

2008-09

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

No. 65

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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 DOCUMENT**

The following document was tabled:

Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 October to 31 December 2008.

**3 LEGAL AND CONSTITUTIONAL AFFAIRS—STANDING COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator O'Brien, by leave and at the request of the Chair of the Legal and Constitutional Affairs Committee (Senator Crossin), moved—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 today.

Question put and passed.

**4 MIGRATION AMENDMENT (ABOLISHING DETENTION DEBT) BILL 2009**

The Minister for Human Services (Senator Ludwig), at the request of the Minister for Immigration and Citizenship (Senator Evans) and pursuant to notice, moved government business notice of motion no. 1—That the following bill be introduced:

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

Question put and passed.

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

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*Explanatory memorandum:* Senator Ludwig tabled an explanatory memorandum relating to the bill.

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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.

**5 CONSIDERATION OF LEGISLATION**

The Minister for Human Services (Senator Ludwig), at the request of the Special Minister of State (Senator Faulkner), amended government business notice of motion no. 2 by leave and, pursuant to notice, moved—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:

Social Security Amendment (Liquid Assets Waiting Period) Bill 2009

Social Security and Veterans' Entitlements Amendment (Commonwealth Seniors Health Card) Bill 2009

Tax Laws Amendment (2009 Measures No. 1) Bill 2009.

Debate ensued.

Question put and passed.

Senator Ludwig, by leave, moved—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:

Australian Business Investment Partnership Bill 2009

Australian Business Investment Partnership (Consequential Amendment) Bill 2009

Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2009.

Debate ensued.

The question was divided—

Question—That the motion in respect of the Australian Business Investment Partnership Bill 2009 and a related bill be agreed to—put.

The Senate divided—

#### AYES, 33

Senators—

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

#### NOES, 35

Senators—

Abetz	Coonan	Johnston	Payne
Back	Cormann	Joyce	Ronaldson
Barnett	Eggleston	Kroger	Ryan
Birmingham	Fielding	Macdonald	Scullion
Boswell	Fierravanti-Wells	Mason	Troeth
Boyce	Fifield	McGauran	Trood
Brandis	Fisher	Minchin	Williams (Teller)
Bushby	Heffernan	Nash	Xenophon
Cash	Humphries	Parry	

Question negatived.

Question—That the motion in respect of the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2009 be agreed to—put.

The Senate divided—

AYES, 33

Senators—

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

NOES, 33

Senators—

Abetz	Coonan	Johnston	Ronaldson
Back	Cormann	Joyce	Ryan
Barnett	Eggleston	Kroger	Scullion
Birmingham	Fielding	Mason	Troeth
Boswell	Fierravanti-Wells	McGauran	Trood
Boyce	Fifield	Minchin	Williams (Teller)
Brandis	Fisher	Nash	
Bushby	Heffernan	Parry	
Cash	Humphries	Payne	

The ayes and noes were equal and so the question was negated.

The Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas), at the request of Senator Ludwig and pursuant to notice, moved government business notice of motion no. 3—That the government business orders of the day relating to the Appropriation Bill (No. 3) 2008-2009 and the Appropriation Bill (No. 4) 2008-2009, and the Appropriation Bill (No. 5) 2008-2009 and the Appropriation Bill (No. 6) 2008-2009, may be taken together for their remaining stages.

Question put and passed.

**6 CUSTOMS TARIFF AMENDMENT (2009 MEASURES NO. 1) BILL 2009  
EXCISE TARIFF AMENDMENT (2009 MEASURES NO. 1) BILL 2009**

Messages from the House of Representatives were reported informing the Senate that the House had not made the requested amendments to the following bills:

Message no. 287, dated 17 March 2009—Customs Tariff Amendment (2009 Measures No. 1) Bill 2009.

Message no. 286, dated 17 March 2009—Excise Tariff Amendment (2009 Measures No. 1) Bill 2009.

Ordered, on the motion of the Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas), that the messages be considered in committee of the whole immediately.

*In the committee*

Senator McLucas moved—That the committee does not press its requests for amendments not made by the House of Representatives.

Debate ensued.

Question put.

