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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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Contents

1	Meeting of Senate	1965
2	Government Documents	1965
3	Parliamentary Zone—Capital Works Proposals—Approval	1965
4	Consideration of Legislation	1965
5	Order of Business—Rearrangement	1965
6	Broadcasting Services Amendment (Media Ownership) Bill 2002	1966
7	Matters of Public Interest	1972
8	Questions	1972
9	Minister for Health and Ageing—Answers to Questions	1973
10	Health—Mental Illness—Answer to Question	1973
11	Temporary Chairs of Committees	1973
12	Notices	1973
13	Selection of Bills—Standing Committee—Report No. 7 of 2003	1978
14	Postponements	1979
15	Hours of Meeting and Routine of Business—Variation—Statement by Leave	1980
16	Economics References Committee—Reference	1980
17	Rural and Regional Affairs and Transport Legislation Committee— Extensions of Time to Report	1981
18	Industry—Biotechnology Australia—Order for Production of Documents	1981
19	Defence—Point Nepean	1981
20	Freedom of Information Amendment (Open Government) Bill 2003	1982
21	Public Accounts and Audit—Joint Statutory Committee—Leave to Meet During Sitting	1982
22	Foreign Affairs, Defence and Trade References Committee—Extension of Time to Report	1982
23	Privileges—Standing Committee—113th Report	1983
24	Hours of Meeting and Routine of Business—Variation	1983
25	Scrutiny of Bills—Standing Committee—6th Report and Alert Digest No. 7 of 2003	1983

26	Public Works—Joint Statutory Committee—Report—Facilities for the Australian Capital Territory Multi User Depot, HMAS Harman, ACT	1983
27	Native Title and the Aboriginal and Torres Strait Islander Land Fund—Joint Statutory Committee—Report—Examination of Annual Reports for 2001-2002.....	1984
28	Fisheries Policy—Ministerial Statement—Documents	1984
29	Auditor-General—Audit Reports Nos 56 and 57 of 2002-03—Documents.....	1984
30	Parliamentary Committee Reports—Government Response—President’s Report on Government Responses.....	1984
31	Workplace Relations Amendment (Termination of Employment) Bill 2002—Explanatory Memorandum.....	1985
32	Parliamentary Zone—Capital Works Proposal—Documents	1985
33	Documents.....	1985
34	Committees—Changes in Membership.....	1986
35	Governor-General Amendment Bill 2003 Migration Legislation Amendment (Sponsorship Measures) Bill 2003.....	1986
36	Trade Practices Amendment (Personal Injuries and Death) Bill 2003.....	1987
37	Taxation Laws Amendment Bill (No. 2) 2003.....	1987
38	Energy Grants (Credits) Scheme Bill 2003.....	1987
39	Broadcasting Services Amendment (Media Ownership) Bill 2002	1987
40	Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2]	1995
41	Adjournment	2002
42	Attendance.....	2003

1 MEETING OF SENATE

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

2 GOVERNMENT DOCUMENTS

The following government documents were tabled:

Aboriginal Land Commissioner—Report and explanatory statement by the Minister for Aboriginal and Torres Strait Islander Affairs—No. 64—Garrwa (Wearyan and Robinson Rivers beds and banks) land claim no. 178.

Military Superannuation and Benefits Scheme (MSBS) and Defence Force Retirement and Death Benefits Scheme (DFRDB)—Report on long-term costs carried out by the Australian Government Actuary using data to 30 June 2002.

Public Sector Superannuation Scheme (PSS) and Commonwealth Superannuation Scheme (CSS)—Report on the long-term cost of the Public Sector Superannuation Scheme and the Commonwealth Superannuation Scheme prepared by Mercer Human Resource Consulting Pty Ltd using data as at 30 June 2002.

3 PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSALS—APPROVAL

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), pursuant to notice, 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 landscape and lighting works at the Treasury Building.

Debate ensued.

Question put and passed.

Senator Ian Campbell, pursuant to notice, moved government business notice of motion no. 2—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 for the Commonwealth Place Forecourt.

Debate ensued.

Question put and passed.

4 CONSIDERATION OF LEGISLATION

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), pursuant to notice, moved government business notice of motion no. 3—That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Governor-General Amendment Bill 2003

HIH Royal Commission (Transfer of Records) Bill 2003.

Question put and passed.

5 ORDER OF BUSINESS—REARRANGEMENT

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That government business order of the day no. 1 (Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2]) be postponed till a later hour.

Debate ensued.

Question put and passed.

6 **BROADCASTING SERVICES AMENDMENT (MEDIA OWNERSHIP) 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 amendment moved by Senator Lees:

Schedule 2, page 5 (before line 9), before item 1A, insert:

1AB Before section 44

Insert:

43B Material of local significance—metropolitan commercial television broadcasting licences

- (1) For the purposes of this section, a *metropolitan commercial television broadcasting licence* is a commercial television broadcasting licence that has a metropolitan licence area (as defined by section 61B).
- (2) The ABA must ensure that, at all times on and after 1 July 2004, there is in force under section 43, for each metropolitan commercial television broadcasting licence, a condition that has the effect of requiring the licensee to broadcast to each local area, during such periods as are specified in the condition, at least a minimum level of material of local significance.
- (3) The condition must define *local area* and *material of local significance* for the purposes of the condition. The definition of *material of local significance* must be broad enough to cover news that relates directly to the local area concerned.
- (4) To avoid doubt, this section does not:
 - (a) prevent the condition from setting out different requirements for different types of material; or
 - (b) prevent the condition from specifying periods that recur (for example, the hours between 7 am and 10 am Monday to Friday); or
 - (c) prevent the condition from setting out different requirements for different periods; or
 - (d) create any obligations under subsection 43(2) that would not exist apart from this section.
- (5) Subsection 43(5) does not apply to the condition.
- (6) This section does not, by implication, limit the powers conferred on the ABA by section 43 to impose, vary or revoke other conditions.

Debate ensued.

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

Senator Brown moved the following amendment:

Schedule 2, item 4, page 9 (after line 28), after the definition of *emergency service agency*, insert:

local means generated in that locality.

Debate ensued.

On the motion of Senator Brown further consideration of the amendment was postponed.

On the motion of Senator Harris the following amendment was debated and agreed to:
Schedule 2, item 4, page 11 (after line 7), after section 61B, insert:

61BA Extended meaning of *unacceptable 3-way control situation*

- (1) The definition of *unacceptable 3-way control situation* in section 61B has effect, in relation to a regional licence area, as if:
- (a) each reference in the following provisions (the *modified provisions*) to a newspaper included a reference to a local paper:
 - (i) that definition;
 - (ii) the definition of *associate* in subsection 6(1);
 - (iii) section 7;
 - (iv) section 60;
 - (v) section 61;
 - (vi) the definition of *set of media operations* in section 61B;
 - (vii) Schedule 1; and
 - (b) for the purposes of the modified provisions and paragraph (c), a local paper were associated with the licence area of a commercial television broadcasting licence or a commercial radio broadcasting licence if, and only if, at least 50% of the circulation of the local paper is within the licence area of the licence; and
 - (c) for the purposes of the modified provisions, if a person is (apart from this paragraph) in a position to exercise control of a local paper (the *first local paper*) associated with the licence area of a commercial television broadcasting licence or a commercial radio broadcasting licence—the first local paper were ignored unless:
 - (i) the circulation of the first local paper within that licence area is at least 25% of the licence area population; or
 - (ii) the person is (apart from this paragraph) in a position to exercise control of one or more other local papers associated with the licence area of the licence, and the combined circulation of the first local paper and those other local papers within that licence area is at least 25% of the licence area population.

Definition

- (2) In this section:

local paper means a newspaper (within the ordinary meaning of that expression) that:

- (a) is in the English language; and
- (b) is published at least once a week; and
- (c) is not entered in the Associated Newspaper Register;

but does not include a publication if less than 50% of its circulation is by way of sale.

Senator Cherry moved the following amendment:

Schedule 2, item 4, page 14 (after line 6), at the end of subsection 61F(2), add:

- ; and (d) the entities, or parts of the entities, that run those media operations, where those media operations involve a television station and one or more daily newspapers in the same market, have established an editorial board for the news and current affairs operation of the television station which will:
- (i) have complete editorial control over the news and current affairs output of the television station, subject only to a right of veto by the entity over any story which is likely to expose the entity to a successful legal action for damages; and
 - (ii) consist of three members, one appointed by the proprietor, one elected by the staff of the news and current affairs operation, and an independent chair appointed by the Authority; and
 - (iii) have the power to appoint or dismiss all staff of the news and current affairs operation within the budget set by the entity; and
 - (iv) abide by any commercial objectives set by the proprietor and approved by the Authority consistent with the objectives of this Act and this section.

Debate ensued.

Senator Cherry, by leave, withdrew the amendment.

Consideration resumed of the amendment moved by Senator Brown and postponed earlier today.

Debate resumed.

Senator Brown, by leave, amended the amendment to read as follows:

Schedule 2, item 4, page 9 (after line 28), after the definition of *emergency service agency*, insert:

local in the term *material of local significance* means generated in that locality.

