THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 77

TUESDAY, 28 FEBRUARY 2012

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1 **MEETING OF SENATE**

The Senate met at 12.30 pm. The President (Senator the Honourable John Hogg) took the chair, read prayers and made an acknowledgement of country.

2 **GOVERNMENT DOCUMENTS**

The following documents were tabled:

Audio-Visual Copyright Society Limited (Screenrights)—Report for 2010-11.


Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 October to 31 December 2011.

Coal Mining Industry (Long Service Leave Funding) Corporation—Report for 2010-11.

Innovation Australia—Report for 2010-11.

*Sydney Airport Demand Management Act 1997*—Quarterly report on the maximum movement limit for Sydney Airport for the period 1 October to 31 December 2011.

Treaties—

*Bilateral*—Agreement between Australia and the European Union Amending the Agreement on Mutual Recognition in relation to Conformity Assessment, Certificates and Markings between the European Community and Australia, done at Brussels on 23 February 2012—Text, together with national interest analysis and annexure.

*Multilateral*—

Convention providing a Uniform Law on the Form of an International Will, done at Washington D.C. on 26 October 1973—Text, together with national interest analysis and annexure.

Text, together with national interest analysis—

Amendments to the Agreement Establishing the European Bank for Reconstruction and Development, adopted at London on 30 September 2011.

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on 18 December 2002.

3 **SENATE—USHER OF THE BLACK ROD—REGALIA—STATEMENT BY PRESIDENT**

The President made a statement relating to the donation of items used by the Usher of the Black Rod and pieces of furniture to the Museum of Australian Democracy at Old Parliament House.

4 **NATIONAL RADIOACTIVE WASTE MANAGEMENT BILL 2010**

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

________

*In the committee*

Consideration resumed of the bill.

Bill further debated.
Senator Ludlam moved the following amendment:

Clause 4, page 3 (line 1), after “1998”, insert “that is of domestic origin”.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 10

Senators—

Brown, Bob  Ludlam  Siewert (Teller)  Wright
Di Natale  Milne  Waters  Xenophon
Hanson-Young  Rhiannon

NOES, 31

Senators—

Arbib  Evans  Madigan  Scullion
Boswell  Fawcett  Marshall  Singh
Boyce  Feeney  McKenzie  Sinodinos
Brown, Carol  Fierravanti-Wells  McLucas  Sterle
Cameron  Fifield  Moore  Thistlethwaite
Cash  Gallacher  Parry  Urquhart
Crossin  Hogg  Polley  Williams (Teller)
Edwards  Landy  Pratt

Question negatived.

Senator Ludlam moved the following amendment:

Clause 5, page 6 (lines 9 and 10), omit subclause (4), substitute:

(4) A nomination which does not comply with subsection (2) is invalid and of no effect for any purpose under this Act.

Debate ensued.

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

Question—That the bill be agreed to—divided, at the request of Senator Ludlam, in respect of subclauses 6(5), 8(4), 9(6), 15(2) and 17(6).

Subclauses 6(5), 8(4), 9(6), 15(2) and 17(6) agreed to.

Bill further debated.

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

5 QUESTIONS

Questions without notice were answered.
6 MOTIONS TO TAKE NOTE OF ANSWERS

Senator Ronaldson moved—That the Senate take note of the answers given by the Minister for Tertiary Education, Skills, Science and Research (Senator Evans) and the Assistant Treasurer (Senator Arbib) to questions without notice asked by Senator Brandis and the Leader of The Nationals in the Senate (Senator Joyce) today relating to the Labor Government and to small business.

Debate ensued.

Question put and passed.

Senator Wright moved—That the Senate take note of the answer given by the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) to a question without notice asked by Senator Wright today relating to Indigenous youth suicide.

Question put and passed.

