

2008

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

No. 51

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1 **MEETING OF SENATE**

The Senate met at 9.30 am. The President (Senator the Honourable John Hogg) took the chair and read prayers.

2 **GOVERNMENT DOCUMENTS**

The following documents were tabled:

Anglo-Australian Telescope Board—Anglo-Australian Observatory (AAO)—Report for 2007-08.

ASC Pty Ltd—Report for 2007-08.

Remuneration Tribunal—Report for 2007-08.

Treaty—*Multilateral*—Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities, New York, 13 December 2006—Text, together with national interest analysis.

3 **AUDITOR-GENERAL AMENDMENT BILL 2008**

**CORPORATIONS AMENDMENT (NO. 1) BILL 2008**

**MIGRATION LEGISLATION AMENDMENT BILL (NO. 2) 2008**

**THERAPEUTIC GOODS AMENDMENT (MEDICAL DEVICES AND OTHER MEASURES) BILL 2008**

The Minister for Human Services (Senator Ludwig), at the request of the Special Minister of State (Senator Faulkner), the Minister for Superannuation and Corporate Law (Senator Sherry), the Minister for Immigration and Citizenship (Senator Evans) and the Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas) and pursuant to notice, moved government business notices of motion nos 1 to 4—That the following bills be introduced:

A Bill for an Act to amend the *Auditor-General Act 1997*, and for related purposes.

A Bill for an Act to amend the law relating to corporations, and for related purposes.

A Bill for an Act to amend the law relating to migration, and for related purposes.

A Bill for an Act to amend the *Therapeutic Goods Act 1989*, and for related purposes.

Question put and passed.

Senator Ludwig presented the bills and moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Ludwig moved—That these bills be now read a second time.

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*Explanatory memoranda:* Senator Ludwig tabled explanatory memoranda [4] relating to the bills.

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*Consideration of legislation:* Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.

Senator Ludwig moved—That the bills be listed on the *Notice Paper* as separate orders of the day.

Question put and passed.

#### 4 CONSIDERATION OF LEGISLATION

The Minister for Human Services (Senator Ludwig), pursuant to notice, moved government business notice of motion no. 5—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:

Nation-building Funds Bill 2008

Nation-building Funds (Consequential Amendments) Bill 2008

COAG Reform Fund Bill 2008.

Debate ensued.

Question put and passed.

#### 5 BROADCASTING LEGISLATION AMENDMENT (DIGITAL TELEVISION SWITCH-OVER) BILL 2008

Order of the day read for the adjourned debate on the motion of the Minister for Human Services (Senator Ludwig)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

The Senate resolved itself into committee for the consideration of the bill.

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#### *In the committee*

Bill taken as a whole by leave.

The Leader of the Opposition in the Senate (Senator Minchin) moved the following amendments together by leave:

No. 1—Schedule 2, page 4 (after line 13), after item 3, insert:

#### **3A Clause 2 of Schedule 4**

Insert:

*minimum analog switch-off readiness criteria* has the meaning given by clause 5G.

No. 2—Schedule 2, page 5 (after line 32), after item 4, insert:

#### **4A At the end of Part 1 of Schedule 4**

Add:

#### **5G Minimum analog switch-off readiness criteria**

- (1) The Minister must, by legislative instrument, determine *minimum analog switch-off readiness criteria*.
- (2) The Minister must make a determination under subclause (1) within 6 months of the day on which this Act receives the Royal Assent.

- (3) A determination made under subclause (1) must include criteria against which the television broadcasting services in each local market area can be objectively assessed, to determine whether the following objectives can be met:
- (a) that the transmission of broadcasting services should achieve the same level of coverage and potential reception quality after digital television switch-over as was achieved by the transmission of those service in that area prior to switch-over; and
  - (b) that all households which received free to air television coverage in analog mode should be able to receive the same level of coverage after switch-over; and
  - (c) that adequate measures have been taken to assist household readiness for analog switch-off, as indicated by household take-up of equipment capable of receiving digital terrestrial free to air television transmission and awareness of analog switch-off and of methods to convert to digital.

*Assessment against readiness criteria*

- (4) In relation to each local market area determined under paragraph 5F(1)(a), the Minister must cause a report to be prepared assessing the local market area against the minimum analog switch-off readiness criteria.
- (5) The Minister must cause any report prepared in accordance with subsection (4) to be published on the department's website not less than 6 months prior to the time determined for that area to become a digital-only local market area.
- (6) If a report prepared under subsection (4) discloses that the readiness criteria have not been met for a local market area, the Minister must cause to be published, within 30 days of the publication of the report, a plan to ensure that:
  - (a) the criteria are met by the time determined for that area to become a digital-only local market area; or
  - (b) the time determined for that area to become a digital-only local market area is extended until the criteria are met; or
  - (c) each of the national television broadcasters and commercial television broadcasting licensees for the local market area and the Digital Switchover Taskforce notify the Minister in writing of their agreement that the time should not be varied.

No. 3—Schedule 2, page 5 (after line 32), after item 4, insert:

**4B At the end of Part 1 of Schedule 4**

**5H Reports on transmission blackspots**

On the first sitting day of each House of the Parliament after each 1 January, 1 April, 1 July and 1 October after the making of the first determination under subclause 5G(1), until 1 September 2014, the Minister must cause a report to be laid before each House of the Parliament containing the following information:

- (a) action taken to identify and rectify digital transmission infrastructure that would otherwise prevent the transmission of free to air television broadcasting services in SDTV digital mode in any area achieving the same level of coverage and potential reception quality as was achieved by the transmission of those services in analog mode; and
- (b) the local market areas and regions where digital transmission issues have been identified and how many households will be affected.