Debate continued

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 9

Senators—

Allison (Teller)
Bartlett
Brown

Cherry
Greig

Harris
Murray

Nettle
Ridgeway

NOES, 40

Senators—

Alston	Crossin	Lightfoot	Ray
Barnett	Denman	Ludwig	Santoro
Bishop	Evans	Lundy	Scullion
Bolkus	Forshaw	Mackay	Sherry
Buckland	Hogg	Marshall	Stephens
Campbell, George	Hutchins	Mason	Tchen
Carr	Johnston	McGauran (Teller)	Tierney
Colbeck	Kirk	McLucas	Watson
Collins	Knowles	Moore	Webber
Conroy	Lees	Murphy	Wong

Question negatived.

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

Schedule 2, item 4, page 10 (before line 29), before the definition of *set of media operations*, insert:

separately-controlled newspaper test has the meaning given by section 61FB.

Schedule 2, item 4, page 11 (after line 16), after paragraph 61C(b), insert:

(ba) the person satisfies the separately-controlled newspaper test for the first-mentioned set of media operations; and

Schedule 2, item 4, page 11 (after line 24), at the end of section 61C, add:

Note: For the separately-controlled newspaper test, see section 61FB.

Schedule 2, item 4, page 14 (before line 17), before section 61G, insert:

61FC Separately-controlled newspaper test

- (1) Use the table to work out whether a person satisfies the separately-controlled newspaper test for a set of media operations:

Separately-controlled newspaper test		
Item	If the set of media operations is...	the separately-controlled newspaper test is satisfied if...
1	a commercial television broadcasting licence and a commercial radio broadcasting licence	the person is not in a position to exercise control of more than one newspaper associated with the licence area of the commercial radio broadcasting licence.
2	a commercial television broadcasting licence and a newspaper	for each commercial radio broadcasting licence area with which that newspaper is associated, the person is not in a position to exercise control of more than one newspaper associated with the commercial radio broadcasting licence area.

Separately-controlled newspaper test		
Item	If the set of media operations is...	the separately-controlled newspaper test is satisfied if...
3	a commercial radio broadcasting licence and a newspaper	the person is not in a position to exercise control of more than one newspaper associated with the licence area of the commercial radio broadcasting licence.

(2) Section 51 does not apply to this section.

Note: Section 51 is about overlapping licence areas.

On the motion of the Minister for Communications, Information Technology and the Arts (Senator Alston) the following amendment was debated and agreed to:

Schedule 2, page 36 (after line 13), after item 5, insert:

5A At the end of paragraph 67(4)(c)

Add “and”.

5B After paragraph 67(4)(c)

Insert:

- (d) the breach would not result from the person or another person becoming the successful applicant for the allocation of a commercial radio broadcasting licence;

5C Subsection 67(4)

After “the applicant”, insert “for approval”.

5D After subsection 67(5)

Insert:

- (5A) In deciding the duration of the period to be specified in the notice, the ABA:
- (a) must have regard to the minimum period within which the person could take action (other than surrendering a licence or causing a licence to be surrendered) to ensure that the breach of the relevant provision ceases; and
 - (b) must not have regard to any other matters.

5E Subsection 67(7)

Omit “2 years”, substitute “one year”.

5F Application of amendments—section 67 of the *Broadcasting Services Act 1992*

- (1) Paragraph 67(4)(d) and subsection 67(5A) of the *Broadcasting Services Act 1992* apply in relation to applications made under subsection 67(1) of that Act after the commencement of this item.
- (2) The amendment of subsection 67(7) of the *Broadcasting Services Act 1992* made by this Schedule applies if the 45-day period referred to in that subsection ends after the commencement of this item.

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

Schedule 2, page 36 (after line 13), after item 5, insert:

5FA After section 77

Insert:

77A This Part does not authorise anti-competitive conduct

Nothing in this Part is to be taken as specifically authorising any act or thing for the purposes of subsection 51(1) of the *Trade Practices Act 1974*.

Note 1: Section 50 of the *Trade Practices Act 1974* prohibits acquisitions that would have the effect, or be likely to have the effect, of substantially lessening competition in a market. Subsection 51(1) of that Act provides that section 50 does not apply to anything authorised by an Act.

Note 2: The question of whether a cross-media acquisition contravenes section 50 of the *Trade Practices Act 1974* involves identifying the relevant market or markets in which the acquisition would have the effect, or be likely to have the effect, of substantially lessening competition.

Note 3: The question of what is a relevant market is worked out under the *Trade Practices Act 1974*, and there is nothing in that Act that limits it to a market regulated by this Part.

Senator Alston moved the following amendment:

Schedule 2, page 36 (after line 13), after item 5, insert:

5G At the end of Part 5

Add:

78A Review of this Part

- (1) Before 31 December 2006, the Minister must cause to be conducted a review of this Part.
- (2) The Minister must cause a report to be prepared of the review under subsection (1).
- (3) The Minister must cause copies of the report to be tabled before each House of the Parliament within 15 sitting days of that House after the completion of the preparation of the report.

Senator Brown moved the following amendment to Senator Alston's proposed amendment:

Subsection 78A(3), omit "after the completion of the preparation of the report", substitute "sitting in 2007".

Debate ensued.

Senator Brown, by leave, withdrew the amendment.

Senator Brown moved the following amendment to Senator Alston's proposed amendment:

Omit subsections 78A(1) and (2), substitute:

- (1) Before 31 December 2006, the Minister must cause to be conducted a review of this Part and a report to be prepared of the review.

Debate ensued.

Senator Brown, by leave, withdrew the amendment.

Senator Brown moved the following amendment to Senator Alston's proposed amendment:

At the end of paragraph (3), add "and, in any case, no later than 30 June 2007".

Question—That Senator Brown's amendment to Senator Alston's proposed amendment be agreed to—put and passed.

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

Senator Cherry moved the following amendment:

Schedule 2, page 37 (after line 8), after item 8, insert:

8AA Before section 150

Insert:

150A Action by ABA in relation to a broadcasting service where complaint justified

- (1) If, having investigated a complaint, the ABA is satisfied that:
 - (a) the complaint was justified; and
 - (b) the ABA should take action under this section to encourage a provider of a broadcasting service to comply with the relevant code of practice;

the ABA may, by notice in writing given to a provider of a broadcasting service, recommend that it take action to comply with the relevant code of practice and take such other action in relation to the complaint as is specified in the notice.
- (2) That other action may include broadcasting or otherwise publishing an apology or retraction or providing a right of reply.
- (3) The ABA must notify the complainant of the results of such an investigation.

Debate ensued.

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

7 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

Suspension of sitting: On the motion of the Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) the sitting of the Senate was suspended till 2 pm.

At 2 pm—

8 QUESTIONS

Questions without notice were answered.

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

Further questions without notice were answered.

9 MINISTER FOR HEALTH AND AGEING—ANSWERS TO QUESTIONS

Senator Collins moved—That the Senate take note of the answers given by the Minister for Health and Ageing (Senator Patterson) to questions without notice asked today.

Debate ensued.

Question put and passed.

10 HEALTH—MENTAL ILLNESS—ANSWER TO QUESTION

Senator Allison moved—That the Senate take note of the answer given by the Minister for Health and Ageing (Senator Patterson) to a question without notice asked by Senator Allison today relating to support and services for the mentally ill.

Question put and passed.

11 TEMPORARY CHAIRS OF COMMITTEES

The Deputy President (Senator Hogg) tabled a warrant, dated 25 June 2003, nominating Senators Kirk and Marshall as additional temporary chairs of committees.

12 NOTICES

The Chair of the Select Committee on Superannuation (Senator Watson): To move on the next day of sitting—That the time for the presentation of the report of the Select Committee on Superannuation on planning for retirement be extended to 21 August 2003. (*general business notice of motion no. 505*)

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell): To move on the next day of sitting—That, on Thursday, 26 June 2003:

- (a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to adjournment;
- (b) consideration of general business and consideration of committee reports, government responses and Auditor-General's reports under standing order 62(1) and (2) not be proceeded with;
- (c) the routine of business from not later than 4.30 pm shall be government business only;
- (d) divisions may take place after 6 pm; and
- (e) the question for the adjournment of the Senate shall not be proposed till after the Senate has finally considered the bills listed below and any messages from the House of Representatives:

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

Broadcasting Services Amendment (Media Ownership) Bill 2002

Export Market Development Grants Amendment Bill 2003

Taxation Laws Amendment Bill (No. 4) 2003

Taxation Laws Amendment Bill (No. 6) 2003

National Handgun Buyback Bill 2003
 Industrial Chemicals (Notification and Assessment) Amendment Bill 2003
 Wheat Marketing Amendment Bill 2002
 Migration Amendment (Duration of Detention) Bill 2003
 Migration Legislation Amendment (Protected Information) Bill 2003
 Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Bill 2002
 Customs Amendment Bill (No. 1) 2003
 Customs Tariff Amendment Bill (No. 1) 2003
 Superannuation (Government Co-contribution for Low Income Earners) Bill 2003
 Superannuation (Government Co-contribution for Low Income Earners) (Consequential Amendments) Bill 2003
 Appropriation (Parliamentary Departments) Bill (No. 1) 2003-2004
 Appropriation Bill (No. 1) 2003-2004
 Appropriation Bill (No. 2) 2003-2004
 Governor-General Amendment Bill 2003
 HIH Royal Commission (Transfer of Records) Bill 2003
 Australian Film Commission Amendment Bill 2003
 Product Stewardship (Oil) Legislation Amendment Bill (No. 1) 2003
 Health and Ageing Legislation Amendment Bill 2003
 Health Legislation Amendment Bill (No. 1) 2003
 National Health Amendment (Private Health Insurance Levies) Bill 2003
 Private Health Insurance (ACAC Review Levy) Bill 2003
 Private Health Insurance (Collapsed Organization Levy) Bill 2003
 Private Health Insurance (Council Administration Levy) Bill 2003
 Private Health Insurance (Reinsurance Trust Fund Levy) Bill 2003
 Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003
 Civil Aviation Legislation Amendment Bill 2003.

