

2002-03

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 73

WEDNESDAY, 26 MARCH 2003

Contents

1	Meeting of Senate	1667
2	Government Documents	1667
3	Transport Safety Investigation Bill 2002 Transport Safety Investigation (Consequential Amendments) Bill 2002.....	1667
4	Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002 [No. 2]	1675
5	Medical Indemnity (Prudential Supervision and Product Standards) Bill 2003 Medical Indemnity (Prudential Supervision and Product Standards) (Consequential Amendments) Bill 2002	1676
6	Matters of Public Interest.....	1678
7	Questions	1678
8	Ministers—Answers to Questions.....	1679
9	Defence—Anthrax Vaccine—Answer to Question	1679
10	Petition.....	1679
11	Notices.....	1679
12	Selection of Bills—Standing Committee—Report No. 4 of 2003	1681
13	Postponements.....	1682
14	Order of Business—Rearrangement.....	1683
15	Transport—Ethanol—Order for Production of Documents—Failure to Comply	1683
16	Rural and Regional Affairs and Transport Legislation Committee— Extension of Time to Report.....	1683
17	Human Rights—Iraq—Children—Hand of Peace Exchange.....	1684
18	Defence—Iraq—Australian Defence Force Personnel	1684
19	Economics Legislation Committee—Extension of Time to Report.....	1684
20	Hours of Meeting and Routine of Business—Variation	1684
21	Scrutiny of Bills—Standing Committee—3rd Report and Alert Digest No. 4 of 2003	1686

22	Corporations and Financial Services—Joint Statutory Committee— Report—Review of the Australian Securities and Investments Commission.....	1686
23	Public Works—Joint Statutory Committee—Report—Bureau of Meteorology, Victoria.....	1686
24	Building and Construction Industry—Royal Commission—Final Report— Ministerial Statement—Documents	1686
25	Auditor-General—Audit Report No. 35 of 2002-03—Document.....	1687
26	Documents.....	1687
27	Departmental and Agency Contracts—Order for Production of Documents—Document.....	1687
28	Indexed Lists of Departmental and Agency Files—Order for Production of Documents—Documents	1687
29	Immigration—Illegal Migration—Order for Production of Document— Statement by Leave.....	1688
30	Foreign Affairs, Defence and Trade References Committee—Appointment of Member	1688
31	Health Insurance Amendment (Diagnostic Imaging, Radiation Oncology and Other Measures) Bill 2002	1688
32	Energy Grants (Credits) Scheme Bill 2003 Energy Grants (Credits) Scheme (Consequential Amendments) Bill 2003	1688
33	Employment, Workplace Relations and Education Legislation Committee— Report—Workplace Relations Amendment (Termination of Employment) Bill 2002.....	1689
34	Medical Indemnity (Prudential Supervision and Product Standards) Bill 2003 Medical Indemnity (Prudential Supervision and Product Standards) (Consequential Amendments) Bill 2002	1689
35	Order of Business—Rearrangement.....	1690
36	Corporations Amendment (Repayment of Directors' Bonuses) Bill 2002.....	1690
37	Economics Legislation Committee—Report—Corporations Legislation Amendment Bill 2002, the Corporations (Fees) Amendment Bill 2002 and the Corporations (Review Fees) Bill 2002	1695
38	Corporations Legislation Amendment Bill 2003 Corporations (Fees) Amendment Bill 2002 Corporations (Review Fees) Bill 2002	1695
39	National Blood Authority Bill 2002 Industry, Tourism and Resources Legislation Amendment Bill 2003	1696
40	Family and Community Services Legislation Amendment (Disability Reform) Bill (No. 2) 2002 [No. 2].....	1696
41	Transport Safety Investigation Bill 2002 Transport Safety Investigation (Consequential Amendments) Bill 2002.....	1697
42	Adjournment	1697
43	Attendance.....	1697

1 **MEETING OF SENATE**

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

2 **GOVERNMENT DOCUMENTS**

The following government documents were tabled:

Housing Assistance Act 1996—Report for 2000-01 on the operation of the 1999 Commonwealth-State Housing Agreement.

Landcare Australia Limited—Report for 2001-02.

Local Government (Financial Assistance) Act 1995—National Office of Local Government—Report for 2001-02 on the operation of the Act.

National Blood Agreement between the Commonwealth of Australia and the States and Territories.

3 **TRANSPORT SAFETY INVESTIGATION BILL 2002**

TRANSPORT SAFETY INVESTIGATION (CONSEQUENTIAL AMENDMENTS) BILL 2002

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Abetz)—That these bills be now read a second time.

Debate resumed.

Question put and passed.

Bills read a second time.

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

In the committee

TRANSPORT SAFETY INVESTIGATION BILL 2002—

Bill taken as a whole by leave.

Explanatory memoranda: The Parliamentary Secretary to the Minister for Transport and Regional Services (Senator Boswell) tabled a supplementary explanatory memorandum and a revised supplementary explanatory memorandum relating to the government amendments to be moved to the bills, and a correction to the supplementary explanatory memorandum to the Transport Safety Investigation (Consequential Amendments) Bill 2002.

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

Clause 13, page 16 (lines 18 and 19), omit “is a suitable person to exercise those powers”, substitute “satisfies the criteria prescribed by the regulations”.

Clause 17, page 17 (line 21), after “international agreements”, insert “(as in force from time to time)”.

Clause 17, page 17 (after line 22), at the end of the clause, add:

- (2) In exercising powers under this Act, the Executive Director must also have regard to any rules, recommendations, guidelines, codes or other instruments (as in force from time to time) that are promulgated by an international organisation and that are identified by the regulations for the purposes of this section.

Clause 22, page 20 (lines 23 to 28), omit paragraphs (c) and (d), substitute:

- (c) the occurrence occurs outside Australia and any of the following apply:
- (i) evidence relating to the occurrence is found in Australia;
 - (ii) the appropriate authority of another country has requested the Executive Director to conduct, or to participate in, an investigation into the occurrence;
 - (iii) the Executive Director considers that it is necessary to conduct, or to participate in, an investigation into the occurrence and the agreement of the appropriate authority of another country is obtained for the Executive Director to conduct, or to participate in, such an investigation;
 - (iv) Australia has a right or obligation, under an international agreement, to participate in an investigation into the occurrence.

Clause 30, page 28 (lines 9 to 15), omit the clause, substitute:

30 Obligations of Executive Director before entering premises

- (1) Before entering premises under this Part, the Executive Director must take reasonable steps to:
- (a) notify the occupier of the premises of the purpose of the entry; and
 - (b) produce the Executive Director's identity card for inspection by the occupier.
- (2) The Executive Director is not entitled to exercise any powers under this Part in relation to premises if the Executive Director fails to comply with the requirement under subsection (1).

Senator Harris moved the following amendments together by leave:

Clause 3, page 3 (after line 17), after the definition of *accident site premises*, insert:

administrative decision means a decision to which the *Administrative Decisions (Judicial Review) Act 1977* applies, and includes a decision to which that Act would apply if the decision was not included in any of the classes of decisions set out in Schedule 1 to that Act.

Clause 3, page 9 (line 1), omit paragraph (b) of the definition of *special premises*, substitute:

- (b) a vehicle involved in an accident that is an investigable matter.

Clause 13, page 15 (line 18), omit "14 or 25", substitute "14, 25 or 32".

Clause 13, page 15 (lines 19 to 31), omit subclause (3).

