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1 MEETING OF SENATE

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

2 PETITION

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

From 1 petitioner, requesting that the Senate call on the Human Rights and Equal Opportunity Commission to address certain issues relating to Ms Bernadette Faure.

3 NOTICES

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

- (a) notes, on the occasion of its 69th anniversary, that the Australian Broadcasting Corporation (ABC) has traditionally produced outstanding results, despite the fact that its operational budget has declined dramatically in recent years and remains well below its highest level of funding following corporatisation in 1983;
- (b) expresses its concern that the restructuring of the ABC is at the expense of high-quality programming, the dismissal of a large number of committed and dedicated staff, the result of which will be felt in the television and radio schedule over the next 2 to 3 years and longer;
- (c) notes the concerns of the independent production sector, and the radio, television and film industries generally, about the loss of high quality productions being commissioned at the ABC at the present time;
- (d) expresses its concern that ratings are used as a measure of success, to the detriment of other measures, including audience reach, or the other provisions of the *Australian Broadcasting Corporation Act 1983*, which details the programs and services the ABC should deliver, which have both general and specific appeal;
- (e) acknowledges the role of independent, investigative news and current affairs programs as central to the role of the ABC in educating Australians, no matter where they live, or their levels or sources of income;
- (f) notes the finding of the 1995 select committee inquiry into the role and operations of the ABC which found 'that the need for a quality national broadcaster is greater today than it was a decade ago', reflecting the importance the majority of Australians place on this most important national and cultural icon;
- (g) calls on the Government to immediately restore the operational funding of the ABC untied, and not inclusive of special grants, capital or infrastructure costs or transmission funding, to a level commensurate with the levels achieved in 1985, in real terms; and
- (h) calls on the ABC board:
 - (i) to take immediate action to arrest the disruption currently at the ABC, and
 - (ii) to ensure that the ABC's relationship with its audiences is immediately restored.

The Chair of the Legal and Constitutional References Committee (Senator McKiernan): To move on the next day of sitting—That the Legal and Constitutional References Committee be authorised to hold a public meeting during the sitting of the Senate on 6 August 2001, from 7.30 pm, to take evidence for the committee's inquiry into the Human Rights (Mandatory Sentencing for Property Offences) Bill 2000.

Senator Murray, at the request of the Leader of the Australian Democrats (Senator Stott Despoja): To move 3 sitting days after today—That the following bill be introduced: A Bill for an Act to provide for the electors to be consulted, at the same time as the general election for the House of Representatives, on whether Australia should become a republic and on whether they should vote again to choose from different republic models. ***Republic (Consultation of the People) Bill 2001.***

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

Republic (Consultation of the People) Bill 2001—Draft bill for comment.

4 ORDER OF BUSINESS—REARRANGEMENT

Senator Calvert, by leave, moved—That the presentation of a report of the Selection of Bills Committee be postponed till a later hour.

Question put and passed.

5 ECONOMICS LEGISLATION COMMITTEE—PROPOSED WITHDRAWAL OF REFERENCE

Senator Calvert, by leave, moved—That the order of the Senate of 20 June 2001 (*see entry no. 13, 20 June 2001*) adopting Selection of Bills Committee report no. 8 of 2001, be varied to provide that the provisions of the Space Activities Amendment (Bilateral Agreement) Bill 2001 not be referred to the Economics Legislation Committee.

Debate ensued.

On the motion of Senator O'Brien the debate was adjourned.

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

6 INTELLIGENCE SERVICES—JOINT SELECT COMMITTEE—PROPOSED APPOINTMENT

A message from the House of Representatives was reported proposing the appointment of a joint select committee, as follows:

Message no. 739, dated 27 June 2001—Joint Select Committee on the Intelligence Services,

and transmitting for the concurrence of the Senate the following resolution:

Proposed Joint Select Committee on the Intelligence Services

- (1) That a Joint Select Committee to be known as the Joint Select Committee on the Intelligence Services be appointed to inquire into and report on the proposed legislative reforms in:

- (a) the Intelligence Services Bill 2001 and the Intelligence Services (Consequential Provisions) Bill 2001; and
- (b) the provision in the Cybercrime Bill 2001 relating to the Australian Secret Intelligence Service (ASIS) and the Defence Signals Directorate (DSD)—Liability for Certain Acts.

- (2) That the committee consist of 15 members: 5 members of the House of Representatives to be nominated by the Government Whip or Whips, 4 members of the House of Representatives to be nominated by the Opposition Whip or Whips, 3 senators to be nominated by the Leader of the Government in the Senate, 2 senators to be nominated by the Leader of the Opposition in the Senate and 1 senator to be nominated by any minority party.
- (3) That every nomination of a member of the committee be forthwith notified in writing to the President of the Senate and the Speaker of the House of Representatives.
- (4) That the members of the committee hold office as a joint select committee until presentation of the committee's report or until the House of Representatives is dissolved, whichever is the earlier.
- (5) That the committee report no later than 20 August 2001.
- (6) That the committee elect a Government member as its chair.
- (7) That the committee elect a deputy chair who shall act as chair of the committee at any time when the chair is not present at a meeting of the committee.
- (8) That at any time when the chair and deputy chair are not present at a meeting of the committee, the members present shall elect another member to act as chair at that meeting.
- (9) That the chair, or the deputy chair when acting as chair, shall have a deliberative vote and, in the event of an equality of voting, a casting vote.
- (10) That 5 members of the committee constitute a quorum of the committee, provided that in a deliberative meeting the quorum shall include 3 members of either House of the Government parties and 2 members of either House of the non-government parties.
- (11) That the committee have power to:
 - (a) send for persons, papers and records;
 - (b) move from place to place;
 - (c) adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives.
- (12) That the committee may determine the manner of conduct of its proceedings and in so doing shall consider whether the procedures prescribed in s.92F(2) and (3) of the *Australian Security Intelligence Organisation Act 1979* ('the ASIO Act') should be followed.
- (13) That the committee shall ensure that any documents having a national security classification provided to the committee are, while in the custody of the committee, kept at a place under such terms and conditions as are agreed between the committee and the Director-General of ASIS, the Director of DSD, or the Inspector-General of Intelligence and Security, as appropriate.
- (14) That the committee shall ensure that the identity of staff of ASIS is appropriately protected in accordance with the provisions of the Intelligence Services Bill 2001.
- (15) That the committee has leave to report from time to time its proceedings and the evidence taken and any recommendations as it may deem fit.

Leave refused: The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) sought leave to have the message considered immediately.

An objection was raised and leave was not granted.

7 ORDER OF BUSINESS—REARRANGEMENT

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That the following government business orders of the day be considered from 12.45 pm till not later than 2 pm today:

Broadcasting Legislation Amendment Bill (No. 2) 2001.

No. 11 New Business Tax System (Capital Allowances) Bill 2001 and two related bills.

No. 12 Taxation Laws Amendment Bill (No. 2) 2001.

No. 14 Higher Education Funding Amendment Bill 2001.

Question put and passed.

8 SCRUTINY OF BILLS—STANDING COMMITTEE—REFERENCE

Senator O'Brien, at the request of the Chairman of the Standing Committee for the Scrutiny of Bills (Senator Cooney) and pursuant to notice of motion not objected to as a formal motion, moved—That the following matter be referred to the Standing Committee for the Scrutiny of Bills for inquiry and report by 28 February 2002:

The application of absolute and strict liability offences in Commonwealth legislation, with particular reference to:

- (a) the merit of making certain offences ones of absolute or strict liability;
- (b) the criteria used to characterise an offence, or an element of an offence, as appropriate for absolute or strict liability;
- (c) whether these criteria are applied consistently to all existing and proposed Commonwealth offences; and
- (d) how these criteria relate to the practice in other Australian jurisdictions, and internationally.

Question put and passed.

9 FOREIGN AFFAIRS—VISIT BY PRESIDENT WAHID OF INDONESIA

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate congratulates President Wahid of Indonesia on the success of his visit to Australia and the friendly and positive impression he has left, which enhances relationships between our nations.

Question put and passed.

10 AUSTRALIAN BROADCASTING CORPORATION

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

(a) notes that:

- (i) 1 July 2001 marks the 69th birthday of the Australian Broadcasting Corporation (ABC), which commenced its first broadcast at 8 pm on 1 July 1932,
- (ii) the then Prime Minister, Joseph Lyons, proclaimed that the ABC was committed to 'serve all sections and to satisfy the diversified tastes of the public',
- (iii) the Australian Broadcasting Corporation Act, proclaimed in 1983, embodied that statement in section 6 of the Act, the ABC Charter, which is equally relevant today as it was then, and continues to enable the ABC to provide a range of quality programs and services, which meet the diverse range of interests of Australian audiences, and
- (iv) the ABC's role and functions have been expanded and extended over the years to include: a national classic music network (Classic FM); a national youth network (Triple J); a national specialist radio network (Radio National); a parliamentary and news network (PNN); a local radio service in 48 regional centres and in each capital city throughout Australia; an international shortwave service (Radio Australia); an online, multimedia Internet service; ABC shops and centres; and the national television network; and

(b) congratulates the ABC, and its dedicated staff over many years of continued service, for reaching this milestone.

Question put and passed.

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

Senator Calvert, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Crane) and pursuant to notice of motion not objected to as a formal motion, moved—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the import risk assessment on New Zealand apples be extended to 23 July 2001.

Question put and passed.

12 FOREIGN AFFAIRS—PAPUA NEW GUINEA

Motion determined as not formal: Senator Brown requested that general business notice of motion no. 963 standing in his name for today, relating to Papua New Guinea, 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. 963.

Question put.

The Senate divided—

AYES, 12

Senators—

Allison	Brown	Harris	Ridgeway
Bartlett	Greig	Lees	Stott Despoja
Bourne (Teller)	Harradine	Murray	Woodley

NOES, 43

Senators—

Bishop	Cooney	Hogg	O'Brien
Boswell	Crane	Hutchins	Payne
Brandis	Crossin	Ludwig	Ray
Buckland	Crowley	Macdonald, Sandy	Reid
Calvert (Teller)	Denman	Mackay	Schacht
Campbell, George	Ferguson	Mason	Sherry
Campbell, Ian	Ferris	McGauran	Tambling
Carr	Forshaw	McKiernan	Tchen
Chapman	Gibbs	McLucas	Troeth
Collins	Gibson	Murphy	Watson
Coonan	Hill	Newman	

Question negatived.

13 POSTPONEMENT

Senator Carr, by leave and at the request of the Leader of the Opposition in the Senate (Senator Faulkner), moved—That general business notice of motion no. 871 standing in the name of Senator Faulkner for today, relating to the benchmark for pension levels, be postponed till the next day of sitting.

Question put and passed.

14 PARLIAMENTARY ZONE—APPROVAL OF WORKS PROPOSAL

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell), at the request of the Parliamentary Secretary to the Minister for Health and Aged Care (Senator Tambling) and pursuant to notice of motion not objected to as a formal motion, moved—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 construction of Reconciliation Place in the Parliamentary Zone.

Question put and passed.

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

15 ENVIRONMENTAL LEGISLATION AMENDMENT BILL (NO. 2) 2001

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell), pursuant to notice of motion not objected to as a formal motion, moved—That the following bill be introduced:

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

Question put and passed.

Senator Ian Campbell presented the bill and moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

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

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

Consideration of legislation: Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day of the 2001 spring sittings.

16 CONSIDERATION OF LEGISLATION

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell), pursuant to notice of motion not objected to as a formal motion, moved—That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the Broadcasting Legislation Amendment Bill (No. 2) 2001, allowing it to be considered during this period of sittings.

Question put and passed. Senator Brown, pursuant to standing order 100, recorded his vote for the noes.

17 ENVIRONMENT—SHARK FISHING

Motion determined as not formal: Senator Greig requested that general business notice of motion no. 881 standing in his name for today, relating to shark finning and unsustainable shark fishing, be taken as formal.

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

Suspension of standing orders: Senator Greig, at the request of the Leader of the Australian Democrats (Senator Stott Despoja) and pursuant to contingent notice, moved—That so much of the standing orders be suspended as would prevent Senator Stott Despoja 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. 881.

Debate ensued.

Question put and passed.

Senator Greig, at the request of Senator Stott Despoja, moved—That general business notice of motion no. 881 may be moved immediately and have precedence over all other business today till determined.

Question put and passed.

Senator Greig moved—That the Senate—

- (a) notes that:
 - (i) whilst Australia has banned the practice of shark finning in many Australian states, it is still permitted in the Northern Territory, Tasmania, Queensland and South Australia, and
 - (ii) Australia is a world leader in shark management, but despite an interim ban on shark finning in tuna fisheries, there are still a number of shark species targeted for their highly-valued fin, and at risk in Australia from over-fishing and bycatch; and
- (b) calls on the Government to make the ban permanent, and for the Australian federal, state and territory governments to cooperate in the development of a strong national plan of action that will end unsustainable shark fishing and high levels of shark in Australian fisheries.

Senator Forshaw moved the following amendment:

Omit subparagraph (a)(ii) and paragraph (b), substitute:

- (ii) Australia is a world leader in shark management, but despite an interim ban on shark finning in tuna fisheries, there are still a number of shark species, targeted for its highly valued fin, and that may be at risk in Australia from over-fishing and bycatch; and
- (b) calls on the Government to cooperate with industry in the development of a strong National Plan of Action that will end unsustainable shark fishing.

Debate ensued.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 47

Senators—

Abetz	Cooney	Harris	McKiernan
Alston	Crane	Herron	McLucas
Bishop	Crossin	Hill	Murphy
Boswell	Crowley	Hogg	Newman
Brandis	Denman	Hutchins	O'Brien
Buckland	Eggleston	Kemp	Reid
Calvert (Teller)	Ellison	Knowles	Sherry
Campbell, George	Ferguson	Ludwig	Tambling
Carr	Ferris	Macdonald, Sandy	Tchen
Chapman	Forshaw	Mackay	Troeth
Collins	Gibbs	Mason	Watson
Coonan	Gibson	McGauran	

NOES, 9

Senators—

Allison

Brown

Lees

Ridgeway

Bartlett

Greig

Murray

Woodley

Bourne (Teller)

Question agreed to.

Main question, as amended, put and passed.

18 INTELLIGENCE SERVICES—JOINT SELECT COMMITTEE—APPOINTMENT

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell), by leave, moved—That the Senate concurs with the resolution of the House of Representatives contained in message no. 739 relating to the appointment of the Joint Select Committee on the Intelligence Services (*see entry no. 6*).

Question put and passed. Senator Brown, pursuant to standing order 100, recorded his vote for the noes.

19 ECONOMICS LEGISLATION COMMITTEE—WITHDRAWAL OF REFERENCE

Order read, by leave, for the adjourned debate on the motion of Senator Calvert (*see entry no. 5*).

Question put and passed.

20 EMPLOYMENT—JOB NETWORK—LEONIE GREEN AND ASSOCIATES—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Collins, pursuant to notice of motion not objected to as a formal motion, moved—That there be laid on the table, by the Minister representing the Minister for Employment Services, no later than immediately after motions to take note of answers on 28 June 2001, a copy of the following documents:

- (a) a full copy of the interim report of the investigation undertaken by the Department of Employment, Workplace Relations and Small Business into allegations of impropriety by Leonie Green and Associates, as raised in the Employment, Workplace Relations, Small Business and Education Committee's hearing of 4 June 2001, which the Minister for Employment Services has undertaken to provide to the Parliament;
- (b) all documents provided to the Minister for Employment Services on his visit to the offices of Leonie Green and Associates on 10 April 2001; and
- (c) all notes, diary entries or file notes in relation to the visit by the Minister for Employment Services to the offices of Leonie Green and Associates on 10 April 2001.

Question put and passed.

21 NUCLEAR WEAPONS—MURUROA ATOLL

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

(a) notes that:

- (i) 2 July 2001 is the 35th anniversary of French nuclear weapons testing at the Mururoa Atoll, and
- (ii) 5 years ago all members and senators from all parties joined in condemning the French tests at Mururoa; and

(b) urges the Government to:

- (i) renew its opposition to nuclear weapons testing and proliferation in the international arena, and
- (ii) exercise the greatest diligence in repairing the damage to land and people caused by exposure to the British nuclear weapons testing in Australia in the 1950s.

Question put and passed.

22 PUBLICATIONS COMMITTEE—26TH REPORT

Senator Calvert, at the request of the Chair of the Standing Committee on Publications (Senator Lightfoot), tabled the following report:

PUBLICATIONS COMMITTEE

26TH REPORT

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

The Committee noted the centenary of the appointment of the Printing Committee on 6 June 1901 and, having considered documents presented to Parliament since 24 May 2001, recommends that the following be printed:

Australian Competition and Consumer Commission—Reports—

Changes in the prices paid for telecommunications services in Australia 1996-97 to 1999-2000.

Telecommunications competitive safeguards and Telstra's compliance with price control arrangements 1999-2000.

Australian Horticultural Corporation—Report for the period 1 July 2000 to 31 January 2001 [Final report].

Australian National University—Report for 2000.

Australian Wool Research and Promotion Organisation—Report for the period 1 July to 31 December 2000 [Final report].

Human Rights and Equal Opportunity Commission—Report—No. 13—Inquiry into a complaint of acts or practices inconsistent with or contrary to human rights.

Judge Advocate General—Report for 2000.

Senator Ross Lightfoot

Chairman

28 June 2001.

Senator Calvert moved—That the report be adopted.

Question put and passed.

**23 EMPLOYMENT, WORKPLACE RELATIONS, SMALL BUSINESS AND EDUCATION
LEGISLATION COMMITTEE—REPORT—INNOVATION AND EDUCATION LEGISLATION
AMENDMENT BILL 2001**

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

Innovation and Education Legislation Amendment Bill 2001, dated June 2001, *Hansard* record of the committee's proceedings [2 vols], additional information and submissions [13].

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

**24 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—
REPORT—ESTIMATES 2001-02**

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

Rural and Regional Affairs and Transport Legislation Committee—2001-02 estimates—Report, dated June 2001 and *Hansard* record of the committee's proceedings [12 vols].

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

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

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

25 REGULATIONS AND ORDINANCES—STANDING COMMITTEE—DOCUMENT

The Chairman of the Standing Committee on Regulations and Ordinances (Senator Coonan) tabled the following document:

Ministerial correspondence relating to the scrutiny of delegated legislation, 1 March to 30 June 2001, dated June 2001.

Senator Coonan moved—That the Senate take note of the document.

Question put and passed.

26 SENATORS' INTERESTS—STANDING COMMITTEE—DOCUMENT

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

Register of senators' interests incorporating declarations of interests and notifications of alterations of interests lodged between 5 December 2000 and 25 June 2001, dated June 2001.

**27 FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE—REPORT—
GOVERNMENT'S INFORMATION TECHNOLOGY OUTSOURCING INITIATIVE**

The Chair of the Finance and Public Administration References Committee (Senator George Campbell) tabled the following report:

Government's information technology outsourcing initiative: Accountability issues—Two case studies, dated June 2001.

Report ordered to be printed on the motion of Senator George Campbell.
Senator George Campbell moved—That the Senate take note of the report.
Debate adjourned till the next day of sitting, Senator George Campbell in continuation.

**28 CORPORATIONS AND SECURITIES—JOINT STATUTORY COMMITTEE—REPORT—
CORPORATE CODE OF CONDUCT BILL 2000**

Pursuant to order, the Chair of the Parliamentary Joint Committee on Corporations and Securities (Senator Chapman) tabled the following report and documents:

Corporate Code of Conduct Bill 2000, dated June 2001, *Hansard* record of the committee's proceedings, documents presented to the committee and submissions [43].

Report ordered to be printed on the motion of Senator Chapman.
Senator Chapman moved—That the Senate take note of the report.
Debate ensued.

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

**29 COPYRIGHT AMENDMENT (PARALLEL IMPORTATION) BILL 2001
PARLIAMENTARY CONTRIBUTORY SUPERANNUATION AMENDMENT BILL 2001**

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

Message no. 740, dated 27 June 2001—A Bill for an Act to amend the *Copyright Act 1968*, and for related purposes.

Message no. 744, dated 27 June 2001—A Bill for an Act to amend the *Parliamentary Contributory Superannuation Act 1948*, 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.

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 of the 2001 spring sittings.

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

Question put and passed.

30 BROADCASTING LEGISLATION AMENDMENT BILL (NO. 2) 2001

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

Message no. 743, dated 27 June 2001—A Bill for an Act to amend the *Broadcasting Services Act 1992*, and for other purposes.

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

Question put and passed.

Bill read a first time.

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

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

On the motion of Senator Ludwig the debate was adjourned.

Senator Ian Campbell moved—That the resumption of the debate be made an order of the day for a later hour.

Debate ensued.

Question put and passed.

31 **ORDER OF BUSINESS—REARRANGEMENT**

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That government business notice of motion no. 3 standing in his name for today, relating to the hours of meeting and routine of business, be postponed till a later hour.

Question put and passed.

32 **INTERACTIVE GAMBLING BILL 2001**

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—and on the amendment moved by Senator Bishop:

At the end of the motion, add “but the Senate:

- (a) condemns the Government for introducing an unworkable, internally inconsistent and hypocritical bill which:
 - (i) does not provide strong regulation of interactive gambling as the most practical and effective way of reducing social harm arising from gambling,
 - (ii) may exacerbate problem gambling in Australia by barring access to regulated online gambling services with in-built safeguards but allows access to unregulated offshore on-line gambling sites that do not offer consumer protection or probity,
 - (iii) does not extend current regulatory and consumer protection requirements applying to off-line and land-based casinos, clubs or wagering venues to online casinos and online wagering facilities,

- (iv) damages Australia's international reputation for effective consumer protection laws and strong, workable gambling regulations,
 - (v) singles out one form of gambling in an attempt to create the impression of placating community concern about the adverse social consequences of gambling but does not address more prevalent forms of gambling in Australian society, and
 - (vi) is not technology neutral or technically feasible; and
- (b) calls on the Government to show national leadership on this issue by:
- (i) addressing harm minimisation and consumer protection as well as criminal issues that may arise from online gambling,
 - (ii) ensuring a quality gambling product through financial probity checks on providers and their staff,
 - (iii) maintaining the integrity of games and the proper working of gaming equipment,
 - (iv) providing mechanisms to exclude those not eligible to gamble under Australian law,
 - (v) implementing problem gambling controls, such as exclusion from facilities, expenditure thresholds, no credit betting, and the regular provision of transaction records,
 - (vi) introducing measures to minimise any criminal activity linked to interactive gambling,
 - (vii) providing effective privacy protection for online gamblers,
 - (viii) containing social costs by ensuring that adequate ongoing funds are available to assist those with gambling problems,
 - (ix) addressing revenue issues that impact upon state government decisions relating to interactive gambling,
 - (x) establishing consistent standards for all interactive gambling operators,
 - (xi) examining international protocols with the aim of achieving multilateral agreements on sports betting and other forms of interactive gambling,
 - (xii) ensuring appropriate standards in advertising, in particular, to prevent advertising from targeting minors,
 - (xiii) investigating mechanisms to ensure that some of the benefits of online gambling accrue more directly to the local community,
 - (xiv) working with state and territory governments to ensure that online and interactive gambling operators meet the highest standards of probity and auditing through licensing agreements,
 - (xv) seeking co-regulation of interactive gambling by establishing a national regulatory framework that provides consumer safeguards and industry codes of practice, and
 - (xvi) coordinating the development of a co-regulatory regime through the Ministerial Council comprising of relevant state and federal ministers".

