

2002

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 62

MONDAY, 2 DECEMBER 2002

1 The House met, at 12.30 p.m., pursuant to adjournment. The Speaker (the Honourable Neil Andrew) took the Chair, and read Prayers.

2 ASIO, ASIS AND DSD—PARLIAMENTARY JOINT COMMITTEE—REPORT—STATEMENTS BY MEMBERS—MOTION TO TAKE NOTE OF PAPER

Mr Jull (Chair) presented the following paper:

ASIO, ASIS and DSD—Parliamentary Joint Committee—Annual report 2001-02, August 2002.

Ordered to be printed.

Statements in connection with the report were made.

The time allotted for making statements on the report having expired—

Mr Jull moved—That the House take note of the report.

Mr Jull was granted leave to continue his speech when the debate is resumed.

In accordance with standing order 102B, the debate was adjourned, and the resumption of the debate made an order of the day for the next sitting.

3 CREDIT UNIONS

Mr Neville, pursuant to notice, moved—That this House:

- (1) recognises the significance of the credit union movement in the framework of Australia's financial services;
- (2) recognises the contribution of 200 Australian credit unions and their 3.5 million members not only to the concept of mutuality but also as an alternative source of housing and domestic finance;
- (3) notes its role in providing banking-type and lending services in country and many other areas vacated by the traditional banks;
- (4) recommends a reassessment of ASIC and APRA regulations (commensurate with the size and role of credit unions); and
- (5) requests a re-examination of taxation, franking credits and register requirements as they apply to credit unions.

Debate ensued.

The time allotted for the debate having expired, the debate was interrupted, and the resumption of the debate made an order of the day for the next sitting.

4 NEW ENGLAND HIGHWAY

Mr Baldwin, pursuant to notice, moved—That this House:

- (1) recognises the need to ease traffic congestion on the New England Highway to assist motorists from areas such as Beresfield and Thornton;
- (2) acknowledges a recent audit of the New England Highway by the NRMA which found the worst section of the highway is a 12.8km stretch between Hexham and Maitland which includes the Weakley's Drive intersection;

- (3) further acknowledges the audit which found that this particular stretch of road has a crash and casualty rate 79% higher than the route average;
- (4) recognises the most recent fatality on the New England Highway when a motorist was killed on the South Seas Drive intersection in August 2002; and
- (5) calls on all levels of government to progress work along this highway as quickly as possible, including:
 - (a) State Government construction of a link road between Beresfield and Thornton;
 - (b) construction of an interchange at the Weakley's Drive intersection; and
 - (c) funding of improvements to intersections along the highway that have an historically high rate of accidents.

Debate ensued.

At 1.45 p.m., the time allotted for the debate having expired, the debate was interrupted in accordance with standing order 106A, Ms Hoare was granted leave to continue her speech when the debate is resumed, and the resumption of the debate was made an order of the day for the next sitting.

5 MEMBERS' STATEMENTS

Members' statements were made.

Paper

Mr Schultz, by leave, presented the following paper:

Bali tragedy—A Book of Condolence from the students, staff and community of Goulburn South Public School.

6 DEATH OF FORMER SENATOR (MR G. S. DAVIDSON)

The Speaker informed the House of the death, on Monday, 25 November 2002, of Gordon Sinclair Davidson, CBE, a Senator for the State of South Australia from 1961 to 1981.

As a mark of respect to the memory of the deceased all Members present stood, in silence.

7 TERRORIST ATTACKS—MOMBASA, KENYA—STATEMENTS

Mr Howard (Prime Minister), by indulgence, made a statement on the terrorist attacks in Mombasa, Kenya.

Mr Crean (Leader of the Opposition), by indulgence, also made a statement on the matter.

8 QUESTIONS

Questions without notice were asked.

9 PETITIONS

Petitions lodged for presentation were announced.

