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2010-12

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 105

WEDNESDAY, 22 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 GOVERNMENT DOCUMENTS
The following documents were tabled:

Migration Act 1958—Section 486O—Assessment of detention arrangements—
Personal identifiers 662/11, 675/12, 677/12, 690/12, 709/12, 711/12, 715/12,
723/12, 730/12, 733/12, 735/12, 739/12, 756/12, 759/12, 761/12, 765 to 766/12,
772/12, 775 to 776/12, 778 to 780/12, 782/12, 785/12, 787 to 789/12, 794/12,
797/12, 800 to 803/12, 805/12, 808/12, 811 to 812/12, 819 to 821/12, 833 to
834/12, 844/12, 846/12, 857/12 and 863/12—
Commonwealth Ombudsman’s reports.
Government response to Ombudsman’s reports.

3 ORDER OF BUSINESS—REARRANGEMENT
The Parliamentary Secretary for School Education and Workplace Relations (Senator
Collins) moved—that government business orders of the day no. 2 (Social Security
Legislation Amendment (Fair Incentives to Work) Bill 2012) and no. 5 (Customs
Amendment (Anti-dumping Improvements) Bill (No. 2) 2011 and two related bills) be
postponed till the next day of sitting.
Question put and passed.

4 HEALTH INSURANCE AMENDMENT (EXTENDED MEDICARE SAFETY NET)
BILL 2012
Order of the day read for the adjourned debate on the motion of the Minister for Sport
(Senator Lundy)—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 Minister for Agriculture, Fisheries and Forestry (Senator
Ludwig) the bill was read a third time.

5 CYBERCRIME LEGISLATION AMENDMENT BILL 2011
Order of the day read for the adjourned debate on the motion of the Minister for
Human Services (Senator Kim Carr)—That this bill be now read a second time—and
on the amendment moved by Senator Ludlam:

At the end of the motion, add “but that the Senate calls on the Government to
initiate an independent review to consider whether the Telecommunications Act
1997 and the Telecommunications (Interception and Access) Act 1979 continue to
be effective in light of technological developments (including technological
convergence), changes in the structure of communication industries and changing
community perceptions and expectations about communication technologies, in
particular, the review should consider:
(a) whether the Acts continue to regulate effectively communication technologies and the individuals and organisations that supply communication technologies and communication services;
(b) how these two Acts interact with each other and with other legislation;
(c) the extent to which the activities regulated under the Acts should be regulated under general communications legislation or other legislation;
(d) the roles and functions of the various bodies currently involved in the regulation of the telecommunications industry, including the Australian Communications and Media Authority, the Attorney-General’s Department, the Office of the Privacy Commissioner, the Telecommunications Industry Ombudsman, and Communications Alliance; and
(e) whether the *Telecommunications (Interception and Access) Act 1979* should be amended to provide for the role of a public interest monitor”.

Debate resumed.

**Question**—That the amendment be agreed to—put.

The Senate divided—

**AYES, 10**

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**NOES, 25**

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Question negatived.

Senator Xenophon moved the following amendment:

“At the end of the motion, add “but the Senate calls on the Government to initiate a review of the *Criminal Code Act 1995* to examine the strengthening of the offences in that Act to ensure that they adequately deal with the issue of misrepresentation of age to minors without reasonable excuse and to investigate the establishment of a type of register to record the names and details of those persons who do misrepresent their age to minors without reasonable excuse”.”

**Question**—That the amendment be agreed to—put.

The Senate divided—

**AYES, 11**

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Question negatived.
Main question put and passed.
Bill read a second time.
The Senate resolved itself into committee for the consideration of the bill.

In the committee

Bill taken as a whole by leave.

Explanatory memorandum: The Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

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

Schedule 1, item 2, page 4 (lines 14 and 15), omit “or interception agency”, substitute “(including an interception agency)”.
Schedule 1, item 18, page 10 (line 2), before “interception agency”, insert “enforcement agency that is an”.
Schedule 1, item 18, page 11 (lines 29 and 30), omit “or interception agency”, substitute “(including an interception agency)”.
Schedule 1, item 18, page 12 (line 27), before “interception agency”, insert “enforcement agency that is an”.
Schedule 1, item 18, page 12 (line 33), before “interception agency”, insert “enforcement agency that is an”.

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Ludwig, in respect of Schedule 1, items 6 and 7.
Question—That Schedule 1, items 6 and 7 stand as printed—put and negatived.
Bill, as amended, debated.
Senator Ludlam moved the following amendment:

Schedule 1, page 20 (after line 6), after item 30, insert:

**30A After paragraph 152(a)**

Insert:

> (ab) to inspect an enforcement agency’s records in order to ascertain, so far as is practicable, the extent of compliance with this Chapter; and

Debate ensued.

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

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

Schedule 1, page 21 (after line 14), at the end of the Schedule, add:

**34 Transitional provision for item 18—ongoing domestic preservation notices**

Despite the insertion of section 107H into the *Telecommunications (Interception and Access) Act 1979* made by item 18 of this Schedule, an issuing agency may not give a carrier an ongoing domestic preservation notice under that section before the end of the period that:

(a) starts on the day this Act receives the Royal Assent; and

(b) ends 90 days after that day.

Senator Ludlam moved the following amendments together by leave:

Clause 2, page 2 (after table item 1), insert:

1A. Schedule 1, items 1 to 33 The day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent.

1B. Schedule 1, item 34 The day this Act receives the Royal Assent.

Clause 2, page 2 (table item 2, 1st column), omit “Schedules 1 and 2”, substitute “Schedule 2”.

Schedule 1, page 21 (after line 14), at the end of the Schedule, add:

**34 Transitional provision—temporary exemption from compliance with preservation notices**

(1) The Communications Access Co-ordinator may exempt a carrier from the obligation to comply with sections 107H and 107N of the *Telecommunications (Interception and Access) Act 1979* (as inserted by this Schedule) if the carrier makes an application to the Communications Access Co-ordinator for an exemption under subitem (2).

