

2004-06

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

No. 77

TUESDAY, 28 MARCH 2006

**Contents**

1	Meeting of Senate .....	1993
2	Government Documents .....	1993
3	Hours of Meeting and Routine of Business—Variation .....	1994
4	Aged Care (Bond Security) Bill 2005 Aged Care (Bond Security) Levy Bill 2005 Aged Care Amendment (2005 Measures No. 1) Bill 2005.....	1994
5	Order of Business—Rearrangement.....	1997
6	Financial Framework Legislation Amendment Bill (No. 2) 2005.....	1997
7	Questions.....	1998
8	Law and Justice— <i>Jian Seng</i> Tanker—Answer to Question.....	1998
9	Foreign Affairs—China—Uranium Exports—Answer to Question.....	1998
10	Petitions.....	1999
11	Notices.....	1999
12	Leave of Absence.....	2002
13	Rural and Regional Affairs and Transport Legislation Committee— Extension of Time to Report.....	2002
14	Postponement .....	2002
15	Rural and Regional Affairs and Transport Legislation Committee— Extension of Time to Report.....	2002
16	Rural and Regional Affairs and Transport Legislation Committee—Leave to Meet During Sitting.....	2003
17	Finance and Public Administration Legislation Committee—Extension of Time to Report .....	2003
18	Foreign Affairs, Defence and Trade References Committee—Leave to Meet During Sitting.....	2003
19	Economics Legislation Committee—Extensions of Time to Report .....	2003
20	Corporations and Financial Services—Joint Statutory Committee—Leave to Meet During Sitting.....	2004
21	Cyclone Larry.....	2004
22	Foreign Affairs—Mr David Hicks .....	2004
23	Environment—Tasmania—Wedge Tailed Eagle.....	2005

24	Foreign Affairs—India—Uranium Exports .....	2006
25	Rural and Regional Affairs and Transport References Committee— Extension of Time to Report.....	2007
26	Indigenous Australians—Tasmania—Rock Art .....	2007
27	Women—Convention on the Elimination of All Forms of Discrimination Against Women.....	2008
28	Discussion of Matter of Public Importance—Communications—Australian Broadcasting Corporation .....	2008
29	Indigenous Australians—Tasmania—Rock Art .....	2008
30	Auditor-General—Audit Report No. 35 of 2005-06—Document.....	2009
31	Parliamentary Zone—Capital Works Proposal—Documents .....	2009
32	Community Affairs Legislation Committee—Additional Information— Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 [2006] .....	2009
33	Economics Legislation Committee—Additional Information—Budget Estimates 2003-04 and 2004-05 .....	2010
34	Treaties—Joint Statutory Committee—72nd Report.....	2010
35	Documents.....	2010
36	Departmental and Agency Contracts—Order for Production of Documents—Document.....	2011
37	Committees—Changes in Membership.....	2011
38	Parliamentary Library—Joint Standing Committee—Appointment of House Members.....	2011
39	Governor-General’s Message—Assent to Laws.....	2011
40	Environment, Communications, Information Technology and the Arts References Committee—Report—Economic Impact of Salinity in the Australian Environment .....	2011
41	Legislation Committees—Reports—Additional Estimates 2005-06 .....	2012
42	Finance and Public Administration Legislation Committee—Report— Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005 .....	2012
43	Order of Business—Rearrangement.....	2012
44	Telecommunications (Interception) Amendment Bill 2006 .....	2012
45	Notice .....	2013
46	Tax Laws Amendment (2006 Measures No. 1) Bill 2006.....	2013
47	Telecommunications (Interception) Amendment Bill 2006 .....	2015
48	Adjournment .....	2017
49	Attendance.....	2017

## 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:

Australian Competition and Consumer Commission—Telecommunications reports for 2004-05—Telstra's compliance with price control arrangements.

*Australian Meat and Live-stock Industry Act 1997*—Live-stock mortalities for exports by sea—Report for the period 1 July to 31 December 2005.

Department of Agriculture, Fisheries and Forestry—Reports—  
2003-04—Corrigendum.  
2004-05—Corrigendum.

Indigenous Business Australia—Corporate plan 2006-2008.

*Medical Indemnity Act 2002*—Costs of the Australian Government's run-off cover scheme for medical indemnity insurers—Report for 2004-05.

*Migration Act 1958*—Section 91Y—Protection visa processing taking more than 90 days—Report for the period 1 July to 31 October 2005.

National Occupational Health and Safety Commission—Report for the period 1 July to 31 December 2005. [Final report]

Queensland Fisheries Joint Authority—Report for 2003-04.

*Superannuation (Government Co-contribution for Low Income Earners) Act 2003*—Quarterly report on the Government co-contribution scheme for the period 1 October to 31 December 2005.

*Surveillance Devices Act 2004*—Report for the period 15 December 2004 to 30 June 2005 on the operation of the Act.

Treaties—

*Bilateral*—Text, together with national interest analysis and annexes—

Agreement between the Government of Australia and the Government of New Zealand in relation to mutual recognition of securities offerings (Melbourne, 22 February 2006).

Agreement between the Government of Australia and the Government of the Republic of Indonesia for Cooperation in Scientific Research and Technological Development, done at Jakarta on 11 July 2005.

Exchange of Letters constituting an Agreement between the Government of Australia and the Government of New Zealand to Amend Article 3 of the Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) of 28 March 1983.

*Multilateral*—Text, together with national interest analysis and annexes—

Agreement Establishing the Pacific Islands Forum, done at Port Moresby on 27 October 2005.

