JOURNALS OF THE SENATE

No. 113

WEDNESDAY, 19 SEPTEMBER 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—
Reports for the period 1 March to 30 June 2012—
Section 91Y—Protection visa processing taking more than 90 days.
Section 440A—Conduct of Refugee Review Tribunal reviews not completed within 90 days.
Section 486O—Assessment of detention arrangements—Personal identifiers 757/12, 767/12, 774/12, 804/12, 807/12, 814/12, 824/12, 847/12, 853/12, 862/12, 869/12, 872 to 873/12, 879 to 899/12, 901 to 928/12, 930 to 943/12, 945/12, 946/12, 950 to 959/12, 970/12, 971/12 and 982/12—
Commonwealth Ombudsman’s reports.
Government response to Ombudsman’s reports, dated 11 September 2012.

3 ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION AMENDMENT (DECLARED COMMERCIAL FISHING ACTIVITIES) BILL 2012
Order of the day read for the further consideration of the bill in committee of the whole.

In the committee
Consideration resumed of the bill.
Senator Siewert moved the following amendments together by leave:
Schedule 1, item 1, page 3 (line 7), before Chapter 5B, insert:
Chapter 5AA—Oversize fishing vessels
Part 15AA—Oversize fishing vessels
Division 1—Prohibition
390SAA Civil penalty—fishing activity using an oversize fishing vessel
A person must not engage in fishing activity using an oversize fishing vessel in a Commonwealth marine area.
Civil penalty:
(a) for an individual—5,000 penalty units;
(b) for a body corporate—50,000 penalty units.
Note: If a body corporate is found to have contravened this section, an executive officer of the body may be found to have contravened section 494.

390SAB Offence—fishing activity using an oversize fishing vessel
(1) A person commits an offence if:
(a) the person takes an action; and
(b) the action is taken in a Commonwealth marine area; and
(c) the action is a fishing activity using an oversize fishing vessel.

Penalty: Imprisonment for 7 years or 420 penalty units, or both.

Note 1: If a body corporate is found to have committed an offence against this section, an executive officer of the body may be found to have committed an offence against section 495.

Note 2: Subsection 4B(3) of the Crimes Act 1914 lets a court fine a body corporate up to 5 times the maximum amount the court could fine a person under this subsection.

(2) Strict liability applies to paragraph (1)(b).

Note: For strict liability, see section 6.1 of the Criminal Code.

390SAC What is a fishing activity using an oversize fishing vessel?

(1) A fishing activity using an oversize fishing vessel is a fishing activity using a vessel capable of processing and storing more than 2,000 tonnes of biomass.

(2) A fishing activity means an activity that constitutes fishing.

Schedule 1, item 1, page 8 (lines 4 to 11), omit paragraph 390SF(3)(b), substitute:

(b) remains in force until a revocation of the declaration comes into force.

Schedule 1, item 1, page 8 (lines 12 to 15), omit subsection 390SF(4).

Schedule 1, item 11, page 12 (line 10), before item 11, insert:

10A Section 528

Insert:

fishing activity using an oversize fishing vessel has the meaning given by subsection 390SAC(1).

Schedule 1, item 1, page 5 (line 17), after “environmental”, insert “, social or economic”.

Schedule 1, item 1, page 7 (line 22), after “environmental”, insert “, social or economic”.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 9

Senators—

Di Natale
Hanson-Young
Ludlam

Milne
Rhiannon
Waters

Siewert (Teller)

Whish-Wilson
Wright
Question negatived.

Question—That the bill be agreed to—divided, at the request of Senator Siewert, in respect of Schedule 1, item 1, Division 4.

Schedule 1, item 1, Division 4 debated and agreed to.

Bill agreed to.

Bill to be reported without amendment.

