

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 RESEARCH INVOLVING EMBRYOS 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 Barnett:

Clause 8, page 6 (line 26) to page 7 (line 7), omit the definition of **proper consent**, substitute:

proper consent has the meaning given by section 8A.

Page 7 (after line 20), after clause 8, insert:

8A Meaning of proper consent

(1) In this Part:

proper consent, in relation to the use of an excess ART embryo, means:

- (a) consent obtained in accordance with the *Ethical Guidelines on Assisted Reproductive Technology* (1996) issued by the NHMRC; or
- (b) if the Chairperson of the NHMRC Licensing Committee specifies, by notice in the *Gazette*, other guidelines issued by the NHMRC—consent obtained in accordance with those other guidelines.

(2) It is a condition of **proper consent** that the donor:

- (a) receives independent counselling; and
- (b) receives written notification of, understands and consents in writing to the specific application to which the ART embryo will be put; and
- (c) has a cooling-off period of 7 days.

(3) At all times a donor is to have access to the information about the use to which that donor's embryos were put.

On the motion of Senator Barnett further consideration of the amendments was postponed.

Senator Hogg moved the following amendment:

Clause 9, page 8 (lines 1 to 4), omit paragraph (a), substitute:

- (a) each such person has given written authority for the use of the human embryo for the sole purpose of harvesting the human embryonic stem cells consistent with the matters contained in paragraph 21(4)(b) and other than a purpose relating to ART treatment of the woman concerned, and the authority is in force at that time; or

Debate ensued.

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

Senator Collins moved the following amendments together by leave:

No. 1—Clause 10, page 9 (line 22), after “created”, insert “where the suitability of the embryo is determined only on the basis of its biological fitness for attachment”.

No. 2—Clause 10, page 10 (after line 4), before the definition of *observation*, insert:

diagnostic investigation, in relation to an excess ART embryo, means any procedure undertaken on embryos for the sole purpose of diagnostic investigations for the direct benefit of the woman for whom it was created.

Senator Collins, by leave, amended amendment no. 1 as follows:

Omit “attachment”, substitute “implantation”.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 38

Senators—

Abetz	Chapman	Hutchins	Nettle
Allison	Cherry	Kemp	Ridgeway
Alston	Collins	Kirk	Santoro
Barnett	Conroy	Lees	Scullion
Bartlett	Ellison	Lightfoot	Sherry
Bishop	Greig	Macdonald, Sandy	Stephens
Boswell	Harradine	McGauran	Stott Despoja
Brown	Harris	Minchin	Watson
Buckland (Teller)	Heffernan	Murphy	
Calvert	Hogg	Murray	

NOES, 30

Senators—

Bolkus	Evans	Mackay (Teller)	Ray
Campbell, George	Faulkner	Marshall	Reid
Campbell, Ian	Ferguson	Mason	Troeth
Carr	Ferris	McLucas	Vanstone
Colbeck	Johnston	Moore	Webber
Cook	Knowles	O’Brien	Wong
Crossin	Ludwig	Patterson	
Denman	Lundy	Payne	

Question agreed to.

Senator Hogg moved the following amendment:

Clause 10, page 9 (lines 31 and 32), omit paragraph (f).

Debate ensued.

At 2 pm: The President resumed the chair and the Temporary Chair of Committees (Senator Hutchins) reported progress.

3 QUESTIONS

Questions without notice were answered.

4 SUPERANNUATION—MINISTERIAL RESPONSIBILITY—ANSWERS TO QUESTIONS

The Leader of the Opposition in the Senate (Senator Faulkner) moved—That the Senate take note of the answers given by the Minister for Revenue and Assistant Treasurer (Senator Coonan) to questions without notice asked by opposition senators today relating to superannuation and to her pecuniary interests.

Debate ensued.

Question put and passed.

5 DEFENCE—PRE-EMPTIVE MILITARY ACTION—ANSWER TO QUESTION

The Leader of the Australian Democrats (Senator Bartlett) moved—That the Senate take note of the answer given by the Minister for Defence (Senator Hill) to a question without notice asked by Senator Bartlett today relating to pre-emptive military action.

Question put and passed.