Agreement for Establishment of the Global Crop Diversity Trust, done at Rome on 1 April 2004.

Amendments to Annexes VIII and IX of the Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1992 (Geneva, 29 October 2004).

International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001.

Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992, done at London on 16 May 2003.

### 3 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION

The Minister for Justice and Customs (Senator Ellison), at the request of the Minister for Ageing (Senator Santoro) and pursuant to notice, moved government business notice of motion no. 1—That, on Tuesday, 28 March 2006:

- (a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to adjournment;
- (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.

Question put and passed.

### 4 AGED CARE (BOND SECURITY) BILL 2005 AGED CARE (BOND SECURITY) LEVY BILL 2005 AGED CARE AMENDMENT (2005 MEASURES NO. 1) BILL 2005

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

Debate resumed.

Senator McLucas moved the following amendment:

At the end of the motion, add “but the Senate:

- (a) notes:
  - (i) that there have been allegations of sexual abuse in five aged care facilities in Australia, and
  - (ii) the only response, to date, from the Minister for Ageing (Senator Santoro) to call together an existing aged care committee, which whilst contains people with expertise in aged care, does not include advocates of residents in aged care nor people with specific experience in elder abuse;
- (b) condemns the Government for failing to:
  - (i) conduct an independent inquiry to determine if there has been an increase in sexual abuse of residents in aged care facilities,
  - (ii) respond to the report of the Community Affairs References Committee, *Quality and equity in aged care*, tabled nearly 10 months ago, which recommended in part:
    - (A) that the Agency ensure that all facilities be subject to a minimum of one annual random or targeted spot check and at least one site visit with notification over its accredited period (Recommendation 12),
    - (B) that the Commonwealth review the operations of the Aged Care Complaints Resolution Scheme to ensure that the Scheme:
      - (i) is accessible and responsive to complainants,
      - (ii) provides for a relaxation of the strict eligibility criteria for accepting complaints,

- (iii) registers all complaints as a complaint, with the complaints being categorised by their degree of severity, such as moderate level of complaint, complaints where mediation is required or where more significant levels of intervention are required, and
- (iv) provides that the mediation process is responsive and open and that sufficient support for complainants is provided in this process (Recommendation 16),
- (C) that the Commonwealth examine the feasibility of introducing whistleblower legislation to provide protection for people, especially staff of aged care facilities, disclosing allegations of inadequate standards of care or other deficiencies in aged care facilities (Recommendation 17), and
- (D) that the Commissioner for Complaints conduct an investigation into the nature and extent of retribution and intimidation of residents in aged care facilities and their families, including the need for a national strategy to address this issue (Recommendation 18), and
- (iii) answer, on 2 March 2006, the question without notice on whether there were any other aged care facilities in Australia being investigated for sexual abuse allegations; and
- (c) calls on the Government to urgently restore community confidence in residential aged care in Australia”.

Debate ensued.

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

Main question put and passed.

Bills read a second time.

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

---

*In the committee*

Bills taken together and as a whole by leave.

Senator Bartlett moved the following amendment in respect of the Aged Care Amendment (2005 Measures No. 1) Bill 2005:

Page 20 (after line 11), at the end of the bill, add:

**Schedule 8—Protection of information**

***Aged Care Act 1997***

**1 After section 86-8**

Insert:

**86-8A Whistleblowing disclosure that qualifies for protection**

- (1) Despite any other provision of this Act, a person may disclose protected information in accordance with this section.
- (2) If a person makes a disclosure that qualifies for protection under this Part:

- (a) the person is not subject to any civil or criminal liability for making the disclosure; and
- (b) no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the person on the basis of the disclosure.

Note: This subsection does not provide that the person is not subject to any civil or criminal liability for conduct of the person that is revealed by the disclosure.

- (3) Without limiting subsection (2):
  - (a) the person has qualified privilege (see subsection (4)) in respect of the disclosure; and
  - (b) a contract to which the person is a party may not be terminated on the basis that the disclosure constitutes a breach of the contract.
- (4) For the purpose of paragraph (3)(a), qualified privilege, in respect of the disclosure, means that the person:
  - (a) has qualified privilege in proceedings for defamation; and
  - (b) is not, in the absence of malice on the person's part, liable to an action for defamation at the suit of a person;
 in respect of the disclosure.
- (5) For the purpose of paragraph (4)(b), malice includes ill-will to the person concerned or any other improper motive.
- (6) This section does not limit or affect any right, privilege or immunity that a person has, apart from this section, as a defendant in proceedings, or an action, for defamation.

#### **86-8B Protection for whistleblowers**

For the avoidance of doubt, section 16 of the *Public Service Act 1999* applies to an Australian Public Service employee performing functions in accordance with this Act.

#### **86-8C Disclosures qualifying for protection under this Part**

A disclosure of information by a person (the *discloser*) qualifies for protection under this Part if:

- (a) the discloser is:
  - (i) an officer of a company or aged care service provider; or
  - (ii) an employee of a company or aged care service provider; or
  - (iii) a person who has a contract for the supply of services or goods to a company or aged care service provider; or
  - (iv) an employee of a person who has a contract for the supply of services or goods to a company or aged care service provider; and
- (b) the disclosure is made to:
  - (i) ASIC; or
  - (ii) the company's auditor or a member of an audit team conducting an audit of the company or aged care service provider; or
  - (iii) a director, secretary or senior manager of the company or aged care service provider; or

- (iv) a person authorised by the company or aged care service provider to receive disclosures of that kind; or
  - (v) the Aged Care Standards and Accreditation Agency; or
  - (vi) the Aged Care Complaints Resolution scheme.
- (c) the discloser informs the person to whom the disclosure is made of the discloser's name before making the disclosure; and
- (d) the discloser has reasonable grounds to suspect that the information indicates that:
- (i) the company or aged care service provider has, or may have, contravened a provision of the Corporations legislation or the *Aged Care Act 1997*; or
  - (ii) an officer or employee of the company or aged care service provider has, or may have, contravened a provision of the Corporations legislation or the *Aged Care Act 1997*; and
- (e) the discloser makes the disclosure in good faith.

