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1 **MEETING OF SENATE**

The Senate met at 9.30 am. The President (Senator the Honourable Paul Calvert) took the chair and read prayers.

2 **GOVERNMENT DOCUMENTS**

The following government documents were tabled:

Australian Law Reform Commission—Report—No. 104—Fighting words: A review of sedition laws in Australia, July 2006.

*Migration Act 1958*—Section 486O—Assessment of appropriateness of detention arrangements—Personal identifiers 070/06 and 071/06—

Commonwealth Ombudsman's reports.

Commonwealth Ombudsman's reports—Government response.

3 **AGED CARE AMENDMENT (RESIDENTIAL CARE) BILL 2006**

**JUDICIARY LEGISLATION AMENDMENT BILL 2006**

**PRIVACY LEGISLATION AMENDMENT (EMERGENCIES AND DISASTERS) BILL 2006**

The Minister for Finance and Administration (Senator Minchin), at the request of the Minister for Ageing (Senator Santoro) and the Minister for Justice and Customs (Senator Ellison) and pursuant to notice, moved government business notices of motion nos 1 to 3—That the following bills be introduced:

A Bill for an Act to amend the *Aged Care Act 1997*, and for related purposes.

A Bill for an Act to amend the *Judiciary Act 1903*, and for related purposes.

A Bill for an Act to make provision for dealing with personal information in emergencies and disasters, and for related purposes.

Question put and passed.

Senator Minchin presented the bills and moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Minchin moved—That these bills be now read a second time.

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*Explanatory memoranda:* Senator Minchin tabled explanatory memoranda [3] relating to the bills.

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*Consideration of legislation:* Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.

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

Question put and passed.

**4 PETROLEUM RETAIL LEGISLATION REPEAL BILL 2006**

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

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*In the committee*

Consideration resumed of the bill.

The Leader of the Family First Party (Senator Fielding) moved the following amendment:

Schedule 2, page 4 (after line 13), at the end of the Schedule, add:

**6 At the end of section 51AE**

Add:

- (7) The Oilcode must specify that where a wholesale supplier as part of the supply of the declared petroleum product:
- (a) discounts the terminal gate price; or
  - (b) supplies or offers to supply a declared petroleum product at a price other than the terminal gate price;
- the wholesale supplier will make available to the public each day on an Internet website maintained by or for the wholesale supplier:
- (c) the price or prices including the amount of any discount and other individual components in relation to each particular price; and
  - (d) the criteria to qualify for the price or prices including any discount in relation to a particular price or individual component of each particular price.

Note: The terminal gate price is defined in the Oilcode.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 34

Senators—

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

## NOES, 34

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

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

Senator Joyce moved the following amendment:

Schedule 2, page 4 (after line 13), at the end of the Schedule, add:

**4 Section 95A (at the end of the definition of *goods*)**

Add:

; and (f) petroleum products.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

## AYES, 35

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

## NOES, 35

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

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

On the motion of Senator O'Brien the following amendment was debated and agreed to:

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

1 March 2007.

Bill, as amended, agreed to.

Bill to be reported with an amendment.

---

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

On the motion of the Minister for Finance and Administration (Senator Minchin) the report from the committee was adopted.

Senator Minchin moved—That this bill be now read a third time.

Debate ensued.

Question put.

The Senate divided—

#### AYES, 44

Senators—

Adams	Ellison	Ludwig	Payne
Barnett	Ferguson	Lundy	Polley
Bernardi	Fierravanti-Wells	Marshall	Ronaldson
Brandis	Fifield	Mason	Scullion (Teller)
Brown, Carol	Forshaw	McGauran	Stephens
Calvert	Hogg	McLucas	Sterle
Campbell, George	Humphries	Moore	Troeth
Carr	Hurley	Nash	Trood
Chapman	Hutchins	O'Brien	Watson
Crossin	Kirk	Parry	Webber
Eggleston	Lightfoot	Patterson	Wortley

#### NOES, 9

Senators—

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

Question agreed to.

Bill read a third time.

### 5 FINANCIAL TRANSACTION REPORTS AMENDMENT BILL 2006

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

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#### *In the committee*

Bill taken as a whole by leave.

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*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.

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Bill debated.

Senator Ellison moved the following amendments together by leave:

Schedule 1, page 3 (after line 25), after item 4, insert:

**4A After subsection 17FA(1)**

Insert:

(1A) For the purposes of paragraph (1)(b), if:

- (a) an ADI (the *first ADI*) is acting on behalf of, or at the request of, another ADI (the *second ADI*); and
- (b) the second ADI is (whether or not as a result of one or more previous applications of this section) acting on behalf of, or at the request of, a person who is not an ADI;

then:

- (c) the first ADI is taken to be acting on behalf of that person; and
- (d) for the purposes of providing customer information in relation to that person, the first ADI is entitled to rely on the information provided by the second ADI.

