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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 GOVERNMENT DOCUMENTS

The following government documents were tabled:

Housing Assistance Act 1996—Report for 1998-99 on the operation of the 1996 Commonwealth-State Housing Agreement.

National Health Act—Private health insurance premium changes—Report for the quarter commencing 1 April 2001.

3 WORKPLACE RELATIONS AMENDMENT (TERMINATION OF EMPLOYMENT) BILL 2000

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.

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

Schedule 1, item 11, page 5 (line 21) to page 6 (line 10), omit the item, substitute:

11 At the end of subsection 170CE(7)

Add “, or within such period as the Commission allows on an application made during or after those 21 days.”.

11A At the end of subsection 170CE(7A)

Add “, or within such period as the Commission allows on an application made during or after those 21 days.”.

Note: In *Brodie-Hanns v MTV Publishing Ltd* (1995) 67 IR 298 the Industrial Relations Court of Australia set down principles relating to the exercise of its discretion under a similarly worded provision of the *Industrial Relations Act 1988*.

11B Subsection 107CE(8)

Repeal the subsection.

Schedule 1, item 36, page 16 (lines 14 to 35), omit the item, substitute:

36 At the end of subsection 170CP(6)

Add “, or within such period as a court allows on an application made during or after those 14 days.”.

Note: In *Brodie-Hanns v MTV Publishing Ltd* (1995) 67 IR 298, the Industrial Relations Court of Australia set down principles relating to the exercise of its discretion under a similarly worded provision of the *Industrial Relations Act 1988*.

36A Subsection 170CP(7)

Repeal the subsection.

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

Schedule 1, item 13, page 6 (line 32) to page 7 (line 9), omit the item, substitute:

13 At the end of subsection 170CF(2)

Add:

; and (d) if the Commission considers, having regard to all the materials before the Commission, that the application has no reasonable prospect of success, it must advise the parties accordingly.

Schedule 1, item 14, page 7 (lines 15 to 17), omit paragraph (3)(b), substitute:

(b) the Commission has indicated that the applicant's claim in respect of the ground so referred has no reasonable prospect of success;

Schedule 1, item 14, page 7 (lines 27 and 28), omit "a substantial prospect of being unsuccessful", substitute "no reasonable prospect of success".

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

Schedule 1, item 15, page 7 (line 35) to page 8 (line 12), omit the item, substitute:

15 At the end of subsection 170CFA(1)

Add:

Note: If a certificate under subsection 170CF(2) identifies both the ground in paragraph 170CE(1)(a) and a ground or grounds of an alleged contravention of Subdivision C, and the Commission has issued a certificate under subsection 170CF(4) in relation to the ground in paragraph 170CE(1)(a), an applicant must make an election as if the certificate under subsection 170CF(2) identified only the ground or grounds in Subdivision C.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 16 to 24.

Question—That Schedule 1, items 16 to 24 stand as printed—put and negatived.

Bill, as amended, further debated.

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

Schedule 1, item 26, page 11 (after line 23), at the end of the item, add:

(db) the degree to which the absence of dedicated human resource management specialists or expertise in the undertaking, establishment or service would be likely to impact on the procedures followed in effecting the termination; and

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 25, 27 and 46.

Schedule 1, items 25, 27 and 46 debated.

Question—That Schedule 1, items 25, 27 and 46 stand as printed—put and negatived.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 28 and 29.

Schedule 1, items 28 and 29 debated.

Question—That Schedule 1, items 28 and 29 stand as printed—put and negatived.

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

Schedule 1, item 30, page 13 (line 27), omit “a reasonable opportunity”, substitute “reasonable notice and a reasonable opportunity”.

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

Schedule 1, item 31, page 13 (line 29) to page 14 (line 36), omit the item, substitute:

31 Subsections 170CJ(1), (2), (3), (4) and (5)

Repeal the subsections, substitute:

(1) If the Commission is satisfied:

(a) that a person (*first party*):

(i) made an application under section 170CE; or

(ii) began proceedings relating to an application; and

(b) the first party did so in circumstances where it should have been reasonably apparent to the first party that he or she had no reasonable prospect of success in relation to the application or proceeding;

the Commission may, on application under this section by the other party to the application or proceeding, make an order for costs against the first party.

(2) If the Commission is satisfied that a party (*first party*) to a proceeding relating to an application under section 170CE has acted unreasonably in failing:

(a) to discontinue the proceeding; or

(b) to agree to terms of settlement that could lead to the discontinuance of the application;

the Commission may, on an application under this section by the other party to the proceeding, make an order for costs against the first party.

(3) If the Commission is satisfied:

(a) that a party (*first party*) to a proceeding relating to an application made under section 170CE caused costs to be incurred by the other party to the proceeding; and

(b) that the first party caused the costs to be incurred because of the first party's unreasonable act or omission in connection with the conduct of the proceeding;

the Commission may, on an application by the other party under this section, make an order for costs against the first party.

(4) In making a decision under this section, the Commission may have regard to any certificate issued or advice given under section 170CF and whether a party pursued a course of action contrary to any such certificate or advice.

(5) An application for an order for costs under this section must be made within 14 days after the determination, discontinuance, settlement or dismissal of the application under section 170CE or proceeding relating to an application under section 170CE (as the case may be).

(5A) A schedule of costs may be prescribed in relation to items of expenditure likely to be incurred in respect of:

- (a) an application to the Commission under section 170CE; and
- (b) a proceeding in respect of an application under section 170CE.

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

Schedule 1, item 33, page 15 (lines 9 and 10), omit paragraph (a).

Schedule 1, item 33, page 15 (line 20), omit “This list is not an exhaustive list.”.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 34.

Schedule 1, item 34 debated.

Question—That Schedule 1, item 34 stand as printed—put and negatived.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 37 and 38.

Schedule 1, items 37 and 38 debated.

Question—That Schedule 1, items 37 and 38 stand as printed—put and negatived.

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

Schedule 1, item 39, page 17 (line 18), at the end of section 170HBA, add “unless the second application corrects an error in the previous application, or the Commission considers that it would be fair to accept the second application”.