(2) An application must:

(a) be in writing; and

(b) be received by the Communications Access Co-ordinator before the day item 1 of this Schedule commences; and

(c) specify the period (not exceeding 15 months from the day item 1 of this Schedule commences) for which the exemption is requested; and
include an implementation plan setting out:

(i) the changes or developments the carrier considers that it needs to implement in its telecommunications systems and networks in order to comply with domestic preservation notices and foreign preservation notices; and

(ii) the processes and procedures that the carrier proposes to implement to make the changes or to undertake the developments necessary to comply (including, but not limited to, information on build, installation, configuration, integration, delivery and testing); and

(iii) the timeline for implementation of the changes and developments; and

(iv) any other matters that the carrier considers relevant.

(3) In deciding whether to grant a carrier an exemption under subitem (1), the Communications Access Co-ordinator must have regard to the following matters:

(a) any information contained in the exemption application, including the implementation plan;

(b) the technical feasibility of the carrier being able to comply with domestic preservation notices and foreign preservation notices without making the changes or undertaking the developments set out in the carrier’s implementation plan.

(4) Subitem (3) does not limit the matters to which the Communications Access Co-ordinator may have regard in determining whether to grant an exemption under subitem (1).

(5) Before making a decision whether to grant an exemption under subitem (1), the Communications Access Co-ordinator must consult with the carrier and the ACMA.

(6) If a carrier makes an application under subitem (2) and the Communications Access Co-ordinator has not made a decision on the application, and communicated that decision to the carrier, within 90 days after receiving the application, the Communications Access Co-ordinator is taken to have granted an exemption to the carrier under subitem (1) for the period specified in the application.

(7) If a carrier makes an application under subitem (2), the carrier is exempt from complying with sections 107H and 107N of the *Telecommunications (Interception and Access) Act 1979* (as inserted by this Schedule) for each day falling on or between:

(a) the day item 1 of this Schedule commences; and

(b) the day the Communications Access Co-ordinator makes (or is taken to have made) a decision on the application.

(8) A carrier may make an application to the ACMA for a review of a decision by the Communications Access Co-ordinator to refuse to grant an exemption under subitem (1).

(9) An application for review must be made within 21 days after the Communications Access Co-ordinator notifies the carrier of the refusal to grant an exemption.

(10) The ACMA may affirm, vary or set aside the decision to refuse to grant an exemption.
Debate ensued.

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

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

Schedule 2, item 27, page 29 (lines 9 and 10), omit paragraph 15D(3)(b), substitute:

(b) the offence:
   (i) is punishable by imprisonment for 3 years or more, imprisonment for life or the death penalty; or
   (ii) involves an act or omission that, if it had occurred in Australia, would have constituted a serious offence within the meaning of section 5D of the Telecommunications (Interception and Access) Act 1979.

Schedule 2, item 41, page 32 (line 32) to page 33 (line 5), omit paragraph 180B(3)(b), substitute:

(b) the authorised officer is satisfied that the disclosure is reasonably necessary for the investigation of an offence against the law of a foreign country that:
   (i) is punishable by imprisonment for 3 years or more, imprisonment for life or the death penalty; or
   (ii) involves an act or omission that, if it had occurred in Australia, would have constituted a serious offence within the meaning of section 5D of the Telecommunications (Interception and Access) Act 1979; and

(c) the authorised officer is satisfied that the disclosure is appropriate in all the circumstances.

Schedule 2, item 41, page 33 (lines 24 to 27), omit paragraph 180B(6)(a), substitute:

(a) reasonably necessary for the investigation of an offence against the law of a foreign country that:
   (i) is punishable by imprisonment for 3 years or more, imprisonment for life or the death penalty; or
   (ii) involves an act or omission that, if it had occurred in Australia, would have constituted a serious offence within the meaning of section 5D of the Telecommunications (Interception and Access) Act 1979; and

Schedule 2, item 41, page 34 (lines 3 to 6), omit paragraph 180B(8)(a), substitute:

(a) reasonably necessary for the investigation of an offence against the law of a foreign country that:
   (i) is punishable by imprisonment for 3 years or more, imprisonment for life or the death penalty; or
   (ii) involves an act or omission that, if it had occurred in Australia, would have constituted a serious offence within the meaning of section 5D of the Telecommunications (Interception and Access) Act 1979; and

Senator Ludlam moved the following amendments together by leave:

Schedule 2, item 41, page 32 (line 3), at the end of subsection 180A(3), add “in relation to an offence that is punishable by imprisonment for at least 3 years”. 
Schedule 2, item 41, page 32 (line 13), after “country”, insert “in relation to an offence that is punishable by imprisonment for at least 3 years”.

Schedule 2, item 41, page 34 (line 22), after “country”, insert “in relation to an offence that is punishable by imprisonment for at least 3 years”.

Schedule 2, item 41, page 35 (lines 1 to 19), omit subsection 180D(2), substitute:

(2) The authorised officer must not authorise the disclosure of information or documents to the Organisation unless he or she is satisfied that the disclosure is appropriate in all the circumstances and is reasonably necessary for the performance by the Organisation of its functions.

(3) The authorised officer must not authorise the disclosure of the information or documents to an enforcement agency unless he or she is satisfied that the disclosure is appropriate in all the circumstances and is reasonably necessary:

(a) for the enforcement of the criminal law in relation to an offence that is punishable by imprisonment for at least 3 years; or

(b) for the enforcement of a law imposing a pecuniary penalty for a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units; or

(c) for the protection of the public revenue in relation to an offence that is punishable by imprisonment for at least 3 years or in relation to a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units.

(4) The authorised officer must not authorise the use of the information or documents by the Australian Federal Police unless he or she is satisfied that the disclosure is appropriate in all the circumstances and is reasonably necessary:

(a) for the enforcement of the criminal law in relation to an offence that is punishable by imprisonment for at least 3 years; or

(b) for the enforcement of a law imposing a pecuniary penalty for a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or
(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units; or

(c) for the protection of the public revenue in relation to an offence that is punishable by imprisonment for at least 3 years or in relation to a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units.

Schedule 2, items 54 to 56, page 39 (lines 5 to 19), omit the items, substitute:

54 Paragraph 313(3)(c)

Repeal the paragraph, substitute:

(c) enforcing the criminal law in relation to an offence that is punishable by imprisonment for at least 3 years;

(ca) enforcing a law imposing a pecuniary penalty for a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units;

(cb) assisting the enforcement of the criminal laws in force in a foreign country in relation to an offence that is punishable by imprisonment for at least 3 years;

54A At the end of paragraph 313(3)(d)

Add “in relation to an offence that is punishable by imprisonment for at least 3 years or in relation to a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units;”.

