

2004

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

No. 8

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**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 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION**

The Minister for Justice and Customs (Senator Ellison), by leave, moved—That—

- (1) On Monday, 6 December 2004:
  - (a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to 11.10 pm; and
  - (b) the question for the adjournment of the Senate shall be proposed at 10.30 pm.
- (2) On Tuesday, 7 December 2004:
  - (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.

**3 PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL—APPROVAL**

The Minister for Justice and Customs (Senator Ellison), pursuant to notice, moved government business notice of motion no. 1—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 replacement and extension of cooling towers at the rear of Old Parliament House.

Question put and passed.

**4 CONSIDERATION OF LEGISLATION**

The Minister for Justice and Customs (Senator Ellison), pursuant to notice, moved government business notice of motion no. 2—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills:

- Copyright Legislation Amendment Bill 2004
- James Hardie (Investigations and Proceedings) Bill 2004
- National Water Commission Bill 2004.

Debate ensued.

The question was divided—

Question—That the motion in respect of the James Hardie (Investigations and Proceedings) Bill 2004 and the National Water Commission Bill 2004 be agreed to—put and passed.

Question—That the motion in respect of the Copyright Legislation Amendment Bill 2004 be agreed to—put and passed. All Australian Democrats senators and Senators Brown and Nettle, by leave, recorded their votes for the noes.

**5 AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT BILL (NO. 2) 2004**

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

Debate resumed.

The Leader of the Australian Democrats (Senator Bartlett) moved the following amendment:

At the end of the motion, add “but the Senate, recognising there is a strong and ongoing opposition to continuing the live trade of animals from Australia due to both animal welfare concerns and concerns that domestic jobs are exported along with the animals, urges that priority be given to phasing out the live trade of animals as soon as possible”.

Debate ensued.

Question—That the amendment be agreed to—put and negatived. All Australian Democrats senators, by leave, recorded their votes for the ayes.

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 Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) the bill was read a third time.

**6 VOCATIONAL EDUCATION AND TRAINING FUNDING AMENDMENT BILL 2004**

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

Debate resumed.

*At 2 pm:* Debate was interrupted.

**7 QUESTIONS**

Questions without notice were answered.

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*Document:* The Minister for the Environment and Heritage (Senator Ian Campbell) tabled the following document:

Regional Australia—Regional Partnerships program—Copy of letter from Chairman (Ian Kiernan, AO), Primary Energy Pty Ltd to Manager, *Australian Financial Review*, dated 3 December 2004.

**8 QUESTION TIME—STATEMENT BY PRESIDENT**

The President made a statement relating to the content of a question without notice asked by Senator McLucas during question time on 2 December 2004.

**9 FAMILY AND COMMUNITY SERVICES—CHILD CARE—AGED CARE—ANSWERS TO QUESTIONS**

Senator McLucas moved—That the Senate take note of the answers given by the Minister for Family and Community Services (Senator Patterson) to questions without notice asked by Senators Collins and McLucas today relating to child care and to residential aged care.

Debate ensued.

Question put and passed.

**10 IMMIGRATION—ROPHIN MORRIS—ANSWERS TO QUESTIONS**

The Leader of the Australian Democrats (Senator Bartlett) moved—That the Senate take note of the answers given by the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) to questions without notice asked by Senators Greig and Harradine today relating to the application for permanent residency by the Morris family.

Question put and passed.

**11 PETITIONS**

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

Senator Payne, from 31 petitioners, requesting that the Senate take action to ban the production, transfer, importation and use of anti-vehicle mines.

Senator Webber, from 190 petitioners, requesting that the Senate take action to ensure that wheat growers affected by the Iraqi debt write off are fully compensated.

**12 NOTICES**

*Notices of motion:*

The Chair of the Community Affairs Legislation Committee (Senator Knowles): To move on the next day of sitting—That the Community Affairs Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 9 December 2004, from 10.30 am, to take evidence on a matter relating to the Department of Health and Ageing. (*general business notice of motion no. 39*)

Senator Stott Despoja: To move on the next day of sitting—That the following matters be referred to the Legal and Constitutional References Committee for inquiry and report by 30 June 2005:

- (a) the overall effectiveness and appropriateness of the *Privacy Act 1988* as a means by which to protect the privacy of Australians, with particular reference to:
  - (i) international comparisons,
  - (ii) the capacity of the current legislative regime to respond to new and emerging technologies which have implications for privacy, including:
    - (A) ‘Smart Card’ technology and the potential for this to be used to establish a national identification regime,
    - (B) biometric imaging data,
    - (C) genetic testing and the potential disclosure and discriminatory use of such information, and

- (D) microchips which can be implanted in human beings (for example, as recently authorised by the United States Food and Drug Administration), and
- (iii) any legislative changes that may help to provide more comprehensive protection or improve the current regime in any way;
- (b) the effectiveness of the *Privacy Amendment (Private Sector) Act 2000* in extending the privacy scheme to the private sector, and any changes which may enhance its effectiveness; and
- (c) the resourcing of the Office of the Federal Privacy Commissioner and whether current levels of funding and the powers available to the Federal Privacy Commissioner enable her to properly fulfil her mandate.

