



SCRUTINY OF BILLS ALERT DIGEST

DEPARTMENT OF THE S	
PAPER No.	326
DATE PRESENTED	- 8 MAR 1984
<i>W. C. ...</i>	
Clerk of the Senate	

No. 1

7 MARCH 1984

ISSN 0729-6851

W.C. ...

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

MEMBERS OF THE COMMITTEE

Senator M C Tate, Chairman
Senator A J Missen, Deputy Chairman
Senator N Bolkus
Senator R A Crowley
Senator the Hon. P D Durack
Senator J Haines

TERMS OF REFERENCE

Extract

- (1) (a) That a Standing Committee of the Senate, to be known as the Standing Committee for the Scrutiny of Bills, be appointed to report, in respect of the clauses of Bills introduced into the Senate, and in respect of Acts of the Parliament, whether such Bills or Acts, by express words or otherwise -
- (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iij) make such rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions;
 - (iv) inappropriately delegate legislative power;
or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

The Committee has considered the following Bills:

Apple and Pear Levy Amendment Bill 1984

Automatic Data Processing Equipment Bounty Amendment
Bill 1984

Canned and Frozen Vegetables (Export Inspection Charge)
Bill 1984

Canned and Frozen Vegetables (Export Inspection Charge)
Collection Bill 1984

Collective Agreements (Corporations) Bill 1983

Customs (Prohibition of Exportation of Nuclear
Materials) Bill 1984

Dried Fruits Levy Amendment Bill 1984

Fresh Vegetables (Export Inspection Charge) Bill 1984

Fresh Vegetables (Export Inspection Charge) Collection
Bill 1984

Honey (Export Inspection Charge) Bill 1984

Honey (Export Inspection Charge) Collection Bill 1984

Protection of the Sea (Shipping Levy) Amendment Bill
1984

Satellite Communications Bill 1984

Satellite Communications (Consequential Amendments) Bill
1984

Shipping Registration Amendment Bill 1984

Trade Practices Amendment Bill 1984

Wool Industry Amendment Bill 1984

NOTE: This Digest is circulated to all Honourable Senators.
Any Senator who wishes to draw matters to the
attention of the Committee under its Terms of
Reference is invited to do so.

D1/84

APPLE AND PEAR LEVY AMENDMENT BILL 1984

Date Introduced: 29 February 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: To correct certain anomalies relating to the
imposition of the Apple and Pear Levy under
the Apple and Pear Levy Act. 1976.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

D1/84

AUTOMATIC DATA PROCESSING EQUIPMENT BOUNTY AMENDMENT
BILL 1984

Date Introduced: 29 February 1984

House: HOUSE OF REPRESENTATIVES
MINISTER ASSISTING THE MINISTER FOR INDUSTRY
AND COMMERCE

Purpose: To extend the period of the Act until the
Government announces its decision on the
Industries Assistance Commission's report
entitled "Computer Hardware and Software,
Typewriters, Calculators and Other Office
Machines, Parts and Accessories, Recording
Media".

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

D1/84

CANNED AND FROZEN VEGETABLES (EXPORT INSPECTION CHARGE)
BILL 1984

Date Introduced: 29 February 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: To impose a charge on canned or frozen fruit or vegetables in respect of which an export permit has been granted under the Export Control (General) Regulations.

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 5 - Inappropriate Delegation

This clause imposes a charge on canned or frozen vegetables which are subject to an export permit. Sub-clause (2) permits exemption to be granted from the charge by regulation.

The Committee adopts the practice of drawing such "Henry VIII" clauses to the attention of Senators in that the power to alter the scope of the Bill by regulation might be considered an inappropriate delegation of legislative power.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D1/84

CANNED AND FROZEN VEGETABLES (EXPORT INSPECTION CHARGE)
COLLECTION BILL 1984

Date Introduced: 29 February 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: To make provision for the collection of the charge to be imposed by the Canned and Frozen Vegetables (Export Inspection Charge) Bill 1984.

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 10 - Inappropriate Delegation

Clause 10 of this Bill permits the making of regulations to establish the collection procedures for the inspection charge.

