

2002

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

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**1 MEETING OF SENATE**

The Senate met at 2 pm. The President (Senator the Honourable Margaret Reid) took the chair and read prayers.

**2 GOVERNMENT DOCUMENTS**

The following government documents were tabled:

Australia-India Council—Report for 2000-01.

Australian National University—Report for 2001.

Treaties—

*Bilateral*—Text, together with national interest analysis—

Exchange of Notes Constituting an Agreement between the Government of Australia and the Government of the Democratic Republic of East Timor concerning Arrangements for Exploration and Exploitation of Petroleum in an Area of the Timor Sea Between East Timor and Australia, done at Dili on 20 May 2002.

Timor Sea Treaty between the Government of Australia and the Government of East Timor, done at Dili on 20 May 2002.

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

*Multilateral*—Text, together with national interest analysis and regulation impact statement—Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, done at Rome on 24 November 1993.

**3 QUESTIONS**

Questions without notice were answered.

**4 MINISTER FOR REVENUE AND ASSISTANT TREASURER—ANSWERS TO QUESTIONS**

Senator Conroy moved—That the Senate take note of the answers given by the Minister for Revenue and Assistant Treasurer (Senator Coonan) to questions without notice asked today.

Debate ensued.

Question put and passed.

**5 FOREIGN AFFAIRS—GENERAL AGREEMENT ON TRADE AND SERVICES—ANSWER TO QUESTION**

Senator Cherry 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 Cherry today relating to the General Agreement on Trade and Services.

Question put and passed.

**6 MINING—CHRISTMAS ISLAND—ORDER FOR PRODUCTION OF DOCUMENTS—  
STATEMENT BY LEAVE**

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), by leave, made a statement relating to the order of the Senate of 19 June 2002 for the production of documents concerning the current mine lease or leases on Christmas Island held by Phosphate Resource Ltd (*see entry no. 26, 19 June 2002*).

**7 NOTICES**

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

- (a) notes, with sadness, the passing of one of the grand masters of Aboriginal art in Australia, Mr Clifford Possum Tjapaltjarri, on 21 June 2002, and thanks the Tjapaltjarri family for their permission to refer to him by name in recognition of his importance and standing as an artist;
- (b) remembers Mr Tjapaltjarri as one of the youngest members of the ‘painting men’ of the Central and Western Desert who founded the Papunya Tula movement in the 1970s, and who made the transition from carving and sand-painting to the use of canvas to share his traditional Dreaming stories with the world;
- (c) recognises that Mr Tjapaltjarri’s work is 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 pre-eminent Aboriginal artists and cultural custodians;
- (d) pays tribute to Mr Tjapaltjarri’s outstanding life’s work, which brought him and his community national and international acclaim and now constitutes an invaluable part of the nation’s cultural heritage; and
- (e) posthumously congratulates Mr Tjapaltjarri on his most deserving award of an Order of Australia in June 2002 in recognition of his outstanding contribution as an artist. (*general business notice of motion no. 104*)

Senator Bartlett: To move on the next day of sitting—That there be laid on the table, no later than 4 pm on Monday, 19 August 2002, the following:

- (a) any materials held by Geoscience Australia (GA) relating to research or exploration proposals in the Queensland and Townsville troughs by overseas interests after 1990;
- (b) all communications and records of communications of GA with the oil exploration industry in relation to the North East (NE) Region since 1990;
- (c) all well summary charts and geohistory plots in the NE Region;
- (d) all satellite data held in relation to the Great Barrier Reef and adjacent areas, including depth and penetration data;
- (e) any materials produced by GA relating to the SAR satellite data, including maps, reports, briefs, correspondence and studies;
- (f) all invoices relating to the costs of acquired SAR satellite data in the NE Region;
- (g) all invoices related to the costs of ensuring weather compliance for acquired SAR satellite data in the NE Region;

