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1 MEETING OF SENATE

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

2 GOVERNMENT DOCUMENTS

The following documents were tabled:

Audio-Visual Copyright Society Limited (Screenrights)—Report for 2008-09.

Charter of Budget Honesty Act 1998—Intergenerational report 2010.

Copyright Agency Limited—Report for 2008-09.

3 NATIONAL SECURITY LEGISLATION MONITOR BILL 2009 [2010]

Order of the day read for the adjourned debate on the motion of the Minister for Climate Change and Water (Senator Wong)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

On the motion of Senator Ludlam the following amendments, taken together by leave, were debated and agreed to:

Clause 29, page 18 (after line 10), after subclause (2), insert:

- (2A) If the National Security Legislation Monitor considers that the annual report contains information of the kind referred to in subsection (3), the Monitor must also prepare and give to the Prime Minister, at the same time as the annual report, a version of the report which does not contain that information (a *declassified annual report*).

Clause 29, page 18 (line 11), omit “The annual report must not contain”, substitute “The information specified by this subsection is information of the following kind”.

Clause 29, page 19 (lines 3 to 16), omit subclauses (4) to (7), substitute:

- (4) In determining whether an annual report contains information of the kind referred to in subsection (3), the National Security Legislation Monitor may consult the responsible Minister or responsible Ministers concerned.
- (5) The Prime Minister must cause a copy of:
- (a) each annual report; or
 - (b) if an annual report contains information of the kind referred to in subsection (3)—the corresponding declassified annual report;
- to be presented to each House of the Parliament within 15 sitting days of that House after the day on which he or she receives the report.

Clause 30, page 19 (after line 28), at the end of the clause, add:

- (4) If the National Security Legislation Monitor considers that a report to the Prime Minister under subsection (1) or (3) contains information of the kind referred to in subsection 29(3), the Monitor must also prepare and give to the Prime Minister, at the same time as the report, a version of the report which does not contain that information (a *declassified report*).
- (5) In determining whether a report contains information of the kind referred to in subsection 29(3), the National Security Legislation Monitor may consult the responsible Minister or responsible Ministers concerned.
- (6) The Prime Minister must cause a copy of:
 - (a) each report under subsections (1) and (3); or
 - (b) if a report contains information of the kind referred to in subsection 29(3)—the corresponding declassified report;
 to be presented to each House of the Parliament within 15 sitting days of that House after the day on which he or she receives the report.

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

Clause 6, page 6 (line 22), at the end of subclause (1), add:

- ; (d) to assess whether Australia's counter-terrorism or national security legislation is being used for matters unrelated to terrorism and national security.

Explanatory memorandum: The Special Minister of State (Senator Ludwig) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

On the motion of Senator Ludwig the following amendments, taken together by leave, were debated and agreed to:

Clause 3, page 2 (lines 12 and 13), omit paragraph (c), substitute:

- (c) is consistent with Australia's international obligations, including:
 - (i) human rights obligations; and
 - (ii) counter-terrorism obligations; and
 - (iii) international security obligations; and

Clause 4, page 2 (before line 18), before the definition of *counter-terrorism and national security legislation*, insert:

Committee on Intelligence and Security means the Parliamentary Joint Committee on Intelligence and Security established under the *Intelligence Services Act 2001*.

Clause 6, page 6 (line 9), after "review", insert " , on his or her own initiative,".

Clause 6, page 6 (lines 15 to 19), omit paragraph (1)(b), substitute:

- (b) to consider, on his or her own initiative, whether any legislation mentioned in paragraph (a):
 - (i) contains appropriate safeguards for protecting the rights of individuals; and
 - (ii) remains proportionate to any threat of terrorism or threat to national security, or both; and
 - (iii) remains necessary;

Clause 6, page 6 (after line 22), after subclause (1), insert:

- (1A) If a matter is referred to the National Security Legislation Monitor by the Committee on Intelligence and Security, the Monitor may perform the function set out in paragraph (1)(a) or (b) in relation to the matter.

Heading to clause 7, page 7 (line 4), omit the heading, substitute:

7 References to the National Security Legislation Monitor by the Prime Minister

Page 7 (after line 11), after clause 7, insert:

7A References to the National Security Legislation Monitor by the Committee on Intelligence and Security

- (1) The Committee on Intelligence and Security may refer to the National Security Legislation Monitor a matter that the Committee:
 - (a) becomes aware of in the course of performing its functions under subsection 29(1) of the *Intelligence Services Act 2001*; and
 - (b) considers should be referred to the Monitor.
- (2) It is a function of the Committee on Intelligence and Security to refer the matter to the National Security Legislation Monitor.