6 DEATH OF FORMER SENATOR GORDON SINCLAIR DAVIDSON, CBE

The President informed the Senate of the death, on 25 November 2002, of former Senator Gordon Sinclair Davidson, CBE, a senator for the state of South Australia from 1961 to 1981.

The Leader of the Government in the Senate (Senator Hill), by leave, moved—That the Senate records its deep regret at the death, on 25 November 2002, of Gordon Sinclair Davidson, CBE, a former Liberal Party senator for South Australia, and places on record its appreciation of his meritorious public service and tenders its profound sympathy to his family in their bereavement.

The motion was supported and all senators present stood in silence—

Question passed.

7 SUPERANNUATION—INSURANCE AND SUPERANNUATION COMMISSION—ORDER FOR PRODUCTION OF DOCUMENTS—STATEMENT BY LEAVE

The Minister for the Arts and Sport (Senator Kemp), by leave, made a statement relating to the order of the Senate of 19 November 2002 for the production of documents concerning the supervision by the Insurance and Superannuation Commission of certain insurance companies (*see entry no. 13, 19 November 2002*).

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

8 PETITIONS

The following 3 petitions, lodged with the Clerk by the senators indicated, were received:

The President, from 50 petitioners, requesting that the Senate oppose Australia's involvement in pre-emptive military action or a first strike against Iraq and call on the Government to pursue diplomatic initiatives towards disarmament in Iraq and worldwide.

Senator Bartlett, from 20 petitioners, requesting that the Senate support the Australian Democrats' motion opposing Australia's involvement in pre-emptive military action or a first strike against Iraq and call on the Government to pursue diplomatic initiatives towards disarmament in Iraq, and worldwide.

Senator Brown, from 245 petitioners, requesting that the Senate does not support a war against Iraq and puts the interests of peace and the world community above those of the United States.

9 NOTICES

Senator Ludwig: To move on the next day of sitting—That there be laid on the table, no later than immediately after motions to take note of answers on Thursday, 5 December 2002, the Commonwealth Government's submission to the Remuneration Tribunal's major review of judicial and related offices' remuneration. (*general business notice of motion no. 274*)

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

- (a) notes that Australians Against Child Abuse and the Child Abuse and Family Violence Research Unit at Monash University undertook a study in Victoria of mandatory reporting of child abuse and, in October 2002, released their report entitled, *A Study in Confusion – Factors which affect the decisions of community professionals when reporting child abuse and neglect*, and found:
 - (i) a lack of confidence in the statutory child protection system leading community professionals to sometimes feel reluctant to make a child abuse report,
 - (ii) that 54 per cent of respondents would not report children whom they judged to be at considerable or extreme risk,
 - (iii) that for 88 per cent of respondents, their decision about whether or not to report a child was influenced by their view of the anticipated outcomes for the child, and
 - (iv) more than half of the respondents believed the outcome would not be positive for the child (56 per cent) or for the child's family (63 per cent);
- (b) urges the Victorian State Government to:
 - (i) fully implement its mandatory reporting legislation, extending mandatory reporting to all professional groups,
 - (ii) evaluate the extent to which mandated professionals are currently complying with the legislation, and
 - (iii) increase funding to statutory child protection services to more effectively investigate reports of child abuse; and
- (c) urges the Federal Government to work with all state governments to develop a national approach to improving the ways in which abused children are protected, including national minimum standards of care, uniform child protection legislation, a national independent research program and a federal system of children's services commissioners to subject all child welfare systems to regular and rigorous review. (*general business notice of motion no. 275*)

The Chair of the Select Committee on Superannuation (Senator Watson): To move on the next day of sitting—That the time for the presentation of the report of the Select Committee on Superannuation on tax arrangements for superannuation and related policy be extended to 12 December 2002. (*general business notice of motion no. 276*)

The Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan): To move on the next day of sitting—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the Transport Safety Investigation Bill 2002 be extended to 5 December 2002. (*general business notice of motion no. 277*)

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell): To move on the next day of sitting—That immediately after prayers on 4 December 2002, Senator Santoro may make his first speech without any question before the chair.

