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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

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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 NOTICES

*Notices of motion:*

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

(a) Notes that:

- (1) the Minister for Health and Ageing told the House of Representatives on 29 October 2009, that the Government had legal advice that the Health Insurance Amendment (Revival of Table Items) Bill 2009 was unconstitutional, that it should not have been introduced in the Senate and had not been appropriately passed;
- (2) the Minister also told the House of Representatives that the Government was “happy to provide that legal advice” (9.59 am, 29/10/2009);
- (3) on 17 November the Senate ordered “that there be laid on the table by the Minister representing the Minister for Health and Ageing in the Senate, by no later than 5 pm on 17 November 2009, a copy of the legal advice referred to by the Minister on 29 October 2009, indicating that the Health Insurance Amendment (Revival of Table Items) Bill 2009 was unconstitutional” under section 53 of the Constitution;
- (4) in response, on 18 November the Minister for Health and Ageing tabled a letter stating that the legal advice would not be provided to the Senate on the grounds that it could “prejudice the Commonwealth’s position in the event of future legal proceedings”; and
- (5) advice from the Clerk of the Senate makes it clear that section 53 of the Constitution is non-justiciable and “[t]herefore there cannot be any legal proceedings which might be prejudiced by disclosure of advice to the government on its interpretation of section 53”.

(b) Considers that release of a copy of the legal advice referred to by the Minister on 29 October 2009 is in the public interest.

(c) Orders that there be laid on the table by the Minister representing the Minister for Health and Ageing in the Senate, by no later than noon on 24 November 2009, a copy of the legal advice referred to by the Minister on 29 October 2009, indicating that the Health Insurance Amendment (Revival of Table Items) Bill 2009 was unconstitutional. (*general business notice of motion no. 637*)

The Deputy Chair of the Parliamentary Joint Committee on Corporations and Financial Services (Senator Mason): To move on the next day of sitting—That the time for the presentation of the report of the Parliamentary Joint Committee on Corporations and Financial Services on financial products and services in Australia be extended to 24 November 2009. (*general business notice of motion no. 638*)

Senators Siewert and Macdonald: To move on the next day of sitting—That the Senate—

- (a) notes the significant disease threat posed by the introduced species *Phytophthora cinnamomi* to ecological communities across Australia;
- (b) expresses disappointment with the lack of effective action at the national level to address the scale of this threat; and

- (c) calls on the Commonwealth Government to:
- (i) develop an effective national threat abatement plan including specific, measurable, achievable, relevant, time-bound goals, objectives and actions, and
  - (ii) negotiate on the basis of this plan with state and territory agencies and land managers to leverage the resources, commitments and expertise needed to deliver its outcomes. (*general business notice of motion no. 639*)

The Leader of the Australian Greens (Senator Bob Brown): To move on 25 November 2009—That the Senate deplores the use of overseas tax havens. (*general business notice of motion no. 640*)

The Chair of the Select Committee on the National Broadband Network (Senator Fisher): To move on the next day of sitting—That the time for the presentation of the report of the Select Committee on the National Broadband Network be extended to 25 November 2009. (*general business notice of motion no. 641*)

The Chair of the Select Committee on the National Broadband Network (Senator Fisher): To move on the next day of sitting—That the Select Committee on the National Broadband Network be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Monday, 23 November 2009, from 3.30 pm. (*general business notice of motion no. 642*)

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

- (a) notes that:
- (i) Commonwealth Scientific and Industrial Research Organisation scientists have warned that Australia will experience more high fire danger days as a result of climate change,
  - (ii) three Australian states are on high fire danger alert and record high temperatures are being recorded for November 2009 in several Australian cities and towns including Adelaide,
  - (iii) a government report in 2005 said that no single state or territory is likely to have the human and material resources required to resolve a catastrophic event, and
  - (iv) Emergency Management Australia, the national coordination unit for operational responses to disasters:
    - (A) was not called in on Black Saturday in Victoria, and
    - (B) did not ask the Department of Defence or Defence Imaging to track the Victorian fires because no request to do so was made from Victoria; and
- (b) calls on the Government immediately to:
- (i) develop and implement a national disaster response plan,
  - (ii) appoint the operational fire chiefs from each state and territory to Emergency Management Australia,
  - (iii) reverse the onus so that the Commonwealth has the power to oversee a national disaster and to intervene without having to wait for a state to request such assistance, and
  - (iv) implement the remaining recommendations of the 2005 Commonwealth report into national disaster readiness. (*general business notice of motion no. 643*)

The Leader of the Australian Greens (Senator Bob Brown): To move on 24 November 2009—That the Senate, noting the recent deportation of journalists and environmentalists from Indonesia for highlighting widespread deforestation in that country, supports the right of people to peacefully protest against climate damaging deforestation around the world and the right of journalists to cover such protests. (*general business notice of motion no. 644*)

*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 notice of motion no. 1 standing in her name for 8 sitting days after today for the disallowance of the National Health Security (SSBA Standards) Amendment Determination 2009 (No. 1), made under subsection 35(1) of the *National Health Security Act 2007*.

