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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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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 DOCUMENTS**

The following government documents were tabled:

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 New Zealand to amend Article 3 of the Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) of 28 March 1983.

Treaty between the Government of Australia and the Government of the French Republic on cooperation in the maritime areas adjacent to the French Southern and Antarctic Territories (TAAF), Heard Island and the McDonald Islands (Canberra, 24 November 2003).

Text, together with national interest analysis, regulation impact statement and annexures—Australia-Thailand Free Trade Agreement, and associated exchanges of letters.

United Nations—Optional Protocol to the International Covenant on Civil and Political Rights—Communications—

No. 1154/2003—Outline.

No. 1243/2004—Outline.

**3 ROUTINE OF BUSINESS—VARIATION—FIRST SPEECH**

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), pursuant to notice, moved government business notice of motion no. 1—That consideration of the business before the Senate on Wednesday, 12 May 2004 be interrupted at approximately 5 pm, but not so as to interrupt a senator speaking, to enable Senator Fifield to make his first speech without any question before the chair.

Question put and passed.

**4 POSTAL SERVICES LEGISLATION AMENDMENT BILL 2003**

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

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*In the committee*

Bill taken as a whole by leave.

Question—That the bill be agreed to—divided in respect of Schedule 1, item 21, Division 1 and Schedule 1, items 1 to 6, 8 to 10, 19 and 20.

Question—That Schedule 1, item 21, Division 1 and Schedule 1, items 1 to 6, 8 to 10, 19 and 20 stand as printed—put and negatived.

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

Clause 4, page 2 (line 4) to page 3 (line 2), omit subclauses (1) to (5).

Clause 4, page 3 (lines 8 to 14), omit subclause (7).

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 11 to 14.

Schedule 1, items 11 to 14 debated.

Question—That Schedule 1, items 11 to 14 stand as printed—put.

The committee divided—

#### AYES, 39

Senators—

Abetz	Coonan	Kemp	Ridgeway
Allison	Eggleston (Teller)	Knowles	Santoro
Barnett	Ellison	Lees	Scullion
Bartlett	Ferris	Lightfoot	Stott Despoja
Boswell	Fifield	Macdonald, Ian	Tchen
Brandis	Greig	Macdonald, Sandy	Tierney
Calvert	Heffernan	McGauran	Troeth
Chapman	Hill	Murray	Vanstone
Cherry	Humphries	Patterson	Watson
Colbeck	Johnston	Payne	

#### NOES, 28

Senators—

Bishop	Conroy	Kirk	Murphy
Bolkus	Cook	Ludwig	Nettle
Brown	Crossin	Lundy	O'Brien
Buckland (Teller)	Forshaw	Mackay	Sherry
Campbell, George	Harradine	Marshall	Stephens
Carr	Hogg	McLucas	Webber
Collins	Hutchins	Moore	Wong

Items agreed to.

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

Schedule 1, page 6 (after line 34), after item 14, insert:

#### **14A After section 30**

Insert:

#### **30A Enforcement for infringement of reserved services**

- (1) A person shall not engage in conduct that involves an infringement of Australia Post's exclusive right to undertake the reserved services.
- (2) For the purposes of this section, *person* means any of the following:
  - (a) a company;
  - (b) a partnership;
  - (c) a person in the capacity of trustee;
  - (d) any other person.

- (3) If the Federal Court is satisfied that a person has contravened subsection (1), the Court may order the person to pay to the Commonwealth such pecuniary penalty, in respect of each contravention, as the Court determines to be appropriate.
- (4) In determining the pecuniary penalty, the Court must have regard to all relevant matters, including:
  - (a) the nature and extent of the contravention; and
  - (b) the nature and extent of any loss or damage suffered as a result of the contravention; and
  - (c) the circumstances in which the contravention took place; and
  - (d) whether the person has previously been found by the Court in proceedings under this Act to have engaged in any similar conduct.
- (5) The pecuniary penalty payable under subsection (3) by a body corporate is not to exceed \$250,000 for each contravention.
- (6) The pecuniary penalty payable under subsection (3) by a person other than a body corporate is not to exceed \$50,000 for each contravention.
- (7) The Minister or the ACCC may institute a proceeding in the Federal Court for the recovery on behalf of the Commonwealth of a pecuniary penalty referred to in subsection (3).
- (8) A proceeding under subsection (7) may be commenced within 6 years after the contravention.
- (9) For the avoidance of doubt, the remedy in this section is in addition to that provided in section 31 of this Act.

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

Schedule 1, page 5 (after line 16), after item 10, insert:

**10A At the end of section 28C**

Add:

- (3) Without limiting the operation of subsection (1), the prescribed performance standards may relate to methods of determining the level of mail service for a particular area.

