

2008-10

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 114

WEDNESDAY, 10 MARCH 2010

Contents

1	Meeting of Senate.....	3267
2	Government Documents	3267
3	Address by President of the Republic of Indonesia—Statement by President... ..	3267
4	Australian Centre for Renewable Energy Bill 2009.....	3267
5	Fairer Private Health Insurance Incentives Bill 2009 [No. 2]—Statement by Leave	3271
6	Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009.....	3271
7	Notices.....	3272
8	Postponements	3273
9	Environment, Communications and the Arts References Committee— Reference	3274
10	Economics Legislation Committee—Extension of Time to Report	3275
11	Finance and Public Administration Legislation Committee—Leave to Meet During Sitting	3275
12	Health—Renal Health Services	3275
13	Foreign Affairs—Burma—Human Rights.....	3275
14	Foreign Affairs—Tibet	3277
15	Culture and the Arts—Victoria Cross Medals—National Tour	3278
16	Law and Justice—Australian Federal Police—Sea Shepherd Conservation Society Ships—Proposed Order for Production of Documents	3278
17	Foreign Affairs—West Papua.....	3279
18	Postponement.....	3279
19	Immigration—Child Migrants—Apology	3280
20	Law and Justice—Illegal Whaling	3280
21	Industrial Relations—Australian Building and Construction Commission.....	3280
22	Scrutiny of Bills—Standing Committee—3rd Report and Alert Digest No. 3 of 2010.....	3281
23	Environment—Green Loans Program—Ministerial Statement	3282
24	Notice.....	3282
25	Auditor-General—Audit Report No. 24 of 2009-10—Document.....	3282

26	Documents.....	3282
27	Indexed Lists of Departmental and Agency Files—Order for Production of Documents—Documents.....	3282
28	Committee Membership.....	3283
29	Fisheries Legislation Amendment Bill 2009.....	3283
30	Crimes Legislation Amendment (Sexual Offences Against Children) Bill 2010 Tax Laws Amendment (2010 GST Administration Measures No. 1) Bill 2010.....	3283
31	Community Affairs Legislation Committee—Report—Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 and Related Bills	3284
32	Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009.....	3284
33	Leave of Absence	3284
34	Adjournment.....	3284
35	Attendance.....	3284

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:

Migration Act 1958—Section 486O—Assessment of detention arrangements—Personal identifiers 574/09 to 580/10—

Commonwealth Ombudsman's reports.

Government response to Ombudsman's reports.

Sydney Airport Demand Management Act 1997—Quarterly report on the maximum movement limit for Sydney Airport for the period 1 October to 31 December 2009.

Treaties—*Bilateral*—Exchange of Letters amending the Agreement between the Government of Australia and the Government of New Zealand concerning a Joint Food Standards System, Canberra, 25 October 2001—Text, together with national interest analysis.

3 ADDRESS BY PRESIDENT OF THE REPUBLIC OF INDONESIA—STATEMENT BY PRESIDENT

The President made a statement relating to the arrangements for the attendance of senators at a meeting of the House of Representatives for an address by His Excellency, Dr Susilo Bambang Yudhoyono, President of the Republic of Indonesia.

Document: The President tabled the following document:

Address by President of the Republic of Indonesia—Letter to the President of the Senate from the Speaker of the House of Representatives (Mr Jenkins), dated 9 March 2010 and attachment.

4 AUSTRALIAN CENTRE FOR RENEWABLE ENERGY BILL 2009

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary for Social Inclusion (Senator Stephens)—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.

Senator Milne moved the following amendments together by leave:

Clause 5, page 3 (after line 30), after subclause (1), insert:

- (1A) On receiving any advice provided by the Board under subsection (1), the Minister must cause a copy of the advice to be laid before each House of the Parliament within 5 sitting days of that House after the day on which the Minister receives the advice.

Clauses 26 and 27, page 14 (lines 4 to 18), omit the clauses, substitute:

26 Chief Executive Officer

- (1) There is to be a Chief Executive Officer of the Australian Centre for Renewable Energy.
- (2) The Chief Executive Officer is to be appointed on a full-time basis.
- (3) The Chief Executive Officer is to be appointed by the Governor-General by written instrument.
- (4) The Chief Executive Officer is appointed for the period specified in his or her instrument of appointment. The period must not exceed 4 years.

