

2004-05

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

No. 13

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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:

*Air Passenger Ticket Levy (Collection) Act 2001*—Report for 1 April 2003 to 31 March 2004.

Australian Broadcasting Authority—Online content co-regulatory scheme—Reports for the periods—

July to December 2003.

January to June 2004.

*National Environment Protection Measures (Implementation) Act 1998*—Independent review by Baker and McKenzie.

*Roads to Recovery Act 2000*—Roads to recovery programme—Report for 2003-04 on the operation of the Act.

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

No. 954/2000—Decision.

No. 1307/2004—Outline.

No. 1317/2004—Outline.

No. 1318/2004—Outline.

No. 1319/2004—Outline.

**3 LEGISLATION COMMITTEES—PROPOSED ESTIMATES HEARINGS**

The Minister for Justice and Customs (Senator Ellison), pursuant to notice, moved government business notice of motion no. 1—

- (1) That estimates hearings by legislation committees for 2005 be scheduled as follows:

**2004-05 additional estimates:**

Monday, 14 February and Tuesday, 15 February and, if required, Friday, 18 February (*Group A*)

Wednesday, 16 February and Thursday, 17 February and, if required, Friday, 18 February (*Group B*)

**2005-06 Budget estimates:**

Monday, 23 May to Thursday, 26 May and, if required, Friday, 27 May (*Group A*)

Monday, 30 May to Thursday, 2 June and, if required, Friday, 3 June (*Group B*)

Monday, 31 October and Tuesday, 1 November (*supplementary hearings—Group A*)

Wednesday, 2 November and Thursday, 3 November (*supplementary hearings—Group B*).

- (2) That the committees consider the proposed expenditure in accordance with the allocation of departments to committees agreed to by the Senate.
- (3) That committees meet in the following groups:

**Group A:**

Environment, Communications, Information Technology and the Arts  
 Finance and Public Administration  
 Legal and Constitutional  
 Rural and Regional Affairs and Transport

**Group B:**

Community Affairs  
 Economics  
 Employment, Workplace Relations and Education  
 Foreign Affairs, Defence and Trade.

- (4) That the committees report to the Senate on the following dates:  
 Tuesday, 15 March 2005 in respect of the 2004-05 additional estimates;  
 and  
 Monday, 20 June 2005 in respect of the 2005-06 Budget estimates.

Debate ensued.

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

**4 SENATE—TEMPORARY ORDERS—DIVISIONS ON THURSDAYS—ADJOURNMENT  
 DEBATE ON TUESDAYS**

The Minister for Justice and Customs (Senator Ellison), at the request of the Minister for Finance and Administration (Senator Minchin) and pursuant to notice, moved government business notice of motion no. 2—That the following orders operate as temporary orders until the conclusion of the 2005 sittings:

- (1) If a division is called for on Thursday after 4.30 pm, the matter before the Senate shall be adjourned until the next day of sitting at a time fixed by the Senate.
- (2) On the question for the adjournment of the Senate on Tuesday, a senator who has spoken once subject to the time limit of 10 minutes may speak again for not more than 10 minutes if no other senator who has not already spoken once wishes to speak, provided that a senator may by leave speak for not more than 20 minutes on one occasion.

Question put and passed.

**5 CONSIDERATION OF LEGISLATION**

The Minister for Justice and Customs (Senator Ellison), at the request of the Minister for Finance and Administration (Senator Minchin), amended government business notice of motion no. 3 by leave and, pursuant to notice, moved—That the provisions of paragraphs (5) to (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 (Adjustment of Certain FTB Child Rates) Bill 2004  
 Private Health Insurance Incentives Amendment Bill 2004.

Question put and passed.

**6 DISABILITY DISCRIMINATION AMENDMENT (EDUCATION STANDARDS)**

**BILL 2004 [2005]**

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.

Amendments to the bill were circulated but the senator concerned indicated that he did not wish to move them and no other senator required that the bill be considered in committee.

On the motion of the Minister for Justice and Customs (Senator Ellison) the bill was read a third time.

**7 BANKRUPTCY AND FAMILY LAW LEGISLATION AMENDMENT BILL 2004 [2005]**

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.

