

2002-03

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 74

THURSDAY, 27 MARCH 2003

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1 MEETING OF SENATE

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

2 PETITION

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

From 1 246 petitioners, requesting that the Senate take action to grant permanent residence to refugees on temporary protection visas who have been law abiding and authorise the release into the community of asylum seekers.

3 NOTICES

Notices of motion:

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

- (a) notes:
 - (i) the passing of Mr Jim Anderson, the former Member for Londonderry, following his sudden death on the morning of Saturday, 22 March 2003, and
 - (ii) the valuable contribution of Mr Anderson made to the labour movement, the Australian Labor Party and the State of New South Wales; and
- (b) expresses its condolences to Mr Anderson's family and friends. (*general business notice of motion no. 438*)

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

- (a) notes that:
 - (i) body image is a serious concern for many women, particularly young women, in Australia,
 - (ii) body image concerns can result from unrealistic portrayals of women throughout the media, and
 - (iii) concerns over body image are often connected to a number of health issues for women, including eating disorders, depression and low self esteem; and
- (b) urges the Government to initiate a review into the effects of the media on the body image of young women. (*general business notice of motion no. 439*)

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell): To move on the next day of sitting—That the hours of meeting for Tuesday, 13 May 2003 shall be from 2 pm to 6 pm and 7.30 pm to adjournment, and for Thursday, 15 May 2003 shall be from 9.30 am to 6 pm and 7.30 pm to adjournment, and that:

- (a) the routine of business from 7.30 pm on Tuesday, 13 May 2003 shall be:
 - (i) Budget statement and documents 2003-04, and
 - (ii) adjournment;
- (b) the routine of business from 7.30 pm on Thursday, 15 May 2003 shall be:
 - (i) Budget statement and documents—party leaders and independent senators to make responses to the statement and documents for not more than 30 minutes each, and
 - (ii) adjournment; and
- (c) the question for the adjournment of the Senate on each day shall not be proposed until a motion for the adjournment is moved by a minister.

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

- (a) recognising the north-east peninsula of Recherche Bay in Southern Tasmania as the meeting place of the D'Entrecasteaux scientific expedition and Indigenous Pallevaer people in 1792-93;
 - (b) noting significant scientific studies carried out and discoveries made by the French expedition in this period; and
 - (c) also noting the plan to log the forests of the peninsula by Gunns Pty Ltd,
- calls on the Federal Government to notify the Government of France of these events and circumstances and the range of possible outcomes. (*general business notice of motion no. 440*)

Intention to withdraw: Senator Stott Despoja, pursuant to standing order 78, gave notice of her intention, at the giving of notices on the next day of sitting, to withdraw business of the Senate notice of motion no. 2 standing in her name for today for the disallowance of the Customs (Prohibited Exports) Amendment Regulations 2003 (No. 1), as contained in Statutory Rules 2003 No. 17 and made under the *Customs Act 1901*.

Senator Stott Despoja, by leave, made a statement relating to the notice of intention.

4 **ORDER OF BUSINESS—REARRANGEMENT**

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

- No. 10 Health Insurance Amendment (Diagnostic Imaging, Radiation Oncology and Other Measures) Bill 2002.
- No. 11 Industry, Tourism and Resources Legislation Amendment Bill 2003. Corporations Legislation Amendment Bill 2003 and 2 related bills.
- No. 12 National Blood Authority Bill 2002.
- No. 13 Agriculture, Fisheries and Forestry Legislation Amendment Bill (No. 2) 2002.
- No. 14 Crimes Legislation Enhancement Bill 2002 [2003].
- No. 15 Family and Community Services Legislation Amendment Bill 2003. Veterans' Affairs Legislation Amendment Bill (No. 3) 2002.

Question put and passed.

5 **ECONOMICS LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT**

Senator McGauran, by leave and at the request of the Chair of the Economics Legislation Committee (Senator Brandis), moved—That the time for the presentation of the report of the committee on the provisions of the Terrorism Insurance Bill 2002 be extended to 13 May 2003.

Question put and passed.

6 **ORDER OF BUSINESS—REARRANGEMENT**

Senator McGauran, by leave and at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan), moved—That business of the Senate order of the day no. 2, relating to the presentation of the report of the committee on the provisions of the Dairy Industry Service Reform Bill 2003 and a related bill, be postponed till a later hour.

Question put and passed.

7 POSTPONEMENTS

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 14 May 2003.

General business notice of motion no. 426 standing in the name of the Chair of the Finance and Public Administration References Committee (Senator Forshaw) for today, proposing to vary an order of the Senate for the production of documents relating to departmental and agency contracts, postponed till 15 May 2003.

8 PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL—APPROVAL

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 1—That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being the design and location of pedestrian lighting in the Parliamentary Zone.

Question put and passed.

9 CONSIDERATION OF LEGISLATION

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 2—That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Corporations (Fees) Amendment Bill 2002
 Corporations (Review Fees) Bill 2002
 Corporations Legislation Amendment Bill 2002.

Question put and passed.

10 FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE—REFERENCE

Senator Mackay, at the request of Senator O'Brien and pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 4—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.

Question put and passed.

11 HEALTH—MEDICARE—BULK BILLING

Senator Mackay, at the request of Senator Evans and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 389—That the Senate—

- (a) condemns the Prime Minister's re-writing of history, that bulk billing was never intended to be available to all Australians irrespective of their income;

- (b) condemns the Prime Minister (Mr Howard) for seeking to make Medicare a second-class safety net for the poor rather than a guarantee of quality health care for all Australians irrespective of their ability to pay; and
- (c) calls on the Government to develop structural reforms that address the dramatically declining rates of bulk billing for all Australians.

Question put and passed.

12 DEFENCE AMENDMENT (PARLIAMENTARY APPROVAL FOR AUSTRALIAN INVOLVEMENT IN OVERSEAS CONFLICTS) BILL 2003

The Leader of the Australian Democrats (Senator Bartlett), also on behalf of Senator Stott Despoja, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 436—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.

Question put and passed.

Senator Bartlett presented the bill and 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 Bartlett moved—That this bill be now read a second time.

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

13 ELECTORAL AMENDMENT (POLITICAL HONESTY) BILL 2003

Senator Murray, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 418—That the following bill be introduced:

A Bill for an Act to amend the *Commonwealth Electoral Act 1918* to provide for truth in political advertising, and for related purposes.

Question put and passed.

Senator Murray presented the bill and 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 Murray moved—That this bill be now read a second time.

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

General business order of the day discharged: Senator Murray, by leave, moved—That general business order of the day no. 5, relating to the Electoral Amendment (Political Honesty) Bill 2000 [2002], be discharged from the *Notice Paper*.

Question put and passed.

14 ENVIRONMENT—ICELAND—ALUMINIUM SMELTER

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 423—That the Senate—

(a) notes that:

- (i) Alcoa Corporation plans to build an aluminium smelter in Iceland, which will use power from the proposed new Karahnjúkar dam project,

- (ii) the Karahnjukar project, to be built by Iceland's National Power Company, consists of nine dams, three reservoirs, tunnels and river diversions, which will destroy the second largest remaining wilderness area in western Europe as well as habitats for rare birds, seals and reindeer, and
- (iii) a coalition of 120 non-government organisations from 47 countries, including the Iceland Nature Conservation Association, International Rivers Network, Friends of the Earth International and World Wide Fund for Nature, opposes the Karahnjukar project;
- (b) considers that the Karahnjukar dams and associated smelter are incompatible with Alcoa's claims to support sustainable development and environmental excellence;
- (c) calls on Alcoa to cancel plans for this and any other smelters based on new dams in Iceland's eastern highlands; and
- (d) joins the call for banks and other financial institutions not to provide any funds for the Karahnjukar dams or the smelter.

Question put and negatived.

15 ENVIRONMENT—QUEENSLAND—SHELburne BAY

Motion determined as not formal: Senator Allison, at the request of the Leader of the Australian Democrats (Senator Bartlett), asked that general business notice of motion no. 432 standing in the name of Senator Bartlett for today, relating to mining leases over the Shelburne Bay dune fields, be taken as formal.

An objection was raised and the motion was not proceeded with as a formal motion.

16 INDIGENOUS AUSTRALIANS—WOMEN

Senator Ridgeway, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 434—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,
 - (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.

Question put and passed.

17 SEXUALITY ANTI-VILIFICATION BILL 2003

Senator Greig, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 53—That the following bill be introduced:

A Bill for an Act to prohibit certain conduct involving the vilification and incitement to hatred of people on the ground of sexuality, and for related purposes.

Question put and passed.

Senator Greig presented the bill and 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 Greig moved—That this bill be now read a second time.

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

18 ENVIRONMENT—NORTHERN TERRITORY—PROPOSED LIQUEFIED NATURAL GAS PLANT

Senator Nettle amended her 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. 430—That the Senate—

- (a) notes that the Liquefied Natural Gas Plant proposed to be built by Phillips Oil Company Australia at Wickham Point in Darwin Harbour would increase the Northern Territory's greenhouse gas emissions by 40 per cent and increase Australia's overall greenhouse gas emissions by 1 per cent;
- (b) notes that Phillips ADD Petroleum was not required to carry out an Environmental Impact Assessment under the *Environment Protection and Biodiversity Conservation Act 1999* supposedly as a result of changes to the plant related to it receiving only methane from the Bayu Undan field;
- (c) notes that the initial process did not include the now required continuous dredging of the migrating alluvial sand bars of Charles Point Patches or its potential impact on the dugong population;
- (d) urges the Government to consider whether there are grounds for reconsideration of the controlled action decision under Part 7 of the *Environment Protection and Biodiversity Conservation Act 1999*; and
- (e) notes that at a huge cost to the environment, only 120 permanent jobs will be created by this project, the liquefied natural gas from which will be fully exported.

Question put and negatived.

19 FOREIGN AFFAIRS—PALESTINE—INDEPENDENT STATE

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 435—That the Senate supports the establishment of a free, viable and independent state of Palestine.

Question put.

The Senate divided—

AYES, 10

Senators—

Allison (Teller)	Cherry	Murray	Ridgeway
Bartlett	Greig	Nettle	Stott Despoja
Brown	Harradine		

NOES, 39

Senators—

Barnett	Cook	Kirk	Ray
Boswell	Crossin	Lightfoot	Santoro
Brandis	Denman	Ludwig	Scullion
Calvert	Evans	Lundy	Sherry
Campbell, George	Ferguson	Mackay	Tchen
Campbell, Ian	Ferris (Teller)	Marshall	Troeth
Carr	Forshaw	McGauran	Watson
Colbeck	Hogg	McLucas	Webber
Collins	Humphries	Moore	Wong
Conroy	Johnston	Payne	

Question negatived.

20 FOREIGN AFFAIRS—BURMA—HUMAN RIGHTS

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 437—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.

Question put and negatived.

**21 LAW AND JUSTICE—AUSTRALIAN CAPITAL TERRITORY—SEXUALITY
DISCRIMINATION LEGISLATION**

Senator Greig, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 433—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.

Question put and passed.

22 ROUTINE OF BUSINESS—VARIATION

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), at the request of the Minister for Defence (Senator Hill) and pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 3—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.

Question put and passed.