Debate ensued.

The question was divided—

Question—That amendments nos 1 and 2 be agreed to—put.

The committee divided—

AYES, 33

Senators—

Barnett	Coonan	Kroger	Ryan
Bernardi	Cormann	Macdonald	Scullion
Birmingham	Eggleston	Mason	Troeth
Boswell	Ellison	McGauran	Trood
Boyce	Ferguson	Minchin	Williams
Brandis	Fielding	Nash	Xenophon
Bushby	Fierravanti-Wells	Parry (Teller)	
Cash	Fifield	Payne	
Colbeck	Humphries	Ronaldson	

NOES, 31

Senators—

Arbib	Crossin	Hurley	Pratt
Bilyk	Farrell (Teller)	Ludlam	Sherry
Bishop	Faulkner	Ludwig	Siewert
Brown, Bob	Feeny	Marshall	Stephens
Brown, Carol	Forshaw	McEwen	Sterle
Cameron	Furner	McLucas	Wong
Collins	Hanson-Young	Milne	Wortley
Conroy	Hogg	Moore	

Question agreed to.

Question—That amendment no. 3 be agreed to—put and passed.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

On the motion of the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) the report from the committee was adopted and the bill read a third time.

6 **INTERSTATE ROAD TRANSPORT CHARGE AMENDMENT BILL (NO. 2) 2008**  
**ROAD CHARGES LEGISLATION REPEAL AND AMENDMENT BILL 2008**

Order of the day read for the adjourned debate on the motion of the Minister for Superannuation and Corporate Law (Senator Sherry)—That these bills be now read a second time.

Debate resumed.

Question put and passed.

Bills read a second time.

The Senate resolved itself into committee for the consideration of the bills.

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*In the committee*

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*Statement by Chair of Committees:* The Temporary Chair of Committees (Senator Carol Brown) made a statement indicating that the Road Charges Legislation Repeal and Amendment Bill 2008 was classified as a bill imposing taxation and therefore any Senate amendments must proceed by way of requests.

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**INTERSTATE ROAD TRANSPORT CHARGE AMENDMENT BILL (NO. 2) 2008—**

Bill, taken as a whole by leave, agreed to.

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**ROAD CHARGES LEGISLATION REPEAL AND AMENDMENT BILL 2008—**

Bill taken as a whole by leave.

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*Explanatory memorandum:* The Minister for Broadband, Communications and the Digital Economy (Senator Conroy) tabled a supplementary explanatory memorandum relating to the government requests for amendments to be moved to the bill.

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Bill debated.

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*At 12.45 pm:* The Acting Deputy President (Senator Carol Brown) resumed the chair and the Temporary Chair of Committees reported progress.

7 **MATTERS OF PUBLIC INTEREST**

Matters of public interest were discussed.

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*At 2 pm—*

**8 QUESTIONS**

Questions without notice were answered.

**9 IMMIGRATION—MR MARAT AMINOV—STATEMENT BY LEAVE**

The Minister for Immigration and Citizenship (Senator Evans), by leave, made a statement relating to an Azerbaijani man, Mr Marat Aminov, and an incident outside Parliament House today.

**10 MOTIONS TO TAKE NOTE OF ANSWERS**

Senator Cash moved—That the Senate take note of the answers given by the Minister for Climate Change and Water (Senator Wong) to questions without notice asked by Senators Cash and Colbeck today relating to the emissions trading scheme and to water management of the Clyde River, Tasmania.

Debate ensued.

Question put and passed.

Senator Siewert moved—That the Senate take note of the answer given by the Minister for Human Services (Senator Ludwig) to a question without notice asked by Senator Siewert today relating to men's health ambassadors.

Question put and passed.

**11 DEATH OF FORMER MEMBER THE HONOURABLE FRANCIS DANIEL CREAN**

The President informed the Senate of the death, on 2 December 2008, of the Honourable Francis Daniel Crean, former minister and member of the House of Representatives for the division of Melbourne Ports from 1951 to 1977.

The Special Minister of State (Senator Faulkner), by leave, moved—That the Senate records its deep regret at the death, on 2 December 2008, of the Honourable Francis Daniel Crean, former federal Treasurer and Deputy Prime Minister, and places on record its appreciation of his long public service and tenders its profound sympathy to his family in their bereavement.

The motion was supported and all senators present stood in silence—

Question passed.

**12 NOTICES**

*Notices of motion:*

Senator Barnett: To move on the next day of sitting—That the following matter be referred to the Legal and Constitutional Affairs Committee for inquiry and report by 25 June 2009:

Australia's judicial system and the role of judges, with particular reference to:

- (a) the procedure for appointment and method of termination;
- (b) the term of appointment, including the desirability of a compulsory retirement age, and the merit of full-time, part-time or other arrangements;
- (c) appropriate qualifications;
- (d) jurisdictional issues;
- (e) the cost of delivering justice;
- (f) the timeliness of judicial decisions;
- (g) the judicial complaints handling system;

- (h) the interface between the federal and state judicial system; and
- (i) other matters relating and incidental thereto.

