

2004-05

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

No. 40

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**1 MEETING OF SENATE**

The Senate met at 12.30 pm. The Deputy President (Senator Hogg) took the chair and read prayers.

**2 GOVERNMENT DOCUMENTS**

The following government documents were tabled:

*Customs Act 1901*—Customs (Prohibited Exports) Regulations 1958—Permissions granted under regulation 7 for the period 1 January to 30 June 2005.

Health Services Australia Ltd—Statement of corporate intent 2005-08.

*Members of Parliament (Staff) Act 1984*—Report for 2004-05 on consultants engaged under section 4 of the Act.

Productivity Commission—Report—No. 34—Smash repair and insurance, 17 March 2005.

**3 CONSIDERATION OF LEGISLATION**

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

Defence Legislation Amendment Bill (No. 1) 2005

Protection of the Sea (Shipping Levy) Amendment Bill 2005

Tax Laws Amendment (2005 Measures No. 5) Bill 2005.

Debate ensued.

Question put and passed.

**4 ORDER OF BUSINESS—REARRANGEMENT**

The Minister for Justice and Customs (Senator Ellison) moved—That intervening business be postponed till after consideration of the government business order of the day relating to the Defence Legislation Amendment Bill (No. 1) 2005.

Question put and passed.

**5 DEFENCE LEGISLATION AMENDMENT BILL (NO. 1) 2005**

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

On the motion of the Minister for Defence (Senator Hill) the bill was read a third time.

**6 BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT BILL 2005  
BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT (CONSEQUENTIAL AND  
TRANSITIONAL) BILL 2005**

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

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*In the committee*

**BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT BILL 2005—**

Consideration resumed of the bill—and of the amendments moved by Senator Murray:

Clause 2, page 2 (table item 2, cell at column 2), omit “9 March 2005.”, substitute “The day on which this Act receives the Royal Assent.”.

Clause 2, page 2 (table item 4, cell at column 2), omit “9 March 2005.”, substitute “The day on which this Act receives the Royal Assent.”.

Clause 2 page 2 (table item 6, cell at column 2), omit “9 March 2005.”, substitute “The day on which this Act receives the Royal Assent.”.

Debate resumed.

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*At 2 pm:* The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Watson) reported progress.

**7 QUESTIONS**

Questions without notice were answered.

**8 COMMUNICATIONS—TELSTRA—ANSWERS TO QUESTIONS**

Senator Conroy moved—That the Senate take note of the answers given by the Minister for Communications, Information Technology and the Arts (Senator Coonan) to questions without notice asked today relating to Telstra.

Debate ensued.

Question put and passed.

**9 LAW AND JUSTICE—UNITED STATES MILITARY COMMISSION PROCESS—ANSWER  
TO QUESTION**

Senator Stott Despoja moved—That the Senate take note of the answer given by the Minister for Justice and Customs (Senator Ellison) to a question without notice asked by Senator Stott Despoja today relating to the United States military commission process.

Question put and passed.

**10 PETITION**

The following petition, lodged with the Clerk by the Deputy President (Senator Hogg), was received:

From 71 petitioners, requesting that the Senate reject any attempt to limit Medicare coverage of abortion.

## 11 NOTICES

### *Notices of motion:*

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 private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Wednesday, 14 September 2005, from 4 pm to 6 pm, in relation to its inquiry on the administration by the Department of Agriculture, Fisheries and Forestry of the citrus canker outbreak. (*general business notice of motion no. 234*)

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

- (a) expresses its profound sympathy to all Australians and their families who have suffered as a result of Hurricane Katrina; and
- (b) extends its sincere condolences and deepest sympathy to the American people in the aftermath of Hurricane Katrina. (*general business notice of motion no. 235*)

The Minister for Justice and Customs (Senator Ellison): To move on the next day of sitting—That—

- (1) On Monday, 12 September 2005:
  - (a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to 11.40 pm;
  - (b) the routine of business from 7.30 pm shall be government business only; and
  - (c) the question for the adjournment of the Senate shall be proposed at 11 pm.
- (2) On Tuesday, 13 September 2005:
  - (a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to 11.40 pm;
  - (b) the routine of business from 7.30 pm shall be government business only; and
  - (c) the question for the adjournment of the Senate shall be proposed at 11 pm.

