

2002

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 48

WEDNESDAY, 13 NOVEMBER 2002

Contents

1	Meeting of Senate	1039
2	Government Documents	1039
3	Legal and Constitutional References Committee—Leave to Meet During Sitting—Variation	1039
4	Leave of Absence	1039
5	Prohibition of Human Cloning Bill 2002	1039
6	Matters of Public Interest	1046
7	Questions	1046
8	Minister for Health and Ageing—Answers to Questions	1046
9	Environment—Spectacled Flying Foxes—Answer to Question	1047
10	Notices	1047
11	Selection of Bills—Standing Committee—Report No. 12 of 2002	1049
12	Postponements	1050
13	Children—International Labour Organisation Convention—Child Labour	1051
14	Consideration of Legislation	1051
15	Defence—Spending—Proposed Order for Production of Documents	1051
16	Rural and Regional Affairs and Transport Legislation Committee— Extension of Time to Report	1052
17	Rural and Regional Affairs and Transport Legislation Committee—Leave to Meet During Sitting	1052
18	Death of Mr Jimmy Pike	1052
19	Law and Justice—Former Senator Colston	1053
20	Community Affairs Legislation Committee—Leave to Meet During Sitting	1053
21	House—Standing Committee—Amendment of Standing Order 21	1053
22	Trade—World Trade Organisation—General Agreement on Trade in Services	1054
23	Foreign Affairs—Iraq—Military Action	1054

24	Consideration of Legislation.....	1055
25	Scrutiny of Bills—Standing Committee—14th Report and Alert Digest No. 13 of 2002.....	1056
26	Documents.....	1056
27	Community Affairs Legislation Committee—Changes in Membership.....	1056
28	Family Law Legislation Amendment (Superannuation) (Consequential Provisions) Bill 2002.....	1057
29	Criminal Code Amendment (Offences Against Australians) Bill 2002	1057
30	Telstra Carrier Charges—Motion for Disallowance	1057
31	Prohibition of Human Cloning Bill 2002	1058
32	Adjournment	1061
33	Attendance.....	1061

1 MEETING OF SENATE

The Senate met at 9.30 am. The President (Senator the Honourable Paul Calvert) took the chair and read prayers.

2 GOVERNMENT DOCUMENTS

The following government documents were tabled:

Anindilyakwa Land Council—Report for 2001-02.

Department of Communications, Information Technology and the Arts—
Radiocommunications review—

Government response.

Report, June 2001.

Enterprise and Career Education Foundation Limited—Report for 2001-02.

National Australia Day Council—Report for 2001-02.

Sydney Airports Corporation Limited—Report for 2001-02.

Treaties—List of multilateral treaty action under negotiation or consideration by the Australian Government, or expected to be within the next twelve months, November 2002.

3 LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTING—VARIATION

Senator Mackay, by leave and at the request of the Chair of the Legal and Constitutional References Committee (Senator Bolkus), moved—That the order of the Senate of 12 November 2002 authorising the Legal and Constitutional References Committee to hold a public meeting during the sitting of the Senate today be varied to provide that the committee be authorised to meet from 3.15 pm.

Question put and passed.

4 LEAVE OF ABSENCE

Senator Nettle, by leave, moved—That leave of absence be granted to Senator Brown for the period 13 November to 15 November 2002, on account of ill health.

Question put and passed.

5 PROHIBITION OF HUMAN CLONING BILL 2002

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

In the committee

Consideration resumed of the bill—and of the amendments moved by Senator Abetz:

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.

Debate ensued.

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

Senator Abetz moved the following amendments together by leave:

Heading to clause 22, page 11 (line 1), omit the heading, substitute:

22 Offence—importing, exporting, placing or possessing a prohibited embryo

Clause 22, page 11 (after line 13), after subclause (3), insert:

- (3A) A person must not possess or have custody or control of a prohibited embryo.

Maximum penalty: Imprisonment for 10 years.

- (3B) Strict liability applies to subsection (3A).

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

Debate ensued.

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

Senator Harradine moved the following amendments together by leave:

Heading to clause 22, page 11 (line 1), omit the heading, substitute:

22 Offence—importing or exporting a prohibited embryo

Clause 22, page 11 (lines 10 to 13), omit subclause (3).

Debate ensued.

