2013-15

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 115

MONDAY, 14 SEPTEMBER 2015

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1 MEETING OF SENATE
The Senate met at 10 am. The President (Senator the Honourable Stephen Parry) took
the chair, read prayers and made an acknowledgement of country.

2 DOCUMENTS
The following documents were tabled pursuant to standing order 61(1)(b):

- Department of the Senate—
  - Inter-Parliamentary Union—Travel expenditure, 1 July 2014 to 30 June 2015,
dated September 2015.
  - Travel expenditure, 1 July 2014 to 30 June 2015, dated September 2015.
- Institutional Responses to Child Sexual Abuse—Royal Commission—
  - Redress and civil litigation—Report.
- Interactive Gambling Act 2001—Report for 2014 on the operation of the
  prohibition of interactive gambling services advertisements.
- Migration Act 1958—Section 486O—Assessment of detention arrangements—
  Personal identifiers 1000761, 1001978, 1002002, 1002055, 1002075, 1002082,
  1002111, 1002135, 1002195, 1002215, 1002341, 1002367, 1002387, 1002403,
  1002405, 1002407, 1002408, 1002418, 1002423, 1002431, 1002444, 1002447,
  1002481, 1002514, 1002515, 1002527, 1002531, 1002552, 1002572, 1002573,
  1002580, 1002583, 1002585, 1002588, 1002596, 1002597, 1002598, 1002599,
  1002608, 1002609, 1002611, 1002617, 1002663, 1002664, 1002665, 1002666,
  1002667, 1002668, 1002669, 1002670, 1002743, 1002765 and 1002821—
  - Commonwealth Ombudsman’s reports, dated 16 September 2015.
  - Government response to Ombudsman’s reports, dated 8 September 2015.

The following documents were tabled by the Clerk pursuant to statute:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

- Autonomous Sanctions Act 2011—Autonomous Sanctions Amendment
  (Sanctioned Commercial Activity—Russia) Regulation 2015—Select Legislative
  Instrument 2015 No. 100 [F2015L00946]—Revised explanatory statement.
- Charter of the United Nations Act 1945—Charter of the United Nations (UN
  Sanction Enforcement Law) Amendment Declaration 2015 (No. 1)
  [F2015L01422].
  (No. 8) [F2015L01423].
- Fair Work Act 2009—Fair Work (State Declarations — employer not to be
  national system employer) Endorsement 2015 (No. 1) [F2015L01420].
- Fisheries Management Act 1991—Southern Bluefin Tuna Fishery Management
  Plan 1995—
  - Southern Bluefin Tuna Fishery Actual Live Weight Value of a Statutory
    Fishing Right Determination 2016 [F2015L01417].
  - Southern Bluefin Tuna Fishery Fishing Season and Australia’s National Catch
    Allocation Determination 2016 [F2015L01419].
Southern Bluefin Tuna Fishery Overcatch and Undercatch Determination 2016 [F2015L01418].


_**Jervis Bay Territory Acceptance Act 1915**—
  Jervis Bay Territory Rural Fires Amendment (Offences and Other Measures) Ordinance 2015 [F2015L01414].
  Jervis Bay Territory Rural Fires Ordinance 2014—Jervis Bay Territory Rural Fires Amendment (Scope of Rules) Rule 2015 [F2015L01413].

_**Public Governance, Performance and Accountability Act 2013**—Commonwealth has acquired shares in NBN Co Limited—8 September 2015.

_**Therapeutic Goods Act 1989**—Therapeutic Goods (Listing) Notice 2015 (No. 4) [F2015L01421].

The following documents were tabled by the Clerk pursuant to order:

Estimates hearings—Unanswered questions on notice—Budget estimates 2015-16—Statements pursuant to the order of the Senate of 25 June 2014—
  Communications portfolio.
  Finance portfolio.
  Industry and Science portfolio.

Indexed lists of departmental and agency files for the period 1 January to 30 June 2015—Statements of compliance pursuant to the order of the Senate of 30 May 1996, as amended—
  Agriculture portfolio.
  Attorney-General’s portfolio.
  Department of Education and Training.
  Department of Veterans’ Affairs.
  Environment portfolio.
  Health portfolio.

