

2002

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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No. 47

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1 MEETING OF SENATE

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

2 VACANCY IN THE REPRESENTATION OF QUEENSLAND—CHOICE OF SANTO SANTORO—DOCUMENT

The President tabled the original certificate of the choice by the Parliament of Queensland of Mr Santo Santoro to fill the vacancy caused by the resignation of Senator Herron (*see entry no. 4, 11 November 2002*).

3 GOVERNMENT DOCUMENTS

The following government documents were presented:

Army and Air Force Canteen Service Board of Management (trading as Frontline Defence Services)—Report for 2001-02.

Australia-Indonesia Institute—Report for 2001-02.

Australian Federal Police—Report for 2001-02.

Australian Statistics Advisory Council—Report for 2001-02.

Commissioner for Superannuation (ComSuper)—Report for 2001-02, including reports on the administration and operation of the *Papua New Guinea (Staffing Assistance) Act 1973* and the *Superannuation Act 1922*.

Crimes Act 1914—Authorisations for acquisition and use of assumed identities for 2001-02—Australian Federal Police.

Defence Force Retirement and Death Benefits Authority—Report for 2001-02.

Director of National Parks—Report for 2001-02.

Gene Technology Regulator—Quarterly reports for the period—

1 January to 30 March 2002.

1 April to 30 June 2002.

Health Insurance Commission—Report for 2001-02.

Military Superannuation and Benefits Board of Trustees No. 1—Report for 2001-02.

Office of Film and Literature Classification—Classification Board and Classification Review Board—Reports for 2001-02.

Royal Australian Air Force Veterans' Residences Trust Fund—Report for 2001-02.

Services Trust Funds—Reports for 2001-02 of the Australian Military Forces Relief Trust Fund, the Royal Australian Navy Relief Trust Fund and the Royal Australian Air Force Welfare Trust Fund.

Treaty—*Multilateral*—Text, together with national interest analysis—Amendments, done at Bonn, Germany on 24 September 2002, to Appendices I and II of the Convention on the Conservation of Migratory Species of Wild Animals, done at Bonn on 23 June 1979.

Wet Tropics Management Authority—Report for 2001-02.

4 RESEARCH INVOLVING EMBRYOS BILL 2002

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Abetz)—That this bill be now read a second time—and on the amendment moved by Senators Murray and Ridgeway:

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

- (a) Article 8 of the United Nations Convention on the Rights of the Child, which states that ‘States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law without unlawful interference’; and
- (b) the Australian Health Ethics Committee 1996 Guideline 3.1.5, which recommends that children born from using assisted reproductive services should have access to information, including identifying information, about their biological parents,

and the Senate urges the Government to do all in its power by legislation or other means to try to ensure that every child, whether adopted or conceived via IVF (unless a foundling), can no later than on achieving adulthood access information about his or her biological parents”.

Debate resumed.

Documents: The Leader of the National Party of Australia in the Senate (Senator Boswell), by leave, tabled the following documents:

Prohibition of Human Cloning Bill 2002—Copies of list and documents relating to embryonic stem cells use [8].

Debate continued.

On the motion of the Minister for Forestry and Conservation (Senator Ian Macdonald) the debate was adjourned till a later hour.

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

At 2 pm—

5 QUESTIONS

Questions without notice were answered.

6 PRIMARY INDUSTRIES—DROUGHT ASSISTANCE—ANSWER TO QUESTION

Senator O’Brien moved—That the Senate take note of the answer given by the Minister for Forestry and Conservation (Senator Ian Macdonald) to a question without notice asked by Senator O’Brien today relating to drought assistance.

Debate ensued.

Question put and passed.

7 COMMUNICATIONS—TELSTRA—ANSWER TO QUESTION

Senator Cherry moved—That the Senate take note of the answer given by the Minister for Communications, Information Technology and the Arts (Senator Alston) to a question without notice asked by Senator Cherry today relating to the proposed sale of Telstra.

Question put and passed.

8 PETITIONS

The following 5 petitions, lodged with the Clerk by the senators indicated, were received:

Senator Bartlett, from 600 petitioners, requesting that the Senate support the Australian Democrats' motion opposing Australia's involvement in pre-emptive military action or a first strike against Iraq and call on the Government to pursue diplomatic initiatives towards disarmament in Iraq, and worldwide.

Senator Forshaw, from 372 petitioners, requesting that the Senate take action to facilitate a debate at the United Nations to declare that suicide bombing is a crime against humanity.

Senator Kirk, from 220 petitioners, requesting that the Senate call for a judicial inquiry into the role of the Australian Defence Force and the Australian Federal Police in the sinking of a boat now identified as 'Suspected Illegal Entry Vessel X' and the people-smuggling disruption program in Indonesia.

Senator Moore, from 267 petitioners, requesting that the Senate commission an inquiry into the General Agreement on Trade in Services (GATS) and seeking a moratorium on further GATS commitments until an inquiry takes place.

