

Note 2: The Agreement should be read together with the Treaty between the Government of Australia and the Government of the French Republic on cooperation in the Maritime Areas Adjacent to the French Southern and Antarctic Territories (TAAF), Heard Island and the McDonald Islands, that was done at Canberra on 24 November 2003. The text of the Treaty is set out in Australian Treaty Series 2005 No. 6 ([2005] ATS 6). In 2010, the text of a treaty in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website ([www.austlii.edu.au](http://www.austlii.edu.au)).

#### *International officers*

- (2) An international officer may, for the purposes of conducting cooperative enforcement, exercise any of the powers of an officer in this Division. In doing so, the international officer is taken for the purposes of this Act to have exercised the power as an officer.
- (3) The regulations may prescribe conditions for the exercise of a power by an international officer.
- (4) Subsections 84(4) and (6) apply in relation to the exercise of a power by an international officer as if references in those subsections to the officer's identity card were references to a document:
  - (a) issued by an officer; and
  - (b) identifying the international officer as an international officer authorised to conduct cooperative enforcement.
- (5) An international officer is not liable to any civil or criminal proceedings in respect of anything done or omitted to be done in good faith in the exercise or purported exercise of a power conferred on an international officer by subsection (3).

#### *Officers*

- (6) An officer may, for the purposes of conducting cooperative enforcement, exercise any powers conferred by the Government of the French Republic on officers in order to give effect to the Cooperative Enforcement Agreement.
- (7) An officer is not liable to any civil or criminal proceedings in respect of anything done or omitted to be done in good faith in the exercise or purported exercise of a power referred to in subsection (6).

#### *Definitions*

- (8) In this Act:
 

*cooperative enforcement* means cooperative enforcement, as defined in the Cooperative Enforcement Agreement, that is conducted in accordance with that Agreement.

*international officer* means a person who is authorised to conduct cooperative enforcement by a competent authority of the Government of the French Republic.

#### **19 Subsection 87(1)**

Omit "but not within the territorial sea of another country".

#### **20 After subsection 87(1)**

Insert:

- (1AA) Subsection (1) does not apply to a place within the territorial sea of another country, unless the other country has given written permission for the power to be exercised in the other country's territorial sea (including permission given in a treaty, for example).

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

#### **Third Reading**

**Senator CARR** (Victoria—Minister for Innovation, Industry, Science and Research) (1.43 pm)—I move:

That this bill be now read a third time.

Bill read a third time.

#### **BUSINESS**

#### **Rearrangement**

**Senator CARR** (Victoria—Minister for Innovation, Industry, Science and Research) (1.43 pm)—I move:

That government business order of the day No. 5 (Radio-communications Amendment Bill 2010) be postponed to the next day of sitting.

Question agreed to.

#### **CORPORATIONS AMENDMENT (No. 1) BILL 2010**

#### **Second Reading**

Debate resumed from 27 October, on motion by **Senator Farrell**:

That this bill be now read a second time.

**Senator CORMANN** (Western Australia) (1.44 pm)—The coalition has a long and proud record when it comes to improving Australia's corporate legal framework. The former, coalition government certainly initiated a lot of reforms, including the clarification of Australia's corporate framework in the Corporations Act 2001. Also in government we oversaw the Corporate Law Economic Reform Program, which was an ongoing program of reform to further clarify and strengthen Australia's corporate law. In fact, my distinguished predecessor, former Senator Ian Campbell, was a driving force behind many of those CLERP reforms.

The coalition is broadly supportive of the whole bill. We will be supporting the legislation today. However, we did have some concerns, which were expressed in the additional comments in the Senate Economics Legislation Committee report, around some of the additional powers to be granted to ASIC. However, David Bradbury, the Parliamentary Secretary to the Treasurer,

very constructively came up with a solution to those concerns. I will seek to table at the conclusion of my remarks, the letter from Mr Bradbury outlining some of the safeguards he and ASIC will pursue to make sure that some of our concerns are addressed.