Note: For re-appointment, see subsection 33(4A) of the *Acts Interpretation Act 1901*.

26A Duties

- (1) The Chief Executive Officer is responsible for the day-to-day administration and management of the Australian Centre for Renewable Energy and the control of its operations.
- (2) The Chief Executive Officer is to act in accordance with any policies determined, and any directions given, by the Board in writing.
- (3) The Chief Executive Officer has such other duties (if any) not covered by this Act that are determined by the Governor-General.

26B Delegation

The Chief Executive Officer may, in writing, delegate to a member of the staff of the Australian Centre for Renewable Energy all or any of the duties or powers of the Chief Executive Officer, unless the regulations otherwise provide.

26C Outside employment

The Chief Executive Officer must not engage in paid employment outside the duties of the Chief Executive Officer's office without the Minister's approval.

26D Remuneration and allowances

- (1) The Chief Executive Officer is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the Chief Executive Officer is to be paid the remuneration that is prescribed in the regulations.
- (2) The Chief Executive Officer is to be paid the allowances that are prescribed in the regulations.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

26E Leave of absence

- (1) The Chief Executive Officer has the recreation leave entitlements that are determined by the Remuneration Tribunal.

- (2) The Minister may grant the Chief Executive Officer leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines.

26F Resignation

- (1) The Chief Executive Officer may resign his or her appointment by giving the Governor-General a written resignation.
- (2) The resignation takes effect on the day it is received by the Governor-General or, if a later day is specified in the resignation, on that later day.

26G Termination of appointment

- (1) The Governor-General may terminate the appointment of the Chief Executive Officer for misbehaviour or physical or mental incapacity.
- (2) The Governor-General may terminate the appointment of the Chief Executive Officer if:
 - (a) the Chief Executive Officer :
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
 - (b) the Minister is satisfied that the performance of the Chief Executive Officer has been unsatisfactory; or
 - (c) the Chief Executive Officer is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 consecutive months; or
 - (d) the Chief Executive Officer engages, except with the Minister's approval, in paid employment outside the duties of his or her office; or
 - (e) the Chief Executive Officer fails, without reasonable excuse, to comply with section 13 or 14.

26H Other terms and conditions

The Chief Executive Officer holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Governor-General.

26I Acting Chief Executive Officer

Acting Chief Executive Officer

- (1) The Minister may appoint a person to act as the Chief Executive Officer:
 - (a) during a vacancy in the office of Chief Executive Officer, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Chief Executive Officer:
 - (i) is absent from duty or Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Validation

- (2) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:
- (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in connection with the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion to act had not arisen or had ceased.

Note: See section 33A of the *Acts Interpretation Act 1901*.

27 Staff

- (1) The staff of the Australian Centre for Renewable Energy must be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
 - (a) the Chief Executive and the staff of the Australian Centre for Renewable Energy together constitute a Statutory Agency; and
 - (b) the Chief Executive is the Head of that Statutory Agency.

Note: The Chief Executive may also engage consultants or other persons on behalf of the Commonwealth for the benefit of the Board (see section 44 of the *Financial Management and Accountability Act 1997* as it applies in relation to the Australian Centre for Renewable Energy as an Agency).

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 6

Senators—

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

NOES, 32

Senators—

Back	Crossin	Lundy	Parry (Teller)
Bernardi	Farrell	Marshall	Polley
Bilyk	Feeny	McEwen	Pratt
Boswell	Fielding	McLucas	Ryan
Brown, Carol	Fierravanti-Wells	Minchin	Stephens
Cameron	Furner	Moore	Troeth
Carr	Hurley	Nash	Williams
Cormann	Ludwig	O'Brien	Wortley

Question negatived.

Bill agreed to.

Bill to be reported without amendment.

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

On the motion of the Minister for Innovation, Industry, Science and Research (Senator Carr) the report from the committee was adopted and the bill read a third time.

