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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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1 **MEETING OF SENATE**

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

2 **VACANCY IN THE REPRESENTATION OF THE AUSTRALIAN CAPITAL TERRITORY—
APPOINTMENT OF GARY JOHN JOSEPH HUMPHRIES**

The President announced the resignation, on 14 February 2003, of Senator Reid and advised the Senate that, pursuant to section 44 of the *Commonwealth Electoral Act 1918*, he had notified the Chief Minister of the Australian Capital Territory that there was a vacancy in the representation of that territory.

Documents: The President tabled the following documents:

Vacancy in the representation of the Australian Capital Territory—Letters from—
Senator Reid to the President, dated 14 February 2003 [original and copy].
President of the Senate to the Chief Minister of the Australian Capital Territory
(Mr Jon Stanhope, MLA), dated 14 February 2003 [copy].

The President further announced that he had received, through the Governor-General, from the Chief Minister of the Australian Capital Territory, a copy of the certificate of the choice by the Australian Capital Territory Legislative Assembly of Gary John Joseph Humphries as a senator to fill the vacancy caused by the resignation of Senator Reid.

The President tabled a copy of the certificate as follows:

25 February 2003

His Excellency the Right Reverend Dr Peter Hollingworth AC OBE
Governor-General of the Commonwealth of Australia
Government House
CANBERRA ACT 2600

Your Excellency

On Tuesday 18 February 2003, the ACT Legislative Assembly passed the following resolution which the Speaker has requested that I convey to you in accordance with Section 44(6) of the *Commonwealth Electoral Act 1918*:

“That Gary Humphries, a person who is eligible to be a Senator and is of the same Party of the Honourable Margaret Reid whose place has become vacant, be chosen to fill the casual vacancy of the Senator for the Australian Capital Territory until the expiration of the term of the outgoing Senator”.

Yours sincerely
Jon Stanhope MLA
Chief Minister.

Senator sworn: Senator Humphries, pursuant to the Constitution of the Commonwealth of Australia, then made and subscribed the oath of allegiance at the table.

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 the name of the Minister for Justice and Customs (Senator Ellison) for today, relating to a proposal for capital works in the parliamentary zone, be postponed till 6 March 2003.

Question put and passed.

4 WORKPLACE RELATIONS AMENDMENT (FAIR DISMISSAL) BILL 2002 [NO. 2]

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill, taken as a whole by leave, debated.

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

5 QUESTIONS

Questions without notice were answered.

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

Finance—Australian Industry Development Corporation (AIDC)—Accounts—
Copies of correspondence to—

Minister for Finance and Administration (Senator Minchin) from—

Auditor-General (Mr Barrett), dated 26 February 2003.

Chairman and Joint CEO (Mr Dickinson) and Chief Operating Officer
(Mr Coleman), UBS Warburg, dated 25 February 2003.

Chief Executive (Mr Morison), Australian Industry Development
Corporation, dated 14 February 2003.

Secretary (Mr Williams), Australian Industry Development Corporation from—

Executive Partner (Mr Applebee), Ernst & Young, dated 13 January 2003.

Partner (Mr Empson), PricewaterhouseCoopers, dated 13 February 2003.

Further questions without notice were answered.

6 FINANCE—EXECUTIVE REMUNERATION—FAMILY AND COMMUNITY SERVICES—COMMONWEALTH OMBUDSMAN’S REPORT—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) and the Minister for Family and Community Services (Senator Vanstone) to questions without notice asked by opposition senators today relating to remuneration for executives and to a report by the Commonwealth Ombudsman on family payments.

Debate ensued.

Question put and passed.

7 DEFENCE—CHEMICAL WEAPONS CONVENTION—ANSWER TO QUESTION

The Leader of the Australian Democrats (Senator Bartlett) moved—That the Senate take note of the answer given by the Minister for Defence (Senator Hill) to a question without notice asked by Senator Bartlett today relating to the possible use of chemical weapons during any military action against Iraq.

Question put and passed.

8 PETITION

The following petition, lodged with the Clerk by Senator Bartlett, was received:

From 897 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.

9 NOTICES

Notices of motion:

The Chair of the Environment, Communications, Information Technology and the Arts References Committee (Senator Allison): To move on the next day of sitting—That the time for the presentation of reports of the Environment, Communications, Information Technology and the Arts References Committee be extended as follows:

- (a) environmental performance at the Ranger, Jabiluka, Beverley and Honeymoon uranium operations—to 9 April 2003; and
- (b) the role of libraries as providers of public information in the online environment—to 24 June 2003. (*general business notice of motion no. 352*)

The Chair of the Select Committee on Superannuation (Senator Watson): To move on the next day of sitting—That the Select Committee on Superannuation be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 5 March 2003, from 6 pm till 8.30 pm, to take evidence for the committee’s inquiry into the Superannuation Industry (Supervision) Amendment Bill 2002 and the Superannuation (Financial Assistance Funding) Levy Amendment Bill 2002. (*general business notice of motion no. 353*)

