

2002

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 20

WEDNESDAY, 26 JUNE 2002

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1 MEETING OF SENATE

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

2 GOVERNMENT DOCUMENTS

The following government documents were tabled:

Advance to the Finance Minister—Statement and supporting applications for funds for May 2002.

Human Rights and Equal Opportunity Commission—Reports—

No. 16—Inquiry into a complaint by Mr Hocine Kaci of acts or practices inconsistent with or contrary to human rights arising from immigration detention.

No. 18—Inquiry into a complaint by Mr Duk Anh Ha of acts or practices inconsistent with or contrary to human rights arising from immigration detention.

Pharmaceutical Benefits Pricing Authority—Supplementary report for 2000-01 on the operations of the Authority in relation to the Pharmaceutical Industry Investment Program.

3 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) amended his notice of motion by leave and, pursuant to notice, moved government business notice of motion no. 1—

- (1) That, on Wednesday, 26 June 2002:
 - (a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to 11.10 pm;
 - (b) the question for the adjournment of the Senate shall be proposed at 10.30 pm; and
 - (c) the routine of business from 7.30 pm shall be government business only.
- (2) That, on Thursday, 27 June 2002:
 - (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) shall not be proceeded with;
 - (c) valedictory statements may be made from not later than 4.30 pm to not later than 8 pm;
 - (d) the routine of business from the conclusion of valedictory statements shall be government business only;
 - (e) divisions may take place after 6 pm; and
 - (f) the question for the adjournment of the Senate shall not be proposed till after the Senate has finally considered the bills listed below, or a motion for the adjournment is moved by a minister, whichever is the earlier:

Security Legislation Amendment (Terrorism) Bill 2002 [No. 2]

Suppression of the Financing of Terrorism Bill 2002

Criminal Code Amendment (Suppression of Terrorist Bombings) Bill 2002

Border Security Legislation Amendment Bill 2002
 Telecommunications Interception Legislation Amendment Bill 2002
 Social Security and Veterans' Entitlements Legislation Amendment (Disposal of Assets—Integrity of Means Testing) Bill 2002
 Taxation Laws Amendment (Superannuation) Bill (No. 2) 2002
 Superannuation Guarantee Charge Amendment Bill 2002
 New Business Tax System (Consolidation) Bill (No. 1) 2002
 Taxation Laws Amendment Bill (No. 4) 2002
 Diesel Fuel Rebate Scheme Amendment Bill 2002
 Workplace Relations Amendment (Fair Dismissal) Bill 2002
 Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002
 Migration Legislation Amendment (Procedural Fairness) Bill 2002 (subject to exemption from provisions of paragraphs (5) to (7) of standing order 111)
 Appropriation (Parliamentary Departments) Bill (No. 1) 2002-2003
 Appropriation Bill (No. 1) 2002-2003
 Appropriation Bill (No. 2) 2002-2003
 International Criminal Court Bill 2002
 International Criminal Court (Consequential Amendments) Bill 2002
 Export Market Development Grants Amendment Bill 2002
 Australian Protective Service Amendment Bill 2002
 New Business Tax System (Imputation) Bill 2002
 New Business Tax System (Over-franking Tax) Bill 2002
 New Business Tax System (Franking Deficit Tax) Bill 2002
 Taxation Laws Amendment Bill (No. 2) 2002
 Therapeutic Goods and Other Legislation Amendment Bill 2002.

Debate ensued.

Question put and passed.

4 **SECURITY LEGISLATION AMENDMENT (TERRORISM) BILL 2002 [NO. 2]**
SUPPRESSION OF THE FINANCING OF TERRORISM BILL 2002
CRIMINAL CODE AMENDMENT (SUPPRESSION OF TERRORIST BOMBINGS) BILL 2002
BORDER SECURITY LEGISLATION AMENDMENT BILL 2002
TELECOMMUNICATIONS INTERCEPTION LEGISLATION AMENDMENT BILL 2002

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

In the committee

SECURITY LEGISLATION AMENDMENT (TERRORISM) BILL 2002 [NO. 2]—
 Consideration resumed of the bill, as amended—and of the amendment moved by the Minister for Justice and Customs (Senator Ellison):

Schedule 1, item 4, page 12 (lines 12 to 24), omit Subdivision A, substitute:

Subdivision A—Definitions

102.1 Definitions

- (1) In this Division:
 - member** of an organisation includes:
 - (a) a person who is an informal member of the organisation; and
 - (b) a person who has taken steps to become a member of the organisation; and
 - (c) in the case of an organisation that is a body corporate—a director or an officer of the body corporate.
 - recruit** includes induce, incite and encourage.
 - terrorist organisation** means:
 - (a) an organisation that is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not the terrorist act occurs); or
 - (b) an organisation that is specified by the regulations for the purposes of this paragraph (see subsections (2) and (4)); or
 - (c) an organisation that is specified by the regulations for the purposes of this paragraph (see subsections (3), (4), (5) and (6)).
- (2) Before the Governor-General makes a regulation specifying an organisation for the purposes of paragraph (b) of the definition of **terrorist organisation** in this section, the Minister must be satisfied on reasonable grounds that the organisation is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not the terrorist act has occurred or will occur).
- (3) Before the Governor-General makes a regulation specifying an organisation for the purposes of paragraph (c) of the definition of **terrorist organisation** in this section, the Minister must be satisfied on reasonable grounds that:
 - (a) the Security Council of the United Nations has made a decision relating wholly or partly to terrorism; and
 - (b) the organisation is identified in the decision, or using a mechanism established under the decision, as an organisation to which the decision relates; and
 - (c) the organisation is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not the terrorist act has occurred or will occur).
- (4) Regulations for the purposes of paragraph (b) or (c) of the definition of **terrorist organisation** in this section may not take effect earlier than the day after the last day on which they may be disallowed under section 48 of the *Acts Interpretation Act 1901*. That section has effect subject to this subsection.
- (5) Regulations for the purposes of paragraph (b) or (c) of the definition of **terrorist organisation** in this section cease to have effect on the second anniversary of the day on which they take effect. To avoid doubt, this subsection does not prevent:

- (a) the repeal of those regulations; or
- (b) the cessation of effect of those regulations under subsection (6); or
- (c) the making of new regulations the same in substance as those regulations (whether the new regulations are made or take effect before or after those regulations cease to have effect because of this subsection).

(6) A regulation specifying an organisation for the purposes of paragraph (c) of the definition of **terrorist organisation** in this section ceases to have effect when:

- (a) the decision mentioned in paragraph (3)(b) ceases to have effect; or
- (b) the organisation ceases to be identified as described in paragraph (3)(b).

The regulation does not revive even if the organisation is again identified as described in paragraph (3)(b).

(7) To avoid doubt, subsection (6) does not prevent:

- (a) the repeal of a regulation; or
- (b) the making of a regulation that is the same in substance as a regulation that has ceased to have effect because of that subsection.

—and of the amendments moved by the Leader of the Opposition in the Senate (Senator Faulkner) to Senator Ellison’s proposed amendment:

Omit paragraph (b) of the definition of **terrorist organisation**.

Omit subsection (2).

Debate resumed.

Question—That Senator Faulkner’s amendments to Senator Ellison’s proposed amendment be agreed to—put and passed.

Senator Brown moved the following amendments to Senator Ellison’s proposed amendment, as amended, together by leave:

Omit paragraph (c) of the definition of **terrorist organisation**.

Omit subsection (3).

Question—That Senator Brown’s amendments to Senator Ellison’s proposed amendment, as amended, be agreed to—put and negatived.

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

Senator Ellison moved the following amendment:

Schedule 1, item 4, page 13 (line 1) to page 14 (line 12), omit Subdivision B, substitute:

Subdivision B—Offences

102.2 Directing the activities of a terrorist organisation

(1) A person commits an offence if:

- (a) the person intentionally directs the activities of an organisation; and
- (b) the organisation is a terrorist organisation; and
- (c) the person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 25 years.

(2) A person commits an offence if:

- the person intentionally directs the activities of an organisation; and
- the organisation is a terrorist organisation; and
- the person is reckless as to whether the organisation is a terrorist organisation.

Penalty: Imprisonment for 15 years.

(3) A person commits an offence if:

- the person intentionally directs the activities of an organisation; and
- the organisation is a terrorist organisation; and
- the person is negligent with respect to the organisation being a terrorist organisation.

Penalty: Imprisonment for 10 years.

102.3 Membership of a terrorist organisation

(1) A person commits an offence if:

- the person intentionally is a member of an organisation; and
- the organisation is a terrorist organisation because of paragraph (a) of the definition of **terrorist organisation** in this Division (whether or not the organisation is a terrorist organisation because of another paragraph of that definition also); and
- the person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 25 years.

(2) Subsection (1) does not apply if the person proves that he or she took all reasonable steps to cease to be a member of the organisation as soon as practicable after the person knew that the organisation was a terrorist organisation.

Note: A defendant bears a legal burden in relation to the matter in subsection (2) (see section 13.4).

102.4 Recruiting for a terrorist organisation

(1) A person commits an offence if:

- the person intentionally recruits a person to join, or participate in the activities of, an organisation; and
- the organisation is a terrorist organisation; and
- the first-mentioned person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 25 years.

(2) A person commits an offence if:

- the person intentionally recruits a person to join, or participate in the activities of, an organisation; and
- the organisation is a terrorist organisation; and
- the first-mentioned person is reckless as to whether the organisation is a terrorist organisation.

Penalty: Imprisonment for 15 years.

(3) A person commits an offence if:

- (a) the person intentionally recruits a person to join, or participate in the activities of, an organisation; and
- (b) the organisation is a terrorist organisation; and
- (c) the first-mentioned person is negligent with respect to the organisation being a terrorist organisation.

Penalty: Imprisonment for 10 years.

102.5 Training a terrorist organisation or receiving training from a terrorist organisation

(1) A person commits an offence if:

- (a) the person intentionally provides training to, or intentionally receives training from, an organisation; and
- (b) the organisation is a terrorist organisation; and
- (c) the person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 25 years.

(2) A person commits an offence if:

- (a) the person intentionally provides training to, or intentionally receives training from, an organisation; and
- (b) the organisation is a terrorist organisation; and
- (c) the person is reckless as to whether the organisation is a terrorist organisation.