The committee divided—

AYES, 31

Senators—

Arbib	Farrell	Ludlam	O'Brien
Bilyk	Faulkner	Ludwig	Polley
Bishop	Feeny	Lundy	Pratt
Brown, Bob	Forshaw	Marshall	Siewert
Brown, Carol	Furner	McEwen (Teller)	Stephens
Cameron	Hanson-Young	McLucas	Wortley
Collins	Hogg	Milne	Xenophon
Evans	Hurley	Moore	

NOES, 31

Senators—

Abetz	Coonan	Johnston	Parry
Barnett	Cormann	Joyce	Payne
Birmingham	Eggleston	Kroger	Ronaldson
Boswell	Fielding	Macdonald	Ryan
Boyce	Fierravanti-Wells	Mason	Scullion
Brandis	Fifield	McGauran	Troeth
Bushby	Fisher	Minchin	Williams (Teller)
Cash	Humphries	Nash	

The ayes and noes were equal and so the question was negatived.

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*Statement by Chair of Committees:* The Temporary Chair of Committees (Senator Bishop) made the following statement:

There being 31 ayes and 31 noes, the votes are equal. The effect of this vote is that the requests are disposed of and the bills proceed without the requests.

The rationale for this outcome is that the requests required majority support to be made in the first place. The equally divided vote indicates there is no longer a majority in favour of proceeding with the requests, and the bills therefore proceed to the next stage in their original form.

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Resolution to be reported.

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The President resumed the chair and the Temporary Chair of Committees (Senator Bishop) reported that the committee had considered messages nos 287 and 286 from the House of Representatives relating to the Customs Tariff Amendment (2009 Measures No. 1) Bill 2009 and the Excise Tariff Amendment (2009 Measures No. 1) Bill 2009 and had resolved not to press its requests for amendments not made by the House.

Senator McLucas moved—That the report from the committee be adopted.

The Leader of the Australian Greens (Senator Bob Brown), also on behalf of Senator Cormann, moved the following amendment:

At the end of the motion, add “and, should the question for the third reading of these bills be negatived, a message be sent to the House of Representatives informing the House that, if further legislation to validate the collection of the revenue so far under these measures were to be presented by noon on 19 March 2009, the Senate would be disposed to expedite the consideration of that legislation”.

Debate ensued.

*Leave refused:* Senator McLucas sought leave for the proceedings on the bills to continue until resolved.

An objection was raised and leave was not granted.

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After 12.45 pm—

#### 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 MOTION TO TAKE NOTE OF ANSWERS

Senator Boyce moved—That the Senate take note of the answers given by ministers to questions without notice asked today.

Debate ensued.

Question put and passed.

#### 10 NOTICES

*Notices of motion:*

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

- (a) celebrates and commends the achievements of the Turkish community here in the Commonwealth of Australia that has been created as a result of this agreement in the 40 years since its implementation;
- (b) notes that once enemies on the battlefields of Gallipoli, the Commonwealth of Australia and the Republic of Turkey have established a unique relationship and bond forged in the blood of young men from both nations and that this uniqueness at the core of deep rooted relations between the two countries gained even more momentum by the unforgettable reconciliatory remarks of the Founder of the Modern Turkish Republic, Mustafa Kemal Ataturk, to the mothers of fallen Anzacs ‘...You, the mothers, who sent their sons from far away countries wipe away your tears; your sons are now lying in our bosom and are in peace. After having lost their lives on this land they have become our sons as well’;

- (c) notes the Turkish nation is now a friendly power and members of the Turkish community have now integrated into Australian society;
- (d) acknowledges the unique relationship that exists between Australia and Turkey; a bond highlighted by both nations commitment to the rights and liberties of our citizens and the pursuit of a just world, highlighted by the statement of Ataturk 'Peace at Home, Peace in the World';
- (e) commends the Republic of Turkey's commitment to democracy, the rule of law and secularism; and
- (f) on this, the 40th anniversary of the Formal Agreement between The Government of the Commonwealth of Australia and the Government of The Republic of Turkey concerning the Residence and Employment of Turkish Citizens in Australia, pledges Australia's friendship, commitment and enduring support to the people of Turkey as we celebrate this important occasion together. (*general business notice of motion no. 402*)

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

- (a) notes that:
  - (i) it has been 268 days since the House of Representatives received the Senate's message regarding amendments to the Reserve Bank Amendment (Enhanced Independence) Bill 2008;
  - (ii) the Treasurer (Mr Swan) in his second reading speech to the bill said, 'These reforms that the Governor and I agreed to last year herald in a new era of independence and transparency in monetary policy in Australia. The introduction of this bill into the parliament today is a key step to delivering this', and
  - (iii) as a result of this inaction, the Government is failing to deliver on its 'new era of independence and transparency' for the Reserve Bank; and
- (b) sends a message to the House of Representatives requesting that the House immediately consider the Senate amendments to the Reserve Bank Amendment (Enhanced Independence) Bill 2008. (*general business notice of motion no. 403*)

The Chair of the Legal and Constitutional Affairs Committee (Senator Crossin): To move on the next day of sitting—That the reference to the Legal and Constitutional Affairs Committee relating to Australia's judicial system be withdrawn.