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

### 3 ORDER OF BUSINESS—REARRANGEMENT

The Special Minister of State (Senator Ludwig) moved—That the government business order of the day relating to the Social Security Amendment (National Green Jobs Corps Supplement) Bill 2009 be considered from 1.40 pm till not later than 2 pm today.

Question put and passed.

Senator O'Brien, by leave and at the request of the Chair of the Legal and Constitutional Affairs Legislation Committee (Senator Crossin), moved—That business of the Senate order of the day no. 2, relating to the presentation of the report of the Legal and Constitutional Affairs Legislation Committee on the provisions of the Crimes Amendment (Working With Children—Criminal History) Bill 2009, be postponed till a later hour.

Question put and passed.

### 4 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 Community Affairs Legislation Committee, postponed till 23 November 2009.

Business of the Senate notice of motion no. 2 standing in the name of Senator Xenophon for today, proposing a reference to the Community Affairs References Committee, postponed till 23 November 2009.

General business notice of motion no. 631 standing in the names of Senator Xenophon, the Leader of the Australian Greens (Senator Bob Brown) and the Leader of The Nationals in the Senate (Senator Joyce) for today, proposing the introduction of the Food Standards Amendment (Truth in Labelling—Palm Oil) Bill 2009, postponed till 23 November 2009.

### 5 CONSIDERATION OF LEGISLATION

The Special Minister of State (Senator Ludwig), 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 following bills, allowing them to be considered during this period of sittings:

Appropriation (Water Entitlements and Home Insulation) Bill 2009-2010

Appropriation (Water Entitlements) Bill 2009-2010.

Question put and passed.

**6 FOREIGN AFFAIRS—CONVENTION ON THE RIGHTS OF THE CHILD**

Senator Birmingham, also on behalf of Senator Barnett, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 633—That the Senate—

- (a) notes that the 20th anniversary of the signing of the Convention on the Rights of the Child (the convention), which was adopted by the United Nations General Assembly in 1989, will be celebrated worldwide on 20 November 2009;
- (b) applauds the significant improvements in the status of children globally that have been achieved over these 20 years, including:
  - (i) the decrease in child mortality rates such that the number of children dying before their 5th birthday is now the lowest in recorded history,
  - (ii) the increased awareness of, and improved protections for, children in conflict situations, and
  - (iii) the strengthened drive for, and provision of universal education for, both boys and girls; and
- (c) recognises the continued importance of the convention and its aims, as well as their complementarity to the Millennium Development Goals, in particular, those goals to:
  - (i) eradicate extreme poverty and hunger,
  - (ii) achieve universal primary education,
  - (iii) promote gender equality and empower women, and
  - (iv) reduce child mortality.

Question put and passed.

**7 ROYAL PAPUA AND NEW GUINEA CONSTABULARY—MEDALS**

Senator Humphries, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 632—That the Senate—

- (a) recognises the service of those Australians who were employed as field constabulary officers (Kiaps) in the Royal Papua and New Guinea Constabulary between 1949 and 1974;
- (b) acknowledges the hazardous and difficult conditions that were experienced by the members serving with the Royal Papua and New Guinea Constabulary;
- (c) notes that former members of the regular constabulary of the Royal Papua and New Guinea Constabulary may be entitled to long service and good conduct medals, such as the National Medal, subject to meeting eligibility criteria;
- (d) supports moves to allow former members of the field constabulary to count their service towards the National Medal;
- (e) notes that qualifying service to meet the eligibility criteria for the National Medal must include at least one day of service on or after the medal's creation on 14 February 1975;
- (f) expresses concern that many former Kiaps may not meet the eligibility criteria for the National Medal, as eligible Kiap service ceased on 30 November 1973;
- (g) recognises that the Trust Territory of New Guinea, under the terms of the *Papua New Guinea Act 1949* and the Trusteeship Agreement for the Territory of New Guinea, held sovereignty unto itself and as such, was at law an international country (and foreign to Australia);

- (h) recognises that the Governor-General's assent of the *Papua New Guinea Act 1949* and the signing of the Trusteeship Agreement for New Guinea by the Australian Government, prescribed service activity whereby the service was carried out by members of the Australian Police Force and the service was undertaken as part of an international operation; and
- (i) calls on the Australian Government to change the eligibility criteria applying to the Police Overseas Service Medal so as not to prevent the award of the medal to those:
  - (i) Australian public servants who were employed through the Australian Government and served in the Australian administered United Nations Trust Territory of New Guinea between 1949 and 1974, and
  - (ii) individuals serving in Papua New Guinea as sworn and armed Commissioned Officers of the Royal Papua and New Guinea Constabulary (at the time an Australian External Territorial Police Force).

Question put and passed.

