

2008

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Contents

1	Meeting of Senate.....	847
2	Government Documents	847
3	Finance and Public Administration—Standing Committee—Reference.....	847
4	Notice—Intention to Withdraw	848
5	Order of Business—Rearrangement.....	848
6	Trade Practices Legislation Amendment Bill 2008	848
7	Questions.....	849
8	Motions to Take Note of Answers	849
9	Petitions.....	850
10	Notices	850
11	Leave of Absence.....	852
12	Postponement.....	852
13	Notice of Motion Withdrawn	852
14	Science and Technology—Commonwealth Scientific and Industrial Research Organisation—Chief Executive Officer	852
15	Family and Community Services—Single Age Pensions	852
16	Environment—Murray-Darling Basin System.....	853
17	United Nations Declaration on the Rights of Indigenous Peoples.....	853
18	Economics—Standing Committee—Leave to Meet During Sittings.....	854
19	Discussion of Matter of Public Importance—Education.....	854
20	Science and Technology—Australia’s Geothermal Resources—Ministerial Statement—Document	854
21	Family and Community Services—Progress on Housing Affordability Programs—Ministerial Statement—Document	855
22	President’s Commission to Administer Oath or Affirmation.....	855
23	Documents.....	855
24	Departmental and Agency Contracts—Order for Production of Documents—Document	855
25	Indexed Lists of Departmental and Agency Files—Order for Production of Documents—Documents.....	855
26	Committee Membership	856

27	Economics—Standing Committee—Report—Australian Securities and Investments Commission (Fair Bank and Credit Card Fees) Amendment Bill 2008	856
28	Trade Practices Legislation Amendment Bill 2008	856
29	First Speeches	857
30	Health Insurance (Dental Services) Amendment and Repeal Determination—Disallowance—Proposed Rescission.....	857
31	Government Documents—Consideration.....	857
32	Adjournment.....	858
33	Attendance.....	858

1 MEETING OF SENATE

The Senate met at 12.30 pm. The President (Senator the Honourable John Hogg) took the chair and read prayers.

2 GOVERNMENT DOCUMENTS

The following documents were tabled:

Aboriginal Land Commissioner—Report and recommendations to the Minister for Families, Housing, Community Services and Indigenous Affairs and to the Administrator of the Northern Territory—No. 70—Crown Hill (Irrinjirrinjirri) land claim no. 106.

Australian Meat and Live-stock Industry Act 1997—Live-stock mortalities during exports by sea—Report for the period 1 January to 30 June 2008.

Research Involving Human Embryos Act 2002—Report pursuant to section 47C.

Treaties—

Bilateral—Agreement between Australia and the Republic of Finland on Social Security done at Helsinki, 10 September 2008—Text, together with national interest analysis.

Multilateral—Text, together with national interest analysis and annexures—

Agreement between the Government of Australia and the International Bureau of the World Intellectual Property Organization [WIPO] in relation to the functioning of the Australian Patent Office as an International Searching Authority and International Preliminary Examining Authority under the Patent Cooperation Treaty, to be done at Geneva during December 2008.

Partial Revision of the 2004 Radio Regulations, as incorporated in the International Telecommunication Union Final Acts of the World Radiocommunication Conference (WRC-07), done at Geneva on 16 November 2007.

3 FINANCE AND PUBLIC ADMINISTRATION—STANDING COMMITTEE—REFERENCE

The Manager of Government Business (Senator Ludwig), by leave and also on behalf of the Manager of Opposition Business (Senator Ellison), moved business of the Senate notice of motion no. 1—

- (1) That the subject of the motion for disallowance of item 16525 in Part 3 of Schedule 1 to the Health Insurance (General Medical Services Table) Regulations 2007 be referred to the Finance and Public Administration Committee for inquiry and report on and not before 13 November 2008.
- (2) That the committee in particular report on:
 - (a) the terms of item 16525 of Part 3 of Schedule 1 to the Health Insurance (General Medical Services Table) Regulations 2007;
 - (b) the number of services receiving payments under this item and the cost of these payments;
 - (c) the basis upon which payments of benefits are made under this item; and
 - (d) the effects of disallowing this item.

