

2002

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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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 documents were tabled:

Commonwealth Grants Commission—Report—Jervis Bay Territory 2002.

Reserve Bank of Australia—Report for 2001-02.

3 GOVERNOR-GENERAL'S OPENING SPEECH—ADDRESS-IN-REPLY—PRESENTATION

The President reminded the Senate that His Excellency the Governor-General would receive the address-in-reply at Government House today at 6.30 pm.

4 PROCEDURE—STANDING COMMITTEE—FIRST REPORT OF 2002—CONSIDERATION

Order of the day read for the consideration of the Procedure Committee's first report of 2002.

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That the recommendations of the Procedure Committee in its first report of 2002, relating to the adjournment debate, be adopted as follows:

Standing orders 54(5), 55(1) and 57(1), relating to the adjournment debate, be amended as set out in the report with immediate effect.

Debate ensued.

Question put and passed.

Accordingly the standing orders were amended to read as follows:

54 Adjournment without motion

- (5) Except on Tuesday debate on the question for the adjournment shall not exceed 40 minutes, and a senator shall not speak to that question for more than 10 minutes on any day. On Tuesday at the conclusion of debate, and on other days at the expiration of 40 minutes, at the conclusion of debate, or at the time specified for adjournment, whichever is the earlier, or if there is no debate, the President shall adjourn the Senate without putting the question.

55 Times of meetings

- (1) The days and times of meeting of the Senate in each sitting week shall be:

Monday 12.30 pm – 6.30 pm, 7.30 pm – 10.30 pm

Tuesday 2 pm – adjournment

Wednesday 9.30 am – 8 pm

Thursday 9.30 am – 8.40 pm.

57 Routine of business

- (1) The routine of business shall be:

(a) On Monday:

(i) Government business only

(ii) At 2 pm, questions

- (iii) Motions to take note of answers
 - (iv) Petitions
 - (v) Notices of motion
 - (vi) Postponement and rearrangement of business
 - (vii) Formal motions – discovery of formal business
 - (viii) Any proposal to debate a matter of public importance or urgency
 - (ix) Government business
 - (x) At 9.50 pm, adjournment proposed
 - (xi) At 10.30 pm, adjournment.
- (b) On Tuesday:
- (i) Questions
 - (ii) Motions to take note of answers
 - (iii) Petitions
 - (iv) Notices of motion
 - (v) Postponement and rearrangement of business
 - (vi) Formal motions – discovery of formal business
 - (vii) Any proposal to debate a matter of public importance or urgency
 - (viii) Government business
 - (ix) At 6.50 pm, consideration of government documents for up to 30 minutes under standing order 61
 - (x) At 7.20 pm, adjournment proposed
 - (xi) Adjournment.

Senator Ian Campbell moved—That the recommendations of the Procedure Committee relating to standing order 74(5) be referred to the Procedure Committee for further consideration.

Question put and passed.

5 HIGHER EDUCATION FUNDING AMENDMENT BILL 2002
HIGHER EDUCATION LEGISLATION AMENDMENT BILL (NO. 2) 2002

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth)—That these bills be now read a second time.

Debate resumed.

At 12.45 pm: Debate was interrupted.

6 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

Suspension of sitting: On the motion of the Parliamentary Secretary to the Minister for Transport and Regional Services (Senator Boswell) the sitting of the Senate was suspended till 2 pm.

At 2 pm—

7 QUESTION TIME—ALLOCATION OF QUESTIONS—STATEMENT BY PRESIDENT

The President made a statement relating to the allocation of the call at question time and reminded senators that the order of the call is a matter of practice and agreement.

8 QUESTIONS

Questions without notice were answered.

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

Health—Medicare—Copy of table B7, ‘Medicare: Percentage of services direct billed by quarter and financial year of processing by broad type of service’, from the Department of Health website.

9 ANSWERS TO QUESTIONS

Senator Conroy moved—That the Senate take note of the answers given by ministers to questions without notice asked today.

Debate ensued.

Question put and passed.

10 PETITION

The following petition, lodged with the Clerk by Senator Cherry, was received:

From 120 petitioners, requesting that the Senate urge the Government to release publicly the demands and concessions it proposes to make to other countries for opening up trade in services as part of negotiations on a new General Agreement on Trade in Services.