Clause 8, page 7 (lines 16 and 17), omit paragraph (a), substitute:

- (a) Australia's obligations under international agreements (as in force from time to time), including:
 - (i) human rights obligations; and
 - (ii) counter-terrorism obligations; and
 - (iii) international security obligations; and

Heading to clause 30, page 19 (line 19), omit the heading, substitute:

30 Report on a reference by the Prime Minister

Clause 30, page 19 (line 21), at the end of subclause (1), add “made under section 7”.

Senator Ludlam moved the following amendments together by leave:

Clause 4, page 4 (lines 26 and 27), omit the definition of *National Security Legislation Monitor*, substitute:

National Security Legislation Monitor means:

- (a) in Division 2 of Part 2, other than in subsection 11(1)—any one of the three members who constitute the panel appointed in accordance with section 11;
- (b) elsewhere in this Act—the panel of three members appointed in accordance with section 11.

Clause 11, page 9 (line 4), after “Monitor”, insert “is to comprise a panel of three members, each of whom”.

Clause 11, page 9 (lines 7 to 14), omit “the National”, substitute “a National” (wherever occurring).

Clauses 12, page 9 (lines 18 to 21), omit “The National”, substitute “Each National” (twice occurring).

Clause 13, page 9 (line 24), omit “The”, substitute “Each”.

Clause 13, page 9 (line 26), omit “the”, substitute “each”.

Clause 13, page 9 (line 28), omit “The”, substitute “Each”.

Clause 14, page 10 (line 4), omit “the”, substitute “each”.

Clauses 15 to 18, page 10 (lines 7 to 26), omit “The National”, substitute “Each National” (wherever occurring).

Clauses 19 and 20, page 11 (lines 1 to 33), omit “the National”, substitute “a National” (wherever occurring).

Clause 20, page 11 (lines 24 to 33), omit “the Monitor”, substitute “a Monitor” (twice occurring).

Debate ensued.

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

Senator Ludlam moved the following amendments together by leave:

Clause 6, page 6 (line 19), at the end of paragraph (1)(b), add:
and (iii) is consistent with Australia’s international obligations,
including human rights obligations;

Clause 6, page 6 (line 22), at the end of subclause (1), add:
; and (d) if a matter relating to Australia’s counter-terrorism or national
security legislation is referred to the Monitor by the Australian
Human Rights Commissioner—to report on the reference.

Debate ensued.

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

On the motion of Senator Ludwig the following amendments, taken together by leave, were debated and agreed to:

Clause 10, page 8 (lines 13 and 14), omit paragraph (2)(a).

Clause 10, page 8 (after line 16), after paragraph (2)(c), insert:
(ca) the Human Rights Commissioner; or
(cb) the Privacy Commissioner; or
(cc) the head of an agency established by a law of the
Commonwealth or of a State or Territory; or

Clause 29, page 18 (lines 4 to 7), omit subclause (1), substitute:

- (1) The National Security Legislation Monitor must prepare and give to the Prime Minister a report (an **annual report**):
 - (a) relating to the performance of the Monitor’s functions as set out in paragraphs 6(1)(a) and (b); and
 - (b) containing such details relating to the performance of the Monitor’s function as set out in paragraph 6(1)(c) as the Monitor considers appropriate.

On the motion of Senator Ludwig the following amendments, taken together by leave, were debated and agreed to:

Clause 4, page 4 (after line 6), after the definition of *head*, insert:

National Security Legislation Monitor means the person appointed in accordance with section 11.

Clause 4, page 4 (lines 26 and 27), omit the definition of *National Security Legislation Monitor*.

Clause 3, page 2 (line 4), omit “a”, substitute “an”.

Clause 5, page 6 (line 5), omit “a”, substitute “an”.

Clause 8, page 7 (line 14), before “National Security Legislation Monitor’s”, insert “Independent”.

Part 1 to Part 5, page 1 (line 5) to page 20 (line 15), before “National Security Legislation Monitor” (wherever occurring), insert “Independent”.

Title, page 1 (line 2), omit “a National”, substitute “an Independent National”.

Bill, as amended, further debated and agreed to.

Bill to be reported with amendments and an amendment to the title.

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

On the motion of Senator Ludwig the report from the committee was adopted and the bill read a third time.

4 EDUCATION SERVICES FOR OVERSEAS STUDENTS AMENDMENT (RE-REGISTRATION OF PROVIDERS AND OTHER MEASURES) BILL 2009

Order of the day read for the adjourned debate on the motion of the Minister for Climate Change and Water (Senator Wong)—That this bill be now read a second time.

Debate resumed.