Question put and passed.

4 NOTICE—INTENTION TO WITHDRAW

Senator Barnett, pursuant to standing order 78, gave notice of his intention, at the giving of notices on the next day of sitting, to withdraw business of the Senate notice of motion no. 2 standing in his name for the disallowance of item 16525 in Part 3 of Schedule 1 to the Health Insurance (General Medical Services Table) Regulations 2007, as contained in Select Legislative Instrument 2007 No. 355 and made under the *Health Insurance Act 1973*.

5 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Human Services (Senator Ludwig) moved—That government business notice of motion no. 1 standing in his for today, relating to a rescission of the resolution of disallowance concerning the Health Insurance (Dental Services) Amendment and Repeal Determination 2008, be postponed till a later hour.

Question put and passed.

6 TRADE PRACTICES LEGISLATION AMENDMENT BILL 2008

Order of the day read for the adjourned debate on the motion of the Minister for Innovation, Industry, Science and Research (Senator Carr)—That this bill be now read a second time.

Debate resumed.

Reference to committee: Senator Xenophon moved the following amendment:

At the end of the motion, add “and that the following matter be referred to the Economics Committee for inquiry and report by 3 December 2008:

The need to develop a clear statutory definition of unconscionable conduct for the purposes of Part IVA of the *Trade Practices Act 1974* and the scope and content of such a definition”.

Debate ensued.

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

Main question, as amended, put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Question—That the bill be agreed to—divided in respect of Schedule 1, items 1, 2 and 6, and Schedule 2, items 1, 2 and 6.

Schedule 1, items 1, 2 and 6, and Schedule 2, items 1, 2 and 6 debated.

Question—That Schedule 1, items 1, 2 and 6, and Schedule 2, items 1, 2 and 6 stand as printed—put.

The committee divided—

AYES, 30

Senators—

Arbib	Farrell	Hutchins	Moore
Bishop	Faulkner	Ludlam	Polley
Brown, Carol	Feeney	Ludwig	Sherry
Cameron	Forshaw	Lundy	Siewert
Carr	Furner	Marshall	Sterle
Collins	Hanson-Young	McEwen (Teller)	Wortley
Conroy	Hogg	McLucas	
Evans	Hurley	Milne	

NOES, 32

Senators—

Adams (Teller)	Cash	Heffernan	Nash
Barnett	Colbeck	Humphries	Parry
Bernardi	Eggleston	Johnston	Ronaldson
Birmingham	Ellison	Joyce	Ryan
Boswell	Ferguson	Macdonald	Scullion
Boyce	Fielding	Mason	Troeth
Brandis	Fierravanti-Wells	McGauran	Williams
Bushby	Fisher	Minchin	Xenophon

Items negatived.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 3 and Schedule 2, item 3.

Schedule 1, item 3 and Schedule 2, item 3 debated.

Question—That Schedule 1, item 3 and Schedule 2, item 3 stand as printed—put and negatived.

Senator Xenophon moved the following amendment:

Schedule 3, page 8 (after line 13), after item 13, insert:

13A Subsection 86(1A)

Omit “or the Commission”.

Debate ensued.

At 2 pm: The President resumed the chair and the Temporary Chair of Committees (Senator Joyce) reported progress.

7 QUESTIONS

Questions without notice were answered.

8 MOTIONS TO TAKE NOTE OF ANSWERS

Senator Macdonald moved—That the Senate take note of the answer given by the Special Minister of State (Senator Faulkner) to a question without notice asked by Senator Fisher today relating to the Murray-Darling Basin system.

Debate ensued.

Question put and passed.

The Leader of the Australian Greens (Senator Bob Brown) moved—That the Senate take note of the answer given by the Minister for Immigration and Citizenship (Senator Evans) to a question without notice asked by Senator Bob Brown today relating to economic and population growth.

Question put and passed.

