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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 DOCUMENTS
The following documents were tabled pursuant to standing order 61(1)(b):
- Australian Communications and Media Authority (ACMA)—Communications report for 2015-16.

The following document was tabled by the Clerk 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.]


3 COMMITTEE—LEAVE TO MEET DURING SITTING
A committee was authorised to meet during the sitting of the Senate, as follows:
- Economics References Committee—private meeting otherwise than in accordance with standing order 33(1) today, from 4 pm, for the committee’s inquiry into Australia’s steel industry.

4 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION
Leave refused: The Attorney-General (Senator Brandis) sought leave to move a motion relating to the hours of meeting and routine of business for today. An objection was raised and leave was not granted.

Suspension of standing orders: Senator Brandis, pursuant to contingent notice, moved—That so much of the standing orders be suspended as would prevent a minister moving a motion to provide for the consideration of a matter, namely a motion to provide that a motion relating to the hours of meeting and routine of business for today may be moved immediately and determined without amendment or debate.

Debate ensued.
Question put.
The Senate divided—

AYES, 37

Senators—

Abetz
Back
Birmingham
Brandis
Burston
Bushby*
Canavan
Cash
Cormann
Culleton

Duniam
Fawcett
Fierravanti-Wells
Fifield
Griff
Hanson
Hinch
Hume
Kakoschke-Moore

Lambie
Leyonhjelm
Macdonald
McGrath
McKenzie
Nash
O’Sullivan
Parry
Paterson

Reynolds
Roberts
Ruston
Ryan
Scullion
Seselja
Sinodinos
Smith
Xenophon

NOES, 32

Senators—

Bilyk
Brown
Carr
Chisholm
Collins
Dastyari
Di Natale
Dodson

Farrell
Gallacher
Gallacher
Hanson-Young
Ketter
Kitching
Lines
Marshall

McAllister
McCearth
McKim
Moore
O’Neill
Polley
Pratt
Rhiannon

McErlane
Siewert
Sterle
Urquhart*
Waters
Watt
Whish-Wilson

* Tellers

Question agreed to.

Senator Brandis moved—That a motion relating to the hours of meeting and routine of business for today may be moved immediately and determined without amendment or debate.

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

Question—That the question be now put—put.

The Senate divided—

AYES, 37

Senators—

Abetz
Back
Birmingham
Brandis
Burston
Bushby*
Canavan
Cash
Cormann
Culleton

Duniam
Fawcett
Fierravanti-Wells
Fifield
Griff
Hanson
Hinch
Hume
Kakoschke-Moore

Lambie
Leyonhjelm
Macdonald
McGrath
McKenzie
Nash
O’Sullivan
Parry
Paterson

Reynolds
Roberts
Ruston
Ryan
Scullion
Seselja
Sinodinos
Smith
Xenophon
Question agreed to.

Question put and passed.

Senator Brandis moved—that today—

(a) the hours of meeting shall be 9.30 am to adjournment; and

(b) if by 12.45 pm the following bills have not been finally considered:

Building and Construction Industry (Improving Productivity) Bill 2013
Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016 (No. 2)
Passenger Movement Charge Amendment Bill (No. 2) 2016, then:

(i) the routine of business from not later than 7.20 pm shall be government business only, and

(ii) the Senate shall adjourn without debate after it has finally considered the bills listed above, or a motion for the adjournment is moved by a minister, whichever is the earlier.

Question put.

The Senate divided—

AYES, 37

Senators—

Abetz  Back  Birmingham  Brandis  Burstson  Bushby*  Canavan  Cash  Cormann  Culleton

Duniam  Fawcett  Fieravanti-Wells  Fifield  Griff  Hanson  Hinch  Hume  Kakoschke-Moore  

Lambie  Leyonhjelm  Macdonald  McGrath  McKenzie  Nash  O’Sullivan  Parry  Paterson  

Reynolds  Roberts  Ruston  Ryan  Scullion  Seselja  Sinodinos  Smith  Xenophon  

* Tellers

NOES, 32

Bilyk  Brown  Carr  Chisholm  Collins  Dustyari  Di Natale  Dodson

Farrell  Gallacher  Gallagher  Hanson-Young  Ketter  Kitching  Lines  Marshall

McAllister  McCarthy  McKim  Moore  O’Neill  Polley  Pratt  Rhiannon

Rice  Siewert  Sterle  Urquhart*  Waters  Watt  Whish-Wilson  Wong
Question agreed to.

5 BUILDING AND CONSTRUCTION INDUSTRY (IMPROVING PRODUCTIVITY) BILL 2013 BUILDING AND CONSTRUCTION INDUSTRY (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2013

Order of the day read for the further consideration of the bills in committee of the whole.

In the committee

Consideration resumed of the bills, as amended—and of the amendment moved by the Leader of Derryn Hinch’s Justice Party (Senator Hinch) in respect of the Building and Construction Industry (Improving Productivity) Bill 2013 (see entry no. 32, 29 November 2016).

Senator Hinch, by leave, amended the amendment to read as follows:

Clause 34, page 29 (before line 20), before subsection (3), insert:

(2E) If a document issued under subsection (1) includes requirements in relation to the content of building enterprise agreements, a building industry participant may, before 29 November 2018, submit expressions of interest, tender for and be awarded building work funded (whether directly or indirectly) by the Commonwealth or a Commonwealth authority even if a building enterprise agreement, made before the document is issued, that covers the building industry participant does not comply with any one or more of the requirements.

Note: However, a building enterprise agreement, made after the document is issued, that covers a building industry participant must comply with the requirements if the building industry participant is to tender for building work.

Debate ensued.

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

On the motion of Senator Xenophon, also on behalf of Senator Hinch, the following amendments in respect of the Building and Construction Industry (Improving Productivity) Bill 2013, taken together by leave, were debated and agreed to:

Clause 3, page 2 (line 16), after “productively”, insert “, without distinction between interests of building industry participants, and”.

Clause 3, page 3 (line 11), after “industry”, add “, including by encouraging youth employment with an emphasis on engaging apprentices”.

NOES, 32

Senators—

Bilyk              Farrell              McAllister              Rice
Brown             Gallagher            McCarthy              Siewert
Carr              Gallaher             McKim                 Sterle
Chisholm          Hanson-Young       Moore                 Urquhart*
Collins           Ketter              O’Neill               Waters
Dastyari          Kitching            Polley                Watt
Di Natale         Lines               Pratt                 Whish-Wilson
Dodson            Marshall            Rhiannon             Wong

* Tellers
Clause 4, page 4 (lines 5 to 7), omit “The ABC Commissioner, inspectors and Federal Safety Officers are given powers to obtain information. The ABC Commissioner can demand information by giving a person an examination notice.”, substitute “The ABC Commissioner, inspectors and Federal Safety Officers may obtain information. An examination notice, issued by a nominated AAT presidential member on application by the ABC Commissioner, may require a person to give information.”.

Clause 5, page 4 (before line 23), before the definition of ABC Commissioner, insert:

AAT presidential member means a person who is a presidential member of the Administrative Appeals Tribunal under the Administrative Appeals Tribunal Act 1975.

Clause 5, page 4 (line 28) to page 5 (line 5), omit the definition of assistant.

Clause 5, page 9 (line 10), omit “or an assistant”.

Clause 5, page 11 (after line 11), after the definition of lockout, insert:

nominated AAT presidential member means an AAT presidential member in respect of whom a nomination is in force under section 61A to issue examination notices under Part 2 of Chapter 7.

Clause 5, page 12 (after line 4), after the definition of protected person, insert:

quarter means a period of 3 months beginning on 1 July, 1 October, 1 January or 1 April.

Clause 19, page 22 (line 6), after “an inspector”, insert “who is an employee of the Commission”.

Clause 19, page 22 (line 7), after “acting SES employee”, insert “who is an employee of the Commission”.

Clause 19, page 22 (line 8), after “an SES employee)”, insert “who is an employee of the Commission and”.

Clause 19, page 22 (lines 10 and 11), omit “section 61 (ABC Commissioner may give examination notice)”, substitute “section 61B or 61F or subsection 61E(3) or (4) (examination notices)”.

Heading to clause 20, page 22 (line 27), omit the heading, substitute:

20 Quarterly and annual reports

Clause 20, page 22 (before line 28), before subclause (1), insert:

(1A) As soon as practicable after the end of each quarter of each financial year, the ABC Commissioner must prepare and give to the Minister a report on the performance of the ABC Commissioner’s functions and the exercise of the ABC Commissioner’s powers during that quarter.

Clause 20, page 22 (line 30), omit “the operations of the ABC Commissioner”, substitute “the performance of the ABC Commissioner’s functions and the exercise of the ABC Commissioner’s powers”.

Clause 20, page 22 (after line 30), at the end of subclause (1), add:

Note: See also section 34C of the Acts Interpretation Act 1901, which contains extra rules about annual reports.
Clause 20, page 22 (line 31) to page 23 (line 14), omit subclauses (2) and (3), substitute:

(2) A report under subsection (1A) or (1) must include:
   (a) details of:
       (i) the number, and type, of matters that were investigated by the ABC Commissioner during the quarter or year (as the case requires); and
       (ii) the cost, during that quarter or year, of each such investigation; and
   (b) details of assistance and advice provided during that quarter or year to building industry participants; and
   (c) details of the extent to which the Building Code was complied with during that quarter or year.

Note: See also section 107, which restricts the disclosure of personal information in a report.

(3) The report must also include:
   (a) details of directions given by the Minister during that quarter or year under section 17 or 18; and
   (b) details of delegations by the ABC Commissioner under section 19 during that quarter or year.

Clause 60, page 47 (lines 5 to 9), omit “The ABC Commissioner may require a person to give information, produce documents or answer questions relating to an investigation of a suspected contravention of this Act or a designated building law by a building industry participant. The Commissioner does this by giving a person an examination notice.”, substitute “A person may be required under an examination notice issued under Part 2 to give information, produce documents or answer questions relating to an investigation of a suspected contravention of this Act or a designated building law by a building industry participant. The notice is issued, on application by the ABC Commissioner, by a nominated AAT presidential member.”.

Clause 61, page 48 (line 3) to page 49 (line 18), omit the clause, substitute:

61A Minister may nominate AAT presidential members to issue examination notices

(1) The Minister may, by writing, nominate an AAT presidential member to issue examination notices under this Part.

(2) The Minister may nominate an AAT presidential member who is a Judge to issue examination notices under this Part only if the Judge has consented, by writing, to the nomination.

(3) A nomination ceases to have effect if:
   (a) the nominated AAT presidential member ceases to be an AAT presidential member; or
   (b) the Minister, by writing, withdraws the nomination.

(4) A nominated AAT presidential member has, in performing a function of or connected with issuing an examination notice under this Part, the same protection and immunity as a Justice of the High Court has in relation to proceedings in the High Court.
61B ABC Commissioner may apply to nominated AAT presidential member for examination notice

General requirements

(1) The ABC Commissioner may apply, in writing, to a nominated AAT presidential member for the issue of an examination notice referred to in subsection (2) if the ABC Commissioner believes on reasonable grounds that a person:
   (a) has information or documents relevant to an investigation by an inspector into a suspected contravention, by a building industry participant, of this Act or a designated building law; or
   (b) is capable of giving evidence that is relevant to such an investigation.

(2) The examination notice may require the person:
   (a) to give information to the ABC Commissioner; or
   (b) to produce documents to the ABC Commissioner; or
   (c) to attend before the ABC Commissioner and answer questions relevant to the investigation.