Clause 22, page 21 (after line 11), at the end of the clause, add:

- (4) A transport safety matter cannot be investigated under this Act if the matter involves or is related to an aircraft that is employed in private operations as specified in regulation 2(7)(d) of the Civil Aviation Regulations 1988 unless as a result a person dies (or suffers serious injury) or another aircraft not engaged in such private operations is involved.

Clause 24, page 22 (lines 4 to 8), omit paragraph (1)(b), substitute:

- (b) the person is reckless as to whether the conduct will adversely affect an investigation that is being conducted at that time; and

Clause 24, page 22 (lines 10 and 11), omit “(whether or not the investigation had commenced at the time of the conduct)”.

Clause 24, page 22 (line 33) to page 23 (line 1), omit subclause (5).

Heading to clause 27, page 26 (line 1) at the end of the heading, add “**and not to be considered in certain administrative decisions**”.

Clause 27, page 26 (lines 3 and 4), omit subclause (1), substitute:

- (1) A report under section 25:
- (a) is not admissible in evidence in any civil or criminal proceedings; and
 - (b) must not be taken into account in any administrative decision that may adversely affect the interests of a person to whom the report directly or indirectly relates.

Clause 27, page 26 (lines 7 and 8), omit subclause (3), substitute:

- (3) A draft report under section 26:
- (a) is not admissible in evidence in any civil or criminal proceedings; and
 - (b) must not be taken into account in any administrative decision that may adversely affect the interests of a person to whom the report directly or indirectly relates.

Clause 32, page 29 (line 9) omit “any person”, substitute “the Executive Director”.

Clause 32, page 29 (line 30), after “not”, insert “without reasonable excuse”.

Clause 35, page 31 (lines 21 to 24), omit paragraphs (2)(a) and (b), substitute:

- (a) announce that the Executive Director proposes to enter the premises; and
- (b) consider any objections by the owner or occupier to the entry; and
- (c) give any person at the premises an opportunity to allow entry to the premises.

Clause 42, page 39 (lines 9 and 10), omit “an investigation warrant”, substitute “a warrant”.

Clause 47, page 45 (line 20), at the end of subclause (2), add “and must not be taken into account in any administrative decision that may adversely affect the interests of a person to whom the material directly or indirectly relates”.

Page 53 (after line 13), at the end of Division 1, add:

59A Use of OBR information in certain administrative decisions

OBR information, and any information or thing obtained as a direct or indirect result of the use of OBR information, must not be taken into consideration in any administrative decision that may adversely affect the interests of a person to whom the information or thing directly or indirectly relates.

Debate ensued.

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

Question—That the bill, as amended, be agreed to—divided in respect of clause 33.

Clause 33 agreed to.

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

Clause 33, page 31 (lines 3 to 7), omit the clause, substitute:

33 Power to enter special premises without consent or warrant

- (1) The Executive Director may enter special premises without the occupier's consent and without obtaining a warrant if:
 - (a) the Executive Director believes on reasonable grounds that it is necessary to do so; and
 - (b) the investigation is an investigation into an immediately reportable matter.
- (2) The Executive Director may enter the special premises with such assistance, and by such force, as is necessary and reasonable.
- (3) Before entering special premises under subsection (1), the Executive Director must take reasonable steps to give to the occupier of the premises a written notice setting out the occupier's rights and obligations under this Division in relation to the powers that may be exercised under section 36 upon entry.
- (4) The Executive Director is not entitled to exercise any of those powers in relation to special premises the Executive Director has entered under subsection (1) if the Executive Director fails to comply with the requirement under subsection (3).

Bill, as amended, agreed to.

**TRANSPORT SAFETY INVESTIGATION (CONSEQUENTIAL AMENDMENTS) BILL
2002—**

Bill taken as a whole by leave.

Senator Boswell moved the following amendments together by leave:

No. 1—Schedule 1, page 3 (before line 25), before item 5, insert:

4A Section 4

After “Part III”, insert “or IIIB”.

No. 2—Schedule 1, page 3 (after line 29), after item 5, insert:

5A After Part IIIA

Insert:

**Part IIIB—Protection of CVR (cockpit voice recording)
information**

32AN Definitions

In this Part:

Australian court means a federal court or a court of a State or Territory.

civil proceedings means any proceedings before an Australian court, other than criminal proceedings.

Commonwealth entity means:

- (a) the Commonwealth; or
- (b) an authority of the Commonwealth; or
- (c) a corporation in which the Commonwealth, or an authority of the Commonwealth, has a controlling interest.

Commonwealth place means a place referred to in paragraph 52(i) of the Constitution, other than the seat of government.

constitutional corporation means:

- (a) a corporation to which paragraph 51(xx) of the Constitution applies; or
- (b) a body corporate that is incorporated in a Territory.

court includes any tribunal, authority, person or body that has power to require the production of documents or answering of questions, but does not include a Royal Commission, the Parliament or either House of the Parliament.

crew member, in relation to CVR information, means any person who had operational duties on board the aircraft at any time during the recording period of the CVR.

criminal proceedings means criminal proceedings before an Australian court.

CVR or **cockpit voice recording** has the meaning given by section 32AO.

CVR information means:

- (a) a CVR or any part of a CVR; or
- (b) a copy or transcript of the whole or any part of a CVR; or
- (c) any information obtained from a CVR or any part of a CVR.

damages proceedings means civil proceedings for damages in respect of personal injury, death or damage to property.

disclose:

- (a) in relation to information, includes divulge or communicate the information in any way; and
- (b) in relation to information contained in a document or other article, also includes produce the document or other article, or make it available, for inspection.

operational duties means duties or functions in connection with the operation or safety of the aircraft.

Royal Commission means a Commission that has been commissioned by the Governor-General to conduct an inquiry, and includes any member of such a Commission.

32AO Definition of CVR or cockpit voice recording

- (1) A recording is a **CVR** (or **cockpit voice recording**) for the purposes of this Part if:

- (a) the recording consists of (or consists mainly of) sounds or images, or sounds and images, of persons on the flight deck of an aircraft; and
 - (b) the recording was made in order to comply with a law of the Commonwealth; and
 - (c) either of the following applies:
 - (i) any part of the recording was made while the aircraft was on a constitutional journey, or was made incidentally to such a journey;
 - (ii) at the time when the recording was made, the aircraft was owned or operated by a constitutional corporation or Commonwealth entity; and
 - (d) the recording is not an on-board recording for the purposes of the *Transport Safety Investigation Act 2003*.
- (2) In this section:
- constitutional journey** means:
- (a) a journey in the course of trade or commerce with other countries or among the States; or
 - (b) a journey within a Territory, or to or from a Territory; or
 - (c) a journey within a Commonwealth place, or to or from a Commonwealth place.

32AP Copying or disclosing CVR information

- (1) A person is guilty of an offence if:
 - (a) the person makes a copy of information; and
 - (b) the information is CVR information.
 Penalty: Imprisonment for 2 years.
- (2) A person is guilty of an offence if:
 - (a) the person discloses information to any person or to a court; and
 - (b) the information is CVR information.
 Penalty: Imprisonment for 2 years.
- (3) Subsection (1) or (2) does not apply to:
 - (a) copying or disclosure for the purposes of an investigation under the *Transport Safety Investigation Act 2003*; or
 - (b) copying or disclosure for the purposes of the investigation of any offence against a law of the Commonwealth, a State or a Territory; or
 - (c) disclosure of CVR information to a court in criminal proceedings against a person who is not a crew member; or
 - (d) disclosure of CVR information to a court in criminal proceedings against a person who is a crew member for an offence against a law of the Commonwealth, a State or a Territory punishable by a maximum penalty of imprisonment for life or more than 2 years; or
 - (e) disclosure to a court in damages proceedings where the court makes a public interest order under subsection (4) in relation to the CVR information.

