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Contents

1 Meeting of Senate 2077
2 Government Documents 2077
3 Social Security and Veterans' Entitlements Amendment (Commonwealth Seniors Health Card) Bill 2009—Order of the Day Discharged 2077
4 Fair Work (State Referral and Consequential and Other Amendments) Bill 2009
Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009 2077
5 Matters of Public Interest 2084
6 Questions 2085
7 Motions to Take Note of Answers 2085
8 Notices 2085
9 Leave of Absence 2088
10 National Capital and External Territories—Joint Standing Committee—Leave to Meet During Sitting 2088
11 Selection of Bills—Standing Committee—Report No. 8 of 2009 2088
12 Education, Employment and Workplace Relations References Committee—Reference 2089
13 Environment—Coal Exploration 2089
14 Carbon Pollution Reduction Scheme—Treasury Modelling 2090
15 Education, Employment and Workplace Relations References Committee—Extension of Time to Report 2092
16 Corporations and Financial Services—Joint Statutory Committee—Leave to Meet During Sittings 2092
17 Public Accounts and Audit—Joint Statutory Committee—Leave to Meet During Sitting 2093
18 Rural and Regional Affairs and Transport References Committee—Extension of Time to Report 2093
19 Environment—Victoria—Mountain Ash Forests 2093
20 Environment—Coal Exploration 2093

21 Discussion of Matter of Public Importance—Family and Community Services—Independent Youth Allowance 2094
22 Australian Crime Commission—Joint Statutory Committee—Report—Australian Crime Commission—Report for 2007-08 2095
23 Notice 2095
24 Scrutiny of Bills—Standing Committee—6th Report and Alert Digest No. 7 of 2009 2095
25 Children—Wellbeing of Australia's Children—Ministerial Statement—Document 2095
26 Law and Justice—Government's Response to Trafficking in Persons—Ministerial Statement—Documents 2095
27 Auditor-General—Audit Report No. 41 of 2008-09—Document 2096
28 Documents 2096
29 Committee Membership 2096
30 Family Assistance Amendment (Further 2008 Budget Measures) Bill 2009 2096
31 Defence Legislation Amendment Bill (No. 1) 2009 2097
32 Social Security and Other Legislation Amendment (Australian Apprentices) Bill 2009 2097
33 Social Security and Other Legislation Amendment (Pension Reform and Other 2009 Budget Measures) Bill 2009 2097
34 National Health Amendment (Pharmaceutical and Other Benefits—Cost Recovery) Bill 2008 [No. 2]
Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008 2098
35 Community Affairs Legislation Committee—Report—Compliance Audits on Medicare Benefits 2098
36 Social Security Amendment (Training Incentives) Bill 2009 2098
37 Tax Laws Amendment (2009 Measures No. 2) Bill 2009 2098
38 International Monetary Agreements Amendment (Financial Assistance) Bill 2009 2099
39 Government Documents—Consideration 2099
40 Adjournment 2099
41 Attendance 2099

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:

Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 January to 31 March 2009.

Dairy Produce Act 1986—Report for 2007-08 in relation to compliance with the funding agreement between the Commonwealth of Australia and Dairy Australia Limited.

Migration Act 1958—Section 486O—Assessment of detention arrangements—Personal identifiers 534/09 to 552/09—

Commonwealth Ombudsman's reports.

Government response to Commonwealth Ombudsman's reports.

3 **SOCIAL SECURITY AND VETERANS' ENTITLEMENTS AMENDMENT (COMMONWEALTH SENIORS HEALTH CARD) BILL 2009—ORDER OF THE DAY DISCHARGED**

The Special Minister of State (Senator Ludwig), pursuant to notice, moved government business notice of motion no. 1—That the government business order of the day relating to the Social Security and Veterans' Entitlements Amendment (Commonwealth Seniors Health Card) Bill 2009 be discharged from the *Notice Paper*.

Question put and passed.

4 **FAIR WORK (STATE REFERRAL AND CONSEQUENTIAL AND OTHER AMENDMENTS) BILL 2009**
FAIR WORK (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 2009

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

In the committee

Consideration resumed of the Fair Work (State Referral and Consequential and Other Amendments) Bill 2009 and of the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009, as amended—*and of the amendment moved by Senator Abetz in respect of the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009*:

Schedule 5, item 2, page 58 (line 23), after "employment", insert ", on business profitability".

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

On the motion of Senator Xenophon the following amendment was debated and agreed to in respect of the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009:

Schedule 5, item 2, page 58 (after line 23), at the end of subitem (5), add:

; and (c) the likely effects on the relevant industry or industry sector of any modern award that the Commission is considering, or is proposing to make, including on productivity, labour costs and the regulatory burden on businesses.

Senator Abetz moved the following amendment in respect of the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009:

Schedule 5, page 66 (after line 11), at the end of the Schedule, add:

Part 4—Relief from increased labour costs

14 Part 10A award modernisation process is not intended to result in an increase in labour costs

(1) The Part 10A award modernisation process is not intended to result in an increase in labour costs for employers.

(2) An employer's ***labour costs*** in respect of an employee or outworker is the actual cost to the employer to employ the employee or engage the outworker:

(a) including wages and incentive-based payments, and additional amounts such as allowances and overtime; and

(b) disregarding the effect of any deductions that are made as permitted by section 324 of the FW Act.