**5 FAIRER PRIVATE HEALTH INSURANCE INCENTIVES BILL 2009 [NO. 2]—
STATEMENT BY LEAVE**

Senator O'Brien, by leave, made a statement relating to the vote on the second reading of the Fairer Private Health Insurance Incentives Bill 2009 [No. 2] on 9 March 2010 (*see entry no. 30, 9 March 2010*).

**6 TELECOMMUNICATIONS LEGISLATION AMENDMENT (COMPETITION AND
CONSUMER SAFEGUARDS) BILL 2009**

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

Proposed suspension of standing orders: The Leader of the Opposition in the Senate (Senator Minchin), pursuant to contingent notice, moved—That so much of the standing orders be suspended as would prevent him moving that further consideration of the bill be made an order of the day for five sitting days after the government response to the National Broadband Network Implementation Study is laid on the table.

Debate ensued.

Question put.

The Senate divided—

AYES, 31

Senators—

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

NOES, 32

Senators—

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

Question negatived.

—————
After noon—

Suspension of sitting: Pursuant to order, the sitting of the Senate was suspended till 4 pm to enable senators to attend a meeting of the House of Representatives for an address by the President of the Republic of Indonesia.

—————

At 4 pm—

7 NOTICES

Senator Ludlam: To move on the next day of sitting—That there be laid on the table by the Minister for Broadband, Communications and the Digital Economy, no later than 10 am on Wednesday, 17 March 2010, a copy of the National Broadband Network Implementation Study. (*general business notice of motion no. 733*)

Senator Fierravanti-Wells: To move on the next day of sitting—That—

- (a) Parts 8, 9 and 10 of Schedule 1 of the National Health (Pharmaceutical Benefits – Therapeutic Groups) Determination 2010 (Instrument Number PB 1 of 2010), made under subsection 84AG(1) of the *National Health Act 1953*, be disallowed; and
- (b) Amendment determination – Drugs on F1 and drugs in Part A of F2 (Instrument number PB 2 of 2010), made under subsections 85AB(1) and 85AC(1) of the *National Health Act 1953*, be disallowed.

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

- (a) notes that:
 - (i) Thursday, 11 March 2010 is World Kidney Day,
 - (ii) World Kidney Day is a global health awareness campaign focusing on the importance of our kidneys, and on reducing the frequency and impact of kidney disease and its associated health problems worldwide, and
 - (iii) the focus of World Kidney Day is diabetes which, along with high blood pressure, are the key risk factors in chronic kidney disease;
- (b) recognises the early detection of kidney disease can reduce the risk of complications and thereby dramatically reduce the growing burden of disability and death from chronic renal disease;
- (c) acknowledges that Type 2 diabetes is the fastest growing chronic disease in Australia, with on average 1 500 new cases identified every week and nearly one in four Australians having either impaired glucose metabolism or diabetes;
- (d) calls attention to the alarmingly high rates of diabetes, high blood pressure and renal disease within Aboriginal Australians, noting:
 - (i) Aboriginal people are 3.4 times more likely than non-Aboriginal people to have diabetes or pre-diabetes,
 - (ii) the Kimberly population has the fourth highest prevalence of Type 2 diabetes in the world,
 - (iii) gestational diabetes is up to 20 per cent higher in the Aboriginal population compared with the non-Aboriginal population, and
 - (iv) kidney disease is 10 times more likely to occur in Aboriginal people when compared with non-Aboriginal people;
- (e) notes the special ecumenical service for renal sufferers being held on 11 March 2010 in Alice Springs in recognition of the anguish experienced by Nura Ward and others like her who must leave their homelands forever to receive dialysis in a city far from their family and culture; and

- (f) calls:
- (i) on the Federal Government to put greater resources into education and prevention for diabetes and kidney disease, particularly targeting Aboriginal communities and others at high risk, and
 - (ii) for a much greater commitment to planning to meet the emerging need for services and support for those with renal disease, particularly in regional and remote communities. (*general business notice of motion no. 734*)

Senator Carol Brown: To move on the next day of sitting—That the Joint Standing Committee on Electoral Matters be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Monday, 15 March 2010, from 12.30 pm. (*general business notice of motion no. 735*)

The Special Minister of State (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 Tax Laws Amendment (2010 GST Administration Measures No. 1) Bill 2010, 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 Tax Laws Amendment (2010 GST Administration Measures No. 1) Bill 2010 in the 2010 autumn sittings.

