THE SENATE

APPROPRIATION BILL (NO. 5) 2003-2004

APPROPRIATION BILL (NO. 6) 2003-2004

EXCISE AND OTHER LEGISLATION AMENDMENT (COMPLIANCE MEASURES) BILL 2004

VETERANS' ENTITLEMENTS AMENDMENT (DIRECT DEDUCTIONS AND OTHER MEASURES) BILL 2004

TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT (STORED COMMUNICATIONS) BILL 2004

Second Reading
Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (3.42 pm)—I move:

That these bills be now read a second time.

I seek leave to have the second reading speeches incorporated in *Hansard*.

Leave granted.

*The speeches read as follows—*

**APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 1) 2004-2005**

The purpose of the Appropriation (Parliamentary Departments) Bill (No. 1) 2004-2005 is to provide funding for the operations of the three Parliamentary Departments.

The total amount sought is $178.7 million. Details of the proposed expenditure are set out in the Schedule to the Bill.

I commend the Bill to the Senate.

**APPROPRIATION BILL (No. 1) 2004-2005**

It is with great pleasure that I introduce Appropriation Bill (No. 1) 2004-2005, which, together with Appropriation Bill (No.2) 2004-2005, is one of the principal pieces of legislation underpinning the third Budget of the third term of the Coalition Government.

Appropriation Bill (No. 1) 2004-2005 provides authority for meeting expenses on the ordinary annual services of Government.

This Bill seeks appropriations out of the Consolidated Revenue Fund totalling $45,060 million.

Details of the proposed appropriations are set out in Schedule 1 to the Bill, the main features of which were outlined the Treasurer's Budget speech on 11 May.

I commend the Bill to the Senate.

**APPROPRIATION BILL (No. 2) 2004-2005**

It is with great pleasure that I introduce Appropriation Bill (No. 2) 2004-2005.

Appropriation Bill (No. 2) 2004-2005 provides funding for agencies to meet:

expenses in relation to grants to the States under section 96 of the Constitution and for payments to the Northern Territory and the Australian Capital Territory;

administered expenses for new outcomes;

requirements for departmental equity injections, loans and previous years' outputs; and

requirements to create or acquire administered assets and to discharge administered liabilities.

Appropriations totalling $5,187.5 million are sought in Appropriation Bill (No. 2) 2004-2005.
Details of the proposed appropriations are set out in Schedule 2 to the Bill, the main features of which were outlined in the Treasurer's Budget speech on 11 May.

I commend the Bill to the Senate.

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APPROPRIATION BILL (No. 5) 2003-2004

It is with great pleasure that I introduce Appropriation Bill (No. 5) 2003-2004.

There are two supplementary Additional Estimates Bills this year: Appropriation Bill (No. 5), and Appropriation Bill (No. 6). I shall introduce the latter Bill shortly.

The Supplementary Additional Estimates Bills follow on from the Additional Estimates Bills that were introduced during the Spring sittings. They seek authority from Parliament for the supplementary appropriation of monies from the Consolidated Revenue Fund during the current financial year.

The monies sought are for important initiatives that can be accommodated within the current financial year due to the strength of our fiscal position and the Australian economy.

The total appropriation being sought through these Bills is some $783.1 million, with around $603.8 million being sought in Appropriation Bill (No. 5).

The most significant amount proposed in that Bill is a grant payment of $450 million to Australian Rail Track Corporation for investment in new rail infrastructure projects on the interstate rail system, including improvements and rail realignments on parts of the New South Wales—North Coast line to Brisbane. The balance of around $153.8 million is for a number of specific programmes, including $10 million in assistance to Lifeline and a $600,000 contribution towards the Athens 2004 Paralympic Games.

I commend the bill to the Senate.

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APPROPRIATION BILL (No. 6) 2003-2004

Appropriation Bill (No. 6) provides additional funding for agencies for:

- expenses in relation to grants to the States under section 96 of the Constitution and for payments to the Northern Territory and the Australian Capital Territory; and
- non-operating purposes in the form of an administered assets and liabilities appropriation.

The total additional appropriation being sought in Appropriation Bill (No. 6) 2003-2004 is around $183.3 million. This comprises $57.6 million in additional payments to the States and Territories and $125.7 million to the Department of Health and Ageing by way of an administered assets and liabilities appropriation with a number of measures to combat avian flu.

I commend the Bill to the Senate.

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EXCISE AND OTHER LEGISLATION AMENDMENT (COMPLIANCE MEASURES) BILL 2004

This bill amends the Excise Act 1901 to improve compliance and administration arrangements.