Senator Hanson-Young moved the following amendment:

At the end of the motion, add “but the Senate is of the opinion that the Government should:

- (a) prioritise the re-registration of providers by starting with those providers considered to have a high risk profile having regard to one or more of the following factors:
 - (i) the provider has a high proportion of students from a single country,
 - (ii) the provider offers only a limited number of education programs,
 - (iii) the provider has had a rapid increase in enrolments in the recent past,
 - (iv) the provider has previously breached the national code, and
 - (v) there is a history of visa fraud in relation to student visa applications relating to the provider’s education programs,
 followed by all remaining institutions; and
- (b) establish an independent Education Commission to foster best practice in:
 - (i) visa application processes,

- (ii) quality benchmarking of education programs, and
- (iii) monitoring of providers and their compliance with the national code”.

Document: Senator Hanson-Young, by leave, tabled the following document:

Education Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Bill 2009—Letter from the Minister for Education (Ms Gillard) to Senator Hanson-Young, dated 25 November 2009.

Debate ensued.

At 12.45 pm: Debate was interrupted while the Minister for Innovation, Industry, Science and Research (Senator Carr) was speaking.

5 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

Documents: Senator Johnston, by leave, tabled the following documents:

Superannuation—Review of pension indexation arrangements in Australian government civilian and military superannuation schemes—Letters from—
Dr Kelly AM, MP, Mr McMullan MP, Senator Lundy and Ms Ellis MP to the Minister for Finance and Deregulation (Mr Tanner), dated 14 September 2009.
Minister for Finance and Deregulation (Mr Tanner) to Senator Lundy, dated 22 October 2009.

Further matters of public interest were discussed.

Suspension of sitting: On the motion of the Assistant Treasurer (Senator Sherry) the sitting of the Senate was suspended at 1.49 pm till 2 pm.

At 2 pm—

6 QUESTIONS

Questions without notice were answered.

Distinguished visitors: The President welcomed members of a parliamentary delegation from the Czech Republic led by the President of the Senate, His Excellency Mr Přemysl Sobotka, MP, and, with the concurrence of honourable senators, invited Mr Sobotka to take a seat on the floor of the chamber.

Further questions without notice were answered.

7 MOTIONS TO TAKE NOTE OF ANSWERS

Senator Cash moved—That the Senate take note of the answer given by the Minister for Employment Participation (Senator Arbib) to a question without notice asked by Senator Abetz today relating to workplace relations.

Debate ensued.

Question put and passed.

Senator Milne 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 Milne today relating to home sustainability assessors.

Question put and passed.

8 NOTICES

Senator Hanson-Young: To move on the next day of sitting—That the Senate—

- (a) notes, with sadness, the recent passing of West Papuan activist Mr Viktor Kaisiepo in his hometown of Amersfoort, in the Netherlands, at the age of 61;
- (b) acknowledges Mr Kaisiepo's life-long commitment to raising awareness of the plight of West Papua; and
- (c) extends its sympathy to the family and friends of Mr Kaisiepo and to the broader West Papuan community. (*general business notice of motion no. 691*)

Senator Hanson-Young: To move on the next day of sitting—That the Senate—

- (a) notes the string of recent attacks against international students studying in Australia;
- (b) recognises:
 - (i) the important contribution international students make to Australia's culture and economy, and
 - (ii) the growing concern over the safety of international students studying in Australia; and
- (c) calls on the Government to:
 - (i) implement the recommendation of the Education, Employment and Workplace Relations References Committee report, *Welfare of international students*, to expand the jurisdiction of the Commonwealth Ombudsman to include the international student sector, and
 - (ii) invest in support programs and anti-racism campaigns to raise community awareness of the positive contribution international students make to Australia. (*general business notice of motion no. 692*)

The Deputy Chair of the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity (Senator Johnston): To move on the next day of sitting—That the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity:

- (a) be authorised to hold a public meeting during the sitting of the Senate on Thursday, 4 February 2010, from 12.30 pm, to take evidence for the committee's inquiry into the operation of the *Law Enforcement Integrity Commissioner Act 2006*; and
- (b) be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 4 February 2010. (*general business notice of motion no. 693*)

The Leader of the Family First Party (Senator Fielding): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Commonwealth Electoral Act 1918* to prevent unauthorised access to personal information on electoral rolls, and for related purposes. ***Protection of Personal Information Bill 2010.*** (*general business notice of motion no. 694*)

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the Senate welcomes the news that the President of the United States of America, Barack Obama, will meet His Holiness the Dalai Lama. (*general business notice of motion no. 695*)

Senator Parry: To move on the next day of sitting—That the Senate notes the substantial increases in cost of living pressures on ordinary Australian families under the Rudd Labor Government. (*general business notice of motion no. 696*)

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

- (a) on 3 February 2010 West Australian whale shark researcher Dr Brad Norman was named as one of *National Geographic's* 2008 Class of Emerging Explorers;
- (b) Dr Norman is the first Australian to be so honoured; and
- (c) Dr Norman's success has contributed to a national worldwide focus on the protection of the whale shark. (*general business notice of motion no. 697*)

9 POSTPONEMENTS

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of the Leader of The Nationals in the Senate (Senator Joyce) for today, proposing a reference to the Economics References Committee, postponed till 4 February 2010.

