THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 90

THURSDAY, 26 MARCH 2015

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1 **MEETING OF SENATE**

The Senate met at 9.30 am. The President (Senator the Honourable Stephen Parry) took the chair, read prayers and made an acknowledgement of country.

2 **DOCUMENTS**

The following documents were tabled by the Clerk pursuant to statute:

- Department of Health—13 March 2015.

The following document was tabled by the Clerk pursuant to the order of the Senate of 30 May 1996, as amended:

- Indexed lists of departmental and agency files for the period 1 July to 31 December 2014—Statement of compliance—Industry and Science portfolio.

3 **COMMITTEE—LEAVE TO MEET DURING SITTING**

The Clerk informed the Senate that, pursuant to the temporary order relating to authorisations for committees to meet during the sitting of the Senate, a notice had been received proposing that the Select Committee on Certain Aspects of Queensland Government Administration related to Commonwealth Government Affairs be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 9.45 am.

Senator Macdonald requested that the question be put to the Senate for determination. **Statement by leave**: Senator Macdonald, by leave, made a statement relating to the matter. **Question**—That the committee be authorised to meet during the sitting of the Senate—put. **A division was called for.** Leave was granted for the vote on the question to be taken immediately after the swearing in of Senator Gallagher (see entry no. 5).

4 **VACANCY IN THE REPRESENTATION OF THE AUSTRALIAN CAPITAL TERRITORY—CHOICE OF KATY GALLAGHER**

The President informed the Senate that he had received, through the Administrator of the Commonwealth of Australia, 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 Katy Gallagher to fill the vacancy caused by the resignation of Senator Lundy.
The President tabled the copy of the certificate as follows:
25 March 2015.

His Excellency the Honourable Alex Chernov AC QC
Administrator of the Government of the Commonwealth of Australia
Government House
CANBERRA ACT 2600

Your Excellency

On Wednesday 25th March 2015, 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 Katy Gallagher, a person who is eligible to be a senator and is of the same party of the Honourable Kate Lundy whose place has become vacant, be chosen to fill the casual vacancy for senator for the Australian Capital Territory until the expiration of the term of the outgoing senator.”

I certify Katy Gallagher as the senator chosen by the Legislative Assembly of the Australian Capital Territory.

Yours sincerely
Andrew Barr MLA
Chief Minister.

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

5  COMMITTEE—LEAVE TO MEET DURING SITTING

The vote on the question postponed earlier today (see entry no. 3)—That the Select Committee on Certain Aspects of Queensland Government Administration related to Commonwealth Government Affairs be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 9.45 am—was taken.

The Senate divided—

AYES, 34

Senators—

Brown
Bullock
Cameron
Carr
Collins
Conroy
Dastyari
Di Natale
Gallacher
Gallagher
Hanson-Young
Ketter
Lambie
Lazarus
Lines
Ludlam
Marshall
McEwen (Teller)
McLucas
Milne
Moore
Muir
O’Neill
Polley
Rhiannon
Rice
Siewert
Urquhart
Wang
Waters
Whish-Wilson
Wong
Weight
Xenophon
NOES, 30

Senators—
Abetz
Back
Bernardi
Birmingham
Brandis
Bushby
Cash
Edwards
Fawcett (Teller)
Fierravanti-Wells
Fifield
Johnston
Leyonhjelm
Macdonald
Madigan
Mason
McGrath
McKenzie
Nash
O’Sullivan
Parry
Payne
Reynolds
McGrath
McKenzie
Nash
O’Sullivan
Parry
Payne
Reynolds
Ronaldson
Ruston
Ryan
Seselja
Sinodinos
Smith
Williams

Question agreed to.
Statement by leave: Senator O’Sullivan, by leave, made a statement relating to the matter.

6 TELECOMMUNICATIONS (INTERCEPTION AND ACCESS) AMENDMENT (DATA RETENTION) BILL 2015
Order of the day read for the further consideration of the bill in committee of the whole.

In the committee
Consideration resumed of the bill—and of the amendments moved by Senator Leyonhjelm:

Schedule 1, item 1C, page 23 (line 26), omit “journalist information warrants”, substitute “protected class warrants”.

Schedule 1, item 1C, page 23 (line 28), omit “journalist information warrants”, substitute “protected class warrants”.

Schedule 1, item 5, page 29 (lines 9 and 10), omit the definition of journalist information warrant.

Schedule 1, item 5, page 29 (after line 12), after the definition of Part 4-1 issuing authority, insert:

protected class: each of the following is a protected class of persons:
(a) Australian legal practitioners (within the meaning of the Evidence Act 1995);
(b) journalists (within the meaning of section 126G of the Evidence Act 1995);
(c) health practitioners (within the meaning of the Health Practitioner Regulation National Law);
(d) any other class of professional determined by the Minister under subsection (7).

protected class warrant means a warrant issued under Division 4C of Part 4-1.
Schedule 1, page 30 (after line 2), after item 5, insert:

**5A At the end of section 5**

Add:

(7) The Minister may, by legislative instrument, determine a class of professional for the purposes of paragraph (d) of the definition of protected class.

Schedule 1, item 6E, page 31 (lines 27 and 28), omit “journalist information warrant”, substitute “protected class warrant”.

Schedule 1, item 6F, page 32 (lines 7 and 8), omit “journalist information warrant”, substitute “protected class warrant”.

Schedule 1, item 6G, page 32 (lines 21 and 22), omit “journalist information warrant”, substitute “protected class warrant”.

Schedule 1, item 6H, page 33 (lines 1 and 2), omit “journalist information warrant”, substitute “protected class warrant”.

Schedule 1, item 6L, page 33 (line 23) to page 43 (line 28), omit the item, substitute:

**6L After Division 4B of Part 4-1**

Insert:

**Division 4C—Protected class warrants**

**Subdivision A—The requirement for protected class warrant**

**180G The Organisation**

(1) An eligible person (within the meaning of subsection 175(2) or 176(2), as the case requires) must not make an authorisation under Division 3 that would authorise the disclosure of information or documents relating to a particular person if the eligible person knows or reasonably believes that particular person to be:

(a) a member of a protected class; or

(b) an employer of such a person;

unless a protected class warrant is in force in relation to that particular person.

(2) Nothing in this section affects by implication the kind of person in relation to whom a warrant (other than a protected class warrant) may be issued under this Act.

**180H Enforcement agencies**

(1) An authorised officer of an enforcement agency must not make an authorisation under section 178, 178A or 180 that would authorise the disclosure of information or documents relating to a particular person if the authorised officer knows or reasonably believes that particular person to be:

(a) a member of a protected class; or

(b) an employer of such a person;

unless a protected class warrant is in force, in relation to that particular person, under which authorised officers of the agency may make authorisations under that section.
(2) An authorised officer of the Australian Federal Police must not make an authorisation under Division 4A that would authorise the disclosure of information or documents relating to a particular person if the authorised officer knows or reasonably believes that particular person to be:
(a) a member of a protected class; or
(b) an employer of such a person.

(3) Nothing in this section affects by implication the kind of person in relation to whom a warrant (other than a protected class warrant) may be issued under this Act.

Subdivision B—Issuing protected class warrants to the Organisation

180J Requesting a protected class warrant
(1) The Director-General of Security may request the Minister to issue a protected class warrant in relation to a particular person.

(2) The request must specify the facts and other grounds on which the Director-General considers it necessary that the warrant be issued.

180K Further information
(1) The Minister may require the Director-General of Security to give to the Minister, within the period specified in the requirement, further information in connection with a request under this Subdivision.

(2) If the Director-General breaches the requirement, the Minister may:
(a) refuse to consider the request; or
(b) refuse to take any action, or any further action, in relation to the request.

180L Issuing a protected class warrant
(1) After considering a request under section 180J, the Minister must:
(a) issue a protected class warrant that authorises the making of authorisations under Division 3 in relation to the particular person to which the request relates; or
(b) refuse to issue a protected class warrant.

(2) The Minister must not issue a protected class warrant unless the Minister is satisfied that:
(a) the Organisation's functions would extend to the making of authorisations under Division 3 in relation to the particular person; and
(b) the public interest in issuing the warrant outweighs the public interest in protecting the confidentiality that relates to the protected class of which the person is a member, having regard to:
(i) the extent to which the privacy of any person or persons, or any duties of confidentiality, would be likely to be interfered with by the disclosure of information or documents under authorisations that are likely to be made under the authority of the warrant; and
(ii) the gravity of the matter in relation to which the warrant is sought; and
(iii) the extent to which that information or those documents would be likely to assist in the performance of the Organisation’s functions; and
(iv) whether reasonable attempts have been made to obtain the information or documents by other means; and
(v) any submissions made by a Public Interest Advocate under section 180X; and
(vi) any other matters the Minister considers relevant.

(3) A protected class warrant issued under this section may specify conditions or restrictions relating to making authorisations under the authority of the warrant.

180N Duration of a protected class warrant
A protected class warrant issued under section 180L must specify the period (not exceeding 6 months) for which it is to remain in force. The Minister may revoke the warrant at any time before the end of the specified period.

180P Discontinuance of authorisations before expiry of a protected class warrant
If, before a protected class warrant issued under this Subdivision ceases to be in force, the Director-General of Security is satisfied that the grounds on which the warrant was issued have ceased to exist, he or she must:
(a) forthwith inform the Minister accordingly; and
(b) take such steps as are necessary to ensure that the making of authorisations under the authority of the warrant is discontinued.

Subdivision C—Issuing protected class warrants to enforcement agencies

180Q Enforcement agency may apply for a protected class warrant
(1) An enforcement agency may apply to a Part 4-1 issuing authority for a protected class warrant in relation to a particular person.

(2) The application must be made on the agency’s behalf by:
(a) if the agency is referred to in subsection 39(2)—a person referred to in that subsection in relation to that agency; or
(b) otherwise:
(i) the chief officer of the agency; or
(ii) an officer of the agency (by whatever name called) who holds, or is acting in, an office or position in the agency nominated under subsection (3).

(3) The chief officer of the agency may, in writing, nominate for the purposes of subparagraph (2)(b)(ii) an office or position in the agency that is involved in the management of the agency.

(4) A nomination under subsection (3) is not a legislative instrument.

(5) The application may be made in writing or in any other form.

Note: The Electronic Transactions Act 1999 deals with giving information in writing by means of an electronic communication.

180R Further information
(1) The Part 4-1 issuing authority may require:
(a) in any case—the chief officer of the agency; or
(b) if the application is made, on the agency’s behalf, by a person other than the chief officer—that other person;
to give to the Part 4-1 issuing authority, within the period and in the form specified in the requirement, further information in connection with the application.

(2) If the chief officer or other person breaches the requirement, the Part 4-1 issuing authority may:
(a) refuse to consider the application; or
(b) refuse to take any action, or any further action, in relation to the application.

180S Oaths and affirmations

(1) Information given to the Part 4-1 issuing authority in connection with the application must be verified on oath or affirmation.

(2) For the purposes of this section, the Part 4-1 issuing authority may:
(a) administer an oath or affirmation; or
(b) authorise another person to administer an oath or affirmation.
The oath or affirmation may be administered in person, or by telephone, video call, video link or audio link.

180T Issuing a protected class warrant

(1) After considering an application under section 180Q, the Part 4-1 issuing authority must:
(a) issue a protected class warrant that authorises the making of authorisations under one or more of sections 178, 178A and 180 in relation to the particular person to which the application relates; or
(b) refuse to issue a protected class warrant.

(2) The Part 4-1 issuing authority must not issue a protected class warrant unless the Part 4-1 issuing authority is satisfied that:
(a) the warrant is reasonably necessary for whichever of the following purposes are applicable:
    (i) if the warrant would authorise the making of authorisations under section 178—for the enforcement of a serious contravention;
    (ii) if the warrant would authorise the making of authorisations under section 178A—finding a person who the Australian Federal Police, or a Police Force of a State, has been notified is missing;
    (iii) if the warrant would authorise the making of authorisations under section 180—the investigation of an offence of a kind referred to in subsection 180(4); and
(b) the public interest in issuing the warrant outweighs the public interest in protecting the confidentiality that relates to the protected class of which the person is a member, having regard to:

(i) the extent to which the privacy of any person or persons, or any duties of confidentiality, would be likely to be interfered with by the disclosure of information or documents under authorisations that are likely to be made under the authority of the warrant; and

(ii) the gravity of the matter in relation to which the warrant is sought; and

(iii) the extent to which that information or those documents would be likely to assist in relation to that matter; and

(iv) whether reasonable attempts have been made to obtain the information or documents by other means; and

(v) any submissions made by a Public Interest Advocate under section 180X; and

(vi) any other matters the Part 4-1 issuing authority considers relevant.

180U Form and content of a protected class warrant

(1) A protected class warrant issued under this Subdivision must be in accordance with the prescribed form and must be signed by the Part 4-1 issuing authority who issues it.

(2) A protected class warrant issued under this Subdivision may specify conditions or restrictions relating to making authorisations under the authority of the warrant.

(3) A protected class warrant issued under this Subdivision must specify, as the period for which it is to be in force, a period of up to 90 days.

(4) A Part 4-1 issuing authority must not vary a protected class warrant issued under this Subdivision by extending the period for which it is to be in force.

(5) Neither of subsections (3) and (4) prevents the issue of a further warrant under this Act in relation to a person, in relation to which a warrant under this Act has, or warrants under this Act have, previously been issued.

180V Entry into force of a protected class warrant

A protected class warrant issued under this Subdivision comes into force when it is issued.