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

(a) notes that:

- (i) Sunday, 1 December 2002, was the annual World AIDS Day, and sought to draw international attention to the need to refocus our efforts on:
 - (A) eliminating all forms of discrimination against people with, or suspected of having, HIV through education about HIV/AIDS,
 - (B) advocacy for people living with HIV/AIDS, and
 - (C) promotion of legal protection for people living with or affected by HIV/AIDS,
- (ii) the joint United Nations Program on HIV/AIDS (UNAIDS) and the World Health Organisation released the ‘AIDS Epidemic Update 2002’ in the week beginning 24 November 2002, drawing attention to the fact that the virus is fuelling a widening and increasingly deadly famine in southern Africa, where more than 14 million people are now at risk of starvation and more than 29 million people are already infected with HIV,
- (iii) more than 90 per cent of the 42 million people who have HIV or AIDS live in developing countries, and only 2 to 3 per cent have access to antiretroviral drug therapies that are designed to stop or inhibit the spread of HIV,
- (iv) the infection rate from HIV in Australia has remained relatively stable over the past few years, but in many countries around the world, particularly in southern Africa and parts of the Asia-Pacific region, the virus is spreading so rapidly that it is now a pandemic, and
- (v) some 5 million people were infected worldwide during the past year;
- (b) welcomes the decision at the recent meeting of World Trade Organisation ministers to endorse the developing world’s better access to affordable medicines, including drugs used in the treatment of HIV/AIDS, but encourages further progress to be made, particularly in relation to access to affordability of antiretroviral drugs; and
- (c) reminds the Australian Government that, as a signatory to the United Nations Millennium Development Goals, which includes a commitment to stopping the spread of the AIDS pandemic by 2015, Australia needs to do all that is financially and medically possible to assist those countries, especially our nearest neighbours, which are struggling to contain the spread of the virus and to care for those already infected. (*general business notice of motion no. 278*)

Senator Nettle: To move on 4 December 2002—

- (1) That the following matters be referred to the Community Affairs References Committee for inquiry and report by 18 September 2003:
 - (a) the financial sustainability of the Pharmaceutical Benefits Scheme (PBS), including the assumptions of forward estimates of the cost of the PBS to the Commonwealth Government;
 - (b) the social and economic implications of increasing the co-payment for PBS-listed medicines, including the long-term implications for the health of Australians;
 - (c) whether the cost of the PBS to the Commonwealth Government provides value for money to the Australian community in terms of health outcomes;
 - (d) alternative means of funding the PBS, including:
 - (i) abolishing the Private Health Insurance Incentive Scheme and using the budget savings to fund the PBS,
 - (ii) a less regressive direct payment system taking into account ability to pay, and
 - (iii) abolishing the co-payment and replacing it with an increase in the Medicare levy;
 - (e) ways to map the prescribing habits of doctors and possible strategies to improve the quality of prescribing;
 - (f) the transparency of the PBS listing process, including the cost-benefit analysis that is conducted for drugs proposed for listing;
 - (g) whether the Commonwealth Government is making the best use of price-volume agreements to obtain the best value for money;
 - (h) the extent of leakage and means to eliminate it;
 - (i) whether voluntary controls on industry marketing practices are adequate or should be replaced with legislative controls;
 - (j) pharmaceutical industry practices that undermine the PBS and possible measures to eliminate or constrain these practices;
 - (k) cost shifting of pharmaceutical expenses from the states to the Commonwealth and ways to improve co-operation between the jurisdictions; and
 - (l) implications of any agreements that seek to link trade restriction practices to the operation of the PBS.
- (2) That in conducting this inquiry, the committee is to invite public submissions and to conduct public hearings in all capital cities.

Senator Nettle: To move on the next day of sitting—That there be laid on the table by the Minister for Health and Ageing (Senator Patterson) and the Minister representing the Minister for Trade (Senator Hill), no later than 4 pm on 4 December 2002, all documents relating to the possible inclusion of the Pharmaceutical Benefits Scheme as an item for discussion in negotiations for an Australia-United States free trade agreement, including but not limited to correspondence between the Australian and United States governments, recommendations to the Australian government and/or any Commonwealth government minister, and any Australian government response to those recommendations. (*general business notice of motion no. 279*)