Form and content of application

(3) An application for an examination notice must:
   (a) if a form is prescribed by the regulations—be in that form; and
   (b) include any information prescribed by the regulations.

(4) An application for an examination notice must not relate to more than one person, but may relate to more than one investigation.

Application must be accompanied by affidavit

(5) An application for an examination notice must be accompanied by an affidavit by the ABC Commissioner including the following:
   (a) the name of the person to whom the application relates;
   (b) details of the investigation (or investigations) to which the application relates;
   (c) the grounds on which the ABC Commissioner believes the person has information or documents, or is capable of giving evidence, relevant to the investigation (or investigations) referred to in paragraph (b);
   (d) details of other methods used to attempt to obtain the information, documents or evidence;
   (e) the number (if any) of previous applications for an examination notice that the ABC Commissioner has made in relation to the person in respect of the investigation (or investigations) referred to in paragraph (b);
   (f) information about whether the ABC Commissioner has made, or expects to make, any other applications for an examination notice in relation to the investigation (or investigations) referred to in paragraph (b) and, if so, the persons to whom those applications relate.
Further information

(6) A nominated AAT presidential member to whom an application for an examination notice is made may request the ABC Commissioner to give the presidential member further information in relation to the application.

(7) If a request for further information is made under subsection (6), the ABC Commissioner must give the further information in writing as soon as practicable after receiving the request.

61C Issue of examination notice

(1) A nominated AAT presidential member to whom an application for an examination notice has been made must issue the examination notice if the presidential member is satisfied of the following:

(a) that an inspector has commenced the investigation (or investigations) to which the application relates;

(b) that there are reasonable grounds to believe that the person to whom the application relates has information or documents, or is capable of giving evidence, relevant to the investigation (or investigations);

(c) that any other method of obtaining the information, documents or evidence:
   (i) has been attempted and has been unsuccessful; or
   (ii) is not appropriate;

(d) that the information, documents or evidence would be likely to be of assistance in the investigation (or investigations);

(e) that, having regard to all the circumstances, it would be appropriate to issue the examination notice;

(f) any other matter prescribed by the regulations.

(2) A nominated AAT presidential member must not issue an examination notice except in the circumstances referred to in subsection (1).

(3) An examination notice must not be issued in relation to more than one person, but may be issued in relation to more than one investigation.

(4) If:

(a) an application for an examination notice is made in relation to more than one investigation; and

(b) the nominated AAT presidential member to whom the application is made is not satisfied of the matters referred to in subsection (1) in relation to each of those investigations;

the nominated AAT presidential member must issue the examination notice in relation to the investigation (or investigations) in relation to which the nominated AAT presidential member is satisfied of the matters referred to in subsection (1).

61D Form and content of examination notice

An examination notice must:

(a) if a form is prescribed by the regulations—be in that form; and

(b) if the notice requires a person to give information under paragraph 61B(2)(a) to the ABC Commissioner—specify the time by which, and the manner and form in which, the information is to be given; and
(c) if the notice requires a person to produce documents under paragraph 61B(2)(b) to the ABC Commissioner—specify the time by which, and the manner in which, the documents are to be produced; and

(d) if the notice requires a person to attend before the ABC Commissioner to answer questions relevant to an investigation—specify the time and place for the attendance; and

(e) be signed by the nominated AAT presidential member who issued it; and

(f) include any other information prescribed by the regulations.

Note: See also sections 62 (offence for failing to comply with examination notice), 79 (power to keep records or documents), 102 (self-incrimination) and 103 (protection from liability).

61E ABC Commissioner may give examination notice to person in relation to whom it is issued and vary time for compliance

ABC Commissioner may give examination notice to person in relation to whom it is issued

(1) If a nominated AAT presidential member issues an examination notice, the ABC Commissioner may give the notice to the person in relation to whom it is issued.

(2) If an examination notice is not given to the person in relation to whom it is issued within 3 months after the day on which it was issued, the notice ceases to have effect at the end of that period.

ABC Commissioner may vary time for compliance with examination notice

(3) If:

(a) the ABC Commissioner gives an examination notice to a person under subsection (1); and

(b) the time specified in the notice under paragraph 61D(b), (c) or (d) is not at least 14 days after the notice is given to the person;

the ABC Commissioner must, at the same time as the examination notice is given to the person, also give notice to the person of a time later than the time specified in the notice.

(4) The ABC Commissioner may, at any time after giving an examination notice to the person in relation to whom it is issued, give notice to the person of a time later than the time:

(a) specified in the notice under paragraph 61D(b), (c) or (d); or

(b) notified under subsection (3).

(5) A later time notified under subsection (3) or (4) must be at least 14 days after the examination notice is given to the person.

(6) If the person is notified of a later time under subsection (3) or (4), the examination notice has effect as if the later time (or the latest of those times) were the time specified in the examination notice.
61F Conduct of examination etc.

Application of section
(1) This section applies if a person is required by an examination notice to attend before the ABC Commissioner to answer questions relevant to an investigation.

ABC Commissioner to conduct examination
(2) The ABC Commissioner must conduct the examination of the person.

Representation by lawyer
(3) The person may, if he or she so chooses, be represented at the examination by a lawyer of the person’s choice.

Oath or affirmation
(4) The ABC Commissioner may require the information or answers given by the person at the examination to be verified by, or given on, oath or affirmation, and either orally or in writing. For that purpose, the ABC Commissioner may administer the oath or affirmation.

(5) The oath or affirmation is an oath or affirmation that information or answers are, or will be, true.

ABC Commissioner must not require person to give certain undertakings
(6) The ABC Commissioner must not require the person to undertake:
(a) not to disclose information or answers given at the examination; or
(b) not to discuss matters relating to the examination with any other person.

Note: A court may impose a maximum penalty of 30 penalty units instead of, or in addition to, a term of imprisonment. A body corporate that is convicted of an offence may be fined up to 5 times that maximum penalty (see subsections 4B(2) and (3) of the Crimes Act 1914).

Clause 62, page 49 (after line 31), at the end of the clause (after the penalty), add:

(2) This Part does not require a person to give information, produce a document or answer questions if to do so would disclose information that:
(a) is the subject of legal professional privilege; or
(b) would be protected by public interest immunity.

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

Clause 62, page 49 (line 28), omit “subsection 61(5)”, substitute “subsection 61F(4)”.
Clause 64, page 50 (lines 17 to 25), omit the clause, substitute:

64 ABC Commissioner must notify Commonwealth Ombudsman of issue of examination notice

(1) As soon as practicable after an examination notice has been issued, the ABC Commissioner must:
   (a) notify the Commonwealth Ombudsman that the examination notice has been issued; and
   (b) give the Commonwealth Ombudsman a copy of:
      (i) the examination notice; and
      (ii) the affidavit that accompanied the application for the examination notice; and
      (iii) any other information in relation to the examination notice that was given to the nominated AAT presidential member who issued the notice.

(2) If notice under subsection 61E(3) or (4) is given to a person, the ABC Commissioner must notify the Commonwealth Ombudsman as soon as practicable after giving notice.

Clause 65, page 51 (line 16), omit “and any assistant”, substitute “and any person assisting the ABC Commissioner”.

Clause 65, page 51 (lines 27 to 31), omit subclause (6), substitute:

(6) As soon as practicable after the end of each quarter of each financial year, the Commonwealth Ombudsman must prepare and present to the Parliament a report about examinations conducted during that quarter. The report must include the results of reviews conducted under this section during that quarter.

Clause 106, page 87 (line 23), omit “(annual reports)”, substitute “(quarterly and annual reports)”.

Clause 107, page 88 (line 26), omit “(annual reports)”, substitute “(quarterly and annual reports)”.

Clause 120, page 97 (before line 30), before paragraph (4)(a), insert:
   (aa) matters required or permitted by this Act to be prescribed by the regulations; or
   (ab) matters necessary or convenient to be prescribed for carrying out or giving effect to this Act; or

On the motion of Senator Xenophon, also on behalf of Senator Hinch, the following amendment in respect of the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 was debated and agreed to:

Schedule 2, page 13 (after line 14), after item 14, insert:

14A Continuation of nomination of AAT presidential members

(1) This item applies to a person if, immediately before the transition time, an instrument is in force under section 44 of the old Act nominating the person to issue examination notices under Division 3 of Part 1 of Chapter 7 of the old Act.

(2) The instrument has effect, after the transition time, as if it were an instrument made by the Minister under section 61A of the new Act nominating the person to issue examination notices under Part 2 of Chapter 7 of the new Act.
14B Preserving regulations relating to examination notices

Regulations made by the Governor-General for the purposes of a provision of the old Act referred to in column 1 of the table that are in force immediately before the transition time continue in force after that time as if the regulations were rules made by the Minister for the purposes of the provision of the new Act referred to in column 2 of the table.

<table>
<thead>
<tr>
<th>Item</th>
<th>Column 1 Old Act</th>
<th>Column 2 New Act</th>
</tr>
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<tbody>
<tr>
<td>1</td>
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<td>Subsection 61B(3)</td>
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<td>2</td>
<td>Paragraph 47(1)(g)</td>
<td>Paragraph 61C(1)(f)</td>
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<tr>
<td>3</td>
<td>Paragraphs 48(a) and (f)</td>
<td>Paragraphs 61D(a) and (f)</td>
</tr>
</tbody>
</table>

On the motion of Senator Xenophon, also on behalf of Senator Hinch, the following amendments in respect of the Building and Construction Industry (Improving Productivity) Bill 2013, taken together by leave, were debated and agreed to:

Clause 16, page 20 (line 11), before “The ABC Commissioner”, insert “(1)”.

Clause 16, page 20 (before line 12), before paragraph (a), insert:
   (aa) promoting the main object of this Act (see section 3);

Clause 16, page 20 (after line 20), after paragraph (b), insert:
   (ba) ensuring building employers and building contractors comply with their obligations under this Act, designated building laws and the Building Code;

Clause 16, page 21 (after line 7), at the end of the clause, add:
   (2) In performing the functions referred to in subsection (1), the ABC Commissioner must ensure that the policies and procedures adopted and resources allocated for protecting and enforcing rights and obligations arising under this Act, designated building laws and the Building Code are, to the greatest extent practicable having regard to industry conditions based on complaints received by the ABC Commissioner, applied in a reasonable and proportionate manner to each of the categories of building industry participants.

Clause 20, page 23 (line 7), omit “year.”, substitute “year; and”.

Clause 20, page 23 (after line 7), at the end of subclause (2) (before the note), add:
   (d) details of:
      (i) the number, and type, of matters that were investigated by the ABC Commissioner during that quarter or year in relation to building employers; and
      (ii) the cost, during that quarter or year, of each such investigation; and
   (e) details of the following, both in total and in relation to each category of building industry participant:
      (i) the number of proceedings commenced in accordance with this Act in that quarter or year;
      (ii) the cost, during that quarter or year, of those proceedings (including legal expenses); and
(f) details of the number, and total cost, of such proceedings finalised in that quarter or year; and
(g) details of the legal expenses incurred during that quarter or year as a result of enforcement action undertaken by the ABC Commissioner; and
(h) details of industry conditions, during that quarter or year, based on complaints received by the ABC Commissioner during that quarter or year; and
(i) details of activities that the ABC Commissioner has undertaken during that quarter or year to monitor the compliance of products used in building work with relevant Australian standards published by, or on behalf of, Standards Australia; and
(j) details of the number, and type, of matters for which examination notices were issued under this Act.

