

1998-2001

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 206

MONDAY, 27 AUGUST 2001

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1 MEETING OF SENATE

The Senate met at 12.30 pm. The President (Senator the Honourable Margaret Reid) took the chair and read prayers.

2 PARLIAMENTARY PRIVILEGE—FEDERAL COURT JUDGMENT—EXAMINATION OF DOCUMENTS—STATEMENT BY PRESIDENT—DOCUMENTS

The President made a statement relating to the orders of the Senate of 5 December 2000 and 8 August 2001 concerning the examination of documents following the order of the Federal Court in *Crane v Gething* and tabled the following documents:

Parliamentary Privilege—Federal Court judgment—Examination of documents—

Letter to the President of the Senate from Mr Stephen Skehill, Special Counsel, Mallesons Stephen Jacques, dated 23 August 2001.

Statement by Mr Stephen Skehill, Special Counsel, Mallesons Stephen Jacques, dated 23 August 2001.

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

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

Parliamentary Privilege—Federal Court judgment—Examination of documents—
Letter to Mr Skehill, Special Counsel, Mallesons Stephen Jacques from Senator Winston Crane, dated 14 August 2001.

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

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

3 MEASURES TO COMBAT SERIOUS AND ORGANISED CRIME 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.

At 2 pm: Debate was interrupted while the Minister for Justice and Customs (Senator Ellison) was speaking.

4 QUESTIONS

Questions without notice were answered.

5 NEWSPAPER CLIPPINGS—QUESTIONS TO PRESIDENT—STATEMENT BY PRESIDENT

The President made a statement relating to matters raised on 23 August 2001 by Senator Knowles, concerning newspaper clippings prepared for the Department of the Senate, and by Senator Ray, concerning questions asked of the President.

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

Question put and passed.

6 TAXATION—LIBERAL PARTY—ANSWERS TO QUESTIONS

Senator Cook moved—That the Senate take note of the answers given by the Assistant Treasurer (Senator Kemp) and the Minister for the Environment and Heritage (Senator Hill), to questions without notice asked by opposition senators today relating to taxation and a Liberal Party fundraising dinner.

Debate ensued.

Question put and passed.

7 ENVIRONMENT—GREAT BARRIER REEF—CROWN OF THORNS STARFISH—ANSWER TO QUESTION

Senator Bartlett moved—That the Senate take note of the answer given by the Minister for the Environment and Heritage (Senator Hill) to a question without notice asked by Senator Bartlett today relating to crown of thorns starfish in the Great Barrier Reef.

Question put and passed.

8 GENE TECHNOLOGY—HUMAN STEM CELL EXTRACTION—ANSWER TO QUESTION

Senator Harradine, by leave, moved—That the Senate take note of the answer given by the Minister for Industry, Science and Resources (Senator Minchin) to a question without notice asked by Senator Harradine today relating to the extraction of stem cells from human embryos.

Question put and passed.

9 NOTICES

The Chair of the Community Affairs References Committee (Senator Crowley): To move on the next day of sitting—That the Community Affairs References Committee be authorised to hold a public meeting during the sitting of the Senate on 28 August 2001, from 5 pm till 7 pm, to take evidence for the committee's inquiry into nursing.

Senators Bourne and Bartlett: To move on the next day of sitting—That the Senate—

- (a) notes the proposed meeting of Australian Prime Minister, Mr Howard, and United States President, Mr Bush, on 10 September 2001;
- (b) recalls its resolutions of 29 June 2000 and 1 March 2001 in regard to missile defence issues;
- (c) notes the substantial international efforts made by successive Australian governments to promote the ratification and entry into force of the Comprehensive Test Ban Treaty;
- (d) considers the proliferation of weapons of mass destruction and ballistic missile delivery systems to be a most serious international security issue;
- (e) notes the possibility that the deployment of a missile defence system may undermine the integrity of the 1972 Anti-Ballistic Missile Treaty and thereby lead to a renewed nuclear arms race; and
- (f) urges the Prime Minister to uphold the integrity of Australia's joint facilities, namely that these facilities should only be utilised in the context of the anti-ballistic missile defence treaty, the comprehensive test ban treaty and the non-proliferation treaty.

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

(a) notes that:

- (i) ten years have now passed since the Baltic nations of Estonia, Latvia and Lithuania re-established total independence from the Union of Soviet Socialist Republics, which had, as the result of a secret pact between the regimes of Joseph Stalin and Adolph Hitler, forcibly and illegally occupied the Baltic countries for half a century since World War II,
- (ii) during those 50 years of Soviet occupation the Australian Government gave significant support to the Baltic peoples at international forums and during bilateral contacts with other countries and was, in August 1991, among the first to give formal recognition to the Baltic nations upon their re-establishment of independence, and
- (iii) since the restoration of independence the Baltic nations have demonstrated their commitment to democracy, human rights and the rule of law and have actively pursued full integration into global and European political, economic and security organisations; and

(b) in this year of Australia's Centenary of Federation, congratulates the Baltic peoples on their achievements and expresses a sincere hope that the independence of Estonia, Latvia and Lithuania will never again be threatened.

The Chair of the Select Committee on Superannuation and Financial Services (Senator Watson): To move on the next day of sitting—That the time for the presentation of the final report of the Select Committee on Superannuation and Financial Services on prudential supervision and consumer protection for superannuation, banking and financial services be extended to the last sitting day in March 2002.

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

(a) notes that:

- (i) 19 to 25 August 2001 was Hearing Awareness Week,
- (ii) the theme for Hearing Awareness Week in 2001 was 'It's Caption Time', and
- (iii) legislative requirements now ensure that all programs broadcast on the ABC, SBS and commercial networks, between 6 pm and 10.30 pm, are captioned, providing access to the 1.7 million Australians who have a hearing impairment; and

(b) looks forward to future advances in captioning.

Senator Mackay: To move on the next day of sitting—That there be laid on the table by the Minister for Communications, Information Technology and the Arts, no later than immediately after motions to take note of answers to questions without notice on 30 August 2001, the Telstra document, or series of Telstra documents, containing substandard plant reports and known as the E71 database, which Telstra undertook to prepare at the estimates hearing of the Rural and Regional Affairs and Transport Legislation Committee on 7 June 2001 and which, according to Telstra Director of Finance, John Stanhope, is being provided to the Minister's office during the week beginning 26 August 2001.

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

- (a) notes that the Prime Minister (Mr Howard) will be discussing a United States-Australia free trade agreement with President Bush in Washington on 10 September 2001; and
- (b) calls on the Australian Government to rule out any consideration of relaxing Australia's media content, media ownership, Foreign Investment Review Board rules or changes to the Pharmaceutical Benefits Scheme in any such free trade agreement.

Senator Bartlett: To move on 29 August 2001—That the Senate—

- (a) notes:
 - (i) repeated concerns expressed by many sections of the community about the conditions in Australia's detention centres and the treatment of some asylum seekers in those centres,
 - (ii) plans announced by the Minister for Immigration and Multicultural Affairs (Mr Ruddock) to build three new detention centres, and
 - (iii) statements made by the President of the Law Council of Australia that the practice of mandatory detention is questionable in the light of several international conventions and that mandatory detention is excessive and not necessary for all asylum seekers; and
- (b) calls on the Australian Government to immediately reconsider its policy of mandatory detention and to save taxpayers' money by scrapping plans to build extra detention centres.