The Minister for Human Services (Senator Ludwig): To move on the next day of sitting—That—

(1) On Thursday, 4 December 2008:

- (a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to midnight;
- (b) consideration of general business, and consideration of committee reports, government responses and Auditor-General's reports under standing order 62(1) and (2) shall not be proceeded with;
- (c) the routine of business from 12.45 pm till not later than 2 pm, and from not later than 3.45 pm shall be government business only;
- (d) divisions may take place after 4.30 pm;
- (e) the question for the adjournment of the Senate shall be proposed after the Senate has finally considered the bills listed below and any messages from the House of Representatives:

Broadcasting Legislation Amendment (Digital Television Switch-over) Bill 2008

Interstate Road Transport Charge Amendment Bill (No. 2) 2008  
Road Charges Legislation Repeal and Amendment Bill 2008

Temporary Residents' Superannuation Legislation Amendment Bill 2008

Superannuation (Departing Australia Superannuation Payments Tax) Amendment Bill 2008

Water Amendment Bill 2008 (*message*)

Aged Care Amendment (2008 Measures No. 2) Bill 2008

Nation-building Funds Bill 2008

Nation-building Funds (Consequential Amendments) Bill 2008  
COAG Reform Fund Bill 2008

Social Security Legislation Amendment (Employment Services Reform) Bill 2008

Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008

Corporations Amendment (Short Selling) Bill 2008

Tax Laws Amendment (Luxury Car Tax—Minor Amendments) Bill 2008

Tax Laws Amendment (Political Contributions and Gifts) Bill 2008

Safe Work Australia Bill 2008 (*message*)

Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Emergency Response Consolidation) Bill 2008 (*message*)

Horse Disease Response Levy Bill 2008

Horse Disease Response Levy Collection Bill 2008

Horse Disease Response Levy (Consequential Amendments) Bill 2008; and

- (f) if the Senate is sitting at midnight, the sitting of the Senate be suspended till 9 am on Friday, 5 December 2008.
- (2) On Friday, 5 December 2008:
  - (a) the hours of meeting shall be 9 am to noon, 1 pm to 6.30 pm and 7.30 pm to midnight; and
  - (b) if the Senate is sitting at midnight, the sitting of the Senate be suspended till 9 am on Saturday, 6 December 2008.

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

- (a) notes and commends the sensible action taken by Labor Senators Sterle and Hutchins and also the Labor Member for Throsby, Ms George, in expressing concern over the proposed Carbon Pollution Reduction Scheme (CPRS);
- (b) notes the concern expressed publicly by a number of industries that may be potentially affected by the proposed CPRS including BlueScope Steel, Nyrstar, Qantas and Visy; and
- (c) calls on the Government to delay the introduction of the proposed CPRS until these concerns are addressed. (*general business notice of motion no. 322*)

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

- (a) notes the joint Common Position Statement which highlights the unsustainable and cruel nature of recreational shooting of native waterbirds which is endorsed by 136 organisations, including the World Wildlife Fund, Birds Australia, Bird Observation and Conservation Australia, RSPCA Australia, Australian Conservation Foundation, and the Wilderness Society;
- (b) explores permanently banning recreational duck shooting on all:
  - (i) Commonwealth controlled land, and
  - (ii) Ramsar sites throughout Australia; and
- (c) considers working in co-operation with Victoria, Tasmania, South Australia and the Northern Territory to negotiate an intergovernmental agreement for nationally-consistent legislation for a permanent ban on the recreational shooting of native waterbirds. (*general business notice of motion no. 323*)

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

- (1) That a select committee, to be known as the Select Committee on the Bank Deposit Guarantee, be established to inquire into and report by 30 June 2009 on:
  - (a) the circumstances and basis of the decision to introduce an unlimited bank deposit guarantee and of subsequent decisions to change or define the guarantee;
  - (b) the circumstances and basis of the decision to introduce an unlimited wholesale bank funding guarantee and of subsequent decisions to change or define the guarantee;
  - (c) the effect that the initial announcement of – and subsequent changes to – an unlimited bank deposit guarantee had on the Australian financial sector, including for companies not regulated by the Australian Prudential Regulation Authority (APRA);
  - (d) the effect that the initial announcement of – and subsequent changes to – an unlimited wholesale bank funding guarantee had on the Australian financial sector, including for companies not regulated by APRA;
  - (e) the estimated effect of the bank deposit and wholesale funding guarantees on interest rates in Australia;

- (f) how Australia's deposit guarantee (and wholesale funding guarantee) scheme compares with guarantees offered in other countries and the way in which these schemes were introduced and changed in major overseas countries;
  - (g) the interaction between the deposit guarantee scheme and other recent measures implemented by the Government, including the wholesale funding guarantee and the recent purchases of residential mortgage backed securities;
  - (h) the nature of the financial and economic distortions that the unlimited deposit guarantee scheme has created vis-à-vis savings products that are not covered by the guarantee scheme;
  - (i) the optimal cap for the deposit guarantee in the light of international experience;
  - (j) recommendations for ameliorating the moral hazard associated with the deposit guarantee and wholesale funding guarantees;
  - (k) recommendations for policies to credibly remove the wholesale funding guarantee and to reduce the deposit guarantee to the recommended optimal cap;
  - (l) the effects of the bank deposit guarantee and wholesale funding guarantee on competition within the financial sector;
  - (m) the effects of the announcement of the unlimited bank deposit guarantee and unlimited wholesale funding guarantee on consumer and business confidence;
  - (n) the broader economic and social consequences of these distortions;
  - (o) the size and nature of the contingent liability that the unlimited deposit guarantee has created for Australian taxpayers; and
  - (p) other matters relevant to the bank deposit guarantee and wholesale funding guarantee that the committee considers appropriate.
- (2) That the committee consist of 7 senators, 4 nominated by the Leader of the Opposition in the Senate, 2 nominated by the Leader of the Government in the Senate, and 1 nominated by any minority party or 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;
  - (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; and
  - (c) a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.
- (4) 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.
- (5) That the committee elect as chair one of the members nominated by the Leader of the Opposition in the Senate.