Senator Nettle: To move on the next day of sitting—That there be laid on the table by the Minister for Health and Ageing (Senator Patterson), no later than 4 pm on 4 December 2002, all documents relating to the inter-departmental committee (IDC) examining the effectiveness of the Pharmaceutical Benefits Scheme, including but not limited to submissions received by the IDC, the IDC's recommendations to the Minister, and any response by the Minister to those recommendations. (*general business notice of motion no. 280*)

Senator Brown: To move on 4 December 2002—That, regarding Australian permanent resident Dr Lesley McCulloch, now imprisoned in Aceh, Indonesia, the Senate calls on the Minister for Foreign Affairs (Mr Downer) to:

- (a) seek an explanation from Indonesia for the delay of Dr McCulloch's trial from 27 November to 19 December 2002;
- (b) have Australian representatives visit Dr McCulloch and give her any reasonable assistance; and
- (c) ensure Dr McCulloch and her rights, including consular access, are not compromised by moves to declare or impose martial law in Aceh. (*general business notice of motion no. 281*)

Senator Brown: To move on 4 December 2002—That the Senate—

- (a) notes that:
 - (i) Gunns Ltd owns 170 000 hectares of freehold land in Tasmania, of which approximately 100 000 hectares is plantations and 70 000 hectares native forest, including old-growth eucalypt forests and rainforests,
 - (ii) approximately 70 000 hectares of Gunns' existing plantations were established under managed investment schemes which give tax concessions to investors under the 13-month prepayment rule,
 - (iii) Gunns intends to establish a total of 200 000 hectares of plantations on its own land and via joint ventures and considers the tax concessions essential for its plans,
 - (iv) the tax concessions will promote the clearing of 70 000 hectares or more of native forests by Gunns, and
 - (v) based on figures provided by the Minister for Revenue and Assistant Treasurer (Senator Coonan), the value of tax concessions for 70 000 hectares of plantations is \$129 million; and
- (b) calls on the Government to abolish those tax concessions, including the 13-month prepayment rule, which promote clearing of native forests and other native vegetation. (*general business notice of motion no. 282*)

Senator Brown: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to provide for a Parliamentary Commission of Inquiry in relation to the operation and effectiveness of Australian security and intelligence services relating to the Bali terrorist outrage on 12 October 2002. ***Parliamentary Commission of Inquiry (Bali Bombings) Bill 2002.*** (*general business notice of motion no. 283*)

10 CORPORATIONS AND FINANCIAL SERVICES—JOINT STATUTORY COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Eggleston, by leave and at the request of the Chair of the Parliamentary Joint Committee on Corporations and Financial Services (Senator Chapman), moved—That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a public meeting during the sitting of the Senate today, from 6 pm, to take evidence in relation to its duties to inquire into, and report on, the activities of the Australian Securities and Investments Commission and to examine its annual report.

Question put and passed.

11 POSTPONEMENTS

Items of business were postponed as follows:

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 5 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 3 December 2002.

General business notice of motion no. 272 standing in the name of Senator Nettle for today, relating to Bankstown Airport, postponed till 3 December 2002.

12 TREATIES—JOINT STANDING COMMITTEE—REFERENCE

Senator Greig, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 247—That the Senate—

- (a) notes, with concern, indications by the Government that it is considering entering into an agreement with the United States of America (US), pursuant to which Australia would agree not to surrender US nationals to the International Criminal Court without the consent of the US; and
- (b) refers the proposed agreement to the Joint Standing Committee on Treaties for inquiry and report, with particular reference to the following matters:
 - (i) whether the proposed agreement would breach the terms of, or be otherwise inconsistent with the spirit of, the Rome Statute which Australia has ratified,
 - (ii) the effect of the proposed agreement, either itself or in conjunction with similar agreements between the US and other states, on the ability of the International Criminal Court to effectively fulfil its intended function,
 - (iii) the implications of any extradition provisions in the proposed agreement and whether the proposed agreement would require the re-negotiation of existing extradition agreements to which Australia is a party, and
 - (iv) the implications of the proposed agreement with respect to Australia's national interest.

Question put and passed.

13 ENVIRONMENT—ENDANGERED SPECIES—IVORY TRADE

Senator Stott Despoja, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 273—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.

Question put and passed.

14 HEALTH—TOBACCO CONTROL

Senator Greig, at the request of Senator Allison and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 266—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.

Question put and passed.