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 private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 11 March 2010, from noon; and
- (b) be authorised to hold a public meeting during the sitting of the Senate on Thursday, 11 March 2010, from 12.15 pm, to take evidence for the committee's inquiry into the examination of the annual report 2008-09 of the Integrity Commissioner. (*general business notice of motion no. 736*)

Senator Hanson-Young: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Ombudsman Act 1976* to establish the Education Ombudsman, and for related purposes. ***Ombudsman Amendment (Education Ombudsman) Bill 2010.*** (*general business notice of motion no. 737*)

8 POSTPONEMENTS

The following items of business were postponed:

General business notice of motion no. 694 standing in the name of the Leader of the Family First Party (Senator Fielding) for today, proposing the introduction of the Protection of Personal Information Bill 2010, postponed till 11 March 2010.

General business notice of motion no. 728 standing in the name of the Leader of the Australian Greens (Senator Bob Brown) for today, relating to an independent inquiry into an Australian Defence Force operation in Afghanistan, postponed till 11 March 2010.

**9 ENVIRONMENT, COMMUNICATIONS AND THE ARTS REFERENCES COMMITTEE—
REFERENCE**

Senator Birmingham, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 1—That the following matters be referred to the Environment, Communications and the Arts References Committee for inquiry and report by 21 June 2010:

- (a) the Government's Green Loans Program (the program), with particular reference to:
 - (i) the administration of the program from a pricing, probity and efficiency perspective, including:
 - (A) the basis on which the Government determined the amounts of the loan to be made available and Government subsidy thereof,
 - (B) regulation of Home Sustainability Assessment practices, including the promotion of assessments,
 - (C) accreditation of Home Sustainability Assessors,
 - (D) ensuring value for money for taxpayers,
 - (E) waste, inefficiency and mismanagement within the program,
 - (F) ensuring the program achieves its stated aims of improving water and energy efficiency, and
 - (G) the consultation and advice received from financial institutions regarding their participation,
 - (ii) an examination of:
 - (A) employment and investment in Home Sustainability Assessments resulting from the program, including that resulting from Government statements regarding the number of accredited assessors,
 - (B) the effectiveness of the booking system,
 - (C) the effectiveness and timeliness of Home Sustainability Assessment reports being provided,
 - (D) the early reduction by the Government in the number of Green Loans to be offered, and subsequent discontinuation of the loans, including by financial institutions in advance of the Government's announced date of discontinuation,
 - (E) homeowner actions for which Green Loans have been sought and approved,
 - (F) the level of evaluation of homeowner action following any Home Sustainability Assessment, and
 - (G) what advice was provided to the Government on the feasibility and effectiveness of the program, including to what degree the Government acted on this advice, and
 - (iii) an analysis of the effectiveness of the program as a means to improve the water and energy efficiency of homes, including comparison with alternative policy measures;
- (b) consideration of measures to reduce or eliminate waste and mismanagement, and to ensure value for money for the remainder of the program, noting the commitment of funding for an additional 600 000 free Home Sustainability Assessments despite the discontinuation of the loans; and
- (c) other related matters.

Question put and passed.

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

10 ECONOMICS LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT

Senator O'Brien, at the request of the Chair of the Economics Legislation Committee (Senator Hurley) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 723—That the time for the presentation of the report of the Economics Legislation Committee on the Safe Climate (Energy Efficient Non-Residential Buildings Scheme) Bill 2009 be extended to 17 March 2010.

Question put and passed.

11 FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING

Senator O'Brien, at the request of the Chair of the Finance and Public Administration Legislation Committee (Senator Polley) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 725—That the Finance and Public Administration Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 11 March 2010, from 3.30 pm, to take evidence for the committee's inquiry into the provisions of the Governance of Australian Government Superannuation Schemes Bill 2010 and two related bills.

Question put and passed.