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell): To move on the next day of sitting—That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Commonwealth Electoral Amendment Bill 2001
 Disability Services Amendment (Improved Quality Assurance) Bill 2001
 Family Assistance Estimate Tolerance (Transition) Bill 2001.

Documents: Senator Ian Campbell tabled the following documents:

Consideration of legislation—Statements of reasons [3] for introduction and passage of certain bills in the 2001 spring sittings.

10 LEAVE OF ABSENCE

Senator Bartlett, by leave, moved—That leave of absence be granted to Senator Ridgeway for the period 28 August to 30 August 2001, on account of parliamentary business overseas.

Question put and passed.

11 POSTPONEMENTS

Items of business were postponed as follows:

General business notice of motion no. 1006 standing in the name of Senator Brown for today, relating to security arrangements and the takeover of Optus by Singtel, postponed till 28 August 2001.

12 ORDER OF BUSINESS—REARRANGEMENT

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That intervening government business be postponed till after consideration of government business order of the day no. 2 (Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2000 and a related bill).

Question put and passed.

13 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 30 August 2001.

Question put and passed.

14 SCIENCE AND TECHNOLOGY—SCIENCE MEETS PARLIAMENT DAY

Senator Bartlett, at the request of the Leader of the Australian Democrats (Senator Stott Despoja) and pursuant to notice of motion not objected to as a formal motion, moved—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.

Question put and passed.

15 PRIVILEGES—STANDING COMMITTEE—98TH REPORT

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

98th report—Person referred to in the Senate (Alderman Dr John Freeman), dated August 2001.

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

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

Question put and passed.

Response as recommended by the committee incorporated in Hansard accordingly.

16 NATIONAL CRIME AUTHORITY—JOINT STATUTORY COMMITTEE—REPORT—LAW ENFORCEMENT IMPLICATIONS OF NEW TECHNOLOGY

The Deputy Chair of the Parliamentary Joint Committee on the National Crime Authority (Senator George Campbell) tabled the following report and documents:

The law enforcement implications of new technology, dated August 2001, *Hansard* record of the committee's proceedings [5 vols] and submissions [28].

17 DEPARTMENTAL AND AGENCY CONTRACTS—ORDER FOR PRODUCTION OF DOCUMENTS—STATEMENT BY LEAVE

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell), by leave, made a statement relating to the order of the Senate of 20 June 2001 for the production of documents concerning departmental and agency contracts (*see entry no. 15, 20 June 2001*).

18 ENVIRONMENT—GREAT BARRIER REEF—WATER QUALITY TARGETS—ORDER FOR PRODUCTION OF DOCUMENTS—STATEMENT BY LEAVE

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell), by leave, made a statement relating to the order of the Senate of 23 August 2001 for the production of documents concerning water quality targets in the catchments feeding into the Great Barrier Reef region (*see entry no. 10, 23 August 2001*).

19 DOCUMENTS

The following documents were tabled by the Clerk:

Broadcasting Services Act—Determination under Clause 6 of Schedule 4 to the *Broadcasting Services Act 1992* (No. 3) 2001.

Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—Civil Aviation Amendment Order (No. 14) 2001.

Defence Act—Determination under section—

58B—Defence Determination 2001/23.

58H—Defence Force Remuneration Tribunal—Determination No. 13 of 2001.

Financial Management and Accountability Act—Financial Management and Accountability (Special Accounts) Determination 2001/12.

Higher Education Funding Act—Guidelines for Special Capital Projects—Guidelines No. T23-2001.

Superannuation Act 1990—Fourteenth Amending Deed under section 5, dated 20 August 2001.

20 DEPARTMENTAL AND AGENCY CONTRACTS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT

The following document was tabled pursuant to the order of the Senate of 20 June 2001:

Departmental and agency contracts—Letters of advice—Department of Defence.

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

The following documents were 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—

Health and Aged Care.

Immigration and Multicultural Affairs.

Reconciliation and Aboriginal and Torres Strait Islander Affairs.

22 CUSTOMS TARIFF AMENDMENT BILL (NO. 5) 2001

AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2001

TREASURY LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL (NO. 2) 2001

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

Message no. 782, dated 23 August 2001—A Bill for an Act to amend the *Customs Tariff Act 1995*, and for related purposes.

Message no. 783, dated 23 August 2001—A Bill for an Act relating to the application of the *Criminal Code* to certain offences, and for related purposes.

Message no. 786, dated 27 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 these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

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

Explanatory memorandum: Senator Ian Campbell tabled a revised explanatory memorandum relating to the Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 2) 2001.

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

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

Question put and passed.

23 GENERAL INSURANCE REFORM BILL 2001

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

Message no. 785, dated 27 August 2001—A Bill for an Act to amend the *Insurance Act 1973*, 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.

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.

24 INTELLIGENCE SERVICES—JOINT SELECT COMMITTEE—REPORT—INTELLIGENCE SERVICES BILL 2001, INTELLIGENCE SERVICES (CONSEQUENTIAL PROVISIONS) BILL 2001 AND CYBERCRIME BILL 2001

Pursuant to order, Senator Sandy Macdonald, on behalf of the Joint Select Committee on the Intelligence Services, tabled the following report and documents:

Intelligence Service—Joint Select Committee—Intelligence Services Bill 2001, the Intelligence Services (Consequential Provisions) Bill 2001 and certain parts of the Cybercrime Bill 2001, dated August 2001, *Hansard* record of the committee's proceedings [3 vols], minutes of proceedings and submissions.

Senator Sandy Macdonald, by leave, moved—That the Senate take note of the report.

Debate ensued.

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

**25 SAFETY, REHABILITATION AND COMPENSATION AND OTHER LEGISLATION AMENDMENT BILL 2000
OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) AMENDMENT BILL 2000**

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

Debate resumed.

Question put and passed.

Bills read a second time.

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

In the committee

Explanatory memoranda: Senator Ian Campbell tabled supplementary explanatory memoranda [2] relating to the government amendments to be moved to the bills.

**SAFETY, REHABILITATION AND COMPENSATION AND OTHER LEGISLATION
AMENDMENT BILL 2000—**

Bill taken as a whole by leave.

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

Schedule 2, page 30 (before line 4), before item 26, insert:

25A Subsection 4(1) (definition of *approved program provider*)

Repeal the definition, substitute:

approved program provider means a person or body approved under section 34F or 34H as a rehabilitation program provider and includes a person or body so approved whose approval is renewed under section 34L.

Schedule 2, page 39 (before line 26), before item 28, insert:

27A Subsection 37(2)

Repeal the subsection, substitute:

- (2) A rehabilitation authority must not make arrangements for the provision of a rehabilitation program to its employees other than by an approved program provider.

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

Schedule 2, item 37, page 43 (line 3), omit “Secretary of a Department,”, substitute “principal officer of an Entity”.

Schedule 2, item 37, page 43 (line 8), omit “Department”, substitute “Entity”.

Schedule 2, item 49, page 46 (line 23), omit “*eligible entity*”, substitute “*eligible applicant*”.

Schedule 2, item 49, page 48 (line 9), omit “entity”, substitute “applicant”.

Schedule 2, item 49, page 48 (line 11), before “applicant”, insert “eligible”.

Schedule 2, item 49, page 48 (line 17), before “applicant”, insert “eligible”.

Schedule 2, item 49, page 48 (line 20), before “applicant”, insert “eligible”.