Note: A defendant bears an evidential burden in relation to a matter in subsection (3). See subsection 13.3(3) of the *Criminal Code*.

- (4) If the court is satisfied that, in the circumstances of the case, the public interest in the proper determination of a material question of fact outweighs:
 - (a) the public interest in protecting the privacy of members of crews of aircraft; and
 - (b) any adverse domestic and international impact that the disclosure of the information might have on any future investigation under the *Transport Safety Investigation Act 2003*;
 then the court may order such disclosure.
- (5) The court may direct that CVR information, or any information obtained from the CVR information, must not:
 - (a) be published or communicated to any person; or
 - (b) be published or communicated except in such manner, and to such persons, as the court specifies.
- (6) If a person is prohibited by this section from disclosing CVR information, then:
 - (a) the person cannot be required by a court to disclose the information; and
 - (b) any information disclosed by the person in contravention of this section is not admissible in any civil or criminal proceedings (other than proceedings against the person under this section).

32AQ CVR information no ground for disciplinary action

A person is not entitled to take any disciplinary action against a crew member on the basis of CVR information.

32AR Admissibility of CVR information in criminal proceedings against crew members

CVR information, and any information or thing obtained as a direct or indirect result of the use of CVR information, is not admissible in evidence in criminal proceedings against a crew member, other than:

- (a) criminal proceedings for an offence against a law of the Commonwealth, a State or a Territory punishable by a maximum penalty of imprisonment for life or more than 2 years; or
- (b) criminal proceedings for an offence against this Part.

32AS Admissibility of CVR information in civil proceedings

- (1) CVR information is not admissible in evidence in civil proceedings unless the court makes a public interest order under subsection (3) in relation to the CVR information.
- (2) A party to damages proceedings may, at any time before the determination of the proceedings, apply to the court in which the proceedings have been instituted for an order that CVR information be admissible in evidence in the proceedings.
- (3) If such an application is made, the court must examine the CVR information and if the court is satisfied that:

- (a) a material question of fact in the proceedings will not be able to be properly determined from other evidence available to the court; and
- (b) the CVR information or part of the CVR information, if admitted in evidence in the proceedings, will assist in the proper determination of that material question of fact; and
- (c) in the circumstances of the case, the public interest in the proper determination of that material question of fact outweighs:
 - (i) the public interest in protecting the privacy of members of crews of aircraft; and
 - (ii) any adverse domestic and international impact that the disclosure of the information might have on any future investigation under the *Transport Safety Investigation Act 2003*;

then the court may order that the CVR information, or that part of the CVR information, be admissible in evidence in the proceedings.

32AT Examination by a court of CVR information under subsection 32AS(3)

- (1) This section applies if a court examines CVR information under subsection 32AS(3).
- (2) The only persons who may be present at the examination are:
 - (a) the person or persons constituting the court, other than the members of the jury (if any); and
 - (b) the legal representatives of the parties to the proceedings; and
 - (c) such other persons (if any) as the court directs.
- (3) The court may direct that the CVR information, or any information obtained from the CVR information, must not:
 - (a) be published or communicated to any person; or
 - (b) be published or communicated except in such manner, and to such persons, as the court specifies.

32AU Where a court makes an order under subsection 32AS(3)

- (1) This section applies if CVR information is admitted as evidence under subsection 32AS(3).
- (2) In relation to proceedings against a crew member, the CVR information is not evidence for the purpose of the determination of the liability in the proceedings of the crew member.
- (3) In relation to any proceedings, the court may direct that the CVR information or any information obtained from the CVR information, must not:
 - (a) be published or communicated to any person; or
 - (b) be published or communicated except in such manner, and to such persons, as the court specifies.

No. 3—Schedule 1, page 4 (after line 3), after item 6, insert:

6A Schedule 3

Insert in the appropriate alphabetical position:

Civil Aviation Act 1988, subsections 32AP(1) and (2)

Senator Lees moved the following amendments to Senator Boswell's proposed amendment no. 2 together by leave:

Omit paragraph 32AP(3)(d), substitute:

- (d) disclosure of CVR information to a court in criminal proceedings against a person who is a crew member for an offence against a law of the Commonwealth, a State or a Territory punishable by a maximum penalty of imprisonment for life or more than 2 years, where:
 - (i) the offence does not arise as a result of an act done or omitted to be done in good faith in the performance of the person's duties as a crew member; and
 - (ii) the court makes a public interest order under subsection (4) in relation to the CVR information; or

Omit section 32AR, substitute:

32AR Admissibility of CVR information in criminal proceedings against crew members

CVR information, and any information or thing obtained as a direct or indirect result of the use of CVR information, is not admissible in evidence in criminal proceedings against a crew member, except where:

- (a) the CVR information has been disclosed in the proceedings because of the operation of paragraph 32AP(3)(d); or
- (b) the criminal proceedings are for an offence against this Part.

Debate ensued.

Question—That Senator Lees' amendments to Senator Boswell's proposed amendment no. 2 be agreed to—put and passed.

Question—That amendments nos 1 and 3 and no. 2, as amended, be agreed to—put and passed.

Bill, as amended, agreed to.

Bills to be reported with amendments.

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

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

4 WORKPLACE RELATIONS AMENDMENT (PROHIBITION OF COMPULSORY UNION FEES) BILL 2002 [NO. 2]

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

Message no. 270, dated 25 March 2003—Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002 [No. 2], agreeing to amendment no. 2 made by the Senate and disagreeing to amendments nos 1 and 3 to 6.

Ordered, on the motion of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell), that the message be considered in committee of the whole immediately.

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

In the committee

Senator Ian Campbell moved—That the committee does not insist on its amendments nos 1 and 3 to 6 to which the House of Representatives has disagreed.

Debate ensued.

Question put.

The committee divided—

AYES, 36

Senators—

Abetz	Cherry	Johnston	Payne
Alston	Colbeck	Lees	Ridgeway
Barnett	Eggleston	Lightfoot	Santoro
Bartlett	Ellison	Macdonald, Ian	Scullion
Boswell	Ferguson	Macdonald, Sandy	Tchen
Brandis	Ferris (Teller)	Mason	Tierney
Calvert	Greig	McGauran	Troeth
Campbell, Ian	Heffernan	Murray	Vanstone
Chapman	Humphries	Patterson	Watson

NOES, 26

Senators—

Bolkus	Denman	Lundy	Ray
Brown	Forshaw	Mackay	Sherry
Campbell, George	Harradine	Marshall	Stephens (Teller)
Carr	Hogg	McLucas	Webber
Collins	Hutchins	Moore	Wong
Conroy	Kirk	Nettle	
Crossin	Ludwig	O'Brien	

Question agreed to.

Resolution to be reported.

The Acting Deputy President (Senator Lightfoot) resumed the chair and the Chair of Committees (Senator Hogg) reported that the committee had considered message no. 270 from the House of Representatives relating to the Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002 [No. 2] and had resolved not to insist on amendments nos 1 and 3 to 6 made by the Senate to which the House had disagreed.

On the motion of Senator Ian Campbell the report from the committee was adopted.

5 MEDICAL INDEMNITY (PRUDENTIAL SUPERVISION AND PRODUCT STANDARDS) BILL 2003
MEDICAL INDEMNITY (PRUDENTIAL SUPERVISION AND PRODUCT STANDARDS) (CONSEQUENTIAL AMENDMENTS) BILL 2002

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

Message no. 271, dated 25 March 2003—A Bill for an Act to make provision in relation to medical indemnity cover for health care professionals, and for related purposes.