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

- (a) recalls that on 2 December 2002 a proposed agreement between Australia and the United States of America (US), pursuant to which Australia would agree not to surrender US nationals to the International Criminal Court without the consent of the US (the proposed agreement) was referred to the Joint Standing Committee on Treaties for inquiry and report;
- (b) notes correspondence from the secretary of the committee to the Clerk of the Senate, dated 16 July 2003, which:
  - (i) stated that ‘as far as the Committee is aware, there is no such proposed agreement’ and that it had ‘therefore decided to defer commencing the inquiry into the matter referred until the text of such an agreement is made available to the Committee’, and
  - (ii) however, acknowledged that ‘the Committee is empowered to inquire into any question relating to a treaty or other international agreement, whether or not negotiated to completion, referred to the Committee by either House’;
- (c) further notes:
  - (i) the report on ABC Radio’s *PM* program of 28 August 2002, that the US had written to the Australian Government, requesting it to enter into the proposed agreement and that, according to the Minister for Foreign Affairs, the Government was ‘sympathetic’ to the request,
  - (ii) the report on Network Nine’s *Sunday* program of 8 September 2002, in which the then Attorney-General indicated that the US had requested Australia to enter into the proposed agreement and that the Australian Government had no objection to the proposed agreement, and
  - (iii) evidence from Department of Foreign Affairs and Trade officials on 19 February 2004 that negotiations with the US were ongoing and that, at that time, the most recent meeting had been in December 2003;
- (d) recalls that on 30 August 2004, it again referred the proposed agreement to the committee for inquiry and report by 30 April 2005;
- (e) notes that:
  - (i) the committee had not commenced the inquiry prior to the proroguing of the 40th Parliament, and
  - (ii) the reference lapsed with the proroguing of the 40th Parliament; and
- (f) refers the proposed agreement, with particular reference to the following matters, to the Joint Standing Committee on Treaties for inquiry and report by 30 June 2005:

- (i) whether the proposed agreement would breach the terms, or be otherwise inconsistent with the spirit, of the Rome Statute which Australia has ratified,
- (ii) the effect of the proposed agreement, either itself or in conjunction with similar agreements between the United States and other states, on the ability of the International Criminal Court to effectively fulfil its intended function,
- (iii) the implications of any extradition provisions in the proposed agreement and whether the proposed agreement would require the re-negotiation of existing extradition agreements to which Australia is a party, and
- (iv) the implications of the proposed agreement with respect to Australia's national interest. (*general business notice of motion no. 40*)

The Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Hutchins): To move on the next day of sitting—That the following matters be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 15 September 2005:

- (a) Australia's economic relationship with China, with particular reference to:
  - (i) economic developments in China over the past decade and their implications for Australia and the East Asian region,
  - (ii) recent trends in trade between Australia and China,
  - (iii) the Australia-China Trade and Economic Framework and possibility of a free trade agreement with China,
  - (iv) ongoing barriers and impediments to trade with China for Australian businesses,
  - (v) existing strengths of Australian business in China and the scope for improvement through assistance via Commonwealth agencies and Australian Government programs, and
  - (vi) opportunities for strengthening and deepening commercial links with China in key export sectors;
- (b) Australia's political relationship with China, with particular reference to:
  - (i) China's emerging influence across East Asia and the South Pacific,
  - (ii) opportunities for strengthening the deepening political, social and cultural links between Australia and China, and
  - (iii) political, social and cultural considerations that could impede the development of strong and mutually beneficial relationships between Australia and China; and
- (c) Australian responses to China's emergence as a regional power, with particular reference to:
  - (i) China's relationships in East Asia, including in particular the Korean Peninsula and Japan,
  - (ii) the strategic consequences of a China-ASEAN free trade agreement, and
  - (iii) China's expanded activities across the South West Pacific.

