

2008

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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No. 46

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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:

- Aged Care Act 1997*—Report for 2007-08 on the operation of the Act.
- Audio-Visual Copyright Society Limited (Screenrights)—Report for 2007-08.
- Australian Fisheries Management Authority—Report for 2007-08.
- Australian River Co. Limited—Report for 1 December 2006 to 30 November 2007.
- Crimes Act 1914*—Authorisations for the acquisition and use of assumed identities—Report for 2007-08—Australian Crime Commission.
- General Practice Education and Training Limited—Report for 2007-08.
- Great Barrier Reef Marine Park Authority—Report for 2007-08.
- Migration Act 1958*—Section 486O—Assessment of detention arrangements—Personal identifiers 481/08 to 491/08—
 - Commonwealth Ombudsman's reports.
 - Government response to Commonwealth Ombudsman's reports.
- Murray-Darling Basin Commission—Report for 2007-08.
- National Rural Advisory Council—Report for 2007-08.

3 RESTRUCTURING QUESTION TIME—STATEMENT BY PRESIDENT

The President made a statement relating to the temporary order restructuring question time and matters raised by senators during question time on 24 November 2008.

4 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION

The Minister for Human Services (Senator Ludwig), by leave, moved—That—

- (1) On Tuesday, 25 November 2008:
 - (a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to 11.40 pm;
 - (b) the routine of business from 7.30 pm shall be government business only; and
 - (c) the question for the adjournment of the Senate shall be proposed at 11 pm.
- (2) On Wednesday, 26 November 2008, consideration of government documents be not proceeded with and that government business continue till 7.20 pm.
- (3) On Thursday, 27 November 2008:
 - (a) the hours of meeting shall be 9.30 am to 7 pm and 8.30 pm to 11.40 pm;
 - (b) 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;
 - (c) consideration of general business and consideration of committee reports, government responses and Auditor-General's reports under standing order 62(1) and (2) not be proceeded with;
 - (d) divisions may take place after 4.30 pm; and
 - (e) the question for the adjournment of the Senate shall be proposed at 11 pm.

Question put and passed.

5 WATER AMENDMENT BILL 2008

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

Debate resumed.

At 2 pm: Debate was interrupted.

6 QUESTIONS

Questions without notice were answered.

7 MOTIONS TO TAKE NOTE OF ANSWERS

Senator Abetz moved—That the Senate take note of the answers given by the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) to questions without notice asked by the Leader of the Opposition in the Senate (Senator Minchin) and Senator Abetz today relating to the proposed national broadband network and to the luxury car tax surcharge exemption.

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 Climate Change and Water (Senator Wong) to a question without notice asked by Senator Bob Brown today relating to carbon emission reductions.

Question put and passed.

8 NOTICES

Notices of motion:

The Chair of the Economics Committee (Senator Hurley): To move on the next day of sitting—That the Economics Committee be authorised to:

- (a) hold a public meeting during the sitting of the Senate on Wednesday, 26 November 2008, from 4.30 pm, to take evidence for the committee's inquiry into matters relating to the gas explosion at Varanus Island, Western Australia; and
- (b) hold an in camera hearing during the sitting of the Senate on Wednesday, 26 November 2008. (*general business notice of motion no. 295*)

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 law relating to access to information, and for related purposes. ***Freedom of Information (Removal of Conclusive Certificates and Other Measures) Bill 2008.***

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

- (a) notes and agrees with the comments of the Minister for Agriculture, Fisheries and Forestry (Mr Burke) when he called for all governments to refocus on agricultural research and development to boost agricultural productivity;
- (b) condemns:
 - (i) the New South Wales Labor Government for eroding agricultural research and development institutions like Hurlstone Agricultural High School and the Glen Innes Research and Advisory Station, and

- (ii) the Federal Government's decision to axe funding to various Commonwealth Scientific and Industrial Research Organisation agricultural research institutions, such as JM Rendel Laboratory for livestock research in Rockhampton, Queensland, and the plant research laboratory in Merbein, Victoria; and
- (c) calls on the Federal Government to intervene and prevent the destruction of these institutions and to save the future of the Australian agricultural research and development sector. (*general business notice of motion no. 296*)

Senators Barnett and Fisher: To move on the next day of sitting—That the Senate—

- (a) notes the Government's GROCERYchoice website is:
 - (i) not delivering any valuable information to consumers with website hits suffering a massive reduction from more than 3 million hits per month on commencement to 104 000 hits in October 2008 and only 54 608 on the last report,
 - (ii) unable to produce a specific cost of a specific grocery item at a specific supermarket, and in some cases compares supermarkets several hundred kilometres apart,
 - (iii) damaging to the best interests of independent supermarket retailers,
 - (iv) wasting \$13 million of taxpayers' funds, and
 - (v) fundamentally flawed and unable to be improved or upgraded so as to provide any consumer benefit or adequate return on taxpayer funds, irrespective of whether the website is managed and operated by the Australian Competition and Consumer Commission or the consumer organisation Choice; and
- (b) calls on the Government to close the website down immediately. (*general business notice of motion no. 297*)

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

- (a) notes the role of the United Nations (UN) Special Envoy for Cyprus, the Honourable Alexander Downer, to achieve a just and lasting solution to the Cyprus problem; and
- (b) urges the Australian Government to continue its support for the independence, sovereignty and territorial integrity of the Republic of Cyprus, and for a just and lasting solution to be achieved in accordance with UN Security Council resolutions on Cyprus which embody the principles enshrined in international and European Union law and norms. (*general business notice of motion no. 298*)

Senator Heffernan: To move on the next day of sitting—That the following matter be referred to the Rural and Regional Affairs and Transport Committee for inquiry and report by 19 March 2009:

Issues relating to the import risk analysis (IRA) for the importation of Cavendish bananas from the Philippines, including:

- (a) Biosecurity Australia's administration of the IRA process;
- (b) the scientific and technical information relied upon by the IRA team;
- (c) the feasibility of the risk management measures and operational arrangements proposed in the final IRA report; and

- (d) the capability of the Australian Government and, in particular, the Australian Quarantine Inspection Service, to monitor and enforce compliance with the risk management measures and operational arrangements proposed in the final IRA report.

