2013-14

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 54

TUESDAY, 23 SEPTEMBER 2014

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1 **MEETING OF SENATE**
The Senate met at 12.30 pm. The President (Senator the Honourable Stephen Parry) took the chair, read prayers and made an acknowledgement of country.

2 **GOVERNMENT DOCUMENTS**
The following documents were tabled:
   - Australian Human Rights Commission—Reports—
     - No. 65—Johansson v Masonic Homes Inc.
     - No. 66—Swamy v Percival.
     - No. 67—Stevanovic v Commonwealth (Department of Immigration and Citizenship).
     - No. 68—Parker v Commonwealth (Department of Immigration and Citizenship).
     - No. 69—Ogawa v Commonwealth (Department of Immigration and Citizenship).
     - No. 70—Abdellatif v Commonwealth (Department of Immigration and Border Protection).
     - No. 71—Mansoor and Mr IA v Commonwealth (Department of Immigration and Border Protection).
     - No. 72—JA v Commonwealth (Department of Defence).
   - *Migration Act 1958*—Reports for the period 1 March to 30 June 2014—
     - Section 91Y—Protection visa processing taking more than 90 days.
     - Section 440A—Conduct of Refugee Review Tribunal reviews not completed within 90 days.

3 **NATIONAL SECURITY LEGISLATION AMENDMENT BILL (NO. 1) 2014**
Order of the day read for the adjourned debate on the motion of the Attorney-General (Senator Brandis)—That this bill be now read a second time.
Debate resumed.
At 2 pm: Debate was interrupted while the Parliamentary Secretary to the Minister for Social Services (Senator Fierravanti-Wells) was speaking.

4 **QUESTIONS**
Questions without notice were answered.

5 **MOTIONS TO TAKE NOTE OF ANSWERS**
   Senator McLucas moved—That the Senate take note of the answers given by the Minister for Indigenous Affairs (Senator Scullion) to questions without notice asked by Opposition senators today relating to funding for services for Indigenous Australians.
   Debate ensued.
   Question put and passed.
Senator Siewert moved—That the Senate take note of the answer given by the Assistant Minister for Social Services (Senator Fifield) to a question without notice asked by Senator Siewert today relating to income management proposals.

Question put and passed.

6 PETITIONS

The following 2 petitions, similar in wording, lodged with the Clerk by Senator Abetz, were received:

From 48 137 and 240 petitioners, requesting that the Senate support the criminalisation of cyberbullying, and take further action in relation to bullying in general.

7 NOTICES

The Assistant Minister for Social Services (Senator Fifield): To move on the next day of sitting—That—

(a) so much of the standing orders be suspended as would prevent the succeeding provisions of this resolution having effect;

(b) on Wednesday, 24 September 2014, the business of the Senate notice of motion proposing the disallowance of the Fair Work Amendment (Protected Industrial Action) Regulation 2014, standing in the name of Senator Rice for that day, be called on no later than 6.15 pm; and

(c) if consideration of the motion listed in paragraph (b) is not concluded at 6.30 pm, the questions on the unresolved motion shall then be put.

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

(a) notes:

(i) the recent International Whaling Commission (IWC) meeting passed a resolution instructing members to have their future scientific whaling programs assessed by the Commission, and

(ii) the Japanese Government has indicated it will ignore this resolution and recommence a lethal ‘scientific’ whaling program in the Southern Ocean in 2015; and

(b) calls on the Japanese Government to:

(i) respect the IWC motion and not recommence a lethal ‘scientific’ whaling program in the Southern Ocean in 2015, and

(ii) join the Southern Ocean Research Partnership, a ten nation Southern Ocean non-lethal whale research program. (general business notice of motion no. 439)

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

(a) notes recent analysis by Mr Chris Bonnor and Mr Bernie Shepherd, which demonstrated that inequality between the most advantaged and disadvantaged schools has grown since the Gonski Review was completed in 2011;

(b) recognises the Commonwealth Government’s decision to proceed with only the first 4 years of the Gonski school funding arrangements falls far short of the investment needed to reverse systemic disadvantage and deepening inequality; and

(c) calls on the Government to prioritise the reduction of inequality in Australian schools. (general business notice of motion no. 440)
Senator Rice: To move on the next day of sitting—That the Senate—

(a) notes:

(i) the recent release of the G20 finance ministers report on leading practices to promote and prioritise quality investment, particularly in infrastructure,

(ii) the emphasis this report places on rigorous, transparent and consistent infrastructure project preparation,

(iii) that this reflects priorities set out in the 2013 National Infrastructure Plan, which promotes public investment in public transport, and

(iv) that this raises concern that the $3 billion in federal funding committed toward the proposed East West Link project does not uphold the principles set out in these reports; and

(b) calls on the Government to redirect the $3 billion of Commonwealth funds allocated for the proposed East West Link to public transport in Victoria.