Schedule 2, item 49, page 48 (line 26), before “applicant”, insert “eligible”.

Schedule 2, item 49, page 49 (line 7), omit “entity”, substitute “applicant”.

Schedule 2, item 49, page 49 (line 9), omit “entity”, substitute “applicant”.

Schedule 2, item 58, page 63 (line 17), omit “a Department”, substitute “an Entity”.

Schedule 2, item 58, page 63 (line 21), omit “Department”, substitute “Entity”.

Schedule 2, item 59, page 63 (line 29), omit “a Department”, substitute “an Entity”.

Schedule 2, item 59, page 63 (line 33), omit “Department”, substitute “Entity”.

Schedule 2, item 69, page 69 (line 27), omit “Departments”, substitute “Entities”.

Schedule 2, item 69, page 69 (line 31), omit “Departments”, substitute “Entities”.

Schedule 2, item 69, page 70 (line 4), omit “Departments”, substitute “Entities”.

- Schedule 2, item 69, page 70 (line 6), omit “Departments”, substitute “Entities”.
- Schedule 2, item 69, page 70 (line 15), omit “Departments”, substitute “Entities”.
- Schedule 2, item 72, page 71 (line 21), omit “a Department”, substitute “an Entity”.
- Schedule 2, item 72, page 73 (line 10), omit “Departments”, substitute “Entities”.
- Schedule 2, item 72, page 73 (line 13), omit “Departments”, substitute “Entities”.
- Schedule 2, item 75, page 74 (line 12), omit “Department”, substitute “Entity”.
- Schedule 2, item 75, page 74 (lines 16 and 17), omit “a Department”, substitute “an Entity”.
- Schedule 2, item 75, page 74 (line 22), omit “Department”, substitute “Entity”.
- Schedule 2, item 75, page 74 (line 26), omit “a Department”, substitute “an Entity”.
- Schedule 2, item 75, page 74 (lines 29 and 30), omit “Department of”, substitute “Entity or”.
- Schedule 2, item 75, page 75 (line 2), omit “Department”, substitute “Entity”.
- Schedule 2, item 75, page 75 (line 6), omit “a Department”, substitute “an Entity”.
- Schedule 2, item 75, page 75 (line 9), omit “Department”, substitute “Entity”.
- Schedule 2, item 75, page 75 (line 12), omit “Department”, substitute “Entity”.
- Schedule 2, item 75, page 75 (line 16), omit “a Department”, substitute “an Entity”.
- Schedule 2, item 75, page 75 (line 18), omit “Department”, substitute “Entity”.
- Schedule 2, item 75, page 75 (lines 20 and 21), omit “a Department”, substitute “an Entity”.
- Schedule 2, item 75, page 75 (line 25), omit “a Department”, substitute “an Entity”.
- Schedule 2, item 75, page 75 (line 32), omit “a Department”, substitute “an Entity”.
- Schedule 2, item 75, page 75 (line 34), omit “Department”, substitute “Entity”.
- Schedule 2, item 75, page 76 (line 7), omit “a Department”, substitute “an Entity”.
- Schedule 2, item 75, page 76 (line 12), omit “Department”, substitute “Entity”.
- Schedule 2, item 75, page 76 (line 15), omit “a Department”, substitute “an Entity”.
- Schedule 2, item 75, page 76 (line 17), omit “Department”, substitute “Entity”.
- Schedule 2, item 75, page 76 (line 28), omit “Department”, substitute “Entity”.
- Schedule 2, item 75, page 76 (line 35), omit “Department”, substitute “Entity”.
- Schedule 2, item 75, page 77 (line 30), omit “a Department”, substitute “an Entity”.
- Schedule 2, item 75, page 78 (line 8), omit “Department”, substitute “Entity”.
- Schedule 2, item 75, page 78 (line 14), omit “a Department”, substitute “an Entity”.
- Schedule 2, item 75, page 78 (line 23), omit “Department”, substitute “Entity”.
- Schedule 2, item 75, page 78 (line 29), omit “Department”, substitute “Entity”.
- Schedule 2, item 75, page 78 (line 31), omit “a Department”, substitute “an Entity”.
- Schedule 2, item 75, page 78 (line 34), omit “Department”, substitute “Entity”.
- Schedule 2, item 75, page 79 (line 5), omit “Departments”, substitute “Entities”.

Schedule 2, item 75, page 79 (line 9), omit “Departments”, substitute “Entities”.

Schedule 2, item 75, page 79 (lines 19 and 20), omit all words from and including “Secretary” to and including “authority”, substitute “principal officer of each Entity or each Commonwealth authority”.

Schedule 2, item 75, page 79 (line 22), omit “Department”, substitute “Entity”.

Schedule 2, item 75, page 79 (lines 25 and 26), omit all words from and including “Secretary” to and including “authority”, substitute “principal officer of an Entity or a Commonwealth authority”.

Schedule 2, item 75, page 79 (line 31), omit “Department”, substitute “Entity”.

Schedule 2, item 75, page 80 (lines 6 and 7), omit “a Department to the Secretary of the Department”, substitute “an Entity to the principal officer of the Entity”.

Schedule 2, item 75, page 80 (line 12), omit “a Department”, substitute “an Entity”.

Schedule 2, item 75, page 80 (line 14), omit “Department”, substitute “Entity”.

Schedule 2, item 75, page 80 (lines 16 and 17), omit all words from and including “Secretary” to and including “Commonwealth”, substitute “principal officer of an Entity or a Commonwealth”.

Schedule 2, item 75, page 80 (line 19), omit “Department”, substitute “Entity”.

Schedule 2, item 75, page 80 (lines 20 and 21), omit all words from and including “Secretary” to and including “authority”, substitute “principal officer of an Entity or an authority”.

Schedule 2, item 75, page 80 (lines 23 and 24), omit all words from and including “Secretary” to and including “authority”, substitute “principal officer of an Entity or a Commonwealth authority”.

Schedule 2, item 75, page 80 (line 25), omit “the Secretary or”.

Schedule 2, item 75, page 80 (lines 28 and 29), omit all words from and including “Secretary” to and including “authority”, substitute “principal officer of the Entity or the Commonwealth authority”.

Schedule 2, item 75, page 81 (line 1), omit “Department”, substitute “Entity”.

Schedule 2, item 75, page 81 (lines 9 and 10), omit all words from and including “Secretary” to and including “Commonwealth”, substitute “principal officer of the Entity or the Commonwealth”.

Schedule 2, item 75, page 81 (lines 12 and 13), omit all words from and including “Secretary” to and including “Commonwealth”, substitute “principal officer of an Entity or a Commonwealth”.

Schedule 2, item 75, page 81 (line 15), omit “Department”, substitute “Entity”.

Schedule 2, item 75, page 81 (line 16), omit “Department”, substitute “Entity”.

Schedule 2, item 75, page 81 (lines 22 and 23), omit “a Department”, substitute “an Entity”.

Schedule 2, item 75, page 81 (lines 25 and 26), omit all words from and including “Secretary” to and including “authority”, substitute “principal officer of the Entity or authority”.

Schedule 2, item 75, page 81 (line 28), omit “Secretary or”.

Schedule 2, item 75, page 82 (lines 8 and 9), omit all words from and including “Secretary” to and including “authority”, substitute “principal officer of the Entity or the Commonwealth authority”.

