JOURNALS OF THE SENATE

No. 86

WEDNESDAY, 14 FEBRUARY 2018

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

Documents
The following document was tabled pursuant to standing order 61(1)(b):

**Auditor-General’s report for 2017-18**

1. No. 27—Performance audit—Management of the Australian Government’s Register of Lobbyists: Department of the Prime Minister and Cabinet.

The Clerk tabled the following documents pursuant to statute:

*Legislative instruments are identified by a Federal Register of Legislation (FRL) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.*


The Clerk tabled the following documents pursuant to order:

- Departmental and agency grants—Additional estimates 2017-18—Letter of advice pursuant to the order of the Senate of 24 June 2008—Australian Organ and Tissue Donation and Transplantation Authority.
- Estimates hearings—Unanswered questions on notice—Budget estimates 2017-18 (Supplementary)—Statement pursuant to the order of the Senate of 25 June 2014—Office of National Assessments.

Notice of motion withdrawn
The Minister for Education and Training (Senator Birmingham) withdrew government business notice of motion no. 1 standing in his name for today, relating to the consideration of disallowance motions.
4 Enhancing Online Safety (Non-consensual Sharing of Intimate Images) Bill 2017

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, as amended.

Senator Leyonhjelm moved the following amendments together by leave:

Schedule 1, item 4, page 4 (after line 23), after the definition of on-demand program service, insert:

*outdoor public place* means an outdoor place to which the public, or a section of the public, ordinarily has access, whether or not by payment or by invitation (including, for example, the open air areas of an outdoor concert or sportground).

Schedule 1, item 18, page 8 (after line 23), after subsection 9B(6), insert:

(7) For the purposes of this section, an *intimate image* does not include a drawing, painting or sketch (whether still or moving).

(8) For the purposes of subsections (3) and (4), an *intimate image* does not include images of a person in an outdoor public place.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYS, 5

Senators—

Anning

Bernardi

Burston

Hanson

Leyonhjelm*

NOES, 44

Senators—

Bartlett

Brown

Bushby

Cameron

Cash

Chisholm

Colbeck

Collins

Di Natale

Dodson

Duniam

Farrell

Fawcett

Fierravanti-Wells

Fifield

Gallacher

Gichuhi

Griff

Hanson-Young

Hinch

Hume

Ketter

Kitching

Lines

Marshall

Martin

McAllister

McKim

Molan

Moore

O’Neill

Paterson

Patrick

Pratt

Rhiannon

Rice

Ruston

Siewert

Smith

Steele-John

Sterle

Urquhart*

Whish-Wilson

* Tellers

Question negatived.

Senator Leyonhjelm moved the following amendment:

Schedule 1, item 18, page 10 (lines 1 to 13), omit section 9E, substitute:

9E Consent

For the purposes of the application of this Act to an intimate image, *consent* means consent that is:

(a) express; and
(b) voluntary; and
(c) informed;
but does not include:
(d) consent given by a person who is in a mental or physical condition (whether temporary or permanent) that:
   (i) makes the person incapable of giving consent; or
   (ii) substantially impairs the capacity of the person to give consent.

Debate ensued.
Question—That the amendment be agreed to—put and negatived.
Senator Leyonhjelm moved the following amendment:
   Schedule 1, item 26, page 16 (line 17), omit paragraph 44B(1)(d).
Debate ensued.

Question—That the amendment be agreed to—put and negatived.
Senator Leyonhjelm moved the following amendments together by leave:
   Schedule 1, item 26, page 16 (lines 23 to 26), omit the note.
   Schedule 1, item 26, page 16 (after line 26), after subsection 44B(2), insert:
   (2A) Despite section 96 of the Regulatory Powers (Standard Provisions) Act 2014, in proceedings for a civil penalty order against a person for a contravention of subsection (1), the person does not bear an evidential burden in relation to the matter in subsection (2) of this section.

Debate ensued.

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

AYES, 6

Anning
Bernardi
Burston
Hanson
Leyonhjelm*
Georgiou

NOES, 38

Abetz
Bartlett
Brown
Busby
Chisholm
Colbeck
Di Natale
Dodson
Duniam
Farrell
Fawcett
Fiftield
Gallacher
Gichihi
Griff
Hanson-Young
Hinch
Hume
Ketter
Kitching
Martin
McAllister
McKim
O'Neill
Paterson
Patrick
Marshall
Rice
Ruston
Siewert
Steele-John
Moore
Whish-Wilson

* Tellers

Question negatived.

Senator Steele-John moved the following amendments together by leave:
   Schedule 1, item 3, page 3 (line 20), omit “a person”, substitute “an adult”.
   Schedule 1, item 26, page 15 (line 19), omit “A person”, substitute “An adult”.
   Schedule 1, item 26, page 16 (line 17), after “person”, insert “is an adult and”.
Schedule 1, item 26, page 21 (line 2), omit “A person”, substitute “An adult”.
Schedule 1, item 26, page 21 (line 3), omit “the person”, substitute “the adult”.
Schedule 1, item 26, page 21 (line 28), omit “A person”, substitute “An adult”.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 12

Senators—

Bartlett
Di Natale
Griff

Hanson-Young
Hinch
McKim

Patrick
Rhiannon
Rice

Siewert*
Steele-John
Whish-Wilson

NOES, 28

Senators—

Abetz
Anning
Bernardi
Burston
Bushby
Colbeck
Dodson

Duniam
Fifield
Gallacher
Georgiou
Gichuhi
Hanson
Hume

Kitching
Leyonhjelm
Marshall
Martin
McAllister*
McKenzie
Molan

Moore
O’Neill
Paterson
Reynolds
Ruston
Urquhart
Williams

* Tellers

Question negatived.

