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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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No. 82

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

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

**Government documents**

1. Mid-year economic and fiscal outlook—2017-18—Statement by the Treasurer (Mr Morrison) and the Minister for Finance (Senator Cormann).


3. No. 1.

4. No. 2.

5. Government responses to Commonwealth Ombudsman’s reports for 2018—


10. Western Australian Fisheries Joint Authority—Report for 2016-17.

The Clerk tabled the following documents pursuant to statute:

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

- *Civil Aviation Act 1988*—Civil Aviation Safety Regulations 1998—
  - Horizontal Stabilizer—AD/BELL 206/57 Amdt 3 [F2018L00079].
  - Repeal of Airworthiness Directive—CASA ADCX 003/18 [F2018L00084].
- *Defence Act 1903*—
  - Defence Determination (Compassionate travel – amendment) 2018 (No. 7) [F2018L00080].
  - Defence Determination, Conditions of Service Amendment (Accrual of service for long service leave – Recognition of prior service) Determination 2018 (No. 8) [F2018L00081].
  - Defence Determination, Conditions of Service Amendment (Education assistance and reunion travel) Determination 2018 (No. 9) [F2018L00083].
  - Defence Determination (Serious illness, long service leave and travel) Amendment 2018 (No. 5) [F2018L00082].
The Clerk tabled the following document pursuant to the order of the Senate of 25 June 2014:

Estimates hearings—Unanswered questions on notice—Budget estimates 2017-18 (Supplementary)—Statement—Social Services portfolio.

3 Committees—Leave to meet during sittings

Committees were authorised to meet during the sittings of the Senate, as follows:

Corporations and Financial Services—Joint Statutory Committee—private meetings otherwise than in accordance with standing order 33(1), from 9.30 am, on Thursday, 8 February, Wednesday, 28 March and Thursday, 10 May 2018.

Environment and Communications References Committee—private meeting otherwise than in accordance with standing order 33(1) on Thursday, 8 February 2018, from 1.10 pm, for the committee’s inquiry into Aboriginal rock art of the Burrup Peninsula.

Intelligence and Security—Joint Statutory Committee—public meeting today, from noon, for the committee’s review of the Home Affairs and Integrity Agencies Legislation Amendment Bill 2017.

4 Treasury Laws Amendment (Banking Executive Accountability and Related Measures) Bill 2018

Order of the day read for the adjourned debate on the motion of the Minister for Education and Training (Senator Birmingham)—That this bill be now read a second time—and on the amendment moved by Senator Whish-Wilson:

At the end of the motion, add “but the Senate calls on the Government to initiate a review by the Council of Financial Regulators, within two years of the commencement of the Act, in respect of whether the Act provides adequate regulation to directly protect consumer outcomes, and whether the scope of the Act should be expanded to cover the entire financial sector”.

Debate resumed.

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

Main 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.

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

Schedule 1, item 1, page 20 (lines 8 to 25), omit section 37G, substitute:

37G Pecuniary penalty for non-compliance with this Part

(1) An ADI is liable to a pecuniary penalty if:

(a) an ADI contravenes its obligations under this Part (other than this Division); and

(b) the contravention relates to prudential matters.
The maximum amount of pecuniary penalty is an amount at the rate of 10 penalty units for every $1,000,000 in assets, of the ADI within the control (however described) of the part of the ADI’s banking business that is carried out in Australia.

In determining the pecuniary penalty, the Federal Court of Australia must have regard to the impact that the penalty would have on the viability of the ADI.

Subsection (3) does not limit subclause 1(3) of Schedule 2.

This section is a civil penalty provision.

Schedule 1, item 10, page 29 (lines 5 to 18), omit the item, substitute:

10 Subsection 5(1)
Insert:

large ADI means an ADI which has assets greater than $100 billion on a 3 year average, within the control (however described) of the ADI’s banking business carried out in Australia.

medium ADI means an ADI which has assets less than or equal to $100 billion on a 3 year average, within the control (however described) of the ADI’s banking business carried out in Australia.

non ADI holding company, of another body corporate, means a body corporate (other than an ADI) of which the other body corporate is a subsidiary.

remuneration, of an accountable person, includes the meaning given by subsection 37E(3).

small ADI means an ADI which has assets less than or equal to $10 billion on a 3 year average, within the control (however described) of the ADI’s banking business carried out in Australia.

variable remuneration has the meaning given by section 37EA.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 14

Senators—

Bartlett  Griff  Patrick  Siewert*  
Burston  Hanson  Rhiannon  Steele-John  
Di Natale  Hanson-Young  Rice  Whish-Wilson  
Georgiou  McKim
Question negatived.

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

Schedule 1, item 1, page 4 (line 15), after paragraph 37(1)(b), insert:  
(ba) its executive remuneration obligations; and

Schedule 1, item 1, page 12 (line 18), before Division 4, insert:

Division 3A—Executive remuneration obligations

37DC Cap on remuneration of accountable persons

(1) The executive remuneration obligations of an ADI are to ensure that the ADI does not pay an accountable person of the ADI remuneration for a period (the pay period) that would result in the remuneration of the accountable person for the pay period exceeding the remuneration cap for the pay period.

