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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 GOVERNMENT DOCUMENTS

The following government documents were tabled:

Australia-United States Free Trade Agreement, agreed at Washington on 8 February 2004, due to be signed after 13 May 2004—

Guide to the agreement, March 2004 (Annex 3).

National interest analysis, regulation impact statement and annexes 1, 2 and 4 to 10.

Human Rights and Equal Opportunity Commission—Report—No. 26—Inquiry into a complaint by Mr Kenneth Douglas of age discrimination in the Australian Defence Force.

Treaties—

Bilateral—Text, together with national interest analysis, regulation impact statement and annexes—Agreement Between the Government of Australia and the Government of New Zealand for the Establishment of a Joint Scheme for the Regulation of Therapeutic Products done at Wellington on 10 December 2003.

Multilateral—Text, together with national interest analysis and annexures—World Health Organization Framework Convention on Tobacco Control, done at Geneva on 21 May 2003.

3 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Ferris, by leave and at the request of the Chair of the Environment, Communications, Information Technology and the Arts References Committee (Senator Cherry), moved—That the Environment, Communications, Information Technology and the Arts References Committee be authorised to hold a public meeting during the sitting of the Senate today, from 12.30 pm, to take evidence for the committee's inquiry into competition in broadband services.

Question put and passed.

4 TEMPORARY CHAIR OF COMMITTEES

The President tabled a warrant, dated 30 March 2004, revoking the warrant nominating Senator Cook as a temporary chair of committees.

5 CONSIDERATION OF LEGISLATION

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), pursuant to notice, moved government business notice of motion no. 1—That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the Commonwealth Electoral Amendment (Representation in House of Representatives) Bill 2004, allowing it to be considered during this period of sittings.

Question put and passed.

Senator Ian Campbell, pursuant to notice, moved government business notice of motion no. 2—That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the Intelligence Services Amendment Bill 2003, allowing it to be considered during this period of sittings.

Question put and passed.

6 TELSTRA (TRANSITION TO FULL PRIVATE OWNERSHIP) BILL 2003 [NO. 2]

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

Debate resumed.

Question put.

The Senate divided—

AYES, 30

Senators—

Abetz	Coonan	Knowles	Scullion
Barnett	Eggleston (Teller)	Lightfoot	Tchen
Boswell	Ellison	Mason	Tierney
Brandis	Ferguson	McGauran	Troeth
Calvert	Ferris	Minchin	Vanstone
Campbell, Ian	Heffernan	Patterson	Watson
Chapman	Hill	Payne	
Colbeck	Humphries	Santoro	

NOES, 35

Senators—

Allison	Collins	Hutchins	Murphy
Bartlett	Conroy	Kirk	Murray
Bishop	Denman	Lees	Nettle
Bolkus	Evans	Ludwig	Ray
Brown	Forshaw	Lundy	Ridgeway
Buckland (Teller)	Greig	Mackay	Sherry
Campbell, George	Harradine	Marshall	Stephens
Carr	Harris	McLucas	Wong
Cherry	Hogg	Moore	

Question negatived.

Suspension of sitting: On the motion of the Minister for Local Government, Territories and Roads (Senator Ian Campbell) the sitting of the Senate was suspended till 2 pm.

—————
At 2 pm—

7 QUESTIONS

Questions without notice were answered.

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

Law and justice—Extradition to Hong Kong—List of correspondence on the Voight/Hendy matters.

8 QUESTIONS ON NOTICE—ANSWERS AND EXPLANATION

Senator Allison, pursuant to standing order 74, asked the Minister representing the Minister for Health and Ageing (Senator Ian Campbell) for an explanation of answers not being provided to questions on notice nos 2523 (notice given 3 February 2004) and 2529 (notice given 4 February 2004).

Senator Ian Campbell indicated that an explanation would be provided.

Senator Allison, pursuant to standing order 74, asked the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) for an explanation of an answer not being provided to question on notice no. 2360 (notice given 5 November 2003) relating to detention centres.

The Minister was not present and an explanation was not provided.

9 FAMILY AND COMMUNITY SERVICES—ANSWERS TO QUESTIONS

Senator Collins 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 today relating to family and community services.

Debate ensued.

Question put and passed.

10 ENVIRONMENT—MURRAY-DARLING RIVER SYSTEM—ANSWER TO QUESTION

Senator Cherry moved—That the Senate take note of the answer given by the Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) to a question without notice asked by the Leader of the Australian Democrats (Senator Bartlett) today relating to water levels in the Murray-Darling River system.

Question put and passed.

