

2002-03-04

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 166

THURSDAY, 1 APRIL 2004

1 The House met, at 9 a.m., pursuant to adjournment. The Speaker (the Honourable Neil Andrew) took the Chair, and read Prayers.

2 HEALTH LEGISLATION AMENDMENT (PODIATRIC SURGERY AND OTHER MATTERS) BILL 2004

Mr Abbott (Minister for Health and Ageing), pursuant to notice, presented a Bill for an Act to amend legislation relating to health, and for related purposes.

Bill read a first time.

Mr Abbott moved—That the Bill be now read a second time.

Paper

Mr Abbott presented an explanatory memorandum to the Bill.

Debate adjourned (Ms Gillard), and the resumption of the debate made an order of the day for the next sitting.

3 SPECIAL ADJOURNMENT

Mr Abbott (Leader of the House) moved—That the House, at its rising, adjourn until Tuesday, 11 May 2004, 2 p.m., unless the Speaker or, in the event of the Speaker being unavailable, the Deputy Speaker, fixes an alternative day or hour of meeting.

Question—put and passed.

4 LEAVE OF ABSENCE TO ALL MEMBERS

Mr Abbott (Leader of the House) moved—That leave of absence be given to every Member of the House of Representatives from the determination of this sitting of the House to the date of its next sitting.

Question—put and passed.

5 FAMILY LAW AMENDMENT BILL 2004

Mr Ruddock (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Family Law Act 1975*, and for related purposes.

Bill read a first time.

Mr Ruddock moved—That the Bill be now read a second time.

Paper

Mr Ruddock presented an explanatory memorandum to the Bill.

Debate adjourned (Ms Roxon), and the resumption of the debate made an order of the day for the next sitting.

6 OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) AMENDMENT (PROMOTING SAFER WORKPLACES) BILL 2004

Mr K. J. Andrews (Minister for Employment and Workplace Relations), pursuant to notice, presented a Bill for an Act to amend the *Occupational Health and Safety (Commonwealth Employment) Act 1991*, and for related purposes.

Bill read a first time.

Mr K. J. Andrews moved—That the Bill be now read a second time.

Paper

Mr K. J. Andrews presented an explanatory memorandum to the Bill.

Debate adjourned (Mr Edwards), and the resumption of the debate made an order of the day for the next sitting.

7 TOURISM AUSTRALIA BILL 2004

Mr Hockey (Minister for Small Business and Tourism), pursuant to notice, presented a Bill for an Act to establish Tourism Australia, and for related purposes.

Bill read a first time.

Mr Hockey moved—That the Bill be now read a second time.

Paper

Mr Hockey presented an explanatory memorandum to the Bill.

Debate adjourned (Mr Melham), and the resumption of the debate made an order of the day for the next sitting.

8 NEW INTERNATIONAL TAX ARRANGEMENTS (PARTICIPATION EXEMPTION AND OTHER MEASURES) BILL 2004

Mr Cameron (Parliamentary Secretary to the Treasurer) presented a Bill for an Act to amend the law relating to taxation, and for related purposes.

Bill read a first time.

Mr Cameron moved—That the Bill be now read a second time.

Paper

Mr Cameron presented an explanatory memorandum to the Bill.

Debate adjourned (Mr Edwards), and the resumption of the debate made an order of the day for the next sitting.

9 TAX LAWS AMENDMENT (2004 MEASURES NO. 2) BILL 2004

Mr Cameron (Parliamentary Secretary to the Treasurer) presented a Bill for an Act to amend the law relating to taxation, and for related purposes.

Bill read a first time.

Mr Cameron moved—That the Bill be now read a second time.

Paper

Mr Cameron presented an explanatory memorandum to the Bill.

Debate adjourned (Mr Edwards), and the resumption of the debate made an order of the day for the next sitting.

10 EXCISE TARIFF AMENDMENT (FUELS) BILL 2004

Mr Cameron (Parliamentary Secretary to the Treasurer) presented a Bill for an Act to amend the *Excise Tariff Act 1921*, and for related purposes.

Bill read a first time.

Mr Cameron moved—That the Bill be now read a second time.

Paper

Mr Cameron presented an explanatory memorandum to the Bill.

Debate adjourned (Mr Edwards), and the resumption of the debate made an order of the day for the next sitting.

11 CUSTOMS TARIFF AMENDMENT (FUELS) BILL 2004

Mr Cameron (Parliamentary Secretary to the Treasurer) presented a Bill for an Act to amend the *Customs Tariff Act 1995*, and for related purposes.

Bill read a first time.

Mr Cameron moved—That the Bill be now read a second time.

Paper

Mr Cameron presented an explanatory memorandum to the Bill.

Debate adjourned (Mr McClelland), and the resumption of the debate made an order of the day for the next sitting.

12 ELECTORAL AND REFERENDUM AMENDMENT (ACCESS TO ELECTORAL ROLL AND OTHER MEASURES) BILL 2004

Mr Slipper (Parliamentary Secretary to the Minister for Finance and Administration), pursuant to notice, presented a Bill for an Act to amend the law relating to elections and referendums, and for related purposes.

Bill read a first time.

Mr Slipper moved—That the Bill be now read a second time.

Paper

Mr Slipper presented an explanatory memorandum to the Bill.

Debate adjourned (Mr McClelland), and the resumption of the debate made an order of the day for the next sitting.

