

2002

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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1 MEETING OF SENATE

The Senate met at 9.30 am. The Deputy President (Senator Hogg) took the chair and read prayers.

2 GOVERNMENT DOCUMENTS

The following government documents were tabled:

Anglo-Australian Telescope Board—Anglo-Australian Observatory—Report for 2001-02.

Australian Communications Authority—Telecommunications performance—Report for 2001-02.

International Labour Organisation—Submission report on ILO Instruments adopted in 2001.

Official Establishments Trust—Report for 2001-02.

Private Health Insurance Administration Council—Report for 2001-02 on the operations of the registered health benefits organisations.

Snowy Mountains Council—Report for 2001-02.

Snowy Mountains Hydro-electric Authority—Report for 2001-02.

United Nations—

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment—Committee Against Torture—Communications—

No. 138/1999—Decision.

No. 211/2002—Outline.

Convention on the Elimination of All Forms of Racial Discrimination—Committee on the Elimination of Racial Discrimination—Communication—No. 26/2002—Outline.

International Covenant on Civil and Political Rights—Human Rights Committee—Communications—

No. 880/1999—Australian government's comments on the Committee's final views.

No. 1053/2002—Outline.

No. 1065/2002—Decision.

No. 1087/2002—Decision.

3 ORDER OF BUSINESS—REARRANGEMENT

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That government business notice of motion no. 1 standing in his name for today, relating to the dates for estimates hearings for 2003, be postponed till a later hour.

Question put and passed.

4 BROADCASTING LEGISLATION AMENDMENT BILL (NO. 3) 2002

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), pursuant to notice, moved government business notice of motion no. 2—That the following bill be introduced:

A Bill for an Act to amend the law relating to broadcasting, and for related purposes.

Question put and passed.

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

Explanatory memorandum: Senator Ian Campbell tabled an 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.

5 CONSIDERATION OF LEGISLATION

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), pursuant to notice, moved government business notice of motion no. 3—That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002, allowing it to be considered during this period of sittings.

Debate ensued.

Question put.

The Senate divided—

AYES, 44

Senators—

Abetz	Crossin	Kirk	Ray
Barnett	Denman	Knowles	Reid
Bishop	Eggleston	Lightfoot	Santoro
Boswell	Ellison	Ludwig	Scullion
Brandis	Evans	Lundy	Sherry
Buckland	Ferguson	Mackay	Stephens
Campbell, George	Ferris (Teller)	Marshall	Tchen
Campbell, Ian	Harris	McLucas	Tierney
Carr	Hogg	Moore	Watson
Colbeck	Hutchins	O'Brien	Webber
Collins	Johnston	Payne	Wong

NOES, 7

Senators—

Allison (Teller)	Greig	Murray	Ridgeway
Brown	Lees	Nettle	

Question agreed to.

6 **AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION LEGISLATION AMENDMENT (TERRORISM) 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 amendments moved by the Leader of the Opposition in the Senate (Senator Faulkner):

Schedule 1, item 24, page 8 (line 16), omit “, **detention etc.**”, substitute “**warrants**”.

Schedule 1, item 24, page 8 (line 17), after “**Requesting**”, insert “**questioning**”.

Schedule 1, item 24, page 9 (lines 13 to 29), omit paragraphs (c) and (d), substitute:

- (c) if the warrant to be requested is to authorise the person to be taken into custody immediately and brought before a prescribed authority immediately for questioning—that there are reasonable grounds for believing that, if the person is not immediately taken into custody, the person:
 - (i) may alert a person involved in a terrorism offence that the offence is being investigated; or
 - (ii) may not appear before the prescribed authority; or
 - (iii) may destroy, damage or alter a record or thing the person may be requested in accordance with the warrant to produce.

Schedule 1, item 24, page 10 (lines 13 to 37), omit subsections (3B) and (3C), substitute:

- (3B) In consenting to the making of a request to issue a warrant authorising the person to be taken into custody immediately and brought before a prescribed authority immediately for questioning, the Minister must ensure that the warrant to be requested is to permit the person to contact a lawyer at any time when the person is being questioned under this Division in connection with the warrant.

Schedule 1, item 24, page 11 (lines 1 to 15), omit subsections (4) and (5), substitute:

- (4) If the Minister has consented under subsection (3), the Director-General may request the warrant by giving a prescribed authority:
 - (a) a request that is the same as the draft request except for the changes (if any) required by the Minister; and
 - (b) a copy of the Minister’s consent.

Schedule 1, item 24, page 11 (lines 17 to 30), omit subsection (1), substitute:

- (1) A prescribed authority may issue a warrant under this section relating to a person, but only if:
 - (a) the Director-General has requested it in accordance with subsection 34C(4); and
 - (b) the prescribed authority is satisfied that there are reasonable grounds for believing that the warrant will substantially assist the collection of intelligence that is important in relation to a terrorism offence.

Schedule 1, item 24, page 11 (line 37) to page 12 (line 10), omit paragraph (2)(b), substitute:

- (b) do both of the following:
 - (i) authorise a specified person to be taken into custody immediately by a police officer, brought before a prescribed authority immediately for questioning under the warrant and held in custody under arrangements made by a police officer until questioning has been completed;
 - (ii) permit the person taken into custody to contact a lawyer (as described in section 34U) when the person is being questioned under the warrant.

Schedule 1, item 24, page 12 (lines 11 to 27), omit subsections (3) and (4), substitute:

- (3) For the purposes of subparagraph (2)(b)(i), the warrant may specify the end of the period for which the person is to be questioned by reference to the opinion of the prescribed authority that the Organisation does not have any further requests described in paragraph (5)(a) to make of the person.
- (4) The warrant may identify other persons whom the person is permitted to contact by reference to the fact that he or she has a particular familial relationship with that person or persons. This does not limit the ways in which the warrant may identify persons whom the person is permitted to contact.

Note 1: The warrant may identify persons by reference to a class. See subsection 46(2) of the *Acts Interpretation Act 1901*.

Note 2: Section 34F permits the person to contact the Inspector-General of Intelligence and Security and the Ombudsman while the person is in custody, so the warrant must identify them.

Schedule 1, item 24, page 13 (lines 22 to 24), omit paragraph (1)(a), substitute:

- (a) the period for which the warrant authorises questioning of the person;

Schedule 1, item 24, page 14 (lines 6 and 7), omit “or detention”.

Schedule 1, item 24, page 17 (lines 3 and 4), omit “or a direction given under section 34F”.

Schedule 1, item 24, page 17 (lines 6 to 10), omit subsection (2), substitute:

- (2) Strict liability applies to the circumstance of an offence against subsection (1) that the warrant was issued under section 34D.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

Schedule 1, item 24, page 19 (lines 23 to 32), omit the note.

Schedule 1, item 24, page 20 (line 22), omit “detained”, substitute “taken into custody”.

Schedule 1, item 24, page 28 (lines 19 and 20), omit paragraph (c), substitute:

- (c) a statement containing details of any seizure or taking into custody under this Division;

Debate resumed.