3 **Committees—Leave to Meet During Sittings**

Committees were authorised to hold public meetings during the sittings of the Senate, as follows:

Economics Legislation Committee—today, from 5 pm, to take evidence for the committee’s inquiry into the provisions of the Asian Infrastructure Investment Bank Bill 2015.

Finance and Public Administration Legislation Committee—Monday, 12 October 2015, from 10 am, to take evidence for the committee’s inquiry into the Australian Government Boards (Gender Balanced Representation) Bill 2015.

Intelligence and Security—Joint Statutory Committee—Thursday, 17 September 2015, from 12.30 pm.

National Capital and External Territories—Joint Standing Committee—from 10 am on Thursday, 26 November and Thursday, 3 December 2015.

4 **SENATOR LAMBIE—PERSONAL EXPLANATION**

Senator Lambie, by leave, made a personal explanation relating to a video appearing on the *Herald Sun* website, and an article in the *Sunday Herald Sun* of 13 September 2015, concerning a family matter.

5 **WATER AMENDMENT BILL 2015**

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—and of the amendments moved by Senator Leyonhjelm:

Schedule 1, Part 1, page 5 (after line 12), at the end of the Part, add:

2A **Subsection 86AE(2)**

Omit “Paragraphs 105(3)(b) and (4)(b)”, substitute “Paragraphs 105(4)(b)”.

2B **Subsection 105(3)**

Repeal the subsection, substitute:

(1) The functions of the Commonwealth Environmental Water Holder are to be performed for the purpose of achieving the objects of this Act.

2C **At the end of subsection 105(4)**

Add:

Note: This subsection is modified in relation to water access rights acquired by the Commonwealth with amounts debited from the Water for the Environment Special Account (see subsection 86AE(2)).

2D **Subsection 106(1)**

Repeal the subsection, substitute:

(1) The Commonwealth Environmental Water Holder must not dispose of water and Commonwealth environmental water holdings during a water accounting period unless the water or the water holdings are not required in the water accounting period to meet the objectives of:

(a) if the water is in, or the water holdings relate to water in, the Murray-Darling Basin—the environmental watering plan; or

(b) if the water is in, or the water holdings relate to water in, an area outside the Murray-Darling Basin—any plans specified in the regulations in relation to that area; or

(c) any applicable environmental watering schedules.
Schedule 1, Part 2, page 6 (before line 3), before item 3, insert:

3A Subsection 6.04(2) (note)
   Repeal the note.

3B Paragraph 6.05(3)(a)
   Omit “143 GL”, substitute “128.7 GL”.

3C Paragraph 6.05(3)(b)
   Omit “425.3 GL”, substitute “382.8 GL”.

3D Paragraph 6.05(3)(c)
   Omit “458 GL”, substitute “412.2 GL”.

3E Paragraph 6.05(3)(d)
   Omit “82.8 GL”, substitute “74.5 GL”.

3F Paragraph 6.05(3)(e)
   Omit “4.9 GL”, substitute “4.4 GL”.

Debate resumed.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 6

Senators—

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NOES, 39

Senators—

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Question negatived.

Bill agreed to.

Bill to be reported without amendment.

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

On the motion of the Assistant Minister for Education and Training (Senator Birmingham) the report from the committee was adopted.

Senator Birmingham moved—That this bill be now read a third time.

Question put.
The Senate divided—

AYES, 39

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Question agreed to.

Bill read a third time.

6 **ECONOMICS LEGISLATION COMMITTEE—REPORT—TREASURY LEGISLATION AMENDMENT (SMALL BUSINESS AND UNFAIR CONTRACT TERMS) BILL 2015**

Pursuant to order, Senator Bushby, at the request of the Chair of the Economics Legislation Committee (Senator Edwards), tabled the following report and documents:


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

7 **TREASURY LEGISLATION AMENDMENT (SMALL BUSINESS AND UNFAIR CONTRACT TERMS) BILL 2015**

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.

Question put and passed.

Bill read a second time.

The Senate resolved itself into committee for the consideration of the bill.

In the committee

Bill, taken as a whole by leave, debated.

