

1998-2001

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

No. 167

WEDNESDAY, 7 FEBRUARY 2001

**Contents**

1	Meeting of Senate.....	3885
2	Government Documents .....	3885
3	Sydney Harbour Federation Trust Bill 2000 [2001] .....	3885
4	Matters of Public Interest .....	3893
5	Questions .....	3893
6	Question on Notice—Answer and Explanation .....	3893
7	Transport—Aviation Safety—Answer to Question—Document.....	3893
8	Minister for Family and Community Services—Answers to Questions.....	3894
9	Western Australia—ASIC Investigation—Financial Interests—Answer to Question .....	3894
10	Petitions .....	3894
11	Notices .....	3894
12	Selection of Bills—Standing Committee—Report No. 1 of 2001 .....	3896
13	Postponements .....	3898
14	Finance and Public Administration References Committee—Leave to Meet During Sitting .....	3898
15	Environment—Old-Growth Forests .....	3899
16	Research and Development—Order for Production of Documents .....	3899
17	Excise Tariff Amendment (Petrol Tax Cut) Bill 2001 (No. 2) Customs Tariff Amendment (Petrol Tax Cut) Bill 2001 (No. 2) .....	3900
18	Scrutiny of Bills—Standing Committee—1st Report and Alert Digest No. 1 of 2001 .....	3900
19	Auditor-General—Audit Report No. 28 of 2000-2001—Document .....	3900
20	Documents .....	3900
21	Indexed Lists of Departmental and Agency Files—Order for Production of Documents—Document.....	3901

22	Finance and Public Administration Legislation Committee—Change in Membership .....	3901
23	Defence Legislation Amendment (Enhancement of the Reserves and Modernisation) Bill 2000 Defence Reserve Service (Protection) Bill 2000.....	3901
24	Native Title and the Aboriginal and Torres Strait Islander Land Fund—Joint Statutory Committee—Change in Membership.....	3902
25	Sydney Harbour Federation Trust Bill 2000 [2001] .....	3902
26	Finance and Public Administration References Committee—Change in Membership .....	3903
27	Taxation Laws Amendment (Superannuation Contributions) Bill 2000 .....	3903
28	Government Documents—Consideration .....	3904
29	Adjournment .....	3905
30	Attendance .....	3905

**1 MEETING OF SENATE**

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

**2 GOVERNMENT DOCUMENTS**

The following government documents were tabled:

Advance to the Minister for Finance and Administration—Statements and supporting applications of issues for—

November 2000.

December 2000.

Anglo-Australian Telescope Board—Anglo-Australian Observatory—Report for 1999-2000.

Australian Postal Corporation (Australia Post)—Service improvement plan, December 2000.

Christmas Island Casino Surveillance Authority—Report for 1999-2000.

Family Court of Australia—Report for 1999-2000—Addendum.

Issues from the Advance to the Finance Minister as a final charge for the year ended 30 June 2000.

Landcare Australia Limited—Report for 1999-2000.

Official Establishments Trust—Report for 1999-2000.

*Telecommunications Act 1997*—Funding of consumer representation, and of research, in relation to telecommunications—Report for 1999-2000.

Victorian regional forest agreements—Report for 1999.

**3 SYDNEY HARBOUR FEDERATION TRUST BILL 2000 [2001]**

Order of the day read for the further consideration of message no. 612 from the House of Representatives in committee of the whole (*see entry no. 22, 7 December 2000*).

---

*In the committee*

Consideration resumed of the message—and of the motion moved by the Minister for the Environment and Heritage (*Senator Hill*)—That the committee agrees to amendment no. 1 made by the House of Representatives to the bill.

Debate ensued.

Senator Bolkus moved the following amendments to amendment no. 1 made by the House together by leave:

Preamble, first paragraph, omit “to conserve and preserve”, substitute “to conserve, preserve and enhance”.

Preamble, first paragraph, omit “Suitable land with significant environmental and heritage values”, substitute “The land”.

Preamble, second paragraph, omit “. The Trust will transfer suitable land”.

Debate ensued.

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

Question—That amendment no. 1 made by the House be agreed to—put and passed.

Senator Hill moved—That the committee agrees to amendment no. 4 made by the House to the bill.

On the motion of Senator Hill the following amendment to amendment no. 4 made by the House was debated and agreed to:

Paragraph 6(a), omit “preserving”, substitute “enhancing”.

Senator Bolkus moved the following amendments to amendment no. 4 made by the House together by leave:

No. 1—Omit paragraph 6(b), substitute:

(b) to restore, protect, conserve and interpret the environmental and heritage values of Trust land;

No. 2—After paragraph 6(b), insert:

(ba) to ensure ongoing public ownership of Trust land;

No. 3—Omit paragraph 6(d), substitute:

(d) to establish and manage Trust land on behalf of the Commonwealth as a transitional arrangement before transfer to New South Wales;

No. 4—Omit paragraph 6(f), substitute:

(f) to co-operate with New South Wales, affected councils and the community in furthering the above objects.

