2010-12

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 111

MONDAY, 17 SEPTEMBER 2012

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1 **MEETING OF SENATE**

The Senate met at 10 am. The President (Senator the Honourable John Hogg) took the chair, read prayers and made an acknowledgement of country.

2 **MARRIAGE AMENDMENT BILL (NO. 2) 2012**

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

Debate resumed.

On the motion of the Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) the debate was adjourned and the resumption of the debate made an order of the day for a later hour.

3 **CONSIDERATION OF LEGISLATION**

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins), pursuant to notice, moved government business notice of motion no. 1—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Environment Protection and Biodiversity Conservation Amendment (Declared Fishing Activities) Bill 2012, allowing it to be considered during this period of sittings.

Debate ensued.

Question put.

The Senate divided—

**AYES, 36**

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**NOES, 30**

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Question agreed to.
4 Environment Protection and Biodiversity Conservation Amendment (Declared Commercial Fishing Activities) Bill 2012

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


The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) 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 Collins moved—That this bill be now read a second time.

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

Leave refused: Senator Collins sought leave to incorporate the second reading speech in Hansard.

An objection was raised and leave was not granted.

Document: Senator Collins tabled the following document:

Second reading speech relating to the bill.

Debate ensued.

At 2 pm: Debate was interrupted while Senator Siewert was speaking.

5 Questions

Questions without notice were answered.

6 Motions to Take Note of Answers

Senator Cash moved—That the Senate take note of the answer given by the Minister for Tertiary Education, Skills, Science and Research (Senator Evans) to a question without notice asked by Senator Brandis today relating to Mr Taji Mustafa and Muslim protests in Sydney, New South Wales.

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 finance and the Australian Securities and Investments Commission.

Question put and passed.

7 NOTICES

The Chair of the Education, Employment and Workplace Relations Legislation Committee (Senator Marshall): To move on the next day of sitting—That the time for the presentation of the following reports of the Education, Employment and Workplace Relations Legislation Committee be extended to the first sitting day in March 2013:

(a) provisions of the Protecting Local Jobs (Regulating Enterprise Migration Agreements) Bill 2012; and

(b) Fair Work Amendment (Small Business—Penalty Rates Exemption) Bill 2012.

The Chair of the Legal and Constitutional Affairs References Committee (Senator Wright): To move on the next day of sitting—That the time for the presentation of the report of the Legal and Constitutional Affairs References Committee on detention of minors be extended to 4 October 2012.

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

(a) notes:

(i) from 15 October 2012, the Prime Minister (Ms Gillard) will visit India and will likely advance a bilateral uranium framework agreement while there,

(ii) the growing mass movement in India peacefully protesting nuclear reactors on grounds of health, safety and loss of livelihood due to radiation risks, and

(iii) brutal repression by the police and navy of the tens of thousands of peaceful protestors at the Koodankulam reactor, including two deaths due to police shootings, the latest being Mr Anthony Samy on 11 September 2012, and at least five related deaths over struggles against Koodankulam, Jaitapur (Maharashtra) and Gorakhpur (Haryana) nuclear power plants since 2010; and

(b) calls on the Government to:

(i) make representations to Indian authorities on the democratic right to peaceful protest,

(ii) recognise that, in the case of Koodankulam, nuclear reactors are being forced on local residents at gunpoint, and that uranium fuel loading is imminent despite 10 safety guidelines having not been met,

(iii) promote the independence of India’s nuclear regulators from industry and government as best international practice,

(iv) not sell uranium to countries that stand outside the nuclear Non-Proliferation Treaty and its associated safeguards system, and

(v) implement recommendations made by the Joint Standing Committee on Treaties on bilateral uranium agreements.
Senator Waters: To move on the next day of sitting—That the Senate—
(a) notes:
   (i) the intention of the Minister for Sustainability, Environment, Water, Population and Communities (Mr Burke) to transfer responsibility for protecting our nationally threatened species and wilderness places to state governments by March 2013, and
   (ii) that the New South Wales Premier (Mr O’Farrell) is ready to sacrifice the iconic Australian koala for mining and development; and
(b) calls on the Government to retain responsibility for all major decisions on environmentally damaging projects that affect our nationally threatened species and wilderness places. (general business notice of motion no. 939)

Senator Wright: To move on the next day of sitting—That the Senate—
(a) recognises that:
   (i) torture is a gross violation of human rights,
   (ii) Australian, Mr David Hicks, experienced torture and cruel and degrading treatment during his detention in Guantanamo Bay, and
   (iii) recent reports indicate that, while incarcerated in Guantanamo Bay, Mr Hicks was forcibly administered drugs such as mefloquine for non-therapeutic purposes, which is known to cause psychotic side effects and brain damage; and
(b) calls on the Government to conduct an independent inquiry into Mr Hicks’ detention, treatment and unfair trial, including the role of the former Australian Government. (general business notice of motion no. 940)