7 NOTICES

Senator Cormann: To move on the next day of sitting—That the provisions of the Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill 2012 be referred to the Parliamentary Joint Committee on Corporations and Financial Services for inquiry and report by 13 March 2012. (general business notice of motion no. 663)

Senators Cash, Kroger and Boyce: To move on the next day of sitting—That the Senate—

(a) notes that 8 March is International Women’s Day (IWD) and that the theme for IWD 2012 is ‘Empower Rural Women – End Hunger and Poverty’;
(b) acknowledges the work that UN Women, the United Nations (UN) organisation dedicated to gender equality and the empowerment of women, undertakes to improve the conditions of women, both domestically and internationally;
(c) notes the statement made by Kofi Annan, former UN Secretary-General on International Women’s Day 2005 that ‘study after study has taught us that there is no tool for development more effective than the empowerment of women. No other policy is as likely to raise economic productivity, or to reduce infant and maternal mortality. No other policy is as sure to improve nutrition and promote health – including the prevention of HIV/AIDS. No other policy is as powerful in increasing the chances of education for the next generation’;
(d) acknowledges:
   (i) that despite the many rights and privileges Australian women enjoy, there remain challenges that we must strive to overcome, and
   (ii) that rural women with disabilities are particularly at risk;
(e) notes, with concern, that in Australia, violence against women is still far too common, with Australian Bureau of Statistics data continuing to show that 1 in 3 women have experienced physical violence since the age of 15; and
(f) recognises that Australians have a fundamental obligation to speak out and protect the human rights of women, both in Australia and overseas. (general business notice of motion no. 664)

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

(a) notes the presence of the Women for a Living Basin delegation in Canberra on Wednesday, 29 February 2012, representing women and families from Murray Darling Basin (MDB) communities in southern New South Wales;
(b) recognises:
   (i) the widespread concern that the draft Basin Plan is having on MDB communities, and
   (ii) that these concerns include mental stress, job and business uncertainty, loss of skills, bank pressure, impact on land prices and equity, families relocating and pressure on schools;
(c) supports:
   (i) the call for more comprehensive consultation in all MDB communities by the Murray-Darling Basin Authority (MDBA) than allowed for by the number of meetings held so far,
   (ii) the call for the MDBA to publicly release details of planned consultation meetings weeks in advance to allow communities to plan ahead so that they can attend,
   (iii) deeply held community concerns at the MDBA’s decision to hold consultation meetings during various harvests making it difficult for farmers to attend,
   (iv) the call on the Parliament by communities, such as those represented by the Women for a Living Basin, to recognise the importance of MDB communities and their long-term survival, sustainability and certainty,
   (v) the call to ensure the final plan does not lead to significant economic impact in terms of loss of jobs, skills and the impact on families,
   (vi) the call by MDB communities to ensure a final basin plan balances the needs of communities with those of the environment, and
   (vii) the call on the Government to listen to, not ignore, community and farmer concerns about non-strategic water buybacks, with preference for irrigation infrastructure upgrades instead to achieve water savings; and
(d) condemns the Government for breaking its promise to freeze buybacks in the southern MDB until 2013. (general business notice of motion no. 665)

Senator Ludlam: To move on the next day of sitting—That the Senate notes that Australian citizen Julian Assange has been recognised as a journalist by the:
   (a) Queen’s Bench Division of the British High Court ruling of 2 November 2011;
   (b) Australian Walkley Award for Most Outstanding Contribution to Journalism 2011;
   (c) Martha Gellhorn Prize for Journalism 2011;
   (d) Italian International Piero Passetti Journalism Prize of the National Union of Italian Journalists 2011;
   (e) Spanish José Couso Press Freedom Award 2011;
   (f) Spanish Voice of the West Freedom of Expression Award 2011; and
   (g) Amnesty International UK Media Award 2009. (general business notice of motion no. 666)

The Leader of the Opposition in the Senate (Senator Abetz): To move on the next day of sitting—That the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2012, as passed by the House of Representatives on 16 February 2012, be referred to the Education, Employment and Workplace Relations Legislation Committee for inquiry and report by 8 May 2012.
The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the Senate—

(a) notes:

(i) the public protests in Malaysia against the establishment of a rare earth processing plant by the Australian company Lynas Corporation Ltd,

(ii) the protests are supported by the Malaysian Opposition leader Anwar Ibrahim, and

(iii) the concerns of the protestors include the radioactive by-product that will be produced by the plant and disposed of in Malaysia, the lack of benefit to the local communities particularly given the 12-year tax break granted to the project and the threat from the plant to the local environment, including the Balok River; and

(b) calls on the Australian Government to report to the Senate by Thursday, 1 March 2012 on what assistance has been provided to Lynas Corporation Ltd and what due diligence has or will be done on Lynas Corporation Ltd. (general business notice of motion no. 667)

8 EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING

Senator McEwen, by leave and at the request of the Chair of the Education, Employment and Workplace Relations Legislation Committee (Senator Marshall), moved—That the Education, Employment and Workplace Relations Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Wednesday, 29 February 2012, from 1.50 pm. Question put and passed.

