

2002

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1 MEETING OF SENATE

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

2 GOVERNMENT DOCUMENTS

The following government documents were tabled:

Administrative Review Council—Report for 2001-02.

Australian Rail Track Corporation Limited (ARTC)—Report for 2001-02.

Bankstown Airport Limited—

Report for 2001-02.

Statement of corporate intent 2002.

Camden Airport Limited—

Report for 2001-02.

Statement of corporate intent 2002.

Commissioner of Taxation—Data-matching program—ATO's interaction with the program—Report for 2001-02.

Hoxton Park Airport Limited—

Report for 2001-02.

Statement of corporate intent 2002.

Productivity Commission—Report—No. 15—Cost recovery by government agencies—Government response.

3 FIRST SPEECH

Pursuant to order (*see entry no. 11, 3 December 2002*), Senator Santoro made his first speech.

4 CONSIDERATION OF LEGISLATION

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), pursuant to notice, moved government business notice of motion no. 1—That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Charter of the United Nations Amendment Bill 2002

Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002

International Tax Agreements Amendment Bill (No. 2) 2002

Medical Indemnity Bill 2002

Medical Indemnity (Consequential Amendments) Bill 2002

Medical Indemnity (Enhanced UMP Indemnity) Contribution Bill 2002

Medical Indemnity (IBNR Indemnity) Contribution Bill 2002

National Health Amendment (Pharmaceutical Benefits—Budget Measures) Bill 2002 [No. 2]

Trade Practices Amendment Bill (No. 1) 2002

Trade Practices Amendment (Small Business Protection) Bill 2002 [No. 2]

Workplace Relations Legislation Amendment Bill 2002.

Senator Ludwig moved the following amendment:

Omit the following bills:

Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002

National Health Amendment (Pharmaceutical Benefits—Budget Measures) Bill 2002 [No. 2]

Trade Practices Amendment (Small Business Protection) Bill 2002 [No. 2].

Debate ensued.

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

Main question, as amended, put and passed.

5 RESEARCH INVOLVING EMBRYOS BILL 2002—DECLARATION OF URGENCY—ALLOTMENT OF TIME

Declaration of urgency: The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) declared the Research Involving Embryos Bill 2002 an urgent bill and moved—That this bill be considered an urgent bill.

Question put.

The Senate divided—

AYES, 42

Senators—

Abetz	Colbeck	Lees	Ridgeway
Allison	Coonan	Lightfoot	Santoro
Alston	Eggleston (Teller)	Macdonald, Ian	Scullion
Barnett	Ellison	Macdonald, Sandy	Stott Despoja
Bartlett	Ferguson	Mason	Tchen
Boswell	Ferris	McGauran	Tierney
Brandis	Greig	Minchin	Troeth
Calvert	Heffernan	Murray	Vanstone
Campbell, Ian	Johnston	Patterson	Watson
Chapman	Kemp	Payne	
Cherry	Knowles	Reid	

NOES, 32

Senators—

Bishop	Cook	Hutchins	Murphy
Bolkus	Crossin	Kirk	Nettle
Brown	Denman	Ludwig	O'Brien
Buckland	Evans	Lundy	Ray
Campbell, George	Forshaw	Mackay (Teller)	Sherry
Carr	Harradine	Marshall	Stephens
Collins	Harris	McLucas	Webber
Conroy	Hogg	Moore	Wong

Question agreed to.

Allotment of time: Senator Ian Campbell moved—That the time allotted for consideration of the remaining stages of the Research Involving Embryos Bill 2002 be as follows:

Committee of the whole—

Amendments to Part 1 and Divisions 1, 2 and 3 of Part 2	commencing not later than 4 pm on Wednesday, 4 December 2002 for 1 hour or until 5 pm on Wednesday, 4 December 2002, whichever occurs first
Amendments to Division 4 of Part 2	commencing immediately after the previous item until 7 pm on Wednesday, 4 December 2002
Amendments to Divisions 5 and 6 of Part 2	commencing immediately after tabling and consideration of committee reports on Thursday, 5 December 2002 until 11.15 am
Amendments to Parts 3, 4 and 5 and any remaining amendments	commencing immediately after the previous item until 12.05 pm on Thursday, 5 December 2002
All remaining stages	until 12.45 pm on Thursday, 5 December 2002.