13 ELECTORAL AND REFERENDUM AMENDMENT (ENROLMENT INTEGRITY AND OTHER MEASURES) BILL 2004

Mr Slipper (Parliamentary Secretary to the Minister for Finance and Administration), pursuant to notice, presented a Bill for an Act to make further amendments of the law relating to elections and referendums, and for related purposes.

Bill read a first time.

Mr Slipper moved—That the Bill be now read a second time.

Paper

Mr Slipper presented an explanatory memorandum to the Bill.

Debate adjourned (Mr McClelland), and the resumption of the debate made an order of the day for the next sitting.

14 PARLIAMENTARY SUPERANNUATION BILL 2004

Mr Slipper (Parliamentary Secretary to the Minister for Finance and Administration), pursuant to notice, presented a Bill for an Act to provide for the making of superannuation contributions in respect of members of Parliament, and for related purposes.

Bill read a first time.

Mr Slipper moved—That the Bill be now read a second time.

Paper

Mr Slipper presented an explanatory memorandum to the Bill.

Debate adjourned (Mr McClelland), and the resumption of the debate made an order of the day for the next sitting.

15 PARLIAMENTARY SUPERANNUATION AND OTHER ENTITLEMENTS LEGISLATION AMENDMENT BILL 2004

Mr Slipper (Parliamentary Secretary to the Minister for Finance and Administration), pursuant to notice, presented a Bill for an Act to amend the law relating to the superannuation and other entitlements of members of Parliament, and for related purposes.

Bill read a first time.

Mr Slipper moved—That the Bill be now read a second time.

Paper

Mr Slipper presented an explanatory memorandum to the Bill.

Debate adjourned (Mr McClelland), and the resumption of the debate made an order of the day for the next sitting.

16 VETERANS' ENTITLEMENTS (CLARKE REVIEW) BILL 2004

Mrs D. S. Vale (Minister for Veterans' Affairs), pursuant to notice, presented a Bill for an Act to provide for compensation payments in respect of veterans interned by North Korean military forces and to amend the *Veterans' Entitlements Act 1986*, and for related purposes.

Bill read a first time.

Mrs D. S. Vale moved—That the Bill be now read a second time.

Paper

Mrs D. S. Vale presented an explanatory memorandum to the Bill.

Debate adjourned (Mr McClelland), and the resumption of the debate made an order of the day for the next sitting.

17 PARLIAMENTARY ZONE—CENTENARY OF WOMEN'S SUFFRAGE COMMEMORATIVE FOUNTAIN IN THE PARLIAMENTARY ZONE—APPROVAL OF PROPOSAL

Mrs D. M. Kelly (Parliamentary Secretary to the Minister for Trade), pursuant to notice, moved—That, in accordance with section 5 of the *Parliament Act 1974*, the House approves the following proposal for work in the Parliamentary Zone which was presented to the House on 31 March 2004, namely: Centenary of Women's Suffrage Commemorative Fountain in the Parliamentary Zone.

Question—put and passed.

18 MESSAGES FROM THE SENATE

Messages from the Senate, 31 March 2004, were reported:

(a) returning the following Bills without amendment:

No. 453—Energy Grants (Cleaner Fuels) Scheme (Consequential Amendments) 2003; and

No. 458—Higher Education Legislation Amendment 2004; and

(b) returning the Superannuation Safety Amendment Bill 2003 and acquainting the House that the Senate does not insist on its amendments Nos 26 and 27 disagreed to by the House—Message No. 454.

19 MESSAGE FROM THE SENATE—MILITARY REHABILITATION AND COMPENSATION BILL 2003

Message No. 456, 31 March 2004, from the Senate was reported returning the Military Rehabilitation and Compensation Bill 2003 and acquainting the House that the Senate has considered message No. 550 of the House relating to the Bill.

The Senate does not press its request for amendment No. 1 which the House has not made and has agreed to the Bill as amended by the House at the request of the Senate, and requests the concurrence of the House in the amendments made by the Senate.

Ordered—That the amendments be considered forthwith.

On the motion of Mrs D. S. Vale (Minister for Veterans' Affairs), the amendments were agreed to.

20 MESSAGE FROM THE SENATE—MILITARY REHABILITATION AND COMPENSATION (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2003

Message No. 457, 31 March 2004, from the Senate was reported returning the Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003 and acquainting the House that the Senate has agreed to the Bill as amended by the House at the request of the Senate, and requests the concurrence of the House in the amendments made by the Senate.

Ordered—That the amendments be considered forthwith.

On the motion of Mrs D. S. Vale (Minister for Veterans' Affairs), the amendments were agreed to.

21 MESSAGE FROM THE SENATE—MIGRATION LEGISLATION AMENDMENT BILL (NO. 1) 2002

Message No. 451, 30 March 2004, from the Senate was reported returning the Migration Legislation Amendment Bill (No. 1) 2002 with amendments.

Ordered—That the amendments be considered forthwith.

Mr Hardgrave (Minister for Citizenship and Multicultural Affairs) moved—That the amendments be disagreed to.

Debate ensued.

Question—put.