Clause 21, page 23 (line 31), omit “character.”, substitute “character; and”.
Clause 21, page 23 (after line 31), at the end of subclause (3), add:
(c) will uphold the APS Values set out in section 10 of the Public Service Act 1999, including by performing his or her functions in an apolitical manner and acting impartially and professionally.

Clause 28, page 25 (line 29), omit “incapacity.”, substitute “incapacity; or”.
Clause 28, page 25 (after line 29), at the end of subclause (1), add:
(c) if the Commissioner fails to perform his or her functions with impartiality as between all categories of building industry participants.

Senator Cameron moved the following amendment in respect of the Building and Construction Industry (Improving Productivity) Bill 2013:

Clause 34, page 29 (after line 29), at the end of the clause, add:

(4) Provisions of the Building Code that are inconsistent with the operation of Part 2-4 of the Fair Work Act 2009 have no effect to the extent of the inconsistency.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 33

Senators—

Question negatived.

Question—That the bills, as amended, be agreed to—put.

The committee divided—

AYES, 36

Senators—

Abetz
Back
Birmingham
Burston
Bushby
Canavan
Cash
Cormann
Culleton

Duniam
Fawcett*
Fierravanti-Wells
Fifield
Griff
Hanson
Hinch
Hume
Kakoschke-Moore

Leyonhjelm
Macdonald
McGrath
McKenzie
Nash
O’Sullivan
Parry
Paterson
Reynolds

Roberts
Ruston
Ryan
Scullion
Seselja
Sinodinos
Smith
Williams
Xenophon

* Tellers

NOES, 33

Senators—

Brown
Cameron
Carr
Chisholm
Collins
Dastyari
Di Natale
Dodson
Farrell

Gallacher
Gallagher
Hanson-Young
Ketter
Kitching
Lambe
Lines
Marshall

McAllister
McCarthy
McKim
Moore
O’Neill
Polley
Pratt
Rhiannon

Rice
Siewert
Sterle
Urquhart*
Waters
Watt
Whish-Wilson
Wong

* Tellers

Question agreed to.

Bills to be reported with amendments.

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

On the motion of the Minister for Employment (Senator Cash) the report from the committee was adopted.

Senator Cash moved—That these bills be now read a third time.

Question put.
The Senate divided—

AYES, 36

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NOES, 33

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* Tellers

Question agreed to.

Bills read a third time.

6 CONSIDERATION OF LEGISLATION

The Minister for Finance (Senator Cormann), at the request of the Assistant Minister to the Prime Minister (Senator McGrath) and pursuant to notice, moved government business notice of motion no. 1—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016 (No. 2)

Passenger Movement Charge Amendment Bill (No. 2) 2016.

Question put and passed.

7 INCOME TAX RATES AMENDMENT (WORKING HOLIDAY MAKER REFORM) BILL 2016 (NO. 2)

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


The Minister for Finance (Senator Cormann) 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 Cormann moved—That this bill be now read a second time.

Debate ensued.
Senator Whish-Wilson moved the following amendment:

At the end of the motion, add “but the Senate is of the opinion that the increase in the tax payable on superannuation to 95 per cent which is contained in the Superannuation (Departing Australia Superannuation Payments Tax) Amendment Bill 2016 should not be proceeded with”.

Debate ensued.

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 Gallagher moved the following requests for amendments together by leave:

That the House of Representatives be requested to make the following amendments:

Schedule 1, item 6, page 5 (line 15) omit “15%”, substitute “10.5%”.

Schedule 1, item 7, page 5 (table item 1), omit “15%”, substitute “10.5%”.

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

Question—That the question be now put—put.

The committee divided—

AYES, 35

Senators—

Bilyk*  Brown  Cameron  Carr  Chisholm  Collins  Culleton  Dustyari  Di Natale

Dodson  Farrell  Gallagher  Gallagher  Hanson-Young  Hinch  Ketter  Kitching  Lambie

Leyonhjelm  Lines  McAllister  McCarthy  McKim  Moore  O’Neill  Pratt  Rhiannon

Rice  Stiewert  Sterle  Urquhart  Watts  Whish-Wilson

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

Question—That the question be now put—put.

The committee divided—

AYES, 35

Senators—

Abetz  Back  Birmingham  Burston  Bushby  Canavan  Cash  Cormann

Duniam  Fawcett*  Fitfield  Griff  Hanson  Hume  Kakoschke-Moore  Macdonald

McGrath  McKenzie  Nash  O’Sullivan  Parry  Paterson  Reynolds  Roberts

Ruston  Ryan  Scullion  Seselja  Sinodinos  Smith  Williams  Xenophon

NOES, 32

* Tellers

Question agreed to.

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

AYES, 35

Senators—

Bilyk*  Dodson  Leyonhjelm  Rice
Brown  Farrell  Lines  Siewert
Cameron  Gallacher  McAllister  Sterle
Carr  Gallacher  McCarthy  Urquhart
Chisholm  Hanson-Young  McKim  Waters
Collins  Hinch  Moore  Watt
Culleton  Ketter  O’Neill  Whish-Wilson
Dastyari  Kitching  Pratt  Wong
Di Natale  Lambie  Rhiannon

NOES, 32

Senators—

Abetz  Daniam  McGrath  Ruston
Back  Fawcett*  McKenzie  Ryan
Birmingham  Fifield  Nash  Scullion
Burston  Griff  O’Sullivan  Seselja
Bushby  Hanson  Parry  Sinodinos
Canavan  Hume  Paterson  Smith
Cash  Kakoschke-Moore  Reynolds  Williams
Cormann  Macdonald  Roberts  Xenophon

* Tellers

Question agreed to.
Bill agreed to, subject to requests.
Bill to be reported with requests for amendments.

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

On the motion of Senator Cormann the report from the committee was adopted.

8 Passenger Movement Charge Amendment Bill (No. 2) 2016

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


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

Question put.
The Senate divided—

AYES, 33

Senators—

Abetz
Back
Birmingham
Burston
Bushby
Canavan
Cash
Cormann
Culleton
Duniam  Fawcett  McGrath  Macdonald  Roberts
Fifth  Griff  McKenziel*  Nash  Ruston
Hanson  Hinch  O’Sullivan  Parry  Scullion
Hume  Kakoschke-Moore  Paterson  Williams

NOES, 32

Senators—

Bilyk*
Brown
Cameron
Carr
Chisholm
Collins
Dustyari
Di Natale
Dodson  Farrell  Gallacher  Gallagher  Hanson-Young  Ketter  Kitching  Lambie
Leyonhjelm  Lines  Marshall  McAllister  McCarthy  McKim  O’Neill  Polley
Rice  Siewert  Sterle  Urquhart  Watts  Whish-Wilson

* Tellers

Question agreed to.

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 Senator Cormann the bill was read a third time.

9 VET STUDENT LOANS BILL 2016

VET STUDENT LOANS (CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS) BILL 2016

VET STUDENT LOANS (CHARGES) BILL 2016

Order of the day read for the adjourned debate on the motion of the Minister for International Development and the Pacific (Senator Fierravanti-Wells)—That these bills be now read a second time—and on the amendments moved by Senator Hanson-Young in respect of the VET Student Loans Bill 2016:

No. 1—At the end of the motion, add “but the Senate is of the view that public funds should not be provided to private for-profit vocational education and training providers”.

No. 2—At the end of the motion, add “but the Senate calls on the Government to recognise the importance of the Australian arts industry and community by giving greater representation to artistic and creative courses on the VET student loans eligible course list”.

Debate resumed.

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

Question—That amendment no. 1 be agreed to—put.
The Senate divided—

AYES, 8

Senators—

Di Natale
Hanson-Young
McKim
Rhiannon
Rice
Siewert*
Waters
Whish-Wilson

NOES, 47

Senators—

Bilyk
Birmingham
Brown
Burston
Bushby
Cameron
Collins
Cormann
Culleton
Dodson
Duniam
Farrell
Fawcett
Fierravanti-Wells
Fifield
Gallacher
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Griff
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O’Neill
O’Sullivan
Parry
Paterson
Polley
Pratt
Reynolds
Roberts
Ruston
Seselja
Sinodinos
Sterle
Urquhart*
Williams
Xenophon

* Tellers

Question negatived.

Question—That amendment no. 2 be agreed to—put and passed.

Main question, as amended, put and passed.

Bills read a second time.

After 12.45 pm—

10 SENATORS’ STATEMENTS

Senators made statements.

At 2 pm—

11 QUESTIONS

Questions without notice were answered.

12 MOTIONS TO TAKE NOTE OF ANSWERS

Senator Farrell moved—That the Senate take note of the answers given by the Minister for Resources and Northern Australia (Senator Canavan) and the Minister for Employment (Senator Cash) to questions without notice asked by Senators Gallacher and Cameron today relating to the Murray-Darling Basin Plan and to labour market testing.

Debate ensued.

Question put and passed.

Senator Waters moved—That the Senate take note of the answer given by the Attorney-General (Senator Brandis) to a question without notice asked by Senator Waters today relating to the Great Barrier Reef.

Question put and passed.
13 NOTICES

Senators Smith, Pratt and Rice: To move on the next day of sitting—That the Senate—
(a) notes that:
   (i) 1 December 2016 is World AIDS Day, which is held every year to raise awareness about the issues surrounding HIV and AIDS, and is a day for people to show their support for people living with HIV and to remember those who have died,
   (ii) the aim of World AIDS Day 2016 is to encourage Australians to educate themselves and others about HIV, to take action to reduce the transmission of HIV by promoting prevention strategies, and to ensure that people living with HIV can participate fully in the life of the community, free from stigma and discrimination,
   (iii) while significant advancements in treatment and diagnosis have been made, 30 years after the discovery of the HIV virus the HIV epidemic remains one of the greatest public health challenges facing Australia, its region and the world, and
   (iv) Australia’s response to HIV and AIDS has always been driven by strong multi-party support and rigorously based on science and evidence;
(b) reaffirms the united support for the Seventh National HIV Strategy in setting the direction for Australia to reverse the increasing trend of new HIV diagnoses and working towards the virtual elimination of HIV transmission by 2020;
(c) welcomes the commitment by all state and territory governments to work with the Australian Government in the development of the Eighth National HIV Strategy; and
(d) welcomes the pledge by the Australian Government for an additional $220 million to the Global Fund to Fight AIDS, Tuberculosis and Malaria at the Fifth Replenishment meeting in Montreal, Canada. (general business notice of motion no. 152)

Senator Whish-Wilson: To move on the next day of sitting—That the Senate—
(a) notes that:
   (i) Australia successfully pursued legal action in the International Court of Justice (ICJ) against the Japanese Southern Ocean whaling program, JARPA II,
   (ii) the Federal Court of Australia found the Kyodo whaling company guilty of contempt relating to illegal whaling in the Australian Whale Sanctuary, and the company was issued a fine of $1 million,
   (iii) Japan has subsequently pulled out of the ICJ jurisdiction in relation to whaling, and has restarted a new whaling program, NEWREP-A,
   (iv) the NEWREP-A whaling fleet left port in Japan on 18 November 2016 to hunt 333 minke whales from the Southern Ocean, and
   (v) a recent poll found that 75 per cent of Australians supported sending a patrol boat to monitor this whaling activity;
(b) calls upon the Government to send a patrol vessel to the Southern Ocean over the coming summer to monitor whaling activity and to collect further evidence for additional international legal action; and
(c) condemns the Japanese Government for flouting international law by recommencing illegal whaling activity in the Southern Ocean. (general business notice of motion no. 153)
Senators O’Sullivan, Williams and McKenzie: To move on the next day of sitting—
That the Senate

(a) supports the 44 000 workers directly employed by the coal industry;
(b) recognises that the forced closure of coal-fired power stations would increase the living expenses of Australian families through increased electricity prices;
(c) acknowledges that the forced closure of coal-fired power stations would jeopardise Australia’s energy security and put thousands of jobs at risk in our manufacturing sector, which relies on access to cheap and affordable power;
(d) acknowledges that coal is an affordable, abundant and increasingly clean domestic energy resource that is vital to providing reliable low-cost electricity, and that it will continue to be integral to Australia; and
(e) supports technology neutral policies that deliver emission reduction targets.

