

2002

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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1 MEETING OF SENATE

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

2 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) amended his notice of motion by leave and, pursuant to notice, moved government business notice of motion no. 1—That, on Monday, 2 December 2002:

- (a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to midnight;
- (b) the routine of business from 7.30 pm shall be consideration of the government business orders of the day relating to the Prohibition of Human Cloning Bill 2002 and the Research Involving Embryos Bill 2002; and
- (c) the question for the adjournment of the Senate shall be proposed at 11.20 pm.

Question put and passed.

3 SUPERANNUATION (GOVERNMENT CO-CONTRIBUTION FOR LOW INCOME EARNERS) BILL 2002

SUPERANNUATION LEGISLATION AMENDMENT BILL 2002

Order of the day read for the adjourned debate on the motion of the Minister for the Arts and Sport (Senator Kemp)—That these bills be now read a second time.

Debate resumed.

Senator Sherry moved the following amendment in respect of the Superannuation Legislation Amendment Bill 2002:

At the end of the motion, add “but the Senate is of the opinion that the bill should be withdrawn and redrafted to:

- (a) ensure that the proposed surcharge tax reduction to high-income earners, the splitting of superannuation contributions and the closure of the public sector funds do not proceed; and
- (b) provide for a fairer contributions tax cut that will boost retirement incomes for all superannuation fund members to assist in preparing the nation for the ageing population”.

Debate ensued.

Senator Cherry moved the following amendment in respect of the Superannuation (Government Co-contribution for Low Income Earners) Bill 2002:

At the end of the motion, add “but the Senate notes that analysis provided to the Select Committee on Superannuation shows that extending the co-contribution to workers on average earnings would have a significant positive effect on national savings, and that this could be funded by better targeting of the Government’s superannuation measures”.

Debate ensued.

On the motion of the Special Minister of State (Senator Abetz) the debate was adjourned till a later hour.

4 HIGHER EDUCATION LEGISLATION AMENDMENT BILL (NO. 3) 2002

Order of the day read for the adjourned debate on the motion of the Minister for the Arts and Sport (Senator Kemp)—That this bill be now read a second time.

Debate resumed.

At 2 pm: Debate was interrupted while Senator Carr was speaking.

5 QUESTIONS

Questions without notice were answered.

6 QUESTION ON NOTICE—ANSWER AND EXPLANATION

Senator O'Brien, pursuant to standing order 74, asked the Minister representing the Treasurer (Senator Minchin) for an explanation of an answer not being provided to question on notice no. 553 (notice given 15 August 2002) relating to the drought investment allowance.

Senator Minchin provided an explanation.

Senator O'Brien moved—That the Senate take note of the explanation.

Debate ensued.

Question put and passed.

7 HEALTH—MEDICARE—BULK BILLING—HEALTH INSURANCE—ANSWERS TO QUESTIONS

Senator Evans 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 relating to Medicare and a decline in the rate of bulk billing and to private health insurance.

Debate ensued.

Question put and passed.

8 FINANCE—CORPORATE GOVERNANCE—ANSWER TO QUESTION

Senator Murray moved—That the Senate take note of the answer given by the Minister for Finance and Administration (Senator Minchin) to a question without notice asked by Senator Murray today relating to corporate governance.

Question put and passed.

9 ENVIRONMENT—QUEENSLAND—NATHAN DAM—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 11 November 2002 for the production of documents concerning funding or other support for the Nathan Dam on the Fitzroy River in Queensland (*see entry no. 19, 11 November 2002*).

10 ANIMAL WELFARE—LIVE ANIMAL EXPORT—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 11 November 2002 for the production of documents concerning the welfare record of Australia's live animal export trade (*see entry no. 20, 11 November 2002*).

11 TRADE—GENERAL AGREEMENT ON TRADE IN SERVICES—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 14 November 2002 for the production of documents concerning requests for increased access to Australian services markets (*see entry no. 14, 14 November 2002*).

Senator Cherry, by leave, moved—That the Senate take note of the statement.

Question put and passed.