Note: Deductions permitted by section 324 of the FW Act may (for example) include deductions under salary sacrificing arrangements.

(3) An employer suffers a ***modernisation-related increase in labour costs*** in respect to any employee or outworker if, and only if:

(a) a modern award made in the Part 10A award modernisation process starts to apply to the employer when the award comes into operation; and

(b) the employer's labour costs are higher after the modern award comes into operation than the employer's labour costs were immediately before the modern award came into operation; and

(c) the increase in labour costs is attributable to the Part 10A award modernisation process.

15 Orders remedying an increase in labour costs

(1) If FWA is satisfied that an employer, or a class of employers, to whom a modern award applies has suffered a modernisation-related increase in labour costs, FWA may make an order (***a relief from increased labour costs order***) varying particular terms of the modern award as they relate to the employer or the class of employers that FWA considers appropriate to remedy the situation.

(2) FWA may make a relief from increased labour costs order on application by:

(a) an employer who has suffered a modernisation-related increase in labour costs; or

(b) an organisation that is entitled to represent the industrial interests of such employer.

(3) FWA must not make a relief from increased labour costs order in relation to an employer or a class of employers if:

(a) FWA considers that the modernisation-related increase in labour costs is minor or insignificant; or

(b) FWA is satisfied that the employer or employers have been adequately compensated in other ways for the increase, such as through increased productivity or flexibility.

(4) FWA must ensure that a relief from increased labour costs order is expressed so that it does not apply to an employer unless the employer has actually suffered a modernisation-related increase in labour costs.

16 Relief from increased labour costs order continues to have effect as long as modern award continues to cover the employer or employers

A relief from increased labour costs order in relation to an employer or a class of employers to whom a particular modern award applies continues to have effect (subject to the terms of the order) for so long as the modern award continues to cover the employer or employers, even if it stops applying to the employer or employers because an enterprise agreement starts to apply.

17 Inconsistency with modern awards and enterprise agreements

A term of a modern award or an enterprise agreement has no effect in relation to an employer to the extent that it is less beneficial to the employer than a term of a relief from increased labour costs order that applies to the employer.

18 Application of provisions of FW Act to relief from increased labour costs orders

The FW Act applies as if the following provisions of that Act included a reference to a relief from increased labour costs order:

(a) subsection 675(2);

(b) subsection 706(2).

Debate ensued.

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

Senator Fisher moved the following amendment in respect of the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009:

Schedule 5, page 66 (after line 11), at the end of the Schedule, add:

Part 5—Factors requiring award modernisation request

Workplace Relations Act 1996

19 After section 576C

Insert:

576CA Minister must make award modernisation request

(1) If the Minister has made or varied an award modernisation request to accommodate one industry based on any of the factors set out in subsection (2), the Minister must also make or vary an award modernisation request ordering the Commission to create a modern award to accommodate every other industry in which any of those factors exist.

(2) The factors are:

(a) the potential for the modern award to impact upon continuing business viability;

(b) low profit margins;

(c) peak operating times;

(d) limited capacity to bear significant cost increases;

(e) different business models and streams of revenue from other activities;

(f) the labour-intensive nature of the industry;

(g) high labour costs as a proportion of total expenses;

(h) high award reliance.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 33

Senators—

Abetz	Cash	Heffernan	Payne
Adams	Colbeck	Humphries	Ronaldson
Back	Coonan	Johnston	Ryan
Barnett	Cormann	Joyce	Scullion
Bernardi	Eggleston	Macdonald	Trood
Birmingham	Ferguson	Mason	Williams (Teller)
Boswell	Fielding	Minchin	
Boyce	Fifield	Nash	
Bushby	Fisher	Parry	

NOES, 32

Senators—

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

Question agreed to.

Senator Abetz moved the following amendment in respect of the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009:

Schedule 5, page 66 (after line 11), at the end of the Schedule, add:

Part 6—Superannuation

Fair Work Act 2009

20 At the end of paragraph 139(1)(i)

Add "but ensuring that employers can nominate any complying superannuation fund as the default fund".

Workplace Relations Act 1996

21 At the end of paragraph 576J(1)(i)

Add "but ensuring that employers can nominate any complying superannuation fund as the default fund".

The Leader of the Australian Greens (Senator Bob Brown) sought leave for the question on the amendment moved by Senator Fisher to be put again.

Statements by leave: Senator Abetz, the Leader of The Nationals in the Senate (Senator Joyce), Senators Williams and Macdonald, the Leader of the Family First Party (Senator Fielding) and Senator Xenophon, by leave, made statements relating to the matter.

Leave was granted for the question to be put again.

Question—That the amendment moved by Senator Fisher be agreed to—put.

The committee divided—

AYES, 32

Senators—

Abetz	Bushby	Fierravanti-Wells	Mason
Adams	Cash	Fifield	Parry
Back	Colbeck	Fisher	Payne
Barnett	Coonan	Heffernan	Ronaldson
Birmingham	Cormann	Humphries	Scullion
Boswell	Eggleston	Johnston	Troeth
Boyce	Ferguson	Joyce	Trood
Brandis	Fielding	Macdonald	Williams (Teller)

NOES, 32

Senators—

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

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

Debate ensued.

