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1 **MEETING OF SENATE**

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

2 **DOCUMENTS**

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

- Cotton Research and Development Corporation (CRDC)—Report for 2015-16.
- Department of Defence—Special purpose flights—Schedule for the period 1 July to 31 December 2015.
- Fisheries Research and Development Corporation (FRDC)—Report for 2015-16.
- Law and justice—Bell Group litigation—Answer to question—Letter to the President of the Senate from the Minister for Finance (Senator Cormann), dated 28 November 2016, providing additional information concerning a question without notice asked by Senator McCarthy on 28 November 2016.

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

[Literary 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.]

- Commissioner of Taxation—Public Rulings—
  - Class Rulings—
    - Addendum—CR 2013/78.
  - Superannuation Guarantee Determination—Notice of Withdrawal—SGD 94/3.
Taxation Determinations—
Addendum—TD 93/3.
TD 2016/18.

Criminal Code Act 1995—
Criminal Code (Terrorist Organisation—Islamic State in Libya) Regulation 2016 [F2016L01813].

Environment Protection and Biodiversity Conservation Act 1999—
Amendment to List of CITES Species (23 November 2016) [F2016L01824].


Fisheries Levy Act 1984—Fisheries Levy (Torres Strait Prawn Fishery) Regulation 2016 [F2016L01802].


Norfolk Island Act 1979—Norfolk Island Applied Laws Amendment (Suspension) Ordinance 2016 [F2016L01814].

Primary Industries (Customs) Charges Act 1999—Primary Industries (Customs) Charges Amendment (Melons) Regulation 2016 [F2016L01821].

Primary Industries (Excise) Levies Act 1999—
Primary Industries (Excise) Levies Amendment (Melons) Regulation 2016 [F2016L01819].
Primary Industries (Excise) Levies Amendment (Red Meat Slaughter) Regulation 2016 [F2016L01820].


Public Works Committee Act 1969—Public Works Committee Regulation 2016 [F2016L01808].


3 COMMITTEES—LEAVE TO MEET DURING SITTING
Commitees were authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, as follows:

Community Affairs References Committee—from 1.30 pm, for the committee’s inquiries into Lyme-like illness in Australia, and the medical complaints process.

Environment and Communications References Committee—from 5.10 pm.

4 CLERK OF THE SENATE—MR RICHARD PYE—APPOINTMENT—STATEMENT BY PRESIDENT
The President informed the Senate that, after consulting senators, he had appointed Mr Richard Pye as Clerk of the Senate with effect from 9 March 2017.

Statements by leave: The Leader of the Government in the Senate (Senator Brandis), the Leader of the Opposition in the Senate (Senator Wong), the Leader of the Australian Greens (Senator Di Natale) and the Leader of The Nationals in the Senate (Senator Scullion), by leave, made statements relating to the matter.

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 consideration of the bills in committee of the whole.

In the committee

Bills, taken together and as a whole by leave, debated.

At 2 pm: The President resumed the chair and the Acting Deputy President (Senator Back) reported progress.

6 QUESTIONS
Questions without notice were answered.
7 MOTIONS TO TAKE NOTE OF ANSWERS
Senator Sterle moved—That the Senate take note of the answers given by ministers to questions without notice asked by Opposition senators today relating to the Bell Group litigation.
Debate ensued.
Question put and passed.
Senator Whish-Wilson moved—That the Senate take note of the answer given by the Minister for Finance (Senator Cormann) to a question without notice asked by Senator Whish-Wilson today relating to the collection of North West Shelf royalty revenues.
Question put and passed.

8 NOTICES
Senator Waters: To move on the next day of sitting—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 driven 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. (general business notice of motion no. 141)

The Chair of the Environment and Communications References Committee (Senator Waters) and Senator Siewert: To move on the next day of sitting—That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 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.

The Leader of the Australian Greens (Senator Di Natale): To move on the next day of sitting—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. (general business notice of motion no. 142)

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

(General business notice of motion no. 143)

Senator Rhiannon: To move on the next day of sitting—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-fluoroalkyl substances (PFAS), resulting from the use of legacy firefighting foams, is a national public health, 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. 

(General business notice of motion no. 144)

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

(a) the Senate notes that:
   (i) confidence and trust in the financial services industry has been shaken by ongoing revelations of scandals, which have resulted in tens of thousands of Australians being ripped off, including:
      (A) retirees who have had their retirement savings gutted,
      (B) families who have been rorted out of hundreds of thousands of dollars,
      (C) small business owners who have lost everything, and
      (D) life insurance policy holders who have been denied justice,
   (ii) it is clear from the breadth and scope of the allegations that the problems in this industry go beyond any one bank or type of financial institution,
   (iii) Australian Labor Party, Australian Greens, crossbench, Liberal and Nationals parliamentarians have supported a thorough investigation of the culture and practices within the financial services industry through a Royal Commission, which is the only forum with the coercive powers and broad jurisdiction necessary to properly perform this investigation,
   (iv) Australia has one of the strongest banking systems in the world, but Australians must have confidence in their banks and financial institutions, making it necessary to sweep away doubt and uncover and deal with unethical behaviour that compromises that confidence, and
the case for a Royal Commission into misconduct in the banking and financial services industry has only become stronger over time;

(b) the Senate calls on the Government to request His Excellency the Governor-General of the Commonwealth of Australia issue Letters Patent to establish a Royal Commission to inquire into misconduct in the banking and financial services industry, including their agents and managed investment schemes; and

(c) this resolution be communicated to the House of Representatives for concurrence. (*general business notice of motion no. 145*)

Senators Pratt, Rice and Kakoschke-Moore and the Leader of Derryn Hinch’s Justice Party (Senator Hinch): To move on the next day of sitting—

(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 on, by 13 February 2017, 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.
No. 21—29 November 2016

(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. (general business notice of motion no. 146)

Senator Xenophon and the Leader of Derryn Hinch’s Justice Party (Senator Hinch): To move on the next day of sitting—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. (general business notice of motion no. 147)

Senator Whish-Wilson: To move on the next day of sitting—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 personal responsibility and education;

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

(h) any other relevant matters.