The ATO is responsible for the high level of risk management required to protect the revenue and the excise legislation provides considerable controls to enable the ATO to ensure compliance with the law.

Diversion of goods delivered for exportation is a significant risk for excise revenue. However, movement of excisable goods for exportation may occur under the existing provisions without permission of the ATO. Accordingly, the ATO is unable to apply to these goods the usual compliance and revenue protection measures that it is able to apply to all other movement of excisable goods.

The amendments in the bill ensure that ATO permission is required for delivery of excisable goods for exportation. The bill extends to the exportation of excisable goods the provisions that enable the duty equivalent to be called up where a person entrusted with excisable goods fails to keep the goods safely or cannot satisfactorily account for them.

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Under this bill current provisions that regulate the movement of tobacco leaf will be extended to tobacco seed and plant and
permissions relating to movement of these goods for exportation will be required.

This bill also extends the criteria that enable immediate destruction of seized forfeited goods. Currently goods must be
perishable and a danger to public health. However, in most cases seized excisable goods and tobacco seed, plant or leaf
do not satisfy both the perishable and danger to public health criteria. The seized goods may be perishable only without
special storage arrangements, or may not be perishable but do not meet any relevant standards that would enable them to
be returned to the market.

The amendments enable seized goods to be destroyed immediately where they are perishable or a danger to public health or
safety or do not meet any applicable standards. The amendments provide for the use of evidentiary certificates in proceedings
relating to those goods and extend the compensation provisions to include where the Court is satisfied the grounds for
disposing of the goods did not exist.

Finally, the bill amends the confidentiality provisions of the Excise Act to enable information about licences, permissions
and remission of duty arrangements to be made available to a second person dealing with, or proposing to deal with, the
goods covered by the licence, permission or remission documents.

The present confidentiality provisions prevent such information from being disclosed to a second person dealing with the
goods. However, this information is at times a prerequisite for a second person to comply with the law. The amendments
enable the information relating to licences, permissions and remission arrangements to be made available to a second person
where it is considered necessary to ensure compliance with the excise legislation.

Full details of the measures in the bill are contained in the explanatory memorandum.

I commend the bill.

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VETERANS' ENTITLEMENTS AMENDMENT (DIRECT DEDUCTIONS AND OTHER MEASURES)
BILL 2004

This Bill gives effect to a number of minor policy measures that will enhance services to veterans and their dependants,
continuing this Government's commitment to improving the repatriation system to ensure it operates as effectively as possible
in meeting the needs of the Australian veteran community.

Notably, amendments in this legislation will:

enable recipients of the veteran disability pension and war widow's/widower's pension to arrange direct
deduction payments;

increase the Victoria Cross allowance and commence indexation of this special benefit by the Consumer Price
Index;

introduce automatic eligibility for the war widow's/widower's income support supplement to partners who
received their social security age pension or wife pension through the Department of Veterans' Affairs; and

ensure eligibility for the partner service pension includes certain partners of veterans living on Norfolk Island.

Other amendments will correct minor policy flaws in relation to the calculation of disability pension arrears and rent
assistance, and the recovery of certain overpayments. Parts of this Bill will also align the Veterans' Entitlements Act 1986 with
social security law in relation to the deeming of certain income and assets, the income and assets treatment of superannuation
benefits and compensation recovery provisions.

Currently, direct deduction arrangements are available for recipients of the service pension or the war widow's/widower's
income support supplement. Such arrangements allow veterans and war widows/widowers to have deductions made from
their benefits for regular payments such as rent to State housing authorities.

These arrangements are not currently available for disability pensions or war widow's/widower's pension. This Bill will
extend the direct deduction provisions to allow these pensioners to arrange such deductions from their fortnightly payments.

This Bill will enhance the allowance paid to our two surviving recipients of the Victoria Cross. The Victoria Cross allowance
is currently $2808 per year and is paid annually in advance. Under these amendments, the allowance will be increased by
15 per cent to $3230 per year, and it will be subject to annual indexation in line with movements in the Consumer Price
Index. These amendments reflect changes in the allowance provided to British VC recipients by the British Government and
recognise the special place held by Australia’s Victoria Cross winners. The amendments will also make minor reforms to the provisions for decoration allowance.

Amendments in this bill will enhance support for veterans’ partners who received the social security age pension or wife pension through my Department.

On the death of a veteran, where the veterans’ death is accepted as being related to their service, the partner becomes eligible for the war widow’s/widower’s pension. However, they currently are required to lodge a formal claim to receive the war widow/widower’s income support supplement.

This Bill will provide automatic eligibility for partners in these circumstances to receive the income support supplement, removing an administrative burden from widows/widowers coming to terms with the loss of their partner.

