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1 MEETING OF SENATE

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

2 GOVERNMENT DOCUMENT

The following government document was tabled:

Australian Communications Authority—Report—Payphone policy review under section 159A of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

3 CUSTOMS TARIFF AMENDMENT BILL (NO. 2) 2003—EXCISE TARIFF AMENDMENT BILL (NO. 1) 2003—CONSIDERATION

The Minister for Revenue and Assistant Treasurer (Senator Coonan), at the request of the Minister for Local Government, Territories and Roads (Senator Ian Campbell) and pursuant to notice, moved government business notice of motion no. 1—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.

Debate ensued.

On the motion of the Leader of the Australian Democrats (Senator Bartlett) the debate was adjourned till the next day of sitting.

4 SECOND READING SPEECHES—INCORPORATION IN HANSARD—STATEMENT BY LEAVE

Senator Mackay, by leave, made a statement relating to the management of the legislation program and the incorporation of second reading speeches in Hansard by Opposition senators.

**5 ENERGY GRANTS (CLEANER FUELS) SCHEME BILL 2003
ENERGY GRANTS (CLEANER FUELS) SCHEME (CONSEQUENTIAL AMENDMENTS)
BILL 2003**

Order of the day read for the adjourned debate on the motion of the Minister for Local Government, Territories and Roads (Senator Ian Campbell)—That these bills be now read a second time.

Debate resumed.

Question put and passed.

Bills read a second time.

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

In the committee

ENERGY GRANTS (CLEANER FUELS) SCHEME BILL 2003—

Bill taken as a whole by leave.

Explanatory memorandum: The Minister for Revenue and Assistant Treasurer (Senator Coonan) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

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

Page 2 (after line 3), after clause 2, insert:

2A Object

The object of this Act is to establish a scheme for the provision of grants such as the following:

- (a) grants to fully offset any excise duty or customs duty payable in relation to the manufacture or importation of biodiesel for which a provisional entitlement arises during the period starting on 18 September 2003 and ending on 30 June 2011;
- (b) grants to partially offset any excise duty or customs duty payable in relation to the manufacture or importation of biodiesel, CNG, ethanol, LNG, LPG or methanol for which a provisional entitlement arises during a transition period starting on 1 July 2011 and ending on 30 June 2015;
- (c) grants to encourage the manufacture and importation of low sulphur fuels.

Clause 4, page 2 (line 21), after “biodiesel”, insert “, CNG, ethanol, LNG, LPG or methanol”.

Clause 4, page 2 (after line 24), after the definition of *cleaner fuel*, insert:

CNG means compressed natural gas:

- (a) for use as fuel in an internal combustion engine; and
- (b) complying with the applicable fuel standard for such fuel.

Clause 4, page 2 (after line 25), after the definition of *consume or finally sell the fuel*, insert:

end day means:

- (a) for biodiesel, CNG, ethanol, LNG, LPG or methanol—30 June 2015; or
- (b) for each other cleaner fuel—the day prescribed by the regulations as the end day for that cleaner fuel.

Clause 4, page 3 (after line 8), after the definition of *enter the fuel*, insert:

ethanol means denatured ethanol:

- (a) for use as fuel in an internal combustion engine; and
- (b) complying with the applicable fuel standard for such fuel.

excise duty rate, for a cleaner fuel, means the excise duty rate:

- (a) applicable to the cleaner fuel; and
- (b) set out in the Schedule to the *Excise Tariff Act 1921*.

Clause 4, page 3 (after line 26), after the definition of *licensed person*, insert:

LNG means liquefied natural gas:

- (a) for use as fuel in an internal combustion engine; and
- (b) complying with the applicable fuel standard for such fuel.

LPG means liquefied petroleum gas:

- (a) for use as fuel in an internal combustion engine; and
- (b) complying with the applicable fuel standard for such fuel.

Clause 4, page 3 (after line 28), after the definition of **manufacture**, insert:

methanol means methanol:

- (a) for use as fuel in an internal combustion engine; and
- (b) complying with the applicable fuel standard for such fuel.

offset rate is defined in subsection 8(1).

Clause 4, page 3 (after line 33), after paragraph (a) of the definition of **start day**, insert:

(aa) for CNG, ethanol, LNG, LPG or methanol—1 July 2011; or

Clause 5, page 5 (lines 23 to 25), omit “day prescribed by the regulations as the last day that provisional entitlements can arise for the fuel”, substitute “fuel’s end day”.

Clause 8, page 7 (lines 23 and 24), omit subclause (1), substitute:

- (1) If you are entitled to a cleaner fuel grant for a quantity of biodiesel, CNG, ethanol, LNG, LPG or methanol, the amount of your grant is worked out in accordance with the regulations by reference to the rate (the **offset rate**) set out in the following table.

