THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 102

THURSDAY, 16 AUGUST 2012

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1 MEETING OF SENATE

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

2 MIGRATION LEGISLATION AMENDMENT (REGIONAL PROCESSING AND OTHER MEASURES) BILL 2012

Order of the day read for the adjourned debate on the motion of the Minister for Tertiary Education, Skills, Science and Research (Senator Evans)—That this bill be now read a second time—and on the amendment moved by the Leader of the Opposition in the Senate (Senator Abetz):

At the end of the motion, add “but the Senate:

(a) notes that the Government has accepted the Coalition’s policy of offshore processing of asylum seekers on Nauru and Manus Island; and
(b) calls on the Government to implement the full suite of the Coalition’s successful policies and calls on the Government to immediately:
   (i) restore temporary protection visas for all offshore entry persons found to be refugees,
   (ii) issue new instructions to Northern Command to commence to turn back boats where it is safe to do so,
   (iii) use existing law to remove the benefit of the doubt on a person’s identity where there is a reasonable belief that a person has deliberately discarded their documentation, and
   (iv) restore the Bali Process to once again focus on deterrence and border security.”

Debate resumed.

Documents: Senator Hanson-Young, by leave, tabled the following documents:

Migration Legislation Amendment (Regional Processing and Other Measures) Bill 2012—Copies of children’s drawings [5].

Debate continued.

Pursuant to order, debate was interrupted while Senator Smith was speaking.

3 NOTICES

The Leader of the Opposition in the Senate (Senator Abetz): To move on the next day of sitting—That the Senate—

(a) notes:

(i) Mr Michael Williamson’s recent roles as President of the Australian Labor Party (ALP), member of the ALP Industrial Committee, Executive Member of the Australian Council of Trade Unions, Vice President of Unions NSW, Vice President of the ALP New South Wales Branch and Trustee of First State Super, and

(ii) findings by Mr Ian Temby, QC and Mr Dennis Robertson, FCA that, while Mr Williamson was General Secretary of the Health Services Union (HSU) East Branch, he, his family, his company and his close associates benefitted from $20 million in union members’ funds which was spent without proper financial control;

(b) condemns this use of union members’ funds at the HSU by Mr Williamson as found by Mr Temby and Mr Robertson; and

(c) calls for stronger penalties under the *Fair Work (Registered Organisations) Act 2009* than the present $6 600 monetary penalty and to include penalties under the *Corporations Act 2001*. (general business notice of motion no. 853)

Senator Brown: To move on the next day of sitting—That the order of the Senate of 15 August 2012 authorising the Joint Standing Committee on Electoral Matters to hold public meetings, be varied by omitting “Electoral and Referendum Amendment (Improving Electoral Procedure) Bill 2012” and substituting “Australian Electoral Commission analysis of the Fair Work Australia report on the Health Services Union”. (general business notice of motion no. 854)

Senator Hanson-Young: To move on the next day of sitting—That the Senate—

(a) notes the position statement on the Murray Darling Basin (MDB) draft plan launched by South Australian environmental groups, including the Conservation Council of South Australia, The Wilderness Society, Trees for Life, National Trust of South Australia, National Parks and Wildlife, Nature Conservation Society of South Australia and Friends of the Earth Adelaide, on 27 July 2012;

(b) notes that these groups identify that 4 000 GL must be returned to the river in accordance with the best available science to provide for healthy MDB communities and economies; and

(c) calls on the Government to instruct the Murray-Darling Basin Authority to model at least 4 000 GL against the requirements of the *Water Act 2007* and undertake feasibility studies on constraints to delivering 4 000 GL as requested by the South Australian environmental groups. (general business notice of motion no. 855)

4 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 9 OF 2012

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

**SELECTION OF BILLS COMMITTEE**  
**REPORT NO. 9 OF 2012**

1. The committee met in private session on Wednesday, 15 August 2012 at 7.15 pm.
2. The committee resolved to recommend—that the Renewable Energy
(Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012 be
referred immediately to the Economics Legislation Committee for inquiry
and report by 31 October 2012.