- (h) all communications or records of communications with the Great Barrier Reef Marine Park Authority relating to the use or acquisition of SAR satellite data in the NE Region;
- (i) all Australian Geological Survey Organisation/GA workplans, specifically with reference to the NE Australia program and area;
- (j) all workplans containing reference to the acquisition of SAR satellite data in the NE region;
- (k) all workplans containing reference to any agreements, cooperative arrangements or similar undertakings with the Great Barrier Reef Marine Park Authority in relation to the acquisition or use of SAR satellite data;
- (l) all correspondence relating to the release of land in the Coral Sea for purposes of oil exploration or drilling post-1990;
- (m) a copy of the 1990 comprehensive program for release of offshore areas for exploration in the NE Region;
- (n) any documents estimating petroleum reserves of any of the areas in the NE Region; and
- (o) a copy of the 1994 report (not the academic paper) on the NE study area that GA offered for sale. (*general business notice of motion no. 105*)

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell): To move on the next day of sitting—

- (1) That, on Wednesday, 26 June 2002:
  - (a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to 11.10 pm;
  - (b) the question for the adjournment of the Senate shall be proposed at 10.30 pm; and
  - (c) the routine of business from 7.30 pm shall be government business only.
- (2) That, on Thursday, 27 June 2002:
  - (a) the hours of meeting shall be 9.30 am to adjournment;
  - (b) consideration of general business and consideration of committee reports, government responses and Auditor-General's reports under standing order 62(1) and (2) shall not be proceeded with;
  - (c) valedictory statements may be made from not later than 4.30 pm to not later than 8 pm;
  - (d) the routine of business from the conclusion of valedictory statements shall be government business only;
  - (e) divisions may take place after 6 pm; and
  - (f) the question for the adjournment of the Senate shall not be proposed till a motion for the adjournment is moved by a minister.

Senator Brown: To move on the next day of sitting—That there be laid on the table, no later than 2 pm on Thursday, 27 June 2002, the following documents:

- (a) Australia's Third National Report under the United Nations (UN) Framework Convention on Climate Change (3rd National Communications Report to the Intergovernmental Panel on Climate Change) or the draft of that report;

- (b) the latest documentation showing latest projected Australian greenhouse gas emissions for 2010;
- (c) the 2000 National Greenhouse Gas inventory or the draft 2000 National Greenhouse Gas inventory; and
- (d) Greenhouse Gas Emissions from Land Use Change in Australia: Results from the National Carbon Accounting System for 1990 to 1999. (*general business notice of motion no. 106*)

## 8 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 Community Affairs References Committee, postponed till 26 June 2002.

Government business notice of motion no. 2 standing in the name of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell) for today, relating to the consideration of legislation, postponed till 26 June 2002.

General business notice of motion no. 98 standing in the name of the Leader of the Australian Democrats (Senator Stott Despoja) for today, relating to parliamentary debate on any proposed military involvement by Australia, postponed till 26 June 2002.

## 9 NOTICES OF MOTION WITHDRAWN

Senator O'Brien withdrew business of the Senate notice of motion no. 2 standing in his name for today, relating to the reference of a matter to the Rural and Regional Affairs and Transport References Committee.

Senator Murphy withdrew general business notice of motion no. 10 standing in his name for today, relating to the establishment of a select committee on forestry and plantation matters.

## 10 LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE—REFERENCE

Senator Sherry, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 4—That the following matters be referred to the Legal and Constitutional References Committee for inquiry and report by 29 August 2002:

- (a) the implications of excision for border security;
- (b) the effect of excision on affected communities, including Indigenous communities;
- (c) the financial impact on the Commonwealth;
- (d) the nature of consultation with affected communities in relation to the Government's excision proposals;
- (e) the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002; and
- (f) whether the legislation is consistent with Australia's international obligations.

*Statements by leave:* Senator Sherry, the Parliamentary Secretary to the Treasurer (Senator Ian Campbell) and Senators Bartlett, Murphy and Brown, by leave, made statements relating to the motion.

Question put.

The Senate divided—

AYES, 37

Senators—

|                  |         |                 |               |
|------------------|---------|-----------------|---------------|
| Allison          | Collins | Harradine       | Murray        |
| Bartlett         | Conroy  | Hogg            | Ray           |
| Bishop           | Cook    | Hutchins        | Ridgeway      |
| Bolkus           | Cooney  | Lees            | Schacht       |
| Bourne           | Crossin | Ludwig          | Sherry        |
| Brown            | Crowley | Lundy           | Stott Despoja |
| Buckland         | Denman  | Mackay (Teller) | West          |
| Campbell, George | Evans   | McKiernan       |               |
| Carr             | Gibbs   | McLucas         |               |
| Cherry           | Greig   | Murphy          |               |

NOES, 33

Senators—

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

Question agreed to.