Message no. 269, dated 24 March 2003—A Bill for an Act to make amendments consequential on the *Medical Indemnity (Prudential Supervision and Product Standards) Act 2002*, and for related purposes.

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

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

Explanatory memorandum: Senator Ian Campbell tabled a revised explanatory memorandum relating to the Medical Indemnity (Prudential Supervision and Product Standards) Bill 2003.

Debate ensued.

Senator Conroy moved the following amendment:

At the end of the motion, add “but the Senate, while supporting the provisions of the bills:

- (a) notes the Government’s insistence that these bills be passed urgently, as part of its package of medical indemnity reforms, to ensure that the medical indemnity insurance industry has legislative certainty as it approaches the 1 July 2003 deadline for the introduction of the Government’s reforms;
- (b) notes the Government’s insistence that it intends to bring all medical defence organisations under an insurance model of medical indemnity and to end the current model of discretionary cover, in the face of warnings from a number of medical defence organisations and representative medical organisations of serious adverse consequences on the medical workforce, particularly in Tasmania;
- (c) notes that the Government has recognised that medical defence organisations and representative medical organisations have continuing concerns with the operation of the provisions relating to death, disability and retirement by withdrawing those provisions from these bills, and the Government’s undertaking to continue to work with medical defence organisations and representative medical organisations to address serious concerns relating to those provisions; and
- (d) notes that the Government has recognised that there are continuing problems with respect to personal liability of doctors in excess of the insured amount and the Government’s undertaking to review this issue in consultation with medical defence organisations and representative medical organisations”.

Debate ensued.

At 12.45 pm: Debate was interrupted while Senator Webber was speaking.

6 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

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

Department of Agriculture, Fisheries and Forestry—Report—Innovating rural Australia: Research and development corporation outcomes, 2002.

Discussion continued.

Documents: Senator Nettle, by leave, tabled the following documents:

Foreign Affairs—Iraq—Military action—
 “Not in our name”—Register of 19 674 Australians who do not support an
 attack on Iraq by Australia without UN approval.
 Petitioning documents [4] from 1 018 signatories, opposing the war in Iraq.
 Pledge of resistance—7 280 signatories.

Discussion continued.

Document: Senator O’Brien, by leave, tabled the following document:

Primary Industries—Dairy Regional Assistance Program—New South Wales—
 North Moruya industrial estate—Copy of extract from administration report to
 ordinary meeting of Council held on Tuesday 27 August 2002—“A9 arrangements
 for the sewerage of the North Moruya industrial estate 00.4581”.

Discussion concluded.

At 2 pm—

7 QUESTIONS

Questions without notice were answered.

Distinguished visitors: The President welcomed members of a parliamentary delegation from Fiji led by the President of the Senate, the Honourable Senator Taito Waqavakatoga, and, with the concurrence of honourable senators, invited Senator Taito Waqavakatoga to take a seat on the floor of the chamber.

Further questions without notice were answered.

8 MINISTERS—ANSWERS TO QUESTIONS

Senator Bolkus moved—That the Senate take note of answers given by ministers to questions without notice asked by opposition senators today.

Debate ensued.

Question put and passed.

9 DEFENCE—ANTHRAX VACCINE—ANSWER TO QUESTION

The Leader of the Australian Democrats (Senator Bartlett) moved—That the Senate take note of the answer given by the Minister for Defence (Senator Hill) to a question without notice asked by Senator Bartlett today relating to an approval to import anthrax vaccine for Australian Defence troops.

Question put and passed.

10 PETITION

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

From 45 petitioners, requesting that the Senate urge the Government to release publicly the demands and concessions it proposes to make to other countries for opening up trade in services as part of negotiations on a new General Agreement on Trade in Services.

11 NOTICES

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

- (a) congratulates the Australian Capital Territory Legislative Assembly on the recent passage of the Legislation (Gay, Lesbian and Transgender) Amendment Bill 2002, and the Discrimination Amendment Bill 2002 (No. 2);
- (b) notes that the considered and mature debate on this legislation saw it pass the Assembly without dissent;
- (c) welcomes the Australian Capital Territory in now joining with Western Australia, New South Wales, Victoria and Queensland as jurisdictions with partnership laws to recognise same-sex couples;
- (d) notes that the parliaments of Tasmania and South Australia are currently giving positive consideration to partnership laws for same-sex couples;
- (e) regrets that the Commonwealth has failed to address this matter under federal law, and as a consequence is out of step with the states and has fallen behind most comparable international jurisdictions in this area; and
- (f) calls on the Government to implement national legislation to end discrimination against same-sex couples. (*general business notice of motion no. 433*)

The Minister for Defence (Senator Hill): To move on the next day of sitting—That, on Thursday, 27 March 2003:

- (a) consideration of general business and consideration of committee reports, government responses and Auditor-General's reports under standing order 62(1) and (2) not be proceeded with; and
- (b) the routine of business from not later than 4.30 pm shall be government business only.

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend legislation about health and ageing, and for related purposes. ***Health and Ageing Legislation Amendment Bill 2003.***

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend legislation relating to health, and for related purposes. ***Health Legislation Amendment Bill (No. 1) 2003.***

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

- (a) notes the release of the annual native title and social justice reports by the Aboriginal and Torres Strait Islander Social Justice Commissioner, Dr Bill Jonas;
- (b) further notes that:
 - (i) the social justice report shows that Indigenous women are currently incarcerated at a rate higher than any other group in Australia, with their prison population increasing 255 per cent in the decade since the Royal Commission into Aboriginal Deaths in Custody,
 - (ii) this over-representation of Indigenous women occurs in the context of intolerably high levels of family violence, over-policing for selected offences, ill-health, unemployment and poverty,
 - (iii) removal of Indigenous women from the community has significant consequences and potentially exposes children to risk of neglect, abuse, hunger and homelessness, and
 - (iv) once imprisoned, recidivism statistics show that Indigenous women are at a greater risk of returning to jail;
- (c) welcomes the Government's revision of the National Indigenous Justice Strategy, as an important step in addressing these issues;
- (d) notes that the Legal and Constitutional References Committee inquiry into progress towards national reconciliation has commenced and is due to report on 17 June 2003; and
- (e) urges the Government to treat Indigenous issues as a national priority, and to put reconciliation back on the national agenda. (*general business notice of motion no. 434*)

Senator O'Brien: To move on the next day of sitting—That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 30 June 2003:

The circumstances surrounding the application, approval and expenditure of funding under the Dairy Regional Assistance Program for the construction of a new building and the installation of additional machinery at the Moruya Steel Profiling Plant in New South Wales in the 2001-02 financial year.