The offset rate for certain cleaner fuels

Item	If the fuel is:	And the fuel’s qualifying time happens during this period:	The fuel’s offset rate is:
1	Biodiesel	The period: (a) starting at the start of biodiesel’s start day; and (b) ending at the end of 30 June 2011.	100% of biodiesel’s excise duty rate.
2	Biodiesel, CNG, ethanol, LNG, LPG or methanol	The period: (a) starting at the start of 1 July 2011; and (b) ending at the end of 30 June 2012.	80% of the fuel’s excise duty rate.
3	Biodiesel, CNG, ethanol, LNG, LPG or methanol	The period: (a) starting at the start of 1 July 2012; and (b) ending at the end of 30 June 2013.	60% of the fuel’s excise duty rate.
4	Biodiesel, CNG, ethanol, LNG, LPG or methanol	The period: (a) starting at the start of 1 July 2013; and (b) ending at the end of 30 June 2014.	40% of the fuel’s excise duty rate.

The offset rate for certain cleaner fuels

Item	If the fuel is:	And the fuel's qualifying time happens during this period:	The fuel's offset rate is:
5	Biodiesel, CNG, ethanol, LNG, LPG or methanol	The period: (a) starting at the start of 1 July 2014; and (b) ending at the end of 30 June 2015.	20% of the fuel's excise duty rate.

(1A) If you are entitled to a cleaner fuel grant for a quantity of fuel not covered by subsection (1), the amount of your grant is worked out in accordance with the regulations.

Clause 8, page 7 (line 31), omit “Subsection (1) has”, substitute “Subsections (1) and (1A) have”.

Senator Brown moved the following amendment:

Page 8 (after line 8), at the end of the bill, add:

10 Exemption from tariff

Notwithstanding any provisions of the *Excise Tariff Act 1921*, no tariff applies to biodiesel which has been produced for non-commercial purposes, using non-commercial facilities and equipment.

Debate ensued.

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

Bill, as amended, agreed to.

ENERGY GRANTS (CLEANER FUELS) SCHEME (CONSEQUENTIAL AMENDMENTS) BILL 2003—

Bill, taken as a whole by leave, agreed to.

The Energy Grants (Cleaner Fuels) Scheme Bill 2003 to be reported with amendments and the Energy Grants (Cleaner Fuels) Scheme (Consequential Amendments) Bill 2003 to be reported without amendments.

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

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

6 SUPERANNUATION SAFETY AMENDMENT BILL 2003

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

Message no. 551, dated 31 March 2004—Superannuation Safety Amendment Bill 2003, agreeing to amendments nos 1 to 25 and 28 to 39 made by the Senate and disagreeing to amendments nos 26 and 27.

Ordered, on the motion of the Minister for Revenue and Assistant Treasurer (Senator Coonan), that the message be considered in committee of the whole immediately.

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

In the committee

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE TO WHICH
THE HOUSE OF REPRESENTATIVES HAS DISAGREED

(26) Opp (3) [Sheet 4182]

Schedule 3, page 109 (after line 5), after item 10, insert:

10C Paragraph 231(1)(b)

Repeal the paragraph, substitute:

- (b) where the loss is a result of fraudulent conduct or theft, the amount of the grant of financial assistance shall be 100%.

(27) Opp (4) [Sheet 4182]

Schedule 3, page 109 (after line 5), after item 10, insert:

10D After subsection 254(1A)

Insert:

- (1B) Regulations made in accordance with subsection (1) and paragraph 31(2)(s) must include:
 - (a) a requirement for defined benefit funds to report annually to APRA on the financial status of their funds, including the level of debt or surplus, and the details of any shortfall of funds required to pay benefits to members; and
 - (b) a requirement for APRA to publish on its website the information received in accordance with paragraph (a).

Senator Coonan moved—That the committee does not insist on its amendments nos 26 and 27 to which the House of Representatives has disagreed.

Debate ensued.

Question put and passed.

Resolution to be reported.

The Acting Deputy President (Senator Knowles) resumed the chair and the Temporary Chair of Committees reported that the committee had considered message no. 551 from the House of Representatives relating to the Superannuation Safety Amendment Bill 2003 and had resolved not to insist on amendments nos 26 and 27 made by the Senate to which the House had disagreed.

On the motion of Senator Coonan the report from the committee was adopted.

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

Order of the day read for the consideration of message no. 547 from the House of Representatives in committee of the whole (*see entry no. 30, 30 March 2004*).

In the committee

The Minister for Revenue and Assistant Treasurer (Senator Coonan) moved—That the committee does not further press its requests for amendments not made by the House of Representatives.

Debate ensued.

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

8 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

At 2 pm—

9 QUESTIONS

Questions without notice were answered.

10 QUESTION ON NOTICE—ANSWER AND EXPLANATION

Senator Allison, pursuant to standing order 74, asked the Minister representing the Prime Minister (Senator Hill) for an explanation of an answer not being provided to question on notice no. 1403 (notice given 22 April 2003) relating to the existence in Iraq of weapons of mass destruction.

Senator Hill indicated that an answer would be provided.