54B At the end of paragraph 313(3)(e)

Add “in relation to an offence that is punishable by imprisonment for at least 3 years or in relation to a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or
(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units.”.

55 Paragraph 313(4)(c)
Repeal the paragraph, substitute:

(c) enforcing the criminal law in relation to an offence that is punishable by imprisonment for at least 3 years;

(ca) enforcing a law imposing a pecuniary penalty for a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units;

(cb) assisting the enforcement of the criminal laws in force in a foreign country in relation to an offence that is punishable by imprisonment for at least 3 years;

55A At the end of paragraph 313(4)(d)
Add “in relation to an offence that is punishable by imprisonment for at least 3 years or in relation to a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units;”.

55B At the end of paragraph 313(4)(e)
Add “in relation to an offence that is punishable by imprisonment for at least 3 years or in relation to a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units.”.

56 Application of amendments made by this Part
(1) The amendments made by items 54, 54A and 54B of this Schedule apply to help given by a carrier or carriage service provider on or after the commencement of this item.

(2) The amendments made by items 55, 55A and 55B of this Schedule apply to help given by a carriage service intermediary on or after the commencement of this item.
Schedule 4, page 42 (after line 8), after item 1, insert:

1A At the end of subsection 177(1)

Add “in relation to an offence that is punishable by imprisonment for at least 3 years”.

1B Subsection 177(2)

Repeal the subsection, substitute:

Enforcement of a law imposing a pecuniary penalty

(2) Sections 276 and 277 of the Telecommunications Act 1997 do not prevent a disclosure by a person (the holder) of information or a document to an enforcement agency if the disclosure is reasonably necessary for the enforcement of a law imposing a pecuniary penalty for a contravention that would, if proved, render the person committing the contravention liable to:

(a) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(b) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units.

Enforcement of a law for the protection of the public revenue

(2A) Sections 276 and 277 of the Telecommunications Act 1997 do not prevent a disclosure by a person (the holder) of information or a document to an enforcement agency if the disclosure is reasonably necessary for the enforcement of a law for the protection of the public revenue in relation to an offence that is punishable by imprisonment for at least 3 years or in relation to a contravention that would, if proved, render the person committing the contravention liable to:

(a) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(b) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units.

1C At the end of subsection 178(3)

Add “in relation to an offence that is punishable by imprisonment for at least 3 years”.

1D Subsection 179(3)

Repeal the subsection, substitute:

(3) The authorised officer must not make the authorisation unless he or she is satisfied that the disclosure is reasonably necessary for:

(a) the enforcement of a law imposing a pecuniary penalty for a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or
(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units; or

(b) for the protection of the public revenue in relation to an offence that is punishable by imprisonment for at least 3 years or in relation to a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units.

Schedule 4, item 3, page 43 (lines 7 to 17), omit subsection 181A(3), substitute:

(3) Paragraphs (1)(a) and (2)(a) do not apply to a disclosure of information or a document if the disclosure is for the purposes of the authorisation, revocation or notification concerned.

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

(3A) Paragraphs (1)(a) and (2)(a) do not apply to a disclosure of information or a document if the disclosure is reasonably necessary:

(a) to enable the Organisation to perform its functions; or

(b) to enforce the criminal law in relation to an offence that is punishable by imprisonment for at least 3 years; or

(c) to enforce a law imposing a pecuniary penalty for a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units; or

(d) to protect the public revenue in relation to an offence that is punishable by imprisonment for at least 3 years or in relation to a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units.

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

Schedule 4, item 3, page 44 (lines 3 to 13), omit subsection 181A(6), substitute:

(6) Paragraphs (4)(a) and (5)(a) do not apply to a use of information or a document if the use is for the purposes of the authorisation, revocation or notification concerned.
Note: A defendant bears an evidential burden in relation to the matter in subsection (6) (see subsection 13.3(3) of the Criminal Code).

(7) Paragraphs (4)(a) and (5)(a) do not apply to a use of information or a document if the use is reasonably necessary:

(a) to enable the Organisation to perform its functions; or

(b) to enforce the criminal law in relation to an offence that is punishable by imprisonment for at least 3 years; or

(c) to enforce a law imposing a pecuniary penalty for a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units; or

(d) to protect the public revenue in relation to an offence that is punishable by imprisonment for at least 3 years or in relation to a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units.

Note: A defendant bears an evidential burden in relation to the matter in subsection (7) (see subsection 13.3(3) of the Criminal Code).

Schedule 4, item 3, page 45 (lines 3 to 13), omit subsection 181B(3), substitute:

(3) Paragraphs (1)(a) and (2)(a) do not apply to a disclosure of information or a document if the disclosure is for the purposes of the authorisation, revocation or notification concerned.

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

(3A) Paragraphs (1)(a) and (2)(a) do not apply to a disclosure of information or a document if the disclosure is reasonably necessary:

(a) to enable the Organisation to perform its functions; or

(b) to enforce the criminal law in relation to an offence that is punishable by imprisonment for at least 3 years; or

(c) to enforce a law imposing a pecuniary penalty for a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units; or
(d) to protect the public revenue in relation to an offence that is punishable by imprisonment for at least 3 years or in relation to a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units.

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

Schedule 4, item 3, page 46 (lines 1 to 10), omit subsection 181B(6), substitute:

(6) Paragraphs (4)(a) and (5)(a) do not apply to a use of information or a document if the use is for the purposes of the authorisation, revocation or notification concerned.

Note: A defendant bears an evidential burden in relation to the matter in subsection (6) (see subsection 13.3(3) of the Criminal Code).

(7) Paragraphs (4)(a) and (5)(a) do not apply to a use of information or a document if the use is reasonably necessary:

(a) to enforce the criminal law in relation to an offence that is punishable by imprisonment for at least 3 years; or

(b) to enforce a law imposing a pecuniary penalty for a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units; or

(c) to protect the public revenue in relation to an offence that is punishable by imprisonment for at least 3 years or in relation to a contravention that would, if proved, render the person committing the contravention liable to:

(i) a pecuniary penalty, or a maximum pecuniary penalty, of at least 180 penalty units if the contravention is committed by an individual; or

(ii) if the contravention cannot be committed by an individual—a pecuniary penalty, or a maximum pecuniary penalty, of at least 900 penalty units.