**11 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION**

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, on Tuesday, 25 June 2002:

- (a) the hours of meeting shall be 2 pm to 6.30 pm and 7.30 pm to 11.10 pm;
- (b) the question for the adjournment of the Senate shall be proposed at 10.30 pm; and
- (c) the routine of business from 7.30 pm shall be government business only.

Question put and passed.

**12 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES COMMITTEE—REFERENCE**

The Chair of the Environment, Communications, Information Technology and the Arts References Committee (Senator Allison), pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 3—That the following matter be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by the last sitting day in March 2003:

The role of libraries as providers of public information in the online environment, having particular regard to:

- (a) the current community patterns of demand for public information services through libraries, including the provision of such information online;
- (b) the response by libraries (public, university, research) to the changing information needs of Australians, including through the provision of online resources;
- (c) possible strategies which would enhance the wider use and distribution of information resources held by libraries, including the establishment of library networks, improved online access in libraries, online libraries, and greater public knowledge and skill in using library resources;
- (d) the use of libraries to deliver information and services over the Internet to more effectively meet community demands for public information in the online environment; and
- (e) the roles of various levels of government, the corporate sector and libraries themselves in ensuring the most effective use of libraries as a primary public information resource in the online environment.

Question put and passed.

**13 FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE—EXTENSIONS OF TIME TO REPORT**

Senator Calvert, at the request of Chair of the Finance and Public Administration Legislation Committee (Senator Mason) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 99—That the time for the presentation of reports of the Finance and Public Administration Legislation Committee be extended as follows:

- (a) Charter of Political Honesty Bill 2000 [2002] and 3 related bills—to 29 August 2002; and
- (b) Public Interest Disclosure Bill 2001 [2002]—to 26 September 2002.

Question put and passed.

**14 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES COMMITTEE—EXTENSION OF TIME TO REPORT**

The Chair of the Environment, Communications, Information Technology and the Arts References Committee (Senator Allison), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 102—That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts References Committee on urban water management be extended to 29 August 2002.

Question put and passed.

**15 FINANCE—RETIREMENT AND INCOME MODELLING—ORDER FOR PRODUCTION OF DOCUMENTS**

Senator Sherry, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 100—That there be laid on the table, on the last sitting day of the 2002 winter sittings, the modelling, including information on projected spending for payments to individuals, education, health and aged care spending, prepared for the draft Intergenerational Report in early 2002 before budget changes were factored in, prepared by the Retirement and Income Modelling Unit, Treasury and identified in Treasury's evidence before the Economics Legislation Committee on 6 June 2002.

Question put and passed.

**16 ENVIRONMENT—CLIMATE CHANGE AND RENEWABLE ENERGY MEASURES**

Senator Allison, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 93—That the Senate—

- (a) notes the recent report, *Community Attitudes to Climate Change*, by research firm Taylor Nelson Sofres, which found that:
  - (i) 85 per cent believe that global warming is mostly a result of human interference in the global climate system,
  - (ii) 80 per cent support government subsidies for companies to build renewable power stations,
  - (iii) 77 per cent believe that the Government should be planning the progressive replacement of all coal-fired power stations with renewable energy and gas power stations over the next 20 years,
  - (iv) 64 per cent support paying higher prices for petrol if some of the revenue is used to develop environmentally-friendly fuels and provide improved public transport, and
  - (v) 63 per cent support the introduction of new laws to improve energy efficiency; and
- (b) calls on the Government to:
  - (i) introduce measures to phase-out coal-fired power stations, replacing them with renewable energy and gas generation,
  - (ii) reintroduce fuel excise indexation and use funds raised to promote cleaner fuels and public transport, and
  - (iii) mandate national energy efficiency performance standards.

Question put and negatived.

**17 ENVIRONMENT—MARINE PROTECTION**

Senator Allison, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 92—That the Senate—

- (a) notes that legislation has now been passed in the Victorian State Parliament to create a system of 13 fully-protected marine national parks and 11 fully-protected marine sanctuaries, making up 5.3 per cent of Victorian coastal waters;

- (b) congratulates:
  - (i) the Victorian State Government for providing this important protection for Victoria's diverse and unique marine environment,
  - (ii) the Environment Conservation Council for its detailed studies and proposals on marine protection over many years, and
  - (iii) the Victorian National Parks Association for its ongoing advocacy; and
- (c) urges other states to implement legislation to protect their marine environments.