11 TAXATION—BABY BONUS—FAMILY AND COMMUNITY SERVICES—ANSWERS TO QUESTIONS

Senator Collins moved—That the Senate take note of the answers given by the Minister for Revenue and Assistant Treasurer (Senator Coonan) and the Minister for Family and Community Services (Senator Patterson) to questions without notice asked today relating to taxation and the baby bonus and to family and community services.

Debate ensued.

Question put and passed.

12 COMMUNICATIONS—TELSTRA—ANSWER TO QUESTION

Senator Cherry moved—That the Senate take note of the answer given by the Minister for the Arts and Sport (Senator Kemp) to a question without notice asked by Senator Cherry today relating to Telstra.

Question put and passed.

13 PETITION

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

From 3 197 petitioners, requesting that the Senate take action to extend the Educational Textbook Subsidy Scheme indefinitely.

14 NOTICES

Senator O'Brien: To move on the next day of sitting—That the provisions of the Tourism Australia Bill 2004 be referred to the Economics Legislation Committee for inquiry and report by 13 May 2004.

The Deputy Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Sandy Macdonald): To move on the next day of sitting—That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on the effectiveness of the Australian military justice system be extended to 5 August 2004. (*general business notice of motion no. 841*)

The Chair of the Economics Legislation Committee (Senator Brandis): To move on the next day of sitting—That the time for the presentation of the report of the Economics Legislation Committee on the provisions of the Treasury Legislation Amendment (Professional Standards) Bill 2003 be extended to 12 May 2004. (*general business notice of motion no. 842*)

Senator Ludwig: To move on the next day of sitting—That there be laid on the table by the Minister for Immigration and Multicultural and Indigenous Affairs, no later than 5 pm on 12 May 2004, the following documents relating to the exercise of ministerial discretion under sections 351 and 417 of the *Migration Act 1958*:

- (a) the documentary evidence from the case histories relating to the applications for the Minister to exercise his discretionary powers concerning which Mr Karim Kisrwani made representations on behalf of the applicant to the former Minister for Immigration and Multicultural and Indigenous Affairs (Mr Ruddock) which resulted in the Minister intervening on behalf of the applicant, indicating the following:
 - (i) the Refugee Review Tribunal (RRT) or Migration Review Tribunal (MRT) outcome in relation to each case,
 - (ii) the outcome of the Minister's consideration pursuant to sections 351 or 417, and the date of the Minister's decision,
 - (iii) an indication of whether the case at any stage was assessed by officers of the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) as falling outside the Minister's guidelines,
 - (iv) the date of any such assessment,
 - (v) the date on which each case was first referred to the Minister's office, and an indication of whether at that stage the case was a scheduled case (assessed as outside the guidelines) or a full submission,
 - (vi) the date on which the file was the subject of a submission (other than on the schedule) to the Minister's office,
 - (vii) details of any requests by the Minister's office for a submission in relation to any of the files, as referred to in the letter, including the date, and any documentary record, of such requests,
 - (viii) details of the date or dates and nature of the contact with Mr Kisrwani referred to in the letter, and

- (ix) copies of any correspondence or other documentation evidencing such contact;
- (b) copies of all case files for all cases involving representations by Mr Cameron MP and Gateway Pharmaceuticals to Mr Ruddock to intervene on behalf of applicants and where the Minister exercised his powers under sections 351 and 417;
- (c) the documentary evidence for each of the 105 case histories referred to in evidence given by DIMIA officers on 31 October 2003 to the Select Committee on Ministerial Discretion in Migration Matters, indicating in each case the following:
 - (i) the nationality of the applicant,
 - (ii) a timeline of the application process including processing of the ministerial intervention request subsequent to the decisions of either the RRT or MRT,
 - (iii) details of decisions made by departmental officers and review tribunals in relation to each applicant,
 - (iv) whether the case was assessed by the department as meeting the guidelines for ministerial intervention or placed on a schedule as being outside the guidelines and the date of such decisions,
 - (v) details including the date of any communication from the Minister or the Minister's office regarding the case, including any request for a full submission, and
 - (vi) names of any persons who made representations on behalf of the applicant;
- (d) all documents on case files relating to the exercise of the ministerial discretionary powers under sections 351 and 417 in the cases of Ibrahim Sammaki and Bedweny Hbeiche; and
- (e) all documents on case files relating to the exercise of the ministerial discretionary powers under sections 351 and 417 in cases involving representations by Mr Fahmi Hussain. (*general business notice of motion no. 843*)

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

- (a) notes that:
 - (i) 7 April 2004 is World Health Day,
 - (ii) the World Health Organization has designated the theme for World Health Day 2004 to be road safety, and
 - (iii) the proliferation of four-wheel drive vehicles on Australian roads presents a major threat to road safety in Australia;
- (b) notes further that:
 - (i) according to the Australian Transport Safety Bureau:
 - (A) there was an 85 per cent increase in the incidence of fatal crashes involving four-wheel drive vehicles in the decade before 1998, and
 - (B) almost 90 per cent of children killed in New South Wales driveways in 1998 were run over by four-wheel drive vehicles or large commercial vehicles,