Note: A defendant bears an evidential burden in relation to the matter in subsection (7) (see subsection 13.3(3) of the Criminal Code).

Debate ensued.

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

AYES, 9

Senators—

Di Natale
Hanson-Young
Ludlam

Milne
Rhiannon
Siewert (Teller)
Waters
Whish-Wilson
Wright

NOES, 28

Senators—

Back (Teller)
Bishop
Boyce
Brown
Bushby
Cameron
Colbeck

Cormann
Edwards
Farrell
Feeley
Fieravanti-Wells
Furner
Gallacher

Ludwig
Lundy
Marshall
McKenzie
McLucas
Moore
Pratt

Singh
Smith
Stephens
Sterle
Thistlethwaite
Thorp
Urquhart

Question negatived.

Senator Ludlam moved the following amendments together by leave:

Schedule 2, item 41, page 32 (after line 13), after paragraph 180A(5)(a), insert:

(ab) if the disclosure is in relation to a prosecution or punishment of a person charged with, or convicted of, an offence in respect of which the death penalty may be imposed in a foreign country—the foreign country has given an assurance that the death penalty will not be imposed in relation to that person for that offence; and

Schedule 2, item 41, page 32 (after line 14), at the end of section 180A, add:

(6) In considering whether the disclosure is appropriate in all the circumstances for the purposes of paragraph (5)(b), the authorised officer must have regard to the grounds for refusing a request for assistance covered by section 8 of the Mutual Assistance in Criminal Matters Act 1987.

Schedule 2, item 41, page 34 (after line 22), after paragraph 180C(2)(a), insert:

(ab) if the disclosure is in relation to a prosecution or punishment of a person charged with, or convicted of, an offence in respect of which the death penalty may be imposed in a foreign country—the foreign country has given an assurance that the death penalty will not be imposed in relation to that person for that offence; and

Schedule 2, item 41, page 34 (after line 23), at the end of section 180C, add:

(3) In considering whether the disclosure is appropriate in all the circumstances for the purposes of paragraph (2)(b), the authorised officer must have regard to the grounds for refusing a request for assistance covered by section 8 of the Mutual Assistance in Criminal Matters Act 1987.

Debate ensued.

Question—That the amendments be agreed to—put and negatived.
On the motion of Senator Ludwig the following amendments, taken together by leave, were debated and agreed to:

Schedule 2, item 41, page 36 (lines 7 and 8), omit all the words after “regard”, substitute “to whether any interference with the privacy of any person or persons that may result from the disclosure or use is justifiable, having regard to the following matters:

(a) the likely relevance and usefulness of the information or documents;
(b) the reason why the disclosure or use concerned is proposed to be authorised.

Schedule 2, item 50, page 37 (after line 21), after paragraph 186(1)(ca), insert:

(cb) if the enforcement agency is the Australian Federal Police, and information or documents were disclosed, under an authorisation referred to in paragraph (ca), by an authorised officer of the Australian Federal Police during that year to one or more foreign countries:

(i) the name of each such country; and
(ii) the number of disclosures under such authorisations; and

Schedule 2, page 37 (before line 22), before item 51, insert:

50A Subsection 186(2)
After “subsection (1)”, insert “, other than the information referred to in paragraph (1)(cb)”.

Senator Ludlam moved the following amendment:
Schedule 2, page 39 (after line 19), at the end of the Schedule, add:

Part 4—Refusal of assistance

Mutual Assistance in Criminal Matters Act 1987

57 After paragraph 8(2)(f)

Insert:

(fa) the foreign country’s arrangements for handling personal information (within the meaning of the Privacy Act 1988) do not offer a level of privacy protection similar to that afforded in Australia; or

Debate ensued.

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

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Ludwig, in respect of Schedule 5, item 2.

Schedule 5, item 2 debated.

Question—That Schedule 5, item 2 stand as printed—put and negatived.

On the motion of Senator Ludwig the following amendment was agreed to:
Schedule 5, page 47 (after line 18), at the end of the Schedule, add:

4 Application of amendments made by items 1 and 3

(1) The amendment made by item 1 of this Schedule applies to acts or things done on or after the day this Schedule commences.
(2) The amendment made by item 3 of this Schedule applies in relation to an authorisation made on or after the day this Schedule commences.

Bill, as amended, agreed to.
Bill to be reported with amendments.

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

On the motion of Senator Ludwig the report from the committee was adopted.
Senator Ludwig moved—That this bill be now read a third time.
Question put.
The Senate divided—

AYES, 33

Senators—

Back
Bishop
Brandis
Brown (Teller)
Busby
Cash
Colbeck
Collins
Crossin

Edwards
Farrell
Feeney
Furner
Gallacher
Ludwig
Lundy
Madjian
Marshall

McEwen
McKenzie
McLucas
Moore
Parry
Policy
Pratt
Singh
Sinodinos

Smith
Stephens
Sterle
Thistlethwaite
Thorп
Urquhart

NOES, 9

Senators—

Di Natale
Hanson-Young
Ludlam

Milne
Rhiannon
Ludlam

Siewert (Teller)
Waters

Whish-Wilson
Wright

Question agreed to.
Bill read a third time.

6 ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION AMENDMENT (INDEPENDENT EXPERT SCIENTIFIC COMMITTEE ON COAL SEAM GAS AND LARGE COAL MINING DEVELOPMENT) BILL 2012

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

Debate resumed.

At 12.45 pm: Debate was interrupted while Senator Birmingham was speaking.

7 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

At 2 pm—

8 QUESTIONS

Questions without notice were answered.
Distinguished visitors: The President welcomed members of a parliamentary delegation from the Seychelles led by the Speaker of the National Assembly, the Honourable Dr Patrick Herminie, MP, and, with the concurrence of honourable senators, invited the Speaker to take a seat on the floor of the chamber.

Further questions without notice were answered.

9 MOTIONS TO TAKE NOTE OF ANSWERS
The Leader of The Nationals in the Senate (Senator Joyce) moved—That the Senate take note of answers given by the Minister for Finance and Deregulation (Senator Wong) 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 Finance and Deregulation (Senator Wong) to a question without notice asked by Senator Milne today relating to the minerals resource rent tax.