Senator O’Brien: To move on the next day of sitting—That the Senate—

- (a) notes that:
 - (i) on 16 October 2002 it agreed to an order for the production of 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’,
- (iii) on 12 December 2002 Senator Ian Campbell advised the Senate that, ‘consideration of the documents is close to conclusion’ and committed to tabling the requested documents out of session by 17 December 2002,
- (iv) on 5 February 2003 Senator Ian Campbell advised the Senate that, ‘the government is seeking to conclude its consideration of these documents and its compliance – albeit very late – with the order of the Senate’, and
- (v) more than 130 days have passed since Senator Ian Campbell gave the Senate a commitment that the Government would ‘shortly’ comply with the Senate order; and

(b) calls on the Government to comply with the order of the Senate no later than 5 pm on 6 March 2003. (*general business notice of motion no. 354*)

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

- (a) notes that:
 - (i) the Centers for Disease Control and Prevention in Atlanta and the National Cancer Institute (USA) draft report estimates that 11 000 people died from cancers relating to nuclear testing during the Cold War,
 - (ii) this is the first study to consider the health effects of nuclear detonations, including those done in foreign countries, between 1951 and 1962, when open-air testing was banned, and
 - (iii) the report concludes that radioactive fallout from the Cold War nuclear testing exposed virtually everyone in the United States and contributed to cancer deaths;
- (b) calls on the Federal Government to adopt blood testing, as New Zealand has done, for all veterans who have been exposed to nuclear testing or munitions in light of this new report; and
- (c) urges the Federal Government to contact servicemen who are found in the current Australian health study to have been exposed to high levels of radiation, for the purpose of assessing their health condition and providing medical services. (*general business notice of motion no. 355*)

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

- (a) notes that:
 - (i) Eileen Kampakuta Brown, senior Yankunytjatjara/Antikarinya woman and member of the Kupa Piti Kungka Tjuta from Coober Pedy, was awarded an Order of Australia (AO) for services to the community ‘through the preservation, revival and teaching of traditional Anangu (Aboriginal) culture and as an advocate for Indigenous communities in central Australia’,
 - (ii) Mrs Brown’s extensive traditional cultural knowledge has compelled her to lead a 10-year struggle against the Federal Government’s proposal to dump radioactive waste in the South Australian desert,
 - (iii) just days before Mrs Brown was awarded the AO, the Federal Government released its final environmental impact statement for the waste dump project, and

- (iv) the Government also announced that \$300 000 is to be spent to ‘re-educate’ the South Australian public and to nullify opposition to the dump;
- (b) points out to the Prime Minister (Mr Howard) the hypocrisy of the Government in giving an award for services to the community to Mrs Brown but taking no notice of her objection, and that of the Yankunytjatjara/Antikarinya community, to its decision to construct a national repository on this land; and
- (c) calls on the Government to reverse its decision to construct a national repository in South Australia. (*general business notice of motion no. 356*)

The Chair of the Economics Legislation Committee (Senator Brandis): To move on the next day of sitting—That the Economics Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 6 March 2003, from 4 pm, to take evidence for the committee’s inquiry into the Corporations Amendment (Repayment of Directors’ Bonuses) Bill 2002. (*general business notice of motion no. 357*)

The Chair of the Parliamentary Joint Committee on Corporations and Financial Services (Senator Chapman): To move on the next day of sitting—That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 5 March 2003, from 4.30 pm, to take evidence for the committee’s inquiry into the disclosure of commissions on risk products. (*general business notice of motion no. 358*)

The Leader of the Australian Democrats (Senator Bartlett): To move 5 sitting days after today—That items [2356], [2357] and [2358] of Schedule 2 to the Migration Amendment Regulations 2002 (No. 10), as contained in Statutory Rules 2002 No. 348 and made under the *Migration Act 1958*, be disallowed.

Senator Brown: To move on the next day of sitting—That the Senate congratulates the New South Wales Premier (Mr Carr) for his decision to scrap agreements made under the Regional Forest Agreement so that a further 15 icon areas of forest are to be protected in the north east of New South Wales. (*general business notice of motion no. 359*)

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

- (a) notes the tragic fires and destruction of property which occurred over December 2002 and January 2003 at five Australian immigration detention centres and the ongoing consequences in terms of the impact for asylum seekers;
- (b) condemns the acting Minister for Immigration and Multicultural and Indigenous Affairs (Senator Ellison) for the imputations in his media statements accusing refugee advocates for inciting arson; and
- (c) calls on the Minister for Immigration and Multicultural and Indigenous Affairs (Mr Ruddock) and the Department for Immigration and Multicultural and Indigenous Affairs to ensure that refugees not involved in the fires at these detention centres are not arbitrarily detained or punished. (*general business notice of motion no. 360*)

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

- (a) congratulates the Globalism Institute, the New Internationalist magazine and David Bridie, the organisers of the successful West Papua conference and concert held in Melbourne last week; and

- (b) condemns the RMIT University administration for withdrawing, after pressure from the Indonesian Government, permission for the conference to be held on its campus. (*general business notice of motion no. 361*)

Senator Brown: To move on 5 March 2003—That the Senate supports the rights of the people of West Papua to develop their own distinctive culture and institutions and to determine their own political future. (*general business notice of motion no. 362*)

Senator Brown: 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 26 June 2003:

The operation and effectiveness of Australia's security and intelligence agencies in the lead up to the Bali bombings, including:

- (a) the discrepancies, if any, between Australia and other nations (including the United States of America) in intelligence received regarding terrorist operations prior to the bombings;
- (b) action taken in Australia and elsewhere to warn the public of potential dangers; and
- (c) any other matters concerning security and intelligence agencies affecting Australians in relation to the Bali bombings.