(2) The remuneration cap for an accountable person of an ADI for a period starting in a reporting period for the ADI is the amount worked out using the formula:

\[
\frac{\text{Number of days in the period}}{\text{Number of days in the reporting period}} \times 10 \times \text{AAWE}
\]

where:

AAWE means the annualised average weekly earnings for the reporting period for the ADI.

(3) The annualised average weekly earnings for a reporting period for an ADI is the amount worked out using the formula:

\[
\text{Number of weeks in the reporting period} \times \text{AWE}
\]

where:

AWE (short for average weekly earnings) means the amount published by the Australian Statistician in a document titled “Average Weekly Earnings” under the headings “Average Weekly Earnings, Australia—Original—Full-time adult average weekly total earnings” (or, if any of those change, in a replacement document or under replacement headings) for the most recent index reference period before the start of the reporting period.
37DE Cap on variable remuneration of accountable persons

(1) In addition, the executive remuneration obligations of an ADI are to ensure that the ADI does not pay an accountable person of the ADI variable remuneration for a period (the pay period) that would result in the variable remuneration of the accountable person for the pay period exceeding the variable remuneration cap for the pay period.

(2) The variable remuneration cap for an accountable person of an ADI for a period starting in a reporting period for the ADI is the amount worked out using the formula:

\[
\frac{\text{Number of days in the period}}{\text{Number of days in the reporting period}} \times 5 \times \text{AAWE}
\]

where:

\(\text{AAWE}\) means the annualised average weekly earnings for the reporting period for the ADI.

(3) The annualised average weekly earnings for a reporting period for an ADI is the amount worked out using the formula:

\[
\text{Number of weeks in the reporting period} \times \text{AWE}
\]

where:

\(\text{AWE}\) (short for average weekly earnings) means the amount published by the Australian Statistician in a document titled “Average Weekly Earnings” under the headings “Average Weekly Earnings, Australia—Original—Full-time adult average weekly total earnings” (or, if any of those change, in a replacement document or under replacement headings) for the most recent index reference period before the start of the reporting period.

(4) For the purposes of subsection (1), in working out the maximum amount of variable remuneration that may be paid to an accountable person during a period, any deferral of variable remuneration under Division 4 of this Part during that period is to be ignored.

Schedule 1, page 31 (line 9), after item 15, insert:

15A Cap on remuneration and variable remuneration of accountable persons

(1) Division 3A of Part IIAA of the Banking Act 1959 as inserted by this Act applies in relation to the remuneration and the variable remuneration of an accountable person only if the decision granting the accountable person the remuneration or variable remuneration was made on or after 1 January 2019.

(2) Despite subitem (1), if an accountable person’s remuneration or variable remuneration is payable under a contract entered into before the day this Act received the Royal Assent, Division 3A of Part IIAA of the Banking Act 1959 as inserted by this Act does not apply in relation to the remuneration or variable remuneration until 1 January 2020.
(3) Despite subitem (1), if:

(a) an accountable person’s remuneration or variable remuneration is payable under a contract entered into before the commencement of Part IIAA of the Banking Act 1959 as inserted by this Act; and

(b) apart from this subitem, the application of Division 3A of that Part in relation to the remuneration or variable remuneration would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph);

that Division does not apply in relation to the remuneration or variable remuneration to the extent that it would result in such an acquisition.

Note: Because this subitem prevents Division 3A of Part IIAA of the Banking Act 1959 from giving rise to such an acquisition of property in relation to remuneration or variable remuneration payable under such a contract, compensation will not be payable under section 69E of that Act.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 12

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

NOES, 34

Senators—
Abetz Fawcett Macdonald Paterson
Anning Fierravanti-Wells Marshall Patrick
Bernardi Gallacher McAllister* Pratt
Brockman Gichuhi McCarthy* Reynolds
Bushby Griff Molan Seselja
Cameron Griff Molan Seselja
Cormann Ketter O’Neill Steele
Dodson Kitching O’Sullivan Williams
Duniam Leyonhjelm

* Tellers

Question negatived.

Bill agreed to and reported without amendment.

On the motion of the Minister for Finance (Senator Cormann) the report from the committee was adopted.

Senator Cormann moved—that this bill be now read a third time.

Question put.
The Senate divided—

AYES, 38

Senators—

Bartlett
Birmingham
Brockman
Burston
Bushby
Cormann
Di Natale
Dodson
Duniam
Fawcett
Fierravanti-Wells
Gallacher
Georgiou
Griff
Hanson
Hanson-Young
Hume
Ketter
Kitching
Marshall
McAllister
McCarthy
McKim
Molan
Moore
O’Neill
O’Neill
Patrick
Pratt
Rai
Rhiannon
Rice
Seselja
Siewert
Smith
Stiele-John
Sterle
Whish-Wilson
Williams

NOES, 3

Senators—

Anning*
Bernardi
Leyonhjelm

*Tellers

Question agreed to.

Bill read a third time.

5 Committee membership

The Acting Deputy President (Senator McCarthy) informed the Senate that the President had received a letter nominating a senator to be a member of a committee.

The Minister for Finance (Senator Cormann), by leave, moved—That Senator Abetz be appointed as a member of the Parliamentary Joint Committee on Intelligence and Security, pursuant to the Intelligence Services Act 2001.

