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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 NOTICES

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

- (a) the Australian Sports Commission for initiating the Australian Sports Commission Media Awards, which encourage broad and in-depth coverage of sporting issues in Australia;
- (b) the many journalists and photojournalists who were nominated in the seven categories which comprise the inaugural Australian Sports Commission Media Awards;
- (c) sports journalist, Mr Harry Gordon, who was awarded the Australian Sports Commission's Lifetime Achievement Award for his services to the media for more than 60 years; and
- (d) all the award winning journalists and photojournalists, including:
 - (i) Best Reporting of an Issue in Australian Sport: Kate McClymont and Anne Davies of the *Sydney Morning Herald*,
 - (ii) Best Sports Journalism from Rural or Regional Media: Brett Kohlhagen of the *Border Mail*, Albury,
 - (iii) Community Sport Media Award: David Pearson and Brian Webb, 'Topsport 104.1 FM' Darwin,
 - (iv) Youth Sport Media Award: Amanda Smith of ABC Radio National's, *The Sports Factor*,
 - (v) Best Journalism on Australian Sports Commission-related Programs: Robert Drane of *Inside Sport*, and
 - (vi) Best Sports Photojournalism: Bruce Long of the *Courier Mail*. (*general business notice of motion no. 196*)

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

- (a) requires advice from the Australian Competition and Consumer Commission (ACCC) on its progress in responding to the Senate order of 27 June 2002 and its expected date of reporting to the Senate; and
- (b) requires the ACCC to investigate and report to the Senate by 22 October 2002 on:
 - (i) the amount of money collected by tobacco retailers from consumers in respect of state and territory tobacco franchise fees relating to the period 1 July 1997 to 5 August 1997 but not forwarded by tobacco retailers or wholesalers to the states and territories or to the Commonwealth ('the windfall'), and the amount of recoverable interest accrued since 5 August 1997,
 - (ii) the appropriate federal legislative response to Justice Kirby's High Court judgment of 6 December 2001 in *Roxborough v Rothmans* viz, 'The "windfall" should remain with the wholesaler to await the legislative measures (if any) for disgorgement to the benefit of users of tobacco, products or otherwise, as the Federal Parliament may enact', and

- (iii) its recommendations on the possible distribution of the windfall and/or appropriate use of the windfall in anti-smoking measures and litigation against tobacco companies that have engaged in misleading and deceptive conduct or unconscionable behaviour and similar recommendations in respect of the proceeds of any such litigation. (*general business notice of motion no. 197*)

Senator Brown: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act relating to the establishment of a fund for the purpose of education about plastic bag damage to the environment, and for related purposes. ***Plastic Bag (Minimisation of Usage) Education Fund Bill 2002***. (*general business notice of motion no. 198*)

Senator Brown: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to provide for the assessment and collection of a levy on the use of plastic bags at the retail point of sale. ***Plastic Bag Levy (Assessment and Collection) Bill 2002***. (*general business notice of motion no. 199*)

The Chairman of the Standing Committee on Regulations and Ordinances (Senator Tchen): To move 15 sitting days after today—That regulations 65.060 and 65.270 in item [1] of Schedule 1 of the Civil Aviation Amendment Regulations 2002 (No. 2), as contained in Statutory Rules 2002 No. 167 and made under the *Civil Aviation Act 1988*, be disallowed.

Statement by leave: Senator Tchen, by leave, made a statement relating to the notice of motion.

3 ORDER OF BUSINESS—REARRANGEMENT

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That the following government business orders of the day be considered from 12.45 pm till not later than 2 pm today:

No. 11 ACIS Administration Amendment Bill 2002.

No. 12 Dairy Industry Legislation Amendment Bill 2002.

Debate ensued.

Question put and passed.

Senator Ian Campbell moved—That the order of general business for consideration today be as follows:

(a) general business notice of motion no. 191 standing in the name of Senator Sherry, relating to superannuation; and

(b) consideration of government documents.

Question put and passed.