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

On the motion of the Minister for Agriculture, Fisheries and Forestry (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, 35

Senators—

Bilyk  Edwards  McEwen  Sterle
Bishop  Faulkner  McLucas  Thistlethwaite
Brown  Fawcett  Milne  Thorp
Cameron  Feeney  Moore  Unquhart
Carr, Kim  Gallacher  Polley  Waters
Cash  Hogg  Pratt  Whish-Wilson
Colbeck  Hogg  Rhiannon  Wright
Cormann  Lundy  Siewert  Xenophon
Crossin  Ludvig  Marshall  Stephens

NOES, 29

Senators—

Back  Edwards  MacDonald  Ruston
Boswell  Eggleston  Madigan  Ryan
Boyce  Fawcett  Mason  Scullion
Brandis  Ferravanti-Wells  McKenzie  Sinodinos
Buabba  Fifield  Nash  Smith
Cash  Humphries  Parry
Colbeck  Johnston  Payne
Cormann  Kroger (Teller)  Ronaldson

Question agreed to.

Bill read a third time.
4 **TAX LAWS AMENDMENT (2012 MEASURES NO. 4) BILL 2012**

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary for Defence (Senator Feeney)—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 Broadband, Communications and the Digital Economy (Senator Conroy) the bill was read a third time.

5 **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.

At 12.45 pm: Debate was interrupted.

6 **MATTERS OF PUBLIC INTEREST**

Matters of public interest were discussed.

7 **SHADOW MINISTRY—DOCUMENT**

The Leader of the Opposition in the Senate (Senator Abetz), by leave, tabled a document showing the Opposition shadow ministry, dated 19 September 2012.

8 **QUESTIONS**

Questions without notice were answered.

9 **MOTIONS TO TAKE NOTE OF ANSWERS**

Senator Fifield moved—That the Senate take note of the answers given by the Minister for Finance and Deregulation (Senator Wong) to questions without notice asked by the Leader of the Opposition in the Senate (Senator Abetz) and Senators Cormann and Sinodinos today relating to the Budget.

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 Tertiary Education, Skills, Science and Research (Senator Evans) to a question without notice asked by Senator Milne today relating to Afghanistan.

Question put and passed.

10 NOTICES

The Chair of the Community Affairs Legislation Committee (Senator Moore): To move on the next day of sitting—that the Community Affairs Legislation Committee be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate, from 12.30 pm, as follows:

(a) on Tuesday, 9 October 2012; and
(b) on Tuesday, 30 October 2012. (general business notice of motion no. 951)

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 private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate, from 12.30 pm, as follows:

(a) on Tuesday, 9 October 2012; and
(b) on Tuesday, 30 October 2012. (general business notice of motion no. 952)

Senators Madigan and Xenophon: To move on the next day of sitting—that the Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012 be referred to the Environment and Communications References Committee for inquiry and report by 29 November 2012.

Senator Wright: To move on the next day of sitting—that the following matter be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 27 March 2013:

The role played by the former Australian Government in Mr David Hicks’ trial, treatment and detention, with particular reference to:

(a) his transfer from the custody of Afghanistan’s Northern Alliance to the United States (US) military and subsequent transfer into detention at the US Naval base at Guantanamo Bay, Cuba;
(b) his detention, interrogation and treatment in US custody;
(c) his 2004 charges and initial prosecution by the first US Military Commission;
(d) his subsequent 2007 charges and plea agreement under the Military Commission Act 2006 (US);
(e) his subsequent transfer to and incarceration in Australia;
(f) the control order placed upon him at the time of release from prison in Australia;
(g) whether Australia acted consistently with its obligations under international law in its dealings with the US in respect of the above matters; and
(h) any other related matters.

Senator Fifield: To move on the next day of sitting—that the Senate notes the Labor Government’s abject failure to support Australia’s agriculture, fisheries and forestry industries. (general business notice of motion no. 953)
Senator Di Natale: To move on the next day of sitting—That the Senate—
(a) notes the contribution to Australia’s vibrant multicultural society by citizens of all cultures and religions;
(b) condemns anyone who vilifies any cultural or religious group;
(c) notes:
   (i) the application by Dutch politician Mr Geert Wilders to visit Australia to speak against multiculturalism and Muslim immigration, and
   (ii) with alarm, his public statements describing Muslim culture as retarded and barbaric and comparing the Koran to Mein Kampf; and
(d) calls on all members of the Australian Parliament to reject the hateful anti-Muslim views of Mr Wilders and his Australian sponsors. (general business notice of motion no. 954)