Debate ensued.

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

Bills agreed to.

Bills to be reported without amendments.

---

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

On the motion of the Minister for Ageing (Senator Santoro) the report from the committee was adopted and the bills read a third time.

**5 ORDER OF BUSINESS—REARRANGEMENT**

The Minister for Ageing (Senator Santoro) moved—That intervening business be postponed till after consideration of government business order of the day no. 4 (Financial Framework Legislation Amendment Bill (No. 2) 2005).

Question put and passed.

**6 FINANCIAL FRAMEWORK LEGISLATION AMENDMENT BILL (NO. 2) 2005**

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

---

*In the committee*

Consideration resumed of the bill—and of the amendment moved by Senator Sherry, also on behalf of Senator Murray:

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

**2C Before section 28**

Insert:

**27A Time limits for special appropriations**

- (1) If a provision of an Act:

- (a) has effect immediately before the commencement of this Act; and
  - (b) appropriates money; and
  - (c) does not specify the amount of money so appropriated;
- the appropriation of money by that provision, unless otherwise provided by the Parliament, ceases to have effect at the expiration of the fourth year after the day the *Financial Framework Legislation Amendment Act (No. 1) 2006* receives the Royal Assent.
- (2) Amounts otherwise payable under a special appropriation which ceases to have effect under subsection (1) are to be paid from money appropriated by the Parliament for that purpose.
  - (3) An appropriation under subsection (2) must not have effect for more than four financial years.

Debate ensued.

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

Bill agreed to.

Bill to be reported without amendment.

---

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

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

---

*At 2 pm—*

## 7 QUESTIONS

Questions without notice were answered.

## 8 LAW AND JUSTICE—JIAN SENG TANKER—ANSWER TO QUESTION

Senator O'Brien 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 Ludwig today relating to border protection and the unmanned tanker *Jian Seng*.

Debate ensued.

Question put and passed.

## 9 FOREIGN AFFAIRS—CHINA—URANIUM EXPORTS—ANSWER TO QUESTION

Senator Milne moved—That the Senate take note of the answer given by the Minister for Finance and Administration (Senator Minchin) to a question without notice asked by Senator Milne today relating to the export of uranium to China.

Question put and passed.



## 10 PETITIONS

The following 3 petitions, lodged with the Clerk by the senators indicated, were received:

Senator Faulkner, from 22 petitioners, requesting that the Senate take action to assist David Hicks to gain his release and be repatriated to Australia.

Senator Faulkner, from 69 petitioners, requesting that the Senate take action to ensure that the agreement signed by the Minister for Defence with the United States State Department relating to depleted uranium is tabled.

Senator Hogg, from 936 petitioners, requesting that the Senate take action to ensure that enough medical professionals are trained to maintain the quality care provided by hospitals and other health services.

## 11 NOTICES

Senator Kirk: To move on the next day of sitting—That the Joint Standing Committee on Migration be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate. (*general business notice of motion no. 405*)

Senator Lundy: To move on the next day of sitting—That the following matter be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by the first sitting day in March 2007:

Women in sport and recreation in Australia, with particular reference to:

- (a) the health benefits of women participating in sport and recreation activities;
- (b) the accessibility for women of all ages to participate in organised sport, fitness and recreation activities, with additional reference to state and federal programs, including:
  - (i) the number of women actively participating in organised sport, fitness and recreation activities,
  - (ii) constraints, including strategies to overcome the constraints that may prevent participation in current structures,
  - (iii) the effectiveness of current state and federal grant programs that encourage women to participate,
  - (iv) the retention and attrition trends of grassroots participation, including comparisons with male athletes at a similar level,
  - (v) the remuneration, recruitment, retention and attrition of elite female athletes, including comparisons with elite male athletes,
  - (vi) retention of athletes competing in senior and open age state and national sporting competitions, with possible strategies to retain female competitors in elite and sub-elite competition,
  - (vii) opportunities and barriers for national team members and competitors in international competition, and
  - (viii) the financial status, success and viability of women's national league competitions, including strategies to improve these factors;
- (c) the portrayal of women's sport in the media, including:
  - (i) the role of the government to regulate and review the coverage of women's sport in the media (print, radio and electronic),
  - (ii) the influence of pay television on the coverage of women in sport,

- (iii) the promotion and publicity of women's national league competitions,
  - (iv) the financial status and success of women's national leagues, and
  - (v) strategies to improve the amount and quality of media coverage for women's sport; and
- (d) women in leadership roles in sport, including:
- (i) the number and proportion of women in coaching, administrative and officiating roles,
  - (ii) the issues associated with women in leadership roles in both elite and grassroots activities,
  - (iii) trends and issues for women in organisational leadership roles, and
  - (iv) strategies to improve the numbers of women in coaching, administration and technical roles.