Senator Whish-Wilson: To move on the next day of sitting—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.
Senator Moore and the Minister for Communications (Senator Fifield): To move on the next day of sitting—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. (general business notice of motion no. 148)

The Chair of the Environment and Communications References Committee (Senator Waters): To move on the next day of sitting—That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 23 August 2017:

The rehabilitation of mining and resources projects as it relates to Commonwealth responsibilities, for example under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), with regard to:

(a) the cost of outstanding rehabilitation obligations of currently operating projects;

(b) the adequacy of existing regulatory, policy and institutional arrangements to ensure adequate and timely rehabilitation;

(c) the adequacy and transparency of financial mechanisms, including assurances, bonds and funds, to ensure that mining and resources projects are rehabilitated without placing a burden on public finances;

(d) the effectiveness of current Australian rehabilitation practices in safeguarding human health and repairing and avoiding environmental damage;

(e) the effectiveness of existing abandoned mines programs, with regard to repairing environmental damage and safeguarding human health;

(f) whether any mining or resources companies have engaged in conduct designed to avoid fulfilling their rehabilitation obligations;

(g) the potential social, economic and environmental impacts, including on matters of national environmental significance under the EPBC Act, of inadequate rehabilitation;

(h) the potential social, economic and environmental benefits of adequate rehabilitation, including job opportunities in communities affected by job losses in the mining and resources sectors;

(i) international examples of effective rehabilitation policy and practice;

(j) proposals for reform of rehabilitation of mining and resources projects; and

(k) any other related matters.

Senator Moore: To move on the next day of sitting—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;
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. (general business notice of motion no. 149)

Senators Culleton and Lambie: To move on the next day of sitting—That the Senate notes the many issues in this country in relation to proper process not being followed in judicial and other matters. (general business notice of motion no. 150)

Senator Watt: To move on the next day of sitting—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. (general business notice of motion no. 151)
The Assistant Minister to the Prime Minister (Senator McGrath): To move on the next day of sitting—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:
Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016 (No. 2)
Passenger Movement Charge Amendment Bill (No. 2) 2016.

Documents: Senator McGrath tabled the following documents:

9 Community Affairs References Committee—Reference
Senator Urquhart, at the request of Senator Brown and pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 2—That the following matter be referred to the Community Affairs References Committee for inquiry and report by 13 September 2017:
The delivery of outcomes under the National Disability Strategy 2010-2020 to build inclusive and accessible communities, with reference to:
(a) the planning, design, management, and regulation of:
   (i) the built and natural environment, including commercial premises, housing, public spaces and amenities,
   (ii) transport services and infrastructure, and
   (iii) communication and information systems, including Australian electronic media and the emerging Internet of things;
(b) potential barriers to progress or innovation and how these might be addressed;
(c) the impact of restricted access for people with disability on inclusion and participation in economic, cultural, social, civil and political life; and
(d) any other 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.

10 Scrutiny of Bills—Standing Committee—Standing Order 24—Temporary Order
Senator Urquhart, at the request of the Chair of the Standing Committee for the Scrutiny of Bills (Senator Polley) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 120—That—
(a) where the Scrutiny of Bills Committee writes to a minister it expects a response to be received in time to be considered by the committee and reported on while the bill is still before the Parliament;
(b) if the committee has not completed its inquiry due to the failure of a minister to respond to the committee’s concerns, senators should have the right to ask the responsible minister why the Scrutiny of Bills Committee has not received a response; and therefore
(c) the following amendment to standing order 24 operate as a temporary order from the first sitting day of 2017 to the last sitting day of March 2018:

Add the following paragraph:

(1)(d) If the committee has not finally reported on a bill due to the failure of a minister to respond to its concerns then, immediately prior to the consideration of government business on any day or immediately prior to the consideration of the bill:

(i) any senator may ask the minister for an explanation as to why the minister has not provided a response to the committee, and

(ii) the senator may, at the conclusion of the explanation, move without notice either a motion relating to the consideration of the bill or—That the Senate take note of the explanation, or

(iii) in the event that the minister does not provide an explanation, the senator may, without notice, move a motion with regard to the minister’s failure to provide an explanation.

Question put and passed.

11 FAMILY AND COMMUNITY SERVICES—PEOPLE WITH DISABILITY

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 131—That the Senate—

(a) notes that this week is Disability Awareness Week, and that 3 December 2016 is International Day of People with Disability;

(b) acknowledges the report of the Community Affairs References Committee into the violence, abuse and neglect suffered by people with disability in institutional and residential settings, which was tabled on 25 November 2015;

(c) notes that disability abuse continues to be an issue of national shame; and

(d) calls on the Government to respond to the report and to commit to implementing the 30 recommendations of the report, including the recommendation for a royal commission.