Senator Whish-Wilson moved the following amendments together by leave:

- Schedule 1, item 8, page 4 (line 7), omit “$100,000”, substitute “$300,000”.
- Schedule 1, item 8, page 4 (line 10), omit “$250,000”, substitute “$1,000,000”.
- Schedule 1, item 31, page 9 (line 21), omit “$100,000”, substitute “$300,000”.
- Schedule 1, item 31, page 9 (line 24), omit “$250,000”, substitute “$1,000,000”.

In the committee
Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

**AYS, 34**

**Senators—**

Bullock

Cameron

Carr

Conroy

Dastyari

Day

Di Natale

Gallagher

Hanson-Young

Ketter

Lambie

Lazarus

Leyonhjelm

Lines

Ludlam

Ludwig

Madigan

McAllister

McEwen (Teller)

McKim

McLucas

Moore

Muir

O’Neill

Peris

Rhiannon

Rice

Siewert

Sterle

Urquhart

Wang

Waters

Whish-Wilson

**NOES, 25**

**Senators—**

Back

Bernardi

Birmingham

Brandis

Bushby

Canavan (Teller)

Colbeck

Cormann

Fawcett

Fierravanti-Wells

Fifield

Johnston

Lindgren

Macdonald

McGrath

McKenzie

Nash

Parry

Payne

MacDonald

Ruston

Ryan

Scullion

Seselja

Williams

Question agreed to.

Senator Day moved the following amendments together by leave:

Schedule 1, item 8, page 4 (line 7), omit “$100,000”, substitute “$500,000”.

Schedule 1, item 8, page 4 (line 10), omit “$250,000”, substitute “$1,500,000”.

Schedule 1, item 31, page 9 (line 21), omit “$100,000”, substitute “$500,000”.

Schedule 1, item 31, page 9 (line 24), omit “$250,000”, substitute “$1,500,000”.

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

Senator Leyonhjelm moved the following amendment:

Clause 2, page 2 (table item 2), omit “6 months”, substitute “12 months”.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

**AYS, 34**

**Senators—**

Bullock

Cameron

Carr

Conroy

Dastyari

Day

Di Natale

Gallagher

Gallagher

Hanson-Young

Ketter

Lambie

Lazarus

Leyonhjelm

Lines

Ludlam

Ludwig

Madigan

McAllister

McEwen (Teller)

McKim

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Question agreed to.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

8 **CIVIL LAW AND JUSTICE (OMNIBUS AMENDMENTS) BILL 2015**

Order of the day read for the adjourned debate on the motion of the Assistant Minister for Social Services (Senator Fifield)—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 Attorney-General (Senator Brandis) the bill was read a third time.

9 **ORDER OF BUSINESS—REARRANGEMENT**

The Attorney-General (Senator Brandis) moved—That government business order of the day no. 4 (Fair Work Amendment Bill 2014) be postponed till a later hour.

Question put and passed.

10 **ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION AMENDMENT (BILATERAL AGREEMENT IMPLEMENTATION) BILL 2014**

Order of the day read for the adjourned debate on the motion of the Assistant Minister for Education and Training (Senator Birmingham)—That this bill be now read a second time.

Debate resumed.

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

11 **QUESTIONS**

Questions without notice were answered.
12 **MOTION TO TAKE NOTE OF ANSWERS**

Senator Sterle moved—That the Senate take note of the answers given by ministers to all questions without notice asked today.

Debate ensued.

Question put and passed.

13 **PETITION**

The following petition, lodged with the Clerk by Senator Abetz, was received:

From 31 petitioners, calling on the Senate to reject any attempt to redefine the institution of marriage.

14 **NOTICES**

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

(a) notes the extraordinary achievements of the Australian Matildas while playing and training under inappropriate work conditions for a world-class sports team;

(b) applauds the Matildas’ efforts as leaders and role models for young women and all footballers across Australia;

(c) raises concern that, despite this best ever performance by an Australian football team in reaching the quarter finals at a World Cup, they are paid 1/15th of the men’s team, as part-time employees with a full-time commitment, and at a rate below the minimum wage; and

(d) supports strong and fair working conditions for all female Australian athletes.