4 POSTPONEMENTS

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator O'Brien for today, relating to the disallowance of the Civil Aviation Amendment Regulations 2002 (No. 2), postponed till 16 October 2002.

5 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—LEAVE TO MEET DURING SITTING

The Chair of the Joint Standing Committee on Foreign Affairs, Defence and Trade (Senator Ferguson), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 190—That the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 23 October 2002, from 11 am to 12.30 pm, to take evidence for the committee's inquiry into central Europe.

Question put and passed.

6 FOREIGN AFFAIRS—IRAQ—MILITARY ACTION—PARLIAMENTARY DEBATE

Senator Bartlett, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 188—That the Senate—

- (a) notes repeated calls for a full parliamentary debate and vote on any decision by the Australian Government to commit Australian military personnel or facilities to a war against Iraq, particularly if any such commitment is proposed in relation to military action which has not been endorsed by the United Nations; and
- (b) calls on the Government to ensure that a full parliamentary debate and vote on any such proposal occurs on the commitment of Australian military personnel or facilities.

Question put and passed.

7 FOREIGN AFFAIRS—UNITED NATIONS HUMAN RIGHTS COMMISSIONER

Senator Ridgeway, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 195—That the Senate—

- (a) notes that Ms Mary Robinson ended her term as the second United Nations (UN) Human Rights Commissioner in September 2002, having held the office since September 1997 and having won the praise and respect of human rights advocates around the world for her strong, principled and consistent promotion and protection of fundamental human rights and freedoms;
- (b) welcomes the appointment of Mr Sergio Vieira de Mello as the new UN Human Rights Commissioner, following his leadership of the UN Transitional Administration in East Timor and longstanding contribution to the promotion and defence of human rights in other UN posts, including Kosovo, Lebanon and Cambodia;
- (c) pays tribute to the tireless and courageous work undertaken by Ms Robinson as UN Human Rights Commissioner, acknowledging that she:
 - (i) held this demanding position during a particularly unstable period in world history, including the civil war and peacekeeping effort in Sierra Leone, the civil unrest and wars in the former Yugoslavia, the independence of East Timor, growing unrest in the Middle East, the attack on the World Trade Centre and the war in Afghanistan,
 - (ii) was proactive in her promotion of universal human rights, visiting some 60 countries, including China, Russia and Israel, to address concerns about the erosion of fundamental principles of civil liberty and basic human rights, including the rights of minorities and refugees, and

- (iii) worked skilfully to promote greater public understanding of fundamental human rights, particularly through international conferences, including the UN World Conference on Racism in Durban, South Africa, in 2001; and
- (d) concurs with Ms Robinson's philosophy that anything less than universal adherence to the basic principles of human rights will diminish, 'our capacity to transmit these values to succeeding generations'.

Question put and passed.

8 ENVIRONMENT—GREENHOUSE GAS EMISSIONS—BUILDING INDUSTRY

Senator Bartlett, at the request of Senator Allison and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 193—That the Senate—

- (a) notes that:
 - (i) the building sector accounts for about 20 per cent of Australia's greenhouse gas emissions,
 - (ii) the Victorian Government has proposed a compulsory 'five-star' minimum energy rating for new homes,
 - (iii) a minimum five-star energy rating for new houses could halve energy demand for heating and cooling in those homes,
 - (iv) within 10 years this will result in the reduction in greenhouse gas emissions of around 2 million tonnes in Victoria, the equivalent of removing 550 000 cars from the road or planting 3 million trees,
 - (v) most Organisation for Economic Co-operation and Development countries have had minimum building energy performance requirements for more than a decade, and
 - (vi) in comparison with most European countries and North America, the Victorian five-star rating sets a lower standard of energy efficiency;
- (b) welcomes the Victorian Government's move towards reducing greenhouse gas emissions from the building sector; and
- (c) urges the Victorian Government to take the next step by taking into account solar hot water and photovoltaic systems in calculating building energy ratings.