- (6) That the chair of the committee may, from time to time, appoint another member of the committee to be the deputy chair of the committee, and that the member so appointed act as chair of the committee at any time when there is no chair or the chair is not present at a meeting of the committee.
- (7) That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote.
- (8) 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 examine.
- (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, 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 such proceedings as take place in public. (*general business notice of motion no. 324*)

Senator Ferguson: To move on the next day of sitting—That the temporary orders of the Senate of 15 October 2008 and 13 November 2008, relating to the abolition of questions to senators other than ministers and to chairs of committees, and the restructuring of question time, continue as temporary orders during 2009. (*general business notice of motion no. 325*)

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

- (a) expresses its concern about the ongoing shortage of air traffic controllers at Australian airports;
- (b) welcomes the Government's acknowledgement of the shortage in its *National aviation policy green paper*, released on 2 December 2008; and
- (c) calls on the Minister for Infrastructure, Transport, Regional Development and Local Government, given the delay before an aviation white paper is released and implemented, to intervene now to ensure Airservices Australia employs adequate numbers of air traffic controllers to achieve safety standards and allow airlines to run services on schedule. (*general business notice of motion no. 326*)

The Chair of the Legal and Constitutional Affairs Committee (Senator Crossin): To move on the next day of sitting—That the Legal and Constitutional Affairs Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 4 December 2008, from 1.30 pm, in relation to its inquiry on the effectiveness of the *Sex Discrimination Act 1984* in eliminating discrimination and promoting gender equality. (*general business notice of motion no. 327*)

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the Senate adopt the following amendments to standing order 25 with effect from 1 January 2009.

Omit paragraphs (5) and (6), substitute:

- (5) The committees shall each consist of 7 senators, 3 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate and 1 nominated by the Leader of the largest party on the Senate crossbench, in consultation with independent members and other minor parties.

Omit paragraph (9)(a), (b) and (c), substitute:

- (9) (a) The Standing Committee on Community Affairs shall elect as its chair a member of the largest party on the Senate crossbench, and as its deputy chair a member of the Government.
- (b) The Standing Committee on Rural and Regional Affairs and Transport shall elect as its chair a member of the Opposition, and as its deputy chair a member of the largest party on the Senate crossbench.
- (c) Of the remaining committees:
- (i) each of 3 committees shall elect as its chair a member nominated by the Leader of the Opposition in the Senate and as its deputy chair a member nominated by the Leader of the Government in the Senate, and
- (ii) each of 3 committees shall elect as its chair a member nominated by the Leader of the Government in the Senate and as its deputy chair a member nominated by the Leader of the Opposition in the Senate.
- (d) The allocation of chairs and deputy chairs in accordance with paragraph (c) shall be determined by agreement between the Government and the Opposition, and, in the absence of agreement duly notified to the President, any question of the allocation of chairs shall be determined by the Senate. (*general business notice of motion no. 328*)

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

- (a) notes that the Green Cooling Council Ltd's highly significant and internationally-recognised work to facilitate a reduction in the use of high global warming potential hydrofluorocarbon (HFC) greenhouse gases in the refrigeration and air conditioning industry through the replacement of HFCs with natural refrigerants has been funded under a Greenhouse Gas Abatement Program grant of up to \$2 million over 4 years;
- (b) recognises that this is making a valuable contribution to reducing Australia's greenhouse emissions and preparing Australian industry for the introduction of the Carbon Pollution Reduction Scheme, and without immediate measures the Green Cooling Council faces imminent termination;
- (c) expresses concern that delays by the Department of the Environment, Water, Heritage and the Arts in making due payments in respect to the Green Cooling Council Greenhouse Gas Abatement Program grant has today caused the company to go into administration, and urges the Government to take urgent action to avoid termination of the project; and
- (d) calls on the Government to ensure the ongoing success of the project. (*general business notice of motion no. 329*)

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the Senate asks the Minister responsible for the Australian Electoral Commission to:

- (a) furnish the Senate with reasons for rejecting the name Inglis Clark (Andrew Inglis Clark was a key contributor to the drafting of the Australian Constitution) for the Tasmanian seat of Denison; and
- (b) seek to have the decision reconsidered. (*general business notice of motion no. 330*)

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

- (a) welcomes the reported decision of the Minister for Climate Change and the Environment (Ms Tebbutt) to spend \$1.23 million on a recovery plan for koalas, including revegetating koala habitat; and
- (b) calls on the New South Wales Government to halt logging of any koala habitat forest including that in the Bermagui region on the state's south coast. (*general business notice of motion no. 331*)

Senator Ludlam: To move on the next day of sitting—That the following matter be referred to the Rural and Regional Affairs and Transport Committee for inquiry and report by 18 June 2009:

The investment of Commonwealth and State funds in public passenger transport infrastructure and services, with reference to the August 2005 report of the House of Representatives Standing Committee on Environment and Heritage, *Sustainable Cities*, and the February 2007 report of the Senate Standing Committee on Rural and Regional Affairs and Transport Committee, *Australia's future oil supply and alternative transport fuels*, including:

- (a) an audit of the state of public passenger transport in Australia;
- (b) current and historical levels of public investment in private vehicle and public passenger transport services and infrastructure;
- (c) an assessment of the benefits of public passenger transport, including integration with bicycle and pedestrian initiatives;
- (d) measures by which the Commonwealth Government could facilitate improvement in public passenger transport services and infrastructure;
- (e) options for Commonwealth funding for public passenger transport services and infrastructure;
- (f) the role of Commonwealth Government legislation, taxation, subsidies, policies and other mechanisms that either discourage or encourage public passenger transport; and
- (g) best practice international examples of public passenger transport services and infrastructure.