Debate resumed.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 19

Senators—

Bishop	Crowley	Hutchins	O'Brien
Buckland	Denman	Ludwig (Teller)	Ray
Campbell, George	Forshaw	Mackay	Schacht
Collins	Gibbs	McKiernan	Sherry
Crossin	Hogg	McLucas	

NOES, 36

Senators—

Abetz	Campbell, Ian	Harris	Newman
Allison	Coonan (Teller)	Herron	Payne
Alston	Crane	Kemp	Reid
Bartlett	Ellison	Knowles	Ridgeway
Boswell	Ferguson	Lees	Tambling
Bourne	Ferris	Lightfoot	Tchen
Brandis	Gibson	Macdonald, Sandy	Tierney
Brown	Greig	Mason	Troeth
Calvert	Harradine	Murray	Woodley

Question negatived.

Senator Greig moved the following amendment:

At the end of the motion, add “but the Senate:

- (a) calls on the Government to use all means available to it, including Commonwealth constitutional powers, to reverse the proliferation of electronic gaming machines (EGMs) or ‘pokies’ by:
 - (i) significantly reducing the number of EGMs in Australia, and
 - (ii) placing caps on EGM numbers for all establishments licensed to carry them;
- (b) congratulates the Western Australian and Tasmanian governments on having the lowest number of EGMs per capita; and
- (c) urges Western Australia not to relax its present restrictive policy on the availability of EGMs”.

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

Main question put.

The Senate divided—

AYES, 36

Senators—

Abetz	Coonan (Teller)	Herron	Reid
Allison	Crane	Kemp	Ridgeway
Alston	Ellison	Knowles	Tambling
Bartlett	Ferguson	Lees	Tierney
Boswell	Ferris	Lightfoot	Troeth
Bourne	Gibson	Macdonald, Sandy	Woodley
Brandis	Greig	Mason	
Brown	Harradine	Murray	
Calvert	Harris	Newman	
Campbell, Ian	Heffernan	Payne	

NOES, 19

Senators—

Bishop	Crowley	Hutchins	O'Brien
Buckland	Denman	Ludwig (Teller)	Ray
Campbell, George	Forshaw	Mackay	Schacht
Collins	Gibbs	McKiernan	Sherry
Crossin	Hogg	McLucas	

Question agreed to.

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.

The Minister for Communications, Information Technology and the Arts (Senator Alston) moved the following amendments together by leave:

No. 1—Clause 3, page 2 (line 18), omit “Australian-based”.

No. 2—Clause 4, page 3 (lines 25 to 27), omit the definition of *Australian-based interactive gambling service*.

No. 3—Clause 4, page 4 (line 4), omit the definition of *Australian-provider link*.

No. 4—Clause 4, page 5 (after line 32), after the definition of *industry standard*, insert:

interactive gambling service has the meaning given by section 5.

Note: This definition relates to the offences created by section 15 and Part 7A.

No. 5—Heading to clause 5, page 7 (line 15), omit “**Australian-based interactive**”, substitute “**Interactive**”.

No. 6—Clause 5, page 7 (line 16), omit “*Australian-based*”.

No. 7—Clause 5, page 7 (line 26), omit “service; and”, substitute “service.”.

No. 8—Clause 5, page 7 (line 27), omit paragraph (c).

No. 9—Clause 5, page 8 (line 3), omit “*Australian-based*”.

No. 10—Heading to Part 2, page 11 (line 2), omit “**Australian-based**”.

No. 11—Heading to clause 15, page 11 (line 6), omit “**Australian-based**”.

No. 12—Clause 15, page 11 (line 9), omit “Australian-based”.

No. 13—Clause 15, page 11 (after line 22), at the end of the clause, add:

- (4) For the purposes of subsection (3), in determining whether the person could, with reasonable diligence, have ascertained that the service had an Australian-customer link, the following matters are to be taken into account:
 - (a) whether prospective customers were informed that Australian law prohibits the provision of the service to customers who are physically present in Australia;
 - (b) whether customers were required to enter into contracts that were subject to an express condition that the customer was not to use the service if the customer was physically present in Australia;
 - (c) whether the person required customers to provide personal details and, if so, whether those details suggested that the customer was not physically present in Australia;
 - (d) whether the person has network data that indicates that customers were physically present outside Australia:
 - (i) when the relevant customer account was opened; and
 - (ii) throughout the period when the service was provided to the customer;
 - (e) any other relevant matters.
- (5) Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to an offence against subsection (1).

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

Senator Brown moved the following amendment to Senator Alston’s proposed amendment no. 13:

After paragraph 15(4)(d), insert:

- (da) whether the person has a system in place to block credit or debit cards issued by:
 - (i) an Australian bank; or
 - (ii) a person otherwise authorised to issue credit or debit cards in Australia;

Debate ensued.

Senator Ian Campbell moved—That the committee report progress and ask leave to sit again.

Question put and passed.

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

Ordered, on the motion of Senator Ian Campbell, that the committee have leave to sit again at a later hour.

33 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That government business notice of motion no. 3 have precedence over all other government business orders of the day from 12.45 pm till not later than 2 pm today.

Debate ensued.

Question put and passed.

Senator Ian Campbell, pursuant to notice, moved—That on Thursday, 28 June 2001:

- (a) the hours of meeting shall be 9.30 am to 6 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 7.30 pm till the adjournment shall be government business only;
- (d) divisions may take place after 7.30 pm; and
- (e) the question for the adjournment of the Senate shall not be proposed till a motion for the adjournment is moved by a minister.

Senator Carr moved the following amendment:

Omit paragraph (e), substitute:

- (e) the question for the adjournment of the Senate shall be proposed at 12 midnight.

Debate ensued.

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

Main question put and passed.

34 ORDER OF BUSINESS—REARRANGEMENT

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That the following government business orders of the day be considered till not later than 2 pm today:

- No. 11 New Business Tax System (Capital Allowances) Bill 2001 and two related bills.
Broadcasting Legislation Amendment Bill (No. 2) 2001.
- No. 4 Migration Legislation Amendment (Immigration Detainees) Bill 2001, second reading speeches.

- No. 3 Passenger Movement Charge Amendment Bill 2001, second reading speeches.
- No. 5 Health Legislation Amendment (Medical Practitioners' Qualifications and Other Measures) Bill 2001, second reading speeches.
- No. 12 Taxation Laws Amendment Bill (No. 2) 2001, second reading speeches.

Question put and passed.

35 NEW BUSINESS TAX SYSTEM (CAPITAL ALLOWANCES) BILL 2001
NEW BUSINESS TAX SYSTEM (CAPITAL ALLOWANCES—TRANSITIONAL AND
CONSEQUENTIAL) BILL 2001
NEW BUSINESS TAX SYSTEM (SIMPLIFIED TAX SYSTEM) BILL 2001

Order of the day read for the adjourned debate on the motion of the Minister for Regional Services, Territories and Local Government (Senator Ian Macdonald)—That these bills be now read a second time.

Question put and passed.

Bills read a second time.

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

In the committee

Bills, taken together and as a whole by leave, agreed to.

Bills to be reported without amendments.

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

On the motion of the Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) the report from the committee was adopted and the bills read a third time.

36 BROADCASTING LEGISLATION AMENDMENT BILL (NO. 2) 2001

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.

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 and agreed to.

Bill to be reported without amendment.

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

On the motion of the Minister for Communications, Information Technology and the Arts (Senator Alston) the report from the committee was adopted and the bill read a third time.

37 MIGRATION LEGISLATION AMENDMENT (IMMIGRATION DETAINEES) BILL 2001

Order of the day read for the adjourned debate on the motion of the Minister for Industry, Science and Resources (Senator Minchin)—That this bill be now read a second time.

Debate resumed.

Debate adjourned till a later hour, the Minister for Justice and Customs (Senator Ellison) in continuation.

38 PASSENGER MOVEMENT CHARGE AMENDMENT BILL 2001

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Health and Aged Care (Senator Tambling)—That this bill be now read a second time.

Debate resumed.

Senator Ridgeway moved the following amendment:

At the end of the motion, add “but the Senate calls on the Government:

- (a) to make the charge commissionable and thereby encourage overseas travel agents to comply with the charge regime; and
- (b) to introduce legislation allocating a further \$15 million per year to the Australian Tourist Commission over the life of the foot and mouth disease prevention program for the purpose of marketing measures designed to boost Australia’s image as a ‘clean and green destination’”.

Debate ensued.

Debate adjourned till a later hour, the Minister for Justice and Customs (Senator Ellison) in continuation.

39 HEALTH LEGISLATION AMENDMENT (MEDICAL PRACTITIONERS’ QUALIFICATIONS AND OTHER MEASURES) BILL 2001

Order of the day read for the adjourned debate on the motion of the Minister for Regional Services, Territories and Local Government (Senator Ian Macdonald)—That this bill be now read a second time.

Debate resumed.

Debate adjourned till a later hour, the Parliamentary Secretary to the Minister for Health and Aged Care (Senator Tambling) in continuation.

At 2 pm—

40 QUESTIONS

Questions without notice were answered.

41 ASSISTANT TREASURER—ANSWERS TO QUESTIONS

Senator Conroy moved—That the Senate take note of the answers given by the Assistant Treasurer (Senator Kemp) to questions without notice asked today.

Debate ensued.

Question put and passed.

42 LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE—GOVERNMENT RESPONSE—IMPLEMENTATION OF THE RECOMMENDATIONS OF THE REPORT, BRINGING THEM HOME

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) tabled the following document:

Legal and Constitutional References Committee—Healing: A legacy of generations—Report of the inquiry into the Federal Government's implementation of recommendations made by the Human Rights and Equal Opportunity Commission in *Bringing Them Home*—Government response.

Senator McKeirnan, by leave, moved—That the Senate take note of the document.

Debate ensued.

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

43 EMPLOYMENT—JOB NETWORK—LEONIE GREEN AND ASSOCIATES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell), by leave, made a statement and, pursuant to the order agreed to earlier today (*see entry no. 20*), tabled the following documents:

Employment—Job Network—Leonie Green and Associates—Copies of—

Diary entry, 10 April 2001, for the Minister for Employment Services (Mr Brough).

Documents provided to the Minister at the offices of Leonie Green and Associates on 10 April 2001.

E-mail communication from Leonie Green to the Secretary (Mr Shergold), Department of Employment, Workplace Relations and Small Business, dated 28 June 2001.

Letter from the Secretary (Mr Shergold), Department of Employment, Workplace Relations and Small Business to the Minister for Employment Services (Mr Brough), dated 28 June 2001.

44 WORKPLACE RELATIONS—G & K O’CONNOR PTY LTD—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell), by leave, made a statement and, pursuant to the order of the Senate of 24 May 2001, tabled the following documents:

Workplace Relations—G & K O’Connor Pty Ltd—Copies of selected folios from Department of Employment, Workplace Relations and Small Business files nos WR99/6889, WR99/13790, WR00/875, WR00/877 and WR00/873.

Senator Carr, by leave, moved—That the Senate take note of the statement.

Debate ensued.

Question put and passed.

45 DEPARTMENT OF THE SENATE—TRAVELLING ALLOWANCE—DOCUMENT

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

Department of the Senate—Travelling allowance—Payments to senators and members—July to December 2000, dated June 2001.

46 DEPARTMENT OF THE SENATE—SENIOR EXECUTIVE OFFICERS’ INTERESTS—DOCUMENT

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

Department of the Senate—Register of senior executive officers’ interests incorporating declarations of interests and notifications of alterations of interests lodged between 5 December 2000 and 25 June 2001, dated June 2001.

47 PARLIAMENTARY COMMITTEE REPORTS—PRESIDENT’S REPORT—GOVERNMENT RESPONSES OUTSTANDING

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

President’s report to the Senate on government responses outstanding to parliamentary committee reports as at 28 June 2001.

48 ADVANCE TO THE PRESIDING OFFICERS 2000-01—DOCUMENT

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

Advance to the Presiding Officers 2000-01—Details of amounts determined from the Advance to the Presiding Officers 2000-01 for the Department of the Parliamentary Library, dated 23 May 2001.

49 PARLIAMENTARIANS’ TRAVEL COSTS—DOCUMENT

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) tabled the following document:

Parliamentarians’ travel paid by the Department of Finance and Administration—July to December 2000, dated June 2001.

50 ESTIMATES OF PROPOSED EXPENDITURE FOR 2001-02—PORTFOLIO BUDGET STATEMENT—PORTFOLIOS AND EXECUTIVE DEPARTMENTS—DOCUMENTS

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) tabled the following documents:

Estimates of proposed expenditure for 2001-02—Portfolio budget statement—Portfolios and executive departments—Finance and Administration portfolio—Corrigenda.

51 BRINGING THEM HOME—IMPLEMENTATION PROGRESS REPORT—DOCUMENT

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) tabled the following document:

Bringing them home: National inquiry into the separation of Aboriginal and Torres Strait Islander children from their families—Progress on Commonwealth initiatives in response to the *Bringing Them Home* report, as at 31 December 2001.

52 PRIVILEGES—STANDING COMMITTEE—97TH REPORT

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

97th report—Person referred to in the Senate (Mr Terence O'Shane), dated June 2001.

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

Senator Ray, by leave, moved—That the report be adopted.

Question put and passed.

Response as recommended by the committee incorporated in Hansard accordingly.

53 DOCUMENTS

The following documents were tabled by the Clerk:

Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—Directives—Part—

105, dated 20 [4] and 21 [7] June 2001.

107, dated 20 June 2001.

Defence Act—Determination under section 58B—Defence Determination 2001/17.

Health Insurance Act—Health Insurance Determination HS/2/01.

National Health Act—Health Benefits Reinsurance (Records of Organisations) Amendment Determination 2001 (No. 1).

54 COMMITTEES—APPOINTMENT OF MEMBERS

The Acting Deputy President (Senator Murphy) informed the Senate that the President had received letters nominating senators to be members of various committees.

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell), by leave, moved—That senators be appointed to committees as follows:

Intelligence Services—Joint Select Committee—

Appointed: Senators Calvert, Coonan, Faulkner, Greig, Sandy Macdonald and Ray

Rural and Regional Affairs and Transport Legislation Committee—
Participating member: Senator Denman.

Question put and passed.

55 AUSTRALIA NEW ZEALAND FOOD AUTHORITY AMENDMENT BILL 2001

A message from the House of Representatives was reported agreeing to the following bill with amendments:

Message no. 746, dated 28 June 2001—Australia New Zealand Food Authority Amendment Bill 2001.

On the motion of the Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) consideration of the message in committee of the whole was made an order of the day for a later hour.

56 ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION AMENDMENT (WILDLIFE PROTECTION) BILL 2001

A message from the House of Representatives was reported agreeing to the following bill with amendments:

Message no. 745, dated 28 June 2001—Environment Protection and Biodiversity Conservation Amendment (Wildlife Protection) Bill 2001.

On the motion of the Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) consideration of the message in committee of the whole was made an order of the day for a later hour.

57 INTERACTIVE GAMBLING BILL 2001

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

In the committee

Consideration resumed of the bill—and of the amendments moved by the Minister for Communications, Information Technology and the Arts (Senator Alston) and of the amendment moved by Senator Brown to Senator Alston's proposed amendment no. 13 (see entry no. 32).

Question—That Senator Brown's amendment to Senator Alston's proposed amendment no. 13 be agreed to—put and negatived.

Debate continued.

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

Question—That the bill, as amended, be agreed to—divided in respect of clause 7.

Question—That clause 7 stand as printed—put and negatived.

Senator Harradine moved the following amendments together by leave:

Clause 4, page 6 (after line 9), after the definition of *lottery*, insert:

non-Australian-based interactive gambling service has the meaning given by section 8B.

Page 9 (after line 14), after clause 8, insert:

8B Non-Australian-based interactive gambling services

- (1) For the purposes of this Act, a *non-Australian-based interactive gambling service* is a gambling service, where:
- (a) the service is provided in the course of carrying on a business; and
 - (b) the service is provided to customers using any of the following:
 - (i) an Internet carriage service;
 - (ii) any other listed carriage service;
 - (iii) a broadcasting service;
 - (iv) any other content service;
 - (v) a datacasting service; and
 - (c) the service does not have an Australian-provider link (see section 7).

Note: This definition relates to the offences created by section 15A.

- (2) Subsection (1) has effect subject to subsection (3).

Excluded services

- (3) For the purposes of this Act, none of the following services is a *non-Australian-based interactive gambling service*:
- (a) a telephone betting service;
 - (b) a service to the extent to which it relates to the entering into of contracts that, under the Corporations Law, are exempt from a law relating to gambling or wagering (see section 9);
 - (c) an exempt service (see section 10).
- (4) A service under subsection (1) includes any agent or intermediary used by the gambling service for the making or receipt of any payments within the meaning of subsection 8A(1)

Debate ensued.

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

Senator Brown moved the following amendments together by leave:

Clause 3, page 2 (line 20), after “Australia”, insert “or overseas”.

Clause 3, page 2 (after line 20), after paragraph (a), insert:

- (aa) prohibiting foreign-based interactive gambling service providers from soliciting, or providing interactive gambling services to, persons resident in Australia; and
- (ab) prohibiting persons resident in Australia from using, or betting on, an interactive gambling service; and
- (ac) making agreements relating to unlawful gambling unenforceable; and

Clause 4, page 5 (after line 10), after the definition of *Federal Court*, insert:

foreign-based interactive gambling service has the meaning given by section 5A.

Clause 4, page 6 (after line 6), after the definition of *Internet service provider*, insert:

legal wagering service provider means:

- (a) a person who is authorised under the law of a State or Territory to carry on bookmaking activities; or
- (b) a person who is authorised under the law of a State or Territory to conduct totalizator betting.

Clause 5, page 8 (after line 4), after paragraph (a), insert:

- (aa) a service to the extent to which it relates to betting on, or on a series of, any or all of the following:
 - (i) a horse race;
 - (ii) a harness race;
 - (iii) a greyhound race;
 - (iv) a sporting event;
- (ab) a service to the extent to which it relates to betting on:
 - (i) an event; or
 - (ii) a series of events; or
 - (iii) a contingency;
 that is not covered by paragraph (aa);

Clause 5, page 8 (after line 8), at the end of the clause, add:

- (4) Paragraphs (3)(a), (aa) and (ab) do not apply to a service to the extent to which:
 - (a) the service relates to betting on a contingency that may or may not happen in the course of a sporting event, where the bets are placed, made, received or accepted after the beginning of the event; or
 - (b) the service relates to betting on a horse race, harness race or greyhound race that is to be held anywhere in Australia if it is provided by a person who is not a legal wagering service provider.
- (5) The regulations may exempt any person, or class of persons, from the operation of part or all of subsection (4) in such circumstances, and subject to such conditions, as may be specified in the regulations.
- (6) Paragraph (3)(ab) does not apply to a service to the extent to which the service is:
 - (a) a service for the conduct of a lottery; or
 - (b) a service for the supply of lottery tickets; or
 - (c) a service relating to betting on the outcome of a lottery; or
 - (d) a service for the conduct of a game, where:
 - (i) the game is played for money or anything else of value; and
 - (ii) the game is a game of chance or of mixed chance and skill; and
 - (iii) a customer of the service gives or agrees to give consideration to play or enter the game; or
 - (e) a service relating to betting on the outcome of a game of chance or of mixed chance and skill.

Page 8 (after line 8), after clause 5, insert:

5A Foreign-based interactive gambling services

- (1) For the purposes of this Act, a ***foreign-based interactive gambling service*** is a gambling service, where:
- (a) the service is provided in the course of carrying on a business; and
 - (b) the service is provided to customers using any of the following:
 - (i) an Internet carriage service;
 - (ii) any other listed carriage service;
 - (iii) a broadcasting service;
 - (iv) any other content service;
 - (v) a datacasting service; and
 - (c) the service does not have an Australian-provider link (see section 7).

Note: This definition relates to the offence created by section 15A.

- (2) Subsection (1) has effect subject to subsection (3).

Excluded services

- (3) For the purposes of this Act, none of the following services is a ***foreign-based interactive gambling service***:
- (a) a telephone betting service;
 - (b) a service to the extent to which it relates to betting on, or on a series of, any or all of the following:
 - (i) a horse race;
 - (ii) a harness race;
 - (iii) a greyhound race;
 - (iv) a sporting event;
 - (c) a service to the extent to which it relates to betting on:
 - (i) an event; or
 - (ii) a series of events; or
 - (iii) a contingency;
 that is not covered by paragraph (aa);
 - (d) a service to the extent to which it relates to the entering into of contracts that, under the Corporations Law, are exempt from a law relating to gaming or wagering (see section 9);
 - (e) an exempt service (see section 10).
- (4) Paragraphs (3)(a), (b) and (c) do not apply to a service to the extent to which:
- (i) the service relates to betting on a contingency that may or may not happen in the course of a sporting event, where the bets are placed, made, received or accepted after the beginning of the event; or
 - (ii) the service relates to betting on a horse race, harness race or greyhound race that is to be held anywhere in Australia if it is provided by a person who is not a legal wagering service provider.
- (5) Paragraph (3)(c) does not apply to a service to the extent to which the service is:
- (a) a service for the conduct of a lottery; or
 - (b) a service for the supply of lottery tickets; or

- (c) a service relating to betting on the outcome of a lottery; or
- (d) a service for the conduct of a game, where:
 - (i) the game is played for money or anything else of value; and
 - (ii) the game is a game of chance or of mixed chance and skill; and
 - (iii) a customer of the service gives or agrees to give consideration to play or enter the game; or
- (e) a service relating to betting on the outcome of a game of chance or of mixed chance and skill.