Question put and passed.

6 Social Services Legislation Amendment (Cashless Debit Card) Bill 2017

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

Message no. 300, dated 6 February 2018—A Bill for an Act to amend the law relating to social security, and for related purposes.

The Minister for International Development and the Pacific (Senator Fierravanti-Wells) 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 Fierravanti-Wells moved—that this bill be now read a second time.

Debate ensued.

At 12.45 pm: Debate was interrupted.

7 Senators’ statements

Senators made statements.
At 2 pm—

8 **Conduct of debate—Statement by President**

The President made a statement urging senators to be mindful of the rules, customs and practices of the Senate, which prohibit the use of unparliamentary language and seek to facilitate vigorous yet respectful debate.

9 **Questions**

Questions without notice were answered.

_Hon. Senator Hanson-Young_: The President welcomed the Speaker of the New Zealand House of Representatives, the Right Honourable Trevor Mallard, and, with the concurrence of honourable senators, invited him to take a seat on the floor of the chamber.

Further questions without notice were answered.

10 **Motions to take note of answers**

The Leader of the Opposition in the Senate (Senator Wong) moved—That the Senate take note of the answer given by the Minister for Finance (Senator Cormann) to a question without notice asked by Senator Farrell today relating to the distribution of GST revenue.

Debate ensued.

Question put and passed.

Senator Hanson-Young moved—That the Senate take note of the answer given by the Minister for Resources and Northern Australia (Senator Canavan) to a question without notice asked by Senator Hanson-Young today relating to the Murray-Darling Basin Plan.

Question put and passed.

11 **Notices**

The Minister for Education and Training (Senator Birmingham): To move on the next day of sitting—That the business of the Senate notice of motion proposing the disallowance of the Social Security (Administration) (Trial Area) Amendment Determination (No. 2) 2017, standing in the name of Senator Siewert, have precedence over all government business until determined.

Senator Hanson-Young: To move on the next day of sitting—That the Basin Plan Amendment (SDL Adjustments) Instrument 2017, made under the Water Act 2007, be disallowed [F2018L00040].

Senators Di Natale and Rhiannon: To move on the next day of sitting—That the Senate—

(a) notes:

(i) the passing, on 5 February 2018, of Dr Hugh Wirth, AM,

(ii) that Dr Wirth was a highly-respected veterinarian, including as the resident vet on ABC Radio Melbourne’s Saturday morning show,

(iii) that he was President of RSPCA Victoria’s Board from 1972 to 2015, and served on the Board of RSPCA Australia for 35 years,

(iv) that he made an outstanding contribution to animal welfare and became the first non-European President of World Animal Protection,
(v) that he was deeply-respected amongst his fellow colleagues and the wider public, was made a Member of the Order of Australia (AM) in 1985, and, in 1997, was named Victorian of the Year, and
(vi) that he will be missed as a passionate and tenacious advocate for animal welfare; and
(b) expresses its condolences to his family, and may he rest in peace. *(general business notice of motion no. 692)*

Senator Steele-John: To move on the next day of sitting—That the Senate—
(a) notes that:
(i) on 30 October 2017, the Australian Competition and Consumer Commission’s (ACCC) draft report for the Communications Sector Market Study recommended that ‘the Government consider whether NBN Co should continue to be obliged to recover its full cost of investment through its prices’, and that other options should be examined, including direct budget funding,
(ii) the requirement on NBN Co to make a commercial return is compromising its ability to deliver a fast, reliable, affordable and future-proof network to all Australians,
(iii) the connectivity virtual circuit (CVC) charge, levied by NBN Co on retail service providers (RSPs), is necessitating that RSPs choose between quality (reliability, speed and congestion) and affordability of available services, and
(iv) on 16 January 2018, the Government released its response to the report of the Joint Standing Committee on the National Broadband Network, in which it reaffirmed its commitment to rollout the Multi Technology Mix with the existing business model; and
(b) calls on the Government to accept the ACCC’s recommendations to:
(i) reconsider whether NBN Co should be obliged to recover its full cost of investment through its prices, in light of the impact that this obligation is having on quality of internet services being delivered to Australians, and
(ii) examine other options for funding the NBN, including direct budget funding. *(general business notice of motion no. 693)*

The Chair of the Standing Committee on Regulations and Ordinances (Senator Williams): To move 15 sitting days after today—That the Marriage Regulations 2017, made under the *Marriage Act 1961*, be disallowed [F2017L01359].

Senators Siewert and Di Natale: To move on the next day of sitting—That the Senate—
(a) acknowledges that:
(i) on 26 January 2018, tens of thousands of Australians around the country marched in solidarity with Aboriginal and Torres Strait Islander Peoples calling on governments to change the date of Australia Day, and
(ii) 26 January is a day of mourning for many Aboriginal and Torres Strait Islander Peoples, as it represents the beginning of colonisation, the theft of their land, the decimation of their culture and the start of ongoing genocide; and
calls on federal, state and territory governments to change the date of Australia Day so that everyone can participate in celebrating this national day. (general business notice of motion no. 694)

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

(a) notes:
   (i) the Australian Government’s plans to make Australia one of the top ten weapons manufacturers globally, raising Australia from the 20th to the 10th spot, and
   (ii) the dangerous and destructive effects of the global arms trade in fuelling conflicts;