Senator Griff moved the following amendment:

Page 27 (after line 18), at the end of the bill, add:

Schedule 2—Amendments to the Criminal Code Act 1995

Criminal Code Act 1995

1 Section 473.1 of the Criminal Code

Insert:

intimate image has the meaning given by section 9B of the Enhancing Online Safety Act 2015, but does not include an intimate image under subsection 9B(4).

2 After Subdivision D of Division 474 of the Criminal Code

Insert:

Subdivision DA—Offences relating to use of carriage service for transmitting, etc. intimate images

474.24D Concurrent operation intended

(1) This Subdivision is not intended to exclude or limit the concurrent operation of any law of a State or Territory.

(2) Without limiting subsection (1), this Subdivision is not intended to exclude or limit the concurrent operation of a law of a State or Territory that makes:

(a) an act or omission that is an offence against a provision of this Subdivision; or

(b) a similar act or omission; an offence against the law of the State or Territory.
(3) Subsection (2) applies even if the law of the State or Territory does any one or more of the following:
(a) provides for a penalty for the offence that differs from the penalty provided for in this Subdivision;
(b) provides for a fault element in relation to the offence that differs from the fault elements applicable to the offence under this Subdivision;
(c) provides for a defence in relation to the offence that differs from the defences applicable to the offence under this Subdivision.

474.24E Using a carriage service for transmitting, etc. intimate images

(1) A person commits an offence if:
(a) the person transmits, makes available, publishes, distributes, advertises or promotes material; and
(b) the material is an intimate image; and
(c) the person engages in the conduct mentioned in paragraph (a) without the consent of a subject of the material; and
(d) the person knows of, or is reckless as to, the subject’s lack of consent; and
(e) the person engages in the conduct mentioned in paragraph (a) using a carriage service.

Penalty:
(a) in the case of an aggravated offence (see section 474.24H)—imprisonment for 5 years;
(b) in any other case—imprisonment for 3 years.

Transmission etc. to subject of material

(2) In a prosecution for an offence against subsection (1), the prosecution must prove that the conduct mentioned in paragraph (1)(a) did not consist solely of a transmission, making available, publication, distribution, advertisement or promotion of an intimate image to a subject in the intimate image.

Consent

(3) For the purposes of paragraph (1)(c):
(a) a subject in an intimate image consents to the conduct mentioned in paragraph (1)(a) if the subject gives either:
(i) a general consent covering conduct of the kind engaged in by the first person; or
(ii) consent to the particular instance of conduct engaged in by the first person; and
(b) the consent may be given expressly or by necessary implication.

Use of carriage service

(4) Absolute liability applies to paragraph (1)(e).

Note: For absolute liability, see section 6.2.

Defences

(5) As well as the general defences provided for in Part 2.3, defences are provided for under section 474.24J in relation to this section.
Definitions
(6) In this section:

*consent* means free and voluntary agreement.

**474.24F Using a carriage service—making a threat about intimate images**

(1) A person (the *first person*) commits an offence if:

(a) the first person makes a threat to another person (the *second person*) to transmit, make available, publish, distribute, advertise or promote an intimate image of which the second person or a third person is a subject; and

(b) the first person intends the second person to fear that the threat will be carried out; and

(c) either or both of the following apply:

(i) the first person makes the threat using a carriage service;

(ii) the threat is to transmit, make available, publish, distribute, advertise or promote the intimate image using a carriage service.

**Penalty:**

(a) in the case of an aggravated offence (see section 474.24H)—imprisonment for 5 years;

(b) in any other case—imprisonment for 3 years.

*Actual fear not necessary*

(2) In a prosecution for an offence against subsection (1), it is not necessary to prove that the person receiving the threat actually feared that the threat would be carried out.

*Intimate image need not exist*

(3) For the purposes of subsection (1), it is irrelevant whether the intimate image actually exists.

*Use of carriage service*

(4) Absolute liability applies to paragraph (1)(c).

Note: For absolute liability, see section 6.2.

**Definitions**

(5) In this section:

*fear* includes apprehension.

**474.24G Possessing, controlling, producing, supplying or obtaining an intimate image for use through a carriage service**

(1) A person commits an offence if:

(a) the person:

(i) has possession or control of material; or

(ii) produces, supplies or obtains material; and

(b) the material is an intimate image; and

(c) the person has that possession or control, or engages in that production, supply or obtaining, with the intention that the material be used:

(i) by that person; or

(ii) by another person;
in committing an offence against section 474.24E (using a carriage service for transmitting, etc. intimate images) or 474.24F (using a carriage service—making a threat about intimate images); and
(d) the person has that possession or control, or engages in that production, supply or obtaining:
   (i) for a commercial purpose; or
   (ii) for the purpose of obtaining (whether directly or indirectly) a benefit.

Penalty:
(a) in the case of an aggravated offence (see section 474.24H)—imprisonment for 10 years;
(b) in any other case—imprisonment for 5 years.

(2) A person may be found guilty of an offence against subsection (1) even if committing the offence against section 474.24E or 474.24F is impossible.

(3) It is not an offence to attempt to commit an offence against subsection (1).