Question put and passed.

10 NOTICES
The Chair of the Community Affairs References Committee (Senator Siewert): To move on the next day of sitting—That the time for the presentation of the report of the Community Affairs References Committee on palliative care in Australia be extended to 19 September 2012. (general business notice of motion no. 871)

The Chair of the Community Affairs References Committee (Senator Siewert): To move on the next day of sitting—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 Tuesday, 11 September 2012, from 12.30 pm. (general business notice of motion no. 872)

The Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Eggleston): To move on the next day of sitting—That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on the procurement procedures for defence capital projects be extended to 30 August 2012. (general business notice of motion no. 873)

The Deputy Chair of the Rural and Regional Affairs and Transport References Committee (Senator Sterle): To move on the next day of sitting—That the Rural and Regional Affairs and Transport References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 23 August 2012, from 4.30 pm, to take evidence for the committee’s inquiry into the management of the Murray-Darling Basin. (general business notice of motion no. 874)

The Deputy Chair of the Rural and Regional Affairs and Transport References Committee (Senator Sterle): To move on the next day of sitting—That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on the management of the Murray-Darling Basin be extended to 1 November 2012. (general business notice of motion no. 875)
Senators Crossin, Moore, Boyce, Nash, Siewert and Xenophon: To move on the next day of sitting—That the Senate—
(a) notes that September 2012 marks the 20th anniversary of the Fred Hollows Foundation;
(b) recognises the work of the late Professor Fred Hollows, AC, and the clinicians, administrators and volunteers who have followed in his footsteps over the past 2 decades;
(c) commends the Fred Hollows Foundation for its achievements, including:
   (i) producing millions of intraocular lenses at factories in Eritrea and Nepal and exporting those lenses to more than 75 countries,
   (ii) training tens of thousands of clinical and support staff, including ophthalmologists, nurses and community workers,
   (iii) building or renovating more than 100 health facilities, and
   (iv) reducing the cost of cataract operations to just $25 in many developing countries; and
(d) endorses the ongoing mission of the Fred Hollows Foundation to give local communities the skills and tools to eradicate avoidable blindness and improve lives in Australia and around the world. (general business notice of motion no. 876)

Senators Mason and Cormann: To move on the next day of sitting—That the Senate—
(a) notes that 23 August is the European Day of Remembrance for Victims of Stalinism and Nazism (also known as International Black Ribbon Day), which:
   (i) commemorates the tens of millions of those who were murdered by fascist and communist totalitarianism in the 20th century, as well as those imprisoned, deported and persecuted by fascist and communist regimes,
   (ii) is the anniversary of the Ribbentrop-Molotov Pact, the non-aggression treaty signed on 23 August 1939 by Nazi Germany and the Soviet Union, which partitioned Eastern Europe between them and gave a green light to the commencement of World War II,
   (iii) was first held in 1986 as a day of protest and remembrance around the world, including in Australia, before spreading to the Baltic states where, in 1989, two million Latvians, Lithuanians and Estonians formed a human chain to protest the continuing Soviet occupation of their countries, and
   (iv) was adopted by the European Parliament in 2009 and is commemorated in many European Union countries, including Great Britain, as well as in Canada and Georgia; and
(b) joins in remembering all the victims of Nazism and Stalinism. (general business notice of motion no. 877)

Senator Siewert: To move on the next day of sitting—That the Senate—
(a) notes the success of the Kimberley Girl Program in improving the lives of Aboriginal and Torres Strait Islander women, their families and communities;
(b) notes that:
   (i) since Kimberley Girl commenced in 2004, the program has provided 219 young women with personal development training, including public speaking,
(ii) one-third of these participants have experienced five of the seven socio-economic disadvantage factors, 45 per cent have experienced four or more and 65 per cent have experienced three or more disadvantage factors,

(iii) 90 per cent of these women said that they benefitted from the skills acquired during the program and half said that their life is better now than it was before they did Kimberley Girl, and

(iv) due to the success of Kimberley Girl, there have been a number of requests to roll the program out to other regions of Australia;

(c) recognises the importance of long-term funding to support this and other programs for Aboriginal and Torres Strait Islander women, families and communities;

(d) welcomes the Government’s support of $479 000 for the Kimberley Girl Program since 2008, and

(e) calls on the Government to commit to funding the program over the next 3 to 5 years. (general business notice of motion no. 878)

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

(a) recognises the significance of goods and services tax (GST) receipts to state governments;

(b) acknowledges the commitment given by the Federal Labor Government to Horizontal Fiscal Equalisation (HFE);

(c) notes that:

(i) HFE is the distribution method that underpins the concept of federalism in this country and spreads Australia’s wealth fairly across all states and territories,

(ii) HFE is vitally important to the Federation and this long-standing principle of equalisation has served Australia well, and that this has long been a bipartisan position of successive Labor and Liberal Commonwealth Governments, and

(iii) a move to per capita distribution of the GST would have disastrous consequences for the budgets of smaller states and territories in the Commonwealth, whose residents would consequently receive a significantly inferior level of key services such as health and education; and

(d) endorses HFE and calls on all sides of politics to support the principle that HFE be maintained into the future. (general business notice of motion no. 879)

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

(a) recognises that discrimination and inequality are alive and well in Australia, for example, in August 2010, women earned 16.9 per cent less than men on average per week, with the total earnings gap increasing to 34.8 per cent per week when taking into account part time and casual work; and

(b) calls on the Government to:

(i) seize the opportunity to introduce a stand-alone Federal Equality Act that adopts global best-practice standards and brings Australian law into line with our international human rights obligations, and

(ii) ensure that new equality legislation includes, among other things, a specific duty to promote equality and eliminate discrimination, prohibits discrimination in all areas of public life and removes arbitrary and blanket exemptions. (general business notice of motion no. 880)
Senators Rhiannon and Moore: To move on the next day of sitting—That the Senate—
(a) notes that:
   (i) the impact of the lack of affordable housing is felt disproportionately by women due to the high number of women in low-paid jobs, women heading single parent families and higher rates of poverty among older women living alone,
   (ii) research indicates that, in coming years, there will be a significant increase in older women facing homelessness, and
   (iii) a key priority of the Australian Social Inclusion Board for 2012-13 is to provide advice to government on the best responses to the growing issue of older women and homelessness; and
(b) calls on the Government to:
   (i) support continued efforts to include a gendered perspective in the development of affordable housing measures, and
   (ii) publish information on how women are impacted by the affordable housing shortage, such as gender disaggregated data on the outcomes of the National Affordable Housing Agreement, National Partnership Agreements, National Rental Affordability Scheme and Social Housing Initiative. (general business notice of motion no. 881)