15 ENVIRONMENT—GREENHOUSE GAS EMISSIONS

Senator Allison, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 271—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-borne diseases; and
- (c) again urges the Government to ratify the Kyoto Protocol and increase efforts to abate greenhouse emissions.

Question put and passed.

**16 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS
LEGISLATION COMMITTEE—REPORT—TELECOMMUNICATIONS COMPETITION BILL
2002**

The Acting Deputy President (Senator Sandy Macdonald) tabled the following report and documents received on 22 November 2002:

Environment, Communications, Information Technology and the Arts Legislation Committee—Telecommunications Competition Bill 2002—Report, dated November 2002, *Hansard* record of proceedings, documents presented to the committee and submissions [14].

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

**17 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS
LEGISLATION COMMITTEE—INTERIM REPORT—RENEWABLE ENERGY (ELECTRICITY)
AMENDMENT BILL 2002**

The Acting Deputy President (Senator Sandy Macdonald) tabled the following report received on 28 November 2002:

Environment, Communications, Information Technology and the Arts Legislation Committee—Renewable Energy (Electricity) Amendment Bill 2002—Interim report, dated 28 November 2002.

18 GOVERNMENT DOCUMENTS

The Acting Deputy President (Senator Sandy Macdonald) presented the following government documents received on the dates indicated:

Commonwealth Government of Australia—Consolidated financial statements for the year ended 30 June 2002. [*Received on 29 November 2002*]

Department of Health and Ageing—Report for 2001-02, including a report on the administration and operation of Therapeutic Goods Administration—Erratum. [*Received 29 November 2002*]

Health Services Australia Ltd (HSA)—Report for 2001-02. [*Received 29 November 2002*]

Mid-year economic and fiscal outlook—2002-03—Statement by the Treasurer (Mr Costello) and the Minister for Finance and Administration (Senator Minchin), November 2002. [*Received 28 November 2002*]

19 AUDITOR-GENERAL—AUDIT REPORT NO. 18 OF 2002-03—DOCUMENT

The Acting Deputy President (Senator Sandy Macdonald) tabled the following document received on 27 November 2002:

Auditor-General—Business support process audit—Management of trust monies (Report no. 18 of 2002-03).

20 FOREIGN AFFAIRS—IRAQ—MILITARY ACTION—DOCUMENT

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

Foreign Affairs—Iraq—Military action—Letter to the President of the Senate from the Prime Minister (Mr Howard), responding to the resolution of the Senate of 22 October 2002, dated 17 November 2002.

The Leader of the Australian Democrats (Senator Bartlett), by leave, moved—That the Senate take note of the document.

Debate ensued.

Question put and passed.

21 AUDITOR-GENERAL—AUDIT REPORT NO. 19 OF 2002-03—DOCUMENT

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

Auditor-General—Performance audit—The Australian Taxation Office's management of its relationship with tax practitioners (Report no. 19 of 2002-03).

22 PARLIAMENT ACT—PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL—DOCUMENTS

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

Parliament Act—Proposal, together with supporting documentation, relating to the construction of additional security elements including vehicular access gates and bollards to prevent access to the ministerial entry by unauthorised vehicles.

Notice of motion: The Minister for the Arts and Sport (Senator Kemp), by leave, gave a notice of motion as follows: To move on 5 December 2002—That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposal by the Joint House Department to construct additional security elements, including vehicular access gates and bollards, to prevent access to the ministerial entry by unauthorised vehicles.

**23 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS
LEGISLATION COMMITTEE—REPORT—RENEWABLE ENERGY (ELECTRICITY)
AMENDMENT BILL 2002**

Pursuant to order, the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee (Senator Eggleston) tabled the following report and documents:

Environment, Communications, Information Technology and the Arts Legislation Committee—Renewable Energy (Electricity) Amendment Bill 2002—Report, dated December 2002, *Hansard* record of proceedings, documents presented to the committee and submissions [44].

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

**24 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—REPORT—
REVIEW OF AUSTRALIA'S PREPAREDNESS TO MANAGE THE CONSEQUENCES OF A
TERRORIST ATTACK**

The Chair of the Joint Standing Committee on Foreign Affairs, Defence and Trade (Senator Ferguson) made a statement by way of a report as follows:

Foreign Affairs, Defence and Trade—Joint Standing Committee—Parliament's watching brief on the war on terrorism—Review of Australia's preparedness to manage the consequences of a terrorist attack, 2 December 2002.