- (6) The exclusion of a service under paragraph (3)(a), (b) or (c) does not exclude the service from the operation of Part 7A.

Clause 6, page 8 (line 20), omit “neither”, substitute “none”.

Clause 6, page 8 (line 25), at the end of subclause (3), add:

- ; (c) a gambling service that is excluded from section 5;
- (d) a gambling service that is excluded from section 5A.

Heading to Part 2, page 11 (lines 2 to 4), omit the heading, substitute:

Part 2—Offences

Heading to clause 15, page 11 (line 7), omit “**to customers in Australia**”.

Clause 15, page 11 (lines 8 to 11), omit subclause (1), substitute:

- (1) A person is guilty of an offence if the person intentionally provides an Australian-based interactive gambling service.

Clause 15, page 11 (lines 17 to 22), omit subclause (3) (and the note).

Page 11 (after line 22), at the end of Part 2, add:

15A Offence of providing a foreign-based interactive gambling service to customers in Australia

- (1) A person is guilty of an offence if:
 - (a) the person intentionally provides an foreign-based interactive gambling service; and
 - (b) the service has an Australian-customer link (see section 8).

Penalty: 2,000 penalty units.

- (2) A person who contravenes subsection (1) is guilty of a separate offence in respect of each day (including a day of a conviction for the offence or any later day) during which the contravention continues.
- (3) Subsection (1) does not apply if the person:
 - (a) did not know; and
 - (b) could not, with reasonable diligence, have ascertained; that the service had an Australian-customer link.

Note: The defendant bears an evidential burden in relation to the matters in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

Page 11 (after line 22), at the end of Part 2, add:

15B Offence of using an interactive gambling service in Australia

- (1) A person while resident in Australia must not use, or bet on, an interactive gambling service.

Penalty: 50 penalty units.

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

Senator Harradine moved the following amendments together by leave:

Clause 4, page 6 (after line 19), after the definition of *prohibited Internet gambling service*, insert:

prohibited payment has the meaning given by section 8A.

Page 9 (after line 14), after clause 8, insert:

8A Prohibited payments

- (1) For the purposes of this Act, a *prohibited payment* is either:
- (a) a payment made for the benefit of a non-Australian-based interactive gambling service by, or on behalf of, a customer who is physically present in Australia; or
 - (b) a payment made by, or on behalf of, a non-Australian-based interactive gambling service for the benefit of a customer who is physically present in Australia.
- (2) A payment includes, but is not limited to, any or all of the following forms of payment:
- (a) an amount of Australian currency;
 - (b) an amount of foreign currency;
 - (c) a cheque;
 - (d) a money order;
 - (e) a credit card transaction;
 - (f) an electronic transfer of funds;
 - (g) a bill of exchange;
 - (h) a promissory note;
 - (i) a loan;
 - (j) a transfer or allotment of securities;
 - (k) an agreement or contract conferring on a person a right (whether actual or contingent) to receive any valuable consideration for the performance of any service.

Note: This definition relates to offences created by section 15A.

Page 11 (after line 22), after Part 2, insert:

Part 2A—Prohibited payments

15A Offences relating to prohibited payments

- (2) A constitutional corporation is guilty of an offence if the corporation makes or receives a prohibited payment.

Penalty: 1,000 penalty units.

- (3) It is a defence to a prosecution of a person or a corporation for an offence against subsection (1) or (2), as the case may be, if the person or corporation proves that the person or corporation did not know, and could not with reasonable diligence have discovered, that the person or corporation was making or receiving a prohibited payment.
- (4) In this section:
constitutional corporation means:
 - (a) a foreign corporation; or
 - (b) a trading corporation to which paragraph 51(xx) of the Constitution applies; or
 - (c) a financial corporation to which paragraph 51(xx) of the Constitution applies; or
 - (d) a corporation incorporated in a Territory; or
 - (e) a body corporate that carries on, as its sole or principal business, the business of:
 - (i) banking (other than State banking not extending beyond the limits of the State concerned); or
 - (ii) insurance (other than State insurance not extending beyond the limits of the State concerned); or
 - (f) a body corporate that is a holding company of a body corporate covered by any of the above paragraphs.

15B Agreements relating to prohibited payments unenforceable

Any agreement, whether oral or in writing, that relates to a payment that is a prohibited payment under this Act has no effect, and no action may be brought or maintained in any court to recover any such payment.

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

Senator Brown moved the following amendment:

Page 11 (after line 22), after Part 2, insert:

Part 2A—Unenforceability of agreements relating to unlawful gambling

15D Agreements relating to unlawful gambling unenforceable

- (1) Any agreement, whether oral or in writing, that relates to any form of gambling that is prohibited under this Act has no effect, and no action may be brought or maintained in any court to recover any money alleged to have been won from, or any money paid in connection with, any such form of gambling.
- (2) Nothing in subsection (1) applies to or in respect of any form of gambling that is otherwise lawful.
- (3) Any agreement, whether oral or in writing, that relates to a funds transfer to, or through, an intermediary for the sole or dominant purpose of facilitating the transfer of cleared funds to a gambling service provider who is providing a service that is unlawful under this Act has no effect and

no action may be brought or maintained in any court to recover any money alleged to have been won from, or any money paid in connection with, any such transfers.

- (4) Nothing in subsection (3) applies to or in respect of any form of funds transfer that is otherwise lawful.

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

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

Clause 6, page 8 (line 16), omit paragraph (c), substitute:

- (c) an individual who is physically present in Australia is capable of becoming a customer of the service.

Clause 6, page 8 (after line 17), after subclause (1), insert:

- (1A) For the purposes of paragraph (1)(c), in determining whether an individual who is physically present in Australia is capable of becoming a customer of a service, it is to be assumed that the individual will not falsify or conceal the individual's identity or location.

Senator Brown moved the following amendment:

Page 11 (after line 22), at the end of Part 2, add:

15C Offence of providing an electronic link to an interactive gambling service

- (1) A person must not provide, by means of the Internet, subscription broadcasting or narrowcasting or any other online communications system, any service that enables a person to gain access to any form of gambling service prohibited by this Act.

Penalty: 50 penalty units.

- (2) Subsection (1) does not apply to, or in respect of, any form of gambling that is otherwise lawful.

- (3) The regulations may exempt any person, or class of persons, from the operation of part or all of subsection (1) in such circumstances, and subject to such conditions, as may be specified in the regulations.

Debate ensued.

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

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

Clause 2, page 2 (after line 2), after subclause (2), insert:

- (2A) Part 2A commences on the 28th day after the day on which this Act receives the Royal Assent.

Clause 3, page 2 (after line 20), after paragraph (a), insert:

- | |
|--|
| <p>(aa) prohibiting Australian-based interactive gambling services from being provided to customers in designated countries; and</p> |
|--|

Clause 4, page 4 (after line 25), after the definition of *datacasting service*, insert:

designated country has the meaning given by section 9A.

Clause 4, page 4 (after line 25), after the definition of **datacasing service**, insert:

designated country-customer link has the meaning given by section 9B.

Page 9 (after line 26), after clause 9, insert:

9A Designated country

- (1) The Minister may, by writing, declare that a specified foreign country is a **designated country** for the purposes of this Act.
- (2) A declaration under subsection (1) has effect accordingly.
- (3) The Minister must not declare a foreign country under subsection (1) unless:
 - (a) the government of the country has requested the Minister to make the declaration; and
 - (b) there is in force in that country legislation that corresponds to section 15.
- (4) At least 90 days before making a declaration under subsection (1), the Minister must cause to be published a notice:
 - (a) in the *Gazette*; and
 - (b) in a newspaper circulating in each State, in the Northern Territory and in the Australian Capital Territory;
 setting out the Minister's intention to make the declaration.
- (5) In deciding whether to declare a foreign country under subsection (1), the Minister must have due regard to:
 - (a) any complaints; and
 - (b) any supporting statements;
 made by the government of that country.
- (6) An instrument under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Page 9 (after line 26), after clause 9, insert:

9B Designated country-customer link

For the purposes of this Act, a gambling service has a **designated country-customer link** if, and only if, any or all of the customers of the service are physically present in a designated country.

Page 11 (after line 22), after Part 2, insert:

Part 2A—Offence of providing an Australian-based interactive gambling service to customers in designated countries

15A Offence of providing an Australian-based interactive gambling service to customers in designated countries

- (1) A person is guilty of an offence if:
 - (a) the person intentionally provides an Australian-based interactive gambling service; and

(b) the service has a designated country-customer link (see section 9B).

Penalty: 2,000 penalty units.

- (2) A person who contravenes subsection (1) is guilty of a separate offence in respect of each day (including a day of conviction for the offence or any later day) during which the contravention continues.
- (3) Subsection (1) does not apply if the person:
- (a) did not know; and
 - (b) could not, with reasonable diligence, have ascertained;
- that the service had a designated country-customer link.

Note: The defendant bears an evidential burden in relation to the matters in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

- (4) For the purposes of subsection (3), in determining whether the person could, with reasonable diligence, have ascertained that the service had a designated country-customer link, the following matters are to be taken into account:
- (a) whether prospective customers were informed that Australian law prohibits the provision of the service to customers who are physically present in a designated country;
 - (b) whether customers were required to enter into contracts that were subject to an express condition that the customer was not to use the service if the customer was physically present in a designated country;
 - (c) whether the person required customers to provide personal details and, if so, whether those details suggested that the customer was not physically present in a designated country;
 - (d) whether the person has network data that indicates that customers were physically present outside a designated country:
 - (i) when the relevant customer account was opened; and
 - (ii) throughout the period when the service was provided to the customer;
 - (e) any other relevant matters.
- (5) Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to an offence against subsection (1).
- (6) For the purposes of this section, an ***Australian-based interactive gambling service*** is an interactive gambling service, where the service has an Australian-provider link.
- (7) For the purposes of this section, an interactive gambling service has an ***Australian-provider link*** if, and only if:
- (a) the service is provided in the course of carrying on a business in Australia; or
 - (b) the central management and control of the service is in Australia; or
 - (c) the service is provided through an agent in Australia; or

- (d) the service is provided to customers using an Internet carriage service, and any or all of the relevant Internet content is hosted in Australia.
- (8) For the purposes of this section, the ***relevant Internet content***, in relation to an interactive gambling service, is Internet content that is accessed, or available for access, by an end-user in the capacity of customer of the service.

Senator Alston moved the following amendments together by leave:

No. 1—Clause 4, page 4 (after line 25), after the definition of ***datacasting service***, insert:

designated broadcasting link has the meaning given by section 8C.

No. 2—Clause 4, page 4 (after line 25), after the definition of ***datacasting service***, insert:

designated datacasting link has the meaning given by section 8C.

No. 3—Clause 4, page 5 (after line 8), after the definition of ***engage in conduct***, insert:

excluded gaming service has the meaning given by section 8B.

No. 4—Clause 4, page 5 (after line 8), after the definition of ***engage in conduct***, insert:

excluded lottery service has the meaning given by section 8D.

No. 5—Clause 4, page 5 (after line 8), after the definition of ***engage in conduct***, insert:

excluded wagering service has the meaning given by section 8A.

No. 6—Clause 5, page 8 (after line 4), after paragraph (a), insert:

- (aa) an excluded wagering service (see section 8A);
- (ab) an excluded gaming service (see section 8B);
- (ac) a service that has a designated broadcasting link (see section 8C);
- (ad) a service that has a designated datacasting link (see section 8C);
- (ae) an excluded lottery service (see section 8D);

No. 7—Clause 6, page 8 (line 20), omit “neither”, substitute “none”.

No. 8—Clause 6, page 8 (after line 21), before paragraph (a), insert:

- (aa) an excluded wagering service (see section 8A);
- (ab) an excluded gaming service (see section 8B);
- (ac) a service that has a designated broadcasting link (see section 8C);
- (ad) a service that has a designated datacasting link (see section 8C);
- (ae) an excluded lottery service (see section 8D);

No. 9—Page 9 (after line 14), after clause 8, insert:

8A Excluded wagering service

- (1) For the purposes of this Act, an ***excluded wagering service*** is:
 - (a) a service to the extent to which it relates to betting on, or on a series of, any or all of the following:
 - (i) a horse race;
 - (ii) a harness race;
 - (iii) a greyhound race;

- (iv) a sporting event;
- (b) a service to the extent to which it relates to betting on:
 - (i) an event; or
 - (ii) a series of events; or
 - (iii) a contingency;
 that is not covered by paragraph (a).
- (2) Paragraphs (1)(a) and (b) do not apply to a service to the extent to which:
 - (a) the service relates to betting on the outcome of a sporting event, where the bets are placed, made, received or accepted after the beginning of the event; or
 - (b) the service relates to betting on a contingency that may or may not happen in the course of a sporting event, where the bets are placed, made, received or accepted after the beginning of the event.
- (3) Paragraph (1)(b) does not apply to a service to the extent to which the service is:
 - (a) a service for the conduct of a scratch lottery or other instant lottery; or
 - (b) a service for the supply of tickets in a scratch lottery or other instant lottery; or
 - (c) a service relating to betting on the outcome of a scratch lottery or other instant lottery; or
 - (d) a service for the conduct of a game covered by paragraph (e) of the definition of *gambling service* in section 4; or
 - (e) a service relating to betting on the outcome of a game of chance or of mixed chance and skill.

No. 10—Page 9 (after line 14), after clause 8, insert:

8B Excluded gaming service

- (1) For the purposes of this Act, an *excluded gaming service* is a service for the conduct of a game covered by paragraph (e) of the definition of *gambling service* in section 4, to the extent to which the service is provided to customers who are in a public place.
- (2) In this section:

public place means a place, or a part of a place, to which the public, or a section of the public, ordinarily has access, whether or not by payment or by invitation (including, for example, a shop, casino, bar or club).

section of the public includes the members of a particular club, society or organisation, but does not include a group consisting only of persons with a common workplace or a common employer.

No. 11—Page 9 (after line 14), after clause 8, insert:

8C Designated broadcasting link and designated datacasting link

Designated broadcasting link

- (1) For the purposes of this Act, a gambling service has a ***designated broadcasting link*** if:
- (a) either:
 - (i) the service is expressly and exclusively associated with a particular program, or a particular series of programs, broadcast on a broadcasting service; or
 - (ii) the sole purpose of the gambling service is to promote goods or services (other than gambling services) that are the subject of advertisements broadcast on a broadcasting service, and the gambling service is associated with those advertisements; and
 - (b) such other conditions (if any) as are specified in the regulations have been satisfied.

Designated datacasting link

- (2) For the purposes of this Act, a gambling service has a ***designated datacasting link*** if:
- (a) either:
 - (i) the service is expressly and exclusively associated with particular content, or a particular series of content, transmitted on a datacasting service; or
 - (ii) the sole purpose of the gambling service is to promote goods or services (other than gambling services) that are the subject of advertisements transmitted on a datacasting service, and the gambling service is associated with those advertisements; and
 - (b) such other conditions (if any) as are specified in the regulations have been satisfied.

- (3) In this section:

content, in relation to a datacasting service, does not include advertising or sponsorship material.

program has the same meaning as in the *Broadcasting Services Act 1992*, but does not include advertising or sponsorship material.

No. 12—Page 9 (after line 14), after clause 8, insert:

8D Excluded lottery service

- (1) For the purposes of this Act, an ***excluded lottery service*** is:
- (a) a service for the conduct of a lottery; or
 - (b) a service for the supply of lottery tickets.
- (2) Subsection (1) does not apply to an electronic form of:
- (a) scratch lottery; or
 - (b) other instant lottery.

Debate ensued.

Senator Brown moved the following amendment to Senator Alston's proposed amendment no. 9:

At the end of clause 8A, add:

- (4) Subsection (1) does not apply to a service unless the person who provides the service is authorised under a law of a State or Territory to provide the service.

Senator Alston moved—That the committee report progress and ask leave to sit again.

Question put and passed.

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

Ordered, on the motion of Senator Alston, that the committee have leave to sit again at a later hour.

58 SELECTION OF BILLS—STANDING COMMITTEE—REPORTS NOS 9 AND 10 OF 2001

Senator Coonan, by leave and at the request of the Chairman of the Selection of Bills Committee (Senator Calvert), tabled the following reports:

SELECTION OF BILLS COMMITTEE

REPORT NO. 9 OF 2001

1. The committee met on 26 June 2001.
2. The committee considered a proposal to refer the provisions of the Alcohol Education and Rehabilitation Account Bill 2001 to a committee but was unable to reach agreement on whether the provisions of the bill should be referred.
3. The committee resolved to recommend that the following bills *not* be referred to committees:
 - Fair Prices and Better Access for All (Petroleum) Bill 2001
 - Trade Practices Amendment (Representative Actions) Bill 2001
 - Trade Practices Amendment (Mergers in Regional Markets) Bill 2001
 - Trade Practices Amendment (Unconscionable Conduct) Bill 2001
 - Trade Practices Amendment (Operation of State and Territory Laws) Bill 2001
 - Finance and Administration Legislation Amendment (Application of Criminal Code) Bill (No. 1) 2001
 - Financial Sector (Collection of Data) Bill 2001
 - Financial Sector (Collection of Data—Consequential and Transitional Provisions) Bill 2001
 - Migration Legislation Amendment (Immigration Detainees) Bill 2001
 - Reconciliation and Aboriginal and Torres Strait Islander Affairs Legislation Amendment (Application of Criminal Code) Bill 2001
 - Taxation Laws Amendment Bill (No. 2) 2001
 - Taxation Laws Amendment Bill (No. 3) 2001
 - Trade Marks and Other Legislation Amendment Bill 2001

Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 2) 2001

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

Bill deferred from meeting of 22 May 2001

Aviation Legislation Amendment Bill (No. 2) 2001

Bills deferred from meeting of 19 June 2001

Financial Services Reform Bill 2001

Financial Services Reform (Consequential Provisions) Bill 2001

Corporations (Compensation Arrangements Levies) Bill 2001

Corporations (Fees) Amendment Bill 2001

Corporations (National Guarantee Fund Levies) Amendment Bill 2001

States Grants (Primary and Secondary Education Assistance) Amendment Bill 2001

Vocational Education and Training Funding Amendment Bill 2001

Bill deferred from meeting of 26 June 2001

Superannuation Contributions Taxes and Termination Payments Tax Legislation Amendment Bill 2001

Paul Calvert

Chair

27 June 2001.

SELECTION OF BILLS COMMITTEE

REPORT NO. 10 OF 2001

1. The committee met on 28 June 2001.
2. The committee resolved to recommend—
 - (a) That the following bill be referred to a committee as follows:

Bill title	Stage at which referred	Legislation committee	Reporting date
Alcohol Education and Rehabilitation Account Bill 2001	Immediately	Community Affairs	9 August 2001

- (b) That the provisions of the following bill be referred to a committee as follows:

Bill title	Stage at which referred	Legislation committee	Reporting date
Cybercrime Bill 2001	Immediately	Legal and Constitutional	21 August 2001

Paul Calvert

Chair

28 June 2001.

Senator Coonan moved—That the reports be adopted.

Question put and passed.

59 INTERACTIVE GAMBLING BILL 2001

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

In the committee

Consideration resumed of the bill, as amended—and of the amendments moved by the Minister for Communications, Information Technology and the Arts (Senator Alston) and of the amendment moved by Senator Brown to Senator Alston's proposed amendment no. 9 (see entry no. 57).

Question—That Senator Brown's amendment to Senator Alston's proposed amendment no. 9 be agreed to—put and negatived.

Senator Allison moved the following amendment to Senator Alston's proposed amendment no. 9:

After subclause 8A(1), insert:

- (1A) Subsection (1) does not apply to a service unless such other conditions (if any) as are specified in the regulations have been satisfied.

Debate ensued.

Declaration of interest: Senator O'Brien declared an interest in relation to the bill.

Debate continued.

Question—That Senator Allison's amendment to Senator Alston's proposed amendment no. 9 be agreed to—put and passed.

Senator Harris moved the following amendments to Senator Alston's proposed amendment no. 9 together by leave:

At the end of subclause 8A(1), add:

; or (c) a telephone betting service.

Subclause 8A(2), omit "and (b)", substitute ", (b) and (c)".

At the end of clause 8A, add:

- (4) Paragraphs (1)(a), (b) and (c) do not apply to the extent to which the service relates to betting on a horse race, harness race or greyhound race that is to be held anywhere in Australia, unless the person who provides the service is authorised under a law of a State or Territory to provide the service.
- (5) Paragraph (2)(a) does not apply if the person who provides the service is:
- (a) authorised under a law of a State or Territory to provide the service; and
 - (b) is bound by a national Code of Practice prepared by a body that is representative of legal Australian wagering service providers and approved by a majority of State and Territory Racing Ministers.

- (6) The regulations may exempt a person who is bound by a national Code of Practice mentioned in paragraph (5)(b) from the operation of paragraph (2)(b) in such circumstances, and subject to such conditions, as are prescribed.

Debate ensued.

Question—That Senator Harris' amendments to Senator Alston's proposed amendment no. 9 be agreed to—put and negatived.

Senator Allison moved the following amendment to Senator Alston's proposed amendment no. 10:

After subclause 8B(1), insert:

- (1A) Subsection (1) does not apply to a service unless such other conditions (if any) as are specified in the regulations have been satisfied.

Question—That Senator Allison's amendment to Senator Alston's proposed amendment no. 10 be agreed to—put and passed.

Senator Brown moved the following amendment to Senator Alston's proposed amendment no. 12:

At the end of clause 8D, add:

- (3) Subsection (1) does not apply to a service unless the person who provides the service is authorised under a law of a State or Territory to provide the service.

Question—That Senator Brown's amendment to Senator Alston's proposed amendment no. 12 be agreed to—put and passed.

Debate continued.

Senator Allison moved the following amendment to Senator Alston's proposed amendment no. 12:

After subclause 8D(1), insert:

- (1A) Subsection (1) does not apply to a service unless such other conditions (if any) as are specified in the regulations have been satisfied.
- (1B) Without limiting subsection (1A), a condition specified in regulations made for the purposes of that subsection may provide that the lottery must not be:
- (a) a highly repetitive or frequently drawn form of a keno-type lottery;
 - or
 - (b) a similar lottery.