Schedule 2, item 75, page 82 (line 13), omit “a Department”, substitute “an Entity”.

Schedule 2, item 75, page 82 (line 18), omit “Department”, substitute “Entity”.

Schedule 2, item 75, page 82 (line 20), omit “Department”, substitute “Entity”.

Schedule 2, item 75, page 82 (line 28), omit “a Department’s”, substitute “an Entity’s”.

Schedule 2, item 75, page 83 (lines 3 and 4), omit “a Department’s”, substitute “an Entity’s”.

Schedule 2, item 75, page 83 (line 11), omit “Department”, substitute “Entity”.

Schedule 2, item 75, page 83 (lines 20 and 21), omit all words from and including “Secretary” to and including “Commonwealth”, substitute “principal officer of the Entity or the Commonwealth”.

Schedule 2, item 75, page 83 (line 27), omit “a Department”, substitute “an Entity”.

Schedule 2, item 75, page 83 (line 32), omit “Department”, substitute “Entity”.

Schedule 2, item 75, page 83 (line 34), omit “Department”, substitute “Entity”.

Schedule 2, item 75, page 84 (line 1), omit “a Department”, substitute “an Entity”.

Schedule 2, item 75, page 84 (line 5), omit “Department”, substitute “Entity”.

Schedule 2, item 75, page 84 (lines 21 and 22), omit “a Department”, substitute “an Entity”.

Schedule 2, item 75, page 84 (line 23), omit “Department”, substitute “Entity”.

Schedule 2, item 76, page 85 (line 7), omit “Department”, substitute “Entity”.

Schedule 2, item 77, page 85 (line 18), omit “a Department”, substitute “an Entity”.

Schedule 2, item 78, page 85 (lines 30 and 31), omit “a Department”, substitute “an Entity”.

Schedule 2, item 78, page 86 (lines 7 and 8), omit “a Department”, substitute “an Entity”.

Schedule 2, item 80, page 86 (line 25), omit “a Department”, substitute “an Entity”.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 2, items 96 to 99.

Question—That Schedule 2, items 96 to 99 stand as printed—put and negatived.

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

Clause 2, page 2 (line 11), omit “2001”, substitute “2002”.

Clause 2, page 2 (line 30), omit “2001”, substitute “2002”.

Schedule 2, item 59, page 63 (lines 30 and 31), omit “or 1 July 2000”, substitute “, 1 July 2000 or 1 July 2001”.

Schedule 2, item 69, page 69 (line 29), omit “2001”, substitute “2002”.

Schedule 2, item 69, page 69 (lines 32 and 33), omit all words from and including “either” to and including “2000”, substitute “one or more of the financial years starting on 1 July 1999, 1 July 2000 or 1 July 2001”.

Schedule 2, item 69, page 70 (line 3), omit “2001”, substitute “2002”.

Schedule 2, item 71, page 71 (line 2), omit “2001”, substitute “2002”.

Schedule 2, item 72, page 71 (line 18), omit “2001”, substitute “2002”.

Schedule 2, item 72, page 71 (line 27), omit “2001”, substitute “2002”.

Schedule 2, item 72, page 72 (line 21), omit “2001”, substitute “2002”.

Schedule 2, item 72, page 72 (line 29), omit “2001”, substitute “2002”.

Schedule 2, item 72, page 72 (line 35), omit “2001”, substitute “2002”.

Schedule 2, item 72, page 73 (line 12), omit “2001”, substitute “2002”.

Schedule 2, item 72, page 73 (lines 14 and 15), omit all words from and including “either” to and including “2000”, substitute “one or more of the financial years starting on 1 July 1999, 1 July 2000 or 1 July 2001”.

Schedule 2, item 73, page 73 (line 21), omit “2001”, substitute “2002”.

Schedule 2, item 73, page 73 (line 23), omit “2001”, substitute “2002”.

Schedule 2, item 73, page 73 (line 27), omit “2001”, substitute “2002”.

Schedule 2, item 75, page 74 (line 14), omit “2001”, substitute “2002”.

Schedule 2, heading to section 97B, page 76 (line 27), omit “**2001**”, substitute “**2002**”.

Schedule 2, item 75, page 76 (line 33), after paragraph (b), insert:

or (c) the financial year starting on 1 July 2001;

Schedule 2, item 75, page 77 (line 20), omit “2001”, substitute “2002”.

Schedule 2, item 75, page 77 (line 28), omit “2001”, substitute “2002”.

Schedule 2, item 75, page 78 (line 11), omit “2001”, substitute “2002”.

Schedule 2, item 75, page 79 (line 21), omit “2002”, substitute “2003”.

Schedule 2, item 76, page 85 (line 5), omit “2001”, substitute “2002”.

Schedule 2, item 76, page 85 (line 9), omit “2001”, substitute “2002”.

Schedule 2, item 77, page 85 (line 15), omit “2001”, substitute “2002”.

Schedule 2, item 77, page 85 (line 20), omit “2001”, substitute “2002”.

Schedule 2, item 78, page 85 (line 27), omit “2001”, substitute “2002”.

Schedule 2, item 78, page 85 (line 32), omit “2001”, substitute “2002”.

Schedule 2, item 78, page 86 (line 4), omit “2001”, substitute “2002”.

Schedule 2, item 78, page 86 (line 9), omit “2001”, substitute “2002”.

Schedule 2, item 79, page 86 (line 19), omit “2001”, substitute “2002”.

Schedule 3, item 12, page 95 (line 2), omit “2001”, substitute “2002”.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 2, Part 1.

Schedule 2, Part 1 debated.

Question—That Schedule 2, Part 1 stand as printed—put and negatived.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 2, Part 4.

Schedule 2, Part 4 debated and agreed to.

Senator Collins moved the following amendments together by leave:

No. 1—Schedule 2, item 53, page 61 (line 10), omit “10%”, substitute “5%”.

No. 2—Schedule 2, item 53, page 61 (line 17), omit “10%”, substitute “5%”.

Debate ensued.

The question was divided—

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

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

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 2, item 55.

Schedule 2, item 55 debated.

Further consideration of Schedule 2, item 55 was postponed.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 2, Part 11.

Schedule 2, Part 11 debated.

Question—That Schedule 2, Part 11 stand as printed—put and negatived.

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

Question put and passed.

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

Ordered, on the motion of the Minister for Justice and Customs (Senator Ellison), that the committee have leave to sit again on the next day of sitting.

26 MEASURES TO COMBAT SERIOUS AND ORGANISED CRIME 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.

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.

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

Schedule 1, item 2, page 3 (line 16), omit “; or”, substitute “.”.

Schedule 1, item 2, page 3 (lines 17 and 18), omit paragraph (c) of the definition of *appropriate authorising officer*.

Schedule 1, item 17, page 10 (lines 24 to 28), omit subsection (5).

Schedule 1, item 24, page 12 (line 24), omit “or”.

Schedule 1, item 24, page 12 (line 25), omit paragraph (c).

Schedule 1, item 28, page 14 (lines 6 to 8), omit subsection (3).

Schedule 1, item 28, page 14 (lines 9 and 10), omit “, NCA authorising officer or Customs authorising officer”, substitute “or NCA authorising officer”.

Schedule 1, item 28, page 14 (lines 15 and 16), omit “, NCA authorising officer or Customs authorising officer”, substitute “or NCA authorising officer”.