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.

12 FAMILY AND COMMUNITY SERVICES—INTERNATIONAL DAY OF PEOPLE WITH DISABILITY

Senator O’Neill, also on behalf of Senators Brown and Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 132—That the Senate—

(a) recognises that:

(i) Saturday, 3 December 2016, is International Day of People with Disability,

(ii) the United Nations proclaimed International Day of People with Disability for the first time in 1992 as a way of promoting better understanding of disability issues, and as a sign of support for the dignity, rights and well-being of people with disabilities, and
(iii) each year, the United Nations chooses a theme for International Day of People with Disability, and this year’s theme is ‘Achieving 17 Goals for the Future We Want’, which draws attention to how the 17 Sustainable Development Goals can create a more inclusive and equitable world for people with disabilities;

(b) acknowledges that:

(i) December 2016 also marks the 10 year anniversary of the United Nations General Assembly’s adoption of the Convention on the Rights of Persons with Disabilities (the Convention), and

(ii) the Convention’s purpose is to ‘promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity’;

(c) urges all levels of government to take action to remove barriers to employment, education and full community participation of people with disability through the long overdue Second Action Plan under the National Disability Strategy;

(d) urges the Government to take action to fix the problems with the National Disability Insurance Scheme roll-out, and ensure that people with disability get the care and support they need to improve their lives; and

(e) encourages all Australians to get involved in celebrations in their local communities.

Question put and passed.

13 **PUBLIC ACCOUNTS AND AUDIT—JOINT STATUTORY COMMITTEE—LEAVE TO MEET DURING SITTINGS**

Senator Bushby, at the request of the Chair of the Joint Committee of Public Accounts and Audit (Senator Smith) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 133—That the Joint Committee of Public Accounts and Audit be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate, from 9.30 am, as follows:

(a) Wednesday, 8 February 2017; and

(b) Wednesday, 15 February 2017.

Question put and passed.

14 **RESILIENCE OF ELECTRICITY INFRASTRUCTURE IN A WARMING WORLD—SELECT COMMITTEE—EXTENSION OF TIME TO REPORT**

The Chair of the Select Committee into the Resilience of Electricity Infrastructure in a Warming World (Senator Hanson-Young) amended general business notice of motion no. 134 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the time for the presentation of the report of the Select Committee into the Resilience of Electricity Infrastructure in a Warming World be extended to 24 March 2017.

Question put and passed.
15 STRENGTHENING MULTICULTURALISM—SELECT COMMITTEE—APPOINTMENT

The Leader of the Australian Greens (Senator Di Natale) amended general business notice of motion no. 135 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—

(1) That a select committee to be known as the Select Committee on Strengthening Multiculturalism be established on 27 March 2017 to inquire into and report on ways of protecting and strengthening Australia’s multiculturalism and social inclusion, with particular reference to:

(a) the views and experiences of people from culturally and linguistically diverse, and new and emerging communities;

(b) the adequacy and accessibility of settlement and social inclusion services and resources available to individuals and communities;

(c) the adequacy of existing data collection and social research on racially motivated crimes;

(d) the impact of discrimination, vilification and other forms of exclusion and bigotry on the basis of ‘race’, colour, national or ethnic origin, culture or religious belief;

(e) the impact of political leadership and media representation on the prevalence of vilification and other forms of exclusion and bigotry on the basis of ‘race’, colour, national or ethnic origin, culture or religious belief;

(f) how to improve the expected standards of public discourse about matters of ‘race’, colour, national or ethnic origin, culture or religious belief;

(g) how to better recognise and value the contribution that diverse communities bring to Australian social and community life;

(h) the potential benefits and disadvantages of enshrining principles of multiculturalism in legislation;

(i) the potential benefits and disadvantages of establishing a legislative basis for the Multicultural Advisory Council, or for an ongoing Multicultural Commission; and

(j) any related matters.

(2) That the committee present its final report on or before 14 August 2017.

(3) That the committee consist of 7 senators, 2 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate, 1 nominated by the Leader of the Australian Greens and 1 nominated by minority groups and independent senators.

(4) 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, the Leader of the Australian Greens 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.

(5) That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nominated and appointed and notwithstanding any vacancy.
(6) That the committee elect as chair a member nominated by the Leader of the Australian Greens and, as deputy chair, a member 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 equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote.

(9) That the committee 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, the evidence taken and such interim recommendations as it may deem fit.

(10) 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.

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

Question put and passed.

16 PRIMARY INDUSTRIES—RED IMPORTED FIRE ANT ERADICATION PROGRAM REVIEW—ORDER FOR PRODUCTION OF DOCUMENT

Senator Rice, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 137—That—

(a) the Senate notes:

(i) the adverse effect of Red Imported Fire Ant (RIFA) populations on ecosystems, native species, agricultural communities and human health,

(ii) the ongoing program since 2001 to eradicate Red Imported Fire Ants,

(iii) the communique of the Agriculture Ministers Forum held in Auckland, New Zealand on 20 May 2016, which indicated that:

(A) it remains in the national interest to eradicate the ants and that it is technically feasible and cost beneficial to do so,

(B) ministers agreed to continue to cost share the RIFA South East Queensland eradication program in 2016-17, in accordance with the nationally agreed 2013-18 Response Plan, and

(C) funding of a 10-year eradication plan or transition to a management plan for the SEQ Programme will be considered at the next AGMIN meeting, and