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

- (a) notes that:
  - (i) 9 September 2005 is International Foetal Alcohol Spectrum Disorders Awareness Day,
  - (ii) foetal alcohol spectrum disorders are arguably the leading cause of preventable disability in childhood in western civilisation, yet they are potentially 100 per cent preventable, and
  - (iii) foetal alcohol spectrum disorders have an incidence similar to spina bifida and Down Syndrome, yet are barely recognised in the public; and
- (b) calls on the Government to:
  - (i) provide resources to conduct research into the disorders,
  - (ii) promote awareness of the effects of prenatal exposure to alcohol, and

- (iii) develop national guidelines in relation to alcohol consumption during pregnancy as part of the national alcohol strategy. (*general business notice of motion no. 236*)

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

- (a) notes that:
  - (i) 10 September 2005 is National Gynaecological Awareness Day,
  - (ii) the overall number of new cases of gynaecological cancers is projected to increase by 15 per cent between 2001 and 2011,
  - (iii) each year more than 3 500 women in Australia are diagnosed with gynaecological cancers, and
  - (iv) the human papilloma virus (HPV) is strongly linked to the incidence of cervical cancer and is the most common sexually-transmittable infection in developed countries; and
- (b) calls on the Government to:
  - (i) offer direction in the area of gynaecological health, including examining the need for enhanced screening for HPV, and
  - (ii) promote public awareness of ways to prevent, detect and treat the range of gynaecological conditions. (*general business notice of motion no. 237*)

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

- (a) notes that:
  - (i) the Coalition Government, in 2001, enacted a mandatory maximum limit on inclusion of ethanol in all grades of petrol of 10 per cent, and
  - (ii) as a result of this mandatory limit, Australia is unable to cater for flexible fuel vehicles now on the market which are designed to run on up to 85 per cent ethanol; and
- (b) calls on the Government to:
  - (i) release the overdue findings of the Biofuels Taskforce appointed by the Prime Minister (Mr Howard), and
  - (ii) remove the existing mandate limiting the amount of ethanol in petrol to 10 per cent, and mandate instead a minimum 10 per cent biofuel in all Australian fuels. (*general business notice of motion no. 238*)

Senators Barnett, Chapman, Stephens and Polley: To move on the next day of sitting—That the Senate—

- (a) recognises:
  - (i) the extent and gravity of world poverty and the urgency of tackling this situation,
  - (ii) that the most impoverished countries cannot escape the cycle of poverty without assistance, and
  - (iii) that two-thirds of the world's poor are actually in Asia, rather than Africa;
- (b) acknowledges recent efforts by the Australian Government including increases in the Australian overseas aid budget and special support for those in need following the December 2004 tsunami;

- (c) supports the Millennium Development Goals agreed to by the Australian and other governments in 2000 which specifically included a set of eight goals to be achieved by 2015 as follows:
  - (i) halve extreme poverty and hunger,
  - (ii) achieve universal primary education,
  - (iii) promote gender equality and empower women in all levels of education,
  - (iv) reduce child mortality by two-thirds,
  - (v) reduce the maternal mortality ratio by three-quarters,
  - (vi) halt and begin to reverse the spread of HIV/AIDS, malaria and other diseases,
  - (vii) ensure environmental sustainability by:
    - (A) integrating the principles of sustainable development into country policies,
    - (B) reversing the loss of environmental resources,
    - (C) halving the proportion of people without access to clean water or adequate sanitation, and
    - (D) significantly improving the lives of at least 100 million slum dwellers by 2020, and
  - (viii) develop a global partnership for development based on fairer international trade, financial and governance systems; and
- (d) urges the Australian Government to recommit itself to the achievement of those goals. (*general business notice of motion no. 239*)

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

- (a) recognises that the United Nations (UN) Secretary General's report on achieving the Millennium Development Goals, *In larger freedom*, calls on governments to ensure universal access to reproductive health services;
- (b) acknowledges that, in January 2005, the Prime Minister (Mr Howard) reaffirmed Australia's commitment to prioritise and fund the Program of Action of the International Conference on Population and Development, which calls for universal access to sexual and reproductive health services by 2015;
- (c) recognises that access to sexual and reproductive health services is also a critical strategy towards achieving gender equality and women's empowerment, the third of the Millennium Development Goals; and
- (d) calls on the Government to articulate its commitments to sexual and reproductive health services at the 60th UN General Assembly held in New York from 14 September to 16 September 2005. (*general business notice of motion no. 240*)

The Leader of the Opposition in the Senate (Senator Evans): To move 12 sitting days after today—

No. 1—That Social Security (Means Test Treatment of Private Trusts – Excluded Trusts) Declaration 2005 [DEST], dated 17 May 2005, made under subsection 1207P(4) of the *Social Security Act 1991*, be disallowed.