23 HEALTH AND AGEING LEGISLATION AMENDMENT BILL 2003

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 4—That the following bill be introduced:

A Bill for an Act to amend legislation about health and ageing, and for related purposes.

Question put and passed.

Senator Ian Campbell presented the bill and 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.

Explanatory memorandum: Senator Ian Campbell tabled an explanatory memorandum relating to the bill.

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.

24 HEALTH LEGISLATION AMENDMENT BILL (NO. 1) 2003

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 5—That the following bill be introduced:

A Bill for an Act to amend legislation relating to health, and for related purposes.

Question put and passed.

Senator Ian Campbell presented the bill and 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.

Explanatory memorandum: Senator Ian Campbell tabled an explanatory memorandum relating to the bill.

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.

25 FORMAL MOTIONS—STATEMENTS BY LEAVE

Senator Harradine, the Parliamentary Secretary to the Treasurer (Senator Ian Campbell), Senators Mackay and Brown, the Leader of the Opposition in the Senate (Senator Faulkner) and Senator Greig, by leave, made statements relating to the consideration of notices of motion as formal motions.

26 SENATORS' INTERESTS—STANDING COMMITTEE—ANNUAL REPORT

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

Senators' Interests—Standing Committee—Report 1/2003: Annual report 2002, dated March 2003.

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

27 PUBLICATIONS—STANDING COMMITTEE—7TH REPORT

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

PUBLICATIONS COMMITTEE
7TH REPORT

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

The Committee, having considered documents tabled since 12 February 2003, recommends that the following be printed:

Aboriginal Land Commissioner—Reports—

No. 61—Maria Island and Limmen Bight River land claim no. 71 and part of Maria Island Region land claim no. 198.

No. 62—McArthur River Region land claim no. 184 and part of Manangoora Region land claim no. 185.

No. 63—Lorella Region land claim no. 199 and part of Maria Island Region land claim no. 198.

Australian Electoral Commission—Redistribution into electoral divisions 2002-03—Victoria.

Australian Law Reform Commission—Report—No. 95—Principled regulation: Federal civil and administrative penalties in Australia, December 2002.

Australian Trade Commission (AUSTRADE)—Report for 2001-02—Erratum.

Commonwealth Grants Commission—State revenue sharing relativities—2003 update.

Department of Foreign Affairs and Trade—Advancing the national interest: Australia's foreign and trade policy white paper.

Housing Assistance Act 1996—Report for 2000-2001 on the operation of the Act.

Human Rights and Equal Opportunity Commission—Aboriginal and Torres Strait Islander Social Justice Commissioner—Reports for 2002—

Native title.

Social justice.

Maralinga Rehabilitation Technical Advisory Committee (MARTAC)—Report—Rehabilitation of former nuclear test sites at Emu and Maralinga (Australia) 2003.

National Environment Protection Council—Report for 2001-02.

Native Title Act—Native title representative bodies—Reports for 2001-02—

Aboriginal Legal Rights Movement Inc.

Cape York Land Council Aboriginal Corporation.

Central Queensland Land Council Aboriginal Corporation.

Gurang Land Council Aboriginal Corporation.

Kimberley Land Council.

Mirimbiak Nations Aboriginal Corporation.

Ngaanyatjarra Council (Aboriginal Corporation).

North Queensland Land Council Aboriginal Corporation.

South West Aboriginal Land and Sea Council.

Yamatji Barna Baba Maaja Aboriginal Corporation.

Royal Commission into the Building and Construction Industry—Final report of Royal Commissioner, the Hon. Terence Cole, March 2003—

Volume 2—Conduct of the Commission—Principles and procedures.
 Volume 12—State and Territory overview.
 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.

Wheat Export Authority—Report for 2001-02.

Senator Richard Colbeck
 Chairman
 27 March 2003.

Senator Colbeck moved—That the report be adopted.

Question put and passed.

28 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—ADDITIONAL ESTIMATES 2002-03

Senator Eggleston, at the request of the Chair of the Employment, Workplace Relations and Education Legislation Committee (Senator Tierney), tabled additional information received by the committee (Additional estimates 2002-03—vols 1 to 3).

**29 LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE—DOCUMENT—
 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**

Senator Eggleston, at the request of the Chair of the Legal and Constitutional Legislation Committee (Senator Payne), tabled the following document:

Legal and Constitutional Legislation Committee—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—Document presented to the committee.

30 LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—BUDGET ESTIMATES 2002-03

Senator Eggleston, at the request of the Chair of the Legal and Constitutional Legislation Committee (Senator Payne), tabled additional information received by the committee (Budget estimates 2002-03 (Supplementary)—vols 1 to 3).

**31 LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE—DOCUMENTS—
SEXUALITY DISCRIMINATION**

Senator Eggleston, at the request of the Chair of the Legal and Constitutional References Committee (Senator Bolkus), tabled the following documents:

Legal and Constitutional References Committee—Sexuality discrimination—
Documents presented to the committee [7 vols].

32 VETERANS' AFFAIRS LEGISLATION AMENDMENT BILL (NO. 3) 2002

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

Message no. 283, dated 27 March 2003—A Bill for an Act to amend the law with respect to veterans' entitlements, 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.

On the motion of Senator Mackay the debate was adjourned.

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

33 LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE—PROPOSED REFERENCE

Senator Brown, pursuant to notice, moved business of the Senate notice of motion no. 3—That the following matters be referred to the Legal and Constitutional References Committee for inquiry and report by 15 May 2003:

- (a) the legality of the Government's deployment of troops to Iraq;
- (b) the likely implications for international law of this action;
- (c) the constitutional changes necessary to ensure parliamentary consent for such deployments of Australian Defence Force (ADF) personnel;
- (d) the other mechanisms that could be used to require parliamentary consent for deployment of ADF personnel to hostilities overseas, such as changes to the Defence Act, as contained in the Defence Amendment (Parliamentary approval for Australian involvement in overseas conflict) Bill 2003 or the various other Defence amendment bills introduced by Australian Democrats senators since 1985; and
- (e) whether such legislative or constitutional changes are desirable.

Debate ensued.

Question put.

The Senate divided—

AYES, 11

Senators—

Allison (Teller)
Bartlett
Brown

Cherry
Greig
Harradine

Lees
Murray
Nettle

Ridgeway
Stott Despoja

NOES, 35

Senators—

Barnett	Denman	Ludwig	Santoro
Brandis	Evans	Lundy	Scullion
Calvert	Ferguson	Mackay	Sherry
Campbell, George	Ferris (Teller)	Marshall	Tchen
Chapman	Forshaw	Mason	Vanstone
Collins	Hogg	McLucas	Watson
Conroy	Johnston	Moore	Webber
Cook	Kirk	Payne	Wong
Crossin	Lightfoot	Ray	

Question negatived.

**34 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—REPORT—
MATERIEL ACQUISITION AND MANAGEMENT IN DEFENCE**

Pursuant to order, the Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Cook), tabled the following report and documents:

Foreign Affairs, Defence and Trade References Committee—Materiel acquisition and management in Defence—Report, dated March 2003, *Hansard* record of proceedings [6 vols], additional information and submissions [24].

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

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

Debate ensued.

Debate adjourned till the next day of sitting, the Leader of the Australian Democrats (Senator Bartlett) in continuation.

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

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

In the committee

Consideration resumed of the bill, as amended—and of the amendments moved by Senator Conroy:

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.

Debate resumed.

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

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

Schedule 1, item 3, page 3 (after line 23), after subparagraph (a)(iii), insert:

- (iiia) a profit or benefit accrued to a person listed under subparagraph (b) as a result of the exercise of options over shares granted by the company; or

Schedule 1, item 3, page 4 (after line 9), after subparagraph (ii), insert:

- (iiia) the payments and benefits received by directors relative to payments and benefits received by employees in the company; and
- (iiib) whether the payments or benefits were subject to appropriate performance conditions; and
- (iiic) the time the payments or benefits were received, in particular, their proximity to the time at which the company was placed into administration or liquidation, and whether the company was insolvent at the time they were received; and

Schedule 1, item 3, page 3 (after line 27), after subparagraph (b)(i), insert:

- (ia) one of the 5 named officers (other than directors) of the company receiving the highest emolument; or

Schedule 1, item 4, page 5 (lines 3 and 4), omit “the commencement of the *Corporations Amendment (Repayment of Directors' Bonuses) Act 2002*”, substitute “4 June 2001”.

Page 5 (after line 29), at the end of the bill, add:

Schedule 2—Amendments relating to voting requirements
Corporations Act 2001

1 After section 250T

Insert:

**Division 8A—Voting by trustees of supervised superannuation funds
and prescribed fund managers at AGMs and other meetings**

250TA Application

- (1) Subject to subsection (2), this Division applies to all superannuation funds regulated under the *Superannuation Industry (Supervision) Act 1993*, including public offer superannuation funds, employer-sponsored funds, approved deposit funds, pooled superannuation trusts and public sector funds, which hold shares in a listed company at the date on which a meeting of shareholders in that company is held.
- (2) This Part does not apply to:
 - (a) a small superannuation fund supervised by the Australian Prudential Regulation Authority; or
 - (b) a self-managed superannuation fund as defined in section 17A of the *Superannuation Industry (Supervision) Act 1993*; or
 - (c) other funds or investments as prescribed by regulation.

250TB Obligation of trustees

Where a meeting of shareholders in a listed company is held, the trustees of a superannuation fund to which this Division applies must comply with the requirements of sections 250TC and 250TD.

Penalty: 100 penalty units

250TC Duties of trustees at meeting

For the purposes of section 250TB, the trustees of a superannuation fund to which this Division applies must:

- (a) cast votes at the meeting representing all the shares or interests held by the fund in that company; or
- (b) appoint proxies to attend and vote on their behalf at that meeting.

250TD Duties of trustees following meeting

For the purposes of section 250TB, the trustees of a superannuation fund to which this Division applies must within 30 days of the conclusion of the meeting, disclose to the beneficiaries of the superannuation fund:

- (a) all votes (including proxies) cast by the trustees pursuant to this Division and the matter in relation to which those votes were cast; and
- (b) an explanation of the reason or reasons why the votes were cast in the manner chosen.

250TE Duties of prescribed fund managers

- (1) This section applies to an entity which manages investments on behalf of other persons or entities as prescribed by regulation (*a prescribed fund manager*).

- (2) This section does not apply to a prescribed fund manager who is acting on behalf of the trustees of a superannuation fund subject to this Division.
- (3) A prescribed fund manager must publicly disclose the proxy voting policy and procedures followed by that fund manager.
- (4) Where a meeting of shareholders in a listed company is held, a prescribed fund manager with an interest in that listed company must disclose:
 - (a) details of the matters put to a vote;
 - (b) whether the fund manager cast a vote on that matter (including by proxy) and how that vote was cast; and
 - (c) whether that vote was cast in accordance with a Board recommendation or contrary to a Board recommendation.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

On the motion of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell) the report from the committee was adopted and the bill read a third time.

36 COPYRIGHT AMENDMENT (PARALLEL IMPORTATION) BILL 2002

Order of the day read for the adjourned debate on the motion of the Minister for Revenue and Assistant Treasurer (Senator Coonan)—That this bill be now read a second time.

Debate resumed.