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

Schedule 1, item 40, page 17 (line 26), after “applicant”, insert “or a respondent”.

Schedule 1, item 40, page 18 (line 2), after “applicant”, insert “or a respondent”.

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

Schedule 1, item 40, page 18 (after line 18), at the end of section 170HE, add:

- (2) An adviser must not encourage an employer to continue to oppose an unfair termination application if, on the facts that have been disclosed or that ought reasonably to have been apparent to the adviser, the adviser should have been, or should have become, aware that there was no reasonable prospect of the respondent defending the action.

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

Schedule 1, item 40, page 18 (line 26), at the end of subsection (2), add:

- ; or (d) the Registrar; or
- (e) an organisation of employees or employers that represented a party in proceedings at first instance in respect of the unfair termination application.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 40, section 170HG.

Schedule 1, item 40, section 170HG debated.

Question—That Schedule 1, item 40, section 170HG stand as printed—put and negatived.

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

Schedule 1, item 40, page 19 (line 12), after “application”, insert “or no reasonable prospect of the respondent defending the action”.

Bill, as amended, agreed to.

Bill to be reported with amendments.

The Acting Deputy President (Senator Knowles) resumed the chair and the Temporary Chair of Committees 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 bill read a third time.

4 NATIONAL CRIME AUTHORITY LEGISLATION AMENDMENT BILL 2000 [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.

Explanatory memorandum: The Minister for Justice and Customs (Senator Ellison) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

Senator Greig moved the following amendment:

Schedule 1, item 12, page 4 (line 24) to page 5 (line 20), omit subsections (4) and (5), substitute:

- (4) A person may refuse:
 - (a) to answer a question put to him or her at a hearing before the Authority; or
 - (b) to produce a document or thing that he or she was required to produce at a hearing before the Authority;
- if the answer to the question, or the production of the document or thing, as the case may be, might tend to incriminate the person.

- (5) A person must not refuse:
- (a) to answer a question put to him or her at a hearing before the Authority; or
 - (b) to produce a document or thing that he or she was required to produce at a hearing before the Authority;

if the answer to the question or the production of the document or thing might tend to prove the person's guilt of an offence against a law of the Commonwealth or of a Territory and the Director of Public Prosecutions has given to the person an undertaking in writing that any answer given or document or thing produced, as the case may be, or any information, document or thing obtained as a direct or indirect consequence of the answer or the production of the first-mentioned document or thing, will not be used in evidence in any proceedings against the person for an offence against a law of the Commonwealth or of a Territory other than proceedings in respect of the falsity of evidence given by the person and the Director of Public Prosecutions states in the undertaking:

- (c) that, in his or her opinion, there are special grounds that in the public interest require that answers be given or documents or things be produced by that person; and
 - (d) the general nature of those grounds.
- (5A) The Authority may recommend to the Director of Public Prosecutions that a person who has been or is to be served with a summons to appear as a witness at a hearing before the Authority or to produce a document or thing at a hearing before the Authority be given an undertaking in accordance with subsection (5).

- (5B) A person must not refuse:
- (a) to answer a question put to him or her at a hearing before the Authority; or
 - (b) to produce a document or thing that he or she was required to produce at a hearing before the Authority;

if the answer to the question or the production of the document or thing might tend to prove the person's guilt of an offence against a law of a State and the Attorney-General of that State, or a person authorized by him or her, being the person holding the office of Director of Public Prosecutions, or a similar office, of that State, has given to the person an undertaking in writing that any answer given or document or thing produced, as the case may be, or any information, document or thing obtained as a direct or indirect consequence of the answer or the production of the first-mentioned document or thing, will not be used in evidence in any proceedings against the person for an offence against a law of that State other than proceedings in respect of the falsity of evidence given by the person and the Attorney-General of that State, or the person so authorized, states in the undertaking:

- (c) that, in his or her opinion, there are special grounds that in the public interest require that answers be given or documents or things be produced by that person; and
 - (d) the general nature of those grounds.
- (5C) The Authority may recommend to the Attorney-General of a State that a person who has been or is to be served with a summons to appear as a witness at a hearing before the Authority or to produce a document or thing at a hearing before the Authority be given an undertaking in accordance with subsection (5B).

Debate ensued.

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

Bill further debated.

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

Schedule 1, item 26, page 12 (line 17), omit paragraph (c), substitute:

- (c) a Federal Magistrate.

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

Schedule 1, heading to Part 8, page 18 (line 2), omit the heading, substitute:

Part 8—Delegation of Chair's powers

Schedule 1, item 54, page 18 (line 13), omit "Chairperson", substitute "Chair".

Schedule 1, item 54, page 18 (line 14), omit "Chairperson's", substitute "Chair's".

Schedule 1, item 54, page 18 (line 15), omit "Chairperson", substitute "Chair".

Schedule 1, item 54, page 18 (line 16), omit "Chairperson's", substitute "Chair's".

Schedule 1, item 54, page 18 (line 18), omit "Chairperson", substitute "Chair".

Schedule 1, item 54, page 18 (line 20), omit "Chairperson's", substitute "Chair's".

Schedule 1, item 61, page 22 (line 22), omit "Chairperson", substitute "Chair".

Schedule 1, item 61, page 22 (line 27), omit "Chairperson", substitute "Chair".

Schedule 1, item 61, page 23 (line 4), omit "Chairperson", substitute "Chair".

Schedule 1, item 63, page 24 (line 11), omit "Chairperson", substitute "Chair".

Schedule 1, item 63, page 24 (line 14), omit "Chairperson", substitute "Chair".

Schedule 1, item 74, page 30 (line 19), omit "Chairperson", substitute "Chair".

Schedule 1, item 76, page 33 (line 4), omit "Chairperson", substitute "Chair".

Schedule 1, item 76, page 33 (line 6), omit "Chairperson", substitute "Chair".

Schedule 1, item 137, page 40 (line 2), omit "Chairperson", substitute "Chair".

Schedule 1, item 137, page 40 (line 4), omit "Chairperson", substitute "Chair".