Debate ensued.

Question put and passed.

6 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.

Senator Harradine moved the following amendment:

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

12D Offence—failure to label products developed from human embryos, human embryonic stem cells etc.

(1) A person commits an offence if the person uses:

- (a) human embryos; or
- (b) human embryonic stem cells;

in, or in the testing, creation or manufacture of, any pharmaceutical or cosmetic product and does not label the product in accordance with subsection (2).

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

- (2) Where a person uses human embryos or human embryonic stem cells in, or in the testing, creation or manufacture of, any pharmaceutical or cosmetic product, the product must be prominently labelled as having been tested on human embryos or human embryonic stem cells.
- (3) The regulations may make further provisions for labelling in accordance with this section.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 33

Senators—

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

NOES, 42

Senators—

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

Question negatived.

Senator Harradine moved the following amendment:

Clause 24, page 17 (line 28), omit “may”, substitute “must”.

Debate ensued.

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

Senator Harradine moved the following amendments together by leave:

Clause 24, page 18 (line 2), after “monitoring”, insert “, including measures taken to comply with licence conditions”.

Clause 24, page 18 (line 4) at the end of subclause (5), add:

- ; (f) any significant changes to the circumstances of the licence holder occurring after the issue of the licence are to be notified in writing to the NHMRC Licensing Committee.

Debate ensued.

Senator Harradine, by leave, withdrew the amendments.

Senator Harradine moved the following amendment:

Clause 24, page 18 (after line 4), after subclause (5), insert:

- (5A) A report in accordance with paragraph (5)(c) must:
- (a) be provided by 15 May and 15 November each year; and
 - (b) include details of the licence holder's effectiveness in advancing knowledge or improvement in technologies for treatment.

Debate ensued.

Senator Harradine, by leave, withdrew the amendment.

Senator Brown, at the request of Senator Nettle, moved the following amendment:

Page 18 (after line 11), at the end of clause 24, add:

- (8) It is a condition of any licence that a licence holder who receives Federal, State or Territory government funding must provide to the NHMRC Licensing Committee:
- (a) a copy of the deed of grant; or
 - (b) a copy of the service agreement; or
 - (c) both;

between the licence holder and the relevant government that provides the funding.

Note: Failure to disclose this information constitutes a breach of licence conditions.

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

Senator Harradine moved the following amendment:

Page 18 (after line 11), after clause 24, insert:

24A Requirements before issuing a licence

Before issuing a licence, the NHMRC Licensing Committee must:

- (a) publish every application for a licence, including details of the proposed research use to which human embryos will be put, on the Internet within one week of receipt; and
- (b) allow 10 working days from the day when the application is placed on the Internet for the receipt of public submissions in relation to the application for a licence; and
- (c) consider submissions lodged in accordance with paragraph (b) before issuing a licence; and
- (d) report on its consideration and evaluation of those submissions in the publicly available database required by section 29.

Debate ensued.

At 12.45 pm: The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Collins) reported progress.

7 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

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

At 2 pm—

8 QUESTIONS

Questions without notice were answered.

9 QUESTION TIME—MINISTERIAL RESPONSIBILITY—STATEMENT BY PRESIDENT

The President made a statement confirming his ruling that a supplementary question asked of the Minister for Revenue and Assistant Treasurer (Senator Coonan) by Senator Wong on 3 December 2002 was out of order, as the question had no reference to the minister's ministerial responsibility.

10 MINISTERIAL RESPONSIBILITY—ANSWERS TO QUESTIONS

Senator Conroy moved—That the Senate take note of the answers given by the Minister for Revenue and Assistant Treasurer (Senator Coonan) to questions without notice asked by Senators Conroy, Collins and Cook today relating to her pecuniary interests.

Debate ensued.