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

Senator Harradine moved the following amendment:

Page 12 (after line 4), after clause 22, insert:

22A Offence—importing or exporting a human embryo

- (1) A person commits an offence if the person intentionally or recklessly imports a human embryo into Australia except for the purpose of placement in the body of the woman for whom it was created or for adoption.

Maximum penalty: Imprisonment for 10 years.

- (2) A person commits an offence if the person intentionally or recklessly exports a human embryo from Australia except for the purpose of placement in the body of the woman for whom it was created or for adoption.

Maximum penalty: Imprisonment for 10 years.

Debate ensued.

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

Senator Harradine moved the following amendments together by leave:

Clause 23, page 12 (line 9), omit “or a human embryo”, substitute “, a human embryo, human embryonic stem cells or any other product derived from a human embryo”.

Clause 23, page 12 (line 13), omit “or a human embryo”, substitute “, a human embryo, human embryonic stem cells or any other product derived from a human embryo”.

Debate ensued.

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

Senator Harradine moved the following amendments together by leave:

Clause 8, page 4 (after line 31), after the definition of *human sperm*, insert:

human tissue includes a cell, cells or cultured cells that have a human genome or an altered human genome.

Heading to clause 23, page 12 (lines 5 and 6), omit the heading, substitute:

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

Clause 23, page 12 (after line 14), after subclause (2), insert:

(2A) A person commits an offence if the person intentionally receives, or offers to receive, valuable consideration from another person for the supply of:

- (a) human tissue (including the person's own tissue); or
- (b) the right to take human tissue from a person's body, or from an embryo or fetus.

Maximum penalty: Imprisonment for 10 years.

(2B) A person commits an offence if the person intentionally gives or offers valuable consideration from another person for the supply of:

- (a) human tissue; or
- (b) the right to take human tissue from a person's body, or from an embryo or fetus.

Maximum penalty: Imprisonment for 10 years.

Debate ensued.

Senator Harradine, by leave, withdrew the amendments.

Senator McLucas, also on behalf of Senator Stott Despoja, moved the following amendment:

Clause 25, page 14 (after line 23), at the end of subclause (4), add:

; (d) the applicability of establishing a National Stem Cell Bank.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 53

Senators—

Abetz	Collins	Lightfoot	Ray
Allison (Teller)	Cook	Ludwig	Ridgeway
Alston	Crossin	Lundy	Santoro
Barnett	Denman	Mackay	Scullion
Bartlett	Ellison	Marshall	Stephens
Bishop	Evans	Mason	Stott Despoja
Boswell	Faulkner	McGauran	Tierney
Brandis	Ferguson	McLucas	Troeth
Buckland	Forshaw	Minchin	Vanstone
Calvert	Greig	Moore	Webber
Campbell, George	Harradine	Murray	Wong
Carr	Hogg	Nettle	
Chapman	Hutchins	O'Brien	
Cherry	Kirk	Payne	

NOES, 9

Senators—

Campbell, Ian	Lees	Murphy	Reid
Eggleston (Teller)	Macdonald, Ian	Patterson	Tchen
Knowles			

Question agreed to.

After 12.45 pm: The President resumed the chair and the Chair of Committees (Senator Hogg) reported progress.

6 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

At 2 pm—

7 QUESTIONS

Questions without notice were answered.

8 MINISTER FOR HEALTH AND AGEING—ANSWERS TO QUESTIONS

Senator Carr moved—That the Senate take note of the answers given by the Minister for Health and Ageing (Senator Patterson) to questions without notice asked today.

Debate ensued.

Question put and passed.

9 ENVIRONMENT—SPECTACLED FLYING FOXES—ANSWER TO QUESTION

The Leader of the Australian Democrats (Senator Bartlett) moved—That the Senate take note of the answer given by the Minister for Defence (Senator Hill) to a question without notice asked by Senator Bartlett today relating to the protection of spectacled flying foxes.

Question put and passed.

