

2002-03-04

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**VOTES AND PROCEEDINGS**

No. 182

TUESDAY, 22 JUNE 2004



1 The House met, at 2 p.m., pursuant to adjournment. The Speaker (the Honourable Neil Andrew) took the Chair, and read Prayers.

**2 QUESTIONS**

Questions without notice being asked—

*Member ordered to withdraw*

At 2.59 p.m. the Member for Oxley (Mr Ripoll) was ordered, under standing order 304A, to withdraw from the House for one hour for continuing to interject after a warning had been given from the Chair, and he accordingly withdrew from the Chamber.

Questions without notice continuing—

*Member ordered to withdraw*

At 3.02 p.m. the Member for Port Adelaide (Mr Sawford) was ordered, under standing order 304A, to withdraw from the House for one hour for continuing to interject after a warning had been given from the Chair, and he accordingly withdrew from the Chamber.

Questions without notice continued.

**3 AUDITOR-GENERAL'S REPORT**

The Speaker presented the following paper:

Auditor-General—Audit report No. 54 of 2003–2004—Performance audit—Management of the Detention Centre contracts—Part A: Department of Immigration and Multicultural and Indigenous Affairs.

Ordered to be printed.

**4 PAPERS**

The following papers were presented:

Australian Institute of Health and Welfare—Report—Australia's health 2004.

National Handgun Buyback Act—Inter-governmental agreement concerning the accountability and administrative procedures for the handgun buyback, 2003 (amended).

National Health and Medical Research Council—Report for 2003.

Treaties—

*Bilateral—Text, together with national interest analysis and annexures—*

Agreement between the Government of Australia and the Government of the United Arab Emirates relating to Air Services, done at Dubai on 8 September 2002.

Agreement between Nauru and Australia concerning additional police and other assistance to Nauru, done at Melbourne on 10 May 2004.

*Multilateral—Text, together with national interest analysis and annexures—*

Agreement on Mutual Acceptance of Oenological Practices, done at Toronto, Canada on 18 December 2001.

Amendments to the Constitution of the Asia Pacific Telecommunity (Bangkok 1976) as amended by the Management Meeting (Colombo 1991), made at New Delhi in 2002.

Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict, done at New York on 25 May 2000.

WIPO Copyright Treaty, adopted by the Diplomatic Conference at Geneva on 20 December 1996.

WIPO Performances and Phonograms Treaty adopted by the Diplomatic Conference at Geneva on 20 December 1996.

United Nations—Optional Protocol to the International Covenant on Civil and Political Rights—Communications—

No. 920/2000—Views.

No. 1080/2002—Views.

No. 1239/2004—Decision.

## 5 PAPERS—MOTION TO TAKE NOTE OF PAPERS

Mr Abbott (Leader of the House) moved—That the House take note of the following papers:

United Nations—Optional Protocol to the International Covenant on Civil and Political Rights—Communications—

No. 920/2000—Views.

No. 1080/2002—Views.

No. 1239/2004—Decision.

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

## 6 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—SCHOOLS FUNDING SYSTEM

The House was informed that Ms Macklin (Deputy Leader of the Opposition) had proposed that a definite matter of public importance be submitted to the House for discussion, namely, “The need for a fairer schools funding system that funds all schools on the basis of need”.

The proposed discussion having received the necessary support—

Ms Macklin addressed the House.

Discussion ensued.

*Paper*

Dr Nelson (Minister for Education, Science and Training) presented the following paper:

Government funding for non-government schools—Copy of letter from Glen Seidel, Secretary, Association of Non-Government Education Employees Independent Education Union (South Australia), to Mr Andrew Gohl, President, Australian Education Union, South Australia, 29 March 2004.

Discussion concluded.

## 7 BILLS REFERRED TO MAIN COMMITTEE

Mr Lloyd (Chief Government Whip), by leave, moved—That the following Bills be referred to the Main Committee for further consideration:

Textile, Clothing and Footwear Strategic Investment Program Amendment (Post-2005 scheme) 2004; and

Customs Tariff Amendment (Textile, Clothing and Footwear Post-2005 Arrangements) 2004.

Question—put and passed.