Question—That the amendment moved by Senator Abetz be agreed to—put.

The committee divided—

AYES, 33

Senators—

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

NOES, 33

Senators—

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

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

Senator Abetz moved the following amendment in respect of the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009:

Schedule 5, page 66 (after line 11), at the end of the Schedule, add:

Part 7—State-based differences

Workplace Relations Act 1996

22 Section 576T

Repeal the section, substitute:

576T Terms that contain State-based differences

(1) For a period of 5 years starting on the day on which a modern award commences, the award is to reflect the State and Territory differences in previously existing awards.

(2) If, at the end of the period of 5 years starting on the day on which a modern award commences, the modern award includes terms and conditions of employment that:

(a) are determined by reference to State or Territory boundaries; or

(b) do not have effect in each State and Territory;

those terms and conditions cease to have effect at the end of that period.

(3) The Commission may reduce the 5 year period referred to in subsection (1) only if it is satisfied that it is appropriate to do so, having regard to:

(a) the views of the sector which the modern award is intended to cover; and

(b) the impact on employment within the sector which the modern award is intended to cover.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 31

Senators—

Abetz	Brandis	Fierravanti-Wells	Nash
Adams (Teller)	Bushby	Fifield	Parry
Back	Cash	Fisher	Payne
Barnett	Colbeck	Humphries	Scullion
Bernardi	Cormann	Johnston	Troeth
Birmingham	Eggleston	Kroger	Trood
Boswell	Ferguson	Mason	Williams
Boyce	Fielding	Minchin	

NOES, 31

Senators—

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

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

Senator Abetz moved the following amendments together by leave in respect of the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009:

Schedule 22, page 257 (after line 15), at the end of section 137A, add:

Application of right of entry penalties to employers

(8) An employer who refuses entry to an employee organisation on the grounds of seeking an order or interim order under this section, and acts expeditiously and in good faith in seeking that order, is not subject to right of entry penalties under Part 3-4 of this Act.

Schedule 22, page 257 (after line 32), after paragraph 137B(1)(e), insert:

(ea) the views of the employer; and

Schedule 22, page 257 (after line 33), after subsection137B(1), insert:

(1A) For the purposes of paragraph (1)(d), any agreement or understanding includes prior judicial and administrative decisions under previous legislation or involving related or predecessor employee organisations.

Debate ensued.

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

Senator Siewert moved the following amendment in respect of the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009:

Schedule 3, page 25 (after line 29), after item 9, insert:

9A All kinds of transitional instrument: application of better off overall test

(1) FWA may make a determination under this item on application by a person covered by a transitional instrument.

(2) If FWA is satisfied that the transitional instrument would not pass the better off overall test in section 193 of the FW Act, FWA may make any order that FWA considers appropriate to remedy the situation, including:

(a) an order terminating the instrument;

(b) an order varying the instrument to comply with the better off overall test.

Debate ensued.

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

Senator Siewert moved the following amendments together by leave in respect of the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009:

Schedule 3, item 18, page 29 (line 4) to page 30 (line 7), omit the item, substitute:

18 Individual agreement-based transitional instruments: automatic termination when enterprise agreement comes into operation

(1) This item applies if:

(a) an enterprise agreement (the ***proposed enterprise agreement***) is made that covers the employee and the employer; and

(b) the proposed enterprise agreement comes into operation.

(2) If the employee and the employer are covered by an individual agreement-based transitional instrument, that agreement is terminated when the proposed enterprise agreement comes into operation.

Schedule 13, item 2, page 166 (lines 9 to 37), omit subitems (2) and (3), substitute:

(2) The employee is taken, for the purposes of the FW Act, to be at that time an employee who is or will be covered by an enterprise agreement or a proposed enterprise agreement.

Debate ensued.

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

The Fair Work (State Referral and Consequential and Other Amendments) Bill 2009 agreed to and the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009, as amended, agreed to.

The Fair Work (State Referral and Consequential and Other Amendments) Bill 2009 to be reported without amendments and the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009 to be reported with amendments.

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

On the motion of the Minister for Employment Participation (Senator Arbib) the report from the committee was adopted and the bills read a third time.

After 12.45 pm—

5 **MATTERS OF PUBLIC INTEREST**

Matters of public interest were discussed.

At 2 pm—

6 **QUESTIONS**

Questions without notice were answered.

7 **MOTIONS TO TAKE NOTE OF ANSWERS**

Senator Coonan moved—That the Senate take note of the answers given by the Minister for Employment Participation (Senator Arbib) and the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) to questions without notice asked by Opposition senators today relating to employments services and to funding for schools' infrastructure.

Debate ensued.

Question put and passed.

Senator Ludlam 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 Ludlam today relating to mining exploration in the Liverpool Plains, New South Wales.

Question put and passed.

