

2002-03

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

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## 1 MEETING OF SENATE

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

## 2 GOVERNMENT DOCUMENTS

The following government documents were tabled:

- Airservices Australia—Report for 2002-03.
- Attorney-General's Department—Report for 2002-03.
- Australian Competition and Consumer Commission—Report for 2002-03.
- Australian Customs Service—Report for 2002-03.
- Australian Hearing Services (Australian Hearing)—Report for 2002-03.
- Australian Industry Development Corporation—Report for 2002-03.
- Australian Institute of Health and Welfare—Report for 2002-03.
- Australian Maritime Safety Authority—Report for 2002-03.
- Australian Nuclear Science and Technology Organisation (ANSTO)—Report for 2002-03.
- Australian Pesticides and Veterinary Medicines Authority (known as National Registration Authority for Agricultural and Veterinary Chemicals until March 2003)—Report for 2002-03.
- Australian Sports Commission—Report for 2002-03.
- Australian Statistics Advisory Council—Report for 2002-03.
- Australian Strategic Policy Institute Limited—Report for 2002-03.
- Australian Transport Safety Bureau—Supplementary aviation safety investigation report 200002157-A—Piper PA31-350 Chieftain VH-MZK, Spencer Gulf, SA, 31 May 2000.
- Australian War Memorial—Report for 2002-03.
- Bankruptcy Act 1966*—Inspector-General in Bankruptcy—Report for 2002-03 on the operation of the Act.
- Comcare—Report for 2002-03, including the report of QWL Corporation Pty Limited.
- Commissioner for Superannuation (ComSuper)—Report for 2002-03, incorporating reports on the administration and operation of the *Papua New Guinea (Staffing Assistance) Act 1973* and the *Superannuation Act 1922*.
- Commissioner of Taxation—Report for 2002-03.
- CSS Board—Commonwealth Superannuation Scheme—Report for 2002-03.
- Dairy Adjustment Authority—Report for 2002-03.
- Dairy Research and Development Corporation—Report for 2002-03. [Final report]
- Department of Agriculture, Fisheries and Forestry—Report for 2002-03.
- Department of Employment and Workplace Relations—Report for 2002-03.
- Department of Family and Community Services—Report for 2002-03—Volumes 1 and 2.
- Department of Finance and Administration—Report for 2002-03.

Department of Immigration and Multicultural and Indigenous Affairs—Report for 2002-03, including reports pursuant to the *Immigration (Education) Act 1971* and the *Australian Citizenship Act 1948*.

Department of Veterans' Affairs—Data-matching program—Report for 2002-03.

Employment Advocate—Report for 2002-03.

Equal Opportunity for Women in the Workplace Agency—Report for 1 June 2002 to 31 May 2003.

Family Law Council—Report for 2002-03.

Film Australia Limited—Report for 2002-03.

Film Finance Corporation Australia Limited—Report for 2002-03.

Fisheries Research and Development Corporation and Fisheries Research and Development Corporation Selection Committee—Reports for 2002-03.

Grains Research and Development Corporation and Grains Research and Development Corporation Selection Committee—Reports for 2002-03.

Human Rights and Equal Opportunity Commission—Report for 2002-03.

Insolvency and Trustee Service Australia—Report for 2002-03.

Land and Water Resources Research and Development Corporation (Land and Water Australia)—Report for 2002-03.

*Members of Parliament (Staff) Act 1984*—Report for 2002-03 on consultants engaged under section 4 of the Act.

National Australia Day Council—Report for 2002-03.

National Road Transport Commission—Report for 2002-03.

Office of the Official Secretary to the Governor-General—Report for 2002-03.

Private Health Insurance Administration Council—Report for 2002-03.

PSS Board—Public Sector Superannuation Scheme—Report for 2002-03.

Repatriation Medical Authority—Report for 2002-03.

Rural Industries Research and Development Corporation—Report for 2002-03.

Seafarers Safety, Rehabilitation and Compensation Authority—Report for 2002-03.

Sydney Harbour Federation Trust—Report for 2002-03.

Tobacco Research and Development Corporation—Report for 2002-03.

Wet Tropics Management Authority—Report for 2002-03.

### 3 **TELSTRA (TRANSITION TO FULL PRIVATE OWNERSHIP) BILL 2003**

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth)—That this bill be now read a second time.

Debate resumed.

*At 12.45 pm:* Debate was interrupted while the Leader of the Australian Democrats (Senator Bartlett) was speaking.

*At 2 pm—*

**4 QUESTIONS**

Questions without notice were answered.