12 NOTICES

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 the report of the Environment, Communications, Information Technology and the Arts Legislation Committee on the provisions of the Telecommunications Competition Bill 2002 be extended to 22 November 2002. (*general business notice of motion no. 263*)

The Chair of the Economics Legislation Committee (Senator Brandis): To move on the next day of sitting—That the Economics Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 19 November 2002, from 4 pm, to take evidence for the committee's inquiry into the Inspector-General of Taxation Bill 2002. (*general business notice of motion no. 264*)

The Chair of the Environment, Communications, Information Technology and the Arts References Committee (Senator Allison): 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 References Committee be extended as follows:

- (a) urban water management—to 5 December 2002; and
- (b) environmental performance at the Ranger, Jabiluka, Beverley and Honeymoon uranium operations—to 4 March 2003. (*general business notice of motion no. 265*)

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

- (a) notes the report recently released by United States Congressman Henry Waxman, which shows that:
 - (i) major tobacco companies continue to deny in court that smoking causes disease, despite public admissions on their websites about the harm caused by their products,
 - (ii) only Philip Morris Ltd does not contest the fact that smoking causes disease,

- (iii) four of the five major tobacco companies, including British American Tobacco which operates in Australia, decline to admit that nicotine is addictive, and
- (iv) all five major tobacco companies deny that second-hand tobacco smoke causes disease in non-smokers, despite the evidence of leading medical and scientific organisations;
- (b) urges the Federal Government to invest more in tobacco control, noting the significant savings that can be made in deaths, disabilities, suffering and cost to the health system of around one fifth of the Australian population being addicted to smoking;
- (c) congratulates the New South Wales Government on successfully taking court action against Philip Morris for breaching tobacco advertising laws at their stand at the Fashion's Future Designer Awards in Sydney; and
- (d) encourages the New South Wales Government to introduce tougher penalties for companies flouting tobacco laws. (*general business notice of motion no. 266*)

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

- (a) notes the findings of the 2001 National Survey of Photovoltaics in Australia which shows that:
 - (i) in 1996 Australia led the world in per capita manufacture of photovoltaic systems,
 - (ii) despite an increase from 7.5 megawatts to 10 megawatts capacity between 1996 and 2001, Australia fell behind Japan and Spain for per capita manufacture of photovoltaic systems,
 - (iii) Japan now dominates the manufacture of photovoltaic systems whilst Australia's share of the world market is down 70 per cent,
 - (iv) Australia's relative share of photovoltaic energy usage fell 50 per cent between 1996 and 2000,
 - (v) the growth in uptake of photovoltaic energy is greatest in the United States of America and European countries, where subsidies make it competitive with residential electricity prices,
 - (vi) rebates in Australia leave photovoltaic energy two to three times more expensive than coal fire-generated electricity, and
 - (vii) there is potential for an extra 10 million grid-connected rooftop customers in Australia;
- (b) urges the Federal Government to extend the photovoltaic energy rebate program, currently due to end in 2003; and
- (c) urges state governments to mandate net metering for renewable energy generation. (*general business notice of motion no. 267*)

Senator Conroy: To move on the next day of sitting—That there be laid on the table, in accordance with their respective ministerial responsibilities, by the Minister representing the Treasurer (Senator Minchin) and the Minister for Revenue and Assistant Treasurer (Senator Coonan), by 2 December 2002, the following documents:

- (a) the Treasury files, as described in paragraph 10.1.4 of the report to Messrs Corrs Chambers Westgarth from John Palmer, FCA, entitled 'Review of the role played by the Australian Prudential Regulation Authority and the Insurance and Superannuation Commission in the collapse of the HIH Group of Companies' and provided as a witness statement to the HIH Royal Commission;

- (b) the files of the Insurance and Superannuation Commission in relation to the application of FAI Insurance Limited for an authority to carry on insurance business following the proclamation of the *Insurance Act 1973* containing the application and all correspondence and documentation relating to the consideration of the application and leading to and including the company's eventual authorisation;
- (c) the files of the Insurance and Superannuation Commission in relation to the application of Fire and All Risks Insurance Company Limited for an authority to carry on insurance business following the proclamation of the *Insurance Act 1973* containing the application and all correspondence and documentation relating to the consideration of the application and leading to and including the company's eventual authorisation;
- (d) the files of the Insurance and Superannuation Commission in relation to the application of Car Owners' Mutual Insurance Company Limited for an authority to carry on insurance business following the proclamation of the *Insurance Act 1973* containing the application and all correspondence and documentation relating to the consideration of the application and leading to and including the company's eventual authorisation; and
- (e) the files of the Insurance and Superannuation Commission in relation to the application of Australian and International Insurance Limited for an authority to carry on insurance business following the proclamation of the *Insurance Act 1973* containing the application and all correspondence and documentation relating to the consideration of the application and leading to and including the company's eventual authorisation. (*general business notice of motion no. 268*)