(General business notice of motion no. 441)

The Attorney-General (Senator Brandis): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the law relating to counter-terrorism and other matters, and for related purposes. Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014.

Senator Hanson-Young: To move on the next day of sitting—That the Senate calls on the Government to heed the request of the United Nations and provide increased humanitarian assistance in the Middle East by offering and preserving asylum space for Syrians and Iraqis and supporting the neighbouring countries hosting them.

(General business notice of motion no. 442)

Intention to withdraw: Senator Leyonhjelm, pursuant to standing order 78, gave notice of his intention, at the giving of notices on the next day of sitting, to withdraw business of the Senate notices of motion nos 1 to 3 standing in his name for the next day of sitting for the disallowance of the following instruments:

- Items 1 to 6 (hard onions) and 7 and 8 (mangoes) of the Schedule of the Primary Industries (Customs) Charges Amendment (2014 Measures No. 1) Regulation 2014, as contained in Select Legislative Instrument 2014 No. 54 and made under the Primary Industries (Customs) Charges Act 1999.

- Items 1 and 2 (mushrooms), 3 to 7 (hard onions) and 8 and 9 (mangoes) of the Schedule of the Primary Industries (Excise) Levies Amendment (2014 Measures No. 1) Regulation 2014, as contained in Select Legislative Instrument 2014 No. 55 and made under the Primary Industries (Excise) Levies Act 1999.

- Primary Industries Levies and Charges Collection Amendment (Mushrooms) Regulation 2014, as contained in Select Legislative Instrument 2014 No. 56 and made under the Primary Industries Levies and Charges Collection Act 1991.

Senator Leyonhjelm, by leave, made a statement relating to the notice of intention.

Notice of motion withdrawn: Senator Moore, at the request of Senator Conroy, withdrew general business notice of motion no. 414 standing in the name of Senator Conroy for today, relating to the Australian shipbuilding industry.
8 **LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Bushby, by leave and at the request of the Chair of the Legal and Constitutional Affairs Legislation Committee (Senator Macdonald), moved—That the Legal and Constitutional Affairs Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Wednesday, 24 September 2014, from 3.15 pm.

Question put and passed.

9 **LEAVE OF ABSENCE**

Senator McEwen, by leave, moved—That leave of absence be granted to Senators Polley and Urquhart for today, for personal reasons.

Question put and passed.

Senator Siewert, by leave, moved—That leave of absence be granted to Senators Milne and Whish-Wilson for today, for personal reasons.

Question put and passed.

10 **POSTPONEMENT**

The following item of business was postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Dastyari for today, proposing the disallowance of items 1 to 27 inclusive and item 30 of the Corporations Amendment (Streamlining Future of Financial Advice) Regulation 2014, postponed till 24 September 2014.

11 **EDUCATION AND EMPLOYMENT LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING**

The Chair of the Education and Employment Legislation Committee (Senator McKenzie), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 428—That the Education and Employment Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 23 September 2014, from 4 pm, to take evidence for the committee’s inquiry into the provisions of the Higher Education and Research Reform Amendment Bill 2014.

Question put and passed.

12 **NATIONAL CAPITAL AND EXTERNAL TERRITORIES—JOINT STANDING COMMITTEE—LEAVE TO MEET DURING SITTINGS**

Senator McEwen, at the request of the Deputy Chair of the Joint Standing Committee on the National Capital and External Territories (Senator Brown) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 429—That the Joint Standing Committee on the National Capital and External Territories be authorised to hold private meetings otherwise than in accordance with standing order 33(1), during the sittings of the Senate, as follows:

(a) Thursday, 25 September 2014;
(b) Thursday, 2 October 2014;
(c) Thursday, 30 October 2014;
(d) Thursday, 27 November 2014; and
(e) Thursday, 4 December 2014.

Question put and passed.