(General business notice of motion no. 154)

Senator Gallagher: To move on the next day of sitting—That the following matter be referred to the Economics References Committee for inquiry and report by 22 March 2017:

The impact of non-payment of the Superannuation Guarantee (SG), with particular reference to:

(a) the economic impact on:
   (i) workers, their superannuation balances, and retirement incomes,
   (ii) competitive neutrality among employers, and
   (iii) government revenue, including forgone superannuation contributions, earnings taxes, and SG charge penalties, over both the forward estimates and the medium term;
(b) the accuracy and adequacy of:
   (i) information and data collected by the Australian Taxation Office (ATO), the Australian Prudential Regulation Authority and the Australian Securities and Investments Commission on SG non-payment,
   (ii) information and data collected by other agencies, such as the Fair Work Ombudsman, on SG non-payment, and
   (iii) any legislative, privacy, or other reporting barriers preventing the collection of accurate information and data on SG non-payment;
(c) the role and effectiveness of:
   (i) the ATO monitoring, investigations, and recovery of unpaid SG, including technology and data collection to predict and prevent non-payment,
   (ii) resources and coordination between government agencies and other stakeholders to prevent non-payment,
   (iii) legislation and penalties to ensure timely and fair payment of SG,
   (iv) superannuation funds in detecting and recovering unpaid SG,
   (v) employment and contracting arrangements, including remedies to recoup SG in the event of company insolvency and collapse, including last resort employee entitlement schemes, and
   (vi) measures to improve compliance with the payment of SG;
(d) the appropriateness of responses by:
   (i) the ATO receiving complaints and ‘tip-offs’ about SG non-payment,
(ii) members of Parliament asked to assist and support constituents who have been impacted by SG non-payment, and

(iii) accountants, auditors, creditors and financial institutions who become aware of SG non-payment; and

(e) any other related matters.

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

(a) notes the many pieces of legislation arising from the 2014-15 and 2015-16 Budgets that would create greater income inequality in Australia that have been previously rejected, and will not secure passage through this Senate;

(b) requests the Government to withdraw these previously rejected budget measures from the Mid-year Economic and Fiscal Outlook so as to more accurately represent the true fiscal position of the Commonwealth; and

(c) instructs the Government that, in its preparations for the 2017-18 Budget, this Senate resolves that, for the duration of the 45th Parliament, any proposed measures which further attack the most vulnerable Australians, increase their disadvantage or social exclusion, or disproportionately benefit the highest income Australians, will not pass into law. (general business notice of motion no. 155)

Senator Kakoschke-Moore: To move on the next day of sitting—That the Senate—

(a) congratulates the Honourable Justice Kiefel on her appointment as Chief Justice of the High Court of Australia;

(b) notes that:

(i) Justice Kiefel became the first woman in Queensland to be appointed Queen’s Counsel in 1987,

(ii) Justice Kiefel is the first female appointed to the highest judicial office in Australia,

(iii) Justice Kiefel’s legal career serves as an inspiration to aspiring women lawyers across Australia,

(iv) the gender profile of the legal profession is becoming more gender balanced with female solicitors making up 48.5 per cent of the profession on the most recent figures from the National Profile of Solicitors 2014,

(v) more females are entering the profession, with an increase of 19.3 per cent on previous 2011 figures,

(vi) whilst women are entering the profession in greater numbers than men, the gender profile of the profession overall remains weighted towards male lawyers, particularly in senior positions, and

(vii) data from the Australian Bureau of Statistics, from August 2015, reveals that women are under-represented in the judiciary with 65.4 per cent of Commonwealth judges and magistrates being men; and

(c) calls on the Government to continue to develop strategies to promote women in leadership roles, including in the legal profession. (general business notice of motion no. 156)

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

(a) notes that a recent poll in The Mercury newspaper found strong public support for light rail in Hobart;
(b) notes the significant benefits of light rail in Hobart, including:
   (i) the reduction in greenhouse gas and particulate emissions,
   (ii) the reduction in traffic congestion and associated improvements in amenity and productivity,
   (iii) the increase in value of property along and around the rail corridor,
   (iv) the opportunities for business growth along and around the rail corridor,
   (v) incentivising infill developments to limit urban sprawl, and
   (vi) the benefit to Tasmania’s tourism industry of a direct rail link between Hobart and MONA; and

(c) supports light rail for Hobart. (general business notice of motion no. 157)

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

(a) notes that:
   (i) 1 December is West Papuan National Flag Day, commemorating the day in 1961 when the New Guinea Council – West Papua’s Parliament under Dutch colonial rule – raised the Morning Star flag for the first time, signalling the Netherlands’ recognition of West Papua’s statehood,
   (ii) since Indonesia formally annexed West Papua in 1969, West Papuans have been waiting for the opportunity to determine their own future, having been denied the right to self-determination,
   (iii) the human rights situation in West Papua continues to be deeply troubling, with 4,000 arrests of non-armed citizens in 2016 alone, and
   (iv) Indonesian Defence Minister, Mr Ryamizard Ryacudu, recently stated that Indonesia had asked Australia to urge our Pacific Island neighbours to withdraw support for West Papuan membership of the Melanesian Spearhead Group; and

(b) urges the Australian Government to:
   (i) encourage the Indonesian President, Mr Joko Widodo, to fulfil the commitments he has made in relation to West Papua since his election, including his commitment to releasing all political prisoners, and his promise to seek justice for the five young people shot dead on 8 December 2014 in the town of Enarotali while peacefully protesting,
   (ii) call for the removal of untenable barriers to media access and academic research in West Papua, including lengthy waits for visas,
   (iii) clarify that the recent improvement in bilateral relations between Australia and Indonesia is not predicated on Australian support for Indonesia’s position on West Papua, including Australia’s silence on human rights violations committed there, and
   (iv) confirm that the Government has not agreed to encourage members of the Melanesian Spearhead Group, particularly current chair Solomon Islands, to withdraw support for West Papuan membership of that group. (general business notice of motion no. 158)

Senator McAllister, the Leader of the Opposition in the Senate (Senator Wong) and Senators Farrell and Gallacher: To move on the next day of sitting—That the Senate—

(a) recognises the achievement of the Murray-Darling Basin Plan as a historically unprecedented way forward to deliver a healthy, working river system;
(b) notes the importance of the Basin Plan in supporting the economic and social needs of river communities, and maintaining the health of important ecosystems requiring water flows; and

(c) condemns attempts to undermine the Basin Plan for political gain. (general business notice of motion no. 159)

The Leader of Derryn Hinch’s Justice Party (Senator Hinch): To move on the next day of sitting—That the Senate notes that—

(a) seventeen children in the care of the Department of Health and Human Services in Victoria died between July and September this year;
(b) six children who were Department of Health and Human Services clients in Victoria were killed by ‘non-accidental trauma’ last year; and
(c) outsourcing the care and welfare of our most vulnerable children should be reviewed. (general business notice of motion no. 160)

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

(a) notes that:

(i) Regional Forest Agreements (RFAs) have been in place as 20-year agreements, designed to manage the conservation and forestry industry considerations for key areas of Australia’s public native forests,
(ii) the first RFA, the East Gippsland RFA, expires in February 2017,
(iii) the existing RFAs are now out of date and need to be reconsidered to support conservation goals and the impacts and mitigation of climate change – RFAs have exemptions from the Environment Protection and Biodiversity Conservation Act 1999, and these exemptions need to be reviewed in light of key threatened and endangered species living within the designated areas,
(iv) the required RFA reviews have not been completed, or not completed on time, for the RFAs in place – the review process was designed to improve the operation of RFAs but significant delays and deficiencies in reviews have hampered such improvements, and
(v) during the period since the establishment of the RFAs, the context and conditions informing each has changed significantly – these factors include climate change, bushfire and markets for wood products; and

(b) calls on the Government to adopt forest management policies which ensure that the social, environmental and economic values of forests are effectively protected and managed for future generations. (general business notice of motion no. 161)

Senator Xenophon: To move on the next day of sitting—

(1) That a joint select committee, to be known as the Joint Select Committee on Government Procurement, be established to inquire and report by 31 May 2017 on the following matters:

(a) the Commonwealth procurement framework;
(b) consideration of the Commonwealth Procurement Rules to come into force on 1 March 2017 (CPR17) and, in particular:

(i) clauses 10.10, 10.18, 10.30, 10.31 and 10.37 (the ‘new clauses’),
(ii) how the new clauses can most effectively be implemented,

(iii) weighting and other mechanisms that should apply to any Commonwealth procurement decision making, taking into account CPR17, and
(iv) its interaction with any other Government policies and programs (including grants), instruments, guidelines and documents relating to procurement, including the Department of Finance’s Resource Management Guide No. 415;

(c) the extent to which CPR17 and any related instrument and rules can be affected by trade agreements and other World Trade Organization (WTO) agreements, including:

(i) existing trade agreements Australia has entered into, and

(ii) trade agreements that the Commonwealth Government is currently negotiating, including the WTO Agreement on Government Procurement; and

(d) any related matters.

(2) That the committee consist of 10 members, 2 members of the House of Representatives to be nominated by the Government Whip or Whips, 2 members of the House of Representatives to be nominated by the Opposition Whip or Whips, 1 member of the House of Representatives to be nominated by any minority party or independent member, 2 senators to be nominated by the Leader of the Government in the Senate, 2 senators to be nominated by the Leader of the Opposition in the Senate and 1 senator to be nominated by any minority party or independent senator.

(3) That participating members may be appointed to the committee, may participate in hearings of evidence and deliberations of the committee, and have all the rights of a member of the committee, but may not vote on any questions before the committee.

(4) That every nomination of a member of the committee be notified in writing to the President of the Senate and the Speaker of the House of Representatives.

(5) That the members of the committee hold office as a joint standing committee until the House of Representatives is dissolved or expires by effluxion of time.

(6) That the committee elect as its chair a member nominated by the Leader of the Government in the Senate.

(7) That the committee elect a non-Government member as its deputy chair who shall act as chair of the committee at any time when the chair is not present at a meeting of the committee, and at any time when the chair and deputy chair are not present at a meeting of the committee the members present shall elect another member to act as chair at that meeting.

(8) That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, has a casting vote.

(9) That 3 members of the committee constitute a quorum of the committee, provided that in a deliberative meeting the quorum shall include 1 Government member of either House and 1 non-Government member of either House.

(10) That the committee have power to appoint subcommittees consisting of 3 or more of its members, and to refer to any subcommittee any matter which the committee is empowered to examine.

(11) That the committee appoint the chair of each subcommittee who shall have a casting vote only, and at any time when the chair of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chair at that meeting.
(12) That 2 members of a subcommittee constitute a quorum of that subcommittee, provided that in a deliberative meeting the quorum shall include 1 Government member of either House and 1 non-Government member of either House.

(13) That members of the committee who are not members of a subcommittee may participate in the proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum.

(14) That the committee or any subcommittee have power to call for witnesses to attend and for documents to be produced.