The Leader of the Australian Greens (Senator Milne) and Senator Xenophon: To move on the next day of sitting—That there be laid on the table, no later than 17 September 2012:
(a) any documents or information from Securency International Ltd and Note Printing Australia to the Reserve Bank of Australia (RBA) pertaining to allegations of corruption and bribery at these subsidiaries, prior to the exposure of the allegations in the media in May 2009;
(b) any internal RBA documents discussing the receipt of any documents or information pertaining to such allegations;
(c) any written advice or information provided to the Government by the RBA pertaining to these allegations;
(d) the Freehills report into Note Printing Australia’s agency arrangements, including the terms of reference for this report and any information provided to Freehills; and
(e) the Note Printing Australia audit report into these allegations. (general business notice of motion no. 882)

Senator Madigan: To move on the next day of sitting—That the Senate—
(a) notes that:
   (i) development of the Bald Hills wind farm in South Gippsland has been approved and will include construction of 52 wind turbines of up to 135 metres in height in the middle of a significant wetlands and flora conservation area on the South Gippsland coast,
   (ii) some 296 recorded bird species live around the area of the wind farm, of which:
      (A) 21 are threatened species in the Cape Liptrap area,
      (B) 31 are listed species under the Victorian Flora and Fauna Guarantee Act 1988,
(c) 97 are listed as migratory under the *Environment Protection and Biodiversity Conservation Act 1999* of which 2 are listed as endangered, including one critically endangered,

(d) 40 are listed under the Chinese-Australian Migratory Bird Agreement (CAMBA),

(e) 45 are listed under the Japanese-Australian Migratory Bird Agreement (JAMBA), and

(f) 3 are listed under the Bonn Convention on Migratory Species,

(iii) government approval of the Bald Hills wind farm is causing Australia to breach the international obligations to protect migratory species listed under JAMBA, CAMBA and the Bonn Convention on Migratory Species, and

(iv) objectors to the development of the Bald Hills wind farm include hundreds of individuals, as well as over a dozen organisations, including the National Trust of Australia, Victorian National Parks Association, Parks Victoria West Gippsland District, South Gippsland Conservation Society and the South Gippsland Shire Council; and

(b) calls on the Minister for Sustainability, Environment, Water, Population and Communities to remove Commonwealth approval for the construction of the Bald Hills wind farm and bring Australia into compliance with our international obligations. *(general business notice of motion no. 883)*

Senator Cormann: To move on the next day of sitting—That there be laid on the table by the Minister representing the Minister for Climate Change and Energy Efficiency, no later than noon on 10 September 2012, details of how many Australian export businesses:

(a) have received free carbon permits since 1 July 2012; and

(b) are expected to receive free carbon permits in 2012-13, 2013-14, 2014-15 and 2015-16. *(general business notice of motion no. 884)*

The Minister for Finance and Deregulation (Senator Wong): To move on the next day of sitting—

(1) That a Select Committee on Electricity Prices be appointed to inquire into and report by 1 November 2012 on:

(a) the key causes of electricity price increases over recent years and in future projections;

(b) legislative and regulatory arrangements and drivers in relation to network transmission and distribution investment decision-making and the consequent impacts on electricity bills, and on the long-term interests of consumers;

(c) options to reduce peak demand and improve the productivity of the national electricity system;

(d) independent energy market reviews currently underway to improve outcomes for consumers, mechanisms that could assist households and business to reduce (or substantially mitigate increases in) their energy costs, including:

(i) the identification of practical low cost energy efficiency opportunities to assist low income earners reduce their electricity costs,
(ii) the opportunities for improved customer advocacy and representation arrangements bringing together current diffuse consumer representation around the country,

(iii) investigation of the opportunities and possible mechanisms for the wider adoption of technologies to provide consumers with greater information to assist in managing their energy use,

(iv) the adequacy of current consumer information, choice and protection measures, including the benefits to consumers and industry of uniform adoption of the National Energy Customer Framework,

(v) arrangements to support and assist low income and vulnerable consumers with electricity pricing, in particular relating to the role and extent of dividend redistribution from electricity infrastructure,

(vi) arrangements for network businesses to assist their customers to save energy and reduce peak demand as a more cost effective alternative to network infrastructure spending,

(vii) improved reporting by electricity businesses of their performance in assisting customers to save energy and reduce bills; and

(e) opportunities and barriers to the wider deployment of new and innovative technologies, including:

(i) direct load control and pricing incentives,

(ii) storage technology,

(iii) energy efficiency, and

(iv) distributed clean and renewable energy generation.

(2) That the committee consist of 8 senators, 4 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate, and 1 nominated by the Leader of the Australian Greens.

(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 senators;

(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; and

(c) a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.

(4) That every nomination of a member of the committee be notified in writing to the President of the Senate.

(5) That the committee elect a Government member as its chair.

(6) That, in the event of an equally divided vote, the chair has a casting vote.

(7) That 3 members of the committee constitute a quorum of the committee, provided that in a deliberative meeting the quorum shall include 1 Government member and 1 non-Government member.

(8) That the committee have power to call for witnesses to attend and for documents to be produced.

(9) That the committee may conduct proceedings at any place it sees fit.
That the provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

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

(a) notes that:

(i) 28 July was World Hepatitis Day,
(ii) the event is one of only 4 official world disease awareness days endorsed by the World Health Organization,
(iii) chronic hepatitis C is a large and growing health problem in Australia with more than 200 000 people living with the disease,
(iv) left untreated, hepatitis C can possibly lead to liver damage, cancer and death,
(v) hepatitis C has now eclipsed HIV/AIDS as the number one viral killer in Australia,
(vi) hepatitis C can be cured with the appropriate treatment,
(vii) needle and syringe programs have proven effective in relation to preventing transmission of hepatitis B and hepatitis C as well as HIV, and
(viii) hepatitis C disproportionately impacts on the Indigenous community with Indigenous people representing less than 3 per cent of the total Australian population but more than 8 per cent of the Australian population infected with hepatitis C; and

(b) welcomes scientific and treatment advances that greatly increase the chance of curing patients with the most common and hardest to treat strain of hepatitis C.