180W Revocation of a protected class warrant by chief officer

(1) The chief officer of an enforcement agency:

(a) may, at any time, by signed writing, revoke a protected class warrant issued under this Subdivision to the agency; and

(b) must do so, if he or she is satisfied that the grounds on which the warrant was issued to the agency have ceased to exist.

(2) The chief officer of an enforcement agency may delegate his or her power under paragraph (1)(a) to a certifying officer of the agency.
Subdivision D—Miscellaneous

180X Public Interest Advocates

(1) The Prime Minister shall declare, in writing, one or more persons to be Public Interest Advocates.

(2) A Public Interest Advocate may make submissions:
   (a) to the Minister about matters relevant to:
       (i) a decision to issue, or refuse to issue, a protected class warrant under section 180L; or
       (ii) a decision about the conditions or restrictions (if any) that are to be specified in such a warrant; or
   (b) to a Part 4-1 issuing authority about matters relevant to:
       (i) a decision to issue, or refuse to issue, the warrant under section 180T; or
       (ii) a decision about the conditions or restrictions (if any) that are to be specified in such a warrant; or

(3) The regulations may prescribe matters relating to the performance of the role of a Public Interest Advocate.

(4) A declaration under subsection (1) is not a legislative instrument.

Schedule 1, item 6V, page 46 (line 11) to page 47 (line 29), omit the item, substitute:

6V At the end of Division 6 of Part 4-1

Add:

182A Disclosure/use offences: protected class warrants

(1) A person commits an offence if:
   (a) the person discloses or uses information; and
   (b) the information is about any of the following:
       (i) whether a protected class warrant (other than such a warrant that relates only to section 178A) has been, or is being, requested or applied for;
       (ii) the making of such a warrant;
       (iii) the existence or non-existence of such a warrant;
       (iv) the revocation of such a warrant.

Penalty: 15 penalty units.

(2) A person commits an offence if:
   (a) the person discloses or uses a document; and
   (b) the document consists (wholly or partly) of any of the following:
       (i) a protected class warrant (other than such a warrant that relates only to section 178A);
       (ii) the revocation of such a warrant.

Penalty: 15 penalty units.

182B Permitted disclosure or use: protected class warrants

Paragraphs 182A(1)(a) and (2)(a) do not apply to a disclosure or use of information or a document if:

(a) the disclosure or use is for the purposes of the warrant, revocation or notification concerned; or
(b) the disclosure or use is reasonably necessary:
   (i) to enable the making of submissions under section 180X; or
   (ii) to enable a person to comply with his or her obligations under section 185D or 185E; or
   (iii) to enable the Organisation to perform its functions; or
   (iv) to enforce the criminal law; or
   (v) to enforce a law imposing a pecuniary penalty; or
   (vi) to protect the public revenue; or
(c) in the case of a disclosure—the disclosure is:
   (i) to an IGIS official for the purpose of the Inspector-General of Intelligence and Security exercising powers, or performing functions or duties, under the Inspector-General of Intelligence and Security Act 1986; or
   (ii) by an IGIS official in connection with the IGIS official exercising powers, or performing functions or duties, under that Act; or
(d) in the case of a use—the use is by an IGIS official in connection with the IGIS official exercising powers, or performing functions or duties, under the Inspector-General of Intelligence and Security Act 1986; or
(e) the disclosure or use is with the consent of the person to whom the warrant relates; or
(f) the disclosure or use is in the public interest.

Note: A defendant bears an evidential burden in relation to the matter in this section (see subsection 13.3(3) of the Criminal Code).

Schedule 1, item 6X, page 48 (line 1) to page 49 (line 36), omit section 185D, substitute:

185D Notification etc. of authorisations

The Organisation

(1) If a protected class warrant is issued under Subdivision B of Division 4C of Part 4-1:
   (a) the Director-General of Security must, as soon as practicable, give a copy of the warrant to the Inspector-General of Intelligence and Security; and
   (b) the Minister must, as soon as practicable, cause the Parliamentary Joint Committee on Intelligence and Security to be notified of the issuing of the warrant.

(2) If an authorisation under Division 3 of Part 4-1 is made under the authority of the warrant, the Director-General of Security must, as soon as practicable after the expiry of the warrant, give a copy of the authorisation to the Inspector-General of Intelligence and Security.

(3) If:
   (a) the Inspector-General gives to the Minister a report under section 22 or 25A of the Inspector-General of Intelligence and Security Act 1986; and
(b) the report relates (wholly or partly) to one or both of the following:
   (i) a protected class warrant issued to the Organisation;
   (ii) one or more authorisations referred to in subsection (2) of this section;

the Minister must, as soon as practicable, cause a copy of the report to be given to the Parliamentary Joint Committee on Intelligence and Security.

(4) The Parliamentary Joint Committee on Intelligence and Security may request a briefing from the Inspector-General on:
   (a) a protected class warrant; or
   (b) an authorisation or authorisations;

   to which a report referred to in paragraph (3)(b) of this section relates.

Enforcement agencies

(5) If a protected class warrant is issued to an enforcement agency:
   (a) if the agency was the Australian Federal Police:
      (i) the Commissioner of Police must, as soon as practicable, give copies of the warrant to the Minister and the Ombudsman; and
      (ii) the Minister must, as soon as practicable after receiving a copy, cause the Parliamentary Joint Committee on Intelligence and Security to be notified of the issuing of the warrant; and
   (b) otherwise—the chief officer of the agency must, as soon as practicable, give a copy of the warrant to the Ombudsman.

(6) If an authorisation under Division 4 of Part 4-1 is made under the authority of the warrant, the chief officer of the agency must, as soon as practicable after the expiry of the warrant, give a copy of the authorisation to the Ombudsman.

(7) If:
   (a) the Ombudsman gives to the Minister a report under section 186J of this Act; and
   (b) the report relates (wholly or partly) to one or both of the following:
      (i) a protected class warrant issued to the Australian Federal Police;
      (ii) one or more authorisations, referred to in subsection (6) of this section, that were made by one or more authorised officers of the Australian Federal Police;

the Minister must, as soon as practicable, cause a copy of the report to be given to the Parliamentary Joint Committee on Intelligence and Security.

(8) The Parliamentary Joint Committee on Intelligence and Security may request a briefing from the Ombudsman on:
   (a) a protected class warrant; or
   (b) an authorisation or authorisations;

   to which a report referred to in paragraph (7)(b) of this section relates.
Schedule 1, item 6Y, page 51 (lines 16 to 21), omit paragraphs 186(1)(i) and (j), substitute:

(i) the number of authorisations, referred to in paragraph (e) of this subsection, that were made under protected class warrants issued to the agency under Subdivision C of Division 4C of Part 4-1; and

(j) the number of protected class warrants issued to the agency under that Subdivision during the period; and

The committee divided—

AYES, 14

Senators—

<table>
<thead>
<tr>
<th>Ludlam</th>
<th>Rice</th>
<th>Whish-Wilson</th>
</tr>
</thead>
<tbody>
<tr>
<td>Milne</td>
<td>Siewert (Teller)</td>
<td>Weight</td>
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<td>Muir</td>
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NOES, 34

Senators—

| Gallacher | McKenzie | Seselja |
| Gallagher | McLucas | Singh |
| Ketter | Moore | Smodinos |
| Lanes | O'Neil | Smith |
| Ludwig | O'Sullivan | Sterle |
| Macdonald | Polley | Urquhart (Teller) |
| Marshall | Reynolds | Wang |
| McEwen | Ruston | Williams |
| McGrath |      |            |

Question negatived.

Senator Ludlam moved the following amendments together by leave:

Schedule 1, item 1C, page 23 (line 26), omit “journalist information warrants”, substitute “data authorisation warrants”.

Schedule 1, item 1C, page 23 (line 28), omit “journalist information warrants”, substitute “data authorisation warrants”.

Schedule 1, item 5, page 28 (before line 32), before the definition of Defence Minister, insert:

*data authorisation warrant* means a warrant issued under Division 4C of Part 4-1.

Schedule 1, item 5, page 29 (lines 9 and 10), omit the definition of journalist information warrant.

Schedule 1, item 6E, page 31 (lines 23 to 30), omit paragraph 176(5)(b), substitute:

(b) unless it is revoked earlier, ends at the time specified in the authorisation, which must be a time that is no later than the end of the period specified under section 180N as the period for which the warrant is to remain in force.

Schedule 1, item 6F, page 32 (lines 7 to 13), omit paragraph 176(6)(b), substitute:

(b) either:

(i) the warrant is revoked under subsection 180N(1); or
(ii) the Director-General of Security has informed the Minister under section 180P that the Director-General is satisfied that the grounds on which the warrant was issued have ceased to exist.

Schedule 1, item 6G, page 32 (lines 17 to 24), omit paragraph 180(6)(b), substitute:
(b) unless it is revoked earlier, ends at the time specified in the authorisation, which must be a time that the end of the period specified under subsection 180U(3) as the period for which the warrant is to remain in force.

Schedule 1, item 6H, page 33 (lines 1 to 3), omit paragraph 180(7)(b), substitute:
(b) the warrant is revoked under subsection 180W(1).

Schedule 1, item 6L, page 33 (line 23) to page 43 (line 28), omit the item, substitute:

6L After Division 4B of Part 4-1

Insert:

Division 4C—Data authorisation warrant

Subdivision A—The requirement for data authorisation warrant

180G The Organisation

An eligible person (within the meaning of subsection 175(2) or 176(2), as the case requires) must not make an authorisation under Division 3 that would authorise the disclosure of information or documents relating to a particular person unless a data authorisation warrant is in force in relation to that particular person.

180H Enforcement agencies

(1) An authorised officer of an enforcement agency must not make an authorisation under section 178, 178A or 180 that would authorise the disclosure of information or documents relating to a particular person unless a data authorisation warrant is in force, in relation to that particular person, under which authorised officers of the agency may make authorisations under that section.

(2) An authorised officer of the Australian Federal Police must not make an authorisation under Division 4A that would authorise the disclosure of information or documents relating to a particular person unless a data authorisation warrant is in force, in relation to that particular person, under which authorised officers of the agency may make authorisations under that Division.

Subdivision B—Issuing data authorisation warrants to the Organisation

180J Requesting a data authorisation warrant

(1) The Director-General of Security may request the Minister to issue a data authorisation warrant in relation to a particular person.

(2) The request must specify the facts and other grounds on which the Director-General considers it necessary that the warrant be issued.

180K Further information

(1) The Minister may require the Director-General of Security to give to the Minister, within the period specified in the requirement, further information in connection with a request under this Subdivision.
(2) If the Director-General breaches the requirement, the Minister may:
   (a) refuse to consider the request; or
   (b) refuse to take any action, or any further action, in relation to the request.

180L Issuing a data authorisation warrant

(1) After considering a request under section 180J, the Minister must:
   (a) issue a data authorisation warrant that authorises the making of
       authorisations under Division 3 in relation to the particular
       person to which the request relates; or
   (b) refuse to issue a data authorisation warrant.

(2) The Minister must not issue a data authorisation warrant unless the
    Minister is satisfied that:
    (a) the Organisation’s functions would extend to the making of
        authorisations under Division 3 in relation to the particular
        person; and
    (b) the public interest in issuing the warrant outweighs the public
        interest in protecting privacy, having regard to:
        (i) the extent to which the privacy of any person or persons
            would be likely to be interfered with by the disclosure of
            information or documents under authorisations that are
            likely to be made under the authority of the warrant; and
        (ii) the gravity of the matter in relation to which the warrant
            is sought; and
        (iii) the extent to which that information or those documents
            would be likely to assist in the performance of the
            Organisation’s functions; and
        (iv) whether reasonable attempts have been made to obtain the
            information or documents by other means; and
        (v) any submissions made by a Public Interest Advocate
            under section 180X; and
        (vi) any other matters the Minister considers relevant.

(3) A data authorisation warrant issued under this section may specify
    conditions or restrictions relating to making authorisations under the
    authority of the warrant.

180M Issuing a data authorisation warrant in an emergency

(1) The Director-General of Security may issue a data authorisation
    warrant in relation to a particular person if:
    (a) a request under section 180J has been made for the issue of a
        data authorisation warrant in relation to the particular person; and
    (b) the Minister has not, to the knowledge of the Director-General,
        made a decision under section 180L in relation to the request; and
    (c) within the preceding period of 3 months:
        (i) the Minister has not refused to issue a data authorisation
            warrant in relation to the particular person; and
        (ii) the Director-General has not issued such a data
            authorisation warrant; and
(d) the Director-General is satisfied that, security will be, or is likely to be, seriously prejudiced if the access to which the request relates does not begin before a data authorisation warrant can be issued and made available by the Minister; and

(e) either:

(i) the issuing of the warrant is authorised under subsection (3); or

(ii) the Director-General is satisfied that none of the Ministers specified in subsection (4) is readily available or contactable.

(2) The Director-General must not issue a data authorisation warrant unless the Director-General is satisfied as to the matters set out in paragraphs 180L(2)(a) and (b).

Authorisation to issue a warrant under this section

(3) A Minister specified in subsection (4) may, if he or she is satisfied as to the matter set out in paragraphs 180L(2)(a) and (b), orally give an authorisation under this subsection for the Director-General to issue the warrant under this section.

(4) The Ministers who may orally give an authorisation are:

(a) the Minister; or

(b) if the Director-General is satisfied that the Minister is not readily available or contactable—any of the following Ministers:

(i) the Prime Minister;

(ii) the Defence Minister;

(iii) the Foreign Affairs Minister.

(5) The authorisation may specify conditions or restrictions relating to issuing the warrant.

(6) The Director-General must ensure that a written record of an authorisation given under subsection (3) is made as soon as practicable (but no later than 48 hours) after the authorisation is given.