Debate ensued.

The question was divided—

Question—That amendments nos 1, 2 and 3 be agreed to—put and negatived.

Question—That amendment no. 4 be agreed to—put and passed.

Question—That amendment no. 4 made by the House, as amended, be agreed to—put and passed.

Senator Hill moved—That the committee agrees to amendment no. 5 made by the House to the bill.

On the motion of Senator Hill the following amendments to amendment no. 5 made by the House, taken together by leave, were debated and agreed to:

Paragraph 10(b), omit “6”, substitute “7”.

Omit subclause 11(2).

Omit subclauses 11(4) and (5), substitute:

(4) Within 2 months of receiving the invitation, New South Wales may recommend suitable persons.

After subclause 12(3), insert:

(3A) Another of the members must be an elected member of an affected council.

Senator Bolkus moved the following amendment to amendment no. 5 made by the House:

Omit clauses 10, 11 and 12, substitute:

## **10 Membership of the Trust**

- (1) The Trust consists of:
  - (a) the Chair; and
  - (b) 7 other members.
- (2) The Minister, by written instrument, is to appoint suitable persons as members of the Trust as follows:
  - (a) the Chair and 3 other persons (one of whom must be a community representative);
  - (b) 3 persons nominated by New South Wales (including one elected member of an affected council);
  - (c) a person nominated by the NSW Aboriginal Land Council.

#### **11 Invitations to NSW to recommend members**

- (1) Before initially appointing members to the Trust, the Minister must invite New South Wales to recommend persons to be appointed to 3 membership positions.
- (2) If New South Wales does so, then one of the persons recommended must be an elected member of an affected council.
- (3) If:
  - (a) a vacancy arises in the membership of the Trust; and
  - (b) there are not 3 other membership positions held by persons recommended by New South Wales;then the Minister must invite New South Wales to recommend persons to be appointed to the vacant membership position.
- (4) Within 2 months of receiving the invitation, New South Wales may recommend suitable persons. If New South Wales does so, at least one of its 3 membership positions must be held by a person who is an elected member of an affected council.
- (5) If New South Wales fails to recommend a person under this section, then the Minister must instead ensure that one of the members he or she appoints is an elected member of an affected council.

#### **12 Invitations to NSW Aboriginal Land Council to recommend member**

- (1) Before initially appointing members to the Trust, the Minister must invite the NSW Aboriginal Land Council (the *Council*) to recommend a person to be appointed to a membership position.
- (2) If:
  - (a) a vacancy arises in the membership of the Trust; and
  - (b) there is not one other membership position held by a person recommended by the Council;then the Minister must invite the Council to recommend a person to be appointed to the vacant membership position.
- (3) Within 2 months of receiving the invitation, the Council may recommend a suitable person.

- (4) If the Council fails to recommend a person under this section, then the Minister must instead ensure that one of the members he or she appoints is a person who, in the Minister's opinion, represents the interests of indigenous people.

#### **12A Appointment of members**

- (1) The Minister must not appoint a member of the Trust mentioned in paragraph 10(2)(a) unless the Minister has first:
  - (a) sought expressions of interest from suitable persons by public advertisement; and
  - (b) considered any expressions of interest lodged in accordance with the advertisement.
- (2) Appointments made by the Minister to any vacancy arising in the membership of the Trust must be made in accordance with subsection (1) and sections 11 and 12.
- (3) The Minister must not appoint a person as a member if, immediately after the appointment of the person, more than 3 of the members of the Trust would be public employees.
- (4) The appointment of a member is not invalid because of a defect or irregularity in connection with the member's appointment.

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

Question—That amendment no. 5 made by the House, as amended, be agreed to—put and passed.

Senator Hill moved—That the committee agrees to amendment no. 8 made by the House to the bill.

On the motion of Senator Hill the following amendment to amendment no. 8 made by the House was debated and agreed to:

At the end of clause 50, add:

- (5) The Chair must also ensure that:
  - (a) at least one of those meetings is held in each 6 month period starting on 1 January or 1 July; and
  - (b) that meeting is open to the public.

Question—That amendment no. 8 made by the House, as amended, be agreed to—divided in respect of clause 50A.

Question—That clause 50A stand as printed—put and negatived.

On the motion of Senator Hill the following amendment to amendment no. 8 made by the House was agreed to:

Subclause 51(2), omit “a private meeting”, substitute “is not open to the public”.

On the motion of Senator Bolkus the following amendment to amendment no. 8 made by the House was debated and agreed to:

At the end of clause 50, add:

- (6) A decision to meet in private must be recorded in the minutes together with the reasons for so deciding.

Question—That amendment no. 8 made by the House, as amended, be agreed to—put and passed.

Senator Hill moved—That the committee agrees to amendment no. 9 made by the House to the bill.

On the motion of Senator Hill the following amendments to amendment no. 9 made by the House, taken together by leave, were debated and agreed to:

Subclause 57(2), omit “issues relating to the relevant plan area”, substitute “matters determined under subsection (6) relating to the relevant plan area”.