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*In the committee*

Bill, taken as a whole by leave, debated.

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

Schedule 1, page 4 (after line 25), after item 6, insert:

**6A After section 121**

Insert:

**121A Rebuttable presumptions of insolvency**

- (1) A rebuttable presumption that a person is deemed to be insolvent arises for the purposes of sections 120 and 121 where it is established that the person:
  - (a) has made a transfer of property; and
  - (b) had an outstanding tax return, or outstanding tax returns, at the time the transfer of property was made.
- (2) A rebuttable presumption that a person is deemed to be insolvent arises for the purposes of sections 120 and 121 where it is established that the person:
  - (a) has made a transfer of property; and
  - (b) has failed to keep adequate books, accounts and records in accordance with section 270.

*Document:* The Minister for Justice and Customs (Senator Ellison) tabled the following document:

Bankruptcy and Family Law Legislation Amendment Bill 2004 [2005]—Copy of discussion paper ‘Strengthening bankruptcy anti-avoidance provisions’ prepared by the Insolvency and Trustee Service Australia.

---

Senator Ludwig moved the following amendment:

Schedule 2, page 23 (after line 13), after item 2, insert:

**2A At the end of section 139A**

Add:

- (2) Without limiting the applications or orders which may be made in accordance with subsection (1), a trustee may apply to the court and the court may order that a person who is bankrupt is not released from a tax debt which the person owes.

Note: *tax debt* has the same meaning as in section 8AAZA of the *Taxation Administration Act 1953*.

Debate ensued.

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

Bill, as amended, further debated.

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*Explanatory memorandum:* Senator Ellison tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

---

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

Clause 2, page 2 (table item 4, column 1), omit “and 4”, substitute “, 4 and 5”.

Page 44 (after line 23), at the end of the bill, add:

**Schedule 5—Additional amendments relating to the  
interaction between family law and bankruptcy  
law**

***Family Law Act 1975***

**1 At the end of section 79**

Add:

- (10) The following are entitled to become a party to proceedings in which an application is made for an order under this section:
- (a) a creditor of a party to the proceedings if the creditor may not be able to recover his or her debt if the order were made;
  - (b) any other person whose interests would be affected by the making of the order.

## 2 At the end of section 79A

Add:

- (4) For the purposes of this section, a creditor of a party to the proceedings in which the order under section 79 was made is taken to be a person whose interests are affected by the order if the creditor may not be able to recover his or her debt because the order has been made.

## 3 After section 79E

Insert:

### 79F Notifying third parties about application

The applicable Rules of Court may specify the circumstances in which a person who:

- (a) applies for an order under this Part; or
- (b) is a party to proceedings for an order under this Part;

is to give notice of the application to a person who is not a party to the proceedings.

## 4 After section 90D

Insert:

### 90DA Need for separation declaration for certain provisions of financial agreement to take effect

- (1) A financial agreement between 2 people, to the extent to which it deals with:
  - (a) how, in the event of the breakdown of the marriage, all or any of the property or financial resources of either or both of them at the time when the agreement is made, or at a later time and before the termination of the marriage by divorce, is to be dealt with; or
  - (b) the maintenance of either of them after the termination of the marriage by divorce;is of no force or effect until a separation declaration is made.
- (2) A separation declaration is a written declaration that complies with subsections (3) and (4).
- (3) The declaration must be signed by at least one of the parties to the financial agreement.
- (4) The declaration must state that:
  - (a) the parties have separated and are living separately and apart at the declaration time; and
  - (b) in the opinion of the parties making the declaration, there is no reasonable likelihood of cohabitation being resumed.
- (5) In this section:

**declaration time** means the time when the declaration was signed by a party to the financial agreement (or last signed by a party to the agreement, if both parties to the agreement have signed).

**separated** has the same meaning as in section 48 (as affected by section 49).

**5 After subsection 106B(4)**

Insert:

(4AA) An application may be made to the court for an order under this section by:

- (a) a party to the proceedings; or
- (b) a creditor of a party to the proceedings if the creditor may not be able to recover his or her debt if the instrument or disposition were made; or
- (c) any other person whose interests would be affected by the making of the instrument or disposition.

