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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 Murray, was received:

From 585 petitioners, requesting that the Senate reject the proposed changes to the Safety, Rehabilitation and Compensation Act and the Occupational Health and Safety Act.

3 NOTICES

Senator Cherry: To move on the next day of sitting—That the Senate notes that:

- (a) 20 years ago this week, Dr Michael Macklin was sworn in as Queensland's first Australian Democrats senator;
- (b) that a Democrat senator has been elected for Queensland at every federal election since 1980; and
- (c) that Queensland Democrat senators have made significant contributions to law in areas including electoral reform, education, native title, the environment, tax and immigration during that period.

The Chairman of the Standing Committee on Regulations and Ordinances (Senator Coonan): To move 15 sitting days after today—That the Air Navigation (Essendon Airport) Regulations 2001, as contained in Statutory Rules 2001 No. 125 and made under the *Air Navigation Act 1920*, be disallowed.

Senator Coonan, by leave, made a statement relating to the notice of motion.

Senator Brown: To move on the next day of sitting—That the Senate calls on the Government to release details of security arrangements made with the Government of Singapore to protect Australia's interests after the takeover of Optus by Singtel.

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

- (a) congratulates the Federation of Australian Scientific and Technological Societies on Science Meets Parliament Day; and
- (b) calls on the Government to heed the calls of scientists for additional resources for research and development, education, and public institutions such as the Commonwealth Scientific and Industrial Research Organisation.

Senator O'Brien, at the request of the Chair of the Economics References Committee (Senator Murphy): To move on the next day of sitting—That the time for the presentation of the report of the Economics References Committee on the framework for the market supervision of Australia's stock exchanges be extended to 30 August 2001.

4 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:

No. 6 Finance and Administration Legislation Amendment (Application of Criminal Code) Bill 2001.

No. 7 Financial Sector (Collection of Data) Bill 2001 and a related bill.

No. 8 International Maritime Conventions Legislation Amendment Bill 2001.

Question put and passed.

Senator Ian Campbell moved—That the order of general business for consideration today be as follows:

- (a) general business notice of motion no. 1004 standing in the name of Senator Conroy, relating to banking services; and
- (b) consideration of government documents.

Question put and passed.

5 LEAVE OF ABSENCE

Senator Calvert, by leave, moved—That leave of absence be granted to Senator Bourne for the period 28 August to 30 August 2001 and to Senator Payne for the period 27 August to 30 August 2001, on account of parliamentary business overseas.

Question put and passed.

Statement by leave: Senator Bourne, by leave, made a statement relating to her leave of absence.

6 AUSTRALIAN BROADCASTING CORPORATION—BROADCASTING OF WOMEN'S SPORT

Senator Lees, also on behalf of Senator Lundy, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes that the Australian Broadcasting Corporation (ABC) is currently reviewing its television coverage of sport;
- (b) is concerned that the review will result in the cessation of the television broadcast coverage of women's sport, particularly basketball and netball;
- (c) notes:
 - (i) that over the past decade, and probably more, the ABC has been a leader in the broadcast of women's sport, which has provided a significant boost to the development of women's sport in Australia and which provides audiences with programming not provided elsewhere, in keeping with the ABC's Charter that the ABC provide, amongst other programs, 'specialised broadcasting programs',
 - (ii) that any decision to cancel the television broadcast of women's sport will have a detrimental effect on the sport, particularly on drop out rates amongst adolescent girls, which will reduce the pool of talent available within Australia and therefore the strength and viability of women's netball and basketball, currently well-respected and successful internationally, and
 - (iii) further the disproportionate disadvantage likely to be felt amongst young women in rural and regional centres, who, because of geographical circumstances, are unable to travel to capital cities to watch live sport;

- (d) recognises the strong role models elite women sports athletes are to young women and the positive value this has on young women's self-esteem, health, fitness and general well-being, and that without such television broadcast coverage such positive role models will disappear; and
- (e) calls on the ABC Board to agree to the continuation of the television broadcasting of women's sport.

Statement by leave: The Minister for Communications, Information Technology and the Arts (Senator Alston), by leave, made a statement relating to the motion.

Question put and passed.

**7 EMPLOYMENT, WORKPLACE RELATIONS, SMALL BUSINESS AND EDUCATION
LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT**

Senator Calvert, at the request of the Chair of the Employment, Workplace Relations, Small Business and Education Legislation Committee (Senator Tierney) 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 Employment, Workplace Relations, Small Business and Education Legislation Committee on the provisions of the Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2001 be extended to 18 September 2001.

Question put and passed.

8 DISABILITY SERVICES AMENDMENT (IMPROVED QUALITY ASSURANCE) BILL 2001

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell), at the request of the Minister for the Environment and Heritage (Senator Hill) and 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 improve the quality of employment services and rehabilitation programs provided for people with disabilities, and for related purposes.

Question put and passed.

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

Question put and passed.

Bill read a first time.

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

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

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

9 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—EXTENSIONS OF TIME TO REPORT

Senator O'Brien, at the request of the Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Hogg) and pursuant to notice of motion not objected to as a formal motion, moved—That the time for the presentation of the following reports of the Foreign Affairs, Defence and Trade References Committee be extended to 27 September 2001:

- (a) second report on the examination of developments in contemporary Japan and the implications for Australia; and
- (b) the disposal of Defence properties.

Question put and passed.

10 ENVIRONMENT—GREAT BARRIER REEF—WATER QUALITY TARGETS—ORDER FOR PRODUCTION OF DOCUMENTS

Senator O'Brien, at the request of Senator Bolkus and pursuant to notice of motion not objected to as a formal motion, moved—That there be laid on the table by the Leader of the Government in the Senate (Senator Hill), no later than immediately after questions without notice on the next day of sitting, the report prepared by the Great Barrier Reef Marine Park Authority on water quality targets in the catchments feeding into the Great Barrier Reef region.

Question put and passed.

11 COMMONWEALTH ELECTORAL AMENDMENT BILL 2001

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

Message no. 777, dated 22 August 2001—A Bill for an Act to amend the *Commonwealth Electoral Act 1918*, and for related 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 in the next period of sittings.

12 HEALTH AND AGED CARE LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2001

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

Message no. 780, dated 22 August 2001—A Bill for an Act relating to the application of the *Criminal Code* to certain offences, and for related 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 in the next period of sittings.

**13 STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) AMENDMENT
BILL 2001**

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

Message no. 778, dated 22 August 2001—A Bill for an Act to amend the *States Grants (Primary and Secondary Education Assistance) Act 2000*.

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 O'Brien the debate was adjourned.

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

**14 RECONCILIATION AND ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS
LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2001**

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

Message no. 779, dated 22 August 2001—A Bill for an Act relating to the application of the *Criminal Code* to certain offences, 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.

On the motion of Senator O'Brien the debate was adjourned till the next day of sitting.

15 FINANCIAL SERVICES REFORM BILL 2001

FINANCIAL SERVICES REFORM (CONSEQUENTIAL PROVISIONS) BILL 2001

CORPORATIONS (FEES) AMENDMENT BILL 2001

CORPORATIONS (NATIONAL GUARANTEE FUND LEVIES) AMENDMENT BILL 2001

CORPORATIONS (COMPENSATION ARRANGEMENTS LEVIES) BILL 2001

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

In the committee

FINANCIAL SERVICES REFORM BILL 2001—

Consideration resumed of the bill, as amended.