In a further measure of support for veterans’ partners, the Bill will ensure eligibility for the partner service pension includes certain partners who are resident in Norfolk Island. These amendments correct an anomaly in the provisions that meant certain partners resident in Norfolk Island were not eligible for the partner service pension.

Many of these amendments represent relatively small changes to our repatriation legislation. However, this “fine-tuning” of the Veterans’ Entitlements Act is important to those members of the veteran community who will benefit from these changes, and the Government sees this legislation as continuing to deliver on its commitment to those who serve in the defence of our nation.

TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT (STORED COMMUNICATIONS) BILL 2004

This Bill amends the Telecommunications (Interception) Act 1979.

These amendments address the practical implications of modern technology on access to communications by law enforcement and regulatory agencies.

The Bill will exclude access to stored communications from the current prohibition against interception of communications.

In practical terms, the amendments will limit the existing prohibition against interception to real time transit of communications.

Communications that have been stored on equipment will be excluded from the scope of the Act.

These measures represent immediate and practical steps to address the operational issues faced by our law enforcement and regulatory agencies.

However, the amendments also recognise the need for more comprehensive review of access to stored communications and the contemporary relevance of Australia’s interception regime.

That is why the amendments will cease to have effect 12 months after their commencement.

The Government recognises that broader review of access to modern means of communication is required.

That is why I have asked my Department to conduct a comprehensive review of the Telecommunications Interception Act, to report back to me before the expiration of these amendments.

The need for more comprehensive review should not preclude the enactment of amendments to addressing the increasingly significant operational concerns created by the Act’s current application.

These amendments appropriately respond to the immediate difficulties posed by the breadth of the existing interception regime, while recognising the need to revisit this issue in greater detail.

The Government has on two previous occasions, in 2002 and 2004, sought to legislate to clarify the application of the Interception Act to stored communications.

On both occasions, the Government has withdrawn the amendments.

Most recently, the Government withdrew the amendments following a recommendation of the Senate Legal and Constitutional Legislation Committee.
The Committee, after considering the proposed amendments in relation to stored communications, recommended that they be deferred pending resolution of differing interpretations of the current operation of the interception regime.

The amendments now proposed address concerns expressed by the AFP in relation to operational difficulties posed by the current interception regime in the consideration of those most recent amendments.

The amendments represent measures to address operational concerns raised by the AFP in relation to access to stored communications.

As I have previously said, I have agreed that my Department conduct a broader review of the telecommunications interception regime.

The review will likely focus as a key issue on access to electronic communications.

In the meantime, it is important that any lack of clarity in applying the Interception Act to stored communications be resolved.

The measures in the Bill are an urgent but temporary solution to operational difficulties experienced by law enforcement agencies.

When the Act was drafted almost 25 years ago, the Australian telecommunications systems consisted largely of land based services carrying live telephone conversations.

The Act was therefore built around a core concept of communications passing over a telecommunications system.

While this concept is technologically neutral, its application has proven more difficult to modern telecommunications services such as voicemail, email and SMS messaging.

These amendments do not however allow unregulated monitoring of telecommunications services, such as e-mail, voice mail and SMS, which are in widespread use in the community.

Rather, the amendments recognise that such communications become stored, and should fall outside of the protections originally designed for more immediate voice telephony at some point.

Access to stored communications will continue to require an appropriate form of lawful access, such as consent, search warrant or other right of access to the communication or storage equipment.

The amendments will allow law enforcement and regulatory agencies expeditious access to stored communications in the performance of their functions.

The amendments will also facilitate measures to preserve the security of information systems by allowing access to stored communications.

The amendments also ensure that new technologies that may involve storage, but which are in reality analogous to standard voice telephony, are protected in the same way as normal voice calls.

In particular, the amendments specifically exclude storage in the course of transmission by voice over Internet protocol, and other highly transitory storage that is integral to the carriage of a communication.

This ensures that these communications, although technically stored for a fraction of a second, remain protected as live communications.

The Government is, as it has previously indicated in amending this Act, committed to ensuring that the interception regime keeps pace with technological developments.

It is now time to recognise that modern means of technology are converging with more traditional data storage.

These amendments address the operational impacts of that convergence, while foreshadowing the need for further consideration of this issue.

Debate (on motion by Senator Ludwig) adjourned.

Ordered that the Excise and Other Legislation Amendment (Compliance Measures) Bill 2004, the Veterans' Entitlements Amendment (Direct Deductions and Other Measures) Bill 2004 and the Telecommunications (Interception) Amendment (Stored Communications) Bill 2004 be listed on the Notice Paper as separate orders of the day.