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

37 ORDER OF BUSINESS—REARRANGEMENT

The Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) moved—That government business order of the day no. 12 (National Blood Authority Bill 2002) be postponed till a later hour.

Question put and passed.

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

Order of the day read for the adjourned debate on the motion of the Minister for Health and Ageing (Senator Patterson)—That this bill be now read a second time.

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.

Explanatory memorandum: Senator Troeth tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

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

Schedule 1, item 12, page 20 (line 12), omit “30 April 2003”, substitute:

the earlier of the following:

- (a) a single day to be fixed by Proclamation;
- (b) the first day after the end of the period of 6 months beginning on the day on which this Act receives the Royal Assent.

Schedule 1, item 12, page 20 (line 16), omit “30 April 2003”, substitute:

the earlier of the following:

- (a) a single day to be fixed by Proclamation;
- (b) the first day after the end of the period of 6 months beginning on the day on which this Act receives the Royal Assent.

Schedule 2, item 13, page 38 (line 23), omit “30 April 2003”, substitute:

the earlier of the following:

- (a) a single day to be fixed by Proclamation;
- (b) the first day after the end of the period of 6 months beginning on the day on which this Act receives the Royal Assent.

Schedule 2, item 13, page 38 (line 27), omit “30 April 2003”, substitute:

the earlier of the following:

- (a) a single day to be fixed by Proclamation;
- (b) the first day after the end of the period of 6 months beginning on the day on which this Act receives the Royal Assent.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

39 **INDUSTRY, TOURISM AND RESOURCES LEGISLATION AMENDMENT BILL 2003**

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.

Question put and passed.

Bill read a second time.

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

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

40 CORPORATIONS LEGISLATION AMENDMENT BILL 2003
CORPORATIONS (FEES) AMENDMENT BILL 2002
CORPORATIONS (REVIEW FEES) 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.

Question put and passed.

Bills read a second time.

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

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

41 AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT BILL (NO. 2) 2002

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

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

Schedule 3, item 7, page 9 (lines 15 and 16), omit subsection (3), substitute:

- (3) The Secretary may approve a person to be an appropriate person for the purposes of paragraph (2)(b) only if the Secretary is satisfied that the person requires the relevant information to enable the person to monitor, regulate or manage agricultural or veterinary chemical residues or contaminants in applicable products or the environment.

Bill, as amended, agreed to.

Bill to be reported with an amendment.

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

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

42 CRIMES LEGISLATION ENHANCEMENT BILL 2002 [2003]

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.

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.

Explanatory memorandum: The Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

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

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

2A. Schedule 1, item 7A	The day on which this Act receives the Royal Assent
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2B. Schedule 1, items 7B to 7F	1 March 2003
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Clause 2, page 2 (after table item 4), insert:

4A. Schedule 2, item 1AA	Immediately after the commencement of section 2 of the <i>Australian Crime Commission Establishment Act 2002</i>
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Clause 2, page 2 (after table item 5), insert:

5A. Schedule 2, item 1A	The day on which this Act receives the Royal Assent
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5B. Schedule 2, items 1B to 1F	1 January 2003
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Clause 2, page 2 (table item 6, column 1), omit “4”, substitute “4B”.

Clause 2, page 2 (table item 8, column 1), omit “7”, substitute “6A”.

Clause 2, page 2 (after table item 10), insert:

10A. Schedule 2, items 16A to 16E	1 January 2003
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Clause 2, page 2 (after table item 11), insert:

11A. Schedule 2, items 18 to 22	A single day to be fixed by Proclamation, subject to subsection (3)
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Clause 2, page 4 (after line 6), at the end of the clause, add:

- (3) If a provision covered by item 11A of the table does not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

Schedule 1, page 8 (after line 16), after Part 3, insert:

Part 3A—Forensic procedures

7A Section 23YDAF (table item 7, column 8)

Omit “no”, substitute “yes”.

Schedule 1, page 8 (after line 16), after Part 3, insert:

7B Section 23YUA (definition of *corresponding law*)

Repeal the definition, substitute:

corresponding law means a law that:

- (a) relates to the carrying out of forensic procedures and DNA databases; and
- (b) either:
 - (i) substantially corresponds to this Part; or
 - (ii) is prescribed by the regulations for the purposes of this definition.

7C Section 23YUA (definition of DNA database)

Repeal the definition.

Schedule 1, page 8 (after line 16), after Part 3, insert:

7D Subsection 23YUD(1)

Repeal the subsection, substitute:

- (1) The Minister may, on behalf of the Commonwealth, enter into arrangements with a responsible Minister of a participating jurisdiction under which:
- (a) information from the DNA database system of the Commonwealth that may be relevant to the investigation of a matter relating to the participating jurisdiction is to be transmitted to the appropriate authority in that jurisdiction for the purpose of the investigation of, or proceedings in respect of, that matter; and
 - (b) information from a DNA database system of the participating jurisdiction that may be relevant to the investigation of a matter relating to the Commonwealth is to be transmitted to the Commissioner for the purposes of the investigation of, or proceedings in respect of, that matter.

These arrangements may deal with keeping, and otherwise managing, such information.

- (1A) For the avoidance of doubt, this section does not preclude CrimTrac from entering into a memorandum of understanding or other arrangement, on behalf of the Commonwealth, with a participating jurisdiction in relation to:
- (a) transmission of information to or from the DNA database system of the Commonwealth, or a DNA database system of any participating jurisdiction; or
 - (b) keeping, and otherwise managing, such information.

7E At the end of section 23YUD

Add:

- (3) In this section:

CrimTrac means the CrimTrac Agency, established as an Executive Agency by the Governor-General by order under section 65 of the *Public Service Act 1999*.

investigation of a matter means:

- (a) in relation to a participating jurisdiction:
 - (i) an investigation of an offence against the law of that jurisdiction; or
 - (ii) an investigation of a missing person; or
 - (iii) an investigation for the purpose of identifying a deceased person; or
- (b) in relation to the Commonwealth:
 - (i) an investigation of an offence against the law of the Commonwealth; or
 - (ii) an investigation of a missing person; or
 - (iii) an investigation for the purpose of identifying a deceased person.

7F Transitional provision for existing arrangements under subsection 23YUD(1)

An arrangement that:

- (a) was entered into under subsection 23YUD(1) of the *Crimes Act 1914* before the commencement of this item; and
- (b) was in force immediately before this commencement;

continues in force after that commencement as if it had been entered into under that subsection as amended by this Schedule.

Schedule 2, page 10 (before line 4), before item 1, insert:

Australian Crime Commission Establishment Act 2002

1AA Section 2 (table item 5, column 2)

Omit “*Communications Legislation Amendment Act (No. 1) 2002*”, substitute “*Communications Legislation Amendment Act (No. 1) 2003*”.

Schedule 2, page 10 (after line 6), after item 1, insert:

Australian Protective Service Act 1987

1A Subsection 3(1) (at the end of the definition of *police officer*)

Add:

; or (c) a member, however described, of a police force of a foreign country.

Schedule 2, page 10 (after line 6), after item 1, insert:

Australian Securities and Investments Commission Act 2001

1B Paragraph 18(2)(b)

Repeal the paragraph, substitute:

(b) the Chief Executive Officer of the Australian Crime Commission or a member of the staff of the ACC (within the meaning of the *Australian Crime Commission Act 2002*); or

1C Subparagraph 127(4)(aa)(i)

Repeal the subparagraph.

Corporations Act 2001

1D Paragraph 794C(5)(b)

Repeal the paragraph, substitute:

(b) the Chief Executive Officer of the Australian Crime Commission or a member of the staff of the ACC (within the meaning of the *Australian Crime Commission Act 2002*); or

1E Paragraph 823C(5)(b)

Repeal the paragraph, substitute:

(b) the Chief Executive Officer of the Australian Crime Commission or a member of the staff of the ACC (within the meaning of the *Australian Crime Commission Act 2002*); or

1F Paragraph 823CA(4)(b)

Repeal the paragraph, substitute:

(b) the Chief Executive Officer of the Australian Crime Commission or a member of the staff of the ACC (within the meaning of the *Australian Crime Commission Act 2002*); or

Schedule 2, page 10 (after line 17), after item 4, insert:

Crimes (Aviation) Act 1991

4A Subsection 33(2)

After “must”, insert “, unless subsection (2A) applies,”.

4B After subsection 33(2)

Insert:

(2A) Where an authorised person causes a person to be taken into custody on board an aircraft that is engaged in a flight that ends in a foreign country, the authorised person must cause the person:

(a) to be delivered into the custody of a member, however described, of a police force of that foreign country; and

(b) to be held in custody until the person can be so delivered.

Schedule 2, page 10 (after line 24), after item 6, insert:

Criminology Research Act 1971

6A Section 4 (after paragraph (a) of the definition of *the appropriate Minister*)

Insert:

- (aa) in relation to the Australian Capital Territory, such Minister of the Australian Capital Territory as is prescribed, and includes any Minister of the Australian Capital Territory for the time being acting for and on behalf of that Minister; and

6B Paragraph 6(b)

Omit “and the Northern Territory,”, substitute “the Australian Capital Territory and the Northern Territory”.

6C Paragraph 6(hb)

Omit “, and of the Northern Territory”, substitute “, of the Australian Capital Territory and of the Northern Territory”.

6D Subsection 35(1)

Omit “8”, substitute “9”.

6E After paragraph 35(1)(b)

Insert:

- (ba) one is to represent the Australian Capital Territory; and

6F Subsection 35(3)

Omit “or the member who is to represent the Northern Territory”, substitute “or a member who is to represent the Australian Capital Territory or the Northern Territory”.

6G Subsection 35(3)

Omit “or of the Northern Territory”, substitute “or that Territory”.

6H Subsection 35(4)

After “Minister of a State,”, insert “of the Australian Capital Territory”.

6J Subsection 35(4)

Omit “the Northern Territory” (last occurring), substitute “that Territory”.

6K After paragraph 36(1)(b)

Insert:

- (ba) in the case of the member appointed to represent the Australian Capital Territory—with the approval of the appropriate Minister of that Territory; or

6L Subsection 36(2)

Before “the Northern Territory”, insert “the Australian Capital Territory or”.

6M After subsection 38(2)

Insert:

- (2A) The member of the Council who is appointed to represent the Australian Capital Territory, or the deputy of that member, may resign his or her office by writing signed by the member or deputy, as the

case may be, and delivered to the appropriate Minister of the Australian Capital Territory.

6N Paragraphs 43(a) and (b)

Omit “and of the Northern Territory”, substitute “, of the Australian Capital Territory and of the Northern Territory”.

Note: The heading to section 43 is altered by omitting “**and Northern Territory**” and substituting “, **Australian Capital Territory and Northern Territory**”.

6P Paragraph 46(b)

Omit “or the Northern Territory”, substitute “, the Australian Capital Territory or the Northern Territory”.

Schedule 2, page 12 (after line 15), after item 16, insert:

Proceeds of Crime Act 2002

16A After section 267

Insert:

267A Additional property to which the Official Trustee’s powers and duties under Division 3 apply

- (1) The powers conferred on the *Official Trustee under Division 3 may be exercised, and the duties imposed on the Official Trustee under Division 3 are to be performed, in relation to property that, under paragraph 278(2)(d), may be disposed of to pay, under Part 4-2, a *legal aid commission’s costs.
- (2) Without limiting the definition of *controlled property* in section 267, for the purposes of Division 3 this property is *controlled property*.