*Intention to withdraw:* The Chairman of the Standing Committee on Regulations and Ordinances (Senator Wortley), pursuant to standing order 78, gave notice of her intention, at the giving of notices on the next day of sitting, to withdraw business of the Senate notices of motion nos 1 to 4 standing in her name for the next day of sitting for the disallowance of the following instruments:

Instrument No. CASA 389/08, made under regulation 208 of the Civil Aviation Regulations 1988.

Instrument No. CASA 390/08, made under regulation 208 of the Civil Aviation Regulations 1988.

Instrument No. CASA 397/08, made under subregulation 38(1) of the Civil Aviation Regulations 1988.

Instrument No. CASA 414/08, made under subregulation 38(1) of the Civil Aviation Regulations 1988.

Senator Wortley, by leave, made a statement relating to the notice of intention.

### 13 POSTPONEMENTS

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Siewert for today, proposing a reference to the Environment, Communications and the Arts Committee, postponed till 4 December 2008.

General business notice of motion no. 233 standing in the name of Senator Xenophon for today, proposing an order for the production of a document relating to the Productivity Commission, postponed till 3 February 2009.

### 14 FOREIGN AFFAIRS—WEST AFRICA—CHILD LABOUR

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 316—That the Senate—

- (a) notes the valuable work of World Vision's youth movement, Vision Generation, in actively educating and empowering young Australian students to take action in the fight against global poverty and injustice;
- (b) recognises:
  - (i) that more than 284 000 children are involved in the worst forms of child labour on cocoa farms in West Africa, and
  - (ii) Vision Generation's current project 'Trek Against Trafficking', which aims to encourage the Australian chocolate industry to take the lead in eradicating exploited labour from cocoa supply chains; and
- (c) calls on the Government to:
  - (i) encourage the Australian chocolate industry to commit to a plan of action that will stop child labour and exploitation in cocoa production; and
  - (ii) look into the feasibility of ensuring fair trade chocolate is available in Parliament House.

Question put and passed.

### 15 WATER AMENDMENT (SAVING THE GOULBURN AND MURRAY RIVERS) BILL 2008

Senator Birmingham, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 317—That the following bill be introduced:

A Bill for an Act to amend the *Water Act 2007* to save the Goulburn and Murray Rivers, and for related purposes.

Question put and passed.

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

Question put and passed.

Bill read a first time.

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

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

**16 WATER ACT 2007—SECTION 86A—DEFINITIONS AND CRITERIA—ORDER FOR PRODUCTION OF DOCUMENT**

Senator Fisher amended general business notice of motion no. 315 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That there be laid on the table by the Minister for Climate Change and Water, by 10 March 2009, in relation to section 86A of the *Water Act 2007*, a document containing the following:

- (a) a comprehensive, practical definition of the term, ‘critical human water needs’ which identifies categories of users of such water and allowable purposes for the use of such water;
- (b) a definition of the core human consumption requirements which would satisfy paragraph 86A(2)(a);
- (c) a definition of the non-human consumption requirements which would satisfy paragraph 86A(2)(b); and
- (d) clear, transparent and equitable criteria the Murray-Darling Basin Authority will apply:
  - (i) in determining whether the definition in paragraph 86A(2)(a) is met,
  - (ii) in determining whether the definition in paragraph 86A(2)(b) is met,
  - (iii) in determining the volume of conveyance water required to deliver water to meet critical human water needs, and
  - (iv) to monitor the use of such water to ensure it is used for the allowable purposes referred to in paragraph (a) of this resolution.

Question put and passed.

**17 FAMILY AND COMMUNITY SERVICES—ABC LEARNING—CHILD CARE**

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 320—That the Senate—

- (a) notes:
  - (i) the recent announcement by receiver McGrathNicol that 386 of the ABC Learning’s 1042 centres are ‘subject to further operational review’, with no guarantee that they would remain open in 2009, and
  - (ii) ABC Learning accounts for more than 100 000 long day-care places;
- (b) recognises that there are less than 30 days remaining until the Government’s \$22 million ‘prop-up’ of ABC Learning expires; and
- (c) calls on the Minister for Education (Ms Gillard) to immediately table the Government’s contingency plan for beyond 31 December 2008.

Question put and passed.

**18 ECONOMICS—ECONOMIC STRATEGY**

Senator Parry, at the request of Senator McGauran and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 319—That the Senate—

- (a) notes and commends the honesty of the Deputy Prime Minister (Ms Gillard) for saying on ABC TV *Breakfast* on 7 November 2008, ‘When we put the Budget together in May, obviously we weren’t predicting, and no one was predicting, the global financial crisis which then emerged’;
- (b) notes the contradictory statement made by Senator Conroy when during question time of 27 November 2008 he said, ‘In the May budget the government was acutely aware of the risks posed by the global financial crisis’;

- (c) notes, with concern, the Rudd Labor Government's lack of coherent economic strategy in the face of the global financial crisis; and
- (d) calls on the Government to level with the people of Australia and concentrate on managing the Australian economy instead of managing the 24-hour news cycle.

Question put.

