

2004-05

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

No. 21

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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:

Australian Political Exchange Council—Report for 2003-04.

Department of Communications, Information Technology and the Arts—Report—Review of Australian and New Zealand content on subscription television broadcasting services (*Broadcasting Services Act 1992*, section 103ZJ), February 2005.

Landcare Australia Limited—Report for 2003-04.

*Tobacco Advertising Prohibition Act 1992*—Report for 2004 pursuant to section 34A of the Act.

Treaties—List of multilateral treaty actions under negotiation, consideration or review by the Australian Government as at March 2005.

**3 CRIMES LEGISLATION AMENDMENT (TELECOMMUNICATIONS INTERCEPTION AND OTHER MEASURES) BILL 2005****FAMILY LAW AMENDMENT BILL 2005****STATUTE LAW REVISION BILL 2005****ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL 2005****CONSULAR PRIVILEGES AND IMMUNITIES AMENDMENT BILL 2005**

The Minister for Justice and Customs (Senator Ellison), pursuant to notice, moved government business notices of motion nos 1 to 5—That the following bills be introduced:

A Bill for an Act to extend the circumstances in which communications can be intercepted without warrant, and for other purposes.

A Bill for an Act to amend the *Family Law Act 1975* and the *Bankruptcy Act 1966*, and for related purposes.

A Bill for an Act to make various amendments of the statute law of the Commonwealth, and for related purposes.

A Bill for an Act to amend the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* and to make changes relating to the Sydney Harbour Federation Trust, and for related purposes.

A Bill for an Act to amend the *Consular Privileges and Immunities Act 1972*, and for related purposes.

Question put and passed.

Senator Ellison presented the bills and 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.

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*Explanatory memoranda:* Senator Ellison tabled explanatory memoranda [5] relating to the bills.

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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 first day in the next period of sittings.

Senator Ellison moved—That the bills be listed on the *Notice Paper* as separate orders of the day.

Question put and passed.

**4 PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL—PROPOSED APPROVAL**

The Minister for Justice and Customs (Senator Ellison), pursuant to notice, moved government business notice of motion no. 6—That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being the temporary location of a sculpture adjacent to Questacon.

Debate ensued.

On the motion of Senator Ellison the debate was adjourned till a later hour.

**5 TAX LAWS AMENDMENT (2004 MEASURES NO. 7) BILL 2005**

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.

Senator Murray moved the following amendment:

At the end of the motion, add “but the Senate calls on the Government to commit to further incentives for the renewable energy industry, as an even-handed offset to match the benefit provided to fossil fuel industries through the frontier areas exploration tax benefits established by this legislation”.

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.

Question—That the bill be agreed to—divided in respect of Schedule 1.

Schedule 1 debated and agreed to.

Senator Murray moved the following amendment:

Page 13 (after line 27), after Schedule 1, insert:

**Schedule 1A—General rates of tax**

***Income Tax Rates Act 1986***

**1 Clause 1 of Schedule 7 (table item 1 in paragraph (b))**

Repeal the table item, substitute:

1	(a) for the 2004-05 year of income—exceeds \$6,000 but does not exceed \$21,600; (b) for later years of income—exceeds \$6,260 but does not exceed \$21,600	17%
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Question—That the amendment be agreed to—put and negatived.

Bill agreed to.

Bill to be reported without amendment.

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

On the motion of the Minister for Communications, Information Technology and the Arts (Senator Coonan) the report from the committee was adopted and the bill read a third time.

- 6 **AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY BILL 2004**  
**AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2004**  
**TELECOMMUNICATIONS (CARRIER LICENCE CHARGES) AMENDMENT BILL 2004**  
**TELECOMMUNICATIONS (NUMBERING CHARGES) AMENDMENT BILL 2004**  
**TELEVISION LICENCE FEES AMENDMENT BILL 2004**  
**DATACASTING CHARGE (IMPOSITION) AMENDMENT BILL 2004**  
**RADIOCOMMUNICATIONS (RECEIVER LICENCE TAX) AMENDMENT BILL 2004**  
**RADIOCOMMUNICATIONS (SPECTRUM LICENCE TAX) AMENDMENT BILL 2004**  
**RADIOCOMMUNICATIONS (TRANSMITTER LICENCE TAX) AMENDMENT BILL 2004**  
**RADIO LICENCE FEES AMENDMENT BILL 2004**

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

Debate resumed.

Question put and passed.

Bills read a second time.

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

*In the committee*

**AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY BILL 2004—**

Bill taken as a whole by leave.

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

Clause 8, page 7 (after line 10), after paragraph (1)(b), insert:

(ba) to promote competition as a legitimate means to advance objectives of consumer protection;

Clause 8, page 7 (after line 10), after paragraph (1)(b), insert:

(bb) to develop, promote and enforce adequate consumer protection;

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

Clause 10, page 10 (line 4), after “monitor”, insert “and enforce”.

Clause 10, page 10 (line 7), after “monitor”, insert “and enforce”.