Schedule 1, page 5 (after line 16), after item 10, insert:

**10B Subsection 28E(1)**

After “Australia Post must”, insert “, unless the Minister considers it unnecessary in the circumstances,”.

Schedule 1, page 5 (after line 16), after item 10, insert:

**10C After section 28E**

Insert:

**28F Minister may request additional reports**

- (1) The Minister may request the Auditor-General to monitor and report to the Minister on specified matters relating to Australia Post’s supply of postal services.
- (2) The Minister may publish the report.

- (3) The Minister may exclude from the report referred to in subsection (2) any information that Australia Post claims is commercial-in-confidence information if the Minister is satisfied that:
- (a) the claim is justified; or
  - (b) it is not in the public interest to publish the information.

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*Explanatory memorandum:* The Minister for the Arts and Sport (Senator Kemp) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

---

Senator Kemp moved the following amendment:

Schedule 1, item 22, page 12 (line 24) to page 13 (line 22), omit section 56A, substitute:

**56A Recovery of costs incurred by the ACA and the ACCC**

*Minister may estimate costs for financial year*

- (1) The Minister may, during a financial year:
  - (a) estimate the ACA's and the ACCC's costs for that financial year; and
  - (b) notify Australia Post of the Minister's estimate.

*Minister may determine actual costs for previous financial year*

- (2) The Minister may, in a financial year, determine the ACA's and the ACCC's actual costs for the previous financial year.

*Minister may direct Australia Post to pay adjusted estimated costs to ACA and ACCC*

- (3) The Minister may, in a financial year, direct Australia Post:
  - (a) to pay to the ACA, on behalf of the Commonwealth, the Minister's estimate of the ACA's costs for that financial year, adjusted in accordance with subsection (4) or (5); and
  - (b) to pay to the ACCC, on behalf of the Commonwealth, the Minister's estimate of the ACCC's costs for that financial year, adjusted in accordance with subsection (7) or (8).

*Adjustment for ACA*

- (4) If:
  - (a) in the previous financial year, the Minister directed Australia Post to pay an amount to the ACA; and
  - (b) the Minister determines that the ACA's actual costs for that previous financial year exceed the costs the Minister estimated for the ACA that year;

the amount the Minister may direct Australia Post to pay to the ACA under subsection (3) is increased by that excess.

- (5) If:
  - (a) in the previous financial year, the Minister directed Australia Post to pay an amount to the ACA; and

(b) the Minister determines that the ACA's actual costs for that previous financial year fall short of the costs the Minister estimated for the ACA that year;

the amount the Minister may direct Australia Post to pay to the ACA under subsection (3) is reduced by that shortfall.

(6) The ACA must, as soon as practicable, bank any amount it receives under subsection (3) in an official account within the meaning of the *Financial Management and Accountability Act 1997*.

*Adjustment for ACCC*

(7) If:

(a) in the previous financial year, the Minister directed Australia Post to pay an amount to the ACCC; and

(b) the Minister determines that the ACCC's actual costs for that previous financial year exceed the costs the Minister estimated for the ACCC that year;

the amount the Minister may direct Australia Post to pay to the ACCC under subsection (3) is increased by that excess.

(8) If:

(a) in the previous financial year, the Minister directed Australia Post to pay an amount to the ACCC; and

(b) the Minister determines that the ACCC's actual costs for that previous financial year fall short of the costs the Minister estimated for the ACCC that year;

the amount the Minister may direct Australia Post to pay to the ACCC under subsection (3) is reduced by that shortfall.

Note: Because the ACCC is a prescribed agency for the purposes of the *Financial Management and Accountability Act 1997*, its officials are required to deal with amounts received under subsection (3) in accordance with that Act.

*Costs*

(9) In this section:

**ACA's costs** means the costs of the ACA in performing its postal functions.

**ACCC's costs** means the costs of the ACCC in performing its functions under this Act.

**costs** means an amount that, in accordance with accrual-based accounting principles, is treated as a cost.

Debate ensued.

Senator Bishop moved the following amendments to Senator Kemp's proposed amendment together by leave:

Heading to section 56A, omit "**ACA and the**".

Paragraph 56A(1)(a), omit "ACA's and the".

Subsection 56A(2), omit "ACA's and the".

Heading to subsection 56A(3), omit "*ACA and*".

Omit subsection 56A(3), substitute:

- (3) The Minister may, in a financial year, direct Australia Post to pay to the ACCC, on behalf of the Commonwealth, the Minister's estimate of the ACCC's costs for that financial year, adjusted in accordance with subsection (7) or (8).

Omit subsections 56A(4) to (6).

Subsection 56A(9), omit the definition of *ACA's costs*.