Senator Stephens, from 1 658 petitioners, requesting that the Senate declare the Princes Highway a road of national importance and provide funding for the construction of a flood-free bridge at Pambula and a heavy vehicle bypass for Bega.

9 NOTICES

Notices of motion:

The Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan): To move on the next day of sitting—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the Australian meat industry and export quotas be extended to 14 November 2002. (*general business notice of motion no. 242*)

The Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan): To move on the next day of sitting—That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 13 November 2002, from 4 pm, to take evidence for the committee's inquiry into the Transport Safety Investigation Bill 2002. (*general business notice of motion no. 243*)

The Leader of the Australian Democrats (Senator Bartlett): To move on the next day of sitting—That there be laid on the table, no later than noon on Thursday, 14 November 2002, the figures 'in terms of the increasing capability that's necessary to meet this much more complex strategic environment', and all documentation relating to those figures, which were provided to the Government by the Minister for Defence (Senator Hill) and referred to by Senator Hill on Channel 10's *Meet the Press* program on 10 November 2002. (*general business notice of motion no. 244*)

The Leader of the Australian Democrats (Senator Bartlett): To move on the next day of sitting—That there be laid on the table, no later than 2 pm on Thursday, 5 December 2002, all documents associated with the formation, funding and membership of the Foundation for a Sustainable Minerals Industry, including but not limited to: reports, correspondence, e-mail, records of conservation, memos, margin notes and minutes of meetings. (*general business notice of motion no. 245*)

The Chair of the Community Affairs Legislation Committee (Senator Knowles): To move on the next day of sitting—That the Community Affairs Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 14 November 2002, from 3.30 pm, to take evidence for the committee's inquiry into the provisions of the Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002. (*general business notice of motion no. 246*)

Senator Greig: To move on 14 November 2002—That the Senate—

- (a) notes, with concern, indications by the Government that it is considering entering into an agreement with the United States of America (US), pursuant to which Australia would agree not to surrender US nationals to the International Criminal Court without the consent of the US; and
- (b) refers the proposed agreement to the Joint Standing Committee on Treaties for inquiry and report, with particular reference to the following matters:
 - (i) whether the proposed agreement would breach the terms of, or be otherwise inconsistent with the spirit of, the Rome Statute which Australia has ratified,
 - (ii) the effect of the proposed agreement, either itself or in conjunction with similar agreements between the US and other states, on the ability of the International Criminal Court to effectively fulfil its intended function,
 - (iii) the implications of any extradition provisions in the proposed agreement and whether the proposed agreement would require the re-negotiation of existing extradition agreements to which Australia is a party, and
 - (iv) the implications of the proposed agreement with respect to Australia's national interest. (*general business notice of motion no. 247*)

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

- (a) notes, with sadness, the passing on 3 November 2002 of Mr Jimmy Pike, a Walmajarri man from the Great Sandy Desert in the Kimberley, and thanks his family for their permission to refer to him by name in recognition of his outstanding achievements as an artist;
- (b) remembers Mr Pike as one of the artists who transformed the Indigenous fine art movement by his bold use of colour and distinctive style of design, which were inspired by his traditional desert country and the Walmajarri ceremonies and stories associated with that country;
- (c) notes that Mr Pike was first introduced to Western-style painting in his 40s, yet created an expansive body of work across many different mediums including painting, printmaking, fabric design and wood carving, that has been exhibited in major galleries throughout Australia, and in Japan, France, Germany, the United Kingdom, the United States of America and the People's Republic of China; and
- (d) recognises that Mr Pike's works are represented in most of the major galleries, museums and private collections in Australia, as well as overseas, contributing to his status as one of the nation's pre-eminent Aboriginal artists and cultural custodians. (*general business notice of motion no. 248*)

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

- (a) notes:
- (i) the many calls by the Australian Democrats to phase out clear-fell logging of native forests in Victoria, and the local and state-wide opposition to logging, particularly in the Otways and Wombat State Forests,
 - (ii) the work of members of the Otway Ranges Environment Network, Geelong Community Forum, Geelong Environment Council and Otway Ranges Interest Group in working to protect native forests, and
 - (iii) the announcement by the Victorian State Government last week that the logging of native forests in the Otways will end within 6 years and logging in the Wombat State Forest will be reduced and woodchipping there stopped altogether; and
- (b) congratulates the State Government on this initiative and urges the Premier to put these promises into action immediately after the forthcoming election. (*general business notice of motion no. 249*)

Senator Nettle: To move on the next day of sitting—That the Senate calls on the Minister representing the Minister for Trade to:

- (a) immediately present to the Parliament details of:
- (i) Australia's negotiating position in the current round of World Trade Organisation (WTO) negotiations relating to the General Agreement on Trade in Services (GATS), and
 - (ii) the specific requests received by Australia from other countries in the current round of WTO negotiations relating to GATS;
- (b) make a commitment that the Government will make public by 31 March 2003 Australia's responses to specific requests from other countries; and
- (c) invite community, parliamentary and media observers to sit in on the informal ministerial talks to be held in Sydney in the week beginning 10 November 2002 relating to WTO and GATS. (*general business notice of motion no. 250*)