By paragraph 10(2)(b) provision may be made for the remission or refund of the charge in specified circumstances. The charge may be regarded as a form of taxation. Therefore, it might be considered that the terms and conditions on which any remission or refund are to be granted should be set out in the Bill rather than be left to the Executive to define.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

CANNED AND FROZEN VEGETABLES (EXPORT INSPECTION CHARGE)
COLLECTION BILL 1984 (Cont 2) (Dl/84)

The Committee draws this clause to the attention of Senators in that it may be regarded as a "Henry VIII" clause and as such an inappropriate delegation of legislative power.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D1/84
COLLECTIVE AGREEMENTS (CORPORATIONS) BILL 1983

Date Introduced: 14 December 1983

House: SENATE
SENATOR JACK EVANS

Purpose: To establish a legal framework for voluntary collective bargaining between associations of employees and corporations, to co-exist with Commonwealth and State laws on conciliation and arbitration.

The Committee draws the attention of Senators to the following clauses of this Bill:

Clause 20 - Burden of Proof

Clause 20(1) creates an offence of prejudicing an employee. Clause 20(2) reverses the burden of proof in proceedings arising out of clause 20(1). The Crown is required to prove "all the relevant facts and circumstances, other than the reason alleged in the charge...". The defendant is then required to "prove that the action was not actuated by that reason or taken for that reason".

The Committee draws this clause to the attention of Senators in that it might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

COLLECTIVE AGREEMENTS (CORPORATIONS) BILL 1983 (CONT 2)
(D1/84)

Clause 29

This clause requires the Industrial Registrar to provide an opinion on request to a party to a collective agreement. Sub-clause 29(3) places the obligation on the party seeking the opinion to communicate that opinion to all other parties to the agreement.

The Committee is of the view that such an obligation should rest with the Registrar rather than a private person who may be a party to a dispute.

The Committee therefore draws this clause to the attention of Senators in that failure to communicate the opinion might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D1/84

CUSTOMS (PROHIBITION OF EXPORTATION OF NUCLEAR MATERIALS)
BILL 1984

Date Introduced: 29 February 1984

House: SENATE
SENATOR CHIPP

Purpose: To provide for an absolute prohibition on the
export of uranium from Australia.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

D1/84

DRIED FRUITS LEVY AMENDMENT BILL 1984

Date Introduced: 29 February 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: To correct certain anomalies relating to the imposition of the dried fruit levies imposed by the Dried Fruits Levy Act 1971, to increase the maximum permissible rates and to simplify administration.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

. D1/84

FRESH VEGETABLES (EXPORT INSPECTION CHARGE) BILL 1984

Date Introduced: 29 February 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: To impose a charge on fresh fruit and vegetables in respect of which an export permit has been granted under the Export Control (General) Regulations.

The Committee draws the attention of Senators to the following clauses of this Bill:

Clause 5 - Inappropriate Delegation

Clause 5 of this Bill is in virtually identical form to clause 5 of the Canned and Frozen Vegetables (Export Inspection Charge) Bill 1984. The Committee's comments on that clause also apply to this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D1/84

FRESH VEGETABLES (EXPORT INSPECTION CHARGE) COLLECTION
BILL 1984

Date Introduced: 29 February 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: To make provision for the collection of the charge to be imposed by the Fresh Vegetables (Export Inspection Charge) Bill 1984.

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 10 - Inappropriate Delegation

Clause 10 of this Bill is in virtually identical form to clause 10 of the Canned and Frozen Vegetables (Export Inspection Charge) Collection Bill 1984. The Committee's comments on that Bill also apply to this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D1/84

HONEY (EXPORT INSPECTION CHARGE) BILL 1984

Date Introduced: 29 February 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: To provide for a charge to apply to honey inspected under the provisions of the Export Control Act 1982.

The Committee draws the attention of Senators to the following clauses of this Bill:

Clause 5 - Inappropriate Delegation

Clause 5 of this Bill is in virtually identical form to clause 5 of the Canned and Frozen Vegetables (Export Inspection Charge) Bill 1984. The Committee's comments on that clause also apply to this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D1/84

HONEY (EXPORT INSPECTION CHARGE) COLLECTION BILL 1984

Date Introduced: 29 February 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: To provide for the collection of charges proposed in the Honey (Export Inspection Charge) Bill 1984.