The Chair of the Legal and Constitutional Affairs Committee (Senator Crossin): 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 17 August 2009:

Access to justice, with particular reference to:

- (a) the ability of people to access legal representation;
- (b) the adequacy of legal aid;
- (c) the cost of delivering justice;
- (d) measures to reduce the length and complexity of litigation and improve efficiency;
- (e) alternative means of delivering justice;
- (f) the adequacy of funding and resource arrangements for community legal centres; and
- (g) the ability of Indigenous people to access justice.

The Chair of the Legal and Constitutional Affairs Committee (Senator Crossin): 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 17 August 2009:

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

- (a) procedures for appointment and method of termination of judges;
- (b) term of appointment of judges, including the desirability of a compulsory retirement age, and the merit of full-time, part-time or other arrangements;
- (c) jurisdictional issues, for example, the interface between the federal and state judicial system; and
- (d) the judicial complaints handling system.

The Chair of the Rural and Regional Affairs and Transport Committee (Senator Sterle): To move on the next day of sitting—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Committee on the import risk analysis for the importation of Cavendish bananas from the Philippines be extended to 14 May 2009. (*general business notice of motion no. 404*)

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

- (a) notes the appreciation of the gay and lesbian community of the recent passing of the same-sex law reforms;
- (b) recognises:
  - (i) concerns raised by the gay and lesbian community that isolated and vulnerable members of the community may only become aware of these reforms after 30 March 2009 when Centrelink's education campaign commences, and
  - (ii) that the arbitrary time frame will not allow for same-sex couples to adequately adjust to the removal of discrimination before incurring debt and penalties; and
- (c) calls on the Government to revisit the implementation of a 12-month transitional period to ensure individuals currently on a social security payment have sufficient time to readjust to the changes. (*general business notice of motion no. 405*)

The President: To move on the next day of sitting—That the Senate—

- (1) Recognises the Association of Former Members of the Parliament of Australia, formed in 1988, as a forum in which former Members and Senators can meet, discuss and promote parliamentary democracy.
- (2) Acknowledges the contribution made by the Association and its members to debate on public policy in Australia and the furthering of parliamentary democracy in general.
- (3) Welcomes the role of the Association in encouraging former Members and Senators to maintain their contacts, associations and friendships established during their tenure as Australia parliamentarians.
- (4) Endorses the Association's role in establishing fraternal relations with kindred organisations within Australia and internationally. (*general business notice of motion no. 406*)

Senator Cormann: To move on the next day of sitting—That the order of the Senate of 24 June 2008 for the production of documents relating to departmental and agency appointments be amended as follows:

At the end of paragraph (1)(a), add “and the place of permanent residence by state or territory of the appointee”. (*general business notice of motion no. 407*)

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the Senate noting the words of the Government (Minister for Human Services, Senator Ludwig) in the Senate on 17 March 2009 that, ‘Under the EPBC Act the Minister for the Environment, Heritage and the Arts can do much more than prevent any deliberate actions which would increase the prospect of the swift parrot going to extinction’:

- (a) calls on the Minister for the Environment, Heritage and the Arts (Mr Garrett) to act, well within these powers, to prevent any deliberate action which would increase the prospect of Australia’s swift parrot becoming extinct; and
- (b) calls on the Government to inform the Senate by 12 May 2009 whether the swift parrot recovery plans meet International Union for the Conservation of Nature requirements. (*general business notice of motion no. 408*)

The Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas): To move on the next day of sitting—That on Thursday, 19 March 2009:

- (a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to adjournment;
- (b) consideration of general business, and consideration of committee reports, government responses and Auditor-General 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:

Fair Work Bill 2008

Customs Tariff Amendment (2009 Measures No. 1) Bill 2009

Excise Tariff Amendment (2009 Measures No. 1) Bill 2009—consideration of messages

Aviation Legislation Amendment (2008 Measures No. 2) Bill 2008

Social Security and Veterans’ Entitlements Amendment (Commonwealth Seniors Health Card) Bill 2009

Therapeutic Goods Amendment (Medical Devices and Other Measures) Bill 2008 [2009]

Appropriation Bill (No. 3) 2008-2009

Appropriation Bill (No. 4) 2008-2009

Appropriation Bill (No. 5) 2008-2009

Appropriation Bill (No. 6) 2008-2009

Tax Laws Amendment (2009 Measures No. 1) Bill 2009

Social Security Amendment (Liquid Assets Waiting Period) Bill 2009; and

- (f) if the Senate is sitting at midnight, the sitting of the Senate be suspended till 9.30 am on Friday, 20 March 2009.