Schedule 1, item 34, page 17 (line 27) to page 18 (line 5), omit subsection (3).

Schedule 1, item 35, page 18 (lines 11 and 12), omit “paragraph 15R(1)(a), (2)(a) or (3)(a)”, substitute “paragraph 15R(1)(a) or (2)(a)”.

Schedule 1, item 35, page 18 (lines 13 and 14), omit “paragraph 15R(1)(b), (2)(b) or (3)(b)”, substitute “paragraph 15R(1)(b) or (2)(b)”.

Schedule 1, item 35, page 18 (lines 15 and 16), omit “paragraph 15R(1)(c), (2)(c) or (3)(c)”, substitute “paragraph 15R(1)(c) or (2)(c)”.

Schedule 1, item 35, page 18 (lines 18 and 19), omit “paragraph 15R(1)(d), (2)(d) or (3)(d)”, substitute “paragraph 15R(1)(d) or (2)(d)”.

Schedule 1, item 35, page 18 (lines 20 and 21), omit “paragraph 15R(1)(e), (2)(e) or (3)(e)”, substitute “paragraph 15R(1)(e) or (2)(e)”.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 5, 10, 13, 44 and 46.

Question—That Schedule 1, items 5, 10, 13, 44 and 46 stand as printed—put and negatived.

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

Schedule 1, page 21 (after line 16), at the end of the Schedule, add:

Customs Act 1901

50 After subsection 233(3)

Insert:

- (3A) A Customs officer who, in the course of duty, possesses or conveys, or facilitates the conveyance of, prohibited imports, prohibited exports or smuggled goods is not criminally responsible for an offence against a law of the Commonwealth or of a State or Territory relating to the possession, conveyance or facilitation of the conveyance of such goods.

- (3B) A person who, in accordance with written instructions from a Customs officer, possesses or conveys, or facilitates the conveyance of, prohibited imports, prohibited exports or smuggled goods is not criminally responsible for an offence against a law of the Commonwealth or of a State or Territory relating to the possession, conveyance or facilitation of the conveyance of such goods.

51 At the end of section 233

Add:

- (6) The Minister must lay before each House of the Parliament, not later than the first sitting day of that House after 1 October each year, a report about any conduct by Customs officers that, apart from subsection (3A), would constitute an offence against a law of the Commonwealth or of a State or Territory relating to the possession or conveyance, or facilitation of the conveyance, of prohibited imports, prohibited exports or smuggled goods.

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

Schedule 1, item 50, omit subsection 233(3B), substitute:

- (3B) A person who:
- (a) possesses or conveys, or facilitates the conveyance of, prohibited imports, prohibited exports or smuggled goods; and
 - (b) in doing so is acting in accordance with written instructions referring to this section issued by a Customs officer acting in the course of duty;
- is not criminally responsible for an offence against a law of the Commonwealth or of a State or Territory relating to the possession, conveyance or facilitation of the conveyance of such goods.

Senator Bolkus moved the following amendments together by leave:

Schedule 1, item 17, page 6 (line 2), before “Commonwealth”, insert “serious”.

Schedule 1, item 17, page 6 (after line 13), after section 15HA, insert:

15HB What is a *serious Commonwealth offence*?

For the purposes of this Part, *serious Commonwealth offence* means an offence against a law of the Commonwealth:

- (a) that involves theft, fraud, tax evasion, currency violations, illegal drug dealings, illegal gambling, obtaining financial benefit by vice engaged in by others, extortion, money laundering, perverting the course of justice, bribery or corruption of, or by, an officer of the Commonwealth, an officer of a State or an officer of a Territory, bankruptcy and company violations, harbouring of criminals, forgery including forging of passports, armament dealings, illegal importation or exportation of fauna into or out of Australia, espionage, sabotage or threats to national security, misuse of a computer or electronic communications, people smuggling, slavery, piracy, the organisation, financing or perpetration of sexual servitude

or child sex tourism, dealings in child pornography or material depicting child abuse, importation of prohibited imports or exportation of prohibited exports, or that involves matters of the same general nature as one or more of the foregoing or that is of any other prescribed kind; and

- (b) that is punishable on conviction by imprisonment for a period of 3 years or more.

Schedule 1, item 20, page 11 (line 8), before “Commonwealth”, insert “serious”.

Schedule 1, item 35, page 18 (line 27), before “Commonwealth”, insert “serious”.

Schedule 1, item 45, page 20 (line 29), before “Commonwealth”, insert “serious”.

Debate ensued.

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

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

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

Schedule 1, page 4 (after line 5), after item 6, insert:

6A Subsection 3(1)

Insert:

major controlled operation has the meaning given in subsection 15J(2A).

Schedule 1, page 4 (after line 11), after item 8, insert:

8A Subsection 3(1)

Insert:

nominated Tribunal member has the meaning given in section 15OC.

Schedule 1, item 17, page 10 (lines 7 to 15), omit paragraphs (2)(a) to (c), substitute:

- (a) if the operation is a major controlled operation that relates to investigating a serious Commonwealth offence, or a possible serious Commonwealth offence, the investigation of which is within the functions of the Australian Federal Police—the Commissioner or a Deputy Commissioner;
- (b) if the operation is not a major controlled operation but relates to investigating a serious Commonwealth offence, or a possible serious Commonwealth offence, the investigation of which is within the functions of the Australian Federal Police—any AFP authorising officer;
- (c) if the operation relates to investigating a serious Commonwealth offence, or a possible serious Commonwealth offence, the investigation of which is within the functions of the National Crime Authority—any NCA authorising officer.

Schedule 1, item 17, page 10 (after line 15), after subsection (2), insert:

- (2A) A **major controlled operation** is a controlled operation that is likely to:
- (a) involve the infiltration of an organised criminal group by one or more undercover law enforcement officers for a period of more than 7 days; or
 - (b) continue for more than 3 months; or
 - (c) be directed against suspected criminal activity that includes a threat to human life.

Schedule 1, item 28, page 14 (line 25), omit “an appropriate authorising officer”, substitute “a nominated Tribunal member”.

Schedule 1, item 28, page 14 (lines 30 and 31), omit “an appropriate authorising officer”, substitute “a nominated Tribunal member”.

Schedule 1, item 28, page 15 (line 1), omit “appropriate authorising officer”, substitute “nominated Tribunal member”.

Schedule 1, item 28, page 15 (line 3), omit “appropriate authorising officer”, substitute “nominated Tribunal member”.

Schedule 1, item 28, page 15 (line 7), omit “appropriate authorising officer”, substitute “nominated Tribunal member”.

Schedule 1, page 15 (after line 10), after item 28, insert:

28A Before section 15P

Insert:

15OC Who are nominated Tribunal members?

- (1) A **nominated Tribunal member** is a member of the Administrative Appeals Tribunal in respect of whom a written nomination by the Minister is in force that permits the member to conduct reviews and to make decisions under section 15OB.
- (2) The Minister must not nominate a person unless the person:
 - (a) is a Deputy President or full-time senior member; or
 - (b) is enrolled as a legal practitioner of a federal court or of the Supreme Court of a State or Territory and has been enrolled for at least 5 years.
- (3) A nominated Tribunal member has, in conducting a review or making a decision under section 15OB, the same protection and immunity that a Justice of the High Court has in relation to a proceeding of that court.

