

2002

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

No. 52

TUESDAY, 19 NOVEMBER 2002

**Contents**

1	Meeting of Senate.....	1135
2	Government Documents.....	1135
3	Australian Crime Commission Establishment Bill 2002 .....	1135
4	Workplace Relations Amendment (Genuine Bargaining) Bill 2002 .....	1135
5	Medical Indemnity Agreement (Financial Assistance—Binding Commonwealth Obligations) Bill 2002 .....	1137
6	Questions .....	1138
7	Questions on Notice—Answers and Explanation.....	1138
8	Superannuation—Small Business—Answer to Question .....	1139
9	Environment—Greenhouse Gas Emissions—Answer to Question.....	1139
10	Notices.....	1139
11	Postponements.....	1140
12	Environment, Communications, Information Technology and the Arts References Committee—Extensions of Time to Report.....	1140
13	Superannuation—Insurance and Superannuation Commission—Order for Production of Documents .....	1140
14	Immigration—East Timor—Asylum Seekers.....	1141
15	Environment, Communications, Information Technology and the Arts Legislation Committee—Extension of Time to Report .....	1142
16	Economics Legislation Committee—Leave to Meet During Sitting.....	1142
17	Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002.....	1142
18	Foreign Affairs—Colombia .....	1143
19	Foreign Affairs—Timor Sea Treaty—Greater Sunrise Gas Field .....	1143
20	Department of Transport and Regional Services—Report for 2001-02— Erratum—Document .....	1144
21	Scrutiny of Bills—Standing Committee—Alert Digest No. 14 of 2002 .....	1144

22	Community Affairs Legislation Committee—Additional Information— Budget Estimates 2002-03.....	1144
23	Documents.....	1144
24	Committees—Changes in Membership .....	1144
25	Procedure—Standing Committee—Second Report of 2002—Consideration ..	1145
26	Australian Crime Commission Establishment Bill 2002 .....	1146
27	Environment—Oceans Policy—Order for Production of Documents— Statement by Leave .....	1149
28	Order of Business—Rearrangement .....	1149
29	Family and Community Services Legislation Amendment (Disability Reform) Bill (No. 2) 2002 .....	1149
30	Government Documents—Consideration .....	1150
31	Adjournment.....	1150
32	Attendance.....	1150

**1 MEETING OF SENATE**

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

**2 GOVERNMENT DOCUMENTS**

The following government documents were tabled:

Australian Centre for International Agricultural Research—Report for 2001-02.

Civil Aviation Safety Authority—Report for 2001-02.

Employment Advocate—Report for 2001-02—Erratum.

*Freedom of Information Act 1982*—Report for 2001-02 on the operation of the Act.

Office of the Federal Privacy Commissioner—Report for 2001-02 on the operation of the *Privacy Act 1988*.

**3 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.

On the motion of Senator Ian Campbell the debate was adjourned till a later hour.

**4 WORKPLACE RELATIONS AMENDMENT (GENUINE BARGAINING) BILL 2002**

Order of the day read for the consideration of message no. 170 from the House of Representatives in committee of the whole (*see entry no. 18, 17 October 2002*).

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*In the committee*

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE TO  
WHICH THE HOUSE OF REPRESENTATIVES HAS DISAGREED

**(4) Dem (3) [Sheet 2621 Revised]**

Schedule 1, page 4 (after line 2), after item 1, insert:

**1B After subsection 170MW(2)**

Insert:

(2B) Genuinely trying to reach agreement includes bargaining in good faith.

**(5) Dem (4) [Sheet 2621 Revised]**

Schedule 1, page 4 (after line 2), after item 1, insert:

**1C After subsection 170MW(2)**

Insert:

(2C) In considering whether or not a negotiating party has met or is meeting its obligations to genuinely try to reach an agreement with the other negotiating parties, the Commission must consider whether or not the party has bargained or is bargaining in good faith. Bargaining in good faith includes:

- (a) agreeing to meet face-to-face at reasonable times proposed by another party;
- (b) attending meetings that the party has agreed to attend;
- (c) complying with negotiating procedures agreed to by the parties;
- (d) disclosing relevant information, subject to appropriate undertakings as to confidentiality, for the purposes of negotiations;
- (e) stating a position on matters at issue, and explaining that position;
- (f) considering and responding to proposals made by another negotiating party;
- (g) adhering to commitments given to another negotiating party or parties in respect of meetings and responses to matters raised during negotiations;
- (h) dedicating sufficient resources and personnel to ensure genuine bargaining;
- (i) not capriciously adding or withdrawing items for negotiation;
- (j) not refusing or failing to negotiate with one or more of the parties;
- (k) in or in connection with the negotiations, not refusing or failing to negotiate with a person who is entitled under this Part to represent an employee, or with a person who is a representative chosen by a negotiating party to represent it in the negotiations;
- (l) in or in connection with the negotiations, not bargaining with, attempting to bargain with or making offers to persons other than another negotiating party, about matters which are the subject of the negotiations;
- (m) any other matters which the Commission considers relevant.

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—that the committee does not insist on its amendments nos 4 and 5 to which the House of Representatives has disagreed.

Debate ensued.

Question put and passed.

Resolution to be reported.

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The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Watson) reported that the committee had considered message no. 170 from the House of Representatives relating to the Workplace Relations Amendment (Genuine Bargaining) Bill 2002 and had resolved not to insist on amendments nos 4 and 5 made by the Senate to which the House had disagreed.

On the motion of Senator Ian Campbell the report from the committee was adopted.

**5 MEDICAL INDEMNITY AGREEMENT (FINANCIAL ASSISTANCE—BINDING COMMONWEALTH OBLIGATIONS) BILL 2002**

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

Debate resumed.

Senator Ridgeway moved the following amendment:

At the end of the motion, add “but the Senate, noting the dire position of midwives across the country, urges the Federal Government to act to include midwives in the medical insurance rescue package so as to address the crisis in the safe birthing of babies in both public and private hospitals and for assisted home births”.

Debate ensued.

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

Senator Evans moved the following amendment:

At the end of the motion, add “and the Senate, while supporting the provisions of the bill:

- (a) condemns the Government for not adequately recognising the medical indemnity insurance problem and not acting quickly enough to address its adverse effects, including higher medical costs and reduced availability of services for Australians and their families;
- (b) recognises the ongoing problems in the general insurance, reinsurance and medical indemnity insurance industries and that confidence in those industries has been rocked by the collapse of HIH Insurance Limited and the provisional liquidation of United Medical Protection/Australasian Medical Insurance Limited; and
- (c) calls on the Government to:
  - (i) assume a leadership role in the co-ordination of reforms necessary to state and territory laws with the aim of uniformity in tort law reforms,
  - (ii) consider putting in place a national scheme to ensure the long term care and rehabilitation needs of catastrophically injured Australians,
  - (iii) ask the Australian Competition and Consumer Commission to ensure that whatever changes occur in medical indemnity insurance, no unfair or unreasonable oncosts flow to patients for the cost of their health care,
  - (iv) play a more active role in bringing together medical defence organisations and representing them in negotiations with reinsurers;
  - (v) support Australian Prudential Regulation Authority with appropriate resources to fulfil a greater regulatory role in medical indemnity insurance,
  - (vi) require mandatory reporting of negligence claims and national data collection on health care negligence cases to help assess where major problem areas and issues lie,
  - (vii) promote the enactment of national “open disclosure” legislation, including provision that an apology made as part of an open disclosure process is inadmissible in an action for medical negligence, and

(viii) ensure that medical services provided by private hospitals, midwives, family planning clinics and aboriginal medical services are not disrupted due to a lack of appropriate and affordable insurance".

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

Senator Ridgeway, by leave, moved the following amendment:

At the end of the motion, add “and the Senate, while supporting the provisions of the bill:

- (a) condemns the business practices of United Medical Protection Limited in engaging in a strategy of market dominance ahead of sustainable returns; and
- (b) condemns the Government for allowing the insurance industry and medical defence organisations to conduct unhealthy business practices which created this indemnity/liability insurance crisis and then failing to hold them accountable".

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 Minister for Revenue and Assistant Treasurer (Senator Coonan) the bill was read a third time.

*Suspension of sitting:* On the motion of Senator Coonan the sitting of the Senate was suspended till 2 pm.

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*At 2 pm—*

## 6 QUESTIONS

Questions without notice were answered.