- (ii) sales of four-wheel drive vehicles for passenger use have greatly increased over the past decade, outstripping sales for regular passenger vehicles, and
 - (iii) the tariff rate for imported four-wheel drive vehicles is 5 per cent, compared to 15 per cent for imported passenger vehicles; and
- (c) calls on the Government to
- (i) amend the differential tariff treatment for four-wheel drive vehicles that are aimed at the passenger vehicle market, and
 - (ii) make road safety and the safe use of four-wheel drive vehicles a national priority. (*general business notice of motion no. 844*)

Senator Greig: To move on the next day of sitting—That there be laid on the table, by the Minister representing the Attorney-General (Senator Ellison), no later than 5 pm on Tuesday, 15 June 2004, the following documents:

- (a) the Government's formal response to the United Nations Human Rights Committee finding on 6 August 2003 in the case of *Young v Australia*, that:
- (i) the Australian Government's refusal to grant Mr Young a pension on the ground that he does not meet with the definition of 'dependant', for having been in a same-sex relationship, violates his rights under article 26 of the International Covenant on Civil and Political Rights on the basis of his sexual orientation,
 - (ii) the Australian Government provided no argument on how the distinction between same-sex partners and unmarried heterosexual partners is reasonable and objective, and no evidence which would point to the existence of factors justifying such a distinction was advanced,
 - (iii) as a victim of a violation of article 26, Mr Young is entitled to an effective remedy, including the reconsideration of his pension application without discrimination based on his sex or sexual orientation, if necessary through an amendment of the law, and
 - (iv) the Australian Government is under an obligation, as a signatory to the First Optional Protocol of the International Covenant on Civil and Political Rights, to ensure that similar violations of the Covenant do not occur in the future; and
- (b) an explanation as to why a response requested by the United Nations Human Rights Committee within 90 days of its finding will, by that time, have taken almost 10 months to produce. (*general business notice of motion no. 845*)

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

- (a) notes the significant impact that the loss of 'public benevolent institution' status will have on the employees of organisations in the health and disability services sector, such as the Intellectual Disability Services Council, the Metropolitan Domiciliary Care, the Julia Farr Centre and the Institute of Medical and Veterinary Science; and
- (b) calls on the Government to:
- (i) declare a moratorium to prevent around 3 000 staff in the sector losing up to \$15 000 in after-tax salary from 1 April 2004,
 - (ii) offer workers in the health and disability sector who will be faced with the loss of fringe benefit tax exemptions the same concessions that were recently provided to employees of public hospitals and public ambulance services, and

- (iii) respond to the recommendation of the 2001 charities inquiry and introduce a new definition of ‘benevolent charity’ to ease the uncertainty within the charities sector. (*general business notice of motion no. 846*)

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

- (a) notes that:
 - (i) 6 April 2004 is a national day of action for seniors, observed in order to raise issues of concern for older Australians,
 - (ii) the majority of older people are active and healthy, contributing to the community, pursuing leisure activities and family support, undertaking voluntary work and living independently,
 - (iii) some 10 per cent of people aged over 70 years are presently in residential care, and
 - (iv) the need for residential care is substantially reduced for the frail or ill aged when there is effective community support; and
- (b) calls on the Government to urgently address community concerns about ongoing viability and choice of residential care, as reflected in the withdrawal from the aged care sector of significant non-profit organisations, including the Salvation Army, by:
 - (i) immediately releasing the finalised Hogan Report on aged care funding, to inform the community prior to a government response through the Budget process,
 - (ii) responding to claims that the present indexation measure the Government uses to increase recurrent funding is inadequate, and
 - (iii) reporting on the take-up of aged care nursing scholarships and appropriate specialist accommodation for young people with high care needs. (*general business notice of motion no. 847*)

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

- (a) notes that Sir Rupert Hamer, AC, KCMG, a former Victorian State Premier, died on 23 March 2004 aged 87;
- (b) acknowledges in particular Sir Rupert’s contribution to public life, including his active service in World War II, his contribution to the abolition of the death penalty, his pioneering efforts in setting up national parks and the Environment Protection Authority in Victoria, and his commitment to principles of democracy, the Republic, the arts, heritage and young people; and
- (c) expresses its deepest condolences to Sir Rupert’s wife, Lady April Hamer and their children Christopher, Julia, Sarah and Alistair. (*general business notice of motion no. 848*)

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

- (a) on 24 March 2004, the United States of America presented a draft resolution on non-proliferation to the United Nations (UN) Security Council, which required all states to enact criminal and other laws and measures to prevent terrorists and other non-state actors trafficking in and acquiring nuclear, biological and chemical weapons, related materials, and missiles and other unmanned systems of delivery;
- (b) some states and non-government organisations (NGOs) are concerned that the approaches proposed in the draft resolution are discriminatory and inflammatory, and will exacerbate proliferation and security issues rather than alleviate them; and