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

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

Schedule 1, item 24, page 8 (after line 22), after subsection (1A), insert:

- (1B) The Director-General may not seek the Minister's consent to request the issue of a warrant under section 34D in relation to a person under 18 years of age.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 24, sections 34NA and 34V.

Question—That Schedule 1, item 24, sections 34NA and 34V stand as printed—put and negatived.

The Minister for Justice and Customs (Senator Ellison) moved the following amendments together by leave:

No. 1—Schedule 1, item 24, page 9 (lines 9 to 12), omit paragraph (ba), substitute:

- (ba) that all the following conditions are met:
- (i) there is a written statement (the **procedural statement**) dealing with procedures to be followed in the exercise of authority under warrants issued under section 34D and with the exercise of powers under this Division;
 - (ii) the procedural statement deals with at least the matters described in subsection (3AA);
 - (iii) the acts (the **adopting acts**) described in subsection (3A) have been done in relation to the procedural statement; and

No. 2—Schedule 1, item 24, page 9 (after line 31), after subsection (3), insert:

(3AA) The procedural statement is to deal with at least the following matters:

- (a) informing the following persons about the issue of a warrant under section 34D:
 - (i) the prescribed authority before whom a person is to appear for questioning under the warrant;
 - (ii) the Inspector-General of Intelligence and Security;
 - (iii) police officers;
- (b) transporting a person taken into custody, or detained, under this Division in connection with such a warrant;
- (c) facilities to be used for questioning of a person under such a warrant;
- (d) a prescribed authority's obligation under section 34E to inform a person appearing before the prescribed authority for questioning under such a warrant of the matters mentioned in that section;
- (e) arrangements under sections 34H and 34HAA for the presence of an interpreter during questioning of a person under such a warrant;
- (f) making recordings under section 34K;
- (g) the periods for which a person may be questioned continuously under such a warrant;
- (h) the periods for breaks between periods of questioning of a person under such a warrant;
- (i) facilities to be used for detaining a person in connection with such a warrant;

- (j) arrangements for the person to whom such a warrant relates to contact other persons in accordance with the warrant (including provision of facilities under paragraph 34F(9)(c) for the person to make a complaint orally to the Inspector-General of Intelligence and Security or the Ombudsman);
- (k) conducting searches under section 34L;
- (l) the periods for allowing a person to whom such a warrant relates an opportunity to sleep;
- (m) providing a person to whom such a warrant relates with:
 - (i) adequate food and drink (taking account of any specific dietary requirements the person may have); and
 - (ii) adequate medical care.

No. 3—Schedule 1, item 24, page 9 (lines 32 to 34), omit “a written statement of procedures to be followed in the exercise of authority under warrants issued under section 34D”, substitute “the procedural statement”.

No. 4—Schedule 1, item 24, page 9 (line 36), omit “such a”, substitute “the”.

Debate ensued.

The question for the amendments was divided—

Question—That amendments nos 1, 3 and 4 be agreed to—put and passed.

Question—That amendment no. 2 be agreed to—put and negatived.

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

Schedule 1, item 24, page 9 (after line 31), after subsection (3), insert:

- (3AA) The procedural statement is to deal with at least the following matters:
- (a) informing the following persons about the issue of a warrant under section 34D:
 - (i) the prescribed authority before whom a person is to appear for questioning under the warrant;
 - (ii) the Inspector-General of Intelligence and Security;
 - (iii) police officers;
 - (b) transporting a person taken into custody under this Division in connection with such a warrant;
 - (c) facilities to be used for questioning of a person under such a warrant;
 - (d) a prescribed authority’s obligation under section 34E to inform a person appearing before the prescribed authority for questioning under such a warrant of the matters mentioned in that section;
 - (e) arrangements under sections 34H and 34HAA for the presence of an interpreter during questioning of a person under such a warrant;
 - (f) procedures for recording interviews (including the custody and future use of records and transcripts);
 - (g) the periods for which a person may be questioned continuously under such a warrant;

- (h) the periods for breaks between periods of questioning of a person under such a warrant;
 - (i) arrangements for the person to whom such a warrant relates to contact other persons (including provision of facilities under section 34F for the person to make a complaint orally to the Inspector-General of Intelligence and Security or the Ombudsman);
 - (j) conducting searches under section 34L;
 - (k) the periods for allowing a person to whom such a warrant relates an opportunity to sleep;
 - (l) providing a person to whom such a warrant relates with:
 - (i) adequate food and drink (taking account of any specific dietary requirements the person may have); and
 - (ii) adequate medical care; and
 - (iii) toilet facilities; and
 - (iv) privacy;
 - (m) reimbursement by the Commonwealth of reasonable costs (including legal costs) to a person who is the subject of a questioning warrant.
- (3AB) The procedural statement required by this section is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (3AC) Failure to comply with a procedural statement is grounds for complaint to the Inspector-General of Intelligence and Security or the Ombudsman under the *Inspector-General of Intelligence and Security Act 1986* or the *Complaints (Australian Federal Police) Act 1981*, as the case may be.

Schedule 1, item 24, page 10 (line 3), omit subparagraph (iii).

Schedule 1, item 24, page 10 (line 8), after “Parliament”, insert “as a disallowable instrument”.

Senator Greig moved the following amendments together by leave:

Schedule 1, item 24, page 10 (after line 37), after subsection (3C), insert:

- (3D) In consenting to the making of a request to issue a warrant authorising the person to be taken into custody immediately, brought before a prescribed authority immediately for questioning and detained, the Minister must, if the person is a citizen of an overseas country represented in Australia by a diplomatic mission, ensure that the warrant to be requested is to require the Director-General to contact that diplomatic mission as soon as practicable after the person has been taken into custody and advise it of the person’s name and that they are being detained for questioning under this Act.
- (3E) However, subsection (3D) does not apply if the Minister is satisfied on reasonable grounds that advising the diplomatic mission of the person’s detention would be likely to pose a serious threat to national security.

Schedule 1, item 24, page 14 (line 8), at the end of subsection 34E(1), add:

- ; (k) subject to subsection 34C(3E), if the person is a citizen of another country which is represented in Australia by a diplomatic mission, that the diplomatic mission has or will be advised that the person is subject to a questioning warrant under this Act.

Debate ensued.

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

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

Schedule 1, item 24, page 14 (after line 11), after subsection 34E(2), insert:

- (2A) The prescribed authority before whom the person appears for questioning must inform the person of the role of the prescribed authority, and the reason for the presence of each other person who is present at any time during the questioning. However:
- (a) the prescribed authority must not name any person except with the consent of the person to be named; and
 - (b) the obligation to inform the person being questioned about a particular person's reason for presence need only be complied with once (even if that particular person subsequently returns to the questioning).

On the motion of Senator Greig the following amendment was agreed to:

Schedule 1, item 24, page 14 (line 8), at the end of subsection 34E(1), add:

- ; (i) subject to section 34U, the person's right to contact a lawyer at any time during the period of their questioning.

On the motion of Senator Ellison the following amendment was agreed to:

Schedule 1, item 24, page 14 (after line 17), after section 34E, insert:

34EA Questioning to occur before prescribed authority who did not issue warrant

If:

- (a) the person appears before a prescribed authority for questioning under the warrant; and
- (b) the prescribed authority is a listed former judge who issued the warrant;

the prescribed authority must not allow the questioning to proceed and must give a direction under section 34F for the person's further appearance for questioning before another prescribed authority.

