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Contents

1	Meeting of Senate	1901
2	Government Documents	1901
3	Leave of Absence	1902
4	Future Fund Bill 2005	1902
5	Questions	1902
6	Family and Community Services—Aged Care—Answers to Questions	1902
7	Immigration—Ms Cornelia Rau—Compensation—Answer to Question	1902
8	Petitions	1903
9	Notices	1903
10	Postponements	1905
11	Leave of Absence	1906
12	Foreign Affairs—Japan—Whaling	1906
13	Foreign Affairs—Iran—Nuclear Weapons	1906
14	Foreign Affairs—India—Nuclear Non-Proliferation Treaty	1907
15	Community Affairs Legislation Committee—Leave to Meet During Sitting	1908
16	Rural and Regional Affairs and Transport Legislation Committee—Leave to Meet During Sitting	1908
17	Immigration—Australian Values	1908
18	Postponement	1909
19	Auditor-General—Audit Report No. 30 of 2005-06—Document	1909
20	Foreign Affairs, Defence and Trade Legislation Committee—Additional Information—Budget Estimates 2005-06	1909
21	Documents	1910
22	Indexed Lists of Departmental and Agency Files—Order for Production of Documents—Documents	1911
23	Departmental and Agency Contracts—Order for Production of Documents—Documents	1911
24	Foreign Affairs, Defence and Trade References Committee—Change in Membership	1911
25	Tax Laws Amendment (2005 Measures No. 6) Bill 2005	1911
26	Trade Practices Amendment (National Access Regime) Bill 2006	1912

27	Future Fund Bill 2005	1912
28	Offshore Petroleum Bill 2005	
	Offshore Petroleum (Annual Fees) Bill 2005	
	Offshore Petroleum (Registration Fees) Bill 2005	
	Offshore Petroleum (Repeals and Consequential Amendments) Bill 2005	
	Offshore Petroleum (Royalty) Bill 2005	
	Offshore Petroleum (Safety Levies) Amendment Bill 2005	1914
29	Government Documents—Consideration	1916
30	Adjournment	1919
31	Attendance	1919

1 MEETING OF SENATE

The Senate met at 12.30 pm. The President (Senator the Honourable Paul Calvert) took the chair and read prayers.

2 GOVERNMENT DOCUMENTS

The following government documents were tabled:

Aboriginal and Torres Strait Islander Social Justice Commissioner—Reports for 2005—

Native title.

Social justice.

Australian Broadcasting Corporation—Equity and diversity—Report for 1 September 2004 to 31 August 2005.

Customs Act 1901—Customs (Prohibited Exports) Regulations 1958—Permissions granted under regulation 7 for the period 1 July to 31 December 2005.

Dairy Australia Limited—Report for 2004-05.

Human Rights and Equal Opportunity Commission—National inquiry into employment and disability—Final report—WORKability II: Solutions – People with disability in the open workplace, December 2005.

Indigenous Land Corporation—Report for 2004-05.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—

Commonwealth Ombudsman's reports—

Personal identifier 003/05, 4 November 2005.

Personal identifier 004/05, 21 November 2005.

Personal identifier 005/05, 4 November 2005.

Personal identifier 006/05, 21 November 2005.

Personal identifier 007/05, 21 November 2005.

Personal identifier 008/05, 21 November 2005.

Personal identifier 009/05, 25 November 2005.

Personal identifier 010/05, 25 November 2005.

Personal identifier 011/05, 4 November 2005.

Personal identifier 012/05, 4 November 2005.

Personal identifier 013/05, 25 November 2005.

Personal identifier 015/05, 4 November 2005.

Commonwealth Ombudsman's reports 003/05 to 013/05 and 015/05—Government response, 7 February 2006.

National Environment Protection Council and NEPC Service Corporation—Report for 2004-05.

Native Title Act 1993—Native title representative bodies—Reports for 2004-05—

Cape York Land Council Aboriginal Corporation.

Ngaanyatjarra Council (Aboriginal Corporation).

Telstra Instalment Receipt Trustee Limited—Report for 2004-05.

Tobacco Advertising Prohibition Act 1992—Report for 2005 pursuant to section 34A of the Act.