- (c) Abolition 2000, a global network of over 2 000 NGOs working for nuclear non-proliferation and disarmament, wrote to all UN members stating that the draft resolution:
- (i) refers only to the prevention of proliferation and is silent, rhetorically or substantively, on ending the deployment of existing weapons and on the obligations for disarmament,
 - (ii) requires all states to adopt national implementation measures, thus assuming a role for the Security Council of a global legislative body, something normally achieved through treaty negotiations requiring consensus by states, and
 - (iii) is being presented as a Chapter VII resolution to the Charter of the United Nations, which could open the door for the unilateral use of force by certain states to enforce the resolution in specific situations without having to return to the Security Council for any additional authorisation. (*general business notice of motion no. 849*)

Senator Allison: To move on the next day of sitting—

- (1) That a select committee, to be known as the Select Committee on Tobacco, be appointed to inquire into and report by 1 September 2004 on the following matters:
 - (a) the adequacy of the response to date of the Australian Competition and Consumer Commission (ACCC) to the orders of the Senate of 24 September 2001, 27 June 2002 and 12 November 2002, which require the ACCC to report to the Senate on various issues concerning tobacco, including:
 - (i) what further action, if any, the ACCC should take to address any perceived inadequacies in the ACCC response so far, and
 - (ii) whether the ACCC has failed to competently and promptly discharge its statutory obligations;
 - (b) the adequacy and effectiveness of current Federal Government anti-smoking initiatives and comparisons with best practice;
 - (c) the Commonwealth Electoral Amendment (Preventing Smoking Related Deaths) Bill 2004; and
 - (d) the Tobacco Advertising Prohibition (Film, Internet and Misleading Promotion) Amendment Bill 2004.
- (2) That the committee consist of 7 senators, 3 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate, and 1 to be nominated by the Leader of the Australian Democrats.
- (3) That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nominated and appointed and notwithstanding any vacancy.
- (4) That the chair of the committee be elected by and from the members of the committee.
- (5) That the chair of the committee may, from time to time, appoint another member of the committee to be the deputy chair of the committee and that the member so appointed act as chair of the committee at any time when there is no chair or the chair is not present, at a meeting of the committee.
- (6) That the quorum of the committee be 4 members.

- (7) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.
- (8) That the committee have the power to appoint subcommittees consisting of 2 or more of its members and to refer to any such subcommittee any of the matters which the committee is empowered to consider, and that the quorum of the subcommittee be a majority of the members appointed to the subcommittee.
- (9) That the committee be provided with necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.
- (10) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public. (*general business notice of motion no. 850*)

The Minister for Family and Community Services (Senator Patterson): To move on the next day of sitting—That, on Thursday, 1 April 2004—

- (a) the hours of meeting shall be 9.30 am to adjournment;
- (b) consideration of general business and consideration of committee reports, government responses and Auditor-General's reports under standing order 62(1) and (2) not be proceeded with;
- (c) the routine of business from not later than 4.30 pm shall be government business only;
- (d) divisions may take place after 6 pm; and
- (e) the question for the adjournment of the Senate shall not be proposed till after the Senate has finally considered the bills listed below and any messages from the House of Representatives:
 - Telecommunications (Interception) Amendment Bill 2004
 - Appropriation (Parliamentary Departments) Bill 2003-2004
 - Appropriation Bill (No. 3) 2003-2004
 - Appropriation Bill (No. 4) 2003-2004
 - Higher Education Legislation Amendment Bill 2004
 - Intelligence Services Amendment Bill 2004
 - Textile, Clothing and Footwear Strategic Investment Program Amendment Bill 2004
 - Customs Tariff Amendment Bill (No. 2) 2003 (subject to the agreement of the Senate to consider the bill)
 - Excise Tariff Amendment Bill (No. 1) 2003 (subject to the agreement of the Senate to consider the bill)
 - Communications Legislation Amendment Bill (No. 2) 2003
 - Taxation Laws (Clearing and Settlement Facility Support) Bill 2003
 - Commonwealth Electoral Amendment (Representation in the House of Representatives) Bill 2004
 - Superannuation Legislation Amendment (Family Law) Bill 2002
 - Dairy Produce Amendment Bill 2003
 - Kyoto Protocol Ratification Bill 2003 [No. 2].

