THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 56

THURSDAY, 25 SEPTEMBER 2014

Contents

1 Meeting of Senate ................................................................. 1503
2 Private Senators' Bills—Consideration........................................ 1503
3 Health Insurance Amendment (Medicare Funding for Certain Types of
Abortion) Bill 2013...................................................................... 1503
4 Notices....................................................................................... 1503
5 Selection of Bills—Standing Committee—Report No. 12 of 2014 .... 1506
6 Order of Business—Rearrangement............................................ 1507
7 Private Senators' Bills—Consideration........................................ 1507
8 Legal and Constitutional Affairs Legislation Committee—Leave to Meet
During Sitting............................................................................... 1508
9 Postponements.......................................................................... 1508
10 Legal and Constitutional Affairs References Committee—Leave to Meet
During Sitting............................................................................... 1508
11 Migration Amendment (Repeal of Certain Visa Classes) Regulation—
Disallowance ............................................................................. 1508
12 Racial Discrimination Amendment Bill 2014 ................................ 1508
13 Health—Renal Health—Western Desert Nganampa Walytja Palyantjaku
Tjutaku Aboriginal Corporation .................................................... 1509
14 Health—Ebola ........................................................................... 1509
15 Economics Legislation Committee—Leave to Meet During Sitting... 1510
16 Foreign Affairs, Defence and Trade References Committee—Leave to Meet
During Sitting............................................................................... 1510
17 Economics References Committee—Leave to Meet During Sitting.... 1510
18 Health—Select Committee—Leave to Meet During Sittings........... 1510
19 Environment—Climate Change Policy......................................... 1511
20 Environment—Queensland—Abbot Point.................................... 1511
21 Transport—Victoria—East West Link—Order for Production of Documents.. 1511
22 National Water Commission (Abolition) Bill 2014.......................... 1512
23 Hours of Meeting and Routine of Business—Variation.................... 1513
24 Migration Amendment (Humanitarian Visa Intake) Bill 2014............. 1513
25 Notice ....................................................................................... 1513
Legislation Committees—Additional Information—Estimates .......................... 1514
27 Education and Employment Legislation Committee—Report—Fair Entitlements Guarantee Amendment Bill 2014 ............................................. 1514
28 Legal and Constitutional Affairs Legislation Committee—Report— Recognition of Foreign Marriages Bill 2014 ............................................. 1514
29 Tax and Superannuation Laws Amendment (2014 Measures No. 4) Bill 2014 ........................................................................................................... 1514
30 Australian Citizenship Amendment (Intercountry Adoption) Bill 2014 
Marine Safety (Domestic Commercial Vessel) National Law Amendment Bill 2014

Migration Amendment (Protection and Other Measures) Bill 2014 .......... 1515
31 Infrastructure Australia Amendment (Cost Benefit Analysis and Other Measures) Bill 2014
Tax and Superannuation Laws Amendment (2014 Measures No. 5) Bill 2014 ........................................................................................................... 1515
32 Australia Fund Establishment—Joint Select Committee—Trade and Investment Growth—Joint Select Committee—Appointment .......................... 1516
33 National Security Legislation Amendment Bill (No. 1) 2014 ................. 1516
34 Tax and Superannuation Laws Amendment (2014 Measures No. 4) Bill 2014 ........................................................................................................... 1517
35 National Security Legislation Amendment Bill (No. 1) 2014 ................. 1517
36 Questions ........................................................................................................ 1518
37 Motion to Take Note of Answers ................................................................. 1518
38 Public Accounts and Audit—Joint Statutory Committee—Government Response—441st Report .................................................................................. 1519
39 Environment—World Ranger Day—Death of Mr Glen Turner—Document ...
41 Documents ...................................................................................................... 1519
42 Indexed Lists of Departmental and Agency Files—Order for Production of Documents—Document ................................................................................. 1520
43 Committee Membership ................................................................................ 1520
44 Administration—Establishment of a National Independent Commission Against Corruption ............................................................ 1520
45 Government Documents—Orders of the Day—Consideration ................ 1520
46 Committee Reports and Government Responses—Orders of the Day— Consideration ............................................................................................. 1520
47 Auditor-General’s Reports—Orders of the Day—Consideration .............. 1522
48 National Security Legislation Amendment Bill (No. 1) 2014 .................... 1522
49 Adjournment ................................................................................................... 1535
50 Attendance ....................................................................................................... 1535
1 **MEETING OF SENATE**

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

2 **PRIVATE SENATORS’ BILLS—CONSIDERATION**

Senator Madigan, by leave, moved—That the general business orders of the day relating to private senators’ bills listed for today be called on and considered in the following order:

- No. 2 Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013.
- No. 7 Fair Trade (Australian Standards) Bill 2013.

Debate ensued.

Question put and passed.

3 **HEALTH INSURANCE AMENDMENT (MEDICARE FUNDING FOR CERTAIN TYPES OF ABORTION) BILL 2013**

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

Debate resumed.

*Time expired*: The time for general business orders of the day for the consideration of bills reached the limit of 2 hours 20 minutes.

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

4 **NOTICES**

The Leader of the Australian Greens (Senator Milne): To move on the next day of sitting—That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 3 December 2014:

(a) the manner in which electricity network companies have presented information to the Australian Energy Regulator (AER), and whether they have misled the AER in relation to:
   (i) their weighted average costs of capital,
   (ii) the necessity for the infrastructure proposed,
   (iii) their regulated asset valuations, and
   (iv) actual interest rates claimed against actual borrowing costs;
(b) to ascertain whether state-owned network companies have prioritised their focus on future privatisation proceeds above the interests of energy users;
(c) whether the arrangements for the regulation of the cost of capital are delivering allowed rates of return above the actual cost of capital;
(d) whether the AER has actively pursued lowest-cost outcomes for energy consumers;
(e) whether network monopolies should have the right to recover historic overspending that has delivered unwanted and unused infrastructure;
(f) how the regulatory structure and system could be improved;
(g) whether the arrangements for the connection and pricing of network services is discriminating against households and businesses that are involved in their own electricity production;
(h) whether the current system provides adequate oversight of electricity network companies; and

(i) any other related matter.

Senator Ludwig: To move on the next day of sitting—That there be laid on the table by the Ministers representing the Minister for Industry, the Minister for Infrastructure and Regional Development and the Treasurer, no later than Wednesday, 1 October 2014, any documents held in relation to:

(a) funding sought by the Queensland Government, and/or any assessment of the priority of the Toowoomba Bypass project; and

(b) a review of the project by the Federal Government, and/or any correspondence between the Federal Government and Queensland State Government relating to a review of the infrastructure project. (general business notice of motion no. 455)

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

(a) notes that:

(i) this week the Minister for Education, Mr Christopher Pyne, has won the most sexist politician for 2014 in the 22nd annual Ernie Awards, with his claim that his university loan interest hikes will not disproportionately impact women because ‘they will not be able to earn the high incomes that dentists and lawyers will earn’,

(ii) the Prime Minister, Mr Tony Abbott, has previously won the same award in 2002, 2010 and 2011,

(iii) 2014 saw the highest ever number of sitting federal parliamentarians nominated:

• Tony Abbott MP (thrice)
• Christopher Pyne MP
• Clive Palmer MP (thrice)
• Kevin Andrews MP
• Senator Joe Bullock
• Peter Dutton MP
• Tony Burke MP
• Barnaby Joyce MP
• Andrew Laming MP
• Senator Cory Bernardi
• George Christensen MP
• Senator Mathias Cormann
• Senator Eric Abetz, and

(iv) sexism undermines efforts to achieve gender equality and as Ms Emma Watson said in her address to the United Nations recently, ‘Men—I would like to take this opportunity to extend your formal invitation. Gender equality is your issue too’; and

(b) calls on all federal members of Parliament who are nominated for the Ernie Awards to accept that we are not in the 1950s and to proactively work toward achieving gender equality. (general business notice of motion no. 456)
Senator Waters: To move on the next day of sitting—That the Senate—

(a) notes that:

(i) Mr George Christensen MP, on 24 September 2014, publicly referred to people who care about the Great Barrier Reef as ‘gutless green germs for the terrorists they are’;

(ii) labelling people who care about the reef as terrorists is reprehensible, insensitive and utterly unacceptable, particularly at this stage of global events, and

(iii) to speak of ordinary Australians who care about the reef using terms like ‘terrorists’ ‘butchered’, ‘kill off’ and ‘extremist’, risks elevating community disagreement to dangerous levels; and

(b) condemns Mr Christensen’s comments and calls on him to withdraw them.