10 NOTICES

Notices of motion:

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

- (a) notes the rejection by a majority of the states and territories of Graeme Samuel as nominee Deputy Chairman of the Australian Competition and Consumer Commission; and
- (b) asks the Federal Government:
 - (i) to ensure that it consults fully with the state and territory governments regarding Professor Fels' replacement, and
 - (ii) to establish criteria for the selection and appointment process that include not just selection on merit, but that any candidate should be demonstrably independent, and have a strong interest in consumer and small business needs. (*general business notice of motion no. 256*)

Senators Cherry and Ridgeway: To move on the next day of sitting—That there be laid on the table by the Minister representing the Minister for Trade, no later than immediately after motions to take note of answers on Monday, 18 November 2002:

- (a) all requests received by the Australian Government for increased access to Australian services markets by other nations, lodged under negotiations, under the General Agreement on Trade in Services (GATS);
- (b) any documents analysing the likely impact of any requests made of Australia in negotiations under GATS; and
- (c) any requests lodged by Australia of other countries under negotiations on GATS. (*general business notice of motion no. 257*)

Senator O'Brien: To move on the next day of sitting—That the Senate—

- (a) notes, with grave concern, the crisis enveloping rural and regional Australia;
- (b) condemns the Howard Government for its neglect of rural and regional Australians, in particular, its failure to:
 - (i) adequately respond to the growing drought,
 - (ii) provide timely and appropriate assistance to the sugar industry, and
 - (iii) support essential services including health, banking, employment and telecommunications; and
- (c) calls on the Howard Government to reverse its neglect of rural and regional communities. (*general business notice of motion no. 258*)

Senator Allison: To move on the next day of sitting—That there be laid on the table by the Minister for Arts and Sport, no later than 3 pm on Tuesday, 19 November 2002, the following documents relating to Victoria's bid for the Commonwealth Games:

- (a) the endorsement contract between the Australian Commonwealth Games Association and the State of Victoria authorising the bid for the Games; and
- (b) host city contracts between the Commonwealth Games Federation, Australian Commonwealth Games Association, and Melbourne 2006 Commonwealth Games Pty Ltd. (*general business notice of motion no. 259*)

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

- (a) notes:
 - (i) the alarming rise in the number of people with type 2 diabetes, estimated to be one million Australians, with half of those people currently undiagnosed,
 - (ii) that according to a recent landmark study by DiabCost Australia, type 2 diabetes is costing Australians a staggering \$3 billion a year, with the bill for each person with diabetes averaging nearly \$11 000 in expenditure and benefits,
 - (iii) that, according to the study, as the complications of diabetes increase, the cost per person is estimated to escalate from \$4 020 to \$9 645 when there are both microvascular and macrovascular problems,
 - (iv) that early detection through screening programs and action to slow or prevent the onset of complications will see reductions in health costs and improve and maintain quality of life for individuals with type 2 diabetes,
 - (v) the contribution this landmark study by DiabCost Australia will make to better informing government and the public of a significant public health problem,
 - (vi) that there are approximately 100 000 Australians with type 1, or insulin dependent diabetes, and
 - (vii) that the Government has recognised the public and personal burden of diabetes as a national health priority; and
- (b) urges the Government to:
 - (i) continue programs to raise public awareness of the high risk of undiagnosed and untreated cases of type 2 diabetes and take whatever steps are necessary to identify those undiagnosed with type 2 diabetes,
 - (ii) support access to new medications for the treatment of type 1 and type 2 diabetes, while ensuring that Australian taxpayers get value for money through appropriate pricing arrangements,
 - (iii) continue to encourage people diagnosed with diabetes to undergo regular medical tests, including eye testing, so as to prevent complications,
 - (iv) ensure adequate funding for further research into prevention and treatment of both type 1 and type 2 diabetes and a cure for type 1 diabetes,
 - (v) develop a strong education program encouraging appropriate diet and exercise regimes to minimise the risk of type 2 diabetes, and
 - (vi) develop strategies to heighten awareness of the rising levels of obesity, particularly in young Australians, and the associated adverse health effects of obesity. (*general business notice of motion no. 260*)

The Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee (Senator Eggleston): To move on the next day of sitting—That the time for the presentation of reports of the Environment, Communications, Information Technology and the Arts Legislation Committee be extended as follows:

- (a) provisions of the Renewable Energy (Electricity) Amendment Bill 2002—to 28 November 2002; and
- (b) provisions of the Telecommunications Competition Bill 2002—to 19 November 2002. (*general business notice of motion no. 261*)

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:

Criminal Code Amendment (Offences Against Australians) Bill 2002
 Telecommunications Competition Bill 2002
 Broadcasting Legislation Amendment Bill (No. 2) 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.