Question put and passed.

9 FOREIGN AFFAIRS—WESTERN SAHARA—REFERENDUM ON SELF-DETERMINATION

Senator Bartlett, at the request of Senator Allison and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 194—That the Senate—

- (a) notes that:
 - (i) United Nations (UN) efforts to accomplish the decolonisation process in Western Sahara have not been successful yet,
 - (ii) more than 165 000 Saharawis have been living in refugee camps in the south-west of Algeria for the past 27 years in dire conditions, waiting to return to their homeland which is occupied by Morocco,

- (iii) the UN Security Council adopted Resolution 1429 on 30 July 2002 and asked the UN Secretary-General and his personal envoy to continue their efforts to provide a genuine opportunity for the Saharawi people to exercise their right to self-determination,
 - (iv) the mandate of the UN mission for the organisation of a referendum on self-determination in Western Sahara expires on 31 January 2003,
 - (v) the only just, legal and lasting solution to the conflict in the Western Sahara is the organisation of a free and fair referendum to allow the Saharawi people to exercise their right to self-determination, in accordance with the UN/Organisation of African Union peace plan, and
 - (vi) a failure by the UN to implement the peace plan would compromise UN credibility and lead to further instability in north-west Africa;
- (b) calls on both parties in the conflict, Morocco and the Frente Polisario, to cooperate fully with the UN in its efforts to organise a free and fair referendum in Western Sahara; and
 - (c) urges the Commonwealth Government to make representations to:
 - (i) the UN, urging it to proceed in organising the long overdue referendum of self-determination without further delays, and
 - (ii) the Moroccan Government, asking it to cooperate fully with the UN, to respect human rights in the occupied territories and allow independent observers to visit Western Sahara.

Question put and passed.

10 FOREIGN AFFAIRS—IRAQ—MILITARY ACTION

Senator Bartlett, at the request of Senator Allison and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 178—That the Senate—

- (a) notes that the National Council of Women of Victoria has expressed great concern at the threatened invasion of Iraq without United Nations sanction and without measuring the incalculable costs to the countless innocents who would suffer as a result of this violence; and
- (b) reminds the Government that countless women and children will suffer as a result of any military action against Iraq.

Question put and passed.

11 ENVIRONMENT—PLASTIC BAG LEVY

Senator Bartlett, at the request of Senator Allison and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 192—That the Senate—

- (a) notes:
 - (i) that Australians use an estimated 13 million plastic bags a year,
 - (ii) that the introduction of a plastic bag levy in Ireland in March 2002 has totally changed consumer behaviour so now about 90 per cent of people bring their own bags to avoid paying the levy,

- (iii) the serious, and sometimes fatal, impact plastic bags have on Australia's native fauna and flora, and on an estimated 100 000 birds, whales, seals and turtles around the world,
 - (iv) that, according to research conducted by the Council for the Encouragement of Philanthropy, 85 per cent of shoppers in Australia support a levy on plastic bags, and
 - (v) the recent comments by the Minister for the Environment and Heritage (Dr Kemp) that the Government is considering a plastic bag levy if measures under the National Packaging Covenant fail;
- (b) congratulates the Council for the Encouragement of Philanthropy in Australia for its research and lobbying for a levy on plastic bags; and
 - (c) urges the Federal Government to consider a levy on plastic bags as a priority, independent of the National Packaging Covenant.

Question put and passed.

12 FOREIGN AFFAIRS—IRAQ—MILITARY ACTION—CONSCIENCE VOTE

Senator Bartlett, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 189—That the Senate calls on the leaders of all parliamentary political parties to ensure that any parliamentary vote on motions concerning Australian involvement in, or support for, military action against Iraq is a conscience vote.

Question put and negatived. Senator Brown, pursuant to standing order 100, recorded his vote for the ayes.

13 POSTPONEMENT

The Chair of the Community Affairs References Committee (Senator Hutchins), by leave, moved—That business of the Senate notice of motion no. 2 standing in his name for today, relating to the reference of matters to the Community Affairs References Committee, be postponed till the next day of sitting.