Duration of a warrant under this section

(7) A data authorisation warrant under this section must specify the period (not exceeding 48 hours) for which it is to remain in force. The Minister may revoke the warrant at any time before the end of the specified period.

Copies of warrant and other documents

(8) Immediately after issuing a data authorisation warrant under this section, the Director-General must give the Minister:

(a) a copy of the warrant; and

(b) a statement of the grounds on which the warrant was issued; and

(c) either:

(i) a copy of the record made under subsection (6); or

(ii) if the Director-General was satisfied as mentioned in subparagraph (1)(e)(ii)—a summary of the facts of the case justifying issuing the warrant.
(9) Within 3 business days after issuing a data authorisation warrant under this section, the Director-General must give the Inspector-General of Intelligence and Security:
   (a) a copy of the warrant; and
   (b) either:
      (i) a copy of the record made under subsection (6); or
      (ii) if the Director-General was satisfied as mentioned in subparagraph (1)(e)(ii)—a summary of the facts of the case justifying issuing the warrant.

(10) Subsection (9) has effect despite subsection 185D(1).

180N Duration of a data authorisation warrant
A data authorisation warrant issued under section 180L must specify the period (not exceeding 6 months) for which it is to remain in force. The Minister may revoke the warrant at any time before the end of the specified period.

180P Discontinuance of authorisations before expiry of a data authorisation warrant
If, before a data authorisation warrant issued under this Subdivision ceases to be in force, the Director-General of Security is satisfied that the grounds on which the warrant was issued have ceased to exist, he or she must:
   (a) forthwith inform the Minister accordingly; and
   (b) takes such steps as are necessary to ensure that the making of authorisations under the authority of the warrant is discontinued.

Subdivision C—Issuing data authorisation warrants to enforcement agencies

180Q Enforcement agency may apply for a data authorisation warrant
(1) An enforcement agency may apply to a Part 4-1 issuing authority for a data authorisation warrant in relation to a particular person.

(2) The application must be made on the agency’s behalf by:
   (a) if the agency is referred to in subsection 39(2)—a person referred to in that subsection in relation to that agency; or
   (b) otherwise:
      (i) the chief officer of the agency; or
      (ii) an officer of the agency (by whatever name called) who holds, or is acting in, an office or position in the agency nominated under subsection (3).

(3) The chief officer of the agency may, in writing, nominate for the purposes of subparagraph (2)(b)(ii) an office or position in the agency that is involved in the management of the agency.

(4) A nomination under subsection (3) is not a legislative instrument.

(5) The application may be made in writing or in any other form.

Note: The Electronic Transactions Act 1999 deals with giving information in writing by means of an electronic communication.

180R Further information
(1) The Part 4-1 issuing authority may require:
   (a) in any case—the chief officer of the agency; or
(b) if the application is made, on the agency’s behalf, by a person other than the chief officer—that other person;

to give to the Part 4-1 issuing authority, within the period and in the form specified in the requirement, further information in connection with the application.

(2) If the chief officer or other person breaches the requirement, the Part 4-1 issuing authority may:
(a) refuse to consider the application; or
(b) refuse to take any action, or any further action, in relation to the application.

180S Oaths and affirmations

(1) Information given to the Part 4-1 issuing authority in connection with the application must be verified on oath or affirmation.

(2) For the purposes of this section, the Part 4-1 issuing authority may:
(a) administer an oath or affirmation; or
(b) authorise another person to administer an oath or affirmation.

The oath or affirmation may be administered in person, or by telephone, video call, video link or audio link.

180T Issuing a data authorisation warrant

(1) After considering an application under section 180Q, the Part 4-1 issuing authority must:
(a) issue a data authorisation warrant that authorises the making of authorisations under one or more of sections 178, 178A and 180, or Division 4A, in relation to the particular person to which the application relates; or
(b) refuse to issue a data authorisation warrant.

(2) The Part 4-1 issuing authority must not issue a data authorisation warrant unless the Part 4-1 issuing authority is satisfied that:
(a) the warrant is reasonably necessary for whichever of the following purposes are applicable:
   (i) if the warrant would authorise the making of authorisations under section 178—for the enforcement of a serious contravention;
   (ii) if the warrant would authorise the making of authorisations under section 178A—finding a person who the Australian Federal Police, or a Police Force of a State, has been notified is missing;
   (iii) if the warrant would authorise the making of authorisations under section 180—the investigation of an offence of a kind referred to in subsection 180(4);
   (iv) if the warrant would authorise the making of authorisations under Division 4A—the investigation of a serious foreign contravention; and
(b) the public interest in issuing the warrant outweighs the public interest in protecting privacy, having regard to:

(i) the extent to which the privacy of any person or persons would be likely to be interfered with by the disclosure of information or documents under authorisations that are likely to be made under the authority of the warrant; and

(ii) the gravity of the matter in relation to which the warrant is sought; and

(iii) the extent to which that information or those documents would be likely to assist in relation to that matter; and

(iv) whether reasonable attempts have been made to obtain the information or documents by other means; and

(v) any submissions made by a Public Interest Advocate under section 180X; and

(vi) any other matters the Part 4-1 issuing authority considers relevant.

180U Form and content of a data authorisation warrant

(1) A data authorisation warrant issued under this Subdivision must be in accordance with the prescribed form and must be signed by the Part 4-1 issuing authority who issues it.

(2) A data authorisation warrant issued under this Subdivision may specify conditions or restrictions relating to making authorisations under the authority of the warrant.

(3) A data authorisation warrant issued under this Subdivision must specify, as the period for which it is to be in force, a period of up to 90 days.

(4) A Part 4-1 issuing authority must not vary a data authorisation warrant issued under this Subdivision by extending the period for which it is to be in force.

(5) Neither of subsections (3) and (4) prevents the issue of a further warrant under this Act in relation to a person, in relation to which a warrant under this Act has, or warrants under this Act have, previously been issued.

180V Entry into force of a data authorisation warrant

A data authorisation warrant issued under this Subdivision comes into force when it is issued.

180W Revocation of a data authorisation warrant by chief officer

(1) The chief officer of an enforcement agency:

(a) may, at any time, by signed writing, revoke a data authorisation warrant issued under this Subdivision to the agency; and

(b) must do so, if he or she is satisfied that the grounds on which the warrant was issued to the agency have ceased to exist.

(2) The chief officer of an enforcement agency may delegate his or her power under paragraph (1)(a) to a certifying officer of the agency.
Subdivision D—Miscellaneous

180X Public Interest Advocates

(1) The Prime Minister shall declare, in writing, one or more persons to be Public Interest Advocates.

(2) A Public Interest Advocate may make submissions:
   (a) to the Minister about matters relevant to:
      (i) a decision to issue, or refuse to issue, a data authorisation warrant under section 180L; or
      (ii) a decision about the conditions or restrictions (if any) that are to be specified in such a warrant; or
   (b) to a Part 4-1 issuing authority about matters relevant to:
      (i) a decision to issue, or refuse to issue, the warrant under section 180T; or
      (ii) a decision about the conditions or restrictions (if any) that are to be specified in such a warrant; or

(3) The regulations may prescribe matters relating to the performance of the role of a Public Interest Advocate.

(4) A declaration under subsection (1) is not a legislative instrument.

Schedule 1, item 6V, page 46 (line 11) to page 47 (line 29), omit the item, substitute:

6V At the end of Division 6 of Part 4-1

Add:

182A Disclosure/use offences: data authorisation warrants

(1) A person commits an offence if:
   (a) the person discloses or uses information; and
   (b) the information is about any of the following:
      (i) whether a data authorisation warrant (other than such a warrant that relates only to section 178A) has been, or is being, requested or applied for;
      (ii) the making of such a warrant;
      (iii) the existence or non-existence of such a warrant;
      (iv) the revocation of such a warrant.

   Penalty: Imprisonment for 2 years.

(2) A person commits an offence if:
   (a) the person discloses or uses a document; and
   (b) the document consists (wholly or partly) of any of the following:
      (i) a data authorisation warrant (other than such a warrant that relates only to section 178A);
      (ii) the revocation of such a warrant.

   Penalty: Imprisonment for 2 years.

182B Permitted disclosure or use: data authorisation warrants

Paragraphs 182A(1)(a) and (2)(a) do not apply to a disclosure or use of information or a document if:

(a) the disclosure or use is for the purposes of the warrant, revocation or notification concerned; or
(b) the disclosure or use is reasonably necessary:
   (i) to enable the making of submissions under section 180X; or
   (ii) to enable a person to comply with his or her obligations under section 185D or 185E; or
   (iii) to enable the Organisation to perform its functions; or
   (iv) to enforce the criminal law; or
   (v) to enforce a law imposing a pecuniary penalty; or
   (vi) to protect the public revenue; or
(c) in the case of a disclosure—the disclosure is:
   (i) to an IGIS official for the purpose of the Inspector-General of Intelligence and Security exercising powers, or performing functions or duties, under the Inspector-General of Intelligence and Security Act 1986; or
   (ii) by an IGIS official in connection with the IGIS official exercising powers, or performing functions or duties, under that Act; or
(d) in the case of a use—the use is by an IGIS official in connection with the IGIS official exercising powers, or performing functions or duties, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in this section (see subsection 13.3(3) of the Criminal Code).

Schedule 1, item 6X, page 48 (line 1) to page 49 (line 36), omit section 185D, substitute:

185D Notification etc. of authorisations

The Organisation

(1) If:
   (a) a data authorisation warrant is issued under Subdivision B of Division 4C of Part 4-1; and
   (b) the warrant relates to a person who:
      (i) is a journalist; or
      (ii) is an employer of a journalist;

then:
   (b) the Director-General of Security must, as soon as practicable, give a copy of the warrant to the Inspector-General of Intelligence and Security; and
   (c) the Minister must, as soon as practicable, cause the Parliamentary Joint Committee on Intelligence and Security to be notified of the issuing of the warrant.

(2) If an authorisation under Division 3 of Part 4-1 is made under the authority of the warrant, the Director-General of Security must, as soon as practicable after the expiry of the warrant, give a copy of the authorisation to the Inspector-General of Intelligence and Security.
(3) If:
   (a) the Inspector-General gives to the Minister a report under section 22 or 25A of the Inspector-General of Intelligence and Security Act 1986; and
   (b) the report relates (wholly or partly) to one or both of the following:
      (i) a data authorisation warrant issued to the Organisation in relation to a person who is a journalist, or an employer of a journalist;
      (ii) one or more authorisations referred to in subsection (2) of this section;
the Minister must, as soon as practicable, cause a copy of the report to be given to the Parliamentary Joint Committee on Intelligence and Security.

(4) The Parliamentary Joint Committee on Intelligence and Security may request a briefing from the Inspector-General on:
   (a) a data authorisation warrant; or
   (b) an authorisation or authorisations;
   to which a report referred to in paragraph (3)(b) of this section relates.

Enforcement agencies

(5) If:
   (a) a data authorisation warrant is issued to an enforcement agency; and
   (b) the warrant relates to a person who:
      (i) is a journalist; or
      (ii) is an employer of a journalist;
then:
   (a) if the agency was the Australian Federal Police:
      (i) the Commissioner of Police must, as soon as practicable, give copies of the warrant to the Minister and the Ombudsman; and
      (ii) the Minister must, as soon as practicable after receiving a copy, cause the Parliamentary Joint Committee on Intelligence and Security to be notified of the issuing of the warrant; and
   (b) otherwise—the chief officer of the agency must, as soon as practicable, give a copy of the warrant to the Ombudsman.

(6) If an authorisation under Division 4 of Part 4-1 is made under the authority of the warrant, the chief officer of the agency must, as soon as practicable after the expiry of the warrant, give a copy of the authorisation to the Ombudsman.

(7) If:
   (a) the Ombudsman gives to the Minister a report under section 186J of this Act; and
   (b) the report relates (wholly or partly) to one or both of the following:
      (i) a data authorisation warrant issued to the Australian Federal Police in relation to a person who is a journalist, or an employer of a journalist;
(ii) one or more authorisations, referred to in subsection (6) of this section, that were made by one or more authorised officers of the Australian Federal Police;

the Minister must, as soon as practicable, cause a copy of the report to be given to the Parliamentary Joint Committee on Intelligence and Security.

(8) The Parliamentary Joint Committee on Intelligence and Security may request a briefing from the Ombudsman on:
(a) a data authorisation warrant; or
(b) an authorisation or authorisations;

to which a report referred to in paragraph (7)(b) of this section relates.

Schedule 1, item 6Y, page 51 (lines 16 to 21), omit paragraphs 186(1)(i) and (j), substitute:

(i) the number of data authorisation warrants issued to the agency under Subdivision C of Division 4C of Part 4-1; and

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 15

Senators—

Di Natale  Leyonhjelm  Rhiannon  Whish-Wilson
Hanson-Young  Ludlam  Rice  Weight
Lambie  Milne  Stiewert (Teller)  Xenophon
Lazarus  Muir  Waters

NOES, 33

Senators—

Back  Fawcett  McEwen  Ruston
Bernardi  Fifield  McKenzie  Seselja
Brandis  Gallagher  McLucas  Singh
Brown  Gallagher  Moore  Sinodinos
Bullock  Ketter  O’Neill  Smith
Bushby (Teller)  Lines  O’Sullivan  Sterle
Cameron  Ludwig  Polley  Urquhart
Colbeck  Macdonald  Reynolds  Williams

Question negatived.