9 POSTPONEMENT

The following item of business was postponed:

General business notice of motion no. 27 standing in the name of the Leader of the Australian Greens (Senator Bob Brown) for today, proposing the introduction of the Food Standards Amendment (Truth in Labelling Laws) Bill 2010, postponed till 20 March 2012.

10 CYBER SAFETY—JOINT SELECT COMMITTEE—LEAVE TO MEET DURING SITTING

Senator McEwen, at the request of the Chair of the Joint Select Committee on Cyber Safety (Senator Bilyk) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 652—That the Joint Select Committee on Cyber Safety be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 14 March 2012, from 4.15 pm. Question put and passed.
11 ELECTORAL MATTERS—JOINT STANDING COMMITTEE—LEAVE TO MEET DURING SITTING

Senator McEwen, at the request of Senator Carol Brown and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 654—That the Joint Standing Committee on Electoral Matters be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 29 February 2012, from 9.30 am to 11.30 am, to take evidence for the committee’s inquiry into the Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012.

Question put and passed.

12 LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING

Senator McEwen, at the request of the Chair of the Legal and Constitutional Affairs Legislation Committee (Senator Crossin) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 655—That the Legal and Constitutional Affairs Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 1 March 2012, from 4 pm, to take evidence for the committee’s inquiry into the provisions of the Access to Justice (Federal Jurisdiction) Amendment Bill 2011.

Question put and passed.

13 LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE—EXTENSIONS OF TIME TO REPORT

Senator McEwen, at the request of the Chair of the Legal and Constitutional Affairs Legislation Committee (Senator Crossin) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 656—That the time for the presentation of reports of the Legal and Constitutional Affairs Legislation Committee be extended as follows:

(a) Crimes Amendment (Fairness for Minors) Bill 2011—to 4 April 2012;
(b) Migration Amendment (Removal of Mandatory Minimum Penalties) Bill 2012—to 4 April 2012; and
(c) Marriage Equality Amendment Bill 2010—to 6 June 2012.

Question put and passed.

14 GAMBLING REFORM—JOINT SELECT COMMITTEE—LEAVE TO MEET DURING SITTING

Senator McEwen, at the request of Senator Crossin and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 657—That the Joint Select Committee on Gambling Reform be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 28 February 2012, from 4 pm, followed by an in camera hearing.

Question put and passed.
15 **COMMUNITY AFFAIRS LEGISLATION COMMITTEE—EXTENSIONS OF TIME TO REPORT**

Senator McEwen, at the request of the Chair of the Community Affairs Legislation Committee (Senator Moore) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 659—That the time for the presentation of reports of the Community Affairs Legislation Committee be extended as follows:

(a) provisions of the Personally Controlled Electronic Health Records Bill 2011 and a related bill—to 13 March 2012; and

(b) 2011-12 additional estimates—to 29 March 2012.

Question put and passed.

16 **MIGRATION—JOINT STANDING COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator McEwen, at the request of Senator Singh and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 660—That the Joint Standing Committee on Migration be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 14 March 2012, from 10.30 am.

Question put and passed.

17 **TREATIES—JOINT STANDING COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Kroger, at the request of the Deputy Chair of the Joint Standing Committee on Treaties (Senator Birmingham) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 653—That the Joint Standing Committee on Treaties be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 28 February 2012, from 8 pm, followed by a private briefing.

Question put and passed.

18 **AUSTRALIA’S IMMIGRATION DETENTION NETWORK—JOINT SELECT COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Siewert, at the request of the Deputy Chair of the Joint Select Committee on Australia’s Immigration Detention Network (Senator Hanson-Young) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 658—That the Joint Select Committee on Australia’s Immigration Detention Network be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 29 February 2012, from 5.30 pm.

Question put and passed.
FOREIGN AFFAIRS—MR MAMDOUH HABIB—INSPECTOR-GENERAL OF INTELLIGENCE AND SECURITY REPORT—PROPOSED ORDER FOR PRODUCTION OF DOCUMENT

The Leader of the Australian Greens (Senator Bob Brown), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 661—That there be laid on the table by 13 March 2012, by the Minister representing the Prime Minister (Senator Evans), the report undertaken by the Inspector-General of Intelligence and Security into the actions of the relevant Australian agencies in relation to the arrest and detention overseas of Mr Mamdouh Habib.