Debate ensued.

Question—That Senator Bishop's amendments to Senator Kemp's proposed amendment be agreed to—put and passed.

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

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

Senator Kemp moved—That this bill be now read a third time.

Question put.

The Senate divided—

#### AYES, 39

Senators—

Abetz	Coonan	Knowles	Ridgeway
Allison	Eggleston	Lees	Santoro
Barnett	Ellison	Lightfoot	Scullion
Bartlett	Ferris	Macdonald, Ian	Stott Despoja
Boswell	Fifield	Macdonald, Sandy	Tchen
Brandis	Greig	Mason	Tierney
Calvert	Heffernan	McGauran (Teller)	Troeth
Chapman	Humphries	Murray	Vanstone
Cherry	Johnston	Patterson	Watson
Colbeck	Kemp	Payne	

#### NOES, 28

Senators—

Bishop	Conroy	Hutchins	Murphy
Bolkus	Cook	Kirk	Nettle
Brown	Crossin	Ludwig	O'Brien
Buckland (Teller)	Evans	Lundy	Sherry
Campbell, George	Forshaw	Mackay	Stephens
Carr	Harradine	Marshall	Webber
Collins	Hogg	Moore	Wong

Question agreed to.

Bill read a third time.



5 **VETERANS' ENTITLEMENTS AMENDMENT (ELECTRONIC DELIVERY) BILL 2004**

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Abetz)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

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

On the motion of the Minister for the Arts and Sport (Senator Kemp) the bill was read a third time.

6 **AUSTRALIAN FEDERAL POLICE AND OTHER LEGISLATION AMENDMENT BILL 2003 [2004]**

Order of the day read for the adjourned debate on the motion of the Minister for Defence (Senator Hill)—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.

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*In the committee*

Bill taken as a whole by leave.

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

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

Clause 2, page 3 (table item 11, 1st column), omit “9 to 11”, substitute “9 to 13”.

Clause 2, page 3 (table item 12), omit the table item.

Clause 2, page 4 (table item 13), omit the table item.

Schedule 1, item 58, page 33 (line 4), omit “*authority of the Commonwealth*”, substitute “*Commonwealth authority*”.

Schedule 2, item 12, page 35 (lines 23 to 27), omit the item, substitute:

**12 Paragraph 5(m)**

Omit “*Australian Protective Service Act 1987*”, substitute “*Australian Federal Police Act 1979*”.

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

Schedule 3, page 37 (before line 7), before item 1, insert:

**1A Subsection 4(1)**

Insert:

***federal aspect***, in relation to an offence against a law of a State or of the Australian Capital Territory, has the meaning given by subsection 4AA(1).

Note: This subsection defines ***State*** to include the Northern Territory.

Schedule 3, item 1, page 37 (before line 10), before subsection (1), insert:

*Object*

(1A) The object of this section is to identify State offences that have a federal aspect because:

- (a) they potentially fall within Commonwealth legislative power because of the elements of the State offence; or
- (b) they potentially fall within Commonwealth legislative power because of the circumstances in which the State offence was committed (whether or not those circumstances are expressed to be acts or omissions involved in committing the offence); or
- (c) the Australian Federal Police investigating them is incidental to the Australian Federal Police investigating an offence against a law of the Commonwealth or a Territory.

Schedule 3, item 1, page 37 (line 11), omit “paragraph 8(1)(baa)”, substitute “this Act”.

Schedule 3, item 1, page 38 (line 17), after “if”, insert “the conduct constituting the State offence”.

Schedule 3, item 1, page 38 (line 18), omit “the State offence”.

Schedule 3, item 1, page 38 (line 22), omit “the State offence was committed”, substitute “was engaged in”.

Schedule 3, item 1, page 38 (line 24), omit “the State offence was committed”, substitute “was engaged in”.

Schedule 3, item 1, page 38 (line 26), omit “the State offence”.

Schedule 3, item 1, page 38 (line 28), omit “the State offence”.

Schedule 3, item 1, page 38 (line 29), omit “the State offence”.

Schedule 3, item 1, page 38 (line 34), omit “the State offence”.

Schedule 3, item 1, page 39 (line 3), omit “the State offence”.

Schedule 3, item 1, page 39 (line 3), omit “Australia.”, substitute “Australia; or”.

Schedule 3, item 1, page 39 (after line 3), at the end of subsection (3), add:

- (i) relates to a matter in respect of which an international agreement to which Australia is a party imposes obligations to which effect could be given by the creation of an offence against the domestic laws of the parties to the agreement; or
- (j) relates to a matter that affects the relations between Australia and another country or countries or is otherwise a subject of international concern.