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

Clause 11, page 12 (after line 2), after paragraph (1)(d), insert:

- (da) to provide reports to and advise the Minister on policy issues in relation to the communications industry, where ACMA are of the view that current policy is inadequate to meet current or future challenges;

Senator Cherry moved the following amendments together by leave:

Clause 20, page 17 (after line 11), after subclause (1), insert:

- (1A) In making an appointment in accordance with subsection (1), the Governor-General is to have regard to the merit selection processes described in section 27A.

Page 22 (after line 22), at the end of Division 2, add:

**27A Procedures for merit selection of ACMA members and associate members**

- (1) The Minister must by writing determine a code of practice for selecting and appointing ACMA members and acting ACMA members which sets out general principles on which selection and appointment is to be made, including but not limited to:
- (a) merit, including but not limited to appropriate broadcasting and telecommunications industry knowledge;
  - (b) independent scrutiny of appointments;
  - (c) probity;
  - (d) openness and transparency.
- (2) After determining a code of practice under subsection (1), the Minister must publish the code in the *Gazette*.

Debate ensued.

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

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

Clause 20, page 17 (after line 21), at the end of the clause, add:

- (6) At least one member must have a background in consumer advocacy and representation.

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

Clause 30, page 24 (after line 18), at the end of the clause, add:

- (5) Where an interest is disclosed in accordance with this section:
- (a) the interest and the disclosure must be recorded in the minutes of the ACMA; and
  - (b) any public notification of the decision must also notify the disclosure of interest; and
  - (c) the interest and the disclosure must be reported in the annual report.

Clause 57, page 41 (after line 33), after paragraph (2)(d), insert:

- (da) a report on:
- (i) the number and types of complaints made to ACMA concerning alleged breaches of the *Broadcasting Services Act 1992* during the financial year; and
  - (ii) the number and types of complaints made to ACMA concerning any alleged breaches of codes of practice or standards; and
  - (iii) the investigations either initiated by ACMA or commenced in response to a complaint referred to in subparagraph (i) or (ii) and conducted during the financial year; and
  - (iv) the results of those investigations and any enforcement action taken by ACMA as a result of those investigations; and

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

Page 50 (after line 28), at the end of the bill, add:

**69 Review of operation of communications legislation**

- (1) Before 31 December 2006, the Minister must cause to be conducted a review of the adequacy of Australian communications legislation and subordinate instruments in accommodating the changes resulting from the process of convergence while still achieving their regulatory objectives.
- (2) In conducting this review, consideration must be given to:
  - (a) the question of whether any or all of the provisions of the legislation referred to in subsection (1) should be amended in accordance with the principle of technology neutrality in order to promote the achievement of their regulatory objectives; and
  - (b) the appropriateness of the objectives of the legislation referred to in subsection (1) in light of changes resulting from the process of convergence; and
  - (c) the question of whether the scope of the Telecommunications Industry Ombudsman regime should be expanded to encompass other communications services.
- (3) The Minister must cause to be prepared a report of the review.
- (4) The Minister must cause copies of the report of the review to be laid before each House of the Parliament within 15 sitting days of that House after the completion of the preparation of the report.
- (5) For the purposes of this section, **communications legislation** includes the *Australian Broadcasting Corporation Act 1983*, the *Australian Communications and Media Authority Act 2005*, the *Broadcasting Services Act 1992*, the *Interactive Gambling Act 2001*, the *Radiocommunications Act 1992*, the *SPAM Act 2003*, the *Special Broadcasting Services Act 1992*, the *Telecommunications Act 1991*, the *Telecommunications (Interception) Act 1979*, the *Telecommunications (Consumer Protection and Service Standards) Act 1999*, the *Telstra Corporation Act 1991*, the *Trade Practices Act 1974*, and any legislation under which ACMA exercises a statutory power.

Senator Cherry moved the following amendment:

Page 50 (after line 28), at the end of the bill, add:

**Schedule 1—Consequential amendments**

***Telecommunications Act 1997***

**1 Paragraphs 4(a) and (b)**

Omit the paragraphs, substitute:

- (a) promotes the use of industry self-regulation where this will not impede the long term interests of end users; and
- (b) enables the objects mentioned in section 3 to be met in a way that does not impose unnecessary financial and administrative burdens on participants in the Australian telecommunications industry;

Debate ensued.

Senator Cherry, by leave, withdrew the amendment.

Bill, as amended, agreed to.

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**AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2004—**

Bill taken as a whole by leave.

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

Schedule 1, page 21 (after line 24), before item 127, insert:

**126A Paragraphs 4(a) and (b)**

Repeal the paragraphs, substitute:

- (a) promotes the use of industry self-regulation where this will not impede the long term interests of end users; and
- (b) enables the objects mentioned in section 3 to be met in a way that does not impose unnecessary financial and administrative burdens on participants in the Australian telecommunications industry;

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

Schedule 1, page 5 (after line 21), before item 6, insert:

**5A At the end of subsection 4(2)**

Add:

- ; and (d) ensures fair and effective resolution of customer complaints.