Senator Leyonhjelm moved the following amendment:

Schedule 1, item 5, page 28 (before line 32), before the definition of Defence Minister, insert:

content, in relation to a communication, includes the following:
(a) any speech, music or other sound that forms part of a telephone conversation;
(b) the body of an email;
(c) a short text message sent from one telecommunications device to another;
(d) a website address;
(e) any other user-generated content.

Debate ensued.
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Question—That the amendment be agreed to—put and negatived.
Senator Ludlam moved the following amendments together by leave:

Schedule 1, item 5, page 29 (after line 8), after the definition of infrastructure, insert:

journalist means a person who is engaged and active in the publication of news and who may be given information by a source in the expectation that the information may be disseminated in the form of:

(a) news, current affairs or a documentary; or
(b) commentary, observations or opinion on, or analysis of, news, current affairs or a documentary.

Schedule 1, item 5, page 29 (lines 26 to 29) omit paragraphs (a) and (b) of the definition of source, substitute:

(a) to another journalist; and
(b) in the normal course of the other person’s work as a journalist; and

Debate ensued.

Question—That the amendments be agreed to—put and negatived.
Senator Xenophon moved the following amendments together by leave:

Schedule 1, item 6L, page 34 (lines 8 to 10), omit paragraph 180G(1)(b), substitute:

(b) a purpose, effect or likely effect of making the authorisation would be to identify another person whom the eligible person knows or reasonably believes may be a source;

Schedule 1, item 6L, page 34 (lines 26 to 28), omit paragraph 180H(1)(b), substitute:

(b) a purpose, effect or likely effect of making the authorisation would be to identify another person whom the authorised officer knows or reasonably believes may be a source;

Debate ensued.

Question—That the amendments be agreed to—put and negatived.
Senator Xenophon moved the following amendments together by leave:

Schedule 1, item 6L, page 35 (after line 28), at the end of section 180K, add:

Note: If further information is required, a Public Interest Advocate must be notified, see section 180X.

Schedule 1, item 6L, page 40 (after line 23), at the end of section 180R, add:

Note: If further information is required, a Public Interest Advocate must be notified, see section 180X.

Debate ensued.

Question—That the amendments be agreed to—put and negatived.
Senator Xenophon moved the following amendments together by leave:

Schedule 1, item 6L, page 36 (lines 5 to 28), omit subsection 180L(2), substitute:

(2) The Minister must not issue a journalist information warrant unless:
(a) the Minister has given the Public Interest Advocate reasonable notice of the request for the warrant in accordance with section 180X; and
(b) the Minister has:
   (i) given the person to whom the warrant request relates reasonable notice, in writing, of the request for the warrant; and
   (ii) invited the person to make a submission on the request; and
(c) the Minister is satisfied that:
   (i) the Organisation’s functions would extend to the making of authorisations under Division 3 in relation to the particular person; and
   (ii) the public interest in issuing the warrant outweighs the public interest in protecting the confidentiality of the identity of the source in connection with whom authorisations would be made under the authority of the warrant, having regard to the matters in subsection (2B).

(2A) In making his or her decision to issue or refuse a journalist information warrant, the Minister must give greatest weight to the matter mentioned in paragraph (2B)(a).

(2B) For the purposes of subparagraph (2)(c)(ii), the matters are the following:
   (a) the public interest in the communication of facts and opinion to the public by a free media, and, accordingly in the ability of the media to access sources of facts on the basis that confidentiality of the identity of the source will be protected;
   (b) the extent to which the privacy of any person or persons would be likely to be interfered with by the disclosure of information or documents under authorisations that are likely to be made under the authority of the warrant;
   (c) the gravity of the matter in relation to which the warrant is sought;
   (d) the extent to which that information or those documents would be likely to assist in the performance of the Organisation’s functions;
   (e) whether reasonable attempts have been made to obtain the information or documents by other means;
   (f) any submissions made by a Public Interest Advocate under section 180X;
   (g) any submissions made by the person to whom the warrant request relates;
   (h) any other matters the Minister considers relevant.

Schedule 1, item 6L, page 37 (line 26), omit “paragraphs 180L(2)(a) and (b)”, substitute “subparagraphs 180L(2)(c)(i) and (ii)”. Schedule 1, item 6L, page 37 (line 29), omit “paragraphs 180L(2)(a) and (b)”, substitute “subparagraphs 180L(2)(c)(i) and (ii)”. 
2455

Schedule 1, item 6L, page 41 (line 9) to page 42 (line 10), omit subsection 180T(2), substitute:

(2) The Part 4-1 issuing authority must not issue a journalist information warrant unless:

(a) the Part 4-1 issuing authority has given the Public Interest Advocate reasonable notice of the application for the warrant in accordance with section 180X; and

(b) the Part 4-1 issuing authority has:

(i) given the person to whom the warrant application relates reasonable notice, in writing, of the application for the warrant; and

(ii) invited the person to make a submission on the application; and

(c) the Part 4-1 issuing authority is satisfied that:

(i) the warrant is reasonably necessary for whichever of the purposes set out in subsection (4) is applicable; and

(ii) the public interest in issuing the warrant outweighs the public interest in protecting the confidentiality of the identity of the source in connection with whom authorisations would be made under the authority of the warrant, having regard to the matters set out in subsection (5).

(3) In making a decision to issue or refuse to issue a journalist information warrant, the Part 4-1 issuing authority must give greatest weight to the matter mentioned in paragraph (5)(a).

(4) For the purposes of subparagraph (2)(c)(i), the purposes are the following:

(a) if the warrant would authorise the making of authorisations under section 178—for the enforcement of the criminal law;

(b) if the warrant would authorise the making of authorisations under section 178A—finding a person who the Australian Federal Police, or a Police Force of a State, has been notified is missing;

(c) if the warrant would authorise the making of authorisations under section 179—the enforcement of a law imposing a pecuniary penalty or for the protection of the public revenue;

(d) if the warrant would authorise the making of authorisations under section 180—the investigation of an offence of a kind referred to in subsection 180(4).

(5) For the purposes of subparagraph (2)(c)(ii), the matters are the following:

(a) the public interest in the communication of facts and opinion to the public by a free media, and, accordingly in the ability of the media to access sources of facts on the basis that confidentiality of the identity of the source will be protected;

(b) the extent to which the privacy of any person or persons would be likely to be interfered with by the disclosure of information or documents under authorisations that are likely to be made under the authority of the warrant;
(c) the gravity of the matter in relation to which the warrant is sought;
(d) the extent to which that information or those documents would be likely to assist in relation to that matter;
(e) whether reasonable attempts have been made to obtain the information or documents by other means;
(f) any submissions made by a Public Interest Advocate under section 180X;
(g) any submissions made by the person to whom the warrant application relates;
(h) any other matters the Part 4-1 issuing authority considers relevant.

Schedule 1, item 6L, page 43 (lines 12 to 28), omit section 180X, substitute:

180X Public Interest Advocates

(1) The Prime Minister shall declare, in writing, one or more persons to be Public Interest Advocates.

Notice to be given to Public Interest Advocates

(2) If a notice is given to a Public Interest Advocate under section 180L in relation to a request for a journalist information warrant, or under section 180T in relation to an application for a journalist information warrant, the notice must:
   (a) be in writing; and
   (b) include:
       (i) the information and material that was provided with the request or application, as the case may be; and
       (ii) the additional information or material (if any) that is prescribed by the regulations.

Further notice if additional information provided

(3) If:
   (a) the Minister requires the Director-General of Security to give further information under section 180K in connection with a request; and
   (b) the Director-General gives the further information or refuses to give the further information;

then the Minister must notify the Public Interest Advocate, in writing, of the further information or the refusal as soon as practicable.

(4) If:
   (a) the Part 4-1 issuing authority requires the chief officer of an enforcement agency, or a person other than the chief of the agency, to give further information under section 180R in connection with an application; and
   (b) the chief officer, or the other person, gives the further information or refuses to give the further information;

then the Part 4-1 issuing authority must notify the Public Interest Advocate, in writing, of the further information or the refusal as soon as practicable.
Submissions

(5) A Public Interest Advocate may make submissions:
   (a) to the Minister about matters relevant to:
       (i) a decision to issue, or refuse to issue, a journalist information warrant under section 180L; or
       (ii) a decision about the conditions or restrictions (if any) that are to be specified in such a warrant; or
   (b) to a Part 4-1 issuing authority about matters relevant to:
       (i) a decision to issue, or refuse to issue, the warrant under section 180T; or
       (ii) a decision about the conditions or restrictions (if any) that are to be specified in such a warrant.

(6) In making a submission under subsection (5), a Public Interest Advocate must have particular regard to protecting the public interest and the need to act as a contradictor to the person requesting, or applying for, the journalist information warrant.

Regulations

(7) The regulations may prescribe matters relating to the performance of the role of a Public Interest Advocate.

Declaration not legislative instrument

(8) A declaration under subsection (1) is not a legislative instrument.

Debate ensued.

Time expired: Pursuant to order (see entry no. 26, 25 March 2015), the time for government business reached the limit of 2 hours 20 minutes.

The President resumed the chair and the Chair of Committees (Senator Marshall) reported progress.

7 PETITIONS

The following 2 petitions similar in wording, lodged with the Clerk by Senator Xenophon, were received:

From 12 259 and 3 086 petitioners, requesting that the Senate support an increase to funding for early learning and childcare and continue reforms to improve quality and access to these services.

8 NOTICES

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

(a) the addition of Peru as an export market for kangaroo meat, with the first commercial size shipment of about 1 000 kg of product leaving our shores in February 2015 and headed for supermarket shelves in Lima; and

(b) that the Federal Government, through the Department of Agriculture and Austrade, has been working with the Kangaroo Industry Association of Australia and the exporter since 2008 to negotiate market access to Peru, and that these extensive negotiations between Australian and Peruvian authorities included agreements on import conditions, health certification and the process for approval of Australian export establishments. (general business notice of motion no. 701)
Senator Whish-Wilson: To move on the next day of sitting—that the following matter be referred to the Environment and Communications References Committee for inquiry and report by 8 April 2016:

The threat of marine plastic pollution in Australia and Australian waters, with particular reference to:

(a) the review of current research and scientific understanding of plastic pollution in the marine environment;
(b) sources of marine plastic pollution;
(c) the impacts of marine plastic pollution, including impacts on species and ecosystems, fisheries, small business, and human health;
(d) measures and resourcing for mitigation; and
(e) any other relevant matters.

Senator Leyonhjelm: To move on 15 June 2015—that the Amendment to List of CITES Species, Declaration of a stricter domestic measure, made under subsection 303CB(1) of the Environment Protection and Biodiversity Conservation Act 1999, be disallowed.

9 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 4 OF 2015

The Chair of the Selection of Bills Committee (Senator Bushby) tabled the following report:

SELECTION OF BILLS COMMITTEE
REPORT NO. 4 OF 2015

1. The committee met in private session on Wednesday, 25 March 2015 at 7.23 pm.

2. The committee resolved to recommend—that—

(a) the provisions of the Communications Legislation Amendment (SBS Advertising Flexibility and Other Measures) Bill 2015 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 8 May 2015;

(b) the provisions of the Competition and Consumer Amendment (Deregulatory and Other Measures) Bill 2015 be referred immediately to the Economics Legislation Committee for inquiry and report by 13 May 2015;

(c) the Construction Industry Amendment (Protecting Witnesses) Bill 2015 be referred immediately to the Education and Employment Legislation Committee for inquiry and report by 8 May 2015;

(d) contingent upon its introduction in the House of Representatives, the provisions of the Copyright Amendment (Online Infringement) Bill 2015 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 13 May 2015;

(e) the provisions of the Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 13 May 2015;

(f) contingent upon its introduction in the Senate, the Food Standards Amendment (Fish Labelling) Bill 2015 be referred immediately to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 12 May 2015;
(g) the provisions of the Governance of Australian Government Superannuation Schemes Legislation Amendment Bill 2015 be referred immediately to the Finance and Public Administration Legislation Committee for inquiry and report by 7 May 2015;

(h) the International Aid (Promoting Gender Equality) Bill 2015 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 17 June 2015;

(i) the provisions of the Safety, Rehabilitation and Compensation Amendment (Improving the Comcare Scheme) Bill 2015 be referred immediately to the Education and Employment Legislation Committee for inquiry and report by 16 June 2015; and

(j) the provisions of the Social Services Legislation Amendment Bill 2015 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 15 June 2015.

3. The committee resolved to recommend—That the following bills not be referred to committees:

A New Tax System (Medicare Levy Surcharge Fringe Benefits) Amendment Bill 2015

Aged Care (Accommodation Payment Security) Levy Amendment (Norfolk Island) Bill 2015


Food Standards Australia New Zealand Amendment Bill 2015

Health and Other Services (Compensation) Care Charges Amendment (Norfolk Island) Bill 2015

Health Insurance (Approved Pathology Specimen Collection Centres) Tax Amendment (Norfolk Island) Bill 2015

Health Insurance (Pathology) (Fees) Amendment (Norfolk Island) Bill 2015

Norfolk Island Legislation Amendment Bill 2015

Private Health Insurance (Risk Equalisation Levy) Amendment (Norfolk Island) Bill 2015

Statute Law Revision Bill (No. 2) 2015

Tax and Superannuation Laws Amendment (Norfolk Island Reforms) Bill 2015.

The committee recommends accordingly.