The Leader of the Australian Democrats (Senator Bartlett): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Environment Protection and Biodiversity Conservation Act 1999* to provide for the regulation of invasive species, and for related purposes. ***Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002***. (*general business notice of motion no. 269*)

Senator Crossin, the Leader of the Australian Democrats (Senator Bartlett) and Senators Brown and Nettle: To move on the next day of sitting—That the Senate—

- (a) notes that:
 - (i) more than 1 500 asylum seekers from East Timor have had the processing of their refugee claims put on hold for many years and that many of these applicants were, and still are, suffering the effects of torture and trauma, and
 - (ii) the Australian Government sought to avoid offering protection for these asylum seekers and deliberately delayed processing, causing great hardship to those involved due to the ties they have formed in Australia;
- (b) acknowledges the persecution and suffering that these people endured before leaving East Timor and that many of these people have lived in our community for up to 10 years, and have formed close links with their community;
- (c) recognises that two organisations of the Australian Catholic Bishops' Conference, Caritas Australia and the Australia Catholic Social Justice Council, and the Australian East Timor Association have also renewed calls to grant residency to the East Timorese asylum seekers who are facing deportation; and

- (d) calls on the Minister for Immigration and Multicultural and Indigenous Affairs (Mr Ruddock) to acknowledge the commitment and contribution this group of asylum seekers is making to the Australian community, and the enormous uncertainty and trauma they have endured, by granting these people permanent residency in Australia on humanitarian grounds by means of a special visa. (*general business notice of motion no. 270*)

13 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), by leave, moved—That, on Tuesday, 19 November 2002:

- (a) the hours of meeting shall be 9.30 am to adjournment; and
(b) the routine of business from 9.30 am to 2 pm shall be government business only.

Question put and passed.

14 LEAVE OF ABSENCE

Senator Mackay, by leave, moved—That leave of absence be granted to Senator Hutchins for the period 18 November to 19 November 2002 and to Senator Forshaw for the period 18 November to 2 December 2002, on account of parliamentary business overseas.

Question put and passed.

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

Senator Ferris, by leave and at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan), moved—That the time for the presentation of the report of the committee on the Australian meat industry and export quotas be extended to the last sitting day in 2002.

Question put and passed.

16 SCRUTINY OF BILLS—STANDING COMMITTEE—LEAVE TO MEET DURING SITTING

The Chairman of the Standing Committee for the Scrutiny of Bills (Senator McLucas), by leave, moved—That the Standing Committee for the Scrutiny of Bills be authorised to hold a private meeting during the sitting of the Senate today, from 5.15 pm, otherwise than in accordance with standing order 33(1).

Question put and passed.

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

Senator Ferris, by leave and at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan), moved—That the time for the presentation of the report of the committee on the Transport Safety Investigation Bill 2002 be extended to 3 December 2002.

Question put and passed.

18 POSTPONEMENTS

Items of business were postponed as follows:

General business notice of motion no. 1, under committee reports and government responses, standing in the name of the Chair of the Standing Committee of Senators' Interests (Senator Denman) for 5 December 2002, proposing amendments to the resolutions on senators' interests, postponed till 6 February 2003.

General business notice of motion no. 251 standing in the name of Senator Nettle for today, relating to the Timor Sea Treaty and the Greater Sunrise gas field, postponed till 19 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 19 November 2002.

General business notice of motion no. 258 standing in the name of Senator O'Brien for today, relating to crises in rural and regional Australia, postponed till 2 December 2002.

19 NOTICE OF MOTION WITHDRAWN

Senator Mackay, at the request of Senator Sherry, withdrew 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.

20 SPORT—VICTORIA—COMMONWEALTH GAMES BID—PROPOSED ORDER FOR PRODUCTION OF DOCUMENTS

Senator Allison, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 259—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.

Question put and negatived.

21 ENVIRONMENT—OCEANS POLICY—ORDER FOR PRODUCTION OF DOCUMENT

Senator Mackay, at the request of Senator McLucas and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 262—That there be laid on the table at the end of taking note of answers to questions without notice on Tuesday, 19 November 2002, the 'Review of the Implementation of Oceans Policy: Final report' by TFG International, dated 25 October 2002.

Question put and passed.