The Chair of the Legal and Constitutional Legislation Committee (Senator Payne): To move on the next day of sitting—That the time for the presentation of the report of the Legal and Constitutional Legislation Committee on the Disability Discrimination Amendment (Education Standards) Bill 2004 be extended to 8 December 2004. (*general business notice of motion no. 41*)

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

- (a) notes that on 7 December 2004 the Jewish festival of Hanukkah begins at sunset; and
- (b) wishes a happy Hanukkah to the Australian Jewish community. (*general business notice of motion no. 42*)

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

- (a) condemns Sydney Lord Mayor Clover Moore for inappropriately using multiculturalism as a shield for stripping back Christmas celebrations;
- (b) notes:
  - (i) the damage that is done to multiculturalism by this kind of misguided action,
  - (ii) multiculturalism does not mean abandoning your own beliefs or culture out of deference to imagined offence to a different culture, and
  - (iii) that Christmas itself is multicultural, celebrated as it is across Europe, North and South America, parts of Asia, Africa, the Pacific and wherever Christians may be;
- (c) embraces the spirit of Christmas and encourages the people of Australia, whatever their beliefs, to practise the Christmas message of peace and goodwill to all; and
- (d) wishes a safe and merry Christmas to the people of Australia. (*general business notice of motion no. 43*)

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

- (a) notes and affirms the recent action of officers from the Department of Immigration and Multicultural and Indigenous Affairs and the Australian Federal Police in raiding places suspected of manufacturing counterfeit passports;
- (b) notes that the forgery of passports is a serious crime;
- (c) rejects claims from the Refugee Action Coalition that alleged manufacture of these passports was somehow justified;
- (d) in particular, totally rejects claims by the Refugee Action Coalition that such actions have any similarity with those who broke the law to free Jews from Nazi Germany; and
- (e) notes the hurt and damage that such absurd claims do to the cause of genuine refugee activists who abide by the law. (*general business notice of motion no. 44*)

*Notice of motion withdrawn:* The Leader of the Australian Democrats (Senator Bartlett), at the request of Senator Stott Despoja, withdrew business of the Senate notice of motion no. 1 standing in the name of Senator Stott Despoja for today, proposing the reference of matters to the Legal and Constitutional References Committee.



**13 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 13 OF 2004**

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

SELECTION OF BILLS COMMITTEE

REPORT NO. 13 OF 2004

1. The committee met on Monday, 6 December 2004.
2. The committee resolved to recommend that the Copyright Legislation Amendment Bill 2004 be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report by 7 December 2004.

Jeannie Ferris  
Chair  
6 December 2004.

Senator Ferris moved—That the report be adopted.

Debate ensued.

Question put and passed.

**14 LEAVE OF ABSENCE**

Senator Ferris, by leave, moved—That leave of absence be granted to Senator Ian Macdonald for the period 8 December 2004 to the end of the 2004 spring sittings, on account of parliamentary business overseas.

Question put and passed.

**15 LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Ferris, by leave and at the request of the Chair of the Legal and Constitutional Legislation Committee (Senator Payne), moved—That the Legal and Constitutional Legislation Committee be authorised to hold a public meeting during the sitting of the Senate today, from 7 pm to 9 pm, to take evidence for the committee's inquiry into the Copyright Legislation Amendment Bill 2004.

Question put and passed.

**16 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION REFERENCES COMMITTEE—REFERENCE**

The Chair of the Employment, Workplace Relations and Education References Committee (Senator Crossin), pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 2—That the following matter be referred to the Employment, Workplace Relations and Education References Committee for inquiry and report by 12 May 2005:

The implications for the Government's proposed changes to the funding arrangements for targeted assistance in Indigenous education.

Question put and passed.

#### 17 ENVIRONMENT—MURRAY RIVER

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 36—That the Senate—

- (a) notes that:
  - (i) the Murray River is in crisis and urgently needs water to prevent irreversible loss of red gums, waterbirds and wetlands, and
  - (ii) disagreement between the Commonwealth and state governments has stymied implementation of their November 2003 commitment to return 500 gegalitres of water to the Murray River within 5 years;
- (b) urges the Commonwealth and state governments to act immediately to break the impasse; and
- (c) requests the Government to report to the Senate, on or before 8 December 2004, on when water will actually be returned to the Murray River.

Question put and passed.

#### 18 AUSTRALIAN PARLIAMENTARY DELEGATION TO THE EUROPEAN INSTITUTIONS AND FRANCE—DOCUMENT

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

European Institutions and France—Report of the Australian parliamentary delegation, 19 April to 7 May 2004, dated December 2004.

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

Question put and passed.

#### 19 AIR PASSENGER TICKET LEVY (COLLECTION) ACT—DETERMINATIONS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS

Pursuant to the order of the Senate of 2 December 2004, the Minister for Justice and Customs (Senator Ellison) tabled the following documents:

*Air Passenger Ticket Levy (Collection) Act 2001*—Determinations made under subsection 22(1), dated 9 October 2001, 4 December 2001 and 9 August 2002.