Omit subclause 57(6), substitute:

- (6) The Trust must, after consulting a committee, give written directions to the committee on:
  - (a) matters in relation to which the committee is to give advice and recommendations under subsection (2); and
  - (b) the way in which the committee is to carry out its function; and
  - (c) procedures to be followed in relation to the meetings of the committee.

Omit subclause 57A(1), substitute:

- (1) The Trust must provide each community advisory committee with documents and information relevant to matters on which the committee is to give advice or recommendations.

Question—That amendment no. 9 made by the House, as amended, be agreed to—put and passed.

Senator Hill moved—That the committee agrees to amendment no. 10 made by the House to the bill.

On the motion of Senator Hill the following amendment to amendment no. 10 made by the House was debated and agreed to:

Subclause 58(1), omit “must”, substitute “may”.

Question—That amendment no. 10 made by the House, as amended, be agreed to—put and passed.

Senator Hill moved—That the committee agrees to amendment no. 13 made by the House to the bill.

On the motion of Senator Bolkus the following amendments to amendment no. 13 made by the House, taken together by leave, were debated and agreed to:

Subclause 63(2), omit paragraph (a) and “or”.

Paragraph 64(1)(b), omit “for a period that ends after the end of 10 years from the commencement of this Act”.

Omit the heading to clause 64A, substitute:

**64A Leases beyond the life of the Trust**

Subclause 64A(1), omit “for a period of longer than 25 years”, substitute “for a period that ends after the end of 10 years from the commencement of this Act”.

On the motion of Senator Hill the following amendment to amendment no. 13 made by the House was debated and agreed to:

Subclause 64A(1), omit “Before”, substitute “In addition to the requirement in section 64, before”.

Question—That amendment no. 13 made by the House, as amended, be agreed to—put and passed.

Senator Hill moved—That the committee agrees to amendment no. 14 made by the House to the bill.

Senator Bolkus moved the following amendment to amendment no. 14 made by the House:

At the end of clause 67, add:

- (5) The Minister must ensure that all Trust land is transferred to New South Wales before the repeal time.

Debate ensued.

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

Question—That amendment no. 14 made by the House be agreed to—put and passed.

Senator Hill moved—That the committee agrees to amendment no. 15 made by the House to the bill.

Question—That amendment no. 15 made by the House be agreed to—divided in respect of clause 71.

Clause 71 debated and agreed to.

Question—That amendment no. 15 made by the House be agreed to—put and passed.

Senator Hill moved—That the committee agrees to amendment no. 16 made by the House to the bill.

On the motion of Senator Hill the following amendments to amendment no. 16 made by the House, taken together by leave, were debated and agreed to:

Omit the heading to column 3 of the table in Schedule 1, substitute “**Site description in plan lodged under the *Conveyancing Act 1919* of New South Wales**”.

Column 3 of item 1 of the table in Schedule 1, omit “Lot 1 in Deposited Plan 831153;”.

Column 3 of item 1 of the table in Schedule 1, omit “Lot 2 in Deposited Plan 831153”, substitute “Deposited Plan 1022020”.

Omit item 3 of the table in Schedule 1, substitute:

3	Cockatoo Island	Lot 1 in Deposited Plan 549630
---	-----------------	--------------------------------

Senator Bolkus moved the following amendments to amendment no. 16 made by the House together by leave:

Heading to Schedule 1, omit “**Defence land**”, substitute “**Land**”.



At the end of Schedule 1, add:

---

4	Middle Head and Georges Heights in the Parish of Willoughby, County of Cumberland	Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 in Deposited Plan 233157
---	---	---

---

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

Question—That amendment no. 16 made by the House, as amended, be agreed to—put and passed.

Senator Hill moved—That the committee agrees to amendment no. 17 made by the House to the bill.

Debate ensued.

On the motion of Senator Hill the following amendments to amendment no. 17 made by the House, taken together by leave, were debated and agreed to:

Omit the heading to column 3 of the table in Schedule 2, substitute “**Site description in plan lodged under the *Conveyancing Act 1919* of New South Wales**”.

At the end of column 3 of item 1 of the table in Schedule 2, add “; Lot 1 in Deposited Plan 831153”.

Question—That amendment no. 17 made by the House, as amended, be agreed to—put and passed.

Senator Hill moved—That the committee agrees to amendment no. 3 made by the House to the bill.

Question put and passed.

Senator Hill moved—That the committee agrees to amendment no. 6 made by the House to the bill.

On the motion of Senator Bolkus the following amendment to amendment no. 6 made by the House was debated and agreed to:

Omit subclause 21(1), substitute:

- (1) The Minister administering the *Naval Defence Act 1910* must, by notice or notices published in the *Gazette*, specify that each Trust land site mentioned in Schedules 1 and 2 that is a Commonwealth place is to vest in the Trust in accordance with section 22 on a specified day that is within 4 years of this Act commencing. A notice may deal with a part only of a Trust land site.