11 PETITIONS

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

By Senator Bartlett, from 4 petitioners, requesting that the Senate support the Defence Amendment (Parliamentary approval for Australian involvement in overseas conflicts) Bill 2003.

By Senator Buckland, from 17 petitioners, requesting that the Senate ensure that the funding policies of the Commonwealth Government are reformed to provide increased and fairer funding for public schools.

12 NOTICES

The Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan): To move on the next day of sitting—That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 31 March 2004, from 5 pm, to take evidence for the committee's inquiry into the administration of Biodiversity Australia concerning the revised draft import risk analysis for apples. (*general business notice of motion no. 837*)

The Chair of the Community Affairs References Committee (Senator McLucas): To move on the next day of sitting—That the Community Affairs References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 1 April 2004, from 3.15 pm, to take evidence for the committee's inquiry into Hepatitis C in Australia. (*general business notice of motion no. 838*)

The Chair of the Community Affairs References Committee (Senator McLucas): To move on the next day of sitting—That the time for the presentation of the report of the Community Affairs References Committee on children in institutional care be extended to 21 June 2004. (*general business notice of motion no. 839*)

The Minister for Local Government, Territories and Roads (Senator Ian Campbell): To move on the next day of sitting—That the government business order of the day for the further consideration of the Customs Tariff Amendment Bill (No. 2) 2003 and the Excise Tariff Amendment Bill (No. 1) 2003 be called on immediately.

Senator Allison: To move on 11 May 2004—That the following matter be referred to the Employment, Workplace Relations and Education References Committee for inquiry and report by 11 August 2004:

Government funding of government and non-government schools, with particular reference to:

- (a) the adequacy of funding levels to meet current and future school needs and the achievement of the Adelaide Declaration (1999) on National Goals for Schooling in the Twenty-First Century;
- (b) the desirability of, and extent of, needs-based funding;
- (c) the extent to which current resources provide equal opportunity and equity in outcomes for students;
- (d) the effectiveness of accountability requirements for state, territory and Commonwealth funding provided to non-government schools and for funding provided to state governments for government schools;
- (e) the extent to which current school funding arrangements between the Commonwealth and the states and territories represent an effective and efficient use of resources; and
- (f) in relation to the above terms of reference, how school funding systems compare with other Organisation for Economic Co-operation and Development countries.

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

- (a) 27 March to 4 April 2004 is National Youth Week;
- (b) an unacceptable number of young Australians live in poverty; and
- (c) the lives of young people have been made more difficult as a direct result of the Federal Government's policies, including:
 - (i) its encouragement and entrenchment of a system of youth wages, which breaches Australia's obligations under the International Covenant on Economic, Social and Cultural Rights and reinforces the stereotype that the work that young people undertake is less valuable than that of older workers,
 - (ii) its abuse of the notion of mutual obligation and the creation of the punitive work for the dole scheme, which impedes young peoples' access to genuine employment opportunities, and
 - (iii) its continuing attacks on Austudy and refusal to extend rent assistance to Austudy recipients. (*general business notice of motion no. 840*)

Senator Brown: To move on 11 May 2004—That the following matters be referred to the Employment, Workplace Relations and Education References Committee for inquiry and report by 24 June 2004:

- (a) the functioning of the Office of the Chief Scientist; and
- (b) potential conflicts of interest arising from the dual role of the Chief Scientist.

13 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), by leave, moved—That, on Tuesday, 30 March 2004:

- (a) the hours of meeting shall be 12.30 pm to adjournment; and
- (b) the question for the adjournment of the Senate shall be proposed at 9.50 pm.

Question put and passed.

14 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Local Government, Territories and Roads (Senator Ian Campbell) moved—That business of the Senate order of the day no. 2, relating to the consideration of a report of the Procedure Committee, be postponed till 11 May 2004.

Question put and passed.

15 POSTPONEMENTS

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Forshaw for today, relating to the reference of matters to the Community Affairs References Committee, postponed till 12 May 2004.

General business notice of motion no. 832 standing in the name of Senator Cherry for today, relating to the superannuation preservation age, postponed till 31 March 2004.

General business notice of motion no. 835 standing in the names of Senators Cherry and Stott Despoja for today, relating to human rights in Syria, postponed till 31 March 2004.

16 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION REFERENCES COMMITTEE—EXTENSION OF TIME TO REPORT

Senator Mackay, at the request of the Chair of the Employment, Workplace Relations and Education References Committee (Senator George Campbell) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 830—That the time for the presentation of the report of the Employment, Workplace Relations and Education References Committee on the exposure draft of the Building and Construction Industry Improvement Bill 2003 and the provisions of the Building and Construction Industry Improvement Bill 2003 and a related bill be extended to 15 June 2004.