#### 8 **HEALTH—CATARACT SURGERY TIMES—DATA—ORDER FOR PRODUCTION OF DOCUMENTS**

Senator Cormann, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 635—That the Senate—

- (a) notes that:
  - (i) the Senate disallowed the massive reduction in MBS cataract surgery rebates pursued by the Rudd Labor Government, with the objective to have the MBS rebates for cataract surgery maintained at the '2008 Regulations' level,
  - (ii) the Minister for Health and Ageing justified the massive 50 per cent cut to Medicare rebates for cataract surgery by arguing that the procedure was now 'quicker and easier' to perform and now took only about 15 minutes instead of the 45 minutes when the procedure was first introduced,
  - (iii) the Minister for Health and Ageing never provided any Australian data to substantiate those assertions, while an AMA survey of 334 ophthalmologists indicated that about 70 per cent of ophthalmologists took between 25 and 40 minutes to perform cataract surgery,
  - (iv) that it is further understood that the procedure band for cataract surgery has not been altered on the National Procedure Banding List, indicating no significant cost/time changes have occurred, and further
  - (v) the Minister for Health and Ageing has so far failed to acknowledge that MBS rebates for cataract surgery:
    - (A) have been reduced twice before since they were first introduced, by 30 per cent in 1987 and by 10 per cent in 1996, and
    - (B) have been indexed by about 2 per cent per annum since 1996, below CPI and below AWE, to take account of productivity improvements, and
  - (vi) the Minister for Health and Ageing or her department appear to have made some belated efforts to collect data to identify the average length of time taken to perform cataract surgery; and



- (b) orders that there be laid on the table by noon on Friday, 20 November 2009:
  - (i) any information the Minister for Health and Ageing, her office or the department has received, compiled or commissioned on cataract surgery times in Australia since the Senate successfully disallowed the reduced rebates for cataract surgery on 28 October 2009, and
  - (ii) any information held by the Government in relation to procedure bands for cataract surgery on the National Procedure Banding List since its inception, including the cataract surgery related procedure band information on the most recently updated National Procedure Banding List.

Question put and passed.

*Statement by leave:* Senator O'Brien, by leave, made a statement relating to the motion.

#### 9 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION

The Special Minister of State (Senator Ludwig), pursuant to notice of motion not objected to as a formal motion, moved government business notice of motion no. 2—That, on Thursday, 19 November 2009:

- (a) the hours of meeting shall be 9.30 am to 6.30 pm and 7 pm to adjournment;
- (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 shall be government business only, and from not later than 4.45 pm shall be the government business order of the day relating to the Carbon Pollution Reduction Scheme Bill 2009 [No. 2] and related bills—second reading speeches only;
- (d) the routine of business from 3.30 pm till not later than 4.30 pm shall be valedictory statements;
- (e) divisions may take place after 4.30 pm;
- (f) the question for the adjournment of the Senate shall not be proposed until a motion for the adjournment is moved by a minister; and
- (g) if the Senate is sitting at midnight, the sitting of the Senate be suspended till 9.30 am on Friday, 20 November 2009.

*Statements by leave:* Senator Parry, the Leader of the Australian Greens (Senator Bob Brown), the Leader of the Family First Party (Senator Fielding) and Senator Ludwig, by leave, made statements relating to the motion.

Question put and negatived.

Senator Ludwig, by leave, moved—That immediately after motions to take note of answers today, the routine of business for the remainder of the day shall be as follows:

- (a) valedictory statements, for not more than one hour;
- (b) any proposal pursuant to standing order 75;
- (c) government responses to parliamentary committee reports;
- (d) tabling of documents;
- (e) committee memberships;
- (f) consideration of general business notice of motion no. 636;

- (g) not later than 6 pm, consideration of government documents under general business; and
- (h) not later than 7 pm, consideration of committee reports, government responses and Auditor-General's reports.

Question put and passed.

#### 10 FOREIGN AFFAIRS—IRAN—DEATH PENALTY

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 634—That the Senate—

- (a) notes that:
  - (i) according to Human Rights Watch, three Iranian men have been sentenced to death, under charges of 'male homosexual conduct' allegedly committed when they were under the age of 18,
  - (ii) Iran leads the world in executing juvenile offenders, with at least seven in 2008, and at least three so far in 2009, and
  - (iii) in February 2009, the United Nations General Assembly called on Iran, a signatory to both the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights that prohibits the imposition of the death penalty for crimes committed before the age of 18, immediately to suspend executions of all persons for offences committed by children under 18; and
- (b) calls on the Australian Government to add its voice to international calls for Iran immediately to abolish the death penalty of persons who were under age 18 at the time of their offence and halt all executions of those sentenced to death.

*Statements by leave:* The Special Minister of State (Senator Ludwig) and Senator Hanson-Young, by leave, made statements relating to the motion.

Question put.

The Senate divided—

#### AYES, 7

Senators—

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

#### NOES, 35

Senators—

Back	Cormann	Hutchins	Payne
Bernardi	Farrell	Ludwig	Polley
Bilyk	Feeney	Lundy	Ronaldson
Boswell	Ferguson	Marshall	Ryan
Boyce	Fisher	McLucas	Stephens
Brown, Carol	Forshaw	Moore	Sterle
Cash	Furner	Nash	Williams
Colbeck	Hogg	O'Brien	Wortley
Collins	Hurley	Parry (Teller)	

Question negatived.

**11 ROYAL PAPUA AND NEW GUINEA CONSTABULARY—MEDALS—STATEMENT BY LEAVE**

The Special Minister of State (Senator Ludwig), by leave, made a statement relating to the resolution of the Senate agreed to earlier today (*see entry no. 7*).