Penalty: Imprisonment for 15 years.

(3) A person commits an offence if:

- (a) the person intentionally provides training to, or intentionally receives training from, an organisation; and
- (b) the organisation is a terrorist organisation; and
- (c) the person is negligent with respect to the organisation being a terrorist organisation.

Penalty: Imprisonment for 10 years.

102.6 Getting funds to or from a terrorist organisation

(1) A person commits an offence if:

- (a) the person intentionally receives funds from, or makes funds available to, an organisation (whether directly or indirectly); and
- (b) the organisation is a terrorist organisation; and
- (c) the person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 25 years.

(2) A person commits an offence if:

- (a) the person intentionally receives funds from, or makes funds available to, an organisation (whether directly or indirectly); and
- (b) the organisation is a terrorist organisation; and
- (c) the person is reckless as to whether the organisation is a terrorist organisation.

Penalty: Imprisonment for 15 years.

(3) A person commits an offence if:

- (a) the person intentionally receives funds from, or makes funds available to, an organisation (whether directly or indirectly); and
- (b) the organisation is a terrorist organisation; and
- (c) the person is negligent with respect to the organisation being a terrorist organisation.

Penalty: Imprisonment for 10 years.

(4) Subsections (1), (2) and (3) do not apply to the person's receipt of funds from the organisation if the person proves that he or she received the funds solely for the purpose of the provision of:

- (a) legal representation for a person in proceedings relating to this Division; or
- (b) assistance to the organisation for it to comply with a law of the Commonwealth or a State or Territory.

Note: A defendant bears a legal burden in relation to the matter in subsection (4) (see section 13.4).

102.7 Providing support to a terrorist organisation

(1) A person commits an offence if:

- (a) the person intentionally provides to an organisation support or resources that would help the organisation engage in an activity described in paragraph (a) of the definition of **terrorist organisation** in this Division; and
- (b) the organisation is a terrorist organisation; and
- (c) the person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 25 years.

(2) A person commits an offence if:

- (a) the person intentionally provides to an organisation support or resources that would help the organisation engage in an activity described in paragraph (a) of the definition of **terrorist organisation** in this Division; and
- (b) the organisation is a terrorist organisation; and
- (c) the person is reckless as to whether the organisation is a terrorist organisation.

Penalty: Imprisonment for 15 years.

(3) A person commits an offence if:

- (a) the person intentionally provides to an organisation support or resources that would help the organisation engage in an activity described in paragraph (a) of the definition of **terrorist organisation** in this Division; and
- (b) the organisation is a terrorist organisation; and
- (c) the person is negligent with respect to the organisation being a terrorist organisation.

Penalty: Imprisonment for 10 years.

Senator Brown moved the following amendments to Senator Ellison's proposed amendment together by leave:

- Omit subsection 102.2(2).
- Omit subsection 102.4(2).
- Omit subsection 102.5(2).
- Omit subsection 102.6(2).
- Omit subsection 102.7(2).

Senator Faulkner, by leave, moved the following amendments to Senator Ellison's proposed amendment:

- Omit subsection 102.2(3).
- Omit subsection 102.4(3).
- Omit subsection 102.5(3).
- Omit subsection 102.6(3).
- Omit subsection 102.7(3).

Debate ensued.

Question—That Senator Brown's amendments to Senator Ellison's proposed amendment be agreed to—put and negatived.

Question—That Senator Faulkner's amendments to Senator Ellison's proposed amendment be agreed to—put and passed.

Senator Brown moved the following amendments to Senator Ellison's proposed amendment, as amended, together by leave:

- Omit section 102.6.
- Omit section 102.7.

Question—That Senator Brown's amendments to Senator Ellison's proposed amendment, as amended, be agreed to—put and negatived.

Senator Faulkner moved the following amendment to Senator Ellison's proposed amendment, as amended:

Omit subsection 102.3(1), substitute:

- (1) A person commits an offence if:
 - (a) the person intentionally is a member of an organisation; and
 - (b) the organisation is a terrorist organisation because of paragraph (c) of the definition of **terrorist organisation** in this Division (whether or not the organisation is a terrorist organisation because of another paragraph of that definition also); and
 - (c) the person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 10 years.

Debate ensued.

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

5 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

At 2 pm—

6 QUESTIONS

Questions without notice were answered.

7 QUESTIONS ON NOTICE—ANSWERS AND EXPLANATION

Senator Sherry, pursuant to standing order 74, asked the Minister for Revenue and Assistant Treasurer (Senator Coonan) for an explanation of answers not being provided to questions on notice nos 303 to 307 (notice given 14 May 2002) relating to superannuation. Senator Coonan indicated that an explanation would be provided.

8 MINISTER FOR DEFENCE—ANSWERS TO QUESTIONS

Senator Evans moved—that the Senate take note of the answers given by the Minister for Defence (Senator Hill) to questions without notice asked today.

Debate ensued.

Question put and passed.

9 SCIENCE AND TECHNOLOGY—CHRISTMAS ISLAND—SPACE CENTRE—ANSWER TO QUESTION

Senator Bartlett moved—that the Senate take note of the answer given by the Minister for Communications, Information Technology and the Arts (Senator Alston) to a question without notice asked by Senator Bartlett today relating to a proposed space centre at Christmas Island.

Question put and passed.

10 NOTICES

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell): To move on the next day of sitting—that, on Monday, 19 August 2002, the hours of meeting shall be 2 pm to 6.30 pm and 7.30 pm to adjournment.

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

- (a) notes the report tabled in the Senate on 6 May 2002 from the Australian Competition and Consumer Commission (ACCC) on the performance of its functions under the *Trade Practices Act 1974* (the Act) with regard to tobacco and related matters, as required by the order of the Senate of 24 September 2001;
- (b) notes that the Senate may require the ACCC to provide it with information in accordance with section 29 of the Act;
- (c) requires the ACCC to report, as soon as possible, on the following issues:

- (i) whether Australian tobacco companies have engaged in misleading or deceptive conduct in their use of the terms 'mild' and 'light', and
- (ii) whether there has been any misleading, deceptive or unconscionable conduct in breach of the Act by British American Tobacco and/or Clayton Utz with regard to document destruction for the purpose of withholding information relevant to possible litigation;
- (d) requests the ACCC to engage in consultation with interested parties and stakeholders over the perceived inadequacies in its response to the order of the Senate of 24 September 2001 and requires the ACCC to report on those consultations as soon as possible;
- (e) notes that once the Senate has had the opportunity to consider the ACCC's further reports on the use of the terms 'mild' and 'light', whether there has been misleading, deceptive or unconscionable conduct in relation to document destruction, and the ACCC's consultations, it will consider whether a further report should be sought from the ACCC in response to the order of the Senate of 24 September 2001;
- (f) calls on the Commonwealth Government to pursue the possibility of a Commonwealth/state public liability action against tobacco companies to recover healthcare costs to the Commonwealth and the states caused by the use of tobacco; and
- (g) calls on the Commonwealth to address the issue of who should have access to the more than \$200 million collected in respect of tobacco tax and licence fees by tobacco wholesalers but not passed on to Government (see *Roxborough v. Rothmans*) by introducing legislation to retrospectively recover that amount for the Commonwealth and/or to establish a fund on behalf of Australian consumers and taxpayers, and in either case for the moneys to be used for the purpose of anti-smoking and other public health issues. (*general business notice of motion no. 107*)

Senator Sherry: To move on the next day of sitting—That there be laid on the table, on the next day of sitting, the advice by the Australian Prudential Regulation Authority to the Assistant Treasurer under section 230A of the *Superannuation Industry (Supervision) Act 1993*, in relation to applications for financial assistance for superannuation funds where Commercial Nominees of Australia was trustee. (*general business notice of motion no. 108*)

Senator Sherry: To move on the next day of sitting—That the following matters be referred to the Select Committee on Superannuation for inquiry and report by 26 September 2002:

- (a) the extent to which Commonwealth government departments are using, or have used, contracting-out arrangements and, as a result, have avoided the payment of the Superannuation Guarantee; and
- (b) the involvement of the Department of Finance and Administration, the Australian Taxation Office or any other organisation in the establishment of contracting-out arrangements which resulted in the non-payment of the Superannuation Guarantee in the Australian Quarantine Inspection Service and/or any other Commonwealth government department. (*general business notice of motion no. 109*)

The Leader of the Australian Democrats (Senator Stott Despoja): To move on the next day of sitting—That the Senate calls upon the Government to rule out Australia's involvement in any pre-emptive military action, or first strike, against Iraq or any other country without evidence that an attack by that country is imminent. (*general business notice of motion no. 110*)

The Chair of the Legal and Constitutional Legislation Committee (Senator Payne): To move on the next day of sitting—That the time for the presentation of the report of the Legal and Constitutional Legislation Committee on statutory powers and functions of the Australian Law Reform Commission be extended to 22 August 2002. (*general business notice of motion no. 111*)

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

(a) notes that:

- (i) the week beginning 24 June 2002 is Drug Action Week, aimed at generating community awareness about drug and alcohol abuse and the solutions being used to tackle these issues,
- (ii) each day of Drug Action Week highlights a different theme and the theme on 27 June 2002 is Indigenous issues,
- (iii) the misuse of alcohol and other drugs has long been linked to the deep levels of emotional and physical harm suffered by Indigenous communities since the colonisation of Australia,
- (iv) alcohol and tobacco consumption rates continue to remain high in the Indigenous population, against declining rates in the general population, and the increasing use of heroin in urban, regional and rural Indigenous communities is also of particular concern,
- (v) substance misuse is probably the biggest challenge facing Indigenous communities today, as it affects almost everybody either directly or indirectly and is now the cause as well as the symptom of much grief and loss experienced by Indigenous communities, and
- (vi) the demand for the services of existing Indigenous-controlled drug and alcohol rehabilitation centres far exceeds the current level of supply;

(b) acknowledges the essential role of Indigenous community-controlled health services in providing long-term, culturally-appropriate solutions for substance abuse; and

(c) calls on the Government to:

- (i) fund the national substance misuse strategy, developed by the National Aboriginal Community Controlled Health Organisation, which is designed to build the necessary capacity within the Indigenous health sector so communities can address their health and well-being needs in a holistic and culturally-appropriate manner, and
- (ii) improve coordination between Commonwealth, state, territory and local governments on these issues and ensure this facilitates greater Indigenous control over the development and implementation of all health programs. (*general business notice of motion no. 112*)

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

(a) notes that:

- (i) members of the Queensland community of Federal have been vigorously campaigning for the relocation of a mobile phone base station earmarked for placement in close proximity to their local school and residences,

- (ii) 23 parents of Federal School have signed and presented a petition to the Member for Fairfax (Mr Somlyay) stating that if construction of the base station goes ahead at this site, 45 students will be removed from the school of 100;
- (iii) individual Government members have, to date, not adequately addressed concerns put to them by residents of Federal, and
- (iv) under the Government's regional mobile phone program no community consultation was undertaken prior to successful tendering of this contract to Vodafone; and
- (b) calls on the Government:
 - (i) to acknowledge the continued lack of a consultative and statutory framework for communities to voice their concerns regarding the placement of mobile phone towers, and
 - (ii) to adequately address the concerns put to it via the ministers responsible for the portfolio areas of education and communications. (*general business notice of motion no. 113*)

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

- (a) notes the recommendations of the February 1995 report of the House of Representatives Standing Committee on Community Affairs to amend the Medicare rebate schedule to include the provision of mammary prostheses;
- (b) recognises:
 - (i) the ongoing cost (financial, physical and emotional) of wearing required prostheses and shell/breast forms, and acknowledges the strain on muscles and posture following the loss of a breast or a significant part of the breast, and
 - (ii) the ongoing cost of prostheses and acknowledges that there is no Commonwealth Government scheme to reduce the financial burden faced by women following breast surgery for those in need of prosthetics;
- (c) notes the *Canberra Times* article, 'Dead Women's Breast Prostheses Resold', appearing on 3 June 2002, detailing the reuse of mammary prostheses amongst breast cancer patients facing financial hardship; and
- (d) calls on the Government to provide mammary prostheses through the Medicare rebate schedule. (*general business notice of motion no. 114*)

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell): To move on the next day of sitting—That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the Migration Legislation Amendment (Procedural Fairness) Bill 2002, allowing it to be considered during this period of sittings.

Document: Senator Ian Campbell tabled the following document:

Consideration of legislation—Statement of reasons for introduction and passage of the Migration Legislation Amendment (Procedural Fairness) Bill 2002 in the 2002 winter sittings.

11 ENVIRONMENT—LUCAS HEIGHTS REACTOR—ORDER FOR PRODUCTION OF DOCUMENTS—STATEMENT BY LEAVE

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), by leave, made a statement relating to the order of the Senate of 25 June 2002 for the production of documents concerning the study of the preliminary evaluation of the construction site for the replacement research reactor at Lucas Heights (*see entry no. 19, 25 June 2002*).

Statement by leave: Senator Brown, by leave, made a statement relating to the matter.

12 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 5 OF 2002

The Chairman of the Selection of Bills Committee (Senator Calvert) tabled the following report:

SELECTION OF BILLS COMMITTEE
REPORT NO. 5 OF 2002

1. The committee met on Tuesday, 25 June 2002.
2. The committee resolved to recommend—that
 - (a) the *provisions* of the Research Agencies Legislation Amendment Bill 2002 be *referred immediately* to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 29 August 2002;
 - (b) the order of the Senate of 20 March 2002 adopting the 2nd report of 2002 of the Selection of Bills Committee be varied to provide that the Space Activities Amendment Bill 2002 be *referred immediately* to the Economics Legislation Committee for inquiry and report by 20 August 2002; and
 - (c) the following bills *not* be referred to committees:
Copyright Amendment (Parallel Importation) Bill 2002
Health Insurance Commission Amendment Bill 2002
Parliamentary Commission of Inquiry (Forest Practices) Bill 2002
Torres Strait Fisheries Amendment Bill 2002.

The committee recommends accordingly.

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

Bill deferred from meeting of 19 March 2002
Aviation Legislation Amendment Bill 2002

Bills deferred from meeting of 14 May 2002
Great Barrier Reef Marine Park (Boundary Extension) Amendment Bill 2002
Health Legislation Amendment (Private Health Industry Measures) Bill 2002

Bills deferred from meeting of 18 June 2002
Australian Broadcasting Corporation (Scrutiny of Board Appointments) Amendment Bill 2002
Taxation Laws Amendment (Structured Settlements) Bill 2002

Bills deferred from meeting of 25 June 2002
Customs Legislation Amendment Bill (No. 1) 2002
Import Processing Charges (Amendment and Repeal) Bill 2002
Family Law Amendment (Joint Residency) Bill 2002

Transport Safety Investigation Bill 2002
Transport Safety Investigation (Consequential Amendments) Bill 2002
Veterans' Affairs Legislation Amendment (2002 Budget Measures) Bill 2002.

Paul Calvert
Chair
26 June 2002.

Senator Calvert moved—That the report be adopted.

Question put and passed.

13 PROCEEDS OF CRIME BILLS—AMENDMENTS—LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE—REFERENCE—LEAVE TO MEET DURING SITTING

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

Proceeds of Crime Bill 2002—Government amendments moved in the House of Representatives.

Proceeds of Crime (Consequential Amendments and Transitional Provisions) Bill 2002—Government amendments moved in the House of Representatives.

Senator Ian Campbell, by leave, moved—That—

- (a) the proposed government amendments to the Proceeds of Crime Bill 2002 and a related bill be referred to the Legal and Constitutional Legislation Committee for inquiry and report on 1 July 2002; and
- (b) the committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 27 June 2002, from 9.30 am to 11 am, to take evidence for the purpose of the committee's inquiry.

Question put and passed.

14 POSTPONEMENTS

Items of business were postponed as follows:

Business of the Senate notice of motion no. 2 standing in the name of Senator Murray for today, relating to the reference of matters to the Community Affairs References Committee, postponed till 27 June 2002.

General business notice of motion no. 53 standing in the name of Senator Greig for today, relating to the introduction of the Sexuality Anti-Vilification Bill 2002, postponed till 20 August 2002.

General business notice of motion no. 98 standing in the name of the Leader of the Australian Democrats (Senator Stott Despoja) for today, relating to parliamentary debate on any proposed military involvement by Australia, postponed till 27 June 2002.

15 NOTICE OF MOTION WITHDRAWN

Senator Bartlett, at the request of the Leader of the Australian Democrats (Senator Stott Despoja), withdrew business of the Senate notice of motion no. 1 standing in the name of Senator Stott Despoja for today, relating to the reference of a matter to the Standing Committee of Privileges.

16 ENVIRONMENT—GREENHOUSE GAS EMISSIONS—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 106—that there be laid on the table, no later than 2 pm on Thursday, 27 June 2002, the following documents:

- (a) Australia's Third National Report under the United Nations (UN) Framework Convention on Climate Change (3rd National Communications Report to the Intergovernmental Panel on Climate Change) or the draft of that report;
- (b) the latest documentation showing latest projected Australian greenhouse gas emissions for 2010;
- (c) the 2000 National Greenhouse Gas inventory or the draft 2000 National Greenhouse Gas inventory; and
- (d) Greenhouse Gas Emissions from Land Use Change in Australia: Results from the National Carbon Accounting System for 1990 to 1999.

Question put and passed.

17 DEATH OF MR CLIFFORD POSSUM TJAPALTJARRI

Senator Ridgeway, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 104—that the Senate—

- (a) notes, with sadness, the passing of one of the grand masters of Aboriginal art in Australia, Mr Clifford Possum Tjapaltjarri, on 21 June 2002, and thanks the Tjapaltjarri family for their permission to refer to him by name in recognition of his importance and standing as an artist;
- (b) remembers Mr Tjapaltjarri as one of the youngest members of the 'painting men' of the Central and Western Desert who founded the Papunya Tula movement in the 1970s, and who made the transition from carving and sand-painting to the use of canvas to share his traditional Dreaming stories with the world;
- (c) recognises that Mr Tjapaltjarri's work is represented in most of the major galleries, museums and private collections in Australia, as well as overseas, contributing to his status as one of the pre-eminent Aboriginal artists and cultural custodians;
- (d) pays tribute to Mr Tjapaltjarri's outstanding life's work, which brought him and his community national and international acclaim and now constitutes an invaluable part of the nation's cultural heritage; and
- (e) posthumously congratulates Mr Tjapaltjarri on his most deserving award of an Order of Australia in June 2002 in recognition of his outstanding contribution as an artist.

Question put and passed.

18 ENVIRONMENT—GEOSCIENCE AUSTRALIA—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Bartlett, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 105—that there be laid on the table, no later than 4 pm on Monday, 19 August 2002, the following:

- (a) any materials held by Geoscience Australia (GA) relating to research or exploration proposals in the Queensland and Townsville troughs by overseas interests after 1990;
- (b) all communications and records of communications of GA with the oil exploration industry in relation to the North East (NE) Region since 1990;
- (c) all well summary charts and geohistory plots in the NE Region;
- (d) all satellite data held in relation to the Great Barrier Reef and adjacent areas, including depth and penetration data;
- (e) any materials produced by GA relating to the SAR satellite data, including maps, reports, briefs, correspondence and studies;
- (f) all invoices relating to the costs of acquired SAR satellite data in the NE Region;
- (g) all invoices related to the costs of ensuring weather compliance for acquired SAR satellite data in the NE Region;
- (h) all communications or records of communications with the Great Barrier Reef Marine Park Authority relating to the use or acquisition of SAR satellite data in the NE Region;
- (i) all Australian Geological Survey Organisation/GA workplans, specifically with reference to the NE Australia program and area;
- (j) all workplans containing reference to the acquisition of SAR satellite data in the NE region;
- (k) all workplans containing reference to any agreements, cooperative arrangements or similar undertakings with the Great Barrier Reef Marine Park Authority in relation to the acquisition or use of SAR satellite data;
- (l) all correspondence relating to the release of land in the Coral Sea for purposes of oil exploration or drilling post-1990;
- (m) a copy of the 1990 comprehensive program for release of offshore areas for exploration in the NE Region;
- (n) any documents estimating petroleum reserves of any of the areas in the NE Region; and
- (o) a copy of the 1994 report (not the academic paper) on the NE study area that GA offered for sale.

