

PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS
CHAIR'S TABLING STATEMENT

TUESDAY 25 November 2014

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' Sixteenth Report of the 44th Parliament.

The committee considered 15 bills. Of these 15 bills, four do not require further scrutiny as they are compatible with human rights. The committee has decided to further defer its consideration of eight bills.

The committee has identified three bills that it considers require further examination and for which it will seek further information.

Of the bills considered, those which are scheduled for debate during the sitting week commencing 24 November 2014 include:

- the Broadcasting and Other Legislation Amendment (Deregulation) Bill 2014;
- the Counter Terrorism Legislation Amendment Bill (No. 1) 2014;
- the Statute Law Revision Bill (No. 2) 2014;
- the Telecommunications Legislation Amendment (Deregulation) Bill 2014; and
- the Telecommunications (Industry Levy) Amendment Bill 2014.

The report outlines the committee's assessment of the compatibility of these bills with human rights, and I encourage my fellow Senators to look to the committee's report to inform your deliberations on the merits of this proposed legislation.

I would like to make some remarks to remind Senators' of the context in which the committee's undertakes its task of assessing legislation for compatibility with human rights.

The Parliamentary Joint Committee on Human Rights, or PJC, is one of only three legislative scrutiny committees established or administered by the Senate.

It is sometimes forgotten that legislative scrutiny committees perform a unique and important institutional role in the Parliament, which is to undertake technical assessments of bills and legislation against scrutiny criteria or, in the case of the PJC, established human rights standards.

This unique function of scrutiny committees has always been reflected in the bipartisan spirit in which they operate. With this bipartisan approach, and with the support of well-respected external legal advisers, the scrutiny committees' reports have been trusted and credible sources of information since the establishment of the Parliament's first scrutiny committee, the Regulations and Ordinances Committee, in the 1930s.

Noting the many opportunities that exist for senators and members of parliament to engage in the robust party and political debates that are a familiar feature of our Parliament, the scrutiny committees therefore provide a balanced and objective source of information to educate and inform parliamentarians in their key role as legislators.

But, if scrutiny work is not to have the character of contest that we are all so familiar with in this chamber, what is the role of a scrutiny committee member, if not to prosecute the case on the merits of the policy?

The answer to that, I believe, is that the role of scrutiny committee members has been and is to ensure that scrutiny committee reports are legally and technically credible, as well as consistent with past practice, and this is naturally done at meetings through the testing and questioning of the issues and analysis provided in the committee's reports. Committee members also contribute to directing the tone and nature of the committees' dialogue with ministers, and to shaping the committees' actions in cases where legislation may offend a relevant scrutiny principle.

I would imagine that, over the course of time, literally hundreds of parliamentarians have served on the Parliament's scrutiny committees, and in that service have worked within the constraints of the scrutiny approach to serve this Parliament and its ethos of informed inquiry.

However, it is equally important to note that scrutiny committee members are not and have never been bound by the contents or conclusions of scrutiny committee reports and, like all parliamentarians, are free to otherwise engage in debates over the policy merits of legislation according to the dictates of party, conscience, belief, outlook or even prejudice as the case may be.

Scrutiny committee members may also legitimately apply the technical knowledge gleaned from their service as scrutiny committee members to prosecuting their arguments outside the technical scrutiny arena, and in this I have no doubt that involvement in the scrutiny dialogue hones senators technical knowledge of legislation, and enhances their capacity to prosecute their own views with reference to established and well-known principles, be they of the human rights or parliamentary variety.

In this respect, I encourage those senators that may not yet have performed service on a scrutiny committee to consider, understand and appreciate the distinct character of the scrutiny committees, and the particular benefits that they provide in relation to informing not only the debates in this place, but also the broader ability of senators to engage in informed and principled debate on the merits of legislation which we are daily asked to consider in this place.

With these comments, I commend the committee's Sixteenth Report of the 44th Parliament to the Senate.