Schedule 1, items 9 and 10, page 4 (lines 5 to 15), omit the items, substitute:

**9 Subsection 17FA(3) (definition of *customer information*)**

Repeal the definition, substitute:

*customer information*, in relation to an international funds transfer instruction transmitted out of Australia, means the following information about the ordering customer on whose behalf, or at whose request, an ADI sends the instruction:

- (a) the ordering customer's name;
- (b) any one of the following:
  - (i) the ordering customer's full business or residential address (not being a post office box);
  - (ii) if the ordering customer is an individual—the ordering customer's date of birth and the country and the town, city or locality of the ordering customer's birth;
  - (iii) a unique identification number given to the ordering customer by the Commonwealth or an authority of the Commonwealth (for example, an Australian Business Number or an Australian Company Number);
  - (iv) a unique identification number given to the ordering customer by a foreign government;
  - (v) a unique identification number given to the ordering customer by the ADI that the ordering customer originally asked to send the instruction;
- (c) either:
  - (i) if the money is, or is to be, transferred from a single account held by the ordering customer with the ADI that the ordering customer originally asked to send the instruction—the account number; or
  - (ii) in any other case—a unique reference number assigned to the instruction by the ADI that the ordering customer originally asked to send the instruction.

**10 Subsection 17FA(3)**

Insert:

***unique reference number***, for an international funds transfer instruction, means a combination of any or all of the following:

- (a) letters;
- (b) digits;
- (c) characters;
- (d) symbols;

which distinguishes the instruction in a way that, either:

- (e) alone; or
- (f) in conjunction with any other information in the instruction;

enables the ADI that the ordering customer originally asked to send the instruction to identify the ordering customer.

Examples:

- (a) a combination of a BSB and account number;
- (b) a reference number generated by the ADI that the ordering customer originally asked to send the instruction.

Schedule 1, page 5 (after line 1), after item 16, insert:

**16A Subsection 17FB(6) (subparagraph (b)(ii) of the definition of customer information)**

Omit “date and place of birth”, substitute “date of birth and the country and the town, city or locality of the ordering customer’s birth”.

Schedule 1, item 17, page 5 (lines 2 to 5), omit the item, substitute:

**17 Subsection 17FB(6) (subparagraph (c)(ii) of the definition of customer information)**

Repeal the subparagraph, substitute:

- (ii) a unique reference number assigned to the instruction by the ordering organisation.

Schedule 1, page 5 (after line 5), at the end of the Schedule, add:

**18 Subsection 17FB(6)**

Insert:

***unique reference number***, for an international funds transfer instruction, means a combination of any or all of the following:

- (a) letters;
- (b) digits;
- (c) characters;
- (d) symbols;

which distinguishes the instruction in a way that, either:

- (e) alone; or
- (f) in conjunction with any other information in the instruction;

enables the ordering organisation to identify the ordering customer.

Examples:

- (a) a combination of a BSB and account number;
- (b) a reference number generated by the ordering organisation.



**19 At the end of Division 3A**

Add:

**17FC Transmission into or out of Australia—intermediaries**

This Division does not require the provision of customer information in relation to an international funds transfer instruction if:

- (a) the instruction is transmitted by an ADI into or out of Australia; and
- (b) the transmission into or out of Australia occurs in the course of, and for the purpose of, the transmission of the instruction by or on behalf of another financial organisation from a place outside Australia to another place that is also outside Australia.

**20 Paragraph 29(4)(ba)**

Omit “a cash dealer”, substitute “an ADI”.

**21 Section 42A**

After “3A”, insert “, 3AA”.

Debate ensued.

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*At 12.45 pm:* The Acting Deputy President (Senator Forshaw) resumed the chair and the Temporary Chair of Committees reported progress.

**6 MATTERS OF PUBLIC INTEREST**

Matters of public interest were discussed.

*Suspension of sitting:* On the motion of the Parliamentary Secretary to the Minister for Defence (Senator Sandy Macdonald) the sitting of the Senate was suspended at 1.50 pm till 2 pm.

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*At 2 pm—*

**7 QUESTIONS**

Questions without notice were answered.

**8 COMMUNICATIONS—TELSTRA—ANSWER TO QUESTION**

Senator Ludwig moved—That the Senate take note of the answer given by the Minister for Communications, Information Technology and the Arts (Senator Coonan) to a question without notice asked by Senator Ludwig today relating to Telstra and payphones.

Debate ensued.

Question put and passed.