22 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION LEGISLATION COMMITTEE—REPORT—WORKPLACE RELATIONS AMENDMENT (IMPROVED PROTECTION FOR VICTORIAN WORKERS) BILL 2002

The Deputy President (Senator Hogg) tabled the following report and documents received on 15 November 2002:

Employment, Workplace Relations and Education Legislation Committee—Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002—Report, dated November 2002, *Hansard* record of proceedings, document presented to the committee and submissions [13].

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

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

Debate ensued.

Question put and passed.

23 APPROPRIATIONS AND STAFFING—STANDING COMMITTEE—37TH REPORT

The Acting Deputy President (Senator Sandy Macdonald) tabled the following report:

Appropriations and Staffing—Standing Committee—37th report—Administration of parliamentary security, dated November 2002.

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

Senator Ray, by leave, moved—That the Senate endorse the resolutions at paragraph 3.1 of the report and approve the proposals for the reorganisation of the security function in Parliament House referred to in the report.

Debate ensued.

Question put and passed.

24 INDIGENOUS AUSTRALIANS—NAIDOC WEEK—DOCUMENTS

The Acting Deputy President (Senator Sandy Macdonald) tabled the following documents:

Indigenous Australians—NAIDOC Week—Letter to the President of the Senate from the Premier of Queensland (Mr Beattie) responding to the resolution of the Senate of 20 August 2002, dated 12 November 2002 and attachment.

25 FOREIGN AFFAIRS—UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS—DOCUMENT

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

Foreign Affairs—United Nations High Commissioner for Human Rights—Letter to the President of the Senate from the United Nations High Commissioner for Human Rights (Sergio Vieira de Mello) responding to the resolution of the Senate of 26 September 2002, dated 13 November 2002.

26 PROCEDURE—STANDING COMMITTEE—2ND REPORT OF 2002

The Chair of the Procedure Committee (Senator Hogg) tabled the following report:

Procedure—Standing Committee—Second report of 2002—Chairs and quorums in committees: Adjournment debate on Tuesdays, dated November 2002.

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

Senator Hogg, by leave, moved—That consideration of the report be made a business of the Senate order of the day for the next day of sitting.

Question put and passed.

27 ECONOMICS LEGISLATION COMMITTEE—REPORT—NEW BUSINESS TAX SYSTEM (CONSOLIDATION AND OTHER MEASURES) BILL (NO. 1) 2002

Senator Eggleston, at the request of the Chair of the Economics Legislation Committee (Senator Brandis), tabled the following report and documents:

Economics Legislation Committee—Provisions of the New Business Tax System (Consolidation and Other Measures) Bill (No. 1) 2002—Report, dated November 2002 and submissions [4].

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

28 DOCUMENTS

The following documents were tabled by the Clerk:

Criminal Code Act—Regulations—Statutory Rules 2002 Nos 269-272.

Defence Act—Determination under section—

58B—Defence Determination 2002/24.

58H—Defence Force Remuneration Tribunal—Determinations Nos 19, 20 and 23 of 2002.

Insurance Contracts Act—Regulations—Statutory Rules 2002 No. 273.

National Health Act—Determination under Schedule 1—HSR 30/2002.

Remuneration Tribunal Act—Determination—

2002/17: Remuneration and allowances for various public office holders.

2002/18: Members of Parliament: Allowances.

Superannuation Industry (Supervision) Act—Request from Minister to APRA, dated 16 September 2002.

29 COMMITTEES—CHANGES IN MEMBERSHIP

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

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

Community Affairs Legislation Committee—

Appointed—

Senator Greig

Participating member: Senator Allison for matters relating to the Health and Ageing portfolio

Substitute member: Senator Lightfoot to replace Senator Heffernan for the consideration of the 2002-03 supplementary budget estimates on 21 November 2002

Discharged—

Senator Stott Despoja

Participating members:

Senator Cherry for matters relating to the Family and Community Services portfolio

Senator Greig for matters relating to the Health portfolio

Community Affairs References Committee—

Appointed—Participating members:

Senator Allison for matters relating to the Health and Ageing portfolio

Senator Greig for matters relating to the Family and Community Services portfolio

Discharged—Participating members:

Senator Bartlett

Senator Cherry for matters relating to the Family and Community Services portfolio

Senator Greig for matters relating to the Health portfolio

Economics Legislation Committee—

Appointed—Substitute member: Senator Tchen to replace Senator Chapman for the consideration of the 2002-03 supplementary budget estimates on 21 November and 22 November 2002