3. The committee resolved to recommend—that the following bills not be
referred to committees:
   Fisheries Legislation Amendment Bill (No. 1) 2012
   Tax Laws Amendment (2012 Measures No. 4) Bill 2012.

*The committee recommends accordingly.*

4. The committee deferred consideration of the following bills to its next
meeting:
   Broadcasting Services Amendment (Public Interest Test) Bill 2012
   International Monetary Agreements Amendment (Loans) Bill 2012
   Protecting Children from Junk Food Advertising (Broadcasting and
   Telecommunications Amendment) Bill 2011
   Special Broadcasting Service Amendment (Natural Program Breaks and
   Disruptive Advertising) Bill 2012

Anne McEwen
Chair
16 August 2012.

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

5 **PRIVATE SENATORS’ BILLS—CONSIDERATION**

The Parliamentary Secretary for School Education and Workplace Relations (Senator
Collins) moved—that the following general business orders of the day be considered
on Thursday, 23 August 2012 under the temporary order relating to the consideration
of private senators’ bills:
   No. 86 Health Insurance (Dental Services) Bill 2012 [No. 2].
   No. 51 Environment Protection and Biodiversity Conservation Amendment
   (Bioregional Plans) Bill 2011.

Question put and passed.

6 **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. 844—
That the Legal and Constitutional Affairs Legislation Committee be authorised to hold
a public meeting during the sitting of the Senate on Tuesday, 21 August 2012, from
4.30 pm, to take evidence for the committee’s inquiry into the provisions of the
Privacy Amendment (Enhancing Privacy Protection) Bill 2012.

Question put and passed.
7 COMMUNITY AFFAIRS REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTING
The Chair of the Community Affairs References Committee (Senator Siewert), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 845—That the Community Affairs References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 16 August 2012, from 4 pm.
Question put and passed.

8 HISTORICAL EVENTS—VIETNAM WAR
Senator Kroger, at the request of Senators Ronaldson and Johnston and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 849—That the Senate—

(a) commemorates the 50th anniversary, in 2012, of the arrival of the Australian Army Training Team Vietnam in South Vietnam, beginning Australia’s decade-long commitment to the Vietnam War;

(b) commemorates the 46th anniversary, on 18 August 2012, of the Battle of Long Tan, in which 18 Australian soldiers were killed and 24 were wounded in action;

(c) pays tribute to the 521 Australians killed in action in the Vietnam War and the thousands of veterans who returned home to the care of their families;

(d) acknowledges that many Vietnam War service personnel were very poorly treated by certain sections of the Australian community on their return, and that this treatment was unjust and, in many cases, affected their ability to resume life after wartime service; and

(e) welcomes the arrival in Australia of the Long Tan Cross, which will be displayed at the Australian War Memorial until April 2013.

Question put and passed.

9 FOREIGN AFFAIRS—RUSSIA—MR ALEXANDER SOLZHENITSYN
Senator Kroger, at the request of Senator Mason and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 852—That the Senate—

(a) notes the 4th anniversary of the death of Alexander Solzhenitsyn, the most influential Russian writer and dissident of the 20th century, who:

(i) was imprisoned, denied medical treatment and finally exiled from the Soviet Union for daring to expose the truth about the horrors of communism,

(ii) struggling against great obstacles managed to write and eventually publish The Gulag Archipelago, a classic of anti-totalitarian literature that drew the world’s attention to the atrocities committed by the Soviet Union against its own people,

(iii) after his deportation from the Soviet Union in 1974, continued to remind the world about the importance of rights and liberties enjoyed in the West but denied to the citizens of the Soviet Union and other communist states, and
(iv) received the Nobel Prize in Literature in 1970, as well as numerous other prizes and awards for his contribution to literature, and the fight for freedom and against tyranny and oppression; and

(b) conveys its remembrances to the people of Russia.

Question put and passed.