Intention to withdraw: Senator Mackay, at the request of Senator O'Brien and pursuant to standing order 78, gave notice of Senator O'Brien's intention, at the giving of notices on the next day of sitting, to withdraw business of the Senate notice of motion no. 3 standing in his name for 13 November 2002 for the disallowance of Civil Aviation Amendment Regulations 2002 (No. 2), as contained in Statutory Rules 2002 No. 167 and made under the *Civil Aviation Act 1988*.

11 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 12 OF 2002

The Chairman of the Selection of Bills Committee (Senator Ferris) tabled the following report:

SELECTION OF BILLS COMMITTEE REPORT NO. 12 OF 2002

1. The committee met on Tuesday, 12 November 2002.
2. The committee resolved to recommend—That—
 - (a) the *provisions* of the Financial Sector Legislation Amendment Bill (No. 2) 2002 be *referred immediately* to the Economics Legislation Committee for inquiry and report by 10 December 2002; and
 - (b) the following bills *not* be referred to committees:
 - Broadcasting Legislation Amendment Bill (No. 2) 2002
 - International Tax Agreements Amendment Bill (No. 2) 2002
 - Taxation Laws Amendment Bill (No. 6) 2002
 - Trade Practices Amendment Bill (No. 1) 2002.

The committee recommends accordingly.

3. The committee *deferred* consideration of the following bills to the next meeting:

Bill deferred from meeting of 19 March 2002
 Aviation Legislation Amendment Bill 2002.

Bill deferred from meeting of 20 August 2002

Occupational Health and Safety (Commonwealth Employment) Amendment
(Employee Involvement and Compliance) Bill 2002

Bill deferred from meeting of 22 October 2002

Corporations Amendment (Repayment of Directors' Bonuses) Bill 2002

Bills deferred from meeting of 12 November 2002

Commonwealth Volunteers Protection Bill 2002
Plastic Bag Levy (Assessment and Collection) Bill 2002
Plastic Bag (Minimisation of Usage) Education Fund Bill 2002
Taxation Laws Amendment Bill (No. 7) 2002.

Jeannie Ferris

Chair

13 November 2002.

Senator Ferris moved—That the report be adopted.

Question put and passed.

12 POSTPONEMENTS

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Murray for today, relating to the reference of matters to the Economics References Committee, postponed till 4 March 2003.

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 14 November 2002.

General business notice of motion no. 245 standing in the name of the Leader of the Australian Democrats (Senator Bartlett) for today, proposing an order for the production of documents relating to the Foundation for a Sustainable Minerals Industry, postponed till 12 December 2002.

General business notice of motion no. 247 standing in the name of Senator Greig for 14 November 2002, relating to the reference of matters to the Joint Standing Committee on Treaties, postponed till 19 November 2002.

General business notice of motion no. 249 standing in the name of Senator Allison for today, relating to the logging of native forests in Victoria, postponed till 14 November 2002.

General business notice of motion no. 255 standing in the name of Senator Brown for today, relating to former Colombian Senator Ingrid Betancourt and Ms Clara Rojas, postponed till 18 November 2002.

Senator Nettle, by leave, moved—That general business notice of motion no. 251 standing in her name for today, relating to the Timor Sea Treaty and the Greater Sunrise gas field, be postponed till the next day of sitting.

Question put and passed.

13 CHILDREN—INTERNATIONAL LABOUR ORGANISATION CONVENTION—CHILD LABOUR

Senator Stott Despoja, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 235—That the Senate—

- (a) notes that:
- (i) in June 1999 the International Labour Organisation (ILO) adopted Convention 182 regarding the worst forms of child labour,
 - (ii) this convention deals with children in the worst forms of labour, including trafficking, bonded and forced labour, armed conflict, prostitution and pornography,
 - (iii) in April 2002, ILO research found that there were 8.4 million children world wide involved in the worst forms of child labour,
 - (iv) to date, 131 countries, including the United States, New Zealand, Papua New Guinea, the United Kingdom, Iraq and Thailand, have ratified this convention,
 - (v) this convention has been the fastest ratified in the 82 year history of the ILO, demonstrating an overwhelming international commitment to eliminating abusive child labour, and
 - (vi) Australia remains in a minority of nations, including Eritrea, Swaziland, Suriname, Kyrgyzstan, Kiribati and India, which have not ratified the convention, and is the only Organisation for Economic Co-operation and Development nation not to have done so; and
- (b) encourages the Australian Government to immediately pursue the ratification of ILO Convention 182.