Question put and passed.

19 SENATORS' INTERESTS—STANDING COMMITTEE—REPORT 2/2002 AND REGISTER OF SENATORS' INTERESTS

The Chair of the Standing Committee of Senators' Interests (Senator Denman) tabled the following report and document:

Senators' Interests—Standing Committee—

Register of Senators' interests incorporating statements of interests and notifications of alterations of interests of senators lodged between 7 December 2001 and 24 June 2002, dated June 2002.

Report 2/2002: Proposed changes to resolutions relating to declarations of senators' interests and gifts to the Senate and the Parliament, dated June 2002.

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

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

Debate ensued.

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

Notice of motion: Senator Denman, by leave, gave a notice of motion as follows: To move on 21 August 2002—That the following amendments to the resolutions relating to senators' interests and declaration of gifts to the Senate and the Parliament be agreed to:

Resolution 1—Registration of senators' interests

Paragraph (1), omit—

“Within 14 sitting days after the adoption of this resolution by the Senate and 28 days of making and subscribing an oath or affirmation of allegiance as a senator”,

substitute—

“Within:

- (a) 28 days after the first meeting of the Senate after 1 July first occurring after a general election; and
- (b) 28 days after the first meeting of the Senate after a simultaneous dissolution of the Senate and the House of Representatives; and
- (c) 28 days after making and subscribing an oath or affirmation of allegiance as a senator for a Territory or appointed or chosen to fill a vacancy in the Senate”.

Resolution 3—Registrable interests

Paragraph (i), omit “\$5,000”, substitute “\$10,000”.

Paragraphs (k), (l) and (m), omit “\$500” wherever occurring, substitute “\$1,000”; omit “\$200” wherever occurring, substitute “\$500”.

Resolution 4—Register and Registrar of Senators' Interests

Paragraph (3), omit “the commencement of each Parliament”, substitute “receipt of statement of registrable interests in accordance with resolution 1(1)”.

[Consequential on amendment to paragraph 1(1)]

Resolution 5—Declaration of interest in debate and other proceedings

To be omitted.

Resolution relating to declaration of gifts to the Senate and the Parliament

Paragraph (1)(a), omit “practical”, substitute “practicable”.

Subparagraph (ba), omit “\$500”, substitute “\$1,000”; omit “\$200” substitute “\$500”.

Subparagraph (d), line 2, omit “is to”, substitute “may”.

After subparagraph (h), insert—

- (i) When a senator who is using or displaying a gift ceases to be a senator, the senator may retain the gift:

- (i) if its value does not exceed the stated valuation limits of \$1,000 for a gift received from an official government source, or \$500 from a private person or non-government body; or
- (ii) if the senator elects to pay the difference between the stated valuation limit and the value of the gift, as obtained from an accredited valuer selected from the list issued by the Committee for Taxation Incentives for the Arts. The Department of the Senate will be responsible for any costs incurred in obtaining the valuation.
- (j) If the senator does not retain the gift in accordance with paragraph (i), the senator must return the gift to the registrar, who shall:
 - (i) dispose of it in accordance with instructions from the Committee of Senators' Interests, as set out in paragraph 1(d) of this resolution; or
 - (ii) arrange its donation to a nominated non-profit organisation or charity, at the discretion of the senator who has returned the gift and the Committee of Senators' Interests.
- (k) Any senator subject to paragraph (j) must formally acknowledge relinquishment of the senator's claim to ownership of any surrendered gifts. *(general business notice of motion no. 115)*

20 FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—ADDITIONAL ESTIMATES 2001-02

Senator Calvert, at the request of the Chair of the Foreign Affairs, Defence and Trade Legislation Committee (Senator Sandy Macdonald), tabled additional information received by the committee (Additional estimates 2001-02—vols 1 to 3).

21 REGULATIONS AND ORDINANCES—STANDING COMMITTEE—DOCUMENT

Senator Calvert, at the request of the Chairman of the Standing Committee on Regulations and Ordinances (Senator Tchen), tabled the following document:

Regulations and Ordinances—Standing Committee—Ministerial correspondence relating to the scrutiny of delegated legislation, March to June 2002.

22 PRIVILEGES—STANDING COMMITTEE—102ND, 103RD, 104TH AND 105TH REPORTS

The Chair of the Standing Committee of Privileges (Senator Ray) tabled the following reports and documents:

Privileges—Standing Committee—

102nd report—Counsel to the Senate, dated June 2002.

103rd report—Possible improper influence and penalty on a senator, dated June 2002 and volume of documents.

104th report—Possible false or misleading evidence before the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, dated June 2002.

105th report—Execution of search warrants in senators' offices: Senator Harris, dated June 2002.

Reports ordered to be printed on the motion of Senator Ray.

Senator Ray moved the following motions—

No. 1—That the Senate take note of the 102nd report.

No. 2—That the Senate endorse the findings at paragraphs 1.60 to 1.62 of the 103rd report.

No. 3—That the Senate endorse the finding at paragraph 65 of the 104th report.

No. 4—That the Senate endorse the finding at paragraph 22 of the 105th report.

Debate ensued.

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

23 SCRUTINY OF BILLS—STANDING COMMITTEE—6TH AND 7TH REPORTS AND ALERT DIGEST NO. 6 OF 2002

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

Scrutiny of Bills—Standing Committee—

6th report of 2002—Application of absolute and strict liability offences in Commonwealth legislation, dated 26 June 2002.

7th report of 2002, dated 26 June 2002.

Alert Digest No. 6 of 2002, dated 26 June 2002.

Reports ordered to be printed on the motion of Senator Cooney.

Senator Cooney moved—That the Senate take note of the reports.

Question put and passed.

24 COMMUNITY AFFAIRS REFERENCES COMMITTEE—REPORT—NURSING

The Chair of the Community Affairs References Committee (Senator Crowley) tabled the following report and documents:

Community Affairs References Committee—Nursing—The patient profession: Time for action—Report, dated June 2002, *Hansard* record of proceedings [8 vols], documents presented to the committee and submissions [975].

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

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

Debate ensued.

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

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

25 DEPARTMENT OF THE SENATE—REGISTER OF SENATE SENIOR EXECUTIVE OFFICERS’ INTERESTS—DOCUMENT

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

Department of the Senate—Register of Senate senior executive officers’ interests incorporating statements of interests and a notification of alteration of interests of senior executive officers lodged between 7 December 2001 and 24 June 2002, dated June 2002.

26 AUDITOR-GENERAL—AUDIT REPORT NO. 62 OF 2001-02—DOCUMENT

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

Auditor-General—Information support services—Benchmarking the finance function: Follow-on report: Benchmarking study (Report no. 62 of 2001-02).

27 PARLIAMENTARY COMMITTEE REPORTS—GOVERNMENT RESPONSE—PRESIDENT'S REPORT ON GOVERNMENT RESPONSES

The Minister for Family and Community Services (Senator Vanstone) tabled the following document:

Government response to the schedule of government responses outstanding to parliamentary committee reports tabled by the President of the Senate on 15 February 2002, dated 26 June 2002.

28 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—REPORT—QUOTA MANAGEMENT CONTROL ON AUSTRALIAN BEEF EXPORTS TO THE UNITED STATES—REFERENCE

The Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Crane) tabled the following report and documents:

Rural and Regional Affairs and Transport Legislation Committee—The introduction of quota management controls on Australian beef exports to the United States by the Minister for Agriculture, Fisheries and Forestry—Report, dated June 2002, *Hansard* record of proceedings [2 vols], documents presented to the committee and submissions [42].

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

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

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

Debate ensued.

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

Notice of motion: Senator Crane gave a notice of motion as follows: To move on the next day of sitting—that the following matters be referred to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 31 October 2002:

- (a) performance and appropriateness of the existing government advisory structures in the Australian meat industry; and
- (b) the most effective arrangements for the allocation of export quotas for Australian meat, both to the United States and Europe.

29 TREATIES—JOINT STANDING COMMITTEE—46TH REPORT—STATEMENT

Senator Ludwig, on behalf of the Joint Standing Committee on Treaties, tabled the following document:

Treaties—Joint Standing Committee—Statement on the 46th report, dated 26 June 2002.

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

Question put and passed.

30 DOCUMENTS

The following documents were tabled by the Clerk:

Australian Bureau of Statistics Act—Proposals Nos 10-12 of 2002.

Civil Aviation Act—Civil Aviation Regulations—

Civil Aviation Orders—Civil Aviation Amendment Order (No. 7) 2002.

Exemption No. CASA EX 09/2002.

Instruments Nos CASA 335/02, CASA 339/02-CASA 341/02 and CASA 345/02.

Copyright Act—Declarations under section 10A, dated 4 and 6 June 2002.

Income Tax Assessment Act 1997—Refundable Film Tax Offset Rules 2002.

National Health Act—Determination No. PB 9 of 2002.

Product Rulings PR 2002/90-PR 2002/94.

Sydney Airport Curfew Act—Dispensation granted under section 20—Dispensation No. 4/02 [3 dispensations].

Taxation Rulings TR 2001/14 (Addendum), TR 2002/D6 (Draft) and TR 2002/10.

Telecommunications Act—Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 2 of 2002).

Telecommunications (Consumer Protection and Service Standards) Act—Telstra Carrier Charges—Price Control Arrangements, Notification and Disallowance Determination No. 1 of 2002.

31 INTERNATIONAL CRIMINAL COURT BILL 2002

INTERNATIONAL CRIMINAL COURT (CONSEQUENTIAL AMENDMENTS) BILL 2002

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 103, dated 25 June 2002—A Bill for an Act to facilitate compliance by Australia with obligations under the Rome Statute of the International Criminal Court, and for related purposes.

Message no. 104, dated 25 June 2002—A Bill for an Act to amend the *Criminal Code Act 1995* and certain other Acts in consequence of the enactment of the *International Criminal Court Act 2002*, and for other purposes.