**12 CRIMES AMENDMENT (WORKING WITH CHILDREN—CRIMINAL HISTORY) BILL 2009  
CRIMES LEGISLATION AMENDMENT (SERIOUS AND ORGANISED CRIME) BILL (NO. 2) 2009**

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

Message no. 449, dated 18 November 2009—A Bill for an Act to amend the *Crimes Act 1914*, and for related purposes.

Message no. 451, dated 18 November 2009—A Bill for an Act to amend various Acts relating to the enforcement of the criminal law, and for other purposes.

The Special Minister of State (Senator Ludwig) 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.

On the motion of Senator Ludwig the debate was adjourned till the next day of sitting.

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

Question put and passed.

**13 SOCIAL SECURITY AMENDMENT (NATIONAL GREEN JOBS CORPS SUPPLEMENT) BILL 2009**

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

Message no. 450, dated 18 November 2009—A Bill for an Act to amend the law relating to social security, and for related purposes.

The Special Minister of State (Senator Ludwig) 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 Ludwig moved—That this bill be now read a second time.

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

**14 ACCESS TO JUSTICE (CIVIL LITIGATION REFORMS) AMENDMENT BILL 2009**

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

Message no. 452, dated 19 November 2009—Access to Justice (Civil Litigation Reforms) Amendment Bill 2009, agreeing to amendments nos 1 to 5 made by the Senate, disagreeing to amendment no. 6 and making an amendment in place of that amendment.

On the motion of the Special Minister of State (Senator Ludwig) consideration of the message in committee of the whole was made an order of the day for the next day of sitting (*but see entry no. 18*).

**15 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—REPORT—  
ECONOMIC CHALLENGES FACING PAPUA NEW GUINEA AND THE ISLAND STATES OF  
THE SOUTHWEST PACIFIC**

Pursuant to order, the Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Trood) tabled the following report and documents:

Foreign Affairs, Defence and Trade References Committee—Economic challenges facing Papua New Guinea and the island states of the southwest Pacific—Report (Volume 1), dated November 2009, Hansard record of proceedings, documents presented to the committee, additional information and submissions.

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

*Notice of motion:* Senator Trood, by leave, gave a notice of motion as follows: To move on the next day of sitting—That the report of the Foreign Affairs, Defence and Trade References Committee on its inquiry into security challenges facing Papua New Guinea and the island states of the southwest Pacific be presented by 24 December 2009. (*general business notice of motion no. 645*)

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

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

**16 CARBON POLLUTION REDUCTION SCHEME BILL 2009 [No. 2]  
CARBON POLLUTION REDUCTION SCHEME (CONSEQUENTIAL AMENDMENTS) BILL  
2009 [No. 2]  
AUSTRALIAN CLIMATE CHANGE REGULATORY AUTHORITY BILL 2009 [No. 2]  
CARBON POLLUTION REDUCTION SCHEME (CHARGES—CUSTOMS)  
BILL 2009 [No. 2]  
CARBON POLLUTION REDUCTION SCHEME (CHARGES—EXCISE)  
BILL 2009 [No. 2]  
CARBON POLLUTION REDUCTION SCHEME (CHARGES—GENERAL)  
BILL 2009 [No. 2]  
CARBON POLLUTION REDUCTION SCHEME (CPRS FUEL CREDITS)  
BILL 2009 [No. 2]  
CARBON POLLUTION REDUCTION SCHEME (CPRS FUEL CREDITS)  
(CONSEQUENTIAL AMENDMENTS) BILL 2009 [No. 2]  
EXCISE TARIFF AMENDMENT (CARBON POLLUTION REDUCTION SCHEME)  
BILL 2009 [No. 2]  
CUSTOMS TARIFF AMENDMENT (CARBON POLLUTION REDUCTION SCHEME)  
BILL 2009 [No. 2]  
CARBON POLLUTION REDUCTION SCHEME AMENDMENT (HOUSEHOLD  
ASSISTANCE) BILL 2009 [No. 2]**

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary for Social Inclusion (Senator Stephens)—That these bills be now read a second time—and on the amendment moved by the Leader of the Australian Greens (Senator Bob Brown) in respect of the Carbon Pollution Reduction Scheme Bill 2009 [No. 2]:

At the end of the motion, add “provided that the Government first commits to entering the climate treaty negotiations at the end of 2009 with an unconditional

commitment to reduce emissions by at least 25 per cent below 1990 levels by 2020 and a willingness to reduce emissions by 40 per cent below 1990 levels by 2020 in the context of a global treaty”.

Debate resumed.

*At 1.40 pm:* Debate was interrupted while Senator Boswell was speaking.

**17 SOCIAL SECURITY AMENDMENT (NATIONAL GREEN JOBS CORPS SUPPLEMENT)  
BILL 2009**

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

Debate resumed.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Assistant Treasurer (Senator Sherry) the bill was read a third time.

**18 ORDER OF BUSINESS—REARRANGEMENT**

The Assistant Treasurer (Senator Sherry), by leave, moved—That the government business order of the day relating to the Access to Justice (Civil Litigation Reforms) Amendment Bill 2009 (consideration in committee of the whole of message no. 452 from the House of Representatives) be called on immediately and considered till not later than 2 pm.