Question put and passed.

#### 18 ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLES—NATIONAL CENSUS

Senator Allison, at the request of Senator Ridgeway and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 101—That the Senate—

- (a) notes that:
  - (i) Aboriginal and Torres Strait Islander Peoples have only been counted in the national census for the past 30 years (since 1971), even though Australia has been a federation for 100 years,
  - (ii) the results of the 2001 Census of Population and Housing shows the Indigenous population of Australia has increased 16.2 per cent since 1996 and now stands at 410 003 people,
  - (iii) Indigenous people now represent 2.2 per cent of the national population and the Indigenous population is growing at a rate more than twice that of the general population (which stands at 6 per cent),
  - (iv) 58 per cent of the Australian Indigenous population is under 25 years of age, which is in stark contrast to the non-Indigenous population where only about one-third (35 per cent) is aged under 25 years, and
  - (v) 40 per cent of the juvenile detention centre population is Indigenous and 20 per cent of the national adult prison population is Indigenous;
- (b) expresses its concern at the disparity in rates of attendance at secondary school between Indigenous children (46 per cent) and non-Indigenous children (70 per cent), which is contributing to the relatively low percentage of Indigenous Australians who complete Year 12 (10 per cent) compared with the rate for Year 12 completion in the total population (30 per cent), and notes that both rates are of concern; and
- (c) calls on the Government to:
  - (i) recognise the longer term implications of these figures, especially as they relate to the provision of educational opportunities and the need to foster the emerging young Indigenous leadership, and
  - (ii) use these figures, in conjunction with the recommendations of the Commonwealth Grants Commission Report into Indigenous Funding, when planning for the development and delivery of Indigenous programs and services.

Question put and passed.

**19 ENVIRONMENT—LUCAS HEIGHTS REACTOR—ORDER FOR PRODUCTION OF DOCUMENTS**

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 103—That there be laid on the table, no later than the end of question time on Wednesday, 26 June 2002, the study commissioned by the Australian Nuclear Science and Technology Organisation, on behalf of the Australian Radiation Protection and Nuclear Safety Agency, of the preliminary evaluation of the construction site for the replacement research reactor at Lucas Heights, carried out by the New Zealand company, the Institute of Geological and Nuclear Sciences, which included geological mapping of the excavation of the construction site and has revealed a geological anomaly or ‘fault’ at the site.

Question put and passed.

**20 AUDITOR-GENERAL—AUDIT REPORT NO. 61 OF 2001-02—DOCUMENT**

The Acting Deputy President (Senator Chapman) tabled the following document:

Auditor-General—Information support services—Managing people for business outcomes (Report no. 61 of 2001-02).

**21 LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE—REPORT—BUDGET ESTIMATES 2002-03**

Senator Calvert, at the request of the Chair of the Legal and Constitutional Legislation Committee (Senator Payne), tabled the following report and documents:

Legal and Constitutional Legislation Committee—2002-03 Budget estimates—Report, dated June 2002 and *Hansard* record of proceedings [5 vols].

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

**22 SUPERANNUATION—SELECT COMMITTEE—REPORT—TAXATION LAWS AMENDMENT (SUPERANNUATION) BILL (NO. 2) 2002 AND SUPERANNUATION GUARANTEE CHARGE AMENDMENT BILL 2002**

Senator Calvert, at the request of the Chair of the Select Committee on Superannuation (Senator Watson), tabled the following report and documents:

Superannuation—Select Committee—Taxation Laws Amendment (Superannuation) Bill (No. 2) 2002 and Superannuation Guarantee Charge Amendment Bill 2002—Report, dated June 2002, *Hansard* record of proceedings, additional information and submissions [12].

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

**23 DOCUMENTS**

The following documents were tabled by the Clerk:

Disability Services Act—

Disability Services (Administration of Part II of the Act) Guidelines 2002.

Disability Services (Disability Employment and Rehabilitation Program) Standards 2002.

Disability Services (Rehabilitation Programs) Guidelines 2002.