9 PETITIONS

The following 2 petitions, lodged with the Clerk by the senators indicated, were received:

Senator Barnett, from 12 160 petitioners, requesting that the Senate disallow item 16525 in Part 3 of Schedule 1 to the Health Insurance (General Medical Services Table) Regulations 2007 and thereby stop the funding of second trimester and late abortions.

Senator Faulkner, from 21 petitioners, requesting that the Senate amend the *Marriage Act 1961* to invalidate present or future relationship registers.

10 NOTICES

The Deputy Chair of the Legal and Constitutional Affairs Committee (Senator Barnett): To move on the next day of sitting—That the Legal and Constitutional Affairs Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 18 September 2008, from 4 pm, to take evidence for the committee's inquiry into the Independent Reviewer of Terrorism Laws Bill 2008 [No. 2]. (*general business notice of motion no. 191*)

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

(a) notes:

- (i) recent research published in *The Lancet* (vol. 370, 3 November 2007) that highlights possible negative behavioural impacts on children associated with the consumption of the following food colourings: Tartrazine (lemon yellow) (102), Quinoline yellow (104), Sunset yellow (110), Carmoisine (red) (122), Ponceau 4R (red) (124) and Allura red AC (129),
- (ii) that in April 2008, the United Kingdom's Food Standards Agency called for a ban on the use of these food colourings and the voluntary removal of these colourings by food manufacturers,
- (iii) that in July 2008, the European Parliament passed legislation mandating the labelling of any food products containing these colourings, and
- (iv) that these food colourings are currently approved for use in Australia by Food Standards Australia New Zealand; and

(b) calls on the Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas) to place the issue of banning these food colourings on the agenda of the Australia and New Zealand Food Regulation Ministerial Council scheduled for 24 October 2008. (*general business notice of motion no. 192*)

The Special Minister of State (Senator Faulkner): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Archives Act 1983*, and for related purposes. ***Archives Amendment Bill 2008***.

The Minister for Broadband, Communications and the Digital Economy (Senator Conroy): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the law relating to broadcasting, and for other purposes. ***Broadcasting Legislation Amendment (Digital Radio) Bill 2008.***

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

- (a) notes the difficulties experienced by people with a disability, particularly people with vision impairment, in accessing some formats of Senate documents online; and
- (b) calls on the Government and the Department of the Senate to ensure all Hansard and Senate committee documents are made accessible via the Internet to people with a disability as soon as they become public. (*general business notice of motion no. 193*)

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

- (a) notes:
 - (i) that Wednesday, 17 September 2008 is Citizenship Day,
 - (ii) the Coalition established this day of commemoration of the diversity of the Australian community in 2001,
 - (iii) this is a day to celebrate the contribution to the wealth and progress of Australia by our diverse society and a tribute to all those who have contributed to and continue to build Australia's future, and
 - (iv) that Australian citizenship is the cornerstone of our inclusive and culturally diverse society, representing loyalty to Australia and its people, a share belief in the democratic process, respect for the rights and liberties of other Australians and a commitment to uphold and obey Australia's laws; and
- (b) urges the Rudd Labor Government to ensure that there are sufficient resources available so that all those who sit the test can adequately prepare for and understand the citizenship test. (*general business notice of motion no. 194*)

Senator Ludlam: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Defence Act 1903* to provide for parliamentary approval of overseas service by members of the Defence Force. ***Defence Amendment (Parliamentary Approval of Overseas Service) Bill 2008 [No. 2].*** (*general business notice of motion no. 195*)

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

- (a) the address-in-reply be presented to Her Excellency the Governor-General by the President and such senators as may desire to accompany him; and
- (b) on Monday, 22 September 2008, the Senate suspend at 5 pm, for the purposes of presenting the address-in-reply to the Governor-General.