Question put and passed.

**19 ACCESS TO JUSTICE (CIVIL LITIGATION REFORMS) AMENDMENT BILL 2009**

Order read for the consideration of message no. 452 from the House of Representatives in committee of the whole (*see entry no. 14*).

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*In the committee*

SCHEDULE OF THE AMENDMENT MADE BY THE SENATE  
TO WHICH THE HOUSE OF REPRESENTATIVES HAS DISAGREED

**(6) AG (1) [Sheet 5937 Revised 2]**

Page 22 (after line 23), at the end of the bill, add:

**Schedule 5—Registries**

***Federal Court of Australia Act 1976***

**1 At the end of section 34**

Add:

- (3) The Registrar shall cause at least one Registry in each State to be staffed on a full-time basis with the complement of staff in each such Registry to include a full-time Registrar.
-

SCHEDULE OF THE AMENDMENT MADE BY THE HOUSE OF REPRESENTATIVES  
IN PLACE OF THE SENATE AMENDMENT DISAGREED TO

(1) Page 22 (after line 23), at the end of the bill (after proposed Schedule 4), add:

**Schedule 5—Registries**

***Federal Court of Australia Act 1976***

**1 At the end of section 34**

Add:

- (3) The Registrar must ensure that at least one Registry in each State is staffed appropriately to discharge the functions of a District Registry, with the staff to include a District Registrar in that State.

The Assistant Treasurer (Senator Sherry) moved—That the committee does not insist on its amendment to which the House of Representatives has disagreed and agrees to the amendment made by the House in place of that amendment.

Debate ensued.

Question put and passed.

Resolution to be reported.

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The Acting Deputy President (Senator Ryan) resumed the chair and the Temporary Chair of Committees reported that the committee had considered message no. 452 from the House of Representatives relating to the Access to Justice (Civil Litigation Reforms) Amendment Bill 2009 and had resolved not to insist on the amendment made by the Senate to which the House had disagreed and had agreed to the amendment made in place of that amendment.

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

*Suspension of sitting:* On the motion of Senator Sherry the sitting of the Senate was suspended at 1.58 pm till 2 pm.

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*At 2 pm—*

**20 QUESTIONS**

Questions without notice were answered.

**21 MOTION TO TAKE NOTE OF ANSWERS**

The Leader of The Nationals in the Senate (Senator Joyce) moved—That the Senate take note of the answers given by ministers to questions without notice asked today.

Debate ensued.

Question put and passed.

**22 CLERK OF THE SENATE—MR HARRY EVANS—RETIREMENT—STATEMENT BY PRESIDENT**

The President made a statement relating to the impending retirement of the Clerk of the Senate, Mr Harry Evans.

Pursuant to order (*see entry no. 9*), senators made statements relating to the matter.

**23 ECONOMICS—STANDING COMMITTEE—GOVERNMENT RESPONSE—AUSTRALIA’S SPACE SCIENCE AND INDUSTRY SECTOR**

The Assistant Treasurer (Senator Sherry) tabled the following document:

Economics—Standing Committee—Report—Lost in Space? Setting a new direction for Australia’s space science and industry sector—Government response, dated November 2009.

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

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

**24 ECONOMICS—STANDING COMMITTEE—GOVERNMENT RESPONSE—MATTERS RELATING TO THE GAS EXPLOSION AT VARANUS ISLAND, WESTERN AUSTRALIA**

The Assistant Treasurer (Senator Sherry) tabled the following document:

Economics—Standing Committee—Report—Matters relating to the gas explosion at Varanus Island, Western Australia—Government response.

**25 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION—STANDING COMMITTEE—GOVERNMENT RESPONSE—WORKFORCE CHALLENGES IN THE AUSTRALIAN TRANSPORT INDUSTRY**

The Assistant Treasurer (Senator Sherry) tabled the following document:

Employment, Workplace Relations and Education—Standing Committee—Report—Workforce challenges in the transport industry—Government response.

**26 FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE—GOVERNMENT RESPONSE—MATTERS RELATING TO THE GALLIPOLI PENINSULA**

The Assistant Treasurer (Senator Sherry) tabled the following document:

Finance and Public Administration References Committee—Report—Matters relating to the Gallipoli Peninsula—Government response.

**27 PRESIDENT OF THE SENATE—OFFICIAL VISIT TO NEW ZEALAND—DOCUMENT**

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

Official visit to New Zealand—Report on the visit by the President of the Senate to New Zealand, 28 June to 3 July 2009.

**28 AUDITOR-GENERAL—AUDIT REPORT NO. 12 OF 2009-10—DOCUMENT**

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

Auditor-General—Audit report no. 12 of 2009-10—Performance audit—Administration of youth allowance—Department of Education, Employment and Workplace Relations; Centrelink.

**29 ENVIRONMENT—AUSTRALIAN FOREST COVER—MAPS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT**

Pursuant to the order of the Senate of 18 November 2009, the Assistant Treasurer (Senator Sherry) tabled the following document:

Environment—Australian Forest Cover—Maps—Statement responding to the resolution of the Senate of 18 November 2009.