The Chair of the Finance and Public Administration References Committee (Senator Forshaw): To move on the next day of sitting—That the order of the Senate of 20 June 2001, as amended on 27 September 2001 and 18 June 2003, for the production of documents relating to departmental and agency contracts, be amended as follows:

Omit paragraph (9), substitute:

(9) In this order:

“**agency**” means an agency within the meaning of the *Financial Management and Accountability Act 1997*; and

“**previous 12 months**” means the period of 12 months ending on either 31 December or 30 June in any year, as the case may be. (*general business notice of motion no. 506*)

The Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan): To move on the next day of sitting—That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 26 June 2003, from 7 pm, to take evidence for the committee’s inquiry into the application and expenditure of funds by Australian Wool Innovation Ltd. (*general business notice of motion no. 507*)

The Leader of the Australian Democrats (Senator Bartlett): To move on the next day of sitting—That the Senate—

- (a) notes:
- (i) the United States of America and Russia's decision to partition the Korean peninsula in 1945,
 - (ii) the involvement of several countries, including Australia, in the 1950-53 Korean War which ended in an armistice and the stationing of around a million troops on the North Korean/South Korean border to this day, and
 - (iii) Australia's political and financial support for the 1994 Korean Peninsula Energy Development Organisation Agreement with aid being given to the Democratic People's Republic of Korea (North Korea) in return for the dismantling of any potential North Korean nuclear weapons program;
- (b) expresses concern:
- (i) at the North Korean decision to withdraw from the Nuclear Non-Proliferation Treaty (NPT) announced on 10 January 2003,
 - (ii) that the proliferation of nuclear and other weapons of mass destruction represents a growing threat to Australian and regional security,
 - (iii) at the effect that a North Korean nuclear arsenal may have on regional governments' compliance with the NPT, and
 - (iv) at the catastrophic effect that an exchange of nuclear weapons, or even a conventional military exchange on the Korean peninsula, would have on the region and Australia's interests in it;
- (c) notes:
- (i) the commentary of the Korea Central News Agency of 9 June 2003 that a North Korean nuclear deterrent force would increase resources for civilian purposes by diverting them from conventional weapons programs, and
 - (ii) the humanitarian crisis in North Korea due to a lack of food and medical supplies and previous problems of aid being diverted to the North Korean military; and
- (d) calls on the Government to:
- (i) increase aid to non-government organisations and United Nations agencies providing food and medical supplies to the North Korean people,
 - (ii) support the use of multilateral diplomatic means to arrive at a peaceful solution without military action, and
 - (iii) express Australia's hopes for the eventual peaceful reunification of Korea. (*general business notice of motion no. 508*)

The Chair of the Environment, Communications, Information Technology and the Arts References Committee (Senator Cherry): To move on the next day of sitting—

- (1) That the following matter be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by the last sitting day in March 2004:
- The regulation, control and management of invasive species, being non-native flora and fauna that may threaten biodiversity, with particular reference to:
- (a) the nature and extent of the threat that invasive species pose to the Australian environment and economy;

- (b) the estimated cost of different responses to the environmental issues associated with invasive species, including early eradication, containment, damage mitigation and inaction, with particular focus on:
 - (i) the following pests:
 - (A) European fox (*Vulpes vulpes*),
 - (B) yellow crazy ant (*Anoplolepis gracilipes*),
 - (C) fire ant (*Solenopsis invicta*), and
 - (D) cane toad (*Bufo marinus*), and
 - (ii) the following weeds:
 - (A) mimosa (*Mimosa pigra*);
 - (B) serrated tussock (*Nassella trichotoma*),
 - (C) willows (*Salix* spp.),
 - (D) lantana (*Lantana camara*),
 - (E) blackberry (*Rubus fruticosus* agg.), and
 - (F) parkinsonia (*Parkinsonia aculeata*);
 - (c) the adequacy and effectiveness of the current Commonwealth, state and territory statutory and administrative arrangements for the regulation and control of invasive species;
 - (d) the effectiveness of Commonwealth-funded measures to control invasive species; and
 - (e) whether the Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002 could assist in improving the current statutory and administrative arrangements for the regulation, control and management of invasive species.
- (2) That the order of the Senate adopting Report No. 4 of 2003 of the Selection of Bills Committee be varied to provide that the Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002 be referred to the Environment, Communications, Information Technology and the Arts References Committee instead of the Environment, Communications, Information Technology and the Arts Legislation Committee.

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

- (a) notes that:
 - (i) 23 June to 28 June 2003 is Drug Action Week, aimed at generating community awareness about drug and alcohol abuse and the solutions being used to tackle these issues,
 - (ii) each day of Drug Action Week highlights a different theme, and the theme for 26 June 2003 is Indigenous issues,
 - (iii) the misuse of alcohol and other drugs has long been linked to the deep levels of emotional and physical harm suffered by Indigenous communities since the colonisation of Australia,
 - (iv) alcohol and tobacco consumption rates continue to remain high in the Indigenous population, against declining rates in the general population, and the increasing use of heroin in urban, regional and rural Indigenous communities is of particular concern,

- (v) substance misuse is probably the biggest challenge facing Indigenous communities today as it affects almost everybody either directly or indirectly and is now the cause as well as the symptom of much grief and loss experienced by Indigenous communities, and
- (vi) the demand for the services of existing Indigenous-controlled drug and alcohol rehabilitation centres far exceeds the current level of supply;
- (b) acknowledges that Indigenous communities have been tackling substance abuse for many years through a range of different approaches such as family and individual treatment programs, night patrols, harm minimisation, alcohol restrictions, and direct action against the sale and promotion of alcohol; and
- (c) calls on the Government to:
 - (i) immediately fund the recently completed National Aboriginal and Torres Strait Islander Illicit Drug and Alcohol Strategy so it can be implemented before the next budget, and
 - (ii) improve co-ordination between Commonwealth, state, territory and local governments on these issues and ensure this facilitates greater Indigenous control over the development and implementation of all health programs. (*general business notice of motion no. 509*)

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Australian Protective Service Act 1987*, and for related purposes. ***Australian Protective Service Amendment Bill 2003***.

The Minister for Defence (Senator Hill): To move on the next day of sitting—That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Civil Aviation Legislation Amendment Bill 2003
 Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003.

Documents: Senator Hill tabled the following documents:

Consideration of legislation—Statements of reasons [2] for introduction and passage of certain bills in the 2003 winter sittings.

The Minister for Defence (Senator Hill): To move on the next day of sitting—That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the Migration Amendment (Duration of Detention) Bill 2003, allowing it to be considered during this period of sittings.

Document: Senator Hill tabled the following document:

Consideration of legislation—Statement of reasons for introduction and passage of the Migration Amendment (Duration of Detention) Bill 2003 in the 2003 winter sittings.

Senator Lundy: To move on the next day of sitting—That the following matters be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by the last sitting day in March 2004:

- (a) the current and prospective levels of competition in broadband services, including interconnection and pricing in both the wholesale and retail markets;
- (b) any impediments to competition and to the uptake of broadband technology;
- (c) the implications of communications technology convergence on competition in broadband and other emerging markets;
- (d) the impact and relationship between ownership of content and distribution of content on competition; and
- (e) any opportunities to maximise the capacity and use of existing broadband infrastructure.

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

- (a) notes that the Pan Pharmaceuticals' affair has had a devastating effect on the complementary healthcare industry in Australia; and
- (b) calls on the Government to:
 - (i) begin an independent investigation into the appropriateness of the recall, and
 - (ii) implement urgent measures to assist the industry to recover from the effects of the recall, including streamlining of approvals to replace products. (*general business notice of motion no. 510*)

Senator Tierney: To move on the next day of sitting—That the following matter be referred to the Employment, Workplace Relations and Education References Committee for inquiry and report by the last sitting day in June 2004:

Parents as educators in the early childhood years, with particular reference to:

- (a) the extent to which parenting skills and family support are factors in reducing educational and social risks of children in the 3 years and under age group;
- (b) whether current patterns of parental involvement in community and school-based programs are adequate to respond to the challenge of assisting children with early learning and social behaviour problems;
- (c) the current state and territory provisions and programs, whether based on pre-schools, schools, play groups or day-care centres etc., established to assist parents with early childhood learning support;
- (d) best practice in home to school transition programs for children, and an assessment as to whether they can be adapted for national implementation; and
- (e) the most appropriate role for the Commonwealth in supporting national programs for raising parental consciousness and levels of knowledge and competence in relation to the early educational, social and emotional and health needs of children.