Senator Nettle: To move on the next day of sitting—That the Senate calls on the Australian Government:

- (a) to agree to a unitisation deal concerning Greater Sunrise that considers for the purposes of negotiating the Timor Sea Treaty that 80 per cent of the Greater Sunrise gas field is accepted to lie within the Joint Petroleum Development Area (JPDA);
- (b) if it will not negotiate in good faith about the proportion of Greater Sunrise to lie with the JPDA, to ratify the Timor Sea Treaty independently of the Greater Sunrise unitisation arrangement being finalised; and
- (c) in order to facilitate ongoing negotiation in good faith, to recommit to the jurisdiction of the International Court of Justice with respect to the determination of maritime boundaries. (*general business notice of motion no. 251*)

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

- (a) notes the Medact report, *Collateral Damage: the health and environmental costs of war on Iraq*, launched internationally on Tuesday, 12 November 2002 by the International Physicians for the Prevention of Nuclear War; and

- (b) calls on the Government to adopt conclusions contained within the report, including:
- (i) the urgent need for humane and wise global leadership which recognises that national security is impossible without international security and that this can be achieved only the measures outlined in the report, and
 - (ii) pursuing peaceful means of resolving conflicts with Iraq and thinking carefully about the effects of waging war that might damage our fragile planet and its people for decades to come. (*general business notice of motion no. 252*)

The Leader of the Opposition in the Senate (Senator Faulkner): To move on the next day of sitting—That the Senate—

- (a) notes that:
- (i) four and a half years ago, on 18 May 1998, Malcolm Arthur Colston was committed in the Supreme Court of the Australian Capital Territory to stand trial on 28 charges of defrauding the Commonwealth pursuant to section 29D of the *Crimes Act 1914*,
 - (ii) on 5 July 1999, the Director of Public Prosecutions (DPP) presented a Notice Declining to Proceed Further on the charges to the Supreme Court because of medical evidence of Mr Colston's imminent demise, and
 - (iii) Mr Colston and spouse each incurred fares in the period 1 July 2001 to 30 June 2002 for \$992.24, and charged the taxpayer for Comcar services worth a total of \$212;
- (b) welcomes the Parliament's enacting legislation to strip corrupt politicians of their gold passes; and
- (c) in the light of the recent revelations of Mr Colston's use of his gold pass entitlements, welcomes the decision of the DPP to review Mr Colston's medical status. (*general business notice of motion no. 253*)

The Parliamentary Secretary to the Treasurer (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:

Australian Animal Health Council (Live-stock Industries) Funding Amendment Bill 2002
 Health Care (Appropriation) Amendment Bill 2002
 Higher Education Legislation Amendment Bill (No. 3) 2002.

Documents: Senator Ian Campbell tabled the following documents:

Consideration of legislation—Statements of reasons [3] for introduction and passage of certain bills in the 2002 spring sittings.

Senator Mackay, at the request of the Deputy President (Senator Hogg): To move on the next day of sitting—That standing order 21 be amended to read as follows:

- (1) A House Committee, consisting of the President, the Deputy President and 5 senators, shall be appointed at the commencement of each Parliament, with power to act during recess, and to confer and sit as a joint committee with a similar committee of the House of Representatives.
- (2) The committee may consider any matter relating to the provision of facilities in Parliament House referred to it by the Senate or by the President.
- (3) The President shall be the chair of the committee. (*general business notice of motion no. 254*)

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

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

- (a) notes that former Senator Ingrid Betancourt and Ms Clara Rojas have been held captive by Revolutionary Armed Forces of Colombia (FARC) guerrillas in Colombia since February 2002; and
- (b) calls on the Australian Government to write to President Uribe asking that he take urgent and active steps to secure the release of Ms Betancourt, Ms Rojas and other captives of the FARC. (*general business notice of motion no. 255*)

Notice of motion withdrawn: Senator Carr withdrew general business notice of motion no. 240 standing in his name for today, proposing an order for the production of documents by the Minister representing the Minister for Science.

10 POSTPONEMENTS

Items of business were postponed as follows:

General business notice of motion no. 53 standing in the name of Senator Greig for today, relating to the introduction of the Sexuality Anti-Vilification Bill 2002, postponed till 4 March 2003.

General business notice of motion no. 235 standing in the name of Senator Stott Despoja for today, relating to child labour, postponed till 13 November 2002.

General business notice of motion no. 238 standing in the name of Senator Sherry for today, proposing an order for the production of documents relating to the evaluation of the 'Living in Harmony' initiative, postponed till 13 November 2002.