No. 2—That Social Security (Means Test Treatment of Private Trusts – Excluded Trusts) Declaration 2005 [DEWR], dated 29 April 2005, made under subsection 1207P(4) of the *Social Security Act 1991*, be disallowed.

No. 3—That Social Security (Means Test Treatment of Private Trusts – Excluded Trusts) Declaration 2005 [FACS], dated 26 April 2005, made under subsection 1207P(4) of the *Social Security Act 1991*, be disallowed.

The Minister for Justice and Customs (Senator Ellison): To move on the next day of sitting—That:

- (a) the following bills be introduced:
    - Telstra (Transition to Full Private Ownership) Bill 2005, and
    - Telecommunications Legislation Amendment (Competition and Consumer Issues) Bill 2005; and
  - (b) the provisions of paragraphs (5) to (8) of standing order 111 not apply to these bills allowing them to be considered during this period of sittings.
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*Document:* Senator Ellison tabled the following document:

Consideration of legislation—Statement of reasons for introduction and passage of certain bills in the 2005 spring sittings.

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

- (a) notes that:
  - (i) the peaceful forest blockade in Wandella State Forest on the far south coast of New South Wales has been in place for 3 months,
  - (ii) there is no record of this forest being logged,
  - (iii) the forest is habitat for the Powerful Owl, a nationally threatened species, and
  - (iv) the catchment provides drinking water for Eurobodalla Shire; and
- (b) congratulates those participating in and supporting the blockade for their brave efforts to protect forests, threatened species and drinking water. (*general business notice of motion no. 241*)

*Contingent notice of motion:* The Leader of the Family First Party (Senator Fielding): To move (contingent on the order of the day for the adjourned debate on the second reading of the Trade Practices Legislation Amendment Bill (No. 1) 2005 being called on):

- (1) That so much of standing orders be suspended as would prevent the succeeding provisions of this order having effect.
- (2) That the Trade Practices Legislation Amendment Bill (No. 1) 2005 be divided into two bills, as follows:
  - (a) a Bill for an Act to amend the *Trade Practices Act 1974*, to provide for merger clearances and authorisations and for other purposes; and
  - (b) a Bill for an Act to amend the *Trade Practices Act 1974*, and for other purposes.
- (3) That the first bill consist of the enacting words, clauses 1, 2 and 3 and Schedule 1 of the original bill; and that the second bill consist of Schedules 2 to 12 of the original bill.
- (4) That the following amendments be made to the first bill:
  - (a) title, amend the title as shown in paragraph (2)(a) of this order; and
  - (b) clause 2, page 2, omit table items 3 to 6 inclusive.

- (5) That the following amendments be made to the second bill:
- (a) title, insert the title as shown in paragraph (2)(b) of this order;
  - (b) after the title, insert the words of enactment;
  - (c) after the words of enactment, insert the following clauses:

**1 Short title**

This Act may be cited as the *Trade Practices Legislation Amendment Act (No. 2) 2005*.

**2 Commencement**

This Act commences on the day on which it receives the Royal Assent.

**3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

- (d) renumber the Schedules as Schedules 1 to 11.
- (6) That the bills as amended by this order be printed.
- (7) That further consideration of the bills be orders of the day for the next day of sitting.

**12 POSTPONEMENT**

The following item of business was postponed:

Matter of privilege notice of motion no. 1 standing in the name of the Chair of the Finance and Public Administration References Committee (Senator Forshaw) for today, proposing the reference of a matter to the Committee of Privileges, postponed till 7 September 2005.