Employment, Workplace Relations and Education Legislation Committee—

Appointed—Participating member: Senator Santoro

Employment, Workplace Relations and Education References Committee—

Appointed—Participating member: Senator Santoro

Discharged—Substitute member: Senator Murray for the committee's inquiry into small business employment

Environment, Communications, Information Technology and the Arts Legislation Committee—

Appointed—

Senator Santoro

Participating member: Senator Cherry for matters relating to the Communications portfolio

Substitute member: Senator Ridgeway to replace Senator Bartlett for matters relating to the Arts portfolio

Discharged—

Senator Tierney

Participating members:

Senator Allison for matters relating to the Communications portfolio

Senator Ridgeway for matters relating to the Arts portfolio

Senator Stott Despoja for matters relating to the Information Technology portfolio

Environment, Communications, Information Technology and the Arts References Committee—

Discharged—Participating members:

Senator Bartlett for matters relating to the Environment portfolio

Senator Stott Despoja for matters relating to the Information Technology portfolio

Finance and Public Administration Legislation Committee—

Appointed—Substitute member: Senator Chapman to replace Senator Heffernan for the consideration of the 2002-03 supplementary budget estimates on 20 November 2002

Finance and Public Administration References Committee—

Discharged—Participating member: Senator Allison for matters relating to public service issues

Foreign Affairs, Defence and Trade Legislation Committee—

Appointed—

Participating member: Senator Santoro

Substitute members for the consideration of the 2002-03 supplementary budget estimates:

Senator Lightfoot to replace Senator Ferguson on 21 November 2002

Senator McGauran to replace Senator Sandy Macdonald on 22 November 2002

Senator Eggleston to replace Senator Ferguson on 22 November 2002

Senator Johnston to replace Senator Payne on 22 November 2002

Discharged—Participating member: Senator Bartlett

Foreign Affairs, Defence and Trade References Committee—

Appointed—Participating member: Senator Santoro

Discharged—Participating member: Senator Bartlett

Foreign Affairs, Defence and Trade—Joint Standing Committee—

Appointed—Senator Stott Despoja

Discharged—Senator Bartlett

House—Standing Committee—

Discharged—Senator Ferris

National Capital and External Territories—Joint Standing Committee—

Appointed—Senator Stott Despoja

Discharged—Senator Greig

Regulations and Ordinances—Standing Committee—

Appointed—Senator Santoro

Discharged—Senator Barnett

Rural and Regional Affairs and Transport Legislation Committee—

Appointed—

Participating members:

Senator Santoro

Senator Allison for matters relating to the Transport portfolio

Substitute members for the consideration of the 2002-03 supplementary budget estimates:

Senator Santoro to replace Senator Heffernan on 20 November 2002

Senator Tchen to replace Senator Heffernan on 22 November 2002

Senator Watson to replace Senator Colbeck on 22 November 2002

Discharged—Participating members:

Senator Bartlett for matters relating to animal welfare issues

Senator Greig for matters relating to the Transport portfolio

Rural and Regional Affairs and Transport References Committee—

Appointed—

Participating members:

Senator Santoro

Senator Allison for matters relating to the Transport portfolio

Substitute member: Senator Colbeck to replace Senator Heffernan for the committee's inquiry into forestry plantations on 29 November 2002

Discharged—Participating members:

Senator Bartlett for matters relating to animal welfare issues

Senator Greig for matters relating to the Transport portfolio

Treaties—Joint Standing Committee—

Appointed—Senators Santoro and Stott Despoja

Discharged—Senators Barnett and Bartlett.

Question put and passed.

30 GOVERNOR-GENERAL'S MESSAGES—ASSENT TO LAWS

Messages from His Excellency the Governor-General were reported, informing the Senate that he had assented to the following laws:

10 November 2002—Message—

No. 33—

Family and Community Services Legislation Amendment (Budget Initiatives and Other Measures) Act 2002 (Act No. 95, 2002)

Insurance and Aviation Liability Legislation Amendment Act 2002 (Act No. 96, 2002)

Taxation Laws Amendment Act (No. 3) 2002 (Act No. 97, 2002)

Research Agencies Legislation Amendment Act 2002 (Act No. 98, 2002)

No. 34—

Aboriginal Land Rights (Northern Territory) Amendment Act 2002 (Act No. 99, 2002)

Space Activities Amendment Act 2002 (Act No. 100, 2002)

Education Services for Overseas Students Amendment Act 2002 (Act No. 101, 2002)

Vocational Education and Training Funding Amendment Act 2002 (Act No. 102, 2002)

No. 35—*Torres Strait Fisheries Amendment Act 2002* (Act No. 103, 2002).**31 MEMBERS OF PARLIAMENT (LIFE GOLD PASS) BILL 2002**

A message from the House of Representatives was reported as follows:

Message no. 199, dated 14 November 2002—Members of Parliament (Life Gold Pass) Bill 2002, indicating that the House has not made the amendment requested and pressed by the Senate.