The Minister for Human Services (Senator Ludwig): To move on the next day of sitting—That the following matter be referred to the Community Affairs Committee for inquiry and report by 15 May 2009:

Any Government proposal to implement the Government's announced 2008-09 Budget measure to increase compliance audits on Medicare benefits by increasing the audit powers to Medicare Australia to access the patient records supporting Medicare billing and to apply sanctions on providers.

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

- (a) expresses its concern over the treatment of Junichi Sato and Toru Suzuki, two Japanese Greenpeace activists who were held without charge for 26 days and are currently on strict bail restrictions, pending a court case into their role in exposing the embezzlement of whale meat from the Japanese Government sponsored whaling program;
- (b) notes that:
  - (i) on Thursday, 19 March 2009, Greenpeace Australia is coordinating concerned Australian citizens to hold peaceful protests outside the Japanese Embassy in Canberra, to voice their concerns over the Japanese Government's handling of this trial, and
  - (ii) no charges have been laid relating to the embezzlement of whale meat by the crew of the *Nisshin Maru* whaling vessel, and that the Japanese Public Prosecutor has subsequently dropped the investigation into the involvement of the crew and whaling officials in this illegal trade; and
- (c) calls on the Australian Government:
  - (i) to press the Japanese Government to take action on the alleged embezzlement of whale meat and to ensure that international human rights treaties, of which Australia and Japan are signatories, are upheld, and
  - (ii) to request the International Whaling Commission to launch its own investigation into the embezzlement of whale meat by crew members of the Japanese whaling fleet. (*general business notice of motion no. 409*)

Senator Humphries: To move on the next day of sitting—That the following matter be referred to the Community Affairs Committee for inquiry and report by 12 May 2009:

The design of the Federal Government's national registration and accreditation scheme for doctors and other health workers, including:

- (a) the impact of the scheme on state and territory health services;
- (b) the impact of the scheme on patient care and safety;
- (c) the effect of the scheme on standards of training and qualification of relevant health professionals;
- (d) how the scheme will affect complaints management and disciplinary processes within particular professional streams;
- (e) the appropriate role, if any, in the scheme for state and territory registration boards; and
- (f) alternative models for implementation of the scheme.

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

- (a) notes that:
- (i) more than 40 terrorism laws have been enacted in relation to terrorism since 2001, some of which included significant departures from established principles of Australian law,
  - (ii) due to the exceptional nature of these complex laws, and to ensure scrutiny, accountability and transparency, an independent reviewer has been recommended by:
    - (A) the Security Legislation Review Committee chaired by the Honourable Simon Sheller AO, QC, in June 2006,
    - (B) the Parliamentary Joint Committee on Intelligence and Security in December 2006, and again in 2007,
    - (C) the Legal and Constitutional Affairs Committee in October 2008, and
    - (D) the Senate through the passage of a private senator's bill in November 2008,
  - (iii) independent review mechanisms are a feature of best practice in like-minded democracies, and
  - (iv) the Government promised in November 2008 a comprehensive response to the proposal for an independent review of counter terrorism laws and other review recommendations; and
- (b) calls on the Australian Government to:
- (i) introduce legislation that would establish an Independent Reviewer of Terrorism Laws, and
  - (ii) update the Senate as to the Government's intended timetable for the introduction of the promised comprehensive response. (*general business notice of motion no. 410*)

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

- (a) that the Greens political party in Queensland has allocated preferences to the Bligh Labor Government in 12 marginal seats thus heightening the chances of the Labor Government being returned to office in Queensland at the election on Saturday, 21 March 2009;
- (b) the Greens political party both in Queensland and federally claim to oppose the construction of the Traveston Crossing Dam on the Mary River in Queensland;
- (c) that the Liberal National Party in Queensland has consistently and firmly opposed the construction of the Traveston Crossing Dam;
- (d) that the Bligh Labor Government has refused to rule out construction of the Traveston Crossing Dam and has indicated it would make an application to the Federal Government for Environment Protection and Biodiversity Conservation Act approval to construct the Traveston Crossing Dam after Saturday's election in Queensland; and
- (e) the contradictory approaches of the Greens political party to construction of the Traveston Crossing Dam. (*general business notice of motion no. 411*)

**Notice of amendment:** The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That, logically, the Queensland National Liberal Party, in concern for the Mary River, ought to prefer the Greens over the Australian Labor Party in assessing preference directions.