Schedule 3, item 1, page 39 (after line 17), after the definition of *Commonwealth place*, insert:

*conduct* has the same meaning as in the *Criminal Code*.

Schedule 3, item 1, page 39 (after line 28), after the definition of *electronic communication*, insert:

*engage in conduct* has the same meaning as in the *Criminal Code*.

*State* includes the Australian Capital Territory and the Northern Territory.

Schedule 3, page 40 (after line 5), after item 3, insert:

**3A After subparagraph 9(1)(c)(iv)**

Insert:

(iva) the investigation of State offences that have a federal aspect;

**3B Section 12B (at the end of the definition of *general offence*)**

Add:

; or (c) a State offence that has a federal aspect.

**3C At the end of Division 2 of Part II**

Add:

**12M Concurrent operation of State and Territory laws**

The application of this Division in relation to State offences that have a federal aspect is not intended to limit or exclude the concurrent operation of any law of a State or of the Australian Capital Territory.

Note 1: Subsection 4(1) defines *State* to include the Northern Territory.

Note 2: Section 4AA has the effect that an offence against a law of the Australian Capital Territory is a State offence that has a federal aspect.

Schedule 3, page 40 (before line 7), before item 4, insert:

**3D Subsection 3(1)**

Insert:

*federal aspect*, in relation to an offence against a law of a State or of the Australian Capital Territory, has the meaning given by subsection 3AA(1).

Note: This subsection defines *State* to include the Northern Territory.

Schedule 3, item 6, page 41 (before line 2), before subsection (1), insert:

*Object*

(1A) The object of this section is to identify State offences that have a federal aspect because:

- (a) they potentially fall within Commonwealth legislative power because of the elements of the State offence; or
- (b) they potentially fall within Commonwealth legislative power because of the circumstances in which the State offence was committed (whether or not those circumstances are expressed to be acts or omissions involved in committing the offence); or

- (c) the Australian Federal Police investigating them is incidental to the Australian Federal Police investigating an offence against a law of the Commonwealth or a Territory.

Schedule 3, item 6, page 42 (line 5), after “if”, insert “the conduct constituting the State offence”.

Schedule 3, item 6, page 42 (line 6), omit “the State offence”.

Schedule 3, item 6, page 42 (line 10), omit “the State offence was committed”, substitute “was engaged in”.

Schedule 3, item 6, page 42 (line 12), omit “the State offence was committed”, substitute “was engaged in”.

Schedule 3, item 6, page 42 (line 14), omit “the State offence”.

Schedule 3, item 6, page 42 (line 16), omit “the State offence”.

Schedule 3, item 6, page 42 (line 17), omit “the State offence”.

Schedule 3, item 6, page 42 (line 22), omit “the State offence”.

Schedule 3, item 6, page 42 (line 27), omit “the State offence”.

Schedule 3, item 6, page 42 (line 27), omit “Australia.”, substitute “Australia; or”.

Schedule 3, item 6, page 42 (after line 27), at the end of subsection (3), add:

- (i) relates to a matter in respect of which an international agreement to which Australia is a party imposes obligations to which effect could be given by the creation of an offence against the domestic laws of the parties to the agreement; or
- (j) relates to a matter that affects the relations between Australia and another country or countries or is otherwise a subject of international concern.

Schedule 3, item 6, page 43 (after line 6), after the definition of *Commonwealth place*, insert:

*conduct* has the same meaning as in the *Criminal Code*.

Schedule 3, item 6, page 43 (after line 17), after the definition of *electronic communication*, insert:

*engage in conduct* has the same meaning as in the *Criminal Code*.

*State* includes the Australian Capital Territory and the Northern Territory.

Schedule 3, item 6, page 43 (after line 18), at the end of subsection (5), add:

Note: Subsection 3(1) defines *State* to include the Northern Territory.

Schedule 3, page 43 (after line 18), after item 6, insert:

**6A Subsection 3C(1) (paragraph (b) of the definition of offence)**

Omit “other than the Australian Capital Territory”.

Schedule 3, page 43 (after line 21), after item 7, insert:

**7A Subsection 3D(3)**

Repeal the subsection.

**7B Subsection 3D(4)**

Omit “another”, substitute “a”.

Schedule 3, item 8, page 43 (line 26), at the end of subsection (6), add “or of the Australian Capital Territory”.

Schedule 3, item 8, page 43 (after line 26), at the end of subsection (6), add:

Note 1: Subsection 3(1) defines *State* to include the Northern Territory.

Note 2: Section 3AA has the effect that an offence against the law of the Australian Capital Territory is a State offence that has a federal aspect.

Schedule 3, page 44 (after line 24), after item 13, insert:

**13A Subsection 23WA(1) (definition of offence)**

Omit “the Australian Capital Territory or any other Territory”, substitute “a Territory other than the Australian Capital Territory”.