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend certain territory legislation to restore legislative powers concerning euthanasia and to repeal the *Euthanasia Laws Act 1997*, and for related purposes. ***Restoring Territory Rights (Voluntary Euthanasia Legislation) Bill 2008.*** (*general business notice of motion no. 196*)

11 LEAVE OF ABSENCE

Senator McEwen, by leave, moved—That leave of absence be granted to the following senators:

- (a) Senator Crossin for 15 September 2008 and 16 September 2008, for family reasons; and
- (b) Senator Bilyk for 15 September 2008 and 16 September 2008, on account of ill health.

Question put and passed.

12 POSTPONEMENT

The following item of business was postponed:

General business notice of motion no. 123 standing in the name of the Leader of the Family First Party (Senator Fielding) for today, relating to an amendment to the reporting date for the Joint Standing Committee on Electoral Matters into the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008, postponed till 23 September 2008.

13 NOTICE OF MOTION WITHDRAWN

The following notice of motion was withdrawn:

General business notice of motion no. 171 standing in the name of Senator Hanson-Young for 25 September 2008, relating to Japan and comfort women.

14 SCIENCE AND TECHNOLOGY—COMMONWEALTH SCIENTIFIC AND INDUSTRIAL RESEARCH ORGANISATION—CHIEF EXECUTIVE OFFICER

Senator Parry, at the request of Senator Abetz and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 185—That the Senate—

- (a) congratulates Dr Megan Clark on her appointment as the next Chief Executive Officer (CEO) of the Commonwealth Scientific and Industrial Research Organisation (CSIRO); and
- (b) notes:
 - (i) that the current CEO, Dr Geoff Garrett, will leave his position at the end of 2008 and expresses its appreciation to Dr Garrett for his selfless service over that time, and
 - (ii) the importance of the CSIRO to Australia's innovation future; and
- (c) condemns the Rudd Labor Government for cutting \$63 million out of the CSIRO's budget over the forward estimates.

Question put and passed.

15 FAMILY AND COMMUNITY SERVICES—SINGLE AGE PENSIONS

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. 186—That the Senate—

- (a) gives considered support to legislation for an increase in pensions, in particular an immediate rise of \$30 per week for single age pensions; and
- (b) calls on the Government to act on this immediately.

Question put and passed.

Senator Bob Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 187—That the Senate calls on the Prime Minister (Mr Rudd), the Deputy Prime Minister (Ms Gillard), the Treasurer (Mr Swan), the Minister for Health and Ageing (Ms Roxon) and the Minister for Finance and Deregulation (Mr Tanner), who have all publicly stated that they could not live on the single age pension, to explain why they will not immediately increase the single aged pension by \$30 per week.

Question put and passed.

16 ENVIRONMENT—MURRAY-DARLING BASIN SYSTEM

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 189—That the Senate—

- (a) notes the threat to the communities and the environments of the Murray-Darling Basin posed by the combined pressures of climate change, extended drought and over-allocation of our limited shared water resources;
- (b) welcomes recent measures by some governments and communities of the basin to reduce their dependence on the system or recover and set aside water for environmental needs;
- (c) notes the concerns expressed by the Victorian Auditor-General in his analysis of the water savings claimed by the Victorian Government's Food Bowl Modernisation Project;
- (d) condemns the decision by the Minister for the Environment, Heritage and the Arts (Mr Garrett) to give approval to the Sugarloaf Pipeline under the provisions of the *Environment Protection and Biodiversity Conservation Act 1999*; and
- (e) calls on all governments to commit that no new projects or schemes that increase the level of dependence on and the amount of water extracted from the system will be countenanced or approved.

Question put and passed.

17 UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 188—That the Senate—

- (a) recognises that 13 September 2008 was the first anniversary of the United Nations Declaration on the Rights of Indigenous Peoples;
- (b) notes the promise from the Australian Labor Party that it would support the declaration; and
- (c) calls on the Rudd Government to make a statement of support for the declaration at the United Nations General Assembly in October 2008.

Question put.