Schedule 1, item 34, page 17 (lines 5 and 6), omit “by such a person”, substitute “that had initially been given by such a person under section 15M”.

Schedule 1, item 34, page 17 (lines 20 and 21), omit “subsection 15OB(4) by such a person”, substitute “subsection 15OB(3) that had initially been given by such a person under section 15M”.

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

Schedule 1, item 12, page 5 (line 4), omit “others”, substitute “certain other persons”.

Schedule 1, item 17, page 6 (after line 31), after subsection (2), insert:

- (2A) Subsection (2) does not apply to a person who:
 - (a) is an informant of a law enforcement officer; or
 - (b) is believed to have been involved, other than for law enforcement purposes, in the criminal activity in respect of which the controlled operation was authorised.

Schedule 1, item 17, page 8 (after line 8), after subsection 151A(2), insert:

- (2A) Subsection (2) does not apply to a person who:
 - (a) is an informant of a law enforcement officer; or
 - (b) is believed to have been involved, other than for law enforcement purposes, in the criminal activity in respect of which the controlled operation was authorised.

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

Schedule 1, item 17, page 9 (after line 32), after section 151C, insert:

151D Compensation for loss or injury

Where a person suffers loss or injury as a result of a controlled operation, the Commonwealth is liable to pay to the person who has suffered the loss or injury such compensation as is agreed on between the Commonwealth and that person or, in default of agreement, is determined by action against the Commonwealth in a court of competent jurisdiction.

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

Schedule 1, page 21 (after line 16), at the end of the Schedule, add:

49 After Division 2 of Part IAB

Insert:

Division 2A—Monitoring of controlled operations by the Ombudsman

15UA Ombudsman to be notified of certain matters

- (1) Within 2 weeks after the end of each quarter:
 - (a) the Commissioner; and
 - (b) the Chair of the National Crime Authority;must give to the Ombudsman a copy of the report given to the Minister under section 15R for that quarter.
- (2) The Ombudsman may require the Commissioner or the Chair of the National Crime Authority to furnish such information about an application, a certificate, a variation of a certificate or a surrender or termination of a certificate as is necessary for the Ombudsman's proper consideration of it.

15UB Inspection of records by Ombudsman

- (1) The Ombudsman:
 - (a) must inspect the records of the Australian Federal Police and the National Crime Authority in relation to controlled operations at least once every 12 months; and

- (b) may inspect the records of the Australian Federal Police or the National Crime Authority at any time, for the purpose of ascertaining whether the requirements of this Part are being complied with.
- (2) Nothing in this section requires the Ombudsman to inspect records in relation to a controlled operation that has not been completed.

15UC Annual reports by Ombudsman

- (1) The Ombudsman must, as soon as practicable after 30 June each year, prepare a report of the Ombudsman's work and activities under this Division during the preceding 12 months and give copies of the report to the President of the Senate and the Speaker of the House of Representatives for presentation to the Senate and the House of Representatives, respectively.
- (2) The report must include, for each law enforcement agency concerned, comments as to the comprehensiveness and adequacy of the reports which were provided to the Parliament by that law enforcement agency.
- (3) Nothing in this section requires participants of the controlled operation to be included in a report for the year if the operation had not been completed at 30 June in that year, but the particulars must instead be included in the report for the year in which the operation is completed.

15UD Ancillary matters concerning reports

- (1) A report prepared under this Division must not include any information which, if made public, could reasonably be expected:
 - (a) to endanger a person's safety; or
 - (b) prejudice an investigation or prosecution; or
 - (c) compromise the agency's operational activities or methodologies.
- (2) The Ombudsman must give a copy of any report prepared under this Division to the chief executive officer of the law enforcement agency to which it relates and to the Minister responsible for that agency.

Schedule 1, page 21 (after line 16), at the end of the Schedule, add:

National Crime Authority Act 1984

52 At the end of Part III

Add:

55AA Ombudsman to brief committee about controlled operations

- (1) At least once in each year the Ombudsman must provide a briefing to the Committee about the Authority's involvement in controlled operations under Part IAB of the *Crimes Act 1914* during the preceding 12 months.
- (2) For the purposes of receiving a briefing from the Ombudsman under subsection (1), the Committee must meet in private.

Senator Ellison moved the following amendments together by leave:

No. 1—Schedule 2, item 1, page 34 (after line 7), after subsection (1), insert:

- (1A) An audit of these records must not be conducted by:

- (a) an authorising person who has issued, varied or revoked an authorisation to which one or more of the records relate; or
- (b) an approved officer or approved person who is covered by an authorisation to which one or more of the records relate.

No. 2—Schedule 2, item 1, page 34 (after line 12), after section 15XU, insert:

15XUA Matters to be reported

Commonwealth participating agencies must report annually

- (1) Each of the following Commonwealth participating agencies:
 - (a) the Australian Security Intelligence Organisation;
 - (b) the Australian Secret Intelligence Service;
 must, as soon as practicable after 30 June in each year, prepare and give to the Inspector-General of Intelligence and Security a report for the year ending on that 30 June.
- (2) Each other Commonwealth participating agency must, within 3 months after 30 June in each year, prepare and give to the Minister responsible for the agency a report for the year ending on that 30 June.
- (3) The Minister receiving a report under subsection (2) must table a copy of the report before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

What reports must include

- (4) An agency's report must include the following information:
 - (a) the number of authorisations issued by an authorising person from the agency during the year covered by the report;
 - (b) a general description of the activities undertaken by approved officers and approved persons when using their assumed identities during the year covered by the report;
 - (c) a statement whether or not any fraud or other unlawful activity was identified by an audit under paragraph 15XU(1)(b) during the year covered by the report.
- (5) However, information must not be included in the report if the head of the agency is of the view that it is likely that its inclusion may:
 - (a) endanger a person's safety; or
 - (b) prejudice an investigation or prosecution; or
 - (c) compromise the agency's operational activities or methodologies.

Senator Bolkus moved the following amendment to Senator Ellison's proposed amendment no. 2:

Omit subsection 15XUA(5), substitute:

- (5) Before the report is tabled in the Parliament, the Minister must, on the advice of the relevant agency head, remove information from the report if the Minister is of the view that its inclusion may:
 - (a) endanger a person's safety; or
 - (b) prejudice an investigation or prosecution; or

- (c) compromise the agency's operational activities or methodologies.

Debate ensued.

Question—That Senator Bolkus' amendment to Senator Ellison's proposed amendment no. 2 be agreed to—put and passed.

Question—That amendment no. 1 and amendment no. 2, as amended, be agreed to—put and passed.

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

Schedule 2, item 1, page 23 (lines 5 to 8), omit paragraphs (f) and (g) of the definition of *Commonwealth participating agency*.

Schedule 2, item 1, page 24 (after line 16), after paragraph (c), insert:

- (ca) the Police Integrity Commission established by the *Police Integrity Commission Act 1996* of New South Wales; or

Senator Bolkus moved the following amendments together by leave:

Schedule 2, item 1, page 23 (line 1), omit paragraph (b) of the definition of *Commonwealth participating agency*.

Schedule 2, item 1, page 23 (line 9), omit paragraph (h) of the definition of *Commonwealth participating agency*.

Debate ensued.