The House divided (the Deputy Speaker, Mr Scott, in the Chair)—

AYES, 77

Mr Abbott	Mr Dutton	Mr P. E. King	Mr Slipper
Mr Anderson	Mrs Elson	Mrs Ley	Mr A. D. H. Smith
Mr K. J. Andrews	Mr Entsch	Mr Lindsay	Mr Somlyay
Mr Anthony	Mr Farmer	Mr Lloyd	Dr Southcott
Fran Bailey	Mr Forrest*	Mr McArthur*	Dr Stone
Mr Baird	Mrs Gallus	Mr I. E. Macfarlane	Mr C. P. Thompson
Mr Baldwin	Ms Gambaro	Mr McGauran	Mr Ticehurst
Mr Barresi	Mrs Gash	Mrs May	Mr Tollner
Mr Bartlett	Mr Georgiou	Mrs Moylan	Mr Truss
Mr Billson	Mr Haase	Mr Nairn	Mr Tuckey
Mrs B. K. Bishop	Mr Hardgrave	Dr Nelson	Mr M. A. J. Vaile
Ms J. I. Bishop	Mr Hartsuyker	Mr Neville	Mrs D. S. Vale
Mr Brough	Mr Hockey	Ms Panopoulos	Mr Wakelin
Mr Cadman	Mr Hunt	Mr Pearce	Dr Washer
Mr Cameron	Mr Johnson	Mr Prosser	Mr Williams
Mr Causley	Mr Jull	Mr Pyne	Mr Windsor
Mr Charles	Mr Katter	Mr Randall	Ms Worth
Mr Ciobo	Mrs D. M. Kelly	Mr Ruddock	
Mr Cobb	Jackie Kelly	Mr Schultz	
Mr Costello	Dr Kemp	Mr Secker	

NOES, 59

Mr Adams	Mr L. D. T. Ferguson	Ms C. F. King	Mr Price
Mr Albanese	Mr M. J. Ferguson	Mr Latham	Mr Quick*
Mr Andren	Mr Fitzgibbon	Dr Lawrence	Mr Ripoll
Mr Bevis	Ms George	Ms Livermore	Ms Roxon
Mr Brereton	Mr Gibbons	Mr McClelland	Mr Sawford
Ms Burke	Ms Gillard	Ms Macklin	Mr Sercombe
Mr Byrne	Ms Grierson	Mr McLeay	Mr Sidebottom
Ms Corcoran	Mr Griffin	Mr Melham	Mr S. F. Smith
Mr Cox	Ms Hall	Mr Mossfield	Mr Swan
Mr Crean	Mr Hatton	Mr Murphy	Mr Tanner
Mrs Crosio	Ms Hoare	Ms O'Byrne	Mr K. J. Thomson
Mr Danby*	Mrs Irwin	Mr B. P. O'Connor	Ms Vamvakinou
Mr Edwards	Ms Jackson	Mr G. M. O'Connor	Mr Wilkie
Mr Emerson	Mr Jenkins	Mr Organ	Mr Zahra
Mr Evans	Mr Kerr	Ms Plibersek	

* Tellers

And so it was resolved in the affirmative.

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

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

Senate Amendments 1 and 2

These amendments propose to change the framework for immigration detention by introducing a requirement that unaccompanied minors be released as soon as possible into foster care or other appropriate community-based care arrangement as determined by an appropriately qualified child protection officer. The amendments also propose to specify detention conditions for any detained child.

These amendments are unnecessary. The existing legislative scheme is sufficiently flexible to respond to the specific needs of individual detainees, including children. The amendments also introduce complexity and uncertainty since they do not specify whether unaccompanied children will be granted visas (and if so, on what conditions) upon their release. The amendments are at odds with the universal visa system contained in the *Migration Act 1958*. The amendments remove the discretion vested in the Minister to ensure that the most appropriate arrangements are made for each individual unaccompanied child, which arrangements may not necessarily be placement with a foster family or community-based care arrangement (as required by the proposed amendment).

The proposed section 197E (relating to detention conditions of any detained child) is unworkable and creates a potential risk to the welfare of children. The proposed section requires detained children to be accommodated with their family members, yet does not define family members and does not provide any protection for children at risk from abuse from family members.

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

Senate Amendment 3

The proposed amendments seek to partially implement a package of amendments to the *Migration Regulations 1994* that was disallowed by the Senate in October 2003. The proposed amendments broaden the coverage of temporary protection visa (TPV) arrangements to include all asylum seekers arriving in Australia, not only those arriving unlawfully. The amendments also provide the ability to grant TPVs and temporary humanitarian visas for periods shorter than those currently specified in the *Migration Regulations 1994*. Finally, the proposed amendments would remove the 7 day rule (which prevents non-citizens who, while en route to Australia, spend 7 or more days in a country where they could have obtained effective protection from applying for a visa in Australia) for certain subclass 785 visa holders.

The proposed amendments undermine the changes that were made by the Parliament in September 2001 as part of a tiered and comprehensive legislative approach to providing protection in Australia. In particular, the selective implementation of some of the amendments that were disallowed undermines the overall framework designed to remove incentives for those who have bypassed opportunities for protection elsewhere to obtain permanent residence at the expense of Australia's international resettlement program.

The proposed abolition of the 7 day rule for certain subclass 785 visa holders would allow forum shopping by applicants who could have sought and obtained effective protection in a country through which they passed to get to Australia. This would also encourage people smugglers to attempt to deliver these persons to Australia.

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

Senate Amendment 4

The proposed amendments have the effect of limiting the duration of TPVs to 24 months and preventing TPV holders from applying for another temporary visa. The proposed amendments would thus restrict refugee applicants to only one TPV, with a permanent visa to follow where the person remains in need of protection.