Question put and passed.

14 CONSIDERATION OF LEGISLATION

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. 2—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.

Question put and passed.

15 DEFENCE—SPENDING—PROPOSED ORDER FOR PRODUCTION OF DOCUMENTS

The Leader of the Australian Democrats (Senator Bartlett), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 244—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.

Question put and negatived.

**16 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. 242—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.

Question put and passed.

**17 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—LEAVE
TO MEET DURING SITTING**

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. 243—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.

Question put and passed.

18 DEATH OF MR JIMMY PIKE

Senator Ridgeway, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 248—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.

Question put and passed.

19 LAW AND JUSTICE—FORMER SENATOR COLSTON

Senator Mackay, at the request of the Leader of the Opposition in the Senate (Senator Faulkner) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 253—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.

Question put and passed.

20 COMMUNITY AFFAIRS LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Ferris, at the request of the Chair of the Community Affairs Legislation Committee (Senator Knowles) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 246—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.

Question put and passed.

21 HOUSE—STANDING COMMITTEE—AMENDMENT OF STANDING ORDER 21

Senator Mackay, at the request of the Deputy President (Senator Hogg) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 254—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.

Question put and passed.

22 TRADE—WORLD TRADE ORGANISATION—GENERAL AGREEMENT ON TRADE IN SERVICES

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 250—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.

Question put and passed.

23 FOREIGN AFFAIRS—IRAQ—MILITARY ACTION

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 252—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.

Question put.

The Senate divided—

AYES, 9

Senators—

Allison (Teller)
Bartlett
Cherry

Greig
Lees

Murray
Nettle

Ridgeway
Stott Despoja

NOES, 38

Senators—

Alston	Conroy	Lightfoot	Patterson
Barnett	Cook	Ludwig	Reid
Brandis	Crossin	Lundy	Santoro
Buckland	Denman	Mackay	Tchen
Campbell, George	Eggleston	Marshall	Tierney
Campbell, Ian	Ferguson	Mason	Troeth
Carr	Ferris (Teller)	McGauran	Webber
Chapman	Hogg	McLucas	Wong
Colbeck	Hutchins	Moore	
Collins	Johnston	O'Brien	

Question negatived.

24 CONSIDERATION OF LEGISLATION

The Minister for Communications, Information Technology and the Arts (Senator Alston), at the request of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) and pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 1—That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the Workplace Relations Amendment (Fair Dismissal) Bill 2002 [No. 2], allowing it to be considered during this period of sittings.

Statements by leave: The Leader of the Australian Democrats (Senator Bartlett) and Senators Ludwig, Alston, Murray and Murphy, by leave, made statements relating to the motion.

Question put.

The Senate divided—

AYES, 33

Senators—

Abetz	Coonan	Lightfoot	Santoro
Alston	Eggleston	Macdonald, Ian	Scullion
Barnett	Ellison	Macdonald, Sandy	Tchen
Boswell	Ferguson	Mason	Tierney
Brandis	Ferris	McGauran (Teller)	Troeth
Calvert	Heffernan	Minchin	Vanstone
Campbell, Ian	Johnston	Patterson	
Chapman	Kemp	Payne	
Colbeck	Knowles	Reid	

NOES, 37

Senators—

Allison	Cook	Lees	O'Brien
Bartlett	Crossin	Ludwig	Ray
Bishop	Denman	Lundy	Ridgeway
Bolkus	Evans	Mackay (Teller)	Stephens
Buckland	Forshaw	Marshall	Stott Despoja
Campbell, George	Greig	McLucas	Webber
Carr	Harradine	Moore	Wong
Cherry	Hogg	Murphy	
Collins	Hutchins	Murray	
Conroy	Kirk	Nettle	

Question negatived.

**25 SCRUTINY OF BILLS—STANDING COMMITTEE—14TH REPORT AND ALERT DIGEST
NO. 13 OF 2002**

The Chairman of the Standing Committee for the Scrutiny of Bills (Senator McLucas) tabled the following report and document:

Scrutiny of Bills—Standing Committee—

14th report of 2002, dated 13 November 2002.