Senator Madigan: To move on the next day of sitting—That the Senate—
(a) notes that:
   (i) the Bald Hills wind farm in South Gippsland was approved by the Commonwealth in 2006 and has not yet been built,
   (ii) the Commonwealth has allowed the project proponent to increase the height of the proposed 52 turbines from 110 metres to 135 metres without any assessment of the environmental impact of this increase,
   (iii) the Commonwealth’s 2006 conditions of approval failed to specify the height of the turbines permitted in the project,
   (iv) the conditions of approval permit the proposed wind farm to cut directly across a migratory shorebird flyway connecting three sites of international significance for six migratory shorebird species,
   (v) the species are listed under the Commonwealth’s 2009 Significant impact guidelines for 36 migratory shorebird species,
   (vi) the three sites of international significance flanking the Bald Hills area are identified in the Migratory Shorebirds of the East Asian – Australasian flyway: population estimates and internationally important sites report which underpins the Commonwealth’s Significant impact guidelines for 36 migratory shorebird species, and
   (vii) the Bald Hills Wetland Conservation Reserve and the Kings Flat Flora and Fauna Reserve that directly abut the proposed wind farm site are an important habitat for a seventh species listed in the Commonwealth’s Significant impact guidelines for 36 migratory shorebird species; and
(b) calls on the Minister for Sustainability, Environment, Water, Population and Communities (Mr Burke) to remove the Commonwealth’s approval for the construction of the Bald Hills wind farm and to refer the project proposal for review as per the terms of the Significant impact guidelines for 36 migratory shorebird species, and in line with Australia’s obligations under the Japan-Australia Migratory Bird Agreement, the China-Australia Migratory Bird Agreement, the Republic of Korea-Australia Migratory Bird Agreement and the Environment Protection and Biodiversity Conservation Act 1999. (general business notice of motion no. 955)
Senator Siewert: To move on the next day of sitting—That the Senate—
(a) notes that:
   (i) today, due to the differences in the types of indexation, pensions will go up by $17.10 while allowances will only increase by $2.90, and
   (ii) indexation against the consumer price index alone keeps Newstart so low it cannot adequately meet the true increases in the cost of living; and
(b) urges the Government to take immediate steps to appropriately index Newstart at the same rate as the pension to prevent an ever-widening gap. (general business notice of motion no. 956)

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 Australians expect our nationally threatened species and wilderness places to be protected by the Commonwealth Minister for Sustainability, Environment, Water, Population and Communities, including the Australian Capital Territory’s nationally heritage listed Namadgi National Park, which makes up almost 45 per cent of the territory; 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. 957)

11 LEAVE OF ABSENCE
Senator Kroger, by leave, moved—That leave of absence be granted to Senator Joyce for today, on account of parliamentary business.
Question put and passed.

12 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 10 October 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 10 October 2012.

13 RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE—REFERENCE
Senator Kroger, at the request of Senator Boswell and pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 1—That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 29 November 2012:
The effect on Australian ginger growers of importing fresh ginger from Fiji, including:
   (a) the scientific basis on which the provisional final import risk analysis report regarding the importation of fresh ginger has been developed;
(b) the adequacy of the pest risk assessments contained in the provisional final import risk analysis report for fresh ginger from Fiji;
(c) the risk and consequences of the importation resulting possibly in the introduction of pest species or diseases and soil-borne diseases;
(d) the adequacy of the quarantine conditions recommended by the Department of Agriculture, Fisheries and Forestry; and
(e) any other related matter.

Question put and passed.

14 ROUTINE OF BUSINESS—VARIATION—FIRST SPEECH
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. 1—That consideration of the business before the Senate on Wednesday, 10 October 2012, be interrupted at approximately 5 pm, but not so as to interrupt a senator speaking, to enable Senator Ruston to make her first speech without any question before the chair.

Question put and passed.

15 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. 942—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, 20 September 2012, from 3.30 pm.