11 DAYS OF MEETING

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 1—That the days of meeting of the Senate for 2003 shall be as follows:

Summer sittings:

Tuesday, 4 February to Thursday, 6 February

Autumn sittings:

Monday, 3 March to Thursday, 6 March

Tuesday, 18 March to Thursday, 20 March

Monday, 24 March to Thursday, 27 March

Budget sittings:

Tuesday, 13 May to Thursday, 15 May

Winter sittings:

Monday, 16 June to Thursday, 19 June

Monday, 23 June to Thursday, 26 June

Spring sittings:

Monday, 11 August to Thursday, 14 August

Monday, 18 August to Thursday, 21 August

Monday, 8 September to Thursday, 11 September

Monday, 15 September to Thursday, 18 September

Tuesday, 7 October to Thursday, 9 October

Monday, 13 October to Thursday, 16 October

Monday, 27 October to Thursday, 30 October

Monday, 3 November and Tuesday, 4 November

Monday, 24 November to Thursday, 27 November

Monday, 1 December to Thursday, 4 December.

Question put and passed.

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

Senator Ferris, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 232—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the Transport Safety Investigation Bill 2002 be extended to Monday, 18 November 2002.

Question put and passed.

**13 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION LEGISLATION COMMITTEE—
EXTENSION OF TIME TO REPORT**

Senator Ferris, at the request of the Chair of the Employment, Workplace Relations and Education Legislation Committee (Senator Tierney) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 236—That the time for the presentation of the report of the Employment, Workplace Relations and Education Legislation Committee on the provisions of the Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002 be extended to Friday, 15 November 2002.

Question put and passed.

**14 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS
LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Ferris, at the request of the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee (Senator Eggleston) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 237—That the Environment, Communications, Information Technology and the Arts Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Friday, 15 November 2002, from 9.30 am to 4.25 pm, to take evidence for the committee's inquiry into the provisions of the Renewable Energy (Electricity) Amendment Bill 2002.

Question put and passed.

**15 CORPORATIONS AND FINANCIAL SERVICES—JOINT STATUTORY COMMITTEE—LEAVE
TO MEET DURING SITTINGS**

Senator Ferris, at the request of the Chair of the Parliamentary Joint Committee on Corporations and Financial Services (Senator Chapman) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 239—That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold public meetings during the sittings of the Senate on Tuesday, 12 November 2002, and Thursday, 14 November 2002, from 4 pm, to take evidence for the committee's inquiry into banking and financial services in rural, regional and remote areas of Australia.

Question put and passed.

**16 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—LEAVE TO
MEET DURING SITTINGS**

Senator Ferris, at the request of the Chair of the Joint Standing Committee on Foreign Affairs, Defence and Trade (Senator Ferguson) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 241—That the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during sittings of the Senate.

Question put and passed.

**17 LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE—LEAVE TO MEET DURING
SITTINGS**

Senator Mackay, at the request of the Chair of the Legal and Constitutional References Committee (Senator Bolkus) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 231—That the Legal and Constitutional References Committee be authorised to hold public meetings during the sittings of the Senate to take evidence for the committee's inquiry into the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 and related matters on the following days:

Tuesday, 12 November, from 5 pm

Wednesday, 13 November, from 3.30 pm

Thursday, 14 November, from 5 pm.

Question put and passed.

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

Senator Mackay, at the request of the Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Cook) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 233—That the time for the presentation of reports of the Foreign Affairs, Defence and Trade References Committee be extended as follows:

- (a) materiel acquisition and management in Defence—to the last sitting day in March 2003; and
- (b) Australia's relationship with Papua New Guinea and other Pacific island countries—to the last sitting day in June 2003.

Question put and passed.

19 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Mackay, at the request of the Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Cook) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 234—That the Foreign Affairs, Defence and Trade References Committee be authorised to hold a public meeting during the sitting of the Senate on Friday, 15 November 2002, from 9.30 am to 4.25 pm, to take evidence for the committee's inquiry into materiel acquisition and management in Defence.

Question put and passed.

20 EDUCATION—VICTORIA—GEMBROOK PRIMARY SCHOOL

Senator Allison, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 222—That the Senate—

- (a) notes that:
 - (i) the Gembrook Primary School has for the past 100 years had only two permanent classrooms, even when the school population has been around 300,
 - (ii) the Gembrook Primary School population has been around 170 children for the past 3 years and is increasing each year,
 - (iii) the Victorian State Government's school infrastructure policy for the ratio of permanent and portable classrooms is 80:20,
 - (iv) the Victorian State Government does not provide funding for the maintenance of portable classrooms, instead replacing them when the repair bill is more than 5 per cent of the cost of replacement, and
 - (v) as a result the Gembrook Primary School, receives no maintenance funding for most of its classrooms;
- (b) calls on the Victorian State Government to provide Gembrook Primary School with four new permanent classrooms, bringing the capacity of its permanent classrooms to 150;

- (c) recognises that there are many thousands of students housed in inadequate portable classrooms Australia-wide; and
- (d) calls on the Federal Government to provide more funds for urgently needed, basic capital works in government schools.