**Notice of amendment to the proposed notice of amendment of the Leader of the Australian Greens (Senator Bob Brown):** Senator Macdonald: To move on the next day of sitting—That the Senate also notes that the Liberal National Party in Queensland is not recommending preferences.

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

- (a) notes that:
- (i) an Environment, Communication and the Arts Committee inquiry found numerous and fundamental flaws in the *Commonwealth Radioactive Waste Management Act 2005* and recommended in December 2008 that it be repealed, and
  - (ii) the committee called for replacement legislation to be introduced into the parliament in the autumn 2009 sittings that would be based on principles of rigorous consultation, voluntary consent, environmental credibility, and which utilises best practice models tested internationally; and
- (b) calls on the Australian Government to:
- (i) repeal the *Commonwealth Radioactive Waste Management Act 2005* and introduce replacement legislation as outlined in Australian Labor Party (ALP) policy and subsequently recommended by the committee,
  - (ii) deliver a process on radioactive waste that is scientific, transparent accountable, fair and allows access to appeal mechanisms, which is both an election promise and a stated policy position of the ALP, and
  - (iii) update the Senate as to the Government's intended timetable for the introduction of the repeal and replacement legislation. (*general business notice of motion no. 412*)

*Notice of motion withdrawn:* The Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas), at the request of the Minister for Human Services (Senator Ludwig), withdrew government business notice of motion no. 4 standing in the name of Senator Ludwig for today, proposing a variation to the appointment of the Select Committee on Climate Policy.

#### 11 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 3 OF 2009

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

##### SELECTION OF BILLS COMMITTEE

##### REPORT NO. 3 OF 2009

1. The committee met in private session on Tuesday, 17 March 2009 at 4.28 pm.
2. The committee resolved to recommend—That the following bills *not* be referred to committees:
  - AusCheck Amendment Bill 2009
  - Australian Business Investment Partnership Bill 2009
  - Australian Business Investment Partnership (Consequential Amendment) Bill 2009
  - Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2009
  - Customs Legislation Amendment (Name Change) Bill 2009
  - Resale Royalty Right for Visual Artists Bill 2008
  - Social Security Amendment (Liquid Assets Waiting Period) Bill 2009.

*The committee recommends accordingly.*

3. The committee deferred consideration of the Food Safety (Trans Fats) Bill 2009 to its next meeting.

Kerry O'Brien  
Chair  
18 March 2009.

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

Question put and passed.

#### 12 ECONOMICS—STANDING COMMITTEE—PROPOSED REFERENCE

*Statement by leave:* The Chair of the Economics Committee (Senator Hurley), by leave, made a statement relating to the motion.

*Motion determined as not formal:* The Leader of The Nationals in the Senate (Senator Joyce) requested that business of the Senate notice of motion no. 1 standing in his name for today, proposing a reference to the Economics Committee, be taken as formal.

An objection was raised and the motion was not proceeded with as a formal motion.

#### 13 SOCIAL ISSUES—SEX AND GENDER DIVERSITY PROJECT

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 398—That the Senate—

(a) notes:

- (i) the release of the Australian Human Rights Commission concluding paper of the sex and gender diversity project, and
- (ii) this 'sex files' project focuses on the legal recognition of sex and gender diverse individuals as a fundamental human right, in all documents and government records;

(b) recognises the great work of the Australian Human Rights Commission in highlighting ways the Australian Government could better assist in promoting and protecting the human rights of people who are transgender, transsexual or intersex; and

(c) encourages the Australian Government to take steps to harmonise federal, state and territory policies, procedures and legislation relevant to the legal recognition of sex and gender diverse individuals in federal documents and records.

Question put and passed.

#### 14 ENVIRONMENT—QUEENSLAND—OIL SPILL

Senator Macdonald, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 401—That the Senate calls on the Government to establish a Royal Commission to investigate all aspects of the oil spill and loss of containers containing ammonium nitrate from the vessel *Pacific Adventurer* on the morning of Wednesday, 11 March 2009, including:

- (a) the response of the Queensland Government and its agencies;
- (b) the response of the Federal Government and its agencies;
- (c) the operation of the 'National Marine Oil Spill Contingency Plan';
- (d) the apparent delay in activation of the plan;

- (e) the apparent delay in other remedial action; and
- (f) possible recommendations for a change in procedures to more closely involve and fund local authorities in remedial action.

Question put and passed. All Australian Greens senators, by leave, recorded their votes for the ayes.