8 **NOTICES**

The Chair of the Rural and Regional Affairs and Transport References Committee (Senator Nash): To move on the next day of sitting—That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on the natural resource management and conservation challenges be extended to 11 August 2009. (*general business notice of motion no. 455*)

The Chair of the Community Affairs Legislation Committee (Senator Moore): To move on the next day of sitting—That the time for the presentation of the report of the Community Affairs Legislation Committee on the national registration and accreditation scheme for doctors and other health workers be extended to 6 August 2009. (*general business notice of motion no. 456*)

The Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Trood): To move on the next day of sitting—That the Foreign Affairs, Defence and Trade References Committee be authorised to hold an in camera hearing during the sitting of the Senate on Thursday, 18 June 2009 from 3.45 pm, to take evidence for the committee's inquiry into major economic and security challenges facing Papua New Guinea and the island states of the southwest Pacific. (*general business notice of motion no. 457*)

The Chair of the Economics References Committee (Senator Eggleston): To move on the next day of sitting—That the Economics References Committee be authorised to hold public meetings during the sittings of the Senate on Monday, 22 June 2009 and Tuesday, 23 June 2009, from 7.30 pm, to take evidence for the committee's inquiry into foreign investment in Australia. (*general business notice of motion no. 458*)

The Chair of the Economics References Committee (Senator Eggleston): To move on the next day of sitting—That the time for the presentation of the report of the Economics References Committee on foreign investment in Australia be extended to 17 September 2009. (*general business notice of motion no. 459*)

Senator Fifield: To move on the next day of sitting—That there be laid on the table by the Minister for Employment Participation, no later than 5 pm on Monday, 22 June 2009:

(a) all communications and logs of communications, including emails, between tenderers for the Employment Services Contract 2009-12 and the former Minister for Employment Participation (Mr O'Connor) and his staff;

(b) all purchasing related inquiries, including records of phone calls and emails which were made to the former Minister for Employment Participation and his staff and the responses provided;

(c) all communications and logs of communications between current service providers and tenderers during the probity period for the Employment Services Contract 2009-12 and the former Minister for Employment Participation and his staff; and

(d) all documentation relating to any meeting with current service providers or tenderers for the Employment Services Contract 2009-12 and the former Minister for Employment Participation and/or his staff. (*general business notice of motion no. 460*)

Special Minister of State (Senator Ludwig): To move on the next day of sitting—That, on Thursday, 18 June 2009:

(a) the hours of meeting shall be 9.30 am to 6.30 pm and 7 pm to adjournment;

(b) the routine of business from 12.45 pm till not later than 2 pm, and from 7 pm shall be government business only;

(c) divisions may take place after 4.30 pm;

(d) the question for the adjournment of the Senate shall be proposed after the Senate has finally considered the bills listed below:

Defence Legislation Amendment Bill (No. 1) Bill 2009
Family Assistance Amendment (Further 2008 Budget Measures) Bill 2009
Family Assistance and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2009
International Monetary Agreements Amendment (Financial Assistance) Bill 2009
Social Security Legislation Amendment (Training Incentives) Bill 2009
Tax Laws Amendment (2009 Measures No. 2) Bill 2009

Family Assistance Legislation Amendment (Child Care) Bill 2009
Social Security and Other Legislation Amendment (Australian Apprentices) Bill 2009
Tax Laws Amendment (2009 Measures No. 3) Bill 2009; and

(e) if the Senate is sitting at 10.30 pm, the sitting of the Senate be suspended till 9.30 am on Friday, 19 June 2009.

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

(a) notes that:

(i) 19 June 2009 is Aung San Suu Kyi's 64th birthday and also Women of Burma Day,

(ii) the arrest and trial of Aung San Suu Kyi violates international law and has the sole intent of extending her illegal detention,

(iii) the United Nations (UN) Working Group on Arbitrary Detention said that her 13 years of detention is illegal under international and Burmese law,

(iv) more than 3 000 villagers from eastern Burma fled to Thailand in June 2009 following military attacks on civilians by the Burmese army and allied armed groups, and

(v) between 1996 and 2007 more than 3 000 villages were destroyed, abandoned or forcibly relocated in eastern Burma, amounting to nearly one village every day for a decade; and

(b) calls on the Australian Government to:

(i) increase its diplomatic pressure on its allies for a UN Security Council resolution on Burma and apply pressure in other forums for the release of Aung San Suu Kyi and all 2 100 Burmese political prisoners,

(ii) support a universal arms embargo against Burma,

(iii) refuse to endorse the outcomes of the election in 2010 unless all political prisoners, including Aung San Suu Kyi, are released and an inclusive constitutional review occurs, and

(iv) work with other governments to establish a Security Council Commission of Inquiry, as was done in relation to the situation in Darfur, to investigate crimes against humanity and war crimes being committed in Burma as such a commission would be the first step in securing a referral of Burma to the International Criminal Court. (*general business notice of motion no. 461*)

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

(a) notes that:

(i) 20 June 2009 marks World Refugee Day 2009, and

(ii) this year's global theme is 'Real People, Real Needs', recognising the lasting sense of security sought by people who have fled from persecution, in search of freedom, security and safety;

(b) recognises that:

(i) over the past century the global community has witnessed increasing numbers of refugees fleeing from their homeland in fear of persecution, and

(ii) as a signatory to the 1951 United Nations Geneva Convention relating to the Status of Refugees, Australia is obliged to protect those seeking asylum from persecution;

(c) acknowledges:

(i) the release of the report, *Amnesty International Report 2009: The state of the world's human rights*, and

(ii) that this report highlights the concern with housing children and unaccompanied minors in alternative detention facilities on Christmas Island; and

(d) calls on the Government to:

(i) provide additional support to specialised service delivery agencies who work with refugees and asylum seekers in Australia, and

(ii) ensure that no child or family is detained in any form of secure detention on Christmas Island, while their visa application is being processed. (*general business notice of motion no. 462*)

9 **LEAVE OF ABSENCE**

Senator Parry, by leave, moved—That leave of absence be granted to Senator McGauran for 17 June and 18 June 2009, for personal reasons.