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

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

Schedule 4, item 9, page 47 (lines 16 to 22), omit subsection (1), substitute:

- (1) This Part:

- (a) provides for the detention of people arrested for Commonwealth offences (see Division 2); and
 (b) imposes obligations on investigating officials in relation to:
 (i) people arrested for Commonwealth offences; and
 (ii) certain other people who are being investigated for Commonwealth offences;
 (see Division 3).

Schedule 4, item 9, page 47 (line 25), omit "lawfully".

Schedule 4, page 47 (after line 28), after item 10, insert:

10A Section 23AA

Repeal the section, substitute:

23AA How this Part applies to the Antarctic Territories

- (1) This Part applies in relation to a person as if he or she were arrested on arrival in a State or Territory if:
 (a) the person was arrested within the Australian Antarctic Territory or the Territory of Heard Island and McDonald Islands; and

- (b) the person was brought, while under arrest, to the State or Territory; and
 - (c) this Part applies in the State or Territory.
- (2) This Part applies in relation to a person as if he or she first became a protected suspect on arrival in a State or Territory if:
- (a) the person was a protected suspect within the Australian Antarctic Territory or the Territory of Heard Island and McDonald Islands; and
 - (b) the person travelled, while a protected suspect, to the State or Territory; and
 - (c) this Part applies in the State or Territory.
- (3) This Part does not otherwise apply within the Australian Antarctic Territory or the Territory of Heard Island and McDonald Islands.

Schedule 4, item 12, page 48 (line 4), omit the definition of **arrested**, substitute:

arrested: a person is arrested if the person is arrested for a Commonwealth offence and the person's arrest has not ceased under subsection (3) or (4).

Schedule 4, item 13, page 48 (lines 7 to 9), omit the definition of **inform**, substitute:

inform, in relation to an investigating official informing a person who is under arrest or a protected suspect, means notify the person:

- (a) in a language in which the person is able to communicate with reasonable fluency; and
- (b) in a manner that the official has reasonable grounds to believe is a manner that the person can understand having regard to any apparent disability the person has.

Schedule 4, page 48 (after line 11), after item 14, insert:

14A Subsection 23B(1)

Insert:

protected suspect has the meaning given by subsection (2).

Schedule 4, item 15, page 48 (line 14), omit the definition of **under arrest**, substitute:

under arrest: a person is under arrest if the person has been arrested for a Commonwealth offence and the person's arrest has not ceased under subsection (3) or (4).

Schedule 4, page 48 (after line 14), after item 15, insert:

15A Subsection 23B(2)

Repeal the subsection, substitute:

- (2) A person is a **protected suspect** if:
 - (a) the person is in the company of an investigating official for the purpose of being questioned about a Commonwealth offence; and
 - (b) the person has not been arrested for the offence; and
 - (c) one or more of the following applies in relation to the person:
 - (i) the official believes that there is sufficient evidence to establish that the person has committed the offence;

- (ii) the official would not allow the person to leave if the person wished to do so;
- (iii) the official has given the person reasonable grounds for believing that the person would not be allowed to leave if he or she wished to do so; and
- (d) none of the following applies in relation to the person:
 - (i) the official is performing functions in relation to persons or goods entering Australia, and the official does not believe that the person has committed a Commonwealth offence;
 - (ii) the official is performing functions in relation to persons or goods leaving Australia, and the official does not believe that the person has committed a Commonwealth offence;
 - (iii) the official is exercising a power under a law of the Commonwealth to detain and search the person;
 - (iv) the official is exercising a power under a law of the Commonwealth to require the person to provide information or to answer questions; and
- (e) the person has not ceased to be a suspect under subsection (4).

Schedule 4, page 49 (after line 22), after item 20, insert:

20A Subsections 23B(4) and (5)

Repeal the subsections, substitute:

- (4) A person ceases, for the purposes of this Part, to be arrested or a protected suspect if:
 - (a) an investigating official believes on reasonable grounds that the person is voluntarily taking part in covert investigations; and
 - (b) those covert investigations are being conducted by the official for the purpose of investigating whether another person has been involved in the commission of an offence or suspected offence (whether a Commonwealth offence or not).
- (5) Subsection (4) does not prevent the person from being re-arrested or again becoming a protected suspect.

Schedule 4, item 21, page 49 (lines 26 to 28), omit the note, substitute:

Note: The powers in this Division only apply in relation to people under arrest. They do not apply in relation to protected suspects.

Schedule 4, page 49 (after line 28), after item 21, insert:

21A Subsection 23C(1)

Omit “lawfully”.

Schedule 4, item 40, page 52 (lines 21 and 22), omit the note, substitute:

Note: These obligations apply in relation to protected suspects as well as to people under arrest.

Schedule 4, page 52 (after line 22), after item 40, insert:

40A Subsection 23F(1)

Omit “under arrest for a Commonwealth offence”, substitute “under arrest or a protected suspect”.

Note: The heading to section 23F is replaced by the heading “Cautioning persons who are under arrest or protected suspects”.

Schedule 4, item 41, page 52 (lines 26 and 27), omit “if the person cannot hear adequately”, substitute “if that is the most appropriate means of informing the person”.

Schedule 4, page 52 (after line 27), after item 41, insert:

41A Subsection 23G(1)

Omit “under arrest for a Commonwealth offence”, substitute “under arrest or a protected suspect”.

41B Subsection 23G(2)

Omit “under arrest for a Commonwealth offence”, substitute “is under arrest or a protected suspect and”.

Schedule 4, page 53 (after line 1), after item 42, insert:

42A Subsection 23G(3)

Omit “under arrest for a Commonwealth offence”, substitute “is under arrest or a protected suspect and”.

Schedule 4, page 53 (after line 3), after item 43, insert:

43A Subsection 23H(1)

After “under arrest” (first occurring), insert “, or who is a protected suspect,”.

43B Paragraph 23H(1)(a)

Omit “is under arrest for the offence”, substitute “is under arrest or a protected suspect (as the case requires)”.

Schedule 4, page 53 (after line 9), after item 44, insert:

44A Paragraph 23H(2)(b)

Omit “under arrest for a Commonwealth offence”, substitute “who is under arrest or a protected suspect”.

Schedule 4, page 53 (after line 26), after item 46, insert:

46A Subsection 23H(5)

Omit “under arrest for a Commonwealth offence”, substitute “who is under arrest or a protected suspect”.

Schedule 4, page 54 (after line 3), after item 48, insert:

48A Paragraph 23K(1)(b)

Omit “under arrest for a Commonwealth offence”, substitute “who is under arrest or a protected suspect”.

Schedule 4, page 55 (after line 6), after item 51, insert:

51A Section 23M

Repeal the section, substitute:

23M Providing information relating to persons who are under arrest or protected suspects

- (1) An investigating official must inform a person (the *first person*) who is under arrest or a protected suspect of any request for information as to his or her whereabouts by any of his or her relatives, friends or legal representatives.

- (2) The investigating official must then provide that information to the other person unless:
- (a) the first person does not agree to the provision of that information; or
 - (b) the investigating official believes on reasonable grounds that the other person is not the first person's relative, friend or legal representative.

- (3) This section has effect subject to section 23L.

Schedule 4, page 55 (after line 6), after item 51, insert:

51B Section 23N

Omit "under arrest for a Commonwealth offence", substitute "who is under arrest or a protected suspect".

Schedule 4, item 52, page 55 (lines 10 and 11), omit "under arrest for a Commonwealth offence", substitute "who is under arrest or a protected suspect".