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 10 - Inappropriate Delegation

Clause 10 of this Bill is in virtually identical form to clause 10 of the Canned and Frozen Vegetables (Export and Inspection Charge) Collection Bill 1984. The Committee's comments on that Bill also apply to this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D1/84

PROTECTION OF THE SEA (SHIPPING LEVY) AMENDMENT BILL 1984

Date Introduced: 29 February 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR TRANSPORT

Purpose: To complement the Shipping Registration
Amendment Bill 1984 in consequence of an
alteration to the requirement for tonnage
measurement of ships.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

SATELLITE COMMUNICATIONS BILL 1984

Date Introduced: 29 February 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR COMMUNICATIONS

Purpose: To provide that:

- AUSSAT is to be a wholly owned Commonwealth company which cannot convert to a public company;
- twenty-five per cent of the shareholding in AUSSAT may be sold to the Telecommunications Commission with the approval of the Minister;
- AUSSAT may not be voluntarily wound up or wound up by its shareholders except in accordance with a resolution passed by both Houses of Parliament;
- the directors of AUSSAT in the performance of their duties are to have regard to the intention of Parliament expressed in the Bill, the requirements of international law and ensure as far as practicable that satellite facilities be provided for the maintenance of air navigation, use by the Australian

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

Broadcasting Corporation and by the Commission for remote telephony and emergency services;

- AUSSAT is not to provide public switched telephone services or public switched data services;
- persons using the satellite system may erect their own telecommunications facilities for purposes related to the use of the satellite system;
- the right to use of a satellite facility may not be sold or otherwise disposed of by the approved user to third parties.

The Committee draws the attention of Senators to the following clauses of this Bill:

Clause 15 - Disclosure of Communications

Sub-clause 15(2) of this Bill sets out conditions under which the contents of messages or other communications carried out by AUSSAT may be disclosed.

Paragraph (d) allows disclosure "in other prescribed circumstances in which the doing of the thing was in the public interest". Neither the Bill nor the Explanatory Memorandum offers any guide to the meaning of public interest as used in this legislation or the circumstances in which regulations under paragraph 15(2)(d) might be made. The Committee is of the view that the phrase "in the public

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

interest" is difficult to define and gives a very broad scope to regulations which may be made for the purposes of paragraph 15(2)(d).

The Committee therefore draws this clause to the attention of Senators in that it might be considered both to make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers and to be an inappropriate delegation of legislative power.

Clause 17

This clause limits the class of eligible persons who may use an AUSSAT satellite for the purpose of providing facilities for telecommunications. That class of person is defined "subject to the regulations" [sub-clause 17(1)]. Paragraph 17(3)(d) enables any person to be declared by regulation an eligible person and thus outside the reach of the prohibition contained in clause 17(1).

The Committee draws this clause to the attention of Senators in that it represents a very broad delegation of legislative power which enables the Executive to amend the scope of the Bill. The Committee adopts the practice of drawing all such "Henry VIII" clauses to the attention of Senators.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

SATELLITE COMMUNICATIONS (CONSEQUENTIAL AMENDMENTS) BILL 1984

Date Introduced: 29 February 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR COMMUNICATIONS

Purpose: To provide that:

- the Australian Telecommunications Commission (the Commission) is required to have regard to the intention of Parliament as expressed in section 7 of the Satellite Communications Bill 1984;
- the Commission is given the power to form subsidiary companies that are involved in the business of telecommunications;
- the Postal Services Commission is given power to use services provided by AUSSAT Pty Ltd (AUSSAT) in the carrying out of its functions;
- the Overseas Telecommunications Commission is given the power to use services provided by AUSSAT in the carrying out of its functions;
- the power of the Overseas Telecommunications Commission to form and participate in satellite companies is to be withdrawn.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D1/84

SHIPPING REGISTRATION AMENDMENT BILL 1984

Date Introduced: 29 February 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR TRANSPORT

Purpose: To amend the Shipping Registration Act 1981
to:

- increase the number of Australian ships which are exempt from the requirement to register;
- enable owners of pleasure craft to apply for provisional registration for a ship in Australia;
- introduce a system of caveats;
- enact other changes of a minor nature.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D1/84

TRADE PRACTICES AMENDMENT BILL 1984

Date Introduced: 29 February 1984

House: SENATE
SENATOR HAINES

Purpose: To provide protection to consumers who, having bought a faulty motor vehicle, currently have little redress and are consequently stuck with a "lemon".