Question put and passed.

11 IMMIGRATION—ASYLUM SEEKERS—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 Justice and Customs (Senator Ellison) to a question without notice asked by Senator Bartlett today relating to the sinking of a boat now identified as 'Suspected Illegal Entry Vessel X'.

Question put and passed.

**12 SCRUTINY OF BILLS—STANDING COMMITTEE—15TH REPORT AND ALERT DIGEST
NO. 15 OF 2002**

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

Scrutiny of Bills—Standing Committee—

15th report of 2002, dated 4 December 2002.

Alert Digest No. 15 of 2002, dated 4 December 2002.

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

Statement by leave: Senator Mackay, by leave, made a statement relating to the report.

13 LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE—REPORT—AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION LEGISLATION AMENDMENT (TERRORISM) BILL 2002 AND RELATED MATTERS—CONSIDERATION

Senator Harris, by leave, moved—That the Senate take note of the report tabled on 3 December 2002 (*see entry no. 27, 3 December 2002*).

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

14 NOTICES

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 10 December 2002. (*general business notice of motion no. 286*)

The Chair of the Select Committee on Superannuation (Senator Watson): To move on the next day of sitting—

- (1) That the following matter be referred to the Select Committee on Superannuation for inquiry and report by the last sitting day in June 2003:

The facilitation of superannuation investment in rural and regional Australia.

- (2) That, in conducting the inquiry the committee is to:

- (a) evaluate the current structure of investment from superannuation funds in rural and regional Australia, compared with capital cities;
- (b) evaluate investment flows offshore from superannuation funds to determine whether the level of flows is appropriate, and whether the taxation and regulatory framework provides adequate and appropriate incentives for investment onshore rather than offshore;
- (c) review and evaluate any current or previous measures designed to facilitate public or private investment in rural and regional Australia by the Commonwealth Government, state governments and the private sector;
- (d) identify any factors inhibiting the investment of superannuation monies in rural and regional Australia;
- (e) identify opportunities for the Commonwealth Government, state governments and the private sector to facilitate or direct investment to rural and regional Australia; and
- (f) identify and evaluate options available for increasing investment opportunities in rural and regional Australia. (*general business notice of motion no. 287*)

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

- (a) notes:
- (i) the truck blockade on the Hume Highway on 3 December 2002,
 - (ii) that the purpose of the blockade was to call attention to the lack of safety standards and a national code of conduct for long distance truck drivers,
 - (iii) that the primary cause of long-distance truck driver death is driver fatigue,

- (iv) the concern of the long-distance truck industry that unreasonable driving hours are partially a result of demands made by shippers,
 - (v) the concern of the long-distance trucking industry that transport rates are so low that increased driving hours are increasingly necessary in order for long haul truckers to remain economically viable, and
 - (vi) that these pressures to drive longer hours create a threat for drivers and the broader community; and
- (b) calls on the Government to implement national safety standards and an enforceable code of conduct for long-distance drivers in consultation with that industry. (*general business notice of motion no. 288*)

The Minister for Defence (Senator Hill): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Crimes Act 1914* and other legislation relating to criminal law or law enforcement, and for related purposes. ***Crimes Legislation Enhancement Bill 2002.***

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell): To move on the next day of sitting—That, on Thursday, 5 December 2002:

- (a) consideration of general business and consideration of committee reports, government responses and Auditor-General's reports under standing order 62(1) and (2) not be proceeded with;
- (b) the routine of business from not later than 4.30 pm till the adjournment shall be government business only; and
- (c) divisions may take place after 6 pm.