Senator Brown: To move on the next day of sitting—That the Senate supports the establishment of a free, viable and independent state of Palestine. (*general business notice of motion no. 435*)

The Leader of the Australian Democrats (Senator Bartlett), also on behalf of Senator Stott Despoja: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Defence Act 1903* to provide for parliamentary approval of overseas service by members of the Defence Force. ***Defence Amendment (Parliamentary approval for Australian involvement in overseas conflicts) Bill 2003.*** (*general business notice of motion no. 436*)

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

- (a) notes that 27 March 2003 marks what the Burmese regime calls ‘Armed Forces Day’, but which the Burmese people still celebrate as ‘Fascist Resistance Day’, in opposition to the illegitimate military rule still in force in that country;
- (b) recalls on this day the Senate resolution of June 2000 calling for the cancellation of Australian Government sponsored human rights training in Burma;
- (c) calls upon the Government:
 - (i) to comply with this resolution, cancelling the planned human rights training, and
 - (ii) ensure that any future projects, including the proposed 3-year humanitarian assistance and training programs, be undertaken in full consultation and cooperation with National League for Democracy and ethnic nationalities parties;
- (d) recognises the Committee Representing People’s Parliament as the legitimate body to convene a democratic Parliament in Burma, according to the 1990 election result;
- (e) calls upon the Government to exert economic and diplomatic pressure, including targeted sanctions, a tourism boycott, a downgrading of diplomatic relations, against Burma until the regime enters into official dialogue with Daw Aung San Suu Kyi; and
- (f) calls upon the Burmese regime to immediately release Min Ko Naing and all political prisoners and restore democracy. (*general business notice of motion no. 437*)

12 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 4 OF 2003

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

SELECTION OF BILLS COMMITTEE REPORT NO. 4 OF 2003

1. The committee met on Tuesday, 25 March 2003.
2. The committee resolved to recommend—That—
 - (a) the Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002 be *referred immediately* to the Environment, Communications, Information Technology and the Arts Legislation Committee for inquiry and report on 25 November 2003;
 - (b) upon its introduction into the House of Representatives, the *provisions* of the Aviation Transport Security Bill 2003 and the Aviation Transport Security (Consequential Amendments and Transitional Provisions) Bill 2003 be *referred immediately* to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report on 16 May 2003;
 - (c) upon its introduction into the House of Representatives, the *provisions* of the Civil Aviation Amendment Bill 2003 be *referred immediately* to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report on 16 May 2003; and
 - (d) the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2] *not* be referred to committee.

The committee recommends accordingly.

3. The committee considered a proposal to vary the order of the Senate of 5 February 2003 adopting the committee's 1st report of 2003 to provide that the *provisions* of the Medical Indemnity (Prudential Supervision and Product Standards) Bill 2003 be *referred immediately* to the Community Affairs Legislation Committee for inquiry and report on 15 May 2003, but *unanimously resolved* that the bill *not be referred*.

The committee recommends accordingly.

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

Bill deferred from meeting of 20 August 2002

Occupational Health and Safety (Commonwealth Employment)
Amendment (Employee Involvement and Compliance) Bill 2002.

Bills deferred from meeting of 19 November 2002

Workplace Relations Amendment (Award Simplification) Bill 2002
Workplace Relations Amendment (Choice in Award Coverage) Bill 2002.

Bills deferred from meeting of 4 March 2003

Family Law Amendment Bill 2003
Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003.

Jeannie Ferris
Chair
26 March 2003.

Senator Ferris moved—That the report be adopted.

Question put and passed.

13 POSTPONEMENTS

Senator Brown, by leave, moved—That general business notice of motion no. 423 standing in his name for today, relating to a proposed aluminium smelter in Iceland, be postponed till the next day of sitting.

Question put and passed.

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of the Leader of the Australian Democrats (Senator Bartlett) for today, relating to the disallowance of items [2356], [2357] and [2358] of Schedule 2 to the Migration Amendment Regulations 2002 (No. 10), postponed till 27 March 2003.

Business of the Senate notice of motion no. 2 standing in the name of Senator Stott Despoja for today, relating to the disallowance of the Customs (Prohibited Exports) Amendment Regulations 2003 (No. 1), postponed till 27 March 2003.

Business of the Senate notice of motion no. 1 standing in the name of Senator Brown for 27 March 2003, relating to the disallowance of Amendment 41 of the National Capital Plan (Gungahlin Drive Extension), postponed till 14 May 2003.

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 2003, postponed till 27 March 2003.

General business notice of motion no. 430 standing in the name of Senator Nettle for today, relating to the proposed Liquefied Natural Gas Plant at Wickham Point in Darwin Harbour, postponed till 27 March 2003.

General business notice of motion no. 431 standing in the name of Senator Stephens for today, relating to the New South Wales Labor Government, postponed till 26 June 2003.

14 ORDER OF BUSINESS—REARRANGEMENT

Senator Ferris, by leave and at the request of the Chair of the Economics Legislation Committee (Senator Brandis), moved—That business of the Senate order of the day no. 3, relating to the presentation of the report of the committee on the provisions of the Corporations (Fees) Amendment Bill 2002 and two related bills, be postponed till a later hour.

Question put and passed.

15 TRANSPORT—ETHANOL—ORDER FOR PRODUCTION OF DOCUMENTS—FAILURE TO COMPLY

Senator O'Brien, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 428—That the Senate—

(a) notes that:

- (i) on 16 October 2002 it agreed to an order for the production of documents relating to the Government's consideration of an ethanol excise and production subsidy,
- (ii) on 21 October 2002 the Parliamentary Secretary to the Treasurer (Senator Ian Campbell) advised the Senate that, 'the Government intends to comply with the order as soon as possible and fully expects to be in a position to do so shortly',
- (iii) on 12 December 2002 Senator Ian Campbell advised the Senate that, 'consideration of the documents is close to conclusion' and committed to tabling the requested documents out of session by 17 December 2002,
- (iv) on 5 February 2003 Senator Ian Campbell advised the Senate that, 'the Government is seeking to conclude its consideration of these documents and its compliance – albeit very late – with the order of the Senate',
- (v) on 4 March 2003 the Senate noted the Government's failure to comply with the order of the Senate and called on the Government to comply by 6 March 2003, and
- (vi) more than 155 days have passed since Senator Ian Campbell gave the Senate a commitment that the Government would 'shortly' comply with the Senate order; and

(b) calls on the Government to comply with the order of the Senate no later than 5 pm on 27 March 2003.

Question put and passed.

**16 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—
EXTENSION OF TIME TO REPORT**

Senator Ferris, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 425—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the Dairy Industry Service Reform Bill 2003 and a related bill be extended to 27 March 2003.

Question put and passed.

17 HUMAN RIGHTS—IRAQ—CHILDREN—HAND OF PEACE EXCHANGE

The Leader of the Australian Democrats (Senator Bartlett), at the request of Senator Stott Despoja and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 427—That the Senate—

- (a) notes that:
 - (i) the ‘HOPE’ Hand of Peace Exchange was launched on 18 March 2003,
 - (ii) this project aims to highlight the plight of children in Iraq and other regions in humanitarian crisis,
 - (iii) the ‘HOPE’ Hand of Peace Exchange will involve the exchange of handprints between children all around the world, as a show of solidarity with the Iraqi children caught in the war, and
 - (iv) the United Nations estimates that there are currently more than one million malnourished children in Iraq; and
- (b) urges the Government to increase Australia’s foreign aid budget, specifically our aid to Iraq, after the war.

Question put and passed.

18 DEFENCE—IRAQ—AUSTRALIAN DEFENCE FORCE PERSONNEL

Senator Brown amended his notice of motion by leave and, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 429—That the Senate:

- (a) reiterates its opposition to the war with Iraq and urges the safe withdrawal of Australian troops from Iraq;
- (b) urges Australians opposed to the war to continue to voice their opposition to the Government’s decision through peaceful and democratic means; and
- (c) expresses its full support for Australian troops, and urges all Australians to maintain their support for Australian troops during and after the current deployment.

Question put and passed.

19 ECONOMICS LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT

Senator Ferris, at the request of the Chair of the Economics Legislation Committee (Senator Brandis) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 424—That the time for the presentation of the report of the Economics Legislation Committee on the Designs Bill 2002 and a related bill be extended to 13 May 2003.

Question put and passed.