Question put and passed.

16 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—LEAVE TO MEET DURING SITTING
Senator McEwen, at the request of Senator Furner and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 943—That the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 9 October 2012, from 5.30 pm, to take evidence for the committee’s inquiry into the care of Australian Defence Force personnel wounded and injured on operations.

Question put and passed.

17 HEALTH—DEMEN TIA AWARENESS WEEK
Senator McEwen, at the request of Senators Polley and Brown and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 944—That the Senate—

(a) notes that:

(i) dementia is the greatest cause of disability in older Australians aged 65 and over,

(ii) there are almost 280,000 Australians living with dementia and 1.2 million who provide support and care, and

(iii) every week an estimated 1,600 new cases of dementia occur, with the number expected to grow to 7,400 new cases per week by 2050, resulting in 1 million Australians living with dementia by 2050;
(b) recognises the significance of Dementia Awareness Week, from 21 September to 28 September 2012, in promoting and advocating for the needs of those living with dementia, their families and carers;

(c) welcomes the designation of dementia by the Minister for Health (Ms Plibersek) as the ninth National Health Priority Area; and

(d) acknowledges the ongoing contributions of Alzheimer’s Australia and its state and territory associations in supporting and advocating for those affected and leading the charge in the fight against dementia.

Question put and passed.

18 WOMEN—EMPLOYMENT—DOMESTIC VIOLENCE

Senator McEwen, at the request of Senators Pratt and Moore and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 946—That the Senate—

(a) notes that two-thirds of Australian women who have experienced domestic violence with their current partner are in paid employment;

(b) recognises the:

(i) significant impact that domestic violence can have on the employment of women who are subjected to it, including:

- (A) lost productivity as a result of anxiety and distraction in the workplace,
- (B) absenteeism due to sustaining physical and psychological injuries,
- (C) disrupted work histories as victims often frequently change jobs,
- (D) lower personal incomes and reduced hours of work,
- (E) risks to personal safety in the workplace as well as to co-workers,

(ii) positive impact of the inclusion of domestic violence clauses in contracts of employment to ensure protections for victims, including:

- (A) additional paid leave to enable employees subjected to domestic violence to, for example, attend court hearings and medical appointments without exhausting other forms of personal leave,
- (B) access to flexible working arrangements where possible, and
- (C) assurance that employee details will be treated confidentially and disclosure will not lead to discriminatory treatment;

(c) acknowledges the introduction of domestic violence clauses for public sector employees in both Queensland and New South Wales and congratulates organisations in the private sector that have also moved to incorporate these clauses in contracts of employment; and

(d) urges all private companies and public sectors to include domestic violence clauses in their enterprise agreements to provide victims with important protections such as access to leave in addition to existing entitlements.

Question put and passed.
19 **ADMINISTRATION—NATIONAL FAMILY BUSINESS DAY**

Senator Boyce, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 947—That the Senate—

(a) acknowledges:
   (i) that 19 September 2012 is National Family Business Day, and
   (ii) the role that family businesses have played in shaping the social, economic and cultural fabric of Australia; and

(b) notes:
   (i) data from Family Business Australia advising that about 70 per cent of Australian businesses are family businesses and employ 50 per cent of the Australian workforce,
   (ii) that family businesses can be small, medium or large enterprises and that one of the largest family businesses employs more than 27,000 people, and
   (iii) the resilience and adaptability of family business even in difficult economic conditions.

Question put and passed.

20 **INDIGENOUS AUSTRALIANS—STUDY OF INDIGENOUS CHILDREN—PROPOSED ORDER FOR PRODUCTION OF DOCUMENTS**

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 948—That there be laid on the table by the Minister representing the Minister for Families, Community Services and Indigenous Affairs, by 28 September 2012, the following:

(a) the confidentialised Wave 3 and Wave 4 Parent 1 and Parent 2 data sets from the 'Footprints in Time – The Longitudinal Study of Indigenous Children';

(b) the Wave 3 and Wave 4 Parent 1 Mark Up Questionnaire from the 'Footprints in Time – The Longitudinal Study of Indigenous Children';

(c) the Wave 3 and Wave 4 Parent 2 Mark Up Questionnaire from the 'Footprints in Time – The Longitudinal Study of Indigenous Children'; and

(d) documents which include an analysis of income management data in the 'Footprints in Time – The Longitudinal Study of Indigenous Children'.