**9 ENVIRONMENT—GLOBAL WARMING—ANSWER TO QUESTION**

Senator Nettle 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 Nettle today relating to global warming.

Question put and passed.

**10 PETITION**

The following petition, lodged with the Clerk by Senator Nash, was received:

From 441 petitioners, requesting that the Senate take action to ensure that necessary funding is provided for the construction and erection of a mobile telephone reception tower in the district of Gooloogong, New South Wales.

**11 NOTICES**

Senators Hogg, Ludwig, McLucas and Moore: To move 6 sitting days after today—That the Senate—

- (a) congratulates the Beattie Government on its re-election on Saturday, 9 September 2006;
- (b) notes that the Liberal Party campaign was dominated by self-fleggellation and that the National Party campaign was clearly spring-bogged; and
- (c) recognises government senators for their contribution through ‘Dorothy Dixers’ and speeches in the Senate in maintaining Labor in government in Queensland. (*general business notice of motion no. 552*)

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

- (a) notes that:
  - (i) 27 September 2006 is the 50th anniversary of the first of the nuclear tests at Maralinga,
  - (ii) the nuclear tests resulted in fallout over most of Australia, and especially contaminated great tracts of traditional land, transforming an independent and physically-wide ranging people into a semi-static and dependent group, the damage being radiological, psycho-social and cultural,
  - (iii) the Royal Commission into British Nuclear Tests in Australia concluded that, at Maralinga, ‘attempts to ensure Aboriginal safety’ during the tests ‘demonstrate ignorance, incompetence and cynicism on the part of those responsible for that safety’,
  - (iv) the test site remains radioactive and that there are unresolved issues about compensation for the traditional owners,
  - (v) approximately 16 000 servicemen exposed to radiation during the tests never received recognition of hazardous service and survivors receive limited ongoing support, and the high mortality and illness rates of these men have not yet been adequately acknowledged or explained,
  - (vi) the Government breached its own standards for the disposal of long-lived radioactive waste disposal by burying plutonium-contaminated debris in shallow, unlined trenches,
  - (vii) the Australian Radiation Protection and Nuclear Safety Agency described the ‘clean-up’ as marred by a ‘host of indiscretions, short-cuts and cover-ups’, and
  - (viii) the radioactive waste legacy will inevitably be a cost unfairly borne by future Australians; and
- (b) calls on the Government to recommit to international nuclear non-proliferation, including ruling out the export of Australian uranium to countries that are not signatories to the Nuclear Non-Proliferation Treaty and ruling out the development of uranium enrichment plants in Australia. (*general business notice of motion no. 553*)

The Leader of the Opposition in the Senate (Senator Evans): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Social Security Act 1991*, to assist those who have had their pension cut because of lengthy delays in the construction of a new home due to the national shortage of building tradespeople. ***Social Security (Helping Pensioners Hit by the Skills Shortage) Bill 2006***. (general business notice of motion no. 554)

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

(a) notes that:

- (i) 26 September 2006 marks the 5th anniversary of the guillotining through the Senate of seven separate pieces of legislation amending the *Migration Act 1958*,
  - (ii) some measures contained in these pieces of legislation have caused enormous suffering and hardship to asylum seekers who were fleeing persecution, and
  - (iii) 5 years on, numerous reports and inquiries have uncovered multiple cases of damaged lives due to flaws in the legislation and in the culture of the Department of Immigration and Multicultural Affairs, and repeated failures to ensure that the rights of asylum seekers and refugees are protected and that their cases are processed fairly;
- (b) expresses the view that some of the changes made to the Migration Act in the wake of the *Tampa* incident undermined basic legal principles such as equality before the law, procedural fairness, transparent accountability of the actions of Commonwealth officers and protecting against refoulement; and
- (c) calls for reform of the Migration Act to ensure greater fairness, transparency, accountability and compliance with Australia's obligations under international law, and an end to the Pacific solution, mandatory detention and temporary protection visas. (general business notice of motion no. 555)

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 law relating to broadcasting, and for other purposes. ***Broadcasting Legislation Amendment (Digital Television) Bill 2006***.

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 (Media Ownership) Bill 2006***.

The Minister for Justice and Customs (Senator Ellison): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Crimes Act 1914*, and for related purposes. ***Crimes Amendment (Bail and Sentencing) 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 prudential regulation for the purpose of facilitating trans-Tasman cooperation, and for related purposes. ***Financial Sector Legislation Amendment (Trans-Tasman Banking Supervision) Bill 2006***.

The Chair of the Community Affairs Committee (Senator Humphries): To move on the next day of sitting—

- (1) That the following matter be referred to the Community Affairs Committee for inquiry and report by 27 October 2006:

Legislative responses to recommendations of the reports of the Legislation Review Committee on the *Prohibition of Human Cloning Act 2002* and the *Research Involving Human Embryos Act 2002* (the Lockhart review).