The Senate divided—

AYES, 5

Senators—

Brown, Bob
Hanson-Young

Ludlam

Milne

Siewert (Teller)

NOES, 55

Senators—

Adams	Conroy	Hutchins	Parry (Teller)
Arbib	Cormann	Johnston	Payne
Barnett	Eggleston	Joyce	Polley
Bernardi	Ellison	Kroger	Pratt
Birmingham	Farrell	Ludwig	Ronaldson
Bishop	Feeney	Lundy	Ryan
Boyce	Ferguson	Macdonald	Scullion
Brown, Carol	Fielding	Marshall	Sterle
Bushby	Fierravanti-Wells	Mason	Troeth
Cameron	Fifield	McEwen	Trood
Carr	Fisher	McGauran	Williams
Cash	Furner	McLucas	Wortley
Colbeck	Humphries	Moore	Xenophon
Collins	Hurley	Nash	

Question negatived.

18 ECONOMICS—STANDING COMMITTEE—LEAVE TO MEET DURING SITTINGS

Senator McEwen, at the request of the Chair of the Economics Committee (Senator Hurley) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 190—That the Economics Committee be authorised to hold public meetings during the sittings of the Senate, to take evidence for the committee's inquiry into Australia's mandatory Last Resort Home Warranty Insurance scheme, as follows:

- (a) Wednesday, 17 September 2008, from 4 pm to 5.30 pm;
- (b) Tuesday, 23 September 2008, from 5 pm to 6 pm; and
- (c) Wednesday, 24 September 2008, from 5 pm to 6 pm.

Question put and passed.

19 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—EDUCATION

The Deputy President (Senator Ferguson) informed the Senate that Senator Mason had proposed that the following matter of public importance be submitted to the Senate for discussion:

The failure of the Rudd Government to appropriately plan, cost and implement in a timely manner its flagship election promise, the 'education revolution'.

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

20 SCIENCE AND TECHNOLOGY—AUSTRALIA'S GEOTHERMAL RESOURCES—MINISTERIAL STATEMENT—DOCUMENT

The Minister for Superannuation and Corporate Law (Senator Sherry) tabled the following document:

Science and technology—The vast potential of Australia's geothermal resources—Ministerial statement by the Minister for Resources, Energy and Tourism (Mr Ferguson), dated 16 September 2008.

21 FAMILY AND COMMUNITY SERVICES—PROGRESS ON HOUSING AFFORDABILITY PROGRAMS—MINISTERIAL STATEMENT—DOCUMENT

The Minister for Superannuation and Corporate Law (Senator Sherry) tabled the following document:

Family and community services—Progress on housing affordability programs—Ministerial statement by the Minister for Housing (Ms Plibersek), dated 16 September 2008.

22 PRESIDENT'S COMMISSION TO ADMINISTER OATH OR AFFIRMATION

The Acting Deputy President (Senator Fierravanti-Wells) announced that the President had received from Her Excellency the Governor-General a commission to administer to senators the oath or affirmation of allegiance.

Senator Fierravanti-Wells tabled the commission as follows:

AUTHORISATION TO ADMINISTER THE OATH OR
AFFIRMATION OF ALLEGIANCE TO SENATORS

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting under section 42 of the Constitution, authorise JOHN JOSEPH HOGG, President of the Senate, to administer the oath or affirmation of allegiance to those Senators who have not already made and subscribed that oath or affirmation since being chosen, elected or appointed, or since last being chosen, elected or appointed, as Senators.

Dated 15 September 2008

Quentin Bryce
Governor-General

By Her Excellency's Command
Kevin Rudd
Prime Minister.

23 DOCUMENTS

The following documents were tabled by the Clerk:

Census and Statistics Act—Statement No. 2 of 2008—List of businesses for the Department of Education, Employment and Workplace Relations.

Sydney Airport Curfew Act—Dispensation Report 10/08.

24 DEPARTMENTAL AND AGENCY CONTRACTS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT

The following document was tabled pursuant to the order of the Senate of 20 June 2001, as amended:

Departmental and agency contracts for 2008—Letter of advice—Environment, Heritage, Water and the Arts portfolio agencies.

25 INDEXED LISTS OF DEPARTMENTAL AND AGENCY FILES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 January to 30 June 2008—Statements of compliance—

Australian Taxation Office.