Question put and passed.

14 PUBLICATIONS—STANDING COMMITTEE—3RD REPORT

The Chair of the Standing Committee on Publications (Senator Colbeck) tabled the following report:

PUBLICATIONS COMMITTEE 3RD REPORT

The Publications Committee reports that it has met in conference with the Publications Committee of the House of Representatives.

The Committee, having considered documents presented to the Parliament since 28 August 2002, recommends that the following be printed:

Aboriginal Land Commissioner—Report for 2001-02.

Aged Care Act 1997—Report for 2001-02 on the operation of the Act.

Australian Land Transport Development Programme—Progress report for 2000-2001.

Commonwealth Grants Commission—Report for 2001-02.

Human Rights and Equal Opportunity Commission—Reports—Inquiries into complaints of discrimination in employment on the basis of criminal record—No. 19—Mr Mark Hall v NSW Thoroughbred Racing Board, and No. 20—Ms Renai Christensen v Adelaide Casino Pty Ltd.

Native Title Act—Native title representative bodies—Carpentaria Land Council Aboriginal Corporation—Report for 2000-01.

Productivity Commission—Reports—

No. 17—Review of the national access regime, 28 September 2001.

No. 21—Independent review of the Job Network, 3 June 2002.

War Crimes Act 1945—Report for 2001-02 on the operation of the Act.

Senator Richard Colbeck

Chairman

26 September 2002.

Senator Colbeck moved—That the report be adopted.

Question put and passed.

15 **TREASURY LEGISLATION AMENDMENT BILL (NO. 1) 2002**

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

Message no. 154, dated 25 September 2002—A Bill for an Act to clarify the operation of certain amending Acts, and for related purposes.

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) 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 Ian Campbell 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.

16 **HEALTH LEGISLATION AMENDMENT (PRIVATE HEALTH INDUSTRY MEASURES) BILL 2002**

A message from the House of Representatives was reported agreeing to the following bill without amendment:

Message no. 153, dated 25 September 2002—Health Legislation Amendment (Private Health Industry Measures) Bill 2002.

17 **HIGHER EDUCATION FUNDING AMENDMENT BILL 2002**

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

Message no. 155, dated 25 September 2002—Higher Education Funding Amendment Bill 2002, agreeing to amendments nos 1, 4, 5, 9 to 12, 14 and 15 made by the Senate, disagreeing to amendments nos 2, 3, 6 to 8, 13 and 16, and making amendments in place of amendments nos 2, 6, 8, 13 and 16.

Ordered, on the motion of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell), 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

- (3) Schedule 1, item 10, page 6 (line 17), after paragraph (c), insert:
; (d) the matters prescribed under subparagraph (c)(i) shall include criteria for the appointment of an expert panel, including persons with extensive knowledge of higher education courses in the same or similar field, which is independent of the institution.
- (7) Schedule 1, item 12, page 6 (after line 28), after the definition of *institution*, insert:
self-accrediting private institution is an eligible private institution:
(a) established under Federal, State or Territory legislation; and
(b) which appears in column 1 of the table in subsection 98AA(1).

SCHEDULE OF SENATE AMENDMENTS DISAGREED BY THE HOUSE,
BUT AMENDMENTS MADE IN PLACE THEREOF

- (2) Schedule 1, item 10, page 6 (lines 13 to 17), omit paragraph (c), substitute:
(c) if the institution is a non-self accrediting institution—is a course which the Minister is satisfied meets the quality criteria in place in the National Protocols, based on the advice of:
(i) an independent expert panel as established by the Minister with terms of reference and reporting requirements as prescribed; or
(ii) an institution referred to in section 4.
- (6) Schedule 1, item 12, page 6 (after line 28), after the definition of *institution*, insert:
National Protocols means the *National Protocols for Higher Education Approval Processes* (first endorsed by the Ministerial Council on Education, Employment, Training and Youth Affairs on 31 March 2000), as in force from time to time.
- (8) Schedule 1, item 12, page 6 (after line 28), after the definition of *institution*, insert:
non-self accrediting private institution is an eligible private institution:
(a) other than one established under Federal, State or Territory legislation; and
(b) which appears in column 2 of the table in subsection 98AA(1).