(b) re-affirms the comments of World Vision CEO, Mr Tim Costello, that Australia will be ‘exporting death and profiting from bloodshed’;

(c) condemns the fact that the Government plans to loan $3.8 billion to arms manufacturers, which is equal to Australia’s entire foreign aid budget, which has suffered $11 billion in cuts since 2014, and follows attempts by the Government to cut $2.8 billion from higher education; and

(d) calls on the Government to cease immediately this plan to turn Australia into a mercenary nation of arms dealers, and instead use the funds to revitalise our manufacturing industry around renewable energy, electric cars, advanced medical technology and education services. (general business notice of motion no. 695)

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

(a) notes, with concern, that the Adani Group (Adani) is on the record blatantly misrepresenting the number of jobs its polluting Carmichael coal mine would create;

(b) condemns Adani’s deception in inflating its jobs figures sevenfold, until it was forced under oath to reveal that the true figure is in fact 1464 direct and indirect jobs over the life of the project, rather than the 10,000 claimed;

(c) further notes that the carbon pollution from Adani’s mine would significantly contribute to dangerous global warming, further endangering the Great Barrier Reef and the 70,000 jobs that rely on it; and

(d) asserts that rather than relying on a polluting, deceitful company to provide jobs for Queenslanders, federal and state governments should invest in renewable energy, service industries and manufacturing as the best drivers of Queensland jobs. (general business notice of motion no. 696)

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

(a) notes that:
   (i) according to the Australasian Meat Industry Employees Union (AMIEU), since 1990, more than 40,000 jobs in Australian meat processing have been lost to live exports,
   (ii) according to the AMIEU, independent research shows that a sheep processed in Australia is worth 20% more to the economy than one sent for live export, and
   (iii) the live export industry has been plagued by horrific animal cruelty; and
calls on the Turnbull Government to:

(i) support the development of new meat processing facilities in northern Australia,
(ii) work with industry to end subsidies and tariffs which favour the live export trade,
(iii) provide assistance to expand the boxed meat export trade, and
(iv) work with farmers and industry to develop a smooth and successful transition away from live export by assisting to build new abattoirs, all-weather roads and developing other ways to reduce production costs.

Senators Griff and McKim: To move on the next day of sitting—That the Senate—

(a) notes that:

(i) on 7 December 2017, the Senate passed a motion for an order for the production of documents relating to correspondence between the Commonwealth and its Australian contractors on Papua New Guinea’s Manus Island, and
(ii) the order related to parts of contracts, correspondence, reports, memos or photographs relating to accommodation and services being delivered at West Lorengau;

(b) further notes that:

(i) the documents were sought following concerns expressed by advocates and eyewitnesses regarding the standards of accommodation at West Lorengau, including incomplete fencing and plumbing, intermittent power and water, and the sufficiency of the health and other services being delivered, particularly as compared to previous services delivered at the Manus Island regional processing centre,
(ii) according to the UNHCR’s fact sheet on Manus Island, updated on 21 January 2018, many of these concerns are ongoing,
(iii) on 17 January 2018, the then-Minister representing the Minister for Home Affairs (Senator Birmingham) released a two-page response from the Minister for Home Affairs (Mr Dutton), but no documents were returned, and
(iv) the response stated that the release of the documents would be contrary to the public interest and ‘should be done on the grounds that the disclosure could be reasonably expected to cause damage to Australia’s international relations with PNG’;

(c) acknowledges that the question of what constitutes a reasonable expectation of damage to international relations has been the subject of proceedings in the Federal Court, specifically in *Secretary, Department of Foreign Affairs and Trade v Paul Whittaker* (2005), where the court stated that ‘Damage to international relations might reasonably be expected where the disclosure of a document may disclose sensitive information so as to cause, or reasonably be expected to cause, actual and significant damage ... the test is not whether there is a risk of damage to international relations; the test requires a higher degree of certainty of damage’;

(d) does not accept that the order for the production of documents made on 7 December 2017 has been adequately dealt with, insofar as the material requested would, by necessity, include a range of information that has no bearing on Australia’s relationship with Papua New Guinea;
(e) does not accept that public interest immunity has been appropriately advanced, and calls on the Minister to review the nature of the documents ordered on 7 December 2017 and apply a higher test of real risk rather than hypothesised risk; and

(f) orders that there be laid on the table by the Minister representing the Minister for Home Affairs and the Minister for Immigration and Border Protection, by 9 am on 19 March 2018, any correspondence requested on 7 December 2017 which meets the proper test. (general business notice of motion no. 698)

**Intention to withdraw:** The Chair of the Standing Committee on Regulations and Ordinances (Senator Williams), pursuant to standing order 78, gave notice of his intention, at the giving of notices on the next day of sitting, to withdraw business of the Senate notices of motion nos 5 and 6 standing in his name for 12 sitting days after today for the disallowance of the following instruments:


12 **Leave of absence**

Senator Urquhart, by leave, moved—That leave of absence be granted to Senator Brown for 8 February 2018, for personal reasons.

Question put and passed.