*general business notice of motion no. 856*

Senator Conroy: To move on the next day of sitting—That there be laid on the table by the Minister representing the Minister for Infrastructure and Regional Development (Senator Cash), by no later than noon on Thursday, 17 September 2015, the following documents:

(a) all briefing or background material; and

(b) all correspondence (including emails),

between the Department of Infrastructure and Regional Development and the Deputy Prime Minister and/or his office relating to claims made to a Senate inquiry by Mr Bill Milby of North Star Cruises relating to meetings with officials from the Department of Infrastructure and Regional Development on 20 May and 16 June 2015. (general business notice of motion no. 857)

Senator Canavan: To move on the next day of sitting—That the Senate notes that:

(a) the Australian mining industry generates $138 billion per annum in exports to Australia’s economy;

(b) Australia’s mining industry exports include: copper, gold, silver, indium tin oxide, alumina, silica, cobalt, carbon, aluminium, nickel and magnesium;

(c) every smartphone depends on the mining of these resources; and

(d) opposition to Australia’s mining industry would restrict the supply of these mineral resources, and opponents of Australia’s mining industry should therefore refrain from using these smartphones and tablets. (general business notice of motion no. 858)
Senator Whish-Wilson: To move on the next day of sitting—That the Senate—

(a) notes that:

(i) the Harper Review into competition policy called for the introduction of an effects test in relation to the misuse of market power,

(ii) supporters of the introduction of an effects test include the National Farmers’ Federation, and the newly-formed Independent Business Alliance for Competition made up of the Council of Small Business Australia, the Australian Retailers Association, Fresh Markets Australia, the Australian Newsagents’ Federation, the Australasian Convenience and Petroleum Marketers Association and the Master Grocers Association, and

(iii) the National Party unanimously passed a motion at its National Conference calling for the introduction of an effects test; and

(b) calls on the Government to bring forward legislation that amends section 46 of the Competition and Consumer Act 2010 to introduce an effects test so as to better protect farmers and small business owners from anti-competitive conduct. *(general business notice of motion no. 859)*

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

(a) notes that:

(i) a New South Wales parliamentary inquiry has recommended that rail services and infrastructure that have been removed from the Newcastle heavy rail line be immediately reinstated, and

(ii) the rail line closure would be a public transport disaster for the Hunter region and for New South Wales, with patronage significantly lower since services were stopped at Hamilton in 2014; and

(b) calls on:

(i) the Federal Government to commit to funding public transport infrastructure in New South Wales, and

(ii) the New South Wales Government to reverse its decision to truncate the heavy rail line into Newcastle. *(general business notice of motion no. 860)*

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

(a) notes that:

(i) the continuing number of domestic violence attacks against women remains unacceptably high, and expresses great sadness at the spate of fatal domestic violence attacks on women in Queensland over the past week, and

(ii) on average, one woman loses her life as a result of intimate partner violence each week in Australia;

(b) re-affirms that domestic violence against women has no place in Australia;

(c) welcomes the Queensland State Government’s announcement that it will establish an ‘Implementation Council for domestic violence reforms’, to be chaired by Dame Quentin Bryce AD CVO, to enhance the ability of Queensland police officers to offer support and respond to complaints of domestic violence to ensure that women affected by domestic violence receive priority assistance;
(d) acknowledges that the Council of Australian Governments agreed to take urgent collective action in April 2015 to reduce the amount of violence perpetrated against women, after having endorsed the 2011 *National Plan to Reduce Violence against Women and their Children 2010-2022*;

(e) urges the Government and state and territory governments to prioritise the issue of domestic violence and act urgently to investigate and implement strategies to support and protect women from the scourge of domestic violence; and

(f) calls on the Government and state and territory governments to urgently work together to:

(i) investigate the establishment of a national domestic violence register to enable the national management and monitoring of domestic violence offenders across all state and territory borders,

(ii) increase criminal penalties for offences committed by perpetrators of domestic violence, including the breach of domestic violence orders by perpetrators of domestic violence, and

(iii) support the concept of a national domestic violence against women summit to bring all governments, stakeholders and support organisations together to develop and implement effective strategies and programs to increase support for women, raise awareness of domestic violence, and eliminate the occurrence of domestic violence against women. *(general business notice of motion no. 861)*

The Assistant Minister for Social Services (Senator Fifield): To move on the next day of sitting—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

- Asian Infrastructure Investment Bank Bill 2015
- Tax and Superannuation Laws Amendment (2015 Measures No. 4) Bill 2015.