## 8 HIGHER EDUCATION LEGISLATION AMENDMENT BILL (NO. 2) 2004

Dr Nelson (Minister for Education, Science and Training), pursuant to notice, presented a Bill for an Act to amend higher education legislation, and for related purposes.

Bill read a first time.

Dr Nelson moved—That the Bill be now read a second time.

*Paper*

Dr Nelson 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 FAMILY AND COMMUNITY SERVICES AND VETERANS' AFFAIRS LEGISLATION AMENDMENT (SUGAR REFORM) BILL 2004**

Mr Pyne (Parliamentary Secretary to the Minister for Family and Community Services), pursuant to notice, presented a Bill for an Act to amend the law relating to social security and veterans' entitlements, and for related purposes.

Bill read a first time.

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

*Paper*

Mr Pyne 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 MESSAGE FROM THE GOVERNOR-GENERAL—VETERANS' ENTITLEMENTS (CLARKE REVIEW) BILL 2004**

Message No. 272, 21 June 2004, from His Excellency the Governor-General was announced recommending an appropriation for the purpose of amendments of 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.

**11 MESSAGE FROM THE SENATE—VETERANS' ENTITLEMENTS (CLARKE REVIEW) BILL 2004**

Message No. 512, 21 June 2004, from the Senate was reported returning the Veterans' Entitlements (Clarke Review) Bill 2004 and requesting the House to amend the Bill as indicated by schedule A annexed. The Senate informed the House that the amendments indicated by schedule B annexed have been made by the Senate.

Ordered—That the amendments requested by the Senate be considered forthwith.

On the motion of Mrs D. S. Vale (Minister for Veterans' Affairs), the requested amendments were made, after debate.

**12 POSTPONEMENT OF ORDER OF THE DAY**

Ordered—That order of the day No. 1, government business, be postponed until a later hour this day.

**13 AUSTRALIAN ENERGY MARKET 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 by Mr Fitzgibbon who moved, as an amendment—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's:

- (1) failure after eight and a half years, to produce a policy which guarantees reliable, affordable and environmentally sustainable supplies of energy to all Australians; and
- (2) failure to adequately provide for standing in relation to judicial review on these matters”.

Debate continued.

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 I. E. Macfarlane (Minister for Industry, Tourism and Resources), the Bill was read a third time.

**14 TRADE PRACTICES AMENDMENT (AUSTRALIAN ENERGY MARKET) 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 by Mr Fitzgibbon who moved, as an amendment—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 failing to:

- (1) ensure the Australian Competition and Consumer Commission must take public submissions into account;
- (2) honour its commitment to not introduce any new taxes by introducing an industry levy to fund the Australian Energy Regulator;
- (3) ensure the Australian Energy Regulator is properly versed in environmental and greenhouse issues related to the supply and use of electricity; and
- (4) ensure the Australian Energy Regulator is properly versed in low-income consumer and demand side participation issues”.

Debate continued.

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 I. E. Macfarlane (Minister for Industry, Tourism and Resources), the Bill was read a third time.

#### 15 ANTI-TERRORISM BILL 2004—SENATE’S AMENDMENTS

The order of the day having been read for the consideration of the amendments made by the Senate—

On the motion of Mr Ruddock (Attorney-General), amendments 1 to 8 were agreed to, after debate.

On the motion of Mr Ruddock, amendments 9 and 10 were disagreed to, after debate.

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 (9)*

This amendment omits the insertion of the words “directly or indirectly”, after the word “resulting”, in the definition of “literary proceeds” at paragraph 153(1)(a) of the *Proceeds of Crime Act 2002*.

The insertion of the words “directly or indirectly” into the definition of “literary proceeds” clarifies that a person’s notoriety does not need to result directly from their commission of an offence but may relate to matters incidental to their commission of an offence for the definition to be satisfied. Without this clarification, an offender may successfully argue that matters incidental to their commission of an offence, such as their place of incarceration, are the basis of their notoriety and the definition may not be satisfied. Literary proceeds actions could fail on the basis of this narrow reasoning and offenders might retain the benefits of their criminal activities.

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

*Senate Amendment (10)*

This amendment omits proposed subsection 337A(3), which was to be inserted into the *Proceeds of Crime Act 2002*.