Question—That Senator Allison's amendment to Senator Alston's proposed amendment no. 12 be agreed to—put and passed.

Debate continued.

Question—That Senator Brown's amendment to Senator Alston's proposed amendment no. 12—put again, by leave, and negatived.

Question—That amendments nos 1 to 8 and 11 and nos 9, 10 and 12, as amended, be agreed to—put and passed.

Senator Brown moved the following amendment:

Clause 37, page 27 (after line 6), at the end of subclause (6), add:

- ; (c) an arrangement that involves the use of redirection of URLs of prohibited Internet gambling services, or prohibited Internet gambling content, by a requirement to ensure all Domain Name Services in Australia are ultimately linked to an Australian Root Server where requests for that service or content are redirected, by local reassignment of the IP of the prohibited Internet gambling service domain, to an information site maintained by the ABA.

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

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

Clause 2, page 2 (line 1), omit “Part 2 commences”, substitute “Parts 2 and 7A commence”.

Clause 3, page 3 (after line 17), at the end of the clause, add:

- This Act prohibits the advertising of interactive gambling services.

Clause 5, page 7 (line 28), omit “offence created by section 15”, substitute “offences created by section 15 and Part 7A”.

Page 45 (after line 6), after Part 7, insert:

Part 7A—Prohibition of advertising of interactive gambling services

Division 1—Interpretation: definitions

61AA Definitions

In this Part, unless the contrary intention appears:

broadcast means transmit by means of a broadcasting service.

broadcasting service means a service that delivers television programs or radio programs to persons having equipment appropriate for receiving that service, whether the delivery uses the radiofrequency spectrum, cable, optical fibre, satellite or any other means or a combination of those means, but does not include:

- (a) a datacasting service; or
- (b) a service that delivers programs using the Internet, where the delivery does not use the broadcasting services bands.

broadcasting services bands has the same meaning as in the *Broadcasting Services Act 1992*.

datacast means transmit by means of a datacasting service.

display includes continue to display.

exempt library means:

- (a) a public library; or
- (b) a library of a tertiary educational institution; or

- (c) a library of an authority of the Commonwealth or of a State or Territory.

government or political matters means government or political matters relating to any level of government in Australia, and includes any of the following matters:

- (a) participation in, association with and communications in relation to any election or appointment to public office;
- (b) political views or public conduct relating to activities that have become the subject of political debate;
- (c) the performance, conduct, capacity or fitness for office of a person elected or appointed to, or seeking election or appointment to, any public office;
- (d) the actions or policies, or proposed actions or policies, of any government in Australia or any Australian political party.

interactive gambling service advertisement has the meaning given by Division 2.

interactive gambling service provider means a person who provides an interactive gambling service.

periodical means an issue (however described) of a newspaper, magazine, journal, newsletter, or other similar publication, issues of which are published at regular or irregular intervals.

program has the same meaning as in the *Broadcasting Services Act 1992*.

public place means a place, or a part of a place, to which the public, or a section of the public, ordinarily has access, whether or not by payment or by invitation (including, for example, a shop, restaurant, hotel, cinema or club).

publish:

- (a) in relation to an interactive gambling service advertisement, has the meaning given by Division 3; and
- (b) in relation to something other than an interactive gambling service advertisement, has a meaning equally as broad as it has in relation to an interactive gambling service advertisement.

section of the public includes:

- (a) the members of a particular club, society or organisation; and
- (b) a group consisting only of persons with a common workplace or a common employer.

workplace means premises in which employees or contractors work, other than any part of such premises that is primarily used as a private dwelling.

Division 2—Interpretation: interactive gambling service advertisement

61BA Basic meaning of *interactive gambling service advertisement*

- (1) For the purposes of this Part, an *interactive gambling service advertisement* is any writing, still or moving picture, sign, symbol or other visual image, or any audible message, or any combination of 2 or more of those things, that gives publicity to, or otherwise promotes or is intended to promote:
 - (a) an interactive gambling service; or
 - (b) interactive gambling services in general; or
 - (c) the whole or part of a trade mark in respect of an interactive gambling service; or
 - (d) a domain name or URL that relates to an interactive gambling service; or
 - (e) any words that are closely associated with an interactive gambling service (whether also closely associated with other kinds of services or products).
- (2) This section has effect subject to sections 61BB, 61BC, 61BD, 61BE, 61BF and 61BG.

61BB Exception—political communication

- (1) To avoid doubt, if:
 - (a) something (the *advertisement*) does not promote, and is not intended to promote, any particular interactive gambling service or services; and
 - (b) the advertisement relates solely to government or political matters; the advertisement is not an interactive gambling service advertisement for the purposes of this Part.
- (2) Without limiting paragraph (1)(a), the use in an advertisement of the whole name of an interactive gambling service provider does not, of itself, constitute promotion of an interactive gambling service or interactive gambling services for the purposes of paragraph (1)(a).
- (3) Subsection (2) does not apply in relation to the use of a name referred to in that subsection in a way prohibited by regulations made for the purposes of this subsection.
- (4) Section 61BA does not apply to the extent (if any) that it would infringe any doctrine of implied freedom of political communication.

61BC Exception—Internet sites etc. and business documents

Words, signs or symbols that appear:

- (a) on the Internet site of an interactive gambling service that is provided to customers using an Internet carriage service, or on or at an equivalent point of provision of any other interactive gambling service; or

- (b) as part of the standard wording of an invoice, statement, order form, letterhead, business card, cheque, manual, or other document ordinarily used in the normal course of the business of an interactive gambling service provider (whether or not the document is in electronic form);

do not, when so appearing, constitute an interactive gambling service advertisement (but this does not prevent a still or moving screen shot of an Internet site or equivalent point of provision referred to in paragraph (a), or a still or moving picture or other visual image of a document referred to in paragraph (b), from being an interactive gambling service advertisement).

61BD Exception—premises of providers

Words, signs or symbols that appear in or on land or buildings occupied by an interactive gambling service provider do not, when so appearing, constitute an interactive gambling service advertisement (but this does not prevent a still or moving picture, or other visual image, of words, signs or symbols that so appear from being an interactive gambling service advertisement).

61BE Exceptions—management advertisements etc.

To avoid doubt, none of the following constitutes an interactive gambling service advertisement:

- (a) the doing of anything that is, or apart from this Part would be, required to be done by any other law of the Commonwealth or by any law of a State or Territory;
- (b) an advertisement (for example, an advertisement for staff or calling for tenders), relating to the internal management of the business of an interactive gambling service provider, that does not promote an interactive gambling service;
- (c) the taking of any action to prevent persons becoming victims of fraud or any other dishonest or unethical conduct.

61BF Exception—products or services having the same name as an interactive gambling service

(1) If:

- (a) apart from this section, something (the *advertisement*) that relates to a product, or a service, that is not an interactive gambling service would, technically, be an interactive gambling service advertisement because the name, or part of the name, of the product or service is the same as, or substantially similar to, the name, or part of the name, of:
 - (i) an interactive gambling service; or
 - (ii) an interactive gambling service provider; and
- (b) the manufacturer, distributor or retailer of the product, or the provider of the service, is not associated in any way with the interactive gambling service provider concerned;

then, despite section 61BA, the advertisement is not an interactive gambling service advertisement for the purposes of this Part.

Related bodies corporate taken to be associated with each other

- (2) Without limiting the circumstances in which 2 persons would, apart from this subsection, be taken to be associated with each other for the purposes of subsection (1), 2 bodies corporate that are related to each other are taken to be associated with each other for the purposes of that subsection.
- (3) For the purposes of subsection (2), the question whether 2 bodies corporate are related to each other is to be determined in the same way as the question would be determined under the Corporations Law.

61BG Exception—anti-gambling advertisements

If:

- (a) apart from this section, something (the *advertisement*) would, technically, be an interactive gambling service advertisement; and
- (b) it is clear from the advertisement that its sole or principal purpose is to discourage the use of gambling services or particular kinds of gambling services;

then, despite section 61BA, the advertisement is not an interactive gambling service advertisement for the purposes of this Part.

61BH Definition

In this Division:

words includes abbreviations, initials and numbers.

Division 3—Interpretation: publication of interactive gambling service advertisement

61CA Basic meaning of *publish* an interactive gambling service advertisement

- (1) For the purposes of this Part, a person *publishes* an interactive gambling service advertisement if the person does any of the following things:
 - (a) the person includes the advertisement, or something that contains the advertisement, on an Internet site;
 - (b) the person includes the advertisement in a document (including, for example, a newspaper, magazine, program, leaflet or ticket) that is available, or distributed, to the public or a section of the public;
 - (c) the person includes the advertisement in a film, video, television program or radio program that is, or is intended to be, seen or heard by the public or a section of the public;
 - (d) the person:
 - (i) sells, hires or supplies the advertisement, or something containing the advertisement, to the public or a section of the public; or
 - (ii) offers the advertisement, or something containing the advertisement, for sale or supply to, or hire by, the public or a section of the public;
 - (e) the person displays, screens or plays the advertisement, or something that contains the advertisement, so that it can be seen or heard in or from:

- (i) a public place; or
 - (ii) public transport; or
 - (iii) a workplace;
 - (f) the person otherwise:
 - (i) brings the advertisement, or something that contains the advertisement, to the notice of; or
 - (ii) disseminates the advertisement, or something that contains the advertisement, to;
the public, or a section of the public, by any means (including, for example, by means of a film, video, computer disk or electronic medium).
- (2) This section has effect subject to sections 61CB, 61CC, 61CD, 61CE and 61CF.

61CB Publish does not include broadcast or datacast

For the purposes of this Part, the broadcasting or datacasting of an interactive gambling service advertisement by a person does not amount to the publication of the advertisement by the person.

61CC Exception—trade communications

For the purposes of this Part, the communication of information that is or includes an interactive gambling service advertisement to a group of people all of whom are involved in the provision of interactive gambling services, does not, of itself, amount to a publication of the interactive gambling service advertisement.

61CD Exception—advertisements in telephone directories

- (1) For the purposes of this Part, the publication of the name of an interactive gambling service provider in a telephone directory does not, of itself, amount to the publication of an interactive gambling service advertisement.
- (2) Subsection (1) does not apply if:
 - (a) the publication is on the Internet; and
 - (b) the entry for the provider contains a link to an Internet site for the provider that relates to an interactive gambling service.

61CE Exception—ordinary activities of exempt libraries

Nothing that a person does for the purposes of the ordinary activities of an exempt library amounts, for the purposes of this Part, to a publication of an interactive gambling service advertisement.

61CF Exception—acknowledgments of assistance or support

For the purposes of this Part, the publication of an acknowledgment of assistance or support does not amount to the publication of an interactive gambling service advertisement if it complies with regulations made for the purposes of this section that permit the publication of such acknowledgments.

Division 4—Broadcasting or datacasting of interactive gambling service advertisements in Australia**61DA Interactive gambling service advertisements not to be broadcast or datacast in Australia**

- (1) A person is guilty of an offence if:
- (a) the person broadcasts or datacasts an interactive gambling service advertisement in Australia; and
 - (b) the broadcast or datacast is not permitted by section 61DB; and
 - (c) the broadcast or datacast is not permitted by section 61DC.

Penalty: 120 penalty units.

- (2) A person is guilty of an offence if:
- (a) the person authorises or causes an interactive gambling service advertisement to be broadcast or datacast in Australia; and
 - (b) the broadcast or datacast is not permitted by section 61DB; and
 - (c) the broadcast or datacast is not permitted by section 61DC.

Penalty for contravention of this subsection: 120 penalty units.

61DB Accidental or incidental broadcast or datacast permitted

- (1) A person may broadcast or datacast an interactive gambling service advertisement if:
- (a) the person broadcasts or datacasts the advertisement as an accidental or incidental accompaniment to the broadcasting or datacasting of other matter; and
 - (b) the person does not receive any direct or indirect benefit (whether financial or not) for broadcasting or datacasting the advertisement (in addition to any direct or indirect benefit that the person receives for broadcasting or datacasting the other matter).

- (2) Subsection (1) only has effect for the purposes of this Part.

61DC Broadcast or datacast of advertisements during flights of aircraft

- (1) A person may broadcast or datacast an interactive gambling service advertisement in an aircraft during a flight of the aircraft unless the flight begins at a place in Australia and is intended to end at another place in Australia.
- (2) For the purposes of subsection (1), each sector of a flight of an aircraft is taken to be a separate flight.
- (3) Subsection (1) only has effect for the purposes of this Part.

Division 5—Publication of interactive gambling service advertisements in Australia**61EA Interactive gambling service advertisements not to be published in Australia**

- (1) A person is guilty of an offence if:

- (a) the person publishes an interactive gambling service advertisement in Australia; and
- (b) the publication is not permitted by section 61EB; and
- (c) the publication is not permitted by section 61EC; and
- (d) the publication is not permitted by section 61ED; and
- (e) the publication is not permitted by section 61EE; and
- (f) the publication is not permitted by section 61EF.

Penalty: 120 penalty units.

- (2) A person is guilty of an offence if:
 - (a) the person authorises or causes an interactive gambling service advertisement to be published in Australia; and
 - (b) the publication is not permitted by section 61EB; and
 - (c) the publication is not permitted by section 61EC; and
 - (d) the publication is not permitted by section 61ED; and
 - (e) the publication is not permitted by section 61EE; and
 - (f) the publication is not permitted by section 61EF.

Penalty: 120 penalty units.

- (3) For the purposes of this section, an interactive gambling service advertisement that is included on an Internet site is taken to be published *in Australia* if, and only if:
 - (a) the site is accessed, or is available for access, by end-users in Australia; and
 - (b) having regard to:
 - (i) the content of the site; and
 - (ii) the way the site is advertised or promoted;
 it would be concluded that it is likely that a majority of persons who access the site are physically present in Australia.

61EB Periodicals distributed outside Australia—acts of publication permitted

- (1) A person may do, with a periodical that contains an interactive gambling service advertisement, something that amounts to publishing the advertisement if the periodical is not principally intended for distribution or use in Australia.
- (2) Subsection (1) only has effect for the purposes of this Part.

61EC Australian sporting and cultural events of international significance—acts of publication permitted

- (1) A person may publish an interactive gambling service advertisement if:
 - (a) the advertisement is published in connection with a sporting or cultural event held, or to be held, in Australia; and
 - (b) the event is specified in a notice in force under subsection (2); and
 - (c) the publication of the advertisement complies with the conditions (if any) specified in the notice in accordance with subsection (3).

- (2) For the purposes of subsection (1), the Minister may, by notice published in the *Gazette*, specify a sporting or cultural event to be held in Australia if, and only if:
- (a) the Minister is satisfied that the event will be completed before 1 October 2003; and
 - (b) in a case where the event is to be held on or after 1 October 2001:
 - (i) a similar event held before that date (the *earlier event*) was specified in a notice under this subsection; and
 - (ii) no application to have another similar event specified in a notice under this subsection has been rejected since the earlier event; and
 - (c) the Minister is satisfied, having regard to the guidelines in force under subsection (5), that:
 - (i) the event is of international significance; and
 - (ii) failure to specify the event would be likely to result in the event not being held in Australia.

Note: Section 61FB provides for the making of applications to have events specified in notices under this subsection.

- (3) In a notice under subsection (2) specifying an event, the Minister may also, having regard to the guidelines in force under subsection (5), specify conditions to be complied with in relation to the publication of interactive gambling service advertisements in connection with the event, being conditions related to:
- (a) the content of the advertisements that may be published; or
 - (b) the number of advertisements, or the number of advertisements of a particular kind, that may be published, or that may be published in a particular way; or
 - (c) the way in which advertisements may be published.
- (4) A notice under subsection (2):
- (a) comes into force:
 - (i) on the day when it is published in the *Gazette*; or
 - (ii) if a later day is specified in the notice as the day when it is to come into force—on that later day; and
 - (b) stops being in force (unless it is revoked earlier):
 - (i) at the end of 3 years after it came into force; or
 - (ii) if an earlier day is specified in the notice as the day when it stops being in force—on that earlier day.
- (5) The Minister may, by writing, determine guidelines for the purposes of subsections (2) and (3).
- (6) An instrument under subsection (5) determining guidelines is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (7) Subsection (1) only has effect for the purposes of this Part.

61ED Accidental or incidental publication permitted

- (1) A person may publish an interactive gambling service advertisement if:
 - (a) the person publishes the advertisement as an accidental or incidental accompaniment to the publication of other matter; and
 - (b) the person does not receive any direct or indirect benefit (whether financial or not) for publishing the advertisement (in addition to any direct or indirect benefit that the person receives for publishing the other matter).
- (2) Subsection (1) only has effect for the purposes of this Part.

61EE Publication by person not receiving any benefit permitted

- (1) A person may publish an interactive gambling service advertisement if:
 - (a) the publication is not in the course of the provision of interactive gambling services; and
 - (b) the person publishes the advertisement on the person's own initiative; and
 - (c) the person does not receive any direct or indirect benefit (whether financial or not) for publishing the advertisement.
- (2) Subsection (1) only has effect for the purposes of this Part.

61EF Publication of advertisements during flights of aircraft

- (1) A person may publish an interactive gambling service advertisement in an aircraft during a flight of the aircraft unless the flight begins at a place in Australia and is intended to end at another place in Australia.
- (2) For the purposes of subsection (1), each sector of a flight of an aircraft is taken to be a separate flight.
- (3) Subsection (1) only has effect for the purposes of this Part.

61EG Defence—advertising under existing contracts or arrangements

- (1) Subsections 61EA(1) and (2) do not apply to the publication of an interactive gambling service advertisement if:
 - (a) the publication was under a contract or arrangement that was:
 - (i) entered into before the commencement of section 1; and
 - (ii) for the sponsorship of an event, activity or service; and
 - (b) if the terms of the contract or arrangement, in so far as they relate to things other than the period to which it applies, were varied on or after the commencement of section 1 and before the publication—if the contract or arrangement had not been so varied, the publication could still be said to have been under the contract or arrangement; and
 - (c) the advertisement was published before 1 July 2003; and
 - (d) before the publication of the advertisement, each of the parties to the contract or arrangement notified the Minister, in writing, of:
 - (i) the date on which the contract or arrangement was entered into; and
 - (ii) particulars of the contract or arrangement in so far as it relates to the publication of interactive gambling service

advertisements, including the circumstances of publication of the advertisements and the nature of the advertisements.

Note: The defendant bears an evidential burden in relation to the matters in subsection (1). See subsection 13.3(3) of the *Criminal Code*.

- (2) For the purposes of this section, if:
 - (a) a party to a contract or arrangement of a kind referred to in paragraph (1)(a), for the purposes of publishing an interactive gambling service advertisement under the contract or arrangement, engaged (whether before or after the commencement of section 1) another person to do something that amounted to publishing the advertisement; and
 - (b) the other person did that thing and, consequently, published the advertisement;

the other person is taken to have published the advertisement under the contract or arrangement.

61EH Defence—display of signs before 1 July 2003

- (1) Subsections 61EA(1) and (2) do not apply to the display of an interactive gambling service advertising sign if:
 - (a) the sign was displayed under a contract or arrangement entered into before the commencement of section 1; and
 - (b) if the terms of the contract or arrangement were varied on or after the commencement of section 1—if the contract or arrangement had not been so varied, the display of the sign could still be said to have been under the contract or arrangement; and
 - (c) the display of the sign was permitted by regulations made for the purposes of subsection (2).

Note: The defendant bears an evidential burden in relation to the matters in subsection (1). See subsection 13.3(3) of the *Criminal Code*.

- (2) The regulations may permit the display, in specified circumstances, and before a specified date that is earlier than 1 July 2003, of interactive gambling service advertising signs of a specified size and composition.
- (3) In this section:

interactive gambling service advertising sign means a sign that is or contains an interactive gambling service advertisement.

sign includes an electronic installation used to display advertisements.

Division 6—Miscellaneous

61FA Failure to broadcast, datacast or publish advertisement not actionable if this Part would be contravened

Civil proceedings do not lie against a person for refusing or failing to broadcast, datacast or publish an interactive gambling service advertisement if the broadcast, datacast or publication is prohibited by this Part.

61FB Applications for the purposes of section 61EC

- (1) A person may apply to the Minister to have a particular event specified in a notice under subsection 61EC(2).
- (2) An application must be in writing and must set out the grounds on which the applicant thinks the Minister should grant it.
- (3) If the Minister needs further information to decide an application, the Minister may ask the applicant to provide the information.
- (4) The Minister must decide an application within 60 days after receiving it. This subsection has effect subject to subsections (5) to (7).
- (5) If the Minister thinks that it will take longer to decide an application, the Minister may extend, by up to 60 days, the period for deciding it.
- (6) An extension must be made by written notice given to the applicant within 60 days after the Minister receives the application concerned.
- (7) If the Minister makes an extension, the Minister must decide the application concerned within the extended period.
- (8) If the Minister has not decided an application before the end of the day by which the Minister is required to decide it, the Minister is taken to have decided, under section 61EC, to refuse the application at the end of that day.
- (9) This section does not limit the power of the Minister to make a decision under section 61EC otherwise than because of an application under this section.

61FC Review of decisions

- (1) An application may be made to the Tribunal for a review of a decision made under subsection 61EC(2) or 61EC(3).
- (2) In this section:

Tribunal means:

- (a) before the commencement of Parts 4 to 10 of the *Administrative Review Tribunal Act 2001*—the Administrative Appeals Tribunal; and
- (b) after the commencement of Parts 4 to 10 of the *Administrative Review Tribunal Act 2001*—the Administrative Review Tribunal.

61FD Additional conditions for licences under the *Broadcasting Services Act 1992*

Commercial television broadcasting licence

- (1) Each commercial television broadcasting licence is subject to the condition that the licensee will not, in contravention of this Part, broadcast an interactive gambling service advertisement.

Commercial radio broadcasting licence

- (2) Each commercial radio broadcasting licence is subject to the condition that the licensee will not, in contravention of this Part, broadcast an interactive gambling service advertisement.

Community broadcasting licence

- (3) Each community broadcasting licence is subject to the condition that the licensee will not, in contravention of this Part, broadcast an interactive gambling service advertisement.

Subscription television broadcasting licence

- (4) Each subscription television broadcasting licence is subject to the condition that the licensee will not, in contravention of this Part, broadcast an interactive gambling service advertisement.