Treaty—*Bilateral*—Text, together with national interest analysis and annexures—Exchange of Notes constituting a treaty between the Government of Australia and the Government of the Republic of Singapore to Amend the Singapore-Australia Free Trade Agreement (SAFTA) of 17 February 2003 [Second Set].

Wreck Bay Aboriginal Community Council—Report for 2004-05.

3 LEAVE OF ABSENCE

Senator George Campbell, by leave, moved—That leave of absence be granted to Senator Bishop for the period 27 February to 2 March 2006, on account of ill health.

Question put and passed.

4 FUTURE FUND BILL 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.

Senator Sherry moved the following amendment:

At the end of the motion, add “but the Senate is of the view that:

- (a) the Future Fund should only invest on a prudent commercial basis and manage funds in a manner consistent with:
 - (i) best practice portfolio management,
 - (ii) achieving desired returns without undue risk to the fund as a whole,
 - (iii) enhancing Australia’s reputation as a responsible and ethical investor, and
 - (iv) building productive capacity in the Australian community; and
- (b) the income stream from the fund should be used for productive national economic purpose rather than being set aside solely to offset the cost of public sector superannuation as the Government intends”.

Debate ensued.

At 2 pm: Debate was interrupted while Senator Webber was speaking.

5 QUESTIONS

Questions without notice were answered.

6 FAMILY AND COMMUNITY SERVICES—AGED CARE—ANSWERS TO QUESTIONS

Senator McLucas moved—That the Senate take note of the answers given by the Minister for Ageing (Senator Santoro) to questions without notice asked by Senators McLucas, Moore and Marshall today relating to aged care.

Debate ensued.

Question put and passed.

7 IMMIGRATION—MS CORNELIA RAU—COMPENSATION—ANSWER TO QUESTION

Senator Nettle moved—That the Senate take note of the answer given by the Minister for Immigration and Multicultural Affairs (Senator Vanstone) to a question without notice asked by Senator Nettle today relating to the detention of and compensation for Ms Cornelia Rau.

Question put and passed.

8 PETITIONS

The following 2 petitions, lodged with the Clerk by the senators indicated, were received:

The President, from 15 petitioners, requesting that the Senate take action to restrict children's exposure to Internet pornography.

Senator Ludwig, from 334 petitioners, requesting that the Senate take action to ensure that the proposed changes to industrial relations will not adversely affect Australian employees.

9 NOTICES

The Chair of the Select Committee on Mental Health (Senator Allison): To move on the next day of sitting—That the time for the presentation of the report of the Select Committee on Mental Health be extended to 28 April 2006. (*general business notice of motion no. 382*)

The Minister for the Arts and Sport (Senator Kemp) and Senator Lundy: To move on the next day of sitting—That the Senate—

- (a) congratulates the Australian Olympic Team for achieving an outstanding result at the Winter Olympics in Torino;
- (b) particularly congratulates medal winners Dale Begg-Smith and Alisa Camplin in helping the Australian team achieve its second best result at the Winter Olympics;
- (c) congratulates the Olympic Winter Institute and the Australian Institute of Sport on their key contributions to the preparation of the Australian Winter Olympic team; and
- (d) acknowledges the important contribution of the Australian Sports Commission to the preparation of the team.

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

- (a) notes that:
 - (i) on the Australian Broadcasting Corporation's *Insiders* program on Sunday, 26 February 2006, the Treasurer (Mr Costello) said that he thinks 'we can offer a tolerant Australia which respects the rights and liberties of all as long as we've got agreement on a few key points. One is a secular state', and
 - (ii) on Monday, 27 February 2006 during question time, the Minister for Finance and Administration (Senator Minchin) said 'It is a fact that in Australia, as a long part of the Western tradition, there is a separation of church and state'; and
- (b) calls on the Government, if it is serious about a secular state, to take steps to:
 - (i) remove religious references from statutory oaths and pledges,
 - (ii) abolish official parliamentary prayers,
 - (iii) remove tax advantages that solely apply for religious purposes, and
 - (iv) consider other ways of achieving a true separation of church and state. (*general business notice of motion no. 383*)

Senator McLucas: 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 17 August 2006:

An examination of the funding and operation of the Commonwealth-State/Territory Disability Agreement (CSTDA), including:

- (a) an examination of the intent and effect of the three CSTDAs to date;
- (b) the appropriateness or otherwise of current Commonwealth/state/territory joint funding arrangements, including an analysis of levels of unmet needs and, in particular, the unmet need for accommodation services and support;
- (c) an examination of the ageing/disability interface with respect to health, aged care and other services, including the problems of jurisdictional overlap and inefficiency; and
- (d) an examination of alternative funding, jurisdiction and administrative arrangements, including relevant examples from overseas.