16B At the end of subsection 278(2)

Add:

- ; or (d) if, in the opinion of the Official Trustee, the disposal of the property or part of the property is necessary to pay, under Part 4-2, a *legal aid commission’s costs.

16C At the end of section 279

Add:

- (3) However, the person may object to the disposal of the *controlled property for the reason set out in paragraph 278(2)(d) only if:
 - (a) the value of the controlled property exceeds the total amount of the money payable to the *legal aid commission in question; and
 - (b) the person and the *Official Trustee have failed to agree on which item or items of, or which portion of, the controlled property should be disposed of.
- (4) An objection to which subsection (3) applies must:
 - (a) relate only to which item or items of, or which portion of, the *controlled property should be disposed of; and
 - (b) specify the item or items of, or the portion of, the controlled property that the person does not object to the *Official Trustee disposing of.

16D After subsection 280(4)

Insert:

- (4A) The court must make an order to dispose of the *controlled property, or a specified item or items of or a specified portion of the property, if in the court's opinion the disposal is necessary to pay, under Part 4-2, a *legal aid commission's costs.

16E Section 338 (at the end of the definition of *controlled property*)

Add:

Note: Section 267A alters the meaning of this term for the purposes of Division 3 of Part 4-1.

Schedule 2, page 12 (after line 21), at the end of the Schedule, add:

Service and Execution of Process Act 1992**18 Subsection 3(1) (at the end of the definition of *authority*)**

Add:

Note: Section 81A alters the meaning of this term for the purposes of Part 5.

19 Subsection 3(1) (at the end of the definition of *tribunal*)

Add:

Note: Section 81A alters the meaning of this term for the purposes of Part 5.

20 Subsection 3(1) (definition of *warrant*)

Before "means", insert "(except in the definition of *authority* in section 81A)".

21 Subsection 3(1) (at the end of the definition of *warrant*)

Add:

Note: Section 81A alters the meaning of this term for the purposes of Part 5.

22 After section 81

Insert:

81A Interpretation

In this Part:

authority includes a body or person that:

- (a) under a law of a State, may issue a warrant for the arrest and return to custody or detention of a person, following the revocation or cancellation of:
 - (i) a parole order; or
 - (ii) an order for conditional release; or
 - (iii) an order for home detention; or
 - (iv) an order for periodic detention; or
 - (v) any other order for the release of a person from custody; or
 - or
 - (vi) any other order of a kind prescribed by the regulations; and
- (b) is prescribed by the regulations.

tribunal does not include a body or person of a kind referred to in the definition of *authority* in this section.

warrant includes a warrant issued by a body or person that is an authority for the purposes of this Part.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 2, items 10 and 11.

Question—That Schedule 2, items 10 and 11 stand as printed—put and negatived.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

43 FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT BILL 2003

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Transport and Regional Services (Senator Boswell)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Question—That the bill be agreed to—divided in respect of Schedule 1, items 18, 67, 98, 100 and 112.

Schedule 1, items 18, 67, 98, 100 and 112 debated.

Question—That Schedule 1, items 18, 67, 98, 100 and 112 stand as printed—put and negatived.

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

Clause 2, page 2 (table item 1), omit “Sections 1 to 3”, substitute “Sections 1 to 4”.

Clause 2, page 3 (after table item 14), insert:

14A. Schedule 2A 1 July 2000

Page 4 (after line 11), after clause 3, insert:

4 Transitional provisions relating to child care benefit for foster children

Claim refused before commencement: past period care by approved child care service or registered carer; substitution claim

(1) If:

- (a) a claim for child care benefit under paragraph 49B(b), (c) or (d) of the Administration Act was refused before the commencing time; and

(b) at any time during the claim period, the child was an eligible foster child;

then:

- (c) the refusal may be reviewed by the Secretary, on his or her own initiative, under section 105 of the Administration Act; and
- (d) an application for review of the refusal may be made under section 109A of the Administration Act at any time before the transitional deadline.

This subsection applies whether or not the refusal has already been reviewed before the commencing time.

Extension of claim period: past period care by approved child care service

- (2) Paragraph 49J(2)(b) of the Administration Act does not prevent the making of a claim if:
 - (a) the claim is made before the transitional deadline and after the end of the income year in which the claim period occurs; and
 - (b) the claim is for a period that is wholly before the commencing time; and
 - (c) at any time during the claim period, the child was an eligible foster child.

Extension of claim period: past period care by registered carer

- (3) Subsection 49K(2) of the Administration Act does not prevent the making of a claim if:
 - (a) the claim is made before the transitional deadline; and
 - (b) the claim is for a period that is wholly before the commencing time; and
 - (c) at any time during the claim period, the child was an eligible foster child.

Extension of claim period: substitution claim

- (4) Subsection 49L(2) of the Administration Act does not prevent the making of a claim if:
 - (a) the claim is made before the transitional deadline; and
 - (b) the claim is for a period that is wholly before the commencing time; and
 - (c) at any time during the claim period, the child was an eligible foster child.

Variation of conditional eligibility determination for fee reduction

- (5) If a conditional eligibility determination under section 50F of the Administration Act was varied before the commencing time on the ground that paragraph 49(1)(a) of the Family Assistance Act prevented eligibility, then that variation is taken never to have had any effect.

Definitions

- (6) In this section:

Administration Act means the *A New Tax System (Family Assistance)(Administration) Act 1999*.

commencing time means the beginning of the day on which this Act received the Royal Assent.

eligible foster child means a child who is in the care of a foster parent under a law referred to in paragraph 49(1)(a) of the Family Assistance Act.

Family Assistance Act means the *A New Tax System (Family Assistance) Act 1999*.

refused means refused by means of a no entitlement determination under section 52G or 53E of the Administration Act.

transitional deadline means the end of the first financial year after the financial year in which this Act received the Royal Assent.

Page 70 (after line 24), after Schedule 2, insert:

Schedule 2A—Amendments of the family assistance law relating to child care benefits for foster children

A New Tax System (Family Assistance) Act 1999

1 Paragraph 49(1)(a)

After “person”, insert “(other than a foster parent)”.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

44 VETERANS’ AFFAIRS LEGISLATION AMENDMENT BILL (NO. 3) 2002

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

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

45 ORDER OF BUSINESS—REARRANGEMENT

The Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) moved—That the following government business orders of the day be called on to enable second reading speeches to be made till not later than 2 pm:

No. 2 Copyright Amendment (Parallel Importation) Bill 2002.

No. 3 Energy Grants (Credits) Scheme Bill 2003 and a related bill.

Question put and passed.

46 COPYRIGHT AMENDMENT (PARALLEL IMPORTATION) BILL 2002

Order of the day read for the adjourned debate on the motion of the Minister for Revenue and Assistant Treasurer (Senator Coonan)—That this bill be now read a second time.

Debate resumed.

At 2 pm: Debate was interrupted.

47 QUESTIONS

Questions without notice were answered.

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

Taxation—Report—Shared payment of family tax benefit: The first year.

48 QUESTION TIME—REMARKS BY SENATOR VANSTONE—STATEMENT BY PRESIDENT

The President made a statement concerning remarks made by the Minister for Family and Community Services (Senator Vanstone) during question time on 26 March 2003 and a matter raised by the Leader of the Australian Democrats (Senator Bartlett).

The President indicated that, although the remark did not necessarily give rise to the implication to which objection was taken, it could be taken to carry that suggestion, and therefore to be impugning the motives of other senators. The President urged all senators, including ministers answering questions, to be careful of their language and not to make remarks like those concerned which might be taken to question other senators' motives.

The Minister for Communications, Information Technology and the Arts (Senator Alston), by leave, moved—That the Senate take note of the statement.

Debate ensued.

Question put and passed.

49 FAMILY AND COMMUNITY SERVICES—LIFELINE COUNSELLING SERVICES—ANSWER TO QUESTION

Senator Forshaw moved—That the Senate take note of the answer given by the Minister for Family and Community Services (Senator Vanstone) to a question without notice asked by Senator McLucas today relating to funding for the Lifeline counselling services and assistance to Defence families.

Debate ensued.

Question put and passed.

50 FOREIGN AFFAIRS—IRAQ—MILITARY ACTION—ANSWERS TO QUESTIONS

The Leader of the Australian Democrats (Senator Bartlett) moved—That the Senate take note of the answers given by ministers to questions without notice asked today relating to military action against Iraq.

Question put and passed.

51 BUILDING AND CONSTRUCTION INDUSTRY—ROYAL COMMISSION—FINAL REPORT—DOCUMENTS

The Minister for Justice and Customs (Senator Ellison) 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 1—Summary of findings and recommendations

Volume 3—National perspective—Part 1.

Volume 4—National perspective—Part 2.

Volume 5—Establishing employment and conditions.

Volume 6—Reform—Occupational health and safety.

Volume 7—Reform—National issues—Part 1.

Volume 8—Reform—National issues—Part 2.

Volume 9—Reform—National issues—Part 3.

Volume 10—Reform—Funds.

Volume 11—Reform—Achieving cultural change.

Ministerial statement by the Minister for Employment and Workplace Relations (Mr Abbott), dated 27 March 2003.

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

Debate ensued.

Question put and passed.

52 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—REPORT—DAIRY INDUSTRY SERVICE REFORM BILL 2003 AND THE PRIMARY INDUSTRIES (EXCISE) LEVIES AMENDMENT (DAIRY) BILL 2003

Pursuant to order, Senator Mason, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan), tabled the following report and documents:

Rural and Regional Affairs and Transport Legislation Committee—Dairy Industry Service Reform Bill 2003 and the Primary Industries (Excise) Levies Amendment (Dairy) Bill 2003—Report, dated March 2003, *Hansard* record of proceedings, document presented to the committee and submissions [2].

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

53 FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—BUDGET ESTIMATES 2002-03

The Chair of the Finance and Public Administration Legislation Committee (Senator Mason) tabled additional information received by the committee (Budget estimates 2002-03 (Supplementary)—vols 1 and 2).

**54 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—
GOVERNMENT RESPONSE—REVIEW OF FOREIGN AFFAIRS, TRADE AND DEFENCE
ANNUAL REPORTS 2000-01**

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

Foreign Affairs, Defence and Trade—Joint Standing Committee—Review of Foreign Affairs, Trade and Defence annual reports 2000-01—Report, dated September 2002—Government response, dated March 2003.

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

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

**55 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—
GOVERNMENT RESPONSE—AUSTRALIA'S ROLE IN UNITED NATIONS REFORM**

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

Foreign Affairs, Defence and Trade—Joint Standing Committee—Australia's role in United Nations reform—Report, dated June 2001—Government response.

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

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

56 PRODUCTIVITY COMMISSION—REPORT NO. 24—DOCUMENTS

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

Productivity Commission—Report—No. 24—Economic regulation of harbour towage and related services, 20 August 2002.

Productivity Commission—Report—No. 24—Economic regulation of harbour towage and related services—Government response.

57 ORDER OF BUSINESS—REARRANGEMENT

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That the order of consideration of government business orders of the day for the remainder of today be as follows:

No. 2 Copyright Amendment (Parallel Importation) Bill 2002.