Schedule 1, item 143, page 41 (line 8), omit "Chairperson", substitute "Chair".

Schedule 1, item 143, page 41 (line 9), omit "Chairperson", substitute "Chair".

Schedule 1, item 143, page 41 (line 13), omit "Chairperson", substitute "Chair".

Schedule 1, item 143, page 41 (line 14), omit “Chairperson”, substitute “Chair”.

Schedule 1, page 41 (after line 14), at the end of the Schedule, add:

Part 20—Renaming the Chairperson of the Authority

146 Subsection 4(1)

Insert:

Chair means Chair of the Authority.

147 Subsection 4(1) (definition of *Chairperson*)

Repeal the definition.

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

Omit “Chairperson”, substitute “Chair”.

149 Paragraph 7(2)(a)

Omit “Chairperson”, substitute “Chair”.

150 Subsections 7(3), (4), (5) and (9)

Omit “Chairperson”, substitute “Chair”.

151 Subsection 8(9)

Omit “Chairperson”, substitute “Chair”.

152 Subsections 25(3), (3A), (9A) and (9B)

Omit “Chairperson” (wherever occurring), substitute “Chair”.

153 Section 26

Omit “Chairperson” (wherever occurring), substitute “Chair”.

154 Subsection 28(6)

Omit “Chairperson”, substitute “Chair”.

155 Subsections 37(1), (1A) and (1B)

Omit “Chairperson”, substitute “Chair”.

156 Subsection 37(1C)

Omit “Chairperson’s”, substitute “Chair’s”.

157 Subsection 37(1D)

Omit “Chairperson”, substitute “Chair”.

158 Section 44

Omit “Chairperson” (wherever occurring), substitute “Chair”.

Note: The heading to section 44 is altered by omitting “**Chairperson**” and substituting “**Chair**”.

159 Subsection 45(1)

Omit “Chairperson”, substitute “Chair”.

160 Section 46

Omit “Chairperson” (wherever occurring), substitute “Chair”.

161 Section 46A

Omit “Chairperson”, substitute “Chair”.

Note: The heading to section 46A is altered by omitting “**Chairperson**” and substituting “**Chair**”.

162 Subsection 47(2)

Omit “Chairperson” (wherever occurring), substitute “Chair”.

163 Section 48

Omit “Chairperson” (wherever occurring), substitute “Chair”.

164 Section 50

Omit “Chairperson”, substitute “Chair”.

165 Subsections 59(7), (8) and (11)

Omit “Chairperson” (wherever occurring), substitute “Chair”.

166 Section 59A

Omit “Chairperson”, substitute “Chair”.

167 Section 59A

Omit “Chairperson’s”, substitute “Chair’s”.

168 Subsections 60(3) and (3A)

Omit “Chairperson” (wherever occurring), substitute “Chair”.

169 Paragraph 61(2)(d)

Omit “Chairperson”, substitute “Chair”.

Page 47 (after line 8), at the end of the bill, add:

Schedule 8—Crimes Act 1914

1 Subparagraph 15G(1)(b)(i)

Omit “Chairperson”, substitute “Chair”.

2 Paragraph 15N(2A)(b)

Omit “Chairperson”, substitute “Chair”.

3 Subsection 15R(2)

Omit “Chairperson”, substitute “Chair”.

4 Paragraph 15S(4)(b)

Omit “Chairperson”, substitute “Chair”.

5 Subsection 15T(4)

Omit “Chairperson”, substitute “Chair”.

6 Subsection 15U(2)

Omit “Chairperson”, substitute “Chair”.

Page 47 (after line 8), at the end of the bill, add:

Schedule 9—Witness Protection Act 1994

1 Section 3 (paragraph (b) of the definition of *approved authority*)

Omit “Chairman”, substitute “Chair”.

Page 47 (after line 8), at the end of the bill, add:

Schedule 10—Customs Act 1901

1 Subsection 219A(1) (paragraph (a) of the definition of *chief officer*)

Omit “Chairman”, substitute “Chair”.

Page 47 (after line 8), at the end of the bill, add:

Schedule 11—Proceeds of Crime Act 1987

1 Subsection 39(2)

Omit “Chairman”, substitute “Chair”.

2 Subsection 40(10) (paragraph (b) of the definition of *responsible custodian*)

Omit “Chairman”, substitute “Chair”.

Page 47 (after line 8), at the end of the bill, add:

Schedule 12—Taxation Administration Act 1953

1 Subsection 2(1) (paragraph (d) of the definition of *head*)

Omit “Chairman”, substitute “Chair”.

Senator Greig moved the following amendment:

Schedule 1, page 15 (after line 8), after Part 6, insert:

Part 6A—Public interest monitors

49A Subsection 4(1)

Insert:

public interest monitor means a public interest monitor appointed under section 23A.

49B After paragraph 22(3)(b)

Insert:

(ba) subject to subsection (3A)—the Judge has allowed a public interest monitor to test the validity of the application by:

- (i) presenting questions for the applicant to answer, either orally or by affidavit; and
- (ii) cross-examining any witness; and
- (iii) making submissions on the appropriateness of granting the application;

49C After subsection 22(3)

Insert:

- (3A) The Judge is not required to comply with paragraph (3)(ba) if, in the opinion of the Judge, the circumstances of the case are such that it would be contrary to the interests of justice to allow a public interest monitor to test the validity of the application. However, if the Judge does not comply with paragraph (3)(ba), the Judge must send a copy of the affidavit and the warrant to a public interest monitor.

49D At the end of subsection 23(3)

Add:

- ; and (e) send a copy of the affidavit and the warrant to a public interest monitor.