Question put and passed.

10 **NATIONAL CAPITAL AND EXTERNAL TERRITORIES—JOINT STANDING COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator O'Brien, by leave and at the request of the Chair of the Joint Standing Committee on the National Capital and External Territories (Senator Lundy), moved—That the Joint Standing Committee on the National Capital and External Territories be authorised to hold a public meeting during the sitting of the Senate today.

Question put and passed.

11 **SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 8 OF 2009**

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

SELECTION OF BILLS COMMITTEE

REPORT NO. 8 OF 2009

1. The committee met in private session on Tuesday, 16 June 2009 at 4.28 pm.
2. The committee resolved to recommend—That—
   (a) the Environment Protection (Beverage Container Deposit and Recovery Scheme) Bill 2009 be ***referred immediately*** to the Environment, Communications and the Arts Legislation Committee for inquiry and report by 20 August 2009;
   (b) the Health Insurance Amendment (Extended Medicare Safety Net) Bill 2009 be ***referred immediately*** to the Community Affairs Legislation Committee for inquiry and report by 5 August 2009;
   (c) the Parliamentary Superannuation Amendment (Removal of Excessive Super) Bill 2009 be ***referred immediately*** to the Finance and Public Administration Legislation Committee for inquiry and report by 8 September 2009; and
   (d) the ***provisions*** of the Social Security and Other Legislation Amendment (Pension Reform and Other 2009 Budget Measures) Bill 2009 be ***referred immediately*** to the Community Affairs Legislation Committee for inquiry and report by 23 June 2009.
3. The committee resolved to recommend—That the following bills ***not*** be referred to committees:
   Coordinator-General for Remote Indigenous Services Bill 2009
   Fair Work Amendment (Paid Parental Leave) Bill 2009
   Fair Work (State Referral and Consequential and Other Amendments) Bill 2009
   Infrastructure Australia Amendment (National Broadband Network and Other Projects) Bill 2009
   International Monetary Agreements Amendment (Financial Assistance) Bill 2009
   Migration Amendment (Protection of Identifying Information) Bill 2009
   Social Security Legislation Amendment (Improved Support for Carers) (Consequential and Transitional) Bill 2009.

The committee recommends accordingly.

Kerry O'Brien
Chair
17 June 2009.

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

Question put and passed.

12 **EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS REFERENCES COMMITTEE—REFERENCE**

Senator Hanson-Young amended business of the Senate notice of motion no. 1 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the following matters be referred to the Education, Employment and Workplace Relations References Committee for inquiry and report by 16 November 2009:

(a) the roles and responsibilities of education providers, migration and education agents, state and federal governments, and relevant departments and embassies, in ensuring the quality and adequacy in information, advice, service delivery and support, with particular reference to:

(i) student safety,

(ii) adequate and affordable accommodation,

(iii) social inclusion,

(iv) student visa requirements,

(v) adequate international student supports and advocacy,

(vi) employment rights and protections from exploitation, and

(vii) appropriate pathways to permanency;

(b) the identification of quality benchmarks and controls for service, advice and support for international students studying at an Australian education institution; and

(c) any other related matters.

Question put and passed.

13 **ENVIRONMENT—COAL EXPLORATION**

Senator Nash, 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. 454—That the Senate—

(a) notes the decision by the New South Wales and Queensland governments to allow coal exploration near Caroona, in the centre of the Liverpool Plains, near Gunnedah, and other proposed mining ventures at the Haystack Plains on the Darling Downs, Queensland;

(b) acknowledges the concern expressed by some local farmers and members of the local communities about this exploration; and

(c) calls on the respective state governments to ensure that appropriate and thorough independent environmental assessments, including the impact on groundwater systems, are undertaken in advance of any approval to mine in these regions of high agricultural significance.

Question put and passed.

14 **CARBON POLLUTION REDUCTION SCHEME—TREASURY MODELLING**

Statement by leave: The Chair of the Select Committee on Fuel and Energy (Senator Cormann), by leave, made a statement relating to general business notice of motion no. 451.

Document: Senator Cormann, by leave, tabled the following document:

Carbon Pollution Reduction Scheme—Treasury modelling—Copy of letter from the Treasurer (Mr Swan) to the Chair of the Select Committee on Fuel and Energy (Senator Cormann), dated 11 June 2009, and attachment.