#### 20 COMMITTEES—MATTERS REFERRED TO COMMITTEES IN PREVIOUS PARLIAMENT

Senator George Campbell, at the request of the chairs of the respective committees, tabled the following reports:

Foreign Affairs, Defence and Trade References Committee—

The Senate Foreign Affairs, Defence and Trade References Committee met on 2 December 2004 and considered references not disposed of at the end of the 40th Parliament and resolved to **recommend** to the Senate:

1. That the following inquiry of the 40th Parliament be re-adopted:  
The effectiveness of Australia's military justice system (*reporting date of 17 March 2005*).

Further, the Committee resolved to **recommend** to the Senate that, in respect of this matter to be referred to the Committee, it have the power to consider and use the records of the Senate Foreign Affairs, Defence and Trade Committee appointed in the previous Parliament.

2. That the following inquiry of the 40th Parliament not be re-adopted:  
Report by the Director of Trials of the Review of Test and Evaluation in Defence.

Senator Steve Hutchins  
Chair  
2 December 2004.

Legal and Constitutional References Committee—

The Senate Legal and Constitutional References Committee met on 2 December 2004 and considered references not disposed of at the end of the 40th Parliament and resolved to recommend to the Senate:

That the following inquiry of the 40th parliament be re-adopted:

Inquiry into Australian expatriates, with a reporting date of 8 March 2005.

Further, the Committee resolved to recommend to the Senate that, in respect of this matter, the Committee have power to consider and use the records of the Legal and Constitutional References Committee appointed in the previous parliament.

Senator the Hon Nick Bolkus  
Chair  
2 December 2004.

Senator George Campbell, by leave, moved—That the reports be adopted.

Question put and passed.

**21 COMMUNITY AFFAIRS REFERENCES COMMITTEE—ADDITIONAL INFORMATION—  
HEPATITIS C AND BLOOD SUPPLY IN AUSTRALIA**

Senator George Campbell, at the request of the Chair of the Community Affairs References Committee (Senator Marshall), tabled the following documents:

Community Affairs References Committee—Hepatitis C and blood supply in Australia—Correspondence and additional information.

**22 DOCUMENTS**

The following documents were tabled by the Clerk:

Criminal Code Act—Regulations—Statutory Rules 2004 Nos 283, 284 and 311-314.

Defence Act—Determination under section 58B—Defence Determination 2004/47.

Disability Discrimination Act—Disability Standards for Accessible Public Transport Amendment 2004 (No. 2).

Environment Protection and Biodiversity Conservation Act—Notice of proposed accreditation of the Bass Strait Central Zone Scallop Fishery Management Plan 2002, dated 24 September 2004.

Fisheries Management Act—Bass Strait Central Zone Scallop Fishery Management Plan Amendment 2004 (No. 1).

**23 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—LEAVE TO MEET DURING SITTINGS**

Senator Ferris, by leave and at the request of the Chair of the Joint Standing Committee on Foreign Affairs, Defence and Trade (Senator Ferguson), moved—That the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate.

Question put and passed.

**24 COMMITTEES—CHANGES IN MEMBERSHIP**

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

The Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Colbeck), by leave, moved—That senators be discharged from and appointed to committees as follows:

**Australian Crime Commission—Joint Statutory Committee—**

Discharged—Senator McGauran

Appointed—Senator Santoro

**Finance and Public Administration References Committee—**

Appointed—Participating members: Senators Boswell and Sandy Macdonald

**Legal and Constitutional Legislation Committee—**

Appointed—

Substitute member: Senator Brandis to replace Senator Payne for the committee's inquiry into the Copyright Legislation Amendment Bill 2004

Participating members: Senators Conroy and Ridgeway

**Legal and Constitutional References Committee—**

Appointed—Participating member: Senator Conroy.

Question put and passed.

**25 INDIGENOUS EDUCATION (TARGETED ASSISTANCE) AMENDMENT BILL 2004**

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

Message no. 20, dated 2 December 2004—A Bill for an Act to amend the law relating to assistance for Indigenous education, and for related purposes.

The Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Colbeck) 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 Colbeck moved—That this bill be now read a second time.

On the motion of Senator George Campbell the debate was adjourned.

On the motion of Senator Colbeck the resumption of the debate was made an order of the day for a later hour.

**26 VOCATIONAL EDUCATION AND TRAINING FUNDING AMENDMENT BILL 2004**

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

On the motion of Senator Colbeck the bill was read a third time.