11 CONSIDERATION OF LEGISLATION—ORDER OF THE DAY DISCHARGED

The Minister for Finance and Deregulation (Senator Wong), by leave, moved—That the government business order of the day relating to the consideration of the Tax Laws Amendment (Managed Investment Trust Withholding Tax) Bill 2012 be discharged from the Notice Paper.

Question put and passed.

12 LEAVE OF ABSENCE

Senator Kroger, by leave, moved—that leave of absence be granted to Senator Heffernan for today, for personal reasons.

Question put and passed.

13 POSTPONEMENTS

The following items of business were postponed:

General business notice of motion no. 438 standing in the name of Senator Siewert for today, relating to the North West Slope Trawl Fishery, postponed till 19 September 2012.

General business notice of motion no. 442 standing in the name of Senator Siewert for today, proposing the introduction of the Fisheries Management Amendment (North West Slope Fishery Partial Closure) Bill 2011, postponed till 19 September 2012.
14 NOTICE OF MOTION WITHDRAWN
The Leader of the Australian Greens (Senator Milne) withdrew business of the Senate notice of motion no. 1 standing in her name for today, proposing a reference to the Economics References Committee.

15 COMMUNITY AFFAIRS REFERENCES COMMITTEE—REFERENCE
The Chair of the Community Affairs References Committee (Senator Siewert), pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 3—that the following matter be referred to the Community Affairs References Committee for inquiry and report by 27 March 2013:

Australia’s domestic response to the World Health Organization’s (WHO) Commission on Social Determinants of Health report, Closing the gap within a generation, including the:

(a) Government’s response to other relevant WHO reports and declarations;
(b) impacts of the Government’s response;
(c) extent to which the Commonwealth is adopting a social determinants of health approach through:
   (i) relevant Commonwealth programs and services,
   (ii) the structures and activities of national health agencies, and
   (iii) appropriate Commonwealth data gathering and analysis; and
(d) scope for improving awareness of social determinants of health:
   (i) in the community,
   (ii) within government programs, and
   (iii) amongst health and community service providers.

Question put and passed.

16 COMMUNITY AFFAIRS LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING
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. 865—that the Community Affairs 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 Tuesday, 11 September 2012, from 12:30 pm.

Question put and passed.

17 ECONOMICS LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING
Senator McEwen, at the request of the Chair of the Economics Legislation Committee (Senator Bishop) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 866—that the Economics 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 Thursday, 23 August 2012, from 3:30 pm.

Question put and passed.
18 **EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS REFERENCES COMMITTEE—EXTENSION OF TIME TO REPORT**

Senator McEwen, at the request of the Chair of the Education, Employment and Workplace Relations References Committee (Senator Back) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 867—That the time for the presentation of the report of the Education, Employment and Workplace Relations References Committee on its inquiry into the allowance payment system be extended to 29 November 2012.

Question put and passed.

19 **ENVIRONMENT—WESTERN AUSTRALIA—JAMES PRICE POINT**

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 870—That the Senate calls on the Government to:

(a) examine the new evidence presented by Dr Salisbury, that there are archaeologically and culturally significant but insufficiently documented dinosaur footprint trails right along the Dampier Peninsula coastline, including at the site of the proposed James Price Point gas hub precinct;

(b) commission further science that will identify the extent of the dinosaur footprint fossils in the proposed James Price Point gas hub precinct and the impact that construction of a gas hub would have on these fossils; and

(c) undertake a full environmental, social and heritage impact assessment of the James Price Point gas hub precinct proposal.

 Statements by leave: The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) and Senator Siewert, by leave, made statements relating to the motion.

Question put.

The Senate divided—

**AYES, 9**

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**NOES, 33**

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Question negatived.
20 **EMPLOYMENT—2011-12 BUDGET—JOB CREATION**

Senator Kroger, at the request of Senator Bernardi and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 868—That the Senate—

(a) notes the Treasurer’s promise in the 2011-12 Budget to create half a million new jobs over the next 2 years; and

(b) calls on the Government to keep its promise to create half a million new jobs by 1 June 2013.

**Leave refused:** The Leader of the Australian Greens (Senator Milne) sought leave to move an amendment to the motion.

An objection was raised and leave was not granted.

**Question put.**

The Senate divided—

**AYES, 27**

- Abetz
- Bernardi
- Birmingham
- Boyce
- Bushby
- Colbeck
- Cormann
- Edwards
- Fawcett
- Fierravanti-Wells
- Fifield
- Humphries
- Johnston
- Joyce
- Kroger (Teller)
- Macdonald
- Mason
- McKenzie
- Nash
- Parry
- Payne
- Ronaldson
- Ryan
- Scullion
- Sinodinos
- Smith
- Williams

**NOES, 33**

- Bishop
- Brown
- Cameron
- Collins
- Crossin
- Di Natale
- Farrell
- Faulkner
- Feeney
- Furner
- Gallacher
- Hanson-Young
- Hogg
- Ludlam
- Lundy
- Marshall
- McEwen (Teller)
- McLucas
- Milne
- Moore
- Policy
- Pratt
- Rhiannon
- Siewert
- Singh
- Stephens
- Sterle
- Thistlethwaite
- Thorp
- Urquhart
- Waters
- Whish
- Wright

Question negatived.

21 **COMMUNICATIONS—FREE PRESS**

Senator Birmingham, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 869—That the Senate—

(a) believes a free press is central to accountability and transparency in government; and

(b) rejects proposals for new government-appointed arbiters of news media content or government-imposed fines on news media content.

**Statements by leave:** The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) and Senators Birmingham and Ludlam, by leave, made statements relating to the motion.

The question was divided—

**Question—** That the motion in respect of paragraph (a) be agreed to—put and passed.

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

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Question negatived.

### 22 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—INDIGENOUS AUSTRALIANS—GOVERNMENT POLICIES

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

Inadequacy of the Government’s policies, such as stronger futures in the Northern Territory and support for homelands, to address disadvantage and improve outcomes for Aboriginal people.