Bill, as amended, agreed to.

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**TELECOMMUNICATIONS (CARRIER LICENCE CHARGES) AMENDMENT BILL 2004**  
**TELECOMMUNICATIONS (NUMBERING CHARGES) AMENDMENT BILL 2004**  
**TELEVISION LICENCE FEES AMENDMENT BILL 2004**  
**DATACASTING CHARGE (IMPOSITION) AMENDMENT BILL 2004**  
**RADIOCOMMUNICATIONS (RECEIVER LICENCE TAX) AMENDMENT BILL 2004**  
**RADIOCOMMUNICATIONS (SPECTRUM LICENCE TAX) AMENDMENT BILL 2004**  
**RADIOCOMMUNICATIONS (TRANSMITTER LICENCE TAX) AMENDMENT BILL 2004**  
**RADIO LICENCE FEES AMENDMENT BILL 2004**

Bills, taken together and as a whole by leave, agreed to.

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The Australian Communications and Media Authority Bill 2004 and the Australian Communications and Media Authority (Consequential and Transitional Provisions) Bill 2004 to be reported with amendments and the remaining bills to be reported without 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 the Minister for Communications, Information Technology and the Arts (Senator Coonan) the report from the committee was adopted and the bills read a third time.

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*After 12.45 pm—*

**7 MATTERS OF PUBLIC INTEREST**

Matters of public interest were discussed.

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*At 2 pm—*

**8 QUESTIONS**

*Distinguished visitors:* The President welcomed members of a parliamentary delegation from Finland led by the Speaker of the Parliament, Mr Paavo Lipponen, and, with the concurrence of honourable senators, invited the Speaker to take a seat on the floor of the chamber.

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Questions without notice were answered.

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*Distinguished visitors:* The President welcomed members of a parliamentary delegation from the Republic of Cyprus led by the President of the House of Representatives, His Excellency Mr Demetris Christofias, and, with the concurrence of honourable senators, invited Mr Christofias to take a seat on the floor of the chamber.

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Further questions without notice were answered.

**9 EMPLOYMENT—SKILLS SHORTAGES—ANSWERS TO QUESTIONS**

Senator Bishop moved—That the Senate take note of the answers given by the Special Minister of State (Senator Abetz) and the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) to questions without notice asked by Senators Marshall and Bolkus today relating to skills shortages.

Debate ensued.

Question put and passed.

**10 CULTURE AND THE ARTS—FUNDING—ANSWERS TO QUESTIONS**

Senator Carr moved—That the Senate take note of the answers given by the Minister for the Arts and Sport (Senator Kemp) to questions without notice asked by Senators Murphy and Carr today relating to the funding of the Tasmanian Symphony Orchestra and the Sydney Dance Company.

Question put and passed.

**11 IMMIGRATION—CHILDREN—ANIMAL WELFARE—LIVE SHEEP EXPORT—ANSWERS TO QUESTIONS**

Senator Bartlett moved—That the Senate take note of the answers given by the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) and the Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) to questions without notice asked by Senator Ludwig and Senator Bartlett today relating to children in detention centres and to live sheep exports.

Question put and passed.

**12 PARLIAMENTARY LIBRARY—STATEMENT BY PRESIDENT**

The President made a statement in response to a question without notice asked by the Leader of the Australian Democrats (Senator Allison) today relating to the independence of the Parliamentary Library.

**13 PETITIONS**

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

The President, from 3 petitioners, requesting that the Senate take action to ensure that the Government negotiates a fair and equitable maritime boundary with Timor Leste according to current international law and the provisions of the UN Convention on the Law of the Sea.

The President, from 1 petitioner, requesting that the Senate take action to restrict children's exposure to Internet pornography.

Senator Bartlett, from 20 petitioners, requesting that the Senate take action to release all children from immigration detention centres into the community, and to provide them with psychological counselling, education and medical services.

Senator Ludwig, from 24 petitioners, requesting that the Senate oppose any legislation to abolish the Aboriginal and Torres Strait Islander Commission.

Senator Webber, from 2 petitioners, requesting that the Senate take action to ensure that wheat growers affected by the Iraqi debt write off are fully compensated.

#### 14 NOTICES

Senator Murray: To move on the next day of sitting—That the provisions of the Workplace Relations Amendment (Fair Dismissal Reform) Bill 2004 be referred to the Employment, Workplace Relations and Education References Committee for inquiry and report as part of the committee's inquiry into unfair dismissal laws.