10 ENVIRONMENT—CORAL SEA

Senator Kroger, at the request of Senators Boyce, Colbeck, Macdonald and Boswell and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 847—That the Senate—

(a) notes that:

(i) the Gillard Government proposes to seriously damage Australia’s fishing industry and harm Australia’s tourism industry by establishing the world’s largest marine reserve without any scientific foundation,

(ii) the Gillard Government proposes to make the Coral Sea a no-go zone to Australians, but other countries, whose fishing practices are not as sustainable as Australia’s, will still be able to fish in the Coral Sea,

(iii) Australians will be deprived of a vital food source from the Coral Sea, which covers more than 989 842 square kilometres, more than half the size of Queensland,

(iv) almost 78 per cent of east coast Queensland waters will be in marine parks, almost 8 times the international benchmark,

(v) Australia’s oceans are amongst the healthiest and best managed in the world due in large part to the sustainable practices of our fishers,

(vi) scientists have agreed that fishing is not putting the Coral Sea at risk and that Green groups have also acknowledged this, and

(vii) the proposed network has nothing to do with science but everything to do with appeasing the Australian Greens politically, who keep the Labor Government in power; and

(b) calls on the Australian Government to:

(i) halt the current process of expanding marine parks to ensure that any future marine parks are based on objective scientific research and stakeholder input, and

(ii) undertake a risk assessment of the threats to Australia’s marine environment from existing and future uses to assess the need for the proposed marine parks.

Question put and negatived.

Statements by leave: Senators Siewert and Colbeck, by leave, made statements relating to the motion.
FOREIGN AFFAIRS—TRANS-PACIFIC PARTNERSHIP AGREEMENT

Senator Whish-Wilson, also on behalf of Senator Ludlam, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 846—That the Senate—

(a) notes:

(i) negotiation of the Trans-Pacific Partnership Agreement (TPPA) between the United States of America, Canada, Mexico, Chile, Peru, Vietnam, Malaysia, Singapore, Australia, Brunei and New Zealand is being conducted in secret,

(ii) draft texts of the agreement are selectively aired to AT&T, Verizon, Cisco, the Motion Picture Association and other industry lobbyists, but blocked from democratically-elected parliamentarians, advocacy organisations and citizens,

(iii) concern expressed by experts and citizens from countries participating in negotiating the TPPA regarding its potential impact on access to medicines, local content media rules, high-tech innovation and limitations placed on governments to make policies and regulations on health, safety and economic stability, and

(iv) reports of the latest text of the intellectual property chapter being leaked, revealing the Australian Government’s intention to defeat a proposed clause protecting domestic intellectual property laws; and

(b) calls on the Government to:

(i) make the full TPPA draft texts and negotiations available to the public,

(ii) support the proposal of New Zealand, Chile, Malaysia, Brunei and Vietnam to permit a signatory to carry forward and appropriately extend into the digital environment limitations and exceptions in its domestic laws,

(iii) reject trade agreements that put the civil liberties, environment, public health and welfare of Australians at risk, and

(iv) commit to ending the exclusionary and undemocratic process of selectively including stakeholders in trade negotiations while blocking others, by making all trade negotiations public.

Question put and negatived.

FAIR WORK AMENDMENT (SMALL BUSINESS—PENALTY RATES EXEMPTION) BILL 2012

Senator Xenophon, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 850—That the following bill be introduced:

A Bill for an Act to amend the Fair Work Act 2009, 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.

13 Environment—Great Barrier Reef Marine Park—Sea Dumping—Proposed Order for Production of Documents

Senator Waters, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 851—That there be laid on the table, by the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, no later than 11 September 2012, the following:

(a) documents relating to all current conditions for the operation, use, maintenance and monitoring of each current sea dumping permit issued by the Authority in the Great Barrier Reef Marine Park (GBRMP);

(b) any document that details all current sea dumping sites in the GBRMP and Great Barrier Reef World Heritage Area, including coordinates and size of the dumping area;

(c) all documents relating to the consideration or analysis of land-based disposal alternatives for each current sea dumping permit issued by the Authority in the GBRMP, including the initial consideration/analysis plus any subsequent analysis in light of additional or changed dumping requirements or new or changed information;

(d) all documents that provide a long-term analysis of the impacts of the dumping, including direct, indirect, distal and cumulative impacts for each current sea dumping permit issued by the Authority in the GBRMP; and

(e) any documents relating to breaches of conditions and responses to those breaches, including compliance measures, such as remediation, changed conditions, fines or litigation, for each current sea dumping permit issued by the Authority in the GBRMP.