On the motion of Senator Hill the following amendment to amendment no. 6 made by the House was agreed to:

Omit subclause 24(1), substitute:

- (1) The Trust must not sell or otherwise transfer the freehold interest in:
  - (a) any land mentioned in Schedule 1; or
  - (b) land identified in a plan as having significant environmental or heritage values;
 unless:

- (c) the sale or transfer is to the Commonwealth, New South Wales or an affected council; and
- (d) the instrument under which the sale or transfer occurs includes a condition that the land not be sold or otherwise transferred other than to the Commonwealth, New South Wales or an affected council.

(1A) A purported sale or transfer of a freehold interest by an instrument that does not comply with paragraph (1)(c) or (d) is not effective.

Senator Bolkus moved the following amendment to amendment no. 6 made by the House:

Omit clause 24, substitute:

**24 Transfer of Trust land**

- (1) The Trust must not sell or otherwise transfer the freehold interest of any Trust land other than to New South Wales and on the condition that the land remain in public ownership.
- (2) If the Trust agrees to transfer the freehold interest of any Trust land to New South Wales, then the Trust must seek the Minister's approval, in writing, of the terms and conditions of the agreement.

Debate ensued.

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

On the motion of Senator Bartlett the following amendment to amendment no. 6 made by the House was agreed to:

After subclause 24(1), insert:

- (1B) The Trust must not sell or otherwise transfer the freehold interest of any land mentioned in Schedule 2 without the written approval of the Minister.

Question—That amendment no. 6 made by the House, as amended, be agreed to—put and passed.

Senator Hill moved—That the committee agrees to amendment no. 7 made by the House to the bill.

On the motion of Senator Hill the following amendments to amendment no. 7 made by the House, taken together by leave, were debated and agreed to:

At the end of clause 36A, add:

- (2) However, the Trust is not required to make a submission publicly available if, in the Trust's opinion, it would significantly damage the environmental or heritage values of Trust land.
- (3) No action or proceeding, whether civil or criminal, lies against a member of the Trust in respect of making a submission publicly available under this section.

At the end of subclause 38A(1), add:

; and (f) carry out other work that will only have a temporary impact on the area.

Subclause 38A(2), omit "and (e)", substitute ", (e) and (f)".

Senator Bolkus moved the following amendments to amendment no. 7 made by the House together by leave:

No. 1—At the end of subclause 26(3), add “, provided that the Trust has by public notice informed the public about the application and the reason for the extension of time”.

No. 2—After paragraph 28(3)(h), insert:

(ha) a timetable for the implementation of the plan;

(hb) a timetable for the transfer of the site to New South Wales;

No. 3—After clause 37, insert:

**37A Plans to be disallowable**

A plan (including an amendment to a plan) prepared under this Part is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

---

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

**4 MATTERS OF PUBLIC INTEREST**

Matters of public interest were discussed.

---

*At 2 pm—*

**5 QUESTIONS**

Questions without notice were answered.

**6 QUESTION ON NOTICE—ANSWER AND EXPLANATION**

Senator Cook, pursuant to standing order 74, asked the Assistant Treasurer (Senator Kemp) for an explanation of an answer not being provided to question on notice no. 3114 (notice given 16 October 2000) relating to petrol prices.

Senator Kemp indicated that an explanation would be provided.

Senator Cook moved—That the Senate take note of the minister’s response.

Question put and passed.

**7 TRANSPORT—AVIATION SAFETY—ANSWER TO QUESTION—DOCUMENT**

The Parliamentary Secretary to the Minister for Health and Aged Care (Senator Tambling) tabled the following document:

Transport—Aviation safety—Australian high-capacity regular passenger transport operators compliance with the provisions of Civil Aviation Order 48—Additional information relating to the question asked by Senator Ludwig on 7 December 2000.

**8 MINISTER FOR FAMILY AND COMMUNITY SERVICES—ANSWERS TO QUESTIONS**

Senator Schacht moved—That the Senate take note of the answers given by the Minister for Family and Community Services (Senator Vanstone) to questions without notice asked today.

Debate ensued.

Question put and passed.

**9 WESTERN AUSTRALIA—ASIC INVESTIGATION—FINANCIAL INTERESTS—ANSWER TO QUESTION**

Senator Murray moved—That the Senate take note of the answer given by the Assistant Treasurer (Senator Kemp) to a question without notice asked by Senator Murray today relating to a possible investigation by the Australia Securities and Investments Commission into the financial interests of a member of the Western Australian Parliament, Mr Bloffwitch.

Question put and passed.

**10 PETITIONS**

The following 2 petitions, lodged with the Clerk by the senators indicated, were received:

Senator Hogg, from 266 petitioners, requesting that the Senate undertake an inquiry into the taxation and pricing of petrol.

Senator Murphy, from 167 petitioners, requesting that the Senate take action to ensure the independence of the Australian Broadcasting Corporation and to increase its funding.