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

- (a) notes the precarious state of the world's great ape populations, including estimates that the only great ape in our region, the orang-utan, faces extinction within a decade;
- (b) recalls its resolution of 21 October 1999 which noted that:
  - (i) 'the number of great apes has declined dramatically due to measures such as deforestation, commercial bush-meat trade, live trade, and civil conflicts, with all non-human great ape species being listed as threatened', and
  - (ii) 'scientific evidence that great apes share not only human genes but also basic human mental traits, such as self-awareness, intelligence and other forms of mental insight, complex communications and social systems'; and
- (c) calls on the Government to give consideration to:
  - (i) increasing funding for its Regional Natural Heritage program, which currently provides \$10 million over 3 years to projects towards the conservation of biodiversity in our region, so that Australia can play a more significant role in securing the future of great ape populations,
  - (ii) committing to working with relevant governments and local communities to develop significant post-tsunami conservation measures in biodiversity hotspot areas,
  - (iii) focusing its efforts on in situ conservation efforts, instead of providing resources towards captive populations of threatened animals in zoos in Australia or elsewhere, and
  - (iv) providing direct financial assistance to the United Nations' Great Ape Survival Project. (*general business notice of motion no. 108*)

The Chair of the Parliamentary Joint Committee on the Australian Crime Commission (Senator Santoro): To move on the next day of sitting—That the Parliamentary Joint Committee on the Australian Crime Commission be authorised to hold a public meeting during the sitting of the Senate on Thursday, 17 March 2005, from 6 pm, to take evidence for the committee's examination of the Australian Crime Commission annual report 2003-04. (*general business notice of motion no. 109*)

The Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan): To move on the next day of sitting—That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 17 March 2005, from 4 pm to 6.30 pm, to

take evidence for the committee's inquiry into the provisions of the Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005. (*general business notice of motion no. 110*)

The Minister for Justice and Customs (Senator Ellison): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend legislation about fisheries, and for related purposes. ***Fisheries Legislation Amendment (International Obligations and Other Matters) Bill 2005.***

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

- (a) notes that 17 March 2005 marks the celebration of St Patrick's Day;
- (b) recognises the past and present contribution of Irish migrants in building Australian society and to Australia's cultural life; and
- (c) recognises the contribution of 1.9 million Australians of Irish descent to our nation. (*general business notice of motion no. 111*)

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

- (a) notes that 21 March 2005 is Harmony Day;
- (b) recognises the importance of community harmony in Australia, in particular the social and economic benefits of a stable, multicultural society;
- (c) notes that 21 March is also United Nations International Day for the Elimination of Racial Discrimination; and
- (d) condemns racism and the practice of racial discrimination. (*general business notice of motion no. 112*)

Senator George Campbell: To move on the next day of sitting—That the Senate notes that:

- (a) the Howard Government's training policies since 1996 have contributed to Australia's current skills shortages in the traditional trades; and
- (b) the Government's inaction in addressing this national skills crisis is hurting Australian businesses, families, young people and the economy. (*general business notice of motion no. 113*)

Senator Carr: To move on the next day of sitting—That there be laid on the table by the Minister representing the Minister for Education, Science and Training, no later than 3.30 pm on Thursday, 17 March 2005, the following documents:

- (a) the 'Survey of New Apprenticeship outcomes [2003-04]' prepared by the Social Research Centre Pty Ltd (SRC), Department of Education, Science and Training (DEST) contract number 2789; and
- (b) the 'Survey of long-term New Apprenticeship outcomes [2004]' prepared by SRC, DEST contract number 75104. (*general business notice of motion no. 114*)

Senator Carr: To move on the next day of sitting—That there be laid on the table by the Minister representing the Minister for Education, Science and Training, no later than 3.30 pm on Thursday, 17 March 2005, the letter from the Department of Education, Science and Training, on behalf of the Minister for Education, Science and Training (Dr Nelson), to the Australian Council of Deans of Education advising how the national priority funding for teacher education of \$110 million would be disbursed to universities. (*general business notice of motion no. 115*)

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

- (a) notes the death on 25 February 2005 of Peter Benenson, founder of the worldwide human rights organisation, Amnesty International;
- (b) extends its condolences to Mr Benenson's family following their loss; and
- (c) recognises the vital role that Amnesty International plays as the world's largest independent human rights organisation and commends it for its outstanding efforts to increase awareness of human rights issues, promote respect for fundamental rights and liberties and combat violations of human rights. (*general business notice of motion no. 116*)

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

- (a) commends the Government's support for the United Nations Commission on Human Rights (UNCHR) resolution on 'Sexual orientation and human rights' (the Brazil Resolution), introduced at the commission's meetings in 2003 and 2004; and
- (b) urges the Government to take a leadership role in the elimination of discrimination against persons on the grounds of sexuality and gender identity by:
  - (i) continuing its support for the Brazil Resolution when it is debated at the forthcoming session of the UNCHR in March and April 2005, and
  - (ii) actively encouraging other member countries to support the resolution. (*general business notice of motion no. 117*)

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

- (a) notes:
  - (i) claims on the SBS *Dateline* program that international aid money earmarked for humanitarian and development purposes in West Papua has been siphoned to the Indonesian military, and
  - (ii) reports of destruction of highland villages by the Indonesian military causing thousands of West Papuans to flee; and
- (b) calls on the Minister for Foreign Affairs (Mr Downer) to investigate the claims and report back to the Senate as a matter of urgency. (*general business notice of motion no. 118*)

Senator Brown: 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 16 June 2005:

Bird flu, including virus strain H5N1, its derivation, its evolution, its present status and future potential threat to Australians, with particular reference to:

- (a) the potential for a pandemic;
- (b) preparations by all sectors of the Australian community to prevent or offset a pandemic in our country;
- (c) Australia's role in preventing or offsetting the impact of a pandemic globally; and
- (d) the potential impact on agriculture and wildlife.