474.24H Aggravated offences

(1) For the purposes of this Subdivision, an offence committed by a person (the offender) where the intimate image is of a person who is, or the offender believes to be, under 16 years of age is an aggravated offence.

(2) If the prosecution intends to prove an aggravated offence, the charge must allege the relevant aggravated offence.

(3) If, on a trial for an aggravated offence, the trier of fact is not satisfied that the defendant is guilty of the aggravated offence, but is otherwise satisfied that the defendant is guilty of the corresponding (non-aggravated) offence against section 474.24E, 474.24F or 474.24G, it may find the defendant not guilty of the aggravated offence, but guilty of the relevant corresponding offence.

(4) Subsection (3) only applies if the defendant has been afforded procedural fairness in relation to the finding of guilt for the corresponding (non-aggravated) offence against section 474.24E, 474.24F or 474.24G.

474.24J Defences in respect of intimate images

Public benefit

(1) A person is not criminally responsible for an offence against section 474.24E (using a carriage service for transmitting, etc. intimate images) or 474.24G (possessing etc. an intimate image for use through a carriage service) because of engaging in particular conduct if the conduct:
   (a) is of public benefit; and
   (b) does not extend beyond what is of public benefit.

In determining whether the person is, under this subsection, not criminally responsible for the offence, the question whether the conduct is of public benefit is a question of fact and the person’s motives in engaging in the conduct are irrelevant.
Note: A defendant bears an evidential burden in relation to the matter in this subsection, see subsection 13.3(3).

(2) For the purposes of subsection (1), conduct is of public benefit if, and only if, the conduct is necessary for or of assistance in:
(a) enforcing a law of the Commonwealth, a State or a Territory; or
(b) monitoring compliance with, or investigating a contravention of, a law of the Commonwealth, a State or a Territory; or
(c) the administration of justice; or
(d) conducting scientific, medical or educational research that has been approved by the Minister in writing for the purposes of this section.

Media activities

(3) A person is not criminally responsible for an offence against section 474.24E (using a carriage service for transmitting, etc. intimate images) or 474.24G (possessing etc. an intimate image for use through a carriage service) because of engaging in particular conduct if:
(a) the person engaged in the conduct for the purposes of collecting, preparing for the dissemination of, or disseminating:
   (i) material having the character of news, current affairs, information or a documentary; or
   (ii) material consisting of commentary or opinion on, or analysis of, news, current affairs, information or a documentary; and
(b) the person did not intend the conduct to cause harm to a subject of the material; and
(c) the person reasonably believed the conduct to be in the public interest.

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

Duties of law enforcement officer, or intelligence or security officer

(4) A person is not criminally responsible for an offence against section 474.24E (using a carriage service for transmitting, etc. intimate images) or 474.24G (possessing etc. an intimate image for use through a carriage service) if:
(a) the person is, at the time of the offence, a law enforcement officer, or an intelligence or security officer, acting in the course of his or her duties; and
(b) the conduct of the person is reasonable in the circumstances for the purpose of performing that duty.

Note: A defendant bears an evidential burden in relation to the matter in this subsection, see subsection 13.3(3).
Prohibited content and content filtering technology

(5) A person is not criminally responsible for an offence against section 474.24E (using a carriage service for transmitting, etc. intimate images) or 474.24G (possessing etc. an intimate image for use through a carriage service) if the person engages in the conduct in good faith for the sole purpose of:

(a) assisting the Children’s e-Safety Commissioner to detect:
   (i) prohibited content (within the meaning of Schedule 7 to the Broadcasting Services Act 1992); or
   (ii) potential prohibited content (within the meaning of that Schedule);
   in the performance of the Commissioner’s functions under Schedule 5 or Schedule 7 to that Act; or

(b) manufacturing or developing, or updating, content filtering technology (including software) in accordance with:
   (i) a recognised alternative access-prevention arrangement (within the meaning of clause 40 of Schedule 5 to the Broadcasting Services Act 1992); or
   (ii) a designated alternative access-prevention arrangement (within the meaning of clause 60 of that Schedule).

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

474.24K Consent to commencement of proceedings where defendant under 18

(1) Proceedings for an offence against this Subdivision must not be commenced without the consent of the Attorney-General if the defendant was under 18 at the time he or she allegedly engaged in the conduct constituting the offence.

(2) However, a person may be arrested for, charged with, or remanded in custody or on bail in connection with, such an offence before the necessary consent has been given.

3 Subsections 475.1A(1) and (2) of the Criminal Code

After “D,” insert “DA,”.

4 Paragraphs 475.1B(1)(a) and (2)(a) of the Criminal Code

After “D,” insert “DA,”.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 34

Senators—

Bartlett
Bilyk
Brown
Cameron
Chisholm
Collins
Di Natale
Dodson
Farrell
Gallacher
Griff
Hanson-Young
Hinch
Ketter*
Kitching
Lines
Marshall
Martin
McAllister
McKim
Moore
O’Neill
Patrick
Polley
Pratt
Rhiannon
Rice
Stewart
Singh
Steele-John
Sterle
Urquhart
Watt
Whish-Wilson

Senators—
NOES, 30

Senators—

No. 86—14 February 2018

Abetz
Anning
Bernardi
Birmingham
Brockman
Burston
Bushby
Canavan
Cash
Colbeck
Duniam
Fawcett
Fieravanti-Wells
Fifield
Georgiou
Gichuhi
Hanson
Hume
Leyonhjelm
Macdonald
McKenzie
Molan
O’Sullivan
Paterson
Reynolds
Ruston
Ryan
Scullion
Smith
Williams*

* Tellers

Question agreed to.