Provision of a broadcasting service under a class licence

- (5) The provision by a person of a broadcasting service under a class licence is subject to the condition that the licensee will not, in contravention of this Part, broadcast an interactive gambling service advertisement.

Datacasting licence

- (6) Each datacasting licence is subject to the condition that the licensee will not, in contravention of this Part, datacast an interactive gambling service advertisement.

Definitions

- (7) In this section:

class licence has the same meaning as in the *Broadcasting Services Act 1992*.

commercial radio broadcasting licence has the same meaning as in the *Broadcasting Services Act 1992*.

commercial television broadcasting licence has the same meaning as in the *Broadcasting Services Act 1992*.

community broadcasting licence has the same meaning as in the *Broadcasting Services Act 1992*.

subscription television broadcasting licence has same meaning as in the *Broadcasting Services Act 1992*.

61FE Reports to Parliament

- (1) As soon as practicable after each 31 December, the Minister must cause to be prepared a report on:
 - (a) the number and nature of any contraventions of this Part occurring in the preceding 12 months; and
 - (b) any action taken by the Minister or a Commonwealth agency in response to each contravention.
- (2) A person who prepares a report under subsection (1) must give a copy to the Minister.
- (3) The Minister must cause copies of the report to be laid before each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.

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

Clause 68, page 49 (lines 25 and 26), omit subclause (1), substitute:

- (1) Before 1 July 2003, the Minister must cause to be conducted a review of the following matters:
 - (a) the operation of this Act;
 - (b) the growth of interactive gambling services;
 - (c) the social and commercial impact of interactive gambling services;
 - (d) the effect of the following provisions:
 - (i) paragraphs 5(3)(aa) and 6(3)(aa) and section 8A (excluded wagering services);
 - (ii) paragraphs 5(3)(ab) and 6(3)(ab) and section 8B (excluded gaming services);
 - (iii) paragraphs 5(3)(ac) and 6(3)(ac) and section 8C (services that have a designated broadcasting link);
 - (iv) paragraphs 5(3)(ad) and 6(3)(ad) and section 8C (services that have a designated datacasting link);
 - (v) paragraphs 5(3)(ae) and 6(3)(ae) and section 8D (excluded lottery services);
 - (e) the effectiveness of this Act in dealing with the social and commercial impact of interactive gambling services;
 - (f) technological developments that are relevant to the regulation of interactive gambling services;
 - (g) technological developments that may assist in dealing with problem gambling.

Clause 68, page 50 (after line 3), at the end of the clause, add:

- (4) For the purposes of subsection (1), in determining whether a service is an interactive gambling service, subsection 5(3) is to be disregarded.

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

Page 50 (after line 7), after clause 69, insert:

69A Regulations about unenforceability of agreements relating to illegal interactive gambling services

Agreements

- (1) The regulations may provide:
 - (a) that an agreement has no effect to the extent to which it provides for the payment of money for the supply of an illegal interactive gambling service; and
 - (b) that civil proceedings do not lie against a person to recover money alleged to have been won from, or paid in connection with, an illegal interactive gambling service.

Deadline for making regulations

- (2) The Minister must take all reasonable steps to ensure that regulations are made for the purposes of this section within 6 months after the commencement of Part 2.

Illegal interactive gambling service

- (3) For the purposes of this section, an interactive gambling service is an ***illegal interactive gambling service*** if, and only if, the provision of the service contravenes a provision of this Act that creates an offence.

Definition

- (4) In this section:

agreement means an agreement, whether made orally or in writing.

Senator Harris moved the following amendment:

Page 9 (after line 14), after clause 8, insert:

8E Regulations about excluded wagering services

The regulations may provide for the variation of the operation of subsection 8A(2) in such circumstances, and subject to such conditions, as are prescribed.

8F Regulations about excluded lottery services

The regulations may provide for the variation of the operation of section 8D in such circumstances, and subject to such conditions, as are prescribed.

Debate ensued.

Question—That the amendment be agreed to—put and negatived. Senator Brown, pursuant to standing order 100, recorded his vote for the ayes.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

Senator Alston moved—That the bill be now read a third time.

Question put.

The Senate divided—

AYES, 34

Senators—

Abetz	Coonan (Teller)	Kemp	Tambling
Allison	Ellison	Knowles	Tchen
Alston	Ferguson	Lees	Tierney
Boswell	Ferris	Lightfoot	Troeth
Brandis	Gibson	Macdonald, Ian	Vanstone
Brown	Harradine	Macdonald, Sandy	Watson
Calvert	Harris	Mason	Woodley
Campbell, Ian	Heffernan	Newman	
Chapman	Herron	Payne	

NOES, 28

Senators—

Bartlett	Conroy	Greig	Murphy
Bishop	Cooney	Hogg	Murray
Bourne	Crossin	Hutchins	Ray
Buckland	Crowley	Ludwig	Ridgeway
Campbell, George	Denman (Teller)	Mackay	Schacht
Carr	Forshaw	McKiernan	Sherry
Collins	Gibbs	McLucas	Stott Despoja

Question agreed to.

Bill read a third time.

60 **CONSIDERATION OF LEGISLATION**

Leave refused: The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) sought leave to move a motion to exempt a bill from the provisions of paragraphs (5) to (7) of standing order 111.

An objection was raised and leave was not granted.

Suspension of standing orders: Senator Ian Campbell, at the request of the Leader of the Government in the Senate (Senator Hill) and pursuant to contingent notice, moved—That so much of the standing orders be suspended as would prevent Senator Hill moving a motion to provide for the consideration of a matter, namely a motion to give precedence to a motion to exempt a bill from the provisions of paragraphs (5) to (7) of standing order 111.

Debate ensued.

Question put.

The Senate divided—

AYES, 55

Senators—

Abetz	Coonan (Teller)	Hogg	Newman
Allison	Cooney	Kemp	Payne
Alston	Crossin	Knowles	Ray
Bartlett	Crowley	Lees	Ridgeway
Bishop	Denman	Lightfoot	Schacht
Bourne	Eggleston	Ludwig	Sherry
Brandis	Faulkner	Macdonald, Sandy	Stott Despoja
Buckland	Ferguson	Mackay	Tambling
Calvert	Ferris	Mason	Tchen
Campbell, George	Forshaw	McGauran	Tierney
Carr	Gibbs	McKiernan	Troeth
Chapman	Gibson	McLucas	Watson
Collins	Greig	Murphy	Woodley
Conroy	Herron	Murray	

NOES, 2

Senators—

Brown (Teller)	Harris
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Question agreed to.

Senator Ian Campbell, at the request of Senator Hill, moved—That a motion to exempt a bill from the provisions of paragraphs (5) to (7) of standing order 111 may be moved immediately and have precedence over all other business today till determined.

Question put and passed.

Senator Ian Campbell moved—That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the Parliamentary Contributory Superannuation 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 Parliamentary Contributory Superannuation Amendment Bill 2001 in the 2001 winter sittings.

Question put and passed.

61 ORDER OF BUSINESS—REARRANGEMENT

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That intervening business be postponed till after consideration of the government business order of the day relating to the Parliamentary Contributory Superannuation Amendment Bill 2001.

Question put and passed.

62 PARLIAMENTARY CONTRIBUTORY SUPERANNUATION AMENDMENT BILL 2001

Order 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.

Proposed reference to committee: Senator Brown moved the following amendment:

Omit all words after “That”, substitute “the bill be referred to the Select Committee on Superannuation and Financial Services for inquiry and report by 9 August 2001”.

Debate ensued.

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

Main question put and passed. Senator Brown, pursuant to standing order 100, recorded his vote for the noes.

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.

Senator Allison moved the following amendments together by leave:

Schedule 1, page 3 (after line 2), after the heading to Schedule 1, insert:

Part 1—Preservation age and the rate of retiring allowance

Schedule 1, page 3 (after line 4), before item 1, insert:

1A Subsection 4(1) (definition of *member*)

Repeal the definition, substitute:

member means a member of either House who makes contributions to the Trust.

1B Subsection 4(1)

Insert:

non-Trust contributor means a member of either House who has never made or has ceased to make contributions to the Trust as a result of a choice made under section 4F.

1C Paragraph 4(4A)(aa)

Repeal the paragraph, substitute:

(aa) a member or a non-Trust contributor is taken to be employed by the Commonwealth;

1D Before Part II

Insert:

4F Choosing to be a non-Trust contributor

- (1) This section applies to a member of either House who is or becomes a member of another complying superannuation fund or the holder of an RSA.
- (2) On or after 1 July 2001, a member of either House may, by written notice given to the Trust choose:
 - (a) to cease to make contributions to the Trust at the end of a day (not earlier than the day on which the notice is given) stated in the notice; or
 - (b) never to make contributions to the Trust, where the person choosing is a new member of either House.
- (3) The person may make this choice on first becoming entitled to parliamentary allowance or at any time he or she is a member.
- (4) The person must have effective membership of a complying superannuation fund or be the holder of an RSA for the whole of the period or periods he or she is a member of either House.
- (5) A non-Trust contributor may not revoke his or her choice after the day stated in the written notice given to the Trust.
- (6) In this section:

complying superannuation fund has the meaning given by section 45 of the *Superannuation Industry (Supervision) Act 1993*.

RSA has the same meaning as in the *Retirement Savings Accounts Act 1997*.

4G Superannuation contributions for non-Trust contributors

The Commonwealth must make contributions to a non-Trust contributor's chosen fund or RSA for that person's benefit. The contributions must be made with effect from the day stated in the written notice to the Trust, and in accordance with the *Superannuation Guarantee (Administration) Act 1992*.

1E Subsection 13(9)

Repeal the subsection, substitute:

- (9) In this section:

Minister of State means a Minister of State who is entitled to a parliamentary allowance and who makes contributions to the Trust.

month means one of the 12 months of the year.

office holder means a person who:

- (a) is entitled to a parliamentary allowance; and
- (b) holds an office in, or in relation to, the Parliament or either House, being an office in respect of which he or she is entitled to an allowance by way of salary; and
- (c) makes contributions to the Trust;

but does not include a Minister of State.

person means a person who makes contributions to the Trust.

1F At the end of subsection 18(1A)

Add “or (6A), as the case may be”.

1G Paragraph 18(1B)(a)

After “subsection (6)”, insert “or (6A), as the case may be,”.

1H At the end of paragraph 18(1B)(b)

Add “or (6A), as the case may be”.

1J At the end of paragraph 18(2)(a)

Add “or (6A), as the case may be”.

1K Paragraph 18(2)(aa)

After “subsection (6)”, insert “or (6A), as the case may be,”.

1L At the end of paragraph 18(2AA)(a)

Add “or (6A), as the case may be”.

1M Paragraph 18(2AA)(c)

Omit “50%”, substitute “35%”.

1N Paragraph 18(2AA)(d)

Omit “30%”, substitute “21%”.

1P After subsection 18(6)

Insert:

- (6A) The rate of retiring allowance payable under this section to a person who is, or becomes, a member on or after 1 July 2001 is such percentage of the rate of parliamentary allowance for the time being payable to a member as is applicable in accordance with the following scale:

Number of complete years in period of service of person	Percentage of parliamentary allowance to be paid as retiring allowance
8	35.00
9	36.75
10	38.50
11	40.25
12	42.00
13	43.75
14	45.50
15	47.25
16	49.00
17	50.75
18 or more	52.50

1Q Subsection 18(7)

After “subsection (6)”, insert “or (6A), as the case may be,”.

1R After section 18

Insert:

18A Benefits for members who choose to become non-Trust contributors

- (1) A member who ceases to make contributions to the Trust as a result of a choice made under section 4F, shall be entitled to a benefit equal to the superannuation guarantee safety-net amount.
- (2) Except as provided by this section, this benefit is in substitution for any benefits that would otherwise apply under this Act in respect of the person.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 11

Senators—

Allison	Brown	Lees	Stott Despoja
Bartlett	Greig	Murray	Woodley
Bourne (Teller)	Harris	Ridgeway	

NOES, 48

Senators—

Abetz	Cooney	Hogg	Murphy
Alston	Crossin	Hutchins	Newman
Bishop	Crowley	Kemp	O’Brien
Boswell	Denman	Knowles	Payne
Brandis	Eggleston	Lightfoot	Ray
Buckland	Ferguson	Ludwig	Schacht
Calvert (Teller)	Ferris	Macdonald, Sandy	Tambling
Campbell, George	Forshaw	Mackay	Tchen
Campbell, Ian	Gibbs	Mason	Tierney
Chapman	Gibson	McGauran	Troeth
Collins	Heffernan	McKiernan	Vanstone
Conroy	Herron	McLucas	Watson

Question negatived.

Senator Brown moved the following amendment:

Schedule 1, page 3 (after line 4), before item 1, insert:

1A Subsection 4(1) (definition of *member*)

Repeal the definition, substitute:

member means a member of either House who makes contributions to the Trust.

1B Subsection 4(1)

After the definition of *non-parliamentary employment*, insert:

non-Trust contributor means a member of either House who has never made or has ceased to make contributions to the Trust as a result of a choice made under section 4F.

1C Paragraph 4(4A)(aa)

Repeal the paragraph, substitute:

- (aa) a member or a non-Trust contributor is taken to be employed by the Commonwealth;

1D Before Part II

Insert:

4F Choosing to be a non-Trust contributor

- (1) This section applies to a member of either House who is or becomes a member of another complying superannuation fund or the holder of an RSA.
- (2) On or after 1 July 2001, a member of either House may, by written notice given to the Trust choose:
 - (a) to cease to make contributions to the Trust at the end of a day (not earlier than the day on which the notice is given) stated in the notice; or
 - (b) never to make contributions to the Trust, where the person choosing is a new member of either House.
- (3) The person may make this choice on first becoming entitled to parliamentary allowance or at any time he or she is a member.
- (4) The person must have effective membership of a complying superannuation fund or be the holder of an RSA for the whole of the period or periods he or she is a member of either House.
- (5) A non-Trust contributor may not revoke his or her choice after the day stated in the written notice given to the Trust.
- (6) In this section:

complying superannuation fund has the meaning given by section 45 of the *Superannuation Industry (Supervision) Act 1993*.

RSA has the same meaning as in the *Retirement Savings Accounts Act 1997*.

4G Superannuation contributions for non-Trust contributors

The Commonwealth must make contributions to a non-Trust contributor's chosen fund or RSA for that person's benefit. The contributions must be made with effect from the day stated in the written notice to the Trust, and in accordance with the *Superannuation Guarantee (Administration) Act 1992*.

1E Subsection 13(9)

Repeal the subsection, substitute:

- (9) In this section:

Minister of State means a Minister of State who is entitled to a parliamentary allowance and who makes contributions to the Trust.

month means one of the 12 months of the year.

office holder means a person who:

- (a) is entitled to a parliamentary allowance; and
 - (b) holds an office in, or in relation to, the Parliament or either House, being an office in respect of which he or she is entitled to an allowance by way of salary; and
 - (c) makes contributions to the Trust;
- but does not include a Minister of State.

person means a person who makes contributions to the Trust.

1F After section 18

Insert:

18A Benefits for members who choose to become non-Trust contributors

- (1) A member who ceases to make contributions to the Trust as a result of a choice made under section 4F, shall be entitled to a benefit equal to the superannuation guarantee safety-net amount.
- (2) Except as provided by this section, this benefit is in substitution for any benefits that would otherwise apply under this Act in respect of the person.

Debate ensued.

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

Senator Allison moved the following amendments together by leave:

Schedule 1, item 3, page 4 (line 7), at the end of subsection (1), add:

; or (c) the person was a Senator or a member of the House of Representatives immediately before the transitional general election.

Schedule 1, item 3, page 4 (lines 8 to 36), omit subsections (2) to (5).

Debate ensued.

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

Senator Allison moved the following amendment:

Schedule 1, page 8 (after line 26), at the end of the Schedule, add:

Part 2—Partnership relationships

4 Subsection 4(1) (definition of former spouse)

Repeal the definition, substitute:

former partner in relation to another person means a person who previously had a partnership relationship with that person.

5 Subsection 4(1)

Insert:

partner in relation to another person means a person who has or had a partnership relationship with that person.

6 Subsection 4(1)

Insert:

partnership relationship has the meaning given by section 4B.

7 Subsection 4(1)

Insert:

relative means an ancestor, or a descendant, or a brother or a sister.

8 Section 4B

Repeal the section, substitute:

4B Partnership relationship

- (1) For the purposes of this Act, a *partnership relationship* means a relationship that is genuine and continuing between 2 people:
 - (a) who have both turned 18 years of age; and
 - (b) neither of whom is a relative of the other person; and
 - (c) who live together, or do not live separately and apart on a permanent basis; and
 - (d) who have a mutual commitment to a shared life to the exclusion of any other partnership relationship.
- (2) For the purposes of paragraph (1)(d), 2 people are to be regarded as having a mutual commitment to a shared life at a particular time if they have been living together as partners, to the exclusion of any other partnership relationship, for a continuous period of at least 3 years up to that time.
- (3) For the purposes of paragraph (1)(d), the Trust may form the view, having regard to any relevant evidence, that 2 people have a mutual commitment to a shared life if they have been living together as partners, to the exclusion of any other partnership relationship, for a period of less than 3 years.
- (4) For the purposes of subsection (3), relevant evidence includes, but is not limited to:
 - (a) any joint ownership of real estate or other major assets; and
 - (b) any joint liabilities; and
 - (c) the extent of any pooling of financial resources, particularly in relation to major financial commitments; and
 - (d) whether one person owes any legal obligation to the other person; and
 - (e) any joint responsibility for the care and support of children, if any; and
 - (f) the persons' living arrangements; and
 - (g) whether the persons represent themselves to other persons as being in a partnership relationship.

9 Section 4C

Repeal the section, substitute:

4C Partner who survives a deceased person

(1) In this section:

deceased person means a person who was, at the time of his or her death:

- (a) a person who was entitled to a parliamentary allowance; or
- (b) a person who was entitled to a retiring allowance whether or not the retiring allowance was immediately payable.

retired member means a person who was entitled to a retiring allowance, whether or not the retiring allowance was immediately payable.

(2) For the purposes of this Act, a person is a partner who survives a deceased person if:

- (a) the person had a partnership relationship with the deceased person at the time of the death of the deceased person (*the death*); and
- (b) in the case of a deceased person who was a retired member at the time of the death:
 - (i) the partnership relationship began before the retired member became a retired member; or
 - (ii) the partnership relationship began after the retired member became a retired member but before the retired member reached 60; or
 - (iii) where neither subparagraph (i) nor (ii) applies—the partnership relationship had continued for a period of at least 5 years up to the time of the death.

10 Section 19

Omit “spouse” (wherever occurring), substitute “partner”.

11 Section 19AA

Omit “spouse” (wherever occurring), substitute “partner”.

12 Section 19AA

Omit “marital” (wherever occurring), substitute “partnership”.

13 Section 19AB

Omit “spouse” (wherever occurring), substitute “partner”.

14 Section 19A

Omit “spouse” (wherever occurring), substitute “partner”.

15 Section 21AA

Omit “spouse” (wherever occurring), substitute “partner”.

16 Section 21AA

Omit “spouses” (wherever occurring), substitute “partners”.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 10

Senators—

Allison	Brown	Murray	Stott Despoja
Bartlett	Greig	Ridgeway	Woodley
Bourne (Teller)	Lees		

NOES, 49

Senators—

Abetz	Crossin	Kemp	Ray
Alston	Crowley	Knowles	Reid
Bishop	Eggleston	Lightfoot	Schacht
Boswell	Ferguson	Ludwig	Sherry
Buckland	Ferris	Macdonald, Sandy	Tambling
Calvert	Forshaw	Mackay	Tchen
Campbell, George	Gibbs	Mason	Tierney
Carr	Gibson	McGauran	Troeth
Chapman	Harradine	McKiernan	Vanstone
Collins	Harris	McLucas	Watson
Conroy	Heffernan	Murphy	
Coonan	Hogg	Newman	
Cooney	Hutchins	O'Brien (Teller)	

Question negatived.

Bill agreed to.

Bill to be reported without amendment.

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

The Special Minister of State (Senator Abetz) moved—That the report from the committee be adopted.

Proposed reference to committee: Senator Sherry moved the following amendment:

At the end of the motion, add “and that the following matter be referred to the Select Committee on Superannuation and Financial Services by the last sitting day in November 2001:

Whether same sex superannuation rights (which have received the support of the Select Committee on Superannuation and Financial Services in a report in April 2000) should be available to members of the Parliamentary Contributory Superannuation Scheme before being applicable to all in the community who qualify under provisions relating to bona fide relationships, regardless of sexual preference.”

Debate ensued.

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

Main question put and passed.

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

Debate ensued.

Declaration of interest: Senator Greig declared an interest in relation to the bill.

Debate continued.

Question put and passed.

Bill read a third time.

**63 SOCIAL SECURITY LEGISLATION AMENDMENT (CONCESSION CARDS) BILL 2001
AGRICULTURAL AND VETERINARY CHEMICALS LEGISLATION AMENDMENT BILL 2001**

Messages from the House of Representatives were reported agreeing to the following bills without amendment:

Message no. 748, dated 28 June 2001—Social Security Legislation Amendment (Concession Cards) Bill 2001.

Message no. 749, dated 28 June 2001—Agricultural and Veterinary Chemicals Legislation Amendment Bill 2001.

64 INTELLIGENCE SERVICES—JOINT SELECT COMMITTEE—APPOINTMENT OF HOUSE MEMBERS

A message from the House of Representatives was reported acquainting the Senate with the appointment of members of the House of Representatives to the Joint Select Committee on the Intelligence Services, as follows:

Message no. 750, dated 28 June 2001—Mr K J Andrews, Mr L Brereton, Mr J Forrest, Mr D Hawker, Mr D Jull, Mr S McArthur, Mr L McLeay, Mr D Melham and Mr N O’Keefe.

65 TRADE MARKS AND OTHER LEGISLATION AMENDMENT BILL 2001

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

Message no. 747, dated 28 June 2001—A Bill for an Act to amend the *Trade Marks Act 1995*, and for other purposes.

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

Question put and passed.

Bill read a first time.

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

Consideration of legislation: Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day of the 2001 spring sittings.

66 ORDER OF BUSINESS—REARRANGEMENT

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That intervening business be postponed till after consideration of government business order of the day no. 4 (Migration Legislation Amendment (Immigration Detainees) Bill 2001).