(13) Schedule 1, item 17, page 7 (line 24) to page 8 (before line 1), omit subsection 98AA(1), substitute:

- (1) For the purposes of this Chapter, an *eligible private institution* is an institution of higher education specified in the following table:

Eligible private institutions	
Column 1	Column 2
self-accrediting private institution	non-self accrediting private institution
Bond University	Christian Heritage College (Queensland)
Melbourne College of Divinity	Tabor College (South Australia)

(16) Schedule 1, item 20, page 9 (lines 9 to 16), omit section 98JA, substitute:

98JA Eligible private institution to include information in annual report

- (1) The Minister must, as soon as practicable after the end of 30 June in each year, cause an annual report to be prepared by each eligible private institution that offers an eligible post-graduate course of study. The annual report must include (but is not limited to):
- (a) evidence that the course requirements and learning outcomes are comparable to those of a similar field of study at an Australian university;
 - (b) evidence of staff quality, qualifications, research output, refereed research publications and citation indices;
 - (c) institutional governance, facilities and student services;
 - (d) financial status and operation;
 - (e) staff and student data;
 - (f) equity plans and outcomes, for students and staff;
 - (g) planning data.
- (2) The Minister must cause copies of any annual report prepared under subsection (1) to be laid before each House of Parliament within 15 sitting days of that House after completion of the annual report.

AMENDMENTS MADE BY THE HOUSE OF REPRESENTATIVES
IN PLACE OF SENATE AMENDMENTS DISAGREED BY THE HOUSE

- (1) Schedule 1, item 10, page 6 (lines 13 to 17), omit paragraph (c), substitute:
- (c) if the institution is a non-self accrediting private institution:
 - (i) is a course that is accredited by a State or Territory accreditation agency listed in the Australian Qualifications Framework Register of Bodies with Authority to Issue Qualifications; and

- (ii) is a course which the Minister is satisfied meets the criteria in place in the National Protocol for the Accreditation of Higher Education Courses to be offered by non-self-accrediting providers, based on the advice of the State or Territory accreditation agency listed in the Australian Qualifications Framework Register of Bodies with Authority to Issue Qualifications.

For the purposes of paragraph (c), a part of an agency is taken to be an agency in its own right.

- (2) Schedule 1, item 12, page 6 (after line 28) after item 12, insert:

12A Subsection 98A(1)

National Protocols means the *National Protocols for Higher Education Approval Processes* (first endorsed by the Ministerial Council on Education, Employment, Training and Youth Affairs on 31 March 2000), as in force from time to time.

- (3) Schedule 1, item 12, page 6 (before line 29), before item 13, insert:

12B Subsection 98A(1)

non-self accrediting private institution is an eligible private institution which appears in column 2 of the table in subsection 98AA(1).

- (4) Schedule 1, item 20, page 9 (lines 9 to 16), omit section 98JA, substitute:

98JA Eligible private institution to report information

- (1) The Minister must, as soon as practicable after 31 December in each year, require each eligible private institution that offers an eligible post-graduate course of study to report to the Minister, in an approved form, information regarding their operations during that year.
- (2) The eligible private institution must comply with a requirement under subsection (1) as soon as practicable.
- (3) The information provided under subsection (1) must include (but is not limited to):
 - (a) information consistent with that required of any institution to which similar financial assistance is granted under this Act; and
 - (b) further information consistent with that required of any institution under this Act, as determined by the Minister.

Note 1: Section 108 requires any institution to which financial assistance is granted to provide a financial statement, together with an auditor's report.