13 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 7 OF 2003

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

SELECTION OF BILLS COMMITTEE

REPORT NO. 7 OF 2003

1. The committee met on Tuesday, 24 June 2003.
2. The committee resolved to recommend—That—

- (a) the *provisions* of the Migration Legislation Amendment (Sponsorship Measures) Bill 2003 be *referred immediately* to the Legal and Constitutional Legislation Committee for inquiry and report on 12 August 2003;
- (b) the New Business Tax System (Taxation of Financial Arrangements) Bill (No. 1) 2003 be *referred immediately* to the Economics Legislation Committee for inquiry and report on 11 August 2003;
- (c) the *provisions* of the Postal Services Legislation Amendment Bill 2003 be *referred immediately* to the Environment, Communications, Information Technology and the Arts Legislation Committee for inquiry and report on 18 August 2003;
- (d) upon its introduction into the House of Representatives, the *provisions* of the Financial Services Reform Amendment Bill 2003 be *referred immediately* to the Economics Legislation Committee for inquiry and report on 19 August 2003; and
- (e) the following bills *not* be referred to committees:
 - Communications Legislation Amendment Bill (No. 3) 2003
 - Customs Legislation Amendment Bill (No. 2) 2003
 - HIH Royal Commission (Transfer of Records) Bill 2003
 - National Transport Commission Bill 2003
 - National Transport Commission (Consequential Amendments and Transitional Provisions) Bill 2003
 - Textbook Subsidy Bill 2003.

The committee recommends accordingly.

- 3. The committee considered a proposal to vary the order of the Senate of 18 June 2003 adopting the committee's 6th report of 2003 to provide that the Taxation Laws Amendment Bill (No. 6) 2003 be *referred immediately* to the Economics Legislation Committee for inquiry and report on 11 August 2003, but *resolved* that the bill *not be referred*.
- 4. The committee *deferred* consideration of the following bills to the next meeting:

Bills deferred from meeting of 17 June 2003

Customs Amendment Bill (No. 1) 2003
Customs Tariff Amendment Bill (No. 1) 2003.

Bill deferred from meeting of 24 June 2003

Migration Amendment (Duration of Detention) Bill 2003.

Jeannie Ferris
Chair
25 June 2003.

Senator Ferris moved—That the report be adopted.

Question put and passed.

14 POSTPONEMENTS

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the names of Senators Stott Despoja and Bolkus for today, relating to the reference of matters to the Legal and Constitutional References Committee, postponed till 26 June 2003.

Business of the Senate notice of motion no. 2 standing in the name of the Leader of the Australian Democrats (Senator Bartlett) for today, relating to the disallowance of item [2197] of Schedule 2 to the Migration Amendment Regulations 2003 (No. 3), postponed till 26 June 2003.

Business of the Senate notice of motion no. 4 standing in the name of Senator Carr for today, relating to the reference of a matter to the Employment, Workplace Relations and Education References Committee, postponed till 26 June 2003.

General business notice of motion no. 486 standing in the name of Senator Nettle for today, relating to Australia's military ties with the United States of America, postponed till 26 June 2003.

General business notice of motion no. 492 standing in the name of the Leader of the Australian Democrats (Senator Bartlett) for today, relating to a national ban on tail docking of dogs, postponed till 26 June 2003.

General business notice of motion no. 493 standing in the name of the Leader of the Australian Democrats (Senator Bartlett) for today, relating to the introduction of the National Animal Welfare Bill 2003, postponed till 11 August 2003.

15 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION—STATEMENT BY LEAVE

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), by leave, made a statement relating to the hours of meeting and routine of business for today.

16 ECONOMICS REFERENCES COMMITTEE—REFERENCE

Senator Conroy, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 3—

- (1) That the following matter be referred to the Economics References Committee for inquiry and report by 4 December 2003:

Whether the *Trade Practices Act 1974* adequately protects small businesses from anti-competitive or unfair conduct, with particular reference to:

- (a) whether section 46 of the Act deals effectively with abuses of market power by big businesses, and, if not, the implications of the inadequacy of section 46 for small businesses, consumers and the competitive process;
 - (b) whether Part IVA of the Act deals effectively with unconscionable or unfair conduct in business transactions;
 - (c) whether Part IVB of the Act operates effectively to promote better standards of business conduct, and, if not, what further use could be made of Part IVB of the Act in raising standards of business conduct through industry codes of conduct;
 - (d) whether there are any other measures that can be implemented to assist small businesses in more effectively dealing with anti-competitive or unfair conduct; and
 - (e) whether there are approaches adopted in Organisation for Economic Co-operation and Development economies for dealing with the protection of small business as a part of competition law which could usefully be incorporated into Australian law.
- (2) That the committee make recommendations for legislative amendments to rectify any weaknesses in the Trade Practices Act identified by the committee's inquiry.

Question put and passed.

**17 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—
EXTENSIONS OF TIME TO REPORT**

Senator Ferris, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 500—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the provisions of the Aviation Transport Security Bill 2003 and a related bill be extended to 19 August 2003.

Question put and passed.

Senator Ferris, at the request of Senator Heffernan and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 501—That the time for the presentation of the following reports of the Rural and Regional Affairs and Transport Legislation Committee be extended to the last day of sitting in 2003:

- (a) the administration of the Civil Aviation Safety Authority;
- (b) the import risk assessment on New Zealand apples; and
- (c) the administration of AusSAR in relation to the search for the *Margaret J.*

Question put and passed.

**18 INDUSTRY—BIOTECHNOLOGY AUSTRALIA—ORDER FOR PRODUCTION OF
DOCUMENTS**

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 497—That there be laid on the table by the Minister representing the Minister for Industry, Tourism and Resources (Senator Minchin) by no later than 3.30 pm on 12 August 2003, all documents produced since 1 January 1999 relating to work undertaken by the public relations company Turnbull Porter Novelli for Biotechnology Australia and the department.

Question put and passed.

19 DEFENCE—POINT NEPEAN

Senator Allison, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 504—That the Senate—

- (a) notes:
 - (i) the expression of interest prepared by the Victorian community, facilitated by the National Trust of Australia (Victoria) and the Victorian National Parks Association for the Department of Defence land at Portsea,
 - (ii) that this expression of interest has the support of the ‘Partners in the Victorian Community’, including Olivia Newton-John, Sir Rupert Hamer, Laurence Cox, Dame Elizabeth Murdoch and Ron Walker among others, and
 - (iii) the Victorian State Government supports the Victorian Community expression of interest as being ‘consistent with Victorian Government objectives’ that the site be ‘managed for public benefit consistent with the broad intent of the Community Masterplan’; and
- (b) urges the Federal Government to transfer the land in question to the Victorian community to enable the establishment of the Point Nepean National Park and the Point Nepean Living Museum, as outlined in this expression of interest.

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

Defence—Point Nepean—Land sale—Copy of expression of interest by the Victorian community facilitated by National Trust of Australia (Victoria) and Victorian National Parks Association—*Point Nepean National Park and Living Museum: A vision for the past, present and future*, dated June 2003.

Question put and passed.

20 FREEDOM OF INFORMATION AMENDMENT (OPEN GOVERNMENT) BILL 2003

Senator Murray, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 499—That the following bill be introduced:

A Bill for an Act to amend the *Freedom of Information Act 1982* to give effect to recommendations made by the Australian Law Reform Commission and the Administrative Review Council, 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. 9, relating to the Freedom of Information Amendment (Open Government) Bill 2000 [2002], be discharged from the *Notice Paper*.

Question put and passed.

21 PUBLIC ACCOUNTS AND AUDIT—JOINT STATUTORY COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Lundy, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 503—That the Joint Committee of Public Accounts and Audit be authorised to hold a public meeting during the sitting of the Senate on Thursday, 26 June 2003, from 11 am to 12.30 pm, to take evidence for the committee's inquiry into the management and integrity of electronic information in the Commonwealth.

Question put and passed.

22 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—EXTENSION OF TIME TO REPORT

Senator Mackay, at the request of the Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Cook) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 502—That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on Australia's relationship with Papua New Guinea and other Pacific island countries be extended to 12 August 2003.

Question put and passed.

23 PRIVILEGES—STANDING COMMITTEE—113TH REPORT

The Chair of the Standing Committee of Privileges (Senator Ray) tabled the following report:

Privileges—Standing Committee—113th report—Australian Press Council and Committee of Privileges: Exchange of correspondence, dated June 2003.