(15) That the committee or any subcommittee have power to conduct proceedings at any place it sees fit and sit in public or private.

(16) That the committee or any subcommittee have power to adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives.

(17) That the committee may report from time to time, but that it present its final report no later than 31 May 2017.

(18) That the provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

(19) That a message be sent to the House of Representatives seeking its concurrence in this resolution. (general business notice of motion no. 162)

Senators Culleton and Lambie: To move on the next day of sitting—That—

(a) the Senate notes that:

(i) on 25 November 2016, solicitors on behalf of the Commonwealth Attorney-General filed a Statement of Agreed Facts in the High Court sitting as the Court of Disputed Returns in the matter of Re Rodney Culleton,

(ii) paragraph 1 of the Statement of Agreed Facts includes the following statement: the Magistrate in convicting Senator Culleton as an absent offender was precluded by section 25 of the Crimes (Sentencing Procedure) Act 1999 (NSW) from making an order for a sentence of imprisonment, and

(iii) the facts set out above and agreed by solicitors acting on behalf of the Commonwealth Attorney-General were not before the Senate on Monday, 7 November 2016 when it considered the motion moved by Senator Brandis to refer the matter to the High Court under section 378 of the Commonwealth Electoral Act 1908;

(b) the Senate calls on the Attorney-General (Senator Brandis) to attend the chamber and clarify this matter; and

(c) at the conclusion of the explanation any senator may move to take note of the explanation. (general business notice of motion no. 163)

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

(a) notes that people with disability face many barriers to finding and maintaining secure work and are poorly represented in the workforce;

(b) acknowledges that the report of the Australian Council of Social Service, Poverty in Australia 2016, reported 510,900 adults with a disability were living below the poverty line in 2013-14, not including people with disability with core activity limitation, and that, in 2014, 36.2 per cent of Disability Support Pension recipients were living below the poverty line; and
(c) calls on the Government to abandon its attacks on supports for people with disability, including moving people with disability off the Disability Support Pension and making access to the mobility allowance tougher. (general business notice of motion no. 164)

Senator McKim: To move on the next day of sitting—That the Senate—
(a) supports the right to peaceful protest in Australia;
(b) congratulates and thanks the protestors who, on 30 November 2016, expressed their views in the gallery of the House of Representatives, otherwise known as the People’s House; and
(c) calls on the Government to close the immigration camps on Manus Island and Nauru. (general business notice of motion no. 165)

Documents: The President tabled the following documents:

The President: To move on the next day of sitting—That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal for work in the Parliamentary Zone, namely: Parliament House Security Upgrade Works – Perimeter Security Enhancements. (general business notice of motion no. 166)

14 POSTPONEMENTS
The Chair of the Environment and Communications References Committee (Senator Waters), by leave, moved—That business of the Senate notice of motion no. 4 standing in her name for today, proposing a reference to the Environment and Communications References Committee, be postponed till 8 February 2017.
Question put and passed.
Business was postponed as follows:
General business notice of motion no. 145 standing in the names of Senators Gallagher and Culleton for today, relating to a Royal Commission into the banking and financial services industry, postponed till 1 December 2016.
General business notice of motion no. 150 standing in the names of Senators Culleton and Lambie for today, relating to judicial processes, postponed till 1 December 2016.

15 ENVIRONMENT AND COMMUNICATIONS REFERENCES COMMITTEE—REFERENCES
Senator Siewert, also on behalf of the Chair of the Environment and Communications References Committee (Senator Waters), pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 1—That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 21 March 2017:
The Commonwealth’s responsibility under the Environment Protection and Biodiversity Conservation Act 1999 to protect the globally significant and National Heritage listed Aboriginal rock art of the Burrup Peninsula in Western Australia, with particular reference to:
(a) the total industrial pollution load from existing industrial activities and port zone on the Burrup Peninsula in Western Australia, and its existing impacts on Aboriginal rock art;
(b) the projected additional pollution load from the Yara Pilbara Fertilisers Pty Ltd ammonium nitrate plant, including the likely impacts on the Aboriginal rock art, human health and the environment;

(c) the accuracy and adequacy of reports used by the Western Australian and Commonwealth governments when setting the relevant technical, environmental and cultural conditions regulating the construction and operation of the Yara Pilbara Fertilisers Pty Ltd ammonium nitrate plant in an area of highly significant Aboriginal rock art;

(d) the rigour and adequacy of the monitoring, analysis, compliance and enforcement performed by the Western Australian and Commonwealth government agencies in carrying out their legislated responsibilities in overseeing industries on the Burrup Peninsula;

(e) the projected level of fugitive gas and nitric acid leaks from the Yara Pilbara fertiliser and ammonium nitrate plants, their effects on human health, likely effects on rock art and the general environment, and the adequacy of the company responses;

(f) the failure by Yara Pilbara Fertilisers Pty Ltd, the Western Australian Government or the Federal Government to include risk analysis of establishing an ammonium nitrate plant in close proximity to the rock art, a gas hub and major port and in a cyclone surge zone;

(g) the adequacy of the Yara Pilbara plans to protect the communities of Dampier and Karratha and the rock art sites from the consequences of any explosion caused by ‘sympathetic detonation’ or other factors, including the ability to douse the nitrate stores with sufficient water to prevent a spontaneous explosion; and

(h) any related matters.

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

Question put and passed.

Senator Whish-Wilson amended business of the Senate notice of motion no. 2 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the following matters be referred to the Environment and Communications References Committee for inquiry and report by 30 June 2017:

The efficacy and regulation of shark mitigation and deterrent measures, with particular reference to:

(a) research into shark numbers, behaviour and habitat;

(b) the regulation of mitigation and deterrent measures under the Environment Protection and Biodiversity Conservation Act 1999, including exemptions from a controlled action under section 158;

(c) the range of mitigation and deterrent measures currently in use;

(d) emerging mitigation and deterrent measures;

(e) bycatch from mitigation and deterrent measures;

(f) alternatives to currently employed mitigation and deterrent measures, including education;

(g) the impact of shark attacks on tourism and related industries; and

(h) any other relevant matters.

Question put and passed.
16 **ENVIRONMENT—QUEENSLAND—GREAT BARRIER REEF**

Senator Waters amended general business notice of motion no. 141 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

(a) notes that:
   (i) the study by the ARC Centre of Excellence for Coral Reef Studies published this week shows that 67 per cent of corals in a 700 km swathe of reefs in the northern region of the Great Barrier Reef have died after the reef’s worst ever mass bleaching event,
   (ii) mass coral bleaching is worsened by human-induced global warming,
   (iii) Climate Action Tracker has assessed Australia’s climate pollution reduction targets and clean energy policies as ‘inadequate’ to meet our fair share of action to stop dangerous global warming, and
   (iv) the latest government figures show that Australia’s climate pollution is increasing rather than decreasing; and

(b) calls on the Government to save the Great Barrier Reef, and the communities and workers which rely on its health, and help stop dangerous global warming by taking rapid action to cut pollution and build clean energy.

*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 **HEALTH—DENTAL SERVICES—FUNDING**

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. 143—That the Senate—

(a) recognises that:
   (i) the cost of visiting a dentist has been consistently shown to create a significant barrier for Australians seeking dental care, particularly for those experiencing the greatest disadvantage, and
   (ii) poor oral health has significant health impacts, including increasing the risk of heart disease and stroke;

(b) notes the:
   (i) impending expiry, on 31 December 2016, of funding to the states and territories for public dental services via the National Partnership Agreement on Adult Public Dental Services, and
   (ii) Government’s failure to outline an alternative plan to ensure that this funding does not dry up – putting patients at risk; and

(c) calls on the Government to:
   (i) urgently put in place arrangements to ensure that the crucial funding to states and territories for public dental services is maintained beyond 31 December 2016, and
   (ii) end its attack on public dental services by finally giving up on its failed plan to cut the Child Dental Benefits Schedule, which provides Medicare-funded dental care to children in lower income families.

Question put and passed.
18 **DEFENCE—FIREFIGHTING FOAM CONTAMINATION**

Senator Rhiannon amended general business notice of motion no. 144 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

(a) notes that:

(i) the chemical contamination on and around Defence, airport and firefighter training sites across Australia of per- and poly-fluorooalkyl substances (PFAS), resulting from the use of legacy firefighting foams, is a national environmental, economic and workplace safety issue,

(ii) preliminary tests conducted at 12 investigation sites around the country detected PFAS at every site, and PFAS levels exceeding interim standards at three sites,

(iii) it has been three weeks since the Department of Defence released the preliminary investigation report, and

(iv) the Turnbull Government has not yet commented on the report; and

(b) calls on the Government to:

(i) urgently consult with all residents living in and around every investigation site, and

(ii) urgently consult with all workers, including former workers, who have been exposed to PFAS through the use of firefighting foams.

*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.

19 **EXPOSURE DRAFT OF THE MARRIAGE AMENDMENT (SAME-SEX MARRIAGE) BILL—SELECT COMMITTEE—APPOINTMENT**

Senator Pratt, also on behalf of Senators Rice and Kakoschke-Moore and the Leader of Derryn Hinch’s Justice Party (Senator Hinch), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 146—

(1) That a select committee to be known as the Select Committee on the Exposure Draft of the Marriage Amendment (Same-Sex Marriage) Bill be established to inquire into and report, by 13 February 2017, on the Commonwealth Government’s exposure draft of the Marriage Amendment (Same-Sex Marriage) Bill, with particular reference to:

(a) the nature and effect of proposed exemptions for ministers of religion, marriage celebrants and religious bodies and organisations, the extent to which those exemptions prevent encroachment upon religious freedoms, and the Commonwealth Government’s justification for the proposed exemptions;

(b) the nature and effect of the proposed amendment to the *Sex Discrimination Act 1984* and the Commonwealth Government’s justification for it;

(c) potential amendments to improve the effect of the bill and the likelihood of achieving the support of the Senate; and

(d) whether there are to be any consequential amendments, and, if so, the nature and effect of those consequential amendments, and the Commonwealth Government’s justification for them.
(2) That the committee consist of 8 senators, as follows:
   (a) 4 nominated by the Leader of the Government in the Senate;
   (b) 2 nominated by the Leader of the Opposition in the Senate;
   (c) 1 nominated by the Leader of the Australian Greens; and
   (d) 1 nominated by the Nick Xenophon Team.

(3) That:
   (a) participating members may be appointed to the committee on the
       nomination of the Leader of the Government in the Senate, the Leader
       of the Opposition in the Senate or any minority party or independent
       senator; and
   (b) participating members may participate in hearings of evidence and
       deliberations of the committee, and have all the rights of members of the
       committee, but may not vote on any questions before the committee.

(4) That 4 members of the committee constitute a quorum of the committee where
    at least one member present was appointed to the committee on the nomination
    of the Leader of the Government in the Senate and at least one member present
    was appointed to the committee on the nomination of the Leader of the
    Opposition in the Senate.

(5) That the committee may proceed to the dispatch of business notwithstanding
    that not all members have been duly nominated and appointed and
    notwithstanding any vacancy.

(6) That the committee elect as chair one of the members nominated by the Leader
    of the Government in the Senate and, as deputy chair, one of the members
    nominated by the Leader of the Opposition in the Senate.

(7) That the deputy chair shall act as chair when the chair is absent from a meeting
    of the committee or the position of chair is temporarily vacant.

(8) That, in the event of an equality of voting, the chair, or the deputy chair when
    acting as chair, have a casting vote.