Question put and negatived.

14 Primary Industries—Australian Small Pelagic Fishery

Senator Whish-Wilson, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 848—That the Senate—

(a) notes, in regard to the introduction of the factory ship FV Margiris to the Australian Small Pelagic Fishery, the range of significant and justifiable concerns, including but not limited to:

(i) the localised depletion of fish stocks,

(ii) mammalian by-catch, including seals and dolphins,

(iii) impacts on other industries, including tourism,
(iv) the assertion that this super trawler is only economically viable because it previously received European Union subsidies and the Australian Fisheries Management Authority (AFMA) has lifted the fishery quotas,

(v) public access, transparency and scrutiny of any operational compliance data, and

(vi) the non-compliance of AFMA quota-setting processes with the *Fisheries Administration Act 1991* (the Act); and

(b) calls on the Government to:

(i) reverse the decision to lift the quota for the Small Pelagic Fishery and examine the compliance of the AFMA-led process that led to this decision with the Act,

(ii) demonstrate that it has fully examined and mitigated the impacts of localised depletion that the FV *Margiris* will have and ensure that a bioregional approach has been taken in setting the harvest strategy under which this ship would operate, and

(iii) demonstrate that 100 per cent observer coverage will be achieved on-board to ensure compliance and minimal by-catch, given that the ship will operate 24 hours a day, and ensure all compliance data will be publically available.

Question put.
The Senate divided—

**AYES, 10**

Senator Rhiannon amended general business notice of motion no. 829 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

(a) notes that:

(i) family planning is key to achieving all Millennium Development Goals, especially Goal 5 which seeks to reduce maternal mortality by three-quarters and is the least likely goal to be achieved,
(ii) maternal mortality is a leading cause of death and illness for all women worldwide, with complications during pregnancy the biggest killer of girls aged 15 to 19,

(iii) over 200 million women who want to avoid pregnancy are not using a modern method of family planning,

(iv) in line with the International Conference on Population and Development Programme of Action, and the Convention on the Elimination of All Forms of Discrimination Against Women, all couples and individuals should have the right to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and

(v) at the London Summit on Family Planning, hosted by the United Kingdom Government and the Bill & Melinda Gates Foundation in July 2012, the Australian Government announced it will double its funding for family planning services to more than $50 million per year by 2016, up from $26 million in 2010; and

(b) calls on the Government to continue to fund family planning, including funding for initiatives that assist developing country governments to improve access and reduce barriers to family planning in the 2012-13 budget and beyond.

Question put and passed.

Statement by leave: The Leader of The Nationals in the Senate (Senator Joyce), by leave, made a statement relating to the motion.

16 AUSTRALIA’S FOOD PROCESSING SECTOR—SELECT COMMITTEE—REPORT

Pursuant to order, the Chair of the Select Committee on Australia’s Food Processing Sector (Senator Colbeck) tabled the following report and documents:

Australia’s Food Processing Sector—Select Committee—Inquiry into Australia’s food processing sector—Report, dated August 2012, Hansard record of proceedings, documents presented to the committee, additional information and submissions.

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

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

Debate ensued.

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

17 MIGRATION LEGISLATION AMENDMENT (REGIONAL PROCESSING AND OTHER MEASURES) BILL 2012

Order of the day read for the adjourned debate on the motion of the Minister for Tertiary Education, Skills, Science and Research (Senator Evans)—That this bill be now read a second time—and on the amendment moved by the Leader of the Opposition in the Senate (Senator Abetz) (see entry no. 2).

Debate resumed.

At 2 pm: Debate was interrupted while Senator Ludlam was speaking.
18 **QUESTIONS**

Questions without notice were answered.