The Senate divided—

AYES, 32

Senators—

Barnett	Cormann	Humphries	Parry (Teller)
Bernardi	Eggleston	Joyce	Payne
Birmingham	Ellison	Kroger	Ronaldson
Brandis	Ferguson	Macdonald	Ryan
Bushby	Fierravanti-Wells	Mason	Scullion
Cash	Fifield	McGauran	Trooth
Colbeck	Fisher	Minchin	Trood
Coonan	Heffernan	Nash	Williams

NOES, 34

Senators—

Arbib	Evans	Hurley	Moore
Bilyk	Farrell	Hutchins	Pratt
Bishop	Faulkner	Ludlam	Siewert
Brown, Bob	Feeney	Ludwig	Stephens
Brown, Carol	Fielding	Lundy	Sterle
Cameron	Forshaw	Marshall	Wortley
Collins	Furner	McEwen (Teller)	Xenophon
Conroy	Hanson-Young	McLucas	
Crossin	Hogg	Milne	

Question negatived.

#### 19 ENVIRONMENT—NATIVE FORESTS AND WOODLANDS

The Leader of the Australian Greens (Senator Bob Brown), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 321—That the Senate notes that Australia's native forests and woodlands are a vital carbon bank and biodiversity habitat which should be conserved.

Question put.

The Senate divided—

AYES, 6

Senators—

Brown, Bob	Ludlam	Siewert (Teller)	Xenophon
Hanson-Young	Milne		

## NOES, 55

Senators—

Arbib	Cormann	Furner	Nash
Barnett	Crossin	Hogg	Parry (Teller)
Bernardi	Eggleston	Humphries	Payne
Bilyk	Ellison	Hurley	Pratt
Birmingham	Evans	Kroger	Ronaldson
Bishop	Farrell	Ludwig	Ryan
Brandis	Faulkner	Lundy	Scullion
Brown, Carol	Feeney	Marshall	Stephens
Bushby	Ferguson	Mason	Sterle
Cameron	Fielding	McEwen	Troeth
Cash	Fierravanti-Wells	McGauran	Trood
Colbeck	Fifield	McLucas	Williams
Conroy	Fisher	Minchin	Wortley
Coonan	Forshaw	Moore	

Question negatived.

**20 INTERNATIONAL DAY OF PEOPLE WITH DISABILITY**

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 318—That the Senate—

(a) notes that:

- (i) Wednesday, 3 December 2008 is International Day of People with Disability,
- (ii) the theme for 2008 is the Convention on the Rights of Persons with Disabilities,
- (iii) Australia became a signatory to the Convention on the Rights of Persons with Disabilities in July 2008,
- (iv) the Government is currently developing a national disability strategy, and
- (v) the recent Council of Australian Governments funding round provided a welcome increase in the rate of indexation and the overall level of funding to the states and territories for the provision of disability services and support; and

(b) calls on the Government to ensure that the national disability strategy:

- (i) contains a strong emphasis on human rights, and
- (ii) provides a suitable platform through which to address the current lack of consistency between the states and territories in the provision of services, supported accommodation and aids to people with disability.

Question put and negatived.

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

**21 ADJOURNMENT DEBATE ON TUESDAY—DIVISIONS ON THURSDAY—SUBSTITUTE MEMBERS OF COMMITTEES—TEMPORARY ORDERS**

The Minister for Immigration and Citizenship (Senator Evans), pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 6—That the following operate as temporary orders from the first sitting day in 2009 until the conclusion of the 2009 sittings:

**(1) Adjournment debate on Tuesday**

On the question for the adjournment of the Senate on Tuesday, a senator who has spoken once subject to the time limit of 10 minutes may speak again for not more than 10 minutes if no other senator who has not already spoken once wishes to speak, provided that a senator may by leave speak for not more than 20 minutes on one occasion.

**(2) Divisions on Thursday**

If a division is called for on Thursday after 4.30 pm, the matter before the Senate shall be adjourned until the next day of sitting at a time fixed by the Senate.

**(3) Substitute members of committees**

If a member of a committee appointed under standing order 25 is unable to attend a meeting of the committee, that member may in writing to the chair of the committee appoint a participating member to act as a substitute member of the committee at that meeting. If the member is incapacitated or unavailable, a letter to the chair of a committee appointing a participating member to act as a substitute member of the committee may be signed on behalf of the member by the leader of the party or group on whose nomination the member was appointed to the committee.

*Statements by leave:* The Leader of the Australian Greens (Senator Bob Brown) and the Minister for Human Services (Senator Ludwig), by leave, made statements relating to the motion.

Question put and passed.

**22 SCRUTINY OF BILLS—STANDING COMMITTEE—ALERT DIGEST NO. 14 OF 2008**

The Chairman of the Standing Committee for the Scrutiny of Bills (Senator Coonan) tabled the following document:

Scrutiny of Bills—Standing Committee—Alert Digest No. 14 of 2008, dated 3 December 2008.

Senator Coonan moved—That the Senate take note of the document.

Question put and passed.

**23 SENATORS' INTERESTS—STANDING COMMITTEE—DOCUMENTS**

Senator Williams, at the request of the Chair of the Standing Committee of Senators' Interests (Senator Johnston), tabled the following documents:

Senators' Interests—Standing Committee—

Register of gifts to the Senate and the Parliament incorporating declarations of gifts lodged between 24 September and 1 December 2008, dated December 2008.

Register of senators' interests incorporating notifications of alterations of interests of senators lodged between 24 September and 1 December 2008, dated December 2008.

**24 PARLIAMENT—COMMONWEALTH ELECTORAL AMENDMENT (POLITICAL DONATIONS AND OTHER MEASURES) BILL 2008—MINISTERIAL STATEMENT—DOCUMENTS**

The Special Minister of State (Senator Faulkner) tabled the following documents:

Parliament—Amendments to the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008—

Ministerial statement by the Special Minister of State (Senator Faulkner), dated 3 December 2008.