- (2) That in undertaking this inquiry the committee may consider:
  - (a) any relevant bill or draft bill introduced or tabled in the Senate or presented to the President by a senator when the Senate is not sitting; and
  - (b) any other relevant document.

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the Senate—

- (a) notes the imposition of new restrictions on the distribution of foreign news in China;
- (b) condemns any move by the Chinese Government to impose unfair restrictions on foreign press freedom; and
- (c) calls on the Minister for Foreign Affairs (Mr Downer) to investigate the matter. (*general business notice of motion no. 556*)

#### 12 LEAVE OF ABSENCE

Senator Ferris, by leave, moved—That leave of absence be granted to the following senators:

- (a) Senator Ian Campbell for 14 September 2006, on account of government business overseas;
- (b) Senator Vanstone for 13 September and 14 September 2006, on account of government business overseas; and
- (c) Senator Johnston for 14 September 2006, on account of parliamentary business overseas.

Question put and passed.

#### 13 POSTPONEMENTS

The following items of business were postponed:

General business notice of motion no. 543 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, relating to climate change in the Pacific region, postponed till 14 September 2006.

General business notice of motion no. 547 standing in the name of Senator Bartlett for today, relating to Islamaphobia in Australia, postponed till 2 sitting days after today.

#### 14 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION—STANDING COMMITTEE—EXTENSION OF TIME TO REPORT

Senator Ferris, at the request of the Chair of the Employment, Workplace Relations and Education Committee (Senator Troeth) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 541—That the time for the presentation of the report of the Employment, Workplace Relations and Education Committee on the provisions of the Higher Education Legislation Amendment (2006 Budget and Other Measures) Bill 2006 be extended to 9 October 2006.

Question put and passed.

**15 ECONOMICS—STANDING COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Ferris, at the request of the Chair of the Economics Committee (Senator Brandis) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 542—That the Economics Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 14 September 2006, from 3.30 pm, to take evidence for the committee's inquiry into the provisions of the Tax Laws Amendment (2006 Measures No. 4) Bill 2006.

Question put and passed.

**16 FAMILY AND COMMUNITY SERVICES—FOSTER CARE WEEK**

Senator Bartlett, also on behalf of Senators Siewert and McLucas, amended general business notice of motion no. 535 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes that:
  - (i) 10 September to 16 September 2006 is Foster Care Week in New South Wales,
  - (ii) foster carers need access to training particularly to assist them to work with the growing number of children with special needs coming into their care,
  - (iii) approximately 80 per cent of the children coming into care have significant emotional and social issues and disabilities, and
  - (iv) many foster care agencies in Australia are struggling to meet the demands of foster carers and children in their care, due to the serious funding constraints and the lack of foster and kinship families;
- (b) urges the responsible governments to:
  - (i) provide better funding and support to ensure that foster carers are given the specialised needs training they urgently require to cope with the growing number of children with special needs who are placed in their care,
  - (ii) reassess funding mechanisms to better align subsidy levels with the cost of caring, and
  - (iii) give better recognition to the role of kinship carers in funding, legislation and regulation; and
- (c) acknowledges the exceptional services provided by foster and kinship carers.

Question put and passed.

**17 SOCIAL ISSUES—RELIGIOUS INTOLERANCE AND RACIAL DISCRIMINATION**

Senator Stephens, also on behalf of Senator Mason, amended general business notice of motion no. 536 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes, with deep concern, the existence of religious intolerance and racial discrimination in Australia and the threat which this poses to the cohesion of Australian society;
- (b) condemns all manifestations of racism wherever they occur; and
- (c) expresses its unequivocal condemnation of all forms of racial and ethnic hatred, persecution and discrimination.

Question put and passed.

**18 MIGRATION LEGISLATION AMENDMENT (COMPLEMENTARY PROTECTION VISAS)  
BILL 2006**

Senator Bartlett, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 548—That the following bill be introduced:

A Bill for an Act to introduce complementary protection visas, and for related purposes.

Question put and passed.

Senator Bartlett presented the bill and 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 Bartlett moved—That this bill be now read a second time.

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*Explanatory memorandum:* Senator Bartlett, by leave, tabled an explanatory memorandum relating to the bill.

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

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*Explanatory memoranda:* Senator Bartlett, by leave, tabled explanatory memoranda relating to the following bills:

Migration Legislation Amendment (Appropriate Access to Detention Centres) Bill 2006.

Migration Legislation Amendment (Migration Zone Excision Repeal) Bill 2006 and Migration Legislation Amendment (Migration Zone Excision Repeal) (Consequential Provisions) Bill 2006.