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 Knowles) reported accordingly.

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

**8 SUPERANNUATION SUPERVISORY LEVY IMPOSITION AMENDMENT BILL 2004  
 AUTHORISED DEPOSIT-TAKING INSTITUTIONS SUPERVISORY LEVY IMPOSITION  
 AMENDMENT BILL 2004  
 LIFE INSURANCE SUPERVISORY LEVY IMPOSITION AMENDMENT BILL 2004  
 GENERAL INSURANCE SUPERVISORY LEVY IMPOSITION AMENDMENT BILL 2004  
 RETIREMENT SAVINGS ACCOUNT PROVIDERS SUPERVISORY LEVY IMPOSITION  
 AMENDMENT BILL 2004  
 AUTHORISED NON-OPERATING HOLDING COMPANIES SUPERVISORY LEVY  
 IMPOSITION AMENDMENT BILL 2004  
 FINANCIAL INSTITUTIONS SUPERVISORY LEVIES COLLECTION AMENDMENT  
 BILL 2004**

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

Message no. 55, dated 8 February 2005—A Bill for an Act to amend the *Superannuation Supervisory Levy Imposition Act 1998*, and for related purposes.

Message no. 56, dated 8 February 2005—A Bill for an Act to amend the *Authorised Deposit-taking Institutions Supervisory Levy Imposition Act 1998*, and for related purposes.

Message no. 57, dated 8 February 2005—A Bill for an Act to amend the *Life Insurance Supervisory Levy Imposition Act 1998*, and for related purposes.

Message no. 58, dated 8 February 2005—A Bill for an Act to amend the *General Insurance Supervisory Levy Imposition Act 1998*, and for related purposes.

Message no. 59, dated 8 February 2005—A Bill for an Act to amend the *Retirement Savings Account Providers Supervisory Levy Imposition Act 1998*, and for related purposes.

Message no. 61, dated 8 February 2005—A Bill for an Act to amend the *Authorised Non-operating Holding Companies Supervisory Levy Imposition Act 1998*, and for related purposes.



Message no. 60, dated 8 February 2005—A Bill for an Act to amend the *Financial Institutions Supervisory Levies Collection Act 1998*, and for related purposes.

The Minister for Justice and Customs (Senator Ellison) 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 Ellison moved—That these bills be now read a second time.

Debate ensued.

*At 12.45 pm:* Debate was interrupted while Senator Murray was speaking.

#### 9 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

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*At 2 pm—*

#### 10 QUESTIONS

Questions without notice were answered.

#### 11 ANSWERS TO QUESTIONS

Senator Bolkus moved—That the Senate take note of the answers given by ministers to questions without notice asked today.

Debate ensued.

Question put and passed.

#### 12 SHADOW MINISTRY—STATEMENT BY LEAVE

Senator George Campbell, by leave, made a statement relating to the Opposition shadow ministry.

#### 13 NOTICES

The Chair of the Rural and Regional Affairs and Transport References Committee (Senator Ridgeway): To move on the next day of sitting—That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by the last sitting day in March 2006:

The impact of climate change on agriculture, with particular reference to:

- (a) the agriculture response, including land use practices, work practices and farming techniques;
- (b) emerging regional industries and technologies; and
- (c) other related matters.

The Leader of the Australian Democrats (Senator Allison): To move on the next day of sitting—That the following matter be referred to the Community Affairs References Committee for inquiry and report by 23 June 2005:

Current arrangements for the provision of mental health services in Australia, with particular reference to:

- (a) the extent to which the National Mental Health Strategy has achieved its aims and objectives, including what factors have impacted on progress;

- (b) the opportunities for current funding arrangements and agreements between the Commonwealth and state governments to better deliver services for people with a mental health problem or disorder;
- (c) the extent to which the National Mental Health Strategy and current level of mental health services have contributed to the over-representation of people with a mental illness in the criminal justice system, and within detention centres;
- (d) the adequacy of the current legislative framework for protecting the human rights of people with a mental health problem in the criminal justice system and within detention centres, and including the effects of indefinite detention on the mental health of children;
- (e) the capability of the current mix of mental health services to meet present and future demand for the entire spectrum of mental health services, including prevention, treatment and continuing care, in both metropolitan and rural Australia;
- (f) the adequacy of education and support services available for families and carers of people with a mental health problem or disorder;
- (g) potential methods for improving coordination and delivery of funding and services, across all levels and sectors of government, to ensure that appropriate and comprehensive care is provided throughout the episode of care, particularly for people with complex and co-morbid conditions and needs; and
- (h) the proficiency of staff outside mental health services for dealing with individuals with mental health problems and disorders.