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

On the motion of the Minister for Communications (Senator Fifield) the report from the committee was adopted and the bill read a third time.

5 Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017

Order of the day read for the adjourned debate on the motion of the Minister for Indigenous Affairs (Senator Scullion)—That this bill be now read a second time. Debate resumed.

Senator Leyonhjelm moved the following amendment:

At the end of the motion, add “but, quite apart from the content of the bill, the Senate is of the view that no bank should ever be bailed out in Australia”.

Debate ensued.

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

Main 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 Jobs and Innovation (Senator Cash) the bill was read a third time.

6 Treasury Laws Amendment (Banking Measures No. 1) Bill 2017

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

Debate resumed.

At 12.45 pm: Debate was interrupted while Senator O’Neill was speaking.

7 Senators’ statements

Senators made statements.

At 2 pm—

8 Questions

Questions without notice were answered.
9 Routine of business—Variation

The Minister for Finance (Senator Cormann), by leave, moved—That—

(a) business of the Senate notices of motion nos 1 and 2 standing in the name of Senator Hanson-Young for today, proposing the disallowance of the Basin Plan Amendment Instrument 2017 (No. 1), be called on, if not already reached, immediately after Senator Molan’s first speech and have precedence over all other business until determined;

(b) if consideration of the motions is not concluded at 7.10 pm, the questions on the unresolved motions shall then be put; and

(c) business of the Senate notice of motion no. 3 standing in the name of Senator Hanson-Young for today, proposing the disallowance of the Basin Plan Amendment (SDL Adjustments) Instrument 2017, be postponed till 8 May 2018.

The question was divided at the request of Senator Hanson-Young—

Question—That paragraphs (a) and (b) of the motion be agreed to—put and passed.

Question—That paragraph (c) of the motion be agreed to—put and passed.

10 Motions to take note of answers

Senator Watt moved—That the Senate take note of the answer given by the Minister for Finance (Senator Cormann) to a question without notice asked by Senator Watt today relating to company tax cuts.

Debate ensued.

Question put and passed.

The Leader of the Australian Greens (Senator Di Natale) moved—That the Senate take note of the answer given by the Minister for Finance (Senator Cormann) to a question without notice asked by Senator Di Natale today relating to the Adani coal mine.

Question put and passed.

11 Notices

The Minister for Education and Training (Senator Birmingham): To move on the next day of sitting—That the order of the Senate agreed to on 31 August 2016, as amended on 12 February 2018, relating to the allocation of departments and agencies to legislative and general purpose standing committees, be amended as follows:

Omit “Health and Aged Care”, substitute “Health”.

Omit “Infrastructure and Transport”, substitute “Infrastructure, Regional Development and Cities”.

Senator Cameron: To move on the next day of sitting—That the Senate requests that Ms Glenys Beauchamp, PSM and Dr Chris Pigrum appear before the Economics Legislation Committee to answer questions at the additional estimates hearing on 28 February or 1 March 2018, when the committee is examining the Department of Industry, Innovation and Science. (general business notice of motion no. 723)

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

(a) acknowledges that the $210 million funding cut to South Australian schools and $68 million to Tasmanian schools, in 2018 and 2019, means that schools will face significant cuts; and
calls on the Australian Government to immediately reinstate the funding previously committed to South Australian and Tasmanian schools. *(general business notice of motion no. 724)*

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

(a) notes that:

(i) on 13 February 2018, the United Nations High Commissioner for Refugees (UNHCR) released an update on UNHCR observations from their latest mission to Manus Island,

(ii) UNHCR Regional Protection Officer, Mr Rico Salcedo, stated that ‘what stood out the most from this mission at the time we were there, was a pervasive and worsening sense of despair among refugees and asylum seekers’,

(iii) the UNHCR further stated that ‘we cannot emphasize enough that solutions must be found for all, outside of Papua New Guinea, as a matter of urgency. Australia remains ultimately responsible, as the state from which these refugees and asylum seekers have sought international protection, for their welfare and long-term settlement outside of Papua New Guinea’, and

(iv) there have been recent reports of deteriorating conditions on Nauru, and that refugees and people seeking asylum on Nauru are also the responsibility of Australia; and

(b) calls on the Government to end offshore detention, and evacuate to Australia every person who sought asylum in Australia and who is currently in Papua New Guinea and Nauru. *(general business notice of motion no. 725)*

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

(a) notes the budget priorities statement 2018-19 of the Australian Council of Social Service, launched this week in Canberra;

(b) recognises that research from 2017 shows that single rates of unemployment payments are completely inadequate to cover basic living costs;

(c) acknowledges that our social safety net currently fails to protect those seeking work from falling into poverty;

(d) notes that the Australian Council of Social Service calls for an increase of $75 a week to allowance payments for single people from 1 January 2019; and

(e) urges the Federal Government to increase the single rate of Newstart and related allowances by $75 a week. *(general business notice of motion no. 726)*

Senator Whish-Wilson: To move on the next day of sitting—That the Senate—

(a) notes with deep concern that:

(i) the war in Syria is almost to its eighth year, with no end in sight, and

(ii) the world has witnessed untold horror throughout the war, including indiscriminate killing, the deliberate targeting of civilians and medical facilities, the deaths of hundreds of thousands of people, and millions being displaced;

(b) further notes that the 2003 Iraq War was a major catalyst of the war in Syria, including contributing to the rise of ISIS;