Senator Ellison moved the following amendments together by leave:

No. 1—Schedule 1, item 24, page 18 (line 24), at the end of the heading to section 34H, add "**provided at request of prescribed authority**".

No. 2—Schedule 1, item 24, page 19 (after line 2), after section 34H, insert:

34HAA Interpreter provided at request of person being questioned

- (1) This section applies if a person appearing before a prescribed authority under a warrant requests the presence of an interpreter.
- (2) A person exercising authority under the warrant must arrange for the presence of an interpreter, unless the prescribed authority believes on reasonable grounds that the person who made the request has an adequate knowledge of the English language, or is physically able, to communicate with reasonable fluency in that language.

- (3) If questioning under the warrant has not commenced and the prescribed authority determines that an interpreter is to be present:
 - (a) the prescribed authority must defer informing under section 34E the person to be questioned under the warrant until the interpreter is present; and
 - (b) a person exercising authority under the warrant must defer the questioning until the interpreter is present.
- (4) If questioning under the warrant commences before the person being questioned requests the presence of an interpreter and the prescribed authority determines that an interpreter is to be present:
 - (a) a person exercising authority under the warrant must defer any further questioning until the interpreter is present; and
 - (b) when the interpreter is present, the prescribed authority must again inform the person of anything of which he or she was previously informed under section 34E.

No. 3—Schedule 1, item 24, page 27 (lines 13 and 14), omit “or subsection 34H(4) or”, substitute “, subsection 34H(4), paragraph 34HAA(3)(b) or (4)(a) or subsection”.

Debate ensued.

Senator Greig moved the following amendment to Senator Ellison’s proposed amendment no. 2:

Omit paragraphs 34HAA(2), (3) and (4), substitute:

- (2) If questioning under the warrant has not commenced and the person requests the presence of an interpreter:
 - (a) the prescribed authority must defer explaining the warrant under section 34E to the person to be questioned under the warrant until the interpreter is present; and
 - (b) a person exercising authority under the warrant must defer the questioning until the interpreter is present.
- (3) If questioning under the warrant commences before the person requests the presence of an interpreter:
 - (a) a person exercising authority under the warrant must defer any further questioning until the interpreter is present; and
 - (b) when the interpreter is present, the prescribed authority must again explain the warrant to the person under section 34E.

Debate ensued.

Question—That Senator Greig’s amendment to Senator Ellison’s proposed amendment be agreed to—put and negated.

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

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

7 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

At 2 pm—

8 QUESTIONS

Questions without notice were answered.

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

Minister for Revenue and Assistant Treasurer—Ministerial responsibility—Copy of letter to the Minister for Revenue and Assistant Treasurer (Senator Coonan) from the Second Commissioner, Australian Taxation Office, dated 11 December 2002.

Further questions without notice were answered.

9 FINANCE—ACCRUAL ACCOUNTING—ANSWERS TO QUESTIONS

Senator Cook moved—That the Senate take note of the answers given by the Minister for Finance and Administration (Senator Minchin) to questions without notice asked by Senators Webber and Conroy today relating to executive accountability and accrual accounting.

Debate ensued.

Question put and passed.

10 ENVIRONMENT—RENEWABLE ENERGY—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 funding for the Cooperative Research Centre for Renewable Energy.

Question put and passed.

11 PETITIONS

The following 5 petitions, lodged with the Clerk by the senators indicated, were received:

Senator Bartlett, from 306 petitioners, requesting that the Senate take action to establish a judicial inquiry to investigate all activities of the Australian Government and its agencies relating to the sinking of a boat now identified as 'Suspected Illegal Entry Vessel X'.

Senator McLucas, from 641 petitioners, requesting that the Senate support legislation that ensures that no exploration or mining can proceed in the Townsville Trough adjacent to the Great Barrier Reef.

Senator Nettle, from 2 392 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.

Senator Stott Despoja, from 27 petitioners, requesting that the Senate pass legislation that provides for a national system of paid maternity leave which recognises the principles of the International Labour Organization and provides payment for at least 14 weeks.

Senator Stott Despoja, from 178 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.

12 NOTICES

Notices of motion:

Senator Stott Despoja: To move on the next day of sitting—That there be laid on the table by the Minister representing the Minister for Foreign Affairs and representing the Prime Minister (Senator Hill), no later than 4 pm on 12 December 2002:

All communications in the period June 2001 to the present between:

- (a) the Department of Foreign Affairs and Trade or the Prime Minister's office and Food Standards Australia New Zealand;
- (b) the Department of Foreign Affairs and Trade or the Prime Minister's office and the National Farmers Federation;
- (c) the Department of Foreign Affairs and Trade or the Prime Minister's office and the Department of Health and Ageing; and
- (d) the Prime Minister's office and the Department of Foreign Affairs and Trade,

relating to genetically-modified food in the context of the current free trade agreement negotiations with the United States and of the labelling of genetically-modified and genetically-engineered food, including communications to or from organisations formed or created under the auspices of any of the above agencies, officers of departments. (*general business notice of motion no. 321*)

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:
Planning for retirement.
- (2) That in conducting the inquiry the committee examine, in particular:
 - (a) the effects of ageing on workers' productivity;
 - (b) the continuing relevance of the concept of a fixed retirement age;
 - (c) the potential to encourage progressive transitions from work to retirement, including through possible new benefit access and contribution arrangements, and part-time work;
 - (d) any scope for older workers to access their superannuation to finance retraining to continue work that is more suitable for older people;
 - (e) ways to assist older workers plan for their retirement;
 - (f) the short- and long-term effect on the Budget of any proposals for change; and
 - (g) any issues for the federal or state workplace relations systems. (*general business notice of motion no. 322*)

The Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Cook): To move on the next day of sitting—That the following matters be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 27 November 2003:

- (1) The relevant issues involved in the negotiation of the General Agreement on Trade in Services (GATS) in the Doha Development Round of the World Trade Organization, including but not limited to:
 - (a) the economic, regional, social, cultural, environmental and policy impact of services trade liberalisation;
 - (b) Australia's goals and strategy for the negotiations, including the formulation of and response to requests, the transparency of the process and government accountability;
 - (c) the GATS negotiations in the context of the 'development' objectives of the Doha Round;
 - (e) the impact of the GATS on the provision of, and access to, public services provided by government, such as health, education and water; and
 - (f) the impact of the GATS on the ability of all levels of government to regulate services and own public assets.
- (2) The issues for Australia in the negotiation of a free trade agreement with the United States of America, including but not limited to:
 - (a) the economic, regional, social, cultural, environmental and policy impact of such an agreement;
 - (b) Australia's goals and strategy for negotiations, including the formulation of our mandate, the transparency of the process and government accountability; and
 - (c) the impact on the Doha Development Round.

