nettle: To move on the next day of sitting—That the provisions of the Private Health Insurance Incentives Amendment Bill 2004 be referred to the Community Affairs Legislation Committee for inquiry and report by 9 February 2005.

### 13 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 12 OF 2004

The Chair of the Selection of Bills Committee (Senator Ferris) tabled the following report:

#### SELECTION OF BILLS COMMITTEE REPORT NO. 12 OF 2004

1. The committee met on Tuesday, 30 November 2004.
2. The committee resolved to recommend—That—
  - (a) the Administrative Appeals Tribunal Amendment Bill 2004 be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report by 10 March 2005;
  - (b) the Disability Discrimination Amendment (Education Standards) Bill 2004 be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report by 7 December 2004;
  - (c) the *provisions* of the National Water Commission Bill 2004 be *referred immediately* to the Environment, Communications, Information Technology and the Arts Legislation Committee for inquiry and report by 7 December 2004;
  - (d) the *provisions* of the Private Health Insurance Incentives Amendment Bill 2004 be *referred immediately* to the Community Affairs Legislation Committee for inquiry and report by 8 February 2005; and
  - (e) the *provisions* of the Tax Laws Amendment (Superannuation Reporting) Bill 2004 be *referred immediately* to the Economics Legislation Committee for inquiry and report by 7 December 2004.
3. The committee resolved to recommend—That the following bills *not* be referred to committees:
  - Agriculture, Fisheries and Forestry Legislation Amendment Bill (No. 2) 2004
  - Aviation Security Amendment Bill 2004
  - Bankruptcy and Family Law Legislation Amendment Bill 2004
  - Classification (Publications, Films and Computer Games) Amendment Bill (No. 2) 2004

Family and Community Services and Veterans' Affairs Legislation Amendment (2004 Election Commitments) Bill 2004  
Family Assistance Legislation Amendment (Adjustment of Certain FTB Child Rates) Bill 2004  
Health Insurance Amendment (100% Medicare Rebate and Other Measures) Bill 2004  
Higher Education Legislation Amendment Bill (No. 3) 2004  
Indigenous Education (Targeted Assistance) Amendment Bill 2004  
Legislative Instruments (Technical Amendment) Bill 2004  
New International Tax Arrangements (Managed Funds and Other Measures) Bill 2004  
Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Bill 2004  
States Grants (Primary and Secondary Education Assistance) Legislation Amendment Bill 2004  
Sex Discrimination Amendment (Teaching Profession) Bill 2004  
Superannuation Legislation Amendment Bill 2004  
Tax Laws Amendment (2004 Measures No. 6) Bill 2004  
Tax Laws Amendment (Small Business Measures) Bill 2004  
Textile, Clothing and Footwear Strategic Investment Program Amendment (Post-2005 Scheme) Bill 2004  
Customs Tariff Amendment (Textile, Clothing and Footwear Post-2005 Arrangements) Bill 2004  
Vocational Education and Training Funding Amendment Bill 2004.

***The committee recommends accordingly.***

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

*Bills deferred from meeting of 30 November 2004*

Australian Security Intelligence Organisation Amendment Bill 2004  
National Security Information (Criminal Proceedings) Bill 2004  
National Security Information (Criminal Proceedings) (Consequential Amendments) Bill 2004  
Postal Industry Ombudsman Bill 2004  
Tax Laws Amendment (Retirement Villages) Bill 2004.

Jeannie Ferris  
Chair  
1 December 2004.

Senator Ferris moved—That the report be adopted.

Question put and passed.

**14 LEAVE OF ABSENCE**

Senator Ferris, by leave and at the request of Senator Harradine, moved—That leave of absence be granted to Senator Harradine on 29 November 2004, on account of family illness.

Question put and passed.

**15 POSTPONEMENTS**

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Stott Despoja for today, proposing the reference of matters to the Legal and Constitutional References Committee, postponed till 6 December 2004.