12 HEALTH—RENAL HEALTH SERVICES

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 722—That the Senate—

- (a) congratulates the Western Australian Government on its commitment to negotiate an agreement with the Northern Territory Government so that renal patients living east of Warburton can, once again, access dialysis services in the Northern Territory;
- (b) notes that the Northern Territory Government has expressed a willingness to establish a similar agreement with the South Australian Government so that people from the Anangu Pitjantjatjara Yankunytjatjara Lands with end-stage renal disease can access ongoing dialysis treatment in Alice Springs;
- (c) expresses concern that, to date, the South Australian Government has been unable or unwilling to negotiate such an agreement;
- (d) asks the South Australian Minister for Health, John Hill, to advise what impediments, if any, are preventing his Government from entering into such an agreement;
- (e) calls on the Commonwealth Minister for Health and Ageing, Nicola Roxon, to urge the South Australian Government to commit to the establishment of such an agreement as a matter of priority; and
- (f) highlights the need for the Commonwealth Government to play a more active role in the development of a properly-funded, long-term response to renal disease across Central Australia.

Question put and passed.

13 FOREIGN AFFAIRS—BURMA—HUMAN RIGHTS

Senator Ludlam, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 719—That the Senate—

- (a) notes that:

- (i) 9 March is an international day of action to raise awareness about the new military offensive against Karen civilians by the Burmese Army in Karen State, eastern Burma,
 - (ii) since mid January 2010 more than 2 000 civilians have been forced to flee new attacks in eastern Burma with villagers being shot on sight, more than 70 homes have been destroyed, schools and health clinics burnt down and the blocking of aid to people hiding in the jungle,
 - (iii) human rights abuses in Burma are widespread and systematic with the main perpetrator being the Burmese military,
 - (iv) gender-based violence, including rape against women and girls, is used as a weapon by the Burmese military,
 - (v) in the week beginning 28 February 2010, in New York, an International Tribunal on Crimes against Women in Burma, presided over by two Nobel Peace Prize winners and human rights experts, recommended that the United Nations Security Council refer Burma to the International Criminal Court and that countries in the Asia-Pacific not invest in Burma's oil and gas industry, and
 - (vi) Burma's oil and gas industry is the regime's largest source of income and directly contributes to the financial stability of the military regime; and
- (b) calls on the Australian Government to:
- (i) work with other governments to establish a commission of inquiry to investigate crimes against humanity and war crimes being committed in Burma, and
 - (ii) ensure that Australian companies with links to Burma's oil and gas industry are not contributing to the financial stability of the military regime.

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

Question put.

The Senate divided—

AYES, 6

Senators—

Brown, Bob
Hanson-Young

Ludlam
Milne

Siewert (Teller)

Xenophon

NOES, 35

Senators—

Arbib
Barnett
Bernardi
Bilyk
Bishop
Brown, Carol
Bushby (Teller)
Cameron
Colbeck

Coonan
Crossin
Farrell
Feeney
Ferguson
Fielding
Fifield
Forshaw
Furner

Hurley
Hutchins
Ludwig
Marshall
McEwen
McLucas
Moore
Nash
O'Brien

Parry
Polley
Pratt
Stephens
Sterle
Troeth
Williams
Wortley

Question negatived.

14 FOREIGN AFFAIRS—TIBET

Senator Ludlam, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 721—That the Senate—

(a) notes:

- (i) that 10 March 2010 is the 51st anniversary of the Tibetan uprising and the Dalai Lama's exile to India and the second anniversary of the beginning of widespread unrest across Tibetan areas in 2008,
- (ii) the continuing human rights concerns in Tibet, noted publicly in Beijing by our Prime Minister (Mr Rudd) on 9 April 2008,
- (iii) the resumption of direct contact between Chinese officials and representatives of the Dalai Lama on 26 January 2010 after a gap of 15 months,
- (iv) the meeting, on 18 February 2010, between the Dalai Lama and the President of the United States of America, Barack Obama, in the White House, and later that day, between the Dalai Lama and the Secretary of State, Hillary Clinton, and the Under Secretary of State and Special Coordinator for Tibetan Issues, Maria Otero,
- (v) that the Dalai Lama's Middle-Way policy for the peaceful resolution of the Tibetan situation respects the territorial integrity of the People's Republic of China and seeks to resolve the Tibetan issue within the framework of the Constitution of the People's Republic of China, and
- (vi) the right of the Tibetan people to maintain their unique language, religion and culture under international law; and