**11 NOTICES**

The Chair of the Economics References Committee (Senator Murphy): To move on the next day of sitting—That the time for the presentation of the final report of the Economics References Committee on the provisions of the Fair Prices and Better Access for All (Petroleum) Bill 1999 and the practice of multi-site franchising by oil companies be extended to 8 March 2001.

The Chair of the Select Committee on Superannuation and Financial Services (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 and Financial Services on the provisions of the Family Law Legislation Amendment (Superannuation) Bill 2000 be extended to 8 March 2001.

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (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 *Australia New Zealand Food Authority Act 1991*, and for other purposes. ***Australia New Zealand Food Authority Amendment Bill 2001.***

The Minister for the Environment and Heritage (Senator Hill): To move on the next day of sitting—That the continuing order of the Senate of 1 May 1996 relating to the allocation of departments to legislative and general purpose standing committees be amended as follows:

Under Finance and Public Administration, insert 'Reconciliation and Aboriginal and Torres Strait Islander Affairs'.

Senator O'Brien, at the request of Senator Evans: To move on the next day of sitting—That there be laid on the table by the Minister representing the Minister for Health and Aged Care (Senator Vanstone), no later than 4 pm on 27 March 2001, the following documents, where necessary with the deletion of genuinely commercially sensitive information:

- (1) Documents relating to listing of the drugs celecoxib (Celebrex) and rofecoxib (Vioxx) on the Pharmaceutical Benefits Scheme (PBS), including:
  - (a) the minutes of the Pharmaceutical Benefits Advisory Committee's (PBAC) meetings at which the listing of the above drugs on the PBS was discussed;
  - (b) the recommendations made by the PBAC concerning the listing of the above drugs on the PBS, including recommendations about price;
  - (c) the minutes of the Pharmaceutical Benefits Pricing Authority's (PBPA) meetings at which the listing of the above drugs on the PBS was discussed;
  - (d) the recommendations made by the PBPA to the Minister concerning the listing of the above drugs on the PBS;
  - (e) briefings and all documents prepared by the department concerning the listing and price of these drugs on the PBS; and
  - (f) the department's legal advice relating to the PBAC authority to place binding conditions on PBAC recommendations to the PBPA and the Minister.
- (2) All documents, including copies of electronic documents, relating to the appointment of the new PBAC, announced by the Minister on 1 February 2001.

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

- (a) notes:
  - (i) the failure of the New South Wales State Government to hand over competition payments to dairy farmers who have been affected by deregulation, and
  - (ii) that despite the fact that the New South Wales dairy industry is three times the size of the Western Australian dairy industry, it is the Western Australian Liberal Government that is providing a \$27 million assistance package;
- (b) criticises the lack of support for farmers by the Carr Australian Labor Party State Government, particularly in the towns of Dungog and Gloucester, when the dairy industry is the fifth largest rural industry in New South Wales and produces \$1.4 billion worth of goods each year; and
- (c) calls on the New South Wales Government to start helping dairy farmers by releasing competition payments provided to them by the Howard Government, which amount to \$156.5 million for the 2000-01 financial year.

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell): To move on the next day of sitting—That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the Australia New Zealand Food Authority Amendment Bill 2001, allowing it to be considered during this period of sittings.

---

*Document:* Senator Ian Campbell tabled the following document:

Consideration of legislation—Statement of reasons for introduction and passage of the Australia New Zealand Food Authority Amendment Bill 2001 in the 2001 autumn sittings.

---

Senator Calvert, at the request of the Chairman of the Standing Committee on Regulations and Ordinances (Senator Coonan): To move 15 sitting days after today—

No. 1—That the Civil Aviation Amendment Regulations 2000 (No. 8), as contained in Statutory Rules 2000 No. 295 and made under the *Civil Aviation Act 1988*, be disallowed.

No. 2—That Exemption No. CASA EX43/2000, made under regulation 308 of the Civil Aviation Regulations 1988, be disallowed.

Senator Calvert, by leave, made a statement relating to the notices of motion.

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

(a) notes:

- (i) that 9 February 2001 is the anniversary of the death of the 15-year old boy from Groote Eylandt at the Don Dale Detention Centre in Darwin, while serving a mandatory sentence,
- (ii) the events being held in Darwin to celebrate the life of this young man and to call for changes to Northern Territory law that will prevent a tragedy like this happening again, and
- (iii) the continuing harm, injustice, expense and discrimination being caused by the Northern Territory's mandatory sentencing laws; and

(b) calls on the Federal Government to override these laws.

## 12 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 1 OF 2001

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

### SELECTION OF BILLS COMMITTEE

#### REPORT NO. 1 OF 2001

1. The committee met on 6 February 2001.

2. The committee resolved to recommend—

(a) That the provisions of the following bills be *referred* to a committee as follows:

Bill title	Stage at which referred	Legislation committee	Reporting date
Veterans' Affairs Legislation Amendment (Application of Criminal Code) Bill 2000	Immediately	Foreign Affairs, Defence and Trade	26 February 2001

Occupational Health and Safety (Commonwealth Employment) Amendment Bill 2000	Immediately	Employment, Workplace Relations, Small Business and Education	24 May 2001
Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2000	Immediately	Employment, Workplace Relations, Small Business and Education	24 May 2001

(b) That the order of the Senate of 10 May 2000 not to refer the provisions of the Aviation Legislation Amendment Bill (No. 2) 2000 be varied to provide that the provisions of the bill be referred to the Rural and Regional Affairs and Transport Legislation Committee for report on 27 March 2001.