(iv) the right of all Australians to sufficient information to understand the important decision that the agriculture ministers will be making at their next meeting in 2017 on whether the eradication program should continue, the implications of proceeding and not proceeding, the costs involved and the lessons learnt from the program so far; and

(b) there be laid on the table by the Minister representing the Minister for Agriculture and Water Resources, by no later than 9.30 am on 1 December 2016, the Independent Review of the National Red Imported Fire Ant Eradication Program: Report of the independent review panel.
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 ENVIRONMENT—MINAMATA CONVENTION ON MERCURY—RATIFICATION—ORDER FOR PRODUCTION OF DOCUMENT

Senator Waters, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 138—That there be laid on the table by the Minister representing the Minister for the Environment and Energy, by no later than 9.30 am on 1 December 2016, the cost-benefit analysis undertaken by Marsden Jacob Associates of Australia ratifying the Minamata Convention on Mercury commissioned by the Department of the Environment and 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.

18 ADMINISTRATION—ANTI-CORRUPTION SYSTEMS

Senator Rhiannon, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 139—That the Senate—
(a) notes that:
   (i) since 1989, the New South Wales Independent Commission Against Corruption (ICAC) has investigated New South Wales (NSW) politicians and public officials and exposed a range of corrupt activities,
   (ii) the NSW Liberal-National Government, with the support of Christian Democrats and the Shooters, Fishers and Farmers Party, have voted to replace the ICAC Commissioner with a three-commissioner model,
   (iii) this change will mean that the power to conduct public inquiries initiated by the ICAC Commissioner will be severely weakened,
   (iv) former Assistant ICAC Commissioner, Mr Anthony Whealy, stated that the changes have a perception of payback, and former ICAC Commissioner Mr David Ipp has described the changes as scandalous, and
   (v) all Australian states and territories have some form of an anti-corruption commission; and
(b) calls on the Federal Government to support current and sound future research into potential anti-corruption systems appropriate for Australia, including the research led by Griffith University, in partnership with Transparency International Australia.
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.
FUNDING FOR RESEARCH INTO CANCERS WITH LOW SURVIVAL RATES—SELECT COMMITTEE—APPOINTMENT

Senator Urquhart, at the request of Senator Bilyk and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 140—

(1) That a select committee, to be known as the Select Committee into Funding for Research into Cancers with Low Survival Rates, be established to inquire into and report on, by 28 November 2017, the impact of health research funding models on the availability of funding for research into cancers with low survival rates, with particular reference to:

(a) the current National Health and Medical Research Council funding model, which favours funding for types of cancer that attract more non-government funding, and the need to ensure the funding model enables the provision of funding research into brain cancers and other low survival rate cancers;

(b) the obstacles to running clinical trials for brain cancers and other cancers with relatively lower rates of incidence, with regard to:

(i) funding models that could better support much-needed clinical trials, and

(ii) funding support for campaigns designed to raise awareness of the need for further research, including clinical trials;

(c) the low survival rate for brain cancers, lack of significant improvement in survival rates, and strategies that could be implemented to improve survival rates; and

(d) other relevant matters.

(2) That the committee consist of 8 senators, 3 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate and 2 nominated by minority groups and independent senators.

(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 the provisions of standing order 29 apply with respect to quorum.

(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 Opposition in the Senate and, as deputy chair, one of the members nominated by the Leader of the Government 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.

Question put and passed.

20 Economics References Committee—Reference

Senator Gallagher, 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 Economics References Committee for inquiry and report by the last sitting day of the autumn sittings of 2018:

The regulatory framework for the protection of consumers, including small businesses, in the banking, insurance and financial services sector (including Managed Investment Schemes), with particular reference to:

(a) any failures that are evident in the:
   (i) current laws and regulatory framework, and
   (ii) enforcement of the current laws and regulatory framework, including those arising from resourcing and administration;
(b) the impact of misconduct in the sector on victims and on consumers;
(c) the impact on consumer outcomes of:
   (i) executive and non-executive remuneration,
   (ii) incentive-based commission structures, and
   (iii) fee-for-no-service or recurring fee structures;
(d) the culture and chain of responsibility in relation to misconduct within entities within the sector;
(e) the availability and adequacy of:
   (i) redress and compensation to victims of misconduct, including options for a retrospective compensation scheme of last resort, and
   (ii) legal advice and representation for consumers and victims of misconduct, including their standing in the conduct of bankruptcy and insolvency processes;
(f) the social impacts of consumer protection failures in the sector, including through increased reliance of victims on community and government services;
(g) options to support the prioritisation of consumer protection and associated practices within the sector; and
(h) any related matters.
Statements by leave: The Assistant Minister to the Prime Minister (Senator McGrath) and Senator Whish-Wilson, by leave, made statements relating to the motion.

Question put.

The Senate divided—

**AYES, 40**

Senators—

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**NOES, 25**

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* Tellers

Question agreed to.