Documents: Senator Fifield tabled the following documents:


15 LEAVE OF ABSENCE

Senator Bushby, by leave, moved—That leave of absence be granted to the following senators:

(a) Senator Heffernan for today, for personal reasons;

(b) Senator O’Sullivan from 14 September to the end of the 2015 spring sittings, on account of parliamentary business overseas;

(c) Senator Ronaldson for today, on account of ministerial business; and

(d) Senator Smith for 14 and 15 September 2015, for personal reasons.

Question put and passed.

Senator McEwen, by leave, moved—That leave of absence be granted to Senators Polley and Singh from 14 to 17 September 2015, for personal reasons.

Question put and passed.
16 COMMUNITY AFFAIRS REFERENCES COMMITTEE—SPEECH PATHOLOGY SERVICES—GOVERNMENT’S RESPONSE

Senator Siewert, also on behalf of Senators Moore and Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 855—That the Senate—

(a) notes that:

(i) 2 September 2015 marks a year since the Community Affairs References Committee tabled its report, *Prevalence of different types of speech, language and communication disorders and speech pathology services in Australia*, and

(ii) the Government is yet to respond to the report; and

(b) calls on the Government to respond to the report and its recommendations.

Question put and passed.

17 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—ADMINISTRATION—ABBOTT GOVERNMENT

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

The Prime Minister’s failed leadership.

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

18 DOCUMENTS—CONSIDERATION

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

19 FAMILY AND COMMUNITY SERVICES—CENTREPAY POLICY AND TERMS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT

The Parliamentary Secretary to the Minister for Education and Training (Senator Ryan) tabled the following document:

Family and community services—Centrepay policy and terms—Letter to the President of the Senate from the Minister for Human Services (Senator Payne), dated 14 September 2015, responding to the order of the Senate of 9 September 2015.

20 ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION AMENDMENT (STANDING) BILL 2015

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


The Parliamentary Secretary to the Minister for Education and Training (Senator Ryan) 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 Ryan 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, 12 October 2015.

21 TAX AND SUPERANNUATION LAWS AMENDMENT (2015 MEASURES NO. 4) BILL 2015

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

Message no. 449, dated 14 September 2015—A Bill for an Act to amend the law relating to taxation and superannuation, and for related purposes.

The Parliamentary Secretary to the Minister for Education and Training (Senator Ryan) 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 Ryan 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, 12 October 2015.

22 GOVERNOR-GENERAL’S MESSAGES—ASSENT TO LAWS

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

10 September 2015—Messages Nos—

48—

Defence Legislation Amendment (Superannuation and ADF Cover) Act 2015 (Act No. 120, 2015).

49—

Gene Technology Amendment Act 2015 (Act No. 121, 2015)

50—


51—

Australian Radiation Protection and Nuclear Safety Amendment Act 2015 (Act No. 125, 2015)
23 ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION AMENDMENT (BILATERAL AGREEMENT IMPLEMENTATION) BILL 2014

Order of the day read for the adjourned debate on the motion of the Assistant Minister for Education and Training (Senator Birmingham)—That this bill be now read a second time.

Debate resumed.

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

24 TAX AND SUPERANNUATION LAWS AMENDMENT (2015 MEASURES NO. 3) BILL 2015

Order of the day read for the adjourned debate on the motion of the Minister for Human Services (Senator Payne)—That this bill be now read a second time.

Debate resumed.

On the motion of the Assistant Minister for Health (Senator Nash) the debate was adjourned till the next day of sitting.

25 ADJOURNMENT

The Assistant Minister for Health (Senator Nash) moved—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 9.05 pm till Tuesday, 15 September 2015 at 12.30 pm.

26 ATTENDANCE


ROSEMARY LAING
Clerk of the Senate