Senator Siewert: To move on 30 March 2006—That the Senate—

- (a) notes:
- (i) that the Australian Government has not as yet stated a public policy position on genetic use restriction technologies (GURTs), and has not yet undertaken a process of public consultation on GURTs, and
  - (ii) the recommendation of a working group at the United Nations meeting on the Convention on Biological Diversity (CBD) in Brazil on Friday, 24 March 2006, to uphold the existing de facto moratorium on GURTs, which is expected to be confirmed by the CBD's plenary session in the week beginning 27 March 2006; and
- (b) calls on the Australian Government to:
- (i) cease all Australian Government advocacy of measures that would undermine the CBD's moratorium on GURTs,
  - (ii) place a ban on research, development and use of GURTs in Australia, and
  - (iii) instruct all official delegates to future CBD meetings to advocate a complete and permanent international ban on GURTs. (*general business notice of motion no. 406*)

Senator Conroy: To move on the next day of sitting—That the following matter be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by 8 August 2006:

The impact of proposed changes to cross media laws outlined in the Government's media reform options paper, with particular reference to:

- (a) the likely effect of the changes on media diversity in urban and regional media markets;
- (b) whether the safeguards proposed by the Government are adequate to prevent an excessive concentration of media ownership;
- (c) whether editorial separation, or a so-called two-out-of-three rule, would effectively protect media diversity; and
- (d) the impact of the proposed changes on the advertising market, particularly for small business.

The Minister for Finance and Administration (Senator Minchin): To move on the next day of sitting—That, for the purposes of subsection 7(3) of the *Snowy Hydro Corporatisation Act 1997*, the Senate approves the transfer or disposal of the Commonwealth shares in the Snowy Hydro Company (incorporated under the name Snowy Hydro Limited) that will occur as a result of the Commonwealth participating in the Initial Public Offer process announced by the New South Wales Government on 16 December 2005.

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 *Australian Broadcasting Corporation Act 1983*, and for related purposes. ***Australian Broadcasting Corporation Amendment Bill 2006.***

The Minister for Immigration and Multicultural Affairs (Senator Vanstone): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to impose sanctions on persons who are connected with work by unlawful non-citizens or work in breach of visa conditions, and for related purposes. ***Migration Amendment (Employer Sanctions) Bill 2006.***

The Minister for Ageing (Senator Santoro): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *National Health and Medical Research Council Act 1992*, and for related purposes. ***National Health and Medical Research Council Amendment Bill 2006.***

The Minister for Finance and Administration (Senator Minchin): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the law relating to superannuation, and for related purposes. ***Superannuation Legislation Amendment (Trustee Board and Other Measures) Bill 2006.***

The Minister for Communications, Information Technology and the Arts (Senator Coonan) and the Minister for the Arts and Sport (Senator Kemp): To move on the next day of sitting—That the Senate—

- (a) notes the sad passing of Kevin Charles (Pro) Hart, MBE on Tuesday, 28 March 2006;
- (b) extends its sympathy to Mr Hart's wife Raylee, his children John, Kym, Marie, Julie and David and to his extended family;
- (c) recognises how Pro Hart used his well-documented 'larrikin' persona and iconic art to document how Australians see themselves and their history through rural and outback images and subjects; and
- (d) records the significant contribution Pro Hart made to Australia and Australia's cultural identity through many artistic mediums, including painting and sculpture over more than 40 years.

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

- (a) notes:
  - (i) that Thursday, 30 March 2006 is Palestinian Land Day, and
  - (ii) the statement by the Prime Minister of the United Kingdom, Mr Tony Blair, to the Australian Parliament on 27 March 2006 that 'once the Israeli election has taken place, we must redouble our efforts to find a way to the only solution that works—a secure state of Israel and a viable, independent Palestinian state'; and
- (b) calls on the Government to:
  - (i) support the formation of a 'viable, independent Palestinian state', and
  - (ii) encourage Israel to reach a comprehensive peace agreement with Palestine based on United Nations Security Council Resolution 242. (*general business notice of motion no. 407*)

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

- (a) acknowledges:
  - (i) the provision of Temporary Protection Visas by the Department of Immigration and Multicultural Affairs to the West Papuan asylum seekers who arrived in Australia in January 2006, and
  - (ii) the need for an end to the ongoing human rights abuses in West Papua;
- (b) recognises:
  - (i) that a commitment to the formal process of special autonomy for the province of Papua, that began in 2001, is integral to the peaceful solution of the conflict in Papua,
  - (ii) the partitioning of Papua into the provinces of West Irian Jaya and Papua is unconstitutional and in contravention of article 76 of the special autonomy law 2001, and that there is no legal basis for the province of West Irian Jaya, and
  - (iii) that the partitioning of Papua has been strongly rejected by the Papuan population, the churches, civil society and the parliament; and
- (c) calls on the Australian Government to support and encourage President Susilo Bambang Yudhoyono to continue to push forward his reform agenda for Papua as he has done in Aceh, and implement special autonomy for Papua. (*general business notice of motion no. 408*)

#### 12 LEAVE OF ABSENCE

Senator George Campbell, by leave, moved—That leave of absence be granted to Senator Fielding for the period 28 March to 30 March 2006 for personal reasons.

Question put and passed.

#### 13 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE— EXTENSION OF TIME TO REPORT

Senator Ferris, by leave and at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan), moved—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the 2005-06 additional estimates be extended to 30 March 2006.

Question put and passed.

#### 14 POSTPONEMENT

The following item of business was postponed:

General business notice of motion no. 334 standing in the name of Senator Bartlett for today, relating to sexual assault of children in Australia, postponed till 30 March 2006.

#### 15 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE— EXTENSION OF TIME TO REPORT

Senator Ferris, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 394—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on annual reports tabled by 31 October 2005 be extended to 10 May 2006.