(9) That the committee and any subcommittee have power to send for and examine
    persons and documents, to move from place to place, to sit in public or in
    private, notwithstanding any prorogation of the Parliament or dissolution of the
    House of Representatives, and have leave to report from time to time its
    proceedings and the evidence taken and such interim recommendations as it
    may deem fit.

(10) That the committee have power to appoint subcommittees consisting of 3 or
     more of its members, and to refer to any such subcommittee any of the matters
     which the committee is empowered to consider.

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

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

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 CORPORATIONS AND FINANCIAL SERVICES—JOINT STATUTORY COMMITTEE—REFERENCE

Senator Xenophon, also on behalf of the Leader of Derryn Hinch’s Justice Party (Senator Hinch), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 147—That the following matters be referred to the Parliamentary Joint Committee on Corporations and Financial Services for inquiry and report by 30 June 2017:

(a) the development and implementation in the corporate, public and not-for-profit sectors of whistleblower protections, taking into account the substance and detail of that contained in the Registered Organisation Commission (ROC) legislation passed by the Parliament in November 2016;

(b) the types of wrongdoing to which a comprehensive whistleblower protection regime for the corporate, public and not-for-profit sectors should apply;

(c) the most effective ways of integrating whistleblower protection requirements for the corporate, public and not-for-profit sectors into Commonwealth law;

(d) compensation arrangements in whistleblower legislation across different jurisdictions, including the bounty systems used in the United States of America;

(e) measures needed to ensure effective access to justice, including legal services, for persons who make or may make disclosures and require access to protection as a whistleblower;

(f) the definition of detrimental action and reprisal, and the interaction between and, if necessary, separation of criminal and civil liability;

(g) the obligations on corporate, not-for-profit and public sector organisations to prepare, publish and apply procedures to support and protect persons who make or may make disclosures, and their liability if they fail to do so or fail to ensure the procedures are followed;

(h) the obligations on independent regulatory and law enforcement agencies to ensure the proper protection of whistleblowers and investigation of whistleblower disclosures;

(i) the circumstances in which public interest disclosures to third parties or the media should attract protection;

(j) any other matters relating to the enhancement of protections and the type and availability of remedies for whistleblowers in the corporate, not-for-profit and public sectors; and

(k) any related matters.

Question put and passed.

21 PARLIAMENT HOUSE—SERVICES PROVIDED BY THE INTERCONTINENTAL HOTELS GROUP

Senator Urquhart, at the request of Senator Moore and the Minister for Communications (Senator Fifield) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 148—That the Senate—

(a) records the sincere gratitude of senators for the dedicated service given by all staff in the Senators’ and Members’ Dining Room and Parliament House functions employed by the Intercontinental Hotels Group (IHG); and
(b) acknowledges Mr Timothy Stephens as Manager, Members’ Guests Dining Room, whose significant contribution was consistent over his 14 years of service, along with his professional dedication, his courtesy, high level of hospitality, and sometimes his music taste.

Question put and passed.

22 WOMEN—AUSTRALIAN AMBASSADOR FOR WOMEN AND GIRLS
Senator Urquhart, at the request of Senator Moore and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 149—That the Senate—

(a) notes:

(i) the important role of the Australian Ambassador for Women and Girls, which was introduced by Labor in 2011,
(ii) the valuable work provided by our first Ambassador, Ms Penny Williams, and
(iii) that our second Ambassador, Ms Natasha Stott Despoja, has just finalised her term;

(b) recognises and thanks Ms Natasha Stott Despoja for her work during her role as Australian Ambassador for Women and Girls from 16 December 2013 to December 2016;

(c) acknowledges the tremendous achievements by Ms Natasha Stott Despoja during her tenure, including:

(i) her commitment to her work, which built our relationship internationally with a clear focus on women and girls,
(ii) her extensive travel in the Indo-Pacific region to advocate for women’s equal participation in political, economic and social affairs,
(iii) representation of Australia at international meetings and forums working to promote women’s leadership, economic empowerment and gender equality,
(iv) strong advocacy to change the attitudes and behaviours across the community that condone or support gender inequality and sexism, including victim-blaming, and
(v) steering Australia’s foreign policy and aid programs towards women’s economic empowerment, and the fight to end violence against women and girls; and

(d) congratulates Dr Sharman Stone on her appointment as the new Ambassador for Women and Girls, commencing January 2017, and looks forward to her work continuing the important role.

Question put and passed.

23 PARLIAMENT HOUSE—SECURITY
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. 142—That the Senate—

(a) notes:

(i) that Australian Parliament House is the most significant monument that represents our democracy, owned by its citizens, to be enjoyed by thousands of Australians and visiting tourists alike,
(ii) that Parliament House was designed to reflect Australia’s egalitarian traditions where politicians are subservient to the Australian people, and

(iii) the significant expanse of security in and around Parliament House in recent years, which has already impacted on the amenity and utility enjoyed by previous visitors; and

(b) rejects further restrictions on the freedom for visitors to enjoy this building and freely participate in their democracy.

Question put and negatived.

24 LAW AND JUSTICE—BELL GROUP LITIGATION—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Urquhart, at the request of Senator Watt and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 151—

That—

(a) the following documents relating to the Bell Group liquidation and the Western Australian Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) legislation be provided to the Legal and Constitutional Affairs References Committee by the Attorney-General:

(i) correspondence, including but not limited to, briefings, letters, memoranda and aides memoire between the Attorney-General and:

(A) the Treasurer of Western Australia,

(B) the Attorney General of Western Australia, and

(C) the Solicitor-General,

(ii) any file notes held of any meetings between the Attorney-General and:

(A) the Treasurer of Western Australia,

(B) the Attorney General of Western Australia, and

(C) the Solicitor-General,

(iii) briefings to the Attorney-General from the Solicitor-General, Australian Government Solicitor and Attorney-General’s Department, and

(iv) correspondence between the Australian Government Solicitor and the Attorney-General’s Department and the Western Australian Department of the Attorney General, or the Western Australian State Solicitor’s Office;

(b) the time frame for the documents covered by this motion is 1 November 2015 to 30 March 2016; and

(c) the documents be provided by no later than 14 December 2016.

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—

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Question agreed to.

25 **ECONOMICS REFERENCES COMMITTEE—PROPOSED REFERENCE**

Senator Whish-Wilson, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 3—That the following matter be referred to the Economics References Committee for inquiry and report by 14 June 2017:

The tax and royalties collected from the extraction and sale of Australia’s oil and gas resources, with particular reference to:

(a) the adequacy and integrity of the existing Petroleum Resource Rent Tax (PRRT) and Commonwealth royalty regime;
(b) compliance with the PRRT and Commonwealth royalty regime;
(c) responsibilities and effectiveness of state and Federal Government departments in administering the existing PRRT and Commonwealth royalty regime;
(d) the suitability of the PRRT and Commonwealth royalty regime in the modern global economy;
(e) the comparison of tax and royalty regimes with other oil and gas producing countries that export to the Asia-Pacific region;
(f) principles for modification of the PRRT as it applies to gas;
(g) principles for an extended Commonwealth royalty regime covering offshore oil and gas projects in Commonwealth waters; and
(h) any other related matters.

*Statements by leave:* Senators Gallagher, Whish-Wilson and Dastyari and the Leader of the Australian Greens (Senator Di Natale), by leave, made statements relating to the motion.
The President reminded senators of the Procedure Committee’s second report of 2011 and its consideration of standing order 66 relating to procedures for dealing with formal motions and, in particular, statements being made by leave which may amount to de facto debate.

Question put and negatived.

26 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—TRADE—TRANSPACIFIC PARTNERSHIP

The President informed the Senate that, at 8.30 am today, Senators Gallagher and Siewert had each submitted a letter in accordance with standing order 75. The question to be submitted to the Senate was determined by lot.

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

The dangers of Australia pursuing the ratification of the Trans-Pacific Partnership.

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

27 DOCUMENTS—CONSIDERATION

The following document tabled earlier today (see entry no. 2) was considered:


28 COMMITTEE REPORTS AND GOVERNMENT RESPONSES—TABLEING AND CONSIDERATION

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.

Senator Smith, on behalf of the Joint Standing Committee on Treaties, tabled the following report:


Senator Smith moved—That the Senate take note of the report.

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

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

Scrutiny of Bills—Standing Committee—
Alert Digest No. 10 of 2016, dated 30 November 2016.

Report ordered to be printed on the motion of Senator Bilyk.
Pursuant to order, Senator Bilyk, at the request of the Chair of the Education and Employment References Committee (Senator Marshall), tabled the following report and documents:


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

Senator Bilyk moved—That the Senate take note of the report.

Debate ensued.

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

Pursuant to order, the Chair of the Community Affairs References Committee (Senator Siewert) tabled the following report and documents:

Community Affairs References Committee—Growing evidence of an emerging tick-borne disease that causes a Lyme-like illness for many Australian patients—Final report, dated November 2016, Hansard record of proceedings, documents presented to the committee, additional information and submissions.

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

Senator Siewert moved—That the Senate take note of the report.

Debate ensued.

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

Notice of motion: Senator Siewert gave a notice of motion as follows: To move on the next day of sitting—That the following matter be referred to the Community Affairs References Committee for inquiry and report by 10 May 2017:

The complaints mechanism administered under the Health Practitioner Regulation National Law, with particular reference to:

(a) the implementation of the current complaints system under the National Law, including the role of the Australian Health Practitioner Regulation Authority (AHPRA) and the National Boards;

(b) whether the existing regulatory framework, established by the National Law, contains adequate provision for addressing medical complaints;

(c) the roles of AHPRA, the National Boards and professional organisations, such as the various colleges, in addressing concerns within the medical profession with the complaints process.
(d) the adequacy of the relationships between those bodies responsible for handling complaints;
(e) whether amendments to the National Law, in relation to the complaints handling process, are required; and
(f) other improvements that could assist in a fairer, quicker and more effective medical complaints process.

The Minister for International Development and the Pacific (Senator Fierravanti-Wells) tabled the following document:
Foreign Affairs, Defence and Trade References Committee—Report—Australia’s relationship with Mexico—Government response, dated October 2016.
Senator Back moved—That the Senate take note of the document.
Question put and passed.

The Minister for International Development and the Pacific (Senator Fierravanti-Wells) tabled the following document:

The Minister for International Development and the Pacific (Senator Fierravanti-Wells) tabled the following document:

29 COMMITTEE MEMBERSHIP
The Acting Deputy President (Senator Sterle) informed the Senate that the President had received letters requesting changes in the membership of committees.
The Minister for Regional Development (Senator Nash), by leave, moved—That senators be discharged from and appointed to committees as follows:

Corporations and Financial Services—Joint Statutory Committee—
Discharged—Senator Hume
Appointed—Senator Xenophon

Education and Employment Legislation Committee—
Discharged—
Senator Farrell
Participating member: Senator Ketter
Appointed—
Senator Ketter
Participating member: Senator Farrell

Funding for Research into Cancers with Low Survival Rates—Select Committee—
Appointed—
Senators Bilyk, Ketter and McCarthy

**Human Rights—Joint Statutory Committee**—

On 12 December 2016—
Discharged—Senator McKim
Appointed—Senator Di Natale

On 13 December 2016—
Discharged—Senator Di Natale
Appointed—Senator McKim

On 2 February 2017—
Discharged—Senator McKim
Appointed—Senator Hanson-Young

On 4 February 2017—
Discharged—Senator Siewert
Appointed—Senator McKim.

Question put and passed.