Notice of motion withdrawn: Senator Nettle withdrew general business notice of motion no. 347 standing in her name for today, relating to the construction of a nuclear irradiation facility in Narangba, Queensland.

Intention to withdraw: The Chairman of the Standing Committee on Regulations and Ordinances (Senator Tchen), pursuant to standing order 78, gave notice of his intention, at the giving of notices on the next day of sitting, to withdraw business of the Senate notice of motion no. 1 standing in his name for 13 sitting days after today for the disallowance of the Bankruptcy Amendment Regulations 2002 (No. 1), as contained in Statutory Rules 2002 No. 255 and made under the *Bankruptcy Act 1966*.

Senator Tchen, by leave, made a statement relating to the notice of intention.

10 SHADOW MINISTRY—DOCUMENT

The Leader of the Opposition in the Senate (Senator Faulkner), by leave, tabled a document showing the Opposition shadow ministry, as at 18 February 2003.

11 ECONOMICS LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT

Senator McGauran, by leave and at the request of the Chair of the Economics Legislation Committee (Senator Brandis), moved—That the time for the presentation of the report of the committee on the provisions of the Corporations Amendment (Repayment of Directors' Bonuses) Bill 2002 be extended to 19 March 2003.

Question put and passed.

12 LEAVE OF ABSENCE

Senator McGauran, by leave and at the request of Senator Harris, moved—That leave of absence be granted to Senator Harris for the period 3 March to 6 March 2003, on account of business overseas.

Question put and passed.

13 POSTPONEMENTS

Items of business were postponed as follows:

Business of the Senate notice of motion no. 2 standing in the name of Senator Murray for 4 March 2003, relating to the reference of matters to the Economics References Committee, postponed till 16 June 2003.

Business of the Senate notice of motion no. 3 standing in the name of Senator Nettle for 4 March 2003, relating to the reference of matters to the Community Affairs References Committee, postponed till 6 March 2003.

General business notice of motion no. 1, under committee reports and government responses, standing in the name of the Chair of the Standing Committee of Senators' Interests (Senator Denman) for 6 March 2003, proposing amendments to the resolutions on senators' interests, postponed till 15 May 2003.

General business notice of motion no. 327 standing in the name of Senator Stott Despoja for 4 March 2003, relating to the commercial release of genetically-engineered crops, postponed till 18 March 2003.

General business notice of motion no. 342 standing in the name of Senator Cherry for today, relating to the Government's response to a report of the Rural and Regional Affairs and Transport References Committee, postponed till 4 March 2003.

General business notice of motion no. 348 standing in the name of Senator Stott Despoja for today, relating to Flinders University Health and Counselling services, postponed till 4 March 2003.

Senator Brown, by leave, moved—That general business notice of motion no. 349 standing in his name for today, relating to the death of Buddhist monk Lobsang Dhondup, be postponed till the next day of sitting.

Question put and passed.

14 FOREIGN AFFAIRS—COLOMBIA—FORMER SENATOR INGRID BETANCOURT AND MS CLARA ROJAS

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 351—That the Senate—

- (a) recalls the following resolution, agreed to by the Senate on 19 November 2002:

That the Senate—

- (a) notes that former Colombian Senator Ingrid Betancourt and Ms Clara Rojas have been held captive by Revolutionary Armed Forces of Colombia (FARC) guerillas in Colombia since February 2002; and
- (b) requests the Australian Government to write to President Uribe asking that he take urgent and active steps to secure the release of Ms Betancourt, Ms Rojas and other captives of the FARC;
- (b) notes that the Government has failed to respond to this request; and
- (c) calls on the Government to now seek action from President Uribe to secure the immediate release of Ingrid Betancourt and her fellow captives.

Question put and passed.

15 AUSTRALIA'S NATIONAL SECURITY: A DEFENCE UPDATE 2003—MINISTERIAL STATEMENT—DOCUMENT

The Minister for Defence (Senator Hill), by leave, made a statement relating to Australia's national security and tabled the following document:

Australia's national security: A Defence update 2003.

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

Debate ensued.

Question put and passed.

16 ENVIRONMENT—NATIONAL RADIOACTIVE WASTE REPOSITORY—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 5 February 2003 for the production of documents concerning the Government's consideration of a National Radioactive Waste Repository in South Australia (*see entry no. 14, 5 February 2003*).

17 MIGRATION—JOINT STANDING COMMITTEE—GOVERNMENT RESPONSE—IMMIGRATION DETENTION CENTRES: INSPECTION REPORT

The Acting Deputy President (Senator McLucas) tabled the following document received on 27 February 2003:

Migration—Joint Standing Committee—Report—Not the Hilton—Immigration detention centres: Inspection, dated September 2000—Government response.