11 NOTICES

Notices of motion:

The Chair of the Legal and Constitutional References Committee (Senator Bolkus): To move on the next day of sitting—That the Legal and Constitutional References Committee be authorised to hold a public meeting during the sitting of the Senate on Monday, 16 September 2002, from 8 pm, to take evidence for the committee’s inquiry into the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002 and related issues. (*general business notice of motion no. 147*)

The Chair of the Community Affairs References Committee (Senator Hutchins): To move on the next day of sitting—That the time for the presentation of the report of the Community Affairs References Committee on the Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures) Bill 2002 and related issues be extended to 25 September 2002. (*general business notice of motion no. 148*)

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

- (a) notes that:
 - (i) since the election of the Howard Government, the rate of bulk billing by general practitioners (GPs) has dropped from 80.6 per cent to 74.5 per cent, and that the average patient cost to see a GP who does not bulk bill has gone up 41.8 per cent to nearly \$12, and
 - (ii) in every year from the commencement of Medicare in 1984 through to 1996, bulk billing rates for GPs increased, but that, in every year since the election of the Howard Government, bulk billing rates have decreased;
- (b) recognises that the unavailability of bulk billing hurts those Australians who are least able to afford the rising costs of health care and those who are at greatest risk of preventable illness and disease;
- (c) condemns the Howard Government's failure to take responsibility for declining rates of bulk billing; and
- (d) calls on the Minister for Health and Ageing (Senator Patterson) to release publicly the June 2002 quarter bulk billing figures so that the true extent of the problem is made known. (*general business notice of motion no. 149*)

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell): To move on the next day of sitting—That the order of the Senate of 25 March 1999, relating to an order for the production of periodic reports by the Australian Competition and Consumer Commission on private health insurance, be varied as follows:

Omit "6 months, commencing with the 6 months ending on 31 December 1999", substitute "12 months ending on or after 30 June 2003".

Contingent notice of motion:

Senator Carr gave a contingent notice of motion as follows: To move (contingent on the order of the Senate of 21 August 2002 for the production of documents relating to financial information on higher education institutions not being fully complied with by 16 September 2002)—

- (1) That the following matter be referred to the Employment, Workplace Relations and Education References Committee, for inquiry and report by the fifth day of sitting in February 2003:

The refusal, in the statement made in the Senate on 26 August 2002 on behalf of the Minister for Education, Science and Training, to respond to the order of the Senate of 21 August 2002 for documents relating to financial information concerning higher education, and the justification for that refusal.
- (2) That the committee, in considering this matter:
 - (a) call appropriate officers of the Department of Education, Science and Training to provide explanations of the information and the department's reasons for considering that the information should remain secret;
 - (b) call appropriate officers of other departments, including the Departments of Prime Minister and Cabinet, Treasury and Finance, to give other relevant evidence; and
 - (c) hear other witnesses with relevant evidence on the finances of higher education institutions.
- (3) That the committee seek all relevant advice from the Auditor-General.

12 **SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 7 OF 2002**

Senator Brandis, at the request of the Chairman of the Selection of Bills Committee (Senator Ferris) tabled the following report:

SELECTION OF BILLS COMMITTEE

REPORT NO. 7 OF 2002

1. The committee met on Tuesday, 27 August 2002.
2. The committee resolved to recommend—That—
 - (a) the following bills *not* be referred to committees:
 - ACIS Administration Amendment Bill 2002
 - States Grants (Primary and Secondary Education Assistance) Amendment Bill (No. 2) 2002
 - Taxation Laws Amendment (Structured Settlements) Bill 2002
 - Transport Safety Investigation Bill 2002
 - Transport Safety Investigation (Consequential Amendments) Bill 2002.
 - (b) the order of the Senate of 20 August 2002 adopting the 6th report of 2002 of the Selection of Bills Committee be varied to provide that the Trade Practices Amendment (Liability for Recreational Services) Bill 2002 be reconsidered.