The Chair of the Economics References Committee (Senator Collins): To move on the next day of sitting—That the following matter be referred to the Economics References Committee for inquiry and report by the last sitting day in June 2004:

The structure and distributive effects of the Australian taxation system, with particular reference to:

- (a) the level, extent and distribution of the current tax burden on individuals and businesses;
- (b) the impact of (a) on taxpayers' families;
- (c) the use and efficacy of various tax and expenditure incentives to influence social and economic conduct, for instance participation in the workforce;
- (d) the long-term social and economic impact of the current distribution of taxation, government spending and employment, including the intergenerational consequences of the tax structure;
- (e) the respective roles of the Commonwealth and the states in relation to the collection and distribution of taxation revenue; and
- (f) any other relevant issues which may arise in the course of the inquiry.

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

- (a) notes that:
 - (i) the Microcredit Summit + 5 Conference held in New York in November 2002 reported that microcredit schemes are on track to reach 100 million of the poorest families benefiting the lives of 500 million of the world's poorest people,
 - (ii) there are more than 2 000 microcredit institutions operating worldwide,
 - (iii) more than 54 million microcredit borrowers have been reached, and
 - (iv) nearly 27 million of the total microcredit borrowers reached were amongst the poorest in the world when they took out their first loan, but are now lifting themselves out of poverty;
- (b) congratulates RESULTS Australia for its advocacy work on microcredit loans;
- (c) urges the Federal Government to consider increasing aid for microcredit funding to at least \$40 million per year; and
- (d) urges the Parliament to actively promote the critical role of microcredit in the alleviation of poverty and its contribution to the achievement of the Millennium Development Goal of halving the proportion of people living in absolute poverty by 2015. (*general business notice of motion no. 323*)

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

- (a) congratulates:
 - (i) all winners of the 2002 Australian Film Institute (AFI) awards, and
 - (ii) all of the people involved in the making of *Rabbit-Proof Fence*, which won the AFI award for Best Film;
- (b) notes that for the first time in the history of the AFI awards, every film nominated in the category of Best Film – *Australian Rules*; *Beneath Clouds*; *Rabbit-Proof Fence* and *The Tracker* – was an Indigenous-themed story;
- (c) congratulates the four Indigenous people who won awards on the night:
 - (i) director Ivan Sen,
 - (ii) actor David Gulpilil,
 - (iii) director and producer Rachel Perkins, and
 - (iv) cinematographer Allan Collins; and
- (d) calls on the Government to continue to support the development and production of Australian films so all Australians can continue to see and hear our own stories in cinemas and on our television screens. (*general business notice of motion no. 324*)

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

- (a) pays tribute to Mr Albert Namatjira as the first Indigenous professional artist in Australia, who was born 100 years ago and died in 1959 after achieving national and international acclaim for his exceptional ability as an artist;
- (b) acknowledges that Albert Namatjira:
 - (i) adapted western-style painting to express his cultural knowledge and the strength of his connection to his traditional country, and

- (ii) is now regarded as a national treasure in recognition of the cultural legacy he has left all Australians, as well as the inspiration he is to generations of Indigenous artists who have followed in his footsteps;
- (c) recognises that:
 - (i) the legal protection of Mr Namatjira's works provided by the *Copyright Act 1968* will expire in 2009, bringing to an end the ability of the copyright owner to exercise an exclusive right to use and reproduce his works, or to allow others to do so in return for a financial benefit, and
 - (ii) the Public Trustee of the Northern Territory Government authorised the sale of Mr Namatjira's copyright to Legend Press in 1983, thereby ending the ability of the descendents of Mr Namatjira to benefit from on-going income from the reproduction of his works; and
- (d) calls on the Government to:
 - (i) enter into discussions with the Northern Territory Government to buy back the copyright in Albert Namatjira's works, so that exclusive control of the use and reproduction of his works is restored to his descendents, as well as the receipt of all financial benefits that result from the use and reproduction of his works under copyright protection, and
 - (ii) in recognition of the contribution Mr Namatjira has made to the development of Australia's cultural identity and the need to protect his legacy for future generations, explore all relevant legal and other measures that will provide ongoing protection of the Namatjira name and his reputation and standing as one of our pre-eminent artists. (*general business notice of motion no. 325*)

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell): To move on the next day of sitting—That on Thursday, 12 December 2002:

- (a) the hours of meeting shall be 9.30 am to adjournment;
- (b) 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;
- (c) the routine of business from not later than 4.30 pm shall be government business only;
- (d) divisions may take place after 6 pm; and
- (e) the question for the adjournment of the Senate shall not be proposed till a motion for the adjournment is moved by a minister.

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

- (a) notes that Professor Martin Green, Director of Research at the University of New South Wales' Centre for Photovoltaic Engineering won an International Right Livelihood award at Stockholm and was described by the award panel as 'the world's foremost researcher and inventor in the field';
- (b) congratulates Professor Green for winning this prestigious award; and
- (c) encourages the Government to heed Professor Green's suggestion that the cost of developing new energy sources could be borne by affluent communities rather than the poorer communities that were most in need of them. (*general business notice of motion no. 326*)

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

- (a) notes:
- (i) the recent \$US3 million fine imposed by the United States Department of Agriculture on ProdiGene, a biotechnology company, for contamination of soybeans meant for human consumption with genetically-engineered corn containing a vaccine,
 - (ii) that 500 000 bushels of food crop must now be destroyed,
 - (iii) that research into such pharma-foods (genetically-engineered crops containing vaccines, medicines and drugs) is occurring in Australia, and
 - (iv) that pharma-foods, because they contain drugs, may create serious health and safety issues in Australia, including by misuse and contamination; and
- (b) urges the Government to prevent the commercial release of pharma-foods in Australia until all issues relating to health, safety, environment and contamination are fully resolved. (*general business notice of motion no. 327*)

Senator Brown: To move on the next day of sitting—That there be laid on the table by the Minister for Science, no later than 4 February 2003, all advice or comment given to the Government, including the Prime Minister (Mr Howard), by the Chief Scientist or his office regarding funding or allocation of money or benefits to scientific organisations, corporations or any other entity, since 1 January 1999. (*general business notice of motion no. 328*)

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

- (a) congratulates David Gulpilil, AM for winning the Best Actor award at the recent Australian Film Institute (AFI) awards for his performance in the movie, *The Tracker*;
- (b) recognises David Gulpilil's outstanding contribution to the Australian film industry for more than 30 years;
- (c) congratulates all other winners of AFI awards, especially Maria Theodorakis who won the Best Actress award; and
- (d) recognises the important ongoing support provided by the Australian Film Finance Corporation to our film industry. (*general business notice of motion no. 329*)

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

- (a) notes the failure of the Prime Minister (Mr Howard) and the Minister for Communications, Information Technology and the Arts (Senator Alston) to extend proper recognition and congratulations to the achievement of David Gulpilil and other winners of the Australian Film Industry (AFI) awards; and
- (b) calls on the Prime Minister to extend similar public recognition and congratulations to the AFI and the winners of AFI awards as he has extended in the past to our sporting heroes. (*general business notice of motion no. 330*)

Senator Brown: To move on the next day of sitting—That the Senate opposes the death sentence, including the sentences on two Tibetan activists in China. (*general business notice of motion no. 331*)

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

- (a) the Government's 1999 decision to lift the federal moratorium on food irradiation without adequate public notice or consultation; and
- (b) the decision of the Minister for the Environment and Heritage (Senator Hill) to approve the construction and operation of the gamma radiation sterilisation and decontamination plant at Narangba in Queensland, based on 'preliminary documentation' as the means of assessment, rather than requiring a full environmental impact assessment under the *Environment Protection and Biodiversity Conservation Act 1999*. (*general business notice of motion no. 332*)

Notices of motion withdrawn:

Senator Ferris, at the request of the Chair of the Select Committee on Superannuation (Senator Watson), withdrew general business notice of motion no. 287 standing in the name of Senator Watson for today, relating to the reference of a matter to the Select Committee on Superannuation.