(c) calls on all parties to the conflict in Syria to respect the Geneva Conventions and commit to a peaceful resolution to the crisis; and
(d) calls on the Australian Government to launch an independent inquiry into the Iraq War. (general business notice of motion no. 727)

Senator Kitching: To move on the next day of sitting—that there be laid on the table, by 5 pm on 15 February 2018, by:

(a) the Minister for Defence, details of any Special Purpose Flights taken by the Deputy Prime Minister, Acting Prime Minister and Ms Vikki Campion in 2017; and

(b) the Special Minister of State, all details of international travel by the Deputy Prime Minister, Acting Prime Minister and Ms Vikki Campion in 2017, in their official capacities. (general business notice of motion no. 728)

The Leader of the Australian Greens (Senator Di Natale): To move on the next day of sitting—that the Senate—

(a) welcomes the visit by a delegation of leaders from the Kiribati Climate Action Network and the Kiribati Ministry of Education;

(b) notes the strong bonds that exist between the people of Australia and the people of Kiribati;

(c) notes, with deep concern, the impacts that climate change is already having on Kiribati, including soil erosion and salinity, which is affecting crops and drinking water;

(d) is further concerned at reports from the 23th United Nations Climate Change Conference in 2017 that the Australian delegation pushed back against poorer countries, including Kiribati, who were calling for more funding for loss and damage caused by climate change; and

(e) calls on the Government to:

(i) increase its support to Pacific Island nations, including Kiribati, through climate finance that is separate and additional to our existing official development assistance budget,

(ii) significantly increase our commitments to cut emissions under the Paris Agreement in 2018, and take into account loss and damage caused by climate change, and

(iii) commit to no new coal mines in Australia, and rule out Adani’s Carmichael coal mine. (general business notice of motion no. 729)

12 Committees—Extensions of time to report

The following committees were granted extensions of time to report:

Community Affairs References Committee—Transvaginal mesh implants, extended to 20 March 2018.

Economics References Committee—Banking, insurance and financial services sector, extended to 26 June 2018.

Environment and Communications References Committee—Aboriginal rock art of the Burrup Peninsula, extended to 21 March 2018.

13 Leave of absence

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

Question put and passed.
14 **Economics References Committee—Reference**

Senator Urquhart, at the request of the Chair of the Economics References Committee (Senator Ketter) and pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 4—that the following matter be referred to the Economics References Committee for inquiry and report by the last sitting day in June 2019:

The indicators of, and impact of, regional inequality in Australia, with particular reference to government policies and programs in the following areas:

(a) fiscal policies at federal, state and local government levels;
(b) improved co-ordination of federal, state and local government policies;
(c) regional development policies;
(d) infrastructure;
(e) education;
(f) building human capital;
(g) enhancing local workforce skills;
(h) employment arrangements;
(i) decentralisation policies;
(j) innovation;
(k) manufacturing; and
(l) any other related matters.

*Statement by leave:* The Assistant Minister to the Prime Minister (Senator McGrath), by leave, made a statement relating to the motion.

Question put and passed.

15 **World Cholangiocarcinoma Day**

Senator Urquhart, at the request of Senators Bilyk and Griff and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 710—that the Senate—

(a) notes that:

(i) 14 February 2018 is World Cholangiocarcinoma Day, an international effort to raise awareness of a form of liver cancer that develops in the bile duct cells,

(ii) 1 in 67,000 Australians are diagnosed each year with cholangiocarcinoma – around one per day,

(iii) in Australia, liver cancers generally have a five-year survival rate of around 17%, and

(iv) many cholangiocarcinoma patients are diagnosed too late for potentially curative surgery; and

(b) recognises the need for continued efforts to improve the diagnosis, treatment and survival rates for rare and less common cancers, such as cholangiocarcinoma.

*Statement by leave:* The Assistant Minister to the Prime Minister (Senator McGrath), by leave, made a statement relating to the motion.

Question put and passed.
16 **HIV prevention—Subsidisation of PrEP**  
Senator Singh, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 711—That the Senate—
(a) welcomes the Pharmaceutical Benefits Advisory Committee’s positive recommendation of the ‘game-changing’ HIV prevention drug, pre-exposure prophylaxis (PrEP), on 9 February 2018;  
(b) notes that:  
(i) every averted HIV transmission saves close to $1 million in lifetime care and treatment costs,  
(ii) while significant advancements have been made, the HIV epidemic remains one of the greatest public health challenges facing Australia, its region and the world, and  
(iii) progress towards ending HIV in Australia has stalled at around 1000 notifications a year, and that the situation is particularly urgent in Indigenous communities, with HIV rates now trending above the rate for non-Indigenous Australians for the first time ever; and  
(c) urges:  
(i) the Minister for Health to list PrEP on the Pharmaceutical Benefits Scheme urgently, thereby expanding affordable access to an estimated 31,000 people, and  
(ii) the Turnbull Government to match Labor’s commitment to make HIV history in Australia, including $10 million a year to renew Australia’s HIV response by restoring the funding and capacity that the Government has cut from HIV peak organisations, and $3 million a year to improve prevention, testing and treatment for ‘hidden populations’ who fall outside the traditional HIV response.  

Statement by leave: The Assistant Minister to the Prime Minister (Senator McGrath), by leave, made a statement relating to the motion.  
Question put and passed.