No. 4 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. 2) 2003.

No. 6 Inspector-General of Taxation Bill 2002, consideration in committee of the whole of message no. 251 from the House of Representatives.

No. 12 National Blood Authority Bill 2002.

No. 3 Energy Grants (Credits) Scheme Bill 2003 and Energy Grants (Credits) Scheme (Consequential Amendments) Bill 2003.

No. 7 Dairy Industry Service Reform Bill 2003 and Primary Industries (Excise) Levies Amendment (Dairy) Bill 2003.

No. 8 Appropriation Bill (No. 3) 2002-2003 and Appropriation Bill (No. 4) 2002-2003.

No. 9 Issues from the Advance to the Finance Minister as a final charge for the year ended 30 June 2002.

Question put and passed.

58 DOCUMENTS

The following documents were tabled by the Clerk:

ACIS Administration Act—ACIS Administration (Modulation) Amendment Guidelines 2003 (No. 1).

Christmas Island Act—List of applied Western Australian Acts for the period 21 September 2002 to 21 March 2003.

Cocos (Keeling) Islands Act—List of applied Western Australian Acts for the period 21 September 2002 to 21 March 2003.

Criminal Code Act—Regulations—Statutory Rules 2003 No. 43.

Telecommunications (Carrier Licence Charges) Act—Determination under paragraph 15(1)(e) No. 1 of 2003.

59 COPYRIGHT AMENDMENT (PARALLEL IMPORTATION) BILL 2002

Order of the day read for the adjourned debate on the motion of the Minister for Revenue and Assistant Treasurer (Senator Coonan)—That this bill be now read a second time.

Debate resumed.

Question put.

The Senate divided—

AYES, 37

Senators—

Abetz	Colbeck	Lightfoot	Santoro
Allison	Coonan	Macdonald, Ian	Scullion
Barnett	Ellison	Mason	Tchen
Bartlett	Ferguson	McGauran (Teller)	Tierney
Boswell	Greig	Minchin	Troeth
Brown	Heffernan	Murray	Vanstone
Calvert	Humphries	Nettle	Watson
Campbell, Ian	Johnston	Patterson	
Chapman	Kemp	Payne	
Cherry	Lees	Ridgeway	

NOES, 24

Senators—

Bishop	Conroy	Kirk	Moore
Bolkus	Cook	Ludwig	Murphy
Buckland	Crossin (Teller)	Lundy	Ray
Campbell, George	Forshaw	Mackay	Sherry
Carr	Harradine	Marshall	Webber
Collins	Hogg	McLucas	Wong

Question agreed to.

Bill read a second time.

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

- (4) For the purposes of this section, a document purporting to be a certificate or document referred to in subsection (3) is, unless the contrary intention is established, taken to be such a certificate or document.

126B Evidence in relation to ownership of copyright

- (1) This section applies to an action under this Part in which the defendant puts in issue the question of the plaintiff's ownership of copyright in the work or other subject matter to which the action relates.

Labels or marks

- (2) If a copy of the work or other subject matter, or the packaging or container in which the copy is packaged or contained, bears a label or mark stating that a person was the owner of copyright in the work or other subject matter at a particular time, then the label or mark is admissible as prima facie evidence of the facts so stated.

Foreign certificates

- (3) If a certificate or other document issued in a qualifying country in accordance with a law of that country states that a person was the owner of copyright in the work or other subject matter at a particular time, then the certificate or other document is admissible as prima facie evidence of the facts so stated.
- (4) For the purposes of this section, a document purporting to be a certificate or document referred to in subsection (3) is, unless the contrary intention is established, taken to be such a certificate or document.

Chains of ownership

- (5) If:
- (a) subsection (2) or (3) applies; and
 - (b) the plaintiff produces a document stating the following:
 - (i) each subsequent owner of the copyright the subject of the action (including the plaintiff's ownership);
 - (ii) the date each subsequent owner became the owner of that copyright;
 - (iii) a description of the transaction resulting in each subsequent owner becoming the owner of that copyright;
- then the document is admissible as prima facie evidence of the facts so stated.
- (6) If:
- (a) neither subsection (2) nor (3) applies; and
 - (b) the plaintiff produces a document stating the following:
 - (i) the original owner of the copyright the subject of the action;
 - (ii) each subsequent owner of that copyright (including the plaintiff's ownership);
 - (iii) the date each owner became the owner of that copyright;
 - (iv) a description of the transaction resulting in each owner becoming the owner of that copyright;
- then the document is admissible as prima facie evidence of the facts so stated.

Offence

- (7) A person is guilty of an offence if:
- (a) the person produces a document under subsection (5) or (6); and
 - (b) the person is reckless as to whether the document is false or misleading.

Penalty: 30 penalty units.

- (8) Strict liability applies to the element of the offence against subsection (7) that the document is produced under subsection (5) or (6).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

3 Section 130

Omit “first so”.

4 Section 130

Omit “that label or mark is sufficient evidence of the facts so stated except in so far as the contrary is established”, substitute “then the label or mark is admissible as prima facie evidence of the facts so stated”.

5 At the end of section 130

Add:

- (2) In an action brought by virtue of this Part in relation to copyright in a sound recording, if:
- (a) records embodying the recording or a part of the recording have been supplied (whether by sale or otherwise) to the public; and
 - (b) at the time when records embodying the recording or part of the recording were supplied, the records or their containers bore a label or other mark consisting of the letter “P” in a circle accompanied by a specified year and the name of a person;

then the label or mark is admissible as prima facie evidence that the recording was first published in that specified year and that the named person was the owner of copyright in the recording in the place and at the time at which the label or mark was affixed to the records or their containers.

6 At the end of Division 4A of Part V

Add:

131D Jurisdiction of Federal Magistrates Court

Jurisdiction is conferred on the Federal Magistrates Court with respect to civil actions under this Part.

7 Subsection 132(6AB)

Repeal the subsection, substitute:

(6AB) If:

- (a) either:
 - (i) a person contravenes subsection (1) because of the doing of an act referred to in paragraph (1)(a), (b) or (c); or
 - (ii) a person contravenes subsection (2) or (2A); and
- (b) subsection (6AA) does not apply;

the person is guilty of an offence punishable on summary conviction by a fine of not more than 550 penalty units and/or imprisonment for not more than 5 years.

(6AC) If:

- (a) a person contravenes subsection (1) because of the doing of an act referred to in paragraph (1)(d); and
- (b) subsection (6AA) does not apply;

the person is guilty of an offence punishable on summary conviction by a fine of not more than 650 penalty units and/or imprisonment for not more than 5 years.

8 After section 132

Insert:

132A Presumptions in relation to subsistence and ownership of copyright

- (1) This section applies to a prosecution for an offence against section 132 in relation to a work or other subject matter.

Labels or marks

- (2) If a copy of the work or other subject matter, or the packaging or container in which the copy is packaged or contained, bears a label or mark stating the year and place of the first publication, or of the making, of the work or other subject matter, then the label or mark is admissible as prima facie evidence of the facts so stated.
- (3) If a copy of the work or other subject matter, or the packaging or container in which the copy is packaged or contained, bears a label or mark stating that a person was the owner of copyright in the work or other subject matter at a particular time, then the label or mark is admissible as prima facie evidence of the facts so stated.

Foreign certificates

- (4) If a certificate or other document issued in a qualifying country in accordance with a law of that country states the year and place of the first publication, or of the making, of the work or other subject matter, then the certificate or other document is admissible as prima facie evidence of the facts so stated.
- (5) If a certificate or other document issued in a qualifying country in accordance with a law of that country states that a person was the owner of copyright in the work or other subject matter at a particular time, then the certificate or other document is admissible as prima facie evidence of the facts so stated.
- (6) For the purposes of this section, a document purporting to be a certificate or document referred to in subsection (4) or (5) is, unless the contrary intention is established, taken to be such a certificate or document.

132B Evidence in relation to sound recordings

- (1) In a prosecution for an offence against section 132 in relation to a sound recording, if:
 - (a) records embodying the recording or a part of the recording have been supplied (whether by sale or otherwise) to the public; and

- (b) at the time when records embodying the recording or part of the recording were supplied, the records or their containers bore a label or other mark containing a statement:
- (i) that a person specified on the label or mark was the maker of the recording; or
 - (ii) that the recording was first published in a year specified on the label or mark; or
 - (iii) that the recording was first published in a country specified on the label or mark;

then the label or mark is admissible as prima facie evidence of the facts so stated.

- (2) In a prosecution for an offence against section 132 in relation to a sound recording, if:
- (a) records embodying the recording or a part of the recording have been supplied (whether by sale or otherwise) to the public; and
 - (b) at the time when records embodying the recording or part of the recording were supplied, the records or their containers bore a label or other mark consisting of the letter “P” in a circle accompanied by a specified year and the name of a person;

then the label or mark is admissible as prima facie evidence that the recording was first published in that specified year and that the named person was the owner of copyright in the recording in the place and at the time at which the label or mark was affixed to the records or their containers.

9 Paragraph 133A(1)(a)

Omit “computer program”, substitute “work or other subject matter”.

Note: The heading to section 133A is altered by omitting “**computer programs**” and substituting “**works or other subject matter**”.

10 Subsection 133A(2)

Repeal the subsection, substitute:

- (2) For the purposes of this section, a communication of a work or other subject matter that, when received and recorded, will result in the creation of a copy of the work or other subject matter is taken to constitute the supply of a copy of the work or other subject matter at the place where the copy will be created.

11 At the end of Division 3 of Part VAA

Add:

135ARA Jurisdiction of Federal Magistrates Court

Jurisdiction is conferred on the Federal Magistrates Court with respect to civil actions under this Part.

12 At the end of section 195AZC

Add:

- (5) The Federal Magistrates Court has jurisdiction with respect to matters arising under this Part.

13 After section 248M

Insert:

248MA Jurisdiction of Federal Magistrates Court

Jurisdiction is conferred on the Federal Magistrates Court with respect to actions under section 248J.

14 Application

- (1) The amendments made by items 1, 2, 3, 4 and 5 apply to actions brought after the commencement of those items.
- (2) The amendments made by items 6, 11, 12 and 13 apply in relation to matters or actions instituted after the commencement of those items.
- (3) The amendment made by item 7 applies to acts and omissions that take place after the commencement of that item.
- (4) The amendment made by item 8 applies to prosecutions brought after the commencement of that item.
- (5) The amendments made by items 9 and 10 apply in relation to publications after the commencement of those items.

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

Schedule 1, item 8, page 6 (lines 24 and 25), omit paragraph (a) of the definition of *feature film*, substitute:

- (a) is produced wholly or principally:
 - (i) for exhibition to the public in cinemas or by way of television broadcasting; or
 - (ii) for sale or rental to the public where it is reasonable to assume that the viewing of the film (without electronic interactive involvement with the film) would be the primary object of any such sale or rental; and

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

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

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

Government amendment (2), at the end of Schedule 4, add:

15 Review of operation of this Schedule

- (1) The Minister must cause a review of the operation of the amendments made by this Schedule to be carried out as soon as practicable after the fourth anniversary of the commencement of this Schedule.
- (2) The Minister must cause a copy of the report of the review to be laid before each House of the Parliament within 15 sitting days of that House after the report is completed.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

60 FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (AUSTRALIANS WORKING TOGETHER AND OTHER 2001 BUDGET MEASURES) BILL 2002

Order of the day read for the consideration of message no. 238 from the House of Representatives in committee of the whole (*see entry no. 42, 5 February 2003*).