The amendments appear intended to remove the 7 day rule. However, in order to give effect to this intention it is necessary to also change the criteria for the permanent protection visa (subclass), which the proposed amendments do not do. The proposed amendments prevent non-citizens granted a TPV from obtaining a further protection visa of any sort for a period of 6 months.

As with Senate Amendment 3, these amendments undermine the comprehensive legislative approach to providing protection adopted by Parliament in 2001.

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

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

22 MESSAGE FROM THE SENATE—FAMILY ASSISTANCE LEGISLATION AMENDMENT (EXTENSION OF TIME LIMITS) BILL 2003

Message No. 455, 31 March 2004, from the Senate was reported returning the Family Assistance Legislation Amendment (Extension of Time Limits) Bill 2003 and acquainting the House that the Senate has considered message No. 547 of the House relating to the Bill.

The Senate does not further press its requests for amendments which the House has not made and has agreed to the Bill with amendments and requests the concurrence of the House in the amendments made by the Senate.

Ordered—That the amendments be considered forthwith.

On the motion of Mr Pyne (Parliamentary Secretary to the Minister for Family and Community Services), the amendments were disagreed to, after debate.

Mr Pyne 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 1

This amendment provides that an overpayment arising solely from administrative error where the recipient did not contribute to the error and received the amount in good faith should not be a debt.

The House of Representatives does not accept this amendment because the process of income reconciliation ensures that all customers receive the amount of family tax benefit (FTB) that they are entitled to. However, if a customer has been overpaid as a result of administrative error and received the payments in good faith and can show that severe financial hardship will result if the debt is recovered, the debt can be waived under existing law.

Senate amendments 2 and 7

These amendments limit the capacity of the Commonwealth to negotiate a rate of repayment to half the rate at which the overpayment was received and over a period of twice as long as the period over which the overpayment was received. The customer can agree to a different repayment rate.

The House of Representatives does not accept these amendments for the following reasons.

The current debt recovery arrangements for FTB reconciliation debts are already flexible and responsive to individual circumstances. Customers with a debt are given the choice of paying the debt off in full, repaying the debt through withholdings from their fortnightly FTB payments or contacting Centrelink to negotiate a different arrangement.

These Senate amendments would simply impose an additional administrative burden for no better outcome for customers.

Senate amendments 3 and 4

These amendments provide the customer with a choice of recovery methods and 10 working days in which to make the choice. They also have the effect of ensuring that tax refunds are only offset against an FTB debt if the customer chooses this recovery option.

The House of Representatives does not accept these amendments for reasons set out in relation to Senate amendments 5 and 6 below and also the following reasons.

These Senate amendments would give customers less time to decide on their repayment method than the current administrative arrangements. Currently, if a reconciliation debt cannot be recovered from a customer's tax refund, a notice is sent to the customer giving the customer 28 days to contact Centrelink about repayment arrangements. The letter advises that the customer can pay the debt off in full, repay the debt through withholdings from their fortnightly FTB payments or contact Centrelink to negotiate a different arrangement.

The current reconciliation debt recovery arrangements for FTB debt are both flexible and fair.

Senate amendments 5 and 6

These amendments would require consent to be obtained before a customer's tax refund could be offset against an FTB reconciliation debt. However, consent would not be required where the debt arose due to deliberate misrepresentation or omission.

The House of Representatives does not accept these amendments for the following reasons.

FTB is part of the tax system. Recovery of FTB debts by tax offsetting was an original feature of the family assistance law.

Tax offsetting is a very efficient method of recovery of FTB overpayments.

Currently, tax refunds are used to offset other Commonwealth debts besides FTB debts without the consent of the taxpayer. Creating concessional treatment for FTB debts raises equity concerns.

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

23 WORKPLACE RELATIONS AMENDMENT (AWARD SIMPLIFICATION) BILL 2002

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.

Question—put.

The House divided (the Deputy Speaker, Mr Price, in the Chair)—

AYES, 78

Mr Abbott	Mr Dutton	Mr P. E. King	Mr Secker
Mr Anderson	Mrs Elson	Mrs Ley	Mr Slipper
Mr K. J. Andrews	Mr Entsch	Mr Lindsay	Mr A. D. H. Smith
Mr Anthony	Mr Farmer	Mr Lloyd	Mr Somlyay
Fran Bailey	Mr Forrest*	Mr McArthur*	Dr Southcott
Mr Baird	Mrs Gallus	Mr I. E. Macfarlane	Dr Stone
Mr Baldwin	Ms Gambaro	Mr McGauran	Mr C. P. Thompson
Mr Barresi	Mrs Gash	Mrs May	Mr Ticehurst
Mr Bartlett	Mr Georgiou	Mrs Moylan	Mr Tollner
Mr Billson	Mr Haase	Mr Nairn	Mr Truss
Mrs B. K. Bishop	Mr Hardgrave	Dr Nelson	Mr Tuckey
Ms J. I. Bishop	Mr Hartsuyker	Mr Neville	Mr M. A. J. Vaile
Mr Brough	Mr Hawker	Ms Panopoulos	Mrs D. S. Vale
Mr Cadman	Mr Hockey	Mr Pearce	Mr Wakelin
Mr Cameron	Mr Hunt	Mr Prosser	Dr Washer
Mr Causley	Mr Johnson	Mr Pyne	Mr Williams
Mr Charles	Mr Jull	Mr Randall	Mr Windsor
Mr Ciobo	Mrs D. M. Kelly	Mr Ruddock	Ms Worth
Mr Cobb	Jackie Kelly	Mr Schultz	
Mr Costello	Dr Kemp	Mr Scott	