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

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

Question put and passed

24 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), by leave, moved—That, on Wednesday, 26 June 2003:

- (a) the hours of meeting shall be 9.30 am to adjournment;
- (b) the routine of business from 6.50 pm shall be consideration of the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2]; and
- (c) the question for the adjournment shall be proposed at the conclusion of proceedings on the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2].

Question put and passed.

25 SCRUTINY OF BILLS—STANDING COMMITTEE—6TH REPORT AND ALERT DIGEST NO. 7 OF 2003

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

Scrutiny of Bills—Standing Committee—
6th report of 2003, dated 25 June 2003.

Alert Digest No. 7 of 2003, dated 25 June 2003.

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

Statement by leave: Senator Crossin, by leave, made a statement relating to the report.

26 PUBLIC WORKS—JOINT STATUTORY COMMITTEE—REPORT—FACILITIES FOR THE AUSTRALIAN CAPITAL TERRITORY MULTI USER DEPOT, HMAS HARMAN, ACT

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

Public Works—Joint Statutory Committee—Proposed provision of facilities for the Australian Capital Territory multi user depot, HMAS Harman, ACT—Report, dated June 2003.

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

Question put and passed.

**27 NATIVE TITLE AND THE ABORIGINAL AND TORRES STRAIT ISLANDER LAND FUND—
JOINT STATUTORY COMMITTEE—REPORT—EXAMINATION OF ANNUAL REPORTS
FOR 2001-2002**

The Chair of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund (Senator Johnston) tabled the following report and documents:

Native Title and the Aboriginal and Torres Strait Islander Land Fund—Joint Statutory Committee—Examination of annual reports for 2001-2002—Report, dated June 2003 and *Hansard* record of proceedings.

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

Statement by leave: Senator Johnston, by leave, made a statement relating to the document.

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

Question put and passed.

28 FISHERIES POLICY—MINISTERIAL STATEMENT—DOCUMENTS

The Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald), by leave, made a statement relating to a review of Commonwealth fisheries policy and tabled the following documents:

Fisheries policy—

Looking to the future: A review of Commonwealth fisheries policy, dated June 2003.

Ministerial statement by the Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald).

Senator O'Brien, by leave, moved—That the Senate take note of the statement.

Debate ensued.

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

29 AUDITOR-GENERAL—AUDIT REPORTS NOS 56 AND 57 OF 2002-03—DOCUMENTS

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

Auditor-General—Audit reports for 2002-03—

No. 56—Performance audit—Management of specialist information system skills: Department of Defence.

No. 57—Performance audit—Administration of the payment of tax by non-residents: Australian Taxation Office.

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

The Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) tabled the following document:

Government response to the schedule of government responses outstanding to parliamentary committee reports tabled by the President of the Senate on 12 December 2002, dated 25 June 2003.

31 WORKPLACE RELATIONS AMENDMENT (TERMINATION OF EMPLOYMENT) BILL 2002—EXPLANATORY MEMORANDUM

The Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) tabled a correction to the explanatory memorandum relating to the Workplace Relations Amendment (Termination of Employment) Bill 2002.

32 PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL—DOCUMENTS

The Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) tabled the following documents:

Parliament Act—Parliamentary Zone—Capital works—Proposal, together with the supporting documentation, relating to additional works connected with the reconstruction of the Old Parliament House gardens.

Notice of motion: Senator Ian Macdonald, by leave, gave a notice of motion as follows: To move on the next day of sitting—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 additional works connected with the reconstruction of the Old Parliament House gardens.

33 DOCUMENTS

The following documents were tabled by the Clerk:

A New Tax System (Commonwealth—State Financial Arrangements) Act—Regulations—Statutory Rules 2003 No. 125.

A New Tax System (Goods and Services Tax) Act—A New Tax System (Goods and Services Tax) (Exempt Taxes, Fees and Charges) Determination 2003.

Administrative Decisions (Judicial Review) Act—Regulations—Statutory Rules 2003 No. 115.

Airports Act—Regulations—Statutory Rules 2003 No. 124.

Australian Bureau of Statistics Act—Proposal No. 11 of 2003.

Christmas Island Act—Regulations 2003 No. 1 (*Residential Tenancies Act 1987* (WA) (CI)).

Cocos (Keeling) Islands Act—

Ordinance—No. 1 of 2003 (*Local Government Act 1995* (WA) (CKI) Amendment Ordinance 2003 (No. 1)).

Regulations—Regulations 2003 No. 1 (*Residential Tenancies Act 1987* (WA) (CKI)).

Commonwealth Places (Application of Laws) Act—Regulations—Statutory Rules 2003 No. 116.

Corporations Act—Regulations—Statutory Rules Nos 126 and 127.

Corporations (Fees) Act—Regulations—Statutory Rules 2003 No. 128.

Defence (Visiting Forces) Act—Regulations—Statutory Rules 2003 No. 117.

Federal Court of Australia Act—Rules of Court—Statutory Rules 2003 No. 132.

Financial Management and Accountability Act—Regulations—Statutory Rules 2003 No. 119.

Fisheries Management Act—Regulations—Statutory Rules 2003 No. 112.

Governor-General Act—Regulations—Statutory Rules 2003 No. 123.

Industrial Chemicals (Notification and Assessment) Act—Regulations—Statutory Rules 2003 No. 121.

Medical Indemnity (Prudential Supervision and Product Standards) Act—Regulations—Statutory Rules 2003 No. 129.

Migration Act—Regulations—Statutory Rules 2003 No. 122.

National Health and Medical Research Council Act—Guidelines for ethical conduct in Aboriginal and Torres Strait Islander health research, endorsed 5 June 2003.

National Residue Survey (Excise) Levy Act—Regulations—Statutory Rules 2003 No. 114.

Passports Act—Regulations—Statutory Rules 2003 No. 120.

Primary Industries (Excise) Levies Act—Regulations—Statutory Rules 2003 No. 113.

Radiocommunications Act—Regulations—Statutory Rules 2003 No. 118.

Superannuation Contributions Tax (Assessment and Collection) Act—Regulations—Statutory Rules 2003 No. 130.

Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act—Regulations—Statutory Rules 2003 No. 131.

34 COMMITTEES—CHANGES IN MEMBERSHIP

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

The Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald), by leave, moved—That senators be discharged from and appointed to committees as follows:

Employment, Workplace Relations and Education References Committee—

Appointed—Participating member: Senator Moore

Finance and Public Administration References Committee—

Appointed—Senator Moore

Discharged—Senator Marshall

Foreign Affairs, Defence and Trade Legislation and References Committees—

Appointed—Participating member: Senator Bartlett for matters relating to the Defence and Veterans' Affairs portfolio.

Question put and passed.

35 GOVERNOR-GENERAL AMENDMENT BILL 2003

MIGRATION LEGISLATION AMENDMENT (SPONSORSHIP MEASURES) BILL 2003

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

Message no. 342, dated 24 June 2003—A Bill for an Act to amend the *Governor-General Act 1974*, and for related purposes.

Message no. 343, dated 24 June 2003—A Bill for an Act to amend the *Migration Act 1958*, and for related purposes.

The Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

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

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

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

Question put and passed.

36 TRADE PRACTICES AMENDMENT (PERSONAL INJURIES AND DEATH) BILL 2003

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

Message no. 346, dated 25 June 2003—A Bill for an Act to amend the *Trade Practices Act 1974*, and for related purposes.

The Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) 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 Macdonald moved—That this bill be now read a second time.

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

37 TAXATION LAWS AMENDMENT BILL (NO. 2) 2003

A message from the House of Representatives was reported agreeing to the amendments made and insisted on by the Senate to the following bill:

Message no. 344, dated 24 June 2003—Taxation Laws Amendment Bill (No. 2) 2003.

38 ENERGY GRANTS (CREDITS) SCHEME BILL 2003

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

Message no. 345, dated 25 June 2003—Energy Grants (Credits) Scheme Bill 2003.

39 BROADCASTING SERVICES AMENDMENT (MEDIA OWNERSHIP) 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 amendment moved by Senator Cherry (see entry no. 6).

Debate resumed.

On the motion of Senator Cherry further consideration of the amendment was postponed.

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

Schedule 2, page 37 (after line 8), after item 8, insert:

8AB At the end of subsection 152(2)

Add “or providing a right of reply”.

Bill, as amended, further debated.

On the motion of the Minister for Communications, Information Technology and the Arts (Senator Alston) the following amendments, taken together by leave, were debated and agreed to:

Schedule 2, item 4, page 11 (line 2), omit “licence; or”, substitute “licence.”.

Schedule 2, item 4, page 11 (lines 3 to 6), omit paragraph (d).