18 AUDITOR-GENERAL—AUDIT REPORTS NOS 28 TO 30 OF 2002-03—DOCUMENTS

The Acting Deputy President (Senator McLucas) tabled the following documents received on the dates indicated:

Auditor-General—Audit reports for 2002-03—

No. 28—Performance audit—Northern Territory Land Councils and the Aboriginals Benefit Account. [*Received 7 February 2003*]

No. 29—Audit activity report—July to December 2002: Summary of outcomes. [*Received 7 February 2003*]

No. 30—Performance audit—Defence ordnance safety and suitability for service: Department of Defence. [*Received 27 February 2003*]

Senator Crossin, by leave, moved—That the Senate take note of report no. 28.

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

19 DEPARTMENTAL AND AGENCY CONTRACTS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT

The Acting Deputy President (Senator McLucas) tabled the following document pursuant to the order of the Senate of 20 June 2001, as amended on 27 September 2001:

Departmental and agency contracts—Letters of advice—2002 spring sittings—Commonwealth Superannuation Scheme Board (CSS Board) and Public Sector Superannuation Scheme Board (PSS Board). [*Received 18 February 2003*]

20 HEALTH—PHARMACEUTICAL BENEFITS SCHEME—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS

Pursuant to the order of the Senate of 3 December 2002, the Acting Deputy President (Senator McLucas) tabled the following documents, received on 27 February 2003:

Health—Pharmaceutical Benefits Scheme—Documents relating to the inter-departmental committee examining the effectiveness of the Pharmaceutical Benefits Scheme (PBS)—

Covering statement.

Letters to stakeholders inviting submissions.

Submissions. [34 of the 36 submissions received]

21 SCIENCE AND TECHNOLOGY—PHOTOVOLTAIC ENERGY—DOCUMENT

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

Science and technology—Photovoltaic energy—Letter to the Deputy President of the Senate (Senator Hogg) from the South Australian Minister for Energy (Mr Conlon) responding to the resolution of the Senate of 9 December 2002, dated 5 February 2003.

22 IMMIGRATION—EAST TIMORESE ASYLUM SEEKERS—DOCUMENT

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

Immigration—East Timorese asylum seekers—Letter to the President of the Senate from the Minister for Immigration and Multicultural and Indigenous Affairs (Mr Ruddock) responding to the resolution of the Senate of 11 December 2002, dated 4 February 2003.

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

Debate ensued.

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

23 LAW AND JUSTICE—SUPERVISION OF CHILDREN—SWIMMING AUSTRALIA—DOCUMENTS

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

Law and justice—Supervision of children—Swimming Australia—Letters to the President of the Senate, responding to the resolution of the Senate of 11 December 2002, from—

Chief Minister of the Northern Territory (Ms Martin), dated 12 February 2003.

Premier of Queensland (Mr Beattie), dated 19 February 2003.

Premier of South Australia (Mr Rann), dated 10 February 2003.

Premier of Western Australia (Dr Gallop), dated 5 February 2003.

24 CULTURE AND THE ARTS—AUSTRALIAN FILM INDUSTRY AWARDS—DOCUMENT

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

Culture and the arts—Australian Film Industry Awards—Letter to the President of the Senate from the Acting Chief Executive (Mr Oliver), Film Finance Corporation Australia Limited responding to the resolution of the Senate of 5 February 2003, dated 14 February 2003.

25 PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSALS—DOCUMENTS

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

Parliament Act—Parliamentary Zone—Capital works—Proposal, together with supporting documentation, relating to the temporary installation of vehicle barriers for a period of 12 months, and the permanent installation of 8 security cameras.

Notice of motion: The Parliamentary Secretary to the Treasurer (Senator Ian Campbell), by leave, gave a notice of motion as follows: To move on the next day of sitting—That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposal by the Joint House Department for capital works within the Parliamentary Zone, being the installation of temporary vehicle barriers and permanent security cameras.

Senator Ian Campbell tabled the following documents:

Parliament Act—Parliamentary Zone—Capital works—Proposal, together with supporting documentation, relating to the design and content of the sixth sliver at Reconciliation Place.

Notice of motion: Senator Ian Campbell, by leave, gave a notice of motion as follows: To move on 6 March 2003—That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being additional works at Reconciliation Place, namely, the design and content of the sixth sliver.

26 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE—DOCUMENT—RENEWABLE ENERGY (ELECTRICITY) AMENDMENT BILL 2002

Senator Ferris, at the request of the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee (Senator Eggleston), tabled the following document:

Environment, Communications, Information Technology and the Arts Legislation Committee—Renewable Energy (Electricity) Amendment Bill 2002—Supplementary submission.

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

Senator Ferris, at the request of the Chair of the Community Affairs Legislation Committee (Senator Knowles), tabled additional information received by the committee (Budget estimates 2002-03—vols 5, 6 and 7).

28 ECONOMICS LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—ADDITIONAL ESTIMATES 2000-01, 2001-02 AND BUDGET ESTIMATES 2000-01, 2001-02, 2002-03

Senator Ferris, at the request of the Chair of the Economics Legislation Committee (Senator Brandis), tabled additional information received by the committee—

Additional estimates—
2000-01—vols 1 and 2.
2001-02—vols 1 to 3.

Budget estimates—

2000-01—vols 1 and 2.

Supplementary—vols 1 to 3.

2001-02—vols 1 to 6.

2002-03—vols 1 and 2.

Supplementary—vols 1 and 2.