30 **CORPORATIONS AMENDMENT (LIFE INSURANCE REMUNERATION ARRANGEMENTS) BILL 2016**

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

Message no. 82, dated 29 November 2016—A Bill for an Act to amend the law in relation to financial products that relate to insurance, and for related purposes.

The Minister for Regional Development (Senator Nash) 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 Nash moved—That this bill be now read a second time.

**Consideration of legislation:** Pursuant to order, the debate was adjourned till the first day in the next period of sittings, 7 February 2017.

31 **COMMITTEE MEMBERSHIP**

A message from the House of Representatives was reported informing the Senate of changes in the membership of the Joint Standing Committee on the National Broadband Network, as follows:

Message no. 84, dated 30 November 2016—Mr Jones in place of Ms Rowland.

32 **GOVERNOR-GENERAL’S MESSAGES—ASSENT TO LAWS**

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

29 November 2016—Messages Nos—

32—

*Superannuation (Excess Transfer Balance Tax) Imposition Act 2016* (Act No. 80, 2016)

33—Counter-Terrorism Legislation Amendment Act (No. 1) 2016 (Act No. 82, 2016).

33 **EDUCATION AND EMPLOYMENT LEGISLATION COMMITTEE—REPORT—FAIR WORK AMENDMENT (GENDER PAY GAP) BILL 2015**

Pursuant to order, Senator Fawcett, 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 Fawcett.

34 **ENVIRONMENT AND COMMUNICATIONS LEGISLATION COMMITTEE—REPORT—INTERACTIVE GAMBLING AMENDMENT BILL 2016**

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


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

35 **VET STUDENT LOANS BILL 2016**

**VET STUDENT LOANS (CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS) BILL 2016**

**VET STUDENT LOANS (CHARGES) BILL 2016**

Order of the day read for the consideration of the bills in committee of the whole.

In the committee

Bills taken together and as a whole by leave.

Senator Hanson-Young moved the following amendment in respect of the VET Student Loans (Consequential Amendments and Transitional Provisions) Bill 2016:

Schedule 1, page 8 (after line 16), after item 20, insert:

20A After subclause 46A(1) of Schedule 1A

Insert:

(1A) The *Secretary must also re-credit a person’s *FEE-HELP balance with an amount equal to the amounts of *VET FEE-HELP assistance that the person received for a *VET unit of study if, as a result of information provided to the Secretary without the person applying for the re-credit, the Secretary is satisfied of the matters in subclause (1) (other than paragraphs (1)(d) to (f)).

(1B) Before making a decision under subclause (1A), the *Secretary must give the person and the *VET provider a notice in writing in accordance with subclause (3).
(1C) In deciding whether to make the decision under subclause (1A), the Secretary must consider any submission received from the person, and from the VET provider, within the 28 day period given for the person and the VET provider to provide submissions.

(1D) The Secretary must give written notice of a decision under subclause (1A) to the person and the VET provider. The notice must be given within 28 days after the day the decision was made.

Debate ensued.

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

Bills debated.

Explanatory memorandum: The Minister for Education and Training (Senator Birmingham) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

Bills further debated.

Senator Cameron moved the following requests for amendments in respect of the VET Student Loans Bill 2016 together by leave:

That the House of Representatives be requested to make the following amendments:

Clause 8, page 9 (line 10), before “The amount”, insert “(1)”.

Clause 8, page 9 (after line 17), at the end of clause 8, add:

(2) However, if the loan amount is for an approved course provided by a body mentioned in subsection 16(1A) before 1 January 2019, the amount of the loan must not be greater than any of the following:

(a) the amount that would reduce the student’s FEE-HELP balance to zero;
(b) the tuition fees for the course.

Clause 13, page 12 (lines 2 to 4), omit the clause, substitute:

13 Approved courses

(1) To be an approved course, the course must meet the requirements of this Division or be a course covered by subsection (2).

(2) A course is covered by this subsection if:

(a) the course was provided on 1 January 2017 by one of the following bodies (taken to be approved course providers under the VET Student Loans (Consequential Amendments and Transitional Provisions) Act 2016):

(i) a body established to provide vocational education or training under one of the following:

(A) the Technical and Further Education Commission Act 1990 (NSW);
(B) the Education and Training Reform Act 2006 (Vic.);
(C) the TAFE Queensland Act 2013 (Qld);
(D) the Vocational Education and Training Act 1996 (WA);
(E) the TAFE SA Act 2012 (SA);
(F) the Training and Workforce Development Act 2013 (Tas.);
(G) the Canberra Institute of Technology Act 1987 (ACT);
(ii) a training organisation owned by the Commonwealth, a State or a Territory;
(iii) a Table A provider within the meaning of the Higher Education Support Act 2003; and
(c) the course is provided before 1 January 2019.

Clause 16, page 13 (after line 9), after subclause 16(1), insert:

(1A) However, the Minister may only determine a maximum loan amount, or method for working out maximum loan amounts in relation to courses provided by the following bodies on or after 1 January 2019:
(a) a body established to provide vocational education or training under one of the following:
   (i) the Technical and Further Education Commission Act 1990 (NSW);
   (ii) the Education and Training Reform Act 2006 (Vic.);
   (iii) the TAFE Queensland Act 2013 (Qld);
   (iv) the Vocational Education and Training Act 1996 (WA);
   (v) the TAFE SA Act 2012 (SA);
   (vi) the Training and Workforce Development Act 2013 (Tas.);
   (vii) the Canberra Institute of Technology Act 1987 (ACT);
(b) a training organisation owned by the Commonwealth, a State or a Territory;
(c) a Table A provider within the meaning of the Higher Education Support Act 2003.

Debate ensued.
Question—That the requests be agreed to—put.
The committee divided—

AYES, 32

Senators—

Bilyk
Cameron
Carr
Chisholm
Collins
Dastyari
Di Natale
Dodson
Gallacher
Griff
Hanson-Young
Kakoschke-Moore
Ketter
Kitching
Lambie
Lines
Marshall
McAllister
McCarthy
McKim
Moore
O’Neill
Polley
Rhiannon
Rice
Siewert
Sterle
Urquhart*
Waters
Watt
Whish-Wilson
Xenophon
NOES, 30

Senators—

Abetz
Back
Birmingham
Burston
Bushby
Canavan
Cash
Culleton
Duniam
Fawcett*
Ferravanti-Wells
Fifield
Hanson
Hinch
Hume
Leyonhjelm
Macdonald
McGrath
McKenzie
O'Sullivan
Parry
Paterson
Reynolds

Roberts
Ruston
Ryan
Sculion
Sinodinos
Smith
Williams

* Tellers

Question agreed to.

On the motion of Senator Birmingham the following amendments in respect of the VET Student Loans Bill 2016, taken together by leave, were debated and agreed to:

Clause 6, page 4 (before line 3), before the definition of approved course provider, insert:

approved course: see section 13.

Clause 6, page 4 (after line 3), after the definition of approved course provider, insert:

approved external dispute resolution scheme: see section 42B.
approved external dispute resolution scheme operator: see paragraph 42B(c).

Clause 6, page 6 (after line 12), after the definition of officer of an approved course provider, insert:

officer of an approved external dispute resolution scheme operator means:
(a) an officer or employee of an approved external dispute resolution scheme operator; or
(b) a person who performs services for or on behalf of an approved external dispute resolution scheme operator.

Clause 6, page 6 (after line 14), after the definition of officer of a Tertiary Admission Centre, insert:

officer of a tuition assurance scheme operator means:
(a) an officer or employee of a tuition assurance scheme operator; or
(b) a person who performs services for or on behalf of a tuition assurance scheme operator.

Clause 6, page 8 (line 8), at the end of the definition of VET officer, add:
; or (e) an officer of an approved external dispute resolution scheme operator.

Clause 15, page 12 (line 26), omit “accredited”, substitute “registered”.
Clause 17, page 14 (line 22), omit “request the student to”.
Clause 17, page 14 (line 23), before “provide”, insert “request the student to”.
Clause 17, page 14 (line 25), omit “may”.
Clause 25, page 21 (line 19), at the end of subclause (2), add:
; and (h) be a member of an approved external dispute resolution scheme.
Clause 25, page 21 (lines 20 to 22), omit all the words from and including “the” to the end of subclause (3), substitute:

either or both of the following:

(a) the requirement in paragraph (2)(g) to be a party to an approved tuition assurance arrangement;

(b) the requirement in paragraph (2)(h) to be a member of an approved external dispute resolution scheme.

Clause 28, page 23 (line 7), omit “request the applicant to”.

Clause 28, page 23 (line 8), before “provide”, insert “request the applicant to”.

Clause 28, page 23 (line 10), omit “may”.

Page 31 (after line 21), after Division 4, insert:

**Division 4A—External dispute resolution**

42A Minister may specify external dispute resolution scheme

(1) The Minister may, by legislative instrument, specify a scheme that provides for investigation and resolution of disputes relating to the following:

(a) VET student loans;

(b) compliance by approved course providers with this Act;

(c) VET FEE-HELP assistance (within the meaning of the *Higher Education Support Act 2003*);

(d) compliance by VET providers (within the meaning of the *Higher Education Support Act 2003*) with the *Higher Education Support Act 2003*.

(2) The Minister must specify the operator of the scheme in the legislative instrument.

Note: The rules may provide for matters that the Minister may or must have regard to in deciding to specify a scheme: see subsection 116(3).

42B Meaning of approved external dispute resolution scheme

A scheme is an **approved external dispute resolution scheme** if the scheme:

(a) provides for investigation and resolution of disputes as mentioned in section 42A; and

(b) is specified in a legislative instrument made under section 42A; and

(c) is operated by the person (the **approved external dispute resolution scheme operator**) specified in the legislative instrument.

42C Approved course provider must comply

An approved course provider must comply with the requirements of the approved external dispute resolution scheme of which the provider is a member.

Note: The rules may set out additional processes and procedures in relation to external dispute resolution: see section 48.
Clause 46, page 34 (line 11), at the end of the clause, add:
; (e) the operator of the approved external dispute resolution scheme of which the provider is a member.

Clause 49, page 36 (line 6), omit “a course provided by the provider”, substitute “an approved course”.

Clause 49, page 36 (lines 7 to 12), omit paragraphs (1)(a) and (b), substitute:
(a) enrol students, or accept applications for enrolment, in the course;

Clause 63, page 46 (line 10), after “course”, insert “, or enrol the student in a course”.

Clause 63, page 46 (lines 15 and 16), omit subclause (2), substitute:
(2) Subsection (1) does not apply in circumstances specified in the rules.

Clause 92, page 66 (line 14), at the end of subclause (1), add:
; (d) an officer of an approved external dispute resolution scheme operator.

Clause 93, page 67 (line 4), at the end of subclause (2), add:
; (e) an approved external dispute resolution scheme operator.

Page 73 (after line 12), after clause 103, insert:

103A Secretary must publish information relating to operation of the VET student loans program

The Secretary must publish the following information within 42 days after the end of the period of 6 months beginning on 1 January and 1 July in each year (the reporting period):
(a) the number of approved course providers who operated during the reporting period;
(b) for each of those providers:
   (i) the name of the provider; and
   (ii) the value of VET student loans approved by the Secretary for approved courses offered by the provider during the reporting period; and
   (iii) the number of students who undertook approved courses offered by the provider during the reporting period and whose tuition fees for the courses were paid (whether in whole or in part) using VET student loans; and
   (iv) the amount of tuition fees charged to such students by the provider during the reporting period;
(c) any other information in relation to VET student loans prescribed under the rules.