(c) That the following bills **not** be referred to committees:

Aboriginal and Torres Strait Islander Commission Amendment Bill 2000  
 Remuneration Tribunal Amendment Bill 2000  
 Broadcasting Legislation Amendment Bill 2000  
 Communications and the Arts Legislation Amendment (Application of Criminal Code) Bill 2000  
 Customs Tariff Amendment Bill (No. 4) 2000  
 Environment and Heritage Legislation Amendment (Application of Criminal Code) Bill 2000  
 Medicare Levy Amendment (CPI Indexation) Bill (No. 2) 2000  
 National Museum of Australia Amendment Bill 2000  
 Superannuation Legislation Amendment (Post-retirement Commutations) Bill 2000  
 Therapeutic Goods Amendment Bill (No. 4) 2000

***The committee recommends accordingly.***

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

*(deferred from meeting of 15 August 2000)*

Trade Practices Amendment Bill (No. 1) 2000

Treasury Legislation Amendment (Application of Criminal Code) Bill 2000

*(deferred from meeting of 5 September 2000)*

Maritime Legislation Amendment Bill 2000

*(deferred from meeting of 3 October 2000)*

Human Rights (Mandatory Sentencing for Property Offences) Bill 2000

*(deferred from meeting of 31 October 2000)*

International Monetary Agreements Amendment Bill (No. 1) 2000

*(deferred from meeting of 5 December 2000)*

Migration Legislation Amendment (Integrity of Regional Migration Schemes) Bill 2000

Migration Legislation Amendment (Migration Agents) Bill 2000

Pig Industry Bill 2000

*(deferred from meeting of 6 February 2001)*

Customs Legislation Amendment and Repeal (International Trade  
Modernisation) Bill 2000  
Import Processing Charges Bill 2000  
Customs Depot Licensing Charges Amendment Bill 2000  
Foreign Affairs and Trade Legislation Amendment (Application of Criminal  
Code) Bill 2000  
Law and Justice Legislation Amendment (Application of Criminal Code) Bill  
2000  
New Business Tax System (Simplified Tax System) Bill 2000  
Petroleum (Submerged Lands) Legislation Amendment Bill (No. 3) 2000  
Petroleum (Submerged Lands) (Registration Fees) Amendment Bill 2000  
Social Security Legislation Amendment (Concession Cards) Bill 2000  
Taxation Laws Amendment (Excise Arrangements) Bill 2000

Paul Calvert

Chair

7 February 2001.

Senator Calvert moved—That the report be adopted.

Question put and passed.

### 13 POSTPONEMENTS

Items of business were postponed as follows:

General business notice of motion no. 489 standing in the name of Senator Murray for 8 February 2001, proposing an order for the production of documents relating to lists of departmental and agency contracts, postponed till 19 June 2001.

General business notice of motion no. 800 standing in the name of Senator Murray for today, proposing an order for the production of a report relating to Australian grocery retailers by the Australian Competition and Consumer Commission, postponed till 8 February 2001.

General business notice of motion no. 786 standing in the name of Senators Bourne and Allison for today, relating to nuclear weapons, postponed till 8 February 2001.

General business notice of motion no. 798 standing in the name of the Leader of the Opposition in the Senate (Senator Faulkner) for today, relating to outsourcing in the Defence organisation, postponed till 8 February 2001.

### 14 FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTING

Senator O'Brien, at the request of the Chair of the Finance and Public Administration References Committee (Senator George Campbell) and pursuant to notice of motion not objected to as a formal motion, moved—That the Finance and Public Administration References Committee be authorised to hold a public meeting during the sitting of the Senate on 7 February 2001, from 5.30 pm, to take evidence for the committee's inquiry into the Government's information technology outsourcing initiative.

Question put and passed.



**15 ENVIRONMENT—OLD-GROWTH FORESTS**

*Motion determined as not formal:* Senator Brown requested that general business notice of motion no. 802 standing in his name for today, relating to the logging of old-growth forests, be taken as formal.

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

*Proposed suspension of standing orders:* Senator Brown, pursuant to contingent notice, moved—That so much of the standing orders be suspended as would prevent him moving a motion relating to the conduct of the business of the Senate, namely a motion to give precedence to general business notice of motion no. 802.

Debate ensued.

Question put and negatived.