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*Distinguished visitors*: The President welcomed members of a parliamentary delegation from Laos led by the President of the Lao National Assembly, Her Excellency Madam Pany, and, with the concurrence of honourable senators, invited Madam Pany to take a seat on the floor of the chamber.

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Further questions without notice were answered.

19 **MOTIONS TO TAKE NOTE OF ANSWERS**

Senator Back moved—That the Senate take note of answers given by the Minister for Tertiary Education, Skills, Science and Research (Senator Evans) and the Minister for Finance and Deregulation (Senator Wong) to questions without notice asked by Opposition senators today relating to the carbon tax.

Debate ensued.

Question put and passed.

Senator Ludlam moved—That the Senate take note of the answer given by the Minister for Foreign Affairs (Senator Bob Carr) to a question without notice asked by Senator Ludlam today relating to Mr Julian Assange.

Question put and passed.

20 **LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE—GOVERNMENT RESPONSE—COMBATING THE FINANCING OF PEOPLE SMUGGLING AND OTHER MEASURES BILL 2011**

The Minister for Finance and Deregulation (Senator Wong) tabled the following document:


21 **LEGAL AND CONSTITUTIONAL AFFAIRS REFERENCES COMMITTEE—GOVERNMENT RESPONSE—AUSTRALIAN FILM AND LITERATURE CLASSIFICATION SCHEME**

The Minister for Finance and Deregulation (Senator Wong) tabled the following document:

- Legal and Constitutional Affairs References Committee—Report—Review of the National Classification Scheme: achieving the right balance—Government response.

22 **PUBLIC ACCOUNTS AND AUDIT—JOINT STATUTORY COMMITTEE—GOVERNMENT RESPONSE—427TH REPORT**

The Minister for Finance and Deregulation (Senator Wong) tabled the following document:

23 **DEPARTMENT OF THE SENATE—SENATORS’ AND MEMBERS’ TRAVELLING ALLOWANCE—DOCUMENT**  
The Deputy President (Senator Parry) tabled the following document:  
Department of the Senate—Travelling allowance payments to senators and members, 1 July 2011 to 30 June 2012, dated August 2012.

24 **DEPARTMENT OF THE SENATE—TRAVEL EXPENDITURE—DOCUMENT**  
The Deputy President (Senator Parry) tabled the following document:  
Department of the Senate—Travel expenditure, 1 July 2011 to 30 June 2012, dated August 2012.

25 **TREATIES—JOINT STANDING COMMITTEE—127TH AND 128TH REPORTS**  
The Deputy Chair of the Joint Standing Committee on Treaties (Senator Birmingham) tabled the following reports:  
Treaties—Joint Standing Committee—  
Senator Birmingham, by leave, moved—that the Senate take note of the reports.  
Debate ensued.  
Question put and passed.

26 **ELECTORAL MATTERS—JOINT STANDING COMMITTEE—REPORT—ELECTORAL AND REFERENDUM AMENDMENT (IMPROVING ELECTORAL PROCEDURE) BILL 2012**  
Senator McEwen, on behalf of the Joint Standing Committee on Electoral Matters, tabled the following report:  
Senator Ryan, by leave, moved—that the Senate take note of the report.  
Debate ensued.  
Debate adjourned till the next day of sitting, Senator Rhiannon in continuation.

27 **PRIMARY INDUSTRIES—FISHING TRAWLER FV MARGIRIS—DOCUMENT**  
Senator Brown, by leave, tabled the following document:  
Primary industries—Fishing trawler FV Margiris—Petitioning document relating to the fishing trawler, FV Margiris.
28 DOCUMENTS

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.

Civil Aviation Act—
   Civil Aviation Regulations—Instrument No. CASA 235/12—Instructions – Qantas B-767 (P-RNAV procedures) [F2012L01680].
   Civil Aviation Safety Regulations—Instrument No. CASA EX126/12—Exemption – minimum runway width [F2012L01676].

Customs Act—CEO Directions No. 1 of 2012 [F2012L01684].


Environment Protection and Biodiversity Conservation Act—Amendment of list of exempt native specimens—EPBC303DC/SFS/2012/41 [F2012L01677].