20 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), by leave, moved—

- (1) That, on Wednesday, 26 March 2003—
 - (a) the hours of meeting shall be 9.30 am to 6.30 pm, and 7.30 pm to 11.10 pm;
 - (b) the routine of business from 7.30 pm shall be government business only; and
 - (c) the question for the adjournment of the Senate shall be proposed at 10.30 pm.

- (2) That, on Thursday, 27 March 2003—
- (a) the hours of meeting shall be 9.30 am to 6.30 pm, and 7.30 pm to adjournment;
 - (b) the routine of business from 7.30 pm shall be government business only;
 - (c) divisions may take place after 6 pm; and
 - (d) 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:
 - Medical Indemnity (Prudential Supervision and Product Standards) Bill 2003
 - Medical Indemnity (Prudential Supervision and Product Standards) (Consequential Amendments) Bill 2002
 - Corporations Amendment (Repayment of Directors' Bonuses) Bill 2002
 - Copyright Amendment (Parallel Importation) Bill 2002
 - Energy Grants (Credits) Scheme Bill 2003
 - Energy Grants (Credits) Scheme (Consequential Amendments) Bill 2003
 - Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures) Bill 2002, consideration in committee of the whole of message no. 238 from the House of Representatives
 - Taxation Laws Amendment Bill (No. 7) 2002
 - Migration Legislation Amendment Bill (No. 1) 2002
 - Inspector-General of Taxation Bill 2002, consideration in committee of the whole of message no. 251 from the House of Representatives
 - Appropriation Bill (No. 3) 2002-2003
 - Appropriation Bill (No. 4) 2002-2003
 - Dairy Industry Service Reform Bill 2003
 - Primary Industries (Excise) Levies Amendment (Dairy) Bill 2003
 - Health Insurance Amendment (Diagnostic Imaging, Radiation Oncology and Other Measures) Bill 2002
 - Industry, Tourism and Resources Legislation Amendment Bill 2003
 - Corporations Legislation Amendment Bill 2002
 - Corporations (Fees) Amendment Bill 2002
 - Corporations (Review Fees) Bill 2002
 - National Blood Authority Bill 2002
 - Agriculture, Fisheries and Forestry Legislation Amendment Bill (No. 2) 2002
 - Crimes Legislation Enhancement Bill 2002 [2003]
 - Family and Community Services Legislation Amendment Bill 2003
 - Veterans' Affairs Legislation Amendment Bill (No. 3) 2002.

Debate ensued.

Question put and passed.

21 SCRUTINY OF BILLS—STANDING COMMITTEE—3RD REPORT AND ALERT DIGEST NO. 4 OF 2003

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

- Scrutiny of Bills—Standing Committee—
3rd report of 2003, dated 26 March 2003.
- Alert Digest No. 4 of 2003, dated 26 March 2003.

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

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

Question put and passed.

22 CORPORATIONS AND FINANCIAL SERVICES—JOINT STATUTORY COMMITTEE—REPORT—REVIEW OF THE AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

The Chair of the Parliamentary Joint Committee on Corporations and Financial Services (Senator Chapman) tabled the following report and documents:

- Corporations and Financial Services—Joint Statutory Committee—Review of the Australian Securities and Investments Commission—Report, dated March 2003 and *Hansard* record of proceedings.

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

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

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

23 PUBLIC WORKS—JOINT STATUTORY COMMITTEE—REPORT—BUREAU OF METEOROLOGY, VICTORIA

Senator McGauran, on behalf of the Parliamentary Standing Committee on Public Works, tabled the following report:

- Public Works—Joint Statutory Committee—Proposed fit-out of new leased premises for the Bureau of Meteorology, 700 Collins Street, Docklands, Victoria, dated March 2003.

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

Question put and passed.

24 BUILDING AND CONSTRUCTION INDUSTRY—ROYAL COMMISSION—FINAL REPORT—MINISTERIAL STATEMENT—DOCUMENTS

The Minister for Finance and Administration (Senator Minchin) tabled the following documents:

- Building and Construction Industry—Royal Commission—
Final report by the Royal Commissioner the Honourable TRH Cole, RFD, QC, dated February 2003—
Volume 2—Conduct of the Commission—Principles and procedures.
- Volume 12—State and territory overviews.
- Volume 13—Hearings—New South Wales—Part 1.
- Volume 14—Hearings—New South Wales—Part 2.
- Volume 15—Hearings—Victoria—Part 1.
- Volume 16—Hearings—Victoria—Part 2.
- Volume 17—Hearings—Queensland—Part 1.

Volume 18—Hearings—Queensland—Part 2.
Volume 19—Hearings—South Australia, Tasmania, Northern Territory and Australian Capital Territory.
Volume 20—Hearings—Western Australia—Part 1.
Volume 21—Hearings—Western Australia—Part 2.
Volume 22—Administration.

Ministerial statement by the Minister for Employment and Workplace Relations (Mr Abbott), dated 26 March 2003.

Senator Sherry, by leave, moved—That the Senate take note of the documents.

Debate ensued.

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

25 AUDITOR-GENERAL—AUDIT REPORT NO. 35 OF 2002-03—DOCUMENT

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

Auditor-General—Audit report no. 35 of 2002-03—Performance audit—Fraud control arrangements in the Australian Customs Service.

26 DOCUMENTS

The following documents were tabled by the Clerk:

Census and Statistics Act—Australian Bureau of Statistics—Statement No. 1 of 2003.

Federal Court of Australia Act—Rules of Court—Statutory Rules 2003 No. 35.

National Health Act—Determination under Schedule 1—PHS3/2003.

27 DEPARTMENTAL AND AGENCY CONTRACTS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT

The following document was tabled pursuant to the order of the Senate of 20 June 2001, as amended on 27 September 2001:

Departmental and agency contracts—Letters of advice—2003 autumn sitting—Department of Agriculture, Fisheries and Forestry and Dairy Adjustment Authority.

28 INDEXED LISTS OF DEPARTMENTAL AND AGENCY FILES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended on 3 December 1998:

Indexed lists of departmental and agency files for the period 1 July to 31 December 2002—Statements of compliance—

Agriculture, Fisheries and Forestry portfolio agencies—

Australian Dairy Corporation.

Australian Fisheries Management Authority.

Australian Wine and Brandy Corporation.

Cotton Research and Development Corporation.

Dairy Research and Development Corporation.

Department of Agriculture, Fisheries and Forestry (including Dairy Adjustment Authority).

Fisheries Research and Development Corporation.

Forest and Wood Products Research and Development Corporation.

Grains Research and Development Corporation.
 Grape and Wine Research and Development Corporation.
 Land and Water Australia.
 National Registration Authority for Agricultural and Veterinary Chemicals.
 Rural Industries Research and Development Corporation.
 Sugar Research and Development Corporation.
 Tobacco Research and Development Corporation.
 Wheat Export Authority.
 National Capital Authority.

29 IMMIGRATION—ILLEGAL MIGRATION—ORDER FOR PRODUCTION OF DOCUMENT—STATEMENT BY LEAVE

The Minister for Revenue and Assistant Treasurer (Senator Coonan), by leave, made a statement relating to the order of the Senate of 25 March 2003 for the production of the Memorandum of Understanding between the Australian Government and the Islamic Republic of Iran (*see entry no. 20, 25 March 2003*).

The Leader of the Australian Democrats (Senator Bartlett), by leave, moved—That the Senate take note of the statement.

Question put and passed.

30 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—APPOINTMENT OF MEMBER

The Acting Deputy President (Senator McLucas) informed the Senate that the President had received a letter nominating a senator to be a member of a committee.