On the motion of the Minister for the Arts and Sport (Senator Kemp) consideration of the message in committee of the whole was made an order of the day for a later hour.

32 HIGHER EDUCATION LEGISLATION AMENDMENT BILL (NO. 3) 2002

Order of the day read for the adjourned debate on the motion of the Minister for the Arts and Sport (Senator Kemp)—That this bill be now read a second time.

Debate resumed.

Senator Carr moved the following amendment:

At the end of the motion, add “but the Senate condemns the Government for:

- (a) agreeing in December 1998 to the Greenwich University Act passed by the Norfolk Island legislature;
- (b) its delay in releasing the final report resulting from the April 1999 Ministerial Council on Education, Employment, Training and Youth Affairs resolution calling for an investigation into the academic and resource criteria of Greenwich ‘University’;
- (c) its delay in acting on the recommendations of the December 2000 *Report on the Application by the Norfolk Island Government for the Listing of Greenwich University on the Australian Qualifications Framework Register* that, ‘the standard of its courses, quality assurance mechanisms and its academic leadership fail to meet the standards expected of Australian universities’; and
- (d) its failure to recognise the urgent need for action to address issues relating to quality in the higher education sector”.

Debate ensued.

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

Main question, as amended, put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) the bill was read a third time.

33 PLANT BREEDER’S RIGHTS AMENDMENT 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 Cherry:

Schedule 1, page 6 (after line 32), after item 16, insert:

16A Subsection 35(1)

Repeal the subsection, substitute:

- (1) Any person who considers, in relation to an application for PBR in a plant variety, that his or her interests may or would be affected by the grant of that PBR to the applicant may lodge a written objection to the grant of PBR with the Secretary at any time after the giving of that public notice of acceptance of the application and before the end of the period of 6 months starting with the public notice of that detailed description.
- (1A) The interests mentioned in subsection (1) include, but are not limited to, cultural, economic, social and environmental interests.

Schedule 1, page 6 (after line 32), after item 16, insert:

16B At the end of section 35

Add:

- (4) No fee or charge shall be imposed for an objection to an application for a PBR to the extent that the objection is based on cultural, social or environmental interests.

Note: Fees may be charged for an objection to the extent that it is made on economic interests under subparagraph 37(5)(b)(ii).

Schedule 1, item 20, page 8 (line 19), omit “in any other case”, substitute “to the extent that the objection is based on economic interests”.

Schedule 1, item 20, page 8 (line 24), omit “in any other case”, substitute “to the extent that the request is based on economic interests”.

Schedule 1, page 8 (after line 34), after item 22, insert:

22A At the end of section 42

Add:

- (4) If a plant variety is a traditional landrace plant variety or a variety which is essentially derived from such landrace plant variety, PBR must not be granted to that variety.
- (4A) For the purposes of this section, *traditional landrace plant variety* means a variety developed over millennia by selecting favourable characteristics within a cultivated crop species, or a variety that is the outcome of indigenous peoples’ traditional and customary innovations and practices. It may also be known as a “traditional variety”, “local variety” or “farmers’ variety”.
- (5) If an application for PBR deals with a plant variety which is a “discovered” variety as specified under section 5 of this Act:
 - (a) on lands owned by the Crown; or
 - (b) in national parks; or
 - (c) in world heritage areas; or
 - (d) on Ramsar sites; or
 - (e) on lands in respect of which native title has been granted, that are subject to native title claims, or that can be shown to be the subject of rights and interests by indigenous peoples, including customary and other forms of ownership unless:
 - (i) the prior informed consent of the holders of such knowledge, innovations and practices has been sought and received; and

- (ii) equitable sharing of the benefits arising from the utilisation of such knowledge, innovations and practices has been agreed to amongst the parties.

PBR must not be granted to that variety.