The Minister for Communications, Information Technology and the Arts (Senator Coonan): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Broadcasting Services Act 1992*, and for other purposes. ***Broadcasting Services Amendment (Subscription Television Drama and Community Broadcasting Licences) Bill 2006.***

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

- (a) notes the recent reports of abuse of residents of aged care nursing homes; and
- (b) calls on the Government and all state and territory governments to protect older Australians by:
 - (i) exploring the introduction of mandatory reporting of suspected abuse,
 - (ii) exploring the potential benefits of pre-employment police checks for aged care workers, and
 - (iii) supporting the Public Interest Disclosure (Protection of Whistleblowers) Bill 2002 [2004] which seeks to make reprisals against whistleblowers illegal and punishable by fine or imprisonment. (*general business notice of motion no. 384*)

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

- (a) notes:
 - (i) the current speculation about Iran's capabilities and intentions with regard to its possible development of nuclear weapons,
 - (ii) with deep concern, the threat of military action being considered against Iran, including the possible use of tactical nuclear weapons, and
 - (iii) successive resolutions in the United Nations General Assembly on negative security assurances and guarantees from the nuclear weapon states that nuclear weapons will never be used against non-nuclear armed states, and the importance of that principle in ensuring that non-nuclear weapon states have no motive to acquire nuclear weapons;

- (b) urges the Government to pursue a resolution of the Iranian crisis based on the following principles:
 - (i) no use of any military intervention whatsoever by any party, for any reason,
 - (ii) a clear commitment by all nuclear-armed parties not to use nuclear weapons in this situation, and to recommit to the doctrine of no 'first use' of nuclear weapons,
 - (iii) a clear commitment by all parties to the global elimination of nuclear weapons, including reaffirmation of the Final Declaration of the 2000 Non-Proliferation Treaty Review conference, and relevant UN General Assembly resolutions, including the L28 resolution sponsored by Japan and Australia,
 - (iv) the implementation of the 1995 Non-Proliferation Treaty Resolution on a nuclear-weapon-free zone in the Middle East and the implementation of the annual consensus-adopted UN General Assembly resolutions on the 'Establishment of a nuclear-weapon-free zone in the region of the Middle East',
 - (v) a diplomatic path to the removal of tensions between the United States of America, Israel and Iran, involving compromise on all sides (except where the development or threat of nuclear weapons is concerned), recognising the legitimate security concerns of all parties including Israel and Iran, and refraining absolutely from inflammatory statements, and
 - (vi) encouragement of all states parties to the Nuclear Non-Proliferation Treaty to remain within that framework and all non-states parties to join that regime; and
- (c) conveys the text of this resolution to all UN Security Council missions and their foreign ministers or secretaries of state, and the Governments of Iran and Israel. (*general business notice of motion no. 385*)

The Chair of the Community Affairs References Committee (Senator Moore): To move on the next day of sitting—That the time for the presentation of the following reports of the Community Affairs References Committee be extended to 22 June 2006:

- (a) workplace exposure to toxic dust; and
- (b) petrol sniffing in remote Aboriginal communities. (*general business notice of motion no. 386*)

Senator Wong: To move 5 sitting days after today—That the Declaration of percentage of Commonwealth supported places to be provided by Table A providers for a course of study in medicine, made under paragraph 36-35(1)(b) of the *Higher Education Support Act 2003*, be disallowed.

10 POSTPONEMENTS

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator O'Brien for today, proposing the reference of a matter to the Rural and Regional Affairs and Transport References Committee, postponed till 2 March 2006.

Business of the Senate notice of motion no. 2 standing in the name of Senator Hurley for today, proposing the reference of matters to the Legal and Constitutional References Committee, postponed till 2 March 2006.