Question put and passed.

17 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—EXTENSION OF TIME TO REPORT

Senator Mackay, at the request of the Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Hutchins) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 831—

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on the performance of government agencies in the assessment and dissemination of security threats in South East Asia in the period 11 September 2001 to 12 October 2002 be extended to 24 June 2004.

Question put and passed.

18 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES COMMITTEE—EXTENSIONS OF TIME TO REPORT

Senator Mackay, at the request of the Chair of the Environment, Communications, Information Technology and the Arts References Committee (Senator Cherry) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 836—That the time for the presentation of reports of the Environment, Communications, Information Technology and the Arts References Committee be extended as follows:

- (a) Australian telecommunications network—to 16 June 2004;
- (b) competition in broadband services—to 24 June 2004;
- (c) regulation, control and management of invasive species—to 25 November 2004; and
- (d) Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002—to 25 November 2004.

Question put and passed.

19 LEAVE OF ABSENCE

Senator Mackay, by leave, moved—That leave of absence be granted to Senator Webber for the period 30 March to the end of the 2004 autumn sittings, on account of parliamentary business overseas.

Question put and passed.

20 ENVIRONMENT—GENETICALLY-MODIFIED ORGANISMS—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Cherry, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 833—That there be laid on the table, no later than the conclusion of question time on Thursday, 1 April 2004:

- (a) the documents described in paragraphs (b) and (c), relating to information produced as part of the 2000-2003 Commonwealth Scientific and Industrial Research Organisation (CSIRO) Biodiversity Division project, 'Ecological Implications of GMOs [genetically-modified organisms]';
- (b) all documents identified by CSIRO as outputs of the following projects:
 - (i) robust risk/benefit decision tools adapted for Australian conditions (2003), probabilistic/quantitative estimates of risk for GMOs (2003) and recommendations for policy makers on best practice in risk assessment (2001),
 - (ii) risk assessments, up to landscape scale, of direct and indirect ecological impacts of Bt cotton, legumes with high sulphur protein and herbicide canola (2003),
 - (iii) risk assessments, up to landscape scale, of ecological impacts of potential GMOs in eucalypts, rumen biota, oysters and mouse cytomegalovirus (2003),

- (iv) reports on predicted risk and benefit scenarios resulting from different GMOs (2002),
- (v) recommendations on how to mitigate undesirable impacts if they occur, and
- (vi) methods for large scale monitoring of GMO benefits and impacts) (2001); and
- (c) all documents produced further to the 'Paths of adoption' commitments published on the CSIRO website at http://www.biodiversity.csiro.au/2nd_level/3rd_level/plan_gmos.htm.

Question put and passed.

21 CULTURE AND THE ARTS—PARLIAMENT HOUSE ART COLLECTION

The Leader of the Australian Democrats (Senator Bartlett), at the request of Senator Ridgeway, amended general business notice of motion no. 834 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes the vibrant and varied Parliament House art collection, which is valued at \$85.6 million and is spread throughout 4 000 rooms in 25 kilometres of corridors;
- (b) notes also that:
 - (i) the collection contains works from a range of Australian artists including Fred Williams, Arthur Boyd, Sidney Nolan, Tracey Moffatt, Howard Arkley and Fiona Foley,
 - (ii) the current policy of purchasing the work of emerging and living artists means the value of the collection has increased almost fivefold over the initial investment,
 - (iii) the review of the Parliament House art collection recommends that it should not, as a rule, collect the works of emerging artists, and
 - (iv) if this recommendation is accepted, the work of artists such as Patricia Piccinini, one of our most successful international artists, whose work *Psychogeography* was initially purchased for \$1 500 and is now worth \$160 000, would not have been purchased for the collection; and
- (c) calls on each House by resolution to reject this recommendation and to retain this important aspect of the collection.

Question put and passed.

22 URGENCY MOTION—DEFENCE—AUSTRALIAN DEFENCE FORCE PERSONNEL—IRAQ

The Deputy President (Senator Hogg) informed the Senate that the President had received a letter from the Leader of the Australian Democrats (Senator Bartlett) advising that today he intended to move—That, in the opinion of the Senate, the following is a matter of urgency:

- (a) the need for the Senate to express its continuing support for and confidence in the women and men in the Australian Defence Force currently deployed in or around Iraq, and its appreciation for the high standard of professionalism they have displayed in carrying out their duties;
- (b) given Australia's military participation in the invasion of Iraq, Australia's legal and moral obligation to assist with the administration and security of Iraqi civilians and to rebuild infrastructure in Iraq; and
- (c) the requirement for the Prime Minister publicly to define clear criteria of the jobs that are still required to be undertaken by our defence personnel, so that it is clear when the job is done, and so that prompt withdrawal of troops can then occur.