Senator Brown: To move on the next day of sitting—That the Senate calls on the Council of Australian Governments meeting in Canberra on Friday, 6 December 2002, when addressing the critical issue of water, to commit to the following outcomes:

- (a) the restoration of the Murray River to good health;
- (b) an end to broad scale land clearing; and
- (c) a national structural adjustment package, linked to binding environmental outcomes. (*general business notice of motion no. 289*)

Senator Harris: To move on 11 December 2002—

- (1) The disposition of the documents seized under warrant by Queensland Police in the office of Senator Harris on 27 November 2001 shall be determined in accordance with this resolution.
- (2) The Senate appoints Mr Stephen Skehill, SC, or, if Mr Skehill is not available, another independent person nominated by a subsequent resolution, to examine the documents.
- (3) The Queensland Police shall provide to the person appointed under paragraph (2) the documents described in paragraph (1).
- (4) The person appointed under paragraph (2) shall examine the documents and determine whether any of the documents are not covered by the warrant or are immune from seizure under warrant by virtue of parliamentary privilege, having regard to the *Parliamentary Privileges Act 1987*, relevant court judgments relating to the interpretation and application of the Act, relevant sections of Privileges Committee reports dealing with protection of documents of senators and such other matters as that person considers relevant.

- (5) The person appointed under paragraph (2) shall divide the documents into two categories, those not covered by the warrant or immune from seizure and those not immune from seizure, and seal them into two packages identified accordingly. Those documents that are not covered by the warrant or are immune from seizure are to be returned to Senator Harris and those not immune from seizure are to be forwarded to the Queensland Police.
- (6) Before sealing the package of documents not immune from seizure the person appointed under paragraph (2) shall cause such documents to be copied and the copies of the documents shall be forwarded to Senator Harris at the same time as the originals are forwarded to the Queensland Police.
- (7) For the purposes of paragraph (5), where documents are included with other documents in electronic form on a disk or tape, the documents shall be printed out, only printed copies of such documents shall be placed in the package of documents not immune from seizure, and the disks or tapes shall be placed in the package of documents not covered by the warrant or immune from seizure.
- (8) The person appointed under paragraph (2), on completion of this task, shall provide the President of the Senate with a brief statement that the task has been completed and the President shall table that statement in the Senate.
- (9) The person appointed under paragraph (2) shall be paid such fee as is approved by the President after consultation with senators. (*general business notice of motion no. 290*)

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

- (a) congratulates Ms Natalie O'Brien for maintaining the highest standards of Australian journalism in reporting the fact that the 'Children Overboard' incident never happened and on receiving the Perth Press Club Award, an honourable mention at this year's George Munster Award for Independent Journalism and a nomination for, and an honourable mention in, this year's Walkley Award for journalist of the year; and
- (b) notes that:
 - (i) in reporting her award the *Australian* stated that, 'the story broke through the wall of official misinformation surrounding the "children overboard" affair. The resulting furore became a major factor in the 2001 federal election campaign. The story forced the Prime Minister to release the video of the episode and sparked a departmental enquiry',
 - (ii) the Select Committee on A Certain Maritime Incident records, at 6.194 of its report, that Ms O'Brien's article reported comments from Christmas Island residents claiming that HMAS *Adelaide* crew members had said that children had not been thrown overboard,
 - (iii) the report notes at 2.53-4 that the strictly centralised control of information through the Minister's office meant that:
 - (A) Defence was unable to put out even factual material without transgressing the public affairs plan,
 - (B) the instruction that no information was to be released to the media by Defence personnel was explicitly reinforced on the day after Minister Reith had been told by Air Marshall Houston that no children were thrown overboard from SIEV 4, and

- (c) as Mr Humphreys said, ‘no public correction to information could be made unless the Minister agreed to those misrepresentations being corrected’,
- (iv) consequently, legitimate inquiries by the media were not answered and, by Ministerial directive, were required to be referred to the Minister who did not answer them, and
- (v) the publication by the *Australian* of Ms O’Brien’s article played a key role in bringing to light the truth about the alleged children overboard incident. (*general business notice of motion no. 291*)