13 **Private senators’ bills—Consideration**

The Assistant Minister to the Prime Minister (Senator McGrath) moved—That general business order of the day no. 63 (Customs Amendment (Safer Cladding) Bill 2017) be considered on Monday, 12 February 2018 at the time for private senators’ bills.

Question put and passed.

14 **Postponement**

Business was postponed as follows:

- General business notice of motion no. 686 standing in the names of Senators Rhiannon, Hinch and Bartlett for today, relating to the shooting of kangaroos, postponed till 14 February 2018.

15 **Australian Citizenship Legislation Amendment (Strengthening the Commitments for Australian Citizenship and Other Measures) Bill 2018**

The Leader of Pauline Hanson’s One Nation (Senator Hanson), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 679—That the following bill be introduced:

- A Bill for an Act to amend the Australian Citizenship Act 2007 and other legislation, and for related purposes.

Question put and passed.

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

_Explanatory memorandum:_ Senator Hanson, by leave, tabled an explanatory memorandum relating to the bill.

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

16 **Wage growth and job security**

Senator Urquhart, at the request of Senator O’Neill and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 681—That the Senate—

(a) acknowledges that:

(i) Liberal governments across the country are causing inequality to increase in Australia by failing to deal with record low wage growth,

(ii) this has meant that the standard of living of workers and their families has been seriously eroded,

(iii) the capacity of hardworking men and women to protect and improve wages and working conditions is now diminished, and

(iv) the failure of the system has left unions, such as the New South Wales Rail, Tram and Bus Union, limited in their capacity to fight for their members and protect community safety, decent wages and fair working conditions; and

(b) calls on the Liberal Party of Australia to prioritise the wages and job security of hardworking Australians.

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

Question put and passed.

17 **International Holocaust Remembrance Day**

Senator Bushby, at the request of Senators Smith and Griff and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 682—That the Senate—

(a) notes that 27 January 2018 was International Holocaust Remembrance Day, which remembers the atrocities committed by the Nazi regime and its collaborators;

(b) notes the remarks of former Secretary-General of the United Nations, Mr Ban Ki-Moon, who remarked that the day is one on which ‘we must reassert our commitment to human rights ... and go beyond remembrance, and make sure that new generations know this history. We must apply the lessons of the Holocaust to today’s world. And we must do our utmost so that all peoples may enjoy protection and rights for which the United Nations stands’;

(c) acknowledges the importance of International Holocaust Remembrance Day in honouring the memory of all Holocaust victims and encouraging the development of education programs about the history of the Holocaust and the stories of its victims in order to protect against future acts of genocide;

(d) acknowledges the 27,000 Holocaust survivors who migrated to Australia after the Second World War to seek new beginnings; and
(e) acknowledges the ongoing efforts of the International Holocaust Remembrance Alliance to strengthen, advance and promote Holocaust education, research and remembrance worldwide, and welcomes Australia’s recent acceptance by the International Holocaust Remembrance Alliance as a liaison country.

Question put and passed.

18 Palliative care

Senator Griff, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 683—That the Senate—

(a) recognises that:
   (i) access to appropriate pain and symptom management, and being surrounded by family, are most important to people who are dying,
   (ii) palliative care is not just about pain and symptom management, it is about providing meaningful social, spiritual and emotional support for families and patients,
   (iii) for many Australians, their end-of-life journey will likely be punctuated with avoidable or unwanted admissions to hospital, with the confusion, loss of dignity and loss of control that comes with it,
   (iv) Australians need to be more engaged in conversations regarding their end-of-life care wishes, and
   (v) palliative care is not just about dying, it is about living as well as you can for as long as you can;

(b) notes that Palliative Care Australia estimates that while 70% of Australians wish to die at home, only around 14% do so;

(c) acknowledges that the Productivity Commission’s draft report into human services, released in June 2017, argued that:
   (i) there are just 213 palliative medical specialists across Australia, equating to one specialist for every 704 deaths each year,
   (ii) more community-based palliative care services are needed to enable more people who wish to die at home to do so, and
   (iii) end-of-life care in residential aged care needs to be better resourced and delivered by skilled staff;

(d) further notes Palliative Care Australia’s call for a national palliative care commissioner who would examine existing palliative care services and programs nationally, in order to assess their efficiency and effectiveness in supporting terminally ill individuals and their families to live as well as possible, right to the end of life;

(e) calls on all senators to have an end-of-life conversation with their loved ones; and

(f) calls on the Government to make palliative care a health priority and appoint a national palliative care commissioner.

Question put and passed.
19 **Internet access**

Senator Steele-John, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 684—That the Senate—

(a) notes that:

(i) internet access is now an essential service and has been declared as such in several countries, including Canada, Spain, and Finland,

(ii) regulation of telecommunication services, including fixed-line, mobile and broadband services, must treat telecommunications as an essential service,

(iii) the 2016-17 annual report of the Telecommunications Industry Ombudsman reported 158,016 complaints, representing a 41% increase in complaints, and

(iv) the Telecommunications Industry Ombudsman received approximately double the number of complaints received by Ombudsman offices covering other essential services, including energy, water and financial services; and

(b) calls on the Government to:

(i) bring forward the intended Review of the Telecommunications Consumer Safeguards Framework (Safeguards Review), including review of the industry self-regulatory arrangements set out in Part 6 of the *Telecommunications Act 1997*,

(ii) closely monitor the Telecommunications Consumer Protection Code reviews process and direct the Australian Communications and Media Authority (ACMA) to make an industry standard to drive better customer service and industry practice if the process fails to deliver effectively, and

(iii) ensure that the direction to the ACMA to implement new broadband consumer protections, as announced by the Minister for Communications (Senator Fifield) on 21 December 2017, is enacted swiftly.