Proposed Government amendments to the bill—Sheet QU413.

Senator Ronaldson, by leave, moved—That the Senate take note of the documents.

Debate ensued.

Question put and passed.

**25 TRADE—TRANS PACIFIC PARTNERSHIP—MINISTERIAL STATEMENT—STATEMENT BY LEAVE**

Senator Macdonald, by leave, made a statement relating to a document tabled on 26 November 2008 (*see entry no. 20, 26 November 2008*).

**26 DEPARTMENT OF THE SENATE—REGISTER OF SENATE SENIOR EXECUTIVE OFFICERS' INTERESTS—DOCUMENT**

The Acting Deputy President (Senator Ellison) tabled the following document:

Department of the Senate—Register of Senate Senior Executive Officers' Interests incorporating notifications of alterations of interests of Senate senior executive officers lodged between 24 September and 1 December 2008, dated December 2008.

**27 INDEPENDENT AUDIT—AUSTRALIAN NATIONAL AUDIT OFFICE—DOCUMENT**

The Acting Deputy President (Senator Ellison) tabled the following document:

Independent Auditor [KPMG]—Performance audit—Australian National Audit Office: Human resource management performance audit, dated December 2008.

**28 DOCUMENTS**

The following documents were tabled by the Clerk:

*[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]*

A New Tax System (Luxury Car Tax) Act—Select Legislative Instrument 2008 No. 239—A New Tax System (Luxury Car Tax) Amendment Regulations 2008 (No. 1) [F2008L04529]\*.

Acts Interpretation Act—Statement pursuant to subsection 34C(6) relating to the extension of specified period for presentation of a report—National Rural Advisory Council – Report for 2006-07.

Broadcasting Services Act—Variations to Licence Area Plans for—

Charters Towers Radio – No. 1 of 2008 [F2008L04436]\*.

Colac Radio – No. 1 of 2008 [F2008L04435]\*.

Townsville Radio – No. 1 of 2008 [F2008L04437]\*.

Civil Aviation Act—

Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—

AD/BELL 412/2 Amdt 1—Retirement Lives – Fatigue Critical Components [F2008L04391]\*.

AD/BN-2/22—Emergency Exits Placard [F2008L04392]\*.

AD/BN-2/26—Wing Rear Spar – Inspection [F2008L04393]\*.

AD/BN-2/37—Passenger Seats – Inspection and Modification [F2008L04394]\*.

AD/DO 228/1—Airworthiness Limitations [F2008L04399]\*.

AD/ERJ-170/19—Ram Air Turbine Machined Support [F2008L04405]\*.

AD/ERJ-170/20—Engine Pylon Bulkhead 1 Fasteners [F2008L04406]\*.

Select Legislative Instrument 2008 No. 238—Civil Aviation Regulations 2008 (No. 2) [F2008L04445]\*.

Customs Act—Select Legislative Instrument 2008 Nos—

225—Customs Amendment Regulations 2008 (No. 6) [F2008L04419]\*.

226—Customs (Prohibited Imports) Amendment Regulations 2008 (No. 5) [F2008L04423]\*.

Excise Act—Select Legislative Instrument 2008 No. 240—Excise Amendment Regulations 2008 (No. 1) [F2008L04517]\*.

Federal Court of Australia Act—Select Legislative Instrument 2008 No. 244—Federal Court Amendment Rules 2008 (No. 2) [F2008L04528]\*.

Fisheries Management Act—Heard Island and McDonald Islands Fishery Management Plan 2002—HIMIF 2008/2009 TAC D7 Determination—Total Allowable Catch Determination – 2008/2009 Season [F2008L04441]\*.

Hazardous Waste (Regulation of Exports and Imports) Act—Select Legislative Instrument 2008 No. 231—Hazardous Waste (Regulation of Exports and Imports) Amendment Regulations 2008 (No. 1) [F2008L04513]\*.

Health Insurance Act—Select Legislative Instrument 2008 No. 235—Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2008 (No. 4) [F2008L04262]\*.

International Organisations (Privileges and Immunities) Act—Select Legislative Instrument 2008 No. 233—Secretariat to the Meeting of the Parties to the Agreement on the Conservation of Albatrosses and Petrels (Privileges and Immunities) Regulations 2008 [F2008L04489]\*.

Migration Act—

Select Legislative Instrument 2008 No. 237—Migration Amendment Regulations 2008 (No. 8) [F2008L04492]\*.

Statement under section 91D—Prescription of the People’s Republic of China as a safe third country.

National Rental Affordability Scheme Act—Select Legislative Instrument 2008 No. 232—National Rental Affordability Scheme Regulations 2008 [F2008L04484]\*.

Petroleum Excise (Prices) Act—Select Legislative Instrument 2008 No. 241—Petroleum Excise (Prices) Amendment Regulations 2008 (No. 1) [F2008L04518]\*.

Primary Industries (Excise) Levies Act—Select Legislative Instrument 2008 No. 223—Primary Industries (Excise) Levies Amendment Regulations 2008 (No. 4) [F2008L04034]\*.

Primary Industries Levies and Charges Collection Act—Select Legislative Instrument 2008 No. 224—Primary Industries Levies and Charges Collection Amendment Regulations 2008 (No. 4) [F2008L04490]\*.

Radiocommunications Act—Radiocommunications (Foreign Space Objects) Amendment Determination 2008 (No. 2) [F2008L04440]\*.