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. 395—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, 29 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 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. 396—That the time for the presentation of the report of the Finance and Public Administration Legislation Committee on the 2005-06 additional estimates be extended to 30 March 2006.

Question put and passed.

**18 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—LEAVE TO  
MEET DURING SITTING**

Senator Ferris, at the request of the Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Hutchins) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 397—That the Foreign Affairs, Defence and Trade References Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 28 March 2006, from 4.15 pm, to take evidence for the committee's inquiry into naval shipbuilding in Australia.

Question put and passed.

**19 ECONOMICS LEGISLATION COMMITTEE—EXTENSIONS 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. 398—That the time for the presentation of the following reports of the Economics Legislation Committee be extended to 30 March 2006:

- (a) 2005-06 additional estimates; and
- (b) annual reports tabled by 31 October 2005.

Question put and passed.

**20 CORPORATIONS AND FINANCIAL SERVICES—JOINT STATUTORY COMMITTEE—  
LEAVE TO MEET DURING SITTING**

Senator Ferris, at the request of the Chair of the Parliamentary Joint Committee on Corporations and Financial Services (Senator Chapman) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 399—That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 29 March 2006, from 5 pm to 7.45 pm, to take evidence for the committee's inquiry into corporate responsibility.

Question put and passed.

**21 CYCLONE LARRY**

Senator Ludwig, also on behalf of the Leader of The Nationals in the Senate (Senator Boswell), the Minister for Ageing (Senator Santoro), and Senators Bartlett, Brandis, Hogg, Ian Macdonald, McLucas, Mason, Moore and Trood, amended general business notice of motion no. 400 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes:
  - (i) the devastating impact that Cyclone Larry has had on the area of far north Queensland and the loss and hardship that this has inflicted on local residents, and
  - (ii) with pride the tenacity and spirit of citizens in the affected region in rebuilding their communities;
- (b) expresses its appreciation for all the hard work of:
  - (i) volunteers,
  - (ii) emergency service workers, and
  - (iii) Army personnel;
- (c) notes the generous financial assistance of:
  - (i) members of public, and
  - (ii) the business community;
- (d) welcomes the appointment of General Peter Cosgrove to head the relief operation;
- (e) shows its support for those Queenslanders affected; and
- (f) acknowledges the actions of state, local and federal governments in helping those in need and in rebuilding communities.

Question put and passed. All Australian Greens senators, by leave, recorded their votes for the ayes.

**22 FOREIGN AFFAIRS—MR DAVID HICKS**

Senator Stott Despoja amended general business notice of motion no. 393 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes the United Nations report condemning the operation of Guantanamo Bay as a military detention facility;
- (b) supports calls by the British Prime Minister, Mr Blair, to close the military detention camp in Guantanamo Bay;

- (c) notes the decision by the Government of the United States of America to release 119 detainees from the facility to their countries of citizenship; and
- (d) calls on the Australian Government to either facilitate the repatriation of Australian citizen, Mr David Hicks, now held at the facility for more than 4 years, or to insist that he is provided with a fair trial in accordance with his basic human rights.

Question put.

The Senate divided—

AYES, 31

Senators—

Allison	Crossin	Lundy	Polley
Bartlett	Faulkner	Marshall	Ray
Bishop	Forshaw	McEwen	Siewert
Brown, Bob	Hogg	Milne	Stott Despoja
Brown, Carol	Hurley	Moore	Webber
Campbell, G (Teller)	Hutchins	Murray	Wong
Carr	Kirk	Nettle	Wortley
Conroy	Ludwig	O'Brien	

NOES, 33

Senators—

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

Question negatived.

### 23 ENVIRONMENT—TASMANIA—WEDGE TAILED EAGLE

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. 404—That the Senate—

- (a) notes a study by the University of Melbourne and Forestry Tasmania which estimates that the threat of extinction of the Tasmanian wedge tailed eagle in north east Tasmania rises from 65 per cent to 99 per cent if current logging plans go ahead; and
- (b) calls on the Commonwealth and Tasmanian Governments to address this finding by altering the proposed logging so that the eagle's prospects of survival are improved rather than worsened.

Question put.

The Senate divided—

AYES, 7

Senators—

Allison	Milne	Nettle	Stott Despoja
Brown, Bob	Murray	Siewert (Teller)	

## NOES, 41

Senators—

Abetz	Ellison	Lightfoot	Ronaldson
Adams	Ferguson	Lundy	Scullion
Bishop	Ferris (Teller)	Marshall	Troeth
Brandis	Fierravanti-Wells	Mason	Trood
Brown, Carol	Fifield	McEwen	Vanstone
Campbell, George	Forshaw	Moore	Webber
Carr	Hogg	Nash	Wong
Colbeck	Humphries	Parry	Wortley
Conroy	Hurley	Patterson	
Crossin	Hutchins	Polley	
Eggleston	Kirk	Ray	

Question negatived.

## 24 FOREIGN AFFAIRS—INDIA—URANIUM EXPORTS

Senator Milne, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 402—That the Senate—

(a) notes that:

- (i) Prime Minister John Howard has recently equivocated on the export of uranium to India, in spite of the fact that India is not a signatory to the Nuclear Non-Proliferation Treaty, and
- (ii) India has a well-developed, active and secret program to outfit its uranium enrichment program and circumvent other countries' technology export control efforts, according to a recently-released report by the United States of America (US) based Institute of Science and International Security; and

(b) calls on the Australian Government to rule out the export of uranium to India and to use its membership of the Nuclear Suppliers Group to block the proposed US-India nuclear technology agreement.