21 Legal and Constitutional Affairs References Committee—Reference

Senator Watt, also on behalf of Senator McKim, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 3—

(1) That the following matter be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 21 March 2017:

The nature and scope of any agreement reached by the Commonwealth and Western Australian governments in relation to the distribution of proceeds of the liquidation of, and litigation concerning, the Bell Group of companies (the proceeds), with particular reference to:

(a) the priority order for distribution of the proceeds;

(b) the Commonwealth’s position in relation to the distribution of, and litigation concerning, the proceeds;

(c) any connection between the above and the settlement of other disputes between the Commonwealth and Western Australian governments, including regarding the distribution of GST revenue between the states;

(d) any direction or instruction given by the Attorney-General to the Solicitor-General, either directly or through his office or department, in relation to the conduct of litigation concerning the proceeds;

(e) any connection between the above and the issuing of the Legal Services Amendment (Solicitor-General Opinions) Direction; and

(f) any other related matter.
That the Senate directs the Attorney-General (Senator Brandis) and the Minister for Finance (Senator Cormann) to appear before the committee to answer questions.

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—

AYS, 36

Senators—


NOES, 29

Senators—

Abetz Back Birmingham Burston Bushby* Canavan Cash Duniam Fawcett Fierravanti-Wells Fifield Hanson Hume Leyonhjelm Macdonald

McGrath McKenzie Nash O’Sullivan Parry Paterson Reynolds Roberts Ruston Ryan Scullion Seselja Sinodinos Williams

* Tellers

Question agreed to.

22 COMMUNICATIONS—AUSTRALIAN BROADCASTING CORPORATION

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 129—That the Senate—

(a) opposes recent cuts to the Australian Broadcasting Corporation (ABC) that have resulted in:

(i) the loss of almost 500 Australian jobs,
(ii) the closure of all 50 ABC retail outlets around Australia,
(iii) a substantial reduction in Australian made children’s content,
(iv) a substantive reduction in local regional content, and
(v) a reduction in government funding totalling 29.2 per cent over 30 years;

(b) opposes the severe cuts to the ABC outlined in the 2016-17 Budget paper, totalling almost $50 million over the forward estimates; and

(c) supports the ongoing strengthening of the ABC as a bold, vital and well-funded national broadcaster with strong local and regional content for all Australians.

Statements by leave: The Assistant Minister to the Prime Minister (Senator McGrath) and Senator O’Neill, by leave, made statements relating to the motion.

Question put.
The Senate divided—

AYES, 35

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NOES, 30

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* Tellers

Question agreed to.

23 PRIMARY INDUSTRIES—AUSTRALIAN PESTICIDES AND VETERINARY MEDICINES AUTHORITY—RELOCATION—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Rice, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 136—That—

(a) the Senate notes:

(i) the grave concerns of the wider agricultural and agribusiness community that the Australian Pesticides and Veterinary Medicines Authority’s (APVMA) relocation will irreversibly damage the capacity of the APVMA to carry out its core responsibilities,

(ii) the recently released Ernst and Young independent analysis of the APVMA relocation, which identified the following key risks:

(A) the APVMA is unable to effectively relocate or recruit key APVMA executive management and technical assessment staff within the first two years,

(B) during transition and in the short term, the APVMA is unable to sustain its rate of effort for registration of new agricultural and veterinary chemical products,

(C) the APVMA is unable to maintain and grow its capability in the medium term, and

(D) the APVMA has reduced access to stakeholders, and

(iii) the recommendation in the independent analysis calling for the carrying out of the following critical next tasks for risk mitigation:

(A) an analysis of supply (and demand) for regulatory scientists,

(B) an analysis of connectivity between APVMA business groups,

(c) the development of recruitment, retention and training strategies, and

and
(b) there be laid on the table by the Minister representing the Minister for Agriculture and Water Resources, by no later than 9.30 am on 1 December 2016, the following documents held or prepared by the Department of Agriculture and Water Resources and/or the Australian Pesticides and Veterinary Medicines Authority:

(i) an analysis of supply (and demand) for regulatory scientists,
(ii) an analysis of connectivity between APVMA business groups,
(iii) any APVMA recruitment, retention and training strategies, and
(iv) any APVMA transition plans.

Question put. The Senate divided—

AYES, 36

Senators—

Bilyk
Brown
Cameron
Collins
Culleton
Dastyari
Di Natale
Dodson
Farrell
Gallacher
Gallagher
Griff
Hanson-Young
Hinch
Kakoschke-Moore
Ketter
Kitching
Lambie
Leyonhjelm
Lines
Marshall
McAllister
McCarthy
McKim
Moore
O’Neill
Pratt
Rhiannon
Lines
Sterle
Waters
Whish-Wilson

NOES, 28

Senators—

Abetz
Back
Birmingham
Burston
Bushby*
Canavan
Cash
Duniam
Fawcett
Fierravanti-Wells
Fifield
Hanson
Hume
Macdonald
McGrath
McKenzie
Nash
O’Sullivan
Parry
Paterson
Reynolds
Roberts
Ruston
Ryan
Scefail
Seselja
Sinodinos
Williams

* Tellers

Question agreed to.

24 DEFENCE—RETIRED GENERAL DAVID MORRISON, AO

Senator Lambie, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 130—That the Senate—

(a) notes that:

(i) Retired General David Morrison, AO, was appointed Australian of the Year for 2016,

(ii) the Australian of the Year has traditionally demonstrated excellence in their field, a significant contribution to the Australian community and nation, and been an inspirational role model for the Australian community,
a recently uncovered New South Wales Police Force investigation into the ‘Jedi Council’, the Strike Force Civet report, which investigated sex assaults and other related crimes involving members of the Australian Defence Force (ADF) during General Morrison’s command of the Army, indicated a sophisticated, high-level military cover-up, including deliberate lies, withholding of evidence, fabrication of information, and supported the conduct of criminal and serious internal offences,

(iv) sworn testimony from a subordinate of General Morrison, retired Lieutenant Colonel Karel Dubsky, indicated that General Morrison and others deliberately ignored the facts as stated in the Strike Force Civet report, and allowed Lieutenant Colonel Dubsky and others to be wrongly accused of being members of a group of sex offenders, and/or demeaners of women, and

(v) General Morrison’s behaviour caused exceptional and undue harm to retired Lieutenant Colonel Dubsky, his family, and other innocent members of the ADF, and demonstrated behaviour that was the opposite required of the Australian of the Year; and

(b) calls on the Government to make a recommendation to remove General Morrison as Australian of the Year, and replace him with a person worthy of the title.