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 14 May 2002*
Great Barrier Reef Marine Park (Boundary Extension) Amendment Bill 2002.
 - Bill deferred from meeting of 18 June 2002*
Australian Broadcasting Corporation (Scrutiny of Board Appointments) Amendment Bill 2002.
 - Bills deferred from meeting of 20 August 2002*
Environment and Heritage Legislation Amendment Bill (No. 1) 2002
Australian Heritage Council Bill 2002
Australian Heritage Council (Consequential and Transitional Provisions) Bill 2002
Financial Sector Legislation Amendment Bill (No. 2) 2002
Health Insurance Amendment (Professional Services Review and Other Matters) Bill 2002
Medical Indemnity Agreement (Financial Assistance—Binding Commonwealth Obligations) Bill 2002
New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Bill 2002
Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Bill 2002
Renewable Energy (Electricity) Amendment Bill 2002
Therapeutic Goods Amendment Bill (No. 2) 2002
Workplace Relations Legislation Amendment Bill 2002.

Bills deferred from meeting of 27 August 2002

Excise Tariff Amendment Bill (No. 1) 2002

Customs Tariff Amendment Bill (No. 2) 2002

Trade Practices Amendment (Liability for Recreational Services) Bill 2002.

Jeannie Ferris

Chair

28 August 2002.

Senator Brandis moved—That the report be adopted.

Question put and passed.

13 POSTPONEMENTS

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Conroy for today, relating to the disallowance of certain Corporations Amendment Regulations, postponed till 29 August 2002.

Business of the Senate notice of motion no. 2 standing in the name of Senator Bartlett for today, relating to the disallowance of the Environment Protection and Biodiversity Conservation Amendment Regulations 2001 (No. 3), postponed till 16 September 2002.

Business of the Senate notice of motion no. 3 standing in the name of Senator Bartlett for today, relating to the reference of a matter to the Foreign Affairs, Defence and Trade References Committee, postponed till 16 September 2002.

Business of the Senate notice of motion no. 4 standing in the name of Senator Harris for today, relating to the reference of a matter to the Rural and Regional Affairs and Transport Legislation Committee, postponed till 29 August 2002.

General business notice of motion no. 110 standing in the name of Senator Stott Despoja for today, relating to Australia's involvement in any pre-emptive military action, postponed till 16 September 2002.

14 SUPERANNUATION—COMMERCIAL NOMINEES OF AUSTRALIA LTD—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. 126—That there be laid on the table, on the next day of sitting, the advice by the Australian Prudential Regulation Authority, to the Assistant Treasurer, under section 230A of the *Superannuation Industry (Supervision) Act 1993* in relation to applications for financial assistance for superannuation funds where Commercial Nominees of Australia Ltd was trustee.

Question put and passed.

15 SUPERANNUATION—SUPERANNUATION WORKING GROUP—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. 127—That there be laid on the table, on the next day of sitting, the report presented to the Government by the Superannuation Working Group on 28 March 2002.

Question put and passed.

16 POSSIBLE SUPPORT BY AUSTRALIA OF A UNITED STATES INVASION OF IRAQ—SELECT COMMITTEE—PROPOSED APPOINTMENT

Senator Nettle, also on behalf of Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 125—

- (1) That a select committee, to be known as the Select Committee on the Possible Support by Australia of a United States Invasion of Iraq, be appointed to inquire into and report by 1 December 2002 on the following matters:
 - (a) the potential human, political, economic, environmental and other consequences in Iraq and elsewhere of United States of America (US) military action against Iraq;
 - (b) the potential human, political, economic, environmental and other costs to Australia of participating in or supporting US military action against Iraq;
 - (c) international and domestic legal considerations for US or Australian military action against Iraq;
 - (d) Australia's military, economic, political, environmental and other capability to be involved in military action against Iraq;
 - (e) Australia's history of involvement in US military action, particularly in Afghanistan;
 - (f) the Australian Government's public and diplomatic stance on potential military action against Iraq;
 - (g) the role of the Australian Parliament in the decision on potential military action against Iraq; and
 - (h) opportunities for Australia to participate in nation building, development support or other alternatives in order to achieve peace, democracy and stability in Iraq and the region.
- (2) That the committee consist of 8 senators, 3 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate, and 2 nominated by minority groups and independent senators.
- (3) That the committee may proceed to the dispatch of business notwithstanding that not all members have been duly nominated and appointed and notwithstanding any vacancy.
- (4) That the chair of the committee be Senator Brown, Australian Greens Senator for Tasmania.
- (5) That the deputy chair of the committee be elected by and from the members of the committee.
- (6) That the deputy chair act as chair when there is no chair or the chair is not present at a meeting.
- (7) That, in the event of the votes on any question before the committee being equally divided, the chair, or deputy chair when acting as chair, have a casting vote.
- (8) That the quorum of the committee be three members with one representing the Government, one representing the Opposition, and one representing minority groups and independent senators.