Schedule 2, item 4, page 11 (before line 7), before the definition of *week*, insert:

unacceptable 3-way control situation, in relation to a person, means the situation in which the person would, apart from this Division, breach each of the following prohibitions:

(a) a prohibition in section 60 or 61 that relates directly or indirectly to a set of media operations that consists of:

- (i) a commercial television broadcasting licence; and
- (ii) a commercial radio broadcasting licence;

that have the same licence area;

(b) a prohibition in section 60 or 61 that relates directly or indirectly to a set of media operations that consists of:

- (i) a commercial television broadcasting licence; and
- (ii) a newspaper that is associated with the licence area of the licence;

where the licence and the commercial radio broadcasting licence mentioned in paragraph (a) have the same licence area;

(c) a prohibition in section 60 or 61 that relates directly or indirectly to a set of media operations that consists of:

- (i) a commercial radio broadcasting licence; and
- (ii) a newspaper that is associated with the licence area of the licence;

where the licence and the commercial television broadcasting licence mentioned in paragraph (a) have the same licence area.

Schedule 2, item 4, page 11 (lines 12 to 15), omit paragraph 61C(a), substitute:

(a) a cross-media exemption certificate is in force in relation to the set of media operations; and

Schedule 2, item 4, page 11 (line 24), omit “the company.”, substitute “the company; and”.

Schedule 2, item 4, page 11 (after line 24), at the end of section 61C, add:

(d) an unacceptable 3-way control situation does not exist in relation to the person in connection with any licence or newspaper included in the set of media operations.

Schedule 2, item 4, page 13 (line 4), omit “vexatious.”, substitute “vexatious; and”.

Schedule 2, item 4, page 13 (after line 4), at the end of subsection 61E(1) (before the note), add:

- (c) the ABA is satisfied that, if the certificate were to be issued, paragraph 61C(d) would not stop the certificate from becoming active.

Senator Lees moved the following amendments together by leave:

No. 1—Schedule 2, item 4, page 10 (after line 5), after the definition of *metropolitan licence area*, insert:

minimum number of media groups test has the meaning given by section 61FA.

No. 2—Schedule 2, item 4, page 12 (after line 23), after subsection 61D(5), insert:

- (5A) The ABA may, by written notice given to the applicant, extend the 60-day period referred to in subsection (5), so long as:
 - (a) the extension is for a period of not more than 60 days; and
 - (b) the ABA has been unable to make a decision on the application within that 60-day period because of the need to apply any or all of the following:
 - (i) paragraph 61E(1)(aa);
 - (ii) paragraph 61E(1)(ab);
 - (iii) section 61FA; and
 - (c) the notice includes a statement explaining why the ABA has been unable to make the decision on the application within that 60-day period.

No. 3—Schedule 2, item 4, page 13 (after line 2), after paragraph 61E(1)(a), insert:

- (aa) the set of media operations is not exempt from the minimum number of media groups test, and the ABA is satisfied that the minimum number of media groups test is satisfied for the set of media operations; and
- (ab) the set of media operations is not exempt from the minimum number of media groups test, and the ABA is satisfied that, if the certificate were to be issued and become active, neither:
 - (i) the transactions, agreements and circumstances that resulted in the certificate becoming active; nor
 - (ii) any related transactions, agreements and circumstances; will result in the minimum number of media groups test not being satisfied for the set of media operations; and

No. 4—Schedule 2, item 4, page 13 (line 5), after “Note”, insert “1”.

No. 5—Schedule 2, item 4, page 13 (after line 5), at the end of subsection (1) (after the note), add:

Note 2: For the minimum number of media groups test, see section 61FA.

Note 3: For exemptions from the minimum number of media groups test, see section 61FB.

No. 6—Schedule 2, item 4, page 14 (after line 16), after section 61F, insert:

61FA Minimum number of media groups test

- (1) Use the table to work out whether the minimum number of media groups test is satisfied for a set of media operations:

Minimum number of media groups test

Item	If the set of media operations is...	the minimum number of media groups test is satisfied if...
1	a commercial television broadcasting licence and a commercial radio broadcasting licence	there are at least the applicable number of points in the licence area of the commercial radio broadcasting licence.
2	a commercial television broadcasting licence and a newspaper	there are at least the applicable number of points in each commercial radio broadcasting licence area with which the newspaper is associated.
3	a commercial radio broadcasting licence and a newspaper	there are at least the applicable number of points in the licence area of the commercial radio broadcasting licence.

Applicable number of points

- (2) For the purposes of the application of subsection (1) to a commercial radio broadcasting licence area:
- (a) if the licence area is an area in which is situated the General Post Office of the capital city of:
- (i) New South Wales; or
 - (ii) Victoria; or
 - (iii) Queensland; or
 - (iv) Western Australia; or
 - (v) South Australia; or
 - (vi) Tasmania;
- the **applicable number of points** is 5; and
- (b) in any other case—the **applicable number of points** is 4.

Points

- (3) Use the table to work out the number of points in the licence area of a commercial radio broadcasting licence (the **first radio licence area**):

Points		
Item	This...	is worth...
1	a group of 2 or more media operations, where:	1 point.
	(a) a person is in a position to exercise control of each of those media operations; and	
	(b) each of those media operations complies with the statutory control rules; and	
	(c) if a commercial television broadcasting licence is in the group—more than 50% of the licence area population of the first radio licence area is attributable to the licence	

	area of the commercial television broadcasting licence; and	
	(d) if a commercial radio broadcasting licence is in the group—the licence area of the commercial radio broadcasting licence is, or is the same as, the first radio licence area; and	
	(e) if a newspaper is in the group—the newspaper is associated with the first radio licence area	
2	a commercial radio broadcasting licence, where:	1 point.
	(a) the licence complies with the statutory control rules; and	
	(b) the licence area of the licence is, or is the same as, the first radio licence area; and	
	(c) item 1 does not apply to the licence	
3	a newspaper, where:	1 point.
	(a) the newspaper complies with the statutory control rules; and	
	(b) the newspaper is associated with the first radio licence area; and	
	(c) item 1 does not apply to the newspaper	
4	a group of 2 or more commercial television broadcasting licences, where:	1 point.
	(a) each of those licences complies with the statutory control rules; and	
	(b) more than 50% of the licence area population of the first radio licence area is attributable to the licence area of each of those commercial television broadcasting licences; and	
	(c) the commercial television broadcasting services to which those licences relate pass the shared content test in relation to each other; and	
	(d) item 1 does not apply to either of those commercial television broadcasting licences	
5	a commercial television broadcasting licence, where:	1 point.
	(a) the licence complies with the statutory control rules; and	
	(b) more than 50% of the licence area population of the first radio licence area is attributable to the licence area of the	

commercial television broadcasting licence;
and

- (c) the commercial television broadcasting service to which the licence relates does not pass the shared content test in relation to any other commercial television broadcasting service, where more than 50% of the licence area population of the first radio licence area is attributable to the licence area of the licence to which the other commercial television broadcasting service relates; and
 - (d) item 1 does not apply to the first-mentioned licence
-

- (4) If, apart from this subsection, all the media operations in a group of media operations mentioned in an item of the table are also in one or more other groups mentioned in an item of the table, then, for the purposes of subsection (3), ignore the existence of:
- (a) if one of the groups has the highest number of media operations—the remaining group or groups; or
 - (b) if 2 or more of the groups have an equal highest number of media operations:
 - (i) all but one of the groups that have an equal highest number of media operations; and
 - (ii) the remaining group or groups; or
 - (c) if the groups have an equal number of media operations—all but one of those groups.

Anti-avoidance

- (5) If the ABA is satisfied that:
- (a) a person (either alone or together with one or more other persons) has entered into, begun to carry out, or carried out, a scheme; and
 - (b) the person did so for the sole or dominant purpose of ensuring that the minimum number of media groups test is or will be satisfied for a set of media operations; and
 - (c) apart from this subsection, the scheme results or will result in a group of media operations being covered by an item of the table in subsection (3);

the ABA may, by writing, determine that the existence of that group is to be ignored for the purposes of subsection (3).

Statutory control rules

- (6) For the purposes of this section, a media operation ***complies with the statutory control rules*** if, and only if:
- (a) no person is in breach of a prohibition in Division 2, 3 or 5 that relates directly or indirectly to the media operation; or
 - (b) a person is in breach of a prohibition in Division 2, 3 or 5 that relates directly or indirectly to the media operation, but the ABA has approved the breach under section 67.

Note: Section 67 is about approval of temporary breaches.

Shared content test

- (7) For the purposes of this section, a commercial television broadcasting service **passes the shared content test** at a particular time in relation to another commercial television broadcasting service if:
- (a) the program content of at least 50% of the total number of hours of programs broadcast by the first-mentioned service during daytime/evening hours during the 6-month period ending at that time;
- were the same as:
- (b) the program content of at least 50% of the total number of hours of programs broadcast by the other service during daytime/evening hours during the 6-month period ending at that time.
- (8) For the purposes of subsection (7), ignore the following:
- (a) advertising or sponsorship material (whether or not of a commercial kind);
 - (b) a promotion for a television program or a television broadcasting service;
 - (c) community information material or community promotional material;
 - (d) a news break or weather bulletin;
 - (e) any other similar material.
- (9) For the purposes of subsection (7), ignore the following:
- (a) any material covered by paragraph 6(8)(b), (c) or (d) of Schedule 4;
 - (b) a program covered by paragraph 37EA(1)(a) of Schedule 4.