Question put.

The Senate divided—

AYES, 9

Senators—

Allison (Teller)	Cherry	Lees	Nettle
Bartlett	Greig	Murray	Ridgeway
Brown			

NOES, 43

Senators—

Barnett	Denman	Knowles	Payne
Bishop	Evans	Lightfoot	Ray
Bolkus	Faulkner	Ludwig	Reid
Brandis	Ferguson	Lundy	Santoro
Campbell, George	Ferris (Teller)	Macdonald, Sandy	Scullion
Campbell, Ian	Forshaw	Mackay	Sherry
Chapman	Hogg	Marshall	Stephens
Colbeck	Hutchins	Mason	Watson
Collins	Johnston	McGauran	Webber
Conroy	Kemp	McLucas	Wong
Crossin	Kirk	Moore	

Question negatived.

21 BILLS—RESTORATION TO NOTICE PAPER

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 230—

- (1) That so much of standing orders be suspended as would prevent this resolution having effect.
- (2) That the following bills be restored to the *Notice Paper* and that consideration of each of the bills be resumed at the stage reached in the last session of the Parliament:

- Convention on Climate Change (Implementation) Bill 1999
- Customs Amendment (Anti-Radioactive Waste Storage Dump) Bill 1999
- Human Rights (Mandatory Sentencing for Property Offences) Bill 2000.

Question put and passed.

22 HEALTH—TOBACCO—ORDER FOR PRODUCTION OF DOCUMENT

Senator Allison, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 197—That the Senate requires advice from the Australian Competition and Consumer Commission on its progress in responding to the Senate order of 27 June 2002 and its expected date of reporting to the Senate.

Question put and passed.

23 FOREIGN AFFAIRS—RUSSIA—HOSTAGE CRISIS IN MOSCOW—DOCUMENT

The Deputy President (Senator Hogg) tabled the following document:

Foreign Affairs—Russia—Hostage crisis in Moscow—Letter to the President of the Senate from His Excellency Leonid P Moiseev, Ambassador of Russia forwarding an address of the Federation Council of the Federal Assembly of the Russian Federation to members of parliaments of foreign countries, dated 29 October 2002.

24 PARLIAMENTARY PRIVILEGE—AUDITOR-GENERAL—DOCUMENT

The Deputy President (Senator Hogg) tabled the following document:

Parliamentary Privilege—Auditor-General—Letter to the President of the Senate from the Acting Auditor-General (Mr Ian McPhee) relating to the proposal of the Australian National Audit Office to claim parliamentary privilege over certain documents, dated 5 November 2002.

25 PARLIAMENT ACT—PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL—DOCUMENTS

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) tabled the following documents:

Parliament Act—Proposal, together with supporting documentation, relating to the installation of flagpoles, signage and concrete bollards at Reconciliation Place, and sun shading structures at Commonwealth Place.

Notice of motion: Senator Ian Campbell, by leave, gave a notice of motion as follows: To move on 14 November 2002—That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being additional works at Reconciliation Place and Commonwealth Place.

26 TREATIES—JOINT STANDING COMMITTEE—49TH REPORT

Senator Kirk, on behalf of the Joint Standing Committee on Treaties, tabled the following report and documents:

Treaties—Joint Standing Committee—49th report—The Timor Sea Treaty, dated November 2002, *Hansard* record of proceedings and minutes of proceedings.

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

Debate ensued.

Question put and passed.

27 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—BUDGET ESTIMATES 2002-03

Senator McGauran, at the request of the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee (Senator Eggleston), tabled additional information received by the committee (Budget estimates 2002-03—vols 3 and 4 and documents presented to the committee).

28 DOCUMENTS

The following documents were tabled by the Clerk:

- Australian Land Transport Development Act—Determination of charge rate under section 10 for the financial year 2001-02.
- Australian Postal Corporation Act—Regulations—Statutory Rules 2002 No. 260.
- Bankruptcy Act—Regulations—Statutory Rules 2002 No. 255.
- Civil Aviation Act—Regulations—Statutory Rules 2002 Nos 266-268.
- Class Rulings CR 2002/44 (Addendum), CR 2002/78 and CR 2002/79.
- Corporations Act—Regulations—Statutory Rules 2002 No. 265.
- Customs Act—Regulations—Statutory Rules 2002 No. 256.
- Defence Act—Determination under section 58H—Defence Force Remuneration Tribunal—Determinations Nos 15 and 21 of 2002.
- Financial Transaction Reports Act—Regulations—Statutory Rules 2002 No. 257.
- Health Insurance Act—Regulations—Statutory Rules 2002 No. 261.
- Lands Acquisition Act—Statements describing property acquired by agreement under sections 40 and 125 of the Act for specified public purposes [2].
- Mutual Assistance in Criminal Matters Act—Regulations—Statutory Rules 2002 No. 258.
- National Health Act—Regulations—Statutory Rules 2002 No. 262.
- Patents Act—Regulations—Statutory Rules 2002 No. 263.
- Proceeds of Crime Act—Regulations—Statutory Rules 2002 No. 259.
- Product Rulings PR 2002/123-PR 2002/131.
- Public Service Act—Regulations—Statutory Rules 2002 No. 264.
- Quarantine Act—Quarantine Service Fees Amendment Determinations 2002 (No. 2).
- Student Assistance Act—Determination No. 2002/1 – Determination of Education Institutions and Courses under subsections 3(1) and 5D(1) of the *Student Assistance Act 1973*.