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

Question put and passed.

20 **Murray-Darling Basin Authority—Adjustment mechanism projects—Assessments—Order for production of documents**

Senator Patrick, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 685—

(1) That the Senate notes that:

(a) the Sustainable Diversion Limit Adjustment Assessment Committee (SDLAAC) plays an important role in assessing and advising the Basin Officials Committee (BOC) on proposed measures which may provide an opportunity to adjust Sustainable Diversion Limits (SDL);

(b) the SDLAAC also advises the BOC on constraint measures which remove or ease constraints on the capacity to deliver environmental water;

(c) in June 2017, the BOC endorsed a package of 36 measures to be included for modelling assessment of SDL adjustment contribution; and
(d) in order to make a considered decision on any changes to the SDL, the Senate requires access to the assessments of the 36 adjustment mechanism projects.

(2) That there be laid on the table by the Minister representing the Minister for Agriculture and Water Resources, by no later than 3.30 pm on 15 February 2018, all assessments of the 36 adjustment mechanism projects completed by the Murray-Darling Basin Authority (MDBA), including all individual proposal assessment information given to SDLAAC or BOC by the MDBA to inform their decision to support or not support an SDL adjustment or constraints proposal.

Question put and passed.

21 Professor Clive Hamilton—Publication of book

Senator Bernardi, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 680—

(1) That the Senate notes—

(a) the claims by academic Professor Clive Hamilton, author of the unpublished book, Silent Invasion, that he is experiencing difficulty proceeding with publishing his book critical of foreign influence in our institutions, including this Parliament;

(b) in particular, his publisher’s concern about being subject to significant court action financed by or at the behest of a foreign nation; and

(c) the report in the Sydney Morning Herald newspaper on 5 February 2018 that members of Federal Parliament’s national security committee, namely the members for Canning and Holt, have expressed support for using parliamentary privilege to enable the publication of the book.

(2) That in the interests of free speech and Australian sovereignty, the Senate calls on the Government to render such assistance to Professor Hamilton as to enable his claims to be considered or published.

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

Question put and negatived.

22 Population policy

The Leader of Pauline Hanson’s One Nation (Senator Hanson), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 678—That the Senate—

(a) notes that:

(i) in a recent survey of voters conducted by the Australian Population Research Institute, it was found that 74% of respondents believed that Australia does not need to increase its population, and

(ii) a Galaxy research poll conducted by Mr Dick Smith in September 2017 indicated that 83% of respondents believed major parties should have a population policy, and 82% agreed population growth was an issue on which politicians needed to act; and
(b) calls on the Government to commit to a plebiscite, held in conjunction with the next federal election, asking voters to indicate their preferred stance on Australia adopting a more sustainable population target.

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

Question put and negatived.

23 Iraq War—Inquiry

The Leader of the Australian Greens (Senator Di Natale), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 689—That the Senate—

(a) notes with concern:

(i) recent revelations about Senator Molan’s personal views, particularly his support of racist material through social media,

(ii) allegations that Senator Molan, as Chief of Operations for Coalition Forces in Iraq, oversaw the deprivation of food, water and humanitarian supplies to civilians during the second coalition assault on the city of Fallujah, and

(iii) the failure of successive Australian Governments to initiate any inquiry into how and why the Howard Government decided to go to war in Iraq, and Australia’s actions in that war;

(b) further notes that such an inquiry has long been supported by eminent Australians, including a former Prime Minister, a former Secretary of the Department of Defence, and a former Chief of the Australian Defence Force; and

(c) calls on all parties to support a long overdue inquiry into Australia’s involvement in the Iraq War.

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

Question put and negatived.

24 Shark conservation

Senator Whish-Wilson amended general business notice of motion no. 691 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

(a) notes that:

(i) the 12th Session of the Conference of the Parties to the Convention on the Conservation of Migratory Species was held in Manila in October 2017,

(ii) a consensus agreement among 50 nations from Asia, Africa and Europe decided to add blue sharks, dusky whalers and white-spotted wedgefish to a list of species requiring additional protection, and

(iii) the Government subsequently submitted reservations to the listing of the three species, which applies exemptions of the agreed protections within Australian waters;
(b) notes, with concern, the public statements of the Minister for the Environment and Energy (Mr Frydenberg) on matters relating to lethal measures to mitigate the risk of human encounters with protected great white sharks, including urging state governments to adopt nets and drum lines which have not proven to make beaches safe for humans, but are indiscriminate killers of protected marine life such as dolphins, whales, other endangered shark species and turtles; and

(c) calls upon the Government to continue the pre-Coalition Government tradition of Australia being an international leader in shark conservation and meet international expectations and standards in the protection of the great white shark, blue shark, dusky whalers and white-spotted wedgefish in Australian waters.

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

Question put and negatived.