10 YOUTH SUICIDE

Ms Vamvakinou, pursuant to notice, moved—That this House:

- (1) recognises that youth suicide is becoming an increasing cause of death amongst young people with youth suicide figures in 2000 at 2,363 with 1,860 of those males;
- (2) recognises that the youth suicide rates for males and indigenous people, particularly in rural areas, are amongst the highest in the western world and that males are three times more likely to complete a suicide attempt;
- (3) recognises that admissions to hospitals for intentional self-injury are close to 10 times as common as fatalities for suicide, with males more likely to take far more drastic suicide methods;
- (4) recognises there is a role for families, education, role models and health workers in identifying and supporting young people at risk of depression and self-harm;
- (5) notes *the Sydney Morning Herald* 7 February 2002 article regarding government alarm on suicides rates with the Minister for Youth Affairs stating that "*Australia is losing the war against youth suicide and needs a fresh approach*"; and

- (6) calls on the Government to implement further measures to lower the rate of juvenile depression and youth suicide.

Debate ensued.

The time allotted for the debate having expired, the debate was interrupted, and the resumption of the debate made an order of the day for the next sitting.

11 GRIEVANCE DEBATE

Pursuant to the provisions of standing order 106, the order of the day having been read—

Question proposed—That grievances be noted.

Debate ensued.

Question—That grievances be noted—put and passed.

12 PUBLIC ACCOUNTS AND AUDIT—JOINT COMMITTEE—REPORT AND PAPERS—STATEMENT BY MEMBER

Mr Charles (Chair) presented the following paper:

Public Accounts and Audit—Joint Committee—Report 392—Annual report 2001-02, October 2002.

Ordered to be printed.

Mr Charles, by leave, made a statement in connection with the report.

Mr Charles, by leave, presented the following papers:

Public Accounts and Audit—Joint Committee—

Report 390—Review of Auditor-General's reports 2001-2002—First, second and third quarters—Erratum.

Executive minutes on—

Report 373—Review of Auditor-General's reports 1998-99, second half.

Report 382—Review of Auditor-General's reports 1999-2000, fourth quarter.

Report 383—Review of Auditor General's reports 2000-2001, first quarter.

Report 385—Review of Auditor-General's reports 2000-2001, second and third quarters.

13 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—STATEMENT BY MEMBER

Mr Price (Acting Deputy Chair), by leave, made a statement concerning progress in the Committee's watching brief on terrorism and presented the following paper:

Foreign Affairs, Defence and Trade—Joint Standing Committee—Review of Australia's preparedness to manage the consequences of a terrorist attack—Copy of statement.

14 MESSAGES FROM THE SENATE

Messages from the Senate were reported:

- (a) returning the following Bills without amendment:

No. 151—Excise Tariff Amendment (No. 1) 2002—14 November 2002;

No. 152—Customs Tariff Amendment (No. 2) 2002—14 November 2002;

No. 153—Egg Industry Service Provision 2002—14 November 2002;

No. 154—Egg Industry Service Provision (Transitional and Consequential Provisions) 2002—14 November 2002;

No. 160—Higher Education Legislation Amendment (No. 3) 2002—18 November 2002;

No. 163—New Business Tax System (Consolidation and Other Measures) (No. 1) 2002—18 November 2002;

No. 164—New Business Tax System (Franking Deficit Tax) Amendment 2002—18 November 2002; and

No. 167—Medical Indemnity Agreement (Financial Assistance—Binding Commonwealth Obligations) 2002—19 November 2002;

- (b) returning the Members of Parliament (Life Gold Pass) Bill 2002 and acquainting the House that the Senate has considered Message No. 199 of the House relating to the Bill. The Senate does not further press its request for an amendment which the House has not made and has agreed to the Bill—Message No. 162—18 November 2002;
- (c) returning the Workplace Relations Amendment (Genuine Bargaining) Bill 2002 and acquainting the House that the Senate has considered Message No. 170 of the House relating to the Bill and does not insist on its amendments Nos 4 and 5 disagreed to by the House—Message No. 166—19 November 2002; and
- (d) acquainting the House that:

Senator Bartlett had been discharged from attendance on the Joint Standing Committee on Foreign Affairs, Defence and Trade, and Senator Stott Despoja had been appointed a member of the committee—Message No. 156—18 November 2002;