13 **Electoral Matters—Joint Standing Committee—Leave to Meet During Sitting**

Senator McEwen, at the request of Senator Faulkner and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 430—that the Joint Standing Committee on Electoral Matters be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 24 September 2014, from 9.45 am to 11 am.

Question put and passed.

14 **Foreign Affairs, Defence and Trade—Joint Standing Committee—Leave to Meet During Sittings**

Senator McEwen, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 431—that the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold public meetings during the sittings of the Senate, from 11 am to noon, as follows:

(a) Wednesday, 24 September 2014; and

(b) Wednesday, 1 October 2014.

Question put and passed.

15 **Health—Select Committee—Leave to Meet During Sitting**

Senator McEwen, at the request of the Chair of the Select Committee on Health (Senator O’Neill) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 432—that the Select Committee on Health be authorised to hold a public meeting during the sitting of the Senate on Thursday, 25 September 2014, from 3.30 pm to 4.30 pm.

Question put and passed.

16 **Health—Dementia**

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 437—that the Senate—

(a) notes:

(i) the arrival of Ms Libby Day at Parliament House on 22 September 2014, after cycling more than 800 kilometres from Melbourne in eight and a half days to raise money for dementia research,

(ii) that 21 September 2014 marked World Alzheimer’s Day 2014,

(iii) that September 2014 is Dementia Awareness Month, and

(iv) that 332 000 Australians are currently affected by dementia; and

(b) urges federal, state, territory and local governments to work to support efforts to build more dementia-friendly communities and foster inclusion and participation for those people affected by dementia.

Question put and passed.
17 **ENVIRONMENT—QUEENSLAND—MINERAL AND ENERGY RESOURCES (COMMON PROVISIONS) BILL 2014**

Senator Waters, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 438—That the Senate—

(a) notes that:

(i) at four minutes to midnight on Tuesday, 9 September 2014, the Queensland Government moved a last minute amendment to the Mineral and Energy Resources (Common Provisions) Bill 2014 (Qld) which removed the legal right for anyone to object to massive coal and uranium mines in Queensland on environmental grounds,

(ii) the bill was passed by the Queensland Parliament one minute later, at 11.57 pm,

(iii) before being introduced, that last minute amendment had never been publicly announced, and

(iv) as a result of the last minute amendment no one, including landholders, neighbours or local councils will be able to object to the environmental effects of ‘coordinated projects’ which are the biggest mining projects in Queensland; and

(b) calls on the Queensland Government to restore Queenslanders’ rights by repealing all offending parts of the Mineral and Energy Resources (Common Provisions) Bill 2014 (Qld).

Question put and passed.

18 **CERTAIN ASPECTS OF QUEENSLAND GOVERNMENT ADMINISTRATION RELATED TO COMMONWEALTH GOVERNMENT AFFAIRS—SELECT COMMITTEE—PROPOSED APPOINTMENT**

The Leader of the Palmer United Party in the Senate (Senator Lazarus), by leave, amended general business notice of motion no. 418 to read as follows:

(1) That a select committee, to be known as the Select Committee on Certain Aspects of Queensland Government Administration related to Commonwealth Government Affairs, be established to inquire into and report on:

(a) the amount of Commonwealth funds allocated or paid to the State of Queensland since 26 March 2012, with particular reference to:

(i) the purposes for which the funds were appropriated by the Parliament,

(ii) performance measures in relation to Commonwealth funds paid to the State of Queensland,

(iii) identified breaches of funding agreements or conditions,

(iv) the proportion of the Queensland State budget derived from Commonwealth funds, and

(v) whether any Commonwealth funds have been used by the State of Queensland for state government advertising or party political purposes,

(b) the administration of the Queensland courts and judicial system insofar as it relates to cross vesting arrangements, with particular reference to judicial independence and separation of powers;