25 ASIO, ASIS AND DSD—JOINT STATUTORY COMMITTEE—ANNUAL REPORT 2001-02

Senator Sandy Macdonald, on behalf of the Parliamentary Joint Committee on ASIO, ASIS and DSD, tabled the following report:

ASIO, ASIS and DSD—Joint Statutory Committee—Annual report for 2001-02, dated August 2002.

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

Question put and passed.

26 DOCUMENTS

The following documents were tabled by the Clerk:

Aboriginal and Torres Strait Islander Commission Act—Regulations—Statutory Rules 2002 No. 275.

Aged Care Act—

Approval of Care Recipients Amendment Principles 2002 (No. 1).

Classification Amendment Principles 2002 (No. 1).

Flexible Care Subsidy Amendment Principles 2002 (No. 1).

Air Force Act—Regulations—Statutory Rules 2002 No. 276.

Australian Meat and Live-stock Industry Act—Australian Meat and Live-stock Industry (Sheepmeat and Goatmeat Export to the European Union — Quota Year 2003) Order 2002.

Australian Prudential Regulation Authority Act—Instrument under section 51—Instrument fixing charges to be paid to APRA, dated 16 November 2002.

Civil Aviation Act—Civil Aviation Regulations—
Airworthiness Directives—Part—
105, dated 6 [4], 8 [4], 11, 12 [2], 14 [7], 15 [6], 18 [8] and 19 [5] November 2002.
107, dated 4, 14 and 18 November 2002.
Civil Aviation Amendment Order (No. 16) 2002.
Exemptions Nos CASA EX34/2002, CASA EX37/2002 and CASA EX39/2002 and CASA EX40/2002.
Instrument No. CASA 740/02.

Class Rulings CR 2002/80-CR 2002/82.

Corporations Act—Regulations—Statutory Rules 2002 No. 282.

Defence Act—Regulations—Statutory Rules 2002 Nos 277 and 279.

Defence Act, Naval Defence Act, Air Force Act and Defence Forces Retirement Benefits Act—Regulations—Statutory Rules 2002 No. 278.

Diplomatic Privileges and Immunities Act—Diplomatic Privileges and Immunities Regulations—Certificates under regulation 5A, dated 1 November 2002 [2].

Federal Court of Australia Act—Rules of Court—Statutory Rules 2002 No. 281.

Higher Education Funding Act—Guidelines for electronic communications with students, dated 12 November 2002.

Motor Vehicle Standards Act—Road Vehicle (National Standards) Determination No. 3 of 2002.

Naval Defence Act—Regulations—Statutory Rules 2002 No. 280.

Primary Industries (Customs) Charges Act—Regulations—Statutory Rules 2002 No. 293.

Primary Industries (Excise) Levies Act—Regulations—Statutory Rules 2002 Nos 274 and 294.

Primary Industries Levies and Charges Collection Act—Regulations—Statutory Rules 2002 No. 295.

Privacy Act—Determinations under section 80A—Temporary Public Interest Determinations Nos 2002-1 and 2002-1A.

Product Rulings PR 2002/132-PR 2002/134.

Safety, Rehabilitation and Compensation Act—Declaration of corporations eligible to be granted a licence—Notice No. 20 of 2002.

Taxation Determination TD 2002/25.

Telecommunications Act—Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 3 of 2002).

Therapeutic Goods Act—Exemption of Therapeutic Goods 2002, dated 19 November 2002.

Veterans' Entitlements Act—Instruments under section 196B—Instruments Nos 71-82 of 2002.

**27 NATIVE TITLE AND THE ABORIGINAL AND TORRES STRAIT ISLANDER LAND FUND—
JOINT STATUTORY COMMITTEE—APPOINTMENT OF MEMBER**

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

The Minister for Health and Ageing (Senator Patterson), by leave, moved—That Senator Johnston be appointed to the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund.

Question put and passed.

28 FINANCIAL SECTOR LEGISLATION AMENDMENT BILL (NO. 2) 2002

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

Message no. 201, dated 2 December 2002—A Bill for an Act to amend certain laws relating to the financial sector, and for related purposes.