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

Question put.
The Senate divided—

AYES, 7

Senators—
Burston
Hanson
Lambie*
Roberts
Culleton
Hinch
Leyonhjelm

NOES, 52

Senators—
Back
Bilyk
Birmingham
Brown
Bushby
Cameron
Canavan
Cash
Collins
Di Natale
Dodson
Duniam
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Parry
Paterson
Pratt
Reynolds
Rhiannon
Rice
Ruston
Ryan
Scullion
Seselja
Siewert
Sinodinos
Smith
Sterle
Urquhart*
Waters
Whish-Wilson
Williams

*Tellers

Question negatived.
25 CONSIDERATION OF LEGISLATION
The Assistant Minister to the Prime Minister (Senator McGrath), pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 1—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Civil Nuclear Transfers to India Bill 2016, allowing it to be considered during this period of sittings.
Question put and passed.

26 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—LAW AND JUSTICE—BELL GROUP LITIGATION
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 proposal to be submitted to the Senate was determined by lot.
As a result, the President informed the Senate that Senator Gallagher had proposed that the following matter of public importance be submitted to the Senate for discussion:

The Government’s willingness to enter into an arrangement to forgo $300 million in tax revenue in order to benefit their political allies.

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

Community Affairs References Committee—Indefinite detention of people with cognitive and psychiatric impairment in Australia—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 Duniam in continuation.

The Minister for Employment (Senator Cash) tabled the following document:
Senator Whish-Wilson moved—That the Senate take note of the document.
On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.
The following order of the day was considered:

Environment and Communications References Committee—Retirement of coal fired power stations—Interim report. Motion to take note of report moved by the chair of the committee (Senator Waters) and agreed to.

29 COMMUNITY AFFAIRS REFERENCES COMMITTEE—INCOME INEQUALITY—GOVERNMENT RESPONSE—ORDER FOR PRODUCTION OF DOCUMENT—DOCUMENT

The Minister for Employment (Senator Cash) tabled the following document:

Community Affairs References Committee—Income inequality—Government response—Letter to the President of the Senate from the Minister for Finance (Senator Cormann), dated 29 November 2016, responding to the order of the Senate of 28 November 2016.

30 CRIMINAL CODE AMENDMENT (HIGH RISK TERRORIST OFFENDERS) BILL 2016—EXPLANATORY MEMORANDUM—ADDENDUM

The Minister for Employment (Senator Cash) tabled an addendum to the explanatory memorandum relating to the Criminal Code Amendment (High Risk Terrorist Offenders) Bill 2016.

31 COMPETITION AND CONSUMER AMENDMENT (COUNTRY OF ORIGIN) BILL 2016

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

Message no. 80, dated 28 November 2016—A Bill for an Act to amend the Competition and Consumer Act 2010, and for related purposes.

The Minister for Employment (Senator Cash) 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 Cash 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.

32 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.

Bills further debated.

Question—That the Building and Construction Industry (Improving Productivity) Bill 2013 stand as printed—divided, at the request of Senator Leyonhjelm, also on behalf of the Leader of Derryn Hinch’s Justice Party (Senator Hinch) and Senator Xenophon, in respect of clause 7, subclause (4).
Clause 7, subclause (4) debated.

Question—That clause 7, subclause (4) stand as printed—put and negatived.

On the motion of Senator Xenophon 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 5, page 12 (after line 29), after the definition of *WHS Accreditation Scheme*, insert:

*Working Group* means the Security of Payments Working Group established by section 32A.

Page 28 (after line 9), at the end of Chapter 2, add:

**Part 4—Security of Payments Working Group**

32A Security of Payments Working Group

(1) The Security of Payments Working Group is established by this section.

(2) The functions of the Working Group are the following:

(a) monitoring the impact of the activities of the Commission on the conduct and practices of building industry participants in relation to their compliance with laws (*security of payment laws*) of the Commonwealth, the States and the Territories that relate to the security of payments that are due to persons in relation to building work;

(b) making recommendations to the ABC Commissioner about policies, procedures or programs that could be implemented to improve compliance by building industry participants with security of payment laws;

(c) making recommendations to the Minister about any matter that the Minister requests the Working Group to consider;

(d) any other functions conferred on the Working Group by the rules.

32B Membership of Working Group

(1) The Working Group consists of the following members:

(a) the ABC Commissioner;

(b) at least one member who has experience or background in employee representation in the building industry;

(c) at least one member who has experience or background in employer representation in the building industry;

(d) at least one member who has experience or background in contractor representation in the building industry;

(e) any other members (if any) appointed under section 32C.

(2) The rules may specify entities that must be represented on the Working Group.

32C Appointment of members

(1) A member of the Working Group (other than the ABC Commissioner) is to be appointed by the Minister by written instrument.