In the committee

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That the committee does not further insist on its amendments nos 18, 22, 24, 37, 39, 40, 42, 43, 47, 49, 50, 54, 61, 63 to 65 and 74 to 77 to which the House of Representatives has insisted on disagreeing.

Debate ensued.

Question put.

The committee divided—

AYES, 35

Senators—

Abetz	Eggleston (Teller)	Lightfoot	Santoro
Allison	Ferguson	Macdonald, Ian	Scullion
Barnett	Ferris	Mason	Stott Despoja
Bartlett	Greig	McGauran	Tchen
Boswell	Heffernan	Minchin	Tierney
Calvert	Humphries	Murray	Troeth
Campbell, Ian	Johnston	Patterson	Vanstone
Cherry	Kemp	Payne	Watson
Colbeck	Lees	Ridgeway	

NOES, 24

Senators—

Bishop	Cook	Ludwig	Nettle
Bolkus	Crossin	Mackay	Ray
Brown	Forshaw	Marshall	Sherry
Campbell, George	Harradine	McLucas	Stephens
Carr	Hogg	Moore (Teller)	Webber
Collins	Kirk	Murphy	Wong

Question agreed to.

Explanatory memorandum: The Minister for Family and Community Services (Senator Vanstone) tabled a further supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

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

Subclause 4(3), omit “30 June 2005”, substitute “30 June 2006”.

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

Schedule 1, item 12, subparagraph 501A(2A)(a)(i), after “physical, intellectual or psychological disability”, insert “or illness”.

Schedule 1, item 12, paragraph 501A(2A)(b), after “serious illness of PP children”, insert “or an accumulation of stressful personal circumstances which the Secretary is satisfied would, in combination, require full-time effort to address”.

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

Page 27 (after line 4), after Schedule 1, insert:

Schedule 1A—Amendments in relation to administrative penalties

Social Security Act 1991

1 Subsection 557A(1)

Omit “subsections (2) and (3)”, substitute “subsections (2), (3), (4) and (7)”.

2 At the end of section 557A

Add:

- (4) Subject to subsection (3), if:
- (a) an activity test breach rate reduction period is applicable to a person because of an activity test breach other than:
 - (i) a breach for failing to take reasonable steps to comply with a requirement of the Secretary to undertake particular paid work as set out in a notice under subsection 541(2); or
 - (ii) a breach of paragraph 541A(c) or 550A(c), (e), (f) or (g); or
 - (iii) a breach of paragraph 550A(d) where the Secretary is satisfied that the person has acted with an intention of obtaining a social security advantage; or
 - (iv) a breach because of a failure to take reasonable steps to comply with a job search requirement of a Youth Allowance Activity Agreement as described in subsection (6); and
 - (b) the activity test breach is the first activity test breach of any kind that is applicable to the person in the period of 2 years ending immediately before the day after the activity test breach; and
 - (c) the Secretary notifies the person, either orally or in writing, of an activity or activities that, if undertaken by the person, would satisfy the Secretary that the activity test breach rate reduction period should be modified in accordance with this subsection; and
 - (d) at the earliest opportunity available to the person but in no case later than 8 weeks after the start of the activity test breach rate reduction period, the person undertakes the activity or each of the activities;

the activity test breach rate reduction period applicable to the person is 8 weeks rather than 26 weeks.

- (5) For the purposes of subparagraph (4)(a)(iii), a person has an intention of obtaining a social security advantage if the person has an intention of:
- (a) obtaining, or enabling the person to obtain, a social security payment that the person would not otherwise obtain; or
 - (b) obtaining, or enabling the person to obtain, a social security payment at a higher rate than that which would otherwise be payable; or
 - (c) ensuring that the person would be qualified for fringe benefits for the purposes of this Act or the Veterans' Entitlements Act.
- (6) For the purposes of subparagraph (4)(a)(iv), a job search requirement of a Youth Allowance Activity Agreement is a requirement that the person to whom the agreement relates:
- (a) undertake a certain number of job searches per fortnight; and
 - (b) keep a record of the person's job searches in a document referred to in the agreement as a job seeker diary; and
 - (c) return the job seeker diary to the Department at the end of the period specified in the agreement.
- (7) If:
- (a) under paragraph (4)(c), the Secretary has notified a person of an activity or activities; and
 - (b) the person has not:
 - (i) undertaken the activity or any one or more of the activities referred to in paragraph (a); or
 - (ii) if another activity or other activities is notified to the person in substitution for the activity or activities so referred to (or for any previously substituted activity or activities)—undertaken that other activity or any one or more of those other activities;
 before the end of 8 weeks after the start of the activity test breach rate reduction period applicable to the person; and
 - (c) the Secretary is satisfied that the failure to undertake the activity or any one or more of the activities referred to in paragraph (a) and any substituted activity or activities was for reasons outside the person's control;
- the Secretary may determine that the activity test breach rate reduction period applicable to the person is 8 weeks rather than 26 weeks.

3 Subsection 558A(1)

Omit "subsections (2) and (3)", substitute "subsections (2), (3), (4) and (5)".

4 At the end of section 558A

Add:

- (4) Subject to subsection (3), if:
- (a) an administrative breach rate reduction period is applicable to a person because the person has refused or failed to comply with a requirement made of the person under section 63, 64, 67, 68, 75 or 192 of the Administration Act; and

- (b) the refusal or failure is the first refusal or failure in the period of 2 years ending immediately before the day after the refusal or failure; and
- (c) the Secretary notifies the person, either orally or in writing, of an activity or activities that, if undertaken by the person, would satisfy the Secretary that the administrative breach rate reduction period should be modified in accordance with this subsection; and
- (d) at the earliest opportunity available to the person but in no case later than 8 weeks after the start of the administrative breach rate reduction period applicable to the person, the person undertakes the activity or each of the activities;

the administrative breach rate reduction period applicable to the person is 8 weeks rather than 13 weeks.

(5) If:

- (a) under paragraph (4)(c), the Secretary has notified a person of an activity or activities; and
- (b) the person has not:
 - (i) undertaken the activity or any one or more of the activities referred to in paragraph (a); or
 - (ii) if another activity or other activities is notified to the person in substitution for the activity or activities so referred to (or for any previously substituted activity or activities)—undertaken that other activity or any one or more of those other activities;

before the end of 8 weeks after the start of the administrative breach rate reduction period applicable to the person; and

- (c) the Secretary is satisfied that the failure to undertake the activity or any one or more of the activities referred to in paragraph (a) and any substituted activity or activities was for reasons outside the person's control;

the Secretary may determine that the administrative breach rate reduction period applicable to the person is 8 weeks rather than 13 weeks.

5 At the end of section 644AA

Add:

(1A) If:

- (a) an activity test breach rate reduction period is applicable to a person because of an activity test breach other than:
 - (i) a breach for failing to take reasonable steps to comply with a requirement of the Secretary to undertake particular paid work as set out in a notice under subsection 601(2); or
 - (ii) a breach of subsection 601A(1), of section 628, 629 or 630 or of paragraph 630AA(1)(b); or
 - (iii) a breach of paragraph 630AA(1)(a) where the Secretary is satisfied that the person has acted with an intention of obtaining a social security advantage; or

- (iv) a breach because of a failure to take reasonable steps to comply with a job search requirement of a Newstart Allowance Activity Agreement as described in subsection (1C); and
 - (b) the activity test breach is the first activity test breach of any kind that is applicable to the person in the period of 2 years ending immediately before the day after the activity test breach; and
 - (c) the Secretary notifies the person, either orally or in writing, of an activity or activities that, if undertaken by the person, would satisfy the Secretary that the activity test breach rate reduction period should be modified in accordance with this subsection; and
 - (d) at the earliest opportunity available to the person but in no case later than 8 weeks after the start of the activity test breach rate reduction period applicable to the person, the person undertakes the activity or each of the activities;
- the activity test breach rate reduction period applicable to the person is 8 weeks rather than 26 weeks.
- (1B) For the purposes of subparagraph (1A)(a)(iii), a person has an intention of obtaining a social security advantage if the person has an intention of:
 - (a) obtaining, or enabling the person to obtain, a social security payment that the person would not otherwise obtain; or
 - (b) obtaining, or enabling the person to obtain, a social security payment at a higher rate than that which would otherwise be payable; or
 - (c) ensuring that the person would be qualified for fringe benefits for the purposes of this Act or the Veterans' Entitlements Act.
 - (1C) For the purposes of subparagraph (1A)(a)(iv), a job search requirement of a Newstart Allowance Activity Agreement is a requirement that the person to whom the Agreement relates:
 - (a) undertake a certain number of job searches per fortnight; and
 - (b) keep a record of the person's job searches in a document referred to in the agreement as a job seeker diary; and
 - (c) return the job seeker diary to the Department at the end of the period specified in the Agreement.
 - (1D) If:
 - (a) under paragraph (1A)(c), the Secretary has notified a person of an activity or activities; and
 - (b) the person has not:
 - (i) undertaken the activity or any one or more of the activities referred to in paragraph (a); or
 - (ii) if another activity or other activities is notified to the person in substitution for the activity or activities so referred to (or for any previously substituted activity or activities)—undertaken that other activity or any one or more of those other activities;

before the end of 8 weeks after the start of the activity test breach rate reduction period applicable to the person; and

- (c) the Secretary is satisfied that the failure to undertake the activity or any one or more of the activities referred to in paragraph (a) and any substituted activity or activities was for reasons outside the person's control;

the Secretary may determine that the activity test breach rate reduction period applicable to the person is 8 weeks rather than 26 weeks.

6 At the end of section 644B

Add:

(1A) If:

- (a) an administrative breach rate reduction period is applicable to a person because the person has refused or failed, without reasonable excuse, to comply with a requirement made of the person under section 63, 64, 67, 68, 75 or 192 of the Administration Act; and
- (b) the refusal or failure is the first refusal or failure in the period of 2 years ending immediately before the day after the refusal or failure; and
- (c) the Secretary notifies the person, either orally or in writing, of an activity or activities that, if undertaken by the person, would satisfy the Secretary that the administrative breach rate reduction period should be modified in accordance with this subsection; and
- (d) at the earliest opportunity available to the person but in no case later than 8 weeks after the start of the administrative breach rate reduction period applicable to the person, the person undertakes the activity or each of the activities;

the administrative breach rate reduction period applicable to the person is 8 weeks rather than 13 weeks.

(1B) If:

- (a) under paragraph (1A)(c), the Secretary has notified a person of an activity or activities; and
- (b) the person has not:
 - (i) undertaken the activity or any one or more of the activities referred to in paragraph (a); or
 - (ii) if another activity or other activities is notified to the person in substitution for the activity or activities so referred to (or for any previously substituted activity or activities)—undertaken that other activity or any one or more of those other activities;before the end of 8 weeks after the start of the administrative breach rate reduction period applicable to the person; and
- (c) the Secretary is satisfied that the failure to undertake the activity or any one or more of the activities referred to in paragraph (a) and any substituted activity or activities was for reasons outside the person's control;

the Secretary may determine that the administrative breach rate reduction period applicable to the person is 8 weeks rather than 13 weeks.