The proposal was supported by 4 senators.

Senator Bartlett moved the motion.

Debate ensued.

The Leader of the Opposition in the Senate (Senator Faulkner), by leave, moved the following amendment:

Omit paragraphs (b) and (c), substitute:

- (b) the need for any Australian Government committing Australian forces overseas to have a defined exit strategy for the eventual withdrawal of those forces;
- (c) the need for Australian military forces in Iraq to be withdrawn from that country as soon as practicable once Australia's responsibilities as an occupying power have been discharged, with the intention of returning our forces to Australia by the end of 2004; and
- (d) the need for Australia to continue to provide strong levels of humanitarian assistance and economic reconstruction assistance to the Iraqi people for the rebuilding of the Iraqi nation.

Debate ensued.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 34

Senators—

Allison	Cook	Kirk	Nettle
Bartlett	Crossin (Teller)	Lees	O'Brien
Bishop	Denman	Ludwig	Ray
Bolkus	Evans	Lundy	Ridgeway
Brown	Faulkner	Mackay	Sherry
Buckland	Forshaw	Marshall	Stephens
Campbell, George	Greig	McLucas	Wong
Carr	Hogg	Moore	
Cherry	Hutchins	Murray	

NOES, 32

Senators—

Abetz	Coonan	Humphries	Payne
Barnett	Eggleston	Kemp	Santoro
Boswell	Ellison	Knowles	Scullion
Brandis	Ferguson	Lightfoot	Tchen
Calvert	Ferris	Mason	Tierney
Campbell, Ian	Harradine	McGauran (Teller)	Troeth
Chapman	Heffernan	Minchin	Vanstone
Colbeck	Hill	Patterson	Watson

Question agreed to.

The Minister for Defence (Senator Hill), by leave, moved the following amendment:

Omit all words after "urgency", substitute:

- (a) the need for the Senate to express its continued support for and confidence in the 850 Australian Defence Force personnel currently deployed in or around Iraq and to record its deep appreciation for the outstanding professionalism they have displayed in carrying out their duties; and

- (b) the need for the Senate to express its opinion that no elements of this contingent of Australian Defence Force personnel should be withdrawn until their respective tasks have been completed and that no arbitrary times should be set for such withdrawal.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 33

Senators—

Abetz	Eggleston	Kemp	Scullion
Barnett	Ellison	Knowles	Tchen
Boswell	Ferguson	Lightfoot	Tierney
Brandis	Ferris	Mason	Troeth
Calvert	Harradine	McGauran (Teller)	Vanstone
Campbell, Ian	Harris	Minchin	Watson
Chapman	Heffernan	Patterson	
Colbeck	Hill	Payne	
Coonan	Humphries	Santoro	

NOES, 34

Senators—

Allison	Cook	Kirk	Nettle
Bartlett	Crossin (Teller)	Lees	O'Brien
Bishop	Denman	Ludwig	Ray
Bolkus	Evans	Lundy	Ridgeway
Brown	Faulkner	Mackay	Sherry
Campbell, George	Forshaw	Marshall	Stephens
Carr	Greig	McLucas	Wong
Cherry	Hogg	Moore	
Conroy	Hutchins	Murray	

Question negatived.

Senator Brown, by leave, moved the following amendment:

Omit paragraph (c), substitute:

- (c) the immediate withdrawal of the Australian Defence Forces from Iraq with the exception of any personnel required to protect Australian diplomatic representatives; and

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 2

Senators—

Brown	Nettle (Teller)
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NOES, 60

Senators—

Abetz	Coonan	Hutchins	Murray
Allison	Crossin	Kemp	O'Brien
Barnett	Denman	Kirk	Patterson
Bartlett	Eggleston	Knowles	Payne
Bishop	Ellison	Lees	Ray
Boswell	Evans	Lightfoot	Ridgeway
Brandis	Faulkner	Ludwig	Santoro
Calvert	Ferguson	Lundy	Scullion
Campbell, George	Ferris	Mackay	Shery
Carr	Forshaw	Marshall	Stephens
Chapman	Greig	Mason	Tchen
Cherry	Harris	McGauran (Teller)	Tierney
Colbeck	Hill	McLucas	Troeth
Conroy	Hogg	Minchin	Vanstone
Cook	Humphries	Moore	Wong

Question negatived.