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

- (a) notes:
  - (i) the announcement by the Papua New Guinean Minister for Environment and Conservation to prohibit:
    - (A) from 1 January 2005 the importation and sale of plastic shopping bags into Papua New Guinea (PNG), and
    - (B) from 1 June 2005 the manufacture and sale of plastic bags in PNG, and
  - (ii) that the Port Moresby Chamber of Commerce supports the PNG Government's moves; and
- (b) calls on the Federal Government to commit to:
  - (i) mandatory targets for reduction of plastic bag use in Australia by June 2005, and
  - (ii) banning of single use plastic bags in Australia by 1 January 2007. (*general business notice of motion no. 72*)

Senator Cook: To move on the next day of sitting—That the following matters be referred to the Community Affairs References Committee for inquiry and report by 23 June 2005:

- (a) the delivery of services and options for treatment for persons diagnosed with cancer, with particular reference to:
  - (i) the efficacy of a multi-disciplinary approach to cancer treatment,
  - (ii) the role and desirability of a case manager/case co-ordinator to assist patients and/or their primary care givers,
  - (iii) differing models and best practice for addressing psycho/social factors in patient care,

- (iv) differing models and best practice in delivering services and treatment options to regional Australia and Indigenous Australians, and
- (v) current barriers to the implementation of best practice in the above fields; and
- (b) how less conventional and complementary cancer treatments can be assessed and judged, with particular reference to:
  - (i) the extent to which less conventional and complementary treatments are researched, or are supported by research,
  - (ii) the efficacy of common but less conventional approaches either as primary treatments or as adjuvant/complementary therapies, and
  - (iii) the legitimate role of government in the field of less conventional cancer treatment.

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

- (a) notes:
  - (i) that a closed session of the Cambodian National Assembly, under the direction of Prime Minister Hun Sen, has removed the rightful parliamentary immunity of leading opposition figures, including Mr Sam Rainsy, and
  - (ii) the subsequent arrest of Sam Rainsy Party Member of Parliament, Mr Cheam Channy; and
- (b) calls on the Australian Government to immediately make representations to the Cambodian Government to:
  - (i) have parliamentary immunity reinstated, and
  - (ii) ensure the safety of Mr Rainsy and his colleagues and the release of Mr Cheam Channy without condition. (*general business notice of motion no. 73*)

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

- (a) notes that:
  - (i) 10 February 2005 is the 41st anniversary of Australia's greatest defence peacetime tragedy when HMAS *Melbourne*, an aircraft carrier, collided with HMAS *Voyager* killing 82 officers and sailors, and
  - (ii) Mr Ray Brown, National President of the Injured Service Persons Association (ISPA) and Captain Will Anderson RAAC (Retired), ISPA National Vice President, both severely injured in Australian Defence Force peacetime accidents, are calling on the Government to make an effort in publicly recognising Australian Defence Force deaths during peacetime operations;
- (b) supports and commends those naval establishments which hold small ceremonies on this anniversary;
- (c) recognises the commitment of all Australian Defence Force personnel in carrying out their duties;
- (d) notes the supreme sacrifice of those personnel who have in the exercise of peacetime duty sacrificed their lives in the service of their country; and
- (e) requests that the Minister for Veterans' Affairs (Ms Kelly) raise the public awareness of all future anniversaries by encouraging the Government to formally hold ceremonies throughout Australia to honour all members of the Australian Defence Forces who have freely given their lives in the service of their country in peacetime duties. (*general business notice of motion no. 74*)

## 14 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 1 OF 2005

Senator McGauran, at the request of the Chair of the Selection of Bills Committee (Senator Ferris), tabled the following report:

## SELECTION OF BILLS COMMITTEE

## REPORT NO. 1 OF 2005

1. The committee met in private session from 4.20 pm.
2. The committee resolved to recommend—That—
  - (a) the *provisions* of the AusLink (National Land Transport) Bill 2004 and the AusLink (National Land Transport—Consequential and Transitional Provisions) Bill 2004 be *referred immediately* to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 12 May 2005;
  - (b) the Criminal Code Amendment (Trafficking in Persons Offences) Bill 2004 [2005] be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report by 7 March 2005; and
  - (c) the *provisions* of the Tax Laws Amendment (2004 Measures No. 7) Bill 2004 be *referred immediately* to the Economics Legislation Committee for inquiry and report by 7 March 2005.
3. The committee resolved to recommend—That the following bills *not* be referred to committees:
  - Australian Sports Commission Amendment Bill 2004 [2005]
  - Child Support Legislation Amendment Bill 2004
  - Senate Voters' Choice (Preference Allocation) Bill 2004
  - Superannuation Supervisory Levy Imposition Amendment Bill 2004
  - Authorised Deposit-taking Institutions Supervisory Levy Imposition Amendment Bill 2004
  - Life Insurance Supervisory Levy Imposition Amendment Bill 2004
  - General Insurance Supervisory Levy Imposition Amendment Bill 2004
  - Retirement Savings Account Providers Supervisory Levy Imposition Amendment Bill 2004
  - Authorised Non-operating Holding Companies Supervisory Levy Imposition Amendment Bill 2004
  - Financial Institutions Supervisory Levies Collection 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 8 February 2005*

- Navigation Amendment Bill 2004
- Trade Practices Amendment (Personal Injuries and Death) Bill 2004.

Jeannie Ferris  
Chair  
9 February 2005.

Senator McGauran moved—That the report be adopted.

Question put and passed.

**15 POSTPONEMENTS**

The following items of business were postponed:

General business notice of motion no. 27 standing in the name of Senator Lees for 10 February 2005, relating to Asian elephants, postponed till 11 May 2005.

General business notice of motion no. 62 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, relating to sustainable energy use in parliamentary and government buildings, postponed till 10 February 2005.

**16 FAMILY AND COMMUNITY SERVICES—CHILD CARE**

The Leader of the Australian Democrats (Senator Allison), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 63—That the Senate—

(a) notes:

- (i) the critical shortage of child care places, particularly in inner metropolitan areas,
- (ii) that there are, for instance, up to 1 600 children under 5 years of age on waiting lists for child care places in the City of Port Phillip where there have been no new places made available in 2005 and where two centres will soon close to make way for residential development, and
- (iii) that women and their partners are being denied opportunities to rejoin the workforce because of such long waiting lists; and

(b) calls on the Federal Government, as a matter of urgency, to:

- (i) identify, in conjunction with state and local governments, those areas in greatest need of child care places,
- (ii) acknowledge that market forces are not delivering child care places in those areas of need where real estate values make setting up new child care centres unviable and that government intervention is required, and
- (iii) properly fund child care so it is high quality, accessible and affordable.

Question put and passed.

**17 ENVIRONMENT—CLIMATE CHANGE—KYOTO PROTOCOL**

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 60—That the Senate—

(a) notes that on 16 February 2005 the Kyoto Protocol to the United Nations Framework Convention on Climate Change will come into force having been ratified by over 80 countries; and

(b) congratulates:

- (i) Japan and the city of Kyoto for hosting the original conference in 1997 where the treaty was proposed, and
- (ii) the international community for agreeing to bring into force this important first step in limiting greenhouse gas production.

Question put and passed.

**18 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Bartlett, at the request of the Chair of the Environment, Communications, Information Technology and the Arts References Committee (Senator Cherry) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 58—That the Environment, Communications, Information Technology and the Arts References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 10 February 2005, from 9.30 am to 1.30 pm, to take evidence for the committee's inquiry into the provisions of the Australian Communications and Media Authority Bill 2004 and nine related bills.

Question put and passed.

**19 FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator George Campbell, at the request of the Chair of the Finance and Public Administration References Committee (Senator Forshaw) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 59—That the Finance and Public Administration References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 10 February 2005, from 3.30 pm to 8.30 pm, to take evidence for the committee's inquiry into the Regional Partnerships program.