Senator Greig had been discharged from attendance on the Joint Standing Committee on the National Capital and External Territories, and that, having been duly nominated in accordance with the resolution agreed to by both Houses, Senator Stott Despoja had been appointed a member of the committee—Message No. 157—18 November 2002;

Senators Barnett and Bartlett had been discharged from attendance on the Joint Standing Committee on Treaties, and having been duly nominated in accordance with the resolution agreed to by both Houses, Senators Santoro and Stott Despoja had been appointed members of the committee—Message No. 158—18 November 2002; and

Senator Moore had been discharged from attendance on the Joint Committee of Public Accounts and Audit, and Senator Lundy had been appointed a member of the committee—Message No. 168—19 November 2002.

15 MESSAGE FROM THE SENATE—BANKRUPTCY LEGISLATION AMENDMENT BILL 2002

Message No. 155, 15 November 2002, from the Senate was reported returning the Bankruptcy Legislation Amendment Bill 2002 with amendments.

Ordered—That the amendments be considered forthwith.

On the motion of Mr Williams (Attorney-General), the amendments were disagreed to, after debate.

Mr Williams presented reasons, which were circulated, and are as follows:

Reasons of the House of Representatives for disagreeing to the amendments of the Senate

Senate Amendment Number (1)

This amendment passed by the Senate would retain early discharge from bankruptcy but make it available after 2 years instead of 6 months. This does nothing to address the inequities and discrimination inherent in the current scheme. The length of time is not the issue. The fact is that the scheme is not meeting its intended policy objectives because the qualifying criteria are not an adequate test of whether the bankruptcy was brought about by ‘misfortune rather than misdeed’ and was not due to ‘commercially reprehensible behaviour’. It also fails to address a fundamental issue of concern in the current bankruptcy system, namely that bankruptcy has become too easy and is viewed by some as a ‘soft option’.

Accordingly, the House of Representatives does not accept this amendment.

Senate Amendment Numbers (2), (3), (4), (5), (6) and (7)

Amendments (2), (3) and (7) would make a number of changes to the procedures for entering into arrangements under Part X of the *Bankruptcy Act 1966*. Amendments (4), (5) and (6) deal with the ability of the Inspector-General, a creditor or trustee to challenge a Part X arrangement. It is inappropriate to include these amendments in the current Bill. They appear to address an unsubstantiated perception that problems identified in a small number of Part X arrangements are widespread. There is no evidence that these amendments are needed. They change the basis of Part X in a way which may disadvantage the many people for whom it works well.

The amendments will add to the cost and complexity of Part X arrangements and detract from the fundamental purpose of Part X which is to provide debtors and creditors the opportunity to agree on arrangements which would allow the debtor to avoid bankruptcy.

In addition, the amendments have been developed without consultation. The Government has a well established consultative approach to bankruptcy reform through the Bankruptcy Reform Consultative Forum.

The Government has announced a comprehensive review of Part X which is currently under way. It is appropriate to wait for the findings of that review before making amendments to Part X which may be unnecessary or which may not address all the issues.

Accordingly, the House of Representatives does not accept these amendments.

Senate Amendment Number (8)

This amendment passed by the Senate would exclude ‘necessary personal or household’ expenses from the scope of the offence contained in subsection 265(8) of the *Bankruptcy Act 1966*. That subsection makes it an offence for a debtor to contract a debt greater than \$500 in the 2 years prior to bankruptcy where the debtor has no reasonable prospect of being able to repay it. The Bill proposes to remove the \$500 threshold. This is to correct an anomaly in the current law which allows an insolvent debtor to contract a large number of debts, each of which is less than \$500, and not be liable to prosecution. It is not aimed at debtors who fail to pay one or two small bills (such as utilities or groceries) which the prosecutor is unlikely to decide to prosecute. The Senate amendment is not necessary.

Accordingly, the House of Representatives does not accept this amendment.