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

- (a) notes the backflip of the Queensland Government in deferring the construction of the Traveston Crossing Dam; and
- (b) calls on the Queensland Government to remove the social threat to people living in the Mary Valley and to ensure protection of the Mary River cod, Mary River turtle and the Australian lungfish, by permanently shelving the proposal to construct the Traveston Crossing Dam. (*general business notice of motion no. 299*)

The Minister for Human Services (Senator Ludwig): To move on the next day of sitting—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Guarantee Scheme for Large Deposits and Wholesale Funding Appropriation Bill 2008, allowing it to be considered during this period of sittings.

Document: Senator Ludwig tabled the following document:

Consideration of legislation—Statement of reasons for introduction and passage of the Guarantee Scheme for Large Deposits and Wholesale Funding Appropriation Bill 2008 in the 2008 spring sittings.

Notices of motion withdrawn: The Chairman of the Standing Committee on Regulations and Ordinances (Senator Wortley), pursuant to notice of intention given on 24 November 2008, withdrew business of the Senate notices of motion nos 1 and 6 standing in her name for 6 sitting days after today for the disallowance of the following instruments:

Defence Force (Home Loans Assistance) Amendment Regulations 2008 (No. 1), as contained in Select Legislative Instrument 2008 No. 138 and made under the *Defence Force (Home Loans Assistance) Act 1990*.

Wool Services Privatisation (Research Body) Declaration 2008, made under subsection 30(1) of the *Wool Services Privatisation Act 2000*.

9 LEAVE OF ABSENCE

Senator Siewert, by leave, moved—That leave of absence be granted to Senator Milne for today, for family reasons.

Question put and passed.

10 EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS—STANDING COMMITTEE—REFERENCES

The Minister for Human Services (Senator Ludwig), pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 1—That, upon its introduction in the House of Representatives, the provisions of the Fair Work Bill 2008 be referred to the Education, Employment and Workplace Relations Committee for inquiry and report by 27 February 2009.

Question put and passed.

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 2—That the following matters be referred to the Education, Employment and Workplace Relations Committee for inquiry and report by 12 March 2009:

- (a) the financial, social and industry impact of the ABC Learning collapse on the provision of child care in Australia;
- (b) alternative options and models for the provision of child care;
- (c) the role of governments at all levels in:
 - (i) funding for community, not-for-profit and independent service providers,
 - (ii) consistent regulatory frameworks for child care across the country,
 - (iii) licensing requirements to operate child care centres,
 - (iv) nationally-consistent training and qualification requirements for child care workers, and
 - (v) the collection, evaluation and publishing of reliable, up-to-date data on casual and permanent child care vacancies;
- (d) the feasibility of establishing a national authority to oversee the child care industry in Australia; and
- (e) other related matters.

Question put and passed.

11 BROADCASTING OF PARLIAMENTARY PROCEEDINGS—JOINT STATUTORY COMMITTEE—LEAVE TO MEET DURING SITTING

Senator McEwen, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 283—That the Joint Committee on the Broadcasting of Parliamentary Proceedings be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 25 November 2008, from 4 pm.

Question put and passed.

12 ECONOMICS—STANDING COMMITTEE—LEAVE TO MEET DURING SITTING

Senator McEwen, at the request of 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. 284—That the Economics Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 25 November 2008, from 6 pm, to take evidence for the committee's inquiry into the provisions of the COAG Reform Fund Bill 2008 and two related bills.

Question put and passed.

13 ENVIRONMENT—CARBON POLLUTION REDUCTION SCHEME

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. 285—That the Senate—

- (a) notes the comments of various industry figures that the Rudd Government's so-called consultation with the industry over the Carbon Pollution Reduction Scheme is a 'one way street';

- (b) agrees with Tasmanian Labor Premier, Mr David Bartlett, who said that the Prime Minister (Mr Rudd) and the Minister for Climate Change and Water (Senator Wong) have 'got it wrong' on their proposed emissions trading scheme; and
- (c) calls on the Rudd Government to make consultation over the Carbon Pollution Reduction Scheme a 'two way street' and ensure it does not drive Australian jobs offshore.

Question put and negatived.

14 ENVIRONMENT—PESTICIDES

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. 286—That the Senate—

- (a) notes:
 - (i) the European Parliament's Committee on Environment, Public Health and Food Safety vote to ban the use of highly toxic pesticides which endanger human health and to require the use of safer alternatives for other pesticides, and
 - (ii) the committee's recommendations that farmers should be obliged to inform retailers of the pesticides they use; and
- (b) calls on the Minister for Agriculture, Fisheries and Forestry (Mr Burke) to respond to the Senate on the committee's recommendations that pesticide makers must prove their products do not have a harmful effect on bees before they can be authorised, in contrast to Australia's House of Representatives Standing Committee on Primary Industries and Resources report, *More than honey: the future of the Australian honey bee and pollination industries*, which has only recommended better labelling of pesticides that affect bees.

Question put and passed.

15 ECONOMICS—STANDING COMMITTEE—PROPOSED EXTENSION OF TIME TO REPORT

Senator Eggleston, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 288—That the time for the presentation of the report of the Economics Committee on the provisions of the Corporations Amendment (Short Selling) Bill 2008 be extended to 6 February 2009.

Question put.

The Senate divided—

AYES, 33

Senators—

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

NOES, 35

Senators—

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

Question negatived.

16 FINANCE AND PUBLIC ADMINISTRATION—STANDING COMMITTEE—EXTENSION OF TIME TO REPORT

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. 294—That the time for the presentation of the report of the Finance and Public Administration Committee on the Plebiscite for an Australian Republic Bill 2008 be extended to 15 June 2009.

Question put and passed.

17 ECONOMICS—EXECUTIVE SALARIES

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. 293—That the Senate calls on the Government to detail, before Parliament rises in 2008, the actions it will take in relation to the concerns about excessive executive salaries expressed by the Prime Minister (Mr Rudd) in both Australian and international forums.

Question put and passed.