Question put and passed.

**20 IMMIGRATION—MS CORNELIA RAU**

Senator Nettle amended general business notice of motion no. 71 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

(a) notes that:

- (i) the circumstances and treatment of Ms Cornelia Rau are appalling and highlight systematic problems in the administration of immigration detention,
- (ii) the Rau family have called for a full judicial inquiry,
- (iii) Ms Rau's case is just one example of how mental health and physical health is being inappropriately diagnosed and treated in detention centres,
- (iv) several studies have concluded that long-term detention itself exacerbates and creates mental illness in detainees, and
- (v) independent monitoring of operations in detention centres has been totally inadequate; and

(b) calls on the Government to:

- (i) apologise to Ms Rau and her family immediately,
- (ii) expedite consideration of appropriate compensation for Ms Rau for her treatment in immigration detention, and
- (iii) instigate a full, open and transparent judicial inquiry to investigate:
  - (A) how a permanent resident came to be placed in immigration detention, and

- (B) the alleged mistreatment of Ms Rau and other detainees in immigration detention.

Question put and passed.

**21 DEATH OF MR ZHAO ZIYANG**

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 61—That the Senate notes—

- (a) the recent death of former Chinese Premier Zhao Ziyang; and
- (b) the positive reformist role of Mr Zhao Ziyang and, in particular, his efforts for peace during the 1989 Tiananmen Square uprising.

Question put.

The Senate divided—

AYES, 7

Senators—

Allison	Brown	Lees	Ridgeway
Bartlett	Harris	Nettle (Teller)	

NOES, 41

Senators—

Barnett	Denman	Ludwig	Santoro
Bishop	Ellison	Lundy	Scullion
Brandis	Faulkner	Marshall	Sherry
Buckland	Ferguson	Mason	Stephens
Campbell, George	Fifield	McGauran (Teller)	Tchen
Carr	Forshaw	McLucas	Tierney
Chapman	Harradine	Moore	Watson
Colbeck	Hogg	Murphy	Webber
Collins	Humphries	O'Brien	
Cook	Johnston	Payne	
Crossin	Lightfoot	Ray	

Question negatived.

**22 COMMUNITY AFFAIRS REFERENCES COMMITTEE—PROPOSED REFERENCE**

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 1—That the following matters be referred to the Community Affairs References Committee for inquiry and report by 16 June 2005:

- (a) the extent to which the private health insurance rebate has influenced private health insurance membership rates;
- (b) the impact of the private health insurance rebate on public hospital workloads;
- (c) the impact of the private health insurance rebate on medical, nursing and allied health professionals and, in particular, whether there has been a shift of personnel from public to private sectors, and, if so, the extent and impact on provision of public hospital services;
- (d) the implications for the Commonwealth budget of continuing the private health insurance rebate, given that insurance premiums are increasing at a higher rate than the Consumer Price Index;
- (e) the Medicare Levy Surcharge; and
- (f) any related matters.

Question put.





Senator Ludwig, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 67—That the Senate—

- (a) notes that 6 February is New Zealand Waitangi Day; and
- (b) recognises the contribution of Australians of New Zealand descent to the nation.

Question put and passed.

Senator Ludwig, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 68—That the Senate—

- (a) notes that 4 February is Sri Lanka's Independence Commemoration Day;
- (b) recognises the contribution of the Sri Lankan community in Australia; and
- (c) expresses its solidarity and sympathy with the Sri Lankan people in the aftermath of the Asian Tsunami.

Question put and passed.

Senator Ludwig, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 69—That the Senate—

- (a) notes that 5 February 2005 marked the 60th anniversary of the liberation of Auschwitz; and
- (b) solemnly recognises the suffering of the victims and the families of victims of Auschwitz, including those in Australia.

Question put and passed.

Senator Ludwig, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 70—That the Senate—

- (a) notes that 5 February 2005 marked the Vietnamese New Year of the Rooster;
- (b) recognises the contribution of the Vietnamese community in Australia; and
- (c) wishes all a happy and prosperous Vietnamese New Year.