Question put.

The Senate divided—

## AYES, 7

Senators—

Allison	Milne	Nettle	Stott Despoja
Brown, Bob	Murray	Siewert (Teller)	

## NOES, 41

Senators—

Abetz	Ellison	Lightfoot	Scullion
Adams	Ferguson	Lundy	Troeth
Bishop	Ferris (Teller)	Mason	Trood
Brandis	Fierravanti-Wells	McEwen	Vanstone
Brown, Carol	Fifield	Moore	Watson
Campbell, George	Forshaw	Nash	Webber
Carr	Hogg	Parry	Wong
Colbeck	Humphries	Patterson	Wortley
Conroy	Hurley	Polley	
Crossin	Hutchins	Ray	
Eggleston	Kirk	Ronaldson	

Question negatived.



**25 RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE—  
EXTENSION OF TIME TO REPORT**

The Chair of the Rural and Regional Affairs and Transport References Committee (Senator Siewert), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 401—That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on water policy initiatives be extended to the last sitting day in June 2006.

Question put and passed.

**26 INDIGENOUS AUSTRALIANS—TASMANIA—ROCK ART**

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. 403—That the Senate—

- (a) condemns the most recent vandalism of ancient Aboriginal rock art on Tasmania's Tarkine coastline;
- (b) expresses its abhorrence at the vandalism;
- (c) sends its sympathy to Tasmania's Aboriginal community;
- (d) calls on the Tasmanian Government to vigorously pursue, discover and bring to justice those responsible; and
- (e) asks the Commonwealth to take all due action to uphold the Burra Charter, to bring those responsible for this outrage to justice and to prevent any recurrence of such destructive behaviour against Australia's heritage.

Question put.

The Senate divided—

**AYES, 32**

Senators—

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

**NOES, 30**

Senators—

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

Question agreed to (*but see entry no. 29*).

**27 WOMEN—CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN**

Senator Stott Despoja, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 368—That the Senate—

- (a) notes that:
- (i) the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Committee's 34th session was held in New York from 16 January to 3 February 2006,
  - (ii) the 34th session examined the Australian Government's combined fourth and fifth periodic reports on 30 January 2006, and the Australian non-government organisation (NGO) shadow report on the Implementation of CEDAW, prepared by the Women's Rights Action Network Australia and endorsed by more than 100 organisations, on 23 January 2006,
  - (iii) the shadow report acknowledged that there 'have been clear improvements in the status of women during this reporting cycle', but a number of challenges remain for women in Australia, particularly in the areas of violence against women, leadership and political participation, law and justice, housing and utilities, health, education, and economic security and employment, and
  - (iv) the shadow report makes a number of recommendations in each of these areas, noting changes which must be implemented if CEDAW is to be fully realised in Australia;
- (b) congratulates all those involved in contributing to and compiling the Australian NGO shadow report; and
- (c) calls on the Government to implement the recommendations contained in the shadow report before the Australian Government presents its combined fifth and sixth periodic reports to the CEDAW Committee in 2008.

Question put and negatived.

**28 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—COMMUNICATIONS—AUSTRALIAN BROADCASTING CORPORATION**

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

The Government's continuing attempts to undermine the independence of the Australian Broadcasting Corporation.

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

**29 INDIGENOUS AUSTRALIANS—TASMANIA—ROCK ART**

*Statements by leave:* Senator Ferris, the Leader of the Australian Greens (Senator Bob Brown) and Senator Marshall, by leave, made statements relating to general business notice of motion no. 403 (*see entry no. 26*).

Senator Ferris asked that the question on general business notice of motion no. 403 be put again.

Leave was granted for the question to be put again.

Question—That the motion be agreed to—put.

The Senate divided—

AYES, 29

Senators—

Allison	Hurley	Murray	Sterle
Bartlett	Kirk	Nettle	Stott Despoja
Brown, Bob	Ludwig	O'Brien	Webber (Teller)
Brown, Carol	Marshall	Polley	Wong
Carr	McEwen	Ray	Wortley
Conroy	McLucas	Sherry	
Crossin	Milne	Siewert	
Faulkner	Moore	Stephens	

NOES, 32

Senators—

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

Question negatived.

**30 AUDITOR-GENERAL—AUDIT REPORT NO. 35 OF 2005-06—DOCUMENT**

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

Auditor-General—Audit report no. 35 of 2005-06—Performance audit—The Australian Taxation Office's administration of activity statement high risk refunds.

**31 PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL—DOCUMENTS**

The Minister for Justice and Customs (Senator Ellison) tabled the following documents:

Parliament Act—Parliamentary Zone—Proposal, together with supporting documentation, relating to the construction of the National Portrait Gallery.

*Notice of motion:* Senator Ellison, by leave, gave a notice of motion as follows: To move on 30 March 2006—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 construction of the National Portrait Gallery.

*Statement by leave:* Senator Ellison, by leave, made a statement relating to the matter.

**32 COMMUNITY AFFAIRS LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—THERAPEUTIC GOODS AMENDMENT (REPEAL OF MINISTERIAL RESPONSIBILITY FOR APPROVAL OF RU486) BILL 2005 [2006]**

Senator Scullion, at the request of the Chair of the Community Affairs Legislation Committee (Senator Humphries), tabled the following documents:

Community Affairs Legislation Committee—Report—Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 [2006]—Correspondence and additional information.