18 FAMILY AND COMMUNITY SERVICES—GROCERYCHOICE WEBSITE

Senator Xenophon, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 287—That the Senate—

- (a) notes that the GROCERYchoice website is of limited usefulness because its surveys are too infrequent and it does not identify individual supermarkets;
- (b) calls on the Government and the Australian Competition and Consumer Commission to make the GROCERYchoice surveys and website more useful by:
 - (i) providing on the website a weekly list of the 10 cheapest supermarkets in each region, and
 - (ii) conducting weekly price surveys on 100 goods in each supermarket to create these lists; and
- (c) considers that if changes to make GROCERYchoice more useful to consumers prove cost-prohibitive or impractical, the project should be abandoned and allocated funding be returned to consolidated revenue.

Question put.

The Senate divided—

AYES, 5

Senators—

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

NOES, 46

Senators—

Barnett	Coonan	Humphries	Parry (Teller)
Bernardi	Crossin	Hurley	Polley
Bilyk	Farrell	Hutchins	Pratt
Birmingham	Faulkner	Ludwig	Sherry
Bishop	Feeney	Lundy	Stephens
Boswell	Ferguson	Marshall	Sterle
Boyce	Fielding	McEwen	Troeth
Brown, Carol	Fifield	McGauran	Trood
Cameron	Fisher	McLucas	Williams
Cash	Forshaw	Minchin	Wortley
Colbeck	Furner	Moore	
Collins	Heffernan	Nash	

Question negatived.

19 FOREIGN AFFAIRS—INTERNATIONAL AID

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 291—That the Senate—

(a) notes that:

- (i) Thursday, 20 November 2008 marked the day on which the United Nations General Assembly adopted the Declaration of the Rights of the Child in 1959, and the Convention on the Rights of the Child in 1989, and
- (ii) in 2000, world leaders outlined eight Millennium Development Goals, endorsed by 189 nations, to reduce poverty and hunger, to tackle ill-health, gender inequality, lack of education, lack of access to clean water and environmental degradation;

(b) recognises:

- (i) that more than 11 million children under the age of five die each year, mostly from preventable diseases, and
- (ii) Target 4a of the Millennium Development Goals aims to reduce by two-thirds, between 1990 and 2015, the under five mortality rate; and

(c) calls on the Australian Government to declare its commitment to achieving the international aid target of 0.7 per cent gross national income by 2015 which represents the minimum level required to help developing countries achieve substantial development gains.

Question put.

The Senate divided—

AYES, 6

Senators—

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

NOES, 46

Senators—

Barnett	Coonan	Hurley	Polley
Bernardi	Crossin	Hutchins	Pratt
Bilyk	Farrell	Ludwig	Ryan
Birmingham	Faulkner	Lundy	Sherry
Bishop	Feeney	Marshall	Stephens
Boswell	Ferguson	McEwen	Sterle
Boyce	Fifield	McGauran	Troeth
Brown, Carol	Fisher	McLucas	Trood
Cameron	Forshaw	Minchin	Williams
Cash	Furner	Moore	Wortley
Colbeck	Heffernan	Nash	
Collins	Humphries	Parry (Teller)	

Question negatived.

20 WOMEN—INTERNATIONAL DAY FOR THE ELIMINATION OF VIOLENCE AGAINST WOMEN

Senator Ludlam, also on behalf of Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 289—That the Senate—

- (a) notes that:
 - (i) 25 November 2008 marks the 9th anniversary of White Ribbon Day, the symbol of the United Nations' International Day for the Elimination of Violence Against Women, and
 - (ii) White Ribbon Day marks the start of 16 Days of Activism Against Gender Violence, a global event calling on action to end violence against women;
- (b) recognises:
 - (i) the report released by the White Ribbon Foundation of Australia, *An assault on our future: The impact of violence on young people and their relationships*, and
 - (ii) this report identified that one in seven girls aged 12 to 20 have experienced sexual assault or rape, with half a million teenagers revealing they live with violence in the home; and
- (c) calls on the Rudd Government, as part of the National Plan to Reduce Violence against Women and their Children, to work constructively to support the introduction of violence prevention programs in all schools as a priority, as part of Australia's commitment as a signatory to the United Nations Convention on the Elimination of All Forms of Discrimination against Women.

Question put and passed.

21 LAW AND JUSTICE—JAPAN—WHALING PROGRAM

Senator Siewert amended general business notice of motion no. 292 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes that:
 - (i) in January 2008, the Humane Society International secured:
 - (A) a ruling from the Australian Federal Court that Japanese whaling in Australia's Whale Sanctuary in Antarctica is illegal, and

- (B) an order that it be stopped, and
- (ii) the Australian Government has taken no action to enforce this ruling; and
- (b) urges the Australian Government to:
 - (i) set a timeline for legal proceedings in an international court to stop illegal Japanese whaling if Japan does not commit to stop whaling by 8 December 2008, and
 - (ii) send a vessel into the Southern Ocean to monitor Japanese whaling operations for the 2008-09 whaling season.

Question put and passed.

22 **PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL—DOCUMENTS**

The Minister for Human Services (Senator Ludwig) tabled the following documents:

Parliament Act—Parliamentary Zone—Proposal, together with supporting documentation, relating to the construction of a new cooling plant enclosure at Old Parliament House.

Notice of motion: Senator Ludwig, by leave, gave a notice of motion as follows: To move on 27 November 2008—That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, for the construction of a new cooling plant enclosure at Old Parliament House.

23 **COMMUNITY AFFAIRS—STANDING COMMITTEE—ADDITIONAL INFORMATION—POKER MACHINE HARM REDUCTION TAX (ADMINISTRATION) BILL 2008, POKER MACHINE HARM MINIMISATION BILL 2008 AND ATMS AND CASH FACILITIES IN LICENSED VENUES BILL 2008 AND SOCIAL SECURITY AND VETERANS' ENTITLEMENTS LEGISLATION AMENDMENT (SCHOOLING REQUIREMENTS) BILL 2008**

Senator McEwen, at the request of the Chair of the Community Affairs Committee (Senator Moore), tabled the following documents:

Community Affairs—Standing Committee—Reports—

Poker Machine Harm Reduction Tax (Administration) Bill 2008, Poker Machine Harm Minimisation Bill 2008 and ATMs and Cash Facilities in Licensed Venues Bill 2008—Additional information.

Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008 [Provisions]—Additional information.