Main question, as amended, put and passed.

23 AUDITOR-GENERAL—AUDIT REPORT NO. 37 OF 2003-04—DOCUMENT

The President tabled the following document:

Auditor-General—Audit report no. 37 of 2003-04—Performance audit—National Marine Unit: Australian Customs Service.

24 AUSTRALIAN FEDERAL POLICE COMMISSIONER—STATEMENT—ORDER FOR PRODUCTION OF DOCUMENTS—STATEMENT BY LEAVE—LEADER OF THE GOVERNMENT IN THE SENATE—CENSURE

Senator McGauran, by leave, made a statement relating to the order of the Senate of 24 March 2004 for the production of documents concerning the clarifying statement issued by the Australian Federal Police Commissioner, Mr Keelty, on 16 March 2004 (*see entry no. 20, 24 March 2004*).

Suspension of standing orders: The Leader of the Opposition in the Senate (Senator Faulkner), pursuant to contingent notice, moved—That so much of the standing orders be suspended as would prevent Senator Faulkner moving a motion to provide for the consideration of a matter, namely a motion to give precedence to a motion of censure of the Leader of the Government in the Senate (Senator Hill), relating to his failure to comply with the order of the Senate for the production of documents concerning the Australian Federal Police Commissioner.

Question put and passed.

Senator Faulkner moved—That a motion to censure the Leader of the Government in the Senate (Senator Hill) may be moved immediately and have precedence over all other business today till determined.

Question put and passed.

Senator Faulkner moved—That the Senate censures the Leader of the Government in the Senate (Senator Hill) for his failure to comply with the order of the Senate of 24 March 2004, requiring him to lay on the table, no later than 4 pm today, copies of all drafts of the clarifying statement which was negotiated between the Australian

Federal Police Commissioner, Mr Keelty, and the Secretary of the Department of the Prime Minister and Cabinet, Dr Shergold, and any other members or representatives of the Government, and which was issued by the Commissioner on Tuesday, 16 March 2004.

Debate ensued.

Question put.

The Senate divided—

AYES, 32

Senators—

Allison	Cherry	Hutchins	Murray
Bartlett	Cook	Kirk	Nettle
Bishop	Denman	Lees	O'Brien
Bolkus	Evans	Ludwig	Ray
Brown	Faulkner	Mackay (Teller)	Ridgeway
Buckland	Greig	Marshall	Sherry
Campbell, George	Harradine	McLucas	Stephens
Carr	Hogg	Moore	Wong

NOES, 30

Senators—

Abetz	Ellison	Macdonald, Ian	Scullion
Barnett	Ferguson	Macdonald, Sandy	Tchen
Boswell	Ferris	Mason	Tierney
Brandis	Harris	McGauran	Troeth
Calvert	Heffernan	Minchin	Vanstone
Chapman	Hill	Patterson	Watson
Colbeck	Kemp	Payne	
Eggleston (Teller)	Knowles	Santoro	

Question agreed to.

—————
After 6.50 pm—

25 GOVERNMENT DOCUMENTS—CONSIDERATION

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

Australia-United States Free Trade Agreement, agreed at Washington on 8 February 2004, due to be signed after 13 May 2004—National interest analysis, regulation impact statement and annexes 1 to 10. Motion to take note of documents moved by Senator Bartlett and agreed to.

26 PRIVILEGES—STANDING COMMITTEE—117TH REPORT

Senator Stephens, at the request of the Chair of the Standing Committee of Privileges (Senator Ray), tabled the following report:

Privileges—Standing Committee—117th report—Person referred to in the Senate (Dr ICF Spry, QC), dated March 2004.

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

Senator Stephens, by leave, moved—That the report be adopted.

Question put and passed.

Response as recommended by the committee incorporated in Hansard accordingly.

27 LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—BUDGET ESTIMATES 2003-04

Senator Eggleston, at the request of the Chair of the Legal and Constitutional Legislation Committee (Senator Payne), tabled additional information received by the committee (Budget estimates 2003-04 (Supplementary)—vol. 3).

28 PUBLIC ACCOUNTS AND AUDIT—JOINT STATUTORY COMMITTEE—398TH REPORT

Senator Eggleston, on behalf of the Joint Committee of Public Accounts and Audit, tabled the following report:

Public Accounts and Audit—Joint Statutory Committee—398th report—Review of Auditor-General's reports 2002-03: Fourth quarter, dated March 2004.