(general business notice of motion no. 457)

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

(a) notes that:

(i) Advent Energy intends to conduct 3D seismic testing to explore for gas within one of the most productive fishing grounds in New South Wales, only 3 kilometres off the coast of Newcastle in Commonwealth waters,

(ii) seismic testing has impacted on our fisheries in the past, with local fishers describing affected areas as ‘like a desert’;

(iii) the Federal Government has recently removed the requirement for offshore petroleum or greenhouse gas activities in Commonwealth waters to be assessed under the Environment Protection and Biodiversity Conservation Act 1999 (the EPBC Act),

(iv) an application by the Commonwealth Fisheries Association for seismic testing to be listed as a key threatening process under the EPBC Act in March 2013 was rejected in September 2013, and

(v) if this exploration or gas drilling proceeds, the supply of locally-caught, fresh fish and prawns to Sydney and Newcastle will be directly affected; and

(b) calls on the Government to:

(i) reinstate the requirement for all offshore petroleum or greenhouse gas activities in Commonwealth waters to be assessed under the EPBC Act,

(ii) ensure comprehensive baseline studies and ongoing monitoring of marine life are a mandatory condition of any offshore petroleum activities,

(iii) reject Advent Energy’s application to conduct seismic testing within important fishing grounds off the New South Wales coast, and

(iv) reconsider whether seismic testing should be classified as a key threatening process under the EPBC Act. (general business notice of motion no. 458)

Notice of motion withdrawn: Senator Siewert, at the request of Senator Xenophon, withdrew general business notice of motion no. 384 standing in the name of Senator Xenophon for today, proposing an order for the production of documents by the Attorney-General.
5 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 12 OF 2014
The Chair of the Selection of Bills Committee (Senator Bushby) tabled the following report:

SELECTION OF BILLS COMMITTEE
REPORT NO. 12 OF 2014

1. The committee met in private session on Wednesday, 24 September 2014 at 7.34 pm.

2. The committee resolved to recommend—That—
   (a) the provisions of the Automotive Transformation Scheme Amendment Bill 2014 be referred immediately to the Economics Legislation Committee for inquiry and report by 24 November 2014;
   (b) the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 17 October 2014;
   (c) the provisions of the Infrastructure Australia Amendment (Cost Benefit Analysis and Other Measures) Bill 2014 be referred immediately to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 26 November 2014;
   (d) the provisions of the Migration Amendment (Character and General Visa Cancellation) Bill 2014 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 24 November 2014;
   (e) contingent upon its introduction in the House of Representatives, the provisions of the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 27 November 2014;
   (f) contingent upon its introduction in the Senate, the National Water Commission (Abolition) Bill 2014 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 24 November 2014;
   (g) contingent upon its introduction in the House of Representatives, the provisions of the Rural Research and Development Legislation Amendment Bill 2014 be referred immediately to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 24 November 2014; and
   (h) the provisions of the Tax and Superannuation Laws Amendment (2014 Measures No. 5) Bill 2014 be referred immediately to the Economics Legislation Committee for inquiry and report by 28 October 2014.

3. The committee resolved to recommend—That the following bills not be referred to committees:
   Aged Care and Other Legislation Amendment Bill 2014
   Health and Other Services (Compensation) Care Charges (Amendment) Bill 2014
   Private Health Insurance Amendment Bill (No. 1) 2014.

The committee recommends accordingly.
4. The committee deferred consideration of the following bills to its next meeting:
   Australian Education Amendment Bill 2014
   Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Amendment Bill 2014
   Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Collection) Amendment Bill 2014
   Marine Safety (Domestic Commercial Vessel) National Law Amendment Bill 2014
   Migration Amendment (Humanitarian Visa Intake) Bill 2014
   Mining Subsidies Legislation Amendment (Raising Revenue) Bill 2014
   Motor Vehicle Standards (Cheaper Transport) Bill 2014
   Save Our Sharks Bill 2014
   Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014.

David Bushby
Chair
25 September 2014.

Senator Bushby moved—That the report be adopted.
Debate ensued.
Question put and passed.

6 ORDER OF BUSINESS—REARRANGEMENT

The Assistant Minister for Social Services (Senator Fifield) moved—That—
   (a) the government business order of the day relating to the Tax and Superannuation Laws Amendment (2014 Measures No. 4) Bill 2014 be considered from 12.45 pm today; and
   (b) government business order of the day no. 1 (National Security Legislation Amendment Bill (No. 1) 2014) be called on after consideration of the bill listed in paragraph (a) and considered till not later than 2 pm today.

Question put and passed.

Senator Fifield moved—That the order of general business for consideration today be as follows:
   (a) general business notice of motion no. 448 standing in the name of the Leader of the Australian Greens (Senator Milne) relating to the establishment of a National Independent Commission Against Corruption; and
   (b) orders of the day relating to government documents.

Question put and passed.

7 PRIVATE SENATORS’ BILLS—CONSIDERATION

The Assistant Minister for Social Services (Senator Fifield) moved—That the following general business orders of the day be considered on Thursday, 2 October 2014 under the temporary order relating to the consideration of private senators’ bills:
   Racial Discrimination Amendment Bill 2014, subject to introduction.
   No. 29 Environment Protection and Biodiversity Conservation Amendment Bill 2014.

Question put and passed.
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 today, from 3.45 pm.

Question put and passed.

9 Postponements

The following items of business were postponed:

Business of the Senate notice of motion no. 2 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 30 September 2014.

General business notice of motion no. 450 standing in the name of the Leader of the Palmer United Party in the Senate (Senator Lazarus) for today, relating to Queensland electricity companies, postponed till 2 October 2014.

10 Legal and Constitutional Affairs References Committee—Leave to Meet During Sitting

The Chair of the Legal and Constitutional Affairs References Committee (Senator Wright), by leave, moved—That the Legal and Constitutional Affairs References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 3.55 pm.

Question put and passed.

11 Migration Amendment (Repeal of Certain Visa Classes) Regulation—Disallowance

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 1—That the Migration Amendment (Repeal of Certain Visa Classes) Regulation 2014, as contained in Select Legislative Instrument 2014 No. 65 and made under the Migration Act 1958, be disallowed.

Statement by leave: The Assistant Minister for Immigration and Border Protection (Senator Cash), by leave, made a statement relating to the motion.

Question put and passed.

12 Racial Discrimination Amendment Bill 2014

Senator Day, also on behalf of Senators Bernardi, Leyonhjelm and Smith, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 449—That the following bill be introduced:

A Bill for an Act to amend the Racial Discrimination Act 1975, and for related purposes.

Question put and passed.

Senator Day presented the bill and moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.
Bill read a first time.