General business notice of motion no. 368 standing in the name of Senator Stott Despoja for 1 March 2006, relating to the Convention on the Elimination of All Forms of Discrimination against Women, postponed till 2 March 2006.

General business notice of motion no. 378 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, relating to young people and tobacco, postponed till 1 March 2006.

General business notice of motion no. 380 standing in the name of Senator Siewert for today, relating to the proposed expansion of the McArthur River mine, postponed till 1 March 2006.

11 LEAVE OF ABSENCE

Senator Ferris, by leave and at the request of Senator Siewert, moved—That leave of absence be granted to Senator Siewert for 28 February 2006, on account of ill health.

Question put and passed.

12 FOREIGN AFFAIRS—JAPAN—WHALING

The Leader of the Australian Greens (Senator Bob Brown), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 372—That the Senate opposes whaling and calls on the Australian Government to request Japan to withdraw its whaling fleet from Australia's southern oceans.

Question put and passed.

13 FOREIGN AFFAIRS—IRAN—NUCLEAR WEAPONS

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 379—That the Senate—

(a) notes:

- (i) that the International Atomic Energy Agency's board of governors will meet on 6 March 2006 to consider the resumption of aspects of Iran's nuclear program,
- (ii) the recent media reports that suggest the United States of America (US) and Israel are considering a military strike on Iran, and
- (iii) the recent report by the Oxford Research Group that found that as many as 10 000 people could die in such an attack; and

(b) calls on the Government to:

- (i) support diplomatic initiatives to prevent Iran from pursuing nuclear weapons,
- (ii) encourage all parties to the Nuclear Non-Proliferation Treaty to pursue its requirements for nuclear disarmament, and
- (iii) rule out Australian support for a military strike on Iran by the US or Israel.

Question put.

The Senate divided—

AYES, 3

Senators—

Brown, Bob

Milne (Teller)

Nettle

NOES, 47

Senators—

Adams

Fierravanti-Wells

Lundy

Polley

Barnett

Fifield

Macdonald, Ian

Ray

Brandis

Forshaw

Marshall

Ronaldson

Brown, Carol

Hogg

Mason

Scullion

Calvert

Humphries

McEwen

Sherry

Campbell, George

Hurley

McGauran

Stephens

Carr

Hutchins

McLucas

Sterle

Chapman

Johnston

Moore

Trood

Colbeck

Joyce

Nash

Watson

Crossin

Kirk

Parry

Wong

Ellison

Lightfoot

Patterson

Wortley

Ferris (Teller)

Ludwig

Payne

Question negatived.

14 FOREIGN AFFAIRS—INDIA—NUCLEAR NON-PROLIFERATION TREATY

Senator Milne, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 381—That the Senate—

(a) notes that:

- (i) India is not a signatory to the Nuclear Non-Proliferation Treaty,
- (ii) the President of the United States of America (US), George W Bush, will visit India in the week beginning 26 February 2006 to advance sales of US nuclear power technology to India, and
- (iii) the Prime Minister (Mr Howard) intends to visit India, where the Australian Government hopes to facilitate uranium export contracts; and

(b) calls on the Government to:

- (i) cease pressuring state and territory governments to permit the expansion of uranium mining, and
- (ii) cease activities that deliberately undermine the Nuclear Non-Proliferation Treaty.

Question put.

The Senate divided—

AYES, 3

Senators—

Brown, Bob

Milne

Nettle (Teller)

NOES, 47

Senators—

Adams	Fierravanti-Wells	Lundy	Ray
Barnett	Fifield	Macdonald, Ian	Ronaldson
Boswell	Forshaw	Marshall	Scullion
Brandis	Hogg	Mason	Sherry
Brown, Carol	Humphries	McEwen	Stephens
Calvert	Hurley	McGauran	Sterle
Campbell, George	Hutchins	McLucas	Trood
Chapman	Johnston	Moore	Watson
Colbeck	Joyce	Nash	Webber
Crossin	Kirk	Parry	Wong
Ellison	Lightfoot	Patterson	Wortley
Ferris (Teller)	Ludwig	Polley	

Question negated.