Note: A member of the Working Group is eligible for reappointment (see section 33AA of the *Acts Interpretation Act 1901*).
(2) A member appointed by the Minister holds office on a part-time basis.

(3) A member appointed by the Minister holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

32D Chair

(1) The Minister must appoint a member (other than the ABC Commissioner) to be the Chair of the Working Group.

(2) The Minister may, by written instrument, appoint a member (other than the ABC Commissioner) to act as the Chair:
   (a) during a vacancy in the office of Chair (whether or not an appointment has previously been made to the office); or
   (b) during any period, or during all periods, when the Chair:
       (i) is absent from duty or from Australia; or
       (ii) is, for any reason, unable to perform the duties of the office.

   Note: See sections 20 and 33A of the Acts Interpretation Act 1901.

32E Remuneration

(1) A member of the Working Group appointed by the Minister is not entitled to be paid remuneration or allowances.

(2) A member of the Working Group appointed by the Minister is entitled to be reimbursed reasonable expenses that he or she incurs in performing functions as a member.

32F Resignation of members

(1) A member of the Working Group appointed by the Minister may resign his or her appointment by giving the Minister a written resignation.

(2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

32G Termination of appointment

The Minister may terminate the appointment of a member of the Working Group appointed by the Minister:
   (a) for misbehaviour; or
   (b) if the member is unable to perform the duties of his or her office because of physical or mental incapacity; or
   (c) if the member:
      (i) becomes bankrupt; or
      (ii) takes steps to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
      (iii) compounds with one or more of his or her creditors; or
      (iv) makes an assignment of his or her remuneration for the benefit of one or more of his or her creditors; or
   (d) if the member is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months.

32H Other terms and conditions

A member of the Working Group appointed by the Minister holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.
32J Meetings

(1) The Chair must convene:
   (a) such meetings of the Working Group as are, in his or her opinion, necessary for the performance of its functions; and
   (b) at least 4 meetings of the Working Group in each financial year.

(2) The procedures to be followed at a meeting of the Working Group are to be determined by the Chair.

32K Annual report

The Chair must, as soon as practicable after the end of each financial year, prepare and give to the Minister, for presentation to the Parliament, a report on:
   (a) the membership of the Working Group during the financial year; and
   (b) the operations of the Working Group during the financial year.

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

Clause 34, page 29 (after line 19), after subclause (2), insert:

(2D) Without limiting subsection (1), the Building Code must include provisions ensuring that no person is employed to undertake building work unless:
   (a) the position is first advertised in Australia; and
   (b) the advertising was targeted in such a way that a significant proportion of suitably qualified and experienced Australian citizens and Australian permanent residents (within the meaning of the Migration Act 1958) would be likely to be informed about the position; and
   (c) any skills or experience requirements set out in the advertising were appropriate to the position; and
   (d) the employer demonstrates that no Australian citizen or Australian permanent resident is suitable for the job.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 35

Senators—

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NOES, 28

Senators—

Abetz
Birmingham
Brandis
Bushby
Canavan
Cash
Cormann

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

Leyonhjelm
McGrath
McKenzie
Nash
O’Sullivan
Paterson
Reynolds

Ruston
Ryan
Scullion
Sinodinos
Smith
Williams
Xenophon

*Tellers

Question agreed to.

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

Clause 34, page 29 (lines 17 to 19), omit subclause (2), substitute:

(2) Without limiting subsection (1), the Minister:

(a) must issue one or more documents under that subsection in relation to procurement matters relating to building work; and

(b) may issue one or more documents under that subsection in relation to work health and safety matters relating to building work.

(2A) A document issued under subsection (1) relating to procurement matters must include a requirement that a tenderer for building work must demonstrate the following:

(a) the extent to which locally sourced and manufactured building materials will be used to undertake the building work;

(b) whether the building materials to be used to undertake the building work comply with relevant Australian standards published by, or on behalf of, Standards Australia;

(c) the whole-of-life costs of the project to which the building work relates;

(d) the net economic impacts of the project to which the building work relates;

(e) the jobs impact of the project to which the building work relates;

(f) whether the project to which the building work relates will contribute to skills growth.

Debate ensued.

Document: The Minister for Finance (Senator Cormann) tabled the following document:


Debate continued.

Question—That the amendment be agreed to—put and negatived.
On the motion of Senator Hinch, also on behalf of Senators Lambie, Culleton and Xenophon, 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 5, page 9 (after line 26), after the definition of *full-time Commissioner*, insert:

*funding entity* has the meaning given by subsection 34(2C).

Clause 34, page 29 (lines 17 to 19), omit subclause (2), substitute:

(2) Without limiting subsection (1), the Minister:
   (a) must issue one or more documents under that subsection in relation to procurement matters relating to building work; and
   (b) may issue one or more documents under that subsection in relation to work health and safety matters relating to building work.

Note: A single document may contain the entire Building Code (including the matters referred to in paragraph (2)(a) and, if applicable, paragraph (2)(b)).

(2A) Without limiting subsection (1) or paragraph (2)(a), a document issued under subsection (1) relating to procurement matters must require a funding entity to ensure that the preferred tenderer for building work provides the following information:
   (a) the extent to which domestically sourced and manufactured building materials will be used to undertake the building work;
   (b) whether the building materials to be used to undertake the building work comply with relevant Australian standards published by, or on behalf of, Standards Australia;
   (c) the preferred tenderer’s assessment of the whole-of-life costs of the project to which the building work relates;
   (d) the impact on jobs of the project to which the building work relates;
   (e) whether the project to which the building work relates will contribute to skills growth.