4. The committee deferred consideration of the following bills to its next meeting:

Australian Centre for Social Cohesion Bill 2015

Automotive Transformation Scheme Amendment (Sustainable Jobs in the Auto Component Industry) Bill 2015

Competition and Consumer Amendment (Australian Country of Origin Food Labelling) Bill 2015

Corporations Amendment (Publish What You Pay) Bill 2014

Defence Legislation Amendment (Parliamentary Approval of Overseas Service) Bill 2015

Defence Legislation (Enhancement of Military Justice) Bill 2015

Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2]

Judiciary Amendment Bill 2015

Law Enforcement Legislation Amendment (Powers) Bill 2015

Motor Vehicle Standards (Cheaper Transport) Bill 2014
Social Security and Other Legislation Amendment (Caring for Single Parents) Bill 2014
Tax and Superannuation Laws Amendment (Employee Share Schemes) Bill 2015.

David Bushby
Chair
26 March 2015.

Senator Bushby moved—that the report be adopted.
Question put and passed.

10 ROUTINE OF BUSINESS—VARIATION
The Assistant Minister for Social Services (Senator Fifield), by leave, moved—that consideration of general business under standing order 57(1)(d)(xi) shall not be proceeded with today.
Question put and passed.

11 LEAVE OF ABSENCE
Senator Bushby, by leave, moved—that leave of absence be granted to the following senators for today:
(a) Senator Cormann, on account of ministerial business; and
(b) Senators Day and Smith, for personal reasons.
Question put and passed.

Senator McEwen, by leave, moved—that leave of absence be granted to Senator Peris for today, for personal reasons.
Question put and passed.

12 ROUTINE OF BUSINESS—VARIATION
The Assistant Minister for Social Services (Senator Fifield), by leave, moved—that the order of the Senate of 25 March 2015, relating to the hours of meeting and routine of business, be varied as follows:
Omit paragraph (2)(d), substitute:
(d) if discovery of formal business is interrupted by the operation of paragraph (c), it shall be resumed after consideration of the bills listed in that paragraph and, subsequently, government business shall be called on and considered till not later than 2 pm;

Statement by leave: Senator Fifield, by leave, made a statement relating to the motion.
Question put and passed.

13 POSTPONEMENT
Business was postponed as follows:
General business notice of motion no. 693 standing in the name of Senator Ludlam for today, relating to the banning of nuclear weapons, postponed till 12 May 2015.
14 COMMITTEES—EXTENSIONS OF TIME TO REPORT
The following committees were granted extensions of time to report:

Legal and Constitutional Affairs References Committee—Illicit firearms, extended to 9 April 2015.
Rural and Regional Affairs and Transport References Committee—
   Airport and aviation security at Australian airports, extended to 21 May 2015.
   Australia’s sugar industry, extended to 21 May 2015.

15 HISTORICAL EVENTS—ANZAC CENTENARY
The Assistant Minister for Social Services (Senator Fifield), by leave and at the request of the Minister Assisting the Prime Minister for the Centenary of ANZAC (Senator Ronaldson), the Leader of The Nationals in the Senate (Senator Scullion), the Leader of the Opposition in the Senate (Senator Wong), the Leader of the Australian Greens (Senator Milne) and Senators Day, Lazarus, Wang, Madigan, Xenophon, Muir and Lambie, moved—That the Senate—

(a) notes that:
   (i) 25 April 2015 marks the 100th anniversary of the ANZAC landing at Gallipoli in Turkey,
   (ii) the landing marked the beginning of a nine-month long campaign which cost 8 709 Australian lives,
   (iii) thousands of Australian personnel were wounded during the Gallipoli campaign,
   (iv) Australians fought together with forces from New Zealand, Britain, Ireland, India, Pakistan, Nepal, Bangladesh, Canada and France, and
   (v) communities across Australia will mark the 100th anniversary of the landing with commemorative ceremonies across the nation marking ANZAC Day, our national day of commemoration, reflection and remembrance; and

(b) calls on all Australians to participate in ANZAC Day commemorations on 25 April 2015 to reflect, remember and commemorate the service and sacrifice of all Australians who have served in the Australian Defence Force from the First World War until the present day, particularly the more than 102 000 who have made the supreme sacrifice in all wars, conflicts and peacekeeping operations over more than a century of service.

Question put and passed.

16 JUDICIARY AMENDMENT BILL 2015
The Assistant Minister for Social Services (Senator Fifield), at the request of the Attorney-General (Senator Brandis) and pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 1—That the following bill be introduced:

A Bill for an Act to consolidate the Australian Government Solicitor into the Attorney-General’s Department, and for related purposes.

Question put and passed.

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

Explanatory memorandum: Senator Fifield 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, 11 May 2015.

17 Parliamentary Zone—Capital Works Proposal—Approval  
The President, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 686—That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the following proposal for work within the Parliamentary Zone which was presented to the Senate on 24 March 2015, namely: Parliament House Security Upgrade Works – Perimeter Security Enhancements.  
Question put and passed.

18 Northern Australia—Joint Select Committee—Leave to Meet During Sittings  
Senator Bushby, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 687—That the Joint Select Committee on Northern Australia be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate, as follows:  
(a) Tuesday, 12 May 2015;  
(b) Tuesday, 16 June 2015; and  
(c) Tuesday, 23 June 2015.  
Question put and passed.

19 Trade and Investment Growth—Joint Select Committee—Leave to Meet During Sittings  
Senator Bushby, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 688—That the Joint Select Committee on Trade and Investment Growth be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate, as follows:  
(a) Tuesday, 12 May 2015;  
(b) Tuesday, 16 June 2015; and  
(c) Tuesday, 23 June 2015.  
Question put and passed.
20 Finance and Public Administration Legislation Committee—Reference
Senator Xenophon, also on behalf of Senator Ludwig, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 2—That the following matter be referred to the Finance and Public Administration Legislation Committee for inquiry and report by 13 May 2015:
The proposed Parliament House security upgrade works, including perimeter fencing, internal infrastructure changes and CCTV cameras, with particular reference to:
(a) security and safety considerations;
(b) project management;
(c) value for money;
(d) design integrity;
(e) heritage impact;
(f) moral rights;
(g) impacts on building occupants and visitors; and
(h) any related matters.
Question put and passed.

21 Food Standards Amendment (Fish Labelling) Bill 2015
Senator Xenophon, also on behalf of Senators Lazarus, Lambie, Whish-Wilson, Wang and Madigan, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 690—That the following bill be introduced:
A Bill for an Act to provide for the accurate labelling of the country of origin for fish, and for related purposes.
Question put and passed.
Senator Xenophon 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 Xenophon moved—That this bill be now read a second time.

Explanatory memorandum: Senator Xenophon, by leave, tabled an explanatory memorandum relating to the bill.

Debate adjourned till the next day of sitting, Senator Xenophon in continuation.
Reference to committee: Pursuant to the order of the Senate agreed to earlier today (see entry no. 9), the bill stands referred to the Rural and Regional Affairs and Transport Legislation Committee.
Statement by leave: Senator Xenophon, by leave, made a statement relating to the matter.
22 **ENVIRONMENT—QUEENSLAND—GREAT BARRIER REEF**

Senator Bushby, at the request of Senators O’Sullivan and Canavan and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 692—That the Senate—

(a) supports the Australian and Queensland governments’ release of the Reef 2050 Long-Term Sustainability Plan for the Great Barrier Reef, including the additional $100 million investment to protect the reef;

(b) notes that opposition to this plan is now blatantly focused on stopping coal mines 500 kilometres inland from the reef, not protecting the reef per se; and

(c) supports the Australian and Queensland governments’ investment and campaign against the ‘in danger’ listing of the reef by the United Nations Educational, Scientific and Cultural Organization given that government efforts have now addressed the key areas of concern raised by the World Heritage Committee, and that such a listing would cause great harm to tourism industries.

Question put and passed. All Australian Greens senators, by leave, recorded their votes for the noes.

23 **INDUSTRY—AUTOMOTIVE TRANSFORMATION SCHEME—ORDER FOR PRODUCTION OF DOCUMENTS—FAILURE TO COMPLY**

Senator McEwen, at the request of Senators Carr, Xenophon, Muir, Wright, Wang and Lazarus and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 696—That the Senate—

(a) recalls its resolution of 13 May 2009, moved by Senator Cormann, setting out the process to be followed by public sector witnesses who believe that they have grounds for withholding information from Senate committees;

(b) concurs with the statement of Senator Cormann during debate on the motion, in which he said, ‘At the end of the day, the final decision on whether to claim a public interest ground for not disclosing information should be made by a minister, with a statement of the ground, and ultimately only the Senate itself can determine whether the claim is accepted’;

(c) acknowledges a letter tabled by Senator Cormann on 17 March 2015 in response to an order for the production of documents agreed to by the Senate on the same day, relating to the Automotive Transformation Scheme;

(d) does not recognise that the act of marking documents as ‘Protected for reasons of Cabinet confidentiality’ is an appropriate basis for making a claim of public interest immunity;

(e) does not accept Senator Cormann’s claim of public interest immunity on the grounds that to produce the documents ordered would disclose the substance of Cabinet deliberations which would give rise to harm to the public interest; and

(f) insists that Senator Cormann table the correspondence requested in the order for production of documents agreed to by the Senate on 17 March 2015 by 3.30 pm on 12 May 2015.

*Statement by leave:* The Assistant Minister for Social Services (Senator Fifield), by leave, made a statement relating to the motion.

Question put and passed.
24 **SENATE—CASUAL VACANCIES—NEW SOUTH WALES**

Senator McEwen, at the request of the Leader of the Opposition in the Senate (Senator Wong) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 697—That the Senate—

(a) notes that former Senator John Faulkner resigned his place as a Senator for the State of New South Wales by letter to the President of the Senate on 6 February 2015;

(b) notes that the vacancy in the representation of New South Wales arising from the resignation of Senator Faulkner was notified to the Governor of New South Wales by the President of the Senate in accordance with section 21 of the Constitution on 9 February 2015;

(c) reaffirms its resolution of 3 June 1992 (reaffirmed on 7 May 1997) in which the Senate:

(i) expressed the view that casual vacancies in the Senate should be filled as expeditiously as possible, so that no state is without its full representation in the Senate for any time longer than is necessary,

(ii) recognised that under section 15 of the Constitution an appointment to a vacancy in the Senate may be delayed because the Houses of the Parliament of the relevant state are adjourned but have not been prorogued, which, on a strict construction of this section, prevents the Governor of the state making the appointment, and

(iii) recommended that all state parliaments adopt procedures for casual vacancies to be filled expeditiously within 14 days after notification of the vacancy, including by recall if necessary;

(d) notes that the New South Wales Houses were prorogued on 2 March 2015, the Legislative Council until 5 May 2015 and the Legislative Assembly until 6 March 2015 on which day it expired prior to an election to be held on 28 March 2015; and

(e) calls on the Government and the Parliament of New South Wales to take all necessary steps to ensure that the people of that state are not denied full representation in the Senate for any time longer than is strictly necessary.

Question put and passed.

25 **COMMUNICATIONS—NATIONAL INDIGENOUS TELEVISION CHANNEL**

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 699—That the Senate—

(a) notes the reports that the Special Broadcasting Service (SBS) may have to cut the specialist news program on its Aboriginal and Torres Strait Islander channel NITV;

(b) recognises the importance of Indigenous news media and the role that NITV reports play in covering a range of breaking news stories that are in the interest of, or from the perspective of, Aboriginal and Torres Strait Islander peoples; and

(c) calls on the Government to work with SBS to ensure that this important service is retained.

*Statement by leave:* The Assistant Minister for Social Services (Senator Fifield), by leave, made a statement relating to the motion.

Question put and passed.
Senator McEwen, at the request of Senators Gallacher and Hanson-Young and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 698—

(1) That a select committee, to be known as the Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru, be established to inquire into and report by 15 June 2015 on the responsibilities of the Commonwealth Government in connection with the management and operation of the Regional Processing Centre in Nauru (the Centre), with particular reference to:

(a) how the Commonwealth Government is fulfilling its obligations under the Memorandum of Understanding between the Republic of Nauru and the Commonwealth of Australia relating to the transfer to and assessment of persons in Nauru, cost and related issues;

(b) the performance of the Commonwealth Government in connection with the Centre, including the conduct and behaviour of the staff employed at the Centre, to the extent that the Commonwealth Government is responsible;

(c) the Commonwealth Government’s duty of care obligations and responsibilities with respect to the Centre;

(d) the circumstances that precipitated the Moss Review, including allegations made regarding conditions and circumstances at the centre and the conduct and behaviour of staff employed by contracted service providers, the timing of the Commonwealth Government’s knowledge of the allegations, and the appropriateness of the response of the Commonwealth Government to these allegations;

(e) factors relating to the timing of the release of the Moss Review;

(f) the response of the Commonwealth Government to the recommendations of the Moss Review, including timelines for implementation; and

(g) any related matters.

(2) That the committee consist of 5 senators, 2 to be nominated by the Leader of the Government in the Senate, 2 to be nominated by the Leader of the Opposition in the Senate, and 1 to be nominated by the Leader of the Australian Greens in the Senate.

(3) That:

(a) participating members may be appointed to the committee on the nomination of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate or any minority party or independent senator; and

(b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee.

(4) That 3 members of the committee constitute a quorum of the committee.

(5) That the committee may proceed to the dispatch of business notwithstanding that not all members have been duly nominated and appointed and notwithstanding any vacancy.
(6) That the committee elect as chair a member nominated by the Leader of the Opposition in the Senate and as deputy chair a member nominated by the Leader of the Australian Greens.

(7) That the deputy chair shall act as chair when the chair is absent from a meeting of the committee or the position of chair is temporarily vacant.

(8) That, in the event of an equality of voting, the chair, or the deputy chair when acting as chair, have a casting vote.

(9) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.

(10) That the committee have power to appoint subcommittees consisting of 3 or more of its members, and to refer to any such subcommittee any of the matters which the committee is empowered to consider.