**15 COMMUNICATIONS—SPECIAL BROADCASTING SERVICE CORPORATION**

The Leader of the Australian Greens (Senator Bob Brown), also on behalf of Senator Ludlam, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 400—That the Senate—

- (a) notes:
  - (i) the unique national broadcasting service that the Special Broadcasting Service Corporation (SBS) provides to the Australian community,
  - (ii) the invaluable role that the SBS plays in promoting a multicultural Australia and the services it provides to Australians from non-English speaking backgrounds, and
  - (iii) that the inadequate funding provided to the SBS has resulted in the SBS having to undertake in-program advertising; and
- (b) calls on the Government to ensure adequate funding and support for the SBS, free from political and commercial interference.

Question put and passed.

**16 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. 397—That the Economics Committee be authorised to hold public meetings during the sittings of the Senate on Wednesday, 18 March 2009, and Thursday, 19 March 2009, from 6.30 pm, to take evidence for the committee's inquiry into the exposure draft of the legislation to implement the Carbon Pollution Reduction Scheme.

Question put and passed.

**17 URGENCY MOTION WITHDRAWN**

The Deputy President (Senator Ferguson) informed the Senate that Senator Brandis had withdrawn the urgency motion which he had indicated he intended to move today relating to the Queensland hospital system.

**18 SCRUTINY OF BILLS—STANDING COMMITTEE—3RD REPORT, ALERT DIGEST NO. 4 OF 2009 AND A RELATED DOCUMENT**

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

- Scrutiny of Bills—Standing Committee—  
3rd report of 2009, dated March 2009.
- Alert Digest No. 4 of 2009, dated March 2009.
- Retirement of Emeritus Professor Jim Davis, Legal Advisor to the committee:  
1983 to 2008—Document, dated March 2009.

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

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

Debate ensued.

Question put and passed.

**19 VACANCY IN THE REPRESENTATION OF WESTERN AUSTRALIA—CHOICE OF CHRISTOPHER JOHN BACK—DOCUMENT**

The Deputy President (Senator Ferguson) tabled the original certificate of the choice by the Parliament of Western Australia of Dr Christopher John Back to fill the vacancy caused by the resignation of Senator Ellison (*see entry no. 2, 12 March 2009*).

**20 DOCUMENTS**

The following documents were tabled by the Clerk:

Christmas Island Act—List of applied Western Australian Acts for the period 16 September 2008 to 15 March 2009.

Cocos (Keeling) Islands Act—List of applied Western Australian Acts for the period 16 September 2008 to 15 March 2009.

Defence Act—Determinations under section 58B—Defence Determinations—  
2009/16—Additional recreation leave and travel on a long-term posting – amendment.  
2009/17—Miscellaneous amendments.  
2009/18—Medals and awards.  
2009/19—Education costs for child – amendment.  
2009/20—Army trade transfer bonus, education assistance and settling in/settling out allowance – amendment.

**21 INDEXED LISTS OF DEPARTMENTAL AND AGENCY FILES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT**

The following document was 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 July to 31 December 2008—Statement of compliance—Resources, Energy and Tourism portfolio agencies.

**22 COMMITTEE MEMBERSHIP**

The Deputy President (Senator Ferguson) informed the Senate that the President had received a letter nominating senators to be members of a committee.

The Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas), by leave, moved—That senators be appointed to the Select Committee on Climate Policy as follows:

Senators Cameron, Feeney, Furner and Pratt

Participating members: Bishop, Carol Brown, Collins, Crossin, Farrell, Forshaw, Hurley, Hutchins, Lundy, Marshall, McEwen, Moore, O'Brien, Polley, Sterle and Wortley.

Question put and passed.

Senator Ferguson informed the Senate that the President had received letters from independent senators nominating to be members of the Select Committee on Climate Policy.

Senator Ferguson indicated that there were two nominations, Senators Fielding and Xenophon, for one position on the committee, and announced that it would be necessary to proceed to a ballot.

The Senate proceeded to a ballot.

*Statement by leave:* The Leader of the Family First Party (Senator Fielding), by leave, made a statement relating to the matter.

The President reported the result as follows:

Senator Fielding: 30 votes.

Senator Xenophon: 38 votes.

The President declared that Senator Xenophon had been chosen to serve as a member of the committee.

**23 SOCIAL SECURITY AND VETERANS' ENTITLEMENTS AMENDMENT  
(COMMONWEALTH SENIORS HEALTH CARD) BILL 2009**

**SOCIAL SECURITY AMENDMENT (LIQUID ASSETS WAITING PERIOD) BILL 2009**

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

Message no. 290, dated 17 March 2009—A Bill for an Act to amend the law relating to social security and veterans' affairs, and for related purposes.