Senator Cormann amended general business notice of motion no. 451 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate notes with concern:

(a) that the Select Committee on Fuel and Energy has been seeking unsuccessfully to gain information from the Government regarding the modelling undertaken by the Department of the Treasury titled, *Australia's Low Pollution Future: The Economics of Climate Change Mitigation*, since December 2008;

(b) the following history of the Government's refusal to provide the information needed to properly scrutinise the Government's proposed Carbon Pollution Reduction Scheme:

(i) the committee wrote to the Treasurer on 9 December 2008 seeking additional information about the modelling,

(ii) the committee eventually received a response from the Treasurer on 3 February 2009 refusing the committee's request stating 'The Treasury is obligated, under contractual agreements … to not disclose or make public any Confidential Information of the other party',

(iii) on 4 February 2009 the Senate made an order requiring the production of information by 5 February 2009,

(iv) on 5 February 2009, Senator the Honourable Ursula Stephens, Parliamentary Secretary for Social Inclusion and the Voluntary Sector, made a statement in the Senate on behalf of the Government that the 'Treasury is obligated, under contractual agreements … to not disclose or make public any confidential information of the other party',

(v) the committee again wrote to the Treasurer on 6 February 2009 pointing out that the Senate in passing the order of 4 February 2009, had accepted the judgement of the committee that contractual obligations to consultants did not constitute a valid reason for declining to produce documents because parliamentary privilege overrides any contractual obligations,

(vi) Senator Stephens made another statement in the Senate on behalf of the Government on 11 February 2009, attempting to make a new and different case of commercial harm,

(vii) following the response from the Government, the committee wrote to Monash University and Purdue University on 11 February 2009 seeking to work with the universities to protect the intellectual property of the universities while allowing the committee to properly scrutinise the material,

(viii) on 12 February 2009 the committee received correspondence from Purdue University stating that commercial harm to its Global Trade and Analysis Project, would be avoided by the simple purchase of a licence,

(ix) on 19 February 2009 the committee received correspondence from Monash University which stated that 'The University wishes to assist your Committee in every way possible',

(x) on 11 March 2009, the Senate made a further order requiring the production of information by 13 March 2009 and specifying that some of the requested information was to be treated as confidential, meaning that any disclosure or use of the information otherwise than in accordance with the order would be a contempt of the Senate and a criminal offence under the *Parliamentary Privileges Act 1987*,

(xi) on 12 March 2009 the committee again wrote to Monash University informing it of the Senate's order of 11 March 2009 and seeking to establish whether the protections afforded by the Senate sufficiently protected the university's intellectual property in relation to the Monash Multi Regional Forecasting model,

(xii) on 17 March 2009 Senator Stephens made a further statement to the Senate in response to the Senate order of 11 March 2009, in which she stated 'the government continues to believe that the provision of the proprietary model code and data related to the modelling conducted for *Australia's low pollution future: the economics of climate change mitigation* would cause commercial harm to organisations that were contracted to assist Treasury',

(xiii) the committee received further correspondence from Monash University on 18 March 2009 attaching a letter the university had sent to the Treasurer which stated that 'Monash University waives its requirements of confidentiality on the basis that confidentiality is protected under the provisions of Order SJ61-11 March 2009',

(xiv) following receipt of the 18 March 2009 correspondence from Monash University, the committee wrote to the Treasurer on 18 March 2009 once again requesting the relevant information and reiterating the committee's judgement 'that contractual obligations to consultants do not constitute a valid reason for declining to produce information' and pointing out that 'given the information is required under an order of the Senate, parliamentary privilege overrides any relevant contractual obligations of the government',

(xv) the committee heard evidence from the Department of the Treasury on 2 April 2009 stating that it was the Government's position that 'there is potential for commercial harm for aspects of the information to be provided', and

(xvi) following this evidence provided by the Department of the Treasury, and in the absence of a response to the Treasurer's letter of 18 March 2009, the committee again wrote to the Treasurer on 3 April 2009 seeking the information as ordered by the Senate on 11 March 2009 and stating that the committee views the response from the Government and the Department of the Treasury 'as unnecessarily bureaucratic, baseless and deliberately unhelpful to the Committee';

(c) that the committee has gone to considerable lengths and provided robust protections to accommodate any issues of potential commercial harm to Monash University and Purdue University;

(d) that the Treasurer responded to the committee's letters of 18 March 2009 and 3 April 2009 only after notice of motion for this resolution was given on 16 June 2009;

(e) that the Government has failed to provide any information to the committee despite the considerable efforts taken by the committee to avoid any commercial harm, and the Government's claim of commercial harm only applying to some of the information sought; and

(f) that the Government has failed to provide any explanation to the Senate or the committee as to why the remainder of the information was not provided or responded to the fact that Monash University has informed both the committee and the Treasurer that the university is prepared to waive its requirements of confidentiality in accordance with the order of the Senate of 11 March 2009.

Question put and passed.

15 **EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS REFERENCES COMMITTEE—EXTENSION OF TIME TO REPORT**

Senator Parry, at the request of the Chair of the Education, Employment and Workplace Relations References Committee (Senator Humphries) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 447—That the time for the presentation of the report of the Education, Employment and Workplace Relations References Committee on the oversight of the child care industry be extended to 17 September 2009.

Question put and passed.

16 **CORPORATIONS AND FINANCIAL SERVICES—JOINT STATUTORY COMMITTEE—LEAVE TO MEET DURING SITTINGS**

Senator Parry, at the request of the Deputy Chair of the Parliamentary Joint Committee on Corporations and Financial Services (Senator Mason) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 449—That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold public meetings during the sittings of the Senate on Wednesday, 17 June and Wednesday, 24 June 2009, from 5.30 pm.

Question put and passed.

Senator Parry, at the request of Senator Mason and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 450—That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to meet during the sitting of the Senate on Thursday, 18 June 2009, from 9.30 am to 11.30 am, to allow officers of the Australian Securities and Investments Commission, to provide a private briefing to the committee.