NOES, 61

Mr Adams	Mr M. J. Ferguson	Dr Lawrence	Ms Roxon
Mr Albanese	Mr Fitzgibbon	Ms Livermore	Mr Rudd
Mr Andren	Ms George	Mr McClelland	Mr Sawford
Mr Bevis	Mr Gibbons	Ms Macklin	Mr Sciacca
Mr Brereton	Ms Gillard	Mr McLeay	Mr Sercombe
Ms Burke	Ms Grierson	Mr McMullan	Mr Sidebottom
Mr Byrne	Mr Griffin	Mr Melham	Mr S. F. Smith
Ms Corcoran	Ms Hall	Mr Mossfield	Mr Swan
Mr Cox	Mr Hatton	Mr Murphy	Mr Tanner
Mr Crean	Ms Hoare	Ms O'Byrne	Mr K. J. Thomson
Mrs Crosio	Mrs Irwin	Mr B. P. O'Connor	Ms Vamvakinou
Mr Danby*	Ms Jackson	Mr G. M. O'Connor	Mr Wilkie
Mr Edwards	Mr Jenkins	Mr Organ	Mr Zahra
Mr Emerson	Mr Katter	Ms Plibersek	
Mr Evans	Mr Kerr	Mr Quick*	
Mr L. D. T. Ferguson	Ms C. F. King	Mr Ripoll	

* Tellers

And so it was resolved in the affirmative—Bill read a second time.

Consideration in detail

Bill, by leave, taken as a whole, and agreed to, after debate.

Consideration in detail concluded.

On the motion of Mr K. J. Andrews (Minister for Employment and Workplace Relations), by leave, the Bill was read a third time.

24 SURVEILLANCE DEVICES BILL 2004

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.

It being 2 p.m., the debate was interrupted in accordance with standing order 101A, and the resumption of the debate made an order of the day for a later hour this day.

25 QUESTIONS

Questions without notice being asked—

Paper

Mr Costello (Treasurer) presented the following paper:

Forward estimates for the baby bonus—Treasury Executive Minute from Phil Gallagher, SES Manager, Retirement and Income Modelling Unit, to Mr Costello, Treasurer, 31 March 2004.

Questions without notice continued.

26 PAPER

Mr Farmer, by leave, during a personal explanation, presented the following paper:

Eligibility of pension—Copy of letter from Mrs G A Sparks, to Mr Latham, 22 October 2001.

27 PAPER

The Speaker presented the following paper:

Foreign Affairs, Defence and Trade—Senate References Committee—Report—A Pacific engaged: Australia's relations with Papua New Guinea and the island states of the South-west Pacific—Response to the recommendations which relate to the responsibilities of the Presiding Officers.

28 PAPERS

The following papers were presented:

Department of Immigration and Multicultural and Indigenous Affairs—Access and equity report for 2003.

Science and Innovation—House of Representatives Standing Committee—Report—Riding the innovation wave: The case for increasing business investment in R&D—Government response, March 2004.

29 PAPERS

Mr Abbott (Leader of the House) presented the following papers:

Petitions not in accord with standing and sessional orders of the House.

30 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—POLICIES FOR AUSTRALIAN FAMILIES

The House was informed that Mr Swan had proposed that a definite matter of public importance be submitted to the House for discussion, namely, “The Howard Government's failure to propose positive policies for Australian families due to its obsession with the politics of distraction”.

The proposed discussion having received the necessary support—

Mr Swan addressed the House.

Discussion ensued.

Discussion concluded.

31 MESSAGES FROM THE SENATE

Messages from the Senate, 1 April 2004, were reported returning the following Bills without amendment:

No. 459—Customs Tariff Amendment (No. 2) 2003 (*without requests*).

No. 460—Excise Tariff Amendment (No. 1) 2003 (*without requests*).

No. 461—Textile, Clothing and Footwear Strategic Investment Program Amendment 2004.

No. 462—Intelligence Services Amendment 2004.

No. 463—Commonwealth Electoral Amendment (Representation in the House of Representatives) 2004.

No. 464—Taxation Laws (Clearing and Settlement Facility Support) 2003.

No. 465—Dairy Produce Amendment 2003.

32 CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) AMENDMENT BILL 2004—REPORT FROM MAIN COMMITTEE

The Deputy Speaker reported that the Bill had been fully considered by the Main Committee and agreed to without amendment, and presented a certified copy of the Bill.

Bill agreed to.

On the motion of Mrs D. S. Vale (Minister for Veterans' Affairs), by leave, the Bill was read a third time.

33 MEMBERS' INTERESTS COMMITTEE—PAPER

Mr Haase (Chair) presented the following paper:

Committee of Members' Interests—Register of Members' Interests for the 40th Parliament—Notifications of alterations of interests received during the period 3 December 2003 to 31 March 2004.

34 PUBLICATIONS COMMITTEE—REPORT

Mr Randall (Chair) presented the following paper:

PUBLICATIONS COMMITTEE REPORT

The Publications Committee reports that it has met in conference with the Publications Committee of the Senate.