- (9) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.
- (10) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any such subcommittee any of the matters which the committee is empowered to consider.
- (11) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.
- (12) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it and a daily Hansard be published of such proceedings as take place in public.

Question put.

The Senate divided—

AYES, 2

Senators—

Brown (Teller) Nettle

NOES, 45

Senators—

Allison	Cook	Kirk	Ray
Barnett	Coonan	Lightfoot	Reid
Bartlett	Crossin	Ludwig	Sherry
Bishop	Denman	Lundy	Tchen
Boswell	Evans	Mackay (Teller)	Tierney
Brandis	Ferguson	Mason	Troeth
Campbell, George	Forshaw	McGauran	Vanstone
Campbell, Ian	Greig	McLucas	Watson
Carr	Herron	Moore	Wong
Cherry	Hill	Murphy	
Colbeck	Hogg	O'Brien	
Collins	Kemp	Payne	

Question negatived.

**17 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION REFERENCES COMMITTEE—
PRODUCTION OF GOVERNMENT RESPONSE**

Senator Carr, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 146—That the Senate—

(a) notes:

- (i) the Government's failure to respond to the Employment, Workplace Relations, Small Business and Education References Committee report, *Universities in crisis: Report into the capacity of public universities to meet Australia's higher education needs*, tabled on 27 September 2001,

- (ii) that the Government stated in its response to the schedule of government responses outstanding to parliamentary committee reports tabled by the President of the Senate on 15 February 2002, 'The response is expected to be tabled shortly', and
- (iii) that it is now more than 11 months since the committee's report was tabled and more than 6 months since a draft response was provided to the Minister for Education, Science and Training (Dr Nelson); and

(b) calls on the Government to table its response to the report immediately.

Question put and passed.

18 URGENCY MOTION—VETERANS' AFFAIRS—VETERANS' GOLD CARD

The Deputy President (Senator Hogg) informed the Senate that the President had received a letter from Senator Bishop advising that today he intended to move—That, in the opinion of the Senate, the following is a matter of urgency:

The threat of medical specialists to boycott the veterans' Gold Card scheme, which will leave veterans with war-caused injury and illness, and war widows, without adequate health care.

The proposal was supported by 4 senators.

Senator Bishop moved the motion.

Debate ensued.

Question put and passed.

19 SCRUTINY OF BILLS—STANDING COMMITTEE—9TH REPORT AND ALERT DIGEST NO. 8 OF 2002

Senator Buckland, at the request of the Chairman of the Standing Committee for the Scrutiny of Bills (Senator McLucas), tabled the following report and document:

Scrutiny of Bills—Standing Committee—

9th report of 2002, dated 28 August 2002.

Alert Digest No. 8 of 2002, dated 28 August 2002.

Reports ordered to be printed on the motion of Senator Buckland.

20 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—BUDGET ESTIMATES 2002-03

Senator McGauran, at the request of the Chair of the Employment, Workplace Relations and Education Legislation Committee (Senator Tierney), tabled additional information received by the committee (Budget estimates 2002-03—vols 3 to 5).

21 DOCUMENTS

The following documents were tabled by the Clerk:

Australian Research Council Act—Determination No. 12—Determinations under section 51, dated 29 July 2002, 8 August 2002 and 14 August 2002 [2].

22 COMMITTEES—CHANGES IN MEMBERSHIP

The Acting Deputy President (Senator Hutchins) informed the Senate that the President had received letters requesting changes in the membership of various committees.