Bill, as amended, further debated.

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

Schedule 1, item 1, page 37 (lines 18 to 20), omit subsection (5), substitute:

- (5) The following advice is not financial product advice:
 - (a) advice given by a lawyer in his or her professional capacity, about matters of law, legal interpretation or the application of the law to any facts;
 - (b) any other advice given by a lawyer in the ordinary course of activities as a lawyer, that is reasonably regarded as a necessary part of those activities;
 - (c) advice given by a tax agent registered under Part VIIA of the *Income Tax Assessment Act 1936*, that is given in the ordinary course of activities as such an agent and that is reasonably regarded as a necessary part of those activities.
- (6) If:
 - (a) in response to a request made by a person (the *inquirer*) to another person (the *provider*), the provider tells the inquirer the cost, or an estimate of the likely cost, of a financial product (for example, an insurance product); and
 - (b) that cost or estimate is worked out, or said by the provider to be worked out, by reference to a valuation of an item (for example, a house or car to which an insurance policy would relate), being a valuation that the provider suggests or recommends to the inquirer;
 the acts of telling the inquirer the cost, or estimated cost, and suggesting or recommending the valuation, do not, of themselves, constitute the making of a recommendation (or the provision of any other kind of financial product advice) relating to the financial product.

- (7) If:
- (a) in response to a request made by a person (the *inquirer*) to another person (the *provider*), the provider tells the inquirer information about:
 - (i) the cost of a financial product; or
 - (ii) the rate of return on a financial product; or
 - (iii) any other matter identified in regulations made for the purposes of this subparagraph; and
 - (b) the request could also have been complied with (but was not also so complied with) by telling the inquirer equivalent information about one or more other financial products;
- the act of telling the inquirer the information does not, of itself, constitute the making of a recommendation (or the provision of any other kind of financial product advice) in relation to the financial product referred to in paragraph (a).
- (8) Subsections (5), (6) and (7) are not intended to affect, in any way, the determination of whether situations not covered by those subsections do, or do not, constitute the provision of financial product advice.

Senator Conroy moved the following amendment to Senator Ian Campbell's proposed amendment:

Omit paragraphs 766B(5)(b) and (c), substitute:

- (b) except as may be prescribed by the regulations—any other advice given by a lawyer in the ordinary course of activities as a lawyer, that is reasonably regarded as a necessary part of those activities;
- (c) except as may be prescribed by the regulations—advice given by a tax agent registered under Part VIIA of the *Income Tax Assessment Act 1936*, that is given in the ordinary course of activities as such an agent and that is reasonably regarded as a necessary part of those activities.

Question—That Senator Conroy's amendment to Senator Ian Campbell's proposed amendment be agreed to—put and passed.

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

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

Schedule 1, item 1, page 48 (lines 5 to 9), omit paragraph (a), substitute:

- (a) to the extent that it is reasonably practicable to do so, do all things necessary to ensure that the market is a fair, orderly and transparent market; and

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

Schedule 1, item 1, page 100 (lines 1 to 3), omit paragraph 850B(b), substitute:

- (b) in relation to a body other than the Australian Stock Exchange Limited—if an approval of a higher percentage is in force under Subdivision B in relation to the body and in relation to the person, that higher percentage; or

- (c) in relation to the Australian Stock Exchange Limited—if the regulations prescribe a higher percentage in relation to the Australian Stock Exchange Limited in relation to the person, that higher percentage.

Schedule 1, item 1, page 100 (after line 3), at the end of section 850B, add:

- (2) Regulations made for the purposes of paragraph (1)(c) may not take effect earlier than the day after the last day on which the regulations may be disallowed under section 48 of the *Acts Interpretation Act 1901*.

Schedule 1, item 1, page 102 (line 4), after “body”, insert “(other than the Australian Stock Exchange Limited)”.

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

Schedule 1, item 1, page 162 (lines 4 to 7), omit paragraph (a), substitute:

- (a) do all things necessary to ensure that the financial services covered by the licence are provided efficiently, honestly and fairly; and

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 1, Part 7.6, Division 7 and Part 7.7, Division 5.

Schedule 1, item 1, Part 7.6, Division 7 and Part 7.7, Division 5 debated.

Question—That Schedule 1, item 1, Part 7.6, Division 7 and Part 7.7, Division 5 stand as printed—put and negatived.

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

Schedule 1, item 1, page 157 (lines 23 to 26), omit paragraph (e).

Schedule 1, item 1, page 193 (line 30), omit paragraph (d).

Schedule 1, item 1, page 233 (lines 36 and 37), omit paragraph (1)(c).

Schedule 1, item 1, page 243 (line 12), omit “or a member of a declared professional body”.

Schedule 1, item 1, page 244 (line 16), omit “or a member of a declared professional body”.

Schedule 1, item 1, page 292 (lines 20 and 21), omit paragraph (e) of the definition of **regulated person**.

Schedule 1, item 1, page 337 (line 7), omit paragraph (1)(d).

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

Schedule 1, item 1, page 287 (line 9), at the end of subsection 992A(2), add “, or to offering of managed investment products, hawking of which is prohibited by section 992AA”.

Schedule 1, item 1, page 287 (after line 11), at the end of section 992A, add:

- (3) A person must not make an offer to issue or sell a financial product (other than an offer to which subsection (1) applies) in the course of, or because of, unsolicited personal contact with another person unless the other person has been:

- (a) contacted only during the hours prescribed by the regulations and only if the person is not listed on the “No Contact/No Call” register in relation to the person making the contact; and
- (b) given an opportunity to:
 - (i) register on a “No Contact/No Call” register maintained by the person making the contact at no cost to that person; and
 - (ii) select the time and frequency of any future contacts; and
- (c) given a Product Disclosure Statement before becoming bound to acquire a financial product; and
- (d) clearly informed of the importance of using the information in the Product Disclosure Statement when making a decision to acquire a financial product; and
- (e) given the option of having the information in the Product Disclosure Statement read out to that person.

Note: Failure to comply with this subsection is an offence (see subsection 1311(1)).

- (4) In addition to other penalties for breaches of this section, a failure to comply with this section gives the other person a right of return and refund exercisable within 1 month after the expiry date of the relevant cooling-off period for the financial product, or one month and fourteen days in the event that no cooling-off period applies to the financial product, subject to the following provisions:
 - (a) on the exercise of the right to return the product:
 - (i) if the product is constituted by a legal relationship between the client and the issuer of the product—that relationship is, by force of this subsection, terminated with effect from that time without penalty to the client; and
 - (ii) any contract for the acquisition of the product by the client is, by force of this subsection, terminated with effect from that time without penalty to the client;
 - (b) the regulations may provide for consequences and obligations (in addition to those provided for in paragraph (a)) to apply if the right to return a financial product is exercised;
 - (c) the regulations may do any or all of the following:
 - (i) provide that a specified subclass of financial products that would otherwise be covered by this subsection is excluded from this subsection;
 - (ii) provide additional requirements to be satisfied before this subsection applies in relation to a class or subclass of financial products;
 - (iii) provide that this subsection does not apply in relation to the provision of a financial product in specified circumstances.