Question put and passed.

17 **PUBLIC ACCOUNTS AND AUDIT—JOINT STATUTORY COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator O'Brien, at the request of Senator Lundy and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 448—That the Joint Committee of Public Accounts and Audit be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 24 June 2009, from 11.30 am to 1.30 pm, to take evidence for the committee's review of Auditor-General's reports.

Question put and passed.

18 **RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE—EXTENSION OF TIME TO REPORT**

The Chair of the Rural and Regional Affairs and Transport References Committee (Senator Nash), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 446—That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on public passenger transport in Australia be extended to 20 August 2009.

Question put and passed.

19 **ENVIRONMENT—VICTORIA—MOUNTAIN ASH FORESTS**

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. 453—That the Senate—

(a) notes the findings of Professor Brendan Mackey, Professor David Lindenmayer and Dr Heather Keith of the Australian National University that Victoria's *Eucalyptus regnans* (mountain ash) forests are the most carbon dense on Earth; and

(b) calls on the Government to inform the Senate by 24 June 2009:

(i) whether the report has validity,

(ii) what government measures are being taken or considered to protect *Eucalyptus regnans* forests in Australia that are currently targeted for logging,

(iii) what area and volume of such forests are available for logging under current planning regimes, and

(iv) whether ending native forest and woodland removal in Australia would reduce the nation's greenhouse gas emissions by 10 to 20 per cent.

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

Question put and passed. All Government senators, by leave, recorded their votes for the noes.

20 **ENVIRONMENT—COAL EXPLORATION**

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. 452—That the Senate—

(a) notes the decision by the New South Wales Mining Warden permitting BHP Billiton to proceed with exploration for coal near and under prime food-growing floodplain at Caroona, in the centre of the Liverpool Plains, near Gunnedah;

(b) acknowledges the undiminished opposition to this exploration by local farmers and other members of the local communities and the independent Member for New England in the House of Representatives, Mr Tony Windsor; and

(c) calls on the Government:

(i) to exercise all legal and ethical options available to cease the exploration activities of BHP Billiton at Caroona until the completion of the independent expert evaluation of the hydrology of the region, and also

(ii) to cease the granting of all exploration licences for the purpose of resource and mineral extraction and undertake further independent studies into impacts of mining on the surficial and underground aquifer systems which form part of the Murray-Darling system if significant risks are identified in the expert evaluation currently underway.

Statements by leave: The Special Minister of State (Senator Ludwig), the Leader of The Nationals in the Senate (Senator Joyce) 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, 38

Senators—

Adams	Cormann	Humphries	O'Brien
Back	Crossin	Hurley	Parry (Teller)
Bernardi	Eggleston	Joyce	Payne
Bilyk	Feeney	Kroger	Pratt
Birmingham	Ferguson	Ludwig	Scullion
Boswell	Fielding	Marshall	Sherry
Boyce	Fierravanti-Wells	McEwen	Williams
Cameron	Fifield	McLucas	Wortley
Cash	Fisher	Moore	
Collins	Furner	Nash	

Question negatived.

21 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—FAMILY AND COMMUNITY SERVICES—INDEPENDENT YOUTH ALLOWANCE

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

The Rudd Government's ill-considered, ill-conceived and discriminatory changes to the Independent Youth Allowance announced in the Federal Budget.

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

22 **AUSTRALIAN CRIME COMMISSION—JOINT STATUTORY COMMITTEE—REPORT—AUSTRALIAN CRIME COMMISSION—REPORT FOR 2007-08**

The Chair of the Parliamentary Joint Committee on the Australian Crime Commission (Senator Hutchins) tabled the following report and documents:

Australian Crime Commission—Joint Statutory Committee—Examination of the annual report for 2007-08 of the Australian Crime Commission—Report, dated June 2009, Hansard record of proceedings and minutes.

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

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

Debate ensued.

Question put and passed.

23 **NOTICE**

The Leader of the Family First Party (Senator Fielding) gave a notice of motion as follows: To move on the next day of sitting—That the provisions of the Renewable Energy (Electricity) Amendment Bill 2009 and the Renewable Energy (Electricity) (Charge) Amendment Bill 2009 be referred to the Economics Legislation Committee for inquiry and report by 12 August 2009.

24 **SCRUTINY OF BILLS—STANDING COMMITTEE—6TH REPORT AND ALERT DIGEST NO. 7 OF 2009**

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—

Sixth report of 2009, dated 17 June 2009.

Alert Digest No. 7 of 2009, dated 17 June 2009.

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

25 **CHILDREN—WELLBEING OF AUSTRALIA'S CHILDREN—MINISTERIAL STATEMENT—DOCUMENT**

The Minister for Innovation, Industry, Science and Research (Senator Carr) tabled the following document:

Children—The wellbeing of Australia's children—Ministerial statement by the Minister for Families, Housing, Community Services and Indigenous Affairs (Ms Macklin), dated 17 June 2009.

26 **LAW AND JUSTICE—GOVERNMENT'S RESPONSE TO TRAFFICKING IN PERSONS—MINISTERIAL STATEMENT—DOCUMENTS**

The Minister for Innovation, Industry, Science and Research (Senator Carr) tabled the following documents:

Law and justice—The government's response to trafficking in persons—

Anti-People Trafficking Interdepartmental Committee—Report—Trafficking in persons: The Australian government response – January 2004 to April 2009.