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


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

13 **HEALTH—RENAL HEALTH—WESTERN DESERT NGANAMPA WALYTJA Palyantjaku Tjutaku ABORIGINAL CORPORATION**

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 451—That the Senate—

(a) acknowledges:
   (i) the 10th anniversary of Western Desert Nganampa Walytja Palyantjaku Tjutaku Aboriginal Corporation (the Corporation), known as the Purple House,
   (ii) that over the past decade the Corporation has provided strong, holistic community-controlled health services to people with end-stage renal failure,
   (iii) the Corporation has been providing high quality continuous dialysis services in Alice Springs and Kintore and has established 16 dialysis machines in eight locations, helping people remain on country and in their communities while they receive vital medical care, and
   (iv) the advantages to individuals, families and communities of people being back on country while receiving medical care; and

(b) urges the federal, state and territory governments to support community-controlled health service delivery models for renal patients.

Question put and passed.

14 **HEALTH—EBOLA**

The Leader of the Australian Greens (Senator Milne), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 447—That the Senate—

(a) notes:
   (i) the dangerous spread of the Ebola virus in parts of West Africa, that has infected more than 5,500 people, and caused the deaths of more than 2,600, and
   (ii) the major threat that this outbreak poses to international peace and security;

(b) applauds the efforts of countries, including the United States, the United Kingdom, China and Cuba, all of which have provided medical teams and aid to help combat the disease;

(c) raises concern that the Australian Government has ignored calls from Médecins Sans Frontières for countries, including Australia, to evaluate their emergency medical and logistics capacity and make a contribution beyond financial support; and
(d) urges the Australian Government to contribute to the fight against Ebola on the ground through the provision and support of scientific, medical and humanitarian personnel.

Statement by leave: The Assistant Minister for Social Services (Senator Fifield), by leave, made a statement relating to the motion.

Question put and passed.

15 ECONOMICS LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Bushby, at the request of the Chair of the Economics Legislation Committee (Senator Edwards) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 443—That the Economics Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 2 October 2014, from 9.30 am to noon, to take evidence for the committee’s inquiry into the Competition and Consumer Amendment (Misuse of Market Power) Bill 2014.

Question put and passed.

16 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Urquhart, at the request of the Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Gallacher) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 444—That the Foreign Affairs, Defence and Trade References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 30 September 2014.

Question put and passed.

17 ECONOMICS REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Urquhart, at the request of the Chair of the Economics References Committee (Senator Dastyari) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 445—That the Economics References Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 30 September 2014, from 4 pm to 10 pm, to take evidence for the committee’s inquiry into Australia’s naval ship building industry.

Question put and passed.

18 HEALTH—SELECT COMMITTEE—LEAVE TO MEET DURING SITTINGS

Senator Urquhart, 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. 446—That the Select Committee on Health be authorised to hold public meetings during the sittings of the Senate, as follows:

(a) Tuesday, 30 September 2014, from 4.30 pm to 6 pm;
(b) Wednesday, 1 October 2014, from 12.45 pm to 2 pm, and from 4.30 pm to 7 pm; and
(c) Thursday, 2 October 2014, from 9 am to 12.30 pm, and from 3 pm to 5.30 pm.

Question put and passed.
19 **ENVIRONMENT—CLIMATE CHANGE POLICY**

The Leader of the Australian Greens (Senator Milne), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 452—That the Senate—

(a) congratulates United Nations (UN) Secretary-General Ban Ki-Moon on inviting world leaders from government, business and civil society to the Climate Summit on 23 September 2014 to ensure a global response to our shared responsibility in limiting global warming to less than two degrees;

(b) acknowledges that the UN Climate Summit was another step in the right direction of transitioning away from fossil fuels towards a shared, low-carbon future;

(c) recognises the 700 000 people around the world who took part in the People’s Climate March rallies on the weekend of 20 September and 21 September 2014 to inspire parties to set ambitious greenhouse emission reduction targets for beyond 2020; and

(d) requests that the Government immediately outline its plan on how it will ensure Australia contributes its fair share to the global effort, based on the recommendations of the Climate Change Authority, well in advance of the Paris Conference of the Parties.

Statement by leave: The Assistant Minister for Social Services (Senator Fifield), by leave, made a statement relating to the motion.

Question put and passed.

20 **ENVIRONMENT—QUEENSLAND—ABBOT POINT**

Motion determined as not formal: Senator Waters requested that general business notice of motion no. 453 standing in her name for today, relating to Abbot Point, be taken as formal.

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

21 **TRANSPORT—VICTORIA—EAST WEST LINK—ORDER FOR PRODUCTION OF DOCUMENTS**

Senator Rice, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 454—That there be laid on the table by the Minister representing the Minister for Infrastructure and Regional Development, no later than 4 pm on 2 October 2014, the following documents held or prepared by Infrastructure Australia:

(a) any business case presented by the Victorian Government for the East West Link project;

(b) any other documents in relation to the East West Link project provided to Infrastructure Australia by the Victorian Government; and

(c) any assessment of the proposed East West Link undertaken by Infrastructure Australia, including the priority of this project as compared to other projects.
The Senate divided—

AYES, 33

Senators—

Bilyk
Brown
Bullock
Collins
Conroy
Dastyari
Di Natale
Faullner
Gallacher
Hanson-Young
Ketter
Lambie
Lazarus
Leyonhjelm
Lines
Ludlam
Ludwig
Lundy

McEwen
McLucas
Milne
Moore
Muir
Polley
Rhiannon
Rice
Stewart

Sterle
Wang
Waters
Whish-Wilson
Wright

NOES, 27

Senators—

Back
Bernardi
Birmingham
Bushby (Teller)
Canavan
Cash
Colbeck
Day
Edwards
Fawcett
Fifield
Macdonald
Mason
McGrath
McKenzie
Nash
O’Sullivan
Payne
Reynolds
Ronaldson
Ruston
Ryan
Scullion
Seselja
Sindonos
Smith
Williams

Question agreed to.

22 NATIONAL WATER COMMISSION (ABOLITION) BILL 2014

The Assistant Minister for Social Services (Senator Fifield), at the request of the Parliamentary Secretary to the Minister for the Environment (Senator Birmingham) and pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 1—That the following bill be introduced:

A Bill for an Act to abolish the National Water Commission, and for related purposes.

Question put and passed.

Senator Fifield presented the bill and moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

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

Explanatory memorandum: Senator Fifield tabled an explanatory memorandum relating to the bill.

Reference to committee: Pursuant to the order of the Senate agreed to earlier today (see entry no. 5) the bill stands referred to the Environment and Communications Legislation Committee.

Accordingly, the debate was adjourned and the resumption of the debate made an order of the day for the day fixed for the committee to report, 24 November 2014.
23 Hours of Meeting and Routine of Business—Variation

The Assistant Minister for Social Services (Senator Fifield), at the request of the Attorney-General (Senator Brandis) and pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 2—That—

(a) if by 2 pm on Thursday, 25 September 2014, the National Security Legislation Amendment Bill (No. 1) 2014 has not been finally considered the Senate shall not adjourn, the routine of business from not later than 8 pm shall be government business only, and the Senate shall continue to sit until 10 pm; and

(b) divisions may take place after 4.30 pm.

Statement by leave: Senator Moore, by leave, made a statement relating to the motion. Question put and passed.

24 Migration Amendment (Humanitarian Visa Intake) Bill 2014

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 436—That the following bill be introduced:

A Bill for an Act to amend the Migration Act 1958 in relation to the annual humanitarian visa intake, and for related purposes.

Question put and passed.

Senator Hanson-Young presented the bill and moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

Senator Hanson-Young moved—That this bill be now read a second time.