Export Control Act—Export Control (Orders) Regulations—Livestock Export (Merino) Orders (Amendment)—Export Control Orders No. 1 of 2002.

Export Market Development Grants Act—Determination 1/2002—Determination of the Balance Distribution Date for grant year 2000/01 and Initial Payment Ceiling Amount for grant year 2001/02.

Hearing Services Administration Act—Hearing Services Rules of Conduct Amendment Rules 2002 (No. 1).

**24 HEALTH INSURANCE—ANTI-COMPETITIVE PRACTICES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT**

The following document was tabled pursuant to the order of the Senate of 25 March 1999:

Australian Competition and Consumer Commission—Report to the Australian Senate on anti-competitive and other practices by health funds and providers in relation to private health insurance for the period 1 July to 31 December 2001.

**25 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—APPOINTMENT OF MEMBER**

The Acting Deputy President (Senator Chapman) informed the Senate that the President had received a letter nominating a senator to be a member of a committee.

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), by leave, moved—That Senator Heffernan be appointed as a participating member of the Rural and Regional Affairs and Transport Legislation Committee.

Question put and passed.

**26 ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION AMENDMENT 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. 101, dated 24 June 2002—Aboriginal and Torres Strait Islander Commission Amendment Bill 2002.

**27 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES COMMITTEE—REFERENCE**

Senator Mackay, also on behalf of the Chair of the Environment, Communications, Information Technology and the Arts References Committee (Senator Allison), pursuant to notice, moved business of the Senate notice of motion no. 5—That the following matters be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by 21 February 2003:

- (a) the capacity of the Australian telecommunications network, including the public switched telephone network, to deliver adequate services to all Australians, particularly in rural and regional areas;
- (b) the capacity of the Australian telecommunications network, including the public switched telephone network, to provide all Australians with reasonable, comparable and equitable access to broadband services;

- (c) current investment patterns and future investment requirements to achieve adequacy of services in the Australian telecommunications network;
- (d) regulatory or other measures which might be required to bring the Australian telecommunications network up to an adequate level to ensure that all Australians may obtain access to adequate telecommunications services; and
- (e) any other matters, including international comparisons, which are deemed relevant to these issues by the committee.

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved the following amendment:

After paragraph (d), insert:

- (e) whether proposals to structurally separate Telstra into a network company and a services company would enhance the ability of the telecommunications industry to deliver adequate services to all Australians; and

Debate ensued.

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

Main question put and passed.

28 **SECURITY LEGISLATION AMENDMENT (TERRORISM) BILL 2002 [No. 2]**  
**SUPPRESSION OF THE FINANCING OF TERRORISM BILL 2002**  
**CRIMINAL CODE AMENDMENT (SUPPRESSION OF TERRORIST BOMBINGS) BILL 2002**  
**BORDER SECURITY LEGISLATION AMENDMENT BILL 2002**  
**TELECOMMUNICATIONS INTERCEPTION LEGISLATION AMENDMENT BILL 2002**

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

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*In the committee*

**SECURITY LEGISLATION AMENDMENT (TERRORISM) BILL 2002 [No. 2]—**

Consideration resumed of the bill, as amended—*and of the amendment moved by Senator Brown*:

Schedule 1, item 3, page 7 (line 32) to page 8 (line 7), omit paragraphs (2)(d) and (e).

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

Senator Brown moved the following amendment:

Schedule 1, paragraph 100.1(2)(a), as amended, after “person”, add “other than the person taking the action”.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 13

Senators—

Allison

Bartlett

Bourne (Teller)

Brown

Cherry

Greig

Harradine

Harris

Lees

Murphy

Murray

Ridgeway

Stott Despoja

## NOES, 46

## Senators—

|                  |                  |                  |          |
|------------------|------------------|------------------|----------|
| Barnett          | Coonan           | Kemp             | Ray      |
| Bishop           | Cooney           | Knowles          | Reid     |
| Boswell          | Crossin (Teller) | Ludwig           | Schacht  |
| Brandis          | Crowley          | Lundy            | Scullion |
| Buckland         | Denman           | Macdonald, Sandy | Sherry   |
| Calvert          | Eggleston        | Mackay           | Tchen    |
| Campbell, George | Ferguson         | Mason            | Tierney  |
| Campbell, Ian    | Ferris           | McGauran         | Troeth   |
| Colbeck          | Forshaw          | McKiernan        | Watson   |
| Collins          | Gibbs            | McLucas          | West     |
| Conroy           | Hogg             | O'Brien          |          |
| Cook             | Hutchins         | Patterson        |          |

Question negatived.