- (5A) For the purposes of this section, *Ramsar site* means a site declared under the Convention on Wetlands of International Importance especially as Waterfowl Habitat done at Ramsar, Iran, on 2 February 1971, as in force for Australia immediately before the commencement of this Act.

Schedule 1, page 10 (after line 25), after item 31, insert:

31A After subsection 50(9)

Insert:

- (9A) The interests mentioned in subsections (8) and (9) include, but are not limited to, cultural, economic, social and environmental interests.

Schedule 1, page 10 (after line 25), after item 31, insert:

31B At the end of section 50

Add:

- (11) No fee or charge shall be imposed for an application to revoke a PBR to the extent that the application is based on cultural, social or environmental interests.

Note: Fees may be charged for an application to revoke a PBR, which is made on economic interests under subparagraph 37(5)(c)(ii).

Debate resumed.

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

Senator Cherry moved the following amendments together by leave:

Schedule 1, page 10 (after line 20), after item 30, insert:

30A Subsection 49(1)

After “should be”, insert “refused, revoked or made”.

Schedule 1, page 10 (after line 20), after item 30, insert:

30B After subsection 49(1)

Insert:

- (1A) The Minister must refer to the Plant Breeder’s Rights Advisory Committee the question whether a grant of PBR that the Minister proposes to make, or an existing grant of PBR, should be refused, revoked or made subject to conditions, if the Minister is satisfied that:
 - (a) the plant variety is likely to become an invasive species; or
 - (b) the plant variety is a genetically modified plant that has the potential to establish itself in the wild.

Schedule 1, page 11 (after line 10), after item 34, insert:

34A Paragraphs 64(1)(d) and (e)

Repeal the paragraphs, substitute:

- (d) one member who will:
 - (i) be appointed by the Minister following nominations from either a national consumer organisation that is recognised by the sector as representing the interests of consumers, or an organisation that has traditionally conducted such nomination processes on behalf of consumers;
 - (ii) represent the interests of all consumers and likely consumers of new plant varieties or of the products of new plant varieties; and
 - (iii) have the necessary skills and expertise to carry out the functions of the Advisory Committee.
- (e) one member who will:
 - (i) be appointed by the Minister following nominations from either a national conservation organisation that is recognised by the sector as representing the interests of conservationists, or an organisation that has traditionally conducted such nomination processes on behalf of the sector;
 - (ii) represent conservation interests in relation to new plant varieties and the potential impacts of new plant varieties; and
 - (iii) have the necessary skills and expertise to carry out the functions of the Advisory Committee.
- (f) one member who will:
 - (i) be appointed by the Minister following nominations from either a national indigenous organisation that is recognised by indigenous Australians as representing their interests, or an organisation that has traditionally conducted such nomination processes on behalf of indigenous Australians;
 - (ii) represent indigenous interests in relation to new plant varieties and the potential impacts of new plant varieties; and
 - (iii) have the necessary skills and expertise to carry out the functions of the Advisory Committee.

Debate ensued.

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

On the motion of Senator O'Brien the following amendments, taken together by leave, were debated and agreed to:

Schedule 1, page 11 (after line 10), after item 34, insert:

34A Paragraph 64(1)(e)

Repeal the paragraph, substitute:

- (e) one member who will represent the conservation interests in relation to new plant varieties and the potential impacts of new plant varieties; and
- (f) one member who will represent indigenous Australian interests in relation to new plant varieties and the source, use and impacts of new plant varieties; and

- (g) 2 other members who, in the opinion of the Minister, possess qualifications or experience that are appropriate for a member of the Advisory Committee.

Schedule 1, page 11 (after line 10), after item 34, insert:

34B Subsection 65(1)

Omit “and (e)”, substitute “, (e), (f) and (g)”.

Schedule 1, page 11 (after line 10), after item 34, insert:

34C Subsection 67(2)

Repeal the subsection, substitute:

- (2) At a meeting of the Advisory Committee, 5 members constitute a quorum.

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

Schedule 1, page 3 (after line 3), before item 1, insert:

1A Subsection 3(1)

Insert:

indigenous means:

- (a) a member of the Aboriginal race of Australia; or
- (b) a descendant of the indigenous inhabitants of the Torres Strait Islands.

Bill, as amended, agreed to.

Bill to be reported with amendments.

The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Chapman) reported accordingly.

On the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) the report from the committee was adopted and the bill read a third time.