Health Insurance Act—Health Insurance (Telehealth Services) Determination 2012 [F2012L01678].

National Health Act—Instruments Nos PB—
   60 of 2012—National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2012 (No. 7) [F2012L01683].
   61 of 2012—National Health (Price and Special Patient Contribution) Amendment Determination 2012 (No. 5) [F2012L01682].
   62 of 2012—Amendment – pharmaceutical benefits supplied by medical practitioners and authorised nurse practitioners [F2012L01681].

29 CUSTOMS AMENDMENT (ANTI-DUMPING IMPROVEMENTS) BILL (NO. 3) 2012
CUSTOMS TARIFF AMENDMENT (2012 MEASURES NO. 1) BILL 2012
MARITIME LEGISLATION AMENDMENT BILL 2012
TRANSPORT SAFETY INVESTIGATION AMENDMENT BILL 2012

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

Message no. 477, dated 15 August 2012—A Bill for an Act to amend the Customs Act 1901, and for related purposes.


Message no. 479, dated 15 August 2012—A Bill for an Act to amend the Transport Safety Investigation Act 2003, and for other purposes.
The Minister for Human Services (Senator Kim Carr) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.
Question put and passed.

Bills read a first time.
Senator Kim Carr moved—That these bills be now read a second time.
On the motion of Senator Kim Carr the debate was adjourned till the next day of sitting.

Consideration of legislation: Senator Kim Carr moved—That the bills be listed on the Notice Paper as separate orders of the day.
Question put and passed.

30 MIGRATION LEGISLATION AMENDMENT (REGIONAL PROCESSING AND OTHER MEASURES) BILL 2012

Order of the day read for the adjourned debate on the motion of the Minister for Tertiary Education, Skills, Science and Research (Senator Evans)—That this bill be now read a second time—and on the amendment moved by the Leader of the Opposition in the Senate (Senator Abetz) (see entry no. 2).

Debate resumed.
The question was divided—

Question—That the amendment in respect of paragraph (a) be agreed to—put.

The Senate divided—

AYES, 40

Senators—

Abetz
Back
Bernardi
Boswell
Boyce
Brandis
Bushing
Cash
Colbeck
Cormann

Di Natale
Edwards
Eggleston
Fawcett
Ferravanti-Wells
Fifield
Hanson-Young
Heffernan
Humphries
Johnston

Kroger (Teller)
Ludlam
Macdonald
Madigan
Mason
McKenzie
Milne
Nash
Parry
Rhiannon

Ronaldson
Ryan
Siewert
Sinodinos
Smith
Waters
Whish-Wilson
Williams
Wright
Xenophon

NOES, 26

Senators—

Bishop
Brown
Cameron
Carr, Kim
Conroy
Crossin
Evans

Faulkner
Feeley
Furner
Gallacher
Hogg
Ludwig
Lundy

Marshall
McEwen
Moore
Polley (Teller)
Pratt
Singh
Stephens

Sterle
Thistlethwaite
Thorp
Urquhart
Wong


Question agreed to.

Question—That the amendment in respect of paragraph (b) be agreed to—put.
The Senate divided—

AYES, 29

Senators—

Abetz    Colbeck    Humphries    Ronaldson
Back     Cormann    Johnston    Ryan
Bernardi Edwards    Kroger (Teller)    Sinodinos
Boswell  Eggleston    Macdonald    Smith
Boyce    Fawcett    Mason    Williams
Brandis  Fierravanti-Wells    McKenzie
Cash     Heffernan    Nash

NOES, 37

Senators—

Bishop    Fumer    Milne    Thorp
Brown     Gallacher    Moore    Urquhart
Cameron   Hanson-Young    Polley (Teller)    Waters
Carr, Kim Hogg    Pratt    Whish-Wilson
Conroy    Ludlam    Rhiannon    Wong
Crossin   Ludwig    Siewert    Wright
Di Natale Lundy    Singh    Xenophon
Evans     Madigan    Stephens
Faulknor  Marshall    Sterle
Feeney     McEwen    Thistlethwaite

Question negatived.