Schedule 1, item 1, page 287 (after line 11), after section 992A, insert:

992AA Prohibition of hawking of managed investment products

- (1) A person must not offer interests in managed investment schemes for issue or sale in the course of, or because of:
- (a) an unsolicited meeting with another person; or
 - (b) an unsolicited telephone call to another person;
- unless the offer is exempted under subsection (2).

Note: Failure to comply with this subsection is an offence (see subsection 1311(1)).

- (2) Subsection (1) does not apply to an offer of interests in managed investment schemes if:
- (a) the offer is not to a retail client;
 - (b) the offer is an offer of interests in a listed managed investment scheme made by telephone by a financial services licensee; or
 - (c) the offer is made to a client by a financial services licensee through whom the client has acquired or disposed of an interest in a managed investment scheme in the previous 12 months.

Schedule 1, item 457, page 546 (after table item 288C), insert:

288CA	Subsection 992A(3)	25 penalty units or imprisonment for 6 months, or both.
288CB	Subsection 992AA(1)	25 penalty units or imprisonment for 6 months, or both.

Senator Murray moved the following amendments together by leave:

Schedule 1, item 1, page 316 (line 15), at the end of subsection (1), add:

- ; and (l) if the product has an investment component—the extent to which environmental, social or ethical considerations are taken into account in the selection, retention or realisation of the investment.

Schedule 1, item 1, page 316 (after line 31), after subsection (2), insert:

- (2A) For the purposes of paragraph (1)(l), products which have an investment component include superannuation products, managed investment products and investment life insurance products.

Schedule 1, item 1, page 317 (after line 8), after section 1013D, insert:

1013DA Information about ethical considerations etc.

ASIC may develop guidelines that must be complied with where a Product Disclosure Statement makes any claim that environmental, social or ethical considerations are taken into account in the selection, retention or realisation of the investment.

Senator Conroy moved the following amendments to Senator Murray's proposed amendments together by leave:

Paragraph 1013D(1)(l), after "which", insert "labour standards or".

Section 1013DA, after "that" (second occurring), insert "labour standards or".

Debate ensued.

Question—That Senator Conroy’s amendments to Senator Murray’s proposed amendments be agreed to—put and passed.

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

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 3, Part 2.

Schedule 3, Part 2 debated and agreed to.

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

Schedule 3, item 29, page 571 (line 20), omit “for the purpose of discussing”, substitute “to discuss”.

Schedule 3, item 29, page 571 (after line 23), after subsection (1), insert:

- (1A) If the recorder invites the holder to call the recorder to discuss the takeover bid (whether or not for some other purpose as well), then the recorder must make a clear sound recording of all telephone calls that:
- (a) the holder makes to the recorder during the bid period; and
 - (b) are made by the holder to discuss the takeover bid (whether or not for some other purpose as well).

Note: Failure to comply with this subsection is an offence (see subsection 1311(1)).

Schedule 3, item 29, page 571 (after line 28), at the end of section 648J, add:

- (3) Subsection (1) or (1A) does not apply if the holder is a wholesale holder.

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

- (4) A holder of securities is a **wholesale holder** if:
- (a) the value of the securities equals or exceeds the amount specified in the regulations made for the purposes of this paragraph; or
 - (b) a qualified accountant has given the holder a certificate referred to in paragraph 761G(7)(c) within the preceding 6 months; or
 - (c) the holder is a professional investor; or
 - (d) the holder is a person, or a member of a class of persons, prescribed in the regulations made for the purposes of this paragraph.

Schedule 3, item 29, page 572 (line 2), omit “At the beginning of the telephone call the”, substitute “The”.

Schedule 3, item 30, page 578 (table item 201A), after “648J(1)”, insert “, (1A)”.

Bill, as amended, agreed to

FINANCIAL SERVICES REFORM (CONSEQUENTIAL PROVISIONS) BILL 2001—

Bill taken as a whole by leave.

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

Clause 2, page 3 (after line 4), after subclause (9), insert:

- (9A) If Parts 5 and 6 of Schedule 2 to the *Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001* do not commence before the FSR commencement, items 276 to 278, and 290 to 325C, of Schedule 1 to this Act do not ever commence.

Clause 2, page 4 (after line 34), at the end of the clause, add:

- (18) The commencement of the items of Schedule 2, other than items 1, 2, 4, 5, 9 and 10, is as follows:
- (a) if Parts 5 and 6 of Schedule 2 to the *Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001* do not commence before the FSR commencement, the items commence on the FSR commencement;
 - (b) if Parts 5 and 6 of Schedule 2 to the *Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001* commence before the FSR commencement, the items do not ever commence.
- (19) The commencement of items 1 and 2 of Schedule 2 is as follows:
- (a) if Parts 5 and 6 of Schedule 2 to the *Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001* do not commence before the FSR commencement, the items commence on the later of:
 - (i) the FSR commencement; and
 - (ii) immediately after the *Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001* receives the Royal Assent;
 - (b) if Parts 5 and 6 of Schedule 2 to the *Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001* commence before the FSR commencement, the items do not ever commence.
- (20) The commencement of items 4 and 5 of Schedule 2 is as follows:
- (a) if item 3 of Schedule 2 to this Act commences under subsection (18), the items commence on the commencement of Parts 5 and 6 of Schedule 2 to the *Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001*;
 - (b) if item 3 of Schedule 2 to this Act does not ever commence under subsection (18), the items do not ever commence.
- (21) The commencement of items 9 and 10 of Schedule 2 is as follows:
- (a) if item 8 of Schedule 2 to this Act commences under subsection (18), the items commence on the commencement of Parts 5 and 6 of Schedule 2 to the *Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001*;

- (b) if item 8 of Schedule 2 to this Act does not ever commence under subsection (18), the items do not ever commence.

Schedule 1, items 67 to 69, page 22 (lines 20 to 27), omit the items, substitute:

67 Subsection 12DL(1)

Repeal the subsection, substitute:

- (1) A person must not send another person (the *targeted person*) a credit card or a debit card except in accordance with subsection (2).

Note: Failure to comply with this subsection is an offence (see section 12GB).

Note: The heading to section 12DL is altered by inserting “**credit cards and**” after “**Unsolicited**”.

Schedule 1, items 79 to 82, page 23 (line 24) to page 24 (line 6), omit the items, substitute:

79 Subsection 12DL(4)

Repeal the subsection, substitute:

- (4) A person must not take any action that enables:
- (a) another person who has a credit card to use the card as a debit card;
or
 - (b) another person who has a debit card to use the card as a credit card;
except in accordance with a request in writing by the other person.

Note: Failure to comply with this subsection is an offence (see section 12GB).

Schedule 1, page 24 (after line 11), after item 83, insert:

83A Subsection 12DL(5) (definition of *credit card*)

Repeal the definition, substitute:

credit card means an article that:

- (a) is of a kind described in one or more of the following subparagraphs:
 - (i) an article of a kind commonly known as a credit card;
 - (ii) a similar article intended for use in obtaining cash, goods or services on credit;
 - (iii) an article of a kind that persons carrying on business commonly issue to their customers or prospective customers for use in obtaining goods or services from those persons on credit; and
 - (b) is part of, or provides access to, a credit facility that is a financial product;
- or an article that may be used as an article referred to in paragraphs (a) and (b).