34 HEALTH INSURANCE AMENDMENT (PROFESSIONAL SERVICES REVIEW AND OTHER MATTERS) BILL 2002

Order of the day read for the adjourned debate on the motion of the Minister for the Arts and Sport (Senator Kemp)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill, taken as a whole by leave, debated.

On the motion of Senator Evans the following request for an amendment was debated and agreed to:

That the House of Representatives be requested to make the following amendment:
Schedule 2, item 2, page 36 (after line 24), after subsection (2), insert:

- (2A) A person is also a *prescribed dental patient*, in relation to a particular course of treatment, if:
- (a) before the person attained the age of 22 years, an approved medical practitioner or dental practitioner issued a certificate that states that the person is suffering from a cleft lip or a cleft palate condition; and
 - (b) the person has attained the age of 28 years; and
 - (c) before the person attained the age of 28 years, he or she received treatment for the condition; and
 - (d) the Minister declares in writing that he or she is satisfied that:
 - (i) because of exceptional circumstances, the person requires repair of previous reconstructive surgery in connection with the condition; and
 - (ii) the person therefore needs to undergo that course of treatment.

Bill agreed to, subject to a request.

Bill to be reported with a request for an amendment.

The Acting Deputy President (Senator Cook) resumed the chair and the Temporary Chair of Committees reported accordingly.

On the motion of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell) the report from the committee was adopted.

35 MEMBERS OF PARLIAMENT (LIFE GOLD PASS) BILL 2002

Order of the day read for the consideration of message no. 199 from the House of Representatives in committee of the whole (*see entry no. 31*).

In the committee

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That the committee does not further press its request for an amendment not made by the House of Representatives.

Debate ensued.

Question put.

The committee divided—

AYES, 43

Senators—

Abetz	Conroy	Knowles	Santoro
Barnett	Cook	Ludwig	Scullion
Boswell	Coonan	Lundy	Sherry
Brandis	Crossin	Mackay	Stephens
Buckland	Denman	Marshall	Tchen
Calvert	Eggleston (Teller)	Mason	Tierney
Campbell, George	Evans	McGauran	Troeth
Carr	Hogg	McLucas	Watson
Chapman	Johnston	Moore	Webber
Colbeck	Kemp	O'Brien	Wong
Collins	Kirk	Ray	

NOES, 8

Senators—

Allison (Teller)	Brown	Greig	Nettle
Bartlett	Cherry	Murray	Stott Despoja

Question agreed to.

Resolution to be reported.

The Acting Deputy President (Senator Chapman) resumed the chair and the Chair of Committees (Senator Hogg) reported that the committee had considered message no. 199 from the House of Representatives relating to the Members of Parliament (Life Gold Pass) Bill 2002 and had resolved not to further press its request for an amendment not made by the House.

On the motion of the Special Minister of State (Senator Abetz) the report from the committee was adopted and the bill read a third time.

36 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Finance and Administration (Senator Minchin), by leave, moved—That the government business order of the day for 21 November 2002 for the consideration of the New Business Tax System (Consolidation and Other Measures) Bill (No. 1) 2002 and a related bill be called on immediately.

Question put and passed.

37 NEW BUSINESS TAX SYSTEM (CONSOLIDATION AND OTHER MEASURES) BILL (NO. 1) 2002

NEW BUSINESS TAX SYSTEM (FRANKING DEFICIT TAX) AMENDMENT BILL 2002

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell)—That these bills be now read a second time.

Debate resumed.

Question put and passed.

Bills read a second time.

No amendments to the bills were circulated and no senator required that they be considered in committee.

On the motion of the Minister for Revenue and Assistant Treasurer (Senator Coonan) the bills were read a third time.

38 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Revenue and Assistant Treasurer (Senator Coonan) moved—That intervening business be postponed till after consideration of government business order of the day no. 6 (Australian Crime Commission Establishment Bill 2002—second reading speeches only).

Question put and passed.

39 AUSTRALIAN CRIME COMMISSION ESTABLISHMENT BILL 2002

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell)—That this bill be now read a second time.

Debate resumed.

At 9.50 pm: Debate was interrupted while Senator Denman was speaking.

40 ADJOURNMENT

The President proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 10.29 pm till Tuesday, 19 November 2002 at 9.30 am.

41 ATTENDANCE

Present, all senators except Senators Ferguson, Forshaw*, Harradine, Harris, Heffernan, Hutchins* and Lees* (* on leave).

HARRY EVANS
Clerk of the Senate