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

- (a) notes that areas subject to clear felling, burning and the use of 1080 poisoning of wildlife under the Tasmanian Regional Forest Agreement are habitat for rare or endangered species; and
- (b) calls on the Government to ensure that each area is fully assessed for the presence of such species and that the Minister for the Environment and Heritage (Dr Kemp) is informed before any habitat destruction is permitted. (*general business notice of motion no. 851*)

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

- (a) notes the resolution of the Senate of 30 March 2004 rejecting the recommendation of the review of the Parliament House art collection that it should not, as a rule, collect the works of emerging artists; and
- (b) resolves that the President of the Senate:
 - (i) immediately implement this decision of the Senate and continue the established acquisition practices for the Parliament House art collection,
 - (ii) immediately make representations to the Speaker of the House of Representatives seeking concurrence with the resolution, and
 - (iii) report to the Senate by 17 June 2004 on the instructions the Presiding Officers have given, indicating how the continuation of the policy of collecting the works of emerging artists will be implemented as a core component of the Parliament House art collection acquisition policy. (*general business notice of motion no. 852*)

Senator Brown: To move on the next day of sitting—That the Senate, concerned for Australia's rare and endangered species of wildlife and plants, calls on the Government to protect the habitats of such species wherever possible. (*general business notice of motion no. 853*)

15 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 6 OF 2004

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

SELECTION OF BILLS COMMITTEE REPORT NO. 6 OF 2004

1. The committee met on Tuesday, 30 March 2004.
2. The committee resolved to recommend—That—
 - (a) the *provisions* of the Anti-terrorism Bill 2004 be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report on 11 May 2004;
 - (b) the *provisions* of the Migration Amendment (Judicial Review) Bill 2004 be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report on 15 June 2004;
 - (c) the *provisions* of the Surveillance Devices Bill 2004 be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report on 27 May 2004;

- (d) the order of the Senate of 18 June 2003 adopting the committee's 6th report of 2003 be varied to provide that the Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Bill 2002 be *referred immediately* to the Finance and Public Administration Legislation Committee for inquiry and report on 17 June 2004; and
- (e) the following bills *not* be referred to committees:
- Agricultural and Veterinary Chemicals Legislation Amendment (Name Change) Bill 2004
 - Bankruptcy Legislation Amendment Bill 2004
 - Bankruptcy (Estate Charges) Amendment Bill 2004
 - Classification (Publications, Films and Computer Games) Amendment Bill 2004
 - Commonwealth Electoral Amendment (Representation in the House of Representatives) Bill 2004
 - Intelligence Services Amendment Bill 2003
 - Law and Justice Legislation Amendment Bill 2004
 - Veterans' Entitlements Amendment (Direct Deductions and Other Measures) Bill 2004.

The committee recommends accordingly.

3. The committee *deferred* consideration of the following bills to the next meeting:

Bills deferred from meeting of 10 February 2004

- Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003
- Corporations (Fees) Amendment Bill (No. 2) 2003
- Racial and Religious Hatred Bill 2003 [No. 2].

Bill deferred from meeting of 23 March 2004

- Resale Royalty Bill 2004.

Bills deferred from meeting of 30 March 2004

- Excise and Other Legislation Amendment (Compliance Measures) Bill 2004
- Flags Amendment (Eureka Flag) Bill 2004.

Jeannie Ferris
Chair
31 March 2004.

Senator Ferris moved—That the report be adopted.

Question put and passed.

16 ROUTINE OF BUSINESS—VARIATION

The Minister for Local Government, Territories and Roads (Senator Ian Campbell), by leave, moved—That after consideration of government documents today, consideration of government business continue till 7.20 pm.

Question put and passed.

17 NOTICE OF MOTION WITHDRAWN

Senator Ferris, at the request of Senator Sandy Macdonald, withdrew general business notice of motion no. 823 standing in the name of Senator Sandy Macdonald for today, relating to Taiwan and the World Health Organization.

18 SUPERANNUATION—PRESERVATION AGE

Senator Cherry, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 832—That the Senate calls on the Government to give consideration to adjusting the superannuation preservation age of 60 for workers born after 1964 if those workers have spent significant periods of their working lives in occupations such as policing which involve significant physical exertion, mental stress and necessitate earlier retirement.

Question put and passed.

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

Senator Ferris, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 837—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.

Question put and passed.

**20 COMMUNITY AFFAIRS REFERENCES COMMITTEE—LEAVE TO MEET DURING
SITTING**

Senator Ferris, at the request of the Chair of the Community Affairs References Committee (Senator McLucas) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 838—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.

Question put and passed.

**21 COMMUNITY AFFAIRS REFERENCES COMMITTEE—EXTENSION OF TIME TO
REPORT**

Senator Ferris, at the request of the Chair of the Community Affairs References Committee (Senator McLucas) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 839—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.

Question put and passed.

22 FOREIGN AFFAIRS—SYRIA—HUMAN RIGHTS

Senator Cherry, also on behalf of Senator Stott Despoja, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 835—That the Senate—

- (a) notes escalating tensions between the Arab and Kurdish populations within Syria;
- (b) expresses concern at reports that recent spates of violence between the Syrian authorities and the Kurdish minority have resulted in multiple deaths and injuries; and
- (c) calls on the Minister for Foreign Affairs (Mr Downer) to make representations to the Syrian Government regarding the fundamental importance of adhering to the Universal Declaration for Human Rights in all its dealings with the Kurdish minority.

Question put and passed.