The Minister for Health and Ageing (Senator Patterson) 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 Patterson moved—That this bill be now read a second time.

Explanatory memorandum: Senator Patterson tabled a revised explanatory memorandum relating to the bill.

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

**29 COMMUNITY AFFAIRS LEGISLATION COMMITTEE—REPORT—FAMILY AND
COMMUNITY SERVICES LEGISLATION AMENDMENT (SPECIAL BENEFIT ACTIVITY TEST)
BILL 2002**

Pursuant to order, Senator McGauran, at the request of the Chair of the Community Affairs Legislation Committee (Senator Knowles), tabled the following report and documents:

Community Affairs Legislation Committee—Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002—Report, dated December 2002, *Hansard* record of proceedings and submissions [52].

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

30 **RESEARCH INVOLVING EMBRYOS BILL 2002**

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

In the committee

Consideration resumed of the bill, as amended—and of the amendment moved by Senator Hogg (see entry no. 2).

Debate resumed.

Senator Hogg, by leave, withdrew the amendment.

Senator Hogg moved the following amendments together by leave:

Page 10 (after line 7), after clause 10, insert:

10A Offence—selecting a human embryo to be an excess ART embryo on the grounds of gender

A person commits an offence if the person intentionally selects a human embryo to be an excess ART embryo on the grounds of the gender of the embryo.

Maximum penalty: Imprisonment for 5 years.

Clause 9, page 8 (after line 7), at the end of the clause, add:

- (3) For the purposes of subsection (1), a human embryo does not become an excess ART embryo solely on the ground of the gender of the embryo.

Debate ensued.

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

Senator Harradine moved the following amendment:

Page 11 (after line 5), at the end of Division 2, add:

12A Offence—disadvantage or victimisation of persons conscientiously objecting to conducting research on human embryos

A person commits an offence if the person:

- (a) disadvantages, victimises, threatens or discriminates against another person in the course of his or her employment, research or study because that other person conscientiously objects to being involved with research on human embryos and human embryonic stem cells;
- (b) compels another person in the course of his or her employment or study to be involved with research on human embryos or human embryonic stem cells if that other person conscientiously objects to conducting research on human embryos or human embryonic stem cells.

Maximum penalty: \$10,000 for a body corporate or \$2,000 in other cases.

Note: A human embryo includes an excess ART embryo.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 28

Senators—

Abetz	Buckland (Teller)	Hogg	Minchin
Alston	Calvert	Hutchins	Murphy
Barnett	Chapman	Kemp	Nettle
Bishop	Collins	Lightfoot	Santoro
Boswell	Ellison	Macdonald, Sandy	Sherry
Brandis	Harradine	Mason	Stephens
Brown	Harris	McGauran	Watson

NOES, 34

Senators—

Allison	Evans	Macdonald, Ian	Scullion
Bartlett	Ferguson	Marshall	Stott Despoja
Campbell, George	Ferris (Teller)	McLucas	Tchen
Carr	Greig	Moore	Tierney
Cherry	Johnston	Murray	Troeth
Colbeck	Kirk	O'Brien	Webber
Cook	Knowles	Patterson	Wong
Crossin	Ludwig	Payne	
Denman	Lundy	Ridgeway	

Question negatived.

Senator Boswell moved the following amendment:

Page 11 (after line 5), at the end of Division 2, add:

12A Offence—export of human embryos, human embryonic stem cells or any product derived from human embryos

A person commits an offence if the person intentionally or recklessly exports from Australia a human embryo, human embryonic stem cell, or any product derived from a human embryo except for the purpose of placement in the body of the woman for whom it was created.

Maximum penalty: Imprisonment for 10 years.

Debate ensued.

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

Senator Harradine moved the following amendments together by leave:

Clause 7, page 4 (after line 18), after the definition of *human embryo*, insert:

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

Page 11 (after line 5), at the end of Division 2, add:

12C Offence—commercial trading in human tissue, human eggs, human sperm or human embryos

- (1) A person commits an offence if the person intentionally receives, or offers to receive, valuable consideration from another person for the supply of human tissue (including the person's own tissue).

Maximum penalty: Imprisonment for 10 years.