Message no. 291, dated 18 March 2009—A Bill for an Act to amend the law relating to social security, and for other purposes.

The Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas) 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 McLucas moved—That these bills be now read a second time.

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

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

Question put and passed.

**24 AUSTRALIAN BUSINESS INVESTMENT PARTNERSHIP BILL 2009**

**AUSTRALIAN BUSINESS INVESTMENT PARTNERSHIP (CONSEQUENTIAL AMENDMENT) BILL 2009**

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

Message no. 288, dated 17 March 2009—A Bill for an Act relating to the Australian Business Investment Partnership, and for other purposes.

Message no. 289, dated 17 March 2009—A Bill for an Act to deal with a consequential matter in connection with the *Australian Business Investment Partnership Act 2009*, and for related purposes.

The Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas) 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 McLucas moved—That these bills be now read a second time.

*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.

**25 ECONOMICS—STANDING COMMITTEE—REFERENCE**

The Leader of The Nationals in the Senate (Senator Joyce), pursuant to notice, moved business of the Senate notice of motion no. 1—That the following matter be referred to the Economics Committee for inquiry and report by 17 June 2009:

- (a) the international experience of sovereign wealth funds and state-owned companies, their role in acquisitions of significant shareholdings of corporations, and the impact and outcomes of such acquisitions on business growth and competition; and
- (b) the Australian experience of foreign investment by sovereign wealth funds and state-owned companies in the context of Australia's foreign investment arrangements.

Debate ensued.

Question put and passed.

**26 ENVIRONMENT, COMMUNICATIONS AND THE ARTS—STANDING COMMITTEE—REPORT—OPERATION OF THE ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999**

Pursuant to order, the Chair of the Environment, Communications and the Arts Committee (Senator McEwen) tabled the following report and documents:

Environment, Communications and the Arts—Standing Committee—The operation of the *Environment Protection and Biodiversity Conservation Act 1999*—First report, dated March 2009, Hansard record of proceedings, documents presented to the committee, additional information and submissions.

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

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

Debate ensued.

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

**27 CUSTOMS TARIFF AMENDMENT (2009 MEASURES NO. 1) BILL 2009  
EXCISE TARIFF AMENDMENT (2009 MEASURES NO. 1) BILL 2009**

Order read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas)—That the report from the committee be adopted—and on the amendment moved by the Leader of the Australian Greens (Senator Bob Brown), also on behalf of Senator Cormann (see entry no. 6).

Debate resumed.

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

Main question, as amended, put and passed.

Senator McLucas moved—That these bills be now read a third time.

Question put.

The Senate divided—

AYES, 32

Senators—

Arbib	Crossin	Ludlam	O'Brien
Bilyk	Farrell (Teller)	Ludwig	Polley
Bishop	Feeney	Lundy	Pratt
Brown, Bob	Forshaw	Marshall	Siewert
Brown, Carol	Furner	McEwen	Stephens
Cameron	Hanson-Young	McLucas	Sterle
Carr	Hurley	Milne	Wortley
Collins	Hutchins	Moore	Xenophon

NOES, 31

Senators—

Abetz	Cash	Heffernan	Nash
Back	Coonan	Humphries	Parry (Teller)
Barnett	Cormann	Johnston	Payne
Bernardi	Eggleston	Kroger	Ronaldson
Birmingham	Fielding	Macdonald	Ryan
Boswell	Fierravanti-Wells	Mason	Troeth
Boyce	Fifield	McGauran	Williams
Bushby	Fisher	Minchin	

Question agreed to.

Bills read a third time.

**28 FAIR WORK BILL 2008**

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

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*In the committee*

Senator Parry moved—That the committee report progress and ask leave to sit again.

*Statements by leave:* The Minister for Human Services (Senator Ludwig) and Senator Parry, by leave, made statements relating to the motion.

Question put and passed.

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The Acting Deputy President (Senator Crossin) resumed the chair and the Temporary Chair of Committees reported that the committee had considered the bill, made progress and asked leave to sit again.

Ordered, on the motion of Senator Ludwig, that the committee have leave to sit again at a later hour.

**29 CUSTOMS TARIFF AMENDMENT (2009 MEASURES NO. 1) BILL 2009  
EXCISE TARIFF AMENDMENT (2009 MEASURES NO. 1) BILL 2009**

*Statement by leave:* Senator Scullion, by leave, made a statement relating to the vote on the third reading of the bills (*see entry no. 27*).