The Minister for Family and Community Services (Senator Vanstone) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Consideration of legislation: Senator Vanstone, by leave, moved—That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the bills, allowing them to be considered during this period of sittings.

Document: Senator Vanstone tabled the following document:

Consideration of legislation—Statement of reasons for introduction and passage of the International Criminal Court Bill 2002 and the International Criminal Court (Consequential Amendments) Bill 2002 in the 2002 winter sittings.

Question put and passed.

Senator Vanstone moved—That these bills be now read a second time.

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

32 ELECTORAL MATTERS—JOINT STANDING COMMITTEE—CHANGE IN MEMBERSHIP

A message from the House of Representatives was reported acquainting the Senate with a change in the membership of the Joint Standing Committee on Electoral Matters, as follows:

Message No. 102, dated 25 June 2002—Ms Hall in place of Mr Melham.

33 ECONOMICS LEGISLATION COMMITTEE—REPORT—NEW BUSINESS TAX SYSTEM (CONSOLIDATION) BILL (NO. 1) 2002

Pursuant to order, Senator Calvert, at the request of the Chair of the Economics Legislation Committee (Senator Brandis), tabled the following report and documents:

Economics Legislation Committee—New Business Tax System (Consolidation) Bill (No. 1) 2002—Report, dated June 2002, *Hansard* record of proceedings, documents presented to the committee and submissions [2].

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

34 ECONOMICS LEGISLATION COMMITTEE—REPORT—TAXATION LAWS AMENDMENT BILL (NO. 4) 2002

Pursuant to order, Senator Calvert, at the request of the Chair of the Economics Legislation Committee (Senator Brandis), tabled the following report and documents:

Economics Legislation Committee—Taxation Laws Amendment Bill (No. 4) 2002—Report, dated June 2002, *Hansard* record of proceedings and submissions [8].

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

35 ECONOMICS LEGISLATION COMMITTEE—REPORT—DIESEL FUEL REBATE SCHEME AMENDMENT BILL 2002

Pursuant to order, Senator Calvert, at the request of the Chair of the Economics Legislation Committee (Senator Brandis), tabled the following report and documents:

Economics Legislation Committee—Diesel Fuel Rebate Scheme Amendment Bill 2002—Report, dated June 2002, *Hansard* record of proceedings, document presented to the committee and submissions [5].

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

**36 FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION COMMITTEE—REPORT—
BUDGET ESTIMATES 2002-03**

Pursuant to order, Senator Calvert, at the request of the Chair of the Foreign Affairs, Defence and Trade Legislation Committee (Senator Sandy Macdonald), tabled the following report and documents:

Foreign Affairs, Defence and Trade Legislation Committee—2002-03 Budget estimates—Report, dated June 2002 and *Hansard* record of proceedings [4 vols].

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

37 SECURITY LEGISLATION AMENDMENT (TERRORISM) BILL 2002 [NO. 2]

SUPPRESSION OF THE FINANCING OF TERRORISM BILL 2002

CRIMINAL CODE AMENDMENT (SUPPRESSION OF TERRORIST BOMBINGS) BILL 2002

BORDER SECURITY LEGISLATION AMENDMENT BILL 2002

TELECOMMUNICATIONS INTERCEPTION LEGISLATION AMENDMENT BILL 2002

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

In the committee

SECURITY LEGISLATION AMENDMENT (TERRORISM) BILL 2002 [NO. 2]—

Consideration resumed of the bill, as amended—and of the amendment, as amended, moved by the Minister for Justice and Customs (Senator Ellison)—and of the amendment moved by the Leader of the Opposition in the Senate (Senator Faulkner) to Senator Ellison's proposed amendment (see entry no. 4).

Debate resumed.

Question—That Senator Faulkner's amendment to Senator Ellison's proposed amendment, as amended, be agreed to—put.

The committee divided—

AYES, 39

Senators—

Allison	Collins	Gibbs	Murphy
Bartlett	Conroy	Greig	Murray
Bishop	Cook	Harris	O'Brien
Bolkus	Cooney	Hogg	Ray
Bourne	Crossin	Hutchins	Ridgeway
Brown	Crowley	Lees	Schacht
Buckland (Teller)	Denman	Ludwig	Sherry
Campbell, George	Evans	Mackay	Stott Despoja
Carr	Faulkner	McKiernan	West
Cherry	Forshaw	McLucas	

NOES, 32

Senators—

Abetz	Crane	Knowles	Payne
Barnett	Eggleson	Lightfoot	Reid
Boswell	Ellison	Macdonald, Ian	Scullion
Brandis	Ferguson	Macdonald, Sandy	Tchen
Calvert (Teller)	Ferris	Mason	Tierney
Chapman	Heffernan	McGauran	Troeth
Colbeck	Herron	Minchin	Vanstone
Coonan	Hill	Patterson	Watson

Question agreed to.

Senator Greig moved the following amendments to Senator Ellison's proposed amendment, as amended, together by leave:

After paragraph 102.2(1)(c), insert:

; (d) did not take all reasonable steps to cease to be a member of the organisation as soon as practicable after the person knew that the organisation was a terrorist organisation.

Omit subsection 102.3(2).

Debate ensued.

Question—That Senator Greig's amendments to Senator Ellison's proposed amendment, as amended, be agreed to—put and negatived.

Senator Brown moved the following amendment to Senator Ellison's proposed amendment, as amended:

Omit section 102.3.

Debate ensued.

Question—That Senator Brown's amendment to Senator Ellison's proposed amendment, as amended, be agreed to—put and negatived.

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

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

Schedule 1, item 4, page 12 (line 11), omit the heading to Division 102, substitute:

Division 102—Terrorist organisations

Schedule 1, item 4, page 14 (line 13) to page 15 (line 18), omit Subdivision C, substitute:

Subdivision C—General provisions relating to offences

102.9 Extended geographical jurisdiction for offences

Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against this Division.

102.10 Alternative verdicts

- (1) This section applies if, in a prosecution for an offence (the *prosecuted offence*) against a subsection of a section of this Division, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the *alternative offence*) against another subsection of that section.

(2) The trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

Schedule 1, item 5, page 15 (lines 19 to 26), omit the item, substitute:

5 Application

For the purpose of making regulations specifying an organisation for the purposes of paragraph (c) of the definition of **terrorist organisation** in section 102.1 of the *Criminal Code*, it does not matter whether the relevant decision of the Security Council of the United Nations was made before or after the commencement of this item.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 4, section 101.3.

Schedule 1, item 4, section 101.3 debated.

Question—That Schedule 1, item 4, section 101.3 stand as printed—put and negatived.

Senator Faulkner moved the following amendment:

Schedule 1, item 4, page 15 (after line 18), at the end of Division 102, add:

102.8 Demonstrating willingness to assist a terrorist organisation

A person commits an offence if the person demonstrates a willingness to assist a terrorist organisation in the commission of a terrorist act.

Penalty: Imprisonment for 15 years.

Debate ensued.

Senator Faulkner, by leave, withdrew the amendment.

Senator Greig moved the following amendments together by leave:

Schedule 1, page 4 (before line 6), before item 1, insert:

1A After section 3

Insert:

3A The Parliamentary Charter of Rights and Freedoms

(1) Schedule 2 has effect as a law of the Commonwealth.
(2) Schedule 2 may be cited as the *Parliamentary Charter of Rights and Freedoms*.

Schedule 1, page 4 (before line 6), before item 1, insert:

1B Subsection 3(1)

Omit “The Schedule”, substitute “Schedule 1”.

Schedule 1, page 4 (before line 6), before item 1, insert:

1C Subsection 3(2)

Omit “The Schedule”, substitute “Schedule 1”.

Schedule 1, page 4 (before line 6), before item 1, insert:

1D After section 5

Omit “The Schedule” in the heading to the *Criminal Code*, substitute “Schedule 1”.

Schedule 1, page 15 (after line 26), after item 5, insert:

5 After the Schedule

Insert:

Schedule 2—Parliamentary Charter of Rights and Freedoms

Chapter 1—Objects, interpretation and application

1 Objects

The objects of this Schedule are:

- (a) to promote universal respect for, and observance of, human rights and fundamental freedoms for all persons without discrimination; and
- (b) to that end, to affirm Australia's commitment to the International Covenant on Civil and Political Rights by enacting a *Parliamentary Charter of Rights and Freedoms*; and
- (c) to ensure that any person whose rights or freedoms as set out in the *Parliamentary Charter of Rights and Freedoms* are infringed by or under any law in relation to which that Charter operates has an effective remedy; and
- (d) to promote, enhance and secure, as paramount objectives, the freedom and dignity of the human person, equality of opportunity for all persons and full and free participation by all Australians in public affairs and public debate.

2 Interpretation

- (1) In this Schedule, unless the contrary intention appears:

act means an act done:

- (a) by or on behalf of the Commonwealth or of a State or a Territory; or
- (b) by or on behalf of an authority of the Commonwealth or of a State or a Territory;

being an act done:

- (c) in relation to an Australian citizen—within or outside Australia; or
- (d) in any other case—within Australia.

Australia includes the external Territories.

authority means:

- (a) in relation to the Commonwealth:
 - (i) a body (whether incorporated or unincorporated) established for a purpose of the Commonwealth by or under a Commonwealth law; or
 - (ii) an incorporated company over which the Commonwealth is in a position to exercise control; or
 - (iii) a person holding or performing the duties of an office or appointment established or made under a Commonwealth law or by the Governor-General or a Minister of State of the Commonwealth; or

- (iv) a body, or a person holding or performing the duties of an office or appointment that is declared by the regulations to be an authority of the Commonwealth for the purposes of this Schedule;
- (b) in relation to a State:
 - (i) a body (whether incorporated or unincorporated) established for a purpose of the State by or under a law of the State; or
 - (ii) an incorporated company over which the State is in a position to exercise control; or
 - (iii) a person holding or performing the duties of an office or appointment established or made under a law, or by the Governor or a Minister, of the State; or
 - (iv) a local government body in the State; or
 - (v) a body, or a person holding or performing the duties of an office or appointment that is declared by the regulations to be an authority of the State for the purposes of this Schedule; and
- (c) in relation to a Territory:
 - (i) a body (whether incorporated or unincorporated) established for a purpose of the Territory by or under a Territory law; or
 - (ii) an incorporated company over which the Territory is in a position to exercise control; or
 - (iii) a person holding or performing the duties of an office or appointment established or made under a law, or by an administrator or a Minister, of the Territory; or
 - (iv) a body, or a person holding or performing the duties of an office or appointment that is declared by the regulations to be an authority of the Territory for the purposes of this Schedule.