24 **DOCUMENTS**

The following documents were tabled by the Clerk:

Commissioner of Taxation—Public Rulings—

Class Rulings—

CR 2008/77 and CR 2008/78.

Notice of Withdrawal—CR 2007/48.

Taxation Determinations—

Notice of Withdrawal—TD 34.

TD 2008/26.

Taxation Rulings (old series)—Notices of Withdrawal—IT 2593 and IT 2444.

25 COMMITTEE MEMBERSHIP

The Acting Deputy President (Senator Hurley) informed the Senate that the President had received a letter requesting changes in the membership of a committee.

The Minister for Human Services (Senator Ludwig), by leave, moved—That Senator Adams be discharged from the Select Committee on Men’s Health from 25 November 2008 to the end of the 2008 sittings, and Senator Parry be appointed a member of the committee for that period.

Question put and passed.

26 NATIONAL RENTAL AFFORDABILITY SCHEME (CONSEQUENTIAL AMENDMENTS) BILL 2008

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

Message no. 211, dated 25 November 2008—National Rental Affordability Scheme (Consequential Amendments) Bill 2008.

27 SOCIAL SECURITY LEGISLATION AMENDMENT (EMPLOYMENT SERVICES REFORM) BILL 2008**TAX LAWS AMENDMENT (2008 MEASURES NO. 5) BILL 2008**

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

Message no. 210, dated 24 November 2008—A Bill for an Act to amend the law relating to social security, and for related purposes.

Message no. 209, dated 24 November 2008—A Bill for an Act to amend the law relating to taxation, and for related purposes.

The Minister for Human Services (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.

28 GOVERNOR-GENERAL’S MESSAGES—ASSENT TO LAWS

Messages from Her Excellency the Governor-General were reported, informing the Senate that she had assented to the following laws:

21 November 2008—Message—

No. 42—

Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008 (Act No. 115, 2008)

Trade Practices Legislation Amendment Act 2008 (Act No. 116, 2008).

No. 43—

Offshore Petroleum Amendment (Greenhouse Gas Storage) Act 2008 (Act No. 117, 2008)

Offshore Petroleum (Annual Fees) Amendment (Greenhouse Gas Storage) Act 2008 (Act No. 118, 2008)

Offshore Petroleum (Registration Fees) Amendment (Greenhouse Gas Storage) Act 2008 (Act No. 119, 2008)

Offshore Petroleum (Safety Levies) Amendment (Greenhouse Gas Storage) Act 2008 (Act No. 120, 2008).

**29 ENVIRONMENT, COMMUNICATIONS AND THE ARTS—STANDING COMMITTEE—
REPORT—BROADCASTING LEGISLATION AMENDMENT (DIGITAL TELEVISION
SWITCH-OVER) BILL 2008**

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—Broadcasting Legislation Amendment (Digital Television Switch-over) Bill 2008—Report, dated November 2008, Hansard record of proceedings and submissions.

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

30 WATER AMENDMENT BILL 2008

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

Debate resumed.

Question put and passed.

Bill read a second time.

On the motion of the Minister for Climate Change and Water (Senator Wong) consideration of the bill in committee of the whole was made an order of the day for a later hour.

31 MIGRATION LEGISLATION AMENDMENT (WORKER PROTECTION) BILL 2008

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

Debate resumed.

On the motion of the Minister for Climate Change and Water (Senator Wong) the debate was adjourned and the resumption of the debate made an order of the day for a later hour.

32 WATER AMENDMENT BILL 2008

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

In the committee

Bill taken as a whole by leave.

On the motion of Senator Xenophon the following amendment was debated and agreed to:

Page 2 (after line 11), after clause 3, insert:

4 Review of operation of *Water Act 2007* as amended by this Act

- (1) The Productivity Commission must, by 30 June 2010, and each 30 June thereafter, prepare a report on the operation of the *Water Act 2007* as amended by this Act and provide it to the Minister.
- (2) In preparing a report required under subsection (1), the Productivity Commission must consider but is not limited to the following matters:
 - (a) the environmental impact on inflows;
 - (b) the economic sustainability of Basin water resources;
 - (c) the environmental sustainability of Basin water resources;
 - (d) the relative efficiency of water trading rules;
 - (e) the effectiveness of the Authority in carrying out its functions;
 - (f) the adequacy of the powers of the Authority;
 - (g) alternative models buying back tradeable water rights;
 - (h) the effectiveness of infrastructure projects and other water-saving measures funded (in whole or in part) by the Commonwealth;
 - (i) any other matter relevant to the objects of the *Water Act 2007*.
- (3) The Minister must ensure that the Productivity Commission has sufficient resources to prepare a report required under subsection (1).
- (4) The Minister must cause a copy of a report prepared under subsection (1) to be tabled in each House of the Parliament within 5 sitting days of that House after receiving the report.

Senator Nash moved the following amendments together by leave:

No. 1—Schedule 1, item 2, page 11 (lines 28 to 35), omit subsection 86A(2), substitute:

- (2) ***Critical human water needs*** are the needs for a minimum amount of water, that can only reasonably be provided from Basin water resources, required to meet human drinking, sanitation and health requirements in urban and rural areas.

No. 2—Schedule 1, item 2, page 12 (after line 24), after section 86A, insert:

86AA Definitions and criteria relating to critical human water needs

- (1) The Authority must publish, by 1 July 2009, a report containing the following:
 - (a) a comprehensive, practical definition of the term ***critical human water needs*** which identifies categories of users of such water and allowable purposes for the use of such water;
 - (b) a definition of the core human consumption requirements which would satisfy paragraph 86A(2)(a);
 - (c) a definition of the non-human consumption requirements which would satisfy paragraph 86A(2)(b).

- (2) The Authority must, by legislative instrument, determine, by 1 July 2009:
- (a) clear, transparent and equitable criteria the Authority will apply in determining whether the definition in paragraph 86A(2)(a) is met;
 - (b) clear, transparent and equitable criteria the Authority will apply in determining whether the definition in paragraph 86A(2)(b) is met;
 - (c) clear, transparent and equitable criteria the Authority will apply in determining the volume of conveyance water required to deliver water to meet critical human water needs;
 - (d) clear, transparent and equitable criteria the Authority will apply to monitor the use of such water to ensure it is used for the allowable purposes referred to in paragraph (1)(a).