17 **Aged care home care packages**  
Senator Polley, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 715—That the Senate—
(a) notes that:  
(i) the latest waiting list for aged care home care packages indicates that there are more than 100,000 vulnerable older Australians waiting for the home care package for which they have been approved,  
(ii) the latest figures showed that the waiting list had grown by more than 12,000 between 1 July and 30 September 2017, and it is likely to continue growing without funding for the release of more packages,  
(iii) the majority of the older Australians on the waiting list are those waiting for level three and level four packages, who have high care needs, including many with dementia, and  
(iv) the Turnbull Government’s own website states that most of these vulnerable older Australians will be waiting more than a year for a package;  
(b) condemns the Turnbull Government for failing to fund a single new home care package in the 2017-18 Mid-Year Economic and Fiscal Outlook update; and
(c) calls on the Turnbull Government to make a genuine commitment to fix the home care package waiting list and properly address this growing crisis.

Statement by leave: The Assistant Minister to the Prime Minister (Senator McGrath), by leave, made a statement relating to the motion.

Question put and passed.

18 National Partnership Agreement on Remote Housing—Order for production of documents

Senator Dodson amended general business notice of motion no. 716 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

(a) notes the failure of the Minister for Indigenous Affairs (the Minister) to:

(i) provide a clear statement on the future of the National Partnership Agreement on Remote Housing,

(ii) detail future plans, for the states of South Australia, Western Australia and Queensland, and the Northern Territory, on the available funding for remote housing, and

(iii) give a clear account of negotiations with those jurisdictions on future funding arrangements;

(b) orders that all correspondence between the Minister and his Department and state and territory Ministers, and all correspondence between officials on the National Partnership Agreement on Remote Housing, since the beginning of December 2017, be laid on the table by 5 pm on 15 February 2018;

(c) requires the Minister to attend the Senate at 12 pm on 20 March 2018 so that, prior to government business being called on, any senator may ask for an explanation for the failure to engage in detailed consultations with the states and territories on remote housing; and

(d) resolves that:

(i) in the event that the Minister provides an explanation, any senator may, at the conclusion of the explanation, move without notice—That the Senate take note of the explanation, or

(ii) in the event that the Minister does not provide an explanation, any senator may, without notice, move a motion with regard to the Minister’s failure to provide an explanation, and

(iii) any motion to take note under paragraphs (d) (i) or (ii) have precedence over all other business for a period of no more than 2 hours.

Statements by leave: Senator Dodson and the Assistant Minister to the Prime Minister (Senator McGrath), by leave, made statements relating to the motion.

Question put and passed.

19 Kangaroos—Impact of shooting activities

Senator Rhiannon, also on behalf of Senators Hinch and Bartlett, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 686—That the Senate—

(a) notes that:

(i) Australian Government management of kangaroos tends to be structured to service commercial shooting and farming industries,
in 2015, between 65,000 and 650,000 kangaroos suffered non-lethal body-shots and a further 110,000 joeys died from commercial shooting alone, with pouch joeys decapitated or their skulls crushed,

(kangaroos are slow-growing and are shot beyond their low reproductive capacity, with long-term government raw data illustrating kangaroo absence and decline, yet this is not reflected in the published population estimates from which an impossibly high commercial shooting quota is extracted, and

kangaroo is a wild-shot bushmeat and is butchered and transported on open unrefrigerated trucks in the field and, in 2014, Russia banned kangaroo meat imports for a third time due to contamination, with rapid food security alerts in the European Union about kangaroo meat since then; and

(b) calls on the Commonwealth and all states to make available all historical and current kangaroo survey data and methodologies, and commercial and non-commercial shooting and demographics data for all shooting zones across Australia.

Statement by leave: The Assistant Minister to the Prime Minister (Senator McGrath), by leave, made a statement relating to the motion.

Question put.

The Senate divided—

AYES, 12

Bartlett  Hanson-Young  Patrick  Siewert*
Di Natale  Hinch  Rhiannon  Steele-John
Griff  McKim  Rice  Whish-Wilson

NOES, 44

Abetz  Collins  Kitching  Paterson
Anning  Dodson  Leyonhjelm  Pratt
Bernardi  Duniam  Lines  Reynolds
Bilyk  Farrell  Marshall  Ruston
Brown  Fawcett  Martin  Ryan
Burston  Gallacher  McAllister  Scullion
Bushby  Georgiou  McGrath  Singh
Cameron  Gichuhi  Molan  Smith
Canavan  Hanson  Moore  Urquhart*
Chisholm  Hume  O’Neill  Watt
Colbeck  Ketter  O’Sullivan  Williams

* Tellers

Question negatived.

20 **Iraq War**

The Leader of the Australian Greens (Senator Di Natale), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 717—That the Senate—

(a) notes that this week marks the 15-year anniversary of over 200,000 people marching in each of Melbourne and Sydney, and 600,000 nationwide, to protest Australia’s involvement in the Iraq War; and
(b) supports an independent inquiry into:

(i) the decisions that led to Australia invading Iraq, and

(ii) the conduct of the Australian military operations in Iraq.

*Statements by leave: The Assistant Minister to the Prime Minister (Senator McGrath) and Senator Chisholm, by leave, made statements relating to the motion.*

Question put.