Note 2: The Minister may require statistical and other information under paragraph 18(1)(g). The Minister may also require further information relating to students in designated courses of study at the institution under section 58.

- (4) The Minister must be satisfied that the eligible private institutions have met these requirements and must table the relevant information in each House of the Parliament as soon as practicable after receipt.
- (5) Schedule 1, item 17, page 7 (line 24), to page 8 (before line 1), omit subsection 98AA(1), substitute:

- (1) For the purposes of this Chapter, an *eligible private institution* is an institution of higher education specified in the following table:

Eligible private institutions	
Column 1	Column 2
self-accrediting private institutions	non-self accrediting private institutions
Bond University	Christian Heritage College
Melbourne College of Divinity	Tabor College (South Australia)

Senator Ian Campbell moved—That the committee does not insist on its amendments nos 3 and 7 to which the House of Representatives has disagreed and agrees to the amendments made by the House in place of amendments nos 2, 6, 8, 13 and 16.

Debate ensued.

Question put and passed.

Resolution to be reported.

The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Ferguson) reported that the committee had considered message no. 155 from the House of Representatives relating to the Higher Education Funding Amendment Bill 2002, had resolved not to insist on amendments nos 3 and 7 made by the Senate to which the House of Representatives had disagreed, and had agreed to the amendments made by the House in place of amendments nos 2, 6, 8, 13 and 16.

On the motion of the Minister for Communications, Information Technology and the Arts (Senator Alston) the report from the committee was adopted.

**18 FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE—REPORT—
PUBLIC INTEREST DISCLOSURE BILL 2001 [2002]**

Pursuant to order, Senator Ferris, at the request of the Chair of the Finance and Public Administration Legislation Committee (Senator Mason), tabled the following report and documents:

Finance and Public Administration Legislation Committee—Public Interest Disclosure Bill 2001 [2002]—Report, dated September 2002, *Hansard* record of proceedings, documents presented to the committee and submissions [37].

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

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

Question put and passed.

**19 SUPERANNUATION—SELECT COMMITTEE—REPORT—SUPERANNUATION
(GOVERNMENT CO-CONTRIBUTION FOR LOW INCOME EARNERS) BILL 2002 [AND]
SUPERANNUATION LEGISLATION AMENDMENT BILL 2002**

Pursuant to order, Senator Ferris, at the request of the Chair of the Select Committee on Superannuation (Senator Watson), tabled the following report and documents:

Superannuation—Select Committee—Superannuation (Government Co-contribution for Low Income Earners) Bill 2002 [and] Superannuation Legislation Amendment Bill 2002—Report, dated September 2002, *Hansard* record of proceedings [4 vols], documents presented to the committee and submissions [43].

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

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

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

20 CRIMINAL CODE AMENDMENT (ESPIONAGE AND RELATED MATTERS) BILL 2002

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell)—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 Brown moved the following amendments together by leave:

Schedule 1, item 5, page 6 (line 25), omit “25 years”, substitute “14 years”.

Schedule 1, item 5, page 7 (line 9), omit “25 years”, substitute “14 years”.

Schedule 1, item 5, page 7 (line 24), omit “25 years”, substitute “14 years”.

Schedule 1, item 5, page 8 (line 6), omit “25 years”, substitute “14 years”.

Schedule 1, item 5, page 10 (line 3), omit “Imprisonment for 5 years”, substitute “10 penalty units”.

Debate ensued.

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

Senator Brown moved the following amendments together by leave:

Schedule 1, item 5, page 8 (after line 28), after subsection (2), insert:

(3) It is a defence to a prosecution of an offence against subsection 91.1(1), (2), (3) or (4) where the disclosure of information the person communicates or makes available is in the public interest.

Schedule 1, item 5, page 8 (line 30), omit “(1) and (2)”, substitute “(1), (2) and (3)”.

Debate ensued.