23 SOCIAL ISSUES—NATIONAL YOUTH WEEK

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 840—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.

Question put and passed.

24 URGENCY MOTION—INDIGENOUS AUSTRALIANS—HEALTH

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

The need to address the Indigenous health emergency in Australia which sees the health of Indigenous Australians going backwards in a time of national prosperity, because of the failure of successive Governments to halt this decline, and to ensure this crisis in Indigenous health is a priority in the upcoming Federal budget.

The proposal was supported by 4 senators.

Senator Ridgeway moved the motion.

Debate ensued.

Question put and passed.

25 SCRUTINY OF BILLS—STANDING COMMITTEE—5TH REPORT AND ALERT DIGEST NO. 5 OF 2004

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

Scrutiny of Bills—Standing Committee—

5th report of 2004, dated 31 March 2004.

Alert Digest No. 5 of 2004, dated 31 March 2004.

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

26 TREATIES—JOINT STANDING COMMITTEE—59TH REPORT

Senator Kirk, on behalf of the Joint Standing Committee on Treaties, tabled the following report and documents:

Treaties—Joint Standing Committee—59th report—Treaties tabled in December 2003, dated March 2004, *Hansard* record of proceedings and minutes of proceedings.

Senator Kirk moved—That the Senate take note of the report.

Question put and passed.

27 MINISTERIAL DISCRETION IN MIGRATION MATTERS—SELECT COMMITTEE—REPORT

Pursuant to order, the Chair of the Select Committee on Ministerial Discretion in Migration Matters (Senator Ludwig) tabled the following report and documents:

Ministerial Discretion in Migration Matters—Select Committee—Report, dated March 2004, *Hansard* record of proceedings, additional information, documents presented to the committee and submissions [43].

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

Senator Ludwig moved—That the Senate take note of the report.

Debate ensued.

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

28 AUDITOR-GENERAL—AUDIT REPORT NO. 38 OF 2003-04—DOCUMENT

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

Auditor-General—Audit report no. 38 of 2003-04—Performance audit—Corporate governance in the Australian Broadcasting Corporation: Follow-up audit.

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

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

29 PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL—DOCUMENT

The Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) tabled the following document:

Parliament Act—Parliamentary Zone—Proposal, together with supporting documentation, relating to the design and content of the Centenary of Women's Suffrage commemorative fountain at the Old Parliament House gardens.

Notice of motion: Senator Troeth, by leave, gave a notice of motion as follows: To move on the next day of sitting—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 design and content of the Centenary of Women's Suffrage commemorative fountain at the Old Parliament House gardens.

30 AUSTRALIAN PARLIAMENTARY DELEGATION TO REPUBLIC OF INDONESIA AND INDEPENDENT STATE OF PAPUA NEW GUINEA

Senator Brandis, by leave, tabled the following document:

Republic of Indonesia and Independent State of Papua New Guinea—Report of the Australian parliamentary delegation, 7 to 19 December 2003, dated March 2004.

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

Question put and passed.

31 DOCUMENTS

The following documents were tabled by the Clerk:

Child Support (Registration and Collection) Act—Regulations—Statutory Rules 2004 No. 45.

Christmas Island Act—

List of applied Western Australian Acts for the period 13 September 2003 to 19 March 2004.

Regulations—Statutory Rules 2004 No. 47.

Cocos (Keeling) Islands Act—

List of applied Western Australian Acts for the period 13 September 2003 to 19 March 2004.

Regulations—Statutory Rules 2004 No. 48.

Disability Discrimination Act—Regulations—Statutory Rules 2004 No. 43.

Evidence and Procedure (New Zealand) Act—Regulations—Statutory Rules 2004 No. 44.

Foreign Acquisitions and Takeovers Act—Regulations—Statutory Rules 2004 No. 49.

Fringe Benefits Tax Assessment Act—Regulations—Statutory Rules 2004 Nos 50 and 51.

Health Insurance Act—Regulations—Statutory Rules 2004 No. 46.

Income Tax Assessment Act 1997—Regulations—Statutory Rules 2004 No. 52.

Primary Industries (Customs) Charges Act—Regulations—Statutory Rules 2004 No. 41.

Primary Industries (Excise) Levies Act—Regulations—Statutory Rules 2004 No. 42.

32 MIGRATION AMENDMENT (JUDICIAL REVIEW) BILL 2004

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

Message no. 554, dated 31 March 2004—A Bill for an Act to amend the *Migration Act 1958*, and for other purposes.

The Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) 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 Troeth 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.

33 INTELLIGENCE SERVICES AMENDMENT BILL 2004

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

Message no. 553, dated 31 March 2004—A Bill for an Act to amend the *Intelligence Services Act 2001*, and for related purposes.

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

Document: Senator Troeth tabled the following document:

ASIO, ASIS and DSD—Joint Statutory Committee—Report—Review of the Intelligence Services Amendment Bill 2003—Government response.

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

On the motion of Senator Mackay the debate was adjourned.