83B Subsection 12DL(5) (definition of *debit card*)

Repeal the definition, substitute:

debit card means:

- (a) an article intended for use by a person in obtaining access to an account that is:

- (i) held by the person for the purpose of withdrawing or depositing cash or obtaining goods or services; and
- (ii) a financial product; or
- (b) an article that may be used as an article referred to in paragraph (a).

Schedule 1, page 28 (after line 12), after item 116, insert:

116A Subsection 12GJ(2)

Repeal the subsection, substitute:

- (2) With respect to any matter:
 - (a) arising under this Division; or
 - (b) arising under Part 3 in its application in relation to an investigation of a contravention of this Division;
- in respect of which a civil proceeding is instituted under this Subdivision or under Part 3 as so applying:
- (c) the several courts of the States are invested with federal jurisdiction within the limits of their several jurisdictions, whether those limits are as to locality, subject-matter or otherwise; and
 - (d) subject to the Constitution, jurisdiction is conferred on the several courts of the Territories.

116B Paragraph 12GK(1)(a)

Omit “other than the Minister or ASIC”.

116C Paragraph 12GK(1)(b)

Repeal the paragraph, substitute:

- (b) a matter for determination in the proceeding arose under:
 - (i) this Division; or
 - (ii) Part 3 in its application in relation to an investigation of a contravention of this Division;

116D Paragraph 12GK(4)(b)

Repeal the paragraph, substitute:

- (b) a matter for determination in the proceeding arose under:
 - (i) this Division; or
 - (ii) Part 3 in its application in relation to an investigation of a contravention of this Division;

116E Paragraph 12GK(5)(b)

Repeal the paragraph, substitute:

- (b) a matter for determination in the proceeding arose under:
 - (i) this Division; or
 - (ii) Part 3 in its application in relation to an investigation of a contravention of this Division;

Schedule 1, item 223, page 47 (after line 24), after subsection (1), insert:

- (1A) Other expressions used in this Part that are defined in Division 2 of Part 7.1 have the same meanings as they are given by that Division. This has effect subject to:

- (a) any contrary intention in a provision of this Part; or
- (b) regulations made for the purposes of this paragraph.

Schedule 1, item 223, page 66 (after line 2), after section 1424, insert:

1424A Treatment of unregulated clearing and settlement facilities operated by holders of old Corporations Act approvals

- (1) This section applies in relation to a clearing and settlement facility if:
 - (a) the facility was being operated immediately before the FSR commencement by a body corporate in relation to which an approval under section 1131 of the old Corporations Act was in force at that time; but
 - (b) the services provided by the facility as so operated were not such that section 1128 of the old Corporations Act required the operator to be so approved.
- (2) In this section:
 - (a) a reference to the *unregulated services* is a reference to the services referred to in paragraph (1)(b); and
 - (b) a reference to *regulated services* is a reference to services that, if they had been provided by the facility immediately before the commencement, would have been services to which section 1128 of the old Corporations Act applied.
- (3) For the purposes of section 1425 (as it operates of its own force, rather than because of section 1424), the facility is not to be regarded as a facility that was being operated immediately before the FSR commencement.
- (4) If the operator has, before the FSR commencement, indicated an intention that they propose to extend the services provided by the facility so that they also cover regulated services:
 - (a) regulations made for the purposes of subsection 1424(1) may identify the facility as a proposed clearing and settlement facility, but only in relation to those regulated services; and
 - (b) if they do so, section 1424, and section 1425 as it applies because of section 1424, apply in relation to the facility and those regulated services as if the facility did not already provide the unregulated services.

Schedule 1, item 223, page 66 (lines 30 and 31), omit “facility can only provide services”, substitute “licence only covers the facility providing services”.

Schedule 1, item 223, page 74 (table item 10, 2nd column), omit “Any other person who carries on activities”, substitute “A person who carries on any other activities (that is, activities that are not regulated activities for the purposes of any of items 1 to 9)”.

Schedule 1, item 223, page 74 (table item 10, 3rd column), after “class of activities”, insert “so”.

Schedule 1, item 223, page 75 (line 14), after “7.8”, insert “(other than section 992A)”.

Schedule 1, item 223, page 81 (line 23), after “**representatives**”, insert “—**general**”.

Schedule 1, item 223, page 81 (after line 32), after subsection 1436(1), insert:

- (1A) However, if a person who, under subsection (1), would be the representative of another person is a financial services licensee in their own right, the licensee, when engaged in activities covered by their licence, is taken not to be acting as representative of that other person.

Schedule 1, item 223, page 82 (after line 28), after section 1436, insert:

1436A Treatment of representatives—insurance agents

- (1) This section has effect despite anything else in this Subdivision, including sections 1436 and 1437.
- (2) This section applies if, immediately before the FSR commencement, a person is an insurance intermediary (but not an insurance broker) within the meaning of the *Insurance (Agents and Brokers) Act 1984* as then in force because of an agreement they have with an insurer under section 10 of that Act. For the purposes of this section:
 - (a) the person is the *insurance agent*; and
 - (b) the agreement is the *authorising agreement*; and
 - (c) the matters dealt with in the provisions included in the agreement in compliance with section 10 of that Act, and any other matters included in the agreement that are related to those matters, are the *relevant matters*; and
 - (d) the insurer is the *principal*.

If, immediately before the FSR commencement, the person has more than one such agreement, this section applies separately in relation to each of those agreements.

- (3) For the purposes of this section, the *transition period* is the period starting on the FSR commencement and ending when the first of the following events occurs:
 - (a) the period of 2 years starting on the FSR commencement ends;
 - (b) the authorising agreement ceases to be in force;
 - (c) the insurance agent has lodged with ASIC notice in writing that the agent no longer wants to be covered by the *Insurance (Agents and Brokers) Act 1984*:
 - (i) from a specified date, being a date that is after the notice is given to ASIC; or
 - (ii) from the end of a specified period, being a period that ends after the notice is given to ASIC;
 and that date arrives or period ends;
 - (d) the insurance agent is granted a licence under section 913B (including as it has effect because of section 1434) of the amended Corporations Act that covers the insurance agent engaging in (as licensee) the range of activities that they previously engaged in as agent under the authorising agreement.
- (4) A notice (the *original notice*) given for the purposes of paragraph (3)(c) may be before the date, or the end of the period, specified in the original notice as mentioned in that paragraph:

- (a) be varied to specify another date or period, being a date or period that would satisfy the requirements of subparagraph (3)(c)(i) or (ii) if the reference in that subparagraph to when the notice (being the original notice) is given to ASIC were instead a reference to when the notice of variation is given to ASIC under this subsection; or
- (b) be revoked.

The variation or revocation must be made by notice in writing lodged with ASIC.