Consideration resumed of the amendments moved by the Minister for Justice and Customs (Senator Ellison) and postponed on 24 June 2002 (*see entry no. 23, 24 June 2002*):

No. 1—Schedule 1, item 3, page 7 (lines 20 to 26), omit the definition of *terrorist act*, substitute:

*terrorist act* means an action or threat of action where:

- (a) the action falls within subsection (2) and does not fall within subsection (2A); and
- (b) the action is done or the threat is made with the intention of advancing a political, religious or ideological cause; and
- (c) the action is done or the threat is made with the intention of:
  - (i) coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or
  - (ii) intimidating the public or a section of the public.

No. 2—Schedule 1, item 3, page 8 (after line 7), after subsection 100.1(2), insert:

(2A) Action falls within this subsection if it:

- (a) is advocacy, protest, dissent or industrial action; and
- (b) is not intended:
  - (i) to cause serious harm that is physical harm to a person; or
  - (ii) to cause a person's death; or
  - (iii) to endanger the life of a person, other than the person taking the action; or
  - (iv) to create a serious risk to the health or safety of the public or a section of the public.

—and of the amendment moved by Senator Greig to Senator Ellison's proposed amendment no. 2:

Omit paragraph (a), substitute:

- (a) is lawful or unlawful advocacy, protest, dissent or industrial action; and

Debate resumed.

Question—That Senator Greig’s amendment to Senator Ellison’s proposed amendment no. 2 be agreed to—put and negatived. Senator Brown, by leave, recorded his vote for the ayes.

Debate continued.

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*Document:* The Leader of the Opposition in the Senate (Senator Faulkner), by leave, tabled the following document:

Security Legislation Amendment (Terrorism) Bill 2002 [No. 2]—Copy of form letter from Defence Service Homes Insurance to DSH Home Building Insurance policy holders relating to terrorism exclusion endorsement.

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Debate continued.

Senator Brown moved the following amendment to Senator Ellison’s proposed amendment no. 2:

Omit subparagraph (i), substitute:

- (i) to cause serious harm that is physical harm to a person other than the person taking the action; or

Question—That Senator Brown’s amendment to Senator Ellison’s proposed amendment no. 2 be agreed to—put and negatived.

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

Senator Brown moved the following amendments together by leave:

Schedule 1, item 3, page 8 (lines 8 to 13), omit subsection (3).

Schedule 1, item 4, page 10 (lines 2 and 3), omit subsection 101.1(2).

Debate ensued.

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

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

Schedule 1, item 3, page 8 (lines 15 to 17), omit subsection (1), substitute:

- (1) This Part applies to a terrorist act constituted by an action, or threat of action, in relation to which the Parliament has power to legislate.

Schedule 1, item 3, page 8 (lines 18 to 20), omit “an action, or threat of action, gives rise to an offence under this Part to the extent that”, substitute “this Part applies to a terrorist act constituted by an action, or threat of action, if”.

Senator Ellison moved the following amendment:

Schedule 1, item 4, page 10 (lines 4 to 21), omit section 101.2, substitute:

**101.2 Providing or receiving training connected with terrorist acts**

- (1) A person commits an offence if:

- (a) the person provides or receives training; and
- (b) the training is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
- (c) the person mentioned in paragraph (a) knows of the connection described in paragraph (b).

Penalty: Imprisonment for 25 years.

- (2) A person commits an offence if:
  - (a) the person provides or receives training; and
  - (b) the training is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
  - (c) the person mentioned in paragraph (a) is reckless as to the existence of the connection described in paragraph (b).

Penalty: Imprisonment for 15 years.

- (3) A person commits an offence if:
  - (a) the person provides or receives training; and
  - (b) the training is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
  - (c) the person mentioned in paragraph (a) is negligent with respect to the existence of the connection described in paragraph (b).

Penalty: Imprisonment for 10 years.