## 15 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 3 OF 2005

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

SELECTION OF BILLS COMMITTEE  
REPORT NO. 3 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 Building and Construction Industry Improvement Bill 2005 and the Building and Construction Industry Improvement (Consequential and Transitional) Bill 2005 be *referred immediately* to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 10 May 2005;
  - (b) the *provisions* of the Criminal Code Amendment (Suicide Related Material Offences) Bill 2005 be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report by 10 May 2005;
  - (c) the *provisions* of the Migration Litigation Reform Bill 2005 be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report by 11 May 2005;
  - (d) the *provisions* of the National Security Information Legislation Amendment Bill 2005 be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report by 11 May 2005;
  - (e) the *provisions* of the Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting Safer Workplaces) Bill 2005 be *referred immediately* to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 10 May 2005; and
  - (f) the *provisions* of the Telecommunications Legislation Amendment (Regular Reviews and Other Measures) Bill 2005 be *referred immediately* to the Environment, Communications, Information Technology and the Arts Legislation Committee for inquiry and report by 11 May 2005.
3. The committee resolved to recommend—That the following bills *not* be referred to committees:
  - Customs Tariff Amendment Bill (No. 1) 2005
  - Higher Education Legislation Amendment (2005 Measures No. 2) Bill 2005
  - Payment Systems (Regulation) Amendment Bill 2005
  - Primary Industries (Excise) Levies Amendment (Rice) Bill 2005
  - Workplace Relations Amendment (Better Bargaining) Bill 2005.

*The committee recommends accordingly.*

4. The committee *deferred* consideration of the following bill to the next meeting:
  - Bill deferred from meeting of 8 February 2005*
  - Trade Practices Amendment (Personal Injuries and Death) Bill 2004.

Jeannie Ferris  
Chair  
16 March 2005.

Senator Ferris moved—That the report be adopted.

Question put and passed.

**16 POSTPONEMENTS**

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Greig for today, relating to the proposed accreditation of the Southern Bluefin Tuna Fisheries Management Plan, postponed till 11 May 2005.

Business of the Senate notice of motion no. 2 standing in the name of Senator Murray for today, proposing an amendment to the terms of reference for the Legal and Constitutional References Committee inquiry into the effectiveness and appropriateness of the *Privacy Act 1988*, postponed till 11 May 2005.

Business of the Senate notice of motion no. 4 standing in the name of Senator Cherry for today, proposing the reference of matters to the Environment, Communications, Information Technology and the Arts References Committee, postponed till 17 March 2005.

General business notice of motion no. 107 standing in the name of Senator Nettle for today, relating to Iraq and Australian defence personnel, postponed till 17 March 2005.

**17 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT**

Senator Ferris, by leave and at the request of the Chair of the Employment, Workplace Relations and Education Legislation Committee (Senator Tierney), moved—That the time for the presentation of the report of the committee on the provisions of the Higher Education Legislation Amendment (2005 Measures No. 1) Bill 2005 be extended to 10 May 2005.

Question put and passed.

**18 ENVIRONMENT—LAOS—NAM THEUN 2 DAM**

Senator Nettle amended general business notice of motion no. 106 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

(a) notes:

- (i) the potentially significant negative economic, social and environmental impacts of the proposed Nam Theun 2 Dam project in Laos,
- (ii) the inadequacy of consultation with communities affected by the dam,
- (iii) that the dam will flood approximately 40 per cent of the Nakai Plateau, home to hundreds of bird species and the Asian elephant,
- (iv) that as many as 150 000 people whose livelihood relies on the Xe Bang Fai river may be affected, and
- (v) that the World Bank Board of Executive Directors is currently deciding whether to support the dam; and

(b) calls on the Government to urge the World Bank to closely scrutinise the proposed mitigation and compensation programs and take into account the potentially significant negative economic, social and environmental impacts of the Nam Theun 2 Dam before deciding on whether it merits support.

Question put and passed.

**19 PRIVILEGES—STANDING COMMITTEE—PROPOSED REFERENCE**

*Motion determined as not formal:* The Chair of the Standing Committee of Privileges (Senator Faulkner) requested that business of the Senate notice of motion no. 5 standing in his name for today, proposing the reference of a matter to the Standing Committee of Privileges, be taken as formal.

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

**20 FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT**

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. 101—That the time for the presentation of the report of the Finance and Public Administration Legislation Committee on annual reports tabled by 31 October 2004 be extended to 10 May 2005.

Question put and passed.

**21 CULTURE AND THE ARTS—FUNDING—ORCHESTRAS**

Senator Brown, also on behalf of Senator Carr, amended general business notice of motion no. 100 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes that the Federal Government is considering a report which recommends axing the Tasmanian, Adelaide and Queensland symphony orchestras; and
- (b) calls on the Federal Government to:
  - (i) rule out any job losses at these orchestras, and
  - (ii) abandon its unsustainable funding model for major arts organisations and replace it with a model incorporating adequate indexation arrangements.