- (5) Subject to subsection (7), during the transition period, the *Insurance (Agents and Brokers) Act 1984* as in force immediately before the FSR commencement, and any associated provisions, (the **relevant old legislation**) continue to apply (despite the repeal of that Act) to, and in relation to, the insurance agent, the principal and the relevant matters.
- (6) Subject to subsection (7), during the transition period, the relevant new legislation (within the meaning of section 1431) does not apply to, or in relation to, the insurance agent, the principal and the relevant matters.
- (7) Regulations made for the purposes of this subsection may do either or both of the following:
 - (a) provide that specified provisions of the relevant old legislation apply (with or without specified modifications), or do not apply, to the insurance agent, the principal and some or all of the relevant matters;
 - (b) provide that specified provisions of the relevant new legislation apply (with or without specified modifications), or do not apply, to the insurance agent, the principal and some or all of the relevant matters.

The regulations may provide as mentioned in paragraph (a) or (b) even after the end of the transition period.

- (8) If:
 - (a) before the end of the transition period, or such longer period during which regulations made for the purposes of subsection (7) provide for the application of some or all of the relevant old legislation, the insurance agent engages in conduct that, under the authorising agreement as then in force, creates a right to brokerage, commission or other remuneration (which may be a present right, or a future right that is dependent on matters specified in the authorising agreement); and
 - (b) that right is still in existence immediately before the end of that period;

the right is not taken to be brought to an end merely because of the repeal of the relevant old legislation or the enactment of the relevant new legislation, or because under this section the relevant old legislation ceases to apply and the relevant new legislation starts to apply.

- (9) Subsection (8) is not intended to affect, in any way, the determination of the question whether any other right (whether or not it is under an

agreement under section 10 of the *Insurance (Agents and Brokers) Act 1984* is in any way affected by the provisions of the *Financial Services Reform Act 2001* or the *Financial Services Reform (Consequential Provisions) Act 2001* (including the amendments made by those Acts).

Schedule 1, item 223, page 82 (line 31), after “Subdivision”, insert “(other than section 1436A)”.

Schedule 1, item 223, page 88 (line 26), at the end of section 1441, add:
; or (c) an insurance agent (as defined in section 1436A).

Schedule 1, item 223, page 89 (after line 34), at the end of Division 1, add:

Subdivision F—Certain other product-related requirements

1442A Deferred application of hawking prohibition

- (1) For the purposes of this section, the *transition period* is the period starting on the FSR commencement and ending on whichever of the following first occurs:
 - (a) the day fixed by Proclamation for the purposes of this paragraph;
 - (b) the end of the period of 6 months starting on the FSR commencement.
- (2) Regulations made for the purposes of this section may provide for specified provisions of legislation that is repealed by the *Financial Services Reform Act 2001* or the *Financial Services Reform (Consequential Provisions) Act 2001*, being provisions that deal with the same or a similar matter as that dealt with in section 992A of the amended Corporations Act, to continue to apply (whether with or without specified modifications) during the transition period.
- (3) During the transition period, section 992A of the amended Corporations Act does not apply to any person, except to the extent (if any) provided for in regulations made for the purposes of this section.

1442B Deferred application of confirmation of transaction and cooling-off provisions etc.

- (1) This section applies to all financial products issued by a person, other than financial products in a class of products that are first issued by the person after the FSR commencement.
- (2) For the purposes of this section, the *transition period*, in relation to a financial product to which this section applies, is the period starting on the FSR commencement and ending on whichever of the following first occurs:
 - (a) the day fixed by Proclamation for the purposes of this paragraph;
 - (b) the end of the period of 6 months starting on the FSR commencement;
 - (c) the new product disclosure provisions (within the meaning of section 1438) start to apply in relation to the product.
- (3) Subject to subsection (5), the following provisions (the *preserved provisions*), to the extent they are relevant to a financial product to which

this section applies, continue to apply, despite their repeal, in relation to the financial product during the transition period:

- (a) Division 6 of Part 19 of the *Superannuation Industry (Supervision) Act 1993*, and any associated provisions;
 - (b) Division 7 of Part 5 of the *Retirement Savings Accounts Act 1997*, and any associated provisions;
 - (c) sections 64 and 64A of the *Insurance Contracts Act 1984*, and any associated provisions;
 - (d) any other provisions specified in regulations made for the purposes of this paragraph, and any associated provisions in relation to provisions so specified.
- (4) Subject to subsection (5), during the transition period, the following provisions (the *deferred provisions*) of the amended Corporations Act do not apply in relation to a financial product to which this section applies:
- (a) section 1017F;
 - (b) sections 1019A and 1019B;
 - (c) any other provisions of Part 7.9 of the amended Corporations Act that are not part of the new product disclosure provisions (within the meaning of section 1438) and that are specified in regulations made for the purposes of this paragraph.
- (5) Regulations made for the purposes of this subsection may do either or both of the following:
- (a) provide that specified provisions of the preserved provisions apply (with or without specified modifications), or do not apply, in relation to a financial product to which this section applies;
 - (b) provide that specified provisions of the deferred provisions apply (with or without specified modifications), or do not apply, in relation to a financial product to which this section applies.

The regulations may provide as mentioned in paragraph (a) or (b) even after the end of the transition period.

Schedule 1, page 109 (after line 29), after item 325, insert:

325A Paragraph 63(3)(a)

Omit “this Act or the regulations or the *Financial Sector (Collection of Data) Act 2001*”, substitute “one or more of the regulatory provisions (as defined in section 38A)”.

325B Subsection 63(5)

Omit all the words from and including “the provisions of”, substitute “the regulatory provisions (as defined in section 38A) applicable to the fund”.

325C Subsection 63(6)

Omit “this Act”, substitute “the applicable provisions of that Part”.

Schedule 1, page 115 (after line 13), after item 364, insert:

364A Paragraph 51AF(2)(c)

Repeal the paragraph, substitute:

(c) section 63A does not apply to:

- (i) a credit card that is part of, or that provides access to, a credit facility that is a financial product; or
- (ii) a debit card that allows access to an account that is a financial product.

364B Subsection 51AF(3)

Insert:

credit card has the same meaning as in section 63A.

364C Subsection 63A(3) (definition of *credit card*)

Repeal the definition, substitute:

credit card means an article that is of a kind described in one or more of the following paragraphs:

- (a) an article of a kind commonly known as a credit card;
- (b) a similar article intended for use in obtaining cash, goods or services on credit;
- (c) an article of a kind that persons carrying on business commonly issue to their customers or prospective customers for use in obtaining goods or services from those persons on credit;

or an article that may be used as an article referred to in paragraph (a), (b) or (c).

364D Subsection 63A(3) (definition of *debit card*)

Repeal the definition, substitute:

debit card means:

- (a) an article intended for use by a person in obtaining access to an account that is held by the person for the purpose of withdrawing or depositing cash or obtaining goods or services; or
- (b) an article that may be used as an article referred to in paragraph (a).

Schedule 1, page 115 (after line 17), after item 365, insert:

365A Paragraph 75AZA(2)(c)

Repeal the paragraph, substitute:

(c) section 75AZP does not apply to:

- (i) a credit card that is part of, or that provides access to, a credit facility that is a financial product; or
- (ii) a debit card that allows access to an account that is a financial product.

365B Subsection 75AZA(3)

Insert:

credit card has the same meaning as in section 75AZP.