**16 RESEARCH AND DEVELOPMENT—ORDER FOR PRODUCTION OF DOCUMENTS**

Senator Stott Despoja, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) expresses its concern that the proposed changes to the definitions and eligibility criteria for the research and development (R&D) tax concession:
  - (i) may significantly constrain what is taken to be ‘innovation’,
  - (ii) may significantly reduce the number and type of eligible R&D projects because projects will need to meet both the ‘innovation’ and ‘high technical risk’ tests,
  - (iii) will significantly reduce the scope of legitimate components of the ‘innovation’ process by extending the exclusion list (section 73B(2C)) to ‘supporting activities’,
  - (iv) will discriminate against innovation in mature industries,
  - (v) will discriminate against innovation in non-applied science fields, and
  - (vi) may create a compliance regime that will act as a major disincentive to private investment in innovation and R&D; and
- (b) resolves that there be laid on the table by the Minister for Industry, Science and Resources (Senator Minchin), no later than immediately after questions without notice on 26 February 2001, a return setting out the following information:
  - (i) a list of all determinations of Federal Court and Administrative Appeals Tribunal decisions that the Government claims have unintentionally broadened the scope of the definition of ‘research and development activities’,
  - (ii) an explanation why these determinations are unacceptable to the Government,
  - (iii) details on what percentage of currently eligible projects would not satisfy the proposed changes to the definitions and eligibility criteria, and
  - (iv) the financial impact the changes, including the extension of the exclusion list, will make to currently eligible projects.

Question put and passed.

**17 EXCISE TARIFF AMENDMENT (PETROL TAX CUT) BILL 2001 (NO. 2)**  
**CUSTOMS TARIFF AMENDMENT (PETROL TAX CUT) BILL 2001 (NO. 2)**

Senator Cook, pursuant to notices of motion not objected to as formal motions, moved—That the following bills be introduced:

A Bill for an Act to amend the *Excise Tariff Act 1921* to provide relief from the 1 February 2001 indexation of rates of excise duty applying to petroleum.

A Bill for an Act to amend the *Customs Tariff Act 1995* to provide relief from the 1 February 2001 indexation of rates of customs duty applying to petroleum.

Question put and passed.

Senator Cook presented the bills and 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 Cook moved—That these bills be now read a second time.

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

**18 SCRUTINY OF BILLS—STANDING COMMITTEE—1ST REPORT AND ALERT DIGEST NO. 1 OF 2001**

Senator Denman, at the request of the Chairman of the Standing Committee for the Scrutiny of Bills (Senator Cooney), tabled the following report and document:

1st report of 2001, dated 7 February 2001.

Alert Digest No. 1 of 2001, dated 7 February 2001.

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

**19 AUDITOR-GENERAL—AUDIT REPORT NO. 28 OF 2000-2001—DOCUMENT**

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

Auditor-General—Audit activity report: July to December 2000—Summary of outcomes (Report No. 28 of 2000-2001).

**20 DOCUMENTS**

The following documents were tabled by the Clerk:

A New Tax System (Family Assistance) Act—

Child Care Benefit (Absence From Care – Permitted Circumstances) Amendment Determination (No. 1) 2000.

Child Care Benefit (Eligible Hours of Care) Amendment Determination (No. 1) 2000.

Child Care Benefit (Recognised Work or Work Related Commitments) Amendment Determination (No. 1) 2000.

A New Tax System (Family Assistance) (Administration) Act—

Child Care Benefit (Allocation of Child Care Places) Amendment Determination (No. 1) 2000.

Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Amendment Determination (No. 1) 2000.

Child Care Benefit (Record Keeping) Amendment Rules (No. 1) 2000.

Social Security Act—

Social Security (Attributable Stakeholders and Attribution Percentages) Principles 2000.

Social Security (Fares Allowance for Private Transport) Determination 2000.

Social Security (Rotary Foundation Ambassadorial Scholarship) Determination 2000.

Sydney Airport Curfew Act—Dispensation granted under section 20—Dispensation No. 4/01.

**21 INDEXED LISTS OF DEPARTMENTAL AND AGENCY FILES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT**

The following document was tabled pursuant to the order of the Senate of 30 May 1996 as amended 3 December 1998:

Indexed lists of departmental and agency files for the period 1 July 2000 to 31 December 2000—Statements of compliance—Department of Education, Training and Youth Affairs.

**22 FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE—CHANGE IN MEMBERSHIP**

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

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell), by leave, moved—That Senator Lundy replace Senator Ray on the Finance and Public Administration Legislation Committee on 23 February 2001 for the consideration of the 2000-01 additional estimates.

Question put and passed.

**23 DEFENCE LEGISLATION AMENDMENT (ENHANCEMENT OF THE RESERVES AND MODERNISATION) BILL 2000  
DEFENCE RESERVE SERVICE (PROTECTION) BILL 2000**

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

Message no. 630, dated 5 February 2001—A Bill for an Act to amend the law relating to the Defence Force, and for related purposes.

Message no. 628, dated 8 December 2000 am—A Bill for an Act to protect members of the Reserves in their employment and education, to facilitate their return to civilian life, and for related purposes.

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

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

---

*Explanatory memorandum:* Senator Ian Campbell tabled a revised explanatory memorandum relating to the Defence Legislation Amendment (Enhancement of the Reserves and Modernisation) Bill 2000.