Business of the Senate notice of motion no. 2 standing in the name of Senator Brown for today, proposing the reference of matters to the Finance and Public Administration References Committee, postponed till 2 December 2004.

**16 CONSTITUTION ALTERATION (RIGHT TO STAND FOR PARLIAMENT—QUALIFICATION OF MEMBERS AND CANDIDATES) 1998 (NO. 2) [2002]—RESTORATION TO NOTICE PAPER**

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 22—

- (1) That so much of standing orders be suspended as would prevent this resolution having effect.
- (2) That the Constitution Alteration (Right to Stand for Parliament—Qualification of Members and Candidates) 1998 (No. 2) [2002] be recommitted, and that consideration of the bill in committee of the whole be an order of the day for the next day of sitting.
- (3) That the committee consider the bill as reported by the committee of the whole on 15 May 2003.

Question put and passed.

**17 ENVIRONMENT—HIGH-INTENSITY ACTIVE NAVAL SONAR**

Senator Allison, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 3—That the Senate—

- (a) notes:
  - (i) the resolution on 28 October 2004 by the European Parliament which calls on its 25 member states to stop deploying high-intensity active naval sonar until more is known about the harm it inflicts on whales and other marine life,
  - (ii) the call for the establishment of a multinational task force for developing international agreements on sonar and other sources of intense ocean noise and to exclude and seek alternatives to the harmful sonars used today, and
  - (iii) the July 2004 report of the Scientific Committee of the International Whaling Commission which found compelling evidence that entire populations of whales and other marine mammals are potentially threatened by increasingly intense man-made underwater noise both regionally and ocean-wide; and
- (b) calls on the Government to:
  - (i) support the proposed multinational task force,
  - (ii) encourage the United States of America to do likewise, and
  - (iii) review future use of sonar in light of the findings.

Question put and passed.



**18 HEALTH—WORLD AIDS DAY**

Senator Allison, also on behalf of Senator Greig, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 25—That the Senate—

- (a) notes that Wednesday, 1 December 2004 is World AIDS Day;
- (b) notes that:
  - (i) the Government has abrogated its leadership role in the area of domestic HIV/AIDS prevention by continuing to pursue a flawed process for developing the new HIV Strategy and continually delaying the development and release of the 5th National HIV Strategy,
  - (ii) in 2 decades the AIDS pandemic has claimed more than 20 million lives, 3 million of them in 2003, with little hope for improvement in 2004, as the pandemic continues to accelerate,
  - (iii) more than 38 million people are currently living with HIV/AIDS,
  - (iv) less than 20 per cent of people at high risk of HIV infection have access to proven prevention interventions which, if increased, could avert an estimated 29 million to 45 million new infections by 2010,
  - (v) in 2003 there were 5 million new HIV infections, of which women accounted for nearly half of all infected adults and nearly three-fifths of those in sub-Saharan Africa, and
  - (vi) half of all new HIV infections are among young people – four infections every minute – with young people particularly at risk, especially in Africa, where the infection rates for young women are two to three times those of young men; and
- (c) calls on the Government to:
  - (i) expedite the conclusion of the 5th National HIV Strategy,
  - (ii) fulfil the agreed target of 0.7 per cent of gross national product for official development assistance, and
  - (iii) support the expansion of HIV/AIDS prevention activities both locally and internationally and ensure that they are integrated into comprehensive sexual and reproductive health programs.

Senator George Campbell, by leave, moved the following amendment:

Omit subparagraph (c)(ii).

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

Main question put and passed (*but see entry no. 22*).

**19 INDIGENOUS AUSTRALIANS—PALM ISLAND**

Senator Brown, also on behalf of Senators Ridgeway and Carr, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 20—That the Senate, alarmed by the death in custody of an Aboriginal citizen on Palm Island and the destruction of property consequent on his death, and the operations of riot police involving men, women and children on Palm Island and responding to the unacceptable status and life outcomes of Indigenous Australians on Palm Island and throughout the nation:

- (a) expresses to the Palm Island community its deepest regret and concern; and

- (b) calls on the Federal and Queensland Governments to intervene, using all available powers and persuasion, to end hostilities, investigate the events and put in place tangible measures to improve Indigenous affairs on Palm Island.