Explanatory memorandum: Senator Hanson-Young, by leave, tabled an explanatory memorandum relating to the bill.

Debate adjourned till the next day of sitting, Senator Hanson-Young in continuation.

25 Notice

Senator Waters, by leave, gave a notice of motion as follows: To move on the next day of sitting—That the Senate—

(a) notes that:

(i) the Queensland Government has announced that it will use Queensland taxpayer funds to pay resource companies and port developers to dump dredge spoil in an area which would affect the nationally significant Caley Valley wetlands near Abbot Point,

(ii) this proposal would shift the costs of building the world’s largest coal port in the middle of the Great Barrier Reef World Heritage Area from mining companies and port developers to Queensland taxpayers, and

(iii) the Queensland Government has indicated that it will ask the Federal Government to contribute to the cost of paying resource companies and port developers; and
(b) calls on the Federal Government to rule out allowing federal taxpayer funds to be used to pay resource companies or port developers to meet their obligations under environmental approvals, including at Abbot Point. (general business notice of motion no. 459)

26 LEGISLATION COMMITTEES—ADDITIONAL INFORMATION—ESTIMATES

Senator Bushby, at the request of the chairs of the respective committees, tabled the following documents:

Additional estimates 2013-14—Legal and Constitutional Affairs Legislation Committee—Additional information received between 7 March and 25 September 2014—

Attorney-General’s portfolio.
Immigration and Border Protection portfolio.

Budget estimates 2014-15—
Community Affairs Legislation Committee—Additional information received between—
21 August and 25 September 2014—Department of Human Services.
3 and 25 September 2014—Social Services portfolio.
Legal and Constitutional Affairs Legislation Committee—Additional information received between 26 May and 25 September 2014—
Attorney-General’s portfolio.
Immigration and Border Protection portfolio.

27 EDUCATION AND EMPLOYMENT LEGISLATION COMMITTEE—REPORT—FAIR ENTITLEMENTS GUARANTEE AMENDMENT BILL 2014

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


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

28 LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE—REPORT—RECOGNITION OF FOREIGN MARRIAGES BILL 2014

Pursuant to order, Senator Bushby, at the request of the Chair of the Legal and Constitutional Affairs Legislation Committee (Senator Macdonald), tabled the following report and documents:


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

29 TAX AND SUPERANNUATION LAWS AMENDMENT (2014 MEASURES NO. 4) BILL 2014

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

Message no. 228, dated 24 September 2014—A Bill for an Act to amend the law relating to taxation, superannuation and excise, and for other purposes.
The Assistant Minister for Social Services (Senator Fifield) 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 Fifield moved—That this bill be now read a second time.
On the motion of Senator Fifield the debate was adjourned and the resumption of the debate made an order of the day for a later hour.

30 Australian Citizenship Amendment (Intercountry Adoption) Bill 2014
Marine Safety (Domestic Commercial Vessel) National Law Amendment Bill 2014
Migration Amendment (Protection and Other Measures) Bill 2014

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 223, dated 22 September 2014—A Bill for an Act to amend the Australian Citizenship Act 2007, and for related purposes.
Message no. 224, dated 22 September 2014—A Bill for an Act to amend the Migration Act 1958, and for related purposes.

The Assistant Minister for Social Services (Senator Fifield) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.
Question put and passed.
Bills read a first time.
Senator Fifield moved—That these bills be now read a second time.
On the motion of Senator Fifield the debate was adjourned till the next day of sitting.

Consideration of legislation: Senator Fifield moved—That the bills be listed on the Notice Paper as separate orders of the day.
Question put and passed.

31 Infrastructure Australia Amendment (Cost Benefit Analysis and Other Measures) Bill 2014
Tax and Superannuation Laws Amendment (2014 Measures No. 5) Bill 2014

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 229, dated 24 September 2014—A Bill for an Act to amend the law relating to taxation, and for related purposes.

The Assistant Minister for Social Services (Senator Fifield) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.
Question put and passed.
Bills read a first time.
Senator Fifield moved—That these bills 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, 27 October 2014.

Senator Fifield moved—that the bills be listed on the Notice Paper as separate orders of the day.

Question put and passed.

32 **AUSTRALIA FUND ESTABLISHMENT—JOINT SELECT COMMITTEE—TRADE AND INVESTMENT GROWTH—JOINT SELECT COMMITTEE—APPOINTMENT**

Messages from the House of Representatives were reported agreeing to the Senate resolutions establishing the following committees:

- Message no. 226, dated 23 September 2014—Joint Select Committee on Trade and Investment Growth.

33 **NATIONAL SECURITY LEGISLATION AMENDMENT BILL (NO. 1) 2014**

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, circulated by Senator Ludlam, moved by Senator Macdonald:

Schedule 2, item 12, page 28 (after line 17), after subsection 25(6), insert:

(6A) Subsection (5) authorises the use of a device to obtain access to data only if the total number of:

(a) devices used to obtain access to data; and

(b) devices from which data has been obtained;

(other than devices owned by the Commonwealth and brought on to premises specified in the warrant for the purpose of executing the warrant) in accordance with the warrant is no more than 20.

Schedule 2, item 25, page 30 (after line 23), after subsection 25A(5), insert:

(5AA) Subsection (4) authorises the use of a device to obtain access to data only if the total number of:

(a) devices used to obtain access to data; and

(b) devices from which data has been obtained;

(other than devices owned by the Commonwealth and brought on to premises specified in the warrant for the purpose of executing the warrant) in accordance with the warrant is no more than 20.

Debate resumed.

At 12.45 pm: The Acting Deputy President (Senator O'Neill) resumed the chair and the Temporary Chair of Committees reported progress.
34 **TAX AND SUPERANNUATION LAWS AMENDMENT (2014 MEASURES NO. 4) BILL 2014**

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 Parliamentary Secretary to the Minister for Education (Senator Ryan) the bill was read a third time.

35 **NATIONAL SECURITY LEGISLATION AMENDMENT BILL (NO. 1) 2014**

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, circulated by Senator Ludlam, moved by Senator Macdonald (see entry no. 33).*

Debate resumed.

Closure: The Attorney-General (Senator Brandis) moved—That the question be now put.

Question—That the question be now put—put.

The committee divided—

**AYES, 34**

<table>
<thead>
<tr>
<th>Senators—</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Back</td>
<td>Fawcett</td>
<td>McKenzie</td>
<td>Ryan</td>
<td></td>
</tr>
<tr>
<td>Bernardi</td>
<td>Fierravanti-Wells</td>
<td>Muir</td>
<td>Scullion</td>
<td></td>
</tr>
<tr>
<td>Birmingham</td>
<td>Fife1d</td>
<td>Nash</td>
<td>Seselja</td>
<td></td>
</tr>
<tr>
<td>Brandis</td>
<td>Heffernan</td>
<td>O’Sullivan</td>
<td>Sinodinos</td>
<td></td>
</tr>
<tr>
<td>Bishop</td>
<td>Lamble</td>
<td>Parry</td>
<td>Smith</td>
<td></td>
</tr>
<tr>
<td>Cash</td>
<td>Lazarus</td>
<td>Payne</td>
<td>Wang</td>
<td></td>
</tr>
<tr>
<td>Colbeck</td>
<td>Macdonald</td>
<td>Reynolds</td>
<td>Williams</td>
<td></td>
</tr>
<tr>
<td>Day</td>
<td>Mason</td>
<td>Ronaldson</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Edwards</td>
<td>McGrath</td>
<td>Ruston (Teller)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**NOES, 33**