7 After subsection 729(2C)

Insert:

- (2CA) The Secretary must not determine that a person has failed to take reasonable steps to comply with the terms of a Special Benefit Activity Agreement unless the Secretary:
- (a) is satisfied that the terms of the agreement were intended to assist the person over time in gaining employment or undertaking study or training; and
 - (b) has made reasonable attempts to contact the person in relation to the requirement to comply with the terms of the agreement (and has documented each attempt to contact); and
 - (c) if contact was able to be made, has had regard to the reasons, if any, provided by the person for not complying with the terms of the agreement; and
 - (d) has confirmed the adequacy of the support that the Secretary agreed to provide under the agreement.

8 After subsection 731M(1)

Insert:

- (1AA) If the person is at least 50 years of age but less than 60 years of age, the particular number of job vacancies shall not exceed 24 per 12 weeks in the period specified in the notice.
- (1AB) If the person is at least 60 years of age, the particular number of job vacancies shall not exceed 12 per 12 weeks in the period specified in the notice.
- (1AC) Subsection (1AA) does not apply unless the person has been receiving an income support payment for a continuous period of at least 9 months and the person satisfies the Secretary that the person has no recent workforce experience.

9 Subsection 731M(5)

Repeal the subsection, substitute:

- (5) In having regard to a person's capacity to comply with an agreement, the Secretary is to take into account, but is not limited to, the following matters:
- (a) the person's education, experience, skills, age, disability, illness, and mental and physical condition;
 - (b) the state of the local labour market and the transport options available to the person in accessing that market;
 - (c) the participation opportunities available to the person;
 - (d) the family and caring responsibilities of the person;
 - (e) the length of travel time required for compliance with the agreement, by reference to what constitutes unreasonably difficult commuting for the purposes of paragraph 731B(1)(g);
 - (f) the financial costs of compliance with the agreement, such as travel costs, and the capacity to pay for such compliance;
 - (g) any other matters that the Secretary or the person considers relevant in the circumstances.

10 Paragraph 731M(6)(a)

After “varied”, insert “(in negotiation with the person)”.

11 After subsection 731M(6)

Insert:

- (6A) Within 14 days of the day of the agreement being approved, those terms may be varied by the person with the approval of the Secretary.
- (6B) The Secretary must advise the person in writing of the effect of subsection (6A).
- (6C) To avoid doubt, subsection (6A) does not prevent the person at any time from requesting a review of an agreement under paragraph (6)(c).

12 Subparagraph 731N(1)(b)(iii)

After “agree to”, insert “the reasonable”.

13 Subsection 745C(2)

Repeal the subsection, substitute:

- (2) Subject to subsection (4) of this section and to section 745D, the activity test non-payment period starts on the 14th day after the day on which the notice is given to the person.

14 At the end of section 748

Add:

(1A) If:

- (a) an activity test breach rate reduction period is applicable to a person because of an activity test breach other than:
 - (i) a breach for failing to take reasonable steps to comply with a requirement of the Secretary to undertake particular paid work as set out in a notice under subsection 731A(7); or
 - (ii) a breach of subsection 731C(1), of section 743, 744 or 745 or of paragraph 745A(1)(a); or
 - (iii) a breach of paragraph 745A(1)(b) where the Secretary is satisfied that the person has acted with an intention of obtaining a social security advantage; or
 - (iv) a breach because of a failure to take reasonable steps to comply with a job search requirement of a Special Benefit Activity Agreement as described in subsection (1C); and
- (b) the activity test breach is the first activity test breach of any kind that is applicable to the person in the period of 2 years ending immediately before the day after the activity test breach; and
- (c) the Secretary notifies the person, either orally or in writing, of an activity or activities that, if undertaken by the person, would satisfy the Secretary that the activity test breach rate reduction period should be modified in accordance with this subsection; and
- (d) at the earliest opportunity available to the person but in no case later than 8 weeks after the start of the activity test breach rate reduction period applicable to the person, the person undertakes the activity or each of the activities;

the activity test breach rate reduction period applicable to the person is 8 weeks rather than 26 weeks.

- (1B) For the purposes of subparagraph (1A)(a)(iii), a person has an intention of obtaining a social security advantage if the person has an intention of:
- (a) obtaining, or enabling the person to obtain, a social security payment that the person would not otherwise obtain; or
 - (b) obtaining, or enabling the person to obtain, a social security payment at a higher rate than that which would otherwise be payable; or
 - (c) ensuring that the person would be qualified for fringe benefits for the purposes of this Act or the Veterans' Entitlements Act.
- (1C) For the purposes of subparagraph (1A)(a)(iv), a job search requirement of a Special Benefit Activity Agreement is a requirement that the person to whom the Agreement relates:
- (a) undertake a certain number of job searches per fortnight; and
 - (b) keep a record of the person's job searches in a document referred to in the agreement as a job seeker diary; and
 - (c) return the job seeker diary to the Department at the end of the period specified in the Agreement.
- (1D) If:
- (a) under paragraph (1A)(c), the Secretary has notified a person of an activity or activities; and
 - (b) the person has not:
 - (i) undertaken the activity or any one or more of the activities referred to in paragraph (a); or
 - (ii) if another activity or other activities is notified to the person in substitution for the activity or activities so referred to (or for any previously substituted activity or activities)—undertaken that other activity or any one or more of those other activities;
- before the end of 8 weeks after the start of the activity test breach rate reduction period applicable to the person; and
- (c) the Secretary is satisfied that the failure to undertake the activity or any one or more of the activities referred to in paragraph (a) and any substituted activity or activities was for reasons outside the person's control;
- the Secretary may determine that the activity test breach rate reduction period applicable to the person is 8 weeks rather than 26 weeks.

15 Subsection 749(2)

Repeal the subsection, substitute:

- (2) Subject to subsection (4) of this section and to section 750, the activity test breach rate reduction period starts on the 14th day after the day on which the notice is given to the person.

16 At the end of section 752

Add:

(1A) If:

- (a) an administrative breach rate reduction period is applicable to a person because the person has refused or failed, without reasonable excuse, to comply with a requirement made of the person under section 63, 64, 67, 68, 75 or 192 of the Administration Act; and
- (b) the refusal or failure is the first refusal or failure in the period of 2 years ending immediately before the day after the refusal or failure; and
- (c) the Secretary notifies the person, either orally or in writing, of an activity or activities that, if undertaken by the person, would satisfy the Secretary that the administrative breach rate reduction period should be modified in accordance with this subsection; and
- (d) at the earliest opportunity available to the person but in no case later than 8 weeks after the start of the administrative breach rate reduction period applicable to the person, the person undertakes the activity or each of the activities;

the administrative breach rate reduction period applicable to the person is 8 weeks rather than 13 weeks.

(1B) If:

- (a) under paragraph (1A)(c), the Secretary has notified a person of an activity or activities; and
- (b) the person has not:
 - (i) undertaken the activity or any one or more of the activities referred to in paragraph (a); or
 - (ii) if another activity or other activities is notified to the person in substitution for the activity or activities so referred to (or for any previously substituted activity or activities)—undertaken that other activity or any one or more of those other activities;
before the end of 8 weeks after the start of the administrative breach rate reduction period applicable to the person; and
- (c) the Secretary is satisfied that the failure to undertake the activity or any one or more of the activities referred to in paragraph (a) and any substituted activity or activities was for reasons outside the person's control;

the Secretary may determine that the administrative breach rate reduction period applicable to the person is 8 weeks rather than 13 weeks.

17 Subsection 753(2)

Repeal the subsection, substitute:

- (2) Subject to subsection (4), the administrative breach rate reduction period starts on the 14th day after the day on which the notice is given to the person.

Senator Vanstone moved the following amendment:

Clause 2, page 1 (line 8) to page 2 (line 6), omit the clause, substitute:

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	
2. Schedules 1 and 2	20 September 2003	
3 Schedule 3	The 28th day after the day on which this Act receives the Royal Assent	
4 Schedules 4, 5 and 6	20 September 2003	
5 Schedule 7	The day on which this Act receives the Royal Assent	

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

Debate ensued.

Senator Cherry moved the following amendment to Senator Vanstone's proposed amendment:

Subclause 2(1), omit table item 2, substitute:

2. Schedules 1, 1A and 2 20 September 2003

Question—That Senator Cherry's amendment to Senator Vanstone's proposed amendment be agreed to—put and passed.

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

Resolution to be reported.

The Acting Deputy President (Senator Collins) resumed the chair and the Temporary Chair of Committees reported that the committee had considered message no. 238 from the House of Representatives relating to the Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures) Bill 2002, had resolved not to further insist on amendments nos 18, 22, 24, 37, 39, 40, 42, 43, 47, 49, 50, 54, 61, 63 to 65 and 74 to 77 made by the Senate to which the House had insisted on disagreeing and had agreed to further amendments.

Senator Vanstone moved—That the report from the committee be adopted.

Debate ensued.

Question put.

The Senate divided—

AYES, 34

Senators—

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

NOES, 23

Senators—

Bishop	Collins	Lundy	Nettle
Bolkus	Cook	Mackay	Ray
Brown	Forshaw	Marshall	Sherry
Buckland	Harradine	McLucas	Stephens
Campbell, George	Kirk	Moore (Teller)	Webber
Carr	Ludwig	Murphy	

Question agreed to.

61 TAXATION LAWS AMENDMENT BILL (NO. 2) 2003

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

Message no. 285, dated 27 March 2003—A Bill for an Act to amend the law relating to taxation, and for related purposes.

The Minister for Family and Community Services (Senator Vanstone) 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 Vanstone moved—That this bill be now read a second time.

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

Debate ensued.

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.

Question—That the bill be agreed to—divided in respect of Schedule 1.

Schedule 1 debated.

Question—That Schedule 1 stand as printed—put.

The committee divided—

AYES, 27

Senators—

Abetz	Eggleston	Macdonald, Ian	Scullion
Barnett	Ferguson	McGauran (Teller)	Tchen
Boswell	Ferris	Mason	Tierney
Calvert	Heffernan	Minchin	Troeth
Campbell, Ian	Humphries	Patterson	Vanstone
Colbeck	Johnston	Payne	Watson
Coonan	Lightfoot	Santoro	

NOES, 31

Senators—

Allison	Cook	Lees	Nettle
Bartlett	Crossin (Teller)	Ludwig	Ray
Bishop	Evans	Lundy	Ridgeway
Brown	Faulkner	McLucas	Sherry
Buckland	Forshaw	Marshall	Stott Despoja
Campbell, George	Greig	Moore	Webber
Carr	Harradine	Murphy	Wong
Cherry	Hogg	Murray	

Schedule negatived.

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

Clause 2, page 2 (table item 2), omit the table item.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

On the motion of the Minister for Revenue and Assistant Treasurer (Senator Coonan) the report from the committee was adopted and the bill read a third time.

62 INSPECTOR-GENERAL OF TAXATION BILL 2002

Order of the day read for the consideration of message no. 251 from the House of Representatives in committee of the whole (*see entry no. 38, 3 March 2003*).