Senator Mackay, at the request of Senator Sherry, withdrew general business notice of motion no. 316 standing in the name of Senator Sherry for today, relating to the reference of matters to the Select Committee on Superannuation.

13 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 14 OF 2002

The Chairman of the Selection of Bills Committee (Senator Ferris) tabled the following report:

SELECTION OF BILLS COMMITTEE

REPORT NO. 14 OF 2002

1. The committee met on Tuesday, 10 December 2002.
2. The committee resolved to recommend—That—
 - (a) the *provisions* of the Corporations Amendment (Repayment of Directors' Bonuses) Bill 2002 be *referred immediately* to the Economics Legislation Committee for inquiry and report by 3 March 2003;
 - (b) the *provisions* of the Workplace Relations Amendment (Termination of Employment) Bill 2002 be *referred immediately* to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 18 March 2003; and
 - (c) the following bills *not* be referred to committees:
 - Crimes Legislation Amendment (People Smuggling, Firearms Trafficking and Other Measures) Bill 2002
 - Family and Community Services Legislation Amendment Bill 2002
 - Migration Legislation Amendment (Contributory Parents Migration Scheme) Bill 2002
 - Migration (Visa Application) Charge Amendment Bill 2002
 - Taxation Laws Amendment (Earlier Access to Farm Management Deposits) Bill 2002
 - Veterans' Affairs Legislation Amendment Bill (No. 3) 2002.

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.

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.

Bill deferred from meeting of 3 December 2002

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

Bills deferred from meeting of 10 December 2002

Crimes Legislation Enhancement Bill 2002

Parliamentary Commission of Inquiry (Bali Bombings) Bill 2002

Taxation Laws Amendment Bill (No. 8) 2002

Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill
2002 [No. 2].

Jeannie Ferris

Chair

11 December 2002.

Senator Ferris moved—That the report be adopted.

Question put and passed.

14 POSTPONEMENTS

Items of business were postponed as follows:

General business notice of motion no. 290 standing in the name of Senator Harris for today, relating to the appointment of an independent assessor to examine documents seized under warrant by Queensland Police from the office of Senator Harris, postponed till 5 February 2003.

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

Senator Ferris, by leave and at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan), moved—That the time for the presentation of the report of the committee on the Transport Safety Investigation Bill 2002 be extended to 4 February 2003.

Question put and passed.

16 CULTURE AND THE ARTS—AUSTRALIAN FILM INSTITUTE AWARDS

The Leader of the Opposition in the Senate (Senator Faulkner), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 315—That the Senate congratulates:

- (a) writer Doris Pilkington, film director Phillip Noyce and producers Christine Olsen and John Winter for their Australian Film Institute (AFI) award for best Australian feature film, in *Rabbit-Proof Fence*;
- (b) the actors and the film crew for this achievement;
- (c) the makers of the soundtrack which won AFI awards for best score and best sound; and
- (d) Senator Abetz for his constant assistance in promoting this powerful film about the tragedy of the children of the Stolen Generations.

Question put and passed.

17 IMMIGRATION—EAST TIMORESE ASYLUM SEEKERS

Senator Brown amended his 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. 301—That the Senate—

- (a) acknowledges the substantial contribution members of the East Timorese community have made to the Northern Territory community over many years;
- (b) expresses its support for the East Timorese asylum seekers living in Darwin who are in the process of being served with deportation orders by the Federal Government;
- (c) extends its support to those affected families, some of whom are facing having their family permanently separated because of the Federal Government's decision to deport individual family members in some instances;
- (d) supports the Northern Territory Government and its agencies in assisting these East Timorese families in their efforts to remain in Darwin;
- (e) commends the individuals, businesses and community organisations that are supporting the East Timorese people affected by the deportation orders;
- (f) recognises that the Northern Territory Government wants the East Timorese to remain at home in the Northern Territory and will use its best endeavours to achieve that end; and
- (g) calls on:
 - (i) the Minister for Immigration and Multicultural and Indigenous Affairs (Mr Ruddock) to create a special visa class for the East Timorese Territorians in Darwin, due to the unique circumstances of their situation, and
 - (ii) federal parliamentary representatives to actively support this resolution and the applications of the deportees to the Minister.

Question put and passed.

18 TRANSPORT—ETHANOL—ORDER FOR PRODUCTION OF DOCUMENTS—FAILURE TO COMPLY

Senator O'Brien, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 319—That the Senate—

- (a) notes that:

- (i) on 16 October 2002 it agreed to a motion seeking documents relating to the Government's consideration of an ethanol excise and production subsidy,
- (ii) on 21 October 2002 the Parliamentary Secretary to the Treasurer (Senator Ian Campbell) advised the Senate that 'the government intends to comply with the order as soon as possible and fully expects to be in a position to do so shortly', and
- (iii) 50 days have passed since Senator Ian Campbell gave the Senate a commitment the Government would respond to the order of the Senate in a timely fashion; and

(b) calls on the Government to comply with the order of the Senate no later than 5 pm on 11 December 2002.

Question put and passed.

**19 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION REFERENCES COMMITTEE—
EXTENSIONS 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. 306—That the time for the presentation of reports of the Employment, Workplace Relations and Education References Committee be extended as follows:

- (a) small business employment—to 6 February 2003; and
- (b) refusal of the Government to respond to the order of the Senate of 21 August 2002 for the production of documents relating to financial information concerning higher education institutions—to 6 March 2003.

Question put and passed.

20 PUBLIC INTEREST DISCLOSURE (PROTECTION OF WHISTLEBLOWERS) BILL 2002

Senator Murray, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 310—That the following bill be introduced:

A Bill for an Act to encourage the disclosure of conduct adverse to the public interest in the public sector, and for related purposes.

Question put and passed.

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

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

General business order of the day discharged: Senator Murray, by leave, moved—That general business order of the day no. 11, relating to the Public Interest Disclosure Bill 2001 [2002], be discharged from the *Notice Paper*.

Question put and passed.

21 AUSTRALIAN CRIME COMMISSION—JOINT STATUTORY COMMITTEE—APPOINTMENT

Senator Ferris, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 307—

- (1) That, with effect from 1 January 2003, matters relating to the powers and proceedings of the Parliamentary Joint Committee on the Australian Crime Commission shall be as set out in the resolution of 14 February 2002 relating to the powers and proceedings of the Parliamentary Joint Committee on the National Crime Authority.
- (2) That a message be sent to the House of Representatives requesting concurrence with this resolution.

Question put and passed.