49E After section 23

Insert:

23A Public interest monitors

- (1) Public interest monitors are to be appointed by the Governor-General on the advice of the Minister. There must be at least one public interest monitor appointed in each State and Territory.
- (2) The Governor-General may, on the advice of the Minister, fix the terms and conditions of the public interest monitors.
- (3) Any advice to the Governor-General with respect to the appointment of a person as public interest monitor or to the terms and conditions of such an appointment must be consistent with a unanimous recommendation of the Inter-Governmental Committee.
- (4) A person must not be appointed as a public interest monitor unless he or she is enrolled as a barrister or as a barrister and solicitor, and has been so for not less than 5 years.
- (5) A public interest monitor must not be a person who is, or is a member of, or who is employed in or by or to assist, any of the following:
 - (a) the Authority;
 - (b) the Director of Public Prosecutions of the Commonwealth or of a State or Territory;
 - (c) a commission of a State or Territory formed for the purpose of combating crime or corruption or for protection of the criminal justice system;
 - (d) the police service of the Commonwealth or of a State or Territory.
- (6) A public interest monitor is subject to section 51.
- (7) The functions of a public interest monitor are:
 - (a) to monitor compliance by members with sections 22 and 23; and
 - (b) to appear at any hearing of an application under section 22 for a search warrant to test the validity of the application by:

- (i) presenting questions for the applicant to answer either orally or by affidavit; and
 - (ii) cross-examining any witness; and
 - (iii) making submissions on the appropriateness of granting the application; and
- (c) to gather statistical information about the use and effectiveness of search warrants; and
- (d) whenever a public interest monitor considers it appropriate—to give to the Chair a report on any non-compliance by members with section 22 or 23; and
- (e) to provide to the Chair for the Authority's annual report information about the performance of his or her functions during the period covered by the report.
- (8) The Chair must not include in the annual report information that:
 - (a) discloses or may lead to the disclosure of the identity of any person who has been, is being or is to be investigated; or
 - (b) indicates a particular investigation has been, is being, or is to be conducted.

Debate ensued.

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

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, Part 15 and Schedule 4.

Schedule 1, Part 15 and Schedule 4 debated.

Question—That Schedule 1, Part 15 and Schedule 4 stand as printed—put and negatived.

Senator Ellison moved the following amendment:

Schedule 1, page 41 (after line 2), before item 142, insert:

142A Subsection 4(1) (after paragraph (a) of the definition of *member of the staff of the Authority*)

Insert:

- (aa) a person employed under subsection 47(3);

Debate ensued.

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

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, Part 18.

Schedule 1, Part 18 debated.

Question—That Schedule 1, Part 18, as amended, be agreed to—put and negatived.

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

Schedule 1, page 41 (after line 14), at the end of the Schedule, add:

Part 19—Prescribed provisions

144 Schedule 1 (after the item relating to the *Telecommunications (Interception) Act 1979*)

Insert:

Reserve Bank Act 1959, section 79B

145 Schedule 1 (item relating to Regulation 6 of the Reserve Bank Regulations)

Repeal the item.

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

Schedule 3, item 6, page 44 (lines 13 to 32), omit the item, substitute:

6 After section 8A

Insert:

8B Investigations by other authorities of National Crime Authority actions

- (1) If an authority established under a law of the Commonwealth, a State or a Territory has power to investigate action taken by the National Crime Authority, or a member of the staff of the Authority, the Ombudsman may enter into an arrangement with the authority for such an investigation.
- (2) If the Ombudsman enters into such an arrangement with an authority established under a law of a State or a Territory, the authority may conduct the investigation to the full extent of its powers under State or Territory law.
- (3) The Ombudsman may arrange with the authority for the variation or revocation of the arrangement.
- (4) The arrangement may relate to particular action or actions, to a series of related actions or to actions included in a class of actions.
- (5) The arrangement, or the variation or revocation of the arrangement, must be in writing.
- (6) The regulations may make provision for and in relation to the participation by the Ombudsman in the carrying out of an investigation in accordance with an arrangement under this section.
- (7) Nothing in this section affects the powers and duties of the Ombudsman under any other provision of this Act.
- (8) In this section:

member of the staff of the Authority has the same meaning as in the *National Crime Authority Act 1984*.

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

5 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

Suspension of sitting: On the motion of the Parliamentary Secretary to the Minister for Transport and Regional Services (Senator Boswell) the sitting of the Senate was suspended till 2 pm.

At 2 pm—

6 QUESTIONS

Questions without notice were answered.

7 QUESTION ON NOTICE—ANSWER AND EXPLANATION—STATEMENT BY LEAVE

The Minister for Regional Services, Territories and Local Government (Senator Ian Macdonald), by leave, gave a further explanation of an answer not being provided to question on notice no. 3531 concerning Commonwealth funding for roads (*see entry no. 4, 7 August 2001*).

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

Debate ensued.

Question put and passed.

8 TAXATION—SMALL BUSINESS—ANSWERS TO QUESTIONS

Senator Cook moved—That the Senate take note of the answers given by the Minister for Communications, Information Technology and the Arts (Senator Alston) to questions without notice asked by Senators Schacht and Crowley today relating to taxation and small business.

Debate ensued.

Question put and passed.

9 AUDITOR-GENERAL—AUDIT REPORT NO. 5 OF 2001-2002—PARLIAMENTARIANS' ENTITLEMENTS—ANSWER TO QUESTION

Senator Murray moved—That the Senate take note of the answer given by the Special Minister of State (Senator Abetz) to a question without notice asked by Senator Murray today relating to Audit Report No. 5 of 2001-2002 on parliamentarians' entitlements.

Question put and passed.

10 PETITION

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

From 157 petitioners, requesting that the Senate reject the proposed changes to the Safety, Rehabilitation and Compensation Act and the Occupational Health and Safety Act.

11 PARLIAMENTARY PRIVILEGE—FEDERAL COURT JUDGMENT—EXAMINATION OF DOCUMENTS

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell), by leave, moved—That, for the purposes of the order of the Senate of 5 December 2000 relating to the examination of documents following the order of the Federal Court in *Crane v Gething*, the person appointed to examine the documents also determine which documents are immune from seizure because they are beyond the scope of the warrants issued on 17 and 18 December 1998 pursuant to section 3E of the *Crimes Act 1914* and return those documents to Senator Crane.

Question put and passed.