(b) calls on the Australian Government to:

- (i) continue to monitor the progress of talks between the Chinese Government and representatives of the Dalai Lama,
- (ii) follow President Barack Obama in explicitly supporting the Dalai Lama's Middle-Way policy for a peaceful resolution of the Tibetan situation, and
- (iii) renew and strengthen its support for a peaceful, lasting and mutually-agreeable resolution of the Tibetan situation, including entering into substantive multilateral initiatives with other concerned governments to encourage meaningful negotiations on the points raised in the Memorandum on Genuine Autonomy for the Tibetan People.

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

Question put.

The Senate divided—

AYES, 6

Senators—

Brown, Bob
Hanson-Young

Ludlam
Milne

Siewert (Teller)

Xenophon

NOES, 31

Senators—

Arbib	Cameron	Hurley	Parry
Barnett	Colbeck	Hutchins	Polley
Bernardi	Farrell	Ludwig	Pratt
Bilyk	Feeney	Marshall	Stephens
Birmingham	Ferguson	McEwen	Sterle
Bishop	Fielding	McLucas	Troeth
Brown, Carol	Fifield	Moore	Wortley
Bushby	Furner	O'Brien (Teller)	

Question negatived.

15 CULTURE AND THE ARTS—VICTORIA CROSS MEDALS—NATIONAL TOUR

Senator Barnett, also on behalf of Senator Williams, amended general business notice of motion no. 720 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

(a) notes:

- (i) the Australian War Memorial is organising an important and unique nationwide tour of nine Victoria Cross medals to coincide with the 95th anniversary of Gallipoli,
- (ii) the tour commences in Perth, Western Australia, in March 2010 and is scheduled to visit South Australia, the Northern Territory, Victoria, and to conclude in Brisbane, Queensland, in November 2010, and
- (iii) the exclusion of Tasmania and New South Wales is very disappointing;

(b) calls on the Australian War Memorial to extend the tour to both Tasmania and New South Wales; and

(c) requests the Government to take whatever steps are necessary to ensure this objective is achieved.

Statement by leave: Senator O'Brien, 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.

16 LAW AND JUSTICE—AUSTRALIAN FEDERAL POLICE—SEA SHEPHERD CONSERVATION SOCIETY SHIPS—PROPOSED 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. 732—That there be laid on the table by the Minister representing the Prime Minister, the Minister representing the Minister for Foreign Affairs, the Minister representing the Minister for Environment Protection, Heritage and the Arts and the Minister representing the Minister for Home Affairs, no later than 15 March 2010, any documents relating to the Australian Federal Police's search of the Sea Shepherd Conservation Society ships *Bob Barker* and *Steve Irwin* in Hobart on Saturday, 6 March 2010, including, but not limited to, correspondence, whether written or in email form, briefing papers and/or memoranda.

Question put.

The Senate divided—

AYES, 7

Senators—

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

NOES, 30

Senators—

Arbib	Colbeck	Ludwig	Polley
Bernardi	Farrell	Marshall	Pratt
Bilyk	Feeney	McEwen	Stephens
Birmingham	Ferguson	McLucas	Sterle
Bishop	Fifield	Moore	Troeth
Brown, Carol	Furner	Nash	Wortley
Bushby (Teller)	Hurley	O'Brien	
Cameron	Hutchins	Parry	

Question negatived.

17 FOREIGN AFFAIRS—WEST PAPUA

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. 731—That the Senate calls on the Government to work with the Government of Indonesia to allow West Papua to participate in the act of self-determination to be carried out in accordance with international practice as determined by the United Nations.

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

Question put.

The Senate divided—

AYES, 6

Senators—

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

NOES, 31

Senators—

Arbib	Colbeck	Hutchins	Parry
Bernardi	Farrell	Ludwig	Polley
Bilyk	Feeney	Marshall	Pratt
Birmingham	Ferguson	McEwen	Stephens
Bishop	Fielding	McLucas	Sterle
Brown, Carol	Fifield	Moore	Troeth
Bushby	Furner	Nash	Wortley
Cameron	Hurley	O'Brien (Teller)	

Question negatived.