Department of Broadband, Communications and the Digital Economy.

Treasury portfolio agencies.

26 COMMITTEE MEMBERSHIP

The Acting Deputy President (Senator Fierravanti-Wells) informed the Senate that the President had received letters nominating senators to be members of committees.

The Minister for Superannuation and Corporate Law (Senator Sherry), by leave, moved—That senators be appointed to committees as follows:

Economics—Standing Committee—

Appointed—Senator Xenophon

Finance and Public Administration—Standing Committee—

Appointed—Senator Hanson-Young

Library—Standing Committee—

Appointed—Senator Fielding

Parliamentary Library—Joint Standing Committee—

Appointed—Senator Fielding.

Question put and passed.

27 ECONOMICS—STANDING COMMITTEE—REPORT—AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION (FAIR BANK AND CREDIT CARD FEES) AMENDMENT BILL 2008

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

Economics—Standing Committee—Australian Securities and Investments Commission (Fair Bank and Credit Card Fees) Amendment Bill 2008—Report, dated September 2008, Hansard record of proceedings, additional information and submissions.

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

28 TRADE PRACTICES LEGISLATION AMENDMENT BILL 2008

Order read for the further consideration of the bill in committee of the whole.

In the committee

Consideration resumed of the bill, as amended—*and of the amendment moved by Senator Xenophon (see entry no. 6).*

Debate resumed.

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

Bill, as amended, agreed to.

Bill to be reported with amendments.

The Acting Deputy President (Senator Fierravanti-Wells) resumed the chair and the Temporary Chair of Committees reported accordingly.

On the motion of the Minister for Superannuation and Corporate Law (Senator Sherry) the report from the committee was adopted and the bill read a third time.

At 5 pm—

29 FIRST SPEECHES

Pursuant to order (*see entry no. 3, 27 August 2008*), Senators Ryan and Ludlam made their first speeches.

30 HEALTH INSURANCE (DENTAL SERVICES) AMENDMENT AND REPEAL DETERMINATION—DISALLOWANCE—PROPOSED RESCISSION

The Minister for Broadband, Communications and the Digital Economy (Senator Conroy), at the request of the Minister for Human Services (Senator Ludwig), moved government business notice of motion no. 1—That, for the purposes of paragraph 48(1)(a) of the *Legislative Instruments Act 2003*, the Senate rescinds its resolution of 19 June 2008 disallowing the Health Insurance (Dental Services) Amendment and Repeal Determination 2008, made under subsection 3C(1) of the *Health Insurance Act 1973*.

Debate ensued.

Question put.

The Senate divided—

AYES, 26

Senators—

Arbib	Farrell	Hutchins	Polley
Bishop	Faulkner	Ludwig	Pratt
Brown, Carol	Feeney	Lundy	Sherry
Cameron	Forshaw	Marshall	Sterle
Collins	Furner	McEwen (Teller)	Wortley
Conroy	Hogg	McLucas	
Evans	Hurley	Moore	

NOES, 38

Senators—

Abetz	Colbeck	Johnston	Parry
Adams	Cormann	Joyce (Teller)	Payne
Barnett	Eggleston	Kroger	Scullion
Bernardi	Ferguson	Ludlam	Siewert
Birmingham	Fielding	Macdonald	Troeth
Boswell	Fierravanti-Wells	Mason	Trood
Boyce	Fifield	McGauran	Williams
Brown, Bob	Fisher	Milne	Xenophon
Bushby	Hanson-Young	Minchin	
Cash	Humphries	Nash	

Question negatived.

—————
After 6.50 pm—

31 GOVERNMENT DOCUMENTS—CONSIDERATION

The government documents tabled earlier today (*see entry no. 2*) were called on but no motion was moved.

32 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 7.54 pm till Wednesday, 17 September 2008 at 9.30 am.

33 ATTENDANCE

Present, all senators except Senators Bilyk*, Crossin*, O'Brien*, Stephens and Wong* (* on leave).

HARRY EVANS
Clerk of the Senate