(c) approval process for the development of projects for the export of resources or services insofar as they are administered by the Commonwealth or under a bilateral agreement with the Commonwealth;
(d) the extent to which Queensland State Government policies and practices are consistent with Australia’s obligations under international environmental law instruments;
(e) whether it is appropriate for the Federal Minister for the Environment to delegate his approval powers to the Queensland State Government under the Environment Protection and Biodiversity Conservation Act 1999 by way of approval bilateral agreements or strategic assessments;
(f) the extent to which Queensland State Government policies and practices are consistent with Australia’s obligations under international human rights instruments, with particular reference to:
   (i) the administration of prisons, and
   (ii) detention without trial; and
(g) any other matter the committee considers relevant.
(2) That the committee presents its final report on or before 31 March 2015.
(3) That the committee consist of 5 senators, 1 to be nominated by the Leader of the Government in the Senate, 2 to be nominated by the Leader of the Opposition in the Senate, 1 to be nominated by the Leader of the Australian Greens, and 1 to be nominated by the Leader of the Palmer United Party.
(4) That:
   (a) on the nominations of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate and minority groups and independent senators, participating members may be appointed to the committee;
   (b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee; and
   (c) a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.
(5) That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nominated and appointed and notwithstanding any vacancy.
(6) That the committee:
   (a) appoint as chair the Leader of the Palmer United Party in the Senate; and
   (b) elect as deputy chair a member elected by the committee.
(7) That the deputy chair shall act as chair when the chair is absent from a meeting of the committee or the position of chair is temporarily vacant.
(8) That, in the event of an equality of voting, the chair, or the deputy chair when acting as chair, have a casting vote.
(9) That the quorum of the committee be 3 members.
(10) That the committee and any subcommittee have power to send for and examine any person and any document, to move from place to place (including, but not limited to, major metropolitan and regional centres in Queensland and the committee shall conduct public hearings in Nambour, Ipswich, Mackay, Rockhampton, Kingaroy, Mt Isa, Bundaberg, Toowoomba, Townsville and Cairns) to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives.
That the committee shall report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.

That the committee has power to appoint subcommittees consisting of 2 or more of its members, and to refer to any such subcommittee any of the matters which the committee is empowered to consider.

That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.

That the committee be empowered to print from day to day such papers and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Motion determined as not formal: Senator Lazarus requested that general business notice of motion no. 418 standing in his name for today, proposing the establishment of a select committee on certain aspects of Queensland Government administration related to Commonwealth Government affairs, as amended, be taken as formal.

An objection was raised and the motion was not proceeded with as a formal motion.

Suspension of standing orders: Senator Lazarus, pursuant to contingent notice, moved—That so much of the standing orders be suspended as would prevent him moving a motion relating to the conduct of the business of the Senate, namely a motion to provide that general business notice of motion no. 418, as amended, be called on and determined without debate.

Debate ensued.

The Senate divided—

AYES, 34

Senators—

Bilyk Brown Bullock Cameron Carr Collins Conroy Dastyari Di Natale

Faulkner Gallacher Hanson-Young Ketter Lambie Lazarus Lines Ludlam Ludwig

Lundy Madigan Marshall McEwen (Teller) McLucas Muir O'Neill Rhiannon

Siewert Sterle Wang Waters Wong Wright Xenophon

NOES, 28

Senators—

Abetz Back Birmingham Bushby (Teller) Canavan Cash Day

Edwards Fawcett Fierravanti-Wells Field Heffernan Leyonhjelm Macdonald

Mason McGrath McKenzie Nash O'Sullivan Parry Payne

Reynolds Ruston Scullion Seselja Smith Smolich

Ruston Scullion Seselja Smith Smolich

Question agreed to.

Senator Lazarus moved—That general business notice of motion no. 418, as amended, relating to the establishment of a select committee on certain aspects of Queensland Government administration related to Commonwealth Government affairs be called on immediately, moved and determined without debate.
The Minister for Employment (Senator Abetz) moved the following amendment:

Omit “, moved and determined without debate”, substitute “and have precedence over all other business today till determined”.

Debate ensued.

After 5 pm: Debate was interrupted.

19 **FIRST SPEECH**

Pursuant to order (see entry no. 10, 26 August 2014), Senator Wang made his first speech.

20 **CERTAIN ASPECTS OF QUEENSLAND GOVERNMENT ADMINISTRATION RELATED TO COMMONWEALTH GOVERNMENT AFFAIRS—SELECT COMMITTEE—PROPOSED APPOINTMENT**

Debate resumed on the motion to provide for the consideration of general business notice of motion no. 418 moved by the Leader of the Palmer United Party in the Senate (Senator Lazarus)—and on the amendment moved by the Minister for Employment (Senator Abetz) (see entry no. 18).

Closure: Senator Lambie moved—That the question be now put.

Question—That the question be now put—put.