No. 3—Schedule 1, item 2, page 13 (after line 4), after section 86B, insert:

86BA Reports on and evaluation of critical human water needs distributions

The Authority must publish, at least monthly, after the Basin Plan first takes effect, a report specifying:

- (a) the amounts of water distributed or allocated under the Basin Plan to meet critical human water needs; and
- (b) the amounts of conveyance water distributed or allocated to deliver that water; and
- (c) in relation to each such distribution or allocation:
 - (i) to whom and where the water has been distributed or allocated;
 - (ii) the criteria upon which the water has been distributed or allocated;
 - (iii) the length of time for which such water has been distributed or allocated to meet that need;
 - (iv) an evaluation of the compliance of that distribution or allocation with the criteria specified under subparagraph (ii).

Debate ensued.

The question was divided—

Question—That amendment no. 1 be agreed to—put.

The committee divided—

AYES, 32

Senators—

Barnett	Coonan	Johnston	Parry
Bernardi	Eggleston	Joyce	Payne
Birmingham	Ferguson	Kroger	Ronaldson
Boswell	Fierravanti-Wells	Ludlam	Scullion
Boyce	Fisher	Mason	Siewert
Brown, Bob	Hanson-Young	McGauran	Troeth
Bushby	Heffernan	Minchin	Trood
Cash	Humphries	Nash	Williams (Teller)

NOES, 23

Senators—

Arbib	Conroy	Hurley	Pratt
Bilyk	Farrell	Hutchins	Sterle
Bishop	Feeney	Lundy	Wong
Brown, Carol	Fielding	McEwen (Teller)	Wortley
Cameron	Forshaw	Moore	Xenophon
Collins	Furner	Polley	

Question agreed to.

Senator Nash, by leave, withdrew amendments nos 2 and 3.

Senator Siewert moved the following amendment:

Schedule 2, page 286 (after line 20), after item 6, insert:

6A Paragraph 3(h)

After “to provide for the”, insert “regular and systematic”.

6B At the end of paragraph 3(h)

Add:

; and (iii) the long-term health, resilience and sustainability of Australia’s rivers, wetlands and estuaries.

Debate ensued.

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

Senator Siewert moved the following amendments together by leave:

Schedule 2, page 288 (after line 23), after item 22, insert:

22A Subsection 4(1) (definition of *long-term average sustainable diversion limit*)

Omit “*long-term average sustainable diversion limit*”, substitute “*long-term sustainable diversion limit*”.

Schedule 2, page 294 (after line 2), after item 50, insert:

50A Subsection 22(1) (table item 4, column 3, paragraph (c))

Omit “long-term average sustainable diversion limits”, substitute “long-term sustainable diversion limits”.

50B Subsection 22(1) (table item 6, column 2)

Omit “long-term annual average quantities”, substitute “long-term annual quantities”.

50C Subsection 22(1) (table item 6, column 2)

Omit:

The averages are the *long-term average sustainable diversion limits* for the Basin water resources, and the water resources, or particular parts of the water resources, of the water resource plan area.

50D Subsection 22(1) (table item 6, column 3)

Omit “long-term average sustainable diversion limit”, substitute “long-term sustainable diversion limit”.

50E Subsection 22(1) (table item 7, column 2)

Omit “long-term annual average quantities”, substitute “long-term annual quantities”.

50F Subsection 22(1) (table item 7, column 2)

Omit “long-term average sustainable diversion limit”, substitute “long-term sustainable diversion limit”.

50G Subsection 22(1) (table item 7, column 2)

Omit:

The average is the *temporary diversion provision* for those water resources or that particular part.

The sum of:

- (a) the long-term average sustainable diversion limit; and
- (b) the temporary diversion provision;

for those water resources or that particular part is the *long-term annual diversion limit* for those water resources or that particular part.

50H Subsection 22(1) (table item 8, column 2)

Omit “long-term annual diversion limit”, substitute “long-term sustainable diversion limit”.

Schedule 2, page 294 (after line 6), after item 51, insert:

51A Subsections 23(1) and (2)

Omit “long-term average sustainable diversion limit”, substitute “long-term sustainable diversion limit”.

Note: The heading to section 23 is altered by omitting “average”.

51B Subsection 24(1)

Omit “long-term average sustainable diversion limit”, substitute “long-term sustainable diversion limit”.

51C Subsection 24(1)

Omit “long-term average quantity of water”, substitute “long-term quantity of water”.

51D Subsections 24(6) and (7)

Omit “long-term average sustainable diversion limit”, substitute “long-term sustainable diversion limit”.

Schedule 2, page 301 (after line 14), after item 75, insert:

75A Subsection 74(2)

Omit “long-term average sustainable diversion limit”, substitute “long-term sustainable diversion limit”.

Schedule 2, page 301 (after line 16), after item 76, insert:

76A Subsection 74(4)

Omit “long-term average sustainable diversion limit”, substitute “long-term sustainable diversion limit”.

Schedule 2, page 302 (after line 17), after item 77, insert:

77A Subsection 75(1)

Omit “long-term average sustainable diversion limit”, substitute “long-term sustainable diversion limit”.

Note: The heading to section 75 is altered by omitting “average”.

Schedule 2, page 303 (after line 2), after item 80, insert:

80A Subsection 75(3)

Omit “long-term average sustainable diversion limit”, substitute “long-term sustainable diversion limit”.

Schedule 2, page 303 (after line 18), after item 82, insert:

82A Subsection 75(4)

Omit “long-term average sustainable diversion limit” (twice occurring), substitute “long-term sustainable diversion limit”.

Schedule 2, page 303 (after line 27), after item 83, insert:

83A Section 76

Omit “long-term average sustainable diversion limit”, substitute “long-term sustainable diversion limit”.

Schedule 2, page 303 (after line 31), after item 85, insert:

85A Paragraph 77(1)(d)

Omit “long-term average sustainable diversion limit”, substitute “long-term sustainable diversion limit”.

Schedule 2, page 303 (after line 33), after item 86, insert:

86A Subsection 78(2)

Omit “long-term average limit”, substitute “long-term limit”.