(2B) Without limiting subsection (1) or paragraph (2)(a), a document issued under subsection (1) relating to procurement matters must require a funding entity to require building industry participants to only use products in building work that comply with relevant Australian standards published by, or on behalf of, Standards Australia.

(2C) Each of the following is a *funding entity*:
   (a) a non-corporate Commonwealth entity (within the meaning of the *Public Governance, Performance and Accountability Act 2013*);
   (b) a corporate Commonwealth entity (within the meaning of that Act) that is directed by the Minister administering that Act to comply with the Building Code.
Senator Rhiannon moved the following amendment in respect of the Building and Construction Industry (Improving Productivity) Bill 2013:

Clause 34, page 29 (after line 19), after subclause (2), insert:

(2A) Without limiting subsection (1), the Building Code must include provisions ensuring that no less than 90% of the steel (other than excluded steel) used in a particular building work is manufactured in a blast furnace or an electric arc furnace located in Australia.

(2B) For subsection (2A), excluded steel means:

(a) any kind of steel that is not manufactured at any location in Australia and could not be manufactured in Australia for the purposes of a particular building work:

(i) at a cost (a reasonable cost) that does not exceed 20 percent of the base cost of the steel if manufactured in Australia; and

(ii) within a reasonable time; or

(b) any item made in Australia that is required to be made from a special kind of steel that is not manufactured in Australia and could not be manufactured in Australia at a reasonable cost; or

(c) any steel not manufactured in Australia for which the unit price would be 20 percent higher than the relevant price for steel specified by MEPS International Ltd or another global steel price prescribed by the regulations.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 8

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NOES, 52

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* Tellers

Question negativated.
On the motion of Senator Hinch, also on behalf of Senators Lambie, Culleton and Xenophon, the following amendment in respect of the Building and Construction Industry (Improving Productivity) Bill 2013 was debated and agreed to:

Clause 16, page 21 (after line 7), at the end of the clause, add:

(3) Without limiting subsection (1), the ABC Commissioner must perform his or her functions in relation to the following provisions of the FW Act:

(a) Chapter 2, including (but not limited to) in relation to wages and entitlements;
(b) Part 3-1 (general protections, including protection of freedom of association and prohibitions on coercion), including (but not limited to):
   (i) section 351 (discrimination); and
   (ii) sections 357 to 359 (sham arrangements);
(c) Part 3-3 (industrial action), including (but not limited to):
   (i) section 474 (payments not to be made relating to certain periods of industrial action); and
   (ii) section 475 (accepting or seeking payments relating to periods of industrial action);
(d) Part 3-4 (right of entry).

On the motion of Senator Xenophon the following amendment in respect of the Building and Construction Industry (Improving Productivity) Bill 2013 was debated and agreed to:

Clause 38, page 32 (after line 22), after paragraph (c), insert:

(ca) auditing compliance with National Construction Code performance requirements in relation to building materials;

On the motion of Senator Hinch, also on behalf of Senator Culleton, the following amendment in respect of the Building and Construction Industry (Improving Productivity) Bill 2013 was agreed to:

Clause 119, page 97 (after line 6), after the clause, insert:

119A Review of operation of this Act

(1) Before the end of the period of 12 months after the commencement of this section, the Minister must cause to be conducted a review into the operation of this Act.

(2) The Minister must cause to be prepared a report of a review under subsection (1).

(3) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the completion of the preparation of the report.

Question—That the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 stand as printed—divided, at the request of Senator Xenophon, in respect of Schedule 1, item 2.

Question—That Schedule 1, item 2 stand as printed—put and negatived.

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

Schedule 1, page 4 (line 2), omit the heading.
On the motion of Senator Hinch the following amendment in respect of the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 was agreed to:

Schedule 2, item 14, page 13 (line 8), omit “, other than regulation 7.13.”.

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

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

(4) If the Building Code includes provisions in relation to building enterprise agreements:
(a) the provisions may only apply in relation to a building enterprise agreement made on or after the commencement of this section; and
(b) any building enterprise agreement made, or approved under the Fair Work Act 2009 before the commencement of this section is taken to comply with the Building Code.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 8

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

NOES, 51

 Senator—
Abetz Culleton Kakoschke-Moore O’Sullivan
Back Dodson Ketter Paterson
Bilyk Duniam Kitching Pratt
Birmingham Farrell Lambie Reynolds
Brandis Fawcett Leyonhjelm Roberts
Brown Fieravanti-Wells Macdonald Ruston
Burston Fifield Marshall Ryan
Bushby Gallacher McAllister* Smith
Cameron Gallagher McCarthy Sterle
Canavan Griff McGrath Urquhart
Carr Hanson McKenzie Williams
Cash Hinch Moore Xenophon
Cormann Hume Hinch Nash

* Tellers

Question negatived.
Senator Hinch moved the following amendment in respect of the Building and Construction Industry (Improving Productivity) Bill 2013:

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, tender for 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.

At midnight: The President resumed the chair and the Chair of Committees (Senator Lines) reported progress.

33 ADJOURNMENT

Pursuant to order (see entry no. 31, 28 November 2016), the Senate adjourned at midnight till Wednesday, 30 November 2016 at 9.30 am.

34 ATTENDANCE

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

ROSEMARY LAING
Clerk of the Senate