Telecommunications (Consumer Protection and Service Standards) Act—  
Universal Service Subsidies (2008-09 Contestable Areas) Determination (No. 1) 2008 [F2008L04449]\*.

Universal Service Subsidies (2008-09 Default Area) Determination (No. 1) 2008 [F2008L04448]\*.

Trade Practices Act—Select Legislative Instrument 2008 No. 242—Trade Practices (Consumer Product Safety Standard) (Bicycle Helmets) Amendment Regulations 2008 (No. 1) [F2008L04523]\*.

Water Act—Select Legislative Instrument 2008 No. 229—Water Amendment Regulations 2008 (No. 2) [F2008L04439]\*.

Workplace Relations Act—Select Legislative Instrument 2008 No. 243—Workplace Relations Amendment Regulations 2008 (No. 3) [F2008L04525]\*.

*Governor-General's Proclamation—Commencement of provisions of an Act*

*Migration Amendment (Notification Review) Act 2008—Items 1 and 2 of Schedule 1—5 December 2008 [F2008L04521]\*.*

\* Explanatory statement tabled with legislative instrument.

## **29 FAMILIES, HOUSING, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS AND OTHER LEGISLATION AMENDMENT (FURTHER 2008 BUDGET AND OTHER MEASURES) BILL 2008**

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

Message no. 224, dated 2 December 2008—Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Bill 2008.

## **30 NATION-BUILDING FUNDS BILL 2008 NATION-BUILDING FUNDS (CONSEQUENTIAL AMENDMENTS) BILL 2008 COAG REFORM FUND BILL 2008**

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

Message no. 221, dated 2 December 2008—A Bill for an Act about the Building Australia Fund, the Education Investment Fund and the Health and Hospitals Fund, and for other purposes.

Message no. 222, dated 2 December 2008—A Bill for an Act to deal with consequential matters arising from the enactment of the *Nation-building Funds Act 2008*, and for other purposes.

Message no. 223, dated 2 December 2008—A Bill for an Act to establish the COAG Reform Fund, and for other purposes.

The Minister for Immigration and Citizenship (Senator Evans) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Evans moved—That these bills be now read a second time.

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*Explanatory memorandum:* Senator Evans tabled a revised explanatory memorandum relating to the COAG Reform Fund Bill 2008.

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

### 31 SCHOOLS ASSISTANCE BILL 2008

A message from the House of Representatives was reported as follows:

Message no. 225, dated 3 December 2008—Schools Assistance Bill 2008, agreeing to amendments nos 1, 2, 3, 5, 6, 7, 8 and 9 made by the Senate and disagreeing to amendment no. 4.

On the motion of the Minister for Immigration and Citizenship (Senator Evans) consideration of the message in committee of the whole was made an order of the day for the next day of sitting.

### 32 GOVERNOR-GENERAL'S MESSAGE—ASSENT TO LAWS

A message from Her Excellency the Governor-General was reported, informing the Senate that she had assented to the following laws:

1 December 2008—Message No. 50—

*Social Security and Other Legislation Amendment (Economic Security Strategy) Act 2008 (Act No. 131, 2008)*

*Appropriation (Economic Security Strategy) Act (No. 1) 2008-2009 (Act No. 132, 2008)*

*Appropriation (Economic Security Strategy) Act (No. 2) 2008-2009 (Act No. 133, 2008).*

### 33 ECONOMICS—STANDING COMMITTEE—REPORT—DEFINITION OF UNCONSCIONABLE CONDUCT FOR THE PURPOSES OF PART IVA OF THE TRADE PRACTICES ACT 1974

Pursuant to order, Senator Farrell, at the request of the Chair of the Economics Committee (Senator Hurley), tabled the following report and documents:

Economics—Standing Committee—The need, scope and content of a definition of unconscionable conduct for the purposes of Part IVA of the *Trade Practices Act 1974*—Report, dated December 2008, Hansard record of proceedings, additional information and submissions.

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

The Leader of The Nationals in the Senate (Senator Joyce), by leave, moved—That the Senate take note of the report.

Question put and passed.

**34 ECONOMICS—STANDING COMMITTEE—REPORT—MATTERS RELATING TO THE GAS EXPLOSION AT VARANUS ISLAND, WESTERN AUSTRALIA**

Pursuant to order, Senator Cameron, at the request of the Chair of the Economics Committee (Senator Hurley), tabled the following report and documents:

Economics—Standing Committee—Matters relating to the gas explosion at Varanus Island, Western Australia—Report, dated December 2008, Hansard record of proceedings, documents presented to the committee, additional information and submissions.

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

Senator Cameron, by leave, moved—That the Senate take note of the report.

Debate ensued.

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

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*At 5.30 pm—*

**35 VALEDICTORY STATEMENTS**

Pursuant to order (*see entry no. 3, 2 December 2008*), senators made statements relating to the retirement of Senator Ellison.

**36 NOTICE**

The Minister for Human Services (Senator Ludwig) gave a notice of motion as follows: To move on the next day of sitting—That the following matter be referred to the Procedure Committee for inquiry and report by 25 February 2009:

The temporary orders of the Senate of 15 October 2008 and 13 November 2008, relating to the abolition of questions to senators other than ministers and to chairs of committees, and the restructuring of question time.

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*At 7.20 pm—*

**37 ADJOURNMENT**

The Deputy President (Senator Ferguson) proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 7.52 pm till Thursday, 4 December 2008 at 9.30 am.

**38 ATTENDANCE**

Present, all senators except Senators Adams\*, Johnston, O'Brien\* and Polley\* (\* on leave).

**HARRY EVANS**  
Clerk of the Senate