29 COMMUNITY AFFAIRS LEGISLATION COMMITTEE—CHANGE IN MEMBERSHIP

The Acting Deputy President (Senator Lightfoot) informed the Senate that the President had received a letter requesting a change in the membership of a committee.

The Minister for Revenue and Assistant Treasurer (Senator Coonan), by leave, moved—That Senator Moore replace Senator Hutchins on the Community Affairs Legislation Committee for the committee's inquiry into the provisions of the Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002.

Question put and passed.

30 SUPERANNUATION—SELECT COMMITTEE—REPORT—SUPERANNUATION LEGISLATION AMENDMENT (CHOICE OF SUPERANNUATION FUNDS) BILL 2002

Pursuant to order, the Chair of the Select Committee on Superannuation (Senator Watson) tabled the following report and documents:

Superannuation—Select Committee—Superannuation Legislation Amendment (Choice of Superannuation Funds) Bill 2002—Report, dated November 2002, *Hansard* record of proceedings [4 vols], documents presented to the committee and submissions [53].

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

31 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—REPORT—AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT BILL (NO. 1) 2002

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

Rural and Regional Affairs and Transport Legislation Committee—Agriculture, Fisheries and Forestry Legislation Amendment Bill (No. 1) 2002—Report, dated November 2002, *Hansard* record of proceedings [2 vols], documents presented to the committee and submissions [6].

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

32 RESEARCH INVOLVING EMBRYOS BILL 2002

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Abetz)—That this bill be now read a second time—*and on the amendment moved by Senators Murray and Ridgeway (see entry no. 4).*

Debate resumed.

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

Senator Stott Despoja moved the following amendment:

At the end of the motion, add “and the Senate requests:

- (a) the Attorney-General to provide a reference to the Australian Legal Reform Commission (ALRC) and the Australian Health Ethics Committee (AHEC) requesting that they investigate and prepare a report on the intellectual property and patent issues concerning stem cells and stem cell products;
- (b) the Attorney-General is to cause a copy of the report prepared in accordance with paragraph (a) to be provided to the Parliament and also to the persons conducting the independent review of the Act; and
- (c) the persons conducting the independent review of the Act must consider the ALRC and AHEC report and comment on it in their review”.

Statements by leave: The Minister for Health and Ageing (Senator Patterson) and Senators Stott Despoja, Evans and Murphy, by leave, made statements relating to the amendment.

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

Senator Nettle, also on behalf of Senator Brown, moved the following amendment:

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

- (a) as a matter of urgency, to issue a reference to the Australian Law Reform Commission and the Australian Health Ethics Committee to examine intellectual property rights as they relate to human stem cell research, in particular, how to safeguard the public interest in the widest possible access to discoveries in this field; and
- (b) to bring the report of the inquiry to both Houses of the Parliament within 12 months of the passage of this bill”.

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

Main question, as amended, put.

Statement by President: The President indicated that some senators had suggested that, in some instances, it would be appropriate for two tellers to be appointed for each side for divisions in relation to the Research Involving Embryos Bill 2002 and the Prohibition of Human Cloning Bill 2002, as a double check on the count, and sought leave to follow that course of action when requested to do so.

An objection was raised and leave was not granted.

The Senate divided—

AYES, 43

Senators—

Allison	Denman	Mackay	Reid
Bartlett	Evans	Marshall	Ridgeway
Bolkus	Faulkner	Mason	Scullion
Campbell, George	Ferguson	McLucas	Stott Despoja
Campbell, Ian	Greig	Moore	Tchen
Carr	Johnston	Murray	Tierney
Cherry	Kirk	Nettle	Vanstone
Colbeck	Knowles	O'Brien	Watson
Conroy	Lees	Patterson	Webber
Cook	Ludwig	Payne	Wong
Crossin (Teller)	Lundy	Ray	

NOES, 26

Senators—

Abetz	Calvert	Harradine	Minchin
Alston	Chapman	Heffernan	Murphy
Barnett	Collins	Hogg	Santoro
Bishop	Coonan	Hutchins	Sherry
Boswell	Eggleston	Lightfoot	Stephens
Brandis	Ellison	Macdonald, Sandy	
Buckland (Teller)	Forshaw	McGauran	

Question agreed to.

Bill read a second time.

On the motion of Senator Patterson consideration of the bill in committee of the whole was made an order of the day for a later hour.