Question put and passed.

**22 SCIENCE AND TECHNOLOGY—GENE TECHNOLOGY—ORDER FOR PRODUCTION OF DOCUMENTS**

Senator Bartlett, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 103—That there be laid on the table, no later than the conclusion of question time on Wednesday, 11 May 2005, the following documents:

- (a) any reports or similar materials from Australian Pesticides and Veterinary Medicines Authority relating to glyphosate, herbicide-tolerant genetically-engineered plants and Fusarium; and
- (b) all agronomic data from the Office of the Gene Technology Regulator-approved Bayer or Monsanto genetically-engineered canola trials conducted in Australia.

Question put and passed.

**23 ENVIRONMENT—URANIUM**

The Leader of the Australian Democrats (Senator Allison) amended general business notice of motion no. 105 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—



- (a) recognises:
- (i) the inherent dangers of nuclear proliferation and the role uranium plays in the development of weapons of mass destruction,
  - (ii) the poor historical record of safety breaches in Australia's existing uranium mines and the need for mining companies to be vigilant about health, safety and environmental matters, and
  - (iii) the international history of widespread and long-lasting damage to communities and the environment as a result of accidents involving nuclear power generation; and
- (b) calls on the Government to rule out the development of any new uranium mines.

Question put.

The Senate divided—

AYES, 32

Senators—

Allison	Cherry	Greig	Murray
Bartlett	Collins	Hogg	Nettle
Bishop	Conroy	Kirk	O'Brien
Bolkus	Cook	Ludwig	Ridgeway
Brown	Crossin	Mackay	Stephens
Buckland	Denman	Marshall	Stott Despoja
Campbell, G (Teller)	Faulkner	McLucas	Webber
Carr	Forshaw	Moore	Wong

NOES, 32

Senators—

Abetz	Ferguson	Knowles	Patterson
Barnett	Ferris (Teller)	Lightfoot	Payne
Brandis	Fifield	Macdonald, Ian	Santoro
Calvert	Harris	Macdonald, Sandy	Tchen
Chapman	Heffernan	Mason	Tierney
Colbeck	Humphries	McGauran	Troeth
Eggleston	Johnston	Minchin	Vanstone
Ellison	Kemp	Murphy	Watson

The ayes and noes were equal and so the question was negatived.

#### 24 FOREIGN AFFAIRS—CHINA—HUMAN RIGHTS

Senator Stott Despoja, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 104—That the Senate—

- (a) notes that 16 March 2005 is the third anniversary of the date on which the Minister for Foreign Affairs (Mr Downer) issued the first certificate pursuant to subregulation 5A of the Diplomatic Privileges and Immunities Regulations to prevent Falun Gong practitioners from holding peaceful demonstrations in front of the Chinese Embassy, and that the Minister has issued consecutive certificates since that time;
- (b) acknowledges wide-ranging evidence indicating that Falun Gong practitioners continue to be subjected to persecution, detention and torture in China;
- (c) expresses concern that preventing Falun Gong practitioners from holding peaceful demonstrations in front of the Chinese Embassy may compromise the practitioners' freedom of political communication under the Australian Constitution;

- (d) notes that Falun Gong practitioners have been free to demonstrate in front of Australian Government institutions, including Parliament House, without any concern for the dignity of those institutions;
- (e) expresses the view that it is inconsistent to enforce a more restrictive standard in relation to peaceful demonstrations in front of the Chinese Embassy than that which applies to demonstrations in front of Australian Government buildings;
- (f) recalls its resolution of 1 December 2003 to reaffirm its commitment to freedom of belief within Australia and recognise the freedom of Australians to practise Falun Gong without fear of harassment; and
- (g) calls on the Minister for Foreign Affairs to refrain from issuing further certificates which would prevent Falun Gong practitioners from demonstrating in front of the Chinese Embassy in the future.

Question put and negatived.

**25 RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE—REFERENCE**

Senator Bartlett, at the request of 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 business of the Senate notice of motion no. 3—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 operation of the wine-making industry, with particular reference to the supply and purchase of grapes.

Question put and passed.

**26 PROPOSED MATTER OF PUBLIC IMPORTANCE—MS SCHAPELLE CORBY—TRIAL**

The Deputy President (Senator Hogg) informed the Senate that Senator Greig had withdrawn the proposed matter of public importance he had submitted to the President today relating to the impending trial of Ms Schapelle Corby.

**27 SCRUTINY OF BILLS—STANDING COMMITTEE—3RD REPORT AND ALERT DIGEST NO. 3 OF 2005**

Senator George Campbell, 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—

3rd report of 2005, dated 16 March 2005.

Alert Digest No. 3 of 2005, dated 16 March 2005.

Report ordered to be printed on the motion of Senator George Campbell.