Schedule 4, item 52, page 55 (line 18), omit "of his or her arrest", substitute "that he or she is under arrest or a protected suspect (as the case requires)".

Schedule 4, page 55 (after line 31), after item 52, insert:

52A Section 23Q

After "under arrest", insert "or a protected suspect".

Schedule 4, page 55 (after line 33), after item 53, insert:

53A Subsection 23U(1)

Omit "under arrest for a Commonwealth offence", substitute "under arrest or a protected suspect".

53B Subsection 23U(1)

Omit "under arrest" (last occurring).

Schedule 4, page 58 (after line 7), at the end of the Schedule, add:

Fisheries Management Act 1991

70 Paragraph 84A(2)(a)

Omit "under arrest because of paragraph 23B(2)(b)", substitute "a protected suspect".

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 4, items 16 to 19, 25, 30 and 36.

Question—That Schedule 4, items 16 to 19, 25, 30 and 36 stand as printed—put and negatived.

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

Schedule 1, item 17, page 8 (lines 25 to 30), omit paragraph (1)(d), substitute:

- (d) the conduct does not involve intentionally inducing a person to commit a Commonwealth offence, or an offence against a law of a State or Territory, if that person would not otherwise have intended to commit:

- (i) that offence; or
- (ii) an offence of that kind; and

Schedule 1, item 17, page 9 (lines 10 to 15), omit paragraph (2)(e), substitute:

- (e) the conduct does not involve intentionally inducing a person to commit a Commonwealth offence, or an offence against a law of a State or Territory, if that person would not otherwise have intended to commit:
 - (i) that offence; or
 - (ii) an offence of that kind; and

Schedule 1, item 20, page 11 (lines 13 to 18), omit paragraph (c), substitute:

- (c) conducting the operation would not involve intentionally inducing a person to commit a Commonwealth offence, or an offence against a law of a State or Territory, if that person would not otherwise have intended to commit:
 - (i) that offence; or
 - (ii) an offence of that kind; and

Schedule 1, item 31, page 15 (lines 22 and 23), omit “**or termination**”, substitute “**, termination or expiry**”.

Schedule 2, item 1, page 33 (line 29), after “**Keeping**”, insert “**and auditing**”.

Schedule 3, item 1, page 36 (lines 4 to 6), omit the definition of *child victim*, substitute:

child complainant, in relation to a proceeding, means a child who is, or is alleged to be, a victim of an offence, of a kind referred to in subsection 15Y(1), to which the proceeding relates. The child need not be involved in the proceeding or the initiation of the proceeding.

Schedule 3, item 1, page 36 (line 8), omit “victim”, substitute “complainant”.

Schedule 3, item 1, page 36 (line 20), omit “victim’s”, substitute “complainant’s”.

Schedule 3, item 1, page 36 (line 27), omit “victim’s”, substitute “complainant’s”.

Schedule 3, item 1, page 36 (line 29), omit “victim’s”, substitute “complainant’s”.

Schedule 3, item 1, page 37 (line 4), omit “victim’s”, substitute “complainant’s”.

Schedule 3, item 1, page 37 (line 17), omit “victim’s”, substitute “complainant’s”.

Schedule 3, item 1, page 38 (line 17), omit “**victims**”, substitute “**complainants**”.

Schedule 3, item 1, page 38 (line 19), omit “victim”, substitute “complainant”.

Schedule 3, item 1, page 38 (line 25), omit “victim”, substitute “complainant”.

Schedule 3, item 1, page 39 (line 13), omit “**victims**”, substitute “**complainants**”.

Schedule 3, item 1, page 39 (line 15), omit “victim”, substitute “complainant”.

Schedule 3, item 1, page 43 (line 13), omit “unreliable witnesses”, substitute “an unreliable class of witness”.

Schedule 3, item 1, page 43 (line 23), omit “**victims**”, substitute “**complainants**”.

Schedule 3, item 1, page 43 (line 30), omit “victim”, substitute “complainant”.

Schedule 3, item 1, page 43 (line 33), omit “victim”, substitute “complainant”.

Schedule 3, item 1, page 44 (line 12), omit “victim”, substitute “complainant”.

Schedule 3, item 1, page 44 (line 15), omit “victim”, substitute “complainant”.

Schedule 4, item 20, page 49 (lines 12 to 22), omit subsection (3), substitute:

- (3) A person ceases, for the purposes of this Part, to be arrested for a Commonwealth offence if the person is remanded in respect of that offence by one of the following:

- (a) a magistrate;
- (b) a justice of the peace;
- (c) a person authorised to grant bail under the law of the State or Territory in which the person was arrested;

otherwise than under paragraph 83(3)(b), (4)(b), (8)(a), (8)(b), subsection 83(12), paragraph 83(14)(a), or subparagraph 84(4)(a)(ii) or (6)(a)(i) of the *Service and Execution of Process Act 1992*.

Schedule 4, item 52, page 55 (line 9), omit the heading to section 23P, substitute:

23P Right of non-Australian nationals to communicate with consular office

Schedule 5, page 60 (after line 32), after item 5, insert:

5A Paragraph 12G(7)(a)

Omit “or premises”, substitute “, premises or item”.

Schedule 6, page 63 (after line 28), after item 3, insert:

3A After paragraph 15(1)(b)

Insert:

- and (c) a report in respect of the transfer has not been given in accordance with this section;

3B Subsection 15(1)

Omit “unless a report in respect of the transfer has been given in accordance with this section”.

3C After subsection 15(1)

Insert:

- (1A) Strict liability applies to paragraph (1)(c).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

3D After paragraph 15(5)(b)

Insert:

- and (c) a report in respect of the transfer of the currency into Australia has not been made in accordance with subsection (1) before the transfer;
and
(d) a report in respect of the receipt of currency is not given in accordance with this section before the end of the period of 30 days commencing on the day of the receipt of the currency;

3E Subsection 15(5)

Omit all the words from and including “unless”.

3F After subsection 15(5)

Insert:

(5A) Strict liability applies to paragraphs (5)(c) and (d).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

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.

27 GENERAL INSURANCE REFORM BILL 2001

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Senator Sherry moved the following amendment:

Schedule 1, item 22, page 25 (line 3), at the end of subsection 25(1), add:

; or (f) the person is not a fit and proper person.

Debate ensued.

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

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

Schedule 1, item 22, page 29 (lines 11 to 13), omit subsection (3A), substitute:

(3A) APRA may modify a prudential standard to replace particular requirements in the standard with an in-house capital adequacy model proposed by a general insurer, authorised NOHC or subsidiary of a general insurer for the purpose of setting its capital requirements. The in-house capital adequacy model proposed by the general insurer, authorised NOHC or subsidiary must comply with criteria set out in the prudential standards.

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

Schedule 1, item 23, page 37 (after line 21), after subsection 47(2), insert:

(2A) APRA must obtain the Treasurer's written agreement before making a determination under subsection (1).

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

28 NOTICE OF MOTION

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell), by leave, gave a notice of motion as follows: To move on the next day of sitting—That the Commonwealth Electoral Amendment Bill 2001 be referred to the Joint Standing Committee on Electoral Matters for inquiry and report by 17 September 2001.

29 ADJOURNMENT

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 10.53 pm till Tuesday, 28 August 2001 at 2 pm.

30 ATTENDANCE

Present, all senators except Senators Harris and Newman.

HARRY EVANS
Clerk of the Senate