Business of the Senate notice of motion no. 3 standing in the name of Senator Siewert for today, proposing a reference to the Legal and Constitutional Affairs References Committee, postponed till 4 February 2010.

General business notice of motion no. 685 standing in the name of Senator Scullion for today, proposing the introduction of the Wild Rivers (Environmental Management) Bill 2010, postponed till 4 February 2010.

General business notice of motion no. 688 standing in the name of Senator Siewert for today, proposing the introduction of the Environment Protection and Biodiversity Conservation Amendment (Prohibition of Support for Whaling) Bill 2010, postponed till 4 February 2010.

10 FOREIGN AFFAIRS—SOLOMON ISLANDS—LANDHOLDER AGREEMENTS—ORDER FOR PRODUCTION OF DOCUMENTS

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. 679—That there be laid on the table by the Minister representing the Minister for Trade, no later than 22 February 2010, the information referred to in the answer to question on notice no. 2366 (notice given 25 September 2009) regarding landholder agreements with Australian Solomons Gold Limited (ASG) for the Gold Ridge Mine

project in the Solomon Islands and, specifically, the information the Government and the Export Finance and Insurance Corporation are relying on to assess ‘the impact on communities of the Gold Ridge Mine’ and the ‘negotiation process that culminated in ASG and landowners signing agreements’.

Question put and passed.

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

11 **ECONOMICS REFERENCES COMMITTEE—REFERENCE**

Senator Ronaldson, 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 matter be referred to the Economics References Committee for inquiry and report by 30 June 2010:

The access of small businesses to finance, including:

- (a) the costs, terms and conditions of finance and changes to lending policies and practices affecting small businesses;
- (b) the importance of reasonable access to funding to support small business expansion and the sector’s contribution to employment growth and economic recovery;
- (c) the state of competition in small business lending and the impact of the Government’s banking guarantees;
- (d) opportunities and obstacles to other forms of financing, for example, equity to support small business ‘start ups’, liquidity, growth and expansion;
- (e) policies, practices and strategies to enhance access to small business finance that exist in other countries; and
- (f) any other related matters.

Question put and passed.

12 **FOREIGN AFFAIRS—CHINA—DEATH PENALTY**

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. 680—That the Senate, noting the similar resolution of the European Parliament on 25 November 2009:

- (a) reiterates its longstanding opposition to the death penalty in all cases and under all circumstances;
- (b) recalls Australia’s strong commitment to working towards abolition of the death penalty everywhere and emphasises once again that the abolition of the death penalty contributes to the enhancement of human dignity and the progressive development of human rights;
- (c) recognises the positive move by China’s Supreme People’s Court, in January 2007, to review death sentences but deplores the fact that it has not led to a significant decrease in the number of executions in China and remains concerned that China still carries out the greatest number of executions worldwide;
- (d) urges the Chinese Government to adopt a moratorium on the death penalty immediately and unconditionally, this being seen as a crucial step towards abolition of the death penalty;

- (e) strongly condemns the executions of the two Tibetans, Lobsang Gyaltzen and Loyak, and of the nine persons of Uighur ethnicity following, respectively, the events in March 2008 in Lhasa and the riots of 5 July to 7 July 2009 in Urumqi; and
- (f) calls on the Chinese authorities to suspend all the other death sentences passed by the Intermediate People's Courts of Lhasa and Urumqi and to commute those sentences, in the case of persons duly found guilty of acts of violence, to terms of imprisonment.

Statements by leave: The Special Minister of State (Senator Ludwig) and Senator Bob Brown, by leave, made statements relating to the motion.

Question put.

The Senate divided—

AYES, 7

Senators—

Brown, Bob
Fielding

Hanson-Young
Ludlam

Milne
Siewert (Teller)

Xenophon

NOES, 28

Senators—

Back
Bilyk
Cameron
Cash
Colbeck
Cormann
Farrell

Feeney
Ferguson
Fisher
Forshaw
Furner
Hurley
Hutchins

Johnston
Kroger
Ludwig
Lundy
Marshall
McEwen
McLucas

Moore
O'Brien (Teller)
Parry
Polley
Pratt
Sterle
Wortley

Question negatived.