86B Paragraph 78(3)(a)

Omit “long-term average sustainable diversion limit”, substitute “long-term sustainable diversion limit”.

86C Subparagraph 78(3)(a)(i)

Omit “long-term average limit”, substitute “long-term limit”.

86D Subparagraph 78(3)(a)(ii)

Omit “long-term average sustainable diversion limit”, substitute “long-term sustainable diversion limit”.

86E Paragraph 81(1)(b)

Omit “long-term average sustainable diversion limit”, substitute “long-term sustainable diversion limit”.

Debate ensued.

Question—That the amendments be agreed to—put and negatived.

Senator Xenophon moved the following amendment:

Schedule 2, page 293 (after line 7), after item 45, insert:

45A Before Division 1 of Part 2

Insert:

Division 1A—Interim Basin Plan

Subdivision A—Powers of Minister in relation to management of Basin water resources

18I Decision that Interim Basin Plan required

The Minister may decide that, to address the current crisis affecting the Murray-Darling Basin, an Interim Basin Plan is required, as an emergency measure to apply until such time as he or she approves a Basin Plan that is consistent with the *Water Act 2007*.

18J Authority to prepare Interim Basin Plan

- (1) If the Minister decides under section 18I that an Interim Basin Plan is required, the Minister must direct the Authority to prepare the Interim Basin Plan and the Authority must prepare the Interim Basin Plan.
- (2) An Interim Basin Plan prepared by the Authority under subsection (1) must include any determination made by the Minister under section 18L, 18M or 18N.
- (3) A direction by the Minister under subsection (1) must provide that the Authority must prepare the Interim Basin Plan, after consultation with the Basin States and provide it to the Minister within 6 months of the date of the direction.
- (4) An Interim Basin Plan may include any of the matters that must or may be included in a Basin Plan under section 22, but does not need to include all the detail required in a Basin Plan.
- (5) A direction by the Minister under subsection (1) is a legislative instrument.

18K Approval of Interim Basin Plan

- (1) If the Minister gives a direction under subsection 18J(1), within 30 days of receiving the Interim Basin Plan from the Authority, the Minister must either:
 - (a) approve the Authority's Interim Basin Plan; or
 - (b) approve the Authority's amended Interim Basin Plan provided to the Minister under paragraph (3)(a); or
 - (c) amend the Authority's Interim Basin Plan and approve it; or
 - (d) prepare an alternative Interim Basin Plan and approve it;
 as an emergency measure to apply until such time as he or she approves a Basin Plan.
- (2) The Minister must, before amending the Authority's Interim Basin Plan under paragraph (1)(c) or preparing an alternative Interim Basin Plan under paragraph (1)(d), consult the Authority.
- (3) If the Minister consults the Authority under subsection (2):
 - (a) the Authority may amend its Interim Basin Plan and provide the amended Interim Basin Plan to the Minister within a timeframe decided by the Minister; or

- (b) the Minister may amend the Authority's Interim Basin Plan under paragraph (1)(c) or prepare an alternative Interim Basin Plan under paragraph (1)(d).
- (4) An Interim Basin Plan approved under subsection (1) is a legislative instrument.
- (5) When an Interim Basin Plan approved under paragraph (1)(b), (c) or (d) is laid before a House of the Parliament under the *Legislative Instruments Act 2003*, the Minister must also lay before that House a document that sets out the Minister's reasons for not approving the Authority's Interim Basin Plan under paragraph (1)(a).

18L Matters that may be determined by Minister

- (1) The Minister may, to give effect to an Interim Basin Plan under this Division, determine:
 - (a) interim water sharing regimes; and
 - (b) interim allocation arrangements; and
 - (c) interim storage management; and
 - (d) interim water accounting rules; and
 - (e) rules for arrangements for sale and purchase and movement of water among Basin States; and
 - (f) the allocation of water for essential system maintenance, conveyance and environmental purposes; and
 - (g) any other matter necessary to give effect to an Interim Basin Plan.
- (2) In making a determination under subsection (1), the Minister must have regard to the matters set out in section 18O.
- (3) A determination under subsection (1) is a legislative instrument.

18M Sharing regime

In the interests of sustaining and protecting the environment and to assist in making any determination under subsection 18L(1), including in relation to any water resource plan area, the Minister must determine:

- (a) the share of water needed to maintain Basin water resources in a manner that enables water of reasonable quality to be conveyed to water users, to maintain essential system functions and to maintain water quality; and
- (b) the share of the remaining non-flood water to which a Basin State is entitled; and
- (c) the share, if any, to be granted to the environment as a separate and clearly identifiable holder of an inalienable entitlement to water allocations in the water resource plan area.

18N Activities inconsistent with relevant international agreements

The Minister may make a determination that certain activities are inconsistent with relevant international agreements.

Subdivision B—Matters to which Minister must have regard when making a determination**18O Matters to which Minister must have regard when making a determination**

In making a determination under this Division, the Minister must have regard to:

- (a) the principles set out in the National Water Initiative which have been agreed to by all governments of the Commonwealth of Australia;
- (b) critical human needs;
- (c) environmental needs and obligations including international obligations;
- (d) community needs;
- (e) the importance of efficient market processes in determining the most appropriate way to use water and to facilitate structural adjustment;
- (f) the importance to the economy and communities of maintaining permanent plantings;
- (g) relevant international agreements;
- (h) the possibility that all or some parts of the Murray-Darling Basin may be experiencing adverse climate change, so that it may not be possible to sustain all forms of water use in the Murray-Darling Basin and that any adjustment burden must be shared equitably across the Murray-Darling Basin;
- (i) the need for economically efficient water use and investment;
- (j) any other benefits available to particular users of Basin water resources;
- (k) the need to prevent activities that contribute to the improper use, storage and diversion of water;
- (l) any other matter to which the Minister considers it necessary to have regard.

Subdivision C—Powers of Authority in relation to implementation, compliance and enforcement of Interim Basin Plan**18P Powers of Authority in relation to implementation, compliance and enforcement of Interim Basin Plan**

- (1) The Authority is responsible for implementing an Interim Basin Plan.
- (2) For the purposes of investigating compliance with and enforcing an Interim Basin Plan, the Authority has the same enforcement powers as it has in relation to a Basin Plan.
- (3) For the purposes of investigating compliance with and enforcing an Interim Basin Plan, the Authority also has the same enforcement powers as the ACCC and the Minister have in relation to a Basin Plan.