18 POSTPONEMENT

The Leader of the Australian Greens (Senator Bob Brown), by leave, moved—That general business notice of motion no. 730 standing in his name for today, relating to ATM fees, be postponed till 11 March 2010.

Question put and passed.

19 IMMIGRATION—CHILD MIGRANTS—APOLOGY

Senator Siewert, also on behalf of Senators Moore and Humphries, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 727—That the Senate—

- (a) welcomes the British Government's apology made on 24 February 2010 to the thousands of children who were sent to Australia between 1937 and 1967 under child migration schemes; and
- (b) congratulates the British Government on this initiative and the announcement of their commitment to providing support to both the child migrants and their families.

Question put and passed.

20 LAW AND JUSTICE—ILLEGAL WHALING

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 726—That the Senate—

- (a) recognises the Australian community's strong interest in the issue of illegal whaling;
- (b) acknowledges the Government's stated interest in pursuing legal action on this issue; and
- (c) requests that the Australian Government send an embassy observer to the trial of Greenpeace activists Junichi Sato and Toru Suzuki who are on trial in Japan for their role in exposing corruption in the government-funded whaling industry.

Question put.

The Senate divided—

AYES, 7

Senators—

Brown, Bob
Fielding

Hanson-Young
Ludlam

Milne
Siewert (Teller)

Xenophon

NOES, 30

Senators—

Arbib
Bernardi
Bilyk
Birmingham
Bishop
Brown, Carol
Bushby (Teller)
Cameron

Colbeck
Farrell
Feeney
Ferguson
Fifield
Furner
Hurley
Hutchins

Ludwig
Marshall
McEwen
McLucas
Moore
Nash
O'Brien
Parry

Polley
Pratt
Stephens
Sterle
Troeth
Wortley

Question negatived.

21 INDUSTRIAL RELATIONS—AUSTRALIAN BUILDING AND CONSTRUCTION COMMISSION

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 729—That the Senate—

- (a) notes the International Labour Organization's 'Report of the Committee of Experts on the Application of Conventions and Recommendations' from the 99th Session of the International Labour Council;

- (b) acknowledges that the Committee of Experts has consistently found that the powers and actions of the Australian Building and Construction Commission (ABCC) are contrary to the ‘Freedom of Association and Protection of the Right to Organise Convention, 1948’ (No. 87) and the ‘Right to Organise and Collective Bargaining Convention, 1949’ (No. 98) and in its most recent report found the actions of the ABCC inconsistent with the ‘Labour Inspection Convention, 1947’ (No. 81);
- (c) further acknowledges that the Committee of Experts raises concerns about the compliance of the *Fair Work Act 2009* (the Act) with the conventions of the International Labour Organization (ILO), notably in respect of the right to strike and collective bargaining; and
- (d) calls on the Government to:
- (i) implement its election promise and abolish the ABCC, and
 - (ii) review the Act to ensure its compliance with ILO conventions.

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

Question put.

The Senate divided—

AYES, 5

Senators—

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

NOES, 34

Senators—

Arbib	Colbeck	Ludwig	Pratt
Back	Farrell	Marshall	Stephens
Bernardi	Feeny	McEwen	Sterle
Bilyk	Ferguson	McLucas	Troeth
Birmingham	Fielding	Moore	Wong
Bishop	Fifield	Nash	Wortley
Brown, Carol	Furner	O’Brien (Teller)	Xenophon
Bushby	Hurley	Parry	
Cameron	Hutchins	Polley	

Question negatived.

**22 SCRUTINY OF BILLS—STANDING COMMITTEE—3RD REPORT AND ALERT DIGEST
NO. 3 OF 2010**

Senator Parry, 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—

3rd report of 2010, dated 10 March 2010.

Alert Digest No. 3 of 2010, dated 10 March 2010.

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

23 ENVIRONMENT—GREEN LOANS PROGRAM—MINISTERIAL STATEMENT

The Minister for Climate Change, Energy Efficiency and Water (Senator Wong), by leave, made a statement relating to the Green Loans Program.

Senator Birmingham, by leave, moved—That the Senate take note of the statement.