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

Question put and passed.

29 OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) AMENDMENT (EMPLOYEE INVOLVEMENT AND COMPLIANCE) BILL 2002

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

Message no. 548, dated 29 March 2004—A Bill for an Act to amend the *Occupational Health and Safety (Commonwealth Employment) Act 1991*, and for related purposes.

The Minister for Justice and Customs (Senator Ellison) moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

Senator Ellison moved—That this bill be now read a second time.

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.

30 FAMILY ASSISTANCE LEGISLATION AMENDMENT (EXTENSION OF TIME LIMITS) BILL 2003

A message from the House of Representatives was reported as follows:

Message no. 547, dated 29 March 2004—Family Assistance Legislation Amendment (Extension of Time Limits) Bill 2003, indicating that the House has not made the amendments requested and pressed by the Senate.

On the motion of the Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) consideration of the message in committee of the whole was made an order of the day for the next day of sitting.

31 LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE—REPORT—TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL 2004

Pursuant to order, Senator Eggleston, at the request of the Chair of the Legal and Constitutional Legislation Committee (Senator Payne), tabled the following report and documents:

Legal and Constitutional Legislation Committee—Provisions of the Telecommunications (Interception) Amendment Bill 2004—Report, dated March 2004, *Hansard* record of proceedings, document presented to the committee and submissions [9].

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

32 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) moved—That intervening business be postponed till after consideration of government business order of the day no. 3 (Migration Legislation Amendment Bill (No. 1) 2002).

Question put and passed.

33 MIGRATION LEGISLATION AMENDMENT BILL (NO. 1) 2002

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Question—That the bill be agreed to—divided in respect of Schedule 5.

Schedule 5 debated and agreed to.

Senator Sherry moved the following amendments together by leave:

Schedule 5, page 8 (after line 7), after item 1, insert:

1A Subsection 229(2)

Omit “\$10,000”, substitute “\$100,000 and mandatory confiscation of a vessel connected with the offence”.

Schedule 5, page 8 (after line 22), after item 3, insert:

3A Subsection 230(2A)

Omit “\$10,000”, substitute “\$100,000 and mandatory confiscation of a vessel connected with the offence”.

Schedule 5, page 8 (after line 29), after item 4, insert:

4A Subsection 232(1)

Omit “100 penalty units”, substitute: “1,000 penalty units and mandatory confiscation of vessel or vessels connected with the offence”.

4B Section 232A

Omit “by imprisonment for 20 years or 2,000 penalty units, or both.”, substitute “by:

- (a) for a first offence, imprisonment for 20 years or 2,000 penalty units, or both;
- (b) for a subsequent offence, a mandatory minimum term of imprisonment of 10 years, with a 7 year non-parole period

and with a maximum penalty of imprisonment for 20 years or 2,000 penalty units, or both.”

4C Section 233A

Omit “imprisonment for 20 years or a 2,000 penalty units, or both”, substitute “by:

- (a) for a first offence, imprisonment for 20 years or 2,000 penalty units or both;
- (b) for a subsequent offence, a mandatory minimum term of imprisonment of 10 years, with a 7 year non-parole period and with a maximum penalty of imprisonment for 20 years or 2,000 penalty units, or both.

233AA People smuggler causing death of non-citizen while unlawfully bringing non-citizen into Australia

- (1) A people smuggler shall not cause the death of a non-citizen while unlawfully bringing or attempting to bring the non-citizen into Australia.
- (2) A people smuggler is guilty of an offence if, while bringing or attempting to bring a non-citizen into Australia in contravention of section 233, the people smuggler causes the death of one or more persons.
- (3) For the purposes of this Act, a *people smuggler* is a person who engages in the offence of people smuggling as defined in the *Criminal Code*.

Penalty:

- (a) life imprisonment;
- (b) where mitigating circumstances exist, a mandatory minimum term of imprisonment of 14 years with a 10 year non-parole period.

233AB Assisting a people smuggler to evade prosecution

A person shall not assist a people smuggler to remove himself or herself from the jurisdiction of Australia for the purpose of evading prosecution for an offence under this Act or an equivalent law of a foreign jurisdiction.

Penalty: 10 years imprisonment or 5,000 penalty units, or both.

233AC Offence of financial support of people smuggling operation

A person shall not supply money, financial assistance or services in kind to assist a person engaged in people smuggling to unlawfully bring or attempt to bring a non-citizen into Australia.