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

21 ACIS ADMINISTRATION AMENDMENT BILL 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.

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

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

22 DAIRY INDUSTRY LEGISLATION AMENDMENT BILL 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.

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

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

23 NATIONAL CRIME AUTHORITY—JOINT STATUTORY COMMITTEE—REFERENCE

A message from the House of Representatives was reported acquainting the Senate with a resolution of that House:

Message no. 156, dated 26 September 2002, referring the Australian Crime Commission Establishment Bill 2002 to the Parliamentary Joint Committee on the National Crime Authority for consideration and an advisory report by 6 November 2002.

Suspension of sitting: On the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) the sitting of the Senate was suspended till 2 pm.

At 2 pm—

24 QUESTIONS

Questions without notice were answered.

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

Immigration—‘People smuggling’—‘Senator Faulkner has got it wrong’—Media release by the Commissioner, Australian Federal Police, dated 26 September 2002.

A further question without notice was answered.

25 IMMIGRATION—PEOPLE SMUGGLING—ANSWERS TO QUESTIONS

The Leader of the Opposition in the Senate (Senator Faulkner) moved—That the Senate take note of the answers given by the Minister for Justice and Customs (Senator Ellison) to questions without notice asked by Senator Faulkner today relating to people smuggling.

Debate ensued.

Question put and passed.

26 IMMIGRATION—PEOPLE SMUGGLING—PERSONAL EXPLANATION

The Leader of the Opposition in the Senate (Senator Faulkner), by leave, made a personal explanation relating to a media release by the Commissioner of the Australian Federal Police tabled earlier today (*see entry no. 25*) concerning people smuggling.

27 BUILDING AND CONSTRUCTION INDUSTRY—ROYAL COMMISSION—INTERIM TASKFORCE—MINISTERIAL STATEMENT—DOCUMENT

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) tabled the following document:

Building and Construction Industry—Royal Commission—Interim Taskforce for the building industry: Opening for business—Ministerial statement by the Minister for Employment and Workplace Relations (Mr Abbott), dated 26 September 2002.

28 LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE—GOVERNMENT RESPONSE—ANTI-GENOCIDE BILL 1999

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) tabled the following document:

Legal and Constitutional References Committee—Report—Humanity diminished: The crime of genocide—Inquiry into the Anti-Genocide Bill 1999—Government response.

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

Question put and passed.

29 DEPARTMENT OF THE SENATE—REPORT FOR 2001-02—DOCUMENT

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

Department of the Senate—Report for 2001-02.

Document ordered to be printed on the motion of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell).

30 AUSTRALIAN NATIONAL AUDIT OFFICE—REPORT FOR 2001-02—DOCUMENT

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

Australian National Audit Office—Report for 2001-02.

31 DOCUMENTS

The following documents were tabled by the Clerk:

Christmas Island Act—List of applied Western Australian Acts for the period 16 March to 20 September 2002.

Civil Aviation Act—Civil Aviation Regulations—
Exemptions Nos CASA EX21/2002 and CASA EX24/2002.
Instruments Nos CASA 524/02 and CASA 525/02.

Cocos (Keeling) Islands Act—List of applied Western Australian Acts for the period 16 March to 20 September 2002.

Dairy Produce Act—Supplementary Dairy Assistance Scheme 2002 Variation (No. 4).

Sydney Airport Curfew Act—Dispensations granted under section 20—Dispensation No. 7/02.

32 RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE—CHANGE IN MEMBERSHIP

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

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), by leave, moved—That Senator Eggleston replace Senator Heffernan on the Rural and Regional Affairs and Transport References Committee for the committee's inquiry into forestry plantations on 11 October 2002.

Question put and passed.

General business was called on.

33 SUPERANNUATION

Senator Sherry, pursuant to notice, moved general business notice of motion no. 191—That the Senate notes the Howard Government's third term failures on superannuation, including:

- (a) the failure to provide for a contributions tax cut for all Australians who pay it, rather than a tax cut only to those earning more than \$90 500 a year;
- (b) the failure to adequately compensate victims of superannuation theft or fraud;
- (c) the failure to accurately assess the administrative burden on small business of the Government's third attempt at superannuation choice and deregulation;
- (d) the failure to support strong consumer protections for superannuation fund members through capping ongoing fees and banning entry and exit fees;
- (e) the failure to provide consumers with a meaningful, comprehensive and comprehensible regime for fee disclosure; and
- (f) the failure to cover unpaid superannuation contributions in the case of corporate collapse as part of a workers' entitlements scheme.