Migration Legislation Amendment (Provisions Relating to Character and Conduct) Bill 2006.

Migration Legislation Amendment (Temporary Protection Visas Repeal) Bill 2006.

**19 FOREIGN AFFAIRS—AFGHANISTAN**

The Leader of the Australian Democrats (Senator Allison), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 508—That the Senate—

- (a) notes the reported comments by President Karzai, on 8 March 2006, that ‘From fear of terrorism, from threats of the enemies of Afghanistan, today as we speak, some 100,000 Afghan children who went to school last year, and the year before last, do not go to school’;
- (b) notes the report by Human Rights Watch, *Lessons in Terror: Attacks on Education in Afghanistan*, which reports that:

- (i) attacks against schools, teachers and students in Afghanistan have risen markedly in late 2005 and the first half of 2006, with more attacks having been reported in the first half of 2006 than in all of 2005, including at least 17 assassinations of teachers and education officials, and more than 204 attacks on teachers, students and schools which have led to hundreds of schools being shut down or destroyed,
  - (ii) the majority of primary-school-age girls in Afghanistan remain out of school and, at the secondary level, gross enrolment rates were only 5 per cent for girls in 2004, compared with 20 per cent for boys, and
  - (iii) attacks on education have a disproportionate effect on the education of girls as some attacks are motivated by ideological opposition to girls' education specifically, and parents often have a lower threshold for pulling their daughters out of school than boys, given greater social restrictions on girls' movements and legitimate concerns about sexual harassment and violence; and
- (c) calls on the Federal Government to use gender equality in access to education as one measure of the success of efforts by the Afghan Government, supported by the international community, to rebuild security and stability in Afghanistan.

Question put and passed.

#### 20 INDUSTRIAL RELATIONS—MR BARRY HEMSWORTH

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 551—That the Senate—

- (a) notes that Mr Barry Hemsworth has been the elected union delegate at Botany Cranes in Sydney for the past 10 years;
- (b) congratulates Mr Hemsworth on his commitment to ensure the safety of all workers at the site;
- (c) condemns the decision by Botany Cranes to sack Mr Hemsworth on the basis of his insistence that employees be properly trained;
- (d) condemns the fact that other employees face fines of up to \$28 600 each if they attend a meeting to discuss Mr Hemsworth's sacking on the basis of his insistence that employees are properly trained;
- (e) notes that Mr Hemsworth and other employees in similar situations no longer have access to unfair dismissal proceedings if they work in a business with fewer than 100 employees; and
- (f) calls on the Government to repeal the unfair industrial relations laws that see employees face intimidation, unsafe work practises with no avenues of redress.

Question put and negatived.

#### 21 SUPERANNUATION—CHILD CARE WORKERS

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. 545—That the Senate—

- (a) notes, with concern:
  - (i) that child care workers remain among the lowest paid Australians, earning as little as \$541 per week,
  - (ii) that women working in child care are likely to accumulate some of the lowest levels of superannuation in Australia,

- (iii) that a politician who entered parliament at the 2004 election, aged 30, and who retires at 65 would have received a superannuation lump sum of \$670 211, but would receive a lump sum of \$1 117 000 under the new 15 per cent contribution regime, and
  - (iv) the statement by the Prime Minister (Mr Howard) that low wages adversely affect the gene pool of those drawn to particular occupations; and
- (b) calls on the Government to address the wages paid to child care workers before supplementing the salary advantages paid to politicians.

Question put.

The Senate divided—

#### AYES, 7

Senators—

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

#### NOES, 47

Senators—

Adams	Faulkner	Ludwig	Payne
Barnett	Ferguson	Lundy	Polley
Bernardi	Ferris	Marshall	Ray
Brandis	Fifield	Mason	Ronaldson
Brown, Carol	Forshaw	McEwen	Stephens
Calvert	Hogg	McGauran	Sterle
Campbell, G (Teller)	Humphries	McLucas	Troeth
Chapman	Hurley	Moore	Trood
Colbeck	Hutchins	Nash	Watson
Crossin	Joyce	O'Brien	Webber
Eggleston	Kirk	Parry	Wortley
Ellison	Lightfoot	Patterson	

Question negatived.

## 22 ENVIRONMENT—MACQUARIE MARSHES

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. 540—That the Senate calls on the Government to review the threats to the Macquarie Marshes, New South Wales, as a matter of urgency and to take due action to rescue the marshes as a national environmental priority.

Question put.