<table>
<thead>
<tr>
<th>Senators—</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bilyk (Teller)</td>
<td>Gallacher</td>
<td>McEwen</td>
<td>Sterle</td>
<td></td>
</tr>
<tr>
<td>Brown</td>
<td>Hanson-Young</td>
<td>McLucas</td>
<td>Urquhart</td>
<td></td>
</tr>
<tr>
<td>Bullock</td>
<td>Ketter</td>
<td>Milne</td>
<td>Waters</td>
<td></td>
</tr>
<tr>
<td>Carr</td>
<td>Leyonhjelm</td>
<td>Moore</td>
<td>Whish-Wilson</td>
<td></td>
</tr>
<tr>
<td>Collins</td>
<td>Lines</td>
<td>O’Neill</td>
<td>Wong</td>
<td></td>
</tr>
<tr>
<td>Conroy</td>
<td>Ludlam</td>
<td>Polley</td>
<td>Wright</td>
<td></td>
</tr>
<tr>
<td>Dastyari</td>
<td>Ludwig</td>
<td>Rhiannon</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Di Natale</td>
<td>Lundy</td>
<td>Rice</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Faulkner</td>
<td>Marshall</td>
<td>Siewert</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Question agreed to.
Statements by leave: The Leader of the Opposition in the Senate (Senator Wong) and Senators Brandis and Ludlam, by leave, made statements relating to the matter.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 11

Senators—

Di Natale  Ludwig  Rice  Whish-Wilson
Hanson-Young  Milne  Siewert (Teller)  Wright
Leyonhjelm  Rhiannon  Waters

NOES, 52

Senators—

Back  Dastyari  Macdonald  Polley
Bernardi  Day  Marshall  Reynolds
Bilyk (Teller)  Edwards  Mason  Ronaldson
Birmingham  Faulkner  McGrath  Ruston
Brandis  Fawcett  McKenzie  Sculion
Bullock  Fierravanti-Wells  McLucas  Seselja
Bushby  Fifield  Moore  Sinodinos
Cameron  Gallacher  Muir  Smith
Carr  Ketter  Nash  Sterle
Cash  Lambie  O’Neill  Wang
Colbeck  Lazarus  O’Sullivan  Williams
Collins  Ludwig  Parry  Wong
Conroy  Lundey  Payne  Xenophon

Question negatived.

Senator Leyonhjelm moved the following amendment:

Schedule 2, page 30 (after line 31), after item 28, insert:

28A After section 25A

Insert:

25B Collection of intelligence under computer access warrant

Despite anything in section 25A, a computer access warrant issued under that section may authorise access to a computer only to the extent necessary to collect intelligence in respect of the security matter specified in the warrant.

At 2 pm: The President resumed the chair and the Chair of Committees (Senator Marshall) reported progress.

36 QUESTIONS

Questions without notice were answered.

37 MOTION TO TAKE NOTE OF ANSWERS

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

Debate ensued.

Question put and passed.
38 **PUBLIC ACCOUNTS AND AUDIT—JOINT STATUTORY COMMITTEE—GOVERNMENT RESPONSE—441ST REPORT**

The Parliamentary Secretary to the Minister for the Environment (Senator Birmingham) tabled the following document:


39 **ENVIRONMENT—WORLD RANGER DAY—DEATH OF MR GLEN TURNER—DOCUMENT**

The Deputy President (Senator Marshall) tabled the following document:

Environment—World Ranger Day—Death of Mr Glen Turner—Letter to the President of the Senate from the Minister for the Environment (Mr Hunt), dated 22 September 2014, responding to the resolution of the Senate of 3 September 2014.

40 **AUDITOR-GENERAL—AUDIT REPORT NO. 2 OF 2014-15—DOCUMENT**

The Deputy President (Senator Marshall) tabled the following document:

Auditor-General—Audit report no. 2 of 2014-15—Performance audit—Food security in remote Indigenous communities: Department of the Prime Minister and Cabinet.

41 **DOCUMENTS**

The following documents were tabled by the Clerk:

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

*Fair Work Act 2009—Fair Work (State Declarations — employer not to be national system employer) Endorsement 2014 (No. 4) [F2014L01266].*


*Higher Education Support Act 2003—*

Revocation of approval as a Higher Education Provider (Navitas College of Public Safety Pty Ltd) [F2014L01270].

Revocation of approval as a VET Provider (Navitas College of Public Safety Pty Ltd) [F2014L01271].

*Taxation Administration Act 1953—*


42 Indexed Lists of Departmental and Agency Files—Order for Production of Documents—Document

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

Indexed lists of departmental and agency files for the period 1 January to 30 June 2014—Statement of compliance—Department of the Prime Minister and Cabinet.

43 Committee Membership

The Deputy President (Senator Marshall) informed the Senate that the President had received a letter nominating senators to be members of a committee.

The Parliamentary Secretary to the Minister for the Environment (Senator Birmingham), by leave, moved—That Senators Macdonald and Smith be appointed to the Joint Select Committee on Trade and Investment Growth, and that Senators Back, Bernardi, Bushby, Canavan, Edwards, Fawcett, Heffernan, McGrath, McKenzie, O'Sullivan, Reynolds, Ruston, Seselja and Williams be appointed as participating members.

Question put and passed.

General business was called on.

44 Administration—Establishment of a National Independent Commission Against Corruption

Senator Rhiannon, at the request of the Leader of the Australian Greens (Senator Milne) and pursuant to notice, moved general business notice of motion no. 448—That the Senate calls on the Government to establish a National Independent Commission Against Corruption, delivered through an integrity commissioner, to ensure Australia is equipped with a national framework for the comprehensive prevention of corruption and misconduct, and to restore faith of the Australian people in the integrity of our democracy.

Debate ensued.

At 6 pm: Debate was interrupted while Senator Macdonald was speaking.

45 Government Documents—Orders of the Day—Consideration

The following order of the day relating to government documents was considered:

Aboriginal and Torres Strait Islander Peoples Act of Recognition Review Panel—Final report by the Honourable John Anderson AO, Ms Tanya Hosch and Mr Richard Eccles. Motion of Senator Siewert to take note of document called on.

On the motion of Senator Bilyk the debate was adjourned till Thursday at general business.

General business concluded.

46 Committee Reports and Government Responses—Orders of the Day—Consideration

The following orders of the day relating to committee reports and government responses were considered:

Rural and Regional Affairs and Transport References Committee—Industry structures and systems governing levies on grass-fed cattle—Report. Motion to take note of report moved by Senator Back and debated. Debate adjourned till the next day of sitting, Senator Macdonald in continuation.

Environment and Communications Legislation Committee—Performance, importance and role of Australia Post in Australian communities and its operations in relation to licensed post offices—Final report. Motion of the chair of the committee (Senator Ruston) to take note of report debated. Debate adjourned till the next day of sitting, Senator Bilyk in continuation.

Northern Australia—Joint Select Committee—Pivot north: Inquiry into the development of northern Australia—Final report. Motion of Senator Macdonald to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.

Environment and Communications References Committee—Management of the Great Barrier Reef—Report. Motion of the chair of the committee (Senator Urquhart) to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.

Community Affairs References Committee—Prevalence of different types of speech, language and communication disorders and speech pathology services in Australia—Report. Motion of the chair of the committee (Senator Siewert) to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.

Education and Employment Legislation Committee—Family Assistance Legislation Amendment (Child Care Measures) Bill (No. 2) 2014 [Provisions]—Report. Motion of Senator Lines to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.

Economics References Committee—Future of Australia’s naval shipbuilding industry: Tender process for the navy’s new supply ships (part 1)—Report. Motion of the chair of the committee (Senator Dastyari) to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.