29 PUBLIC ACCOUNTS AND AUDIT—JOINT STATUTORY COMMITTEE—393RD REPORT

Senator Watson, on behalf of the Joint Committee of Public Accounts and Audit, tabled the following report:

Public Accounts and Audit—Joint Statutory Committee—393rd report—Review of Auditor-General's reports 2001-02: Fourth quarter—Corporate governance in the Australian Broadcasting Corporation; Research project management CSIRO; Preventing unlawful entry into Australian territory; DASFLEET sale and tied contract, dated December 2002.

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

Question put and passed.

30 DOCUMENTS

The following documents were tabled by the Clerk:

A New Tax System (Family Assistance) (Administration) Act—

Child Care Benefit (Allocation of Child Care Places) Amendment Determination 2003 (No. 1).

Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Amendment Determination 2003 (No. 1).

Aboriginal and Torres Strait Islander Commission Act—Aboriginal and Torres Strait Islander Commission (Travel) Determination 2003.

Agricultural and Veterinary Chemicals Code Act—Regulations—Statutory Rules 2003 No. 8.

Air Navigation Act—Regulations—Statutory Rules 2003 No. 5.

Australian Crime Commission Establishment Act—Regulations—Statutory Rules 2003 No. 4.

Australian Meat and Live-stock Industry Act—Export of Sheep from Northern Ports Amendment Order 2002 (No. 1).

Australian Research Council Act—Determination No. 15—Determinations under section 51, dated 11, 12 [2] and 18 December 2002.

Charter of the United Nations Act—Regulations—Statutory Rules 2003 No. 21.

Civil Aviation Act—Civil Aviation Regulations—

Airworthiness Directives—Part—

105, dated 14, 16, 24, 28 [8], 29 [3], 30 [15] and 31 [6] January; and 3 [9], 4 [5], 6 [5] and 7 [18] February 2003.

106, dated 28 [2], 29 and 30 [2] January; and 3 February 2003.

107, dated 24 [2], 28 and 30 [2] January; and 4 and 6 February 2003.

Civil Aviation Amendment Order (No. 2) 2003.

Exemptions Nos CASA EX03/2003-CASA EX07/2003.

Class Rulings CR 2003/6-CR 2003/10.

- Customs Act—Regulations—Statutory Rules 2003 Nos 16-18 and 26.
- Defence Act—Determinations under section 58B—Defence Determinations 2003/2 and 2003/3.
- Environment Protection and Biodiversity Conservation Act—Instrument amending list of—
- Exempt native specimens under section 303DB, dated 4 February 2003.
 - Specimens suitable for live import under section 303EB, dated 20 November and 10 December 2002.
- Fisheries Levy Act—Regulations—Statutory Rules 2003 No. 1.
- Fisheries Management Act—
- Regulations—Statutory Rules 2003 No. 9.
 - South East Trawl Fishery Management Plan 1998 (Revocation).
- Goods and Services Tax Bulletin GSTB 2003/1.
- Great Barrier Reef Marine Park Act—Regulations—Statutory Rules 2003 No. 20.
- Higher Education Funding Act—Determination under section 15—Determination No.—
- T28-2002 and T29-2002.
 - T9-2003 and T10-2003.
- Horticulture Marketing and Research and Development Services Act—
- Horticulture Marketing and Research and Development Services [Regulated Horticultural Products and Markets (Apples to All Export Markets)] Order (No. 1) 2002.
 - Horticulture Marketing and Research and Development Services [Regulated Horticultural Products and Markets (Dried Grapes to All Export Markets)] Order (No. 1) 2002.
 - Horticulture Marketing and Research and Development Services [Regulated Horticultural Products and Markets (Mandarins, Tangelos, Grapefruit, Lemons and Limes to the United States of America)] Order (No. 1) 2002.
 - Horticulture Marketing and Research and Development Services [Regulated Horticultural Products and Markets (Oranges to All Export Markets)] Order (No. 1) 2002.
 - Horticulture Marketing and Research and Development Services [Regulated Horticultural Products and Markets (Pears to All Export Markets)] Order (No. 1) 2002.
 - Horticulture Marketing and Research and Development Services {Regulated Horticultural Products and Markets [Stone Fruit (Peaches and Plums) to Taiwan]} Order (No. 1) 2002.
- Income Tax Assessment Act 1997*—Refundable Film Tax Offset Rules 2002 (Amendment No. 1 of 2003).
- National Health Act—
- Declarations Nos PB 1, PB 2 and PB 4 of 2003.
 - Determination No. PB 3 of 2003.
- Navigation Act—Marine Order—Orders Nos 1 and 2 of 2003.
- Petroleum (Submerged Lands) Act—Regulations—Statutory Rules 2003 No. 23.
- Petroleum (Submerged Lands) Fees Act—Regulations—Statutory Rules 2003 No. 24.