Question put and passed.

**20 SCRAFTON EVIDENCE—SELECT COMMITTEE—EXTENSION OF TIME TO REPORT**

Senator George Campbell, at the request of the Chair of the Select Committee on the Scrafton Evidence (Senator Collins) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 24—That the time for the presentation of the report of the Select Committee on the Scrafton Evidence be extended to 9 December 2004.

Question put and passed.

**21 ENVIRONMENT—URANIUM ENRICHMENT TECHNOLOGIES**

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 26—That the Senate—

- (a) notes that:
- (i) research and development of laser enrichment technology is being pursued at Lucas Heights, by a private company, Silex Systems Ltd,
  - (ii) this project is protected by a bilateral agreement with the Government of the United States of America, which was signed to enable the transfer of restricted enrichment technology and equipment for research and development,
  - (iii) Silex Systems Ltd has imported uranium for enrichment as part of this project, and
  - (iv) the Australian Nuclear Science and Technology Organisation has processed radioactive waste produced as a result of these activities; and
- (b) calls on the Government to:
- (i) recognise that the technology being developed by Silex Systems Ltd could constitute a threat to internationally agreed goals of nuclear non-proliferation, and
  - (ii) legislate to ban the development of uranium enrichment technologies in Australia.

Question put.

The Senate divided—

AYES, 8

Senators—

Allison (Teller)  
Bartlett

Brown  
Cherry

Greig  
Murray

Nettle  
Ridgeway

## NOES, 42

Senators—

Barnett	Ellison	Knowles	Payne
Bishop	Faulkner	Ludwig	Ray
Brandis	Ferguson	Lundy	Scullion
Buckland	Ferris (Teller)	Macdonald, Sandy	Sherry
Campbell, George	Fifield	Mackay	Stephens
Carr	Forshaw	Marshall	Tchen
Chapman	Hogg	Mason	Troeth
Colbeck	Humphries	McGauran	Webber
Crossin	Hutchins	McLucas	Wong
Denman	Johnston	Moore	
Eggleston	Kirk	O'Brien	

Question negatived.

**22 HEALTH—WORLD AIDS DAY**

Senator George Campbell asked that the questions on general business notice of motion no. 25 be put again (*see entry no. 18*).

Leave was granted for the questions to be put again.

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

Question—That the motion, as amended, be agreed to—put and passed.

**23 URGENCY MOTION—ABORIGINAL DEATHS IN CUSTODY**

The Acting Deputy President (Senator Chapman) informed the Senate that the President had received a letter from Senator Ridgeway advising that today he intended to move—That, in the opinion of the Senate, the following is a matter of urgency:

The need for the Commonwealth Government to take responsibility for leadership at a national level to reduce incarceration rates of Indigenous Australians and address the continuing problem of Indigenous deaths in custody – made especially visible by the Redfern and Palm Island race riots in 2004 – in particular, the need for the Commonwealth Government to re-institute the requirements of the first recommendation of the Royal Commission into Aboriginal Deaths in Custody, including annual reporting by state, territory and federal governments on the implementation of the recommendations of the Royal Commission.

The proposal was supported by 4 senators.

Senator Ridgeway moved the motion.

Debate ensued.

Question put and passed.

**24 SCRUTINY OF BILLS—STANDING COMMITTEE—11TH REPORT AND ALERT DIGEST NO. 11 OF 2004**

Senator Denman, at the request of the Chairman of the Standing Committee for the Scrutiny of Bills (Senator Ray), tabled the following report and document:

Scrutiny of Bills—Standing Committee—

11th report of 2004, dated 1 December 2004.

Alert Digest No. 11 of 2004, dated 1 December 2004.