Question put and negatived.

21 **ENVIRONMENT—MIGRATORY BIRDS**

Senator Madigan, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 949—That the Senate—

(a) notes that:
   (i) Australia has been a signatory to the Japan-Australia Migratory Bird Agreement since 1974,
   (ii) Australia has been a signatory to the China-Australia Migratory Bird Agreement since 1986,
   (iii) Australia has been a signatory to the Republic of Korea-Australia Migratory Bird Agreement since 2006,
   (iv) each of these agreements obliges Australia to protect the flight paths and habitats of those migratory birds listed in the agreements, and
(v) the Environment Protection and Biodiversity Conservation Act 1999 (the Act) requires that ‘an action will require approval if the action has, or is likely to have, a significant impact on a listed migratory species’; and

(b) calls on the Government to ensure it complies with its obligations to protect the flight paths and habitats of all migratory birds listed under these agreements and the Act, and to refer any project that has, or may have, a significant impact on a listed migratory species for assessment under the Act.

Question put and passed.

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

22 HEALTH—NATIONAL HEALTH AND MEDICAL RESEARCH COUNCIL—WIND TURBINES—PROPOSED ORDER FOR PRODUCTION OF DOCUMENTS

Senator Back, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 945—That there be laid on the table by the Minister representing the Minister for Health, by 5 pm on Thursday, 11 October 2012, the contents of the following National Health and Medical Research Council files which relate to wind turbines:

(a) Public Health and Medical Research – Advice – Health Effects of Wind Farms;
(b) Public Health and Medical Research – Research – Wind Turbines and Health – Evidence Review and Public Statement 2010/012940;
(c) Public Health and Medical Research – Enquiries – Wind Turbines and Health – Evidence Review 2010/041323;
(d) Information Management – Appeals (decisions) – Freedom of Information 2010/00883;
(e) Wind Turbines and Health – Acciona Energy Oceania Pty Ltd 2010/066543;
(f) Public Health and Medical Research – Latest Scientific Evidence on Wind Turbines and Health 2011/014789;
(g) Public Health and Medical Research – Research – Wind Turbines and Health Literature 2011/024222;
(h) Public Health and Medical Research – Liaison – Wind Turbines Externally Submitted References 2011/028268;
(i) Public Health and Medical Research – Liaison – Wind Turbines Externally Submitted References Part Two 2011/039890;
(j) Public Health and Medical Research – Reviews (Decisions) – Wind Turbines and Health Senate Inquiry 2011/039945;
(k) Public Health and Medical Research – Liaison – Reference Group and Literature Review 2011/054388;
(l) Public Health and Medical Research – Research – Wind Turbines and Health Literature 2011/054389; and
(m) Public Health and Medical Research – Committees – Wind Turbines and Health Literature Review Reference Group Membership and Finance 2011/054391.

Question put and negatived.
23 **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. 950—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 Australians expect our nationally threatened species and wilderness places to be protected by the Commonwealth Minister for Sustainability, Environment, Water, Population and Communities, including South Australia’s Glossy Black Cockatoo, and the internationally listed Coorong and Lakes Alexandrina and Albert Ramsar Wetlands; 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, 11**

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Question negativated.

24 **NOTICE**

Senator Siewert, by leave, gave a notice of motion as follows: To move on the next day of sitting—That there be laid on the table by the Minister representing the Minister for Families, Community Services and Indigenous Affairs, by 28 September 2012, the following:

(a) the Wave 3 and Wave 4 Parent 1 Mark Up Questionnaire from the ‘Footprints in Time – The Longitudinal Study of Indigenous Children’;

(b) the Wave 3 and Wave 4 Parent 2 Mark Up Questionnaire from the ‘Footprints in Time – The Longitudinal Study of Indigenous Children’; and

(c) documents which include an analysis of income management data in the ‘Footprints in Time – The Longitudinal Study of Indigenous Children’.  