Senate Amendment Number (9)

This amendment passed by the Senate would repeal section 271 of the *Bankruptcy Act 1966*. Section 271 creates an offence where a bankrupt has contributed to their insolvency by undertaking rash and hazardous gambling or speculations within two years prior to bankruptcy. The offence is rarely used but it is important that it exist for the small number of cases in which gambling or speculations are criminal in nature. It acts as a deterrent to such behaviour. The offence is not directed at gambling which results from an addiction and removing the offence will not address problems relating to such addiction. The existence of the offence also assists some trustees in the administration of estates. Trustees and creditors report that some mischievous bankrupts will often claim that they have incurred losses ‘at the races’ or ‘at the casino’ when they are questioned about what has happened to money they have borrowed. When trustees mention the offence, the bankrupt will often come up with a more truthful answer which helps locate assets.

Accordingly, the House of Representatives does not accept this amendment.

Senate Amendment Number (10)

This amendment passed by the Senate would make a company that is related to an insolvent company liable for the debts of the insolvent company. This is an amendment to the *Corporations Act 2001*. It is inappropriate to make amendments to that Act in a Bill which amends the *Bankruptcy Act 1966*.

Accordingly, the House of Representatives does not accept this amendment.

On the motion of Mr Williams, the reasons were adopted.

16 MESSAGE FROM THE SENATE—AUSTRALIAN CRIME COMMISSION ESTABLISHMENT BILL 2002

Message No. 169, 19 November 2002, from the Senate was reported returning the Australian Crime Commission Establishment Bill 2002 with amendments.

Ordered—That the amendments be considered forthwith.

On the motion of Mr Williams (Attorney-General), the amendments were agreed to, after debate.

17 TRANSPORT AND REGIONAL SERVICES—STANDING COMMITTEE

The House was informed that the Chief Opposition Whip had nominated Ms O’Byrne to be a member of the Standing Committee on Transport and Regional Services in place of Ms Livermore.

Ms Gallus (Parliamentary Secretary to the Minister for Foreign Affairs), by leave, moved—That Ms Livermore be discharged from the Standing Committee on Transport and Regional Services and that, in her place, Ms O’Byrne be appointed a member of the committee.

Question—put and passed.

18 NATIONAL HEALTH AMENDMENT (PHARMACEUTICAL BENEFITS—BUDGET MEASURES) BILL 2002 [NO. 2]

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed by Mr S. F. Smith who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “the House rejects this Bill for the following reasons:

- (1) it will increase by nearly 30% the cost of essential medicines, hitting the sickest and poorest in our society;
- (2) Australian pensioners and concession cardholders will go without almost five million prescriptions, and Australian families will also go without almost half a million prescriptions as a result of the proposed increase;
- (3) by depriving sick and elderly Australians of the medicines they need, there will be an increased need for greater medical interventions in public hospitals and nursing homes at even greater cost to taxpayers;
- (4) there are other, more effective, means by which the long term sustainability of the Pharmaceutical Benefits Scheme could be assured, means which would put appropriate responsibility on the pharmaceutical industry and the medical profession rather than on those least able to bear the burden, and on which the Government has been silent since the Leader of the Opposition’s Budget reply; and
- (4) the true rationale for the bill is to restore the budget bottom line and has nothing to do with the long term sustainability of the Pharmaceutical Benefits Scheme or with genuine health outcomes for Australians”.

Debate continued.

Papers

Mr Randall, by leave, presented the following papers:

Pharmaceutical Benefits Scheme—tables—

New drug approvals and extensions to existing approvals listed on the Pharmaceutical Benefits Scheme (PBS) in the year ended 30 September 2002, by name of drug and estimated annual cost (\$ million).

New drug approvals and extensions to existing approvals provided by the Therapeutic Goods Administration (TGA) in the twelve months to the end of September 2002 and not listed on the PBS, by name of drug.

Debate continued.

19 ADJOURNMENT

It being 10.30 p.m.—The question was proposed—That the House do now adjourn.

Debate ensued.

The House continuing to sit until 11 p.m.—The Speaker adjourned the House until tomorrow at 2 p.m.

PAPERS

The following papers were deemed to have been presented on 2 December 2002:

Aboriginal and Torres Strait Islander Commission Act—Regulations—Statutory Rules 2002 No. 275.