**28 ECONOMICS LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—TAX LAWS AMENDMENT (2004 MEASURES NO. 7) BILL 2004**

Senator McGauran, at the request of the Chair of the Economics Legislation Committee (Senator Brandis), tabled the following documents:

Economics Legislation Committee—Report—Tax Laws Amendment (2004 Measures No. 7) Bill 2004—Additional information.

**29 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION REFERENCES  
COMMITTEE—INTERIM REPORT—INDIGENOUS EDUCATION FUNDING**

The Chair of the Employment, Workplace Relations and Education References Committee (Senator Crossin) tabled the following report:

Employment, Workplace Relations and Education References Committee—  
Indigenous education funding—Interim report, dated March 2005.

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

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

Debate ensued.

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

**30 PUBLIC WORKS—JOINT STATUTORY COMMITTEE—REPORTS—1ST REPORT OF  
2005 AND 68TH ANNUAL REPORT**

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

Public Works—Joint Statutory Committee—

1st report of 2005—Proposed fit-out of new leased premises for the Department of Industry, Tourism and Resources in Civic, ACT, dated March 2005.

68th annual report, dated March 2005.

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

Question put and passed.

**31 DOCUMENTS**

The following documents were tabled by the Clerk:

*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]:*

Christmas Island Act—List of applied Western Australian Acts for the period 17 September 2004 to 17 February 2005.

Civil Aviation Act—

Civil Aviation Regulations—Instrument No. CASA 88/05 [F2005L00692]\*.

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

AD/A320/167—Airborne Ground Check Module [F2005L00567]\*.

AD/A320/169—Fuel Tank Electrical Bonding [F2005L00570]\*.

AD/A320/170—Fire Protection – Cargo Compartment Water Drain Valves [F2005L00571]\*.

AD/A330/30 Amdt 2—Argo-Tech/Intertechnique Vent Float Valves [F2005L00572]\*.

AD/A330/47—Fuel – THS Fuel Tanks [F2005L00573]\*.

AD/B737/125 Amdt 3—Centre Wing Fuel Tank Float Switch Wiring [F2005L00581]\*.

AD/BAe 146/105 Amdt 1—APU – Air Inlet Duct – Modification [F2005L00585]\*.

AD/BEECH 99/8—Aircraft Flight Manual – Flight Into Icing Conditions [F2005L00588]\*.

AD/BEECH 1900/46—Aircraft Flight Manual – Flight Into Icing Conditions [F2005L00586]\*.

AD/F50/85 Amdt 1—Feathering Pump Gasket [F2005L00624]\*.

AD/HS 125/174—Installing insulating blankets [F2005L00602]\*.

AD/S-62/1—Primary and Auxiliary Servo Shut-off System [F2005L00608]\*.

AD/S-62/8—Main Rotor Anti-flapping Restrainer [F2005L00617]\*.

AD/S-62/10 Amdt 1—Main Gearbox Input Shaft and Gear Assembly [F2005L00619]\*.

AD/TBM 700/39—Elevator Trim Actuator [F2005L00622]\*.

106—

AD/CF34/8 Amdt 1—B Sump Screen [F2005L00590]\*.

AD/CON/83—TCM Engines Last Overhauled by Provence Aero Maintenance France [F2005L00593]\*.

AD/LYC/111—Lycoming Engines Last Overhauled by Provence Aero Maintenance France [F2005L00603]\*.

AD/RB211/14 Amdt 1—Thrust Reverser Resolver [F2005L00607]\*.

AD/RB211/25 Amdt 1—Cold Stream Nozzle [F2005L00623]\*.

107—

AD/AIRCON/12 Amdt 3—Kelly Aerospace Power Systems – Cabin Combustion Heaters [F2005L00578]\*.

AD/AIRCON/13 Amdt 2—Kelly Aerospace Fuel Regulator Shutoff Valves & Cabin Heaters [F2005L00579]\*.

AD/FSM/29 Amdt 3—Precision Airmotive Corporation Carburettors [F2005L00598]\*.

AD/RAD/81 Amdt 1—Garmin Mode S Transponders [F2005L00694]\*.

Cocos (Keeling) Islands Act—List of applied Western Australian Acts for the period 17 September 2004 to 17 February 2005.

\* Explanatory statement tabled with legislative instrument.

### 32 INDEXED LISTS OF DEPARTMENTAL AND AGENCY FILES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS

The following documents were 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 2004—Statements of compliance—

Australian Public Service Commission.

Australian Taxation Office.

Health and Ageing portfolio agencies.

Industry, Tourism and Resources portfolio agencies.

### 33 NATIONAL SECURITY INFORMATION LEGISLATION AMENDMENT BILL 2005

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

Message no. 108, dated 15 March 2005—A Bill for an Act to amend the *National Security Information (Criminal Proceedings) Act 2004*, and for related purposes.

The Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) 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 Vanstone moved—That this bill be now read a second time.

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*Explanatory memorandum:* Senator Vanstone tabled a revised explanatory memorandum relating to the bill.