30 **SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 17 OF 2009**

The Chair of the Selection of Bills Committee (Senator O'Brien), by leave, tabled the following report:

## SELECTION OF BILLS COMMITTEE

## REPORT NO. 17 OF 2009

1. The committee met in private session on Wednesday, 18 November 2009 at 7.18 pm.
2. The committee resolved to recommend—That—
  - (a) the Poker Machine (Reduced Losses—Interim Measures) Bill 2009 and the Protecting Problem Gamblers Bill 2009 be *referred immediately* to the Community Affairs Legislation Committee for inquiry and report by 18 March 2010; and
  - (b) the *provisions* of the Trade Practices Amendment (Infrastructure Access) Bill 2009 be *referred immediately* to the Economics Legislation Committee for inquiry and report by 9 March 2010.
3. The committee resolved to recommend—That the following bills *not* be referred to committees:
  - ACIS Administration Amendment (Application) Bill 2009
  - Appropriation (Water Entitlements and Home Insulation) Bill 2009-2010
  - Appropriation (Water Entitlements) Bill 2009-2010
  - Australian Centre for Renewable Energy Bill 2009
  - Aviation Transport Security Amendment (2009 Measures No. 2) Bill 2009
  - Coal Mining Industry (Long Service Leave Funding) Amendment Bill 2009
  - National Broadcasting Legislation Amendment Bill 2009.

*The committee recommends accordingly.*

4. The committee deferred consideration of the following bills to its next meeting:
  - Britt Laphorne Bill 2009
  - Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009
  - Keeping Jobs from Going Offshore (Protection of Personal Information) Bill 2009
  - Plain Tobacco Packaging (Removing Branding from Cigarette Packs) Bill 2009.

Kerry O'Brien

Chair

19 November 2009.

Senator O'Brien moved—That the report be adopted.

Question put and passed.



**31 DOCUMENTS**

The following documents were tabled by the Clerk:

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

Airspace Act—Airspace Regulations—Instruments Nos CASA OAR—

182/09—Determination of airspace and controlled aerodromes etc [F2009L04215]\*.

183/09—Determination of conditions for use of air routes [F2009L04221]\*.

193/09—Determination of controlled aerodromes – Karratha [F2009L04210]\*.

Australian Meat and Live-stock Industry Act—Australian Meat and Live-stock Industry (High Quality Beef Export to the European Union) Amendment Order 2009 (No. 1) [F2009L04199]\*.

Broadcasting Services Act—Variation to Licence Area Plan for Murray Bridge Radio – No. 1 of 2009 [F2009L04212]\*.

Civil Aviation Act—Civil Aviation Safety Regulations—

Airworthiness Directives—

AD/ARRIEL/27—HP Turbine (Module M03) – Turbine Blade Displacement [F2009L04220]\*.

AD/ATR 42/2 Amdt 1—Fuel Tank Safety – Electrical Wiring [F2009L04219]\*.

AD/B737/340—Outboard Trailing Edge Flap Carriage Spindles [F2009L04217]\*.

AD/BEECH 1900/49 Amdt 1—Wing Rear Spar Lower Cap Inspection – 2 [F2009L04218]\*.

AD/CESSNA 150/50—Rudder Limit Stops [F2009L04216]\*.

Instrument No. CASA 527/09—Approval – compliance with Airworthiness Directive (AD) for Hartzell Propellers [F2009L04137]\*.

Corporations Act—Auditing Standards—

ASA 530—Audit Sampling [F2009L04091]\*.

ASA 600—Special Considerations—Audits of a Group Financial Report (Including the Work of Component Auditors) [F2009L04097]\*.

ASA 620—Using the Work of an Auditor’s Expert [F2009L04099]\*.

Customs Act—Tariff Concession Orders—

0911156 [F2009L04177]\*.

0911306 [F2009L04168]\*.

Defence Act—Determinations under section 58B—Defence Determinations—

2009/70—Additional military compensation – amendment.

2009/71—Defence Enterprise Collective Agreement 2009 consequential amendments.

2009/72—Victoria Cross for Australia representational duties.

2009/73—Funeral costs, floral and non-floral tributes – amendment.

2009/74—Deployment allowance – amendment.

2009/75—Additional remuneration for star rank officers – amendment.

2009/76—Post indexes – amendment.

Financial Management and Accountability Act—Financial Management and Accountability Determinations—

2009/15—Section 32 (Transfer of Functions from ATSB to DITRDLG) [F2009L04276]\*.

2009/16—Section 32 (Transfer of Functions from DITRDLG to ATSB) [F2009L04277]\*.

Industry Research and Development Act—Additional Functions of Innovation Australia [F2009L04260]\*.

Migration Act—

Migration Agents Regulations—Office of the MARA Notices—

MN45-09b of 2009—Migration Agents (Continuing Professional Development – Private Study of Audio, Video or Written Material) [F2009L04132]\*.

MN45-09c of 2009—Migration Agents (Continuing Professional Development – Attendance at a Seminar, Workshop, Conference or Lecture) [F2009L04133]\*.