15 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 13 OF 2002

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

SELECTION OF BILLS COMMITTEE

REPORT NO. 13 OF 2002

1. The committee met on Tuesday, 19 November 2002 and Tuesday, 3 December 2002.
2. The committee resolved to recommend—That—
 - (a) the *provisions* of the following bills be *referred immediately* to the Community Affairs Legislation Committee for inquiry and report by 10 December 2002:
 - Medical Indemnity Bill 2002
 - Medical Indemnity (Consequential Amendments) Bill 2002
 - Medical Indemnity (Enhanced UMP Indemnity) Contribution Bill 2002
 - Medical Indemnity (IBNR Indemnity) Contribution Bill 2002; and
 - (b) the following bills *not* be referred to committees:
 - Aviation Legislation Amendment Bill 2002
 - Charter of the United Nations Amendment Bill 2002
 - Commonwealth Volunteers Protection Bill 2002
 - National Health Amendment (Pharmaceutical Benefits—Budget Measures) Bill 2002 [No. 2]
 - Taxation Laws Amendment (Venture Capital) Bill 2002
 - Taxation Laws Amendment Bill (No. 7) 2002
 - Venture Capital Bill 2002
 - Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2002 [No. 2].

The committee recommends accordingly.

3. The committee *deferred* consideration of the following bills to the next meeting:
 - Bill deferred from meeting of 20 August 2002*
 - Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Bill 2002.
 - Bill deferred from meeting of 22 October 2002*
 - Corporations Amendment (Repayment of Directors’ Bonuses) Bill 2002.

Bills deferred from meeting of 12 November 2002

Plastic Bag Levy (Assessment and Collection) Bill 2002

Plastic Bag (Minimisation of Usage) Education Fund Bill 2002.

Bills deferred from meeting of 19 November 2002

Workplace Relations Amendment (Award Simplification) Bill 2002

Workplace Relations Amendment (Choice in Award Coverage) Bill 2002

Workplace Relations Amendment (Termination of Employment) Bill 2002.

Bill deferred from meeting of 3 December 2002

Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002.

Jeannie Ferris

Chair

4 December 2002.

Senator McGauran moved—That the report be adopted.

The Chair of the Community Affairs Legislation Committee (Senator Knowles) moved the following amendment:

At the end of the motion, add “and, in respect of the Medical Indemnity Bill 2002 and related bills, the provisions of the bills not be referred to the Community Affairs Legislation Committee”.

Debate ensued.

Question—That the amendment be agreed to—put and passed. Senator Nettle, pursuant to standing order 100, recorded her vote for the noes.

Main question, as amended, put and passed.

16 POSTPONEMENTS

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Nettle for today, relating to the reference of matters to the Community Affairs References Committee, postponed till 6 February 2003.

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 5 December 2002.

**17 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION REFERENCES COMMITTEE—
EXTENSION OF TIME TO REPORT**

Senator Mackay, at the request of the Chair of the Employment, Workplace Relations and Education References Committee (Senator George Campbell) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 284—That the time for the presentation of the report of the Employment, Workplace Relations and Education References Committee on the education of students with disabilities be extended to 10 December 2002.

Question put and passed.

18 ECONOMICS LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING

Senator McGauran, 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. 285—That the Economics Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 5 December 2002, from 4 pm, to take evidence for the committee's inquiry into the provisions of the Financial Sector Legislation Amendment Bill (No. 2) 2002.

Question put and passed.

19 PARLIAMENTARY COMMISSION OF INQUIRY (BALI BOMBINGS) BILL 2002

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 283—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.

Question put and passed.

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

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

20 SOCIAL ISSUES—CHILD ABUSE

The Leader of the Australian Democrats (Senator Bartlett), 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. 275—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 that action be taken on recommendations within the report to:
 - (i) fully implement 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.

Question put and passed.

21 FOREIGN AFFAIRS—INDONESIA—DR LESLEY MCCULLOCH

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 281—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.

Question put and negatived. Senators Brown and Nettle, by leave, recorded their votes for the ayes.

22 ENVIRONMENT—TASMANIA—NATIVE FORESTS

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 282—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.

Question put and negatived. Senators Brown and Nettle and all Australian Democrats senators, by leave, recorded their votes for the ayes.

23 HEALTH—PHARMACEUTICAL BENEFITS SCHEME—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 3 December 2002 for the production of documents concerning the inter-departmental committee examination of the Pharmaceutical Benefits Scheme (*see entry no. 13, 3 December 2002*).