The Minister for Health and Ageing (Senator Patterson), by leave, moved—That Senator Kirk be appointed as a participating member of the Foreign Affairs, Defence and Trade References Committee for the committee's inquiry into the performance of government agencies in the assessment and dissemination of security threats in South East Asia in the period 11 September 2001 to 12 October 2002.

Question put and passed.

31 HEALTH INSURANCE AMENDMENT (DIAGNOSTIC IMAGING, RADIATION ONCOLOGY AND OTHER MEASURES) BILL 2002

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

Message no. 272, dated 25 March 2003—A Bill for an Act to amend the *Health Insurance Act 1973*, and for related purposes.

The Minister for Health and Ageing (Senator Patterson) moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

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

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

**32 ENERGY GRANTS (CREDITS) SCHEME BILL 2003
 ENERGY GRANTS (CREDITS) SCHEME (CONSEQUENTIAL AMENDMENTS) BILL 2003**

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

Message no. 273, dated 26 March 2003—A Bill for an Act to provide grants for the use of certain fuels, and for related purposes.

Message no. 274, dated 26 March 2003—A Bill for an Act to amend or repeal certain Acts as a consequence of the enactment of the *Energy Grants (Credits) Scheme Act 2003*, and for related purposes.

The Minister for Health and Ageing (Senator Patterson) 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.

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

On the motion of Senator Crossin the debate was adjourned.

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

33 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION LEGISLATION COMMITTEE—REPORT—WORKPLACE RELATIONS AMENDMENT (TERMINATION OF EMPLOYMENT) BILL 2002

Pursuant to order, Senator Ferris, at the request of the Chair of the Employment, Workplace Relations and Education Legislation Committee (Senator Tierney), tabled the following report and documents:

Employment, Workplace Relations and Education Legislation Committee—Workplace Relations Amendment (Termination of Employment) Bill 2002—Report, dated March 2003, *Hansard* record of proceedings, additional information and submissions [23].

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

**34 MEDICAL INDEMNITY (PRUDENTIAL SUPERVISION AND PRODUCT STANDARDS) BILL 2003
MEDICAL INDEMNITY (PRUDENTIAL SUPERVISION AND PRODUCT STANDARDS) (CONSEQUENTIAL AMENDMENTS) BILL 2002**

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell)—That these bills be now read a second time—*and on the amendment moved by Senator Conroy (see entry no. 5)*.

Debate resumed.

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

Main question, as amended, put and passed.

Bills read a second time.

Proposed reference to committee: Senator Harradine moved—That the Medical Indemnity (Prudential Supervision and Product Standards) Bill 2003 and the Medical Indemnity (Prudential Supervision and Product Standards) (Consequential Amendments) Bill 2002 be referred to the Community Affairs Legislation Committee for inquiry and report by 13 May 2003.

Debate ensued.

Question put.

The Senate divided—

AYES, 5

Senators—

Brown (Teller)	Lees	Murphy	Nettle
Harradine			

NOES, 40

Senators—

Allison	Coonan	Ludwig	Ridgeway
Barnett	Crossin	Lundy	Scullion
Bartlett	Denman	Mackay	Sherry
Bishop	Eggleston (Teller)	Marshall	Stephens
Calvert	Ferris	McLucas	Stott Despoja
Chapman	Greig	Moore	Tchen
Cherry	Heffernan	Murray	Troeth
Colbeck	Hutchins	O'Brien	Watson
Conroy	Johnston	Payne	Webber
Cook	Kirk	Ray	Wong

Question negatived.

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

On the motion of the Minister for Revenue and Assistant Treasurer (Senator Coonan) the bills were read a third time.

35 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Revenue and Assistant Treasurer (Senator Coonan) moved—That intervening business be postponed till after consideration of government business order of the day no. 4 (Corporations Amendment (Repayment of Directors' Bonuses) Bill 2002).

Question put and passed.

36 CORPORATIONS AMENDMENT (REPAYMENT OF DIRECTORS' BONUSES) BILL 2002

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell)—That this bill be now read a second time.

Debate resumed.

Document: Senator Ian Campbell tabled the following document:

Corporations Amendment (Repayment of Directors' Bonuses) Bill 2002—
Directors' Remuneration Report Regulations 2002—Statutory Instrument 2002
No. 1986 (United Kingdom).

Debate continued.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

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

Schedule 1, page 3 (after line 9), after item 1, insert:

1A Section 9 (definition of *emoluments*)

Repeal the definition, substitute:

emoluments means the amount or value of any money, consideration or benefit given or accruing, directly or indirectly, vested or unvested, to a director of a body corporate in connection with the management of affairs of the body or of any holding company or subsidiary of the body, whether as a director or otherwise, but does not include amounts in payment or reimbursement of out-of-pocket expenses incurred for the benefit of the body.

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

Schedule 1, page 3 (after line 13), after item 2, insert:

2A Subparagraph 200F(1)(a)(iii)

Repeal the subparagraph, substitute:

- (iii) given to the person under an agreement made prior to 30 June 2003 and between the company and the person before the person became the holder of the office as the consideration, or part of the consideration, for the person agreeing to hold the office; or

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

Schedule 1, page 5 (after line 29), at the end of the Schedule, add:

8 At the end of Division 6 of Part 5.7B

Insert:

588YA Liability of a company for the debts or liabilities of a related company

- (1) When a company is being wound up in insolvency, the liquidator, a creditor of the company, a nominee of a creditor of the company or the ASIC may apply to the Court for an order that a company that is or has been a related body corporate pay to the liquidator the whole or part of the amount of a debt of the insolvent company. The Court may make such an order if it is satisfied that it is just to do so.
- (2) In deciding whether it is just to make an order under subsection (1), the matters to which the Court shall have regard include:
 - (a) whether the company provided services for or on behalf of the related body corporate; and
 - (b) whether the company occupied premises which are owned by the related body corporate; and

- (c) the extent to which the related body corporate took part in the management of the company; and
 - (d) the conduct of the related body corporate towards the creditors of the company generally and to the creditor to which the debt or liability relates; and
 - (e) the extent to which the circumstances that gave rise to the winding up of the company are attributable to the actions of the related body corporate or an officer or officers of the related body corporate; and
 - (f) any other relevant matters as the Court considers just and appropriate.
- (3) An order under this section may be subject to conditions.
 - (4) An order shall not be made under this section if the only ground for making the order is that creditors of the company have relied on the fact that another company is or has been a related body corporate of the company.

Senator Conroy moved the following amendments together by leave:

Schedule 1, page 3 (after line 13), after item 2, insert:

2B After section 250R

Insert:

250RA Approval of director's report of listed company

- (1) The business of an AGM of a listed company must include a resolution approving the annual director's report prepared under section 300A, even if not referred to in the notice of meeting.
- (2) No entitlement of a person to remuneration or emolument is made conditional on the resolution being passed by reason only of the provision made by this section.
- (3) The chair of the AGM must allow a reasonable opportunity for the members as a whole at the meeting to discuss the resolution under subsection (1), and the resolution must be put to a vote at the AGM.
- (4) This section only applies to a company that is listed.
- (5) This section applies despite anything in the company's constitution.