Question put and passed.

67 MIGRATION LEGISLATION AMENDMENT (IMMIGRATION DETAINEES) BILL 2001

Order of the day read for the adjourned debate on the motion of the Minister for Industry, Science and Resources (Senator Minchin)—That this bill be now read a second time.

Question put and passed.

Bill read a second time.

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

In the committee

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

Bill to be reported without amendment.

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

On the motion of the Minister for Justice and Customs (Senator Ellison) the report from the committee was adopted and the bill read a third time. Senator Brown, pursuant to standing order 100, recorded his vote for the noes in respect of the question for the third reading.

68 ORDER OF BUSINESS—REARRANGEMENT

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That intervening business be postponed till after consideration of government business order of the day no. 3 (Passenger Movement Charge Amendment Bill 2001).

Question put and passed.

69 PASSENGER MOVEMENT CHARGE AMENDMENT BILL 2001

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Health and Aged Care (Senator Tambling)—That this bill be now read a second time—and on the amendment moved by Senator Ridgeway (see entry no. 38).

Debate ensued.

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

Senator Ridgeway moved the following request for an amendment:

That the House of Representatives be requested to make the following amendment:

Schedule 1, item 1, page 3 (lines 5 and 6), omit the item, substitute:

1 Section 6

Omit “\$30”, substitute “\$40”.

Debate ensued.

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

Bill agreed to.

Bill to be reported without requests for amendments.

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

On the motion of the Minister for Justice and Customs (Senator Ellison) the report from the committee was adopted and the bill read a third time.

70 ORDER OF BUSINESS—REARRANGEMENT

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That intervening business be postponed till after consideration of government business order of the day no. 8 (Taxation Laws Amendment Bill (No. 5) 1999).

Question put and passed.

71 TAXATION LAWS AMENDMENT BILL (NO. 5) 1999

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 Brown:

Page 57 (after line 21), at the end of the bill, add:

Schedule 3—Capital proceeds

Income Tax Assessment Act 1997

1 Section 116-25 (cell at table item D1, fourth column)

Omit “None”, substitute “See section 116-82”.

2 After section 116-80

Insert:

116-82 Special rule for amounts received under RFA Private Forest Reserve Program

If you, as a landowner, receive an amount under the Regional Forest Agreements Private Forest Reserve Program as consideration for placing a restrictive covenant on your land title, the amount is not *capital proceeds for the purposes of this Part.

3 Application

The amendments made by items 1 and 2 apply to assessments for the 2000-2001 income year and later income years.

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That the committee report progress and ask leave to sit again.

Question put and passed.

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

Ordered, on the motion of Senator Ian Campbell, that the committee have leave to sit again at a later hour.

72 ORDER OF BUSINESS—REARRANGEMENT

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That intervening business be postponed till after consideration of government business order of the day no. 5 (Health Legislation Amendment (Medical Practitioners’ Qualifications and Other Measures) Bill 2001).

Question put and passed.

73 HEALTH LEGISLATION AMENDMENT (MEDICAL PRACTITIONERS’ QUALIFICATIONS AND OTHER MEASURES) BILL 2001

Order of the day read for the adjourned debate on the motion of the Minister for Regional Services, Territories and Local Government (Senator Ian Macdonald)—That this bill be now read a second time.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Senator Forshaw moved the following amendment:

Page 3 (after line 20), after clause 4, insert:

5 Reports on operation of Act

- (1) As soon as practicable after the end of each financial year ending on or after 30 June 2001, the Minister must cause to be prepared a written report on the following:
 - (a) the number of:
 - (i) public pathology collection centres; and
 - (ii) private pathology collection centres;
 in each State by statistical local areas;
 - (b) the number of public or private pathology collection centres that have commenced or ceased operations in non-metropolitan areas in the preceding financial year;
 - (c) any action taken by the Minister in the preceding financial year to ensure that access to pathology services in non-metropolitan areas is not reduced overall.
- (2) The Minister must cause to be laid before each House of the Parliament a report prepared under subsection (1) within 7 sitting days of that House after he or she receives the report.
- (3) In this section:

statistical local area means an area defined in the Australian Standard Geographical Classification 1999 published by the Australian Bureau of Statistics (publication number 1216.0 of 1999).

Debate ensued.

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

Senator Forshaw moved the following amendments together by leave:

Schedule 1, page 4 (after line 9), after item 2, insert:

2A After subsection 3GA(2)

Insert:

- (2A) An Approved Placement for general practice training may be approved only in relation to a location which has been designated as an area of specific workforce shortage because it is underprovided with general practitioners.

Schedule 1, page 4 (after line 9), after item 2, insert:

2B At the end of paragraph 3GA(5)(a)

Add:

- and (iii) that satisfactory supervision arrangements, which are appropriate to the skills and experience of the applicant, are in place;

Debate ensued.

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

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

Schedule 1, page 4 (after line 9), after item 2, insert:

2A At the end of subsection 3GC(2)

Add:

; and (d) to compile information in relation to each medical college on the number of people who sit, and the number of people who pass, each examination held by the medical college for people seeking:

- (i) admission to advanced training; or
- (ii) admission to Fellowship of the college.

2B After subsection 3GC(4)

Insert:

(4A) The report prepared under subsection (4) must include the information compiled by the Panel under paragraph (2)(d) during the year concerned.

2C After subsection 3GC(6)

(6A) In this section, *medical college* means:

- (a) an organisation declared by the regulations to be a professional organisation in relation to a particular specialty for the purposes of paragraph 3D(1)(a); or
- (b) the Royal Australian College of General Practitioners.

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

Schedule 1, page 4 (after line 9), after item 2, insert:

2D Subsection 3GC(7)

Repeal the subsection.

Senator Forshaw moved the following amendments together by leave:

Schedule 1, item 7, page 4 (lines 21 and 22), omit the item, substitute:

7 Subsection 19AA(1)

Omit “1 January 2002”, substitute “1 January 2003”.

Schedule 1, item 9, page 4 (line 29) to page 5 (line 1), omit the item, substitute:

9 Subsection 19AA(2)

Omit “1 January 2002”, substitute “1 January 2003”.

Debate ensued.

The Senate continued to sit till 12 midnight—
FRIDAY, 29 JUNE 2001 AM

Debate continued.

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

Senator Forshaw moved the following amendment:

Schedule 1, page 6 (after line 34), after item 16, insert:

16A At the end of section 19AD

Add:

- (2) The Minister must, on or before 30 August 2002, cause a further report to be laid before each House of the Parliament setting out details of the operation of sections 3GA, 3GC and 19AA since the preparation of the report required under subsection (1).

Debate ensued.

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

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

Schedule 1, page 6 (after line 34), after item 16, insert:

16A Section 19AD

Repeal the section, substitute:

19AD Reports by Minister

- (1) The Minister must cause a report setting out details of the operation of sections 3GA, 3GC and 19AA to be laid before each House of the Parliament:
 - (a) on or before 31 December 1999; and
 - (b) thereafter, at the end of each 2 year period commencing on a biennial anniversary of 31 December 1999.
- (2) Within 3 months after a report mentioned in paragraph (1)(b) is tabled, the Medical Training Review Panel must convene a meeting to discuss the report.
- (3) The Medical Training Review Panel must invite representatives of the following to attend a meeting mentioned in subsection (2):
 - (a) a student or students representing those people enrolled at each university medical school in Australia; and
 - (b) a representative of the National Rural Health Network.
- (4) The Minister must cause a record of the proceedings of a meeting mentioned in subsection (2) to be laid before each House of the Parliament within 20 sitting days after the meeting.

Senator Forshaw moved the following amendments together by leave:

Schedule 1, item 32, page 9 (after line 23), after subsection (4), insert:

- (4A) Approval Principles determined by the Minister under subsection (4) must promote fair competition and the entry of new providers.

Schedule 1, item 32, page 10 (after line 7), at the end of section 23DNBA, add:

- (7) In this section:

new provider means a person who, or an entity that, does not have an ownership or management relationship with the holder of an existing approval for an eligible collection centre.

Debate ensued.

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

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

On the motion of the Parliamentary Secretary to the Minister for Health and Aged Care (Senator Tambling) the report from the committee was adopted and the bill read a third time.

74 ORDER OF BUSINESS—REARRANGEMENT

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That the order of consideration of government business orders of the day for the remainder of today be as follows:

- No. 12 Taxation Laws Amendment Bill (No. 2) 2001.
- No. 8 Taxation Laws Amendment Bill (No. 5) 1999.
- No. 7 Dairy Produce Legislation Amendment (Supplementary Assistance) Bill 2001, consideration in committee of the whole of message no. 741 from the House of Representatives.
- No. 2 Child Support Legislation Amendment Bill (No. 2) 2000, consideration in committee of the whole of message no. 692 from the House of Representatives.
- Australia New Zealand Food Authority Amendment Bill 2001, consideration in committee of the whole of message no. 746 from the House of Representatives.
- Environment Protection and Biodiversity Conservation Amendment (Wildlife Protection) Bill 2001, consideration in committee of the whole of message no. 745 from the House of Representatives.
- No. 14 Higher Education Funding Amendment Bill 2001.
- No. 9 Innovation and Education Legislation Amendment Bill 2001.

No. 10 Taxation Laws Amendment (Superannuation Contributions) Bill 2000, consideration in committee of the whole of message no. 703 from the House of Representatives.

Question put and passed.

75 TAXATION LAWS AMENDMENT BILL (NO. 2) 2001

Order of the day read for the adjourned debate on the motion of the Minister for Regional Services, Territories and Local Government (Senator Ian Macdonald)—That this bill be now read a second time.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Senator Sherry moved the following amendment:

Page 32 (after line 24), at the end of the bill, add:

Schedule 7—Other amendments

Income Tax Assessment Act 1997

1 At the end of Division 51

Add:

51-65 Consideration under RFA Private Forest Reserve Program

Any financial consideration paid under the Regional Forest Agreements Private Forest Reserve Program to the owner of land for registering a perpetual conservation covenant against the title to that land is exempt from income tax.

2 Section 116-25 (cell at table item D1, fourth column)

Omit “None”, substitute “See section 116-82”.

3 After section 116-80

Insert:

116-82 Special rule for consideration received under RFA Private Forest Reserve Program

If you, as a landowner, receive financial consideration under the Regional Forest Agreements Private Forest Reserve Program for registering a perpetual conservation covenant against your land title, the consideration is not *capital proceeds for the purposes of this Part.

4 Application

The amendments made by items 3A, 3B and 3C apply to assessments for the 2000-2001 income year and later income years.

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

Omit "2000-2001 income year", substitute "1999-2000 and 2000-2001 income years".

Debate ensued.

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

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

Senator Bartlett moved the following amendment:

Schedule 1, item 1, page 3 (lines 6 to 17), omit the item, substitute:

1 Subsection 47(1)

Repeal the subsection, substitute:

- (1) Where a residual benefit provided to a current employee in respect of his or her employment consists of travel on public transport, other than in an aircraft, and the benefit is provided for the purpose of travel between:
 - (a) the person's place of residence; or
 - (b) the person's place of employment of that employee or any other place from which or at which the employee performs duties of that employment;the benefit is an exempt benefit.

Debate ensued.

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

Bill, as amended, agreed to.

Bill to be reported with an amendment.

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

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

76 TAXATION LAWS AMENDMENT BILL (NO. 5) 1999

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 Brown (see entry no. 71).

Senator Brown, by leave, withdrew the amendment.

Bill, as amended, agreed to.

Bill to be reported with an amendment.

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

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

77 DAIRY PRODUCE LEGISLATION AMENDMENT (SUPPLEMENTARY ASSISTANCE) BILL 2001

Order of the day read for the consideration of message no. 741 from the House of Representatives in committee of the whole (*see entry no. 41, 27 June 2001*).

In the committee

Message read.

SCHEDULE OF THE AMENDMENTS MADE BY THE HOUSE OF REPRESENTATIVES
IN PLACE OF THE AMENDMENT REQUESTED BY THE SENATE

- (1) Schedule 1, item 3, page 4 (line 6), omit “2 types of SDA payment rights:”, substitute “3 types of SDA payment rights: basic market milk payment rights,”.

[clause 1 of Schedule 2—simplified outline]

- (2) Schedule 1, item 10, page 5 (before line 21), before paragraph (a), insert:

(aa) basic market milk payment rights;

[clause 37A of Schedule 2—simplified outline]

- (3) Schedule 1, item 10, page 6 (line 20), omit “2 types”, substitute “3 types”.

[clause 37D of Schedule 2—payment rights]

- (4) Schedule 1, item 10, page 6 (before line 22), before paragraph (a), insert:

(aa) a type called *basic market milk payment rights*;

[clause 37D of Schedule 2—payment rights]

- (5) Schedule 1, item 10, page 6 (after line 23), at the end of clause 37D, add:

- (2) It is a policy objective that, if an entity is eligible to be granted a basic market milk payment right and an additional market milk payment right, the entity is eligible to be granted the payment right with the higher face value and is not eligible to be granted the other payment right.

[clause 37D of Schedule 2—payment rights]

- (6) Schedule 1, item 10, page 6 (before line 24), before clause 37E, insert:

37DA Basic market milk payment rights—eligibility etc.

Basic eligibility criteria

- (1) It is a policy objective that an entity is not eligible to be granted a basic market milk payment right unless:
- (a) the entity has been granted a payment right under the DSAP scheme in respect of a dairy farm enterprise (the *qualifying enterprise*); and

- (b) the entity held an interest (of a kind referred to in the SDA scheme) in that enterprise, or in any other dairy farm enterprise, at a time referred to in the SDA scheme; and
- (c) the number (the **market milk number**) worked out in accordance with the following formula is at least 25.1 (rounding to 1 decimal place and rounding up if the second decimal place is 5 or more):

$$\frac{\begin{array}{c} \text{Total number of litres of market milk delivered} \\ \text{by the qualifying enterprise in the} \\ \text{1998-1999 financial year} \end{array}}{\begin{array}{c} \text{Total number of} \\ \text{litres of market milk} \\ \text{delivered by that} \\ \text{enterprise in that year} \end{array} + \begin{array}{c} \text{Total number of} \\ \text{litres of manufacturing milk} \\ \text{delivered by that} \\ \text{enterprise in that year} \end{array}} \times 100$$

Note: See also subclause (4) for how those delivery numbers are worked out.

Calculation of face value

- (2) It is a policy objective that the face value of an entity's basic market milk payment right is to be a share (worked out in accordance with the SDA scheme) of the overall market milk amount for the qualifying enterprise.

Interpretation

- (3) For the purposes of this clause, the **overall market milk amount** for the qualifying enterprise is:
 - (a) if the market milk number is at least 25.1 and less than 30.1—\$10,000; or
 - (b) if the market milk number is at least 30.1—\$15,000.
- (4) A reference in this clause to the total number of litres of market milk, or the total number of litres of manufacturing milk, delivered by the qualifying enterprise in the 1998-1999 financial year is a reference to that number as determined by the DAA to have taken to have been delivered by that enterprise in that year.
- (5) This clause is subject to clause 37V (about the effect of death on eligibility etc. for the grant of payment rights).

[clause 37DA of Schedule 2—payment rights]

- (7) Schedule 1, item 10, (page 8), line 15, omit the heading, substitute:

37F Market milk payment rights—offsetting

[clause 37F of Schedule 2—offsetting]

- (8) Schedule 1, item 10, page 8 (line 16), after “entity’s”, insert “basic market milk payment right or”.

[clause 37F of Schedule 2—offsetting]

- (9) Schedule 1, item 10, page 8 (line 29), after “entity’s”, insert “basic market milk payment right or”.

[clause 37F of Schedule 2—offsetting]

The Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) moved—That the committee does not press its request for an amendment not made by the House of Representatives and agrees to the amendments made by the House in place of the requested amendment.

Debate ensued.

Question put and passed.

Resolution to be reported.

The Acting Deputy President (Senator Ferguson) resumed the chair and the Temporary Chair of Committees (Senator Bartlett) reported that the committee had considered message no. 741 from the House of Representatives relating to the Dairy Produce Legislation Amendment (Supplementary Assistance) Bill 2001, had resolved not to press its request for an amendment not made by the House and had agreed to the amendments made by the House in place of the requested amendment.

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

78 **CHILD SUPPORT LEGISLATION AMENDMENT BILL (NO. 2) 2000**

Order of the day read for the consideration of message no. 692 from the House of Representatives in committee of the whole (*see entry no. 36, 5 April 2001*).

In the committee

Message read.

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE TO WHICH THE HOUSE OF REPRESENTATIVES HAS DISAGREED BUT MADE AMENDMENTS IN PLACE THEREOF

(1) **Dem (1) [Sheet 2001]**

Clause 2, page 1 (line 19), omit “Schedules 1 and 4 commence”, substitute “Schedule 4 commences”.

(2) **Opp (1) [Sheet 2008]/Dem (2) [Sheet 2001]**

Clause 2, page 2 (line 4), omit “Schedules 2 and 3 commence”, substitute “Schedule 3 commences”.

(3) **Dem (3) [Sheet 2001]**

Schedule 1, page 4 (line 2) to page 15 (line 15), omit the Schedule.

(4) **Opp (2) [Sheet 2008]/Dem (4) [Sheet 2001]**

Schedule 2, page 16 (lines 2 to 17), omit the Schedule.

AMENDMENTS MADE BY THE HOUSE OF REPRESENTATIVES
IN PLACE OF SENATE AMENDMENTS (1) TO (4)

- (1) Clause 2, page 1 (after line 18), after subclause (1), insert:
 - (1A) Part 1 of Schedule 1 and items 22, 23, 24, 25 and 26 of Part 2 of Schedule 1 commence on whichever of the following days applies:
 - (a) if this Act receives the Royal Assent on or before 1 July 2002—on 1 July 2002;
 - (b) otherwise—on a day or days to be fixed by Proclamation.
 - (1B) Items 18, 19, 20 and 21 of Part 2 of Schedule 1 commence on whichever of the following days applies:
 - (a) if this Act receives the Royal Assent on or before 1 December 2001—on 1 December 2001;
 - (b) otherwise—on a day or days to be fixed by Proclamation.
- (2) Clause 2, page 1 (line 19), omit “Schedules 1 and 4 commence”, substitute “Schedule 2 commences”.
- (3) Clause 2, page 2 (lines 1 and 2), omit “1 July 2001—on 1 July 2001”, substitute “1 January 2002—on 1 January 2002”.
- (4) Clause 2, page 2 (line 4), omit “Schedules 2 and 3 commence”, substitute “Schedule 4 commences”.
- (5) Clause 2, page 2 (lines 6 and 7), omit “1 January 2001—on 1 January 2001”, substitute “1 July 2001—on 1 July 2001”.
- (6) Clause 2, page 3 (line 8), after “paragraph”, insert “(1A)(b), (1B)(b),”.
- (7) Schedule 1, page 4 (after line 4), insert:

Part 1—Lower child support percentages

- (8) Schedule 1, page 15 (after line 15), at the end of the Schedule, add:

Part 2—Amendments relating to family tax benefit

A New Tax System (Family Assistance) Act 1999

18 Subsection 3(1) (subparagraph (b)(i) of the definition of *FTB child*)

Omit “and 25(1)(b)”, substitute “and 25(1)(b), (1A)(b) and (1B)(b)”.

19 Paragraph 22(7)(c)

After “subsection 25(1)”, insert “, (1A) or (1B)”.

20 After subsection 25(1)

Insert:

- (1A) If:
 - (a) the Secretary is satisfied that there has been, or will be, a pattern of care for an individual (the *child*) over a period such that, for the whole, or for parts (including different parts), of the period, the child was, or will be, an FTB child of more than one other individual in accordance with subsection 22(2), (3), (4), (5) or (6); and

- (b) one of those other individuals makes, or has made, a claim under Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999* for payment of family tax benefit in respect of the child for some or all of the days in that period; and
- (c) the Secretary is satisfied that the child was, or will be, in the care of that last-mentioned individual for not less than 10%, but less than 30%, of that period; and
- (d) that last-mentioned individual, by written declaration given to the Secretary, waives the individual's eligibility for family tax benefit in respect of the child for some or all of the days in that period;

the child is to be taken, despite that subsection, not to be an FTB child of the last-mentioned individual on any day covered by the declaration.

(1B) If:

- (a) the Secretary is satisfied that there has been, or will be, a pattern of care for an individual (the *child*) over a period such that, for the whole, or for parts (including different parts), of the period, the child was, or will be, an FTB child of more than one other individual in accordance with subsection 22(2), (3), (4), (5) or (6); and
- (b) the Secretary is satisfied that, if one of those other individuals was to make a claim under Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999* for payment of family tax benefit in respect of the child for some or all of the days in that period, the Secretary would be satisfied that the child would have been, or would be, in the care of that individual for not less than 10%, but less than 30%, of that period; and
- (c) that last-mentioned individual, by written declaration given to the Secretary, waives the individual's eligibility for family tax benefit in respect of the child for some or all of the days in that period;

the child is to be taken, despite that subsection, not to be an FTB child of the last-mentioned individual on any day covered by the declaration.

(1C) If an individual has given the Secretary a written declaration under subsection (1A) or (1B), the individual may, by further notice in writing given to the Secretary, revoke the declaration with effect from a specified day, not being a day earlier than the date of the revocation.

(1D) A written declaration referred to in subsection (1A) or (1B), or a revocation of such a declaration, must be made in a form and manner required by the Secretary.

Note: The heading to section 25 is altered by omitting “10%” and substituting “30%”.

21 Subsections 25(2) and (3)

After “subsection (1)”, insert “, (1A) or (1B)”.

A New Tax System (Family Assistance) (Administration) Act 1999

22 Subsections 23(6) and 24(4)

Omit “and sections 225 and 226 (which deal with tax debts)”, substitute “, sections 225 and 226 (which deal with tax debts) and section 227 (which deals with child support debts)”.

23 At the end of subsection 66(2)

Add:

; and (f) section 227 (about deductions from family tax benefit to repay certain child support debts).