Senator Xenophon moved the following amendment:

At the end of the motion, add “but the Senate calls on the Government to:

(a) after at least 9 months, but no later than 12 months, of the commencement of the provisions of this bill, commission a further report by the members of the Expert Panel of Asylum Seekers to consider all aspects of the offshore processing legislative framework (including any human rights and other consequences) and to determine whether this framework has been successful in reducing the number of irregular maritime arrivals;

(b) require this Panel to complete such a report within 3 months; and

(c) publicly release this report within 14 days of its receipt by the Government”.

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

Main question, as amended, put.
The Senate divided—

AYES, 54

Senators—

Back Edwards Kroger Ronaldson
Bernardi Eggleston Ludwig Ryan
Bishop Evans Lundy Singh
Boswell Faulkner Macdonald Sinodinos
Boyce Fawcett Madigan Smith
Brandis Feeney Marshall Stephens
Brown Fierravanti-Wells Mason Sterle
Bushby Fifield McEwen Thistlethwaite
Cameron Finner McKenzie Thorp
Carr, Kim Gallacher Moore Urquhart
Cash Heffernan Nash Wong
Colbeck Hogg Parry Xenophon
Conroy Humphries Polley (Teller)
Crossin Johnston Pratt

NOES, 9

Senators—

Di Natale Milne Siewert (Teller) Whish-Wilson
Hanson-Young Rhiannon Waters Wright
Ludlam

Question agreed to.

Bill read a second time.

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

In the committee

Bill, taken as a whole by leave, debated.

Senator Hanson-Young moved the following amendment:

Schedule 1, item 25, page 10 (after line 12), after section 198AD, insert:

198ADA 12 month limit on transfer to regional processing country

(1) The Minister must ensure that a person who is transferred to a regional processing country under section 198AD is transferred to Australia no later than 12 months after the day on which the person arrived in the regional processing country.

(2) Subsection (1) does not apply in relation to a person who is not in the regional processing country 12 months after the day on which the person arrived in the country.

(3) Section 198AD does not apply in relation to a person who is transferred to Australia under subsection (1).

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 9

Senators—

Di Natale Milne Siewert (Teller) Whish-Wilson
Hanson-Young Rhiannon Waters Wright
Ludlam
NOES, 37

Senators—

Back Edwards Marshall Stephens
Bishop Evans McEwen Sterling
Boswell Feeney McKenzie Thistlethwaite
Boyce Furner Moore Thorp
Brown Gallacher Nash Urquhart
Cameron Heffernan Parry Wong
Carr, Kim Hogg Polley Xenophon
Cash Johnston Pratt
Colbeck Kroger (Teller) Singh
Crossin Madigan Smith

Question negatived.

Senator Hanson-Young moved the following amendments together by leave:

Schedule 1, item 25, page 6 (lines 26 to 29), omit subsection 198AB(2), substitute:

(2) The only conditions for the exercise of the power under subsection (1) are that the Minister:
   
   (a) thinks that it is in the national interest to designate the country to be a regional processing country; and
   
   (b) is satisfied that the country has in place appropriate protection and welfare arrangements that are consistent with Australia’s, and the country’s, obligations under international law (including the Refugees Convention).

Schedule 1, item 25, page 7 (after line 13), after subsection 198AB(4), insert:

(4A) For the purposes of subsection (2), the country has in place appropriate protection and welfare arrangements if:

   (a) the protection and welfare arrangements in place in the country include arrangements to ensure that a person taken to the country under section 198AD:

      (i) will be treated in a manner consistent with human rights standards under international law, including by not being subject to arbitrary detention; and

      (ii) will have appropriate accommodation; and

      (iii) will have access to appropriate physical and mental health services; and

      (iv) will have access to educational and vocational training programs; and

      (v) will be provided with assistance in preparing any asylum claim or visa application; and

      (vi) in respect of any asylum claim or visa application made by the person, will have access to an appeal mechanism that affords natural justice to the person; and

   
   
   (b) the protection and welfare arrangements in place in the country are monitored by a body consisting of representatives of Australia and the country.

Debate ensued.