**13B Subsection 23WA(1) (at the end of the definition of offence)**

Add:

Note: Subsection 3(1) provides that *Territory* does not include the Northern Territory.

Schedule 3, item 16, page 45 (line 8), at the end of section 23YUL, add “or of the Australian Capital Territory”.

Schedule 3, item 16, page 45 (after line 8), at the end of section 23YUL, add:

Note 1: Subsection 3(1) defines *State* to include the Northern Territory.

Note 2: Section 3AA has the effect that an offence against a law of the Australian Capital Territory is a State offence that has a federal aspect.

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

Schedule 1, page 24 (after line 11), after item 27, insert:

**27A After subsection 22(1)**

Insert:

(1A) For the purposes of subsection (1), misbehaviour does not include the expression of an honestly held opinion by the Commissioner or a Deputy Commissioner, if the Commissioner or Deputy Commissioner believes that it is in the public interest to communicate that opinion, whether publicly or privately.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

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At 12.45 pm—

**7 MATTERS OF PUBLIC INTEREST**

Matters of public interest were discussed.

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*At 2 pm—*

**8 QUESTIONS**

Questions without notice were answered.

**9 BUDGET 2004-05—ANSWERS TO QUESTIONS**

Senator Conroy moved—That the Senate take note of the answers given by ministers to questions without notice asked today relating to the 2004-05 Budget.

Debate ensued.

Question put and passed.

**10 PETITION**

The following petition, lodged with the Clerk by Senator Stott Despoja, was received:

From 2 336 petitioners, requesting that the Senate take action to extend the Educational Textbook Subsidy Scheme indefinitely.

**11 NOTICES**

The Chair of the Select Committee on the Free Trade Agreement between Australia and the United States of America (Senator Cook): To move on the next day of sitting—That the report of the Select Committee on the Free Trade Agreement between Australia and the United States of America be presented on 12 August 2004. (*general business notice of motion no. 866*)

The Minister for Local Government, Territories and Roads (Senator Ian Campbell): To move on the next day of sitting—That, for the purposes of section 49 of the *Acts Interpretation Act 1901*, the Senate rescinds its resolution of 24 March 2004 disallowing certain items of the Corporations Amendment Regulations 2003 (No. 8), as contained in Statutory Rules 2003 No. 282 and made under the *Corporations Act 2001*.

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

(a) notes:

- (i) that the week of 14 May to 23 May 2004 is Landmine Action Week in Australia,
- (ii) the objective of Landmine Action Week is to promote Australia's efforts to eliminate landmines, assist landmine survivors and encourage support for the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction (Mine Ban Treaty), with a special emphasis on the Asia-Pacific region, and
- (iii) only half the countries in the Asia-Pacific region have banned landmines, while about 12 countries continue to produce and use them, making the Asia-Pacific region the most prolific producer and user of landmines of any region in the world;

(b) commends the Australian Government for its commitment of \$100 million for Mine Action over the decade ending 2005 and acknowledges the extent of mine-clearing and victim assistance achieved as a result of providing those funds;

- (c) urges the Australian Government to renew its Mine Action funding pledge for another decade; and
- (d) calls again on the Australian Government to increase efforts to encourage other Asia-Pacific nations to sign and ratify the Mine Ban Treaty, through bilateral discussions and multilateral forums, including the Association of South East Asian Nations. (*general business notice of motion no. 867*)

Senator Allison: To move on the next day of sitting—That the following matters be referred to the Community Affairs Legislation Committee for inquiry and report by 4 August 2004:

- (a) the provisions of the Commonwealth Electoral Amendment (Preventing Smoking Related Deaths) Bill 2004;
- (b) the exposure draft of the Tobacco Advertising Prohibition (Film, Internet and Misleading Promotion) Amendment Bill 2004; and
- (c) the adequacy of the response to date of the Australian Competition and Consumer Commission (ACCC) to the orders of the Senate of 24 September 2001, 27 June 2002 and 12 November 2002, which require the ACCC to report to the Senate on various issues concerning tobacco.

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

- (a) notes with concern the adverse effects of the Government's botched implementation of the current Cooperative Research Centre (CRC) selection round;
- (b) calls on the Government to restore public interest research as a key selection criteria for future CRCs; and
- (c) calls on the Minister for Science (Mr McGauran) to take responsibility for the denial of funding to nationally-significant CRCs such as the reef, rainforest and photonics CRCs, and to use his powers under the current CRC guidelines to hear appeals from such CRCs against their exclusion from the current selection round. (*general business notice of motion no. 868*)

Senator Brown: To move on the next day of sitting—That the provisions of the Electoral and Referendum Amendment (Access to Electoral Roll and Other Measures) Bill 2004 be referred to the Legal and Constitutional References Committee for inquiry and report by 15 June 2004.