Charter or **Charter of Rights and Freedoms** means the *Parliamentary Charter of Rights and Freedoms* set out in this Schedule.

Commission means the Human Rights and Equal Opportunity Commission established by the *Human Rights and Equal Opportunity Commission Act 1986*.

Covenant means the International Covenant on Civil and Political Rights, a copy of the English text of which is set out in Schedule 1 of the *Human Rights and Equal Opportunity Commission Act 1986*, as that International Covenant applies in relation to Australia.

law means a law of the Commonwealth, a law of a State or a law of a Territory.

practice means a practice engaged in:

- (a) by or on behalf of the Commonwealth or of a State or a Territory; or
- (b) by or on behalf of an authority of the Commonwealth or of a State or a Territory;

being a practice engaged:

- (c) in relation to an Australian citizen—within or outside Australia; or
- (d) in any other case—within Australia.

proposed law means:

- (a) a proposed law introduced into the Parliament of the Commonwealth or of a State or a Territory; or
- (b) a proposed law prepared on behalf of:
 - (i) the Government of the Commonwealth or of a State or a Territory; or
 - (ii) a Minister of State of the Commonwealth or of a State or a Territory; or
 - (iii) a body established by law that has the function of recommending proposed laws of the Commonwealth or of a State or a Territory.

responsible Minister means the Commonwealth, State or Territory Minister responsible for the administration of the matter to which the law, proposed law, act or practice relates.

- (2) A reference in this Schedule to a law or a proposed law includes a reference to any instrument or proposed instrument (including a rule, regulation, by-law, award, determination, order or direction) made, granted or issued under a power conferred by such a law or proposed law.
- (3) In this Schedule:
 - (a) a reference to, or to the doing of, an act includes a reference to a refusal or failure to do an act; and
 - (b) a reference, in relation to the doing of an act or the engaging in of a practice, to the person who did the act or engaged in the practice shall, in the case of an act done or practice engaged in by an unincorporated body of persons, be read as a reference to that body.

3 Interpretation of Charter

For the purposes of the interpretation of the *Parliamentary Charter of Rights and Freedoms*, each Article of the Charter shall be taken to be a section of this Schedule.

4 Application of Charter

- (1) Subject to subsection (2), any provision of a law, whether passed or made before, on or after the commencing day of this Schedule, that is inconsistent with a provision of this Schedule does not, to the extent of the inconsistency, have any force or effect.
- (2) Subsection (1) does not apply in relation to a provision of a Commonwealth, State or Territory law if an Act expressly declares that the provision shall operate notwithstanding this Schedule.
- (3) A declaration made under subsection (2) ceases to have effect two years after it comes into force or on such earlier date as may be specified in the declaration.
- (4) The Parliament of the Commonwealth or of a State or a Territory may re-enact a declaration made under subsection (2).

- (5) Subsection (3) applies in respect of a re-enactment made under subsection (4).
- (6) The rights and freedoms set out in this Schedule are in addition to, and not in derogation of, any other rights and freedoms of the individual under the laws of the Commonwealth or of a State or a Territory and this Schedule is not intended to exclude or limit the operation of any of those laws in so far as they can operate concurrently with the provisions of this Schedule.
- (7) Nothing in this Schedule may be interpreted as implying any right to engage in any activity or perform any act that is restrictive of any of the rights and freedoms recognised in this Schedule or limits any of those rights and freedoms to a greater extent than is provided in this Schedule.

5 Interpretation of legislation

Notwithstanding anything in any other law relating to the construction or interpretation of legislation, in the interpretation of a provision of a Commonwealth or of a State or a Territory law a construction of the provision that would result in the law not being in conflict with the *Parliamentary Charter of Rights and Freedoms*, or that would further the objects of this Schedule, shall be preferred to any other construction.

6 No rights of action or criminal liability under Charter

- (1) Nothing in the *Parliamentary Charter of Rights and Freedoms* confers on a person any right of action in respect of the doing of an act that infringes a right or freedom set out in the Charter.
- (2) Nothing in this Schedule renders any person liable to any criminal proceedings in respect of the doing of an act that infringes a right or freedom set out in the Charter.

7 Powers of courts in criminal proceedings

- (1) Where, in proceedings against a person for a criminal offence, the court is satisfied that evidence tendered to the court was obtained in a manner that infringed a right or freedom set out in the Charter, the court shall refuse to admit that evidence in the proceedings unless it is satisfied that:
 - (a) admission of the evidence would substantially benefit the public interest in the administration of criminal justice; and
 - (b) that benefit would outweigh any prejudice to the rights and freedoms of any person, including the defendant, that has occurred or is likely to occur as a result of the infringement or the admission of the evidence.
- (2) Where, in proceedings against a person for a criminal offence, the court is satisfied that a right or freedom of that person set out in the Charter has been infringed, the court may, subject to subsection (1), make such order as it considers appropriate and just in all the circumstances to ensure that the administration of justice is not brought into disrepute by reason of that infringement.

(3) In this section, *proceedings* means proceedings under a law of the Commonwealth or of a State or a Territory.

Chapter 2—Functions of Human Rights and Equal Opportunity Commission in relation to the Parliamentary Charter of Rights and Freedoms

8 Functions of Human Rights and Equal Opportunity Commission

(1) In addition to the functions of the Human Rights and Equal Opportunity Commission under the *Human Rights and Equal Opportunity Commission Act 1986*, the Commission has the following functions:

- (a) to inquire into any act or practice that may infringe a right or freedom set out in the Charter, and
 - (i) where the Commission considers it appropriate to do so—to endeavour, by conciliation, to effect a settlement of the matters that gave rise to the inquiry; and
 - (ii) where the Commission is of the opinion that the act or practice infringes a right or freedom set out in the Charter, and the Commission has not considered it appropriate to endeavour to effect a settlement of the matters that gave rise to the inquiry or has endeavoured without success to effect such a settlement—to report to the Minister in relation to the inquiry; and
- (b) to promote an understanding and acceptance in Australia of the rights and freedoms set out in the Charter and of the objects of this Schedule, and to promote the protection of those rights and freedoms in Australia; and
- (c) to undertake research and educational programs, and other programs, on behalf of the Commonwealth for the purpose of promoting the rights and freedoms set out in the Charter and the objects of this Schedule; and
- (d) to examine laws and, when requested by the Minister, proposed laws for the purpose of ascertaining whether the laws or proposed laws are, or would be, in conflict with the Charter, and to report to the Minister the results of any such examination; and
- (e) on its own initiative or when requested by the Minister, to report to the Minister as to the laws that should be made by the Parliament, or action that should be taken by the Commonwealth, on matters relating to the rights and freedoms set out in the Charter; and
- (f) where the Commission considers it appropriate to do so, with the leave of the court hearing the proceedings and subject to any conditions imposed by the court, to intervene in proceedings relating to a matter arising under this Schedule; and
- (g) to do anything incidental or conducive to the performance of any of the preceding functions.

9 Performance of functions of Commission in relation to Charter

- (1) Subject to subsection (2), the powers and duties of the Commission in relation to the *Parliamentary Charter of Rights and Freedoms* are the same as those set out in Part 2, Division 3 of the *Human Rights and Equal Opportunity Commission Act 1986*.
- (2) Before commencing to inquire, under this Schedule, into an act or practice, the Commission shall inform the person who appears to the Commission to be the responsible Minister in relation to the act or practice that the Commission proposes to inquire into the act or practice.

10 Reporting to Parliament

- (1) The Minister shall cause a copy of every report furnished to the Minister by the Commission under paragraph 8(a), (d) or (e) to be laid before each House of the Parliament within 15 sitting days of that House after the report is received by the Minister.
- (2) Where the Commission furnishes to the Minister under paragraph 8(a), (d) or (e) a report that relates to:
 - (a) a State or Territory law, or a proposed State or Territory law; or
 - (b) an act done or practice engaged in:
 - (i) by or on behalf of a State or Territory; or
 - (ii) by or on behalf of an authority of a State or a Territory;
 the Minister shall immediately furnish a copy of the report to the Attorney-General of that State or Territory.
- (3) The Minister:
 - (a) shall not cause a copy of a report of the kind referred to in subsection (2) to be laid before either House of the Parliament until:
 - (i) the expiration of 30 days after a copy of the report was furnished to the Attorney-General of the State or Territory concerned under subsection (2); or
 - (ii) the Minister receives from the Attorney-General of the State or Territory concerned a statement relating to the law, act or practice to which the report related;
 whichever happens first; and
 - (b) shall cause a copy of the report to be laid before each House of the Parliament within 15 sitting days after the occurrence of the earlier of the events referred to in subparagraphs (a)(i) and (ii); and
 - (c) if the event referred to in subparagraph (a)(ii) is the first to occur, or if, before the report is laid before either House of the Parliament pursuant to paragraph (b), the Minister receives from the Attorney-General concerned a statement of the kind referred to in subparagraph (a)(ii)—shall cause a copy of the statement to be attached to each copy of the report that is laid before a House of the Parliament pursuant to paragraph (b).

Chapter 3—Miscellaneous

11 Regulations

- (1) The Governor-General may make regulations, not inconsistent with this Schedule, prescribing matters:
 - (a) required or permitted by this Schedule to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Schedule.

Chapter 4—Parliamentary Charter of Rights and Freedoms

Division 1—General

Article 1

Entitlement to rights and freedoms without discrimination

- (1) Every person is entitled to equality before the law and to the human rights and fundamental freedoms set out in this Charter without discrimination and, in particular, without discrimination based on age, race, colour, sex, sexuality, transgender identity, language, religion, political or other opinion, national or social origin, property, birth, mental or physical disability or other status.
- (2) Men and women have the equal right to the enjoyment of the human rights and fundamental freedoms set out in this Charter.