The Senate divided—

AYES, 33

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NOES, 33

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The ayes and noes were equal and so the question was negatived.

Debate continued.

**Statement by leave**: Senator Abetz, by leave, made a statement relating to the vote on the closure motion.

Leave was granted for the question on the closure motion to be put again.

Question—That the question be now put—put and passed.
Question—That the amendment moved by Senator Abetz be agreed to—put.
The Senate divided—

AYES, 30

Senators—
Abetz
Back
Birmingham
Brandis
Canavan
Cash
Colbeck
Day

Edwards
Fawcett
Ferravanti-Wells
Fifield
Heffernan
Leyonhjelm
Macdonald
Madigan

Mason
McGrath
McKenzie
Nash
O’Sullivan
Parry
Payne
Reynolds

Ruston (Teller)
Ryan
Scullion
Sinodinos
Smith
Xenophon

NOES, 32

Senators—
Bilyk
Brown
Bullock
Cameron
Carr
Collins
Conroy
Dastyari

Di Natale
Faulkner
Gallacher
Hanson-Young
Ketter
Lambie
Lazarus
Lines

Ludlam
Ludwig
Lundy
Marshall
McEwen (Teller)
McLucas
Moore
Muir

O’Neill
Rhiannon
Rice
Siewert
Sterle
Wang
Waters
Wright

Question negatived.

Question—That general business notice of motion no. 418, as amended, relating to the establishment of a select committee on certain aspects of Queensland Government administration related to Commonwealth Government affairs be called on immediately, moved and determined without debate—put.
The Senate divided—

AYES, 32

Senators—
Bilyk
Brown
Bullock
Cameron
Carr
Collins
Conroy
Dastyari

Di Natale
Faulkner
Gallacher
Hanson-Young
Ketter
Lambie
Lazarus
Lines

Ludlam
Ludwig
Lundy
Marshall
McEwen (Teller)
McLucas
Moore
Muir

O’Neill
Rhiannon
Rice
Siewert
Sterle
Wang
Waters
Wright

NOES, 30

Senators—
Abetz
Back
Birmingham
Brandis
Canavan
Cash
Colbeck
Day

Edwards
Fawcett
Ferravanti-Wells
Fifield
Heffernan
Leyonhjelm
Macdonald
Madigan

Mason
McGrath
McKenzie
Nash
O’Sullivan
Parry
Payne
Reynolds

Ruston (Teller)
Ryan
Scullion
Sinodinos
Smith
Xenophon

Question agreed to.
Senator Lazarus moved the motion.

Senator Abetz moved the following amendment:

Paragraph (1)(a), omit “26 March 2012”, substitute “21 March 2009”.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 38

Abetz
Back
Birmingham
Brandis
Canavan
Cash
Colbeck
Day
Di Natale
Edwards

Fawcett
Ferravanti-Wells
Fifield
Hanson-Young
Heffernan
Leyonhjelm
Ludlam
Macdonald
Madigan
Mason

McGrath
McKenzie
Nash
O’Sullivan
Parry
Payne
Reynolds
Rhiannon
Rice
Ruston (Teller)

Ryan
Scullion
Siewert
Sinodinos
Smith
Waters
Wright
Xenophon

NOES, 24

Bilyk
Brown
Bullock
Cameron
Carr
Collins

Conroy
Dastyari
Faulkner
Gallacher
Ketter
Lambie

Lazarus
Lines
Ludwig
Lundy
Marshall
McEwen (Teller)

McLucas
Moore
Muir
O’Neill
Sterle
Wang

Question agreed to.

Main question, as amended, put and negatived.

21 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—BUDGET 2014-15

The President informed the Senate that Senator Moore had proposed that the following matter of public importance be submitted to the Senate for discussion:

The impact of the Abbott Government’s proposed budget cuts on pensioners, families and young jobseekers.

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

At 6.50 pm: Discussion was interrupted.

22 GOVERNMENT DOCUMENTS—CONSIDERATION

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

23 ADJOURNMENT

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

Debate ensued.
Documents: Senator Back, by leave, tabled the following documents:

Industrial relations—Occupational health and safety—Western Australia—Graphs of the days away from home rates of various industries from 2009 to 2013.

Debate continued.
The Senate adjourned at 10.07 pm till Wednesday, 24 September 2014 at 9.30 am.

24 ATTENDANCE


ROSEMARY LAING
Clerk of the Senate