Senator Mason: To move on the next day of sitting—That the Senate—
(a) supports the rights of Australians to peacefully protest and condemns violent protests;
(b) deplores the violence perpetrated by Islamic extremists during protests on 15 September 2012 in Sydney that led to the injuring of police officers; and
(c) condemns Green Left Weekly for its publication of articles blaming police for the confrontation that was instigated by violent protestors. (general business notice of motion no. 941)

8 LEAVE OF ABSENCE
Senator Kroger, by leave, moved—That leave of absence be granted to the following senators:
(a) Senator Bernardi for 19 September and 20 September 2012, on account of parliamentary business;
(b) Senator Bushby for 17 September and 18 September 2012, for personal reasons;
(c) Senator Johnston for 17 September and 18 September 2012, on account of parliamentary business;
(d) Senator Ruston for 20 September 2012, for personal reasons; and
(e) Senator Sinodinos for 17 September 2012, on account of parliamentary business.

Question put and passed.
9 POSTPONEMENTS

The following items of business were postponed:

Business of the Senate notices of motion nos 1 to 5 standing in the name of Senator Siewert for today, proposing the disallowance of certain instruments made under the Social Security (Administration) Act 1999, postponed till 10 October 2012.

10 CONSIDERATION OF LEGISLATION

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins), pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 2—That the government business orders of the day relating to the Customs Amendment (Anti-dumping Improvements) Bill (No. 2) 2011 and two related bills, and the Customs Amendment (Anti-dumping Improvements) Bill (No. 3) 2012 may be taken together for their remaining stages.

Question put and passed.

11 COMPETITION AND CONSUMER AMENDMENT (AUSTRALIAN FOOD LABELLING) BILL 2012 (NO. 2)

The Leader of the Australian Greens (Senator Milne), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 935—That the following bill be introduced:

A Bill for an Act to amend the law relating to competition and consumers, and for related purposes.

Question put and passed.

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

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

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

12 TAXATION—MINERALS RESOURCE RENT TAX—BUDGET COST—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Cormann, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 931—That there be laid on the table by the Minister representing the Treasurer, no later than noon on Wednesday, 19 September 2012, information for each of the financial years 2012-13, 2013-14, 2014-15 and 2015-16 regarding:

(a) the cost to the Budget of the various state government royalty increases announced after 2 May 2010 on coal and iron ore that are creditable against any Minerals Resource Rent Tax (MRRT) liability, broken down by state and commodity, and
(b) the cost to the Budget of the upfront tax deductions able to be claimed by existing mining projects that are subject to the MRRT on the basis of the market valuation method.

Question put and passed.

13 IMMIGRATION—NAURU—SERVICE PROVISIONS—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 934—That there be laid on the table by the Minister representing the Minister for Immigration and Citizenship, no later than 21 September 2012, the contract between the Commonwealth Government and:

(a) Transfield Services for the service provision on Nauru for offshore processing of asylum seekers;
(b) International Health and Medical Services for the service provision on Nauru for offshore processing of asylum seekers; and
(c) the Salvation Army for the service provision on Nauru for offshore processing of asylum seekers.

Question put and passed.

14 POSTPONEMENT

Senator Rhiannon, by leave, moved—That general business notice of motion no. 932 standing in her name for today, relating to the Parramatta Female Factory Precinct, be postponed till the next day of sitting.

Question put and passed.

15 ADMINISTRATION—PROTECTING NATIONALLY THREATENED SPECIES AND WILDERNESS PLACES—RESPONSIBILITY

Senator Waters, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 933—That the Senate—

(a) notes:
   
   (i) the intention of the Minister for Sustainability, Environment, Water, Population and Communities (Mr Burke) to transfer responsibility for protecting our nationally threatened species and wilderness places to state governments by March 2013, and
   
   (ii) that the Tasmanian Premier (Ms Giddings) is ready to sacrifice the Tarkine wilderness for mining and development; and

(b) calls on the Government to retain responsibility for all major decisions on environmentally damaging projects that affect our nationally threatened species and wilderness places.

Question put.

The Senate divided—

AYES, 10

Senators—

Di Natale  Milne  Waters  Wright
Hanson-Young  Rhiannon  Whish-Wilson  Xenophon
Ludlam  Siewert (Teller)
NOES, 34

Senators—
Back
Bernardi
Bilyk
Brown
Cameron
Cash
Colbeck
Collins
Edwards
Farrell
Fawcett
Feeney
Fierravanti-Wells
Fifield
Furner
Gallacher
Kroger
Ludwig
Lundy
Marshall
McEwen (Teller)
McKenzie
Moore
Nash
Parry
Polley
Pratt
Ruston
Stephens
Thistlethwaite
Thorp
Urquhart
Williams

Question negatived.

16 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—FAMILY AND COMMUNITY SERVICES—AGED CARE

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

The crisis in the aged care sector and the impact of the Government’s recent funding changes.

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

17 IMMIGRATION—MUSLIM PROTESTS—MR TAJI MUSTAFA—ANSWER TO QUESTION—STATEMENT BY LEAVE

The Minister for Tertiary Education, Skills, Science and Research (Senator Evans), by leave, made a statement clarifying the answer he gave to a question without notice asked by Senator Brandis today relating to Mr Taji Mustafa and Muslim protests in Sydney, New South Wales.