*(general business notice of motion no. 958)*
25 **DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—DEFENCE—AUSTRALIAN DEFENCE FORCE—FUNDING**

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 Gillard Government’s undermining of the defence budget affecting the capability of the Australian Defence Force.

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

26 **SCRUTINY OF BILLS—STANDING COMMITTEE—11TH REPORT AND ALERT DIGEST NO. 11 OF 2012**

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

- Alert Digest No. 11 of 2012, dated 19 September 2012.

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

27 **HUMAN RIGHTS—JOINT STATUTORY COMMITTEE—3RD REPORT OF 2012**

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


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

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

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

28 **INDUSTRIAL RELATIONS—FUTURE OF WORKERS’ PENALTY RATES AND PUBLIC HOLIDAYS—MINISTERIAL STATEMENT—DOCUMENT**

The Minister for Tertiary Education, Skills, Science and Research (Senator Evans) tabled the following document:

- Industrial relations—Future of workers’ penalty rates and public holidays—Ministerial statement by the Minister for Employment and Workplace Relations (Mr Shorten), dated 18 September 2012.

The Leader of the Opposition in the Senate (Senator Abetz), by leave, moved—That the Senate take note of the document.

Question put and passed.
29 HEALTH—INVESTMENT IN NUCLEAR MEDICINE AND TREATMENT—MINISTERIAL STATEMENT—DOCUMENT
The Minister for Tertiary Education, Skills, Science and Research (Senator Evans) tabled the following document:

Health—Investment in nuclear medicine and treatment—Ministerial statement by the Minister for Tertiary Education, Skills, Science and Research (Senator Evans), dated 19 September 2012.

Senator Evans, by leave, moved—That the Senate take note of the document.
On the motion of Senator Ludlam the debate was adjourned till the next day of sitting.

30 AUDITOR-GENERAL—AUDIT REPORT NO. 3 OF 2012-13—DOCUMENT
The Acting Deputy President (Senator Crossin) tabled the following document:

Auditor-General—Audit report no. 3 of 2012-13—Performance audit—The design and conduct of the first application round for the Regional Development Australia Fund: Department of Regional Australia, Local Government, Arts and Sport.

Senator Bushby, by leave, moved—That the Senate take note of the document.
Debate adjourned till the next day of sitting, Senator Bushby in continuation.

31 TAXATION—MINERALS RESOURCE RENT TAX—BUDGET COST—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT
The Minister for Tertiary Education, Skills, Science and Research (Senator Evans) tabled the following document:

Taxation—Minerals Resource Rent Tax—Budget cost—Letter from the Treasurer (Mr Swan) to the Clerk of the Senate (Dr Laing) responding to the order of the Senate of 17 September 2012, dated 19 September 2012.

32 DOCUMENTS
The following documents were tabled by the Clerk:

Aboriginal and Torres Strait Islander Act—Select Legislative Instrument 2012 No. 219—Aboriginal and Torres Strait Islander Commission Repeal Regulation 2012 [F2012L01877].

Aged Care Act—
Aged Care (Residential Care Subsidy – Amount of Accommodation Supplement) Determination 2012 (No. 2) [F2012L01882].
Aged Care (Residential Care Subsidy – Amount of Concessional Resident Supplement) Determination 2012 (No. 2) [F2012L01886].
Aged Care (Residential Care Subsidy – Amount of Pensioner Supplement) Determination 2012 (No. 2) [F2012L01884].
Aged Care (Residential Care Subsidy – Amount of Respite Supplement) Determination 2012 (No. 2) [F2012L01880].
Aged Care (Residential Care Subsidy – Amount of Transitional Accommodation Supplement) Determination 2012 (No. 2) [F2012L01885].
Aged Care (Residential Care Subsidy – Amount of Transitional Supplement) Determination 2012 (No. 2) [F2012L01879].
33 COMMITTEE MEMBERSHIP

The Acting Deputy President (Senator Crossin) informed the Senate that the President had received letters requesting changes in the membership of committees.