Aged Care Act—Principles under section 96-1—2002—

Approval of Care Recipients Amendment (No. 1).

Classification Amendment (No. 1).

Flexible Care Subsidy Amendment (No. 1).

Air Force Act—Regulations—Statutory Rules 2002 No. 276.

Australian Meat and Live-stock Industry Act—Order—2002 Australian Meat and Live-stock Industry (Sheepmeat and Goatmeat Export to the European Union—Quota Year 2003).

- Australian Prudential Regulation Authority Act—Instrument fixing charges to be paid to APRA, 16 November 2002.
- Civil Aviation Act—Civil Aviation Regulations—
Airworthiness Directives—
Part 39-105—2002 6(4), 8(4), 11, 12(2), 14(7), 15(6), 18(8), 19(5) November.
Part 39-107—2002 4, 14, 18 November.
Amendment Order—2002—No. 16.
Exemptions—2002 Nos EX34, EX37, EX39, EX40.
Instrument—2002 No. CASA 740.
- Corporations Act—Regulations—Statutory Rules 2002 No. 282.
- Criminal Code Act—Regulations—Statutory Rules 2002 Nos 269, 270, 271, 272.
- Currency Act—Determination—2002 Currency (Perth Mint) (No. 2).
- Customs Act—Instrument of Approval 2002 No. 39.
- Defence Act—
Defence Force Remuneration Tribunal—Determinations—2002 Nos 19, 20, 23.
Determinations under section 58B—2002 Nos 24, 25.
Regulations—Statutory Rules 2002 Nos 277, 279.
- Defence Act, Naval Defence Act, Air Force Act and Defence Forces Retirement Benefits Act—
Regulations—Statutory Rules 2002 No. 278.
- Diplomatic Privileges and Immunities Regulations—Certificates, 1 November (2) 2002.
- Federal Court of Australia Act—Rules of Court—Statutory Rules 2002 No. 281.
- Higher Education Funding Act—Guidelines—2002 Electronic communications with students.
- Insurance Contracts Act—Regulations—Statutory Rules 2002 No. 273.
- Motor Vehicle Standards Act—Road Vehicle (National Standards)—Determination—2002 No. 3.
- Naval Defence Act—Regulations—Statutory Rules 2002 No. 280.
- Parliament Act—Parliamentary Zone—Proposal, together with supporting documentation, for Ministerial entry security barriers - Area 9.
- Primary Industries (Customs) Charges Act—Regulations—Statutory Rules 2002 No. 293.
- Primary Industries (Excise) Levies Act—Regulations—Statutory Rules 2002 Nos 274, 294.
- Primary Industries Levies and Charges Collection Act—Regulations—Statutory Rules 2002 No. 295.
- Privacy Act—
Determination under section 80A—Temporary Public Interest Determination—2002 No. 1.
Determination under section 80B—Temporary Public Interest Determination—2002 No. 1A.
- Remuneration Tribunal Act—Remuneration Tribunal—Determinations—2002 Nos 17, 18.
- Safety, Rehabilitation and Compensation Act—Notice—2002 No. 20.
- Superannuation Industry (Supervision) Act—Statement under subsection 230A(1)—Australian Workforce Eligible Rollover Fund (AWERF).
- Sydney Airport Curfew Act—Dispensation—2002 No. 11.
- Taxation Administration Act—
Determination—1999 No. TD 66 (Addendum).
Determination—2002 No. TD 25.
Rulings—2002 Nos CR 80, CR 81, CR 82, PR 132, PR 133, PR 134, PR 135, PR 136.
- Telecommunications Act 1997*—Declaration—2002 Carrier Licence Conditions (Telstra Corporation Limited) 1997 Amendment (No. 3).
- Therapeutic Goods Act—Instrument—2002 Exemption of Therapeutic Goods.
- Veterans' Entitlements Act—Instruments under section 196B—2002 Nos 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82.
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ATTENDANCE

All Members attended (at some time during the sitting) except Fran Bailey, Mr Brereton*, Mr Causley*, Mr Katter and Mr Scott*.

* On leave

I. C. HARRIS

Clerk of the House of Representatives