15 COMMUNITY AFFAIRS LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Ferris, at the request of the Chair of the Community Affairs Legislation Committee (Senator Humphries) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 375—That the Community Affairs Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 2 March 2006, from 3.30 pm to 7.30 pm, to take evidence for the committee's inquiry into the provisions of the Aged Care (Bond Security) Bill 2005 and related bills.

Question put and passed.

16 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Ferris, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 377—That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 1 March 2006, from 4.30 pm to 6.30 pm, to take evidence for the committee's inquiry into the administration by the Department of Agriculture, Fisheries and Forestry of the citrus canker outbreak.

Question put and passed.

17 IMMIGRATION—AUSTRALIAN VALUES

The Leader of the Australian Greens (Senator Bob Brown), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 374—That the Senate—

- (a) notes the call by the Treasurer (Mr Costello) for people applying for Australian citizenship who do not 'share certain beliefs' to be refused citizenship, and those Australians holding dual citizenship who do not 'share certain beliefs' to be stripped of their Australian citizenship; and
- (b) calls on the Treasurer to outline how that non-sharing is defined and how this could be framed in law.

Question put.

The Senate divided—

AYES, 31

Senators—

Allison	Forshaw	McEwen	Ray
Bartlett	Hogg	McLucas	Sherry
Brown, Bob	Hurley	Milne	Stephens
Brown, Carol	Hutchins	Moore	Sterle
Campbell, G (Teller)	Kirk	Murray	Webber
Carr	Ludwig	Nettle	Wong
Crossin	Lundy	O'Brien	Wortley
Faulkner	Marshall	Polley	

NOES, 36

Senators—

Abetz	Coonan	Johnston	Nash
Adams	Eggleston	Joyce	Parry
Barnett	Ellison	Kemp	Patterson
Boswell	Ferris (Teller)	Lightfoot	Payne
Brandis	Fierravanti-Wells	Macdonald, Ian	Santoro
Calvert	Fifield	Macdonald, Sandy	Scullion
Campbell, Ian	Heffernan	Mason	Troeth
Chapman	Hill	McGauran	Trood
Colbeck	Humphries	Minchin	Watson

Question negatived.

18 POSTPONEMENT

Senator Nettle, by leave and at the request of the Chair of the Rural and Regional Affairs and Transport References Committee (Senator Siewert), moved—That general business notice of motion no. 376 standing in the name of Senator Siewert for today, relating to an extension of time for the committee to report, be postponed till 1 March 2006.

Question put and passed.

19 AUDITOR-GENERAL—AUDIT REPORT NO. 30 OF 2005-06—DOCUMENT

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

Auditor-General—Audit report no. 30 of 2005-06—Performance audit—The ATO's strategies to address the cash economy: Australian Taxation Office.

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

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

20 FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION COMMITTEE— ADDITIONAL INFORMATION—BUDGET ESTIMATES 2005-06

Senator Eggleston, at the request of the Chair of the Foreign Affairs, Defence and Trade Legislation Committee (Senator Johnston), tabled the following additional information received by the committee:

Foreign Affairs, Defence and Trade Legislation Committee—Budget estimates 2005-06 (Supplementary)—

Volume 1—Defence portfolio.

Volume 2—Foreign Affairs and Trade portfolio.

Senator Faulkner, by leave, moved—That the Senate take note of the documents.

Debate ensued.

Question put and passed.

21 DOCUMENTS

The following documents were tabled by the Clerk:

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

Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—AD/DAUPHIN/83—Tail Rotor Pitch Control Rod Bearing [F2006L00612]*.

Environment Protection and Biodiversity Conservation Act—

Amendment of list of specimens taken to be suitable for live import, dated 15 February 2006 [F2006L00610]*.

Wildlife Conservation Plan for Migratory Shorebirds [F2006L00594]*.

Local Government (Financial Assistance) Act—Variation to the National Principles for the Allocation of General Purpose Grants—LGFA/1995-1 [F2006L00517]*.

National Health Act—

Arrangement No. PB 12 of 2006—Chemotherapy Pharmaceuticals Access Program [F2006L00622]*.

Determination No. PB 11 of 2006 [F2006L00618]*.