Page 115 (after line 22), at the end of the bill, add:

Schedule 2—Amendments related to possible delayed commencement of Parts 5 and 6 of Schedule 2 to the Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001

Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001

1 Items 92 and 92A of Schedule 2

Repeal the items.

2 Items 101 to 130AA of Schedule 2

Repeal the items.

Retirement Savings Accounts Act 1997

3 Before subsection 182(1)

Insert:

Definition

(1A) In this section:

regulatory provision, in relation to an RSA institution, means:

- (a) a provision of this Act or the regulations; or
- (b) any of the following provisions of the *Corporations Act 2001* as applying in relation to RSA products (within the meaning of Chapter 7 of that Act) that are provided by the RSA institution:
 - (i) subsection 1013K(1) or (2);
 - (ii) subsection 1016A(2) or (3);
 - (iii) subsection 1017B(1);
 - (iv) subsection 1017C(2), (3) or (5);
 - (v) subsection 1017D(1);
 - (vi) subsection 1017DA(3);
 - (vii) subsection 1017E(3) or (4);
 - (viii) subsection 1020E(8) or (9);
 - (ix) subsection 1021C(1) or (3);
 - (x) subsection 1021D(1);
 - (xi) subsection 1021E(1);
 - (xii) subsection 1021O(1) or (3);
 - (xiii) section 1041E;
 - (xiv) subsection 1041F(1);
 - (xv) any other provisions that are specified in regulations made for the purposes of this subparagraph.

4 Subsection 182(1A) (after paragraph (a) of the definition of *regulatory provision*)

Insert:

- (aa) a provision of the *Financial Sector (Collection of Data) Act 2001*; or

5 Application of amendment made by item 4

The amendment made by item 4 applies only on and after the day on which the reporting standards determined under section 13 of the *Financial Sector (Collection of Data) Act 2001* begin to apply under section 15 of that Act to financial sector entities (within the meaning of that Act) that are RSA providers (within the meaning of the *Retirement Savings Accounts Act 1997*).

6 Paragraph 182(2)(a)

Omit “this Act or the regulations”, substitute “any of the regulatory provisions”.

7 Subsection 182(4)

Omit “the provisions of this Act and the regulations”, substitute “the regulatory provisions”.

Superannuation Industry (Supervision) Act 1993

8 Before section 39

Insert in Division 2 of Part 5:

38A Meaning of *regulatory provision*

In this Division:

regulatory provision, in relation to a superannuation entity, means:

- (a) a provision of this Act or the regulations; or
- (b) any of the following provisions of the *Corporations Act 2001* as applying in relation to financial products (within the meaning of Chapter 7 of that Act) that are interests in the superannuation entity:
 - (i) subsection 1013K(1) or (2);
 - (ii) subsection 1016A(2) or (3);
 - (iii) subsection 1017B(1);
 - (iv) subsection 1017C(2), (3) or (5);
 - (v) subsection 1017D(1);
 - (vi) subsection 1017DA(3);
 - (vii) subsection 1017E(3) or (4);
 - (viii) subsection 1020E(8) or (9);
 - (ix) subsection 1021C(1) or (3);
 - (x) subsection 1021D(1);
 - (xi) subsection 1021E(1);
 - (xii) subsection 1021O(1) or (3);
 - (xiii) section 1041E;
 - (xiv) subsection 1041F(1);
 - (xv) subsection 1043A(1) or (2);
 - (xvi) any other provisions that are specified in regulations made for the purposes of this subparagraph.

9 Section 38A (after paragraph (a) of the definition of *regulatory provision*)

Insert:

- (aa) a provision of the *Financial Sector (Collection of Data) Act 2001*; or

10 Application of amendment made by item 9

The amendment made by item 9 applies only on and after the day on which the reporting standards determined under section 13 of the *Financial Sector (Collection of Data) Act 2001* begin to apply under section 15 of that Act to financial sector entities (within the meaning of that Act) that are trustees of superannuation entities (within the meaning of the *Superannuation Industry (Supervision) Act 1993*).

11 Subsection 39(1)

Omit “this Act or the regulations”, substitute “a regulatory provision”.

12 After subsection 39(1)

Insert:

- (1A) In relation to a regulatory provision that states that a person commits an offence if they engage, or fail to engage, in specified conduct, a person is, for the purposes of this Division, taken to contravene the provision if the person engages, or fails to engage, in that conduct.

13 Subparagraph 42(1)(b)(i)

Omit “this Act or the regulations”, substitute “any of the regulatory provisions”.

14 Sub-subparagraph 42(1)(b)(ii)(A)

Omit “this Act or the regulations”, substitute “one or more of the regulatory provisions”.

15 Subparagraph 42(1AA)(c)(i)

Omit “this Act or the regulations”, substitute “any of the regulatory provisions”.

16 Subparagraph 42(1AA)(c)(ii)

Omit “this Act or the regulations”, substitute “one or more of the regulatory provisions”.

17 Subparagraph 42(1AA)(c)(ii)

Omit “this Act and the regulations”, substitute “the regulatory provisions”.

18 Subsection 42(1AB)

Omit “this Act or the regulations”, substitute “any of the regulatory provisions”.

19 Subsection 42(1AB)

Omit “this Act and the regulations”, substitute “the regulatory provisions”.

20 Subparagraph 42(1AC)(d)(i)

Omit “this Act or the regulations”, substitute “any of the regulatory provisions”.

21 Subparagraph 42(1AC)(d)(ii)

Omit “this Act or the regulations”, substitute “one or more of the regulatory provisions”.

22 Subparagraph 42(1AC)(d)(ii)

Omit “this Act and the regulations”, substitute “the regulatory provisions”.

23 Subsection 42(1AD)

Omit “this Act or the regulations”, substitute “any of the regulatory provisions”.

24 Subsection 42(1AD)

Omit “this Act and the regulations”, substitute “the regulatory provisions”.

25 Subsection 42(1A)

Omit “this Act or the regulations”, substitute “a regulatory provision”.

26 Subparagraph 42A(2)(b)(ii)

Omit “this Act or the regulations”, substitute “one or more of the regulatory provisions”.

27 Subparagraph 42A(3)(d)(i)

Omit “this Act or the regulations”, substitute “any of the regulatory provisions”.

28 Subparagraph 42A(3)(d)(ii)

Omit “this Act or the regulations”, substitute “one or more of the regulatory provisions”.

29 Subparagraph 42A(3)(d)(ii)

Omit “this Act and the regulations”, substitute “the regulatory provisions”.

30 Paragraph 42A(3)(g)

Omit “this Act or the regulations”, substitute “one or more of the regulatory provisions”.

31 Subparagraph 42A(4)(c)(i)

Omit “this Act or the regulations”, substitute “any of the regulatory provisions”.

32 Subparagraph 42A(4)(c)(ii)

Omit “this Act or the regulations”, substitute “one or more of the regulatory provisions”.

33 Subparagraph 42A(4)(c)(ii)

Omit “this Act and the regulations”, substitute “the regulatory provisions”.

34 Subparagraph 42A(4)(f)(ii)

Omit “this Act or the regulations”, substitute “one or more of the regulatory provisions”.

35 Paragraph 42A(5)(a)

Omit “this Act or the regulations”, substitute “any of the regulatory provisions”.