Question put.

The Senate divided—

AYES, 10

Senators—
Brown, Bob
Di Natale
Hanson-Young
Ladlam
Milne
Rhiannon
Siewert (Teller)
Waters
Wright

NOES, 32

Senators—
Arbib
Back
Bilyk
Brown, Carol
Bushby
Cameron
Colbeck
Collins
Crossin
Edwards
Eggleston
Farrell
Feeney
Fifield
Fisher
Furner
Gallacher
Joyce
Kroger
Lundy
Madigan
Marshall
McEwen (Teller)
McKenzie
McLucas
Moore
Parry
Pratt
Stephens
Sterle
Thistlethwaite
Urquhart

Question negatived.

EDUCATION—HIGHER EDUCATION FUNDING

Senator Rhiannon, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 662—That the Senate—

(a) notes that:

(i) the quality of our higher education contributes to Australia’s social well-being and builds the skills and knowledge vital to our economic development and our place within the competitive global economy,

(ii) demand for higher education graduates is expected to be stronger than overall employment growth over the next decade,

(iii) Australian universities are being asked to significantly expand at a time when their income is increasingly uncertain, and when their dependence on international student fees to subsidise teaching and research is severely compromised with diminishing overseas student enrolments,

(iv) decades of decline in public university funding has driven up student to staff ratios, increased staff workloads and dated infrastructure,

(v) in Australia average base funding per student declined in real terms from 1994 to 2003, and only increased in 2010 to the same level as in 1994, whilst the real value of the Commonwealth contribution per student remains well below the 1994 level,
(vi) in 2008 Australia’s expenditure on tertiary education was 0.7 per cent of gross domestic product (GDP), which equalled the Slovak Republic, fell well short of the Organisation for Economic Co-operation and Development (OECD) 1 per cent average, and was lower than 25 out of 30 countries which spent more than Australia,

(vii) the 2011 Lomax-Smith *Higher education base funding review* stated it believed ‘an increased level of investment per student would be required to improve the quality of higher education teaching’ and to ‘maximise the sector’s potential to contribute to national productivity and economic growth’, and

(viii) the 2008 Bradley *Review of Australian higher education* recommended that the Australian Government increase the base funding for teaching and learning in higher education by 10 per cent, and

(b) calls on the Government to:

(i) immediately increase base funding for public universities by a minimum of 10 per cent in the 2012-13 federal budget,

(ii) position Australia ahead of the OECD average for public investment in higher education by steadily increasing investment from the current 0.7 per cent of GDP to beyond the OECD average of 1 per cent of GDP, to take Australia’s ranking from the bottom to the top of the OECD countries, and

(iii) not increase student contributions in proportion to any increases in government base funding.

Question put.
The Senate divided—

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Question negatived.
21 **DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—ADMINISTRATION—GILLARD GOVERNMENT**

The Deputy President (Senator Parry) informed the Senate that Senator Fifield had proposed that the following matter of public importance be submitted to the Senate for discussion:

> The failure of the Gillard Government to run an honest, transparent and accountable administration.

The proposal was supported by four senators and the matter was discussed.

22 **DEFENCE—AUSTRALIAN DEFENCE FORCE ACADEMY—COMMODORE KAFER—ANSWER TO QUESTION—STATEMENT BY LEAVE**

The Minister for Manufacturing (Senator Carr), by leave, made a statement clarifying the answer he gave to a question without notice asked by Senator Johnston today relating to the Australian Defence Force Academy and Commodore Kafer.

*Statement by leave*: Senator Johnston, by leave, made a statement relating to the matter.

23 **LAW AND JUSTICE—KURDISH COMMUNITY—DOCUMENT**

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

> Law and justice—Kurdish community—Letter to the President of the Senate from the Victorian Minister for Police and Emergency Services (Mr Ryan) responding to the resolution of the Senate of 15 September 2011, dated 21 February 2012.