**33 ECONOMICS LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—BUDGET ESTIMATES 2003-04 AND 2004-05**

Senator Scullion, at the request of the Chair of the Economics Legislation Committee (Senator Brandis), tabled the following additional information received by the committee:

Economics Legislation Committee—  
 Budget estimates 2003-04 (Supplementary)—  
 Volume 1—Treasury portfolio.  
 Volumes 2 and 3—Industry, Tourism and Resources portfolio.  
 Budget estimates 2004-05—Volumes 2 to 4—Industry, Tourism and Resources portfolio.

**34 TREATIES—JOINT STATUTORY COMMITTEE—72ND REPORT**

Senator Wortley, on behalf of the Joint Standing Committee on Treaties, tabled the following report:

Treaties—Joint Statutory Committee—72nd report—Treaties tabled on 29 November 2005 (2), dated February 2006.

Senator Wortley, by leave, moved—That the Senate take note of the report.

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

**35 DOCUMENTS**

The following documents were tabled by the Clerk:

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

*Appropriation Act (No. 1) 2005-2006*—Advance to the Finance Minister—Determination No. 6 of 2005-2006 [F2006L00916]\*.

Australian Bureau of Statistics Act—Proposals Nos—  
 2 of 2006—Adult Literacy and Lifeskills Survey.

3 of 2006—Topic to be Included as a Supplement to the Monthly Population Survey: Child Employment.

Census and Statistics Act—Statement No. 1 of 2006—Lists of Agricultural Farm Businesses for the Australian Bureau of Agricultural and Resource Economics.

Customs Act—Tariff Concession Orders—

0512930 [F2006L00899]\*.

0513592 [F2006L00900]\*.

0601594 [F2006L00901]\*.

0601595 [F2006L00902]\*.

0601615 [F2006L00904]\*.

0601824 [F2006L00906]\*.

Defence Act—Determination under section 58H—Defence Force Remuneration Tribunal Determination No. 1 of 2006—ADF Workplace Remuneration Arrangement 2004-2006; and ADF Star Ranks' Remuneration Arrangement 2004-2006.

Financial Management and Accountability Act—Net Appropriation Agreements for—

National Water Commission [F2006L00927]\*.

Office of the Commonwealth Ombudsman [F2006L00928]\*.

Fisheries Administration Act—Direction under section 91, dated 16 December 2005.

National Health Act—Determination HIB 13/2006 [F2006L00898]\*.

\* Explanatory statement tabled with legislative instrument.

**36 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 2005—Letter of advice—Attorney-General's portfolio agencies.

**37 COMMITTEES—CHANGES IN MEMBERSHIP**

The Acting Deputy President (Senator Murray) informed the Senate that the President had received a letter from Senator McGauran resigning from the Parliamentary Joint Committee on Intelligence and Security, pursuant to the *Intelligence Services Act 2001*.

Senator Murray also 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 Finance and Administration (Senator Colbeck), by leave, moved—That Senator Crossin be discharged from and Senator Carr be appointed to the Joint Standing Committee on the National Capital and External Territories.

Question put and passed.

**38 PARLIAMENTARY LIBRARY—JOINT STANDING COMMITTEE—APPOINTMENT OF HOUSE MEMBERS**

A message from the House of Representatives was reported informing the Senate of the appointment of members of the House of Representatives to the Joint Standing Committee on the Parliamentary Library, as follows:

Message no. 300, dated 27 March 2006—Mr Adams, Mr Hatton and Mr BP O'Connor.

**39 GOVERNOR-GENERAL'S MESSAGE—ASSENT TO LAWS**

A message from His Excellency the Governor-General was reported, informing the Senate that he had assented to the following laws:

23 March 2006—Message No. 5—

*Fisheries Legislation Amendment (Cooperative Fisheries Arrangements and Other Matters) Act 2006* (Act No. 8, 2006)

*Statute Law Revision Act 2006* (Act No. 9, 2006).

**40 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES COMMITTEE—REPORT—ECONOMIC IMPACT OF SALINITY IN THE AUSTRALIAN ENVIRONMENT**

Pursuant to order, the Chair of the Environment, Communications, Information Technology and the Arts References Committee (Senator Bartlett) tabled the following report and documents:

Environment, Communications, Information Technology and the Arts References Committee—Living with salinity—A report on progress: The extent and economic impact of salinity in Australia—Report, dated March 2006, Hansard record of proceedings, documents presented to the committee, additional information and submissions [50].

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

Senator Bartlett, by leave, moved—That the Senate take note of the report.

Debate ensued.

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

#### 41 **LEGISLATION COMMITTEES—REPORTS—ADDITIONAL ESTIMATES 2005-06**

Pursuant to order, Senator Scullion, at the request of the chairs of the respective committees, tabled the following reports, dated March 2006, and documents:

Additional estimates 2005-06—

Community Affairs Legislation Committee—Report and Hansard record of proceedings [2 vols].

Employment, Workplace Relations and Education Legislation Committee—Report, Hansard record of proceedings [2 vols] and documents presented to the committee.

Environment, Communications, Information Technology and the Arts Legislation Committee—Report and Hansard record of proceedings [2 vols].

Foreign Affairs, Defence and Trade Legislation Committee—Report and Hansard record of proceedings [2 vols].

Legal and Constitutional Legislation Committee—Report and Hansard record of proceedings [2 vols].

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

#### 42 **FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE—REPORT—ELECTORAL AND REFERENDUM AMENDMENT (ELECTORAL INTEGRITY AND OTHER MEASURES) BILL 2005**

Pursuant to order, Senator Scullion, at the request of the Chair of the Finance and Public Administration Legislation Committee (Senator Mason), tabled the following report and documents:

Finance and Public Administration Legislation Committee—Provisions of the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005—Report, dated March 2006, Hansard record of proceedings, documents presented to the committee, additional information and submissions [53].