36 Paragraph 42A(5)(b)

Omit “this Act or the regulations”, substitute “one or more of the regulatory provisions”.

37 Subparagraph 42A(5)(b)(ii)

After “contravention”, insert “or contraventions”.

38 Subsection 42A(6)

Omit “the Act or the regulations”, substitute “any of the regulatory provisions”.

39 Subsection 42A(6)

Omit “this Act and the regulations”, substitute “the regulatory provisions”.

40 Subparagraph 43(b)(i)

Omit “this Act or the regulations”, substitute “any of the regulatory provisions”.

41 Sub-subparagraph 43(b)(ii)(A)

Omit “this Act or the regulations”, substitute “one or more of the regulatory provisions”.

42 Sub-subparagraph 43(b)(iii)(A)

Omit “this Act or the regulations”, substitute “one or more of the regulatory provisions”.

43 Subparagraph 44(b)(i)

Omit “this Act or the regulations”, substitute “any of the regulatory provisions”.

44 Sub-subparagraph 44(b)(ii)(A)

Omit “this Act or the regulations”, substitute “one or more of the regulatory provisions”.

45 Sub-subparagraph 44(b)(iii)(A)

Omit “this Act or the regulations”, substitute “one or more of the regulatory provisions”.

46 Paragraph 63(3)(a)

Omit “this Act or the regulations”, substitute “one or more of the regulatory provisions (as defined in section 38A)”.

47 Subsection 63(5)

Omit all the words from and including “the provisions of”, substitute “the regulatory provisions (as defined in section 38A) applicable to the fund”.

48 Subsection 63(6)

Omit “this Act”, substitute “the applicable provisions of that Part”.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 10.

Question—That Schedule 1, item 10 stand as printed—put and negatived.

Bill, as amended, agreed to.

CORPORATIONS (FEES) AMENDMENT BILL 2001

CORPORATIONS (NATIONAL GUARANTEE FUND LEVIES) AMENDMENT BILL 2001

CORPORATIONS (COMPENSATION ARRANGEMENTS LEVIES) BILL 2001—

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

The Financial Services Reform Bill 2001 and the Financial Services Reform (Consequential Provisions) Bill 2001 to be reported with amendments and the remaining bills to be reported without amendments.

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

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

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

Debate ensued.

Question put and passed.

Bills read a third time.

**16 STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) 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) misusing the issue of literacy for political advantage;
- (b) manipulating statistics about literacy achievement; and
- (c) providing \$145 million to wealthy category one schools which could have been better used improving literacy for students in government and needy non-government schools”.

Debate ensued.

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

Main question, as amended, put and passed.

Bill read a second time.

Senator Carr, pursuant to standing order 154, moved—That the resolution relating to the States Grants (Primary and Secondary Education Assistance) Amendment Bill 2001 be communicated by message to the House of Representatives for concurrence.

Question put and passed.

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 McKiernan) resumed the chair and the Chair of Committees (Senator West) 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.

17 ALCOHOL EDUCATION AND REHABILITATION ACCOUNT BILL 2001

A message from the House of Representatives was reported indicating that the House had made the amendment requested by the Senate to the following bill:

Message no. 781, dated 23 August 2001—Alcohol Education and Rehabilitation Account Bill 2001.

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

At 12.45 pm—

18 FINANCE AND ADMINISTRATION LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2001

Order of the day read for the adjourned debate on the motion of the Minister for the Environment and Heritage (Senator Hill)—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 McKiernan) resumed the chair and the Chair of Committees (Senator West) reported accordingly.

On the motion of the Parliamentary Secretary to the Minister for Foreign Affairs and the Minister for Immigration and Multicultural Affairs (Senator Patterson) the report from the committee was adopted and the bill read a third time.

19 FINANCIAL SECTOR (COLLECTION OF DATA) BILL 2001**FINANCIAL SECTOR (COLLECTION OF DATA—CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) 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.

Debate resumed.

Question put and passed.

Bills read a second time.

On the motion of the Parliamentary Secretary to the Minister for Foreign Affairs and the Minister for Immigration and Multicultural Affairs (Senator Patterson) consideration of the bills in committee of the whole was made an order of the day for a later hour.

20 INTERNATIONAL MARITIME CONVENTIONS LEGISLATION AMENDMENT BILL 2001

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

Debate resumed.

Question put and passed.

Bill read a second time.

On the motion of the Parliamentary Secretary to the Minister for Foreign Affairs and the Minister for Immigration and Multicultural Affairs (Senator Patterson) consideration of the bill in committee of the whole was made an order of the day for the next day of sitting.

21 FINANCIAL SECTOR (COLLECTION OF DATA) BILL 2001**FINANCIAL SECTOR (COLLECTION OF DATA—CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2001**

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

Bills taken together and as a whole by leave.

Explanatory memorandum: The Parliamentary Secretary to the Minister for Foreign Affairs and the Minister for Immigration and Multicultural Affairs (Senator Patterson) tabled a supplementary explanatory memorandum relating to the government amendment to be moved to the Financial Sector (Collection of Data—Consequential and Transitional Provisions) Bill 2001.

On the motion of Senator Patterson the following amendment to the Financial Sector (Collection of Data—Consequential and Transitional Provisions) Bill 2001 was agreed to:

Schedule 2, page 22 (after line 23), after item 130, insert:

130AA Subsection 63(5)

After “regulations”, insert “, and of the *Financial Sector (Collection of Data) Act 2001*,”.

The Financial Sector (Collection of Data) Bill 2001 agreed to and the Financial Sector (Collection of Data—Consequential and Transitional Provisions) Bill 2001, as amended, agreed to.

The Financial Sector (Collection of Data) Bill 2001 to be reported without amendment and the Financial Sector (Collection of Data—Consequential and Transitional Provisions) Bill 2001 to be reported with an amendment.

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

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

Suspension of sitting: On the motion of Senator Patterson the sitting of the Senate was suspended till 2 pm.

At 2 pm—

22 QUESTIONS

Questions without notice were answered.

23 QUESTION ON NOTICE—ANSWER AND EXPLANATION

Senator Harris, pursuant to standing order 74, asked the Assistant Treasurer (Senator Kemp) for an explanation of an answer not being provided to a question on notice no. 3667 (notice given 28 June 2001) relating to the Australian Taxation Office.

Senator Kemp indicated that an explanation would be provided.

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

Question put and passed.

24 TAXATION—LIBERAL PARTY—ANSWERS TO QUESTIONS

The Leader of the Opposition in the Senate (Senator Faulkner) moved—That the Senate take note of the answers given by the Assistant Treasurer (Senator Kemp) to questions without notice asked today relating to taxation and a Liberal Party fundraising dinner.

Debate ensued.

Question put and passed.

25 TRANSPORT—BLACK SPOT PROJECT—ORDER FOR PRODUCTION OF DOCUMENTS—STATEMENT BY LEAVE

The Minister for Justice and Customs (Senator Ellison), by leave, made a statement relating to the order of the Senate of 21 August 2001 for the production of documents concerning Black Spot Project reference number N00752 (*see entry no. 14, 21 August 2001*).