## 7 QUESTIONS ON NOTICE—ANSWERS AND EXPLANATION

Senator Allison, pursuant to standing order 74, asked the Minister representing the Minister for the Environment and Heritage (Senator Hill) for an explanation of answers not being provided to questions on notice nos 61 to 76 (notice given 12 February 2002) relating to the heritage values of Commonwealth properties.

Senator Hill did not provide an explanation.

Senator Allison moved—That the Senate take note of the minister's failure to provide either an answer or an explanation.

Debate ensued.

Question put and passed.

**8 SUPERANNUATION—SMALL BUSINESS—ANSWER TO QUESTION**

Senator Sherry moved—That the Senate take note of the answer given by the Special Minister of State (Senator Abetz) to a question without notice asked by Senator Sherry today relating to superannuation and small business.

Debate ensued.

Question put and passed.

**9 ENVIRONMENT—GREENHOUSE GAS EMISSIONS—ANSWER TO QUESTION**

Senator Allison 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 Allison today relating to greenhouse gas emissions.

Question put and passed.

**10 NOTICES**

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

- (a) notes that, in the week beginning 17 November 2002, the Australian Medical Association called on the Federal Government to ratify the Kyoto Protocol on climate change as an important first step in reducing greenhouse gas emissions;
- (b) calls on the Government to assess the future costs of predicted increases in disease from vector-born diseases; and
- (c) again urges the Government to ratify the Kyoto Protocol and increase efforts to abate greenhouse emissions. (*general business notice of motion no. 271*)

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

- (a) opposes:
  - (i) the privatisation of Bankstown Airport, and
  - (ii) any expansion of the runways or infrastructure of Bankstown Airport and the diversion to it of regional turboprops and/or 737 jet aircraft from Kingsford Smith Airport; and
- (b) supports a legislated curfew for Bankstown Airport. (*general business notice of motion no. 272*)

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

- (a) notes:
  - (i) with concern, that the 12th Conference of the Parties to the United Nations Convention on International Trade in Endangered Species of Wild Fauna and Flora, held from 4 November to 15 November 2002, passed resolutions allowing Namibia, Botswana and South Africa to sell a total of 60 000 kilograms of stockpiled ivory after May 2004,
  - (ii) that these resolutions are inconsistent with the international ban on the sale of ivory, which came into force in 1989, and
  - (iii) evidence suggesting that these resolutions are likely to increase the incidence of illegal poaching of elephants from other African states in order to meet the increased demand for ivory;

- (b) acknowledges that the Australian Government voted to oppose these resolutions; and
- (c) calls upon the Australian Government to maintain pressure on other states, both directly and through multilateral frameworks, to adopt a full trade ban on ivory. *(general business notice of motion no. 273)*

## 11 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 4 March 2003.

General business notice of motion no. 247 standing in the name of Senator Greig for today, relating to the reference of matters to the Joint Standing Committee on Treaties, postponed till 2 December 2002.

General business notice of motion no. 266 standing in the name of Senator Allison for today, relating to tobacco laws, postponed till 2 December 2002.

General business notice of motion no. 267 standing in the name of Senator Allison for today, relating to the use of photovoltaic energy, postponed till 2 December 2002.

## 12 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES COMMITTEE—EXTENSIONS 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. 265—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.

Question put and passed.

## 13 SUPERANNUATION—INSURANCE AND SUPERANNUATION COMMISSION—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Ludwig, at the request of Senator Conroy and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 268—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.

Question put and passed.

#### 14 IMMIGRATION—EAST TIMOR—ASYLUM SEEKERS

Senator Crossin, also on behalf of the Leader of the Australian Democrats (Senator Bartlett) and Senators Brown and Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 270—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.

Question put and passed.

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

Senator Ferris, at the request of the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee (Senator Eggleston) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 263—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.

Question put and passed.

**16 ECONOMICS LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Ferris, at the request of the Chair of the Economics Legislation Committee (Senator Brandis) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 264—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.

Question put and passed.

**17 ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION AMENDMENT (INVASIVE SPECIES) BILL 2002**

The Leader of the Australian Democrats (Senator Bartlett), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 269—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.

Question put and passed.

Senator Bartlett presented the bill and moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

Senator Bartlett moved—That this bill be now read a second time.