(11) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.

(12) That the committee be empowered to print from day to day such papers and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Statement by leave: The Assistant Minister for Immigration and Border Protection (Senator Cash), by leave, made a statement relating to the motion.

Question put.
The Senate divided—

AYES, 31

Brown    Gallagher    Marshall    Singh
Bullock  Hanson-Young McEwen (Teller) Sterle
Cameron  Ketter       McLucas     Urquhart
Carr     Lambie       Moore      Waters
Conroy    Lazarus     O'Neil      Whish-Wilson
Dastyari  Lines       Rhiannon   Wright
Di Natale Ludlam     Rice        Xenophon
Gallacher Ludwig     Siewert     

NOES, 29

Senators—

Abetz   Fawcett   Mason    Ronaldson
Back    Fierravanti-Wells McGrath   Ruston
Birmingham Fifield   McKenzie   Ryan
Brandis  Johnston    Muir       Scullion
Brashby (Teller) Layonhjelm Nash     Seselja
Cash    Macdonald   Parry      Simodinos
Colbeck Madigan     Payne      Williams
Edwards

Question agreed to.

Statement by leave: Senator Madigan, by leave, made a statement relating to the motion.
27 ENVIRONMENT AND COMMUNICATIONS REFERENCES COMMITTEE—PROPOSED REFERENCE

Senator Rice, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 1—That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 11 November 2015:

The future of Australian forest management, including:

(a) an assessment of past and current management of native forests, including assessment of Regional Forest Agreements in achieving their objectives and those of the National Forest Policy Statement, and other land management mechanisms and programs;

(b) assessment of the economic, environmental and social value of native forests for regional and rural communities, including for recreation and tourism;

(c) assessment of the challenges and opportunities for protecting the environmental values of native forests, including, but not limited to, biodiversity, protections for threatened species, water and bushfires;

(d) the impacts of climate change on native forests and plantations, and the role of native forests and forest management in mitigating the effects of climate change on people and the environment;

(e) assessment of the challenges and opportunities facing the forestry industry, and assessment of actions required to support competitiveness and employment, including but not restricted to innovation and investment, research and development, and the sustainability and management of the plantation forest estate;

(f) assessment of the workforce profile of the Australian forestry and forest products industry and the impacts of forest management regimes, such as Regional Forest Agreements, on employment;

(g) assessment of the most effective mechanisms for ensuring the social, environmental, and economic values of forests are effectively protected and managed for future generations; and

(h) any other related matter.

The Senate divided—

AYES, 27

Senators—

Question negatived.

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

28 MINING—COAL SEAM, SHALE AND TIGHT GAS MINING

Senator Waters, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 682—That the Senate—

(a) notes:

(i) the concern expressed by regional communities about the impacts on food security and water resources from coal seam gas, shale gas and tight gas, and

(ii) that the Federal Government has power to regulate the conduct of constitutional corporations, including corporations involved in coal seam gas, shale gas and tight gas mining; and

(b) agrees that:

(i) food security and water resources should be prioritised over coal seam gas, shale gas and tight gas mining, and

(ii) the Federal Government should use its constitutional powers to regulate the conduct of corporations undertaking coal seam gas, shale gas and tight gas mining.

Statement by leave: The Assistant Minister for Health (Senator Nash), by leave, made a statement relating to the motion.

Question put.

The Senate divided—

AYES, 11

Senators—

Di Natale Ludlam Siewert (Teller) Wright
Hanson-Young Rhiannon Waters Xenophon
Lazarus Rice Whish-Wilson
Senators—
Bernardi
Birmingham
Brown
Bullock
Bushby
Cameron
Carr
Cash
Colbeck
Conroy
Dastyari
Edwards
Fawcett
Fierravanti-Wells
Fifield
Gallacher
Gallagher
Heffernan
Johnston
Ketter
Leyonhjelm
Lines
Ludwig
Macdonald
Marshall
Mason
McGrath
McKenzie
McLucas
Moore
Nash
O'Neil
Parry
Payne
Ruston
Ryan
Scullion
Seselja
Singh
Sinodinos
Sterle
Urquhart
Williams

Question negatived.

29 **PUBLIC GOVERNANCE AND RESOURCES LEGISLATION AMENDMENT BILL (NO. 1) 2015**

Order of the day read for the adjourned debate on the motion of the Assistant Minister for Health (Senator Nash)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Parliamentary Secretary to the Minister for Education and Training (Senator Ryan) the bill was read a third time.

30 **PARLIAMENTARY SERVICE AMENDMENT BILL 2014**

Order of the day read for the adjourned debate on the motion of the President—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the President the bill was read a third time.

31 **LAW AND JUSTICE—LEGAL ASSISTANCE SECTOR—GOVERNMENT FUNDING**

Senator Wright, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 694—That the Senate—

(a) notes the effects of Commonwealth funding uncertainty on the legal assistance sector, including the possible closure of community legal centres, staff loss, a reduction in services to clients and declining staff morale;
acknowledges that, unless this uncertainty is addressed and funding restored, critical services directed at family violence, child protection, disability and mental health and services to regional, remote and Aboriginal and Torres Strait Islander communities may be irrevocably compromised;

(c) accepts the findings of the Productivity Commission’s 2014 report on access to justice, which recommended an additional $200 million in Commonwealth, state and territory funding be provided for civil legal assistance services to address urgent need; and

(d) calls on the Federal Government to immediately address the funding uncertainty and include increased funding for the legal assistance sector in the 2015-16 Federal Budget.

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

Question put.

The Senate divided—

AYES, 15

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NOES, 32

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Question negatived.

32 TRADE—TRANS-PACIFIC PARTNERSHIP AGREEMENT

Senator Whish-Wilson amended general business notice of motion no. 695 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

(a) notes that the Malaysian Government:

(i) is undertaking a cost-benefit analysis of the impact of the Trans-Pacific Partnership Agreement (the Agreement) to inform its cabinet and parliamentary decision making processes prior to signing any deal, and

(ii) is stating that it will not sign the Agreement unless it proves to be in Malaysia’s interest to do so;

(b) calls on the Australian Government to request that the Productivity Commission undertake a comprehensive socio-economic cost-benefit inquiry into the impact of the Agreement on Australia; and

(c) reiterates the order of the Senate of 11 December 2013 requiring the Minister representing the Minister for Trade and Investment to table the full text of the Agreement at least 14 days before signing.
Statement by leave: Senator Whish-Wilson, by leave, made a statement relating to the motion.

Question put.

The Senate divided—

AYES, 33

Senators—

- Bullock
- Cameron
- Carr
- Collins
- Conroy
- Dastyari
- Di Natale
- Gallagher
- Hanoccoh-Young
- Ketter
- Lambie
- Lazarus
- Ludlam
- Ludwig
- Madigan
- Marshall
- McEwen (Teller)
- McLucas
- Moore
- Muir
- O'Neill
- Rhiannon
- Singh
- Sterle
- Urquhart
- Wang
- Waters
- Whish-Wilson
- Singh
- Carr
- Lambie
- Ludlam
- Dastyari
- Di Natale
- Gallagher
- Hanoccoh-Young
- Ketter
- Carr
- Ludlam
- Dastyari
- Di Natale
- Gallagher

NOES, 27

Senators—

- Abetz
- Back
- Bernardi
- Birmingham
- Bushby (Teller)
- Colbeck
- Edwards
- Fawcett
- Fierravanti-Wells
- Fifield
- Johnston
- Leyonhjelm
- Macdonald
- Mason
- McGrath
- McKenzie
- Nash
- O'Sullivan
- Parry
- Payne
- Reynolds
- Ronaldson
- Rhiannon
- Whish-Wilson
- Rhiannon
- Whish-Wilson
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- Whish-Wilson
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- Whish-Wilson
- Rhiannon
- Whish-Wilson
- Rhiannon

Question agreed to.

33 EDUCATION—RESEARCH AND SCIENCE FUNDING

Senator Rhiannon amended general business notice of motion no. 689 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

(a) notes that science and research are crucial to Australia’s wellbeing and economy, but that funding for science, research and innovation is currently at a 30-year low; and

(b) calls on the Government to:

(i) put funding for research and science on a secure footing, with long-term legislated funding guarantees that last longer than the yearly budget cycle or the 3-year political cycle,

(ii) reverse the decision not to proceed with funding for the Future Fellowship program and guarantee that funding of the National Collaborative Research Infrastructure Strategy will not come at the expense of other areas of the research and education budget, and

(iii) commit to an increase in science and research funding in the Budget.

Statement by leave: The Assistant Minister for Social Services (Senator Fifield), by leave, made a statement relating to the motion.

Question put and passed.
34 HEALTH—FIFTH COMMUNITY PHARMACY AGREEMENT

Senator Di Natale, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 691—That the Senate—

(a) notes the findings of the Australian National Audit Office (ANAO) performance audit into the administration of the $15 billion Fifth Community Pharmacy Agreement (the Agreement); and

(b) that the ANAO found:

(i) expected net savings under the Agreement are not clearly documented,

(ii) there is no straightforward means for the Parliament and other stakeholders to know the expected or actual cost of key components of the Agreement,

(iii) there were persistent shortcomings in record-keeping by the Department of Health (the department) in that:

(A) it failed to keep a record of its meetings with the Pharmacy Guild,

(B) it failed to take minutes of those meetings, and

(C) it did not prepare agreed notes of what had been discussed,

(iv) the decision by the department not to prepare an official record of discussions over a $15 billion funding agreement is not consistent with sound practice,

(v) the department reallocated funds without prior ministerial approval, including to a $5.8 million communication strategy to be delivered by the Pharmacy Guild,

(vi) the department did not secure ministerial approval before reallocating funding of $7.3 million originally approved by ministers,

(vii) that department records indicate that in its preparations for the Agreement negotiations and implementation, the department did not:

(A) develop a risk management plan,

(B) develop a probity plan or consult with a probity advisor,

(C) complete specific conflict of interest declarations for members of its negotiation team, or

(D) develop a strategic implementation plan,

(viii) it would be of benefit for the department, in consultation with the Department of Finance, to clarify the basis on which it treated the Pharmacy Guild as the sole recipient of grants of Commonwealth financial assistance intended to be distributed by the Pharmacy Guild to pharmacy owners, and that the department was unable to provide evidence that the relevant funds were authorised by ministers as grants to the Pharmacy Guild, and

(ix) that including patient co-payments in cost estimates had the effect of significantly overstating the cost to government of the Agreement by approximately $2.2 billion.

Question put and passed.
35 **SPORT—VICTORIA—DUCK HUNTING**
Senator Leyonhjelm, also on behalf of Senators Muir and McKenzie, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 700—That the Senate notes that:

(a) there has been a successful start to the Victorian duck hunting season, with hunters demonstrating their commitment to conserving wetlands and observing game and firearms laws;
(b) the Victorian Game Management Authority has observed increased involvement of family groups;
(c) more than 20 000 licensed duck hunters contribute substantially to the Victorian economy and community each year; and
(d) a study commissioned by the Victorian Department of Environment and Primary Industries estimated that hunting by game licence holders contributed $439 million to the Victorian economy in 2013, and had a total employment impact of 2 382 jobs.

Question put and passed. All Australian Greens senators, by leave, recorded their votes for the noes.

36 **COMMITTEE MEMBERSHIP**
The Acting Deputy President (Senator O’Neill) informed the Senate that the President had received letters requesting changes in the membership of committees.

The Parliamentary Secretary to the Minister for Education and Training (Senator Ryan), by leave, moved—That senators be discharged from and appointed to committees as follows:

- **Abbott Government’s Budget Cuts—Select Committee**—Appointed—Participating member: Senator Gallagher
- **Community Affairs Legislation and References Committees**—Appointed—Participating member: Senator Gallagher
- **Economics Legislation and References Committees**—Appointed—Participating member: Senator Gallagher
- **Education and Employment Legislation and References Committees**—Appointed—Participating member: Senator Gallagher
- **Electoral Matters—Joint Standing Committee**—Appointed [for the purposes of the committee’s inquiry into the 2013 election]—Participating member: Senator Gallagher
- **Environment and Communications Legislation and References Committees**—Appointed—Participating member: Senator Gallagher
- **Finance and Public Administration Legislation and References Committees**—Appointed—Senator Gallagher
- **Foreign Affairs, Defence and Trade Legislation and References Committees**—Appointed—Participating member: Senator Gallagher
- **Health—Select Committee**—Appointed—Participating member: Senator Gallagher
Legal and Constitutional Affairs Legislation Committee—
Appointed—
Substitute members:
Senator Hanson-Young to replace Senator Wright for the committee’s inquiry into the provisions of Migration Amendment (Strengthening Biometrics Integrity) Bill 2015
Senator Ludlam to replace Senator Wright for the committee’s inquiry into the provisions of the Copyright Amendment (Online Infringement) Bill 2015
Senator Moore to replace Senator Collins for the consideration of the 2014-15 additional estimates on 27 March 2015
Participating members: Senators Gallagher and Wright

Legal and Constitutional Affairs References Committee—
Appointed—Participating member: Senator Gallagher

National Broadband Network—Select Committee—
Appointed—Senator McEwen

National Capital and External Territories—Joint Standing Committee—
Appointed—Senator Gallagher

Northern Australia—Joint Select Committee—
Appointed—Participating member: Senator Gallagher

Public Accounts and Audit—Joint Statutory Committee—
Appointed—Senator Gallagher

Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru—Select Committee—
Appointed—
Senators Carr, Gallacher and Hanson-Young

Rural and Regional Affairs and Transport Legislation and References Committees—
Appointed—Participating member: Senator Gallagher

Scrutiny of Bills—Standing Committee—
Appointed—Senator Gallagher

Wind Turbines—Select Committee—
Appointed—Participating member: Senator Gallagher.
Question put and passed.