---

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

**24 NATIVE TITLE AND THE ABORIGINAL AND TORRES STRAIT ISLANDER LAND FUND—JOINT STATUTORY COMMITTEE—CHANGE IN MEMBERSHIP**

A message from the House of Representatives was reported acquainting the Senate with a change in the membership of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, as follows:

Message no. 633, dated 6 February 2001—Mr McMullan in place of Mr Melham.

**25 SYDNEY HARBOUR FEDERATION TRUST BILL 2000 [2001]**

Order of the day read for the further consideration of message no. 612 from the House of Representatives in committee of the whole (*see entry no. 22, 7 December 2000*).

---

*In the committee*

Consideration resumed of the message—and of the motion moved by the Minister for the Environment and Heritage (Senator Hill)—That the committee agrees to amendment no. 7 made by the House to the bill—and of the amendments moved by Senator Bolkus to amendment no. 7 made by the House (*see entry no. 3*).

Debate resumed.

The question was divided—

Question—That amendment no. 1 be agreed to—put and passed.

Question—That amendment no. 2 be agreed to—put and negatived.

Question—That amendment no. 3 be agreed to—put and negatived.

Question—That amendment no. 7 made by the House, as amended, be agreed to—put and passed.

Senator Hill moved—That the committee agrees to amendments nos 2, 11 and 12 made by the House to the bill.

Question put and passed.

Resolution to be reported.

---

The Deputy President (Senator West) resumed the chair and the Temporary Chair of Committees (Senator Watson) reported that the committee had considered message no. 612 from the House of Representatives relating to the Sydney Harbour Federation Trust Bill 2000 [2001] and had agreed to amendments nos 1, 2, 3, 11, 12, 14 and 15 made by the House of Representatives to the bill and had agreed to amendments nos 4, 5, 6, 7, 8, 9, 10, 13, 16 and 17 with amendments.

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

**26 FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE—CHANGE IN MEMBERSHIP**

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

The Minister for the Environment and Heritage (Senator Hill), by leave, moved—That Senator Eggleston replace Senator Watson on the Finance and Public Administration References Committee for the committee's inquiry into the Government's information technology outsourcing initiative.

Question put and passed.

**27 TAXATION LAWS AMENDMENT (SUPERANNUATION CONTRIBUTIONS) BILL 2000**

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell)—That this bill be now read a second time.

Debate resumed.

Senator Conroy moved the following amendment:

At the end of the motion, add "but the Senate condemns the Treasurer for not fulfilling his duty to clamp down on tax avoidance through the abuse of employee benefit arrangements and other tax avoidance schemes".

Debate ensued.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 25

Senators—

Bishop	Cooney	Hutchins	Ray
Bolkus	Crossin	Ludwig (Teller)	Schacht
Brown	Crowley	Mackay	Sherry
Buckland	Denman	McKiernan	West
Carr	Forshaw	McLucas	
Collins	Gibbs	Murphy	
Conroy	Hogg	O'Brien	

## NOES, 39

## Senators—

Abetz	Coonan (Teller)	Knowles	Payne
Allison	Crane	Lees	Stott Despoja
Alston	Ellison	Lightfoot	Tambling
Bartlett	Ferguson	Macdonald, Ian	Tchen
Boswell	Ferris	Macdonald, Sandy	Tierney
Bourne	Gibson	Mason	Troeth
Brandis	Greig	McGauran	Vanstone
Calvert	Heffernan	Minchin	Watson
Campbell, Ian	Herron	Murray	Woodley
Chapman	Kemp	Newman	

Question negatived.

Main 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 Sherry moved the following amendment:

Schedule 1, item 11, page 6 (line 6), omit “30 June 2000”, substitute “28 October 1998”.

---

*At 6.50 pm:* The Acting Deputy President (Senator Lightfoot) resumed the chair and the Chair of Committees (Senator West) reported progress.

## 28 GOVERNMENT DOCUMENTS—CONSIDERATION

The following government documents tabled earlier today (*see entry no. 2*) were considered:

Anglo-Australian Telescope Board—Anglo-Australian Observatory—Report for 1999-2000. Motion to take note of document moved by Senator Stott Despoja and agreed to.

Landcare Australia Limited—Report for 1999-2000. Motion to take note of document moved by Senator Sandy Macdonald and agreed to.

Family Court of Australia—Report for 1999-2000—Addendum. Motion to take note of document moved by Senator Cooney and agreed to.

Victorian regional forest agreements—Report for 1999. Motion to take note of document moved by Senator Forshaw. Debate adjourned till Thursday at general business, Senator Forshaw in continuation.

**29 ADJOURNMENT**

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

Debate ensued.

The Senate adjourned at 7.47 pm till Thursday, 8 February 2001 at 9.30 am.

**30 ATTENDANCE**

Present, all senators except Senators Evans\*, Harris\*, Patterson and Ridgeway\* (\* on leave).

**HARRY EVANS**  
Clerk of the Senate