The Minister for Tertiary Education, Skills, Science and Research (Senator Evans), by leave, moved—That senators be discharged from and appointed to committees as follows:

**Community Affairs Legislation Committee—**

Appointed—Substitute members:

- Senator Thorp to replace Senator Brown for the consideration of the 2012-13 supplementary Budget estimates on Wednesday, 17 October 2012
- Senator Pratt to replace Senator Brown for the consideration of the 2012-13 supplementary Budget estimates on Thursday, 18 October 2012
- Senator Urquhart to replace Senator Brown for the consideration of the 2012-13 supplementary Budget estimates on Friday, 19 October 2012

**Electricity Prices—Select Committee—**

Appointed—Participating member: Senator Waters.

Question put and passed.

34 INDUSTRIAL CHEMICALS (NOTIFICATION AND ASSESSMENT) AMENDMENT BILL 2012

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

The Minister for Tertiary Education, Skills, Science and Research (Senator Evans) moved—That this bill may proceed without formalities and be now read a first time. Question put and passed.

Bill read a first time.

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

Consideration of legislation: Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.

35 **HOURS OF MEETING AND Routine OF BUSINESS—VARIATION**

Leave refused: The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) sought leave to move a motion relating to the hours of meeting and routine of business for Thursday, 20 September 2012.

An objection was raised and leave was not granted.

Suspension of standing orders: Senator Collins, at the request of the Leader of the Government in the Senate (Senator Evans) and pursuant to contingent notice, moved—That so much of the standing orders be suspended as would prevent Senator Evans moving a motion to provide for the consideration of a matter, namely a motion to give precedence to a motion to vary the hours of meeting and routine of business for Thursday, 20 September 2012.

Debate ensued.

Question put.

The Senate divided—

**AYES, 33**

Senators—

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**NOES, 9**

Senators—

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Question agreed to.

Senator Collins, at the request of Senator Evans, moved—that a motion to vary the hours of meeting and routine of business for Thursday, 20 September 2012 may be moved immediately and have precedence over all other business today till determined.

Question put.
The Senate divided—

AYES, 30

Senators—

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NOES, 9

Senators—

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

Question agreed to.

Senator Collins moved—that, on Thursday, 20 September 2012:

(a) the hours of meeting shall be 9.30 am to adjournment;
(b) consideration of general business private senators’ bills under temporary order 57(1)(d)(ia) shall not be proceeded with;
(c) any proposal pursuant to standing order 75 shall not be proceeded with;
(d) subject to paragraph (g), consideration of general business under standing order 57(1)(d)(x) shall not be proceeded with;
(e) the government business order of the day relating to the Marriage Amendment Bill (No. 2) 2012 shall have precedence over all other business, as follows:
   (i) from 9.30 am for 2 hours and 20 minutes,
   (ii) after consideration of non-controversial government business till not later than 2 pm, and
   (iii) from not later than 4 pm;
(f) divisions may take place after 4.30 pm;
(g) the routine of business after completion of the consideration of the Marriage Amendment Bill (No. 2) 2012 shall be:
   (i) tabling of documents,
   (ii) consideration of the general business notice of motion relating to Australia’s agriculture, fisheries and forestry industries, for up to one and a half hours, and
   (iii) consideration of government documents under standing order 57(1)(d)(xi) and the consideration of committee reports, government responses and Auditor-General’s reports under standing order 62(1), for up to one hour; and
(h) the question for the adjournment of the Senate shall not be proposed until a motion for the adjournment is moved by a minister.

Debate ensued.

Closure: Senator Collins moved—that the question be now put.

Question—that the question be now put—put.
The Senate divided—

AYES, 33

Senators—
Back Evans Madigan Smith
Bilyk Fawcett McEwen (Teller) Stephens
Bishop Feeney McKenzie Sterle
Bushby Fifield McLucas Thistlethwaite
Colbeck Furner Moore Urquhart
Collins Gallacher Parry Xenophon
Crossin Kroger Payne
Edwards Ludwig Polley
Eggleston Lundy Pratt

NOES, 9

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

Question agreed to.