Alert Digest No. 13 of 2002, dated 13 November 2002.

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

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

Question put and passed.

26 DOCUMENTS

The following documents were tabled by the Clerk:

Christmas Island Act—Utilities and Services Ordinance—Marine Traffic and Harbour Facilities (Cargo Storage) Determination No. 2 of 2002.

Civil Aviation Act—Civil Aviation Regulations—Airworthiness Directives—Part 105, dated 24 [4] October; and 1 [6], 7 and 8 November 2002.

National Health Act—Determination No. PB 15 of 2002.

Radiocommunications Act—Radiocommunications Licence Conditions (Broadcasting Licence) Amendment Determination 2002 (No. 1).

27 COMMUNITY AFFAIRS LEGISLATION COMMITTEE—CHANGES IN MEMBERSHIP

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

The Minister for Communications, Information Technology and the Arts (Senator Alston), by leave, moved—That Senators McLucas and Moore replace Senators Denman and Hutchins on the Community Affairs Legislation Committee for the consideration of the 2002-03 supplementary budget estimates on 21 November and 22 November 2002.

Question put and passed.

28 FAMILY LAW LEGISLATION AMENDMENT (SUPERANNUATION) (CONSEQUENTIAL PROVISIONS) BILL 2002

A message from the House of Representatives was reported agreeing to the amendments made by the Senate to the following bill:

Message no. 190, dated 12 November 2002—Family Law Legislation Amendment (Superannuation) (Consequential Provisions) Bill 2002.

29 CRIMINAL CODE AMENDMENT (OFFENCES AGAINST AUSTRALIANS) BILL 2002

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

Message no. 191, dated 13 November 2002—A Bill for an Act to amend the *Criminal Code Act 1995*, and for related purposes.

The Minister for Communications, Information Technology and the Arts (Senator Alston) 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 Alston moved—That this bill be now read a second time.

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

30 TELSTRA CARRIER CHARGES—MOTION FOR DISALLOWANCE

Senator Conroy, pursuant to notice, moved business of the Senate notice of motion no. 2—That the Telstra Carrier Charges—Price Control Arrangements, Notification and Disallowance Determination No. 1 of 2002, made under subsections 154(1), 155(1) and 157(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*, be disallowed.

Debate ensued.

Question put.

The Senate divided—

AYES, 25

Senators—

Bishop	Cook	Kirk	Nettle
Bolkus	Crossin (Teller)	Ludwig	O'Brien
Buckland	Denman	Lundy	Webber
Campbell, George	Evans	Mackay	Wong
Carr	Forshaw	Marshall	
Collins	Hogg	McLucas	
Conroy	Hutchins	Moore	

NOES, 38

Senators—

Abetz	Colbeck	Lees	Reid
Allison	Coonan	Lightfoot	Ridgeway
Barnett	Eggleston (Teller)	Macdonald, Ian	Santoro
Bartlett	Ellison	Macdonald, Sandy	Scullion
Boswell	Ferris	Mason	Tchen
Brandis	Greig	McGauran	Tierney
Calvert	Harradine	Minchin	Troeth
Campbell, Ian	Heffernan	Murray	Vanstone
Chapman	Johnston	Patterson	
Cherry	Knowles	Payne	

Question negatived.

31 PROHIBITION OF HUMAN CLONING BILL 2002

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

In the committee

Consideration resumed of the bill, as amended.

Senator Bishop moved the following amendment:

Division 1, page 14 (line 4) to page 15 (line 3), omit the Division, substitute:

Division 1—Review of Act

25 Review of operation of Act

- (1) As soon as practicable after the second anniversary of the day on which this Act received the Royal Assent, a joint committee of members of the Parliament, to be known as the Parliamentary Joint Committee into Research Involving Human Embryos, must be appointed to review the operation of this Act.
- (2) The Parliamentary Joint Committee must consist of 12 members of whom:
 - (a) 6 must be senators appointed by the Senate; and
 - (b) 6 must be members of the House of Representatives appointed by that House.
- (3) The appointment of members by a House must be in accordance with that House's practice relating to the appointment of members of that House to serve on joint select committees of both Houses.
- (4) A person is not eligible for appointment as a member if he or she is:
 - (a) a Minister; or
 - (b) the President of the Senate; or
 - (c) the Speaker of the House of Representatives; or
 - (d) the Deputy President and Chairman of Committees of the Senate; or
 - (e) the Deputy Speaker and Chairman of Committees of the House of Representatives.
- (5) A member ceases to hold office:

- (a) when the House of Representatives expires or is dissolved; or
 - (b) if he or she becomes the holder of an office referred to in a paragraph of subsection (4); or
 - (c) if he or she ceases to be a member of the House by which he or she was appointed; or
 - (d) if he or she resigns his or her office as provided by subsection (6) or (7), as the case requires.
- (6) A member appointed by the Senate may resign his or her office by writing signed and delivered to the President of the Senate.
 - (7) A member appointed by the House of Representatives may resign his or her office by writing signed and delivered to the Speaker of that House.
 - (8) A House may appoint one of its members to fill a vacancy among the members of the Parliamentary Joint Committee appointed by that House.
 - (9) The review must be completed within 3 years.
 - (10) The Parliamentary Joint Committee in undertaking the review must consider and report on the scope and operation of this Act and such matters as may be referred to it by either House of the Parliament.
 - (11) The report must contain recommendations about amendments (if any) that should be made to this Act.

Debate ensued.

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

Senator Harradine moved the following amendment:

Division 1, page 14 (line 4) to page 15 (line 3), omit the Division, substitute:

Division 1—Review of Act

25 Review of operation of Act

- (1) The Minister must cause an independent public review of the operation of this Act to be undertaken as soon as possible after the second anniversary of the day on which this Act received the Royal Assent.
- (2) The review is to be undertaken by persons chosen by the Minister, with the agreement of each State.
- (3) The Minister must not choose a person to undertake the review if the person has a continuing personal, professional or pecuniary conflict of interest with the matter being reviewed.
- (4) The persons undertaking the review must give the Parliaments of the Commonwealth and of each State and Territory a written report of the review including any recommendations for amendments to Commonwealth legislation before the third anniversary of the day on which this Act received the Royal Assent.
- (5) The persons undertaking the review must consider and report on the scope and operation of this Act taking into account the objects of this Act and the following:
 - (a) the need to preserve and protect human life;

- (b) the need to ensure that in any medical research on human subjects, considerations relating to the wellbeing of a human subject will take precedence over the interests of science and society;
 - (c) the current state of technology and practice in relation to assisted reproductive technology;
 - (d) developments in medical research and scientific research including any therapeutic applications of such research;
 - (e) community standards.
- (6) The persons undertaking the review must call for public submissions and publicly hear evidence from:
- (a) the Commonwealth and the States and Territories;
 - (b) a broad range of persons with expertise in or experience of relevant disciplines;
 - (c) a representative cross-section of persons who have responded to the call for submissions;
- and the views of the Commonwealth, the States and Territories and the persons mentioned in paragraphs (b) and (c) must be set out in the report to the extent that it is reasonably practicable to do so. In any event the report must contain a list of names of all persons who have made a submission together with the title of their submission.
- (7) A person undertaking the review has, in conducting the review, the same protection and immunity as a Justice of the High Court.
- (8) A person appearing before the review as a witness has the same protection as a witness in proceedings in the High Court.

Senator Harradine, by leave, withdrew the amendment.

Senator Harradine moved the following amendment:

Clause 25, page 14 (line 6), after “independent”, insert “public”.

Debate ensued.

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

Bill, as amended, further debated.

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

Clause 25, page 14 (line 13), after “Governments”, insert “and both Houses of the Parliament”.

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

Schedule 1 debated and agreed to.

The Minister for Health and Ageing (Senator Patterson) moved—That the committee report progress and ask leave to sit again.

Question put and passed.

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

Ordered, on the motion of Senator Patterson, that the committee have leave to sit again on the next day of sitting.

Statement by leave: The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), by leave, made a statement relating to the consideration of the Prohibition of Human Cloning Bill 2002 and the Research Involving Embryos Bill 2002.

32 ADJOURNMENT

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That the Senate do now adjourn.

Debate ensued.

Time expired: The debate reached the limit of 40 minutes.

The Senate adjourned at 10.58 pm till Thursday, 14 November 2002 at 9.30 am.

33 ATTENDANCE

Present, all senators except Senators Brown* and Harris (* on leave).

HARRY EVANS
Clerk of the Senate