Ministerial statement by the Minister for Home Affairs (Mr O'Connor), dated 17 June 2009.

27 **AUDITOR-GENERAL—AUDIT REPORT NO. 41 OF 2008-09—DOCUMENT**

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

Auditor-General—Audit report no. 41 of 2008-09—Performance audit—The Super Seasprite—Department of Defence.

28 **DOCUMENTS**

The following documents were tabled by the Clerk:

Australian Bureau of Statistics Act—Proposals Nos—

3 of 2009—Household Income and Expenditure Survey.

4 of 2009—Community Services Survey.

5 of 2009—Energy, Water and Environment Survey.

6 of 2009—Survey of Financial Information.

7 of 2009—Queensland Agricultural Land Management Survey.

Australian Research Council Act—Approval of Proposals—Determination No. 67—Special Research Initiatives (European Molecular Biology Laboratory) commencing in 2008-09 or 2009-10.

29 **COMMITTEE MEMBERSHIP**

The Acting Deputy President (Senator Troeth) 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:

Economics Legislation Committee—

Appointed—

Substitute member: Senator Abetz to replace Senator Joyce for the committee's inquiry into the Car Dealership Financing Guarantee Appropriation Bill 2009

Participating member: Senator Joyce

Economics References Committee—

Appointed—Senator Xenophon.

Question put and passed.

30 **FAMILY ASSISTANCE AMENDMENT (FURTHER 2008 BUDGET MEASURES) BILL 2009**

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

Message no. 355, dated 17 June 2009—A Bill for an Act to amend the law relating to family assistance, and for related purposes.

The Minister for Innovation, Industry, Science and Research (Senator Carr) 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 Carr moved—That this bill be now read a second time.

On the motion of Senator Carr the debate was adjourned and the resumption of the debate made an order of the day for a later hour.

Consideration of legislation: Senator Carr, by leave, moved—That this bill and the Family Assistance and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2009 may be taken together for their remaining stages.

Question put and passed.

31 **DEFENCE LEGISLATION AMENDMENT BILL (NO. 1) 2009**

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

> Message no. 353, dated 16 June 2009—A Bill for an Act to amend legislation relating to defence, and for related purposes.

The Minister for Innovation, Industry, Science and Research (Senator Carr) 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 Carr moved—That this bill be now read a second time.

On the motion of Senator Carr the debate was adjourned and the resumption of the debate made an order of the day for a later hour.

32 **SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (AUSTRALIAN APPRENTICES) BILL 2009**

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

> Message no. 354, dated 16 June 2009—A Bill for an Act to amend the law relating to taxation, social security and veterans' entitlements, and for related purposes.

The Minister for Innovation, Industry, Science and Research (Senator Carr) 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 Carr moved—That this bill be now read a second time.

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

33 **SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (PENSION REFORM AND OTHER 2009 BUDGET MEASURES) BILL 2009**

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

> Message no. 356, dated 17 June 2009—A Bill for an Act to amend the law relating to social security, veterans' affairs, family assistance and aged care, and for related purposes.

The Minister for Innovation, Industry, Science and Research (Senator Carr) 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 Carr moved—That this bill 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.

34 **NATIONAL HEALTH AMENDMENT (PHARMACEUTICAL AND OTHER BENEFITS—COST RECOVERY) BILL 2008 [NO. 2]**
TRADE PRACTICES AMENDMENT (CARTEL CONDUCT AND OTHER MEASURES) BILL 2008

Messages from the House of Representatives were reported agreeing to the amendments made by the Senate to the following bills:

Message no. 351, dated 16 June 2009—National Health Amendment (Pharmaceutical and Other Benefits—Cost Recovery) Bill 2008 [No. 2].

Message no. 352, dated 16 June 2009—Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008.

35 **COMMUNITY AFFAIRS LEGISLATION COMMITTEE—REPORT—COMPLIANCE AUDITS ON MEDICARE BENEFITS**

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—Compliance audits on Medicare benefits—Report, dated June 2009, Hansard record of proceedings, additional information and submissions.

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

36 **SOCIAL SECURITY AMENDMENT (TRAINING INCENTIVES) 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.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Minister for Employment Participation (Senator Arbib) the bill was read a third time.

37 **TAX LAWS AMENDMENT (2009 MEASURES NO. 2) BILL 2009**

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

Debate resumed.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Assistant Treasurer (Senator Sherry) the bill was read a third time.

38 **INTERNATIONAL MONETARY AGREEMENTS AMENDMENT (FINANCIAL ASSISTANCE) 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.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Assistant Treasurer (Senator Sherry) the bill was read a third time.

At 6.50 pm—

39 **GOVERNMENT DOCUMENTS—CONSIDERATION**

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

40 **ADJOURNMENT**

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

Debate ensued.

The Senate adjourned at 7.23 pm till Thursday, 18 June 2009 at 9.30 am.

41 **ATTENDANCE**

Present, all senators except Senators McGauran*, Polley* and Stephens* (* on leave).

HARRY EVANS
Clerk of the Senate

Printed by authority of the Senate