Penalty: 5 years imprisonment or 5,000 penalty units, or both.

Schedule 5, page 9 (after line 13), after item 6, insert:

6A Subsection 233(2)

Omit “10 years or 1,000 penalty units, or both.”, substitute “10 years imprisonment or 5,000 penalty units, or both.”.

Debate ensued.

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

Senator Sherry moved the following amendments together by leave:

No. 1—Clause 2, page 2 (after table item 7), add:

8. Schedule 7 The day on which this Act receives the
Royal Assent

No. 2—Page 11 (after line 11), at the end of the bill, add:

**Schedule 7—Immigration detention—special
arrangements for children**

Migration Act 1958

1 At the end of subsection 196(1)

Add:

; or (d) released in accordance with section 198.

2 After Division 7A of Part 2

Insert:

**Division 7B—Immigration detention—special arrangements for
children**

197C Interpretation

In this Division:

appropriately qualified child protection officer means a person engaged by the Commonwealth or a State or Territory government for the purpose of dealing with matters relating to the welfare of children, including foster care arrangements.

detained child means an unlawful non-citizen who is less than 18 years of age and who is detained under section 189.

unaccompanied detained child has the same meaning as ***non-citizen child*** in section 4AAA of the *Immigration (Guardianship of Children) Act 1946*.

197D Release of any unaccompanied detained child

- (1) As soon as possible after the commencement of detention under section 189, an unaccompanied detained child must be released from such detention into the care of a foster family or other appropriate community-based care arrangement determined by an appropriately qualified child protection officer.
- (2) Nothing in subsection (1) requires the taking of any action which would cause a health or security risk to Australia.

197E Detention conditions of any detained child

- (1) As soon as possible after the commencement of detention under section 189, a detained child must be accommodated with his or her family members in immigration detention conditions which meet the same amenity and security standards as are required by the Port Augusta Residential Housing Project arrangements for women and children operated by the Department.
- (2) Nothing in subsection (1) requires the taking of any action which would cause a health or security risk to Australia.

The Leader of the Australian Democrats (Senator Bartlett) moved the following amendments to Senator Sherry's proposed amendment no. 2 together by leave:

Subsection 179D(1), after "possible", insert "and not later than 14 weeks".

Omit subsection 197D(2), substitute:

- (2) A decision to detain in accordance with subsection (1) is reviewable by the AAT.

Subsection 197E(1), after "possible", insert "and not later than 14 weeks".

Omit subsection 197E(2), substitute:

- (2) A decision to detain in accordance with subsection (1) is reviewable by the AAT.

Debate ensued.

Question—That Senator Bartlett's amendments to Senator Sherry's proposed amendment no. 2 be agreed to—put and negatived.

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

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

Page 11 (after line 12), at the end of the bill, add:

**Schedule 8—Amendment of the Migration Regulations
1994**

[1] Schedule 2, after paragraph 447.511(b)

insert

; and (c) to remain in Australia until:

- (i) if the holder applies for a Protection (Class XA) visa after the temporary visa is granted and while the temporary visa is in effect — the day on which the application is finally determined or withdrawn; and
- (ii) in any other case — the end of 36 months after the temporary visa is granted or the end of a shorter period specified by the Minister in relation to the visa holder.

[2] Schedule 2, clause 451.511

substitute

451.511 Temporary visa permitting the holder:

- (a) to travel to and enter Australia on 1 occasion, as specified by the Minister; and
- (b) to remain in Australia until:
 - (i) if the holder applies for a Protection (Class XA) visa after the temporary visa is granted and while the temporary visa is in effect — the day on which the application is finally determined or withdrawn; and
 - (ii) in any other case — the end of 60 months after the temporary visa is granted, or the end of a shorter period specified by the Minister in relation to the visa holder.

[3] Schedule 2, paragraph 785.511(b)

substitute

- (b) for the holder of a Subclass 785 (Temporary Protection) (Class XC) visa — the day on which the application mentioned in paragraph 2.08F (1) (d) is finally determined or withdrawn; or
- (c) for the holder of a Subclass 785 (Temporary Protection) (Class XA) visa:
 - (i) if the holder applies for a Protection (Class XA) visa after the temporary visa is in effect — the day on which the application is finally determined or withdrawn; and
 - (ii) in any other case — the end of 36 months after the temporary visa is granted or the end of a shorter period specified by the Minister in relation to the visa holder.