**27 JOINT COMMITTEES—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 joint committees, as follows:

Message no. 19, dated 2 December 2004—

**Australian Crime Commission—Joint Statutory Committee**—Mr Byrne, Mrs Gash, Mr Kerr, Mr Richardson and Mr Wood

**Corporations and Financial Services—Joint Statutory Committee**—Mr Bartlett, Mrs J Kelly and Mr McArthur

**Native Title and the Aboriginal and Torres Strait Islander Land Fund—Joint Statutory Committee**—Mr McMullan, Mr Randall, Mr Slipper, Mr Tollner and Ms Vamvakinou

**Broadcasting of Parliamentary Proceedings—Joint Statutory Committee**—Mr Baldwin, Mr Bartlett, Mr Lindsay, Mr Murphy and Ms Vamvakinou

**Public Accounts and Audit—Joint Statutory Committee**—Mr Baldwin, Mr Broadbent, Mrs J Kelly, Dr Laming, Mr Somlyay and Mr Ticehurst

**Public Works—Joint Statutory Committee**—Mr Forrest, Mr Jenkins, Mrs Moylan, Mr BP O'Connor, Mr Ripoll and Mr Wakelin

**Electoral Matters—Joint Standing Committee**—Mr Ciobo, Mr Danby, Mr Melham, Ms Panopoulos and Mr ADH Smith

**Foreign Affairs, Defence and Trade—Joint Standing Committee**—Mr Baldwin, Mr Baird, Mr Barresi, Mr Beazley, Mr Danby, Mrs Draper, Mr Edwards, Mrs Gash, Mr Gibbons, Mr Haase, Mr Jull, Mrs Moylan, Mr Prosser, Mr Scott, Mr Sercombe, Mr Snowden, Mr Turnbull, Ms Vamvakinou, Mr Wakelin and Mr Wilkie

**Migration—Joint Standing Committee**—Mr Keenan, Mr Randall and Dr Southcott

**National Capital and External Territories—Joint Standing Committee**—Mr Neville, Ms Panopoulos and Mr Secker

**Treaties—Joint Standing Committee**—Mr Johnson, Mrs May, Ms Panopoulos, Mr Scott, Dr Southcott and Mr Turnbull.

**28 SCHOOLS ASSISTANCE (LEARNING TOGETHER—ACHIEVEMENT THROUGH CHOICE AND OPPORTUNITY) BILL 2004  
STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE)  
LEGISLATION AMENDMENT BILL 2004**

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 Carr moved the following amendment in respect of the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Bill 2004:

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

- (a) condemns the Government for its unfair funding policies for schools; and
- (b) believes that there is a need to restore integrity and sustainability to Commonwealth funding of schools through the adoption of comprehensive principles that include:
  - (i) supporting high quality public schooling as a national priority,
  - (ii) recognising the entitlement of all children and young people to national standards of educational results and resources,
  - (iii) giving priority in funding for all Commonwealth programs for schools to meeting the educational and financial needs of schools,
  - (iv) recognition of the right of parents to choose the type of schooling for their children and to public funding for that schooling based on need, and
  - (v) Commonwealth funding for schools should be provided as part of a national partnership with state and territory governments so that all governments work together to deliver high quality schooling for all”.

Debate ensued.

On the motion of the Minister for the Environment and Heritage (Senator Ian Campbell) the debate was adjourned till a later hour.

**29 REGIONAL AUSTRALIA—GREENHOUSE GAS ABATEMENT PROGRAM—REGIONAL PARTNERSHIPS PROGRAM—ANSWERS TO QUESTIONS—STATEMENT BY LEAVE**

The Minister for the Environment and Heritage (Senator Ian Campbell), by leave, made a statement clarifying the answers he gave to questions without notice asked by Senators Wong and Carr today relating to the Greenhouse Gas Abatement program and the Regional Partnerships program.

**30 SCHOOLS ASSISTANCE (LEARNING TOGETHER—ACHIEVEMENT THROUGH CHOICE AND OPPORTUNITY) BILL 2004  
STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE)  
LEGISLATION AMENDMENT BILL 2004**

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—*and on the amendment moved by Senator Carr in respect of the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Bill 2004 (see entry no. 28).*

Debate resumed.

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

Main question, as amended, put and passed.

Bills read a second time.

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

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*In the committee*

**SCHOOLS ASSISTANCE (LEARNING TOGETHER—ACHIEVEMENT THROUGH CHOICE AND OPPORTUNITY) BILL 2004—**

Bill taken as a whole by leave.

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

Clause 4, page 7 (after line 6), after the definition of *location proposal*, insert:

*need* means an assessment of the educational and financial circumstances of a school and its community, including the varying educational programs required for individual students and groups of students to achieve national educational goals and the level of recurrent and capital resources available to a school from all public and private sources.

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

Clause 14, page 17 (after line 18), after paragraph (1)(a), insert:

(aa) a commitment by the State to give priority in the allocation of funding according to need; and

Clause 31, page 30 (after line 18), after paragraph (a), insert:

(aa) a commitment by the relevant authority to give priority in the allocation of funding according to need;

Senator Allison moved the following amendments together by leave:

Clause 14, page 17 (line 25) to page 19 (line 17), omit paragraphs (1)(d) to (p).