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

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

Question put and passed.

## 25 COMMITTEES—MATTERS REFERRED TO COMMITTEES IN PREVIOUS PARLIAMENT

Senator Eggleston, at the request of the chairs of the respective committees, tabled the following reports:

### Community Affairs References Committee—

The Committee met and considered references not disposed of at the end of the 40th Parliament and resolved to **recommend** to the Senate that the following inquiries of the 40th Parliament be re-adopted:

Inquiry into Children in Institutional Care, with a reporting date of 17 March 2005.

Inquiry into Aged Care, with a reporting date of 23 June 2005.

That, in respect of each of the matters to be referred to the Committee, it have power to consider and use the records of the Community Affairs References Committee appointed in the previous parliament.

Senator Gavin Marshall

Chair

30 November 2004.

### Environment, Communications, Information Technology and the Arts References Committee—

The Senate Environment, Communications, Information Technology and the Arts References Committee met on 30 November 2004 and considered references not disposed of at the end of the 40th Parliament and resolved to **recommend** to the Senate:

That the following inquiries of the 40th Parliament be re-adopted:

Regulation, control and management of invasive species (*reporting date: 9 December 2004*)

Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002 (*reporting date: 9 December 2004*)

Further, the Committee resolved to recommend to the Senate that, in respect of each of the matters to be referred to the Committee, it have power to consider and use the records of the Environment, Communications, Information Technology and the Arts References Committee appointed in the previous Parliament.

Senator John Cherry

Chair

30 November 2004.

### Rural and Regional Affairs and Transport Legislation Committee—

The Senate Rural and Regional Affairs and Transport Legislation Committee met on 18 and 30 November 2004 and considered references not disposed of at the end of the 40th Parliament and resolved to **recommend** to the Senate:

That the following inquiries of the 40th parliament be re-adopted:

Administration of Biosecurity Australia – Revised draft import risk analysis for bananas from the Phillipines (*reporting date: last sitting day in March 2005*)

Administration of Biosecurity Australia – Revised draft import risk assessment for apples from New Zealand (*reporting date: last sitting day in March 2005*)

Further, the Committee resolved to recommend to the Senate that, in respect of each of the matters to be referred to the committee, it have power to consider and use the records of the Rural and Regional Affairs and Transport Legislation Committee appointed in the previous parliament.

Senator Heffernan

Chair

30 November 2004.

Senator Eggleston, by leave, moved—That the reports be adopted.

Question put and passed.

**26 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—BUDGET ESTIMATES 2002-03, 2003-04 AND 2004-05**

Senator Eggleston, at the request of the Acting Chair of the Employment, Workplace Relations and Education Legislation Committee (Senator Barnett), tabled additional information received by the committee—

Budget estimates 2002-03 (Supplementary)—vol. 5.

Budget estimates 2003-04 (Supplementary)—vol. 6.

Budget estimates 2004-05—vols 1 to 6.

**27 COMMONWEALTH PARLIAMENTARY ASSOCIATION—50TH CONFERENCE—DOCUMENT**

Senator Hogg, by leave, tabled the following document:

Commonwealth Parliamentary Association—50th Commonwealth Parliamentary Conference, Quebec and Toronto, Canada, 1 to 9 September 2004 and bilateral visit to the United States of America, 9 to 17 September 2004—Report, dated November 2004.

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

Debate ensued.

Question put and passed.

**28 DOCUMENTS**

The following documents were tabled by the Clerk:

Defence Act—Determinations under section 58H—Defence Force Remuneration Tribunal—Determinations Nos 12 and 14 of 2004.

Export Control Act—Export Control (Orders) Regulations—

Export Control (Animals) Order 2004.

Prescribed Goods (General) Amendment Orders 2004 (No. 4).

Financial Management and Accountability Act—Statement under subsection 55(3) relating to the delay in provision of the 2003-04 Consolidated Financial Statements to the Auditor-General, dated 1 December 2004.