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

#### 43 **ORDER OF BUSINESS—REARRANGEMENT**

The Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck) moved—That government business order of the day no. 2 (Family Law Amendment (Shared Parental Responsibility) Bill 2006) be postponed till a later hour.

Question put and passed.

#### 44 **TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL 2006**

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

Debate resumed.

Question put and passed.

Bill read a second time.

The Minister for Justice and Customs (Senator Ellison) moved—That consideration of the bill in committee of the whole be an order of the day for a later hour.

Debate ensued.

Question put and passed.

45 NOTICE

The Leader of the Australian Greens (Senator Bob Brown) gave a notice of motion as follows: To move on the next day of sitting—That the motion by the Minister for Finance and Administration (Senator Minchin) for the divestment of the Commonwealth's shareholding in Snowy Hydro Ltd be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 30 June 2006.

46 TAX LAWS AMENDMENT (2006 MEASURES NO. 1) BILL 2006

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

Message no. 301, dated 28 March 2006—A Bill for an Act to amend the law relating to taxation, and for related purposes.

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

Debate ensued.

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, debated.

Senator Sherry moved the following amendment:

Schedule 2, page 39 (after line 10), after Part 2, insert:

**Part 2A—Other business related costs**

***Income Tax Assessment Act 1997***

**50A Subsection 26-52(4)**

Repeal the subsection, substitute:

- (4) An amount is not a *bribe to a foreign public official* if:
  - (a) it is incurred for the sole or dominant purpose of expediting or securing the performance of a routine government action of a minor nature; and
  - (b) the value of the benefit was of a minor nature; and

- (c) as soon as practicable after the loss or outgoing was incurred, the person made a record of the loss or outgoing and the record complies with subsection 70.4(3) of the *Criminal Code Act 1995*.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 32

Senators—

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

NOES, 35

Senators—

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

Question negatived.

Senator Murray moved the following amendment:

Schedule 1, item 2, page 18 (line 5), omit “\*spouse”, substitute “\*spouse, being a person who is living with another person on a bona fide domestic basis although not legally married to that other person, including a same sex partner.”.

Debate ensued.

Question—That the amendment be agreed to—put and 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 Communications, Information Technology and the Arts (Senator Coonan) the report from the committee was adopted and the bill read a third time.



47 **TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL 2006**

Order of the day read for the consideration of the bill in committee of the whole.

---

*In the committee*

Bill taken as a whole by leave.

---

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

---

Bill debated.

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

Clause 2, page 2 (table item 2), omit the table item, substitute:

2. Schedules 1 to 3 A single day to be fixed by Proclamation.  
However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.

Senator Ludwig moved the following amendments together by leave:

Page 3 (after line 8), after clause 3, add:

**4 Sunset clause**

The amendments set out in Schedule 2 of this Act cease to be in force on 30 June 2011.

Schedule 2, page 63 (after line 30), at the end of the Schedule, add:

**14 After section 61A**

Insert:

**61C Review of operation of B-party warrants**

- (1) The Minister must cause an independent review of the operation of warrants to which subparagraph 46(1)(d)(ii) or 9(1)(a)(ia) applies to be undertaken within 12 months of the third anniversary of the commencement of the *Telecommunications (Interception) Amendment Act 2006*.
- (2) A person who undertakes such a review must give the Minister a written report.
- (3) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 5 sitting days after the Minister receives the report.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 30

Senators—

Allison	Crossin	Marshall	Siewert
Bartlett	Faulkner	McEwen	Stephens
Bishop	Forshaw	Moore	Sterle
Brown, Bob	Hogg	Murray	Stott Despoja
Brown, Carol	Hurley	Nettle	Webber (Teller)
Campbell, George	Hutchins	O'Brien	Wong
Carr	Kirk	Polley	
Conroy	Ludwig	Ray	

NOES, 33

Senators—

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

Question negatived.

The Leader of the Australian Greens (Senator Bob Brown) moved the following amendment:

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

**1A After section 2**

Insert:

**2A Limitations of operation of Act**

It is the intention of the Parliament that:

- (1) To the extent that there is any inconsistency between this Act and Australia's obligations under international treaties including the International Covenant on Civil and Political Rights, Australia's obligations under those treaties prevail and override the operation of this Act.
- (2) Nothing in this Act authorises the interception of communications:
  - (a) of a person unless the person is suspected of engaging in the planning of, or other involvement in, terrorist acts or murder;
  - (b) where those communications contain information which is:
    - (i) the subject of legal professional privilege; or
    - (ii) derived from information that is the subject of legal professional privilege;
  - (c) where those communications contain information:
    - (i) the subject of doctor-patient confidential medical communications; or
    - (ii) derived from information that is the subject of doctor-patient confidential medical communications;
  - (d) of Federal or State Members of Parliament;
  - (e) of High Court judges or Federal Court judges.

---

*At 11 pm:* The Acting Deputy President (Senator Moore) resumed the chair and the Temporary Chair of Committees (Senator Watson) reported progress.

**48 ADJOURNMENT**

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

Debate ensued.

---

*The Senate continued to sit till midnight—*  
WEDNESDAY, 29 MARCH 2006 AM

---

Debate continued.

The Senate adjourned at 12.03 am till Wednesday, 29 March 2006 at 9.30 am.

**49 ATTENDANCE**

Present, all senators except Senators Fielding\* and Joyce (\* on leave).

**HARRY EVANS**  
Clerk of the Senate