Overlapping licence areas

- (10) Section 51 does not apply to this section.

Note: Section 51 is about overlapping licence areas.

Definitions

- (11) In this section:

daytime/evening hours means the hours:

- (a) beginning at 6 am each day; and
- (b) ending at midnight on the same day.

media operation means:

- (a) a commercial television broadcasting licence; or
- (b) a commercial radio broadcasting licence; or
- (c) a newspaper.

scheme means:

- (a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings; and
- (b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

61FB Exemptions from the minimum number of media groups test—remote areas

Use the table to work out whether a set of media operations is exempt from the minimum number of media groups test:

Exemptions from the minimum number of media groups test		
Item	If the set of media operations is...	the set is exempt from the minimum number of media groups test if...
1	a commercial television broadcasting licence and a commercial radio broadcasting licence	the commercial radio broadcasting licence area is: (a) Remote Commercial Radio Service North East Zone; or (b) Remote Commercial Radio Service Western Zone; or (c) Remote Commercial Radio Service Central Zone.

Senator Cherry moved the following amendments to Senator Lees' proposed amendment no. 6 together by leave:

Subsection 61FA(3), table item 1, after "media operations" (first occurring), add "(other than a group composed of 2 or more commercial radio broadcasting licences)".

Subsection 61FA(3), table item 2, delete "1 point", insert "0 points".

Debate ensued.

Question—That Senator Cherry's amendments to Senator Lees' proposed amendment no. 6 be agreed to—put and negatived.

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

Senator Harradine moved the following amendments together by leave:

Schedule 2, item 4, page 12 (line 30), omit "if", substitute "provided".

Schedule 2, item 4, page 13 (line 4), at the end of subsection 61E(1) (before the note), add:

; and (d) the application is not in relation to a set of media operations in a metropolitan licence area that includes a television broadcasting licence and a newspaper associated with the licence area.

Schedule 2, item 4, page 13 (after line 5), after subsection 61E(1), insert:

(1A) The ABA must refuse to issue a cross-media exemption certificate if it relates to a set of media operations in a metropolitan licence area and the set includes a television broadcasting licence and a newspaper associated with the licence area.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 37

Senators—

Allison	Crossin	Lees	O'Brien
Bartlett	Denman	Ludwig	Ray
Bishop	Evans	Lundy	Ridgeway
Bolkus	Forshaw	Mackay	Sherry
Brown	Greig	Marshall	Stephens
Buckland (Teller)	Harradine	McLucas	Webber
Campbell, George	Harris	Moore	Wong
Cherry	Hogg	Murphy	
Collins	Hutchins	Murray	
Conroy	Kirk	Nettle	

NOES, 32

Senators—

Abetz	Colbeck	Johnston	Minchin
Alston	Coonan	Kemp	Patterson
Barnett	Eggleston (Teller)	Knowles	Santoro
Boswell	Ellison	Lightfoot	Scullion
Brandis	Ferguson	Macdonald, Ian	Tchen
Calvert	Ferris	Macdonald, Sandy	Tierney
Campbell, Ian	Heffernan	Mason	Vanstone
Chapman	Humphries	McGauran	Watson

Question agreed to.

Senator Murray moved the following amendment:

Schedule 1, page 37 (after line 19), after item 10, insert:

10A After section 218

Add:

219 Public broadcasters

- (1) The Minister must, by 1 July 2005, ensure that each of the five radio networks provided by the Australian Broadcasting Corporation are transmitted to population centres with a population of more than 10,000, where spectrum is available.
- (2) The Parliament shall appropriate funds for this purpose.

220 Review of Regional Broadcasting

The Authority shall, by 1 July 2005, conduct a review of the provision of local news and information provided by radio stations in non-metropolitan areas to determine appropriate changes to licence conditions to ensure the provision of local news and information to promote the object in paragraph 3(1)(g).

At 6.50 pm: The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Brandis) reported progress.

40 AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION LEGISLATION AMENDMENT (TERRORISM) BILL 2002 [NO. 2]

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.

Consideration resumed of the amendments moved by the Minister for Justice and Customs (Senator Ellison) and postponed on 19 June 2003.

No. 1—Schedule 1, item 24, page 10 (line 18), omit “produce; and”, substitute “produce.”.

No. 2—Schedule 1, item 24, page 10 (lines 19 to 23), omit paragraph 34C(3)(d).

No. 3—Schedule 1, item 24, page 11 (line 36) to page 12 (line 6), omit subsection 34C(5).

No. 4—Schedule 1, item 24, page 12 (line 11), omit “, and with subsection 34C(5) if relevant”.

No. 5—Schedule 1, item 24, page 12 (line 16), omit “offence; and”, substitute “offence.”.

No. 6—Schedule 1, item 24, page 12 (lines 17 to 21), omit paragraph 34D(1)(c).

No. 7—Schedule 1, item 24, page 12 (lines 33 to 35), omit “a specified period of not more than 48 hours starting when the person is brought before the authority”, substitute “the period (the *questioning period*) described in subsection (3)”.

No. 8—Schedule 1, item 24, page 13 (lines 1 to 7), omit subsection 34D(3), substitute:

- (3) The questioning period starts when the person is first brought before a prescribed authority under the warrant and ends at the first time one of the following events happens:
 - (a) someone exercising authority under the warrant informs the prescribed authority before whom the person is appearing for questioning that the Organisation does not have any further request described in paragraph (5)(a) to make of the person;
 - (b) section 34HB prohibits anyone exercising authority under the warrant from questioning the person under the warrant;
 - (c) the passage of 168 hours starting when the person was first brought before a prescribed authority under the warrant.

No. 9—Schedule 1, item 24, page 16 (lines 18 to 24), omit paragraphs 34F(4)(a) and (aa), substitute:

- (a) a person being detained after the end of the questioning period described in section 34D for the warrant; or

No. 10—Schedule 1, item 24, page 21 (after line 25), at the end of Subdivision B, add:

34HB End of questioning under warrant

- (1) Anyone exercising authority under a warrant issued under section 34D must not question a person under the warrant if the person has been questioned under the warrant for a total of 8 hours, unless the prescribed authority before whom the person was being questioned just before the end of that 8 hours permits the questioning to continue for the purposes of this subsection.

- (2) Anyone exercising authority under a warrant issued under section 34D must not question a person under the warrant if the person has been questioned under the warrant for a total of 16 hours, unless the prescribed authority before whom the person was being questioned just before the end of that 16 hours permits the questioning to continue for the purposes of this subsection.
- (3) Anyone exercising authority under the warrant may request the prescribed authority to permit the questioning to continue for the purposes of subsection (1) or (2). The request may be made in the absence of:
 - (a) the person being questioned; and
 - (b) a legal adviser to that person; and
 - (c) a parent of that person; and
 - (d) a guardian of that person; and
 - (e) another person who meets the requirements of subsection 34NA(7) in relation to that person; and
 - (f) anyone the person being questioned is permitted by a direction under section 34F to contact.
- (4) The prescribed authority may permit the questioning to continue for the purposes of subsection (1) or (2), but only if he or she is satisfied that:
 - (a) there are reasonable grounds for believing that permitting the continuation will substantially assist the collection of intelligence that is important in relation to a terrorism offence; and
 - (b) persons exercising authority under the warrant conducted the questioning of the person properly and without delay in the period mentioned in that subsection.
- (5) The prescribed authority may revoke the permission. Revocation of the permission does not affect the legality of anything done in relation to the person under the warrant before the revocation.
- (6) Anyone exercising authority under a warrant issued under section 34D must not question a person under the warrant if the person has been questioned under the warrant for a total of 24 hours.

Release from detention when further questioning is prohibited

- (7) If the warrant meets the requirement in paragraph 34D(2)(b), the prescribed authority must, at whichever one of the following times is relevant, direct under paragraph 34F(1)(f) that the person be released immediately from detention:
 - (a) at the end of the period mentioned in subsection (1) or (2), if the prescribed authority does not permit, for the purposes of that subsection, the continuation of questioning;
 - (b) immediately after revoking the permission, if the permission was given but later revoked;
 - (c) at the end of the period described in subsection (6).

Subsection 34F(2) does not prevent the prescribed authority from giving a direction in accordance with this subsection.

No. 11—Schedule 1, item 24, page 28 (after line 3), at the end of section 34NA, add:

(10) To avoid doubt, paragraphs (6)(b) and (8)(e) do not affect the operation of section 34HB.

No. 12—Schedule 1, item 24, page 29 (after line 5), after subsection 34NB(4), insert:

- (4A) A person commits an offence if:
- (a) the person has been approved under section 24 to exercise authority conferred by a warrant issued under section 34D; and
 - (b) the person exercises, or purports to exercise, the authority by questioning another person; and
 - (c) the questioning contravenes section 34HB; and
 - (d) the person knows of the contravention.

Penalty: Imprisonment for 2 years.

No. 13—Schedule 1, item 24, page 32 (lines 32 and 33), omit “(whether in connection with the warrant or another warrant issued under section 34D)”, substitute “in connection with the warrant”.