24 **COUNCIL OF EUROPE AND 57TH ANNUAL SESSION OF THE NATO PARLIAMENTARY ASSEMBLY—AUSTRALIAN PARLIAMENTARY DELEGATION—DOCUMENT**

Senator Pratt, by leave, tabled the following document:

> Council of Europe, Strasbourg, and 57th Annual Session of the NATO Parliamentary Assembly, Bucharest, 3 October to 9 October 2011—Report of the Australian parliamentary delegation, dated February 2012.

25 **ASIA PACIFIC PARLIAMENTARY FORUM—AUSTRALIAN PARLIAMENTARY DELEGATION—DOCUMENT**

Senator Bilyk, by leave, tabled the following document:

> Asia Pacific Parliamentary Forum—20th annual meeting, Tokyo, from 8 January to 12 January 2012—Report of the Australian parliamentary delegation, dated February 2012.

Senator Bilyk, by leave, moved—That the Senate take note of the document. Debate ensued.

Question put and passed.
The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

Administrative Appeals Tribunal Act—Select Legislative Instrument 2012 No. 7—Administrative Appeals Tribunal Amendment Regulation 2012 (No. 1) [F2012L00396].

Australian National University Act—Australian National University Academic Board Statute 2012 [F2012L00418].

Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 4 of 2012—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 [F2012L00406].

Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—
   AD/BEECH 33/48 Amdt 1—Forward Elevator Cable [F2012L00409].
   AD/BEECH 35/74 Amdt 1—Forward Elevator Cable [F2012L00411].
   AD/BEECH 36/54 Amdt 1—Forward Elevator Cable [F2012L00412].
   AD/BEECH 50/34 Amdt 1—Forward Elevator Cable [F2012L00413].
   AD/BEECH 55/98 Amdt 1—Forward Elevator Cable [F2012L00414].
   AD/BEECH 56/36 Amdt 1—Forward Elevator Cable [F2012L00415].
   AD/BEECH 95/34—Forward Elevator Cable [F2012L00416].

Instrument No. CASA EX14/12—Exemption—navigation and anti-collision lights [F2012L00403].

Manual of Standards Part 139 Amendment Instrument 2012 (No. 2) [F2012L00401].

Clean Energy Act—Select Legislative Instrument 2012 No. 12—Clean Energy Amendment Regulation 2012 (No. 1) [F2012L00417].

Corporations Act—ASIC Class Order [CO 12/158] [F2012L00407].

Customs Act—Select Legislative Instrument 2012 No. 8—Customs (Australia-US Free Trade Agreement) Amendment Regulation 2012 (No. 1) [F2012L00404].

Tariff Concession Orders—
   0915423 [F2012L00423].
   1108056 [F2012L00426].
   1113077 [F2012L00420].
   1113794 [F2012L00425].
   1113796 [F2012L00424].
   1113870 [F2012L00422].
   1114023 [F2012L00421].


Defence Act—Determinations under section 58B—Defence Determinations—2012/8—Conditions on grant of leave.
2012/9—Review of housing contributions and allowances—amendment.

Health Insurance Act—Select Legislative Instrument 2012 No. 16—Health Insurance (General Medical Services Table) Amendment Regulation 2012 (No. 1) [F2012L00398].

Higher Education Support Act—VET Provider Approval No. 1 of 2012—Australian Institute of Professional Education Pty Ltd [F2012L00408].

14—Renewable Energy (Electricity) Amendment Regulation 2012 (No. 2) [F2012L00400].
15—Renewable Energy (Electricity) Amendment Regulation 2012 (No. 3) [F2012L00402].

Shipping Registration Act—Select Legislative Instrument 2012 No. 17—Shipping Registration Amendment Regulation 2012 (No. 1) [F2012L00397].


Governor-General’s Proclamation—Commencement of provisions of an Act


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

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

Indexed lists of departmental and agency files for the period 1 July to 31 December 2011—Statements of compliance—Agriculture, Fisheries and Forestry portfolio.
Department of Families, Housing, Community Services and Indigenous Affairs.

28 DEPARTMENTAL AND AGENCY CONTRACTS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS

The following documents were tabled pursuant to the order of the Senate of 20 June 2001, as amended:

Treasury portfolio.

29 HIGHER EDUCATION SUPPORT AMENDMENT (VET FEE-HELP AND OTHER MEASURES) BILL 2011 [2012]

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

30 BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT AMENDMENT (TRANSITION TO FAIR WORK) BILL 2012

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


The Minister for Tertiary Education, Skills, Science and Research (Senator Evans) 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 Evans moved—That this bill be now read a second time.