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

**26 COMMUNITY AFFAIRS REFERENCES COMMITTEE—GOVERNMENT RESPONSE—
PROPOSALS FOR CHANGES TO THE WELFARE SYSTEM**

The Minister for Justice and Customs (Senator Ellison) tabled the following document:
Community Affairs References Committee—Report—Proposals for changes to the welfare system—Government response.

**27 CORPORATIONS AND SECURITIES—JOINT STATUTORY COMMITTEE—GOVERNMENT
RESPONSE—‘SHADOW LEDGERS’ AND THE PROVISION OF BANK STATEMENTS TO
CUSTOMERS**

The Minister for Justice and Customs (Senator Ellison) tabled the following document:
Corporations and Securities—Joint Statutory Committee—Report—‘Shadow ledgers’ and the provision of bank statements to customers—Government response.

**28 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS
REFERENCES COMMITTEE—GOVERNMENT RESPONSE—GLOBAL WARMING AND THE
CONVENTION ON CLIMATE CHANGE (IMPLEMENTATION) BILL 2000**

The Minister for Justice and Customs (Senator Ellison) tabled the following document:
Environment, Communications, Information Technology and the Arts References Committee—Report—The heat is on: Australia’s greenhouse future—Global warming and the Convention on Climate Change (Implementation) Bill 2000—Government response, dated June 2001.

29 PRESIDING OFFICERS AND CLERKS CONFERENCE—DOCUMENTS

The Deputy President (Senator West) tabled the following documents:
Presiding Officers and Clerks Conference—31st, Norfolk Island, 31 July to 4 August 2000—Report by Senator the Honourable Margaret Reid, President of the Senate, dated August 2000 and conference document.

30 PUBLIC WORKS—JOINT STATUTORY COMMITTEE—8TH REPORT OF 2001

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

8th report of 2001—Lavarack Barracks redevelopment stage 3, Townsville.

Senator Calvert, by leave, moved—That the Senate take note of the report.
Question put and passed.

31 PUBLIC ACCOUNTS AND AUDIT—JOINT COMMITTEE—382ND AND 384TH REPORTS

Senator Calvert, on behalf of the Joint Committee of Public Accounts and Audit, tabled the following reports:

382nd report—Review of Auditor-General’s reports 1999-2000: Fourth quarter—Tactical fighter operations; Magnetic resonance imaging services; High wealth individuals taskforce, dated June 2001.

384th report—Review of Coastwatch, dated August 2001.

Senator Calvert, by leave, moved—That the Senate take note of the reports.
Question put and passed.

32 DOCUMENTS

The following documents were tabled by the Clerk:

- Census and Statistics Act—Australian Bureau of Statistics—Statement No. 2 of 2001.
- Health Insurance Act—Health Insurance (Accredited Pathology Laboratories — Approval) Amendment Principles 2001 (No. 3).
- National Health Act—Private Patients' Hospital Charter—NHA73F1/2001.

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

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

- Indexed lists of departmental and agency files for the period 1 January to 30 June 2001—Statements of compliance—Department of the Prime Minister and Cabinet.

34 COMMITTEES—CHANGES IN MEMBERSHIP

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

The Minister for Justice and Customs (Senator Ellison), by leave, moved—That senators be discharged from and appointed to committees as follows:

- Community Affairs References Committee—
 - Participating member: Senator Crowley from 31 August 2001
- Finance and Public Administration References Committee—
 - Appointed: Senator Lundy
 - Discharged: Senator McLucas
 - Participating member: Senator McLucas.

Question put and passed.

General business was called on.

35 FINANCE—BANKS—SOCIAL CHARTER

Senator Conroy, pursuant to notice, moved—That the Senate—

- (a) notes that banking is the most profitable industry in Australia and that these profits have been caused by increased bank fees, increased bank queues and reduced banking services;
- (b) notes, in particular, that:
 - (i) in the past half year the major banks announced record profits of more than \$5 billion and are headed for profits of more than \$10 billion for the full year,

- (ii) according to the Reserve Bank's recent update *Bank Fees in Australia*, banks earned \$2.1 billion in fees from households in the past 12 months and that in the past 4 years this income has increased by 75 per cent, and
- (iii) since 1996 banks have closed 1 505 bank branches; and
- (c) calls upon the Government to immediately negotiate a social charter with Australia's banks to ensure that all Australians have access to affordable banking services.

Debate ensued.

Declaration of interest: Senator McGauran declared an interest in relation to the matter under discussion.

At 6 pm: Debate was interrupted while Senator McGauran was speaking.

36 GOVERNMENT DOCUMENTS—ORDERS OF THE DAY—CONSIDERATION

The following orders of the day relating to government documents were considered:

Agreement between Australia and the Argentine Republic concerning Cooperation in Peaceful Uses of Nuclear Energy. Motion of Senator Bartlett to take note of document agreed to.

Australian Government Solicitor—Statement of corporate intent 2000-2001. Motion of Senator Cooney to take note of document agreed to.

Agreement between the Government of Australia and the Government of the Russian Federation on Cooperation in the Field of the Exploration and Use of Outer Space for Peaceful Purposes. Motion of Senator Ludwig to take note of document agreed to.

Agreement between the Government of Australia and the Government of the Czech Republic on Cooperation in Peaceful Uses of Nuclear Energy and the Transfer of Nuclear Material, done at Prague on 27 July 2001. Motion of Senator Ludwig to take note of document agreed to.

Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the United States of America concerning Cooperation on the Application of Non-Proliferation Assurances, done at Washington D.C. on 31 July 2001. Motion of Senator Ludwig to take note of document debated and agreed to.

Agreement between the Government of Australia and the Government of the Kingdom of Thailand on the Transfer of Offenders and Co-operation in the Enforcement of Penal Sentences, done at Hanoi on 26 July 2001. Motion of Senator Ludwig to take note of document agreed to.

Council of Europe Convention on the Transfer of Sentenced Persons, done at Strasbourg on 21 March 1983. Motion of Senator Ludwig to take note of document agreed to.

General business concluded.

**37 COMMITTEE REPORTS AND GOVERNMENT RESPONSES—ORDERS OF THE DAY—
CONSIDERATION**

The following orders of the day relating to committee reports and government responses were considered:

Superannuation and Financial Services—Select Committee—Report—Prudential supervision and consumer protection for superannuation, banking and financial services—First report. Motion of the chair of the committee (Senator Watson) to take note of report agreed to.

Superannuation and Financial Services—Select Committee—Report—Parliamentary (Choice of Superannuation) Bill 2001. Motion of Senator Coonan to take note of report agreed to.

38 AUDITOR-GENERAL'S REPORTS—ORDERS OF THE DAY—CONSIDERATION

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report no. 6 of 2001-02—Performance audit—Commonwealth fisheries management: Follow-up audit: Australian Fisheries Management Authority. Motion to take note of document moved by Senator O'Brien and agreed to.

Orders of the day nos 2 to 4 relating to reports of the Auditor-General were called on but no motion was moved.

39 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 6.49 pm till Monday, 27 August 2001 at 12.30 pm.

40 ATTENDANCE

Present, all senators except Senators Crossin, Crowley* and Ridgeway (* on leave).

HARRY EVANS
Clerk of the Senate