22 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—EXTENSIONS OF TIME TO REPORT

Senator Ferris, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 309—That the time for the presentation of the following reports of the Rural and Regional Affairs and Transport Legislation Committee be extended to the last sitting day in June 2003:

- (a) the administration of the Civil Aviation Safety Authority;
- (b) the import risk assessment on New Zealand apples; and
- (c) the administration of AusSAR in relation to the search for the *Margaret J.*

Question put and passed.

23 URANIUM MINING IN OR NEAR AUSTRALIAN WORLD HERITAGE PROPERTIES (PROHIBITION) BILL 1998—RESTORATION TO NOTICE PAPER

Senator Allison, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 313—

- (1) That so much of standing orders be suspended as would prevent this resolution having effect.
- (2) That the Uranium Mining in or near Australian World Heritage Properties (Prohibition) Bill 1998 be restored to the *Notice Paper* and that consideration of the bill be resumed at the stage reached in the last session of the Parliament.

Question put and passed.

24 LAW AND JUSTICE—SUPERVISION OF CHILDREN—SWIMMING AUSTRALIA

Senator Allison, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 312—That the Senate—

- (a) notes:
 - (i) the introduction by Swimming Australia of a member protection policy requiring police checks for instructors and other sports officials who have unsupervised contact with children,
 - (ii) the call by the Australian Sports Commission that this requirement be extended to all sports within 12 months, and
 - (iii) that this requirement is already law in New South Wales and Queensland;

- (b) congratulates Swimming Australia and the Australian Sports Commission for this initiative;
- (c) urges the Federal Government, through the Council of Australian Governments process, to put in place nationally-consistent requirements for police checks for those who have unsupervised contact with children; and
- (d) urges state governments:
 - (i) to extend this requirement to schools, particularly for teachers and others involved in school camps and other situations in which children may be vulnerable, and
 - (ii) to provide funds for groups and schools to cover the cost of such police checks.

Question put and passed.

25 FOREIGN AFFAIRS—INDONESIA—FREE ACEH MOVEMENT

Senator Allison, at the request of Senator Stott Despoja and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 311—That the Senate—

- (a) notes the ceasefire agreement signed by Indonesia and the Free Aceh Movement in Geneva on 9 December 2002;
- (b) expresses sorrow over the many lives that have been lost as a result of ongoing violence between Indonesia and the Free Aceh Movement over the past 26 years;
- (c) congratulates Indonesia and the Free Aceh Movement on their commitment to deal with ongoing issues through peaceful negotiation rather than violent means;
- (d) welcomes the Government's initial commitment of support to the international ceasefire monitoring group to implement the agreement; and
- (e) urges the Government to continue to provide assistance to the international ceasefire monitoring group, particularly in the lead-up to the provincial elections to be held in Aceh in 2004.

Question put and passed.

26 ENVIRONMENT—GREAT BARRIER REEF MARINE PARK—PROHIBITION OF OIL TANKERS

Senator Allison, at the request of the Leader of the Australian Democrats (Senator Bartlett) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 296—That the Senate—

- (a) notes:
 - (i) the recent oil tanker disaster off the coast of Spain and the restrictions on oil tanker shipping now being implemented by the Spanish Government,
 - (ii) that there are approximately 6 000 vessel movements of ships in excess of 50 metres annually in the Great Barrier Reef Marine Park,
 - (iii) that between 5 and 10 per cent of those vessels are oil tankers,
 - (iv) the dangers associated with 'ships of shame' and that 95 per cent of the ships using the Great Barrier Reef Marine Park are foreign owned, and

- (v) the regularity of shipping accidents inside the Great Barrier Reef Marine Park; and
- (b) calls on the Howard Government to:
 - (i) prohibit vessels from using the Great Barrier Reef Marine Park unless:
 - (A) the vessel is stopping at a port or ports inside the Great Barrier Reef region, or
 - (B) the vessel is a commercial vehicle of 50 metres or less, or
 - (C) the vessel is Australian flagged, and
 - (ii) prohibit all oil tankers from using the Great Barrier Reef Marine Park unless they are double hulled.

Question put and negatived.

27 RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTING

The Chair of the Rural and Regional Affairs and Transport References Committee (Senator Ridgeway), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 308—That the Rural and Regional Affairs and Transport References Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 11 December 2002, from 4 pm, to take evidence for the committee's inquiry into the rural water resource usage.

Question put and passed.

28 LEGISLATION COMMITTEES—ESTIMATES HEARINGS

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) amended his notice of motion by leave and, pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 1—

- (1) That estimates hearings by legislation committees for the year 2003 be scheduled as follows:
 - 2002-03 additional estimates:**
 - Monday, 10 February and Tuesday, 11 February and, if required, Friday, 14 February (*Group A*)
 - Wednesday, 12 February and Thursday, 13 February and, if required, Friday, 14 February (*Group B*).
 - 2003-04 Budget estimates:**
 - Monday, 26 May to Thursday, 29 May and, if required, Friday, 30 May (*Group A*)
 - Monday, 2 June to Thursday, 5 June and, if required, Friday, 6 June (*Group B*).
- (2) That the committees consider the proposed expenditure in accordance with the allocation of departments to committees agreed to by the Senate.
- (3) That committees meet in the following groups:

Group A:

Environment, Communications, Information Technology and the Arts
Finance and Public Administration
Legal and Constitutional
Rural and Regional Affairs and Transport

Group B:

Community Affairs
Economics
Employment, Workplace Relations and Education
Foreign Affairs, Defence and Trade.

(4) That the committees report to the Senate on the following dates:

Wednesday, 19 March 2003 in respect of the 2002-03 additional estimates,
and

Thursday, 19 June 2003 in respect of the 2003-04 Budget estimates.

Statement by leave: Senator Ian Campbell, by leave, made a statement relating to the motion.

Question put and passed.

29 POSTPONEMENT

Senator Allison, by leave and at the request of the Leader of the Australian Democrats (Senator Bartlett), moved—That general business notice of motion no. 314 standing in the name of Senator Bartlett for today, relating to the parliamentary sitting pattern for 2003, be postponed till the next day of sitting.

Question put and passed.

30 ENVIRONMENT—TASMANIA—LOGGING—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Brown amended his 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. 317—That there be laid on the table by the Minister for Fisheries, Forestry and Conservation, no later than noon on Thursday, 12 December 2002, all documents relating to the answers to question on notice no. 404 (Senate *Hansard*, 14 October 2002, p. 5093).

Question put and passed.

31 TRANSPORT—ALBURY BYPASS

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 303—That the Senate, noting the 61 per cent majority of Albury citizens who, in a referendum in 1997, opposed an internal freeway, calls on the Government to support the bypass option.

Question put.

The Senate divided—

AYES, 9

Senators—

Allison (Teller)	Cherry	Harris	Nettle
Bartlett	Greig	Murray	Ridgeway
Brown			

NOES, 36

Senators—

Barnett	Conroy	Knowles	O'Brien
Boswell	Cook	Lightfoot	Payne
Brandis	Crossin (Teller)	Ludwig	Ray
Buckland	Denman	Lundy	Reid
Campbell, George	Ferguson	Mackay	Scullion
Carr	Ferris	Mason	Sherry
Chapman	Hutchins	McGauran	Stephens
Colbeck	Johnston	McLucas	Watson
Collins	Kirk	Moore	Webber

Question negatived.