Higher Education Funding Act—Determination under section 27A—Determination No. T57-2004.

Higher Education Support Act—

Determination under section 36-15, dated 19 August 2004.

- Funding agreement under section 30-25, dated—
- 2 September 2004—University of Canberra.
  - 7 September 2004—University of Queensland.
  - 9 September 2004—University of Sunshine Coast.
  - 17 September 2004—Australian Catholic University Limited.
  - 18 October 2004—University of Southern Queensland.
  - 22 October 2004—Edith Cowan University.
  - 25 October 2004—
    - Australian Maritime College.
    - University of Ballarat.
    - University of Tasmania.
  - 26 October 2004—
    - Charles Sturt University.
    - Griffith University.
    - Royal Melbourne Institute of Technology.
    - Southern Cross University.
    - Swinburne University of Technology.
    - University of New England.
  - 1 November 2004—
    - Monash University.
    - Murdoch University.
    - Victoria University of Technology.
  - 11 November 2004—
    - Charles Darwin University.
    - Curtin University of Technology.
    - Deakin University.
    - Flinders University of South Australia.
    - Queensland University of Technology.
- Notice of approval of a higher education provider under section 16-50—  
Sydney College of Divinity Ltd, dated 26 November 2004.

## 29 COMMITTEES—CHANGES IN MEMBERSHIP

The Acting Deputy President (Senator Cherry) informed the Senate that the President had received letters requesting changes in the membership of various committees.

The Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Colbeck), by leave, moved—That senators be discharged from and appointed to committees as follows:

### **ASIO, ASIS and DSD—Joint Statutory Committee—**

Appointed—Senator Ray

### **Australian Crime Commission—Joint Statutory Committee—**

Appointed—Senators Denman and Hutchins

### **Broadcasting of Parliamentary Proceedings—Joint Statutory Committee—**

Appointed—Senator Faulkner

### **Community Affairs Legislation Committee—**

Discharged—Senator Marshall

Appointed—Senator Moore

### **Corporations and Financial Services—Joint Statutory Committee—**

Appointed—Senators Lundy and Wong

**Electoral Matters—Joint Standing Committee—**

Appointed—Senators Carr and Forshaw

**Employment, Workplace Relations and Education Legislation Committee—**

Appointed—Substitute member: Senator Crossin to replace Senator Wong for matters relating to the Industrial Relations portfolio

**Employment, Workplace Relations and Education References Committee—**

Discharged—Substitute member: Senator Carr

Appointed—Participating member: Senator Hutchins

**Foreign Affairs, Defence and Trade—Joint Standing Committee—**

Appointed—Senators Bolkus, Crossin, Hutchins, Kirk and Lundy

**Foreign Affairs, Defence and Trade Legislation Committee—**

Discharged—Substitute member: Senator Hogg

**Migration—Joint Standing Committee—**

Appointed—Senator Kirk

**National Capital and External Territories—Joint Standing Committee—**

Appointed—Senators Crossin and Lundy

**Native Title and the Aboriginal and Torres Strait Islander Land Fund—Joint Statutory Committee—**

Appointed—Senators Carr and Crossin

**Public Accounts and Audit—Joint Statutory Committee—**

Appointed—Senators Hogg and Moore

**Public Works—Joint Statutory Committee—**

Appointed—Senator Forshaw

**Treaties—Joint Standing Committee—**

Appointed—Senators Collins, Mackay and Stephens.

Question put and passed.

**30 HEALTH INSURANCE AMENDMENT (100% MEDICARE REBATE AND OTHER MEASURES) BILL 2004**

**VOCATIONAL EDUCATION AND TRAINING FUNDING AMENDMENT BILL 2004**

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

Message no. 12, dated 1 December 2004—A Bill for an Act to amend the *Health Insurance Act 1973*, and for related purposes.

Message no. 13, dated 1 December 2004—A Bill for an Act to amend the *Vocational Education and Training Funding Act 1992*, and for related purposes.

The Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Colbeck) 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 Colbeck moved—That these bills be now read a second time.

On the motion of Senator Buckland the debate was adjourned.

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

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

Question put and passed.

**31 FAMILY AND COMMUNITY SERVICES AND VETERANS' AFFAIRS LEGISLATION  
AMENDMENT (2004 ELECTION COMMITMENTS) BILL 2004**

Order read for the adjourned debate on the motion of the Minister for the Environment and Heritage (Senator Ian Campbell)—That this bill be now read a second time.

Debate resumed.

The Leader of the Australian Democrats (Senator Bartlett) moved the following amendment:

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

- (a) is of the view that the harsh and unsatisfactory indexation arrangements for totally and permanently incapacitated veterans require immediate adjustment so that these veterans obtain the full benefits of indexation to all components of their pension; and
- (b) condemns the Government for missing this opportunity of settling fair indexation arrangements for those veterans who are totally and permanently incapacitated”.

Debate ensued.

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

Main question, as amended, put and passed.

Bill read a second time.

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

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*In the committee*

Bill taken as a whole by leave.

Senator Greig moved the following requests for amendments together by leave:

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

Schedule 1, item 4, page 4 (line 22), omit paragraph 1061T(a).

Schedule 1, item 4, page 6 (cell at table items 1 to 4, column 3), omit “\$100”, substitute “\$200”.

Schedule 1, item 4, page 6 (cell at table item 5, column 3), omit “half”.

Schedule 1, item 22, page 12 (lines 11 and 12), omit paragraph 118OA(1)(a).

Schedule 1, item 22, page 12 (lines 19 to 24), omit subsection 118OA(2).

Schedule 1, item 22, page 13 (cell at table items 1 to 3, column 3), omit “\$100”, substitute “\$200”.

Schedule 1, item 22, page 13 (cell at table item 4, column 3), omit “half”.

Debate ensued.

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



Senator Greig moved the following requests for amendments together by leave:

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

Schedule 1, page 11 (after line 15), before item 20, insert:

**19A Subsection 5E(1) (after the definition of *couple*)**

Insert:

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

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

Schedule 1, page 11 (after line 15), before item 20, insert:

**19B Subparagraphs 5E(2)(b)(i) to (iii)**

Repeal the subparagraphs, substitute:

- (i) the person is living with another person (in this paragraph called the *partner*);
- (ii) the person is not legally married to the partner;
- (iii) the person and the partner are, in the Commission's opinion (formed as mentioned in section 11A), in an interdependence relationship;

Schedule 1, page 11 (after line 15), before item 20, insert:

**19C After subsection 5R(3)**

Insert:

- (3A) The determinations made under subsection (3) are to be applied to individual cases only and not to classes of persons.

Debate ensued.

The Minister for Family and Community Services (Senator Patterson) moved—That the committee report progress and ask leave to sit again.

Question put and passed.

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

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

**32 CORPORATIONS AND FINANCIAL SERVICES—JOINT STATUTORY COMMITTEE—  
APPOINTMENT OF MEMBERS**

The Deputy President (Senator Hogg) informed the Senate that the President had received a letter nominating senators to be members of a committee.

The Minister for Family and Community Services (Senator Patterson), by leave, moved—That Senators Brandis, Chapman and Murray be appointed to the Parliamentary Joint Committee on Corporations and Financial Services.

Question put and passed.

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*At 6.50 pm—*

**33 GOVERNMENT DOCUMENTS—CONSIDERATION**

The government document tabled earlier today (*see entry no. 2*) was called on but no motion was moved.

**34 ADJOURNMENT**

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

Debate ensued.

The Senate adjourned at 7.30 pm till Thursday, 2 December 2004 at 9.30 am.

**35 ATTENDANCE**

Present, all senators except Senators Cook\*, Harris, Stott Despoja\* and Tierney\* (\* on leave).

**HARRY EVANS**  
Clerk of the Senate