**5 FAMILY AND COMMUNITY SERVICES—FAMILY PAYMENT DEBTS—ANSWERS TO QUESTIONS**

Senator Bishop moved—That the Senate take note of the answers given by the Minister for Family and Community Services (Senator Patterson) to questions without notice asked by Senators Bishop and Webber today relating to family payment debts.

Debate ensued.

Question put and passed.

**6 AUSTRALIAN DEFENCE FORCE—SEXUALITY DISCRIMINATION—ANSWER TO QUESTION**

Senator Greig 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 Greig today relating to sexuality discrimination in the Australian Defence Force.

Question put and passed.

**7 NOTICES**

*Notices of motion:*

Senator Murray and the Leader of the Opposition in the Senate (Senator Faulkner): To move on the next day of sitting—That—

- (1) There be laid on the table, by each minister in the Senate, in respect of each agency administered by that minister, or by a minister in the House of Representatives represented by that minister, a statement in accordance with the succeeding provisions of this order.
- (2) A statement be tabled in respect of each advertising or public information project undertaken by each agency where the cost of the project is estimated or contracted to be \$100 000 or more.
- (3) A statement be tabled within 5 sitting days of the Senate after the project is approved. If the Senate is not sitting when a statement is ready for presentation, the statement be presented to the President under standing order 166.
- (4) A statement indicate:
  - (a) the purpose and nature of the project;
  - (b) the intended recipients of the information to be communicated by the project;
  - (c) who authorised the project;
  - (d) the manner in which the project is to be carried out;
  - (e) who is to carry out the project;
  - (f) whether the project is to be carried out under a contract;
  - (g) whether such contract was let by tender;
  - (h) the estimated or contracted cost of the project;
  - (i) whether every part of the project conforms with the Audit and JCPAA guidelines; and

- (j) if the project in any part does not conform with those guidelines, the extent of, and reasons for, the nonconformity.
- (5) In this order, “**Audit and JCPAA guidelines**” means the guidelines set out in Report No. 12 of 1998-99 of the Auditor-General, entitled *Taxation Reform: community education and information programme*, and Report No. 377 of the Joint Committee of Public Accounts and Audit, entitled *Guidelines for Government Advertising*, respectively. (*general business notice of motion no. 673*)

The Chair of the Select Committee on Ministerial Discretion in Migration Matters (Senator Ludwig): To move on the next day of sitting—That the time for the presentation of the report of the Select Committee on Ministerial Discretion in Migration Matters be extended to the last day in February 2004. (*general business notice of motion no. 674*)

The Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee (Senator Eggleston): To move on the next day of sitting—That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts Legislation Committee on the Plastic Bag Levy (Assessment and Collection) Bill 2002 [No. 2] and a related bill be extended to 26 November 2003. (*general business notice of motion no. 675*)

The Leader of the Australian Democrats (Senator Bartlett): To move on 30 October 2003—That the Senate—

- (a) notes the release by the Prime Minister (Mr Howard) of a discussion paper on constitutional change;
- (b) supports there being a broad community debate exploring ways to improve the operation of Australia’s parliamentary and political system;
- (c) encourages the Prime Minister to consider any constitutional and parliamentary changes that have widespread community support; and
- (d) expresses the view that one improvement to our parliamentary system would be for the Constitution to be amended to remove the power of the Senate to block supply for the ordinary services of government. (*general business notice of motion no. 676*)

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

- (a) notes:
  - (i) former Prime Minister Mr Hawke’s undertaking to the Duke of Edinburgh in 1988 regarding new mining proposals on Christmas Island that, ‘approval will only be granted under the strictest environmental conditions and provided that no further clearing of rainforest occurs’,
  - (ii) the statement on 11 February 1988 by the former Minister for the Arts and Territories, Mr Punch, announcing that the Federal Government would not allow any further rainforest clearing on Christmas Island,
  - (iii) that all phosphate mining leases since 1988 have prohibited rainforest clearing as a condition of the lease, and
  - (iv) the announcement in 2003 by the former Minister for Regional Services, Territories and Local Government, Mr Tuckey, that the Federal Government would conduct a strategic assessment of Christmas Island; and

- (b) calls on the Government not to lift the long-standing moratorium on rainforest clearing on Christmas Island and to reject the application by Phosphate Resources Ltd for nine new mining leases covering 256 hectares all of which contain rainforest. (*general business notice of motion no. 677*)

The Leader of the Australian Democrats (Senator Bartlett): To move on 30 October 2003—That the Senate—