The Committee, having considered documents presented to Parliament since 11 March 2004, recommends that the following be printed:

Human Rights and Equal Opportunity Commission—Reports—

No. 26—Inquiry into a complaint by Mr Kenneth Douglas of age discrimination in the Australian Defence Force.

No. 27—Inquiry into a complaint by Ms KJ concerning events at Woomera Immigration Reception and Processing Centre between 29-30 March 2002.

Productivity Commission—Report for 2002-03.

Wheat Export Authority—Report for 1 October 2002 to 30 September 2003.

DON RANDALL

Chair

1 April 2004

On the motion of Mr Randall, by leave, the report was agreed to.

35 PUBLIC ACCOUNTS AND AUDIT—JOINT COMMITTEE—REPORT—STATEMENTS BY MEMBERS

Mr Charles (Chair) presented the following paper:

Public Accounts and Audit—Joint Committee—Report 399: Inquiry into the management and integrity of electronic information in the Commonwealth, March 2004.

Ordered to be printed.

Mr Charles and Ms Plibersek, by leave, made statements in connection with the report.

36 SURVEILLANCE DEVICES BILL 2004

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.

Question—put and passed—Bill read a second time.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Ruddock (Attorney-General), the Bill was read a third time.

37 HEALTH AND AGEING LEGISLATION AMENDMENT BILL 2003

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—*And on the amendment moved thereto by Ms Gillard, viz.*—That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the Bill a second reading, the House condemns the Government for:

- (1) planning to cover up bulk billing figures by electorate until after the next election;
- (2) causing a bulk billing crisis;
- (3) trying to divert attention from its plans to destroy Medicare by introducing so-called ‘safety net’ arrangements which will make 98% of Australians worse off and which will waste \$72 million of precious health dollars on administration; and
- (4) consistently ignoring the advice of the Pharmaceutical Benefits Advisory Committee thus depriving many sick Australians of affordable access to cost-effective medications while agreeing to a Free Trade Agreement with the USA which:
 - (a) has the potential to undermine the Pharmaceutical Benefits Scheme over time through the establishment of an on going Australia/USA Medicines Working Group;
 - (b) has ensured US Pharmaceutical companies can challenge the decisions of the expert committees that advise government on PBS listing and price;
 - (c) may force changes to the current Australian blood plasma fractionation arrangements with consequences for the safety of blood products; and
 - (d) may result in job losses in Australian firms which manufacture generic medicines as a result of changes to patents and intellectual property protection”—

Debate resumed.

Debate adjourned (Mr Slipper—Parliamentary Secretary to the Minister for Finance and Administration), and the resumption of the debate made an order of the day for a later hour this day.

38 MESSAGE FROM THE SENATE—SUPERANNUATION LEGISLATION AMENDMENT (FAMILY LAW) BILL 2002

Message No. 466, 1 April 2004, from the Senate was reported returning the Superannuation Legislation Amendment (Family Law) Bill 2002 with amendments.

Ordered—That the amendments be considered forthwith.

On the motion of Mr Slipper (Parliamentary Secretary to the Minister for Finance and Administration), the amendments were agreed to.

39 HEALTH AND AGEING LEGISLATION AMENDMENT BILL 2003

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—*And on the amendment moved thereto by Ms Gillard (see item No. 37, page 1579)*—

Debate resumed.

Amendment negatived.

Question—That the Bill be now read a second time—put and passed—Bill read a second time.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Abbott (Minister for Health and Ageing), the Bill was read a third time.

40 ADJOURNMENT NEGATIVED

Mr Abbott (Leader of the House) moved—That the House do now adjourn.

Debate ensued.

Question—put and negatived.

41 MESSAGE FROM THE SENATE—TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL 2004

Message No. 467, 1 April 2004, from the Senate was reported returning the Telecommunications (Interception) Amendment Bill 2004 with amendments.

Ordered—That the amendments be considered forthwith.

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

42 MESSAGE FROM THE SENATE—COMMUNICATIONS LEGISLATION AMENDMENT BILL (NO. 2) 2003

Message No. 469, 1 April 2004, from the Senate was reported returning the Communications Legislation Amendment Bill (No. 2) 2003 with amendments.

Ordered—That the amendments be considered forthwith.

On the motion of Mr Ruddock (Attorney-General), amendments Nos 1 to 3, 5 to 9, 12 and 13 were disagreed to.

Mr Ruddock 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 1

This amendment proposes that within 4 years of the day on which the Bill receives the Royal Assent, the Minister must cause, in consultation with the Attorney-General, a review of the operation, effectiveness and implications of the amendments made by the Bill to be conducted and to prepare a written report of the review. The Minister would be required to cause a copy of the report to be tabled in each House of Parliament within 15 sittings days of each House after the day on which the report is made.

Many amendments contained in the Bill implement the recommendations of the Review of the Longer Term Effectiveness of Telecommunications Interception. That review conducted a thorough analysis of those provisions of the Telecommunications Act that deal with interception issues. To further review these issues, which have already been thoroughly examined, is unnecessary and unwarranted. The additional measures in the Bill to address security issues in the telecommunications industry are practical and realistic measures to address security issues in the long-term. They represent a balanced and appropriate approach and a review is therefore unnecessary.