32 FOREIGN AFFAIRS—CHINA—TRULKU TENZIN DELEK AND LOBSANG DHONDUP

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 318—That the Senate calls on the Australian Government to urgently pursue alternatives with the Chinese Government to the death sentence handed down on Tibetan activists Trulku Tenzin Delek and Lobsang Dhondup in Karze, Sichuan province.

Question put.

The Senate divided—

AYES, 9

Senators—

Allison (Teller)	Cherry	Harris	Nettle
Bartlett	Greig	Murray	Ridgeway
Brown			

NOES, 37

Senators—

Barnett	Conroy	Lightfoot	Ray
Boswell	Cook	Ludwig	Reid
Brandis	Crossin	Lundy	Scullion
Buckland	Denman	Mackay	Sherry
Campbell, George	Ferguson	Mason	Stephens
Campbell, Ian	Ferris (Teller)	McGauran	Watson
Carr	Hutchins	McLucas	Webber
Chapman	Johnston	Moore	
Colbeck	Kirk	O'Brien	
Collins	Knowles	Payne	

Question negatived. Senator Harradine, by leave, recorded his vote for the ayes.

33 A CERTAIN MARITIME INCIDENT—SELECT COMMITTEE—REPORT—FINDINGS

Senator Collins on behalf of all Opposition senators, the Leader of the Australian Democrats (Senator Bartlett) on behalf of all Australian Democrats senators, and Senators Brown, Nettle, Lees, Harradine and Murphy, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 320—That the Senate—

- (a) notes the evidence presented to the Select Committee on a Certain Maritime Incident regarding the central role played by the person known as Abu Quassey in organising people smuggling operations in Indonesia;
- (b) welcomes the statement by the Australian Federal Police that they have issued a further warrant for the arrest of Quassey, in relation to his involvement in people smuggling specifically in relation to the vessel known as SIEV X;
- (c) further notes that the issue of this warrant indicates the strength of evidence linking Quassey with the people smuggling aspects of SIEV X, including the procurement of the vessel, the recruiting of crew, the provision of passage on the vessel in return for payment, the loading of the vessel (including the gross overloading), and the departure of the vessel bound for Australia;
- (d) further notes that Abu Quassey is currently in prison in Indonesia for unrelated immigration offences, and is due to be released on 1 January 2003, with a high risk of him remaining out of reach of Australian legal authorities after that time; and therefore
- (e) calls on the Australian and Indonesian Governments to undertake all actions necessary prior to 1 January 2003 to ensure that Abu Quassey is immediately brought to justice:
 - (i) on all matters relating to the outstanding warrants relating to people smuggling, and
 - (ii) in relation to his involvement with the vessel known as SIEV X, including the foundering and sinking of that vessel with the resultant tragic loss of 353 lives.

Statements by leave: Senator Collins and the Parliamentary Secretary to the Treasurer (Senator Ian Campbell), by leave, made statements relating to the motion.

Question put and passed.

34 FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—BUDGET ESTIMATES 2002-03

Senator McGauran, at the request of the Chair of the Finance and Public Administration Legislation Committee (Senator Mason), tabled additional information received by the committee (Budget estimates 2002-03—vol. 3).

35 SCRUTINY OF BILLS—STANDING COMMITTEE—16TH REPORT AND ALERT DIGEST NO. 16 OF 2002

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

- Scrutiny of Bills—Standing Committee—
 16th report of 2002, dated 11 December 2002.
 Alert Digest No. 16 of 2002, dated 11 December 2002.

Report ordered to be printed on the motion of Senator McLucas.
 Senator McLucas moved—That the Senate take note of the report.
 Question put and passed.

**36 NATIONAL CRIME AUTHORITY—JOINT STATUTORY COMMITTEE—REPORT—
 NATIONAL CRIME AUTHORITY ANNUAL REPORT 2000-01**

Senator Johnston, on behalf of the Joint Standing Committee on the National Crime Authority, tabled the following report and document:

National Crime Authority—Joint Statutory Committee—National Crime Authority Annual Report 2000-01—Report, dated December 2002 and *Hansard* record of proceedings.

Report ordered to be printed on the motion of Senator Johnston.
 Senator Johnston moved—That the Senate take note of the report.
 Question put and passed.

**37 ECONOMICS LEGISLATION COMMITTEE—REPORT—FINANCIAL SECTOR LEGISLATION
 AMENDMENT BILL (NO. 2) 2002**

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

Economics Legislation Committee—Financial Sector Legislation Amendment Bill (No. 2) 2002—Report, dated December 2002, *Hansard* record of proceedings, a document presented to the committee and submissions [9].

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

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

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

Auditor-General—Performance audit—Performance information in the Australian Health Care Agreements: Department of Health and Ageing (Report no. 21 of 2002-03).

**39 PARLIAMENTARY COMMITTEE REPORTS—GOVERNMENT RESPONSE—PRESIDENT'S
 REPORT ON GOVERNMENT RESPONSES**

The Minister for Finance and Administration (Senator Minchin) tabled the following document:

Government response to the schedule of government responses outstanding to parliamentary committee reports tabled by the President of the Senate on 27 June 2002, dated 11 December 2002.

40 DOCUMENTS

The following documents were tabled by the Clerk:

Civil Aviation Act—Civil Aviation Regulations—Airworthiness Directives—Part—
 105, dated 21 [3], 22 [3], 25 [5], 27 [3], 28 [5] and 29 [7] November 2002.

106, dated 21, 26, 27 [3] and 28 [2] November 2002.

107, dated 28 November 2002.

Commonwealth Authorities and Companies Act—Notice under paragraph 45(1)(e)—Variation in Commonwealth rights as a member of Aboriginal Hostels Limited.

Quarantine Act—Quarantine Amendment Proclamation 2002 (No. 1).

Sydney Airport Curfew Act—Dispensations granted under section 20—Dispensation No. 13/02 [2 dispensations].

41 TELECOMMUNICATIONS COMPETITION BILL 2002

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

Message no. 221, dated 10 December 2002—Telecommunications Competition Bill 2002.

42 TAXATION LAWS AMENDMENT (EARLIER ACCESS TO FARM MANAGEMENT DEPOSITS) BILL 2002

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

Message no. 223, dated 10 December 2002—A Bill for an Act to amend the law relating to taxation, and for related purposes.

The Minister for Finance and Administration (Senator Minchin) 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 Minchin moved—That this bill be now read a second time.

On the motion of Senator O'Brien the debate was adjourned till the next day of sitting.

43 TAXATION LAWS AMENDMENT (STRUCTURED SETTLEMENTS AND STRUCTURED ORDERS) BILL 2002

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

Message no. 222, dated 10 December 2002—Taxation Laws Amendment (Structured Settlements and Structured Orders) Bill 2002, agreeing to amendments nos 1 to 8, 10 to 12 and 14 to 64 made by the Senate, and disagreeing to amendments nos 9 and 13.