Senator Parry asked that the question on the third reading of the bills be put again.

*Statements by leave:* The Leader of the Australian Greens (Senator Bob Brown), the Minister for Human Services (Senator Ludwig), the Leader of the Opposition in the Senate (Senator Minchin) and the Special Minister of State (Senator Faulkner), by leave, made statements relating to the matter.

Leave was granted for the question to be put again.

Question—That the bills be now read a third time—put.

The Senate divided—

AYES, 31

Senators—

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

NOES, 32

Senators—

Abetz	Cash	Heffernan	Nash
Back	Coonan	Humphries	Parry (Teller)
Barnett	Cormann	Johnston	Payne
Bernardi	Eggleston	Kroger	Ronaldson
Birmingham	Fielding	Macdonald	Ryan
Boswell	Fierravanti-Wells	Mason	Scullion
Boyce	Fifield	McGauran	Troeth
Bushby	Fisher	Minchin	Williams

Question negatived.

30 **FAIR WORK BILL 2008**

Order of the day 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 amendments moved by the Leader of the Australian Greens (Senator Bob Brown):

Clause 12, page 13 (line 2), omit the definition of *conscientious objection certificate*.

Clause 601, page 472 (lines 15 and 16), omit paragraph (5)(b).

Clause 625, page 485 (lines 13 and 14), omit paragraph (2)(e).

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 33

Senators—

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

NOES, 31

Senators—

Abetz	Bushby	Humphries	Parry (Teller)
Back	Cash	Joyce	Payne
Barnett	Eggleston	Kroger	Ronaldson
Bernardi	Ferguson	Macdonald	Ryan
Birmingham	Fierravanti-Wells	Mason	Scullion
Boswell	Fifield	McGauran	Troeth
Boyce	Fisher	Minchin	Williams
Brandis	Heffernan	Nash	

Question agreed to.

Question—That the bill, as amended, be agreed to—divided, at the request of Senator Bob Brown, in respect of clause 485.

Question—That clause 485 stand as printed—put and negatived.

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*After 6.50 pm:* The Acting Deputy President (Senator Moore) resumed the chair and the Chair of Committees (Senator Ferguson) reported progress.

### 31 COMMITTEE MEMBERSHIP

The Acting Deputy President (Senator Moore) informed the Senate that the President had received letters requesting changes in the membership of committees.

The Parliamentary Secretary for Social Inclusion (Senator Stephens), by leave, moved—That senators be discharged from and appointed to committees as follows:

**Economics—Standing Committee—**

Appointed—

Substitute member: Senator Crossin to replace Senator Furner on 31 March, 1 April and 8 April 2009

Participating member: Senator Furner

**Environment, Communications and the Arts—Standing Committee—**

Appointed—

Substitute member: Senator Crossin to replace Senator Lundy for the committee's inquiry into forestry and mining operations on the Tiwi Islands

Participating member: Senator Lundy.

Question put and passed.

**32 CUSTOMS TARIFF AMENDMENT (2009 MEASURES NO. 1) BILL 2009—EXCISE  
TARIFF AMENDMENT (2009 MEASURES NO. 1) BILL 2009—STATEMENT BY LEAVE**

Senator Bishop, by leave, made a statement relating to the vote on the third reading of the bills (*see entry no. 29*).

*Statement by leave:* Senator Parry, by leave, made a statement relating to the matter.

**33 GOVERNMENT DOCUMENTS—CONSIDERATION**

The following government document tabled earlier today (*see entry no. 2*) and was considered:

Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 October to 31 December 2008. Motion to take note of document moved by Senator Macdonald. Debate adjourned till Thursday at general business, Senator Birmingham in continuation.

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

*Telecommunications Act 1997*—Funding of research and consumer representation in relation to telecommunications—Report for 2007-08. Motion to take note of document moved by Senator Barnett. Debate adjourned till Thursday at general business, Senator Barnett in continuation.

Commonwealth Grants Commission—Report on State revenue sharing relativities—2009 update. Motion to take note of document moved, by leave, by Senator Brandis. Debate adjourned till Thursday at general business, Senator Brandis in continuation.

General business orders of the day nos 57 to 61 and 63 relating to government documents were called on but no motion was moved.

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*At 7.20 pm—*

**34 ADJOURNMENT**

The President proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 7.56 pm till Thursday, 19 March 2009 at 9.30 am.

**35 ATTENDANCE**

Present, all senators except Senator Adams (on leave).

**HARRY EVANS**  
Clerk of the Senate