[4] Schedule 2, clause 866.214

omit

[5] Schedule 2, after clause 866.230

insert

- 866.231 (1) If subparagraphs 447.511 (c) (ii), 451.511 (b) (ii) and 785.511 (c) (ii), as in force when this subclause commences, are in force at the time of decision, subclause 866.215 (1) does not apply to an applicant who was granted a Subclass 785 (Temporary Protection) visa before 27 September 2001.
- (2) If subparagraphs 447.511 (c) (ii), 451.511 (b) (ii) and 785.511 (c) (ii), as in force when this subclause commences, are in force at the time of decision, subclause 866.215 (1) does not apply to an applicant who holds a Subclass 785 (Temporary Protection) visa and who, since last entering Australia, held a Subclass 447 (Secondary Movement Offshore Entry (Temporary)) visa or a 451 (Secondary Movement Relocation (Temporary)) visa.

On the motion of Senator Sherry the following amendment was debated and agreed to:
Page 11 (after line 12), at the end of the bill, add:

**Schedule 9—Amendment of the Migration Regulations
1994**

[1] Schedule 2, at the end of clause 785.211

insert

; and (c) has not previously been granted a Protection (Class XA) visa.

[2] Schedule 2, clause 785.511

substitute

785.511 Temporary visa permitting the holder:

- (a) to travel to and enter Australia on 1 occasion, as specified by the Minister; and
- (b) to remain in Australia until:
 - (i) if the holder applies for a Protection (Class XA) visa after the temporary visa is granted and while the temporary visa is in effect — the end of a period of not more than 24 months; and

- (ii) in any other case — the end of 24 months after the temporary visa is granted.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

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

Debate ensued.

Question put and passed.

Bill read a third time.

34 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) moved—That government business order of the day no. 2 (Energy Grants (Cleaner Fuels) Scheme Bill 2003 and a related bill) be postponed till the next day of sitting.

Question put and passed.

35 HIGHER EDUCATION LEGISLATION 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 Troeth)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Senator Carr moved the following amendments together by leave:

Schedule 1, page 3 (after line 16), at the end of the Schedule, add:

5 After subsection 198-15(1)

Insert:

- (1A) The indexation factor for 2005 is the index number for the relevant year.

Schedule 1, page 3 (after line 16), at the end of the Schedule, add:

6 Section 198-20

Repeal the section, substitute:

198-20 Meaning of *index number*

- (1) The *index number*, for a year that is 2005 or later, is the Higher Education Grants Index number for that year which is:

$$\frac{\text{Wage Cost Index (Education) for the reference date}}{\text{Wage Cost Index (Education) for the September immediately preceding the reference date}} \times 0.6 + \frac{\text{Consumer Price Index (Australia) for the reference date}}{\text{Consumer Price Index (Australia) for the September immediately preceding the reference date}} \times 0.4$$

- (2) The Minister will publish the *index number* at any time in the *Gazette*, including any time before the start of the year. The reference date is the September of the year immediately preceding the grant.

Schedule 3, item 24, page 15 (lines 26 to 30), omit the item, substitute:

24 Section 93-10

Repeal the section, substitute:

93-10 Maximum student contribution amounts per place

The maximum student contribution amount per place for a unit of study is that referred to in the following table:

Maximum student contribution amounts per place		
Item	Funding clusters	Maximum student contribution amount per place
1	Law	\$6,283
2	Accounting, Administration, Economics, Commerce	\$5,367
3	Humanities	\$3,768
4	Mathematics, Statistics	\$5,367
5	Behavioural Science, Social Studies	\$3,768
6	Computing, Built Environment, Health	\$5,367
7	Foreign Languages, Visual and Performing Arts	\$3,768
8	Engineering, Science, Surveying	\$5,367
9	Dentistry, Medicine, Veterinary Science	\$6,283
10	Agriculture	\$5,367
11	Education	\$3,768
12	Nursing	\$3,768

Note 1: For the funding clusters in which particular units of study are included, see the Commonwealth Grant Scheme Guidelines made for the purposes of section 33-35.

Note 2: Maximum student contribution amounts per place are indexed under Part 5-6.

Debate ensued.

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

Question—That the bill be agreed to—divided in respect of Schedule 3, items 25 to 27.

Schedule 3, items 25 to 27 agreed to.

At 9.50 pm: The Acting Deputy President (Senator Watson) resumed the chair and the Chair of Committees (Senator Hogg) reported progress.

36 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 10.59 pm till Wednesday, 31 March 2004 at 9.30 am.

37 ATTENDANCE

Present, all senators except Senators Johnston*, Stott Despoja* and Webber* (* on leave).

HARRY EVANS
Clerk of the Senate