**13 FOREIGN AFFAIRS—PANCHEN LAMA**

Senator Stott Despoja, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 230—That the Senate—

- (a) notes:
  - (i) the significance of the Panchen Lama as the second most important spiritual leader in Tibetan Buddhism,
  - (ii) that in 1995, following his identification as Panchen Lama by the Dalai Lama, the then 6-years old Gedhun Choekyi Nyima and his family have disappeared from public view, and
  - (iii) that for 10 years their safety and well-being have remained unconfirmed; and
- (b) urges the Chinese Government to:
  - (i) reveal the whereabouts of Gedhun Choekyi Nyima and his family, and
  - (ii) allow for independent verification of his and his family's safety and well-being.

Question put and passed.

**14 SOCIAL ISSUES—SUICIDE**

The Leader of the Australian Democrats (Senator Allison), also on behalf of Senator McLucas, and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 233—That the Senate—

- (a) notes that:
  - (i) every year more than 2 500 Australians die from suicide, with estimates suggesting that there are at least another 30 attempts for each person who dies,
  - (ii) suicide is a complex event in which desperate people see death as a way to escape their overwhelming pain and anguish, and
  - (iii) ignorance and insensitivity continue to contribute to societal stigma concerning mental illness and suicide;
- (b) condemns the Minister for Health and Ageing (Mr Abbott) for failing to understand the level of pain being experienced by people who contemplate suicide; and
- (c) urges the Prime Minister (Mr Howard) to:
  - (i) categorically condemn the remarks made by the Minister for Health and Ageing in relation to Mr John Brogden, and
  - (ii) require ministers to demonstrate appropriate knowledge, understanding and compassion in relation to their portfolios.

Question put and negatived.

**15 SCIENCE AND TECHNOLOGY—GENETIC TESTING AND PRIVACY**

Senator Stott Despoja, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 221—That the Senate—

- (a) acknowledges research by the Centre for Genetics Education on attitudes to predictive genetic testing as a part of the Australian National University's Australian Survey of Social Attitudes;
- (b) notes that the research reveals many Australians oppose genetic testing for insurance and employment purposes due to concerns about potential discrimination;
- (c) notes that the Government has not yet released its response to the Australian Law Reform Commission (ALRC) report no. 96, *Essentially yours: The protection of human genetic information in Australia*; and
- (d) calls on the Government to respond to the ALRC's report and implement federal laws to protect our genetic privacy and prevent discrimination.

Question put and passed.

**16 ECONOMICS LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT**

Senator Ferris, at the request of the Chair of the Economics Legislation Committee (Senator Brandis) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 231—That the time for the presentation of the report of the Economics Legislation Committee on annual reports tabled by 30 April 2005 be extended to 13 October 2005.

Question put and passed.

**17 AUSTRALIAN AND PACIFIC PRESIDING OFFICERS AND CLERKS CONFERENCE—DOCUMENT**

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

Australian and Pacific Presiding Officers and Clerks Conference, 36th, Apia, Samoa, 11 to 15 July 2005 and ancillary meetings—Report by Deputy President Senator John Hogg and Deputy Speaker the Honourable Ian Causley, MP, dated August 2005.

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

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

**18 AUDITOR-GENERAL—AUDIT REPORT NO. 9 OF 2005-06—DOCUMENT**

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

Auditor-General—Audit report no. 9 of 2005-06—Performance audit—Provision of export assistance to rural and regional Australia through the TradeStart Program: Australian Trade Commission (Austrade).

**19 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—CIVIL AVIATION LEGISLATION AMENDMENT (MUTUAL RECOGNITION WITH NEW ZEALAND) BILL 2005**

Senator Ferris, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan), tabled the following document:

Rural and Regional Affairs and Transport Legislation Committee—Report—Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand) Bill 2005—Additional information.

**20 DOCUMENTS**

The following documents were tabled by the Clerk:

*[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]*

Aged Care Act—Aged Care (Residential Care Subsidy – Amount of Viability Supplement) Determination 2005 (No. 3) [F2005L02409]\*.

Civil Aviation Act—

Civil Aviation Regulations—Instruments Nos—

CASA 306/05—Direction – carriage of cabin attendant in hot air balloon [F2005L02411]\*.

CASA EX40/05—Exemption – carriage of life rafts [F2005L02480]\*.

CASA EX41/05—Exemption – carriage of life rafts [F2005L02482]\*.

Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—

AD/CAP 232/12—In-Flight Fracture [F2005L02476]\*.

AD/S-PUMA/63—CPI 503 Emergency Locator Transmitter [F2005L02471]\*.

Class Ruling CR 2005/68.

Corporations Act—ASIC Class Order [CO 05/835] [F2005L02473]\*.

Crimes Act—Select Legislative Instrument 2005 No. 200—Crimes Amendment Regulations 2005 (No. 2) [F2005L01997]\*.

## Customs Act—CEO Instruments of Approval Nos—

- 28 of 2005 [F2005L02442]\*.
- 29 of 2005 [F2005L02443]\*.
- 30 of 2005 [F2005L02444]\*.
- 31 of 2005 [F2005L02446]\*.
- 32 of 2005 [F2005L02447]\*.
- 33 of 2005 [F2005L02465]\*.
- 34 of 2005 [F2005L02466]\*.
- 35 of 2005 [F2005L02468]\*.
- 36 of 2005 [F2005L02469]\*.
- 38 of 2005 [F2005L02477]\*.
- 39 of 2005 [F2005L02479]\*.
- 40 of 2005 [F2005L02481]\*.
- 41 of 2005 [F2005L02485]\*.
- 42 of 2005 [F2005L02486]\*.
- 43 of 2005 [F2005L02487]\*.
- 44 of 2005 [F2005L02488]\*.

Diplomatic Privileges and Immunities Act—Diplomatic Privileges and Immunities Regulations—Certificates under regulation 5A, dated 25 August 2005 [2].

Health Insurance Act—Health Insurance (Point of Care Testing in General Practice) Determination HS/03/2005 [F2005L02305]\*.

Jury Exemption Act—Select Legislative Instrument 2005 No. 199—Jury Exemption Amendment Regulations 2005 (No. 1) [F2005L02330]\*.

Lands Acquisition Act—Statements describing property acquired by agreement for specified public purposes under sections—

- 40.
- 125.

Life Insurance Act—Life Insurance (Prudential Rules) Determinations Nos—

- 2 of 2005—Collection of Statistics [F2005L02401]\*.
- 3 of 2005—Collection of Statistics [F2005L02474]\*.

Maritime Transport and Offshore Facilities Security Act—Select Legislative Instrument 2005 No. 201—Maritime Transport and Offshore Facilities Security Amendment Regulations 2005 (No. 1) [F2005L02436]\*.

National Health Act—Determination No. HIB 13/2005 [F2005L02384]\*.

Product Rulings—

- Notice of Withdrawal—PR 2005/98.
- PR 2005/107

Taxation Rulings TR 2005/15 and TR 2005/16.

\* Explanatory statement tabled with legislative instrument.

**21 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 January to 30 June 2005—Statements of compliance—

Australian Public Service Commission.

Department of the Prime Minister and Cabinet.

Official Secretary to the Governor-General.

**22 DEPARTMENTAL AND AGENCY CONTRACTS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT**

The following document was tabled pursuant to the order of the Senate of 20 June 2001, as amended:

Departmental and agency contracts for 2004-05—Letter of advice—Industry, Tourism and Resources portfolio agencies.

**23 COMMITTEES—APPOINTMENT OF MEMBERS**

The Acting Deputy President (Senator Ferguson) informed the Senate that the President had received letters nominating senators to be members of various committees.

The Minister for Justice and Customs (Senator Ellison), by leave, moved—That senators be appointed to committees as follows:

**Community Affairs Legislation and References Committees—**

Appointed—Participating members: Senators Milne and Siewert

**Economics Legislation and References Committees—**

Appointed—Participating members: Senators Milne and Siewert

**Employment, Workplace Relations and Education Legislation and References Committees—**

Appointed—Participating members: Senators Milne and Siewert

**Environment, Communications, Information Technology and the Arts Legislation Committee—**

Appointed—Participating members: Senators Milne and Siewert

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

Appointed—Participating member: Senator Milne

**Finance and Public Administration Legislation and References Committees—**

Appointed—Participating members: Senators Milne and Siewert

**Foreign Affairs, Defence and Trade Legislation and References Committees—**

Appointed—Participating members: Senators Milne and Siewert

**Legal and Constitutional Legislation and References Committees—**

Appointed—Participating members: Senators Milne and Siewert

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

Appointed—Participating member: Senator Siewert.