24 After section 226

Insert:

227 Payment of deductions to Child Support Registrar

- (1) The Secretary must, in accordance with a notice given to the Secretary under subsection 72AB(3) of the *Child Support (Registration and Collection) Act 1988* in relation to a person:
 - (a) make deductions from instalment amounts of family tax benefit that the person is entitled to be paid under section 23; or
 - (b) make a deduction from an amount of family tax benefit that the person is entitled to be paid under section 24;and pay amounts so deducted to the Child Support Registrar.
- (2) However, the Secretary must not deduct an amount under subsection (1) in contravention of section 228.
- (3) If the Secretary deducts an amount under subsection (1), then:
 - (a) on the day the amount is deducted, the total amount of the child support debts of the person (being debts referred to in subsection 72AB(2) of the *Child Support (Registration and Collection) Act 1988*) is taken to be reduced by an amount equal to the amount deducted; and
 - (b) on the day the amount is deducted, the person is taken to have been paid an amount of family tax benefit equal to the amount deducted.
- (4) A deduction under subsection (1) may result in the family tax benefit that the person is entitled to be paid being reduced to nil.

228 Maximum deduction

- (1) This section applies if a notice is given under subsection 72AB(3) of the *Child Support (Registration and Collection) Act 1988* to a person that specifies:
 - (a) an amount to be deducted from family tax benefit that the person is entitled to be paid on a day or days specified in the notice; or
 - (b) a method of working out such an amount.
- (2) The amount deducted on a particular day must not exceed the total amount of the child support debts of the person on that day, being debts referred to in subsection 72AB(2) of the *Child Support (Registration and Collection) Act 1988*.

- (3) If, on a day specified in the notice, the person has at least one FTB child for whom the person is eligible for family tax benefit who is not a designated child support child of the person, the amount deducted on that day must not exceed the difference between:
 - (a) the amount of family tax benefit that the person is entitled to be paid on that day; and
 - (b) the amount of family tax benefit that the person would be entitled to be paid on that day, assuming that each designated child support child of the person was not an FTB child of the person on that day.
- (4) If, on a day specified in the notice:
 - (a) each FTB child for whom the person is eligible for family tax benefit is a designated child support child of the person; and
 - (b) an income support payment or an income support supplement is payable to the person;
 the amount deducted on that day must not exceed the difference between:
 - (c) the amount of family tax benefit that the person is entitled to be paid on that day; and
 - (d) the forgone amount in respect of the person's income support payment or income support supplement.
- (5) For the purposes of subsection (4), the *forgone amount*, in respect of a person's income support payment or income support supplement, is the amount that represents the difference between:
 - (a) the amount of the income support payment or the income support supplement that would have been payable to the person if the person had not been entitled to be paid family tax benefit on that day; and
 - (b) the amount of the income support payment or the income support supplement payable to the person on that day.
- (6) In this section:

designated child support child of a person has the same meaning as in section 72AB of the *Child Support (Registration and Collection) Act 1988*.

income support payment has the same meaning as in the *Social Security Act 1991*.

income support supplement has the same meaning as in Part IIIA of the *Veterans' Entitlements Act 1986*.

Child Support (Registration and Collection) Act 1988

25 Subsection 4(1) (after paragraph (c) of the definition of *appealable refusal decision*)

Insert:

- (ca) a decision under subsection 72AB(3);

26 After section 72AA

Insert:

72AB Deductions from family tax benefit

- (1) This section applies to a person if:
 - (a) the person is entitled to be paid family tax benefit under a determination under section 16 or 17 of the Family Assistance Administration Act; and
 - (b) the FTB child, or at least one of the FTB children, for whom the person is eligible for family tax benefit is a designated child support child of the person.
- (2) An FTB child of a person is a ***designated child support child of the person*** if:
 - (a) the person has a registrable maintenance liability of a kind mentioned in section 17 in respect of the child; and
 - (b) an amount payable under the liability is a child support debt; and
 - (c) the day on which the debt became due and payable under section 66 has passed, and the debt remains unpaid in whole or in part.
- (3) If this section applies to a person, the Registrar may give a written notice to the Secretary directing the Secretary:
 - (a) to deduct from each instalment amount of family tax benefit that the person is entitled to be paid under section 23 of the Family Assistance Administration Act an amount specified, or worked out as specified, in the notice; or
 - (b) to deduct from an amount of family tax benefit that the person is entitled to be paid under section 24 of the Family Assistance Administration Act an amount specified, or worked out as specified, in the notice.
- (4) A notice under subsection (3) must:
 - (a) specify the person's name and the name of each designated child support child of the person; and
 - (b) set out sufficient particulars to enable the Secretary to identify the person and each designated child support child of the person; and
 - (c) be in accordance with section 228 of the Family Assistance Administration Act, which sets out the maximum amount that can be deducted; and
 - (d) specify the day or days on which deductions are to be made.
- (5) In this section:

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

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

family tax benefit has the same meaning as in the Family Assistance Act.

FTB child means an FTB child in relation to family tax benefit within the meaning of the Family Assistance Act.

SCHEDULE OF THE AMENDMENT MADE BY THE SENATE TO WHICH THE
HOUSE OF REPRESENTATIVES HAS DISAGREED

(5) **Opp (3) [Sheet 2008]/Dem (6) [Sheet 2001]/PHON (4) [Sheet 2011]**

Schedule 8, page 46 (lines 2 to 11), omit the Schedule.

The Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) moved—That the committee does not insist on amendments nos 1 to 5 made by the Senate to which the House of Representatives has disagreed and agrees to the amendments made by the House in place of amendments nos 1 to 4.

Debate ensued.

The question was divided—

Question—That the committee does not insist on Senate amendment no. 1—put and negatived.

Question—That the committee does not insist on Senate amendment no. 2—put and passed.

Question—That the committee does not insist on Senate amendment no. 3—put and negatived.

Question—That the committee does not insist on Senate amendment no. 4—put and negatived.

Question—That the committee does not insist on Senate amendment no. 5—put and negatived.

Question—That the committee agrees to House amendment no. 1—

The Leader of the Opposition in the Senate (Senator Faulkner) moved the following amendments to House amendment no. 1, together by leave:

Subclause 2(1A), omit “Part 1 of Schedule 1 and items 22, 23, 24, 25 and 26 of Part 2 of Schedule 1”, substitute “Items 22, 23, 24, 25 and 26 of Schedule 1A”.

Subclause 2(1B), omit “Items 18, 19, 20 and 21 of Part 2 of Schedule 1”, substitute “Items 18, 19, 20 and 21 of Schedule 1A”.

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

Question—That House amendment no. 1, as amended, be agreed to—put and passed.

Question—That the committee agrees to House amendment no. 2—put and negatived.

Question—That the committee agrees to House amendment no. 3—put and negatived.

Question—That the committee agrees to House amendment no. 4—put and negatived.

Question—That the committee agrees to House amendment no. 5—put and negatived.

Question—That the committee agrees to House amendment no. 6—put and passed.

Question—That the committee agrees to House amendment no. 7—put and negatived.

Question—That the committee agrees to House amendment no. 8—

Senator Faulkner moved the following amendment to House amendment no. 8:

Omit:

Schedule 1, page 15 (after line 15), at the end of the Schedule, add:

Part 2—Amendments relating to family tax benefit

substitute:

Page 15 (after line 15), after Schedule 1, insert:

Schedule 1A—Amendments relating to family tax benefit

Question—That the amendment to House amendment no. 8 be agreed to—put and passed.

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

Senator Faulkner moved the following consequential amendment:

Clause 2, page 2 (lines 4 to 8), omit subclause (3).

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

Resolution to be reported.

The Acting Deputy President (Senator Ferguson) resumed the chair and the Temporary Chair of Committees (Senator Watson) reported that the committee had considered message no. 692 from the House of Representatives relating to the Child Support Legislation Amendment Bill (No. 2) 2000 and had resolved:

- (a) to insist on Senate amendments nos 1 and 3 to 5 to which the House had disagreed;
- (b) not to insist on Senate amendment no. 2 to which the House had disagreed;
- (c) in respect of the amendments made by the House in place of Senate amendments nos 1 to 4 to which the House had disagreed:
 - (i) had agreed to House amendments nos 1 and 8, with amendments,
 - (ii) had agreed to House amendment no. 6, and
 - (iii) had not agreed to House amendments nos 2 to 5 and 7; and
- (d) had made a consequential amendment to the bill.

On the motion of the Minister for Family and Community Services (Senator Vanstone) the report from the committee was adopted.

79 AUSTRALIA NEW ZEALAND FOOD AUTHORITY AMENDMENT BILL 2001

Order of the day read for the consideration of message no. 746 from the House of Representatives in committee of the whole (*see entry no. 55*).

In the committee

Message read.

SCHEDULE OF THE AMENDMENTS MADE BY THE HOUSE OF REPRESENTATIVES

- (1) Clause 2, page 1 (line 21), omit “Part 3”, substitute “Parts 3 and 4”.

[Clause 2—matters included in standards]

- (2) Clause 2, page 2 (line 16), after “Schedule 1”, insert “(other than item 120A)”.

[Clause 2—technical correction]

- (3) Schedule 1, item 36, page 8 (line 8), omit “principles”, substitute “guidelines”.

[Section 10—policy guidelines]

- (4) Schedule 1, item 37, page 8 (line 12), omit “principles”, substitute “guidelines”.

[Section 10—policy guidelines]

- (5) Schedule 1, item 37, page 8 (line 14), omit “principles”, substitute “guidelines”.

[Section 10—policy guidelines]

- (6) Schedule 1, item 37, page 8 (after line 14), after subsection (3), insert:

(3A) Policy guidelines formulated by the Council for the purposes of paragraph (2)(e) must not be inconsistent with the objectives set out in subsection (1).

[Section 10—policy guidelines]

- (7) Schedule 1, item 37A, page 9 (lines 15 to 24), omit the item.

[Section 10AA—policy guidelines]

- (8) Schedule 1, item 81, page 22 (line 7), before “amend”, insert “by written instrument,”.

[Section 23—decision of Council]

- (9) Schedule 1, item 81, page 22 (line 13), after “must”, insert “inform the Authority that the Council has amended the draft, and”.

[Section 23—decision of Council]

- (10) Schedule 1, item 118, page 38 (line 8), after “Council”, insert “for the purposes of this paragraph”.

[Section 40—Board]

- (11) Schedule 1, item 118, page 38 (after line 8), after paragraph (c), insert:

(ca) one member nominated by the New Zealand lead Minister on the Council for the purposes of this paragraph; and

[Section 40—Board]

- (12) Schedule 1, item 118, page 38 (line 12), omit “4”, substitute “3”.

[Section 40—Board]

- (13) Schedule 1, item 118, page 38 (lines 12 and 13), omit “scientific and public health organisations”, substitute “organisations, or public bodies, established for purposes relating to science or public health”.

[Section 40—Board]

- (14) Schedule 1, item 118, page 38 (lines 14 and 15), omit “food industry organisations or public bodies”, substitute “organisations, or public bodies, established for purposes relating to the food industry”.

[Section 40—Board]

- (15) Schedule 1, item 119, page 38 (before line 18), before subsection (1B), insert:

- (1A) A member mentioned in paragraph (1)(a), (c), (ca), (d), (e), (f) or (g) is to be appointed by the Minister.

[Section 40—Board]

- (16) Schedule 1, item 119, page 38 (line 22), after “(1)(c)”, insert “or (ca)”.

[Section 40—Board]

- (17) Schedule 1, item 120, page 38 (before line 25), before subsection (3), insert:

- (2B) The Minister may appoint a person as a member mentioned in paragraph (1)(a) or (c) only if the Minister is satisfied that the person is suitably qualified for appointment because of expertise in one or more of the following fields:

- (a) public health;
- (b) consumer affairs;
- (c) food science;
- (d) food allergy;
- (e) human nutrition;
- (f) medical science;
- (g) microbiology;
- (h) food safety;
- (i) biotechnology;
- (j) veterinary science;
- (k) the food industry;
- (l) food processing or retailing;
- (m) primary food production;
- (n) small business;
- (o) international trade;
- (p) government;
- (q) food regulation.

- (2C) The Minister may appoint a person as a member mentioned in paragraph (1)(ca) only if the Minister is satisfied that the person is suitably qualified for appointment because of expertise in one or more of the following fields:

- (a) public health;
- (b) consumer affairs;
- (c) food science;
- (d) food allergy;
- (e) human nutrition;
- (f) medical science;
- (g) microbiology;
- (h) food safety
- (i) biotechnology;
- (j) veterinary science.

[Section 40—Board]

- (18) Schedule 1, item 120, page 38 (line 26), omit “paragraph (1)(a), (c) or (f)”, substitute “paragraph (1)(f)”.

[Section 40—Board]

- (19) Schedule 1, item 120, page 39 (lines 7 to 9), omit paragraph (b), substitute:
- (b) the Minister has sought nominations from such organisations and public bodies as are prescribed by the regulations for the purposes of:
 - (i) if the person is suitably qualified for appointment because of expertise in only one field mentioned in paragraph (a)—the subparagraph of paragraph (a) that is applicable to that field; or
 - (ii) if the person is suitably qualified for appointment because of expertise in more than one field mentioned in paragraph (a)—a subparagraph of paragraph (a) that is applicable to one of those fields; and
 - (c) the person has been so nominated.

[Section 40—Board]

- (20) Schedule 1, item 120, page 39 (lines 22 to 24), omit paragraph (b), substitute:
- (b) the Minister has sought nominations from such organisations and public bodies as are prescribed by the regulations for the purposes of:
 - (i) if the person is suitably qualified for appointment because of expertise in only one field mentioned in paragraph (a)—the subparagraph of paragraph (a) that is applicable to that field; or
 - (ii) if the person is suitably qualified for appointment because of expertise in more than one field mentioned in paragraph (a)—a subparagraph of paragraph (a) that is applicable to one of those fields; and
 - (c) the person has been so nominated.

[Section 40—Board]

- (21) Schedule 1, item 120A, page 39 (line 28), after “1991”, insert “as amended by this Schedule”.

[Section 40—Board]

- (22) Schedule 1, item 120A, page 39 (after line 33), at the end of the item, add:
- (3) Subitem (1) has effect in addition to section 4 of the *Acts Interpretation Act 1901*.

[Item 120A—Board]

- (23) Schedule 1, item 126, page 40 (line 14), omit “a period of 4 years.”, substitute “the period specified in the instrument of appointment. The period must not exceed 4 years.”.

[Section 41—Board]

- (24) Schedule 1, item 128, page 41 (line 16), after “2 years”, insert “ending”.

[Section 41—Board]

- (25) Schedule 1, item 128, page 41 (after line 20), after subsection (8), insert:
- (8A) For the purposes of subsection (8):
 - (a) a director (however described) of a body corporate is taken to be employed by the body corporate; and

- (b) the secretary (however described) of a body corporate is taken to be employed by the body corporate.

[Section 41—Board]

- (26) Schedule 1, item 146A, page 43 (line 22), after “any time”, insert “during the period of 2 years ending”.

[Section 52A—Chief Executive Officer]

- (27) Schedule 1, item 146A, page 43 (after line 25), after subsection (3), insert:
 - (3A) For the purposes of subsection (3):
 - (a) a director (however described) of a body corporate is taken to be employed by the body corporate; and
 - (b) the secretary (however described) of a body corporate is taken to be employed by the body corporate.

[Section 52A—Chief Executive Officer]

- (28) Schedule 1, item 171, page 49 (line 30), omit “principles”, substitute “guidelines”.

[Section 69—policy guidelines]

- (29) Schedule 1, page 60 (after line 24), at the end of the Schedule, add:

Part 4—Amendments relating to matters that may be included in standards

186 After paragraph 9(1)(c)

Insert:

- (ca) the prohibition of the sale of food:
 - (i) either in all circumstances or in specified circumstances; and
 - (ii) either unconditionally or subject to specified conditions;

187 Paragraph 9(2)(a)

Omit “type”, substitute “class”.

188 After subsection 9(2)

Insert:

- (2A) To avoid doubt, subparagraphs (1)(ca)(i) and (ii) do not, by implication, limit any other paragraph of subsection (1).
- (2B) The matters to which standards, and variations of standards, may relate, are taken always to have included the matter mentioned in paragraph (1)(ca).
- (2C) To avoid doubt, paragraph (2)(a), as in force before the commencement of this subsection, is taken always to have had effect as if the reference in that paragraph to type were a reference to class.

[Section 9—matters included in standards]

The Parliamentary Secretary to the Minister for Health and Aged Care (Senator Tambling) moved—That the committee agrees to the amendments made by the House of Representatives to the bill.

Debate ensued.

Question put and passed.

Resolution to be reported.

The Acting Deputy President (Senator Ferguson) resumed the chair and the Temporary Chair of Committees (Senator Watson) reported that the committee had considered message no. 746 from the House of Representatives relating to the Australia New Zealand Food Authority Amendment Bill 2001 and had agreed to the amendments made by the House to the bill.

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

**80 ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION AMENDMENT
(WILDLIFE PROTECTION) BILL 2001**

Order of the day read for the consideration of message no. 745 from the House of Representatives in committee of the whole (*see entry no. 56*).

In the committee

Message read.

SCHEDULE OF THE AMENDMENTS MADE BY THE HOUSE OF REPRESENTATIVES

- (1) Schedule 1, item 1A, page 3 (lines 6 to 20), omit the item.
[Section 160—Minister’s advice]
- (2) Schedule 1, item 1B, page 3 (lines 21 to 29), omit the item.
[Section 160—Minister’s advice]
- (3) Schedule 1, item 10A, page 6 (lines 1 to 6), omit the item.
[Section 238—cetaceans]
- (4) Schedule 1, item 10B, page 6 (lines 7 and 8), omit the item.
[Section 266A—consultation]
- (5) Schedule 1, item 11, page 6 (lines 27 to 29), omit paragraph (g).
[Section 303BA—objects]
- (6) Schedule 1, item 11, page 6 (line 31), omit “during”, substitute “in making”.
[Section 303BA—objects]
- (7) Schedule 1, item 11, page 7 (lines 5 to 9), omit section 303BAA, substitute:
303BAA Certain indigenous rights not affected

To avoid doubt, nothing in this Part prevents an indigenous person from continuing in accordance with law the traditional use of an area for:

- (a) hunting (except for the purposes of sale); or
- (b) food gathering (except for the purposes of sale); or
- (c) ceremonial or religious purposes.

[Section 303BAA—indigenous rights]

- (8) Schedule 1, item 11, page 8 (lines 7 and 8), omit the definition of *bear product*.
[Section 303BC—definitions]
- (9) Schedule 1, item 11, page 8 (lines 9 to 11), omit the definition of *cat product*.
[Section 303BC—definitions]
- (10) Schedule 1, item 11, page 9 (lines 11 and 12), omit the definition of *listed migratory bird*.
[Section 303BC—definitions]
- (11) Schedule 1, item 11, page 10 (line 6), omit the definition of *trophy*.
[Section 303BC—definitions]
- (12) Schedule 1, item 11, page 12 (after line 13), after subsection (2), insert:
 (3) An instrument under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
[Section 303CB—CITES specimens]
- (13) Schedule 1, item 11, page 14 (line 2), after “that is”, insert “not”.
[Section 303CD—CITES specimens]
- (14) Schedule 1, item 11, page 15 (lines 1 to 11), omit section 303CDA.
[Section 303CDA—CITES specimens]
- (15) Schedule 1, item 11, page 15 (lines 12 to 15), omit section 303CDB.
[Section 303CDB—trophies]
- (16) Schedule 1, item 11, page 16 (line 4), omit “subsections (3), (4A) and (4B)”, substitute “subsection (3)”.
[Section 303CG—CITES specimens]
- (17) Schedule 1, item 11, page 17 (lines 26 to 29), omit subsection (4A).
[Section 303CG—CITES specimens]
- (18) Schedule 1, item 11, page 17 (line 30), omit subsection (4B).
[Section 303CG—CITES specimens]
- (19) Schedule 1, item 11, page 23 (line 6), omit “or a species of listed migratory bird”.
[Section 303DB—exempt native specimens]
- (20) Schedule 1, item 11, page 24 (lines 20 to 22), omit paragraph (c), substitute:
 (c) may consult such other persons and organisations as the Minister considers appropriate.
[Section 303DC—regulated native specimens]
- (21) Schedule 1, item 11, page 24 (line 23) to page 25 (line 13), omit subsections (3A), (3B), (3C), (3D) and (3E).
[Section 303DC—regulated native specimens]
- (22) Schedule 1, item 11, page 26 (lines 8 and 9), omit “or a live freshwater fish”, substitute “, or a live freshwater fish,”.
[Section 303DD—regulated native specimens]
- (23) Schedule 1, item 11, page 26 (lines 8 to 10), omit paragraph (ba), substitute:
 (ba) either:

- (i) the specimen is not a live terrestrial invertebrate, or a live freshwater fish, prescribed by the regulations for the purposes of this subparagraph; or
- (ii) the export is an export from an approved aquaculture program in accordance with section 303FM; and

[Section 303DD—regulated live specimens]

- (24) Schedule 1, item 11, page 27 (line 7), omit “subsections (3) and (4)”, substitute “subsections (3), (3A) and (4)”.

[Section 303DG—regulated native specimens]

- (25) Schedule 1, item 11, page 27 (line 16), omit “or a live freshwater fish”, substitute “, or a live freshwater fish,”.

[Section 303DG—regulated native specimens]

- (26) Schedule 1, item 11, page 27 (lines 17 to 20), omit all the words from and including “unless” to and including “303FA).”, substitute:

unless the Minister is satisfied that:

- (a) the proposed export would be an eligible non-commercial purpose export (within the meaning of section 303FA); or
- (b) the proposed export would be an export from an approved aquaculture program in accordance with section 303FM.

[Section 303DG—regulated native specimens]

- (27) Schedule 1, item 11, page 27 (line 25), omit “conservation status”, substitute “survival”.

[Section 303DG—regulated native specimens]

- (28) Schedule 1, item 11, page 28 (line 2), omit “or a species of listed migratory bird”.

[Section 303DG—regulated native specimens]

- (29) Schedule 1, item 11, page 28 (lines 4 and 5), omit “or any wildlife conservation plan”.

[Section 303DG—regulated native specimens]

- (30) Schedule 1, item 11, page 29 (lines 14 to 19), omit subsection (10).

[Section 303DG—regulated native specimens]

- (31) Schedule 1, item 11, page 30 (after line 28), after subsection (2), insert:

- (3) The list may only contain specimens that are live animals or live plants.

[Section 303EB—regulated live specimens]

- (32) Schedule 1, item 11, page 36 (line 29), omit “detrimental to”, substitute “likely to threaten”.

[Section 303EN—regulated live specimens]

- (33) Schedule 1, item 11, page 37 (lines 17 to 19), omit subsection (5).