25 Reproductive health services

Senator Rice, also on behalf of Senators Urquhart and Brown, amended general business notice of motion no. 688 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

(a) notes that:

(i) access to affordable sexual and reproductive healthcare, including abortion and contraception, is part of every woman’s right to control her own body,

(ii) recently, the primary provider of surgical abortions in Tasmania closed their clinic, and the Tasmanian Liberal Government ruled out providing this essential service within the Tasmanian public health system, with women forced to travel interstate for treatment,

(iii) in January, Prime Minister Turnbull refused to comment on whether Tasmanian public hospitals should provide this essential health service, instead leaving the matter for the Tasmanian Liberal Government, and

(iv) across Australia, inconsistent laws and service provision means access to abortion can be extremely difficult, and women face high out-of-pocket costs; in particular, women in remote, rural and regional areas are often forced to travel long distances to urban clinics; and

(b) calls on the Government to:

(i) show leadership and work with states and territories to remove all barriers to Australians accessing abortion services, including decriminalisation of abortion in New South Wales and Queensland, and provision of surgical abortion services in public hospitals across the country, and

(ii) where state and territory health systems fail to provide abortion services, step in to ensure funding and provision of essential reproductive health services for all Australians.

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

Question put.
The Senate divided—

AYES, 28

Senators—
Bartlett        Hanson-Young        McKim        Singh
Brown           Kitching            Moore        Steele-John
Cameron         Leyonhjelm          Patrick      Sterle
Di Natale       Lines               Pratt        Urquhart*
Dodson          Marshall            Rhiannon    Watt
Gallacher       McAllister          Rice         Whish-Wilson
Griff           McCarthy            Siewert      Wong

NOES, 25

Senators—
Abetz           Canavan            McKenzie     Ruston
Anning          Duniam             Molan        Ryan
Bernardi        Gichuhi            O’Sullivan    Scullion
Birmingham      Hume               Paterson     Seselja
Brandis         Macdonald          Payne        Smith
Brockman        McGrath            Reynolds     Williams
Bushby*         

* Tellers

Question agreed to.

26 Australian rail manufacturing

Senator Rhiannon, also on behalf of Senator Carr, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 687—

That the Senate—

(a) notes that:

(i) the New South Wales (NSW) Government has awarded $4 billion in contracts to build the Intercity and Waratah train fleets overseas, and

(ii) this decision by the NSW Government will impact local rail manufacturers and supply chain businesses, and puts up to 15,000 existing jobs across Australia at risk; and

(b) calls on the Commonwealth and all states to cooperate and strengthen rail manufacturing in Australia by:

(i) establishing a National Rail Manufacturing Industry Plan to maximise the benefits from the $46 billion investment expected over the next decade,

(ii) working together to achieve a long-term, sustainable and efficient rail industry that will provide job security for local rail manufacturers,

(iii) harmonising safety standards that would maximise manufacturing efficiencies, and

(iv) working with the rail industry to develop Rail Industry Skills Centres at local TAFE and colleges, and ensuring the use of local apprentices, trainees and engineering cadets for at least 10% of the total labour hours.

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

Question put.
The Senate divided—

**AYES, 32**

- Bartlett
- Cameron
- Chisholm
- Collins
- Di Natale
- Dodson
- Farrell
- Gallacher
- Griff
- Hanson
- Hanson-Young
- Ketter
- Kitching
- Lines
- Marshall
- McGruagh
- Moore
- O’Neill
- Patrick
- Polley
- Pratt
- Rhiannon
- Siewert
- Singh
- Steele-John
- Sterle
- Urquhart*
- Watt
- Whish-Wilson

**NOES, 23**

- Anning
- Bernardi
- Birmingham
- Brockman
- Bushby*
- Canavan
- Gichuhi
- Hume
- Leyonhjelm
- Macdonald
- McGrath
- Molan
- O’Sullivan
- Paterson
- Payne
- Reynolds
- Ruston
- Ryan
- Scullion
- Seselja
- Smith
- Williams

* Tellers

Question agreed to.

27 **Goods and Services Tax—Distribution of revenue**

Senator Urquhart, also on behalf of Senators Wong, Bilyk, Singh, Gallacher, Polley, Farrell and Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 690—That the Senate—

(a) notes that, on 3 January 2018, the Treasurer (Mr Morrison) announced that the final report of the Productivity Commission’s inquiry into the economic impact of horizontal fiscal equalisation would be delayed to 15 May 2018;

(b) notes that the Productivity Commission’s draft report revealed that, under changes to the distribution of GST revenue, Tasmania stands to lose $168 million in the first year alone, and South Australia stands to lose $557 million in the first year alone;

(c) notes that the Turnbull Government’s decision means the final report will not be delivered until after the South Australian and Tasmanian state elections, and after the next Federal budget is handed down;

(d) condemns the Turnbull Government for hiding its plans from the people of Australia; and

(e) calls on the Turnbull Government to make its planned changes to the distribution of the GST clear before South Australians and Tasmanians vote in upcoming state elections.