13 IMMIGRATION—TAMIL ASYLUM SEEKERS—INDONESIA

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 689—That the Senate—

- (a) notes that:
 - (i) more than 240 Tamil asylum seekers remain on their boat in the Indonesian port of Merak in increasingly squalid conditions after more than 3 months, and
 - (ii) this boat was intercepted by Indonesia at Australia's request in October 2009;
- (b) recognises:
 - (i) of the 240 on board, 100 have been found to be genuine refugees by the United Nations High Commissioner for Refugees, yet they are afraid to leave the boat under the threat of removal to Indonesian detention centres, and
 - (ii) Australia's obligations as a signatory to the United Nations Convention relating to the Status of Refugees; and
- (c) calls on the Government immediately to step in and end the standoff over the Tamil asylum seekers who have been left in squalid conditions on a boat at Merak, Indonesia for 115 days.

Question put.

The Senate divided—

AYES, 6

Senators—

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

NOES, 30

Senators—

Back	Feeney	Johnston	O'Brien
Bilyk	Ferguson	Kroger	Parry (Teller)
Birmingham	Fielding	Ludwig	Polley
Cameron	Fisher	Lundy	Pratt
Cash	Forshaw	Marshall	Sterle
Colbeck	Furner	McEwen	Wortley
Cormann	Hurley	McLucas	
Farrell	Hutchins	Moore	

Question negatived.

14 ENVIRONMENT—BIODIVERSITY—BOOBOOK DECLARATION

The Leader of the Australian Greens (Senator Bob Brown), also on behalf of Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 678—That the Senate—

- (a) recognises 2010 as the United Nations' International Year of Biodiversity;
- (b) supports the Boobook Declaration, which has been written by an alliance of 40 environment groups to highlight Australia's worsening biodiversity crisis; and
- (c) notes the Boobook Declaration's call on the Australian Government to:
 - '(1) Acknowledge the critical importance of safeguarding biodiversity as part of Australia's climate change response and commit to correspondingly urgent action to address the systemic drivers of biodiversity loss...
 - (2) ...increase investment in biodiversity and ecosystem protection, restoration and management to at least \$9 billion over the three years to 2012 and establish an independent ... consultative process into future funding and stewardship of Australia's, [sic] terrestrial, aquatic and marine biodiversity;
 - (3) Restore and increase ... publicly funded research [capacity, especially in biodiversity conservation] ...; and
 - (4) Develop ... education and training programs .. [for] all sectors of the ... community [including on the importance and protection of biodiversity]'

Statements by leave: The Special Minister of State (Senator Ludwig) and Senator Bob Brown, by leave, made statements relating to the motion.

Question put.

The Senate divided—

AYES, 6

Senators—

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

NOES, 30

Senators—

Back	Feeney	Johnston	O'Brien (Teller)
Bilyk	Ferguson	Kroger	Parry
Birmingham	Fielding	Ludwig	Polley
Cameron	Fisher	Lundy	Pratt
Cash	Forshaw	Marshall	Sterle
Colbeck	Furner	McEwen	Wortley
Cormann	Hurley	McLucas	
Farrell	Hutchins	Moore	

Question negatived.

15 ENVIRONMENT—WORLD WETLANDS DAY

Senator Hanson-Young, also on behalf of Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 681—That the Senate—

- (a) notes that:
 - (i) Tuesday, 2 February 2010 was World Wetlands Day,
 - (ii) the day marks the anniversary of the signing of the Convention on Wetlands of International Importance (the Ramsar Convention) in Ramsar, Iran on 2 February 1971, and
 - (iii) in 2010, the focus of World Wetlands Day is on ‘caring for our wetlands – an answer to climate change’, highlighting the continuing threat our wetlands face from unsustainable human practices and the likely impact that climate change will have on our wetland ecosystems;
- (b) recognises that:
 - (i) fair water sharing across the Murray-Darling Basin is the only way the environment and those relying on the river system will be protected and sustainable,
 - (ii) South Australia’s Lower Lakes are at crisis point and need the full attention of the Federal Government, and
 - (iii) implementation of the Basin Plan urgently needs to be fast-tracked as the Lower Lakes and Coorong cannot wait until 2019 for all states to participate in a cap on sustainable diversions and basin-wide water sharing arrangements; and
- (c) calls on the Government to:
 - (i) establish an independent national authority with the powers to make decisions in the best interests of our rivers and wetlands that cannot be vetoed by individual states,
 - (ii) provide greater resources for the understanding and management of the resilience of our wetlands to the impacts of climate change, and
 - (iii) ensure that South Australia’s iconic wetlands do not lose their Ramsar Convention listing.

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

Question put and negatived.

**16 TAXATION—AUSTRALIA’S FUTURE TAX SYSTEM REVIEW PANEL—REPORT—
ORDER FOR PRODUCTION OF DOCUMENT**

Senator Parry, at the request of the Leader of The Nationals in the Senate (Senator Joyce) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 677—That there be laid on the table by the Minister representing the Treasurer, no later than 9.30 am on Thursday, 4 February 2010, the final report from Australia’s Future Tax System Review Panel (the Henry Review).