- (a) notes the release by the Prime Minister (Mr Howard) of a discussion paper on constitutional change;
- (b) supports there being a broad community debate exploring ways to improve the operation of Australia's parliamentary and political system;
- (c) encourages the Prime Minister to consider any constitutional and parliamentary changes that have widespread community support;
- (d) expresses the view that sections 44(i) and 44(iv) of the Constitution should be amended to remove the current prohibition on dual citizens and public sector employees being able to nominate for election to the Commonwealth Parliament; and
- (e) urges the Government to give consideration to the constitutional reform proposals outlined above. (*general business notice of motion no. 678*)

Senator Brown: To move on the next day of sitting—That the following matters be referred to the House Committee for inquiry and report by 2 December 2003:

- (a) the disappearance of many birds from the parliamentary grounds;
- (b) the poisoning of bogong moths and whether this had an impact on the disappearance of the birds; and
- (c) why this poisoning was conducted, and whether there were special contributing circumstances such as the visit by foreign dignitaries.

*Intention to withdraw:*

Senator Allison, pursuant to standing order 78, gave notice of her intention, at the giving of notices on the next day of sitting, to withdraw business of the Senate notice of motion no. 3 standing in her name for the next day of sitting for the disallowance of the Civil Aviation Amendment Regulations 2003 (No. 5), as contained in Statutory Rules 2003 No. 201 and made under the *Civil Aviation Act 1988*.

Senator Ferris, at the request of the Chairman of the Standing Committee on Regulations and Ordinances (Senator Tchen) and pursuant to standing order 78, gave notice of Senator Tchen's 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 11 sitting days after today for the disallowance of the Civil Aviation Amendment Regulations 2003 (No. 6), as contained in Statutory Rules 2003 No. 232 and made under the *Civil Aviation Act 1988*.

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

## 8 POSTPONEMENTS

Items of business were postponed as follows:

Government business notice of motion no. 1 standing in the name of the Minister for Local Government, Territories and Roads (Senator Ian Campbell) for today, relating to the consideration of legislation, postponed till 29 October 2003.

**9 SCIENCE AND TECHNOLOGY—ASSISTED REPRODUCTIVE TECHNOLOGY—ORDER FOR PRODUCTION OF DOCUMENTS**

Senator Harradine, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 670—That there be laid on the table by the Leader of the Government in the Senate (Senator Hill), no later than immediately after motions to take note of answers on 29 October 2003, the following two expert reports prepared for and subsequently issued to members of the Council of Australian Governments for its meeting on 29 August 2003:

- (a) a report that discussed protocols to prevent the creation of embryos for the purposes of scientific research, prepared by the Committee for the Review of Ethical Guidelines for Assisted Reproductive Technology, a subcommittee of the Australian Health Ethics Committee of the National Health and Medical Research Council (NHMRC); and
- (b) a report prepared by the NHMRC that considered the adequacy of supply and distribution for research of excess assisted reproductive technology embryos, which would otherwise have been allowed to succumb.

Question put and passed.

**10 EDUCATION—HIGHER EDUCATION—REGIONAL IMPACT STATEMENT—ORDER FOR PRODUCTION OF DOCUMENT**

Senator Carr, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 668—That there be laid on the table by the Minister representing the Minister for Education, Science and Training, no later than Wednesday, 29 October 2003, the regional impact statement prepared by the Department of Education Science and Training, in support, explanation and justification of the higher education policy package, referred to at the hearing of the Employment, Workplace Relations and Education References Committee on 17 October 2003 (*Hansard*, p. 119).

Question put and passed.

**11 LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE—EXTENSION OF TIME TO REPORT**

Senator Mackay, at the request of the Chair of the Legal and Constitutional References Committee (Senator Bolkus) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 667—That the time for the presentation of the report of the Legal and Constitutional References Committee on the State Elections (One Vote, One Value) Bill 2001 [2002] be extended to 1 March 2004.

Question put and passed.

**12 PROCEDURE—STANDING COMMITTEE—PROPOSED REFERENCE**

*Motion determined as not formal:* Senator Brown requested that business of the Senate notice of motion no. 1 standing in his name for today, proposing the reference of matters to the Procedure Committee, be taken as formal.

An objection was raised and the motion was not proceeded with as a formal motion.

**13 FOREIGN AFFAIRS—HUMAN RIGHTS—MR MAMDOUH HABIB**

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 672—That the Senate—

(a) notes that:

- (i) Mamdouh Habib is currently incarcerated at Camp X-Ray in Guantanamo Bay, Cuba, without charge,
- (ii) Mr Habib's wife, Maha Habib, has attempted to communicate her concerns regarding her husband's status to the United States (US) Government, and
- (iii) Mrs Habib wrote to the US President stating that her husband 'has not been charged with any crime – not under American law, Australian law or any law. In his two years of imprisonment I have not been able to speak with him. How are his rights being protected by the United States? It is beyond understanding how he could have been caught up in all of this... If the United States Government considers that [Mr Habib] is a threat to its security, then please inform us of his crime and press charges against him. If not, then please return him to his family and country'; and

(b) calls on the Federal Government to convey the Habib family's request to the US Government as soon as possible.