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

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

24 TRADE—PHARMACEUTICAL BENEFITS SCHEME—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 3 December 2002 for the production of documents concerning the inclusion of the Pharmaceutical Benefits Scheme in discussions for an Australia-United States free trade agreement (*see entry no. 17, 3 December 2002*).

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

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

At 4 pm—

25 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 Harradine (*see entry no. 6*).

Debate resumed.

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

Bill, as amended, further debated.

Senator Boswell moved the following amendment:

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

12A Offence—international trade in human embryos, human embryonic stem cells or any product derived from human embryos

- (1) A person commits an offence if the person engages or seeks to engage from Australia in international trade of human embryos, human embryonic stem cells or any products derived from human embryos 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.

The committee divided—

AYES, 29

Senators—

Abetz	Calvert	Heffernan	Murphy
Alston	Chapman	Hogg	Nettle
Barnett	Collins	Hutchins	Scullion
Bishop	Ellison	Johnston	Stephens
Boswell	Ferguson	Lightfoot	Watson
Brandis	Forshaw	Macdonald, Sandy	
Brown	Harradine	McGauran (Teller)	
Buckland	Harris	Minchin	

NOES, 40

Senators—

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

Question negatived.

Limitation of debate: The time allotted for the consideration of amendments to Part 1 and Divisions 1, 2 and 3 of Part 2 expired.

The following amendment circulated by Senator Harradine was agreed to:

Clause 1, page 1 (line 16), after “*Involving*”, insert “*Human*”.

Senator Harradine moved the following amendment:

Clause 26, page 18 (lines 27 to 31), omit the clause, substitute:

26 Suspension or revocation of licence

The NHMRC Licensing Committee may, by notice in writing given to the licence holder, suspend or revoke a licence if:

- (a) the Committee believes on reasonable grounds that a condition of the licence has been breached; or
- (b) the Committee has evidence that there has been insignificant or no advances in knowledge or improvement in technologies for treatment.

Debate ensued.

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

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

Clause 26, page 18 (after line 31), at the end of the clause, add:

- (2) If a licence holder is convicted of an offence under this Act or the *Prohibition of Human Cloning Act 2002*, the NHMRC Licensing Committee must, by notice in writing given to the licence holder, revoke each licence held by the licence holder.

Senator Collins moved the following amendments together by leave:

Clause 26, page 18 (after line 31), at the end of the clause, add:

- (2) If a licence holder, or an associate of the licence holder, applies for a patent under the *Patents Act 1990*, or for a patent under patent legislation in any other jurisdiction, for any unmodified stem cells from human embryos, the NHMRC Licensing Committee must, by notice in writing given to the licence holder, revoke each licence held by the licence holder.
- (3) In subsection (2):
 - associate*, in relation to a licence holder, includes:
 - (a) any employee, employer, principal, officer, trustee, agent or contractor, however described, of the licence holder; and
 - (b) any other person as prescribed in the regulations.
- (4) Subsection (2) ceases to operate when the review required by section 47 of this Act is completed and the Commonwealth Parliament enacts legislation regarding commercial interests.

Clause 36, page 26 (line 26), at the end of subclause (1), add:

- ; (g) to obtain during normal business hours from the Register of Patents information regarding any application for a patent by a licence holder.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 34

Senators—

Abetz	Collins	Heffernan	Ridgeway
Alston	Conroy	Hogg	Santoro
Barnett	Coonan	Lightfoot	Scullion
Bishop	Eggleston	Macdonald, Sandy	Sherry
Boswell	Ellison	McGauran	Stephens
Brandis	Ferguson	Minchin	Stott Despoja
Brown	Forshaw	Murphy	Watson
Buckland (Teller)	Harradine	Murray	
Chapman	Harris	Nettle	

NOES, 36

Senators—

Allison	Evans	Ludwig	Payne
Bartlett	Faulkner	Lundy	Ray
Bolkus	Ferris (Teller)	Macdonald, Ian	Reid
Campbell, George	Greig	Mackay	Tchen
Carr	Hill	Marshall	Tierney
Cherry	Johnston	Mason	Troeth
Colbeck	Kirk	McLucas	Vanstone
Crossin	Knowles	O'Brien	Webber
Denman	Lees	Patterson	Wong

Question negatived.