- (2) A person commits an offence if the person intentionally gives or offers valuable consideration from another person for the supply of human tissue.

Maximum penalty: Imprisonment for 10 years.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 29

Senators—

Abetz	Calvert	Harris	Minchin
Alston	Chapman	Heffernan	Nettle
Barnett	Colbeck	Hogg	Santoro
Bishop	Collins	Hutchins	Stephens
Boswell	Eggleston	Kemp	Watson
Brandis	Ellison	Lightfoot	
Brown	Ferguson	Macdonald, Sandy	
Buckland (Teller)	Harradine	McGauran	

NOES, 38

Senators—

Allison	Evans	Mackay	Ridgeway
Bartlett	Ferris (Teller)	Marshall	Scullion
Bolkus	Greig	Mason	Stott Despoja
Campbell, George	Johnston	McLucas	Tchen
Campbell, Ian	Kirk	Moore	Tierney
Carr	Knowles	Murray	Troeth
Cherry	Lees	O'Brien	Webber
Cook	Ludwig	Patterson	Wong
Crossin	Lundy	Payne	
Denman	Macdonald, Ian	Ray	

Question negatived.

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

Clause 16, page 13 (line 28), at the end of subclause (3), add:

- ; (c) be satisfied upon receipt of a written declaration by the member proposed to be appointed that the member proposed does not have a direct or indirect pecuniary interest in a body that undertakes uses of excess ART embryos, being an interest of a kind that could conflict with the proper performance of the member's functions.

Senator Hogg moved the following amendment:

Clause 16, page 14 (after line 8), at the end of the clause, add:

- (7) For the purposes of this Division and Divisions 4 and 5 of this Act, regulations must be made prescribing matters that may constitute a conflict of interest for a member of the NHMRC Licensing Committee.

Debate ensued.

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

Senator Harradine moved the following amendments together by leave:

Clause 13, page 12 (lines 18 to 20), omit subclause (4).

Clause 16, page 14 (after line 4), after subclause (5), insert:

- (5A) The Minister must not appoint as a member a person who has a continuing personal, professional or pecuniary conflict of interest with the functions of the NHMRC Licensing Committee.

Page 14 (after line 8), after clause 16, insert:

16A Disclosure of interests

- (1) A member who has a conflict of interest in relation to a matter being considered or about to be considered by the NHMRC Licensing Committee must disclose the matters giving rise to that conflict to the NHMRC Licensing Committee as soon as possible after becoming aware of the conflict.
- (2) The member must not take part in the deliberation or the making of a decision by the NHMRC Licensing Committee in relation to the matter.
- (3) For the purposes of this section, a member has a conflict of interest in relation to a matter being considered or about to be considered by the NHMRC Committee if the member has any interest, personal, pecuniary, professional or otherwise, that could conflict with the proper performance of the member's functions in relation to that matter.
- (4) A member who contravenes subsection (2) ceases to hold office as a member at the time of the contravention and is ineligible for reappointment.
- (5) A conflict of interest, disclosure of interest or contravention of subsection (2) is a detail relating to the operations of the NHMRC Licensing Committee which must be reported in accordance with subsection 18(1).

Debate ensued.

Senator Harradine, by leave, withdrew the amendments.

Bill, as amended, further debated.

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

Clause 19, page 14 (after line 28), at the end of the clause, add:

- (3) The NHMRC Licensing Committee must cause a report to be tabled in either House of Parliament on or before:
 - (a) 30 June of each year; and
 - (b) 31 December of each year; and
 - (c) any other time required by either House of Parliament;that must include information about:
 - (d) the operation of this Act; and
 - (e) the licences issued under this Act.

Senator Brown, on behalf of Senator Nettle, moved the following amendment:

Page 15 (after line 2), before clause 20, insert:

19A Licences to be issued after the establishment of the National Public Human Stem Cell Bank

The NHMRC Licensing Committee must not issue a licence in accordance with this Division until the National Public Human Stem Cell Bank has been established and is operational.

Debate ensued.

At 11.20 pm: The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator McLucas) reported progress.

31 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 11.29 pm till Tuesday, 3 December 2002 at 2 pm.

32 ATTENDANCE

Present, all senators except Senator Forshaw (on leave).

HARRY EVANS
Clerk of the Senate