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

**34 ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION AMENDMENT BILL 2005**

A message from the House of Representatives was reported agreeing to the following bill with amendments:

Message no. 109, dated 16 March 2005—Aboriginal and Torres Strait Islander Commission Amendment Bill 2005.

Ordered, on the motion of the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone), that the message be considered in committee of the whole immediately.

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*In the committee*

SCHEDULE OF THE AMENDMENTS MADE BY THE HOUSE OF REPRESENTATIVES

(1) Clause 2, page 2 (table items 3, 3A and 3B), omit the table items, substitute:

3. Schedule 3      The later of:  
    (a) 1 July 2005; and  
    (b) the day immediately following the day Schedules 1 and 2 to this Act commence.

**[commencement]**

(2) Schedule 1, item 112, page 16 (lines 6 to 8), omit subsection (1A).

**[Ministerial directions]**

(3) Schedule 1, item 118A, page 17 (line 21) to page 18 (line 22), omit the item.

**[administrative review of IBA decisions]**

(4) Schedule 3A, page 81 (lines 1 to 16), omit the Schedule.

**[regional councils]**

(5) Schedule 4, item 23, page 85 (lines 4 to 30), omit the item, substitute:

**23 Subsection 74(1A)**

Repeal the subsection.

**[repeal of subsection 74(1A) reinstated]**

Senator Vanstone moved—That the committee agrees to the amendments made by the House of Representatives to the bill.

Debate ensued.

Question put and passed.

Resolution to be reported.

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The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Marshall) reported that the committee had considered message no. 109 from the House of Representatives relating to the Aboriginal and Torres Strait Islander Commission Amendment Bill 2005 and had agreed to the amendments made by the House to the bill.

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

**35 PRIVILEGES—STANDING COMMITTEE—REFERENCE**

The Chair of the Standing Committee of Privileges (Senator Faulkner), pursuant to notice, moved business of the Senate notice of motion no. 5—That the following matter be referred to the Standing Committee of Privileges for inquiry and report by 15 June 2005:

Whether, and if so what, acts of unauthorised disclosure of parliamentary committee proceedings, evidence or draft reports should continue to be included among prohibited acts which may be treated by the Senate as contempts.

Debate ensued.

Question put and passed.

**36 ORDER OF BUSINESS—REARRANGEMENT**

The Minister for Justice and Customs (Senator Ellison), by leave, moved—That consideration of government documents not be proceeded with today and that consideration of government business continue till 7.20 pm.

Question put and passed.

**37 LEGISLATION COMMITTEES—REPORTS—ANNUAL REPORTS**

Pursuant to order, Senator Eggleston, at the request of the chairs of the respective committees, tabled the following reports, dated March 2005:

Reports on annual reports referred to legislation committees—No. 1 of 2005—

Community Affairs Legislation Committee.

Economics Legislation Committee.

Employment, Workplace Relations and Education Legislation Committee.

Environment, Communications, Information Technology and the Arts Legislation Committee.

Foreign Affairs, Defence and Trade Legislation Committee.

Legal and Constitutional Legislation Committee.

Rural and Regional Affairs and Transport Legislation Committee.

Reports ordered to be printed on the motion of Senator Eggleston.

**38 ECONOMICS LEGISLATION COMMITTEE—REPORT—TRADE PRACTICES  
LEGISLATION AMENDMENT BILL (NO. 1) 2005**

Pursuant to order, Senator Eggleston, 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 Trade Practices Legislation Amendment Bill (No. 1) 2005—Report, dated March 2005, Hansard record of proceedings, additional information, documents presented to the committee and submission.

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

**39 ECONOMICS LEGISLATION COMMITTEE—REPORT—ADDITIONAL ESTIMATES  
2004-05**

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

Economics Legislation Committee—2004-05 additional estimates—Report, dated March 2005, Hansard record of proceedings [2 vols] and additional information.

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

**40 PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL—PROPOSED APPROVAL**

Order of the day read for the adjourned debate on the motion of the Minister for Justice and Customs (Senator Ellison) (*see entry no. 4*).

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*Document:* Senator Ellison tabled the following document:

Parliament Act—Parliamentary Zone—Proposal relating to the temporary location of a sculpture adjacent to Questacon—Tabling statement.

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

**41 APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (NO. 2) 2004-2005  
APPROPRIATION BILL (NO. 3) 2004-2005  
APPROPRIATION BILL (NO. 4) 2004-2005**

Order of the day read for the adjourned debate on the motion of the Minister for Communications, Information Technology and the Arts (Senator Coonan)—That these bills be now read a second time.

Debate resumed.

*At 7.20 pm:* Debate was interrupted while Senator Hogg was speaking.

**42 ADJOURNMENT**

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

Debate ensued.

The Senate adjourned at 7.48 pm till Thursday, 17 March 2005 at 9.30 am.

**43 ATTENDANCE**

Present, all senators except Senators Boswell, Ian Campbell, Harradine\*, Hutchins\* and Scullion (\* on leave).

**HARRY EVANS**  
Clerk of the Senate