Explanatory memorandum: Senator Evans tabled a revised explanatory memorandum relating to the bill.

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

31 NATIONAL RADIOACTIVE WASTE MANAGEMENT BILL 2010

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

In the committee

Consideration resumed of the bill.

Bill further debated.

Senator Ludlam moved the following amendments together by leave:

Page 6 (after line 11), after clause 5, insert:

5A Requirements for nomination by a Land Council

A nomination made under section 5, or taken to have been made under section 5, is of no effect for any purpose under this Act unless:

(a) the Land Council, in nominating the land as a potential site, has complied with the Aboriginal Land Rights (Northern Territory) Act 1976; and

(b) the nomination of the land as a potential site was made by the Land Council subject to its powers and obligations under the Aboriginal Land Rights (Northern Territory) Act 1976.

Page 6 (after line 11), after clause 5, insert:

5B Application of Schedule 2 to nomination by a Land Council

(1) Despite subitem 1(1) of Schedule 2, a nomination under section 3A of the old radioactive waste law which does not comply with subsection 5(2) is invalid and of no effect for any purpose under this Act.
(2) In this section:

*commencement time* means the time at which item 1 of Schedule 1 commences.

*old radioactive waste law* means the Commonwealth Radioactive Waste Management Act 2005 as in force immediately before the commencement time.

Page 11 (after line 16), after clause 9, insert:

9A Requirements for approval

An approval under section 9, or taken to have been made under section 9, of land nominated by a Land Council is of no effect for any purpose under this Act unless:

(a) the Land Council, in nominating the land as a potential site, has complied with the *Aboriginal Land Rights (Northern Territory) Act 1976*; and

(b) the nomination of the land as a potential site was made by the Land Council subject to its powers and obligations under the *Aboriginal Land Rights (Northern Territory) Act 1976*.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

**AYES, 9**

Brown, Bob
Di Natale
Hanson-Young
Ladlam
Milne
Rhiannon
Siewert (Teller)
Waters
Wright

**NOES, 35**

Abetz
Back
Bilyk
Birmingham
Boyce
Brown, Carol
Bushby (Teller)
Colbeck
Collins
Cormann
Crossin
Edwards
Evans
Farrell
Feeney
Fisher
Gallacher
Lund
Madigan
Marshall
McEwen
McKenzie
McLucas
Moore
Parry
Payne
Polley
Pratt
Scullion
Singh
Stephens
Sterle
Thistlethwaite
Ursquhart

Question negatived.

The Minister for Tertiary Education, Skills, Science and Research (Senator Evans) moved—That the committee report progress and ask leave to sit again.

Question put and passed.

The Acting Deputy President (Senator Fisher) resumed the chair and the Chair of Committees (Senator Parry) reported that the committee had considered the bill, made progress and asked leave to sit again.

Ordered, on the motion of Senator Evans, that the committee have leave to sit again on the next day of sitting.
No. 77—28 February 2012

32 **EXTRADITION AND MUTUAL ASSISTANCE IN CRIMINAL MATTERS LEGISLATION AMENDMENT BILL 2011**

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

Debate resumed.

Question put and passed.

Bill read a second time.

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

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In the committee

Bill taken as a whole by leave.

Senator Wright moved the following amendments together by leave:

Schedule 2, item 24, page 16 (after line 33), after paragraph 15B(3)(a), insert:

(aa) the Attorney-General does not have substantial grounds for believing that, if the person were surrendered to the extradition country, the person would be in danger of being subjected to cruel, inhuman or degrading treatment or punishment; and

Schedule 2, item 29, page 18 (after line 6), after paragraph 25(2)(ba), insert:

(bb) the Attorney-General does not have substantial grounds for believing that, if the person were surrendered to the extradition country, the person would be in danger of being subjected to cruel, inhuman or degrading treatment or punishment; and

Schedule 2, item 30, page 18 (after line 16), after paragraph 25(3)(a), insert:

(aa) the Attorney-General does not have substantial grounds for believing that, if the person were surrendered to the extradition country, the person would be in danger of being subjected to cruel, inhuman or degrading treatment or punishment; and

Schedule 2, page 39 (after line 28), after item 104, insert:

104A After paragraph 22(3)(b)

Insert:

(ba) the Attorney-General does not have substantial grounds for believing that, if the person were surrendered to the extradition country, the person would be in danger of being subjected to cruel, inhuman or degrading treatment or punishment; and

Schedule 3, item 6, page 45 (after line 24), after paragraph 8(1)(ca), insert:

(cb) there are substantial grounds for believing that, if the request was granted, the person would be in danger of being subjected to cruel, inhuman or degrading treatment or punishment; or

Debate ensued.