The Senate divided—

#### AYES, 29

Senators—

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



## NOES, 32

Senators—			
Abetz	Colbeck	Joyce	Parry
Adams	Ellison	Kemp	Patterson
Barnett	Ferguson	Lightfoot	Payne
Bernardi	Ferris (Teller)	Macdonald, Ian	Ronaldson
Brandis	Fierravanti-Wells	Mason	Santoro
Calvert	Fifield	McGauran	Troeth
Campbell, Ian	Heffernan	Minchin	Trood
Chapman	Humphries	Nash	Watson

Question negatived.

**23 FAMILY AND COMMUNITY SERVICES—NATIONAL DISABILITIES ADVOCACY PROGRAM REVIEW—PROPOSED ORDER FOR PRODUCTION OF DOCUMENT**

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 544—That there be laid on the table by the Minister representing the Minister for Families, Community Services and Indigenous Affairs, no later than 3.30 pm on Thursday, 14 September 2006, the National Disabilities Advocacy Program Review 2006, carried out by Social Options Australia.

Question put.

The Senate divided—

## AYES, 30

Senators—			
Allison	Forshaw	McEwen	Siewert
Bartlett	Hogg	McLucas	Stephens
Brown, Bob	Hurley	Milne	Sterle
Brown, Carol	Hutchins	Moore	Stott Despoja
Campbell, G (Teller)	Kirk	Nettle	Webber
Crossin	Ludwig	O'Brien	Wortley
Faulkner	Lundy	Polley	
Fielding	Marshall	Ray	

## NOES, 32

Senators—			
Abetz	Colbeck	Joyce	Parry
Adams	Ellison	Kemp	Patterson
Barnett	Ferguson	Lightfoot	Payne
Bernardi	Ferris (Teller)	Macdonald, Ian	Ronaldson
Brandis	Fierravanti-Wells	Mason	Santoro
Calvert	Fifield	McGauran	Troeth
Campbell, Ian	Heffernan	Minchin	Trood
Chapman	Humphries	Nash	Watson

Question negatived.

**24 IMMIGRATION—MS CORNELIA RAU**

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 550—That the Senate—

(a) notes that:

- (i) it has been 19 months since Ms Cornelia Rau was found imprisoned unlawfully in the Baxter detention centre,

- (ii) Ms Rau has still not received compensation for her wrongful imprisonment or the effects of her treatment in detention,
  - (iii) the Government appears to be effectively forcing Ms Rau to sue it in court, rather than negotiating an agreement or agreeing to an arbitrated settlement, and
  - (iv) this same issue was raised in the Senate more than 6 months ago; and
- (b) calls on the Government to:
- (i) negotiate a generous compensation agreement with Ms Rau for the ordeal it inflicted upon her,
  - (ii) ensure that this compensation agreement is completed within 3 months, and
  - (iii) avoid a situation where Ms Rau is forced to take legal action and endure years in the courts.

Question put.

The Senate divided—

#### AYES, 29

Senators—

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

#### NOES, 32

Senators—

Abetz	Colbeck	Joyce	Parry
Adams	Ellison	Kemp	Patterson
Barnett	Ferguson	Lightfoot	Payne
Bernardi	Ferris (Teller)	Macdonald, Ian	Ronaldson
Brandis	Fierravanti-Wells	Mason	Santoro
Calvert	Fifield	McGauran	Troeth
Campbell, Ian	Heffernan	Minchin	Trood
Chapman	Humphries	Nash	Watson

Question negatived.

#### 25 NOTICE

Senator Patterson gave a notice of motion as follows: To move on the next day of sitting—

- (1) That the following matter be referred to the Community Affairs Committee for inquiry and report by 27 October 2006:  
Legislative responses to recommendations of the reports of the Legislation Review Committee on the *Prohibition of Human Cloning Act 2002* and the *Research Involving Human Embryos Act 2002* (the Lockhart review).
- (2) That in undertaking this inquiry the committee may consider any relevant bill or draft bill based on the Lockhart review introduced or tabled in the Senate or presented to the President by a senator when the Senate is not sitting.

**26 SCRUTINY OF BILLS—STANDING COMMITTEE—ALERT DIGEST NO. 10 OF 2006**

The Chairman of the Standing Committee for the Scrutiny of Bills (Senator Ray) tabled the following document:

Scrutiny of Bills—Standing Committee—Alert Digest no. 10 of 2006, dated 13 September 2006.

Senator Ray moved—That the Senate take note of the document.

Question put and passed.