- (4) A person commits an offence under this section even if the terrorist act does not occur.
- (5) Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against this section.
- (6) If, in a prosecution for an offence (the *prosecuted offence*) against a subsection of this section, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the *alternative offence*) against another subsection of this section, the trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

Senator Brown moved the following amendment to Senator Ellison's proposed amendment:

Omit subsection (2).

Debate ensued.

Question—That Senator Brown's amendment to Senator Ellison's proposed amendment be agreed to—put and negatived.

The Leader of the Opposition in the Senate (Senator Faulkner) moved the following amendment to Senator Ellison's proposed amendment:

Omit subsection (3).

Debate ensued.

Question—That Senator Faulkner’s amendment to Senator Ellison’s proposed amendment be agreed to—put.

The committee divided—

AYES, 35

Senators—

|                   |          |           |               |
|-------------------|----------|-----------|---------------|
| Allison           | Collins  | Harradine | McLucas       |
| Bartlett          | Cook     | Harris    | Murphy        |
| Bishop            | Cooney   | Hogg      | O’Brien       |
| Bourne            | Crossin  | Hutchins  | Ray           |
| Brown             | Crowley  | Lees      | Ridgeway      |
| Buckland (Teller) | Denman   | Ludwig    | Schacht       |
| Campbell, George  | Evans    | Lundy     | Stott Despoja |
| Carr              | Faulkner | Mackay    | West          |
| Cherry            | Greig    | McKiernan |               |

NOES, 30

Senators—

|                  |           |                  |          |
|------------------|-----------|------------------|----------|
| Abetz            | Crane     | Knowles          | Scullion |
| Barnett          | Eggleston | Lightfoot        | Tchen    |
| Boswell          | Ellison   | Macdonald, Ian   | Tierney  |
| Brandis          | Ferguson  | Macdonald, Sandy | Troeth   |
| Calvert (Teller) | Ferris    | Mason            | Vanstone |
| Chapman          | Heffernan | McGauran         | Watson   |
| Colbeck          | Herron    | Minchin          |          |
| Coonan           | Kemp      | Payne            |          |

Question agreed to.

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

Senator Ellison moved the following amendments together by leave:

No. 1—Schedule 1, item 4, page 11 (lines 1 to 16), omit section 101.4, substitute:

**101.4 Possessing things connected with terrorist acts**

- (1) A person commits an offence if:
- the person possesses a thing; and
  - the thing is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
  - the person mentioned in paragraph (a) knows of the connection described in paragraph (b).

Penalty: Imprisonment for 15 years.

- (2) A person commits an offence if:
- the person possesses a thing; and
  - the thing is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
  - the person mentioned in paragraph (a) is reckless as to the existence of the connection described in paragraph (b).

Penalty: Imprisonment for 10 years.

- (3) A person commits an offence under subsection (1) or (2) even if the terrorist act does not occur.
- (4) Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against this section.
- (5) Subsections (1) and (2) do not apply if the possession of the thing was not intended to facilitate preparation for, the engagement of a person in, or assistance in a terrorist act.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5) (see subsection 13.3(3)).

- (6) If, in a prosecution for an offence (the *prosecuted offence*) against a subsection of this section, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the *alternative offence*) against another subsection of this section, the trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

No. 2—Schedule 1, item 4, page 11 (line 17) to page 12 (line 2), omit section 101.5, substitute:

**101.5 Collecting or making documents likely to facilitate terrorist acts**

- (1) A person commits an offence if:
  - (a) the person collects or makes a document; and
  - (b) the document is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
  - (c) the person mentioned in paragraph (a) knows of the connection described in paragraph (b).

Penalty: Imprisonment for 15 years.

- (2) A person commits an offence if:
  - (a) the person collects or makes a document; and
  - (b) the document is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
  - (c) the person mentioned in paragraph (a) is reckless as to the existence of the connection described in paragraph (b).

Penalty: Imprisonment for 10 years.

- (3) A person commits an offence under subsection (1) or (2) even if the terrorist act does not occur.
- (4) Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against this section.
- (5) Subsections (1) and (2) do not apply if the collection or making of the document was not intended to facilitate preparation for, the engagement of a person in, or assistance in a terrorist act.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5) (see subsection 13.3(3)).