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

44 PRIMARY INDUSTRIES REGULATIONS—MOTIONS FOR DISALLOWANCE

Senator O'Brien, pursuant to notice, moved the following business of the Senate notices of motion together by leave—

No. 1—That the Primary Industries (Customs) Charges Amendment Regulations 2002 (No. 6), as contained in Statutory Rules 2002 No. 293 and made under the *Primary Industries (Customs) Charges Act 1999*, be disallowed.

No. 2—That the Primary Industries (Excise) Levies Amendment Regulations 2002 (No. 10), as contained in Statutory Rules 2002 No. 294 and made under the *Primary Industries (Excise) Levies Act 1999*, be disallowed.

No. 3—That the Primary Industries Levies and Charges Collection Amendment Regulations 2002 (No. 7), as contained in Statutory Rules 2002 No. 295 and made under the *Primary Industries Levies and Charges Collection Act 1991*, be disallowed.

Debate ensued.

Question put and negatived.

45 ROUTINE OF BUSINESS—VARIATION

The Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth), by leave, moved—That consideration of government documents not be proceeded with today, and that government business order of the day no. 1 (Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002) be considered from 6.50 pm till 7.20 pm.

Question put and passed.

46 AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION LEGISLATION AMENDMENT (TERRORISM) 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 Greig moved the following amendment:

Schedule 1 item 24, page 14 (line 8), at the end of subsection 34E(1), add:
; (j) the person's right on request to an interpreter.

Debate ensued.

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

Senator Greig moved the following amendment:

Schedule 1, item 24, page 16 (lines 26 to 30), omit paragraph (c), substitute:
(c) anyone holding the person for questioning under this Division must, if the person requests, give the person facilities for contacting:
(i) any person whom the person is permitted to contact pursuant to paragraph (a); or
(ii) the Inspector-General of Intelligence and Security or the Ombudsman to make a complaint orally under a section mentioned in paragraph (b).

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

The Leader of the Opposition in the Senate (Senator Faulkner) moved the following amendments together by leave:

No. 1—Schedule 1, item 24, page 14 (line 8), at the end of subsection 34E(1), add:
; (h) the person's right to make a request under 34F(11).

No. 2—Schedule 1, item 24, page 14 (line 18) to page 16 (line 32), omit section 34F, substitute:

34F Conduct of questioning

- (1) The prescribed authority shall regulate the conduct of questioning by the Organisation of the person under warrant.
- (2) The prescribed authority shall only allow questioning to proceed or continue if the prescribed authority is satisfied that the person has not been questioned for a continuous period of more than 20 hours or for more than a total of 20 hours within a period of 7 days.
- (3) If at any time the questioning of the person reaches or exceeds the time limits set out in subsection (2), the prescribed authority shall require the Organisation to immediately cease questioning the person.
- (4) Questioning of a person under warrant before the prescribed authority may not be conducted:
 - (a) at times which interfere with the provision of medical attention to the person;
 - (b) when the person is intoxicated;
 - (c) at times when the prescribed authority considers the person is unfit to be questioned;
 - (d) at times when the prescribed authority considers questioning would interfere with reasonable rest or recuperation.
- (5) When a person first appears before a prescribed authority, they may be questioned for a period not exceeding 4 hours.
- (6) If on application by the Organisation, the prescribed authority is satisfied that:
 - (i) there are reasonable grounds to believe further questioning is likely to yield relevant information; and
 - (ii) the person has access to legal advice consistent with subsections 34U(1) to (3), the person may be questioned for a further period not exceeding 8 hours in addition to the questioning allowed by subsection (5).
- (7) If on application by the Organisation, the prescribed authority is satisfied that there is a threat of an imminent terrorist act and that there are reasonable grounds to believe further questioning is likely to yield information relevant to that threat (including information relating to preparation or planning for a terrorist act), the prescribed authority may allow the person to be questioned for a further 8 hours in addition to those periods allowed by subsections (5) and (6).
- (8) The prescribed authority may authorise a person who is or has been before the prescribed authority for questioning under warrant to disclose to other persons information about the warrant, the questioning or the production of records or things.
- (9) The prescribed authority may authorise a legal practitioner who is accompanying or has accompanied a person who is or has been before the prescribed authority for questioning under warrant to disclose to other persons information about the warrant, the questioning or the production of records or things.

- (10) An authorisation to allow disclosure of information made by the prescribed authority under subsection (8) or (9) shall be in writing and shall specify the information which may be disclosed and the persons to whom the information may be disclosed.
- (11) A person appearing before a prescribed authority may at any time request the prescribed authority to make an authorisation under subsection (8) or (9) and the prescribed authority must immediately consider such a request.
- (12) An authorisation to allow disclosure of information made by the prescribed authority under subsection (8) or (9) may be revoked at any time.
- (13) This section does not in any way limit contact between the person and the Inspector-General of Intelligence and Security or the Ombudsman under:
 - (a) sections 10 and 13 of the *Inspector-General of Intelligence and Security Act 1986*; or
 - (b) section 22 of the *Complaints (Australian Federal Police) Act 1981*; as the case may be.

Note: The sections mentioned in this subsection give the person an entitlement to facilities for making a written complaint.

- (14) Anyone holding the person in custody under this Division must give the person facilities for contacting the Inspector-General of Intelligence and Security or the Ombudsman to make a complaint orally under a section mentioned in subsection (13) if the person requests them.

No. 3—Schedule 1, item 24, page 17 (lines 17 and 18), omit the note.

No. 4—Schedule 1, item 24, page 18 (lines 3 and 4), omit the note.

No. 5—Schedule 1, item 24, page 20 (line 11), omit “Director-General”, substitute “police”.

No. 6—Schedule 1, item 24, page 20 (line 17), omit “Director-General”, substitute “police”.

No. 7—Schedule 1, item 24, page 20 (after line 20), at the end of section 34K, add:

- (3) The police must immediately provide the Organisation with a copy of any video recording made under this section.

Senator Greig moved the following amendments to Senator Faulkner’s proposed amendment no. 2 together by leave:

After subsection 34F(7), insert:

- (7A) The prescribed authority may authorise a person subject to a questioning warrant to contact other persons during questioning and may identify those other persons by reference to a particular familial relationship with the person being questioned. This does not limit the ways in which the prescribed authority may identify persons whom the person is permitted to contact.

After subsection 34F(12), insert:

- (12A) This section does not in any way limit the right of a person subject to a questioning warrant to seek a remedy from a court in relation to the warrant, the treatment of the person in connection with the warrant, or the questioning or custody of the person in connection with the warrant.

Omit subsection 34F(14), substitute:

- (14) Anyone holding the person in custody under this Division must, if the person requests, give the person facilities for contacting:
 - (a) any person whom the person is permitted to contact pursuant to subsection 34D(4) or 34F(7A); or
 - (b) the Inspector General of Intelligence and Security or the Ombudsman to make a complaint orally under a section mentioned in subsection (13).

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

47 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 7.59 pm till Thursday, 12 December 2002 at 9.30 am.

48 ATTENDANCE

Present, all senators except Senators Calvert*, Kemp and Murphy (* on leave).

HARRY EVANS
Clerk of the Senate