12 NOTICES

The Chair of the Economics References Committee (Senator Murphy): To move on the next day of sitting—That the Economics References Committee be authorised to hold public meetings during the sittings of the Senate on 21 August 2001, from 3.30 pm, and on 23 August 2001, from 3.30 pm, to take evidence for the committee's inquiry into mass marketed tax effective schemes and investor protection.

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

- (a) notes that:
 - (i) 9 August 2001 is International Day of the World's Indigenous Peoples, and
 - (ii) in commemoration of the United Nations (UN) Year of Dialogue Among Civilisations, the UN has acknowledged 12 individuals from around the world whose efforts to close the cultural divide between races has been outstanding and inspiring;
- (b) congratulates Mr Jack Beetson, an Australian Indigenous educator and long-time advocate of rights for Indigenous Peoples, on being selected as one of the 12 recipients of the UN 'Unsung Hero' Award for 2001; and
- (c) acknowledges that Mr Beetson has devoted his life to creating bridges of understanding between Indigenous and non-Indigenous Australians, and has played a prominent role in achieving self-determination in education for Indigenous Australians, particularly through his work at Tranby Co-operative for Aborigines in Sydney.

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

- (a) notes:
 - (i) the Budgewoi Public School Council's concern with the poor condition of the school's facilities, and
 - (ii) that the New South Wales Department of Education has provided an additional \$600 000 for the construction of new classrooms, but that this will provide for only four new classrooms; and
- (b) calls on the Federal Government to increase the amount of capital grants to government schools for new buildings and maintenance works.

Senator Brown: To move on the next day of sitting—That the Senate considers that, wherever there is an existing plantation alternative, old-growth forests and high conservation forests should not be logged.

Senator Greig: To move on the next day of sitting—That there be laid on the table by the Minister representing the Ministers for Foreign Affairs and Trade, no later than immediately after motions to take note of answers to questions without notice on 30 August 2001, the following documents:

All documents held by the Department of Foreign Affairs and Trade relating to an agreement this year between Australia and Japan to end the port ban on Japanese fishing boats and allow Japanese fishing boats to 'reclaim' approximately 350 tonnes of Southern Bluefin Tuna, including any documents linking that agreement with any subsequent trade agreements between Australia and Japan.

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

- (a) applauds the policies of Denmark, Britain and several other Northern European countries to:
 - (i) accelerate the phase-out of ozone-depleting hydrochlorofluorocarbons,
 - (ii) recognise that hydrofluorocarbons, which are potent industrial greenhouse gases, are only short-term transitional substances which should be avoided wherever practicable, and
 - (iii) put regulatory mechanisms in place to implement the application of natural refrigerants throughout the refrigeration and air conditioning industries; and
- (b) calls upon the Australian Government to increase its efforts to encourage industry to reduce the environmental impact of refrigeration and air conditioning systems in line with the examples set by European governments.

Senator Greig: To move on the next day of sitting—That there be laid on the table by the Minister representing the Minister for Agriculture, Fisheries and Forestry, no later than immediately after motions to take note of answers to questions without notice on 30 August 2001, the following documents:

Copies of an 'Arrangement in relation to the Rock Lobster Fishery between the Commonwealth of Australia and South Australia' and a further 'Arrangement between the Commonwealth of Australia and South Australia in relation to the Rock Lobster Fishery', notified in the *Gazette* No. S406 of 21 December 1988, both of which were expressed to have been made under the *Fisheries Act 1952* (Cth) and the *Fisheries Act 1982* (SA).

13 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 11 OF 2001

Senator McGauran, at the request of the Chairman of the Selection of Bills Committee (Senator Calvert), tabled the following report:

SELECTION OF BILLS COMMITTEE

REPORT NO. 11 OF 2001

1. The committee met on 7 August 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
Public Interest Disclosure Bill 2001	Immediately	Finance and Public Administration	18 April 2002

(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
Taxation Laws Amendment (Research and Development) Bill 2001	Immediately	Economics	17 September 2001

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

States Grants (Primary and Secondary Education Assistance) Amendment Bill 2001
 Superannuation Contributions Taxes and Termination Payments Tax Legislation Amendment Bill 2001
 Agriculture, Fisheries and Forestry Legislation Amendment (Application of Criminal Code) Bill 2001
 Family Law Legislation Amendment (Superannuation) (Consequential Provisions) Bill 2001
 Migration Legislation Amendment (Immigration Detainees) Bill (No. 2) 2001
 Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 3) 2001
 Veterans' Affairs Legislation Amendment (2001 Budget Measures) Bill 2001

3. 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

Bills deferred from meeting of 7 August 2001

Constitution Alteration (Appropriations for the Ordinary Annual Services of the Government) 2001

Customs Tariff Amendment Bill (No. 4) 2001

General Insurance Reform Bill 2001

Motor Vehicle Standards Amendment Bill 2001

New Business Tax System (Debt and Equity) Bill 2001

New Business Tax System (Thin Capitalisation) Bill 2001

Superannuation Legislation Amendment (Indexation) Bill 2001
 Taxation Laws Amendment Bill (No. 4) 2001
 Veterans' Affairs Legislation Amendment (Further Budget 2000 and Other Measures) Bill 2001

Paul Calvert

Chair

8 August 2001.

Senator McGauran moved—That the report be adopted.

Question put and passed.

14 POSTPONEMENTS

Items of business were postponed as follows:

General business notice of motion no. 969 standing in the name of the Leader of the Australian Democrats (Senator Stott Despoja) for today, relating to the introduction of the Republic (Consultation of the People) Bill 2001, postponed till 9 August 2001.

15 ENVIRONMENT—2020 VISION FOR PLANTATIONS

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

- (a) considers that the Government's endorsement of the 2020 Vision for plantations has contributed to unrealistic expectations for plantation investments; and
- (b) rejects the statement in the Centre for International Economics' final report underpinning the 2020 Vision that 'because of the healthy long term price outlook finding markets for wood before planting should not be a priority'.