- Petroleum (Submerged Lands) (Registration Fees) Act—Regulations—Statutory Rules 2003 No. 25.
- Primary Industries (Customs) Charges Act—Regulations—Statutory Rules 2003 Nos 2, 10 and 13.
- Primary Industries (Excise) Levies Act—Regulations—Statutory Rules 2003 Nos 3, 11 and 14.
- Primary Industries Levies and Charges Collection Act—Regulations—Statutory Rules 2003 No. 12.
- Primary Industries Levies and Charges Collection Act, National Residue Survey (Customs) Levy Act and National Residue Survey (Excise) Levy Act—Regulations—Statutory Rules 2003 No. 15.
- Privacy Act—Determinations under paragraph 11B(1)(b)—Determinations 2003 Nos 1 and 2.
- Product Rulings PR 2003/3-PR 2003/5.
- Research Involving Human Embryos Act—Regulations—Statutory Rules 2003 No. 22.
- Social Security Act—Social Security (Fares Allowance for Private Transport) Determination 2002 (No. 2).
- Sydney Airport Curfew Act—Dispensations granted under section 20—Dispensations Nos 2/03 [15 dispensations] and 3/03.
- Taxation Determination TD 2003/1.
- Telecommunications Act—Telecommunications Numbering Plan Variation 2003 (No. 1).
- Telecommunications (Consumer Protection and Service Standards) Act—Regulations—Statutory Rules 2003 No. 19.
- Telecommunications (Numbering Charges) Act—
Telecommunications (Date of Imposition of Charge) Determination 2003.
Telecommunications (Exemption from Annual Charge) Determination 2003.
- Workplace Relations Act—Rules—Statutory Rules 2003 Nos 6 and 7.

31 GOVERNOR-GENERAL'S PROCLAMATIONS—COMMENCEMENT OF PROVISIONS OF ACTS

Proclamations by His Excellency the Governor-General were tabled, notifying that he had proclaimed the following provisions of Acts to come into operation on the dates specified:

Workplace Relations Amendment (Genuine Bargaining) Act 2002—Schedule 1—7 February 2003 (*Gazette* No. S 34, 7 February 2003).

Workplace Relations Legislation Amendment Act 2002—Items 18, 33 and 36 to 40 of Schedule 3—14 February 2003 (*Gazette* No. GN 6, 12 February 2003).

32 INDEXED LISTS OF DEPARTMENTAL AND AGENCY FILES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended on 3 December 1998:

Indexed lists of departmental and agency files for the period 1 July to 31 December 2002—Statements of compliance—

- Department of Foreign Affairs and Trade.
- Industry, Tourism and Resources portfolio.

33 DEPARTMENTAL AND AGENCY CONTRACTS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT

The following document was tabled pursuant to the order of the Senate of 20 June 2001, as amended on 27 September 2001:

Departmental and agency contracts—Letters of advice—2002 spring sittings—Treasury portfolio.

34 AGRICULTURAL AND VETERINARY CHEMICALS LEGISLATION AMENDMENT BILL 2002

CORPORATIONS AMENDMENT (REPAYMENT OF DIRECTORS' BONUSES) BILL 2002
SNOWY HYDRO CORPORATISATION AMENDMENT BILL 2002

SEX DISCRIMINATION AMENDMENT (PREGNANCY AND WORK) BILL 2002
WORKPLACE RELATIONS AMENDMENT (PROHIBITION OF COMPULSORY UNION FEES) BILL 2002 [NO. 2]

CUSTOMS LEGISLATION AMENDMENT BILL (NO. 2) 2002

AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT BILL (NO. 2) 2002

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 242, dated 6 February 2003—A Bill for an Act to amend legislation relating to agricultural and veterinary chemicals, and for related purposes.

Message no. 244, dated 11 February 2003—A Bill for an Act to amend the *Corporations Act 2001*, and for related purposes.

Message no. 245, dated 11 February 2003—A Bill for an Act to amend the *Snowy Hydro Corporatisation Act 1997*, and for related purposes.

Message no. 246, dated 11 February 2003—A Bill for an Act to amend the *Sex Discrimination Act 1984*, and for related purposes.

Message no. 247, dated 12 February 2003—A Bill for an Act to amend the *Workplace Relations Act 1996*, and for related purposes.

Message no. 250, dated 12 February 2003—A Bill for an Act to amend the *Customs Act 1901* and the *Passenger Movement Charge Collection Act 1978*, and for related purposes.

Message no. 252, dated 13 February 2003—A Bill for an Act to amend the law relating to agriculture, fisheries and forestry, and for related purposes.

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Ian Campbell moved—That these bills be now read a second time.

Explanatory memorandum: Senator Ian Campbell tabled a revised explanatory memorandum relating to the Sex Discrimination Amendment (Pregnancy and Work) Bill 2002.

On the motion of Senator Webber the debate was adjourned till the next day of sitting.
Consideration of legislation: Senator Ian Campbell moved—That the bills be listed on the *Notice Paper* as separate orders of the day.
 Question put and passed.

35 NEW BUSINESS TAX SYSTEM (CONSOLIDATION AND OTHER MEASURES)

BILL (NO. 2) 2002

NEW BUSINESS TAX SYSTEM (VENTURE CAPITAL DEFICIT TAX) BILL 2002

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 248, dated 12 February 2003—A Bill for an Act to implement a New Business Tax System, and for related purposes.

Message no. 249, dated 12 February 2003—A Bill for an Act to impose a tax in respect of venture capital sub-account deficits of pooled development funds, and for related purposes.

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Ian Campbell moved—That these bills be now read a second time.

On the motion of Senator Webber the debate was adjourned till the next day of sitting.