Question put and passed.

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

17 ECONOMICS REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Parry, at the request of the Chair of the Economics References Committee (Senator Eggleston) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 682—That the Economics References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 4 February 2010, from 5 pm, to take evidence for the committee’s inquiry into the Australian dairy industry.

Question put and passed.

**18 REGIONAL AND REMOTE INDIGENOUS COMMUNITIES—SELECT COMMITTEE—
EXTENSION OF TIME TO REPORT**

Senator Parry, at the request of the Chair of the Select Committee on Regional and Remote Indigenous Communities (Senator Scullion) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 683—That the time for the presentation of the fourth report of the Select Committee on Regional and Remote Indigenous Communities be extended to 13 May 2010.

Question put and passed.

**19 ENVIRONMENT, COMMUNICATIONS AND THE ARTS REFERENCES COMMITTEE—
EXTENSION OF TIME TO REPORT**

Senator Parry, at the request of the Deputy Chair of the Environment, Communications and the Arts References Committee (Senator McEwen) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 684—That the time for the presentation of the report of the Environment, Communications and the Arts References Committee on sustainable management by the Commonwealth of water resources be extended to 6 May 2010.

Question put and passed.

20 ENVIRONMENT—RENEWABLE ENERGY CERTIFICATES

Senator Milne, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 687—That the Senate—

(a) notes that:

- (i) achieving deep cuts in greenhouse gas emissions in the medium term requires the rapid expansion of renewable energy,
- (ii) the price of Renewable Energy Certificates (RECs) has collapsed because the supply of RECs exceeds demand,

- (iii) the price of RECs is forecast to remain too low to support large-scale renewable energy projects for some years, stalling wind industry investment and threatening the Solar Flagships program for large-scale solar,
- (iv) the large number of RECs being created by a surge in solar and heat pump hot water and photovoltaic system installations is a major contributor to the problem, and
- (v) these industries have been stimulated by:
 - (A) the rebate for solar hot water systems (\$1 600) and heat pumps (\$1 000),
 - (B) the introduction of the Solar Credits Scheme multiplier which provides four 'phantom' deemed RECs for systems up to 1.5 kilowatt in size, and
 - (C) dubious methodologies for calculating the number of deemed RECs, particularly for some heat pump systems; and
- (b) calls on the Government to immediately address the flaws in the design of its Renewable Energy Target so that a genuine 20 per cent of renewable energy by 2020 can be achieved.

Statement by leave: The Special Minister of State (Senator Ludwig), by leave, made a statement relating to the motion.

Question put and passed.

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

21 ENVIRONMENT—GREEN LOANS PROGRAM—HOME SUSTAINABILITY ASSESSORS

Senator Milne, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 690—That the Senate—

- (a) notes, with grave concern that:
 - (i) several thousand Home Sustainability Assessors under the Government's Green Loans Program (the program) have been denied any work for more than 1 month since Christmas 2009 due to the mismanaged shutdown of the program's phone booking service, leaving many in severe financial hardship, and
 - (ii) the company Fieldforce has consistently received preferential treatment through the program, including being allowed to book as much work as it wanted during the shutdown period despite thousands of other assessors being forced to go without work; and
- (b) calls on the Government to:
 - (i) immediately provide clear and accurate information to the thousands of assessors regarding their ongoing work prospects,
 - (ii) reveal immediately the special conditions and treatment being offered to Fieldforce, and
 - (iii) review the program so that it provides a credible program, ensuring ongoing work for those Australians who have invested to become Home Sustainability Assessors on the back of the Government's assurances.

Statement by leave: The Special Minister of State (Senator Ludwig), by leave, made a statement relating to the motion.

Question put and passed.

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

22 ENVIRONMENT—WORLD WETLANDS DAY—STATEMENT BY LEAVE

Senator Xenophon, by leave, made a statement relating to the motion moved and negatived earlier today concerning World Wetlands Day (*see entry no. 15*).

**23 CRIMINAL CODE AMENDMENT (MISREPRESENTATION OF AGE TO A MINOR)
BILL 2010**

Senator Xenophon, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 686—That the following bill be introduced:

A Bill for an Act to amend the *Criminal Code Act 1995* to protect minors by introducing offences about misrepresentation of age online.

Question put and passed.

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

Explanatory memorandum: Senator Xenophon, by leave, tabled an explanatory memorandum relating to the bill.

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

24 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—TAXATION—CLIMATE CHANGE

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

The Government's refusal to acknowledge that direct action on climate change can be achieved without imposing a massive new tax on Australian industry and families.