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

### 23 COMMUNITY AFFAIRS REFERENCES COMMITTEE—REPORT—HEALTH SERVICES AND MEDICAL PROFESSIONALS IN RURAL AREAS

The Chair of the Community Affairs References Committee (Senator Siewert) tabled the following report and documents:

Community Affairs References Committee—The factors affecting the supply of health services and medical professionals in rural areas—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 Siewert.

Senator Siewert moved—That the Senate take note of the report.

Debate ensued.

Debate adjourned till the next day of sitting, Senator Fawcett in continuation.
24 **HUMAN RIGHTS—JOINT STATUTORY COMMITTEE—1ST REPORT OF 2012**

Senator Stephens, on behalf of the Parliamentary Joint Committee on Human Rights, tabled the following report:


Senator Stephens moved—That the Senate take note of the report.

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

25 **SCRUTINY OF BILLS—STANDING COMMITTEE—9TH REPORT AND ALERT DIGEST NO. 9 OF 2012**

Senator Bushby, at the request of the Chairman of the Standing Committee for the Scrutiny of Bills (Senator Macdonald), tabled the following report and document:

Scrutiny of Bills—Standing Committee—

9th report of 2012, dated 22 August 2012.

Alert Digest No. 9 of 2012, dated 22 August 2012.

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

26 **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.*

- Environment Protection and Biodiversity Conservation Act—Amendment of list of exempt native specimens—EPBC303DC/SFS/2012/45 [F2012L01717].
- National Health Act—Instruments Nos PB—
  65 of 2012—National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2012 (No. 7) [F2012L01730].
  67 of 2012—National Health (Listed drugs on F1 or F2) Amendment Determination 2012 (No. 6) [F2012L01716].
- Private Health Insurance Act—Private Health Insurance (Prostheses) Rules 2012 (No. 2) [F2012L01722].
- Radiocommunications Act—
  Radiocommunications (118MHz to 137MHz Amplitude Modulated Equipment – Aeronautical Radio Service) Standard 2012 [F2012L01728].
  Radiocommunications (Aircraft and Aeronautical Mobile Stations) Class Licence Variation 2012 (No. 1) [F2012L01723].
Radiocommunications Devices (Compliance Labelling) Amendment Notice 2012 (No. 1) [F2012L01724].
Radiocommunications (subsection 145(3) Certificates) Determination 2012 [F2012L01719].
Radiocommunications (Spectrum Licence Tax) Act—Radiocommunications (Spectrum Licence Tax) Amendment Determination 2012 (No. 1) [F2012L01721].

27 **FINANCE—FINANCIAL OMBUDSMAN SERVICE—TERMS OF REFERENCE—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT**

The following document was tabled pursuant to the order of the Senate of 25 June 2012:

Finance—Financial Ombudsman Service—Terms of reference—Summary of documents and communications between Australian Securities and Investments Commission (ASIC) and Financial Ombudsman Service (FOS) in relation to changes to FOS terms of reference (TOR) effective from 1 January 2012.

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

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

Departmental and agency contracts for 2011-12—Letter of advice—Treasury portfolio.

29 **COMMITTEE MEMBERSHIP**

The Acting Deputy President (Senator Moore) informed the Senate that the President had received a letter requesting changes in the membership of a committee.

The Minister for Tertiary Education, Skills, Science and Research (Senator Evans), by leave, moved—That Senator McKenzie replace Senator Nash on the Rural and Regional Affairs and Transport References Committee for the committee’s inquiry into the management of the Murray-Darling Basin on Thursday, 23 August 2012.

Question put and passed.
30 **CRIMES LEGISLATION AMENDMENT (SLAVERY, SLAVERY-LIKE CONDITIONS AND PEOPLE TRAFFICKING) BILL 2012**

**ILLEGAL LOGGING PROHIBITION BILL 2012**

**PUBLIC SERVICE AMENDMENT BILL 2012**

**VETERANS’ AFFAIRS LEGISLATION AMENDMENT BILL 2012**

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

Message no. 486, dated 22 August 2012—A Bill for an Act to amend the law relating to slavery, slavery-like conditions and people trafficking, and for other purposes.

Message no. 485, dated 21 August 2012—A Bill for an Act to combat illegal logging, and for related purposes.

Message no. 487, dated 22 August 2012—A Bill for an Act to amend the Public Service Act 1999, and for related purposes.

Message no. 488, dated 22 August 2012—A Bill for an Act to amend the law relating to veterans’ affairs and military rehabilitation and compensation, and for other purposes.

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


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

Consideration of legislation: Senator Evans moved—That the bills be listed on the Notice Paper as separate orders of the day.

Question put and passed.

31 **SMALL PELAGIC FISHERY TOTAL ALLOWABLE CATCH (QUOTA SPECIES) DETERMINATION—PROPOSED DISALLOWANCE**

Senator Whish-Wilson, pursuant to notice, moved business of the Senate notice of motion no. 2—That the Small Pelagic Fishery Total Allowable Catch (Quota Species) Determination 2012, made under subsection 17(6)(aa) of the Fisheries Management Act 1991 and under section 17 of the Small Pelagic Fishery Management Plan 2009, be disallowed.

Debate ensued.
Document: Senator Whish-Wilson, by leave, tabled the following document:

Primary industries—Fishing trawler FV Margiris—Motion passed in Tasmania’s House of Assembly, 22 August 2012.

Debate continued.

At 6.50 pm: Debate was interrupted while Senator Colbeck was speaking.

Document: The Parliamentary Secretary for Defence (Senator Feeney) tabled the following document:

Primary industries—Fishing trawler FV Margiris—Letter from the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) to the Speaker of the Tasmanian House of Assembly (Mr Polley), dated 22 August 2012.

32 GOVERNMENT DOCUMENTS—CONSIDERATION
The government documents tabled earlier today (see entry no. 2) were called on but no motion was moved.

33 ADJOURNMENT
The Deputy President (Senator Parry) proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 7.26 pm till Thursday, 23 August 2012 at 9.30 am.

34 ATTENDANCE
Present, all senators except Senators Bilyk* and Heffernan* (* on leave).

ROSEMARY LAING
Clerk of the Senate

Printed by authority of the Senate