Parliamentary Entitlements Act—Parliamentary Entitlements Regulations—Advice of decision to pay assistance under Part 3, dated 22 February 2006.

Primary Industries (Customs) Charges Act—Select Legislative Instrument 2005 No. 283—Primary Industries (Customs) Charges Amendment Regulations 2005 (No. 3) [F2005L03767] *[tabled on 6 December 2005]*—Regulation Impact Statement.

Privacy Act—Credit Provider Determinations Nos—

2006-1 (Assignees) [F2006L00609]*.

2006-2 (Classes of credit providers) [F2006L00611]*.

Veterans' Entitlements Act—Statements of Principles concerning—

Acute stress disorder No. 11 of 2006 [F2006L00625]*.

Heart block No. 3 of 2006 [F2006L00615]*.

Heart block No. 4 of 2006 [F2006L00616]*.

Malignant neoplasm of the larynx No. 1 of 2006 [F2006L00613]*.

Malignant neoplasm of the larynx No. 2 of 2006 [F2006L00614]*.

Malignant neoplasm of the thyroid gland No. 9 of 2006 [F2006L00623]*.

Malignant neoplasm of the thyroid gland No. 10 of 2006 [F2006L00626]*.

Motor neurone disease No. 7 of 2006 [F2006L00620]*.

Motor neurone disease No. 8 of 2006 [F2006L00621]*.

Spondylolisthesis and spondylolysis No. 5 of 2006 [F2006L00617]*.

Spondylolisthesis and spondylolysis No. 6 of 2006 [F2006L00619]*.

* Explanatory statement tabled with legislative instrument.

22 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 2005—Statements of compliance—
Department of the Prime Minister and Cabinet.
National Water Commission.

23 DEPARTMENTAL AND AGENCY CONTRACTS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS

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

Departmental and agency contracts for 2005—Letters of advice—
Employment and Workplace Relations portfolio agencies.
Immigration and Multicultural Affairs portfolio agencies.
Prime Minister and Cabinet portfolio agencies.
Transport and Regional Services portfolio agencies.

24 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—CHANGE IN MEMBERSHIP

The Acting Deputy President (Senator Forshaw) informed the Senate that the President had received a letter requesting a change in the membership of a committee.

The Parliamentary Secretary to the Minister for Defence (Senator Sandy Macdonald), by leave, moved—That Senator Bartlett replace Senator Stott Despoja on the Foreign Affairs, Defence and Trade References Committee for the committee's inquiry into naval shipbuilding in Australia.

Question put and passed.

25 TAX LAWS AMENDMENT (2005 MEASURES NO. 6) BILL 2005

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

Message no. 288, dated 27 February 2006—A Bill for an Act to amend the law relating to taxation, and for related purposes.

The Parliamentary Secretary to the Minister for Defence (Senator Sandy Macdonald) 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 Sandy Macdonald moved—That this bill be now read a second time.

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

26 TRADE PRACTICES AMENDMENT (NATIONAL ACCESS REGIME) BILL 2006

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

Message no. 283, dated 15 February 2006—A Bill for an Act to amend the *Trade Practices Act 1974*, and for related purposes.

The Parliamentary Secretary to the Minister for Defence (Senator Sandy Macdonald) 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 Sandy Macdonald moved—That this bill be now read a second time.

Explanatory memorandum: Senator Sandy Macdonald tabled a revised explanatory memorandum relating to the bill.

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

27 FUTURE FUND BILL 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—and on the amendment moved by Senator Sherry (see entry no. 4).

Debate resumed.

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

Main question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Senator Murray moved the following amendment:

Clause 18, page 12 (after line 26), after subclause (1), insert:

- (1A) In giving a direction under subsection (1), the responsible Minister must include in the direction a mandatory requirement for the Board or its members when considering a material corporate governance matter in relation to a company to vote on all such matters.
- (1B) A material corporate governance matter referred to in subsection (1A) includes but is not limited to:
 - (a) matters relating to the constitution of a company; and
 - (b) matters relating to the election of directors of a company; and
 - (c) matters relating to the remuneration of directors of a company.

Debate ensued.

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

Senator Murray moved the following amendments together by leave:

Clause 38, page 25 (line 18), at the end of subclause (2), add “in accordance with subsection (2A)”.