## 12 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 7 OF 2004

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

### SELECTION OF BILLS COMMITTEE

#### REPORT NO. 7 OF 2004

1. The committee met on Tuesday, 11 May 2004.
2. The committee resolved to recommend—That—
  - (a) the *provisions* of the Parliamentary Superannuation Bill 2004 and the Parliamentary Superannuation and Other Entitlements Legislation Amendment Bill 2004 be *referred immediately* to the Finance and Public Administration Legislation Committee for inquiry and report on 15 June 2004; and
  - (b) the following bills *not* be referred to committees:  
Electoral and Referendum Amendment (Access to Electoral Roll and Other Measures) Bill 2004

Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Bill 2004  
 Health Legislation Amendment (Podiatric Surgery and Other Matters) Bill 2004  
 Industrial Chemicals (Notification and Assessment) Amendment (Low Regulatory Concern Chemicals) Bill 2004  
 Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting Safer Workplaces) Bill 2004  
 Veterans' Entitlements (Clarke Review) Bill 2004.

***The committee recommends accordingly.***

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

*Bills deferred from meeting of 10 February 2004*

Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003  
 Corporations (Fees) Amendment Bill (No. 2) 2003  
 Racial and Religious Hatred Bill 2003 [No. 2].

*Bill deferred from meeting of 23 March 2004*

Resale Royalty Bill 2004.

*Bills deferred from meeting of 30 March 2004*

Excise and Other Legislation Amendment (Compliance Measures) Bill 2004  
 Flags Amendment (Eureka Flag) Bill 2004.

*Bills deferred from meeting of 11 May 2004*

Child Support Legislation Amendment Bill 2004  
 Customs Tariff Amendment (Fuels) Bill 2004  
 Excise Tariff Amendment (Fuels) Bill 2004  
 Family Law Amendment Bill 2004  
 New International Tax Arrangements (Participation Exemption and Other Measures) Bill 2004  
 Tax Laws Amendment (2004 Measures No. 2) Bill 2004.

Jeannie Ferris  
 Chair  
 12 May 2004.

Senator Ferris moved—That the report be adopted.

Question put and passed.

**13 POSTPONEMENTS**

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Forshaw for today, proposing the reference of matters to the Community Affairs References Committee, postponed till 16 June 2004.

Business of the Senate notice of motion no. 2 standing in the name of Senator Allison for today, proposing the reference of a matter to the Employment, Workplace Relations and Education References Committee, postponed till 13 May 2004.



Business of the Senate notice of motion no. 3 standing in the name of Senator Brown for today, proposing the reference of a matter to the Foreign Affairs, Defence and Trade References Committee, postponed till 13 May 2004.

General business notice of motion no. 466 standing in the name of Senator Lees for today, proposing the introduction of the Protection of Biodiversity on Private Land Bill 2003, postponed till 17 June 2004.

General business notice of motion no. 467 standing in the name of Senator Lees for 13 May 2004, proposing the introduction of the Encouraging Communities Bill 2003, postponed till 17 June 2004.

General business notice of motion no. 850 standing in the name of Senator Allison for today, proposing the establishment of a select committee on tobacco, postponed till 13 May 2004.

#### 14 EDUCATION—HIGHER EDUCATION CONTRIBUTION SCHEME

Senator Stott Despoja, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 861—That the Senate—

- (a) notes that on 12 May 2004 there will be national action by university students, who will be protesting against the Government's 'Backing Australia's future: Our universities' policy and, specifically, against higher education contribution scheme (HECS) increases;
- (b) supports students in their non-violent attempts to prevent the remaining universities from increasing HECS; and
- (c) condemns the Government for under-funding universities for the past 7 years to such an extent that universities are now turning to students to provide a short-term increase in funding.

Question put and passed.

#### 15 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE— LEAVE TO MEET DURING SITINGS

Senator Ferris, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 855—That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 12 May 2004, from 4 pm, to take evidence for the committee's inquiry into the provisions of the Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand and Other Matters) Bill 2003.

Question put and passed.

Senator Ferris, at the request of Senator Heffernan and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 856—That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 13 May 2004, from 4 pm to 6 pm, to take evidence for the committee's inquiry into the administration of Biosecurity Australia concerning the revised draft import risk analysis for bananas.

Question put and passed.

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

Senator Ferris, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 857—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the administration of AusSAR in relation to the search for the *Margaret J* be extended to 5 August 2004.

Question put and passed.