Clause 114, page 77 (lines 17 to 19), omit subclause (1), substitute:
(1) The Secretary may, in writing, delegate any or all of his or her powers under this Act to:
   (a) an APS employee; or
   (b) an officer of an approved external dispute resolution scheme operator.

Note: For this Act, see section 6.
Page 77 (after line 25), after clause 115, insert:

115A Alternative constitutional basis

Without limiting its effect apart from this section, this Act also has the effect it would have if each reference to an approved course provider were expressly confined to a corporation to which paragraph 51(xx) of the Constitution applies.

Senator Griff moved the following amendments and requests for amendments together by leave:

Amendments in respect of the VET Student Loans Bill 2016:

Clause 2, page 2 (table item 1), omit the table item, substitute:

3. The whole of this Act.

Clause 116, page 78 (lines 28), omit “calendar year”, substitute “financial year”.

Clause 116, page 78 (lines 29), omit “calendar years”, substitute “financial years”.

Requests for amendments in respect of the VET Student Loans (Consequential Amendments and Transitional Provisions) Bill 2016:

That the House of Representatives be requested to make the following amendments:

Schedule 1, item 20, page 7 (line 23), omit “1 January 2017”, substitute “1 July 2017”.

Schedule 1, item 20, page 7 (line 25), omit “1 January 2018”, substitute “1 July 2018”.

Schedule 1, item 20, page 7 (line 27), omit “1 January 2017”, substitute “1 July 2017”.

Schedule 1, item 20, page 8 (line 2), omit “1 January 2017”, substitute “1 July 2017”.

Schedule 1, item 20, page 8 (line 6), omit “1 January 2017”, substitute “1 July 2017”.

Schedule 2, item 1, page 11 (line 8), omit “1 January 2017”, substitute “1 July 2017”.

Schedule 2, item 1, page 11 (line 9), omit “30 June 2017”, substitute “31 December 2017”.

Schedule 2, item 2, page 11 (line 19), omit “1 January 2017”, substitute “1 July 2017”.

Schedule 2, item 2, page 11 (line 20) to page 12 (line 26), omit “1 January 2017” (wherever occurring), substitute “1 July 2017”.

Schedule 2, item 5, page 13 (line 22), omit “1 January 2017”, substitute “1 July 2017”.

Schedule 2, item 6, page 13 (line 30), omit “1 January 2017”, substitute “1 July 2017”.

Schedule 2, item 8, page 14 (lines 9 to 12), omit “30 June 2017” (wherever occurring), substitute “31 December 2017”.

Schedule 2, item 9, page 14 (line 14), omit “1 July 2017”, substitute “1 January 2018”.

Schedule 2, item 9, page 14 (line 15), omit “1 January 2018”, substitute “1 July 2018”.
Schedule 2, item 9, page 14 (line 17), omit “1 July 2017”, substitute “1 January 2018”.
Schedule 2, item 11, page 15 (line 13), omit “31 December 2017”, substitute “1 July 2018”.

Debate ensued.

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

On the motion of Senator Cameron the following amendments in respect of the VET Student Loans (Consequential Amendments and Transitional Provisions) Bill 2016, taken together by leave, were debated and agreed to:

Schedule 1, item 20, page 7 (line 25), omit “after 1 January 2018”, substitute:

after:
(i) unless subparagraph (ii) applies—1 January 2018; or
(ii) if the Minister is satisfied that exceptional circumstances justify continued entitlement to VET FEE-HELP assistance for the student—a day determined in writing by the Minister.

Schedule 1, item 20, page 8 (after line 16), at the end of subclause 43 of Schedule 1A, add:

(6) The "VET Guidelines may specify matters to which the Minister must or may have regard in deciding for the purposes of subparagraph (3)(b)(ii) whether exceptional circumstances justify continued entitlement to "VET FEE-HELP assistance for the student.

(7) A determination under subparagraph (3)(b)(ii) is not a legislative instrument.

The Leader of Pauline Hanson’s One Nation (Senator Hanson) moved the following amendments together by leave:

Amendments in respect of the VET Student Loans Bill 2016:

Clause 7, page 9 (after line 8), at the end of clause 7, add:

(3) The Secretary may only approve a loan for a student for a course of study if the Secretary is satisfied that:
(a) the student is a genuine student; and
(b) the student is reasonably likely to repay the loan.

Clause 16, page 13 (after line 14), at the end of clause 16, add:

(4) Without limiting subsection (1), the Minister must determine that the loan amount is only a percentage of the total course fees so that the student must pay the remainder of the amount as an upfront deposit for the course from the course start date.

Amendments in respect of the VET Student Loans (Consequential Amendments and Transitional Provisions) Bill 2016:

Schedule 1, page 6 (after line 20) after item 13, insert:

13A Section 154-10

Before “The”, insert “(1)”. 
13B At the end of section 154-10
Add:

(2) However, the minimum repayment income in relation to a HELP debt* incurred under section 137-19 (VET student loan debts) for an income year is $22,000.

13C Section 154-20
Before “The”, insert “(1)”.

13D At the end of section 154-20
Add:

(2) However, if the person incurred a HELP debt* under section 137-19 (VET student loans debts), the amount that a person is liable to pay under section 154-1, in respect of an *income year, is an amount equal to so much of the person’s *repayable debt for the income year as does not exceed the percentage of the person’s *repayment income that is applicable under the following table:

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<th>Applicable percentages</th>
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### Applicable percentages

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<th>Item</th>
<th>If the person’s repayment income is:</th>
<th>The percentage applicable is:</th>
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<td>4</td>
<td>More than the amount under item 5, but less than:</td>
<td>6.5%</td>
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<td>(a) for the first income year after the commencement of the <em>VET Student Loans Act 2016</em> — $57,305; or</td>
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<td>(b) for a later income year—that amount indexed under section 154-25.</td>
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<td>5</td>
<td>More than the amount under item 6, but less than:</td>
<td>7%</td>
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<td>(a) for the first income year after the commencement of the <em>VET Student Loans Act 2016</em> — $63,063; or</td>
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<td>(b) for a later income year—that amount indexed under section 154-25.</td>
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<td>6</td>
<td>More than the amount under item 7, but less than:</td>
<td>7.5%</td>
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<td>(a) for the first income year after the commencement of the <em>VET Student Loans Act 2016</em> — $67,200; or</td>
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<td>(b) for a later income year—that amount indexed under section 154-25.</td>
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<tr>
<td>7</td>
<td>More than the amount under item 8.</td>
<td>8%</td>
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</table>

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

**AYES, 4**

Senators—

Burston*  Culleton  Hanson  Roberts
NOES, 50

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<th>Marshall</th>
<th>Reynolds</th>
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<td>McAllister*</td>
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* Tellers

Question negatived.

The VET Student Loans Bill 2016, as amended, agreed, subject to requests, the VET Student Loans (Consequential Amendments and Transitional Provisions) Bill 2016, as amended, agreed to and the VET Student Loans (Charges) Bill 2016 agreed to.

The VET Student Loans Bill 2016 to be reported with amendments and requests for amendments, the VET Student Loans (Consequential Amendments and Transitional Provisions) Bill 2016 to be reported with amendments and the VET Student Loans (Charges) Bill 2016 to be reported without requests for amendments.

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

On the motion of Senator Birmingham the report from the committee was adopted and the VET Student Loans (Consequential Amendments and Transitional Provisions) Bill 2016 and the VET Student Loans (Charges) Bill 2016 read a third time.

36 NOTICES

Senator Lambie, the Leader of Derryn Hinch’s Justice Party (Senator Hinch), the Leader of Pauline Hanson’s One Nation (Senator Hanson) and Senators Roberts and Burston gave a notice of motion as follows: To move on the next day of sitting—

(1) That the Senate notes, in relation to the ‘Jedi Council’ sex scandal:

(a) in a secret New South Wales Police report, prepared by Detective Sergeant Mark Carter, Strike Force CIVET found that the actions of a number of Australian Defence Force Investigative Service (ADFIS) staff and other sections of the Australian Defence Force (ADF), to deliberately lie, withhold evidence, fabricate information... [mean] the conduct of future investigations [by NSW police] into and with the ADF as [a] whole and ADFIS as a body must be viewed with caution and concern;

(b) the personal information of many innocent ADF members, including retired Lieutenant Colonel Dubsky, was provided to the media, in breach of their right to privacy and other fundamental human rights, and without regard for their mental and physical wellbeing;

(c) the original ADFIS investigation into the alleged actions of the ‘Jedi Council’ was limited and was conducted without direct contact with any alleged members of the ‘Jedi Council’;
(d) the ADFIS investigation was limited in scope and did not include appropriate follow-up regarding some of the allegations;

(e) the ADFIS investigation did not include interviews with alleged victims of material created or distributed by the ‘Jedi Council’; and

(f) a number of the conclusions reached by the ADFIS were not consistent with the evidence presented to the ADFIS as part of the investigation.

(2) That the matters raised by New South Wales Police Strike Force CIVET, and other related matters, be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 7 February 2017.

Senator Whish-Wilson gave a notice of motion as follows: To move on the next day of sitting—That the following matter be referred to the Economics References Committee for inquiry and report by 10 May 2017:

The tax and royalties collected from the extraction and sale of Australia’s oil and gas resources, with particular reference to:

(a) the adequacy and integrity of the existing Petroleum Resource Rent Tax (PRRT) and Commonwealth royalty regime;

(b) compliance with the PRRT and Commonwealth royalty regime;

(c) responsibilities and effectiveness of state and Federal Government departments in administering the existing PRRT and Commonwealth royalty regime;

(d) the suitability of the PRRT and Commonwealth royalty regime in the modern global economy;

(e) the comparison of tax and royalty regimes with other oil and gas producing countries that export to the Asia-Pacific region;

(f) principles for modification of the PRRT as it applies to gas;

(g) principles for an extended Commonwealth royalty regime covering offshore oil and gas projects in Commonwealth waters; and

(h) any other related matters.

The Chair of the Finance and Public Administration References Committee (Senator McAllister) gave a notice of motion as follows: To move on the next day of sitting—That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 24 February 2017:

The operation of the Administrative Arrangements Order, the effectiveness of the division and performance of responsibilities under it, and any other related matters.

Senator McAllister, by leave and at the request of Senators Moore and Watt, gave a notice of motion as follows: To move on the next day of sitting—That the Senate—

(a) acknowledges and congratulates the Honourable Justice Susan Mary Kiefel, AC on her appointment as the next Chief Justice of the High Court of Australia;

(b) recognises the Honourable Justice Susan Mary Kiefel, AC was Queensland’s first female Queen’s Counsel;

(c) notes this as a landmark moment for Australia’s legal system and the nation as she will be the first woman appointed to the role, and according to the Law Council of Australia’s 2014 report:

(i) 46 per cent of those practising law today are women,

(ii) 19 per cent of senior positions in law firms are held by women,

(iii) 19 per cent of the Australian Bar are women, and

(iv) just 6 per cent of Queen’s Council and senior counsel are women; and
(d) acknowledges the exemplary work over the past eight years of Chief Justice French who leaves a legacy of important contributions to the law, notably in his commitment to Indigenous justice. (general business notice of motion no. 167)

After 7.20 pm—

37 ADJOURNMENT
The Deputy President (Senator Lines) proposed the question—That the Senate do now adjourn.
Debate ensued.
The Senate adjourned at 7.54 pm till Thursday, 1 December 2016 at 9.30 am.

38 ATTENDANCE
Present, all senators except Senators Bernardi*, Ludlam*, Payne* and Singh* (*on leave).

ROSEMARY LAING
Clerk of the Senate