Clause 38, page 25 (after line 20), after subclause (2), insert:

- (2A) The Minister must by writing determine a code of practice for selecting and appointing Board members which sets out general principles on which selection and appointment is to be made, including but not limited to:
 - (a) merit;
 - (b) independent scrutiny of appointments;
 - (c) probity;
 - (d) openness and transparency.
- (2B) After determining a code of practice under subsection (2A), the Minister must publish the code in the *Gazette*.
- (2C) Not later than every fifth anniversary after a code of practice has been determined, the Minister must review the code.
- (2D) In reviewing a code of practice, the Minister must invite the public to comment on the code.
- (2E) A code of practice determined under subsection (2A) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 32

Senators—

Allison	Faulkner	Marshall	Polley
Bartlett	Fielding	McEwen	Ray
Brown, Bob	Forshaw	McLucas	Sherry
Brown, Carol	Hogg	Milne	Stephens
Campbell, George	Hurley	Moore	Sterle
Carr	Hutchins	Murray	Webber (Teller)
Conroy	Kirk	Nettle	Wong
Crossin	Ludwig	O'Brien	Wortley

NOES, 34

Senators—

Abetz	Ferguson	Kemp	Payne
Adams	Ferris	Lightfoot	Ronaldson
Barnett	Fierravanti-Wells	Macdonald, Ian	Santoro
Boswell	Fifield	Macdonald, Sandy	Scullion
Brandis	Heffernan	McGauran	Troeth
Chapman	Hill	Minchin	Trood
Colbeck	Humphries	Nash	Vanstone
Eggleston (Teller)	Johnston	Parry	
Ellison	Joyce	Patterson	

Question negatived.

Bill agreed to.

Bill to be reported without amendment.

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

On the motion of the Minister for Finance and Administration (Senator Minchin) the report from the committee was adopted and the bill read a third time.

28 OFFSHORE PETROLEUM BILL 2005

OFFSHORE PETROLEUM (ANNUAL FEES) BILL 2005

OFFSHORE PETROLEUM (REGISTRATION FEES) BILL 2005

OFFSHORE PETROLEUM (REPEALS AND CONSEQUENTIAL AMENDMENTS) BILL 2005

OFFSHORE PETROLEUM (ROYALTY) BILL 2005

OFFSHORE PETROLEUM (SAFETY LEVIES) AMENDMENT BILL 2005

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

In the committee

Consideration resumed of the bills—and of the amendments moved by Senator Milne in respect of the *Offshore Petroleum Bill 2005*:

Clause 6, page 17 (after line 7), after the definition of *location*, insert:

marine protected area means an area of land and/or sea especially dedicated to the protection and maintenance of biological diversity and of natural and associated cultural resources, managed through legal or other effective means.

Clause 77, page 76 (line 5), at the end of paragraph (1)(b), add “or a marine protected area”.

Clause 77, page 76 (after line 11), at the end of the clause, add:

(3) Subsection (2) does not authorise exploration for petroleum in a marine protected area.

Debate resumed.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 6

Senators—

Allison
Bartlett

Brown, Bob
Milne

Murray
Nettle (Teller)

NOES, 40

Senators—

Adams	Fielding	Ludwig	Payne
Barnett	Fierravanti-Wells	Macdonald, Sandy	Ray
Brandis	Fifield	Mason	Ronaldson
Calvert	Hill	McEwen	Scullion (Teller)
Chapman	Hogg	McGauran	Stephens
Colbeck	Hurley	McLucas	Troeth
Crossin	Johnston	Nash	Trood
Eggleston	Joyce	O'Brien	Watson
Faulkner	Kirk	Parry	Webber
Ferguson	Lightfoot	Patterson	Wortley

Question negatived.

Senator Milne moved the following amendments together by leave in respect of the Offshore Petroleum Bill 2005:

Page 2 (after line 12), after clause 2, insert:

2A Object

The object of this Act is to ensure that any offshore activities relating to petroleum exploration, recovery, storage and transport are carried out in a way that is consistent with the principles of ecologically sustainable development, especially in relation to the conservation of marine resources.