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

16 ECONOMICS REFERENCES COMMITTEE—EXTENSION OF TIME TO REPORT

Senator O'Brien, at the request of the Chair of the Economics References Committee (Senator Murphy) 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 Economics References Committee on the framework for the market supervision of Australia's stock exchanges be extended to 23 August 2001.

Question put and passed.

17 LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE—REFERENCE

Senator Murray amended his notice of motion by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the following matter be referred to the Legal and Constitutional References Committee for inquiry and report by the first sitting day in April 2002:

Whether the *Trade Practices Act 1974* should be amended to:

- (a) provide for a reversal of the onus of proof under section 46 in actions brought by the Australian Competition and Consumer Commission (ACCC) where it can first be shown that the corporation has a substantial degree of market power and has taken advantage of that power; and

- (b) give the ACCC a power to order divestiture where an ownership situation exists that has the effect of substantially lessening competition.

Statements by leave: The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) and Senator Schacht, by leave, made statements relating to the motion.

Question put and passed.

18 SCRUTINY OF BILLS—STANDING COMMITTEE—9TH REPORT AND ALERT DIGEST NO. 9 OF 2001

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

9th report of 2001, dated 8 August 2001.

Alert Digest No. 9 of 2001, dated 8 August 2001.

Report ordered to be printed on the motion of Senator O'Brien.

19 DOCUMENTS

The following documents were tabled by the Clerk:

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

A New Tax System (Family Assistance) (Administration) (Penalty Interest) Determination 2001.

Child Care Benefit (Breach of Conditions for Continued Approval) Amendment Determination 2001 (No. 1).

Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Amendment Determination 2001 (No. 1).

Commonwealth Authorities and Companies Act—Notice pursuant to paragraph 45(1)(a)—Participation in formation of Snowy Hydro Limited.

Higher Education Funding Act—Determination under section—

15—Determination No. T23 of 2000.

16—Determination No. T22 of 2000.

Quarantine Act—Quarantine Services Fees Determinations 2001 (No. 1 of 2001).

Social Security Act—Social Security (Penalty Interest) Determination 2001.

20 NATIONAL CRIME AUTHORITY LEGISLATION AMENDMENT BILL 2000 [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.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 111 to 121.

Schedule 1, items 111 to 121 debated.

Question—That Schedule 1, items 111 to 121 stand as printed—put and negatived.

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

Schedule 3, item 8, page 45 (lines 3 to 13), omit the item, substitute:

8 After paragraph 9(3)(d)

Insert:

or (e) if the information, documents or records are, or were, in the possession or under the control of the National Crime Authority—by reason that it would:

- (i) endanger the life of a person; or
- (ii) create a risk of serious injury to a person;

Senator Bolkus moved the following amendments together by leave:

Page 1 (after line 4), before clause 1, insert:

Part 1—Preliminary

Clause 2, page 1 (after line 10), after subclause (1), insert:

- (1A) Part 2 and Schedule 5 commence on the day after the day on which the House of Representatives either expires or is dissolved for the first time after this Act receives the Royal Assent.
- (1B) If Schedule 5 commences before Part 12 of Schedule 1 to this Act, Part 12 of Schedule 1 to this Act never commences.

Page 2 (after line 18), after clause 3, insert:

Part 2—Establishment of Commonwealth Law Enforcement Committee

4 Establishment and membership

- (1) As soon as practicable after the commencement of this Part and after the commencement of the first session of each Parliament, a joint committee of members of the Parliament, to be known as the Parliamentary Joint Committee on Commonwealth Law Enforcement, must be appointed.
- (2) The Parliamentary Joint Committee must consist of 10 members, of whom:
 - (a) 5 must be senators appointed by the Senate; and
 - (b) 5 must be members of the House of Representatives appointed by that House.
- (3) The appointment of members by a House must be in accordance with that House's practice relating to the appointment of members of that House to serve on joint committees of both Houses.
- (4) A person is not eligible for appointment as a member if he or she is:
 - (a) a Minister; or
 - (b) a Parliamentary Secretary; or
 - (c) the President of the Senate; or
 - (d) the Speaker of the House of Representatives; or
 - (e) the Deputy President and Chairman of Committees of the Senate; or
 - (f) the Deputy Speaker of the House of Representatives.
- (5) A member ceases to hold office:

- (a) when the House of Representatives expires or is dissolved; or
 - (b) if he or she becomes the holder of an office referred to in a paragraph of subsection (4); or
 - (c) if he or she ceases to be a member of the House by which he or she was appointed; or
 - (d) if he or she resigns his or her office as provided by subsection (6) or (7), as the case requires.
- (6) A member appointed by the Senate may resign his or her office by writing signed and delivered to the President of the Senate.
 - (7) A member appointed by the House of Representatives may resign his or her office by writing signed and delivered to the Speaker of that House.
 - (8) A House may appoint one of its members to fill a vacancy among the members of that Parliamentary Joint Committee appointed by that House.

5 Powers and proceedings

- (1) Matters not covered in this Part relating to the Parliamentary Joint Committee's powers and proceedings must be determined by resolution of both Houses.
- (2) The Committee and any subcommittee thereof established pursuant to resolution of both Houses, shall have power to send for persons, papers and records.
- (3) Individuals and agencies requested to provide information under subsection (2) or any other provision of this Act shall comply with the terms of such a request save that individuals and agencies requested to provide such information shall not be required to disclose information on current operational matters if, in the opinion of the individual or the agency head, such disclosure would be likely to prejudice the conduct of a current operation or investigation.
- (4) The Committee and any subcommittee thereof shall have power to acquire, consider and make use of the evidence and records of the Parliamentary Joint Committee on the National Crime Authority appointed during the thirty-ninth and previous Parliaments.
- (5) Any inquiry not completed by the Parliamentary Joint Committee on the National Crime Authority at the time of the commencement of this section shall stand referred to the Committee, and the Committee shall report the findings of the inquiry to the Parliament.