Debate ensued.

Declaration of interest: Senator Ferguson declared an interest in relation to the matter under discussion.

At 6 pm: Debate was interrupted while Senator Ferguson was speaking.

34 GOVERNMENT DOCUMENTS—ORDERS OF THE DAY—CONSIDERATION

The following orders of the day relating to government documents were considered:

Workplace Relations Act 1996—Report for 2000 and 2001 on agreement making under the Act. Motion of Senator Ludwig to take note of document called on and debated. Debate adjourned till Thursday at general business, Senator Crossin in continuation.

Productivity Commission—Report—No. 17—Review of the national access regime, 28 September 2001. Motion of Senator Ludwig to take note of document agreed to.

Australian Government Solicitor—Statement of corporate intent 2002-03. Motion of Senator Mackay to take note of document agreed to.

General business concluded.

35 COMMITTEE REPORTS AND GOVERNMENT RESPONSES—ORDERS OF THE DAY—CONSIDERATION

The following orders of the day relating to committee reports and government responses were considered:

Community Affairs References Committee—Report—Participation requirements and penalties in the social security system. Motion of the chair of the committee (Senator Hutchins) to take note of report called on. On the motion of Senator Ludwig debate was adjourned till the next day of sitting.

Foreign Affairs, Defence and Trade—Joint Standing Committee—Report—Australia's relations with the Middle East—Government response. Motion of Senator Ludwig to take note of document agreed to.

Public Accounts and Audit—Joint Statutory Committee—386th report—Review of the *Auditor-General Act 1997*—Government response. Motion of Senator Ludwig to take note of document agreed to.

Public Accounts and Audit—Joint Statutory Committee—384th report—Review of Coastwatch—Government response. Motion of Senator Ludwig to take note of document agreed to.

Legal and Constitutional References Committee—Report—Order in the law: Management arrangements and adequacy of funding of the Australian Federal Police and the National Crime Authority—Government response. Motion of Senator Ludwig to take note of document agreed to.

Treaties—Joint Standing Committee—39th report—Privileges and immunities of the International Tribunal on the Law of the Sea; and the treaties tabled on 27 February and 6 March 2001—Government response. Motion of Senator Ludwig to take note of document agreed to.

Treaties—Joint Standing Committee—42nd report—Who's afraid of the WTO? Australia and the World Trade Organization—Government response. Motion of Senator Ludwig to take note of document agreed to.

Environment, Communications, Information Technology and the Arts References Committee—Report—Above board? Methods of appointment to the ABC Board—Government response. Motion of Senator Cherry to take note of document agreed to.

36 AUDITOR-GENERAL'S REPORTS—ORDERS OF THE DAY—CONSIDERATION

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report no. 6 of 2002-03—Performance audit—Fraud control arrangements in the Department of Veterans' Affairs. Motion of Senator Ludwig to take note of document agreed to.

Auditor-General—Audit report no. 7 of 2002-03—Performance audit—Client service in the Child Support Agency follow-up audit: Department of Family and Community Services. Motion of Senator Mackay to take note of document agreed to.

Auditor-General—Audit report no. 8 of 2002-03—Business support process audit—The Senate order for department and agency contracts (September 2002). Motion of Senator Mackay to take note of document called on. On the motion of Senator Ludwig debate was adjourned till the next day of sitting.

37 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 6.49 pm till Monday, 14 October 2002 at 12.30 pm.

38 ATTENDANCE

Present, all senators except Senators Chapman* and Vanstone (* on leave).

HARRY EVANS
Clerk of the Senate