Clause 31, page 30 (line 25) to page 32 (line 24), omit paragraphs (d) to (p).

Debate ensued.

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

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

Clause 14, page 18 (lines 30 to 33), omit paragraph (1)(l), substitute:

(l) a commitment by the State that:

(i) appointments of staff in each government school will be made with the approval of the principal, or the governing body, of the school; and

(ii) such appointments will take account of the relationship of the school to the relevant state authority and the need for system wide strategies to recruit teaching staff where there are shortages in particular geographical and curriculum areas; and

Clause 31, page 31 (line 30) to page 32 (line 2), omit paragraph (l), substitute:

- (l) a commitment by the relevant authority that:
  - (i) appointments of staff in each school or each school in the approved school system will be made with the approval of the principal, or the governing body, of the school or each of those schools; and
  - (ii) such appointments will take account of the relationship of the school to the relevant school or system authority and the need for system wide strategies to recruit teaching staff where there are shortages in particular geographical and curriculum areas;

Senator Nettle moved the following amendment:

Clause 31, page 30 (line 22) to page 32 (line 25), omit paragraphs (1)(c) to (q).

Debate ensued.

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

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

Page 19 (after line 21), after clause 14, insert:

**14A Principles for reporting on students' learning and school performance**

For the purposes of subsections 14(1) and (2), including but not limited to the reporting requirements in paragraphs 14(1)(c), (d), (e), (n), (p) and (r) and related paragraphs 19(3)(d), (e) and (f), the agreement must include reporting on students' learning and schools' performance that is consistent with the following principles:

- (a) reporting by schools to parents and to the community must always be in the educational interests of students;
- (b) information from school reports is to provide assistance to schools and to teachers to inquire into students' learning needs and to develop teaching programs for those students;
- (c) reporting by schools on students' learning must include a comprehensive range of information on related factors that includes:
  - (i) the total resources available to each school from all sources;
  - (ii) enrolment policies and practices, including information on the enrolment of indigenous students and students with disabilities;
  - (iii) student admission and exclusion policies and practices;
  - (iv) qualifications and accreditation standings of teaching staff;
  - (v) curriculum offerings at the school; and
  - (vi) policies and programs for student discipline and welfare, anti-bullying and child protection;
- (d) the content and format of school reports are to be developed following consultation with parents and school community organisations.



Page 32 (after line 28), after clause 31, insert:

**31A Principles for reporting on students' learning and school performance**

For the purposes of section 31, including but not limited to the reporting requirements in paragraphs 31(1)(c), (d), (e), (n), (p) and (r) and related paragraphs 36(3)(d), (e) and (f), the agreement must include reporting on students' learning and schools' performance that is consistent with the following principles:

- (a) reporting by schools to parents and to the community must always be in the educational interests of students;
- (b) information from school reports is to provide assistance to schools and to teachers to inquire into students' learning needs and to develop teaching programs for those students;
- (c) reporting by schools on students' learning must include a comprehensive range of information on related factors that includes:
  - (i) the total resources available to each school from all sources;
  - (ii) enrolment policies and practices, including information on the enrolment of Indigenous students and students with disabilities;
  - (iii) student admission and exclusion policies and practices;
  - (iv) qualifications and accreditation standings of teaching staff;
  - (v) curriculum offerings at the school; and
  - (vi) policies and programs for student discipline and welfare, anti-bullying and child protection;
- (d) the content and format of school reports are to be developed following consultation with parents and school community organisations.

Question—That the bill, as amended, be agreed to—divided in respect of clauses 15 and 32.

Clauses 15 and 32 debated and agreed to.

Senator Allison moved the following amendments together by leave:

Clause 16, page 20 (lines 28 to 30), omit subclause (2).

Clause 23, page 26 (lines 4 and 5), omit subclause (2).

Debate ensued.

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

Question—That the bill, as amended, be agreed to—divided in respect of clause 33.

Clause 33 debated and agreed to.

Senator Allison moved the following amendments together by leave:

Clause 14, page 19 (line 19), omit "19,".

Clause 19, page 22 (lines 1 to 11), omit paragraphs (1)(b), (c) and (d).

Clause 19, page 22 (line 27) to page 23 (line 8), omit paragraphs (3)(c), (d) and (e).

Clause 36, page 34 (lines 28 to 34), omit paragraphs (1)(c) and (d).

Clause 36, page 35 (lines 17 to 30), omit paragraphs (3)(c) and (d).

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

Senator Allison moved the following amendments together by leave:

Clause 30, page 30 (after line 11), at the end of the clause, add:

- (6) The Minister must not authorise payment to a State under this Act for a non-government school if the school charges school fees for a level of education, the amount of which exceeds the amount of the AGSRC for that year for the same level of education.
- (7) For the purpose of subsection (6), a *school fee* is the fee payable to a non-government school by a person enrolled with, or applying for enrolment with, the school, to provide education at that school for one year.