- (6) If, in a prosecution for an offence (the *prosecuted offence*) against a subsection of this section, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the *alternative offence*) against another subsection of this section, the trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

Senator Greig moved the following amendments to Senator Ellison's proposed amendments together by leave:

Amendment no. 1, after paragraph (1)(c), insert:

- ; (d) the person intended to facilitate preparation for, the engagement of a person in, or assistance in a terrorist act.

Amendment no. 1, omit subsection (5).

Amendment no. 2, after paragraph (1)(c), insert:

- ; (d) the person intended to facilitate preparation for, the engagement of a person in, or assistance in a terrorist act.

Amendment no. 2, omit subsection (5).

Debate ensued.

Question—That Senator Greig's amendments to Senator Ellison's proposed amendments be agreed to—put and negatived.

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

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 4, section 101.6.

Schedule 1, item 4, section 101.6 debated and agreed to.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 4, Division 102.

Schedule 1, item 4, Division 102 debated and agreed to.

Senator Ellison moved the following amendment:

Schedule 1, item 4, page 12 (lines 12 to 24), omit Subdivision A, substitute:

**Subdivision A—Definitions**

**102.1 Definitions**

- (1) In this Division:

*member* of an organisation includes:

- (a) a person who is an informal member of the organisation; and
- (b) a person who has taken steps to become a member of the organisation; and
- (c) in the case of an organisation that is a body corporate—a director or an officer of the body corporate.

*recruit* includes induce, incite and encourage.

**terrorist organisation** means:

- (a) an organisation that is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not the terrorist act occurs); or
  - (b) an organisation that is specified by the regulations for the purposes of this paragraph (see subsections (2) and (4)); or
  - (c) an organisation that is specified by the regulations for the purposes of this paragraph (see subsections (3), (4), (5) and (6)).
- (2) Before the Governor-General makes a regulation specifying an organisation for the purposes of paragraph (b) of the definition of **terrorist organisation** in this section, the Minister must be satisfied on reasonable grounds that the organisation is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not the terrorist act has occurred or will occur).
  - (3) Before the Governor-General makes a regulation specifying an organisation for the purposes of paragraph (c) of the definition of **terrorist organisation** in this section, the Minister must be satisfied on reasonable grounds that:
    - (a) the Security Council of the United Nations has made a decision relating wholly or partly to terrorism; and
    - (b) the organisation is identified in the decision, or using a mechanism established under the decision, as an organisation to which the decision relates; and
    - (c) the organisation is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not the terrorist act has occurred or will occur).
  - (4) Regulations for the purposes of paragraph (b) or (c) of the definition of **terrorist organisation** in this section may not take effect earlier than the day after the last day on which they may be disallowed under section 48 of the *Acts Interpretation Act 1901*. That section has effect subject to this subsection.
  - (5) Regulations for the purposes of paragraph (b) or (c) of the definition of **terrorist organisation** in this section cease to have effect on the second anniversary of the day on which they take effect. To avoid doubt, this subsection does not prevent:
    - (a) the repeal of those regulations; or
    - (b) the cessation of effect of those regulations under subsection (6); or
    - (c) the making of new regulations the same in substance as those regulations (whether the new regulations are made or take effect before or after those regulations cease to have effect because of this subsection).
  - (6) A regulation specifying an organisation for the purposes of paragraph (c) of the definition of **terrorist organisation** in this section ceases to have effect when:

- (a) the decision mentioned in paragraph (3)(b) ceases to have effect; or
- (b) the organisation ceases to be identified as described in paragraph (3)(b).

The regulation does not revive even if the organisation is again identified as described in paragraph (3)(b).

- (7) To avoid doubt, subsection (6) does not prevent:
  - (a) the repeal of a regulation; or
  - (b) the making of a regulation that is the same in substance as a regulation that has ceased to have effect because of that subsection.

Debate ensued.

Senator Faulkner moved the following amendments to Senator Ellison's proposed amendment together by leave:

- Omit paragraph (b) of the definition of *terrorist organisation*.
- Omit subsection (2).

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*At 10.30 pm:* The Deputy President (Senator West) resumed the chair and the Temporary Chair of Committees (Senator Ferguson) reported progress.

#### 29 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 11.09 pm till Wednesday, 26 June 2002 at 9 am.

#### 30 ATTENDANCE

Present, all senators.

**HARRY EVANS**  
Clerk of the Senate