Question put and passed.

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

Senator Bartlett, at the request of the Chair of the Environment, Communications, Information Technology and the Arts References Committee (Senator Cherry) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 57—That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts References Committee on the budgetary and environmental implications of the Government's Energy White Paper be extended to 18 April 2005.

Question put and passed.

**26 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—ECONOMY—DEBT**

The Deputy President (Senator Hogg) informed the Senate that Senator Sherry had proposed that the following matter of public importance be submitted to the Senate for discussion:

The need for the Federal Government to:

- (a) note the increase in the current account deficit and foreign debt to record levels;

- (b) develop new proactive policies to reverse the escalation of external deficits and debt; and
- (c) acknowledge that rising foreign debt puts upward pressure on interest rates.

The proposal was supported by four senators and the matter was discussed.

**27 SCRUTINY OF BILLS—STANDING COMMITTEE—1ST REPORT AND ALERT DIGEST NO. 1 OF 2005**

Senator Webber, 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—

1st report of 2005, dated 9 February 2005.

Alert Digest No. 1 of 2005, dated 9 February 2005.

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

**28 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—ADDITIONAL ESTIMATES 2002-03 AND BUDGET ESTIMATES 2003-04**

Senator McGauran, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan), tabled additional information received by the committee (Additional estimates 2002-03; Budget estimates 2003-04).

**29 WORK OF COMMITTEES—DOCUMENT**

The Acting Deputy President (Senator Kirk) tabled the following document:

Work of committees—Year statistics: 1 January to 31 December 2004; and half-year statistics: 1 July to 31 December 2004.

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

**30 DOCUMENTS**

The following documents were tabled by the Clerk:

*Made prior to the commencement of the Legislative Instruments Act 2003 on 1 January 2005:*

National Health and Medical Research Council Act—Ethical guidelines on the use of assisted reproductive technology in clinical practice and research, dated September 2004.

Remuneration Tribunal Act—Determination—

2004/24: Remuneration and Allowances for Holders of Public Office.

2004/25: Remuneration and Allowances for Holders of Public Office.

*Made following the commencement of the Legislative Instruments Act 2003 on 1 January 2005 [Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]:*

*Appropriation Act (No. 2) 2004-2005—Advance to the Finance Minister—Determination No. 3 of 2004-2005 [F2005L00257]\*.*

Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—

AD/B737/125 Amdt 2—Centre Wing Fuel Tank Float Switch Wiring [F2005L00182]\*.

AD/P68/53—Seat Backrest Quick Release Pin [F2005L00181]\*.

Broadcasting Services Act—

Variation to Licence Area Plan for Bega Radio – No. 1 of 2005 [F2005L00165]\*.

Variation to Licence Area Plan for Warragul Radio – No. 1 of 2005 [F2005L00166]\*.

Customs Act—Tariff Concession Orders—

Tariff Concession Instrument No. 0411761 [F2005L00183]\*.

Tariff Concession Instrument No. 0411940 [F2005L00184]\*.

Tariff Concession Instrument No. 0412029 [F2005L00185]\*.

Product Rulings PR 2005/5-PR 2005/9.

Telecommunications (Numbering Charges) Act—

Telecommunications (Date of Imposition of Charge) Determination 2005 [F2005L00173]\*.

Telecommunications (Exemption from Annual Charge) Determination 2005 [F2005L00172]\*.

\* Explanatory statement tabled with legislative instrument.

**31 COMMITTEES—CHANGES IN MEMBERSHIP**

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

The Minister for Communications, Information Technology and the Arts (Senator Coonan), by leave, moved—That senators be discharged from and appointed to committees as follows:

**Finance and Public Administration References Committee—**

Appointed—Substitute member: Senator Brandis to replace Senator Heffernan for the committee's inquiry into the Regional Partnerships program on 10 February 2005, in place of Senator Johnston

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

Appointed—Substitute member: Senator Tchen to replace Senator Ferris for the consideration of the 2004-05 additional estimates on 18 February 2005.

Question put and passed.

**32 PRIVATE HEALTH INSURANCE INCENTIVES AMENDMENT BILL 2004**

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

Message no. 64, dated 9 February 2005—A Bill for an Act to amend the law relating to private health insurance incentives, and for other purposes.