33 PROHIBITION OF HUMAN CLONING BILL 2002

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill, taken as a whole by leave, debated.

Senator Harradine moved the following amendment:

Clause 8, page 4 (after line 16), after the definition of *Commonwealth authority*, insert:

embryo means:

- (i) the cell formed by the fusion of an ovum and a sperm and the organism that develops from that cell; or
- (ii) any cell or organism, however formed, that may be distinguished from ordinary cells by having a potential, if placed in a suitable environment, to develop in an integrated way, similar to the potential of the cell formed by the fusion of an ovum and a sperm.

Debate ensued.

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

Senator Harradine moved the following amendments together by leave:

Clause 11, page 7 (line 16), after “clone”, insert “or products or components derived from a human embryo clone”.

Clause 11, page 7 (line 19), after “clone”, insert “or products or components derived from a human embryo clone”.

Debate ensued.

On the motion of the Minister for Health and Ageing (Senator Patterson) further consideration of the amendments was postponed

Senator Abetz moved the following amendment:

Clause 8, page 4 (line 19), omit “a woman”, substitute “a particular woman”.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 27

Senators—

Abetz	Calvert	Heffernan	Murphy
Alston	Chapman	Hogg	Santoro
Barnett	Collins	Hutchins	Scullion
Bishop	Eggleston	Johnston	Stephens
Boswell	Ellison	Lightfoot	Tchen
Brandis	Forshaw	McGauran (Teller)	Watson
Buckland	Harradine	Minchin	

NOES, 43

Senators—

Allison	Crossin	Lundy	Payne
Bartlett	Denman	Macdonald, Ian	Ray
Bolkus	Evans	Mackay (Teller)	Reid
Campbell, George	Faulkner	Marshall	Ridgeway
Campbell, Ian	Ferguson	Mason	Sherry
Carr	Ferris	McLucas	Stott Despoja
Cherry	Greig	Moore	Tierney
Colbeck	Kirk	Murray	Vanstone
Conroy	Knowles	Nettle	Webber
Cook	Lees	O'Brien	Wong
Coonan	Ludwig	Patterson	

Question negatived.

Senator Abetz moved the following amendments together by leave:

Clause 9, page 7 (lines 4 to 7), omit the clause, substitute:

9 Offence—creating a human embryo clone

- (1) A person commits an offence if the person creates a human embryo clone.

Maximum penalty: Imprisonment for 15 years.

- (2) Strict liability applies to subsection (1).

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

Clause 10, page 7 (lines 8 to 13), omit the clause, substitute:

10 Offence—placing a human embryo clone in the human body or the body of an animal

- (1) A person commits an offence if the person places a human embryo clone in the body of a human or the body of an animal.

Maximum penalty: Imprisonment for 15 years.

- (2) Strict liability applies to subsection (1).

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

Clause 11, page 7 (lines 14 to 20), omit the clause, substitute:

11 Offence—importing or exporting a human embryo clone

- (1) A person commits an offence if the person imports a human embryo clone into Australia.

Maximum penalty: Imprisonment for 15 years.

- (2) A person commits an offence if the person exports a human embryo clone from Australia.

Maximum penalty: Imprisonment for 15 years.

- (3) Strict liability applies to subsections (1) and (2).

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

Clause 13, page 8 (lines 3 to 9), omit the clause, substitute:

13 Offence—creating a human embryo other than by fertilisation, or developing such an embryo

- (1) A person commits an offence if the person creates a human embryo by a process other than the fertilisation of a human egg by human sperm, or develops a human embryo so created.

Maximum penalty: Imprisonment for 10 years.

- (2) Strict liability applies to subsection (1).

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

Clause 14, page 8 (lines 10 to 19), omit the clause, substitute:

14 Offence—creating a human embryo for a purpose other than achieving pregnancy in a particular woman

- (1) A person commits an offence if the person creates a human embryo outside the body of a woman, unless the person's intention in creating the embryo is to attempt to achieve pregnancy in a particular woman.

Maximum penalty: Imprisonment for 10 years.

- (2) Despite subsection 13.3(3) of the *Criminal Code*, a defendant does not bear an evidential burden in relation to any matter in subsection (1) of this section.

- (3) Strict liability applies to subsection (1).

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

Clause 15, page 8 (lines 20 to 25), omit the clause, substitute:

15 Offence—creating or developing a human embryo containing genetic material provided by more than 2 persons

- (1) A person commits an offence if the person creates or develops a human embryo containing genetic material provided by more than 2 persons.

Maximum penalty: Imprisonment for 10 years.

- (2) Strict liability applies to subsection (1).

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

Clause 16, page 9 (lines 1 to 7), omit the clause, substitute:

16 Offence—developing a human embryo outside the body of a woman for more than 14 days

- (1) A person commits an offence if the person develops a human embryo outside the body of a woman for a period of more than 14 days, excluding any period when development is suspended.

Maximum penalty: Imprisonment for 10 years.