Question—That the amendments be agreed to—put.
The committee divided—

AYES, 11

Senators—

Di Natale
Hanson-Young
Ludlam

Madigan
Milne
Rhiannon

Siewert (Teller)
Waters
Whish-Wilson

Wright

NOES, 38

Senators—

Back
Bishop
Bowwell
Boyce
Brown
Bushby
Cameron
Carr, Kim
Cash
Colbeck

Crossin
Edwards
Evans
Faulkner
Feeney
Furner
Gallacher
Heffernan
Hogg
Johnston

Kroger (Teller)
Marshall
McEwen
McKenzie
Moore
Nash
Parry
Polley
Pratt

Sterle
Thistlethwaite
Thorp
Urquhart
Williams

Xenophon

Question negatived.

Senator Hanson-Young moved the following amendment:

Schedule 1, item 25, page 12 (after line 16), at the end of Subdivision B, add:

198A1 Review of regional processing

(1) The Minister must cause an independent review of regional processing under this Subdivision to be undertaken:

(a) within 12 months after the Minister first designates a country under section 198AB; and

(b) at least once every 12 months after the first review is undertaken under this section.

(2) A review under this section must include a review of the protection and welfare arrangements that each regional processing country has in place for persons taken to the country under section 198AD.

(3) The Minister must cause a copy of a report of a review under this section to be released publicly within 14 days after the Minister receives the report.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 11

Senators—

Di Natale
Hanson-Young
Ludlam

Madigan
Milne
Rhiannon

Siewert (Teller)
Waters
Whish-Wilson

Wright

Xenophon
Question negatived.

Bill further debated.

Senator Hanson-Young moved the following amendment:

Page 2 (after line 2), after clause 3, insert:

4 Application of amendments

However:

(a) the amendments (including any repeals) made by this Act have effect only for a period of 24 months from the commencement of this Act; and

(b) any Act amended by this Act has effect after that period of 24 months as if the amendments had not been made.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 9

Di Natale
Hanson-Young
Ludlam
Milne
Rhiannon
Siewert (Teller)
Waters
Whish-Wilson
Wright

NOES, 41

Abetz
Back (Teller)
Bishop
Boswell
Boyce
Brown
Busby
Cameron
Carr, Kim
Cash
Colbeck
Conroy
Crossin

Edwards
Evans
Faulkner
Furner
Gallacher
Hogg
Johnston
Kroger
Lundy
Madigan

Marshall
McEwen
McKenzie
Moore
Nash
Parry
Pratt
Singh
Sinodinos
Smith
Sterle
Thistlethwaite
Thorpe
Urquhart
Williams
Xenophon

Question negatived.

Bill agreed to.

Bill to be reported without amendment.
The President resumed the chair and the Chair of Committees (Senator Parry) reported accordingly.

On the motion of the Minister for Sport (Senator Lundy) the report from the committee was adopted.

Senator Lundy moved—that this bill be now read a third time.

Question put.

The Senate divided—

AYES, 44

Senators—

Abetz  Crossin  Kroger (Teller)  Singh
Back    Edwards  Lundy  Sinodinos
Bishop  Eggleston  Madigan  Smith
Boswell  Evans   Marshall  Stephens
Boyce   Faulkner  McEwen  Sterle
Brandis Feeley   McKenzie  Thistlethwaite
Cameron Finfield  Moore  Thorp
Carr, Kim Furner  Nash  Urquhart
Cash    Gallacher  Parry  Williams
Colbeck Hogg   Policy  Wong
Conroy  Johnston  Pratt  Xenophon

NOES, 9

Senators—

Di Natale  Milne  Siewert (Teller)  Whish-Wilson
Hanson-Young  Rhiannon  Waters  Wright
Ludlam

Question agreed to.

Bill read a third time.

31 ADJOURNMENT

The Minister for Sport (Senator Lundy) moved—that the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 11.04 pm till Monday, 20 August 2012 at 10 am.

32 ATTENDANCE

Present, all senators.

ROSEMARY LAING
Clerk of the Senate

Printed by authority of the Senate