6 Duties

The Parliamentary Joint Committee's duties are:

- (a) to consult with Commonwealth law enforcement agencies which exist or which may be established, including the Australian Federal Police, the Director of Public Prosecutions, the Australian Customs Service, the National Crime Authority, the Office of National Assessments, the Australian Bureau of Criminal Intelligence, the Australian Transaction Reports and Analysis Centre, and the Australian Securities and Investments Commission; and

- (b) to consult with other Commonwealth agencies having a law enforcement function which exist or which may be established, including the Australian Defence Force, the Australian Taxation Office, the Australian Quarantine and Inspection Service, the Department of Immigration and Multicultural Affairs, and the Department of Family and Community Services; and
- (c) to assess:
 - (i) the strategic environment of the Commonwealth's law enforcement agencies and the resources needed to meet identified threats; and
 - (ii) the cooperative environment in which those agencies operate; and
 - (iii) the mechanisms needed to ensure that those agencies are accountable to the Parliament and the public; and
- (d) to report from time to time to both Houses on the assessments in paragraph (c); and
- (e) from time to time, to inquire into and, as soon as practicable after the inquiry has been completed, to report to both Houses on Commonwealth law enforcement issues and on the cooperative arrangements between Commonwealth and States law enforcement agencies; and
- (f) to inquire into any question in connection with its duties which is referred to it by either House of the Parliament, and to report to that House upon that question.

Page 47 (after line 8), at the end of the bill, add:

Schedule 5—Parliamentary Joint Committee on the National Crime Authority

National Crime Authority Act 1984

1 Part III

Repeal the Part.

Debate ensued.

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

On the motion of the Minister for Justice and Customs (Senator Ellison) the following amendment was debated and agreed to:

Page 47 (after line 8), at the end of the bill, add:

Schedule 5—Financial Transaction Reports Act 1988

1 Subsection 16(6) (paragraph (b) of the definition of *relevant authority*)

Omit “Chairperson”, substitute “Chair”.

2 Paragraph 26(1)(c)

Omit “Chairperson”, substitute “Chair”.

3 After paragraph 27(5)(a)

Insert:

; and (aa) the NCA may, in a manner that does not identify, and is not reasonably capable of being used to identify, a person to whom the information relates, communicate the information to the Parliamentary Joint Committee on the National Crime Authority under subsection 59(6A) of the NCA Act; and

4 At the end of paragraphs 27(5)(b) and (c)

Add “and”.

5 Paragraph 27(5)(d)

After “(a),” insert “(aa),”.

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

Page 47 (after line 8), at the end of the bill, add:

Schedule 6—Jurisdiction of Courts (Cross-vesting) Act 1987**1 Subsection 3(1) (at the end of paragraphs (a) to (c) of the definition of *special federal matter*)**

Add “or”.

2 Subsection 3(1) (paragraph (d) of the definition of *special federal matter*)

Repeal the paragraph.

3 Paragraph 6(2)(a)

Omit “, (d)”.

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

Page 47 (after line 8), at the end of the bill, add:

Schedule 7—Telecommunications (Interception) Act 1979**Part 2—Chair of the NCA****2 Subsection 5(1) (subparagraph (b)(ii) of the definition of *certifying officer*)**

Omit “Chairman”, substitute “Chair”.

3 Subsection 5(1) (paragraph (b) of the definition of *chief officer*)

Omit “Chairman”, substitute “Chair”.

4 Subsection 5(1) (definition of *member of the authority*)

Omit “Chairman”, substitute “Chair”.

5 Subsection 5(1) (subparagraph (a)(v) of the definition of *permitted purpose*)

Omit “Chairman”, substitute “Chair”.

6 Paragraph 35(1)(a)

Omit “Chairman”, substitute “Chair”.

7 Paragraph 71(2)(d)

Omit “Chairman”, substitute “Chair”.

8 Subsection 80(2)

Omit “Chairman” (wherever occurring), substitute “Chair”.

9 Subsection 81(2)

Omit “Chairman”, substitute “Chair”.

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

Clause 2, page 1 (line 8) to page 2 (line 4), omit the clause, substitute:

2 Commencement

- (1) Sections 1, 2, 3 and 4 commence on the day on which this Act receives the Royal Assent.
- (2) Schedules 1 to 7 and 9 to 12 commence on a day to be fixed by Proclamation.
- (3) If a provision of this Act to which subsection (2) applies does not commence under that subsection within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.
- (4) Schedule 8 commences on a day to be fixed by Proclamation.

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

Page 2 (after line 9), after clause 3, insert:

4 Review of effect of this Act

- (1) The Minister must cause a person (the *responsible person*) to review, and to report in writing about, the operation of the *National Crime Authority Act 1984* (the *NCA Act*) as affected by the following provisions of this Act:
 - (a) items 1, 3, 5, 11 and 13 of Schedule 1 (the *provisions that remove the defence of reasonable excuse*);
 - (b) item 12 of Schedule 1 (the *provision that removes the derivative-use immunity*);
 - (c) items 7, 12 and 15 of Schedule 1 (the *provisions that increase the penalties for non-compliance*).
- (2) The responsible person must be someone who, in the Minister’s opinion, is suitably qualified and appropriate to conduct the review and make the report.
- (3) The review and report must relate to the 5 year period (the *review period*) beginning on the commencement of Part 1 of Schedule 1.
- (4) The review and report must include an assessment of:

- (a) the effects of the following provisions in facilitating the performance of the functions of the Authority:
 - (i) the provisions that remove the defence of reasonable excuse;
 - (ii) the provision that removes the derivative-use immunity;
 - (iii) the provisions that increase the penalties for non-compliance;and
 - (b) the extent (if any) to which persons have been unjustifiably prejudiced because of the enactment of:
 - (i) the provisions that remove the defence of reasonable excuse;and
 - (ii) the provision that removes the derivative-use immunity; and
 - (c) the extent (if any) to which courts have imposed increased penalties allowed for by the provisions that increase the penalties for non-compliance.
- (5) The review and report must also include an assessment of any other matter that the responsible person considers relevant to the operation of the provisions of the NCA Act as affected by the provisions referred to in paragraphs (1)(a) to (c).
- (6) The report must not:
- (a) identify persons as being suspected of having committed offences; or
 - (b) identify persons as having committed offences unless those persons have been convicted of those offences; or
 - (c) reveal the identity of a person, if doing so might prejudice:
 - (i) the safety or reputation of a person; or
 - (ii) the fair trial of a person who has been or may be charged with an offence.
- (7) The Authority must give all reasonable assistance requested by the responsible person in connection with the carrying out of the review and report.
- (8) The following activities by a current or former member of the Authority (within the meaning of that Act) or a current or former member of staff of the Authority (within the meaning of that Act) do not constitute a contravention of section 51 of the NCA Act, if they are carried out for the purposes of assisting the responsible person to carry out the review and report:
- (a) divulging or communicating information to the responsible person;
 - (b) recording information;
 - (c) providing a record of information to the responsible person.
- (9) The responsible person must provide a reasonable opportunity for members of the public to make submissions to him or her about matters to which the review and report relate. However, the review process must not include any hearings.