Clause 30, page 30 (after line 11), at the end of the clause, add:

- (8) The Minister must not authorise payment to a State under this Act for a non-government school if:
  - (a) the school was added to the list of non-government schools within the last 2 years; and
  - (b) the school has not been approved by the State or Territory Government where it is located.

Debate ensued.

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

Bill, as amended, further debated.

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

Clause 34, page 34 (after line 7), at the end of the clause, add:

- (3) The agreement must include a commitment by the relevant authority for a non-government school or approved school system to ensure that all sources of gross income received by the authority in operating the school, as well as all gross expenditure, recurrent or capital and the purposes for which Commonwealth funds have been used in the previous program year, is made publicly available within 6 months of the end of the previous program year.

Clause 36, page 36 (line 3), at the end of subclause (3), add:

- ; and (g) ensure that the exclusion policy and practices of the school or each school in the approved school system are made publicly available.

Senator Allison moved the following amendment:

Clause 36, page 36 (lines 4 to 9), omit subclause (4).

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

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

Clause 69, page 63 (after line 17), at the end of the clause, add:

- (3) Financial assistance for capital expenditure under subsections (1) and (2) will be allocated to schools according to need and on the basis of system wide priorities that have been determined through arrangements that have provided an advisory role for representatives of parents in the setting of those priorities.

Clause 99, page 82 (after line 20), at the end of the clause, add:

- (3) Financial assistance for capital expenditure under subsections (1) and (2) will be allocated to schools according to need and on the basis of system wide priorities in the case of approved non-government school systems, or state-wide priorities in the case of independent schools, that have been determined through arrangements that have provided an advisory role for representatives of parents in the setting of those priorities.

Senator Allison moved the following request for an amendment:

That the House of Representatives be requested to make the following amendment:

Page 63 (after line 17), at the end of Division 2, add:

**69A Grants to provide establishment assistance**

*Government school*

- (1) The Minister may make a determination authorising payment of financial assistance to a State to provide establishment assistance for a Government school in the State for one or two program years if the circumstance in subsection (3) applies to the school.

Note: The amount must not exceed the maximum amount worked out under subsection (4).

*School system*

- (2) The Minister may make a determination authorising payment of financial assistance to a State to provide establishment assistance for an approved school system in the State for one or two program years in relation to a school included in the system if the circumstance in subsection (3) applies to the school.

Note: The amount must not exceed the maximum amount worked out under subsection (4).

*Subsection (3) circumstance*

- (3) The circumstance in this subsection is that the Minister varies the list of government schools in relation to the school because the school is covered by paragraph (c) of the definition of *new school proposal*.

*Maximum amount*

- (4) The amount under subsection (1) or (2) for a program year in relation to a school must not exceed the amount worked out using the formula:

$$\text{Establishment amount for the program year} \times \left( \frac{\text{Number of primary students for the school for the program year}}{\text{Number of primary students for the school for the program year}} \right) + \left( \frac{\text{Number of secondary students for the school for the program year}}{\text{Number of secondary students for the school for the program year}} \right)$$

where:

*establishment amount* for the program year is:

- (a) if the program year is the year in which the Minister varies the list of government schools in relation to the school—\$500; and  
 (b) if the program year is the year after the year referred to in paragraph (a)—\$250.

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

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

Page 109 (after line 8), at the end of Division 6, add:

**138A Ministerial review of school resources**

- (1) The Minister must cause an independent review of the resources of all schools before 31 December 2005.
- (2) The review required by subsection (1) must:
  - (a) report on the buildings, facilities and equipment available at every school; and
  - (b) examine the future provision of appropriate buildings, facilities and equipment.
- (3) The report must contain recommendations about the funding of schools to meet basic infrastructure standards, having regard to the matters mentioned in subsection (2).
- (4) The persons undertaking the review must consult:
  - (a) the Commonwealth and the States;
  - (b) the Ministerial Council on Education, Employment, Training and Youth Affairs schools resourcing taskforce; and
  - (c) a broad range of persons with expertise in or experience of relevant disciplines;

and the views of the Commonwealth, the States and the persons mentioned in paragraph (c) must be set out in the report to the extent that it is reasonably practicable to do so.
- (5) The Minister must cause to be tabled in each house of the Parliament a written report of the review within 15 sitting days after 31 December 2005.