Debate adjourned till the next day of sitting, Senator Bartlett in continuation.

**18 FOREIGN AFFAIRS—COLOMBIA**

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 255—That the Senate—

- (a) notes that former Colombian Senator Ingrid Betancourt and Ms Clara Rojas have been held captive by Revolutionary Armed Forces of Colombia (FARC) guerillas in Colombia since February 2002; and
- (b) requests the Australian Government to write to President Uribe asking that he take urgent and active steps to secure the release of Ms Betancourt, Ms Rojas and other captives of the FARC.

Question put and passed.

**19 FOREIGN AFFAIRS—TIMOR SEA TREATY—GREATER SUNRISE GAS FIELD**

Senator Nettle amended her notice of motion by leave and, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 251—That the Senate calls on the Australian Government:

- (a) to negotiate a unitisation deal concerning Greater Sunrise that considers for the purpose of negotiating the Timor Sea Treaty that at least 80 per cent of the Greater Sunrise gas field is deemed to lie within the Joint Petroleum Development Area (JPDA);
- (b) if it will not negotiate in good faith about the proportion of Greater Sunrise deemed to lie within the JPDA, to ensure that negotiations regarding the Timor Sea Treaty proceed independently of the Greater Sunrise unitisation arrangement being finalised; and
- (c) in order to facilitate ongoing negotiation in good faith, to recommit to the jurisdiction of the International Court of Justice with respect to the determination of maritime boundaries.

Question put.

The Senate divided—

AYES, 8

Senators—

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

NOES, 43

Senators—

Abetz	Denman	Lundy	Ray
Barnett	Eggleson	Macdonald, Sandy	Reid
Bishop	Evans	Mackay	Santoro
Brandis	Ferris (Teller)	Marshall	Scullion
Buckland	Hogg	Mason	Tchen
Calvert	Johnston	McGauran	Tierney
Campbell, George	Kemp	McLucas	Troeth
Carr	Kirk	Moore	Watson
Chapman	Knowles	O'Brien	Webber
Colbeck	Lightfoot	Patterson	Wong
Collins	Ludwig	Payne	

Question negated.

**20 DEPARTMENT OF TRANSPORT AND REGIONAL SERVICES—REPORT FOR 2001-02—ERRATUM—DOCUMENT**

The Minister for Revenue and Assistant Treasurer (Senator Coonan) tabled the following document:

Department of Transport and Regional Services—Report for 2001-02—Erratum.

**21 SCRUTINY OF BILLS—STANDING COMMITTEE—ALERT DIGEST NO. 14 OF 2002**

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

Scrutiny of Bills—Standing Committee—Alert Digest No. 14 of 2002, dated 19 November 2002.

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

Question put and passed.

**22 COMMUNITY AFFAIRS LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—BUDGET ESTIMATES 2002-03**

Senator McGauran, at the request of the Chair of the Community Affairs Legislation Committee (Senator Knowles), tabled additional information received by the committee (Budget estimates 2002-03—vols 3 and 4).

**23 DOCUMENTS**

The following documents were tabled by the Clerk:

Customs Act—CEO Instrument of Approval No. 39 of 2002.

Sydney Airport Curfew Act—Dispensations granted under section 20—Dispensation No. 11/02 [3 dispensations].

**24 COMMITTEES—CHANGES IN MEMBERSHIP**

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

The Special Minister of State (Senator Abetz), by leave, moved—That senators be discharged from and appointed to committees as follows:

**Foreign Affairs, Defence and Trade Legislation Committee—**

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

Senator Barnett to replace Senator Ferguson, in place of Senator Eggleston, on 22 November 2002

Senator Faulkner to replace Senator Evans on 22 November 2002

**Public Accounts and Audit—Joint Statutory Committee—**

Appointed—Senator Lundy

Discharged—Senator Moore.

Question put and passed.

**25 PROCEDURE—STANDING COMMITTEE—SECOND REPORT OF 2002—CONSIDERATION**

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

The Special Minister of State (Senator Abetz) moved—That the recommendations of the Procedure Committee in its second report of 2002, be adopted as follows:

- (a) standing order 25(10), relating to chairs of committees, be amended as set out in the report with immediate effect;
- (b) standing orders 29(2), 25(7) and 26(8), relating to quorums in committees, be amended as set out in the report with immediate effect; and
- (c) a temporary order relating to the adjournment debate on Tuesdays, as set out in the report, operate till the last sitting day in 2003.