National Broadband Network—Select Committee—Interim report—Government response. Motion of Senator Ludlam to take note of document called on. Debate adjourned till the next day of sitting, Senator Bilyk in continuation.

Community Affairs References Committee—Out-of-pocket costs in Australian healthcare—Interim and final reports. Motion of Senator Di Natale to take note of report called on. Debate adjourned till the next day of sitting, Senator Bilyk in continuation.

Finance and Public Administration References Committee—Commonwealth procurement procedures—Report. Motion of the chair of the committee (Senator Lundy) to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.

School Funding—Select Committee—Equity and excellence in Australian schools—Report. Motion of the chair of the committee (Senator Collins) to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.
Education and Employment Legislation Committee—Fair Work Amendment Bill 2014 [Provisions]—Report. Motion of Senator McEwen to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.

Education and Employment References Committee—Technical and further education system in Australia—Report. Motion of Senator Bilyk to take note of report called on. Debate adjourned till the next day of sitting, Senator Bilyk in continuation.

Education and Employment References Committee—Government’s approach to re-establishing the Australian Building and Construction Commission—Report. Motion of the chair of the committee (Senator Lines) to take note of report called on. Debate adjourned till the next day of sitting, Senator Bilyk in continuation.

Orders of the day nos 2, 4 and 5 relating to committee reports and government responses were called on but no motion was moved.

47 AUDITOR-GENERAL’S REPORTS—ORDERS OF THE DAY—CONSIDERATION
Orders of the day nos 1 and 2 relating to reports of the Auditor-General were called on but no motion was moved.

48 NATIONAL SECURITY LEGISLATION AMENDMENT BILL (NO. 1) 2014
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 amendment moved by Senator Leyonhjelm (see entry no. 35).
Debate resumed.
Question—That the amendment be agreed to—put.
The committee divided—

AYES, 12

Senators—

<table>
<thead>
<tr>
<th>Day</th>
<th>Madigan</th>
<th>Rice</th>
<th>Whish-Wilson</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leyonhjelm</td>
<td>Milne</td>
<td>Siewert (Teller)</td>
<td>Wright</td>
</tr>
<tr>
<td>Ludlam</td>
<td>Rhiannon</td>
<td>Waters</td>
<td>Xenophon</td>
</tr>
</tbody>
</table>
Question negatived.

Senator Leyonhjelm, also on behalf of Senators Xenophon, Madigan and Ludlam, moved the following amendment:

Schedule 2, page 30 (after line 31), after item 28, insert:

28A After section 25A

Insert:

25B Reporting by Inspector-General of Intelligence and Security

(1) The Director-General must, as soon as practicable after the end of each financial year and in any case within 28 days, give the Inspector-General of Intelligence and Security a report setting out the total number of devices accessed in accordance with a warrant under section 25 or 25A during the financial year.

(2) The Inspector-General’s annual report referred to in section 35 of the Inspector-General of Intelligence and Security Act 1986 for the financial year must include the number.

(3) The number included in accordance with subsection (2) must not be deleted from the report before it is laid before each House of the Parliament.

Debate ensued.

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

On the motion of the Leader of the Palmer United Party in the Senate (Senator Lazarus) the following amendments, taken together by leave, were debated and agreed to:

Schedule 6, page 85 (after line 27), after item 5, insert:

5A Subsections 92(1) and (1A) (penalty)

Repeal the penalty, substitute:

Penalty: Imprisonment for 10 years.

Schedule 6, page 103 (after line 29), after item 19, insert:

19A Subsection 41(1) (penalty)

Repeal the penalty, substitute:

Penalty: Imprisonment for 10 years.

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Lazarus, in respect of Schedule 4, items 1 to 3 and 7.
Question—That Schedule 4, items 1 to 3 and 7 stand as printed—put and negatived.
On the motion of the Attorney-General (Senator Brandis) the following amendments, taken together by leave, were debated and agreed to:

Schedule 2, page 55 (after line 4), after item 45, insert:

**45A After section 31**

Insert:

**31A Notification requirements in relation to the use of force under warrant**

(1) This section applies if a warrant issued under this Division authorises the use of force against persons to do the things authorised by the warrant.

(2) The Director-General must cause the Minister and the Inspector-General of Intelligence and Security to be notified if such force is used against a person in the execution of the warrant.

(3) The notification must be given:

(a) in writing; and

(b) as soon as practicable after such force is used.

Schedule 2, page 55 (after line 33), after item 46, insert:

**46A Section 34**

Before “The”, insert “(1)”.

**46B At the end of section 34**

Add:

(2) If:

(a) the warrant was issued under section 25, 25A, 27A, 27C or 29; and

(b) a thing mentioned in subsection 25(5) or 25A(4), paragraph 27D(2)(h) to (k) or subsection 27E(2) was done under the warrant;

the report must also include details of anything done that materially interfered with, interrupted or obstructed the lawful use by other persons of a computer or other electronic equipment, or a data storage device.

Schedule 2, item 47, page 56 (before line 12), before paragraph 34AA(2)(a), insert:

(aa) a warrant issued under section 25, but only if the warrant authorises the doing of acts or things referred to in paragraph 25(5)(a), (b), (c) or (d), and only with respect to those acts or things; or

Schedule 2, item 47, page 56 (line 14), before “section 25A”, insert “subsection 25(5) or”.

Schedule 2, item 47, page 56 (line 17), after “authorised under”, insert “paragraphs 27D(2)(h) to (k) or”.

Schedule 2, item 47, page 57 (line 35), after “section”, insert “25,.”.

Schedule 3, item 1, page 60 (lines 7 to 9), omit the definition of authorising officer.
Schedule 3, item 1, page 60 (after line 10), after the definition of engage in conduct, insert:

**IGIS official** (short for Inspector-General of Intelligence and Security official) means:

(a) the Inspector-General of Intelligence and Security; or

(b) a member of the staff referred to in subsection 32(1) of the Inspector-General of Intelligence and Security Act 1986.

Schedule 3, item 3, page 61 (line 18), omit “An ASIO employee may apply to an authorising officer”, substitute “The Director-General, a senior position-holder or an ASIO employee may apply to the Minister”.

Schedule 3, item 3, page 62 (lines 4 and 5), omit paragraph 35B(4)(b), substitute:

(b) give a copy of it to the Minister.

Schedule 3, item 3, page 62 (lines 10 to 12), omit paragraph 35C(1)(b), substitute:

(b) the Minister is satisfied that there are reasonable grounds on which to believe that the matters in subsection (2) exist;

Schedule 3, item 3, page 62 (line 13), omit “authorising officer”, substitute “Minister”.

Schedule 3, item 3, page 63 (lines 4 and 5), omit “authorising officer”, substitute “Minister”.

Schedule 3, item 3, page 63 (lines 6 to 9), omit paragraph 35C(4)(b), substitute:

(b) if the Minister is satisfied there are reasonable grounds on which to believe that the delay caused by giving a written authority may be prejudicial to security—orally in person, or by telephone or other means of communication.

Schedule 3, item 3, page 63 (lines 10 to 13), omit subsection 35C(5), substitute:

(5) If a special intelligence operation authority is granted in accordance with paragraph (4)(b), a written record of the special intelligence operation authority that complies with section 35D must be issued within 7 days.

Schedule 3, item 3, page 63 (line 31), omit “general”.

Schedule 3, item 3, page 64 (lines 12 and 13), omit all the words from and including “as long as” to the end of subsection 35D(2), substitute “as long as the person’s identity can be matched to the assumed name, code name or code number”.

Schedule 3, item 3, page 64 (lines 24 to 27), omit subsection 35F(1), substitute:

(1) The Minister may vary a special intelligence operation authority on application by the Director-General, a senior position-holder or an ASIO employee.