OMNIBUS REPEAL DAY (SPRING 2014) BILL 2014

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


On the motion of the Parliamentary Secretary to the Minister for Education and Training (Senator Ryan) consideration of the message in committee of the whole was made an order of the day for the next day of sitting.
38 **MIGRATION AMENDMENT (PROTECTION AND OTHER MEASURES) BILL 2014**
A message from the House of Representatives was reported agreeing to the amendments made by the Senate to the following bill:
Message no. 335, dated 25 March 2015—Migration Amendment (Protection and Other Measures) Bill 2014.

39 **GOVERNOR-GENERAL’S MESSAGE—ASSENT TO LAWS**
A message from His Excellency the Governor-General was reported, informing the Senate that he had assented to the following laws:
24 March 2015—Message No. 9—
  *Enhancing Online Safety for Children Act 2015 (Act No. 24, 2015)*
  *Enhancing Online Safety for Children (Consequential Amendments) Act 2015 (Act No. 25, 2015)*.

40 **TELECOMMUNICATIONS (INTERCEPTION AND ACCESS) AMENDMENT (DATA RETENTION) BILL 2015**
Order of the day read for the further consideration of the bill in committee of the whole.

_________

*In the committee*
Consideration resumed of the bill—and of the amendments moved by Senator Xenophon (see entry no. 6).

Debate resumed.

Question—That the amendments be agreed to—put.

The committee divided—

**AYES, 15**

- Di Natale
- Hanson-Young
- Lamie
- Lazarus
- Leyonhjelm
- Rice
- Siewert (Teller)
- Whish-Wilson
- Wright

**NOES, 30**

- Birmingham
- Brandis
- Bullock
- Bushby
- Cameron
- Carr
- Colbeck
- Collins
- Edwards
- Fawcett
- Fifield
- Gallagher
- Ketter
- Lines
- Ludwig
- McEwen
- McGrath
- McKenzie
- McLucas
- Moore
- Nash
- O’Neill
- O’Sullivan
- Polley
- Ruston
- Seselja
- Singh
- Sinodinos
- Sterle (Teller)
- Urquhart

Question negatived.
Senator Wang moved the following amendment:

Schedule 1, item 6L, page 43 (after line 28), at the end of Subdivision D, add:

180Y Notification of access by Organisation

Scope
(1) This section applies if:
(a) a journalist information warrant has been issued in relation to a person under Subdivision B; and
(b) an authorisation was made, under section 175 or 176, under the warrant.

Notification
(2) If the Director-General of Security is satisfied that the disclosure under the authorisation is no longer required, and is not likely to be required, in connection with the purpose for which the authorisation was made, the Director-General must, as soon as practicable, notify the person:
(a) that a journalist information warrant was issued in relation to the person; and
(b) that an authorisation was made under section 175 or 176; and
(c) whether any information or documents were disclosed in accordance with the authorisation.

180Z Notification of access by enforcement agency

Scope
(1) This section applies if:
(a) a journalist information warrant has been issued in relation to a person under Subdivision C; and
(b) an authorisation was made, under section 178, 178A, 179 or 180, under the warrant.

Notification
(2) If the Part 4-1 issuing authority is satisfied that the disclosure is no longer required, and is not likely to be required, in connection with the purpose for which the authorisation was made, the Part 4-1 issuing authority must, as soon as practicable, notify the person:
(a) that a journalist information warrant was issued in relation to the person; and
(b) that an authorisation was made under section 178, 178A, 179 or 180; and
(c) whether any information or documents were disclosed in accordance with the authorisation.

Debate ensued.

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

41 QUESTIONS
Questions without notice were answered.
42 MOTIONS TO TAKE NOTE OF ANSWERS
Senator Cameron moved—That the Senate take note of the answers given by ministers to questions without notice asked by Opposition senators today.
Debate ensued.
Question put and passed.
The Leader of the Australian Greens (Senator Milne) moved—That the Senate take note of the answer given by the Minister for Employment (Senator Abetz) to a question without notice asked by Senator Milne today relating to financial assistance for coal plants in developing countries.
Question put and passed.

43 COMMITTEE REPORTS AND GOVERNMENT RESPONSES—TABLING AND CONSIDERATION PURSUANT TO STANDING ORDER 62(4)
Senator Ruston, at the request of the chairs of the respective committees, tabled the following documents:

Additional estimates 2013-14—
Environment and Communications Legislation Committee—Additional information received on 23 March 2015—Environment portfolio.
Legal and Constitutional Affairs Legislation Committee—Additional information received between 4 December 2014 and 26 March 2015—Attorney-General’s portfolio.

Budget estimates 2014-15 (Supplementary)—
Environment and Communications Legislation Committee—Additional information received between 20 November 2014 and 11 March 2015—Communications portfolio.
Finance and Public Administration Legislation Committee—Additional information received between 11 February and 24 March 2015—
Finance portfolio.
Indigenous issues across portfolios.
Parliamentary departments.
Prime Minister and Cabinet portfolio.
Legal and Constitutional Affairs Legislation Committee—Additional information received between 5 December 2014 and 26 March 2015—
Attorney-General’s portfolio.
Immigration and Border Protection portfolio.
Rural and Regional Affairs and Transport Legislation Committee—Additional information—
Agriculture portfolio.
Infrastructure and Regional Development portfolio.
Senator Ruston, on behalf of the Joint Standing Committee on Treaties, tabled the following report:


Senator Ruston moved—That the Senate take note of the report. Debate adjourned till the next day of sitting, Senator Ruston in continuation.

44 Australian Parliamentary Field Visit to Jordan, Turkey and Lebanon—Document

Senator Ruston, by leave, tabled the following document:

Jordan, Turkey and Lebanon—Report of the Australian parliamentary field visit, 10 to 19 November 2014.

45 Environment—Murray-Darling Basin Plan—Ministerial Statement—Document

The Parliamentary Secretary to the Minister for Agriculture (Senator Colbeck) tabled the following document:

Environment—Murray-Darling Basin Plan—Ministerial statement by the Parliamentary Secretary to the Minister for the Environment (Mr Baldwin), dated 26 March 2015.

46 Vacancy in the Representation of the Australian Capital Territory—Choice of Katy Gallagher—Document

The President tabled the original certificate of the choice by the Australian Capital Territory Legislative Assembly of Katy Gallagher to fill the vacancy caused by the resignation of Senator Lundy (see entry no. 4).

47 Private Health Insurance Amendment Bill (No. 2) 2014

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


The Parliamentary Secretary to the Minister for Agriculture (Senator Colbeck) 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 Colbeck moved—That this bill be now read a second time.

Consideration of legislation: Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the day fixed for the Community Affairs Legislation Committee to report on the bill, 12 May 2015.
The following orders of the day relating to committee reports and government responses were considered:

Procedure—Standing Committee—First report of 2015—Appropriations and Staffing Committee; Cross-bench committee membership, chairing and order of speakers; Powers of Chair in relation to disorder; Language of matters raised under standing order 75; Changes to standing and other orders relating to estimates hearings. Motion of the chair of the committee (Senator Marshall) to take note of report agreed to.

Legal and Constitutional Affairs References Committee—Comprehensive revision of the *Telecommunications (Interception and Access) Act 1979*—Report. Motion of Senator Wright to take note of report agreed to.

Legal and Constitutional Affairs References Committee—Work undertaken by the Australian Federal Police’s Oil for Food Taskforce—Report. Motion of the chair of the committee (Senator Wright) to take note of report agreed to.

Scrutiny of Bills—Standing Committee—Report for 2014 on the work of the committee. Motion of the chair of the committee (Senator Polley) to take note of report agreed to.

Migration—Joint Standing Committee—Inquiry into the Business Innovation and Investment Programme—Report. Motion of Senator Fawcett to take note of report agreed to.

Environment and Communications References Committee—National Landcare Program—Report. Motion of Senator McEwen to take note of report called on. Debate adjourned till the next day of sitting, Senator McEwen in continuation.

Human Rights—Joint Statutory Committee—20th report of 44th Parliament—Human rights scrutiny report. Motion of Senator Fawcett to take note of report called on. On the motion of Senator McEwen the debate was adjourned till the next day of sitting.

Intelligence and Security—Joint Statutory Committee—Review of the declaration of al-Raqqa province, Syria—Report. Motion of Senator Fawcett to take note of report agreed to.

Economics References Committee—Privatisation of state and territory assets and new infrastructure—Report. Motion of Senator McEwen to take note of report called on. Debate adjourned till the next day of sitting, Senator McEwen in continuation.

Finance and Public Administration References Committee—Domestic violence in Australia—Interim report. Motion to take note of report called on. On the motion of Senator McEwen the debate was adjourned till the next day of sitting.

National Broadband Network—Select Committee—Second interim report. Motion to take note of report called on. On the motion of Senator McEwen the debate was adjourned till the next day of sitting.

Economics References Committee—Need for a national approach to retail leasing arrangements—Report. Motion of Senator Bilyk to take note of report agreed to.
Foreign Affairs, Defence and Trade—Joint Standing Committee—Report—
Australia’s trade and investment relationship with Japan and the Republic of
Korea—Government response. Motion of Senator Bilyk to take note of document
called on. On the motion of Senator McEwen the debate was adjourned till the next
day of sitting.

Education and Employment References Committee—Principles of the Higher
Education and Research Reform Bill 2014, and related matters—Report. Motion of
Senator Bilyk to take note of report called on. On the motion of Senator McEwen
the debate was adjourned till the next day of sitting.

National Disability Insurance Scheme—Joint Standing Committee—Progress
report—Implementation and administration of the National Disability Insurance
Scheme—Government response. Motion of Senator Siewert to take note of document
called on. On the motion of Senator McEwen the debate was adjourned till the next day of sitting.

Foreign Affairs, Defence and Trade References Committee—Report—
Korea-Australia Free Trade Agreement—Government response. Motion of Senator
Bilyk to take note of document called on. On the motion of Senator McEwen the
debate was adjourned till the next day of sitting.

Intelligence and Security—Joint Statutory Committee—Telecommunications
(Interception and Access) Amendment (Data Retention) Bill 2014—Advisory
report. Motion of Senator Bilyk to take note of report agreed to.

Economics Legislation Committee—Competition and Consumer Amendment
(Inclusion of Market Power) Bill 2014—Report. Motion of Senator Xenophon to
take note of report agreed to.

Environment and Communications References Committee—Report—
Environmental offsets—Government response. Motion of Senator Bilyk to take
note of document called on. On the motion of Senator Hanson-Young the debate
was adjourned till the next day of sitting.

Abbott Government’s Budget Cuts—Select Committee—First interim report.
Motion of Senator Bilyk to take note of report debated. Debate adjourned till the
next day of sitting, Senator Polley in continuation.

Rural and Regional Affairs and Transport References Committee—Current
requirements for labelling of seafood and seafood products—Report. Motion of
Senator Bilyk to take note of report agreed to.

Legal and Constitutional Affairs References Committee—Incident at the Manus
Island Detention Centre from 16 February to 18 February 2014—Interim and final
reports. Motion of Senator Bilyk to take note of reports called on. On the motion of
Senator Hanson-Young the debate was adjourned till the next day of sitting.

Community Affairs References Committee—Extent of income inequality in
Australia – Bridging our growing divide: inequality in Australia—Report. Motion of
the chair of the committee (Senator Siewert) to take note of report called on. On
the motion of Senator Hanson-Young the debate was adjourned till the next day of
sitting.

Health—Select Committee—First interim report. Motion of Senator Seselja to take
note of report agreed to.
49 **AUDITOR-GENERAL’S REPORTS—ORDERS OF THE DAY—CONSIDERATION**

The following order of the day relating to reports of the Auditor-General was considered:

Auditor-General—Audit report no. 25 of 2014-15—Performance audit—Administration of the Fifth Community Pharmacy Agreement: Department of Health; Department of Human Services; Department of Veterans’ Affairs. Motion of Senator Di Natale to take note of document agreed to.

50 **TELECOMMUNICATIONS (INTERCEPTION AND ACCESS) AMENDMENT (DATA RETENTION) BILL 2015**

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

In the committee

Consideration resumed of the bill—and of the amendment moved by Senator Wang (see entry no. 40).

Debate resumed.

Question—That the amendment be agreed to—put.

The committee divided—

**AYES, 16**

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<th>Leyonhjelm</th>
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**NOES, 44**

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Question negatived.

*After 4 pm:* The President resumed the chair and the Temporary Chair of Committees (Senator Bernardi) reported progress.

51 **VALEDICTORY STATEMENT**

Pursuant to order (see entry no. 26, 25 March 2015), Senator Mason made his valedictory statement.
52 

TELECOMMUNICATIONS (INTERCEPTION AND ACCESS) AMENDMENT (DATA RETENTION) BILL 2015

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.

Senator Xenophon moved the following amendments together by leave:

Schedule 1, item 6V, page 46 (lines 13 to 31), omit section 182A, substitute:

182A Disclosure/use offences: journalist information warrants

(1) A person commits an offence if:

(a) the person discloses or uses information; and

(b) the information is about any of the following:

(i) whether a journalist information warrant (other than such a warrant that relates only to section 178A) has been, or is being, requested or applied for;

(ii) the making of such a warrant;

(iii) the existence or non-existence of such a warrant;

(iv) the revocation of such a warrant; and

(c) the person knows that the information is about a warrant as set out in paragraph (b); and

(d) at the time of the disclosure or use, the matter to which the warrant relates is ongoing.