**27 SENATORS' INTERESTS—STANDING COMMITTEE—MATTERS CONSIDERED BY THE COMMITTEE—STATEMENTS OF INTERESTS AND UNAUTHORISED DISCLOSURE OF CORRESPONDENCE—DOCUMENT**

The Chair of the Standing Committee of Senators' Interests (Senator Webber) tabled the following document:

Senators' Interests—Standing Committee—Issues raised with the Committee of Senators' Interests by Senator the Hon. Eric Abetz about Senator Bob Brown's statements of interests and the unauthorised disclosure of correspondence from Senator the Hon. Eric Abetz to the Committee of Senators' Interests—Documents and minutes of proceedings, dated September 2006.

Senator Webber moved—That the Senate take note of the document.

Debate ensued.

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

At the end of the motion, add “and asks the Government to legislate that gifts or donations to members of parliament or political parties of \$300 or more, which are anonymous, be payable to the Commonwealth for disbursement to Australian charity”.

Debate ensued.

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

*Statements by leave:* Senators Bob Brown, Webber and Ian Macdonald, by leave, made statements relating to the matter.

Main question put and passed.

**28 PUBLIC WORKS—JOINT STATUTORY COMMITTEE—14TH AND 15TH REPORTS OF 2006**

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

Public Works—Joint Statutory Committee—

14th report of 2006—Proposed facilities upgrade to the Shoalwater Bay training area, Rockhampton, Queensland, dated September 2006.

15th report of 2006—Proposed facilities for troop lift helicopter, RAAF Base Townsville, Queensland, dated September 2006.

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

Debate ensued.

Question put and passed.

**29 SCIENCE AND TECHNOLOGY—ASSISTED REPRODUCTIVE TECHNOLOGY—DOCUMENT**

Senator Scullion, by leave, tabled the following document:

Science and technology—Assisted reproductive technology—Analysis of advice on developments in assisted reproductive technology and related medical and scientific research—Document prepared by mpconsulting for the Department of the Prime Minister and Cabinet, dated June 2006.

**30 DOCUMENTS**

The following documents were tabled by the Clerk:

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

AusLink (National Land Transport) Act—Variation to the AusLink Roads to Recovery List No. 2006/2 [F2006L03043]\*.

Civil Aviation Act—

Civil Aviation Regulations—Civil Aviation Order 40.1.0 Amendment Order (No. 2) 2006 [F2006L03013]\*.

Civil Aviation Safety Regulations—Airworthiness Directives—Part 106—AD/CF6/51 Amdt 1—LPT Shroud – Replacement [F2006L03048]\*.

Customs Act—Tariff Concession Orders—

0514070 [F2006L03016]\*.

0607100 [F2006L03017]\*.

0609360 [F2006L03018]\*.

0609625 [F2006L03019]\*.

0609655 [F2006L03020]\*.

0609748 [F2006L03022]\*.

0610204 [F2006L03026]\*.

0610331 [F2006L03030]\*.

0610368 [F2006L03031]\*.

Customs Tariff Act—Customs Tariff (Safeguard Goods) Notice (No. 2) 2006 [F2006L02958]\*.

Financial Management and Accountability Act—Net Appropriation Agreement for the Administrative Appeals Tribunal [F2006L03014]\*.

Migration Act—

Migration Agents Regulations—MARA Notices—

MN36-06b of 2006—Migration Agents (Continuing Professional Development – Private Study of Audio, Video or Written Material) [F2006L03009]\*.

MN36-06c of 2006—Migration Agents (Continuing Professional Development – Attendance at a Seminar, Workshop, Conference or Lecture) [F2006L03010]\*.

MN36-06f of 2006—Migration Agents (Continuing Professional Development – Miscellaneous Activities) [F2006L03011]\*.

MN36-06g of 2006—Migration Agents (Continuing Professional Development – Pro Bono Activities) [F2006L03012]\*.

Select Legislative Instrument 2006 No. 238—Migration Amendment Regulations 2006 (No. 5) [F2006L02979]\*.

Motor Vehicle Standards Act—Motor Vehicle Standards (Approval to Place Used Import Plates) Guidelines 2006 (No. 1) Amendment 1 [F2006L03046]\*.

\* Explanatory statement tabled with legislative instrument.

**31 INDEPENDENT CONTRACTORS BILL 2006**

**WORKPLACE RELATIONS LEGISLATION AMENDMENT (INDEPENDENT CONTRACTORS) BILL 2006**

**TAX LAWS AMENDMENT (2006 MEASURES NO. 5) BILL 2006**

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

Message no. 386, dated 13 September 2006—A Bill for an Act relating to independent contractors, and for related purposes.

Message no. 387, dated 13 September 2006—A Bill for an Act to amend the *Workplace Relations Act 1996*, and for related purposes.

Message no. 388, dated 13 September 2006—A Bill for an Act to amend the laws relating to taxation, and for related purposes.

The Minister for Fisheries, Forestry and Conservation (Senator Abetz) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Abetz moved—That these bills be now read a second time.