Main question put.

The Senate divided—

AYES, 33

Senators—
Back Evans Madigan Smith
Bilyk Fawcett McEwen (Teller) Stephens
Bishop Feeney McKenzie Sterle
Bushby Fifield McLucas Thistlethwaite
Colbeck Furner Moore Urquhart
Collins Gallacher Parry Xenophon
Crossin Kroger Payne
Edwards Ludwig Polley
Eggleston Lundy Pratt

NOES, 9

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

Question agreed to.

36 NOTICE

The Chair of the Community Affairs References Committee (Senator Siewert) gave a notice of motion as follows: To move on the next day of sitting—that the following matter be referred to the Community Affairs References Committee for inquiry and report by 24 April 2013:

The involuntary or coerced sterilisation of people with disabilities in Australia, including:
(a) the types of sterilisation practices that are used, including treatments that prevent menstruation or reproduction, and exclusion or limitation of access to sexual health, contraceptive or family planning services;
(b) the prevalence of these sterilisation practices and how they are recorded across different state and territory jurisdictions;
(c) the different legal, regulatory and policy frameworks and practices across the Commonwealth, states and territories, and action to date on the harmonisation of regimes;

(d) whether current legal, regulatory and policy frameworks provide adequate:
   (i) steps to determine the wishes of a person with a disability,
   (ii) steps to determine an individual’s capacity to provide free and informed consent,
   (iii) steps to ensure independent representation in applications for sterilisation procedures where the subject of the application is deemed unable to provide free and informed consent, and
   (iv) application of a ‘best interest test’ as it relates to sterilisation and reproductive rights;

(e) the impacts of sterilisation of people with disabilities;

(f) Australia’s compliance with its international obligations as they apply to sterilisation of people with disabilities;

(g) the factors that lead to sterilisation procedures being sought by others for people with disabilities, including:
   (i) the availability and effectiveness of services and programs to support people with disabilities in managing their reproductive and sexual health needs, and whether there are measures in place to ensure that these are available on a non-discriminatory basis,
   (ii) the availability and effectiveness of educational resources for medical practitioners, guardians, carers and people with a disability around the consequences of sterilisation, and
   (iii) medical practitioners, guardians and carers’ knowledge of and access to services and programs to support people with disabilities in managing their reproductive and sexual health needs; and

(h) any other related matters.

37 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.
At 6.50 pm: Debate was interrupted while the Parliamentary Secretary to the Prime Minister (Senator McLucas) was speaking.

38 GOVERNMENT DOCUMENTS—CONSIDERATION
The following general business orders of the day relating to government documents were considered:
Treaties—Multilateral—Agreement Establishing the African Development Fund, done at Abidjan, Côte d’Ivoire on 29 November 1972 as amended, and Agreement Establishing the African Development Bank, done at Khartoum, Sudan on 4 August 1963 as amended—Text, together with national interest analysis and annexures. Motion to take note of document moved by Senator Faulkner. On the motion of Senator Williams debate was adjourned till Thursday at general business.
Treaties—*Bilateral*—Agreement between the Government of Australia and the Kingdom of Spain for the Mutual Protection of Classified Information of Defence Interest, done at Madrid on 17 November 2011—Text, together with national interest analysis and annexures. Motion to take note of document moved by Senator Williams. Debate adjourned till Thursday at general business, Senator Williams in continuation.

Treaties—List of multilateral treaties under negotiation, consideration or review by the Australian Government as at August 2012. Motion to take note of document moved by Senator Williams. Debate adjourned till Thursday at general business, Senator Williams in continuation.

39 **ADJOURNMENT**

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

Debate ensued.

The Senate adjourned at 7.27 pm till Thursday, 20 September 2012 at 9.30 am.

40 **ATTENDANCE**

Present, all senators except Senators Bernardi*, Birmingham*, Bob Carr*, Farrell*, Joyce* and Singh* (* on leave).

**ROSEMARY LAING**

Clerk of the Senate

Printed by authority of the Senate