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

34 AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT BILL (NO. 2) 2003

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

Message no. 549, dated 30 March 2004—Agriculture, Fisheries and Forestry Legislation Amendment Bill (No. 2) 2003, disagreeing to the amendments made by the Senate and making amendments in place of those amendments.

On the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) consideration of the message in committee of the whole was made an order of the day for a later hour.

35 MILITARY REHABILITATION AND COMPENSATION (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2003

A message from the House of Representatives was reported indicating that the House had made the amendments requested by the Senate to the following bill:

Message no. 552, dated 31 March 2004—Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003.

On the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) the bill was read a third time.

36 MILITARY REHABILITATION AND COMPENSATION BILL 2003

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

Message no. 550, dated 31 March 2004—Military Rehabilitation and Compensation Bill 2003, indicating that the House has made amendments nos 2 to 8 requested by the Senate and has not made amendment no. 1.

On the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) consideration of the message in committee of the whole was made an order of the day for a later hour.

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

Order of the day read for the consideration of message no. 547 from the House of Representatives in committee of the whole (*see entry no. 30, 30 March 2004*).

In the committee

Consideration resumed of the message—and of the motion moved by the Minister for Revenue and Assistant Treasurer (Senator Coonan)—That the committee does not further press its requests for amendments not made by the House of Representatives.

Debate resumed.

Question put and passed.

Resolution to be reported.

The Acting Deputy President (Senator Kirk) resumed the chair and the Temporary Chair of Committees reported that the committee had considered message no. 547 from the House of Representatives relating to the Family Assistance Legislation Amendment (Extension of Time Limits) Bill 2003 and had resolved not to further press its requests for amendments not made by the House.

On the motion of the Minister for Family and Community Services (Senator Patterson) the report from the committee was adopted and the bill read a third time.

38 HIGHER EDUCATION LEGISLATION AMENDMENT BILL 2004

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

In the committee

Consideration resumed of the bill.

Bill further debated.

Senator Carr moved the following amendment:

Schedule 3, page 12 (after line 28), after item 9, insert:

9A Section 36-35

Repeal the section, substitute:

36-35 Percentage of Commonwealth supported places to be provided by Table A providers

- (1) A *Table A provider must ensure that, in any year, the *number of Commonwealth supported places provided by the provider accounts for 100% of the total number of places that the provider provides in each undergraduate *course of study.
- (2) For the purposes of calculating the proportion of Commonwealth supported places in subsection (1), international students and students who are not Commonwealth supported students and were enrolled before 2005 are to be disregarded.
- (3) For the purpose of applying subsection (1) in relation to a *course of study, disregard any enrolment in *work experience in industry or in an *employer reserved place in that course.

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

Bill agreed to.

Bill to be reported without amendment.

The Acting Deputy President (Senator Kirk) resumed the chair and the Temporary Chair of Committees 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 bill read a third time.

39 **MILITARY REHABILITATION AND COMPENSATION BILL 2003**

Order of the day read for the consideration of message no. 550 from the House of Representatives in committee of the whole (*see entry no. 36*).

In the committee

The Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone) moved—That the committee does not press its request for amendment no. 1 not made by the House of Representatives.

Debate ensued.

Question put and passed.

Resolution to be reported.

The Acting Deputy President (Senator Kirk) resumed the chair and the Temporary Chair of Committees reported that the committee had considered message no. 550 from the House of Representatives relating to the Military Rehabilitation and Compensation Bill 2003 and had resolved not to press its request for amendment no. 1 not made by the House.

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

**40 TEXTILE, CLOTHING AND FOOTWEAR STRATEGIC INVESTMENT PROGRAM
AMENDMENT BILL 2004**

Order of the day read for the adjourned debate on the motion of the Minister for Local Government, Territories and Roads (Senator Ian Campbell)—That this bill be now read a second time.

Senator Carr moved the following amendment:

At the end of the motion, add “but the Senate recognises the importance of innovation in the textile, clothing and footwear sector and the need for policies that stimulate long-term growth and economic prosperity”.

Debate ensued.

At 6.50 pm: Debate was interrupted while Senator Ridgeway was speaking.

41 GOVERNMENT DOCUMENTS—CONSIDERATION

The government document tabled earlier today (*see entry no. 2*) was called on but no motion was moved.

**42 TEXTILE, CLOTHING AND FOOTWEAR STRATEGIC INVESTMENT PROGRAM
AMENDMENT BILL 2004**

Order of the day read for the adjourned debate on the motion of the Minister for Local Government, Territories and Roads (Senator Ian Campbell)—That this bill be now read a second time—*and on the amendment moved by Senator Carr (see entry no. 40)*.

Debate resumed.

At 7.20 pm: Debate was interrupted while Senator Harradine was speaking.

43 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 7.58 pm till Thursday, 1 April 2004 at 9.30 am.

44 ATTENDANCE

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

HARRY EVANS
Clerk of the Senate