Principally this bill will make it more difficult to obtain access to private information kept on company registers. For instance, the measures will require persons seeking a copy of the company register to apply to the company and state the purpose for which they will use the register. At the moment anyone can demand a company's register, which contains shareholder names and contact details. This information can and at times has been used to target vulnerable shareholders with unsolicited off-market offers on unfavourable terms, which of course is something that none of us would support. It is a predatory practice which has resulted in vulnerable people being taken advantage of.

Secondly, the bill will increase the criminal penalties associated with breaches of the insider-trading and market misconduct provisions in part 7.10 of the Corporations Act. We support those changes. However, the bill will also permit ASIC to apply for a search warrant without first having to issue a notice to produce material sought by the warrant. The current arrangements provide those under investigation with an opportunity—the government tells us—to destroy incriminating material before a search warrant can be issued. The coalition is always loath to increase the arbitrary power of government entities without a valid public interest justification. That is why we wanted the Senate economics committee to give the bill a more detailed examination. The committee handed down its report on 16 November, and I congratulate Senator Bushby for his contribution as the deputy chair of the Senate Economics Legislation Committee.

The report identified some areas in which the bill could and should be improved. For instance, ASIC should report the number of times it uses its new powers and what they have been used for. We are particularly keen to see the share registry provisions of this bill passed, so we have accepted ASIC's assurances that it will publish such details. In due course we shall seek to mandate such publication.

Moreover the government has acknowledged the arguments of the coalition senators' additional comments in the report. The government has agreed that it will consider these sorts of amendments in future corporation amendment bills. So, in the interests of facilitating timely passage of this legislation and accepting the good faith of the government, we have accepted to deal with this as non-controversial legislation today. I now seek leave to table the correspondence from Hon. David Bradbury to me including the attachment from ASIC.

Leave granted.

**Senator CARR** (Victoria—Minister for Innovation, Industry, Science and Research) (1.48 pm)—I take this opportunity to table a replacement explanatory memorandum relating to the Corporations Amendment (No. 1) Bill 2010. The memorandum responds to concerns raised by the Scrutiny of Bills Committee.

Leave granted.

**Senator CARR**—I thank all senators for their contribution.

Question agreed to.

Bill read a second time.

### Third Reading

Bill passed through its remaining stages without amendment or debate.

## AVIATION CRIMES AND POLICING LEGISLATION AMENDMENT BILL 2010

### Second Reading

Debate resumed from 29 September, on motion by **Senator Ludwig**:

That this bill be now read a second time.

**Senator BRANDIS** (Queensland) (1.49 pm)—The purpose of this bill is to strengthen the existing legislative framework surrounding Australia's international and domestic aviation security regime by ensuring that aviation related crimes carry appropriately severe penalties and by making sure that an appropriate range of offences are applicable. Under the amendments in this bill, the penalties in the act will fall within four tiers. The severity of the penalty in each tier corresponds with the type of offence falling within each tier.

Tier 1 provides for life imprisonment to continue to apply to offences such as highjacking or destroying an aircraft while it is in flight. The attempted terrorist bombing of American flight NW 253 would have fallen within this tier if it had occurred on an Australian interstate or overseas flight.

Under tier 2 a maximum penalty of 20 years imprisonment will apply to very serious offences that pose danger or cause harm to whole groups of people, such as endangering an aircraft while it is in flight. Offences in this tier have had their maximum penalties raised from a range of seven, 10 or 15 years.

Under tier 3 a maximum penalty of 14 years imprisonment will apply to offences that are generally against aircraft or aviation environments, such as disrupting a major airport or destroying its facilities. These offences currently carry maximum penalties of seven or 10 years.

Finally, tier 4 provides for imprisonment for up to 10 years for offences such as hoaxes and taking control of an aircraft, which currently carry maximum penalties of two and 10 years respectively.