**17 LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE—LEAVE TO MEET  
DURING SITTING**

Senator Ferris, at the request of the Chair of the Legal and Constitutional Legislation Committee (Senator Payne) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 858—That the Legal and Constitutional Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 12 May 2004, from 4.30 pm, to take evidence for the committee's inquiry into the provisions of the Migration Amendment (Judicial Review) Bill 2004.

Question put and passed.

**18 FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE—LEAVE TO  
MEET DURING SITTING**

Senator Ferris, at the request of the Chair of the Finance and Public Administration Legislation Committee (Senator Mason) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 859—That the Finance and Public Administration Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 13 May 2004, from 3.30 pm to 6 pm, to take evidence for the committee's inquiry into the Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Bill 2002.

Question put and passed.

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

Senator Ferris, at the request of the Chair of the Rural and Regional Affairs and Transport References Committee (Senator Ridgeway) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 860—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 24 June 2004; and
- (b) rural water resource usage—to 12 August 2004.

Question put and passed.

**20 PRIVILEGES—STANDING COMMITTEE—REFERENCE**

Senator Ferris, at the request of Senators Knowles and Humphries 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:

Whether there was an unauthorised disclosure of the draft report of the Community Affairs References Committee in relation to poverty and financial hardship and whether any contempt was committed in that regard.

Question put and passed.

**21 HISTORICAL EVENTS—EUREKA REBELLION**

Senator Marshall, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 863—That the Senate—

- (a) notes that 2004 is the 150th anniversary of the Eureka rebellion, which took place in Ballarat, Victoria, on 3 December 1854;
- (b) recognises the importance of commemorating this important occasion; and
- (c) accordingly invites and authorises the President to make arrangements for the Eureka flag to be flown from two of the four flag masts at the Senate entrance for the period Monday, 29 November to and including Friday, 3 December 2004.

Question put and passed.

**22 ENVIRONMENT—INTERNATIONAL CONFERENCE FOR RENEWABLE ENERGIES**

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 864—That the Senate—

- (a) congratulates the German Government on its initiative in proposing to host the International Conference for Renewable Energies in Bonn from 1 June to 4 June 2004, as a follow-up to the Johannesburg Earth Summit; and
- (b) calls on the Australian Government to be represented at the conference by a delegation headed by a minister.

Question put and passed.

**23 ENVIRONMENT—PROPOSED INTERNATIONAL RENEWABLE ENERGY AGENCY**

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 865—That the Senate—

- (a) notes the German Government initiative to establish an International Renewable Energy Agency (IRENA) as an international governmental organisation in order to support and advance the active utilisation of renewable energies on a global scale; and
- (b) calls on the Australian Government to support IRENA strongly and to establish a complementary organisation in Australia.

Question put and negatived.

**24 SCRUTINY OF BILLS—STANDING COMMITTEE—6TH REPORT AND ALERT DIGEST  
NO. 6 OF 2004**

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

Scrutiny of Bills—Standing Committee—

6th report of 2004, dated 12 May 2004.

Alert Digest No. 6 of 2004, dated 12 May 2004.

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

**25 FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE—ADDITIONAL  
INFORMATION—BUDGET ESTIMATES 2003-04**

Senator Ferris, at the request of the Chair of the Finance and Public Administration Legislation Committee (Senator Mason), tabled additional information received by the committee (Budget estimates 2003-04 (Supplementary)—vols 1 and 2).

**26 LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE—ADDITIONAL  
INFORMATION—ADDITIONAL ESTIMATES 2003-04**

Senator Ferris, at the request of the Chair of the Legal and Constitutional Legislation Committee (Senator Payne), tabled additional information received by the committee (Additional estimates 2003-04—5 vols).

**27 PUBLIC ACCOUNTS AND AUDIT—JOINT STATUTORY COMMITTEE—STATEMENT—  
DRAFT ESTIMATES FOR THE AUDIT OFFICE**

Senator Ferris, on behalf of the Joint Committee of Public Accounts and Audit, tabled the following document:

Public Accounts and Audit—Joint Statutory Committee—Statement on the draft budget estimates for the Australian National Audit Office for 2004-05, dated 12 May 2004.

**28 HEALTH—NATIONAL DRUG RESEARCH STRATEGY—ORDER FOR PRODUCTION OF  
DOCUMENTS—DOCUMENT**

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

Health—National Drug Research Strategy—Letter to the President of the Senate from the Minister for Health and Ageing (Mr Abbott) responding to the resolution of the Senate of 8 October 2003, dated 3 May 2004.

**29 IMMIGRATION—MINISTERIAL DISCRETION—ORDER FOR PRODUCTION OF  
DOCUMENTS—STATEMENT BY LEAVE**

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), by leave, made a statement relating to the order of the Senate of 1 April 2004 for the production of documents concerning the exercise of ministerial discretion under sections 351 and 417 of the *Migration Act 1958* (see entry no. 10, 1 April 2004).