Migration Regulations—Instrument IMMI 09/130—Travel agents for PRC citizens applying for tourist visas [F2009L04214]\*.

Military Rehabilitation and Compensation Act—Select Legislative Instrument 2009 No. 299—Military Rehabilitation and Compensation Amendment Regulations 2009 (No. 2) [F2009L04139]\*.

Motor Vehicle Standards Act—Select Legislative Instrument 2009 No. 308—Motor Vehicle Standards Amendment Regulations 2009 (No. 1) [F2009L04162]\*.

Safety, Rehabilitation and Compensation Act—

Approval of Form of Application for Initial Approval as a Rehabilitation Program Provider (Workplace Rehabilitation Provider) [F2009L04154]\*.

Approval of Form of Application for Renewal of Approval as a Rehabilitation Program Provider (Workplace Rehabilitation Provider) [F2009L04156]\*.

Variation of Criteria for Initial Approval or Renewal of Approval as a Rehabilitation Program Provider (Workplace Rehabilitation Provider) [F2009L04152]\*.

Variation of Operational Standards for Rehabilitation Program Providers (Workplace Rehabilitation Providers) [F2009L04145]\*.

Social Security Act—Social Security (South Australian ‘Phase One: Self-managed Funding Initiative’) (FaHCSIA) Determination 2009 [F2009L04268]\*.

Therapeutic Goods Act—Therapeutic Goods (Listing) Notice 2009 (No. 8) [F2009L04278]\*.

\* Explanatory statement tabled with legislative instrument.

**32 WORKPLACE RELATIONS—FAIR WORK AMENDMENT (STATE REFERRALS AND OTHER MEASURES) BILL 2009—BILATERAL INTERGOVERNMENTAL AGREEMENTS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT**

The following document was tabled pursuant to the order of the Senate of 18 November 2009:

Workplace relations—Fair Work Amendment (State Referrals and Other Measures) Bill 2009—Bilateral intergovernmental agreements—Statement responding to the resolution of the Senate of 18 November 2009.

*General business was called on.*

**33 IMMIGRATION—ASYLUM SEEKERS—OCEANIC VIKING**

Senator Cash, at the request of Senator Fierravanti-Wells and pursuant to notice, moved general business notice of motion no. 636—That the Senate—

- (a) notes the continued presence of pull factors as part of the problem Australia faces on the issue of illegal immigration;
- (b) notes and condemns the Government's handling of the recent situation aboard the *Oceanic Viking*;
- (c) notes the special deal that was offered to those asylum seekers aboard the *Oceanic Viking* was an inducement to disembark the ship; and
- (d) notes that the Rudd Labor Government has yet to come up with an effective solution to this situation.

Debate ensued.

*At 6 pm:* Debate was interrupted while Senator Fierravanti-Wells was speaking.

**34 GOVERNMENT DOCUMENTS—ORDERS OF THE DAY—CONSIDERATION**

The following orders of the day relating to government documents were considered:

*Great Barrier Reef Marine Park Act 1975*—Great Barrier Reef outlook report 2009. Motion of Senator Adams to take note of document debated. Debate adjourned till Thursday at general business, Senator Macdonald in continuation.

Airservices Australia—Corporate plan 1 July 2009 to 30 June 2014. Motion of Senator Parry to take note of document agreed to.

Regional Forest Agreement between the Commonwealth of Australia and New South Wales—Eden Region—Report on implementation for 2004-05. Motion of Senator Parry to take note of document debated and agreed to.

Regional Forest Agreement between the Commonwealth of Australia and New South Wales—North East Region—Report on implementation for 2004-05. Motion of Senator Parry to take note of document debated and agreed to.

Regional Forest Agreement between the Commonwealth of Australia and New South Wales—Southern Region—Report on implementation for 2004-05. Motion of Senator Parry to take note of document debated and agreed to.

Regional Forest Agreement between the Commonwealth of Australia and New South Wales—Southern Region—Report on implementation for 2005-06. Motion of Senator Parry to take note of document debated and agreed to.

Electoral reform—Strengthening Australia's democracy—Green paper by the Special Minister of State, September 2009. Motion of Senator Parry to take note of document agreed to.

Department of Finance and Deregulation—Campaign advertising by Australian government departments and agencies—Report for 2008-09. Motion of Senator Parry to take note of document agreed to.

NBN Co Limited—Report for the period 9 April to 30 June 2009. Motion of Senator Birmingham to take note of document debated. Debate adjourned till Thursday at general business, Senator Macdonald in continuation.

Migration Review Tribunal and Refugee Review Tribunal—Report for 2008-09. Motion of Senator Boyce to take note of document called on. Debate adjourned till Thursday at general business, Senator Boyce in continuation.

Department of Families, Housing, Community Services and Indigenous Affairs—Report for 2008-09, including Aboriginals Benefit Account report for 2008-09 and financial statements for Aboriginal and Torres Strait Islander Land Account. Motion of Senator Boyce to take note of document debated. Debate adjourned till Thursday at general business, Senator Boyce in continuation.