36 MIGRATION LEGISLATION AMENDMENT (CONTRIBUTORY PARENTS MIGRATION SCHEME) BILL 2002

MIGRATION (VISA APPLICATION) CHARGE AMENDMENT BILL 2002

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 254, dated 13 February 2003—A Bill for an Act to amend the law relating to migration, and for related purposes.

Message no. 255, dated 13 February 2003—A Bill for an Act to amend the *Migration (Visa Application) Charge Act 1997*, and for related purposes.

The Parliamentary Secretary to the Treasurer (Senator Ian Campbell) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Ian Campbell moved—That these bills be now read a second time.

On the motion of Senator Webber the debate was adjourned till the next day of sitting.

37 BROADCASTING LEGISLATION AMENDMENT BILL (NO. 3) 2002 [2003]

A message from the House of Representatives was reported agreeing to the following bill without amendment:

Message no. 253, dated 13 February 2003—Broadcasting Legislation Amendment Bill (No. 3) 2002 [2003].

38 INSPECTOR-GENERAL OF TAXATION BILL 2002

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

Message no. 251, dated 12 February 2003—Inspector-General of Taxation Bill 2002.

On the motion of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell) consideration of the message in committee of the whole was made an order of the day for the next day of sitting.

39 NATIVE TITLE AND THE ABORIGINAL AND TORRES STRAIT ISLANDER LAND FUND—JOINT STATUTORY COMMITTEE—CHANGE IN MEMBERSHIP

A message from the House of Representatives was reported acquainting the Senate with a change in the membership of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, as follows:

Message no. 243, dated 10 February 2003—Mrs Hull in place of Mr Cobb.

40 WORKPLACE RELATIONS AMENDMENT (FAIR DISMISSAL) BILL 2002 [No. 2]

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.

Bill further debated.

Senator Sherry moved the following amendments together by leave:

No. 1—Schedule 1, page 3 (before line 4), before item 1, insert:

1A Subsection 42(3)

Omit “A party”, substitute “Subject to subsection (3A), a party”.

No. 2—Schedule 1, page 3 (before line 4), before item 1, insert:

1B After subsection 42(3)

Insert:

(3A) The Commission must not grant leave under subsection (3) to a counsel, solicitor or agent acting for a fee or reward in a conciliation under Subdivision B of Division 3 of Part VIA of this Act unless it is satisfied that it would assist the just and expeditious resolution of the proceeding, having regard to:

- (a) the complexity of the proceeding; and
- (b) the capacity of another party to the proceeding to secure representation; and
- (c) the likely cost of such representation; and
- (d) any other matter the Commission considers relevant.

(3B) A party may not be represented by an agent in a proceeding under Subdivision B of Division 3 of Part VIA of this Act unless:

- (a) the agent is a registered industrial agent within the meaning of section 42A of this Act; or

- (b) the agent is not a registered industrial agent within the meaning of section 42A of this Act but is a member, officer or employee of an organisation registered under this Act; or
- (c) the agent is not a registered industrial agent within the meaning of section 42A of this Act but the Commission is satisfied that the agent is not acting for reward.

No. 3—Schedule 1, page 3 (before line 4), before item 1, insert:

1C After section 42

Insert:

42A Register of industrial agents

- (1) In this Act:
registered industrial agent means a person who is registered as an industrial agent in the register of industrial agents referred to in subsection (2).
- (2) The Industrial Registrar must create and maintain a register of industrial agents in accordance with the regulations.
- (3) The regulations must prescribe:
 - (a) the manner in which the Industrial Registrar must create and maintain the register of industrial agents;
 - (b) the conditions, including qualifications and experience, an applicant must meet for registration;
 - (c) a code of conduct with which registered industrial agents must comply;
 - (d) the manner in which the Industrial Registrar may remove or suspend a person from the register of industrial agents.

The question for the amendments was divided—

Question—That amendment no. 1 be agreed to—put and passed.

Question—That amendment no. 2 in respect of paragraph (3A) be agreed to—put and passed.

Question—That amendment no. 2 in respect of paragraph (3B) be agreed to—put and negatived.

Question—That amendment no. 3 be agreed to—put and negatived.

Senator Sherry moved the following amendment:

Schedule 1, page 3 (before line 4), before item 1, insert:

1D At the end of section 98

Add:

- (2) The regulations may prescribe an indicative time frame for the progress and resolution of a proceeding under Subdivision B of Division 3 of Part VIA of this Act.

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

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

Schedule 1, page 3 (before line 4), before item 1, insert:

1E After section 170CA

Insert:

170CAA Minister to publish information to assist employers and employees

- (1) The Minister, in consultation with the relevant Minister of each State and Territory, must publish information, which may include practical examples, to assist employers and employees to comply with this Part.
- (2) After publishing information under subsection (1), the Minister must promote the publication in workplaces and make it readily available free of charge.

Senator Sherry moved the following amendment:

Schedule 1, item 1, page 3 (lines 4 to 6), omit the item, substitute:

1 After subsection 170CE(1)

Insert:

- (1A) The Commission must not accept an application seeking relief on the ground that the termination was harsh, unjust or unreasonable if the applicant seeks only financial compensation, unless the applicant satisfies the Commission that exceptional circumstances exist for not seeking a restoration of the employment relationship.
- (1B) Before rejecting an application under subsection (1A), the Commission must give the applicant a reasonable opportunity to be heard. The party named as respondent need not be present at any such hearing.