The Minister for Communications, Information Technology and the Arts (Senator Alston), by leave, moved—That senators be discharged from and appointed to committees as follows:

ASIO, ASIS and DSD—Joint Statutory Committee—

Appointed: Senator Ferguson

Community Affairs Legislation Committee—

Appointed: Senator Heffernan

Discharged: Senator Herron

Participating member: Senator Hogg

Electoral Matters—Joint Standing Committee—

Appointed: Senator Brandis

Discharged: Senator Ferris

Publications—Standing Committee—

Appointed: Senator Scullion.

Question put and passed.

**23 VETERANS' AFFAIRS LEGISLATION AMENDMENT (2002 BUDGET MEASURES) BILL 2002
VETERANS' AFFAIRS LEGISLATION AMENDMENT BILL (NO. 1) 2002
TRADE PRACTICES AMENDMENT (LIABILITY FOR RECREATIONAL SERVICES) BILL 2002**

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

Message no. 130, dated 27 August 2002—A Bill for an Act to amend the *Veterans' Entitlements Act 1986*, and for related purposes.

Message no. 132, dated 28 August 2002—A Bill for an Act to amend the law with respect to veterans' entitlements, and for related purposes.

Message no. 133, dated 28 August 2002—A Bill for an Act to amend the *Trade Practices Act 1974*, and for other purposes.

The Minister for Communications, Information Technology and the Arts (Senator Alston) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

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

Explanatory memorandum: Senator Alston tabled a revised explanatory memorandum relating to the Veterans' Affairs Legislation Amendment Bill (No. 1) 2002.

On the motion of Senator Buckland the debate was adjourned till the next day of sitting.

Consideration of legislation: Senator Alston moved—That the Trade Practices Amendment (Liability for Recreational Services) Bill 2002 be listed on the *Notice Paper* as a separate order of the day.

Question put and passed.

24 **WORKPLACE RELATIONS AMENDMENT (PROHIBITION OF COMPULSORY UNION FEES)
BILL 2002**

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

Message no. 131, dated 28 August 2002—Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002.

Ordered, on the motion of the Minister for Communications, Information Technology and the Arts (Senator Alston), that the message be considered in committee of the whole immediately.

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

In the committee

Senator Alston moved—That the committee does not insist on its amendments to which the House of Representatives has disagreed.

After 5 pm: The President resumed the chair and the Temporary Chair of Committees (Senator Hutchins) reported progress.

25 **FIRST SPEECHES**

Pursuant to order (*see entry no. 12, 20 August 2002*), Senators Stephens and Kirk made their first speeches.

26 **WORKPLACE RELATIONS AMENDMENT (PROHIBITION OF COMPULSORY UNION FEES)
BILL 2002**

Order read for the further consideration of message no. 131 from the House of Representatives in committee of the whole (*see entry no. 24*).

In the committee

Consideration resumed of the message—and of the motion moved by the Minister for Communications, Information Technology and the Arts (Senator Alston)—That the committee does not insist on its amendments to which the House of Representatives has disagreed.

Debate ensued.

Question put.

The committee divided—

AYES, 30

Senators—

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

NOES, 34

Senators—

Allison	Cook	Hutchins	Nettle
Bishop	Crossin	Lees	Ray
Bolkus	Denman	Ludwig	Ridgeway
Brown	Evans	Mackay (Teller)	Sherry
Buckland	Forshaw	Marshall	Stephens
Campbell, George	Greig	McLucas	Webber
Carr	Harradine	Moore	Wong
Cherry	Harris	Murphy	
Conroy	Hogg	Murray	

Question negatived.

Resolution to be reported.

The Acting Deputy President (Senator Lightfoot) resumed the chair and the Chair of Committees (Senator Hogg) reported that the committee had considered message no. 131 from the House of Representatives relating to the Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002 and had resolved to insist on the amendments made by the Senate to which the House of Representatives had disagreed.

On the motion of Senator Alston the report from the committee was adopted.

27 ADJOURNMENT

Pursuant to order, the Senate adjourned at 6.10 pm till Thursday, 29 August 2002 at 9.30 am.

28 ATTENDANCE

Present, all senators except Senators Chapman.

HARRY EVANS
Clerk of the Senate