[Section 303EN—regulated live specimens]

- (34) Schedule 1, item 11, page 43 (line 4), omit “and”.

[Section 303FC—research]

- (35) Schedule 1, item 11, page 43 (after line 4), at the end of paragraph (1)(b), add:
(iii) the maintenance and/or improvement of human health; and
[Section 303FC—research]
- (36) Schedule 1, item 11, page 43 (lines 5 and 6), omit paragraph (c), substitute:
(c) the export is not primarily for commercial purposes; and
[Section 303FC—research]
- (37) Schedule 1, item 11, page 43 (line 7), after “other conditions”, insert “(if any)”.
[Section 303FC—research]
- (38) Schedule 1, item 11, page 43 (line 18), omit “and”.
[Section 303FC—research]
- (39) Schedule 1, item 11, page 43 (after line 18), at the end of paragraph (2)(b), add:
(iii) the maintenance and/or improvement of human health; and
[Section 303FC—research]
- (40) Schedule 1, item 11, page 43 (lines 19 and 20), omit paragraph (c), substitute:
(c) the import is not primarily for commercial purposes; and
[Section 303FC—research]
- (41) Schedule 1, item 11, page 43 (line 21), after “other conditions”, insert “(if any)”.
[Section 303FC—research]
- (42) Schedule 1, item 11, page 43 (lines 28 and 29), omit paragraph (b), substitute:
(b) the export is not primarily for commercial purposes; and
[Section 303FD—education]
- (43) Schedule 1, item 11, page 43 (line 30), after “other conditions”, insert “(if any)”.
[Section 303FD—education]
- (44) Schedule 1, item 11, page 44 (lines 1 and 2), omit paragraph (b), substitute:
(b) the import is not primarily for commercial purposes; and
[Section 303FD—education]
- (45) Schedule 1, item 11, page 44 (line 3), after “other conditions”, insert “(if any)”.
[Section 303FD—education]
- (46) Schedule 1, item 11, page 44 (lines 10 and 11), omit paragraph (b), substitute:
(b) the export is not primarily for commercial purposes; and
[Section 303FE—exhibition]
- (47) Schedule 1, item 11, page 44 (line 12), after “other conditions”, insert “(if any)”.
[Section 303FE—exhibition]
- (48) Schedule 1, item 11, page 44 (lines 18 and 19), omit paragraph (b), substitute:
(b) the import is not primarily for commercial purposes; and
[Section 303FE—exhibition]
- (49) Schedule 1, item 11, page 44 (line 20), after “other conditions”, insert “(if any)”.
[Section 303FE—exhibition]

(50) Schedule 1, item 11, page 44 (lines 22 to 29), omit subsection (3), substitute:

(3) In this section:

exhibition includes a zoo or menagerie.

[Section 303FE—exhibition]

(51) Schedule 1, item 11, page 45 (lines 11 and 12), omit paragraph (d), substitute:

(d) the export is not primarily for commercial purposes; and

[Section 303FF—conservation breeding or propagation]

(52) Schedule 1, item 11, page 45 (line 13), after “other conditions”, insert “(if any)”.

[Section 303FF—conservation breeding or propagation]

(53) Schedule 1, item 11, page 45 (lines 24 and 25), omit paragraph (d), substitute:

(d) the import is not primarily for commercial purposes; and

[Section 303FF—conservation breeding or propagation]

(54) Schedule 1, item 11, page 45 (line 26), after “other conditions”, insert “(if any)”.

[Section 303FF—conservation breeding or propagation]

(55) Schedule 1, item 11, page 45 (lines 34 and 35), omit paragraph (b), substitute:

(b) the export is not primarily for commercial purposes; and

[Section 303FG—household pets]

(56) Schedule 1, item 11, page 46 (lines 9 and 10), omit paragraph (c), substitute:

(c) the export is not primarily for commercial purposes; and

[Section 303FG—household pets]

(57) Schedule 1, item 11, page 46 (lines 18 and 19), omit paragraph (b), substitute:

(b) the import is not primarily for commercial purposes; and

[Section 303FG—household pets]

(58) Schedule 1, item 11, page 47 (lines 4 to 27), omit subsections (8) to (12).

[Section 303FG—household pets]

(59) Schedule 1, item 11, page 47 (lines 32 and 33), omit paragraph (b), substitute:

(b) the export is not primarily for commercial purposes; and

[Section 303FH—personal items]

(60) Schedule 1, item 11, page 48 (lines 6 and 7), omit paragraph (b), substitute:

(b) the import is not primarily for commercial purposes; and

[Section 303FH—personal items]

(61) Schedule 1, item 11, page 48 (after line 9), after section 303FH, insert:

303FI Export or import for the purposes of a travelling exhibition

(1) The export of a specimen is an export for the purposes of a travelling exhibition in accordance with this section if:

(a) the export is not primarily for commercial purposes; and

(b) the conditions specified in the regulations have been, or are likely to be, satisfied.

(2) The import of a specimen is an import for the purposes of a travelling exhibition in accordance with this section if:

- (a) the import is not primarily for commercial purposes; and
- (b) the conditions specified in the regulations have been, or are likely to be, satisfied.

[Section 303FI—travelling exhibitions]

- (62) Schedule 1, item 11, page 50 (line 7), omit “or”, substitute “and”.

[Section 303FN—approved wildlife trade operations]

- (63) Schedule 1, item 11, page 50 (lines 8 and 9), omit subparagraph (iii).

[Section 303FN—approved wildlife trade operations]

- (64) Schedule 1, item 11, page 50 (after line 9), after paragraph (b), insert:

- (ba) the operation will not be likely to threaten any relevant ecosystem including (but not limited to) any habitat or biodiversity; and

[Section 303FN—approved wildlife trade operations]

- (65) Schedule 1, item 11, page 50 (lines 16 to 30), omit subsection (4), substitute:

- (4) In deciding whether to declare an operation under subsection (2), the Minister must have regard to:

- (a) the significance of the impact of the operation on an ecosystem (for example, an impact on habitat or biodiversity); and
- (b) the effectiveness of the management arrangements for the operation (including monitoring procedures).

- (5) In deciding whether to declare an operation under subsection (2), the Minister must have regard to:

- (a) whether legislation relating to the protection, conservation or management of the specimens to which the operation relates is in force in the State or Territory concerned; and
- (b) whether the legislation applies throughout the State or Territory concerned; and
- (c) whether, in the opinion of the Minister, the legislation is effective.

[Section 303FN—approved wildlife trade operations]

- (66) Schedule 1, item 11, page 50 (after line 35), after subsection (6), insert:

- (7) If a declaration ceases to be in force, this Act does not prevent the Minister from making a fresh declaration under subsection (2).
- (8) A fresh declaration may be made during the 90-day period before the time when the current declaration ceases to be in force.
- (9) A fresh declaration that is made during that 90-day period takes effect immediately after the end of that period.

[Section 303FN—approved wildlife trade operations]

- (67) Schedule 1, item 11, page 54 (lines 16 and 17), omit paragraph (aa).

[Section 303FP—accredited wildlife trade management plans]

- (68) Schedule 1, item 11, page 55 (lines 14 to 18), omit subsection (9), substitute:

- (9) The Minister is not required to comply with subsection (8) to the extent to which compliance could reasonably be expected to:

- (a) prejudice substantially the commercial interests of a person; or
- (b) be detrimental to:
 - (i) the survival of a taxon to which the plan relates; or
 - (ii) the conservation status of a taxon to which the plan relates.

[Section 303FP—accredited wildlife trade management plans]

- (69) Schedule 1, item 11, page 55 (lines 19 and 20), omit subsection (10).

[Section 303FP—accredited wildlife trade management plans]

- (70) Schedule 1, item 11, page 55 (lines 26 to 31), omit subsection (1), substitute:

- (1) Before making a declaration under section 303FN, 303FO or 303FP, the Minister must cause to be published on the Internet a notice:
 - (a) setting out the proposal to make the declaration; and
 - (b) setting out sufficient information to enable persons and organisations to consider adequately the merits of the proposal; and
 - (c) inviting persons and organisations to give the Minister, within the period specified in the notice, written comments about the proposal.

[Section 303FR—public consultation]

- (71) Schedule 1, item 11, page 55 (line 32) to page 56 (line 7), omit subsection (1A).

[Section 303FR—public consultation]

- (72) Schedule 1, item 11, page 56 (line 8), omit “subsection (1A)”, substitute “subsection (1)”.

[Section 303FR—public consultation]

- (73) Schedule 1, item 11, page 56 (lines 15 to 17), omit subsection (4).

[Section 303FR—public consultation]

- (74) Schedule 1, item 11, page 56 (after line 17), after section 303FR, insert:

303FRA Assessments

- (1) The regulations may prescribe an assessment process that is to be used for the purposes of sections 303FN, 303FO and 303FP to assess the potential impacts on the environment of:
 - (a) a wildlife trade operation; or
 - (b) the activities covered by a plan;
 where the operation is, or the activities are, likely to have a significant impact on the environment.
- (2) If regulations made for the purposes of subsection (1) apply to a wildlife trade operation or to a plan, the Minister must not declare:
 - (a) the operation under subsection 303FN(2); or
 - (b) the plan under subsection 303FO(2) or 303FP(2);
 unless the assessment process prescribed by those regulations has been followed in relation to the assessment of the operation or plan, as the case may be.
- (3) Without limiting subsection (1), regulations made for the purposes of that subsection may make provision for:

- (a) the application of Part 8 (except sections 82, 83 and 84) and the other provisions of this Act (so far as they relate to that Part) in relation to the assessment process, subject to such modifications as are specified in the regulations; and
 - (b) exemptions from the assessment process.
- (4) In this section:

modifications includes additions, omissions and substitutions.

wildlife trade operation has the same meaning as in subsection 303FN(10), but does not include an operation mentioned in paragraph 303FN(10)(d).

[Section 303FRA—assessments]

- (75) Schedule 1, item 11, page 61 (line 9), omit “be in accordance with”, substitute “not be contrary to”.

[Section 303GB—exceptional circumstances permit]

- (76) Schedule 1, item 11, page 61 (lines 29 to 33), omit subsection (4A).

[Section 303GB—exceptional circumstances permit]

- (77) Schedule 1, item 11, page 62 (after line 9), after subsection (6), insert:

Public consultation

- (7) Before issuing a permit under this section, the Minister must cause to be published on the Internet a notice:
 - (a) setting out the proposal to issue the permit; and
 - (b) setting out sufficient information to enable persons and organisations to consider adequately the merits of the proposal; and
 - (c) inviting persons and organisations to give the Minister, within the period specified in the notice, written comments about the proposal.
- (8) A period specified in a notice under subsection (7) must not be shorter than 5 business days after the date on which the notice was published on the Internet.
- (9) In making a decision under subsection (1) about whether to issue a permit, the Minister must consider any comments about the proposal to issue the permit that were given in response to an invitation under subsection (7).

[Section 303GB—exceptional circumstances permit]

- (78) Schedule 1, item 11, page 62 (lines 10 to 12), omit subsection (10).

[Section 303GB—exceptional circumstances permit]

- (79) Schedule 1, item 11, page 66 (lines 5 to 30), omit section 303GEA.

[Section 303GEA—public consultation on permits]

- (80) Schedule 1, item 11, page 69 (lines 9 to 13), omit all the words from and including “must consider” to and including “conditions of the permit.”, substitute “must consider whether the transferee is a suitable person to hold the permit, having regard to the matters set out in the regulations.”.

[Section 303GH—transfer of permits]

(81) Schedule 1, item 11, page 84 (lines 13 to 26), omit section 303GZ.

[Section 303GZ—scientific specimens]

(82) Schedule 1, item 36A, page 96 (lines 5 to 12), omit the item.

[Section 523A—management plans]

(83) Schedule 1, page 123 (after line 16), after item 84H, insert:

84HA At the end of section 197

Add:

; or (k) an action provided for by, and taken in accordance with, a plan or regime that is accredited under section 208A.

[Section 197—certain actions not offences]

(84) Schedule 1, page 123, after item 84HA, insert:

84HB Before section 208

Insert:

208A Minister may accredit plans or regimes

The Minister may, by instrument in writing, accredit for the purposes of this Division:

- (a) a plan of management within the meaning of section 17 of the *Fisheries Management Act 1991*; or
- (b) a plan of management for a fishery made by a State or self-governing Territory and that is in force in the State or Territory; or
- (c) a regime determined in writing by the Australian Fisheries Management Authority under the *Fisheries Administration Act 1991* for managing a fishery for which a plan of management (within the meaning of section 17 of the *Fisheries Management Act 1991*) is not in force;

if satisfied that:

- (d) the plan or regime requires persons engaged in fishing under the plan or regime to take all reasonable steps to ensure that members of listed threatened species are not killed or injured as a result of the fishing; and
- (e) the fishery to which the plan or regime relates does not, or is not likely to, adversely affect the survival or recovery in nature of the species.

[Section 208A—accreditation of fisheries]

(85) Schedule 1, page 123, after item 84HB, insert:

84HC At the end of section 212

Add:

; or (k) an action provided for by, and taken in accordance with, a plan or regime that is accredited under section 222A.

[Section 212—certain actions not offences]

(86) Schedule 1, page 123, after item 84HC, insert:

84HD Before section 223

Insert:

222A Minister may accredit plans or regimes

The Minister may, by instrument in writing, accredit for the purposes of this Division:

- (a) a plan of management within the meaning of section 17 of the *Fisheries Management Act 1991*; or
- (b) a plan of management for a fishery made by a State or self-governing Territory and that is in force in the State or Territory; or
- (c) a regime determined in writing by the Australian Fisheries Management Authority under the *Fisheries Administration Act 1991* for managing a fishery for which a plan of management (within the meaning of section 17 of the *Fisheries Management Act 1991*) is not in force;

if satisfied that:

- (d) the plan or regime requires persons engaged in fishing under the plan or regime to take all reasonable steps to ensure that members of listed migratory species are not killed or injured as a result of the fishing; and
- (e) the fishery to which the plan or regime relates does not, or is not likely to, adversely affect the conservation status of a listed migratory species or a population of that species.

[Section 222A—accreditation of fisheries]

(87) Schedule 1, page 123, after item 84HD, insert:

84HE Paragraph 231(h)

Repeal the paragraph, substitute:

- (h) an action provided for by, and taken in accordance with, a plan or regime that is accredited under section 245.

[Section 231—certain actions not offences]

(88) Schedule 1, page 123, after item 84HE, insert:

84HF After paragraph 245(b)

Insert:

- ; or (ba) a regime determined in writing by the Australian Fisheries Management Authority under the *Fisheries Administration Act 1991* for managing a fishery for which a plan of management (within the meaning of section 17 of the *Fisheries Management Act 1991*) is not in force;

Note: The heading to section 245 is altered by omitting “of management” and substituting “or regimes”.

[Section 245—accreditation of fisheries]

(89) Schedule 1, page 123, after item 84HF, insert:

84HG Paragraph 255(k)

Omit “of management”, substitute “or regime”.

[Section 255—certain actions not offences]

(90) Schedule 1, page 123, after item 84HG, insert:

84HH After paragraph 265(b)

Insert:

; or (ba) a regime determined in writing by the Australian Fisheries Management Authority under the *Fisheries Administration Act 1991* for managing a fishery for which a plan of management (within the meaning of section 17 of the *Fisheries Management Act 1991*) is not in force;

Note: The heading to section 265 is altered by omitting “of management” and substituting “or regimes”.

[Section 265—accreditation of fisheries]

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That the committee agrees to the amendments made by the House of Representatives to the bill.

Debate ensued.

Question put and passed.

Resolution to be reported.

The Acting Deputy President (Senator Ferguson) resumed the chair and the Temporary Chair of Committees (Senator Watson) reported that the committee had considered message no. 745 from the House of Representatives relating to the Environment Protection and Biodiversity Conservation Amendment (Wildlife Protection) Bill 2001 and had agreed to the amendments made by the House to the bill.

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

81 HIGHER EDUCATION FUNDING AMENDMENT BILL 2001

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 Carr moved the following amendment:

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

- (a) reducing government expenditure on universities by \$3 billion and shifting the burden onto students and graduates;
- (b) cutting 3 500 research training places, including 800 at regional universities; and

(c) continuing to work towards total university fee deregulation”.

Debate ensued.

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

Main question, as amended, 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, agreed to.

Bill to be reported without amendment.

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

On the motion of the Minister for Justice and Customs (Senator Ellison) the report from the committee was adopted and the bill read a third time.

82 INNOVATION AND EDUCATION LEGISLATION AMENDMENT BILL 2001

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

Debate resumed.

Question put and passed.

Bill read a second time.

Senator Carr, pursuant to contingent notice, moved—That it be an instruction to the committee of the whole that:

- (a) the committee divide the Innovation and Education Legislation Amendment Bill 2001 (the parent bill) into three separate bills as follows:
 - (i) a bill dealing with extra funding for research and higher education, comprising clauses 1 to 3 and Schedule 1 of the parent bill,
 - (ii) a bill dealing with extra funding for primary and secondary education, comprising Schedule 2 of the parent bill, and
 - (iii) a bill dealing with the postgraduate education loan scheme, limits on student debts to the Commonwealth and electronic communications with students, comprising Schedules 3, 4 and 5 of the parent bill; and
- (b) the committee amend the title of the first bill and add enacting words and provisions for titles and commencement to the second and third bills.

Debate ensued.

Question put.

The Senate divided—

AYES, 31

Senators—

Allison	Collins	Greig	Murray
Bartlett	Conroy	Hogg	O'Brien
Bishop	Crossin	Hutchins	Ray
Bourne	Crowley	Lees	Ridgeway
Brown	Denman	Ludwig (Teller)	Schacht
Buckland	Faulkner	Mackay	Sherry
Campbell, George	Forshaw	McKiernan	Woodley
Carr	Gibbs	Murphy	

NOES, 29

Senators—

Abetz	Ferguson	Macdonald, Ian	Tchen
Boswell	Ferris	Macdonald, Sandy	Tierney
Brandis	Gibson	Mason	Troeth
Calvert	Harradine	McGauran (Teller)	Vanstone
Campbell, Ian	Harris	Newman	Watson
Chapman	Herron	Payne	
Eggleston	Kemp	Reid	
Ellison	Lightfoot	Tambling	

Question agreed to.

In the committee

Bill, taken as a whole, by leave.

Division of bill: Senator Carr moved—

- (1) That the Innovation and Education Legislation Amendment Bill 2001 be divided into 3 separate bills as follows:
 - (a) a bill (the *first bill*) dealing with extra funding for research and higher education, comprising clauses 1 to 3 and Schedule 1 of the parent bill;
 - (b) a bill (the *second bill*) dealing with extra funding for primary and secondary education, comprising Schedule 2 of the parent bill; and
 - (c) a bill (the *third bill*) dealing with the postgraduate education loan scheme, limits on student debts to the Commonwealth and electronic communications with students, comprising Schedules 3, 4 and 5 of the parent bill; and
- (2) That the first bill be amended as follows:
 - (a) Title, omit “**primary, secondary and higher education and of research**”, substitute “**higher education and research**”.
 - (b) Clause 1, page 1 (line 7), after “*Act*”, insert “(No. 1)”.
- (3) That the second bill be amended as follows:
 - (a) At the beginning of the bill, insert:

A Bill for an Act to amend legislation about funding of primary and secondary education and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Innovation and Education Legislation Amendment Act (No. 2) 2001*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

(b) Renumber Schedule 2 as Schedule 1.

(4) That the third bill be amended as follows:

(a) At the beginning of the bill, insert:

A Bill for an Act to amend legislation about funding of higher education and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Innovation and Education Legislation Amendment Act (No. 3) 2001*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

(b) Renumber Schedules 3, 4 and 5 as Schedules 1, 2 and 3, respectively.

Question put and passed.

The Minister for Justice and Customs (Senator Ellison) moved—That the committee report progress and ask leave to sit again.

Question put and passed.

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

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

83 TAXATION LAWS AMENDMENT (SUPERANNUATION CONTRIBUTIONS) BILL 2000

Order of the day read for the consideration of message no. 703 from the House of Representatives in committee of the whole (*see entry no. 22, 24 May 2001*).

In the committee

Message read.

The Assistant Treasurer (Senator Kemp) moved—That the committee does not insist on the Senate amendment to which the House of Representatives has disagreed.

Debate ensued.

Question put.

The committee divided—

AYES, 36

Senators—

Abetz	Eggleston	Lees	Reid
Allison	Ellison	Lightfoot	Ridgeway
Bartlett	Ferguson	Macdonald, Ian	Tambling
Boswell	Ferris	Macdonald, Sandy	Tchen
Bourne	Gibson	Mason	Tierney
Brandis	Greig	McGauran (Teller)	Troeth
Calvert	Harris	Murray	Vanstone
Campbell, Ian	Herron	Newman	Watson
Chapman	Kemp	Payne	Woodley

NOES, 21

Senators—

Bishop	Cooney	Hutchins	Ray
Brown	Crossin	Ludwig (Teller)	Schacht
Buckland	Crowley	Mackay	Sherry
Campbell, George	Faulkner	McLucas	
Carr	Forshaw	Murphy	
Collins	Gibbs	O'Brien	

Question agreed to.

Resolution to be reported.

The President resumed the chair and the Temporary Chair of Committees (Senator Ferguson) reported that the committee had considered message no. 703 from the House of Representatives relating to the Taxation Laws Amendment (Superannuation Contributions) Bill 2000 and had resolved not to insist on the amendment made by the Senate to which the House had disagreed.

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

84 INTERACTIVE GAMBLING BILL 2001

A message from the House of Representatives was reported agreeing to the following bill without amendment:

Message no. 756, dated 29 June 2001 am—Interactive Gambling Bill 2001.

85 NOTICES OF MOTION WITHDRAWN

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell), at the request of the respective senators, withdrew the following general business notices of motion:

612, 613, 624, 798, 850, 862, 868, 892, 901, 907, 910 and 913.

86 LEAVE OF ABSENCE

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That leave of absence be granted to every member of the Senate from the termination of the sitting today to the day on which the Senate next meets.

Question put and passed.

87 ADJOURNMENT

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 3.23 am till Monday, 6 August 2001 at 12.30 pm.

88 ATTENDANCE

Present, all senators except Senators Bolkus, Cook*, Evans, Lundy*, Patterson and West (* on leave).

HARRY EVANS
Clerk of the Senate