Schedule 3, item 3, page 64 (line 29), omit “paragraph (1)(b)”, substitute “subsection (1)”.

Schedule 3, item 3, page 65 (line 4), omit “(1)(b)”, substitute “(2)(b)”.

Schedule 3, item 3, page 65 (lines 6 and 7), omit paragraph 35F(3)(b), substitute:

(b) give a copy of it to the Minister.
Schedule 3, item 3, page 65 (lines 9 to 16), omit subsection 35F(4) (not including the heading), substitute:

(4) The Minister must not vary the special intelligence operation authority unless the Minister:
   (a) is satisfied that there are reasonable grounds on which to believe that the special intelligence operation, conducted in accordance with the special intelligence operation authority as varied, will assist the Organisation in the performance of one or more special intelligence functions; and
   (b) considers it is appropriate to do so.

Schedule 3, item 3, page 65 (lines 22 and 23), omit “authorising officer”, substitute “Minister”.

Schedule 3, item 3, page 65 (lines 24 to 27), omit paragraph 35F(6)(b), substitute:

(b) if the Minister is satisfied there are reasonable grounds on which to believe that the delay caused by giving a written variation may be prejudicial to security—oraly in person, or by telephone or other means of communication.

Schedule 3, item 3, page 65 (lines 28 to 31), omit subsection 35F(7), substitute:

(7) If a special intelligence operation authority is varied in accordance with paragraph (6)(b), a written record of the variation must be issued within 7 days.

Schedule 3, item 3, page 66 (line 5), omit “An authorising officer”, substitute “The Director-General or a Deputy Director-General”.

Schedule 3, item 3, page 69 (after line 23), at the end of subsection 35P(1), add:

Note: Recklessness is the fault element for the circumstance described in paragraph (1)(b)—see section 5.6 of the Criminal Code.

Schedule 3, item 3, page 70 (after line 4), at the end of subsection 35P(2), add:

Note: Recklessness is the fault element for the circumstance described in paragraph (2)(b)—see section 5.6 of the Criminal Code.

Schedule 3, item 3, page 70 (after line 14), after paragraph 35P(3)(d), insert:

; or (e) for the purpose of obtaining legal advice in relation to the special intelligence operation; or

(f) to an IGIS official for the purpose of the Inspector-General of Intelligence and Security exercising powers, or performing functions or duties, under the Inspector-General of Intelligence and Security Act 1986; or

(g) by an IGIS official in connection with the IGIS official exercising powers, or performing functions or duties, under that Act.

Schedule 3, item 3, page 70 (after line 22), after section 35P, insert:

35PA Notifications by Director-General

(1) The Director-General must cause the Inspector-General of Intelligence and Security to be notified if a special intelligence operation is authorised under this Division.

(2) The notification must be given:

(a) in writing; and
(b) as soon as practicable after the special intelligence operation authority is granted.

Schedule 3, item 3, page 71 (after line 8), after subsection 35Q(2), insert:

(2A) A report under subsection (1) must report on whether conduct of a participant in a special intelligence operation:
(a) caused the death of, or injury to, any person; or
(b) involved the commission of a sexual offence against any person; or
(c) resulted in loss of, or damage to, property.

Schedule 3, item 3, page 71 (after line 8), after subsection 35Q(2), substitute:

(1) The Minister may issue a written certificate signed by the Minister setting out such facts as the Minister considers relevant with respect to the granting of a special intelligence operation authority.

Schedule 6, item 2, page 81 (line 9), omit “Subsection (1)”, substitute “Subsection (2)”.  

Schedule 6, item 2, page 81 (after line 13), after subsection 18(2A), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(2B) Subsection (2) does not apply if the person communicates the information or matter to an IGIS official for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2B) (see subsection 13.3(3) of the Criminal Code).

Schedule 6, item 4, page 82 (after line 29), after subsection 18A(2), insert:

Exception—Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person deals with the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the Criminal Code).

Schedule 6, item 4, page 84 (after line 22), after subsection 18B(2), insert:

Exception—Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person makes the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the Criminal Code).

Schedule 6, item 4, page 85 (after line 25), after section 18C, insert:

18D Offences against section 18, 18A or 18B—IGIS officials

(1) A person does not commit an offence against subsection 18(2), 18A(1) or 18B(1) if:
(a) the person is an IGIS official; and
(b) the relevant conduct is engaged in by the person for the purposes of exercising powers, or performing functions or duties, as an IGIS official.

(2) In a prosecution for an offence against subsection 18(2), 18A(1) or 18B(1), the defendant does not bear an evidential burden in relation to the matter in subsection (1) of this section, despite subsection 13.3(3) of the Criminal Code.

Schedule 6, item 6, page 86 (before line 4), before the definition of record, insert:

IGIS official (short for Inspector-General of Intelligence and Security official) means:
(a) the Inspector-General of Intelligence and Security; or
(b) a member of the staff referred to in subsection 32(1) of the Inspector-General of Intelligence and Security Act 1986.

Schedule 6, item 11, page 86 (after line 27), after subsection 39(2), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(3) Subsection (1) does not apply if the person communicates the information or matter to an IGIS official for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

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

Schedule 6, item 14, page 87 (after line 13), after subsection 39A(2), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(3) Subsection (1) does not apply if the person communicates the information or matter to an IGIS official for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

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

Schedule 6, item 17, page 87 (after line 26), after subsection 40(2), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(3) Subsection (1) does not apply if the person communicates the information or matter to an IGIS official for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3) of the Criminal Code.
Schedule 6, item 18, page 88 (after line 35), at the end of section 40A, add:

Exception—communication to the Inspector-General of Intelligence and Security

(3) Subsection (1) does not apply if the person communicates the information or matter to an IGIS official for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3); see subsection 13.3(3) of the Criminal Code.

Schedule 6, item 18, page 89 (after line 34), at the end of section 40B, add:

Exception—communication to the Inspector-General of Intelligence and Security

(3) Subsection (1) does not apply if the person communicates the information or matter to an IGIS official for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3); see subsection 13.3(3) of the Criminal Code.

Schedule 6, item 18, page 91 (after line 2), after subsection 40C(2), insert:

Exception—Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person deals with the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A); see subsection 13.3(3) of the Criminal Code.

Schedule 6, item 18, page 92 (after line 12), after subsection 40D(2), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person makes the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A); see subsection 13.3(3) of the Criminal Code.

Schedule 6, item 18, page 93 (after line 28), after subsection 40E(2), insert:

Exception—Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person deals with the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A); see subsection 13.3(3) of the Criminal Code.
Schedule 6, item 18, page 95 (after line 6), after subsection 40F(2), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person makes the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A): see subsection 13.3(3) of the Criminal Code.

Schedule 6, item 18, page 96 (after line 20), after subsection 40G(2), insert:

Exception—Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person deals with the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A): see subsection 13.3(3) of the Criminal Code.

Schedule 6, item 18, page 97 (after line 32), after subsection 40H(2), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person makes the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A): see subsection 13.3(3) of the Criminal Code.

Schedule 6, item 18, page 99 (after line 13), after subsection 40J(2), insert:

Exception—Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person deals with the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A): see subsection 13.3(3) of the Criminal Code.

Schedule 6, item 18, page 100 (after line 24), after subsection 40K(2), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person makes the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A): see subsection 13.3(3) of the Criminal Code.
Schedule 6, item 18, page 102 (after line 6), after subsection 40L(2), insert:

Exception—Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person deals with the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A); see subsection 13.3(3) of the Criminal Code.