No. 14—Schedule 1, item 24, page 33 (line 2), omit “any of those warrants”, substitute “the warrant”.

No. 15—Schedule 1, item 24, page 33 (lines 9 and 10), omit “any of those warrants”, substitute “the warrant”.

No. 16—Schedule 1, item 24, page 33 (line 33), omit “such a”, substitute “the”.

No. 17—Schedule 1, item 24, page 35 (lines 22 and 23), omit “(whether in connection with the warrant or another warrant issued under section 34D)”, substitute “in connection with the warrant”.

No. 18—Schedule 1, item 24, page 35 (line 26), omit “any of those warrants”, substitute “the warrant”.

No. 19—Schedule 1, item 24, page 35 (lines 32 and 33), omit “any of those warrants”, substitute “the warrant”.

No. 20—Schedule 1, item 24, page 36 (lines 4 and 5), omit “a warrant issued under section 34D”, substitute “the warrant”.

No. 21—Schedule 1, item 24, page 36 (lines 8 and 9), omit “(whether in connection with the warrant mentioned in paragraph (a) or another warrant issued under section 34D)”, substitute “in connection with the warrant”.

No. 22—Schedule 1, item 24, page 36 (lines 16 and 17), omit “any of those warrants”, substitute “the warrant”.

Senator Ellison, by leave, moved the following amendments together:

No. 23—Schedule 1, item 24, page 9 (line 28), omit “person.”, substitute “person; and”.

No. 24—Schedule 1, item 24, page 9 (after line 28), at the end of subsection 34C(2), add:

- (d) if one or more warrants were issued under section 34D as a result of the previous requests—a statement of:
- (i) the period for which the person has been questioned under each of those warrants before the draft request is given to the Minister; and
 - (ii) if any of those warrants authorised the detention of the person—the period for which the person has been detained in connection with each such warrant before the draft request is given to the Minister.

No. 25—Schedule 1, item 24, page 11 (before line 30), before subsection 34C(4), insert:

- (3D) If, before the Director-General seeks the Minister's consent to the request (the *proposed request*), the person has been detained under this Division in connection with one or more warrants (the *earlier warrants*) issued under section 34D, and the proposed request is for a warrant meeting the requirement in paragraph 34D(2)(b):
- (a) the Minister must take account of those facts in deciding whether to consent; and
 - (b) the Minister may consent only if the Minister is satisfied that the issue of the warrant to be requested is justified by information that is additional to or materially different from that known to the Director-General at the time the Director-General sought the Minister's consent to request the issue of the last of the earlier warrants issued before the seeking of the Minister's consent to the proposed request.

This subsection has effect in addition to subsection (3).

No. 26—Schedule 1, item 24, page 12 (after line 21), after subsection 34D(1), insert:

- (1A) If the person has already been detained under this Division in connection with one or more warrants (the *earlier warrants*) issued under this section, and the warrant requested is to meet the requirement in paragraph (2)(b):
- (a) the issuing authority must take account of those facts in deciding whether to issue the warrant requested; and
 - (b) the issuing authority may issue the warrant requested only if the authority is satisfied that:
 - (i) the issue of that warrant is justified by information additional to or materially different from that known to the Director-General at the time the Director-General sought the Minister's consent to request the issue of the last of the earlier warrants issued before the seeking of the Minister's consent to the request for the issue of the warrant requested; and
 - (ii) the person is not being detained under this Division in connection with one of the earlier warrants.

This subsection has effect in addition to subsection (1).

No. 27—Schedule 1, item 24, page 21 (after line 25), at the end of Subdivision B, add:

34HC Person may not be detained for more than 168 hours continuously

A person may not be detained under this Division for a continuous period of more than 168 hours.

No. 28—Schedule 1, item 24, page 30 (after line 26), after section 34Q, insert:

34QA Reporting by Inspector-General on multiple warrants

- (1) This section imposes requirements on the Inspector-General of Intelligence and Security if:
 - (a) a person is detained under this Division in connection with a warrant issued under section 34D; and

- (b) one or more other warrants (the *later warrants*) meeting the requirement in paragraph 34D(2)(b) are issued later under that section in relation to the person.
- (2) The Inspector-General must inspect a copy of the draft request given to the Minister under subsection 34C(2) for each of the warrants, to determine whether the draft request for each of the later warrants included information described in paragraph 34C(3D)(b).
- Note: Paragraph 34C(3D)(b) describes information additional to or materially different from that known to the Director-General at the time the Director-General sought the Minister's consent to request the issue of the last warrant that:
- (a) was issued under section 34D before the seeking of the Minister's consent to the request proposed in the draft request; and
- (b) was a warrant in connection with which the person was detained under this Division.
- (3) The Inspector-General must report on the outcome of the inspection in his or her annual report for the year in which he or she carries out the examination. For this purpose, *annual report* means a report under section 35 of the *Inspector-General of Intelligence and Security Act 1986*.

Debate ensued.

Senator Brown moved the following amendment to Senator Ellison's proposed amendment no. 26:

After paragraph 34D(1A)(b), add:

- ; and (c) the issuing authority must advise the person that he or she has the right to seek a judicial review at every time a subsequent warrant is sought.

Debate ensued.

The Leader of the Opposition in the Senate (Senator Faulkner) moved, by leave, the following amendments:

Schedule 1, item 24, page 10 (line 23), omit "168", substitute "72".

Schedule 1, item 24, page 12 (line 21), omit "168", substitute "72".

Schedule 1, item 24, page 16 (line 22), omit "168", substitute "72".

Senator Faulkner moved the following amendment to Senator Ellison's proposed amendment no. 27:

Section 34HC, omit "168" (wherever occurring), substitute "72".

Debate ensued.

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

Debate continued.

Senator Brown, by leave, withdrew the amendment to Senator Ellison's proposed amendment no. 26.

Question—That Senator Faulkner's amendment to Senator Ellison's proposed amendment no. 27 be agreed to—put and passed.

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

Debate continued.

The question for the amendments moved by Senator Ellison was divided—

Question—That amendments nos 1, 3 to 5, 7, 8, 10 to 26, 27, as amended, and 28 be agreed to—put and passed.

Debate continued.

Question—That amendments nos 2, 6 and 9 be agreed to—put and negatived.

Bill, as amended, further debated.

Senator Brown moved the following amendment:

Schedule 1, item 24, page 9 (before line 14), before section 34C, insert:

34CA Maximum period of detention

For the avoidance of doubt, where a person has been detained for a continuous period of 72 hours in accordance with any provision of this Division, at the expiration of that time the person must be either charged or released.

Debate ensued.

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

Senator Brown moved the following amendment:

Schedule 1, item 24, page 12 (after line 21), after subsection (1), insert:

(1A) Where the person in respect of whom a warrant is proposed to be issued in accordance with this Division is a journalist, a warrant must not be issued unless:

- (a) there are reasonable grounds for believing that the warrant is essential to the collection of intelligence that is important in relation to a terrorism offence; and
- (b) the intelligence cannot be collected by any other means; and
- (c) it would not be contrary to the public interest to do so.

Note: A journalist is defined in the *Broadcasting Services Act 1922* as a person engaged in the profession or practice of reporting for, photographing, editing, recording or making:

- (a) television or radio programs; or
- (b) datacasting content;

of a news, current affairs, information or documentary character.

Debate ensued.

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

Consideration resumed of clause 4, postponed on 18 June 2003.

Question—That clause 4 stand as printed—put and negatived.

Consideration resumed of the amendment moved by Senator Ellison and postponed on 18 June 2003.

Schedule 1, item 24, page 37 (after line 4), at the end of Division 3, add:

34Y Cessation of effect of Division

This Division ceases to have effect 3 years after it commences.

Debate resumed.

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

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

Schedule 1, item 27D, page 39 (line 3), omit “as soon as possible after the third anniversary”, substitute “within 30 months”.

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 Hutchins) reported accordingly.

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

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

Debate ensued.

Question put.

The Senate divided—

AYES, 44

Senators—

Barnett	Crossin	Kemp	Patterson
Bishop	Denman	Kirk	Ray
Bolkus	Eggleston	Knowles	Santoro
Brandis	Ellison	Ludwig	Scullion
Buckland	Faulkner	Mackay	Sherry
Campbell, George	Forshaw	Marshall	Stephens
Carr	Harradine	Mason	Tchen
Chapman	Hogg	McGauran (Teller)	Vanstone
Colbeck	Humphries	McLucas	Watson
Collins	Hutchins	Moore	Webber
Conroy	Johnston	O'Brien	Wong

NOES, 8

Senators—

Allison (Teller)	Brown	Greig	Nettle
Bartlett	Cherry	Murray	Ridgeway

Question agreed to.

Bill read a third time.

41 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 10.08 pm till Thursday, 26 June 2003 at 9.30 am.

42 ATTENDANCE

Present, all senators except Senators Payne*, Stott Despoja and Troeth* (* on leave).

HARRY EVANS
Clerk of the Senate