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

Question put.
The Senate divided—

AYES, 32

Senators—

Bartlett  Farrell  Marshall  Rice
Bernardi  Georgiou  McKim  Siewert
Burston  Griff  Moore  Singh
Cameron  Hanson  O’Neill  Steele-John
Chisholm  Hanson-Young  Patrick  Sterle
Collins  Ketter  Polley  Urquhart*
Di Natale  Kitching  Pratt  Watt
Dodson  Lines  Rhiannon  Whish-Wilson

NOES, 22

Senators—

Anning  Hume  O’Sullivan  Ryan
Birmingham  Leyonhjelm  Paterson  Scullion
Brockman  Macdonald  Payne  Seselja
Bushby*  McGrath  Reynolds  Smith
Canavan  McKenzie  Ruston  Williams
Gichuhi  Molan

* Tellers

Question agreed to.

28 Discussion of matter of public importance—Tax relief

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

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

The passage of business tax cuts in the United States of America and the pressing need for the Australian Parliament to provide significant tax relief for Australian businesses.

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

29 Notice

The Chair of the Education and Employment References Committee (Senator Marshall) gave a notice of motion as follows: To move on the next day of sitting—

That the following matter be referred to the Education and Employment References Committee for inquiry and report by 14 August 2018:

Work health and safety of workers in the offshore petroleum industry, with particular reference to:

(a) the scope and necessity for amending and updating any legislative inconsistencies in the relevant work health and safety scheme, including:

(i) any provisions in the legislation which need to be updated,

(ii) providing for appropriate consistency between the Offshore Petroleum and Greenhouse Gas Storage Act 2006 (OPGGS Act) and the Work Health and Safety Act 2011,

(iii) legislative changes required to the OPGGS Act to provide for appropriate consistency with the model work health and safety laws (as revised in June 2011), and
(iv) legislative changes which recognise that the work is undertaken in remote locations;

(b) the effectiveness of the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) and equivalent state and territory offshore petroleum regulators (the regulators) in promoting the work health and safety of persons engaged in offshore petroleum operations;

(c) the accountability framework to which NOPSEMA is subject with respect to work health and safety matters, and whether this needs to be strengthened;

(d) the role and structure of the NOPSEMA Board and options for improving the effectiveness of their stakeholder engagement;

(e) the workings of NOPSEMA’s collaboration, and working relationships, with other work health and safety regulators and bodies, including Safe Work Australia;

(f) challenges in attracting and retaining health and safety representatives;

(g) the adequacy of the protections afforded to health and safety representatives performing their functions under the relevant legislation;

(h) policies and practices which could be adopted by NOPSEMA to better support health and safety representatives;

(i) factors impacting on the work health and safety of workers in the offshore petroleum industry;

(j) government policies at the state, territory and Commonwealth level which have a significant impact on the work health and safety of workers in the offshore petroleum industry;

(k) relevant parallels or strategies in an international context;

(l) the role of government in providing a coordinated strategic approach to health and safety outcomes in the offshore petroleum industry; and

(m) any other related matters.

30 **Australian parliamentary delegation to Singapore, Myanmar and Indonesia—Document**

Senator Kitching, by leave, tabled the following document:


Senator Kitching, by leave, moved—That the Senate take note of the document.

Question put and passed.

31 **Documents—Consideration**

Documents tabled earlier today (*see entry no. 2*) were considered as follows:

Motion to take note of document no. 1 moved by Senator Ketter. Consideration to resume on Thursday at general business.

Motion to take note of documents nos 2 to 5 moved by Senator Bartlett. Consideration to resume on Thursday at general business.
Committee reports and government responses—Tabling and consideration

Senator Smith, 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 Smith.

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


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

Senator Ketter, at the request of the Chair of the Standing Committee for the Scrutiny of Bills (Senator Polley), tabled the following report:

Scrutiny of Bills—Standing Committee—Scrutiny digest 1 of 2018, dated 7 February 2018.

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

Senator Smith, at the request of the Chair of the Standing Committee on Regulations and Ordinances (Senator Williams), tabled the following report:


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

The Minister for Defence (Senator Payne) tabled the following documents:

Education and Employment References Committee—Government responses, dated February 2018—

Getting our money’s worth: the operation, regulation and funding of private vocational education and training (VET) providers in Australia—Report.

Technical and further education system in Australia—Report.

Committee membership

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

The Minister for Defence (Senator Payne), by leave, moved—that Senator Bartlett be appointed as a member of the Joint Standing Committee on Northern Australia.

Question put and passed.
Regional Investment Corporation Bill 2017

A message from the House of Representatives was reported agreeing to the amendments made by the Senate to the following bill:


Criminal Code Amendment (Impersonating a Commonwealth Body) Bill 2017

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

Message no. 299, dated 6 February 2018—A Bill for an Act to amend the Criminal Code, and for related purposes.

The Minister for Defence (Senator Payne) 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 Payne moved—that this bill be now read a second time.

On the motion of Senator Payne the debate was adjourned and the resumption of the debate made an order of the day for a later hour.

At 5.30 pm—

Valedictory statements

Pursuant to order, senators made statements relating to the retirement of Senator Brandis.

At 7.20 pm—

Adjournment

The President proposed the question—that the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 7.40 pm till Thursday, 8 February 2018 at 9.30 am.

Attendance

Present, all senators except Senators Bilyk*, Carr* and Sinodinos* (*on leave).

Richard Pye
Clerk of the Senate

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