Question put and passed.

Accordingly the standing orders were amended and a temporary order adopted, as follows:

**25 Legislative and general purpose**

At the end of paragraph (7), add:

- (d) A participating member shall be taken to be a member of a committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.

At the end of paragraph (10), add:

- (g) The chair, or the deputy chair when acting as chair, may appoint another member of a committee to act as chair during the temporary absence of both the chair and deputy chair at a meeting of the committee.

**26 Estimates**

Paragraph (8), after “Participating membership of legislation committees shall not have effect in respect of proceedings on estimates,”, add “other than the formation of a quorum.”.

**29 Quorum**

Omit paragraph (2), substitute:

- (2) If a senator draws attention to the lack of a quorum at a meeting of a committee, the proceedings shall be suspended until a quorum is present, or, if a quorum is not present after 15 minutes, the committee shall then be adjourned.

**Temporary order—Adjournment debate on Tuesdays**

The following operate as a temporary order:

- (1) On the question for the adjournment of the Senate on Tuesday, a senator who has spoken once subject to the time limit of 10 minutes may speak again for not more than 10 minutes if no other senator who has not already spoken once wishes to speak, provided that a senator may by leave speak for not more than 20 minutes on one occasion.
- (2) This order shall cease to have effect at the conclusion of the last sitting day in 2003.

**26 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.

Question put and passed.

Bill read a second time.

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

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*In the committee*

Bill taken as a whole by leave.

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*Explanatory memorandum:* The Minister for Justice and Customs (Senator Ellison) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

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

Schedule 1, item 35, page 13 (after line 25), at the end of section 7C, add:

*Informing the Inter-Governmental Committee*

(5) The Chair of the Board must, within the period of 3 days beginning on the day a determination under subsection (2) or (3) is made, give a copy of the determination to the Inter-Governmental Committee.

*When determination takes effect*

(6) A determination under subsection (2) or (3) has effect immediately after it is made.

Schedule 1, page 16 (after line 25), after item 36, insert:

**36A At the end of subsection 8(5)**

Add “There must be a minimum of 2 meetings each calendar year.”.

Schedule 1, page 16 (after line 25), after item 36, insert:

**36B Subsection 8(7)**

Repeal the subsection, substitute:

(7) A resolution:

- (a) which, without being considered at a meeting of the Committee, is referred to all members of the Committee; and
- (b) of which:

- (i) if subparagraph (ii) does not apply—a majority of those members, or if a majority including a particular member or particular members is required for the resolution to have effect, a majority including that member or those members, indicate by telephone or other mode of communication to the member of the Committee representing the Commonwealth that they are in favour; or
- (ii) if the resolution is that the Committee make a request under subsection 9(2) or that the Committee revoke a determination made under subsection 7C(2) or (3)—the member of the Committee representing the Commonwealth is in favour and at least 5 other members indicate by telephone or other mode of communication to the member of the Committee representing the Commonwealth that they are in favour;

is as valid and effectual as if it had been passed at a meeting of the Committee duly convened and held.

Schedule 1, item 38, page 17 (after line 11), at the end of section 9, add:

*Request for more information about special determination*

- (2) Within the period of 30 days beginning on the day the Committee is given a copy of a determination (a **special determination**) under subsection 7C(2) or (3), the Committee may by resolution, with the agreement of the member of the Committee representing the Commonwealth and at least 5 other members of the Committee, request the Chair of the Board to give further information to the Committee in relation to the determination.
- (3) Subject to subsection (4), the Chair of the Board must comply with the request.
- (4) If the Chair of the Board considers that disclosure of information to the public could prejudice the safety or reputation of persons or the operations of law enforcement agencies, the Chair must not give the Committee the information.
- (5) If the Chair of the Board does not give the Committee information on the ground that the Chair considers that disclosure of the information to the public could prejudice the safety or reputation of persons or the operations of law enforcement agencies, the Committee may refer the request to the Minister.
- (6) If the Committee refers the request to the Minister, the Minister:
  - (a) must determine in writing whether disclosure of the information could prejudice the safety or reputation of persons or the operations of law enforcement agencies; and
  - (b) must provide copies of that determination to the Chair of the Board and the Committee; and
  - (c) must not disclose his or her reasons for determining the question of whether the information could prejudice the safety or reputation of persons or the operations of law enforcement agencies in the way stated in the determination.