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

Senate Amendment 2

This amendment proposes that the Act would cease to be in force at the end of 5 years after the Act receives the Royal Assent.

The Bill will enhance the security of Australia's telecommunications services and networks and improve arrangements for the provision of assistance to law-enforcement agencies by telecommunications carriers and carriage service providers. The security of Australia's telecommunications systems is not a short-term issue and requires long-term measures to limit the risk to security within telecommunications networks and to enhance the effective operations of law-enforcement agencies. The amendments contained in the Bill include extensive consultation arrangements to ensure that security issues are appropriately considered in the carrier licensing process. The consultation provisions will assist in ensuring that all relevant considerations are taken into account at an early stage in the carrier licensing process.

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

Senate Amendment 3

This amendment proposes that decisions of the Attorney-General under proposed section 58A and subsection 581(3) be reviewable under the Administrative Decisions (Judicial Review) Act 1977 (the AD(JR) Act).

The proposed exclusion of these decisions from judicial review under the AD(JR) Act is consistent with existing policy that decisions made on grounds of security, or which have security implications, are excluded from judicial review under the AD(JR) Act. For example, decisions under the following Acts are currently exempt from judicial review under the AD(JR) Act:

Australian Security Intelligence Organisation Act 1979 (ASIO Act),

Intelligence Services Act 2001,

Telecommunications (Interception) Act 1979, and

Foreign Acquisitions and Takeovers Act 1975.

The AD(JR) Act provides a streamlined and expedited form of judicial review that is not designed to deal effectively with the review of sensitive material. There are no express statutory mechanisms under the AD(JR) Act to quarantine information. The Security Appeals Divisions of the Administrative Appeals Tribunal (AAT) provides a more appropriate mechanism for review of decisions based on security matters. The amendments contained in the Bill ensure that security assessments forming the basis of a direction by the Attorney-General under proposed section 58A or proposed subsection 581(3) will be reviewable on their merits by the AAT.

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

Senate Amendments 5 and 9

These amendments propose additional thresholds for the exercise of the Attorney-General's power to issue a direction under proposed section 58A or proposed subsection 581(3). The additional thresholds would be that there would need to be demonstrated grounds to show that the direction is necessary to protect national security and the Attorney-General would need to believe on reasonable grounds that the risk to security cannot be managed effectively through other mechanisms.

The additional thresholds for the exercise of the Attorney-General's powers are unnecessary. The Bill, as drafted, would ensure that a direction could only be given where the issue of a carrier licence or the supply of carriage services would be prejudicial to security. The Bill includes a range of measures through which security considerations may be addressed during the carrier licensing process. The issue of a direction to the Australian Communications Authority would only arise in cases where those measures have been unsuccessful in resolving security issues.

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

Senate Amendments 6 and 12

These amendments propose additional provisions to the effect the power of the Attorney-General to issue a direction would be subject to the right of persons to engage in lawful advocacy, protest or dissent and that the exercise of such rights will not, of itself, be regarded as a risk to national security.

The proposed amendments are unnecessary because the Bill, as drafted, makes it clear that a direction may only be given when the issue of a carrier licence or the supply of a carriage service would be prejudicial to security. 'Security' is clearly defined to have the meaning given in the Australian Security Intelligence Organisation Act 1979 (ASIO Act). Section 17A of the ASIO Act specifies that it does not limit the rights of persons to engage in lawful advocacy, protest or dissent and the exercise of that right shall not, by itself, be regarded as prejudicial to security. The functions of ASIO, including the preparation of the security assessments, are construed accordingly.

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

Senate Amendment 7

This amendment proposes to omit item 17 in Schedule 1 to the Bill. Item 17 would amend the definition of 'officer' in subsection 282(10) of the Telecommunications Act to provide that an officer, in relation to a law-enforcement agency, includes a person whose services have been made available to a law-enforcement agency (for example, a person who is on secondment to a law-enforcement agency).

Amendment 7 would frustrate the ability of law-enforcement agencies to perform their functions. The purpose of the amendment in the Bill to the definition of 'officer' is to ensure that a person whose services have been made available to an enforcement agency could be authorised to certify a disclosure of call data, provided that the person is a senior officer who has been authorised to make such certifications. This reflects the changes that have occurred in the management structures of law-enforcement agencies, which have resulted in reduced numbers of officers who can be authorised to certify disclosures of call data. The proposed amendment would not relax the process of authorising persons as senior officers for the purposes of section 282 of the Telecommunications Act, nor expand the situations in which authorised officers could authorise the disclosure of call data under section 282.

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

Senate Amendment 8

The amendment proposes to omit item 18 in Schedule 1 to the Bill. Item 18 in Schedule 1 to the Bill amends the definition of 'senior officer' in subsection 282(10) of the Telecommunications Act to reflect the current management structures in law-enforcement agencies.

The existing definition of ‘senior officer’ presents significant difficulties for some law-enforcement agencies in the efficient processing of certificates made under section 282 due to changes that have occurred to law-enforcement agency structures and officer classifications. Those changes have effectively reduced the number of officers who can certify a call data request under section 282 than was the case when the definition was enacted. The amendment in the Bill makes essential updates to the classifications of officers in the definition of ‘senior officer’ to reflect the changes that have occurred. The Bill also requires most categories of senior officers to be authorised or nominated in writing by the Commissioner of Police, Deputy Commissioner of Police or chief executive officer of the relevant agency. This ensures senior consideration in an agency of whether a particular person is appropriate to undertake the responsibilities involved in being an authorised officer for the purposes of section 282 of the Telecommunications Act.