- (2) Strict liability applies to subsection (1).

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

Clause 17, page 9 (lines 8 to 14), omit the clause, substitute:

17 Offence—using precursor cells from a human embryo or a human fetus to create a human embryo, or developing such an embryo

- (1) A person commits an offence if the person uses precursor cells taken from a human embryo or a human fetus, intending to create a human embryo, or develops an embryo so created.

Maximum penalty: Imprisonment for 10 years.

- (2) Strict liability applies to subsection (1).

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

Clause 18, page 9 (lines 15 to 26), omit the clause, substitute:

18 Offence—heritable alterations to genome

- (1) A person commits an offence if the person alters the genome of a human cell in such a way that the alteration is heritable by descendants of the human whose cell was altered.

Maximum penalty: Imprisonment for 10 years.

- (2) Strict liability applies to subsection (1).

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

- (3) In this section:

human cell includes a human embryonal cell, a human fetal cell, human sperm or a human egg.

Clause 20, page 10 (lines 7 to 13), omit the clause, substitute:

20 Offence—creating a chimeric or hybrid embryo

- (1) A person commits an offence if the person creates a chimeric embryo.

Maximum penalty: Imprisonment for 10 years.

- (2) A person commits an offence if the person creates a hybrid embryo.

Maximum penalty: Imprisonment for 10 years.

- (3) Strict liability applies to subsections (1) and (2).

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

Clause 21, page 10 (lines 14 to 24), omit the clause, substitute:

21 Offence—placing of an embryo

- (1) A person commits an offence if the person places a human embryo in an animal.

Maximum penalty: Imprisonment for 10 years.

- (2) A person commits an offence if the person places a human embryo in the body of a human, other than in a woman's reproductive tract.

Maximum penalty: Imprisonment for 10 years.

- (3) A person commits an offence if the person places an animal embryo in the body of a human for any period of gestation.

Maximum penalty: Imprisonment for 10 years.

- (4) Strict liability applies to subsections (1), (2) and (3).

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

Clause 22, page 11 (line 1) to page 12 (line 4), omit the clause, substitute:

22 Offence—importing, exporting or placing a prohibited embryo

- (1) A person commits an offence if the person imports a prohibited embryo into Australia.

Maximum penalty: Imprisonment for 10 years.

- (2) A person commits an offence if the person exports a prohibited embryo from Australia.

Maximum penalty: Imprisonment for 10 years.

- (3) A person commits an offence if the person places a prohibited embryo in the body of a woman.

Maximum penalty: Imprisonment for 10 years.

- (4) Strict liability applies to subsections (1), (2), (3) and (4).

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

- (5) In this section:

prohibited embryo means:

- (a) a human embryo created by a process other than the fertilisation of a human egg by human sperm; or
- (b) a human embryo created outside the body of a woman, unless the intention of the person who created the embryo was to attempt to achieve pregnancy in a particular woman; or
- (c) a human embryo that contains genetic material provided by more than 2 persons; or
- (d) a human embryo that has been developing outside the body of a woman for a period of more than 14 days, excluding any period when development is suspended; or
- (e) a human embryo created using precursor cells taken from a human embryo or a human fetus; or
- (f) a human embryo that contains a human cell (within the meaning of section 18) whose genome has been altered in such a way that the alteration is heritable by human descendants of the human whose cell was altered; or
- (g) a viable human embryo that was removed from the body of a woman; or

(h) a chimeric embryo or a hybrid embryo.

Clause 23, page 12 (lines 5 to 30), omit the clause, substitute:

23 Offence—commercial trading in human eggs, human sperm or human embryos

- (1) A person commits an offence if the person gives or offers valuable consideration to another person for the supply of a human egg, human sperm or a human embryo.

Maximum penalty: Imprisonment for 10 years.

- (2) A person commits an offence if the person receives, or offers to receive, valuable consideration from another person for the supply of a human egg, human sperm or a human embryo.

Maximum penalty: Imprisonment for 10 years.

- (3) Strict liability applies to subsections (1) and (2).

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

- (4) In this section:

reasonable expenses:

- (a) in relation to the supply of a human egg or human sperm—includes, but is not limited to, expenses relating to the collection, storage or transport of the egg or sperm; and
- (b) in relation to the supply of a human embryo:
- (i) does not include any expenses incurred by a person before the time when the embryo became an excess ART embryo; and
 - (ii) includes, but is not limited to, expenses relating to the storage or transport of the embryo.

valuable consideration, in relation to the supply of a human egg, human sperm or a human embryo by a person, includes any inducement, discount or priority in the provision of a service to the person, but does not include the payment of reasonable expenses incurred by the person in connection with the supply.

At 11 pm: The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Chapman) reported progress.

34 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 11.30 pm till Wednesday, 13 November 2002 at 9.30 am.

35 ATTENDANCE

Present, all senators except Senators Harris and Troeth.

HARRY EVANS
Clerk of the Senate