Subdivision D—Other matters**18Q Inconsistent State actions**

- (1) A State must not act in any manner which is inconsistent with an Interim Basin Plan or a determination made under this Division.

- (2) A State that imposes restrictions on the trading and transfer of tradeable water rights in relation to Basin water resources is not eligible to receive any Commonwealth funding under the National Water Initiative.

18R Trading and transfer of tradeable water rights by Commonwealth

The Commonwealth and the Commonwealth Environmental Water Holder are not subject to any restrictions on the trading or transfer of tradeable water rights in relation to Basin water resources.

18S Declaration of taxation schemes detrimental to management of Basin water resources

- (1) The ACCC must, by 30 June 2009, inquire into the effects of arrangements in the *Income Tax Assessment Act 1997* on:
- (a) the water market; and
 - (b) the nature of irrigation practice and investment;
- and provide, by 31 December 2009, advice to the Minister based on the outcome of the inquiry.
- (2) Acting on the advice of the ACCC, the Minister may determine that a taxation scheme is detrimental to management of the Basin water resources.
- (3) The Minister must give a copy of a determination made under subsection (2) to the Treasurer.
- (4) If the Minister gives a copy of a determination to the Treasurer under subsection (3), the Treasurer must cause a report to be prepared in response to the determination.
- (5) The Treasurer must cause a copy of a report prepared under subsection (4) to be laid before each House of the Parliament within 15 sitting days of that House after the completion of the preparation of the report.

18T Failure to comply with Interim Basin Plan made under this Division

- (1) If a Basin State fails to comply with an Interim Basin Plan or any determination made under this Division, the Minister must assess:
- (a) the impact of that failure to comply on the other shares determined under section 18M in the Basin water resources; and
 - (b) the quantitative effect of that failure to comply on the Basin water resources.
- (2) If a Basin State fails to comply with an Interim Basin Plan or any determination made under this Division, the Minister must by determination reduce that Basin State's share in the Basin water resources as determined under section 18M by 10 times the quantitative effect of that failure to comply as assessed under paragraph (1)(b).
- (3) If a Basin State, after the Minister under subsection (2) reduces that Basin State's share in the Basin water resources, continues to fail to comply with an Interim Basin Plan or a determination made under this Division, the Minister must apply for an injunction against the Basin State under section 140.

Debate ensued.

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

Senator Siewert moved the following amendments together by leave:

Schedule 2, page 293 (after line 7), after item 45, insert:

45A Paragraph 20(b)

After “quantities of”, insert “or shares of”.

Schedule 2, page 294 (after line 2), after item 50, insert:

50A Subsection 22(1) (table item 6, column 2)

After “quantities of water”, insert “or shares of water”.

50B Subsection 22(1) (table item 7, column 2)

After “quantities of water”, insert “or shares of water”.

Debate ensued.

Question—That the amendments be agreed to—put and negatived.

On the motion of Senator Xenophon the following amendment was debated and agreed to:

Schedule 2, page 293 (after line 7), after item 45, insert:

45A Before paragraph 20(a)

Insert:

- (aa) the Authority to take a whole of Basin approach in managing Basin water resources, taking into account environmental, social, economic and hydrological considerations; and

Senator Siewert moved the following amendment:

Schedule 2, page 293 (after line 7), after item 45, insert:

45B After paragraph 20(b)

Insert:

- (ba) measures which ensure that flows are sufficient and regular enough to maintain essential ecosystem functions throughout the Basin and that the effects of diverting water in one part of the Basin on all other parts of the Basin are fully accounted for; and

Debate ensued.

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

Senator Siewert moved the following amendments together by leave:

Schedule 2, page 293 (after line 7), after item 45, insert:

45C Subsection 21(1)

Repeal the subsection (not including the heading), substitute:

- (1) The Basin Plan (including any environmental watering plan or water quality and salinity management plan included in the Basin Plan) must be prepared so as to provide for giving effect (to the extent to which they are relevant to the use and management of the Basin water resources) to:
 - (a) relevant international agreements; and
 - (b) the Australian Ramsar management principles as prescribed by section 335 of the *Environment Protection and Biodiversity Conservation Act 1999*; and

- (c) plans and strategies developed for implementing commitments under relevant agreements in accordance with the *Environment Protection and Biodiversity Conservation Act 1999* including but not limited to:
- (i) any management plans for a Ramsar wetland under section 328 or section 333 of that Act; and
 - (ii) any recovery plan or threat abatement plan prepared by the Commonwealth under Chapter 5 of that Act or any recovery plan or threat abatement plan developed by a State or Territory; and
 - (iii) the China Australia and Japan Migratory Birds agreements and any wildlife conservation plans under section 285 of that Act.

Schedule 2, page 293 (after line 7), after item 45, insert:

45D At the end of paragraph 21(2)(a)

Add:

- (iii) the need to take precautionary measures to anticipate, prevent or minimise the causes of climate change and mitigate its adverse effects; and
- (iv) the need for sustainable management, conservation and enhancement of sinks and reservoirs of all greenhouse gases including biomass, forests and oceans as well as other terrestrial, coastal and marine ecosystems; and
- (v) the need for adaptation to the impacts of climate change including appropriate and integrated plans for water resources and agriculture; and

Schedule 2, page 301 (after line 1), after item 69, insert:

69A At the end of section 55

Add:

- (4) A water resource plan must be prepared to give effect (to the extent to which they are relevant to the use and management of the Basin water resources) to:
- (a) relevant international agreements; and
 - (b) the Australian Ramsar management principles as prescribed by section 335 of the *Environment Protection and Biodiversity Conservation Act 1999*; and
 - (c) plans and strategies developed for implementing commitments under relevant agreements in accordance with the *Environment Protection and Biodiversity Conservation Act 1999* including but not limited to:
 - (i) any management plans for a Ramsar wetland under section 328 or section 333 of that Act; and
 - (ii) any recovery plan or threat abatement plan prepared by the Commonwealth under Chapter 5 of that Act or any recovery plan or threat abatement plan developed by a State or Territory; and
 - (iii) the China Australia and Japan Migratory Birds agreements and any wildlife conservation plans under section 285 of that Act.