Page 109 (after line 8), at the end of Division 6, add:

**138B Review of impact of Act**

- (1) The Minister must cause an independent review of the impact on the primary and secondary education sector of the reforms enacted through this Act to be completed before 30 June 2006.
- (2) The Minister must cause to be tabled in each house of the Parliament a written report of the review within 15 sitting days after 30 June 2006.
- (3) Without limiting the scope of the review, the reviewers must, among other things, consider the following:
  - (a) the establishment of base line consistent and comparable data on school funding;
  - (b) an analysis of the future direction of Australian schooling under present funding arrangements;
  - (c) the principles which should underlie Australian Government funding of schools, including its relationship to State or Territory funding;
  - (d) the establishment of a national standard of basic school amenities that comply with occupational health and safety standards.
- (4) The persons undertaking the review must consult:
  - (a) the Commonwealth and the States;

- (b) the Ministerial Council on Education, Employment, Training and Youth Affairs schools resourcing taskforce; and
- (c) a broad range of persons with expertise in or experience of relevant disciplines;

and the views of the Commonwealth, the States and the persons mentioned in paragraph (c) must be set out in the report to the extent that it is reasonably practicable to do so.

- (5) The report must contain recommendations about amendments that should be made to this Act, having regard to the matters mentioned in subsection (3).

Senator Allison moved the following requests for amendments together by leave:

That the House of Representatives be requested to make the following amendments:

Schedule 2, page 119 (cell at table item 1, columns 3 to 6), omit “586”, substitute “658”.

Schedule 2, page 119 (cell at table item 1, column 2), omit “8.9”, substitute “10.0”.

Debate ensued.

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

Bill, as amended, agreed to.

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**STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE)  
LEGISLATION AMENDMENT BILL 2004—**

Bill taken as a whole by leave.

Senator Allison moved the following request for an amendment:

That the House of Representatives be requested to make the following amendment:

Schedule 1, item 7, page 3 (lines 25 to 27), omit the item, substitute:

**7 Part 1 of Schedule 8 (table item dealing with 2004 program year,  
column 2)**

Omit “291,954”, substitute “309,824”.

**8 Part 1 of Schedule 8 (table item dealing with 2004 program year,  
column 4)**

Omit “7,414”, substitute “564”.

Debate ensued.

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

Bill agreed to.

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The Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Bill 2004 to be reported with amendments and the States Grants (Primary and Secondary Education Assistance) Legislation Amendment Bill 2004 to be reported without amendments.

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

On the motion of the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) the report from the committee was adopted and the bills read a third time.

### 31 NOTICE

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

- (1) That the matter of unfair dismissal be referred to the Employment, Workplace Relations and Education References Committee for inquiry and report by 14 June 2005, with the following terms of reference:
  - (a) to examine:
    - (i) the international experience concerning:
      - (A) unfair dismissal laws, and
      - (B) the relationship between unfair dismissal laws and employment growth in the small business sector,
    - (ii) the provisions of federal and state unfair dismissal laws and the extent to which they adversely impact on small businesses, including:
      - (A) the number of applications against small businesses in each year since 1 July 1995 under federal and state unfair dismissal laws, and
      - (B) the total number of businesses, small businesses and employees that are subject to federal and state unfair dismissal laws,
    - (iii) evidence cited by the Government that exempting small business from federal unfair dismissal laws will create 77 000 jobs in Australia (or any other figure previously cited),
    - (iv) the relationship, if any, between previous changes to Australian unfair dismissal laws and employment growth in Australia,
    - (v) the extent to which previously reported small business concerns with unfair dismissal laws related to survey questions which were misleading, incomplete or inaccurate,
    - (vi) the extent to which small businesses rate concerns with unfair dismissal laws against concerns on other matters that impact negatively on successfully managing a small business, and
    - (vii) the extent to which small businesses are provided with current, reliable and easily accessible information and advice on federal and state unfair dismissal laws; and
  - (b) to recommend policies, procedures and mechanisms that could be established to reduce the perceived negative impacts that unfair dismissal laws may have on employers, without adversely affecting the rights of employees.
- (2) That the committee be authorised, with the approval of the President, to commission independent research, as desirable or necessary, to investigate each of these terms of reference.

**32 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—  
CHANGE IN MEMBERSHIP**

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

The Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone), by leave, moved—That Senator Crossin be discharged from and Senator Cook be appointed to the Joint Standing Committee on Foreign Affairs, Defence and Trade.

Question put and passed.

**33 INDIGENOUS EDUCATION (TARGETED ASSISTANCE) AMENDMENT BILL 2004**

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

Debate resumed.

*At 10.30 pm:* Debate was interrupted.

**34 ADJOURNMENT**

The President proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 11.02 pm till Tuesday, 7 December 2004 at 12.30 pm.

**35 ATTENDANCE**

Present, all senators except Senators Cook\*, Harris, Hill, Hutchins, Marshall, O'Brien, Payne, Stott Despoja\* and Tierney\* (\* on leave).

**HARRY EVANS**  
Clerk of the Senate