Question put and passed.

**24 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS  
LEGISLATION COMMITTEE—REFERENCE**

Senator Conroy, pursuant to notice, moved business of the Senate notice of motion no. 1—That, upon their introduction, any bill providing for the further sale of Telstra, any related bill introduced into the Senate and the provisions of any related bill introduced into the House of Representatives be referred to the Environment, Communications, Information Technology and the Arts Legislation Committee for inquiry and report by 10 October 2005.

The Minister for Justice and Customs (Senator Ellison) moved the following amendment:

Omit all words after “That”, substitute:

- “(1) The Telstra (Transition to Full Private Ownership) Bill 2005 and the Telecommunications Legislation Amendment (Competition and Consumer Issues) Bill 2005, and the provisions of the Telecommunications Legislation Amendment (Future Proofing and Other Measures) Bill 2005, the Telecommunications (Carrier Licence Charges) Amendment (Industry Plans and Consumer Codes) Bill 2005, and the Appropriation (Regional Telecommunications Services) Bill 2005-2006, be referred to the Environment, Communications, Information Technology and the Arts Legislation Committee at whatever stage the bills have reached at the end of the time available for the consideration of government business on 8 September 2005, for inquiry and report by 12 September 2005.
- (2) In examining the bills, the committee consider only the following issues:
  - (a) the operational separation of Telstra;
  - (b) the role of the Australian Competition and Consumer Commission (ACCC), including:
    - (i) the requirement that it consider the costs and risks of new infrastructure investment when making access decisions, and
    - (ii) streamlining the decision-making processes, including the capacity for the ACCC to make procedural rules;
  - (c) the role of the Australian Communications and Media Authority, including:
    - (i) the provision of additional enforcement powers,
    - (ii) improvement of the effectiveness of the telecommunications self-regulatory processes by encouraging greater consumer representation and participation in the development of industry codes; and
  - (d) the establishment of a perpetual \$2 billion Communications Fund.”.

Debate ensued.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 34

Senators—

Abetz	Eggleslon	Joyce	Ronaldson
Adams	Ellison	Kemp	Santoro
Barnett	Ferguson	Lightfoot	Scullion
Boswell	Ferris	Macdonald, Ian	Troeth
Brandis	Fierravanti-Wells	Macdonald, Sandy	Trood
Campbell, Ian	Fifield	Mason	Vanstone
Chapman	Heffernan	McGauran (Teller)	Watson
Colbeck	Humphries	Nash	
Coonan	Johnston	Parry	

NOES, 32

Senators—

Allison	Evans	Ludwig	Polley
Bartlett	Faulkner	Marshall	Siewert
Bishop	Fielding	McEwen	Stephens
Brown, Bob	Forshaw	McLucas	Sterle
Brown, Carol	Hogg	Milne	Stott Despoja
Campbell, George	Hurley	Moore	Webber (Teller)
Carr	Hutchins	Murray	Wong
Conroy	Kirk	Nettle	Wortley

Question agreed to.

Main question, as amended, put and passed.

## 25 COMMITTEES—CHANGES IN MEMBERSHIP

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

The Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone), by leave, moved—That senators be discharged from and appointed to committees as follows:

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

Appointed—Participating member: Senator Nash

### Foreign Affairs, Defence and Trade References Committee—

Discharged—Senator Nash

Appointed—

Senator Joyce

Participating member: Senator Nash

### Legal and Constitutional References Committee—

Discharged—Senator Payne

Appointed—Senator Fierravanti-Wells.

Question put and passed.

**26 BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT BILL 2005  
BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT (CONSEQUENTIAL AND  
TRANSITIONAL) BILL 2005**

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

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*In the committee*

**BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT BILL 2005—**

Consideration resumed of the bill—and of the amendments moved by Senator Murray (see entry no. 6).