Debate ensued.

Question—That the amendments be agreed to—put and negatived.

Senator Nash, also on behalf of Senator Siewert, moved the following amendments together by leave:

Schedule 2, page 294 (after line 2), after item 50, insert:

50A At the end of section 21

Add:

Basin Plan not to permit taking water for additional uses outside Basin

- (8) The Basin Plan must ensure that no water is taken from Basin water resources for use outside the Murray-Darling Basin unless, prior to 3 July 2008, water would have been taken from Basin water resources for that use.

Note: 3 July 2008 is the date the Commonwealth, the Basin States and the Australian Capital Territory entered into an intergovernmental agreement on Murray-Darling Basin Reform.

- (9) The Basin Plan must not permit:

- (a) the construction or operation of water infrastructure; or
(b) work in the nature of a river flow control work;

if the primary purpose of that construction, operation or work is to enable water to be taken contrary to subsection (8).

Note 1: *water infrastructure* is defined in section 7(3).

Note 2: *river flow control work* is defined in section 8 but has a meaning affected by subsection (10).

- (10) For the purposes of this section, *river flow control work* has the meaning it would have if paragraph 8(2)(b) were repealed.

Schedule 2, page 318 (after line 32), after item 162, insert:

162A At the end of Part 12

Add:

257 Prohibited water infrastructure operations

- (1) An infrastructure operator must not:

- (a) construct or operate water infrastructure; or
(b) undertake work in the nature of a river flow control work;

if the primary purpose of that construction, operation or work is to enable water to be taken from Basin water resources for use outside the Murray-Darling Basin.

Note 1: *infrastructure operator* and *water infrastructure* are defined in section 7.

Note 2: *river flow control work* is defined in section 8 but has a meaning affected by subsection (3).

- (2) Subsection (1) does not apply if, prior to 3 July 2008, water would have been taken from Basin water resources for that use.

- (3) For the purposes of this section, *river flow control work* has the meaning it would have if paragraph 8(2)(b) were repealed.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 33

Senators—

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

NOES, 20

Senators—

Arbib	Conroy	Forshaw	Moore
Bilyk	Crossin	Furner	Pratt
Brown, Carol	Farrell	Lundy	Stephens
Cameron	Faulkner	Marshall	Wong
Collins	Feeney	McEwen (Teller)	Wortley

Question agreed to.

Senator Siewert moved the following amendment:

Schedule 2, page 294 (after line 2), after item 50, insert:

50B At the end of section 21

Add:

Basin Plan to provide for reduction in use in additional population centres outside Basin

- (11) The Basin Plan must provide for a reduction over time in the amount of water taken from Basin water resources to meet the needs of population centres outside the Murray-Darling Basin.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 33

Senators—

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

NOES, 19

Senators—

Arbib	Farrell	Hurley	Pratt
Bilyk	Faulkner	Lundy	Sterle
Brown, Carol	Feeney	Marshall	Wong
Cameron	Forshaw	McEwen (Teller)	Wortley
Crossin	Furner	Moore	

Question agreed to.

Bill, as amended, further debated.

Senator Xenophon moved the following amendment:

Schedule 2, page 294 (after line 14), after item 52, insert:

52B After section 26

Insert:

26B Trading and transfer of tradeable water rights

- (1) The Commonwealth and the Commonwealth Environmental Water Holder are not subject to any restrictions on the trading or transfer of tradeable water rights in relation to Basin water resources.
- (2) A State that imposes restrictions on the trading and transfer of tradeable water rights in relation to Basin water resources is not eligible to receive any Commonwealth funding under the National Water Initiative.

Debate ensued.

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

Senator Siewert moved the following amendment:

Schedule 2, page 295 (after line 7), after item 59, insert:

59AA Section 38

Repeal the section.

Debate ensued.

Senator Siewert, by leave, withdrew the amendment.

Senator Xenophon moved the following amendment:

Schedule 2, page 295 (after line 7), after item 59, insert:

59A At the end of Subdivision D of Division 1 of Part 2

Add:

40A Failure to comply with Basin Plan

- (1) If a Basin State fails to comply with the Basin Plan, the Minister must assess:
 - (a) the impact of that failure to comply on the shares of other Basin States in the Basin water resources; and
 - (b) the quantitative effect of that failure to comply on the Basin water resources.
- (2) If a Basin State fails to comply with the Basin Plan, the Minister must by determination reduce that Basin State's share in the Basin water resources by 10 times the quantitative effect of that failure to comply as assessed under paragraph (1)(b).

- (3) If a Basin State, after the Minister under subsection (2) reduces that Basin State's share in the Basin water resources, continues to fail to comply with the Basin Plan, the Minister must apply for an injunction against the Basin State under section 140.

Debate ensued.

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

Senator Siewert moved the following amendments together by leave:

Schedule 2, page 297 (after line 30), after item 62, insert:

62A Paragraph 44(3)(b)

Repeal the paragraph, substitute:

- (b) must adopt, in writing, that version of the Basin Plan.

Schedule 2, page 297 (after line 30), after item 62, insert:

62B Subparagraph 44(5)(b)(i)

Repeal the subparagraph, substitute:

- (i) items 1, 2, 3, 6, 8, 9 or 10 of the table in subsection 22(1);
or

Schedule 2, page 300 (after line 13), after item 65, insert:

65A Paragraph 48(3)(b)

Repeal the paragraph, substitute:

- (b) must adopt, in writing, that version of the amendment.

Debate ensued.

Question—That the amendments be agreed to—put and negatived.

Senator Siewert moved the following amendment:

Schedule 2, page 301 (after line 14), after item 75, insert:

75A Section 64

Repeal the section, substitute:

The accreditation of a water resource plan under section 63 ceases to have effect at the end of the period of 6 months after the Basin Plan first comes into effect.

Debate ensued.

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

At 11 pm: The President resumed the chair and the Temporary Chair of Committees (Senator Barnett) reported progress.

33 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 11.38 pm till Wednesday, 26 November 2008 at 9.30 am.

34 **ATTENDANCE**

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

HARRY EVANS
Clerk of the Senate