National Water Commission—Report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

*Migration Act 1958*—Section 91Y—Protection visa processing taking more than 90 days—Report for the period 1 March to 30 June 2009. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

National Transport Commission (NTC Australia)—Report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Australian Broadcasting Corporation (ABC)—Report for 2008-09. Motion of Senator Parry to take note of document debated. Debate adjourned till Thursday at general business, Senator Macdonald in continuation.

Director of National Parks—Report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Australian Centre for International Agricultural Research—Report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Department of Resources, Energy and Tourism—Report for 2008-09, including Geoscience Australia report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Australian Nuclear Science and Technology Organisation (ANSTO)—Report for 2008-09. Motion of Senator Boyce to take note of document debated. Debate adjourned till Thursday at general business, Senator Macdonald in continuation.

Australian Institute of Marine Science (AIMS)—Report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Australian Trade Commission (Austrade)—Report for 2008-09. Motion of Senator Parry to take note of document agreed to.

Wet Tropics Management Authority—Report for 2008-09, including State of the Wet Tropics report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Commonwealth Grants Commission—Report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Australian Rail Track Corporation Limited (ARTC)—Statement of corporate intent 2009-10. Motion of Senator Parry to take note of document agreed to.

Department of Climate Change—Report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Great Barrier Reef Marine Park Authority—Report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Bureau of Meteorology—Report for 2008-09. Motion of Senator Parry to take note of document debated. Debate adjourned till Thursday at general business, Senator McGauran in continuation.

Australian Electoral Commission (AEC)—Report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Rural Industries Research and Development Corporation (RIRDC)—Report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Land and Water Resources Research and Development Corporation (Land & Water Australia)—Report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Sugar Research and Development Corporation—Report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Supervising Scientist—Report for 2008-09 on the operation of the *Environment Protection (Alligator Rivers Region) Act 1978*. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Indigenous Business Australia—Report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Australian Fisheries Management Authority—Report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Australian Customs and Border Protection Service (formerly the Australian Customs Service)—Report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Torres Strait Protected Zone Joint Authority—Report for 2007-08. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Australian Building and Construction Commissioner—Report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Tourism Australia—Report for 2008-09. Motion of Senator Parry to take note of document called on. On the motion of Senator Macdonald the debate was adjourned till Thursday at general business.

Environment—Geoscience Australia—Carbon dioxide storage sites—Statement responding to the resolution of the Senate of 17 November 2009. Motion of Senator Parry to take note of document agreed to.

Health—Aged care providers—General Purpose Accounts—Statement by the Minister for Ageing (Ms Elliot) responding to the resolution of the Senate of 17 November 2009. Motion of Senator Parry to take note of document agreed to.

*General business concluded.*

**35 COMMITTEE REPORTS AND GOVERNMENT RESPONSES—ORDERS OF THE DAY—CONSIDERATION**

The following orders of the day relating to committee reports and government responses were considered:

Scrutiny of Bills—Standing Committee—Report—Thirteenth report of 2009. Motion of Senator Parry to take note of report agreed to.

Economics References Committee—Report—GROCERYchoice website. Motion of the Leader of The Nationals in the Senate (Senator Joyce) to take note of report agreed to.

Environment, Communications and the Arts References Committee—Report—Forestry and mining operations on the Tiwi Islands. Motion of the chair of the committee (Senator Birmingham) to take note of report debated. Debate adjourned till the next day of sitting, Senator Macdonald in continuation.

Economics References Committee—Report—Government's economic stimulus initiatives. Motion of the chair of the committee (Senator Eggleston) to take note of report agreed to.

Economics References Committee—Interim report—GROCERYchoice website. Motion of Senator Parry to take note of report agreed to.

Treaties—Joint Standing Committee—Report 106—Nuclear non-proliferation and disarmament. Motion of Senator McGauran to take note of report called on. On the motion of Senator Farrell the debate was adjourned till the next day of sitting.

Employment, Workplace Relations and Education—Standing Committee—Report—Workforce challenges in the transport industry—Government response. Motion to take note of document moved, by leave, by Senator Ronaldson and agreed to.

**36 AUDITOR-GENERAL'S REPORTS—ORDERS OF THE DAY—CONSIDERATION**

Orders of the day nos 1 to 4 relating to reports of the Auditor-General were called on but no motion was moved.

**37 LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE—REPORT—CRIMES AMENDMENT (WORKING WITH CHILDREN—CRIMINAL HISTORY) BILL 2009**

Pursuant to order, Senator O'Brien, at the request of the Chair of the Legal and Constitutional Affairs Legislation Committee (Senator Crossin), tabled the following report and documents:

Legal and Constitutional Affairs Legislation Committee—Crimes Amendment (Working With Children—Criminal History) Bill 2009 [Provisions]—Report, dated November 2009, Hansard record of proceedings, additional information and submissions.

Report ordered to be printed on the motion of Senator O'Brien.

**38 ADJOURNMENT**

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

Debate ensued.

The Senate adjourned at 7.43 pm till Monday, 23 November 2009 at 12.30 pm.

**39 ATTENDANCE**

Present, all senators except Senators Bishop\*, Cameron\*, Conroy\*, Johnston\* and Pratt\* (\* on leave).

**HARRY EVANS**  
Clerk of the Senate