Debate ensued.

Question put and passed.

24 NOTICE

Senator Xenophon gave a notice of motion as follows: To move on the next day of sitting—That the following matters be referred to the Economics References Committee for inquiry and report by 24 June 2010:

- (a) the appropriateness of applying the Public Benefit Test currently in place in the United Kingdom's Charities Act 2006, including balancing benefits against any detriment or harm, to charitable and religious organisations in Australia with respect to their tax exempt status;
- (b) whether there is a need to amend Division 50 of the *Income Tax Assessment Act 1997* to accommodate such a test; and
- (c) any related matters.

25 AUDITOR-GENERAL—AUDIT REPORT NO. 24 OF 2009-10—DOCUMENT

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

Auditor-General—Audit report no. 24 of 2009-10—Performance audit—Procurement of explosive ordnance for the Australian Defence Force—Department of Defence.

26 DOCUMENTS

The following documents were tabled by the Clerk:

Defence Act—Determinations under section 58B—Defence Determinations—
2010/6—Post indexes – amendment.
2010/7—Recreation and long service leave – amendment.
2010/9—Post indexes – amendment.

Higher Education Support Act—Funding Agreement under section 30-25, in respect of grant years—2009, 2010 and 2011, dated 17 December 2009—Holmesglen Institute of TAFE.

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

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

Indexed lists of departmental and agency files for the period 1 July to 31 December 2009—Statements of compliance—

Department of Broadband, Communications and the Digital Economy.
Immigration and Citizenship portfolio agencies.
Office of the Privacy Commissioner.

28 COMMITTEE MEMBERSHIP

A message from the House of Representatives was reported informing the Senate of a change in the membership of the Joint Standing Committee on the National Capital and External Territories, as follows:

Message no. 526, dated 9 March 2010—Mr Johnson in place of Mr Secker.

29 FISHERIES LEGISLATION AMENDMENT BILL 2009

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

Message no. 525, dated 9 March 2010—A Bill for an Act to amend the law in relation to fisheries, and for related purposes.

The Parliamentary Secretary for Social Inclusion (Senator Stephens) 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 Stephens moved—That this bill be now read a second time.

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

30 CRIMES LEGISLATION AMENDMENT (SEXUAL OFFENCES AGAINST CHILDREN) BILL 2010

TAX LAWS AMENDMENT (2010 GST ADMINISTRATION MEASURES NO. 1) BILL 2010

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

Message no. 527, dated 9 March 2010—A Bill for an Act to amend the criminal law, and for related purposes.

Message no. 528, dated 10 March 2010—A Bill for an Act to amend legislation relating to indirect tax, and for related purposes.

The Parliamentary Secretary for Social Inclusion (Senator Stephens) 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 Stephens moved—That these bills be now read a second time.

Consideration of legislation: Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.

Senator Stephens moved—That the bills be listed on the *Notice Paper* as separate orders of the day.

Question put and passed.

31 COMMUNITY AFFAIRS LEGISLATION COMMITTEE—REPORT—SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (WELFARE REFORM AND REINSTATEMENT OF RACIAL DISCRIMINATION ACT) BILL 2009 AND RELATED BILLS

Pursuant to order, Senator Farrell, at the request of the Chair of the Community Affairs Legislation Committee (Senator Moore), tabled the following report and documents:

Community Affairs Legislation Committee—Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 [Provisions], Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009 [Provisions] and Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009—Report, dated March 2010, Hansard record of proceedings, documents presented to the committee, additional information and submissions.

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

32 TELECOMMUNICATIONS LEGISLATION AMENDMENT (COMPETITION AND CONSUMER SAFEGUARDS) BILL 2009

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

Debate resumed.

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

33 LEAVE OF ABSENCE

Senator Parry, by leave, moved—That leave of absence be granted to Senator Cash from 10 March to 12 March 2010, for personal reasons.

Question put and passed.

—————
At 7.20 pm—

34 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 7.46 pm till Thursday, 11 March 2010 at 9.30 am.

35 ATTENDANCE

Present, all senators except Senators Cash*, Joyce* and Kroger* (* on leave).

ROSEMARY LAING
Clerk of the Senate