Schedule 6, item 18, page 103 (after line 15), after subsection 40M(2), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person makes the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A); see subsection 13.3(3) of the Criminal Code.

Schedule 6, item 21, page 104 (after line 23), after section 41A, insert:

41B Offences against this Division—IGIS officials

(1) A person does not commit an offence against an information offence provision if:

(a) the person is an IGIS official; and

(b) the relevant conduct is engaged in by the person for the purpose of exercising powers, or performing functions or duties, as an IGIS official.

(2) In a prosecution for an offence against an information offence provision, the defendant does not bear an evidential burden in relation to the matter in subsection (1), despite subsection 13.3(3) of the Criminal Code.

(3) In this section:

information offence provision means subsection 39(1), 39A(1), 40(1), 40A(1), 40B(1), 40C(1), 40D(1), 40E(1), 40F(1), 40G(1), 40H(1), 40J(1), 40K(1), 40L(1) or 40M(1).
(b) a thing mentioned in subsection 25(5) or 25A(4), paragraph 27D(2)(h) to (k) or subsection 27E(2) was done under the warrant.

(2) The Director-General must cause the Minister and the Inspector-General of Intelligence and Security to be notified of any material interference with, or interruption or obstruction of, the lawful use by other persons of a computer or other electronic equipment, or a data storage device, that resulted from the thing being done.

(3) The notification must be given:
(a) in writing; and
(b) as soon as practicable after the thing was done.

Debate ensued.

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

Senator Leyonhjelm moved the following amendment:

Schedule 3, item 3, page 63 (after line 22), after section 35C, insert:

35CA Sunsetting

A special intelligence operation authority must not be granted after the end of 30 June 2025.

Debate ensued.

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

Senator Ludlam moved the following amendments together by leave:

Schedule 3, item 3, page 69 (lines 19 to 23), omit subsection 35P(1).
Schedule 3, item 3, page 70 (line 6), omit “Subsections (1) and (2) do”, substitute “Subsection (2) does”.
Schedule 3, item 3, page 70 (line 20), omit “(1) or”.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 12

Hanson-Young
Leyonhjelm
Ludlam
Madigan
Milne
Rhiannon
Rice
Siewert (Teller)
Waters
Whish-Wilson
Wright

NOES, 36

Back
Bernardi
Bilyk
Brandis
Bullock
Cameron
Canavan
Carr
Conroy
Day
Fawcett (Teller)
Gallacher
Heffernan
Ketter
Lambie
Lazarus
Lines
Ludwig
Mason
McEwen
McGrath
McKenzie
McLucas
Moore
Muir
Nash
O’Neill
O’Sullivan
Polley
Reynolds
Ruston
Sinodinos
Smith
Sterle
Wang
Williams

Question negatived.
Senator Xenophon moved the following amendment:

Schedule 3, item 3, page 69 (after line 23), after subsection 35P(1), insert:

(1A) A court must, in determining a sentence to be passed or an order to be made in respect of a person for an offence against subsection (1), take account of whether or not, to the knowledge of the court, the disclosure was in the public interest.

(1B) Subsection (1A) does not limit Division 2 (general sentencing principles) of Part IB of the Crimes Act 1914.

Debate ensued.

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

Senator Xenophon moved the following amendments together by leave:

Schedule 6, item 18, page 88 (line 29), omit the penalty, substitute:

Penalty: Imprisonment for 2 years.

Schedule 6, item 18, page 89 (line 28), omit the penalty, substitute:

Penalty: Imprisonment for 2 years.

Debate ensued.

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

Senator Xenophon moved the following amendments together by leave:

Schedule 6, items 1, 10, 13 and 16 agreed to.

Senator Leyonhjelm moved the following amendments together by leave:

Schedule 3, item 3, page 69 (lines 30 and 31), omit “or prejudice the effective conduct of a special intelligence operation”.

Schedule 3, item 3, page 70 (lines 2 and 3), omit “or prejudice the effective conduct of a special intelligence operation”.

Debate ensued.

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

Senator Leyonhjelm moved the following amendment:

Schedule 3, item 3, page 70 (line 14), at the end of subsection 35P(3), add:

; or (e) of information that has already been disclosed by the Minister, Director-General or Deputy Director-General; or

(f) made reasonably and in good faith, and was in the public interest.

Debate ensued.

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

Senator Leyonhjelm moved the following amendment:

Schedule 3, item 3, page 70 (after line 16), after subsection 35P(3), insert:

(3A) Subsections (1) and (2) do not apply if:

(a) the person informed the Organisation about the proposed disclosure at least 24 hours before making the disclosure; and

(b) the disclosure did not include information on the identities of participants of a special intelligence operation, or on a current special intelligence operation; and
(c) the information concerns corruption or misconduct in relation to a special intelligence operation.

Note: A defendant bears an evidential burden in relation to the matters in this subsection—see subsection 13.3(3) of the Criminal Code.

Debate ensued.

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

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Leyonhjelm, in respect of Schedule 5, items 9 and 10.

Schedule 5, items 9 and 10 debated and agreed to.

Senator Leyonhjelm moved the following amendment:

Schedule 5, item 14, page 79 (lines 1 and 2), omit subparagraph 1(1A)(a)(i).

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

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Ludlam, in respect of Schedule 6, items 1, 2, 4, 24 and 26.

Schedule 6, items 1, 2, 4, 24 and 26 debated and agreed to.

Senator Ludlam moved the following amendment:

Schedule 6, page 106 (line 2), omit the heading.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 10

Senators—

Hanson-Young Milne Siewert (Teller) Whish-Wilson
Leyonhjelm Rhiannon Waters Wright
Ludlam Rice

NOES, 44

Senators—

Back Fierravanti-Wells McEwen (Teller) Reynolds
Brandis Fifield McGrath Ruston
Bullock Gallacher McKenzie Scullion
Bushby Ketter McLucas Sinodinos
Cameron Lambie Moore Smith
Canavan Lazarus Muir Sterle
Colbeck Lines Nash Urquhart
Conroy Ludwig O’Neill Wang
Day Macdonald O’Sullivan Williams
Edwards Madigan Parry Wong
Fawcett Marshall Polley Xenophon

Question negatived.

Bill, as amended, agreed to.

Bill to be reported with amendments.

The President resumed the chair and the Chair of Committees (Senator Marshall) reported accordingly.
On the motion of Senator Brandis the report from the committee was adopted.
Senator Brandis moved—that this bill be now read a third time.
Debate ensued.
Question put.
The Senate divided—

AYES, 44

Senators—
Back Edwards Marshall Parry
Brandis Faulkner Mason Polley
Brown Fawcett McEwen Reynolds
Bullock Fieravanti-Wells McGrath Ruston
Bushby (Teller) Fifield McKenzie Scullion
Cameron Gallacher McLucas Sinodinos
Canavan Ketter Moore Smith
Colbeck Lambie Muir Urquhart
Collins Lazarus Nash Wang
Conroy Lines O’Neill Williams
Day Ludwig O’Sullivan Wong

NOES, 12

Senators—
Hanson-Young Madigan Rice Whish-Wilson
Leyonhjelm Milne Siewert (Teller) Wright
Ludlam Rhiannon Waters Xenophon

Question agreed to.
Bill read a third time.

49 ADJOURNMENT
The Assistant Minister for Social Services (Senator Fifield) moved—that the Senate do now adjourn.
Debate ensued.
The Senate adjourned at 9.53 pm till Tuesday, 30 September 2014 at 12.30 pm.

50 ATTENDANCE
Present, all senators except Senators Johnston*, Peris* and Singh* (*on leave).

ROSEMARY LAING
Clerk of the Senate

Printed by authority of the Senate