Article 2

Effect of Charter on existing rights and freedoms

A right or freedom existing under, or recognised by, any other law shall not be taken to have been diminished or derogated from by reason only that the right or freedom is not set out in this Charter.

Article 3

Permissible limitations

- (1) The rights and freedoms set out in this Charter are subject only to such reasonable limitations prescribed by law as can be demonstrably justified in a free and democratic society.
- (2) A right or freedom set out in this Charter shall not be limited by any law to any greater extent than is permitted by the Covenant.

Division 2—Non-discrimination

Article 4

Equal protection of the law

- (1) Every person has the right without any discrimination to the equal protection of the law.
- (2) Nothing in this Charter affects the operation of any earlier or later law by reason only of the fact that the law discriminates in favour of a class of persons for the purpose of redressing any disabilities particularly suffered by that class or arising from discrimination against that class.

Article 5

Rights of minority groups

Persons who belong to an ethnic, religious or linguistic minority have the right, in community with other members of their own group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Division 3—Fundamental political rights

Article 6

Right of participation in public life

Every Australian citizen has the right and shall have the opportunity:

- (a) to take part in the conduct of public affairs, directly or through freely chosen representatives; and
- (b) to vote and to be elected at genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot, guaranteeing the free expression of the will of the electors; and
- (c) to have access on general terms of equality to public employment.

Article 7

Freedom of expression

Every person has the right to freedom of expression, including the freedom of the press and other media of communication, and the freedom to seek, receive and impart ideas or information of any kind in any form, without interference and regardless of frontiers.

Article 8

Freedom of thought and conscience

Every person has the right to freedom of thought and conscience, including the right to hold opinions without interference.

Article 9

Freedom of religion or belief

- (1) Every person has the right to have or adopt a religion or belief of that person's choice without coercion of any kind, and to manifest that religion or belief in worship, observance, practice and teaching, whether individually or in community with others and whether in public or in private.
- (2) Every person has the right not to adopt a religion or belief and, subject to Article 14(d), no person shall be compelled to participate in worship or religious ceremony.

Article 10

Right of peaceful assembly

Every person has the right of peaceful assembly.

Article 11**Freedom of association**

Every person has the right to freedom of association with others, including the right to form and join trade unions for the protection of that person's interests.

Division 4—Privacy and family rights**Article 12****Right to protection from arbitrary interference**

Every person has the fundamental right to the protection from arbitrary or unlawful interference with their dignity, their privacy, the integrity of their person, their reputation and the security of their residence and any other premises. This fundamental right exists throughout Australia in all jurisdictions. For the purposes of giving effect to this right, a search, entry or seizure is unlawful unless:

- (a) made pursuant to a warrant issued by a judicial officer upon reasonable grounds, supported by oath or affirmation, particularly describing the purpose of the search, who or what is to be searched and what is to be seized; or
- (b) made pursuant to a law authorising search, entry or seizure, where search, entry or seizure so authorised is:
 - (i) necessary to protect life or public safety; or
 - (ii) justified by some compelling need for immediate action; or
- (c) full and free consent is given to the search or entry, provided that the consent is ongoing and a warning was given as to the consequences of the giving of consent; or
- (d) made pursuant to a grant of power of search or entry to determine whether a person has complied with legislation which imposes a commercial levy in relation to a serious matter, in circumstances where the legislation provides for this in specific terms and there is no other reasonably practicable means of assessing compliance; or
- (e) made pursuant to a grant of power of entry and search to determine whether a person has complied with legislation under which that person has accepted a commercial benefit, subject to being monitored by entry and search.

Article 13**Right to marry and to found a family**

Recognising the importance of the family in its many forms:

- (a) every person of marriageable age has the right to marry and to found a family; and
- (b) no marriage shall be entered into without the free and full consent of the intending spouses.

Article 14

Rights of the child

Recognising that every child has the right to such measures of protection as are required by the child's age:

- (a) every child is entitled to the fundamental rights and freedoms set out in this Charter to the greatest extent compatible with the age of the individual child; and
- (b) every child shall be registered immediately after birth and shall have a name; and
- (c) every child has the right to acquire a nationality; and
- (d) the liberty of parents and legal guardians to ensure the religious and moral education of their children in conformity with their own convictions is to be respected.

Division 5—Freedom of movement

Article 15

Rights of persons in Australia

- (1) Every person lawfully in Australia has the right to freedom of movement and choice of residence.
- (2) A person who is lawfully in Australia but is not an Australian citizen shall not be required to leave Australia except on such grounds and in accordance with such procedures as are established by law.

Article 16

Right to enter Australia

Every Australian citizen has the right to enter Australia.

Article 17

Right to leave Australia

Every person has the right to leave Australia.

Division 6—Life, liberty and criminal process

Article 18

Right to life

Every human being has the inherent right to life and no person shall be arbitrarily deprived of life.

Article 19

Liberty and security of person

- (1) Every person has the right to liberty and security of person.
- (2) No law shall authorise the arbitrary arrest, detention or imprisonment of any person.
- (3) No person shall be deprived of liberty except on such grounds, and in accordance with such procedures, as are established by law.

(4) No person shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Article 20**Slavery and forced labour**

No person shall be held in slavery or servitude or be required to perform forced or compulsory labour.

Article 21**Right to be informed of reasons for arrest or detention and of charges**

Any person who is arrested or detained shall be informed at the time of the arrest or detention of the reasons for it, and shall be informed promptly and in detail of any charges in a language which that person understands.

Article 22**Right to remain silent and to have access to lawyer**

Any person detained in custody has the right to remain silent and the right to have access to a lawyer before and during questioning.

Article 23**Hearings, release and trial**

- (1) Any person arrested or detained on a criminal charge shall be brought promptly before a judge, magistrate or justice of the peace.
- (2) No person awaiting trial shall be unreasonably deprived of the right to release on giving a guarantee to appear for trial.
- (3) Any person arrested or detained on a criminal charge has the right to be tried within a reasonable time.

Article 24**Right to test lawfulness of detention**

Any person deprived of liberty has the right to take proceedings before a court for the determination of the lawfulness of the detention and to be released if the court finds that the detention is not lawful.

Article 25**Presumption of innocence**

Any person charged with a criminal offence shall be presumed innocent until proved guilty according to law.

Article 26**Right to fair hearing**

In the determination of any criminal charge, or of any rights or obligations in a suit at law, every person has the right to a fair and public hearing by a competent, independent and impartial tribunal.

Article 27

Rights of the accused relating to trial

Every person who is charged with a criminal offence has the right:

- (a) to be informed of the right to obtain legal assistance; and
- (b) to communicate with a lawyer; and
- (c) to receive legal assistance without cost if the interests of justice so require and the person lacks sufficient means to pay for the assistance; and
- (d) to have adequate time and facilities to prepare a defence; and
- (e) to be present at any trial relating to the offence and to present a defence; and
- (f) to examine the witnesses against the person; and
- (g) to obtain the attendance of, and to examine, witnesses for the person; and
- (h) to have the free assistance of an interpreter if the person cannot understand or speak the language used in court; and
- (i) not to be compelled to testify or confess guilt; and
- (j) in the case of a child, to be dealt with in a manner which takes account of the child's age.

Article 28

No retrospective criminal offences or penalties

- (1) No person shall be convicted of any criminal offence on account of any act or omission which did not constitute a criminal offence at the time when it occurred.
- (2) No person convicted of any criminal offence shall be liable to a heavier penalty than was applicable at the time the offence was committed.

Article 29

Right of review of conviction and sentence

Every person convicted of a criminal offence has the right to have the conviction or sentence reviewed by a higher tribunal according to law.

Article 30

No trial or punishment for same offence

No person finally convicted or acquitted of a criminal offence shall be tried or punished again for the same offence or for substantially the same offence arising out of the same facts.

Article 31

Rights when deprived of liberty

- (1) Every person deprived of liberty has the right to be treated with humanity and with respect for the inherent dignity of the human person.
- (2) So far as is practicable:

- (a) accused persons shall be segregated from convicted persons, and shall be treated in a manner appropriate to their status as unconvicted persons; and
- (b) accused children shall be segregated from accused adults; and
- (c) convicted children shall be segregated from convicted adults, and shall be treated in a manner appropriate to their age and legal status.

Article 32

No torture or inhuman treatment and no experimentation without consent

- (1) No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- (2) No person shall be subjected to medical or scientific experimentation without that person's free consent.

Debate ensued.

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

Senator Ellison moved the following amendments together by leave:

Clause 2, page 2 (after table item 8), insert:

8A. Schedule 1, The latest of:

item 19 (a) the start of the day after the day on which this Act receives the Royal Assent; and

(b) the start of the day after the day on which the *Border Security Legislation Amendment Act 2002* receives the Royal Assent; and

(c) the start of the day after the day on which the *Criminal Code Amendment (Suppression of Terrorist Bombings) Act 2002* receives the Royal Assent; and

(d) the start of the day after the day on which the *Suppression of the Financing of Terrorism Act 2002* receives the Royal Assent

Schedule 1, page 17 (after line 18), at the end of the Schedule, add:

Intelligence Services Act 2001

19 After paragraph 29(1)(b)

Insert:

- (ba) to review, as soon as possible after the third anniversary of the day on which the *Security Legislation Amendment (Terrorism) Act 2002* receives the Royal Assent, the operation, effectiveness and implications of amendments made by that Act and the following Acts:
 - (i) the *Border Security Legislation Amendment Act 2002*;
 - (ii) the *Criminal Code Amendment (Suppression of Terrorist Bombings) Act 2002*;
 - (iii) the *Suppression of the Financing of Terrorism Act 2002*; and

Senator Faulkner, by leave, moved the following amendment:

Page 3 (after line 22), after clause 3, add:

4 Public and independent review of operation of Security Acts relating to terrorism

- (1) The Attorney-General must cause a review of the operation, effectiveness and implications of amendments made by the *Security Legislation Amendment (Terrorism) Act 2002*, *Suppression of the Financing of Terrorism Act 2002*, *Criminal Code Amendment (Suppression of Terrorist Bombings) Act 2002*, *Border Security Legislation Amendment Act 2002* and *Telecommunications Interception Legislation Amendment Act 2002*.
- (2) The review must be undertaken as soon as practicable after the third anniversary of the commencement of the amendments.
- (3) The review is to be undertaken by a committee consisting of:
 - (a) up to two persons appointed by the Attorney-General, one of whom must be a retired judicial officer who shall be the Chair of the Committee; and
 - (b) the Inspector-General of Intelligence and Security; and
 - (c) the Privacy Commissioner; and
 - (d) the Human Rights Commissioner; and
 - (e) the Commonwealth Ombudsman; and
 - (f) two persons (who must hold a legal practising certificate in an Australian jurisdiction) appointed by the Attorney-General on the nomination of the Law Council of Australia.
- (4) The Attorney-General may reject a nomination made under subsection (3)(f). If the Attorney-General rejects a nomination, the Law Council of Australia may nominate another person.
- (5) The committee must provide for public submissions and public hearings as part of the review.
- (6) The committee must, within six months of commencing the review, give the Attorney-General and the Parliamentary Joint Committee on ASIO, ASIS and DSD a written report of the review which includes an assessment of matters in subsection (1), and alternative approaches or mechanisms as appropriate.
- (7) The Attorney-General must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after its receipt by the Attorney-General.
- (8) Before the copy of the report is tabled in Parliament, the Attorney-General may remove information from the copy of the report if the Attorney-General is satisfied on advice from the Director-General of Security or the Commissioner of the Australian Federal Police that its inclusion may:
 - (a) endanger a person's safety; or
 - (b) prejudice an investigation or prosecution; or

- (c) compromise the operational activities or methodologies of the Australian Security Intelligence Organisation, the Australian Secret Intelligence Service, the Defence Signals Directorate or the Australian Federal Police.
- (9) The Parliamentary Joint Committee on ASIO, ASIS and DSD must take account of the report of the review given to the Committee, when the Committee conducts its review under paragraph 29(1)(ba) of the *Intelligence Services Act 2001*.

Debate ensued.

Question—That Senator Ellison’s amendments be agreed to—put and passed.

Question—That Senator Faulkner’s amendment be agreed to—put and passed.

Senator Greig moved the following amendment:

Page 3 (after line 22), after clause 3, add:

4 Cessation of operation of Act

This Act, unless sooner repealed, ceases to be in force at the end of 5 years after Royal Assent.

Debate ensued.

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

Bill, as amended, agreed to.

SUPPRESSION OF THE FINANCING OF TERRORISM BILL 2002—

Bill, taken as a whole by leave, debated.

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

Schedule 1, item 1, page 4 (line 7), omit “**integrity and**”.

Bill, as amended, further debated.

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

Schedule 1, item 2, page 5 (lines 6 to 12), omit the definition of **terrorist act**, substitute:

terrorist act means an action or threat of action where:

- (a) the action falls within subsection (2) and does not fall within subsection (2A); and
- (b) the action is done or the threat is made with the intention of advancing a political, religious or ideological cause; and
- (c) the action is done or the threat is made with the intention of:
 - (i) coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or
 - (ii) intimidating the public or a section of the public.

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

(2A) Action falls within this subsection if it:

- (a) is advocacy, protest, dissent or industrial action; and
- (b) is not intended:
 - (i) to cause serious harm that is physical harm to a person; or
 - (ii) to cause a person's death; or
 - (iii) to endanger the life of a person, other than the person taking the action; or
 - (iv) to create a serious risk to the health or safety of the public or a section of the public.

Senator Ellison moved the following amendment:

Schedule 1, item 2, page 5 (line 14), after “serious harm”, insert “that is physical harm”.

Debate ensued.

Senator Faulkner, by leave, moved the following amendment:

Schedule 1, item 2, page 5 (lines 14 and 15), omit paragraphs (2)(a) and (b), substitute:

- (a) causes serious harm that is physical harm to a person; or
- (b) causes serious damage to property; or

Debate ensued.

Question—That Senator Ellison's amendment be agreed to—put and passed.

Question—That Senator Faulkner's amendment be agreed to—put and passed.

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

Schedule 1, item 2, page 5 (after line 15), after paragraph (2)(b), insert:

- (ba) causes a person's death; or

Senator Brown moved the following amendments together by leave:

Schedule 1, item 2, page 5 (lines 18 to 28), omit paragraphs (d) and (e).

Schedule 1, item 2, page 5 (lines 29 to 34), omit subsection (3).

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

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

Schedule 1, item 2, page 6 (lines 2 to 4), omit subsection (1), substitute:

- (1) This Part applies to a terrorist act constituted by an action, or threat of action, in relation to which the Parliament has power to legislate.

Schedule 1, item 2, page 6 (lines 5 to 7), omit “an action, or threat of action, gives rise to an offence under this Part to the extent that”, substitute “this Part applies to a terrorist act constituted by an action, or threat of action, if”.

Senator Greig moved the following amendment:

Schedule 1, item 3, page 7 (line 17), omit “is reckless as to whether”, substitute “intends or knows that”.

Debate ensued.

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

Senator Brown moved the following amendment:

Schedule 1, item 3, page 7 (lines 17 and 18), omit paragraph (b).

Debate ensued.

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

On the motion of Senator Ellison the following amendment was agreed to:

Schedule 1, item 3, page 7 (after line 19), at the end of subsection (1), add:

Note: Intention is the fault element for the conduct described in paragraph (1)(a).
See subsection 5.6(1).

Senator Brown moved the following amendment:

Schedule 1, item 3, page 7 (lines 22 and 23), omit subsection (3).

Debate ensued.

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

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

Schedule 2, item 14, page 10 (after line 25), after subparagraph (ii), insert:

(iii) ensuring that the information will be used only for the purpose for which it is communicated to the foreign country; and

Schedule 2, item 14, page 11 (lines 10 and 11), omit subparagraph (ii), substitute:

(ii) controlling the use that will be made of it; and

(iii) ensuring that the information will be used only for the purpose for which it is communicated to the foreign country; and

Schedule 2, item 18, page 12 (lines 33 and 34), omit subparagraph (ii), substitute:

(ii) controlling the use that will be made of it; and

(iii) ensuring that the information will be used only for the purpose for which it is communicated to the foreign country; and

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

Schedule 2, page 10 (after line 3), after item 9, insert:

9A Subsection 27(1B)

Repeal the subsection, substitute:

(1B) Despite paragraph (1)(b), the Director may only authorise under that paragraph one of the following law enforcement agencies if the agency undertakes that it will comply with the information privacy principles set out in section 14 of the *Privacy Act 1988* in respect of FTR information obtained under the authorisation:

(a) the Crime and Misconduct Commission of Queensland;

(b) the Anti-Corruption Commission of Western Australia;

(c) the Royal Commission (appointed by the Governor of Western Australia on 12 December 2001) into whether since 1 January 1985 there has been corrupt conduct or criminal conduct by any Western Australian police officer.

9B Saving of authorisations and undertakings

For the purposes of subsection 27(1B) of the *Financial Transaction Reports Act 1988* as amended by this Schedule, neither of the following is affected by the amendments of that Act by this Schedule:

- (a) an authorisation conferred on the Anti-Corruption Commission of Western Australia by the Director;
- (b) an undertaking by that Commission to the Director.

Schedule 2, page 11 (after line 36), after item 14, insert:

14A Paragraph 27(16)(d)

Repeal the paragraph.

14B Paragraph 27(16)(h)

Repeal the paragraph, substitute:

- (h) the Crime and Misconduct Commission of Queensland; and

14C At the end of subsection 27(16)

Add:

- ; and (j) the Royal Commission (appointed by the Governor of Western Australia on 12 December 2001) into whether since 1 January 1985 there has been corrupt conduct or criminal conduct by any Western Australian police officer.

14D Paragraphs 27(17)(k) to (m)

Repeal the paragraphs.

14E Paragraphs 27(17)(t) and (u) (the paragraphs (t) and (u) inserted by item 7 of Schedule 6 to the *Measures to Combat Serious and Organised Crime Act 2001*)

Repeal the paragraphs.

14F Before paragraph 27(17)(v)

Insert:

- (ua) a Commissioner of the Crime and Misconduct Commission of Queensland; and
- (ub) an Assistant Commissioner, Senior Officer or member of the staff of that Commission; and

14G At the end of subsection 27(17)

Add:

- ; and (x) the person constituting the Royal Commission (appointed by the Governor of Western Australia on 12 December 2001) into whether since 1 January 1985 there has been corrupt conduct or criminal conduct by any Western Australian police officer; and
- (y) a member of the staff of that Royal Commission.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 2, Part 2.

Schedule 2, Part 2 debated.

Question—That Schedule 2, Part 2 stand as printed—put and negatived.

On the motion of Senator Ellison the following amendment was agreed to:

Schedule 2, heading to Part 1, page 8 (lines 4 and 5), omit the heading.

Senator Greig moved the following amendment:

Schedule 3, item 1, page 17 (after line 10), after subsection (3), insert:

(3A) Where the Minister lists an asset in accordance with this section, the Minister must notify in writing a person or entity owning the asset of:

- (a) the intention to list the asset; and
- (b) their rights and obligations consequent on the listing.

Debate ensued.

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

Senator Brown moved the following amendment:

Schedule 3, item 1, page 17 (after line 21), after subsection (7), insert:

- (8) A listing under subsection (1) or (3) must be tabled in each House of the Parliament within 15 sitting days of the listing.
- (9) A listing under subsection (1) or (3) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Debate ensued.

At 10.30 pm: The Acting Deputy President (Senator Watson) resumed the chair and the Temporary Chair of Committees (Senator Bartlett) reported progress.

38 ADJOURNMENT

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

Debate ensued.

Document: Senator Crowley, by leave, tabled the following document:

National Register of Births, Deaths and Marriages Bill 2002—Draft bill.

Debate continued.

Time expired: The debate reached the limit of 40 minutes.

The Senate adjourned at 11.10 pm till Thursday, 27 June 2002 at 9.30 am.

39 ATTENDANCE

Present, all senators.

HARRY EVANS
Clerk of the Senate

Printed by authority of the Senate