Note: *Reasonable opportunity* includes providing such assistance to the applicant as may be necessary to overcome any language difficulties that may confront the applicant.

Debate ensued.

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

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

Schedule 1, page 3 (after line 6), after item 1, insert:

1F Subsection 170CE(3)

Repeal the subsection, substitute:

- (3) If:
 - (a) an employee's employment has been terminated by the employer; or
 - (b) more than one employee's employment has been terminated by the employer at the same time or for related reasons; and a trade union's rules entitle it to represent the industrial interests of the employee or employees the union may, on behalf of the employee or employees, apply to the Commission for relief;
 - (c) on the ground that the termination was harsh, unjust or unreasonable; or
 - (d) on the ground of an alleged contravention of section 170CK, 170CL, 170CM or 170CN; or
 - (e) on a ground or on any combination of grounds in paragraph (b), and the ground in paragraph (a).

Schedule 1, item 2, page 3 (lines 7 to 27), omit the item, substitute:

2 Subsection 170CE(6)

Omit “, (3)”.

Senator Sherry moved the following amendment:

Schedule 1, item 3, page 3 (line 28) to page 4 (line 28), omit the item, substitute:

3 After subsection 170CF(1)

Insert:

- (1A) The Commission may, on the application of a party or of its own motion, conduct a conciliation conference by telephone or other electronic medium, subject to such conditions as it considers appropriate.
- (1B) In determining whether to conduct a conciliation conference by telephone or other electronic medium, the Commission must consider:
 - (a) whether it is impractical or inconvenient for a party to attend a conciliation conference in person for reasons including cost, distance, physical or other disability, the nature of the relationship between the parties, or the nature of the party’s business or employment commitments; and
 - (b) whether the party applying to appear by telephone or other electronic medium has made reasonable attempts to obtain the consent of all other parties to the matter; and
 - (c) any other matter the Commission considers relevant.

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

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, items 4, 5 and 6.

Schedule 1, items 4, 5 and 6 debated.

Question—That Schedule 1, items 4, 5 and 6 stand as printed—put and negatived.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

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

Debate ensued.

Question put and passed.

Bill read a third time.

**41 TRADE PRACTICES AMENDMENT (SMALL BUSINESS PROTECTION)
BILL 2002 [NO. 2]**

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Senator Murray moved the following amendment:

Schedule 1, page 3 (after line 5), after item 1, insert:

1A After subsection 87(1A)

Insert:

(1AB) A representative application may not be made under this section unless that representative application is for a small business or an individual person.

(1AC) For the purpose of subsection (1AB):

small business means a business employing less than:

- (a) if the business is or includes the manufacture of goods—100 people; or
- (b) otherwise—20 people.

Debate ensued.

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

Senator Murray moved the following amendments together by leave:

Schedule 1, item 1, page 3 (lines 4 and 5), omit the item, substitute:

1 Paragraph 87(1A)(b)

Omit “(other than section 45D or 45E)”, substitute “(other than section 45D, 45DB, 45DC, 45DD or 45E)”.

Schedule 1, item 2, page 3 (lines 6 and 7), omit the item, substitute:

2 Paragraph 87(1B)(a)

Omit “(other than section 45D or 45E)”, substitute “(other than section 45D, 45DB, 45DC, 45DD or 45E)”.

Debate ensued.

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

Bill agreed to.

Bill to be reported without amendment.

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

On the motion of the Special Minister of State (Senator Abetz) the report from the committee was adopted.

Senator Abetz moved—That this bill be now read a third time.

Question put.

The Senate divided—

AYES, 30

Senators—

Abetz	Colbeck	Lightfoot	Santoro
Alston	Coonan	Macdonald, Ian	Scullion
Barnett	Eggleston (Teller)	Macdonald, Sandy	Tchen
Boswell	Ellison	Mason	Tierney
Brandis	Ferguson	McGauran	Vanstone
Calvert	Humphries	Minchin	Watson
Campbell, Ian	Johnston	Patterson	
Chapman	Knowles	Payne	

NOES, 34

Senators—

Allison	Crossin (Teller)	Lees	Ray
Bartlett	Denman	Ludwig	Ridgeway
Bishop	Evans	Lundy	Sherry
Brown	Forshaw	Mackay	Stephens
Buckland	Greig	Marshall	Stott Despoja
Campbell, George	Harradine	McLucas	Webber
Carr	Hogg	Moore	Wong
Collins	Hutchins	Murray	
Conroy	Kirk	Nettle	

Question negatived.

42 **NATIONAL HEALTH AMENDMENT (PHARMACEUTICAL BENEFITS—BUDGET MEASURES) BILL 2002 [NO. 2]**

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

Debate resumed.

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

43 **ADJOURNMENT**

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

Debate ensued.

Declaration of interest: Senator Buckland declared an interest in relation to the matter under discussion.

Debate continued.

The Senate adjourned at 10.12 pm till Tuesday, 4 March 2003 at 2 pm.

44 ATTENDANCE

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

HARRY EVANS
Clerk of the Senate