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

25 DEFENCE—AFGHANISTAN—STATEMENT BY LEAVE

Senator Xenophon, by leave, made a statement clarifying comments made during debate on 2 February 2010 relating to Afghanistan (*see entry no. 7, 2 February 2010*).

**26 SCRUTINY OF BILLS—STANDING COMMITTEE—1ST REPORT AND ALERT DIGEST
NO. 1 OF 2010**

Senator Bushby, at the request of the Chairman of the Standing Committee for the Scrutiny of Bills (Senator Coonan), tabled the following report and document:

Scrutiny of Bills—Standing Committee—

1st report of 2010, dated 3 February 2010.

Alert Digest No. 1 of 2010, dated 3 February 2010.

Report ordered to be printed on the motion of Senator Bushby.
 Senator Bushby moved—That the Senate take note of the report.
 Question put and passed.

27 ECONOMICS LEGISLATION COMMITTEE—REPORT—ANNUAL REPORTS

Senator Farrell, at the request of the Chair of the Economics Legislation Committee (Senator Hurley), tabled the following report:

Economics Legislation Committee—Annual reports referred to committees—
 Report no. 1 of 2010, dated February 2010.

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

28 ECONOMICS—ANNIVERSARY OF NATION BUILDING PLAN—MINISTERIAL STATEMENT—DOCUMENT

The Parliamentary Secretary for Social Inclusion (Senator Stephens) tabled the following document:

Economics—One year anniversary of nation building plan—Ministerial statement by the Prime Minister (Mr Rudd), dated 3 February 2010.

The Leader of the Australian Greens (Senator Bob Brown), by leave, moved—That the Senate take note of the document.

Debate ensued.

Question put and passed.

29 WORK OF COMMITTEES—DOCUMENT

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

Work of committees—Year statistics: 1 January to 31 December 2009; and half-year statistics: 1 July to 31 December 2009.

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

30 AUDITOR-GENERAL—AUDIT REPORT NO. 20 OF 2009-10—DOCUMENT

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

Auditor-General—Audit report no. 20 of 2009-10—Performance audit—The national broadband network request for proposal process—Department of Broadband, Communications and the Digital Economy.

The Leader of the Opposition in the Senate (Senator Minchin), by leave, moved—That the Senate take note of the document.

Debate ensued.

Question put and passed.

31 HEALTH—RENAL HEALTH SERVICES—DOCUMENTS

The Acting Deputy President (Senator Forshaw) tabled the following documents:

Health—Renal health services—Letters to the President of the Senate from—
 Minister for Health and Ageing (Ms Roxon) responding to the resolution of the Senate of 17 November 2009.

South Australian Government Minister for Health (Mr Hill) responding to the resolution of the Senate of 17 November 2009, dated 27 January 2010.

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

Question put and passed.

32 IMMIGRATION—ASYLUM SEEKERS—OCEANIC VIKING—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT

Pursuant to the order of the Senate of 2 February 2010, the Minister for Innovation, Industry, Science and Research (Senator Carr) tabled the following document:

Immigration—Asylum seekers—*Oceanic Viking*—Statement responding to the resolution of the Senate of 2 February 2010, dated 3 February 2010 and attachments.

33 DOCUMENTS

The following documents were tabled by the Clerk:

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

Appropriation Act (No. 1) 2004-2005—Determination to Reduce Appropriations Upon Request (No. 4 of 2009-2010) [F2010L00202].*

Appropriation Act (No. 2) 2009-2010—Determination to Reduce Appropriations Upon Request (No. 3 of 2009-2010) [F2010L00201].*

Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 2 of 2010—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 [F2010L00173]*.

Civil Aviation Act—

Civil Aviation Regulations—Instruments Nos CASA—

31/10—Direction – number of cabin attendants [F2010L00110]*.

34/10—Instructions – RNAV (RNP-AR) approaches and departures [F2010L00133]*.

EX03/10—Exemption – gross weight for operation of Aerochute 34m² powered parachutes [F2010L00113]*.

EX06/10—Exemption – solo flight training using ultralight aeroplanes registered with Recreational Aviation Australia Incorporated at Parafield Aerodrome [F2010L00143]*.

EX07/10—Exemption – solo flight training using ultralight aeroplanes registered with Recreational Aviation Australia Incorporated at Launceston Aerodrome [F2010L00145]*.

EX08/10—Exemption – solo flight training using ultralight aeroplanes registered with Recreational Aviation Australia Incorporated at Cambridge Aerodrome [F2010L00147]*.

Civil Aviation Safety Regulations—

Airworthiness Directive—AD/PFP/19—Blade Leading Edge Protection [F2010L00172]*.

Instrument No. CASA EX10/10—Exemption – display of markings and carriage of identification plates [F2010L00188]*.

Corporations Act—ASIC Class Order [CO 10/45] [F2010L00187]*.