*Consideration of legislation:* Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.

Senator Abetz moved that the Tax Laws Amendment (2006 Measures No. 5) Bill 2006 be listed on the *Notice Paper* as a separate order of the day.

Question put and passed.

**32 FINANCIAL TRANSACTION REPORTS AMENDMENT BILL 2006**

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

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*In the committee*

Consideration resumed of the bill—and of the amendments moved by the Minister for Justice and Customs (Senator Ellison) (see entry no. 5).

Debate resumed.

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

Senator Ludwig moved the following amendment:

Clause 1, page 1 (line 6), omit “*Financial Transaction Reports*”, substitute “*Anti-Terrorism (Correction of Government Legislative Errors)*”.

Debate ensued.

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

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

**33 SUPERANNUATION LEGISLATION AMENDMENT (SUPERANNUATION SAFETY AND OTHER MEASURES) BILL 2005**

Order of the day read for the adjourned debate on the motion of the Minister for Finance and Administration (Senator Minchin)—That this bill be now read a second time—and on the amendment moved by Senator Stephens:

At the end of the motion, add “but:

(a) given that Australian workers and their families are:

- (i) not provided with full compensation in the event of theft and fraud from a superannuation fund, and
- (ii) not provided with compensation for the loss of statutory 9 per cent superannuation guarantee contributions in the event of employer insolvency under the General Employee Entitlements Redundancy Scheme (GEERS), even though GEERS does pay other statutory entitlements such as unpaid wages, accrued annual leave, long service leave, pay in lieu of notice and up to 16 weeks redundancy entitlement; and

(b) given that superannuation is compulsory, long-term and for retirement, the Senate calls on the Government:

- (a) to expand compensation for theft and fraud to 100 per cent using the existing compensation mechanism; and
- (b) to examine the inclusion for payment of unpaid superannuation guarantee payments within GEERS”.

Debate resumed.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 31

Senators—

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

## NOES, 33

Senators—

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

Question negatived.

Main question put and passed.

Bill read a second time.

On the motion of the Parliamentary Secretary to the Minister for Finance and Administration (Senator Colbeck) consideration of the bill in committee of the whole was made an order of the day for the next day of sitting.

**34 MARITIME TRANSPORT AND OFFSHORE FACILITIES SECURITY AMENDMENT  
(SECURITY PLANS AND OTHER MEASURES) BILL 2006**

Order of the day read for the adjourned debate on the motion of the Minister for Fisheries, Forestry and Conservation (Senator Abetz)—That this bill be now read a second time.

Debate resumed.

Senator O'Brien moved the following amendment:

At the end of the motion, add “but the Senate condemns the Howard Government for its failure to provide necessary maritime security and protect Australians, including:

- (a) the Government's failure to conduct security checks on foreign crews;
- (b) the Government's continued failure to ensure foreign ships provide manifestos of crew and cargo before arriving at an Australian port;
- (c) the ready availability of single and multiple voyage permits for foreign flag of convenience ships including the ready availability of permits for foreign flag of convenience ships carrying dangerous materials in Australian waters and ports;
- (d) the failure of the Government to examine or x-ray 90 per cent of shipping containers;
- (e) the Government's failure to create a Department of Homeland Security to remove dangerous gaps and to better coordinate security in Australia; and
- (f) the Government's failure to establish an Australian Coastguard to patrol our coastline”.

Debate ensued.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 29

Senators—

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

NOES, 32

Senators—

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

Question negatived.

Main question put and passed.

Bill read a second time.

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

On the motion of the Parliamentary Secretary to the Minister for Defence (Senator Sandy Macdonald) the bill was read a third time.

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*At 6.50 pm—*

### 35 GOVERNMENT DOCUMENTS—CONSIDERATION

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

Australian Law Reform Commission—Report—No. 104—Fighting words: A review of sedition laws in Australia, July 2006. Motion to take note of document moved by Senator Sterle. Debate adjourned till Thursday at general business, Senator Sterle in continuation.

*Migration Act 1958*—Section 486O—Assessment of appropriateness of detention arrangements—Personal identifiers 070/06 and 071/06—Commonwealth Ombudsman's reports and government response to the Commonwealth Ombudsman's reports. Motion to take note of documents moved, by leave, by Senator Bartlett and agreed to.



**36 ADJOURNMENT**

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

Debate ensued.

*Time expired:* The debate reached the limit of 40 minutes.

The Senate adjourned at 7.36 pm till Thursday, 14 September 2006 at 9.30 am.

**37 ATTENDANCE**

Present, all senators except Senators Bishop, Sherry\* and Vanstone\* (\* on leave).

**HARRY EVANS**  
Clerk of the Senate