*The Senate divided—*

**AYES, 11**

- Bartlett
- Hanson-Young
- Rhiannon
- Steele-John
- Di Natale
- McKim
- Rice
- Whish-Wilson
- Griff
- Patrick
- Siewert*

**NOES, 45**

- Abetz
- Dodson
- Kitching
- Paterson
- Anning
- Duniam
- Leyonhjelm
- Pratt
- Bernardi
- Farrell
- Lines
- Reynolds
- Bilyk
- Fawcett
- Marshall
- Ruston
- Brown
- Gallacher
- Martin
- Ryan
- Burston
- Georgiou
- McAllister
- Scullion
- Bushby
- Gichuhi
- McGrath
- Singh
- Cameron
- Hanson
- Molan
- Smith
- Canavan
- Hinch
- Moore
- Urquhart*
- Chisholm
- Hume
- O’Neill
- Watt
- Colbeck
- Ketter
- O’Sullivan
- Williams

* Tellers

Question negatived.

**21 Victoria—Deregulation of electricity prices**

*The Leader of the Australian Greens (Senator Di Natale), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 718—That the Senate—*

(a) notes that:

(i) electricity prices have gone up 12.4% from December 2016 to December 2017 and are too high,

(ii) the companies that own our electricity networks, including those registered in the Cayman Islands, have made $27.5 billion profit over the past 4 years, which is pushing up prices, and

(iii) the deregulation of electricity prices has seen them skyrocket, so that in Victoria up to 30% of a household’s bill is for retailers profits alone, according to the Grattan Institute;

(b) agrees with Victorian Premier Mr Daniel Andrews that electricity should never have been privatised; and

(c) calls on the Government to start bringing the electricity network back into public hands and to take all steps to reregulate electricity prices.

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

Question put.
The Senate divided—

AYES, 11

Senators—
Bartlett Hanson-Young Rhiannon Steele-John
Di Natale McKim Rice Whish-Wilson
Griff Patrick Siewert*

NOES, 45

Senators—
Abetz Dodson Kitching Pratt
Anning Dunnam Leyonhjelm Reynolds
Bernardi Farrell Lines Ruston
Bilyk Fawcett Marshall Ryan
Brown Gallacher Martin Scullion
Burston Georgiou McAllister Singh
Brashby Gichuhi McGrath Smith
Cameron Hanson Molan Sterle
Canavan Hinch O’Neill Urquhart*
Chisholm Hume O’Sullivan Watt
Colbeck Ketter Paterson Williams
Collins

* Tellers

Question negatived.

22 Poker machines

Senator Hanson-Young, also on behalf of Senators Bartlett and McKim, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 720—That the Senate—

(a) notes that:
(i) Australia is home to 0.3% of the world’s population, but 18% of the world’s poker machines,
(ii) Australians lose more money to poker machines than anywhere else in the world per capita,
(iii) most countries around the world, 226 out of 238, have no poker machines in pubs and clubs,
(iv) a 2010 study by the Productivity Commission found that problem gamblers account for 40% of losses on poker machines,
(v) suicide rates among problem gamblers are twice the rate of other addictions, and
(vi) problem gamblers are far more vulnerable to depression, relationship breakdown, job loss, lowered work productivity, bankruptcy and crime;

(b) acknowledges that:
(i) poker machines have caused a significant degree of social and economic dislocation in the community, and
(ii) the regulation of poker machines is a litmus test of good government; and

(c) calls on the Government to support states in phasing out poker machines in pubs, because the fewer poker machines, the better.

Statement by leave: The Assistant Minister to the Prime Minister (Senator McGrath), by leave, made a statement relating to the motion.

Question put.
The Senate divided—

AYES, 11

Senators—
Bartlett
Di Natale
Griff

Hanson-Young
McKim
Patrick
Rhiannon
Rice
Siewert*

Steele-John
Whish-Wilson

NOES, 39

Senators—
Abetz
Anning
Bernardi
Burston
Bushby
Cameron
Canavan
Chisholm
Colbeck
Collins

Dodson
Duniam
Fawcett
Gallacher
Georgiou
Gichuhi
Hanson
Hinch
Hume
Ketter*

Kitching
Leyonhjelm
Lines
Marshall
McGrath
Molan
O’Neill
O’Neill
Paterson
Pratt

Reynolds
Ruston
Ryan
Scullion
Seselja
Smith
Sterle
Watt
Williams

* Tellers

Question negatived.

23 Adani coal mine

Senator Bartlett, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 721—That the Senate—

(a) notes reports that:

(i) an internal investigation by the Department of the Environment (the Department) found that the Adani mining company ‘may have been negligent’ in failing to disclose its Australian CEO’s links to a company convicted of environmental offences in Africa,

(ii) a compliance report prepared for the Department’s investigation found that ‘Adani Mining Pty Ltd may have been negligent in that, when requested in August 2015, it failed to disclose a complete account of its executive officers in relation to environmental matters’, and

(iii) despite a recommendation that Adani be cautioned about the matter, the company never received any caution from the Federal Government; and

(b) expresses the view that Adani’s proposed Carmichael coal mine not go ahead.

Statements by leave: The Assistant Minister to the Prime Minister (Senator McGrath) and Senator Chisholm, by leave, made statements relating to the motion.

Question put and negatived.

24 Environment protection measures in Tasmania

Senator McKim, also on behalf of Senator Whish-Wilson, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 722—That the Senate—

(a) notes that:

(i) Tasmania’s unique environment is under threat from inappropriate development, and the failure to protect natural and cultural values,

(ii) rapid and unfettered expansion of fish farms is privatising public waters and damaging Tasmania’s marine environment and coastal lifestyle,
(iii) private sector development in Tasmania’s iconic national parks and world heritage areas is continuing,

(iv) the swift parrot is facing extinction due to ongoing deforestation of its habitat by logging, and

(v) Tasmanian Aboriginal heritage is being damaged by four wheel drive tracks in the Tarkine area; and

(b) condemns the Federal and Tasmanian Liberal governments for failing to stand up for Tasmania’s unique natural environment, their lack of support for a Tarkine national park, and complete inaction on climate change.