Proposed subsection 337A(3) clarifies that the phrase ‘offence against a law of a foreign country’ as found in the *Proceeds of Crime Act 2002* includes an offence triable by a military commission established pursuant to President Bush’s Military Order of 13 November 2001.

Without this clarification there is uncertainty as to whether a literary proceeds order could be sought and granted against a person who has committed a military commission offence, such as terrorism. As a result, terrorists who are dealt with by Australian, or for example French, criminal law can be stopped from benefiting from the literary proceeds they derive in Australia, but those who are dealt with by US military commissions cannot. This results in a gap in the law applying to literary proceeds.

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

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

#### 16 MATTERS REFERRED TO MAIN COMMITTEE

Mr Lloyd (Chief Government Whip), by leave, moved—That the following orders of the day, committee and delegation reports, be referred to the Main Committee for debate:

Science and Innovation—Standing Committee—Report—Science overcoming salinity: Coordinating and extending the science to address the nation’s salinity problem—Motion to take note of paper: Resumption of debate;

Aboriginal and Torres Strait Islander Affairs—Standing Committee—Report—Many ways forward: Report of the inquiry into capacity building and service delivery in indigenous communities—Motion to take note of paper: Resumption of debate; and

Communications, Information Technology and the Arts—Standing Committee—Report—From Reel to Unreal: Future opportunities for Australia’s film animation, special effects and electronic games industries—Motion to take note of paper: Resumption of debate.

Question—put and passed.

**17 MESSAGE FROM THE SENATE—TAXATION LAWS AMENDMENT BILL (NO. 7) 2003**

Message No. 513, 22 June 2004, from the Senate was reported returning the Taxation Laws Amendment Bill (No. 7) 2003 and acquainting the House that the Senate insists upon its amendments disagreed to by the House of Representatives and has made a further amendment to the Bill. The Senate desires the reconsideration of the Bill by the House in respect of the amendments and requests the concurrence of the House in the further amendment made by the Senate.

Ordered—That consideration of the message be made an order of the day for the next sitting.

**18 WORKPLACE RELATIONS AMENDMENT (PROTECTING SMALL BUSINESS EMPLOYMENT) 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 by Mr Emerson who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “the House declines to give the Bill a second reading and:

- (1) condemns the Government for undermining the independence of the industrial relations commission; and
- (2) calls on the Government instead to investigate measures to assist those small businesses that do not have the capacity to pay redundancy payments, to obtain individual exemptions from the AIRC”.

Debate continued.

Mr Baird addressing the House—

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**19 ADJOURNMENT**

It being 9 p.m.—The question was proposed—That the House do now adjourn.

Debate ensued.

Question—put and passed.

And then the House, at 9.29 p.m., adjourned until tomorrow at 9 a.m.

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**PAPERS**

The following papers were deemed to have been presented on 22 June 2004:

Higher Education Funding Act—Determination—2004 No. T14.

Sydney Airport Curfew Act—Dispensation—2004 No. 6.

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**ATTENDANCE**

All Members attended (at some time during the sitting) except Ms Ellis\*, Ms J. S. McFarlane\* and Mr Tanner.

\* On leave

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**I. C. HARRIS**  
Clerk of the House of Representatives

2002-03-04

**HOUSE OF REPRESENTATIVES**  
**SUPPLEMENT TO VOTES AND PROCEEDINGS**

No. 182

**MAIN COMMITTEE**

**MINUTES OF PROCEEDINGS**

TUESDAY, 22 JUNE 2004

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1 The Main Committee met at 4.36 p.m.

**2 TRIBUTE TO JIM BACON—COPY OF MEDIA RELEASE BY THE TASMANIAN GOVERNMENT—  
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 21 June 2004*), viz.:

Tribute to Jim Bacon—Copy of media release by the Tasmanian Government, 20 June 2004—

Debate resumed.

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

Debate adjourned, by leave, and the resumption of the debate made an order of the day for the next sitting.

**3 ADJOURNMENT**

On the motion of Mrs Gash, the Main Committee adjourned at 5.53 p.m.

The Deputy Speaker fixed tomorrow at 9.40 a.m. for the next meeting of the Main Committee.

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**B. C. WRIGHT**  
Clerk of the Main Committee