Senator Murphy moved the following amendments together by leave:

Clause 2, page 2 (table items 1 to 4), omit the table items, substitute:

.....
 1. Sections 1 to 48 and anything in A single day to be fixed by Proclamation
 this Act not elsewhere covered by subject to subsection (1A)
 this table

Clause 2, page 2 (after line 8), after subclause (1), insert:

(1A) A Proclamation under item 1 of the table must not specify a day that occurs before the day of commencement of amendments to the *Patents Act 1990*, which provide that no diagnostic, therapeutic or surgical methods arising from human embryo and human embryonic stem cell research can be considered patentable inventions for the purposes of that Act.

Debate ensued.

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

Senator Harradine moved the following amendment:

Page 19 (after line 3), after clause 27, insert:

27A Custody of excess ART embryos following suspension, revocation or surrender of licence

Where a licence authorising use of excess ART embryos is suspended, revoked or surrendered, all excess ART embryos in the custody of the

licence holder must be returned to the ART practitioner from whom they were obtained within 7 days of the suspension, revocation or surrendering of the licence.

Debate ensued.

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

Bill, as amended, further debated.

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

Clause 8, page 7 (lines 4 to 7), omit paragraph (b), substitute:

- (b) if other guidelines are issued by the NHMRC under the *National Health and Medical Research Council Act 1992* and prescribed by the regulations for the purposes of this paragraph—consent obtained in accordance with those other guidelines, rather than the guidelines mentioned in paragraph (a).

Clause 21, page 16 (line 13), after “NHMRC”, insert “under the *National Health and Medical Research Council Act 1992* and prescribed by the regulations for the purposes of this paragraph”.

Senator Barnett moved the following amendment:

Clause 11, page 10 (lines 16 to 25), omit subclause (2), substitute:

- (2) In this section:

ART program means an assisted reproductive technology program carried out in accordance with regulations as prescribed from time to time.

Debate ensued.

Leave was granted for the further consideration of the amendment to be postponed.

Consideration resumed of the amendments moved by Senator Barnett and postponed on 2 December 2002:

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.

Limitation of debate: The time allotted for the consideration of amendments to Division 4 of Part 2 expired.

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

After 7 pm: The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Cook) reported progress.

Leave was granted for proceedings on the bill to continue till 7.20 pm.

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

In the committee

Consideration resumed of the bill, as amended.

Senator Harradine moved the following amendment:

Clause 29, page 20 (lines 17 and 18), omit subclause (3), substitute:

- (3) The database must be kept and made publicly available in electronic form, including being made available for inspection on the Internet.

Debate ensued.

Senator Harradine, by leave, withdrew the amendment.

Senator Harradine moved the following amendments together by leave:

Clause 29, page 20 (line 10), after "licence", insert "and the reasons for the decision to issue a licence".

Clause 29, page 20 (before line 8), before paragraph (a), insert:

- (aa) the membership of the HREC which approved the activity for which a licence was granted;

Clause 29, page 20 (after line 20), at the end of the clause, add:

- (5) Information mentioned in subsection (1) must be made available on the NHMRC Licensing Committee Internet site within 30 days of the HREC assessment.
-

At 7.20 pm: The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Cook) reported progress.

26 ADJOURNMENT

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

Debate ensued.

Documents: Senator Buckland, by leave, tabled the following documents:

Active citizenship—Copies of essays—

‘Islam-a-phobia’.

‘Should citizenship be abolished, mandatory or the choice of the individual?’.

Debate continued.

The Senate adjourned at 7.46 pm till Thursday, 5 December 2002 at 9.30 am.

27 ATTENDANCE

Present, all senators.

HARRY EVANS
Clerk of the Senate