Defence Force (Home Loans Assistance) Act—Warlike service – OPERATION SLIPPER Declarations—

2009/1 [F2010L00175]*.

2009/2 [F2010L00174]*.

Environment Protection and Biodiversity Conservation Act—Amendments of lists of exempt native specimens—

EPBC303DC/SFS/2009/41 [F2010L00184]*.

EPBC303DC/SFS/2009/42 [F2010L00180]*.

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

2010/02—Section 32 (Transfer of Functions from AGD to Finance) [F2010L00199]*.

2010/03—Section 32 (Transfer of Functions from DEEWR to SWA) [F2010L00200]*.

Health Insurance Act—Health Insurance (Cataract Surgery) Determination 2010 [F2010L00203]*.

Judiciary Act—Legal Services Amendment Directions 2009 (No. 1) [F2010L00194]*.

Military Rehabilitation and Compensation Act—Military Rehabilitation and Compensation (Warlike Service) Determination 2009/3 [F2010L00179]*.

National Greenhouse and Energy Reporting Act—National Greenhouse and Energy Reporting Regulations—National Greenhouse and Energy Reporting (Auditor Registration) Instrument 2010 [F2010L00219]*.

National Health Act—Instrument No. PB 3 of 2010—Special Arrangements (Variation) – IVF/GIFT Program [F2010L00196]*.

Private Health Insurance Act—

Private Health Insurance (Benefit Requirements) Rules 2010 [F2010L00193]*.

Private Health Insurance (Complying Product) Rules 2010 [F2010L00192]*.

Social Security (Administration) Act—Social Security (Administration) (Declared relevant Northern Territory areas – Various) Determination 2010 (No. 1) [F2010L00212]*.

Veterans' Entitlements Act—

Determinations of Warlike Service—OPERATION SLIPPER, dated 16 December 2009—

[F2010L00176]*.

[F2010L00178]*.

Veterans' Entitlements Income (Exempt Lump Sum – Dependant Pension Lump Sum Payment and Closure) Determination No. R10 of 2010 [F2010L00137]*.

* Explanatory statement tabled with legislative instrument.

34 DEPARTMENTAL AND AGENCY APPOINTMENTS AND VACANCIES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS

The following documents were tabled pursuant to the order of the Senate of 24 June 2008, as amended:

Departmental and agency appointments and vacancies—Additional estimates—Letters of advice—

Defence portfolio agencies.

Education, Employment and Workplace Relations portfolio agencies.

35 DEPARTMENTAL AND AGENCY GRANTS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT

The following document was tabled pursuant to the order of the Senate of 24 June 2008:

Departmental and agency grants—Additional estimates—Letter of advice—Education, Employment and Workplace Relations portfolio agencies.

36 COMMITTEE MEMBERSHIP

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

The Minister for Innovation, Industry, Science and Research (Senator Carr), by leave, moved—That senators be discharged from and appointed to committees as follows:

Privileges—Standing Committee—

Discharged—Senator Johnston

Appointed—Senator McGauran

Rural and Regional Affairs and Transport Legislation Committee—

Appointed—Substitute member: Senator Back to replace Senator Heffernan for the consideration of the 2009-10 additional estimates on 8 February 2010.

Question put and passed.

37 EDUCATION SERVICES FOR OVERSEAS STUDENTS AMENDMENT (RE-REGISTRATION OF PROVIDERS AND OTHER MEASURES) BILL 2009

Order of the day read for the adjourned debate on the motion of the Minister for Climate Change and Water (Senator Wong)—That this bill be now read a second time—and on the amendment moved by Senator Hanson-Young (see entry no. 4).

Debate resumed.

The question was divided—

Question—That the amendment in respect of paragraph (a) be agreed to—put and passed.

Question—That the amendment in respect of paragraph (b) be agreed to—put and negatived.

Main question, as amended, put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Senator Cormann moved the following amendment:

Schedule 1, item 11, page 5 (after line 7), after subsection 9A(1), insert:

(1A) A designated authority for a State must use a risk-management approach when considering whether to recommend that an approved provider should be re-registered.

Debate ensued.

At 6.50 pm: The Acting Deputy President (Senator Forshaw) resumed the chair and the Temporary Chair of Committees reported progress.

38 GOVERNMENT DOCUMENTS—CONSIDERATION

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

Charter of Budget Honesty Act 1998—Intergenerational report 2010. Motion to take note of document moved by Senator Parry. Debate adjourned till Thursday at general business, Senator Parry in continuation.

39 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 7.30 pm till Thursday, 4 February 2010 at 9.30 am.

40 ATTENDANCE

Present, all senators except Senators Carol Brown* and Heffernan* (* on leave).

ROSEMARY LAING
Clerk of the Senate