18 ECONOMICS LEGISLATION COMMITTEE—REPORT—RENEWABLE ENERGY (ELECTRICITY) AMENDMENT (EXCESSIVE NOISE FROM WIND FARMS) BILL 2012

Senator Polley, at the request of the Chair of the Economics Legislation Committee (Senator Bishop), tabled the following report:


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

19 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—REPORT—REVIEW OF THE DEFENCE ANNUAL REPORT 2010-11

Senator Furner, on behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, tabled the following report:


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

Question put and passed.
20 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.]

Aboriginal and Torres Strait Islander Act—Select Legislative Instrument 2012 No. 220—ATSIC (Regional Councils – Election of Officeholders) Repeal Regulation 2012 [F2012L01874].

Civil Aviation Act—Civil Aviation Regulations—

Civil Aviation Order 100.5 Amendment Instrument 2012 (No. 3) [F2012L01872].

Instrument No. CASA 301/12—Instructions – RNP APCH LNAV and RNP APCH LNAV/VNAV on National Jet Systems, trading as Cobham Aviation Services Australia – Airline Services, B717-200 aircraft [F2012L01868].


Environment Protection and Biodiversity Conservation Act—Amendment of list of exempt native specimens—EPBC303DC/SFS/2012/52 [F2012L01867].

Food Standards Australia New Zealand Act—Australia New Zealand Food Standards Code—Standard 1.4.2 – Maximum Residue Limits Amendment Instrument No. APVMA 9, 2012 [F2012L01869].

Higher Education Support Act—VET Provider Approvals Nos—

18 of 2012—Milneworth Pty. Ltd. [F2012L01865].

19 of 2012—La Trobe International Galleries Pty. Ltd. [F2012L01866].

Income Tax Assessment Act 1936—Select Legislative Instrument 2012 No. 222—Income Tax Amendment Regulation 2012 (No. 4) [F2012L01871].

Schools Assistance Act—Select Legislative Instrument 2012 No. 223—Schools Assistance Amendment Regulation 2012 (No. 1) [F2012L01875].

Telecommunications Act—Select Legislative Instrument 2012 No. 216—Telecommunications Amendment Regulation 2012 (No. 1) [F2012L01876].


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

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

Indexed lists of departmental and agency files for the period 1 January to 30 June 2012—Statements of compliance—

Commonwealth Ombudsman.

Treasury portfolio.
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—Regional Australia, Local Government, Arts and Sport portfolio.

GOVERNOR-GENERAL’S MESSAGES—ASSENT TO LAWS

Messages from Her Excellency the Governor-General were reported, informing the Senate that she had assented to the following laws:

12 September 2012—Messages Nos—

50—
Australian Citizenship Amendment (Defence Families) Act 2012 (Act No. 119, 2012)
Cybercrime Legislation Amendment Act 2012 (Act No. 120, 2012).

51—

52—
Migration (Visa Evidence) Charge Act 2012 (Act No. 124, 2012)

13 September 2012—Messages Nos—

53—
Tax Laws Amendment (Investment Manager Regime) Act 2012 (Act No. 126, 2012)

54—

ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION AMENDMENT (DECLARED COMMERCIAL FISHING ACTIVITIES) BILL 2012

Order read for the adjourned debate on the motion of the Parliamentary Secretary for School Education and Workplace Relations (Senator Collins)—That this bill be now read a second time.

Debate resumed.
Senator Colbeck moved the following amendment:

At the end of the motion, add “but the Senate calls on the Minister for Sustainability, Environment, Water, Population and Communities (Mr Burke) to:

(a) explain:
   (i) the reasons for his decision to reverse the policy that he introduced as Fisheries Minister in October 2009 which stated ‘There are considerable economies of scale in the fishery and the most efficient way to fish may include large scale factory freezer vessels’,
   (ii) why he effectively invited the FV Margiris into Australia by promoting ‘large scale factory freezer vessels’, and
   (iii) what actions he will take to compensate the 50 Australian workers who are losing their jobs as a consequence of this legislation; and

(b) introduce amendments to the *Fisheries Management Act 1991* to expand the powers for greater spatial management provisions”.

Debate ensued.
*At 9.50 pm: Debate was interrupted.*

25 FOREIGN AFFAIRS—ANTI-SEMITISM—PERSONAL EXPLANATION

Senator Rhiannon, by leave, made a personal explanation relating to articles in the *Australian* on 13 September and 14 September 2012 and comments made by Senator Sinodinos concerning anti-Semitism.

26 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 10.31 pm till Tuesday, 18 September 2012 at 12.30 pm.

27 ATTENDANCE

Present, all senators except Senators Birmingham*, Bushby*, Johnston*, Singh* and Sinodinos* (* on leave).

ROSEMARY LAING
Clerk of the Senate

Printed by authority of the Senate