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

Senator Wright moved the following amendments together by leave:

Schedule 2, heading to Division 2, page 19 (line 25), omit “and sexual orientation”, substitute “, sexual orientation and gender identity”.
Schedule 2, item 37, page 19 (line 28), after “orientation,”, insert “gender identity,”.
Schedule 3, item 5, page 45 (line 19), after “orientation,”, insert “gender identity,”.

Debate ensued.

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

Senator Wright moved the following amendments together by leave:

Schedule 2, page 30 (before line 22), before item 63 in Division 8, insert:

62A Subsection 15(2)

Omit “, subject to subsection (6),”.

62B Subsection 15(5)

Omit “, subject to subsection (6),”.

62C Subsection 15(6)

Repeal the subsection.

Schedule 2, item 67, page 32 (line 4), omit “, subject to subsection (3),”.
Schedule 2, item 68, page 32 (line 10), omit “(subject to subsection (3))”.
Schedule 2, item 69, page 32 (lines 17 and 18), omit subsection 18(3).
Schedule 2, item 70, page 32 (lines 27 and 28), omit “(subject to subsection (9A))”.
Schedule 2, item 72, page 33 (lines 6 to 8), omit subsection 19(9A).
Schedule 2, item 74, page 33 (lines 21 and 22), omit “(subject to subsection (2B))”.
Schedule 2, item 74, page 33 (lines 27 to 29), omit subsection 21(2B).
Schedule 2, item 84, page 35 (lines 28 and 29), omit “, subject to subsection (3),”.
Schedule 2, item 84, page 36 (lines 1 and 2), omit subsection 49C(3).

Debate ensued.

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

Senator Wright moved the following amendments together by leave:

Schedule 3, item 10, page 46 (lines 12 and 13), omit the item, substitute:

10 Paragraph 8(1)(f)

Repeal the paragraph, substitute:

(f) the request relates to the investigation, prosecution or punishment of a person for an offence in a case where:

(i) the person has been acquitted or pardoned by a competent tribunal or authority in the foreign country, or in Australia or another country; or

(ii) the person has undergone the punishment provided by the law of the foreign country, or of Australia or another country;

in respect of that offence or of another offence constituted by the same act or omission as that offence.
Schedule 3, item 14, page 47 (lines 1 to 19), omit the item, substitute:

**14 Paragraph 8(2)(b)**

Repeal the paragraph, substitute:

(b) both of the following subparagraphs are satisfied:

(i) the request relates to a foreign order in relation to an offence;

(ii) an act or omission constituting the offence, had the act or omission occurred in Australia, would not have constituted an offence against Australian law at the time at which the request was received; or

Debate ensued.

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

Senator Wright moved the following amendments together by leave:

Schedule 3, item 11, page 46 (lines 16 to 27), omit subsection 8(1A), substitute:

(1A) A request by a foreign country for assistance under this Act must be refused if it relates to the investigation, prosecution or punishment of a person for an offence in respect of which the death penalty may be imposed in the foreign country, unless the Attorney-General is of the opinion that the assistance requested should be granted because it is likely to show that the person is not guilty of the offence.

Schedule 3, page 46 (after line 27), after item 11, insert:

**11A Subsection 8(1B)**

Repeal the subsection.

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At 6.50 pm: The Acting Deputy President (Senator Marshall) resumed the chair and the Temporary Chair of Committees reported progress.

**33 Government Documents—Consideration**

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


The following general business orders of the day relating to government documents were considered:


34 ADJOURNMENT
The Acting Deputy President (Senator Marshall) proposed the question—That the Senate do now adjourn.
Debate ensued.
The Senate adjourned at 10.39 pm till Wednesday, 29 February 2012 at 9.30 am.

35 ATTENDANCE
Present, all senators except Senators Adams*, Nash* and Sherry* (* on leave).

ROSEMARY LAING
Clerk of the Senate