Debate resumed.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 31

Senators—

Allison	Faulkner	Marshall	Siewert
Bartlett	Fielding	McEwen	Stephens
Bishop	Forshaw	McLucas	Sterle
Brown, Bob	Hogg	Milne	Stott Despoja
Brown, Carol	Hurley	Moore	Webber
Campbell, George	Hutchins	Murray	Wong
Carr	Kirk (Teller)	Nettle	Wortley
Conroy	Ludwig	Polley	

NOES, 32

Senators—

Abetz	Ellison	Joyce	Parry
Adams	Ferguson	Kemp	Ronaldson
Boswell	Ferris	Lightfoot	Santoro
Campbell, Ian	Fierravanti-Wells	Macdonald, Ian	Scullion
Chapman	Fifield	Macdonald, Sandy	Troeth
Colbeck	Heffernan	Mason	Trood
Coonan	Humphries	McGauran	Vanstone
Eggleston (Teller)	Johnston	Nash	Watson

Question negatived.

Senator Murray moved the following amendments together by leave:

Clause 4, page 4 (lines 7 and 8), omit the definition of **building agreement**, substitute:

**building agreement** means an agreement that primarily applies to building work.

Clause 4, page 4 (after line 15), after the definition of **building association**, insert:

**building award** means an award that primarily applies to building work.

Clause 4, page 4 (lines 16 to 18), omit the definition of **building certified agreement**, substitute:

**building certified agreement** means a certified agreement that primarily applies to building work.

Clause 5, page 9 (line 1) to page 10 (line 15), omit the clause, substitute:

### 5 Definition of *building work*

- (1) Subject to subsections (2), (3) and (4), ***building work*** means any of the following activities:
  - (a) the construction, extension, restoration, demolition or dismantling of buildings, structures or works that form, or are to form, part of land, at the site where such buildings, structures or works are to be located, whether or not the buildings, structures or works are permanent;
  - (b) the construction, extension, restoration, demolition or dismantling of railways (not including rolling stock) or docks;
  - (c) the installation of fittings forming part of buildings, structures or works which are being constructed, extended, restored, demolished or dismantled, including heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply, fire protection, security and communications systems;
  - (d) any operation that is part of, or is preparatory to, or is for rendering complete, work covered by paragraph (a), (b) or (c), for example:
    - (i) site clearance, earthmoving, excavation, tunnelling and boring;
    - (ii) the laying of foundations;
    - (iii) the erection, maintenance or dismantling of scaffolding;
    - (iv) the prefabrication of major parts of buildings, structures and works (eg. precastings) carried out on-site or in a temporary facility or yard established for the purposes of carrying out such prefabrication work for the project;
    - (v) site restoration, landscaping and the provision of roadways and other access works;

but does not include any of the following:

- (e) the drilling for, or extraction of, oil or natural gas;
- (f) the extraction (whether by underground or surface working) of minerals, including tunnelling or boring, or constructing underground works, for that purpose;
- (g) any work that is part of a project for:
  - (i) the construction, repair or restoration of a single dwelling house;
  - (ii) the construction, repair or restoration of any building, structure or work associated with a single dwelling house;
  - (iii) the alteration or extension of a single-dwelling house, if it remains a single-dwelling house after the alteration or extension;
- (h) the installation and repair of equipment or machinery in existing buildings, structures or works which does not form part of the building, structure or works, for example, industrial machinery.
- (2) Paragraph (1)(g) does not apply if the project is part of a multi-dwelling development that consists of, or includes, the construction of at least 5 single-dwelling houses.

- (3) Subject to subsection (4), ***building work*** includes any activity that is prescribed by the regulations for the purposes of this section.
- (4) ***Building work*** does not include any activity which is prescribed by the regulations for the purposes of this section.
- (5) In this section:  
***land*** includes land beneath water.

Debate ensued.

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*At 6.50 pm:* The Acting Deputy President (Senator Chapman) resumed the chair and the Temporary Chair of Committees reported progress.

## 27 GOVERNMENT DOCUMENTS—CONSIDERATION

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

## 28 ADJOURNMENT

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

Debate ensued.

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*Document:* Senator Siewert, by leave, tabled the following document:

Indigenous Australians—Oxfam Australia—Land rights and development reform in remote Australia.

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Debate continued.

The Senate adjourned at 7.32 pm till Wednesday, 7 September 2005 at 9.30 am.

## 29 ATTENDANCE

Present, all senators except Senators Calvert\*, Crossin, Lundy and Ray\* (\* on leave).

**HARRY EVANS**  
Clerk of the Senate