Question put and passed.

**14 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE—REPORT—FUEL QUALITY STANDARDS AMENDMENT BILL 2003**

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

Environment, Communications, Information Technology and the Arts Legislation Committee—Provisions of the Fuel Quality Standards Amendment Bill 2003—Report, dated October 2003, *Hansard* record of proceedings and submissions [7].

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

**15 DOCUMENTS**

The following documents were tabled by the Clerk:

Defence Act—Determination under section—

58B—Defence Determinations 2003/26 and 2003/27.

58H—Defence Force Remuneration Tribunal—Determinations Nos 17 and 19-21 of 2003.

**16 PROCEDURE—STANDING COMMITTEE—REFERENCE**

Senator Brown, pursuant to notice, moved business of the Senate notice of motion no. 1—That the following matters be referred to the Procedure Committee for inquiry and report by the first sitting day in February 2004:

- (a) whether the recently adopted practice, of joint meetings of the Senate and the House of Representatives for the purpose of addresses by foreign visitors, should continue, or whether some alternative procedure should be adopted; and



- (b) the rules which should apply to any future joint meetings or alternative procedure, with particular regard to:
  - (i) the right of the Senate exclusively to determine how the conduct of senators shall be regulated, and
  - (ii) the ability of senators to interact with foreign visitors, including by presenting correspondence to them and discussing relevant matters with them.

Senator Brandis moved the following amendment:

Omit all words after “That”, substitute “the Senate—

- (a) condemns the behaviour of Senators Brown and Nettle during the address to the joint meeting by the President of the United States of America (the Honourable George W Bush) on 23 October 2003, in defying the order of the chair and the proper direction of the Serjeant-at-Arms;
- (b) considers the behaviour of Senators Brown and Nettle to have been grossly inappropriate, discourteous, lacking in good manners and reflecting poorly upon the Parliament and Australia; and
- (c) in light of the behaviour of Senators Brown and Nettle, asks the Procedure Committee to consider what steps should be taken to ensure the proper conduct of joint meetings to welcome foreign heads of state”.

Debate ensued.

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

Senator Ludwig moved the following amendment:

Omit all words after “That”, substitute “the Senate requests the Procedure Committee to draw up rules which should apply to future joint meetings of the Parliament, if any”.

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

Main question, as amended, put and passed.

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At 6.50 pm—

## 17 GOVERNMENT DOCUMENTS—CONSIDERATION

The following government documents tabled earlier today (*see entry no. 2*) were considered:

Australian Strategic Policy Institute Limited—Report for 2002-03. Motion to take note of document moved by Senator Sandy Macdonald and agreed to.

Department of Immigration and Multicultural and Indigenous Affairs—Report for 2002-03, including reports pursuant to the *Immigration (Education) Act 1971* and the *Australian Citizenship Act 1948*. Motion to take note of document moved by the Leader of the Australian Democrats (Senator Bartlett). Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

Employment Advocate—Report for 2002-03. Motion to take note of document moved by Senator Hutchins. Debate adjourned till Thursday at general business, Senator Hutchins in continuation.

Equal Opportunity for Women in the Workplace Agency—Report for 1 June 2002 to 31 May 2003. Motion to take note of document moved by Senator Mackay. Debate adjourned till Thursday at general business, Senator Mackay in continuation.

Sydney Harbour Federation Trust—Report for 2002-03. Motion to take note of document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

Wet Tropics Management Authority—Report for 2002-03. Motion to take note of document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

Grains Research and Development Corporation and Grains Research and Development Corporation Selection Committee—Reports for 2002-03. Motion to take note of document moved by Senator O'Brien. Debate adjourned till Thursday at general business, Senator O'Brien in continuation.

Australian Transport Safety Bureau—Supplementary aviation safety investigation report 200002157-A—Piper PA31-350 Chieftain VH-MZK, Spencer Gulf, SA, 31 May 2000. Motion to take note of document moved by Senator Buckland. Debate adjourned till Thursday at general business, Senator Buckland in continuation.

#### 18 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 8.44 pm till Wednesday, 29 October 2003 at 9.30 am.

#### 19 ATTENDANCE

Present, all senators except Senators Cook\*, Harris, Knowles\*, Ridgeway\* and Stott Despoja\* (\* on leave).

**HARRY EVANS**  
Clerk of the Senate