Senator Ludwig, by leave, moved—That the Senate take note of the statement.

Question put and passed.

**30 DOCUMENTS**

The following documents were tabled by the Clerk:

Census and Statistics Act—Australian Bureau of Statistics—Statement No. 2 of 2004.

Corporations Act—Accounting Standard AASB 1047—Disclosing the Impacts of Adopting Australian Equivalents to International Financial Reporting Standards.

**31 INDEXED LISTS OF DEPARTMENTAL AND AGENCY FILES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT**

The following document was tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 July to 31 December 2003—Statements of compliance—Communications, Information Technology and the Arts portfolio.

**32 ECONOMICS LEGISLATION COMMITTEE—REPORT—NEW INTERNATIONAL TAX ARRANGEMENTS BILL 2003**

Pursuant to order, Senator Ferris, at the request of the Chair of the Economics Legislation Committee (Senator Brandis), tabled the following report and documents:

Economics Legislation Committee—New International Tax Arrangements Bill 2003—Report, dated May 2004, *Hansard* record of proceedings, additional information and submissions [8].

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

**33 ECONOMICS LEGISLATION COMMITTEE—REPORT—TAX LAWS AMENDMENT (2004 MEASURES NO. 1) BILL 2004**

Pursuant to order, Senator Ferris, at the request of the Chair of the Economics Legislation Committee (Senator Brandis), tabled the following report and documents:

Economics Legislation Committee—Tax Laws Amendment (2004 Measures No. 1) Bill 2004—Report, dated May 2004, *Hansard* record of proceedings, additional information and submissions [19].

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

**34 ECONOMICS LEGISLATION COMMITTEE—REPORT—TREASURY LEGISLATION AMENDMENT (PROFESSIONAL STANDARDS) BILL 2003**

Pursuant to order, Senator Ferris, at the request of the Chair of the Economics Legislation Committee (Senator Brandis), tabled the following report and documents:

Economics Legislation Committee—Provisions of the Treasury Legislation Amendment (Professional Standards) Bill 2003—Report, dated May 2004, *Hansard* record of proceedings, additional information and submissions [14].

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

**35 SEX DISCRIMINATION AMENDMENT (TEACHING PROFESSION) BILL 2004**

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Abetz)—That this bill be now read a second time.

Debate resumed.

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

**36 NOTICE**

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), by leave, gave a notice of motion as follows: To move on the next day of sitting—That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Family Assistance Legislation Amendment (More Help for Families—One-off Payments) Bill 2004

Family Assistance Legislation Amendment (More Help for Families—Increased Payments) Bill 2004.

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*Documents:* Senator Ian Campbell tabled the following documents:

Consideration of legislation—Statements of reasons [2] for introduction and passage of certain bills in the 2004 Budget sittings.

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**37 FIRST SPEECH**

Pursuant to order (*see entry no. 3*), Senator Fifield made his first speech.

**38 SEX DISCRIMINATION AMENDMENT (TEACHING PROFESSION) BILL 2004**

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Abetz)—That this bill be now read a second time.

Debate resumed.

*At 6.50 pm:* Debate was interrupted while Senator Buckland was speaking.

**39 NOTICE**

Senator Allison gave a notice of motion as follows: To move on the next day of sitting—That the following matter be referred to the Employment, Workplace Relations and Education References Committee for inquiry and report by 11 August 2004:

The principles of the Government's schools funding package and the effect of these principles on:

- (a) the capacity of all schools to meet current and future school needs and to achieve the Adelaide Declaration (1999) on National Goals for Schooling in the Twenty-First Century;
- (b) the role and responsibility of the Federal Government, in partnership with state and territory governments, for quality, equity, efficiency and effectiveness in public funding for government and non-government schools across Australia;
- (c) the effectiveness of accountability arrangements for state, territory and Federal governments' funding of government and non-government schools; and
- (d) the application of the framework of principles for the funding of schools that has been endorsed by state and territory governments through the Ministerial Council on Education, Employment, Training and Youth Affairs.

**40 GOVERNMENT DOCUMENTS—CONSIDERATION**

The government documents tabled earlier today (*see entry no. 2*) and general business orders of the day nos 1 to 5 relating to government documents were called on but no motion was moved.

**41 ADJOURNMENT**

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

Debate ensued.

The Senate adjourned at 7.18 pm till Thursday, 13 May 2004 at 9.30 am.

**42 ATTENDANCE**

Present, all senators except Senators Denman\*, Ferguson and Harris\* (\* on leave).

**HARRY EVANS**  
Clerk of the Senate