Statement by leave: The Assistant Minister to the Prime Minister (Senator McGrath), by leave, made a statement relating to the motion.

Question put.

The Senate divided—

AYES, 9

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NOES, 39

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*Tellers

Question negatived.

25 South Australian election

Senator Bernardi, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 713—That the Senate—

(a) notes that the South Australian state election will occur on 17 March 2018, in which the Weatherill Labor Government will be asking voters to endorse it to serve 20 continuous years in office;

(b) encourages all South Australian voters to carefully analyse the policies, track record, voting record and political ideology of party leaders participating in that election; and

(c) urges the next South Australian Government, however constituted, to immediately implement policies to address South Australia’s energy reliability, affordability and overall economic position so as to attract business investment, reduce unemployment and be a stronger contributor to the national economy.
26 **Prioritisation of human life**

Senator Bernardi, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 714—That the Senate—

(a) holds that human life is more important than animal life; and

(b) calls on the Government to prioritise human life in all portfolio areas, including the environment portfolio when balancing fire prevention against biodiversity conservation.

*Statements by leave:* Senators Rhiannon and Bernardi, by leave, made statements relating to the motion.

Question put and passed.

27 **Use of parliamentary privilege by senators**

Senator Bernardi, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 712—That the Senate—

(a) commends our current and former armed servicemen and servicewomen for their service to our country;

(b) condemns cowardly senators who use parliamentary privilege to make allegations of criminality or racism against those personnel, and thereby bring our armed forces and personnel into disrepute, without presenting immediate proof of their claims; and

(c) urges honourable senators to use parliamentary privilege with responsibility and respect.

The question was divided at the request of Senator Bernardi—

*Question*—That paragraphs (a) and (c) be agreed to—put and passed.

*Question*—That paragraph (b) be agreed to—put and passed.

28 **Notice**

Senator Bernardi, by leave, gave a notice of motion as follows: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to repeal the *Australian Human Rights Commission Act 1986*, and for related purposes. *Australian Human Rights Commission Repeal (Duplication Removal) Bill 2018* (general business notice of motion no. 730)

29 **Reproductive health services—Funding for counselling**

Senator Anning, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 709—That the Senate—

(a) notes that:

(i) every human being, no matter what stage of development, is sacred and is deserving of the rights to life and liberty, and
(ii) mothers should be informed about the development of the unborn baby, the procedure of termination, and the risks, both physical and psychological, due to the operation, and alternatives, such as adoption; and

(b) calls on the Australian Government to fund counselling for women in relation to pregnancy terminations.

Statements by leave: Senators Anning and Collins, the Assistant Minister to the Prime Minister (Senator McGrath), the Leader of Derryn Hinch’s Justice Party (Senator Hinch) and Senator Rice, by leave, made statements relating to the motion.

Question put.

The Senate divided—

AYES, 14

Senators—

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NOES, 24

Senators—

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* Tellers

Question negatived.

30 Syria

Motion determined as not formal: The Leader of the Australian Greens (Senator Di Natale) requested that general business notice of motion no. 719 standing in his name for today, relating to Syria, be taken as formal. An objection was raised and the motion was not proceeded with as a formal motion.

Statements by leave: Senator Di Natale and the Assistant Minister to the Prime Minister (Senator McGrath), by leave, made statements relating to the motion.

31 Discussion of matter of public importance—South Australian election

The Acting Deputy President (Senator Leyonhjelm) informed the Senate that, at 8.30 am today, six senators had each submitted a letter in accordance with standing order 75. The proposal to be submitted to the Senate was determined by lot.

As a result, the Acting Deputy President informed the Senate that Senator Bernardi had proposed that the following matter of public importance be submitted to the Senate for discussion:

The vital importance that the South Australian state election on 17 March 2018 produces a government focussed on energy reliability, energy affordability, attracting business investment, lower unemployment and a South Australian economy that contributes better to the national economy.

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

At 5.30 pm: Discussion was interrupted.
32 First speech  
Pursuant to order, Senator Molan made his first speech.

33 Basin Plan Amendment Instrument—Disallowance  
Pursuant to order (see entry no. 9), Senator Hanson-Young moved business of the Senate notices of motion nos 1 and 2, identical in terms, together as follows—that the Basin Plan Amendment Instrument 2017 (No. 1), made under the Water Act 2007, be disallowed [F2017L01462].  
Debate ensued.  
At 7.10 pm: Pursuant to order, the question was put.  
The Senate divided—

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Question agreed to.

34 Discussion of matter of public importance—South Australian election  
Discussion of the matter of public importance proposed by Senator Bernardi (see entry no. 31) resumed.  
At 7.20 pm: Discussion was interrupted.

35 Adjournment  
The Acting Deputy President (Senator Whish-Wilson) proposed the question—that the Senate do now adjourn.  
Debate ensued.  
The Senate adjourned at 7.50 pm till Thursday, 15 February 2018 at 9.30 am.
36 Attendance

Present, all senators except Senators McCarthy*, Payne* and Sinodinos* (*on leave).

RICHARD PYE
Clerk of the Senate