Penalty: Imprisonment for 2 years.

(2) A person commits an offence if:

(a) the person discloses or uses a document; and

(b) the document consists (wholly or partly) of any of the following:

(i) a journalist information warrant (other than such a warrant that relates only to section 178A);

(ii) the revocation of such a warrant; and

(c) the person knows that the document consists (wholly or partly) of the warrant or the revocation of the warrant; and

(d) at the time of the disclosure or use, the matter to which the warrant relates is ongoing.

Penalty: Imprisonment for 2 years.

Schedule 1, item 6V, page 47 (before line 4), before paragraph 182B(a), insert:

(aa) both:

(i) the disclosure or use is by a person working in a professional capacity as a journalist; and

(ii) the information or document is disclosed or used in that capacity for the purpose of disseminating information on a matter of public interest; or
Schedule 1, item 6X, page 48 (before line 1), before section 185D, insert:

**185CA Evidentiary certificate relating to ongoing Ombudsman matter**

(1) The Director-General of Security or the Deputy Director-General of Security may issue a written certificate signed by him or her setting out:

(a) whether a matter involving the grounds on which a journalist information warrant was issued is ongoing; and

(b) whether the matter was ongoing on a specified date.

(2) A document purporting to be a certificate issued under subsection (1) by the Director-General of Security or the Deputy Director-General of Security and to be signed by him or her:

(a) is to be received in evidence in an exempt proceeding without further proof; and

(b) is, in an exempt proceeding, prima facie evidence of the matters stated in the document.

Note: An evidentiary certificate issued under this section relates to an offence under section 182A.

**185CB Evidentiary certificate relating to ongoing enforcement agency matter**

(1) A certifying offer of an enforcement agency may issue a written certificate signed by him or her setting out:

(a) whether a matter involving the grounds on which a journalist information warrant was issued is ongoing; and

(b) whether the matter was ongoing on a specified date.

(2) A document purporting to be a certificate issued under subsection (1) by a certifying officer of an enforcement agency and to be signed by him or her:

(a) is to be received in evidence in an exempt proceeding without further proof; and

(b) is, in an exempt proceeding, prima facie evidence of the matters stated in the document.

Note: An evidentiary certificate issued under this section relates to an offence under section 182A.

Debate ensued.

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

Question—That the bill stand as printed—divided, at the request of Senator Ludlam, in respect of Schedule 2, items 3, 4 and 8.

Schedule 2, items 3, 4 and 8 debated and agreed to.

Senator Ludlam moved the following amendments together by leave:

Schedule 2, item 6, page 63 (lines 6 to 10), omit the item, substitute:

6 Subsection 5(1) (definition of criminal law-enforcement agency)

Omit “paragraphs (a) to (k)”, substitute “paragraphs (a) to (l)”.
Schedule 2, item 7, page 63 (lines 11 to 13), omit the item, substitute:

7 **Subsection 5(1) (definition of enforcement agency)**

Repeal the definition, substitute:

> enforcement agency means:
> (a) the Australian Federal Police; or
> (b) a Police Force of a State; or
> (c) the Australian Commission for Law Enforcement Integrity; or
> (d) the ACC; or
> (e) the Australian Customs and Border Protection Service; or
> (f) the Crime Commission; or
> (g) the Independent Commission Against Corruption; or
> (h) the Police Integrity Commission; or
> (i) the IBAC; or
> (j) the Crime and Corruption Commission of Queensland; or
> (k) the Corruption and Crime Commission; or
> (l) the Independent Commissioner Against Corruption; or
> (m) a body or organisation responsible to the Ministerial Council for Police and Emergency Management-Police; or
> (n) the CrimTrac Agency; or
> (o) any body whose functions include:
> (i) administering a law imposing a pecuniary penalty; or
> (ii) administering a law relating to the protection of the public revenue.

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

Senator Ludlam moved the following amendment:

Schedule 2, Part 2, page 68 (after line 12), at the end of the Part, add:

**47A At the end of Division 6 of Part 4-1**

Add:

**182C Destruction of information or documents obtained under authorisation**

Authorisations under Division 3 by the Organisation

(1) If:

(a) information, or a document, that was obtained by the Organisation in accordance with an authorisation under Division 3 is in the Organisation’s possession; and

(b) the Director-General of Security is satisfied that the information or document is no longer required, and is not likely to be required, in connection with the purpose for which the authorisation was given;

the Director-General of Security must cause the information or document, including any copies of the information or document, to be destroyed as soon as practicable.
Authorisations under Division 4 by an enforcement agency

(2) If:
(a) information, or a document, that was obtained by an enforcement agency in accordance with an authorisation under Division 4 is in an enforcement agency’s possession; and
(b) the head (however described) of the agency is satisfied that the information or document is no longer required, and is not likely to be required, in connection with the purpose for which the authorisation was given;
the head (however described) of the enforcement agency must cause the information or document, including any copies of the information or document, to be destroyed as soon as practicable.

Authorisations under Division 4A by the Australian Federal Police

(3) If:
(a) information, or a document, that was obtained by the Australian Federal Police in accordance with an authorisation under Division 4A is in the Australian Federal Police’s possession; and
(b) the Commissioner of Police is satisfied that the information or document is no longer required, and is not likely to be required, in connection with the purpose for which the authorisation was given;
the Commissioner of Police must cause the information or document, including any copies of the information or document, to be destroyed as soon as practicable.

Debate ensued.

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

Senator Ludlam moved the following amendment:

Schedule 3, item 7, page 77 (after line 29), after subsection 186B(1), insert:

(1A) For the purposes of paragraph (1)(a), the Ombudsman must inspect the records of each enforcement agency at least once every 6 months in relation to authorisations under Division 3, 4 or 4A of Part 4-1.

Debate ensued.

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

Senator Xenophon moved the following amendment:

Page 84 (after line 31), at the end of the bill, add:

Schedule 4—Disclosure by journalists

Australian Security Intelligence Organisation Act 1979

1 Subsections 35P(1), (2) and (3)

Repeal the subsections, substitute:

Unauthorised disclosure of information

(1) A person commits an offence if:
(a) the person discloses information; and
(b) the information relates to a special intelligence operation; and
(c) the person knows that the information relates to a special intelligence operation.

Penalty: Imprisonment for 5 years.

Unauthorized disclosure of information—endangering safety, etc.

(2) A person commits an offence if:
(a) the person discloses information; and
(b) the information relates to a special intelligence operation; and
(c) the person knows that the information relates to a special intelligence operation; and
(d) the person intends the disclosure of information to endanger the health or safety of any person or prejudice the effective conduct of a special intelligence operation.

Penalty: Imprisonment for 10 years.

Exceptions

(3) Subsections (1) and (2) do not apply if:
(a) the disclosure was in connection with the administration or execution of this Division; or
(b) the disclosure was for the purposes of any legal proceedings arising out of or otherwise related to this Division or of any report of any such proceedings; or
(c) the disclosure was in accordance with any requirement imposed by law; or
(d) the disclosure was in connection with the performance of functions or duties, or the exercise of powers, of the Organisation; or
(e) the disclosure was for the purpose of obtaining legal advice in relation to the special intelligence operation; or
(f) the disclosure was to an IGIS official for the purpose of the Inspector-General of Intelligence and Security exercising powers, or performing functions or duties, under the Inspector-General of Intelligence and Security Act 1986; or
(g) the disclosure was by an IGIS official in connection with the IGIS official exercising powers, or performing functions or duties, under that Act; or
(h) the disclosure was:
   (i) by a person who was working in a professional capacity as a journalist, or an employer of such a person; and
   (ii) published in good faith in a report or commentary about a matter of public interest; and
   (iii) the report was not likely to enable an ASIO employee, ASIO affiliate, a staff member of ASIS or an IGIS official to be identified.

Note: A defendant bears an evidential burden in relation to the matters in this subsection—see subsection 13.3(3) of the Criminal Code.

(3A) Without limiting paragraph (3)(h), a disclosure is about a matter of public interest if it relates to one or more of the following:
(a) a matter that increases the ability of the public to scrutinise and debate issues of national security;
(b) a matter that would promote the integrity and accountability of the Organisation, ASIS or the Inspector-General of Intelligence and Security in relation to national security and other related issues;

(c) conduct that:
   (i) contravenes a law of the Commonwealth, a State or a Territory; or
   (ii) contravenes a law of a foreign country; or
   (iii) is engaged in for the purpose of perverting, or attempting to pervert, the course of justice; or
   (iv) is engaged in for the purpose of corruption; or
   (v) constitutes maladministration; or
   (vi) constitutes an abuse of public trust; or
   (vii) involves an official of a public agency abusing his or her position as an official of that agency; or
   (viii) could, if proved, give reasonable grounds for disciplinary action against an official of a public agency.

**Crimes Act 1914**

2 At the end of subsection 3ZZHA(2)

Add:

; (g) the disclosure is:
   (i) made by a person who is working in a professional capacity as a journalist, or an employer of such a person; and
   (ii) published in good faith in a report or commentary about a matter of public interest; and
   (iii) the report or commentary is not likely to enable an officer of the Australian Security Intelligence Organisation, a staff member of the Australian Secret Intelligence Service, or a staff member of the Inspector-General of Intelligence Services to be identified.

3 At the end of section 3ZZHA

Add:

(3) Without limiting paragraph (3)(h), a disclosure is about a matter of public interest if it relates to one or more of the following:
   (a) a matter that increases the ability of the public to scrutinise and debate issues of national security;
   (b) a matter that would promote the integrity and accountability of the Australian Security Intelligence Organisation, the Australian Secret Intelligence Service or the Inspector-General of Intelligence Services in relation to national security and other related issues;
   (c) conduct that:
      (i) contravenes a law of the Commonwealth, a State or a Territory; or
      (ii) contravenes a law of a foreign country; or
      (iii) is engaged in for the purpose of perverting, or attempting to pervert, the course of justice; or
      (iv) is engaged in for the purpose of corruption; or
Criminal Code Act 1995

4 Paragraph 119.7(2)(b) of the Criminal Code

Repeal the paragraph, substitute:

(b) the person publishes the advertisement or item of news intending to encourage the recruitment of persons to serve in any capacity in or with an armed force in a foreign country.

5 After paragraph 119.7(3)(b) of the Criminal Code

Insert:

; (c) the publication of the advertisement or item of news was not in the public interest.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 17

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NOES, 42

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Question negatived.

Bill agreed to.

Bill to be reported without amendment.

The President resumed the chair and the Chair of Committees (Senator Marshall) reported accordingly.

On the motion of the Attorney-General (Senator Brandis) the report from the committee was adopted.
Senator Brandis moved—that this bill be now read a third time.
Debate ensued.
Question put.
The Senate divided—

AYES, 43

Senators—

Back                Conroy                Ludwig                Polley
Birmingham          Dastyari               Macdonald             Reynolds
Brandis             Edwards                Mason                 Ruston
Brown               Fawcett                McEwen                Seselja
Bullock             Fierravanti-Wells       McGrath               Singh
Bushby (Teller)     Fifield                McKenzie              Sinodinos
Cameron             Gallacher              Moore                 Urquhart
Canavan             Gallagher              Nash                  Wang
Carr                Johnston               O'Neil                Williams
Colbeck             Ketter                 O'Sullivan            Wong
Collins             Lines                  Parry

NOES, 16

Senators—

Di Natale           Leyonhjelm             Muir                  Waters
Hanson-Young        Ludlam                 Rhiannon              Whish-Wilson
Lambie              Madigan                Rice                  Weight
Lazarus             Milne                  Siewert (Teller)       Xenophon

Question agreed to.
Bill read a third time.

53 COMMITTEE MEMBERSHIP

The President informed the Senate that he had received letters requesting changes in
the membership of committees.

The Assistant Minister for Social Services (Senator Fifield), by leave, moved—that
senators be discharged from and appointed to committees as follows:

Environment and Communications Legislation Committee—

Appointed—
Substitute member: Senator Ludlam to replace Senator Waters for the
committee’s inquiry into the provisions of the Communications Legislation
Amendment (SBS Advertising Flexibility and Other Measures) Bill 2015
Participating member: Senator Waters

Recent Allegations relating to Conditions and Circumstances at the Regional
Processing Centre in Nauru—Select Committee—

Appointed—
Senators Bernardi and Reynolds
Participating members: Senators Back, Bushby, Canavan, Edwards,
Fawcett, Heffernan, Lambie, Lazarus, Macdonald, McGrath, McKenzie,
Muir, O’Sullivan, Ruston, Seselja, Smith and Williams.

Question put and passed.
54 **NEXT MEETING OF SENATE**

The Assistant Minister for Social Services (Senator Fifield) moved—That the Senate, at its rising, adjourn till Monday, 11 May 2015, at 10 am, or such other time as may be fixed by the President or, in the event of the President being unavailable, by the Deputy President, and that the time of meeting so determined shall be notified to each senator.

Question put and passed.

55 **LEAVE OF ABSENCE**

The Assistant Minister for Social Services (Senator Fifield) moved—That leave of absence be granted to every member of the Senate from the end of the sitting today to the day on which the Senate next meets.

Question put and passed.

56 **ADJOURNMENT**

The Assistant Minister for Social Services (Senator Fifield) moved—That the Senate do now adjourn.

The Senate adjourned at 6.39 pm till Monday, 11 May 2015 at 10 am.

57 **ATTENDANCE**

Present, all senators except Senators Bilyk*, Cormann*, Day*, Peris* and Smith* (*on leave).

**ROSEMARY LAING**

Clerk of the Senate