The proposed amendment would not relax the process of authorising persons as senior officers for the purposes of section 282, nor expand the situations in which authorised officers could make certifications under section 282.

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

Senate Amendment 13

This amendment proposes additional provisions to absolve carriers and carriage service providers from liability for damages in relation to an act or omission done in compliance with a direction given by the Attorney-General under proposed subsection 581(3).

The amendment is unnecessary. In the event that a direction is issued to a carrier or carriage service provider, the carrier or carriage service provider would be compelled to act in accordance with that direction. In doing so, the carrier or carriage service provider would comply with a lawful order and could not be liable to damages for such action. The common law principle of the doctrine of frustration would provide a defence to any action for damages in contract as a result of a failure to provide a carriage service due to compliance with a lawful direction.

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

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

On the motion of Mr Ruddock, amendments Nos 4, 10 and 11 were agreed to.

43 MESSAGE FROM THE SENATE—AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT BILL (NO. 2) 2003

Message No. 468, 1 April 2004, from the Senate was reported returning the Agriculture, Fisheries and Forestry Legislation Amendment Bill (No. 2) 2003 and acquainting the House that the Senate has considered message No. 549 of the House relating to the Bill.

The Senate does not insist on its amendments disagreed by the House, and has agreed to the amendments made by the House in place of those amendments, with amendments to House amendments Nos 6, 7 and 8 and requests the concurrence of the House in the amendments made by the Senate to House amendments Nos 6, 7 and 8.

Ordered—That the amendments be considered forthwith.

On the motion of Mr Truss (Minister for Agriculture, Fisheries and Forestry), the amendments made by the Senate to House amendments Nos 6, 7 and 8 were agreed to.

44 MESSAGE FROM THE SENATE—KYOTO PROTOCOL RATIFICATION BILL 2003 [NO. 2]

Message No. 471, 1 April 2004, from the Senate was reported transmitting for the concurrence of the House a Bill for an Act to ratify the Kyoto Protocol to the United Nations Framework Convention on Climate Change, and for related purposes.

Bill read a first time.

Ordered—That the second reading be made an order of the day for the next sitting.

45 MESSAGE FROM THE SENATE

Message No. 470, 1 April 2004, from the Senate was reported returning the Family Assistance Legislation Amendment (Extension of Time Limits) Bill 2003 and acquainting the House that the Senate does not insist upon its amendments disagreed to by the House of Representatives.

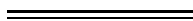
46 ADJOURNMENT

Mr Truss (Minister for Agriculture, Fisheries and Forestry) moved—That the House do now adjourn.

Debate ensued.

Question—put and passed.

And then the House, at 7.12 p.m., adjourned until Tuesday, 11 May 2004, in accordance with the resolution agreed to this sitting.

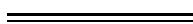


PAPERS

The following papers were deemed to have been presented on 1 April 2004:

Agricultural and Veterinary Chemicals Code Act—Regulations—Statutory Rules 2004 No. 55.

Family Law Act—Rules of Court—Statutory Rules 2004 No. 53.



ATTENDANCE

All Members attended (at some time during the sitting) except Mr Beazley*, Mr Downer, Mrs Draper, Ms Ellis*, Mrs Hull*, Ms J. S. McFarlane* and Mr Snowdon.

* On leave



I. C. HARRIS

Clerk of the House of Representatives

2002-03-04

HOUSE OF REPRESENTATIVES
SUPPLEMENT TO VOTES AND PROCEEDINGS

No. 166

MAIN COMMITTEE

MINUTES OF PROCEEDINGS

THURSDAY, 1 APRIL 2004

1 The Main Committee met at 9.40 a.m.

2 MEMBERS' STATEMENTS

Members' statements were made.

3 CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) AMENDMENT BILL 2004

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.

Question—put and passed—Bill read a second time.

Leave granted for the question on the report to be put forthwith.

Question—That the Bill be reported to the House without amendment—put and passed.

4 IRAQ—AUSTRALIAN DEFENCE FORCE PERSONNEL—MOTION TO TAKE NOTE OF PAPER

The order of the day having been read for the resumption of the debate on the motion of Mr Abbott (Leader of the House)—That the House take note of the paper (*presented on 30 March 2004*), viz.:

Australian Defence Force personnel in and around Iraq—Copy of Prime Minister's motion—*And on the amendment moved thereto by Mr Snowdon, viz.*—That the following words be added at the end of the motion: "and the Prime Minister's and Leader of the Opposition's speeches of 30 March 2004 to the Prime Minister's motion relating to ADF personnel in or around Iraq"—

Debate resumed.

Suspension of sitting

At 11.18 a.m., a division having been called in the House, the proceedings were suspended.

Resumption of sitting

At 11.30 a.m., the proceedings were resumed.

Debate continued.

Debate adjourned (Mrs Gash), and the resumption of the debate made an order of the day for the next sitting.

5 ADJOURNMENT

Mrs Gash moved—That the Main Committee do now adjourn.

Debate ensued.

Question—put and passed.

At 12.56 p.m. the Deputy Speaker adjourned the Main Committee until a date and time to be fixed.



B. C. WRIGHT
Clerk of the Main Committee