Clause 6, page 15 (line 20), after “safe”, insert “and in accordance with the principles of ecologically sustainable development”.

Clause 6, page 19 (after line 12), after the definition of *petroleum*, insert:

petroleum activity means operations carried out under a permit, lease, licence, authority or consent under the Act or the regulations and, in particular, any of the following operations:

- (a) seismic or other surveys;
- (b) drilling;
- (c) construction and installation of a facility;
- (d) operation of a facility;
- (e) significant modification of a facility;
- (f) decommissioning, dismantling or removing a facility;
- (g) construction and installation of a pipeline;
- (h) operation of a pipeline;
- (i) significant modification of a pipeline;
- (j) decommissioning, dismantling or removing a pipeline;
- (k) storage, processing or transport of petroleum;

Clause 6, page 19 (after line 32), after the definition of *pipeline provisions*, insert:

principles of ecologically sustainable development means but is not limited to the following:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;

- (c) the principle of inter-generational equity—that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;
- (e) improved valuation, pricing and incentive mechanisms should be promoted.

Page 251 (after line 7), after clause 243, insert:

243A Approved environment plan required for a petroleum activity

- (1) A person must not carry out a petroleum activity unless there is an environment plan approved by the designated authority in force for the activity.

Penalty: 100 penalty units.

- (2) The contents of an environment plan must be in accordance with the regulations.

Page 251 (after line 7), after clause 243, insert:

243B Activities must comply with approved environment plan

A person carrying out a petroleum activity for which there is an approved environment plan in force must not carry out the activity in a way that is contrary to the environment plan.

Penalty: 100 penalty units.

Page 251 (after line 7), after clause 243, insert:

243C Operations must not continue where new environmental risk identified

A person carrying out a petroleum activity for which there is an approved environment plan must not carry out the activity after the identification of:

- (a) any significant new environmental effect or risk; or
- (b) a significant increase in an existing environmental effect or risk arising from the activity;

unless the new or increased effect or risk is provided for in the environment plan.

Penalty: 100 penalty units.

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

29 GOVERNMENT DOCUMENTS—CONSIDERATION

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

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Government response to the Commonwealth Ombudsman's reports 003/05 to 013/05 and 015/05, 7 February 2006. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 003/05, 4 November 2005. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 004/05, 21 November 2005. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 005/05, 4 November 2005. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 006/05, 21 November 2005. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 007/05, 21 November 2005. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 008/05, 21 November 2005. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 009/05, 25 November 2005. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 010/05, 25 November 2005. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 011/05, 4 November 2005. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 012/05, 4 November 2005. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 013/05, 25 November 2005. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 015/05, 4 November 2005. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

National Environment Protection Council and NEPC Service Corporation—Report for 2004-05. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Aboriginal and Torres Strait Islander Social Justice Commissioner—Social justice—Report for 2005. Motion to take note of document moved by Senator Crossin. Debate adjourned till Thursday at general business, Senator Crossin in continuation.

Aboriginal and Torres Strait Islander Social Justice Commissioner—Native title—Report for 2005. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Human Rights and Equal Opportunity Commission—National inquiry into employment and disability—Final report—WORKability II: Solutions – People with disability in the open workplace, December 2005. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Indigenous Land Corporation—Report for 2004-05. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Wreck Bay Aboriginal Community Council—Report for 2004-05. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Native Title Act 1993—Native title representative bodies—Cape York Land Council Aboriginal Corporation—Report for 2004-05. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Native Title Act 1993—Native title representative bodies—Ngaanyatjarra Council (Aboriginal Corporation)—Report for 2004-05. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

Customs Act 1901—Customs (Prohibited Exports) Regulations 1958—Permissions granted under regulation 7 for the period 1 July to 31 December 2005. Motion to take note of document moved by Senator Stephens. Debate adjourned till Thursday at general business, Senator Stephens in continuation.

General business orders of the day nos 27 and 28 relating to government documents were called on but no motion was moved.

30 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 7.49 pm till Wednesday, 1 March 2006 at 9.30 am.

31 ATTENDANCE

Present, all senators except Senators Bishop*, Siewert* and Stott Despoja* (* on leave).

HARRY EVANS
Clerk of the Senate