The Minister for Communications, Information Technology and the Arts (Senator Coonan) 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 Coonan moved—That this bill be now read a second time.

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

**33 FAMILY ASSISTANCE LEGISLATION AMENDMENT (ADJUSTMENT OF CERTAIN FTB CHILD RATES) BILL 2004**

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

Message no. 65, dated 9 February 2005—A Bill for an Act to amend the *A New Tax System (Family Assistance) Act 1999*, and for related purposes.

The Minister for Communications, Information Technology and the Arts (Senator Coonan) 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 Coonan moved—That this bill be now read a second time.

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

**34 TAX LAWS AMENDMENT (LONG-TERM NON-REVIEWABLE CONTRACTS) BILL 2004**

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

Message no. 63, dated 9 February 2005—Tax Laws Amendment (Long-term Non-reviewable Contracts) Bill 2004.

**35 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—CHANGE IN MEMBERSHIP**

A message from the House of Representatives was reported informing the Senate of a change in the membership of the Joint Standing Committee on Foreign Affairs, Defence and Trade, as follows:

Message no. 62, dated 9 February 2005—Mr Hatton in place of Mr Beazley.

**36 SUPERANNUATION SUPERVISORY LEVY IMPOSITION AMENDMENT BILL 2004  
AUTHORISED DEPOSIT-TAKING INSTITUTIONS SUPERVISORY LEVY IMPOSITION  
AMENDMENT BILL 2004  
LIFE INSURANCE SUPERVISORY LEVY IMPOSITION AMENDMENT BILL 2004  
GENERAL INSURANCE SUPERVISORY LEVY IMPOSITION AMENDMENT BILL 2004  
RETIREMENT SAVINGS ACCOUNT PROVIDERS SUPERVISORY LEVY IMPOSITION  
AMENDMENT BILL 2004  
AUTHORISED NON-OPERATING HOLDING COMPANIES SUPERVISORY LEVY  
IMPOSITION AMENDMENT BILL 2004  
FINANCIAL INSTITUTIONS SUPERVISORY LEVIES COLLECTION AMENDMENT  
BILL 2004**

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

Debate resumed.

Question put and passed.

Bills read a second time.

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

On the motion of the Minister for Communications, Information Technology and the Arts (Senator Coonan) the bills were read a third time.

**37 GOVERNOR-GENERAL'S OPENING SPEECH—ADDRESS-IN-REPLY**

Order of the day read for the adjourned debate on the motion of Senator Knowles—That the address-in-reply be agreed to (*see entry no. 9, 17 November 2004*)—and on the amendment moved by Senator Bartlett:

That the following words be added to the address-in-reply:

“, but the Senate is of the opinion that the Government's failure to ratify the Kyoto Protocol, to take strong action to reduce Australia's greenhouse emissions and to urge the United States of America to do likewise, is putting at risk international efforts on climate change”.

Debate resumed.

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

**38 GOVERNMENT DOCUMENTS—CONSIDERATION**

The following government documents tabled earlier today (*see entry no. 2*) were considered:

*Air Passenger Ticket Levy (Collection) Act 2001*—Report for 1 April 2003 to 31 March 2004. Motion to take note of document moved by Senator Bartlett and agreed to.

*National Environment Protection Measures (Implementation) Act 1998*—Independent review by Baker and McKenzie. Motion to take note of document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

Roads to recovery programme—Report for 2003-04 on the operation of the Act. Motion to take note of document moved by Senator Sandy Macdonald and agreed to.

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

No. 954/2000—Decision.

No. 1307/2004—Outline.

No. 1317/2004—Outline.

No. 1318/2004—Outline.

No. 1319/2004—Outline.

Motion to take note of documents moved by Senator Bartlett and agreed to.

**39 ADJOURNMENT**

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

Debate ensued.

The Senate adjourned at 7.43 pm till Thursday, 10 February 2005 at 9.30 am.

**40 ATTENDANCE**

Present, all senators except Senators Hutchins\*, Mackay and Stott Despoja\* (\* on leave).

**HARRY EVANS**  
Clerk of the Senate