In the committee

The Minister for Revenue and Assistant Treasurer (Senator Coonan) moved—That the committee does not insist on its amendments to which the House of Representatives has disagreed.

Debate ensued.

Question put and passed.

Explanatory memorandum: Senator Coonan tabled a further supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

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

Clause 3, page 2 (lines 3 to 5), omit the clause, substitute:

3 Objects of this Act

The objects of this Act are to:

- (a) improve the administration of the tax laws for the benefit of all taxpayers; and
- (b) provide independent advice to the government on the administration of the tax laws; and
- (c) identify systemic issues in the administration of the tax laws.

Clause 8, page 5 (lines 30 to 32), omit subclause (2), substitute:

- (2) The Inspector-General may be directed, in writing, by the Minister to conduct a review. On receipt of a direction, the Inspector-General must include the review in his or her work program under section 9.

Note: Under section 9, the Inspector-General has discretion in deciding how to include the review in the work program (including, for example, what priority to give the review).

Clause 11, page 7 (lines 2 to 5), omit the clause, substitute:

11 Public release of reports

- (1) The Minister must cause a copy of each report under section 10 to be tabled in each House of the Parliament, or to be otherwise made publicly available:
 - (a) before the general publication deadline; or
 - (b) if the Inspector-General recommends that the tabling or public release of the report be delayed for a specified period—before the extended publication deadline.
- (2) For the purposes of subsection (1):

- (a) the *general publication deadline* is the end of 25 sitting days of each House of the Parliament, calculated starting from the day after the day on which the Minister receives the report; and
- (b) the *extended publication deadline* is the end of 25 sitting days of each House of the Parliament, calculated starting from the day after the day on which the period referred to in paragraph (1)(b) ends.

Note: If, because of differences in the days on which the two Houses sit, the 25 sitting day period for the two Houses ends on different days, the relevant deadline is the end of the later of those days.

Resolution to be reported.

The Acting Deputy President (Senator Collins) resumed the chair and the Temporary Chair of Committees reported that the committee had considered message no. 251 from the House of Representatives relating to the Inspector-General of Taxation Bill 2002, had resolved not to insist on the amendments made by the Senate to which the House had disagreed and had agreed to further amendments.

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

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

A message from the House of Representatives was reported disagreeing to the amendments made by the Senate to the following bill:

Message no. 287, dated 27 March 2003—Corporations Amendment (Repayment of Directors' Bonuses) Bill 2002.

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

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

In the committee

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That the committee does not insist on its amendments to which the House of Representatives has disagreed.

Debate ensued.

Question put and passed.

Resolution to be reported.

The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Collins) reported that the committee had considered message no. 287 from the House of Representatives relating to the Corporations Amendment (Repayment of Directors' Bonuses) Bill 2002 and had resolved not to insist on the amendments made by the Senate to which the House had disagreed.

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

64 ORDER OF BUSINESS—REARRANGEMENT

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That intervening business be postponed till after consideration of government business notice of motion no. 7 (Dairy Industry Service Reform Bill 2003 and a related bill).

Question put and passed.

65 DAIRY INDUSTRY SERVICE REFORM BILL 2003**PRIMARY INDUSTRIES (EXCISE) LEVIES AMENDMENT (DAIRY) BILL 2003**

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.

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

DAIRY INDUSTRY SERVICE REFORM BILL 2003—

Bill taken as a whole by leave.

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

Schedule 1, item 51, page 35 (after line 16), at the end of section 5, add:

- (6) The Minister must cause a copy of the contract to be tabled in each House of the Parliament within 14 sitting days of that House after the day on which the contract was entered into.
- (7) If the contract is varied, the Minister must cause a copy of the contract as varied to be tabled in each House of the Parliament within 14 sitting days of that House after the variation occurred.

Schedule 1, item 51, page 39 (after line 7), at the end of Division 4, add:

13 Tabling of financial reports

- (1) The industry services body must, within 14 days of lodging a financial report (the *annual report*) mentioned in section 292 of the *Corporations Act 2001*, give the Minister a copy of the report.
- (2) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 14 sitting days of that House after the day on which the copy of the report was given to the Minister.
- (3) In addition to the matters mentioned in section 295 of the *Corporations Act 2001*, the annual report must include details of the following in relation to the financial year to which the report relates:
 - (a) the amount of dairy service payments and matching payments made to the industry services body;
 - (b) the amount of those payments that were spent;
 - (c) outcomes as measured against objectives that apply in relation to the industry services body.

14 Other reports

- (1) The Minister must, as soon as practicable after the holding of each annual general meeting of the industry services body, cause to be tabled in each House of the Parliament a report in relation to the year ending on 30 June before the holding of that meeting.
- (2) The report must include the following in relation to that year:
 - (a) a statement as to the amount of dairy service levy received by the Commonwealth;
 - (b) a statement as to whether the Minister is satisfied, on the basis of information provided by the industry services body, that the spending of dairy service payments and matching payments complies with the funding contract;
 - (c) if the Minister is not so satisfied—details of why the Minister is satisfied that the spending does not so comply.

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

Schedule 1, item 51, page 38 (after line 15), at the end of section 9, add:

Method of conducting poll

- (3) Regulations for the conduct of a poll must include provisions allocating votes to each dairy service levy payer.

Bill, as amended, agreed to.

PRIMARY INDUSTRIES (EXCISE) LEVIES AMENDMENT (DAIRY) BILL 2003—

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

The Dairy Industry Service Reform Bill 2003 to be reported with amendments and the Primary Industries (Excise) Levies Amendment (Dairy) Bill 2003 to be reported without requests for amendments.

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

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

66 NATIONAL BLOOD AUTHORITY BILL 2002

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill, taken as a whole by leave, debated.

Senator Allison moved the following amendments together by leave:

Clause 15, page 11 (line 3), at the end of subclause (1), add “on the basis of merit in accordance with section 15A”.

Page 11 (after line 15), after clause 15, insert:

15A Procedures for merit selection of Board members

- (1) The Minister must by writing determine a code of practice for selecting members of the Board that sets out general principles on which the selections are to be made, including but not limited to:
 - (a) merit; and
 - (b) independent scrutiny of appointments; and
 - (c) probity; and
 - (d) openness and transparency.
- (2) After determining a code of practice under subsection (1), the Minister must publish the code in the *Gazette*.
- (3) Not later than every fifth anniversary after a code of practice has been determined, the Minister must review the code.
- (4) In reviewing a code of practice, the Minister must invite the public to comment on the code.
- (5) A code of practice determined under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Clause 27, page 16 (line 7), at the end of subclause (1), add “on the basis of merit in accordance with section 27A”.

Page 16 (after line 10), after clause 27, insert:

27A Procedures for merit selection of General Manager

- (1) The Minister must by writing determine a code of practice for selecting the General Manager that sets out general principles on which the selection is to be made, including but not limited to:
 - (a) merit; and
 - (b) independent scrutiny of an appointment; and
 - (c) probity; and
 - (d) openness and transparency.
- (2) After determining a code of practice under subsection (1), the Minister must publish the code in the *Gazette*.
- (3) Not later than every fifth anniversary after a code of practice has been determined, the Minister must review the code.
- (4) In reviewing a code of practice, the Minister must invite the public to comment on the code.
- (5) A code of practice determined under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Clause 29, page 16 (after line 21), after subclause (1), insert:

(1A) An acting appointment must be made in accordance with the process of merit selection specified in section 27A.

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

Bill agreed to.

Bill to be reported without amendment.

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

On the motion of the Minister for Health and Ageing (Senator Patterson) the report from the committee was adopted.

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

Debate ensued.

Question put and passed.

Bill read a third time.

67 ENERGY GRANTS (CREDITS) SCHEME BILL 2003

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

Order of the day read for the adjourned debate on the motion of the Minister for Health and Ageing (Senator Patterson)—That these bills be now read a second time.

Debate resumed.

Question put and passed.

Bills read a second time.

On the motion of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell) consideration of the bills in committee of the whole was made an order of the day for the next day of sitting.

68 APPROPRIATION BILL (NO. 3) 2002-2003

APPROPRIATION BILL (NO. 4) 2002-2003

Order of the day read for the adjourned debate on the motion of the Minister for Revenue and Assistant Treasurer (Senator Coonan)—That these bills be now read a second time.

Debate resumed.

Senator Crossin moved the following amendment:

At the end of the motion, add “but the Senate condemns the Government because:

- (a) it is the highest taxing government in Australian history since:
 - (i) it has imposed the highest level ever of income tax,
 - (ii) it is responsible for introducing the biggest new tax in our history, and
 - (iii) it is addicted to imposing even more taxes and special levies;
- (b) it has failed to deliver on its basic responsibilities to the Australian people, for example:
 - (i) bulk billing has collapsed;

- (ii) there is chronic under-investment in our public schools, TAFE colleges and universities;
 - (iii) the struggle to balance work and family life continues to get harder; and
 - (iv) entry-level housing is becoming even less affordable for struggling Australian families;
- (c) despite the record tax take, and in spite of declining government services, the Government has failed to keep the budget in surplus after nearly a decade of strong economic growth:
- (i) it broke its unequivocal promise to keep the budget in surplus in 2001-02,
 - (ii) future surpluses are dependent on the additional revenue provided by bracket creep,
 - (iii) it has presided over enormous waste and mismanagement including billions of dollars of foreign exchange losses and defence procurement losses, and
 - (iv) it has lost control over expenditure necessitating wholesale changes to the budgetary management system”.

Debate ensued.

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

Main question put and passed.

Bills read a second time.

On the motion of the Special Minister of State (Senator Abetz) the bills were read a third time.

69 ADVANCE TO THE FINANCE MINISTER—2001-02

Order of the day read for the consideration of the statement in committee of the whole.

In the committee

The Special Minister of State (Senator Abetz) moved—That the committee approves the statement of Issues from the Advance to the Finance Minister as a final charge for the year ended 30 June 2002.

Question put and passed.

Resolution to be reported.

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

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

70 COMMITTEES—CHANGES IN MEMBERSHIP

The Acting Deputy President (Senator Cook) informed the Senate that the President had received letters requesting changes in the membership of various committees.

The Special Minister of State (Senator Abetz), by leave, moved—That senators be discharged from and appointed to committees as follows:

**Environment, Communications, Information Technology and the Arts
References Committee—**

Appointed—

Senator Cherry

Participating member: Senator Allison

Discharged—Senator Allison

Finance and Public Administration References Committee—

Appointed for the committee's inquiry into funding under the Dairy Regional Assistance Program—

Participating member: Senator Marshall

Substitute members:

Senator O'Brien to replace Senator Marshall

Senator Cherry to replace Senator Ridgeway.

Question put and passed.

71 LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE—REFERENCE

The Special Minister of State (Senator Abetz), by leave, moved—That the provisions of the Australian Human Rights Commission Legislation Bill 2003 be referred to the Legal and Constitutional Legislation Committee for inquiry and report by 29 May 2003.

Question put and passed.

72 ADJOURNMENT

The Special Minister of State (Senator Abetz) moved—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 11.08 pm till Tuesday, 13 May 2003 at 2 pm.

73 ATTENDANCE

Present, all senators except Senator Knowles (on leave).

HARRY EVANS
Clerk of the Senate