Schedule 1, page 3 (after line 13), after item 2, insert:

2C Section 300A

Repeal the section, substitute:

300A Annual director's report—specific information to be provided by listed companies

- (1) The director's report for a financial year for a company must also include:
 - (a) if a committee of the board has considered matters relating to the emoluments of the directors and executive officers:
 - (i) the name of each director who was a member of the committee at any time when the committee was considering any such matter; and

- (ii) the name of any person who provided to the committee advice or services that materially assisted the committee in its consideration of any such matter; and
 - (iii) in the case of any person named under subparagraph (ii) who is not a director of the company, the nature of any other services that the person has provided to the company during the financial year and whether the person was appointed by the committee; and
- (b) discussion of board policy for determining the nature and amount of emoluments of board members and executive officers of the company, including:
- (i) discussion of the relationship between such policy and the company's performance; and
 - (ii) for each director and each of the 5 named officers (other than directors) of the company receiving the highest emolument, a detailed summary of any performance conditions to which any entitlement of that person to securities is subject; and
 - (iii) an explanation as to why such performance conditions were chosen; and
 - (iv) a summary of the methods to be used in assessing whether any such performance conditions are met and an explanation as to why those methods were chosen; and
 - (v) if any such performance condition involves any comparison with factors external to the company:
 - (A) a summary of the factors to be used in making each such comparison; and
 - (B) if any of the factors relates to the performance of another company, of two or more other companies, or of an index on which the securities of a company or companies are listed, the identity of that company, of each of those companies, or of the index; and
 - (vi) a description of, and an explanation for, any significant amendment to be made to the terms and conditions of any entitlement to securities of a director or of one of the 5 named officers (other than directors) of the company receiving the highest emolument; and
 - (vii) if any entitlement to securities of a director or of one of the 5 named officers (other than directors) of the company receiving the highest emolument is not subject to performance conditions, an explanation as to why that is the case; and
 - (viii) in respect of the terms and conditions relating to emoluments of each director and each of the 5 named officers (other than directors) of the company receiving the highest emolument, an explanation of the relative importance of those elements which are, and those elements which are not, related to performance; and

- (ix) an explanation of the company's policy on the duration of contracts with directors and the 5 named officers (other than directors) of the company receiving the highest emolument, and notice periods, and termination payments, under such contracts; and
 - (c) details of the nature and amount of each element of the emolument of each director and each of the 5 named officers (other than directors) of the company receiving the highest emolument; and
 - (d) for each of the directors and the 5 named officers (other than directors) of the company receiving the highest emolument, details of the value of options granted, exercised and lapsed unexercised during the year and their aggregation in the total emolument; and
 - (e) for each of the directors and the 5 named officers (other than directors) of the company receiving the highest emolument, details of any equity value protection scheme entered into by them or on their behalf. For the purposes of this paragraph **equity value protection scheme** means any financial arrangement which results in the director or officer retaining legal ownership of equity in the company the value of which to the director or officer remains fixed regardless of changing market values; and
 - (f) details of the nature and amount of each element of the emolument of a person, however described, who carries out like responsibilities of a director or each of the 5 named officers (other than directors) of the company who but for this section would not be included as a director or one of the 5 named officers receiving the highest emolument; and
- Note: Paragraph (f) includes consultants.
- (g) a line graph which plots for each of the most recent 5 financial years the total shareholder return on:
 - (i) the holding of shares of that class of the company's equity share capital whose listing, or admission to dealing, has resulted in the company falling within the definition of listed company; and
 - (ii) a hypothetical holding of shares made up of shares of the same kind and number as those by reference to which a broad equity market index is calculated;
 and state the name of the index selected for the purposes of the graph and set out the reasons for selecting that index; and
 - (h) any other matters prescribed in the regulations.
- (2) This section only applies to a company that is listed.
 - (3) This section applies despite anything in the company's constitution.
 - (4) This section applies to directors and each of the 5 named officers (other than directors) of the company receiving the highest emolument irrespective of which company in a consolidated group of companies the directors and named officers hold office.

- (5) For the purposes of this section and section 588FDA(1)(b), a director includes a director of a subsidiary company and includes a director of a partly-owned subsidiary company.

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That the committee report progress and ask leave to sit again.

Question put and passed.

The Acting Deputy President (Senator Watson) resumed the chair and the Temporary Chair of Committees reported that the committee had considered the bill, made progress and asked leave to sit again.

Ordered, on the motion of Senator Ian Campbell, that the committee have leave to sit again on the next day of sitting.

37 ECONOMICS LEGISLATION COMMITTEE—REPORT—CORPORATIONS LEGISLATION AMENDMENT BILL 2002, THE CORPORATIONS (FEES) AMENDMENT BILL 2002 AND THE CORPORATIONS (REVIEW FEES) BILL 2002

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

Economics Legislation Committee—Corporations Legislation Amendment Bill 2002, the Corporations (Fees) Amendment Bill 2002 and the Corporations (Review Fees) Bill 2002—Report, dated March 2003, documents presented to the committee and submissions [12].

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

**38 CORPORATIONS LEGISLATION AMENDMENT BILL 2003
CORPORATIONS (FEES) AMENDMENT BILL 2002
CORPORATIONS (REVIEW FEES) BILL 2002**

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

Message no. 278, dated 26 March 2003—A Bill for an Act to amend the law relating to corporations, and for related purposes.

Message no. 280, dated 26 March 2003—A Bill for an Act to amend the *Corporations (Fees) Act 2001*, and for related purposes.

Message no. 279, dated 26 March 2003—A Bill for an Act to impose, as taxes, review fees in relation to the *Corporations Act 2001*, and for related purposes.

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

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

Explanatory memorandum: Senator Ian Campbell tabled a revised explanatory memorandum relating to the Corporations Legislation Amendment Bill 2003.

Consideration of legislation: Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.

**39 NATIONAL BLOOD AUTHORITY BILL 2002
INDUSTRY, TOURISM AND RESOURCES LEGISLATION AMENDMENT BILL 2003**

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

Message no. 281, dated 26 March 2003—A Bill for an Act to enhance the management of Australia's blood supply, and for related purposes.

Message no. 282, dated 26 March 2003—A Bill for an Act to amend and repeal legislation relating to industry, tourism and resources, and for related purposes.

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

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

Explanatory memorandum: Senator Ian Campbell tabled a revised explanatory memorandum relating to the Industry, Tourism and Resources Legislation Amendment Bill 2003.

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

Consideration of legislation: Senator Ian Campbell moved—That the bills be listed on the *Notice Paper* as separate orders of the day.

Question put and passed.

40 FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (DISABILITY REFORM) BILL (NO. 2) 2002 [NO. 2]

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

Message no. 275, dated 26 March 2003—A Bill for an Act to amend the law relating to social security in its application to disabled persons, and for related purposes.

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

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

Consideration of legislation: Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.

41 **TRANSPORT SAFETY INVESTIGATION BILL 2002**

TRANSPORT SAFETY INVESTIGATION (CONSEQUENTIAL AMENDMENTS) BILL 2002

Messages from the House of Representatives were reported agreeing to the amendments made by the Senate to the following bills:

Message no. 276, dated 26 March 2003—Transport Safety Investigation Bill 2002.

Message no. 277, dated 26 March 2003—Transport Safety Investigation (Consequential Amendments) Bill 2002.

At 10.30 pm—

42 **ADJOURNMENT**

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

Debate ensued.

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

Foreign Affairs—Iraq—Military action—Petitioning document—A statement for peace and in opposition to war by the Women’s International League for Peace and Freedom and the Women Building Peace Network ACT (over 6 000 signatures).

The Senate adjourned at 10.44 pm till Thursday, 27 March 2003 at 9.30 am.

43 **ATTENDANCE**

Present, all senators except Senators Buckland and Knowles* (* on leave).

HARRY EVANS
Clerk of the Senate