- (10) The responsible person must give the report to the Inter-Governmental Committee no later than 6 months after the end of the review period. The report is then to be considered by the Committee and given by the Committee, together with such comments on the report as the Committee thinks fit, to:
 - (a) the Minister; and
 - (b) the appropriate Minister of the Crown of each participating State.
- (11) After the Minister receives the report and comments from the Inter-Governmental Committee, the Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

21 **VETERANS' AFFAIRS LEGISLATION AMENDMENT (2001 BUDGET MEASURES) BILL 2001**

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

Message no. 765, dated 8 August 2001—A Bill for an Act to amend the *Veterans' Entitlements Act 1986*, and for related purposes.

The Minister for Justice and Customs (Senator Ellison) 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 Ellison moved—That this bill be now read a second time.

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

22 **NEW BUSINESS TAX SYSTEM (THIN CAPITALISATION) BILL 2001** **NEW BUSINESS TAX SYSTEM (DEBT AND EQUITY) BILL 2001**

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

Message no. 766, dated 8 August 2001—A Bill for an Act to implement the New Business Tax System in relation to thin capitalisation, and for related purposes.

Message no. 767, dated 8 August 2001—A Bill for an Act to implement the New Business Tax System in relation to debt and equity interests, and for related purposes.

The Minister for Industry, Science and Resources (Senator Minchin) 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 Minchin moved—That these bills be now read a second time.

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

23 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Industry, Science and Resources (Senator Minchin) moved—That intervening business be postponed till after consideration of government business order of the day no. 5 (Superannuation Contributions Taxes and Termination Payments Tax Legislation Amendment Bill 2001).

Question put and passed.

**24 SUPERANNUATION CONTRIBUTIONS TAXES AND TERMINATION PAYMENTS TAX
LEGISLATION AMENDMENT BILL 2001**

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to Cabinet (Senator Heffernan)—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, agreed to.

Bill to be reported without amendment.

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

**25 SUPERANNUATION LEGISLATION AMENDMENT (CHOICE OF SUPERANNUATION FUNDS)
BILL 1998**

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

Debate resumed.

Question put.

The Senate divided—

AYES, 31

Senators—

Abetz	Ellison	Knowles	Payne
Boswell	Ferguson	Lightfoot	Tambling
Brandis	Ferris	Macdonald, Ian	Tchen
Calvert	Gibson	Macdonald, Sandy	Tierney
Chapman	Heffernan	Mason	Troeth
Coonan (Teller)	Herron	McGauran	Vanstone
Crane	Hill	Minchin	Watson
Eggleston	Kemp	Newman	

NOES, 35

Senators—

Allison	Conroy	Hogg	Murray
Bartlett	Cooney	Hutchins	O'Brien
Bolkus	Crossin	Lees	Ray
Bourne	Crowley	Ludwig (Teller)	Ridgeway
Brown	Denman	Lundy	Schacht
Buckland	Forshaw	Mackay	Sherry
Campbell, George	Gibbs	McKiernan	Stott Despoja
Cherry	Greig	McLucas	West
Collins	Harradine	Murphy	

Question negatived.

26 SUPERANNUATION LEGISLATION (COMMONWEALTH EMPLOYMENT) REPEAL AND AMENDMENT BILL 1998
COMMONWEALTH SUPERANNUATION BOARD BILL 1998
SUPERANNUATION LEGISLATION (COMMONWEALTH EMPLOYMENT—SAVING AND TRANSITIONAL PROVISIONS) BILL 1998
SUPERANNUATION LEGISLATION (COMMONWEALTH EMPLOYMENT) REPEAL AND AMENDMENT (CONSEQUENTIAL AMENDMENTS) BILL 1998

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 these bills be now read a second time.

Debate resumed.

Question put.

Declaration of interest: Senator Collins declared an interest in relation to the bills.

The Senate divided—

AYES, 30

Senators—

Boswell	Ferguson	Macdonald, Ian	Tambling
Brandis	Ferris	Macdonald, Sandy	Tchen
Calvert	Gibson	Mason	Tierney
Chapman	Heffernan	McGauran	Troeth
Coonan (Teller)	Herron	Minchin	Vanstone
Crane	Hill	Newman	Watson
Eggleston	Knowles	Patterson	
Ellison	Lightfoot	Payne	

NOES, 35

Senators—

Allison	Cook	Harradine	Murray
Bartlett	Cooney	Hogg	O'Brien
Bourne	Crossin	Hutchins	Ray
Brown	Crowley	Lees	Ridgeway
Buckland	Denman	Ludwig (Teller)	Schacht
Campbell, George	Faulkner	Lundy	Sherry
Cherry	Forshaw	McKiernan	Stott Despoja
Collins	Gibbs	McLucas	West
Conroy	Greig	Murphy	

Question negatived.

After 6.50 pm—

27 GOVERNMENT DOCUMENTS—CONSIDERATION

The government documents tabled earlier this day (*see entry no. 2*) were called on but no motion was moved.

28 ADJOURNMENT

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

The Senate adjourned at 6.55 pm till Thursday, 9 August 2001 at 9.30 am.

29 ATTENDANCE

Present, all senators.

HARRY EVANS
Clerk of the Senate