*Revoking the special determination*

- (7) Within the period of 30 days beginning on the day the Committee makes a request under subsection (2) in relation to a special determination, the Committee may by resolution, with the agreement of the member of the Committee representing the Commonwealth and at least 5 other members of the Committee, revoke the determination.
- (8) The Committee must notify the Chair of the Board and the CEO of the revocation. The revocation takes effect when the CEO is so notified.

Note: One of the effects of the revocation is that the coercive powers in Division 2 of Part II are no longer able to be exercised in relation to the ACC operation/investigation concerned.

- (9) To avoid doubt, the revoking of the determination does not affect the validity of any act done in connection with the ACC operation/investigation concerned before the CEO is so notified.

*Committee under no duty to consider whether to exercise powers*

- (10) The Committee does not have a duty to consider whether to exercise the power under subsection (2) or (7) in respect of any special determination, whether the Committee is requested to do so by any person, or in any other circumstances.

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

Schedule 1, item 253, page 55 (line 23), omit “Subject to subsection (2), if”, substitute “If”.

Schedule 1, item 253, page 56 (line 4), omit “(1) or”.

Senator Greig moved the following amendment:

Schedule 1, item 253, page 56 (lines 1 and 2), omit “to the public”, substitute “in the circumstances”.

Debate ensued.

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

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

On the motion of Senator Ellison the report from the committee was adopted and the bill read a third time.

**27 ENVIRONMENT—OCEANS POLICY—ORDER FOR PRODUCTION OF DOCUMENTS—STATEMENT BY LEAVE**

The Minister for Justice and Customs (Senator Ellison), by leave, made a statement relating to the order of the Senate of 18 November 2002 for the production of documents concerning the review of the Implementation of Oceans Policy (*see entry no. 21, 18 November 2002*).

*Statement by leave:* Senator Ludwig, by leave, made a statement relating to the matter.

**28 ORDER OF BUSINESS—REARRANGEMENT**

The Minister for Justice and Customs (Senator Ellison) moved—That intervening business be postponed till after consideration of government business order of the day no. 11 (Family and Community Services Legislation Amendment (Disability Reform) Bill (No. 2) 2002).

Question put and passed.

**29 FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (DISABILITY REFORM) BILL (NO. 2) 2002**

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

Debate resumed.

Question put.

The Senate divided—

AYES, 30

Senators—

Abetz	Eggleson	Macdonald, Ian	Scullion
Alston	Ellison	Macdonald, Sandy	Tchen
Barnett	Ferris	Mason	Tierney
Brandis	Hill	McGauran (Teller)	Troeth
Calvert	Johnston	Minchin	Vanstone
Chapman	Kemp	Patterson	Watson
Colbeck	Knowles	Reid	
Coonan	Lightfoot	Santoro	

NOES, 33

Senators—

Allison	Cook	Lundy	Ridgeway
Bartlett	Crossin (Teller)	Mackay	Sherry
Bishop	Denman	Marshall	Stephens
Bolkus	Faulkner	McLucas	Stott Despoja
Buckland	Greig	Moore	Webber
Carr	Harradine	Murphy	Wong
Cherry	Hogg	Murray	
Collins	Kirk	Nettle	
Conroy	Ludwig	Ray	

Question negatived.

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*After 6.50 pm—*

**30 GOVERNMENT DOCUMENTS—CONSIDERATION**

The following government document tabled earlier today (*see entry no. 2*) was considered:  
Civil Aviation Safety Authority—Report for 2001-02. Motion to take note of document moved by Senator Sandy Macdonald and agreed to.

**31 ADJOURNMENT**

The President proposed the question—That the Senate do now adjourn.  
Debate ensued.  
The Senate adjourned at 8.35 pm till Monday, 2 December 2002 at 12.30 pm.

**32 ATTENDANCE**

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

**HARRY EVANS**  
Clerk of the Senate