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D1/84

WOOL INDUSTRY AMENDMENT BILL 1984

Date Introduced: 29 February 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: To clarify the borrowing powers of the Australian Wool Corporation and to widen the scope of opportunities for investment of Wool Research Trust Fund moneys.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

SCRUTINY OF SIMMS
COMMITTEE.

REPORT & DIGEST.

SCRUTINY OF BILLS COMMITTEE - TABLING OF REPORT

CHAIRMAN:

MR PRESIDENT,

I PRESENT THE FIRST REPORT OF THE STANDING COMMITTEE
FOR THE SCRUTINY OF BILLS CONCERNING:

CUSTOMS TARIFF (ANTI-DUMPING) AMENDMENT BILL (No. 2) 1983

CUSTOMS TARIFF (ANTI-DUMPING) MISCELLANEOUS AMENDMENTS
BILL 1983

INCOME TAX ASSESSMENT AMENDMENT BILL (No. 5) 1983

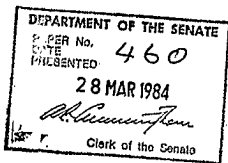
AND MOVE THAT THE REPORT BE PRINTED.

(WHEN MOTION AGREED TO)

CHAIRMAN:

MR PRESIDENT,

ON BEHALF OF THE COMMITTEE, I LAY ON THE TABLE
SCRUTINY OF BILLS ALERT DIGEST No. 1, DATED 7 MARCH 1984,



SCRUTINY OF BILLS ALERT DIGEST

No. 2 of 1984

28 MARCH 1984

ISSN 0729-6851

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

MEMBERS OF THE COMMITTEE

Senator M C Tate, Chairman
Senator A J Missen, Deputy Chairman
Senator N Bolkus
Senator R A Crowley
Senator the Hon. P D Durack
Senator J Haines

TERMS OF REFERENCE

Extract

- (1) (a) That a Standing Committee of the Senate, to be known as the Standing Committee for the Scrutiny of Bills, be appointed to report, in respect of the clauses of Bills introduced into the Senate, and in respect of Acts of the Parliament, whether such Bills or Acts, by express words or otherwise -
- (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make such rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions;
 - (iv) inappropriately delegate legislative power;
or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

The Committee has considered the following Bills:

Acts Interpretation Amendment Bill 1984
Advance Australia Logo Protection Bill 1984
Bass Strait Freight Adjustment Levy Bill 1984
Bass Strait Freight Adjustment Levy Collection Bill 1984
Bass Strait Freight Adjustment Trust Fund Bill 1984
Chicken Meat Research Amendment Bill 1984
Federal Court of Australia Amendment Bill 1984
Judiciary Amendment Bill 1984.
Judiciary Amendment Bill (No. 2) 1984
Quarantine Amendment Bill 1984
Registration of Deaths Abroad Bill 1984

NOTE: This Digest is circulated to all Honourable Senators.
Any Senator who wishes to draw matters to the
attention of the Committee under its Terms of
Reference is invited to do so.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

D2/84

ACTS INTERPRETATION AMENDMENT BILL 1984

Date Introduced: 8 March 1984

House: SENATE
ATTORNEY-GENERAL

Purpose: To facilitate the giving of effect to the intentions of the Parliament when Acts of the Parliament fall to be interpreted, by the use of extrinsic material in the interpretation of an Act.

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 2 - Application

Clause 2 of this Bill provides that the amendments made by it apply to all Acts, whether passed before or after the commencement of this Bill. Although, in relation to many provisions of this Bill, this provision has a beneficial effect, it may cause difficulties when applied to the new s.15AB, inserted by clause 7. For instance, in relation to an Act already passed, the interpretation of a provision may have been regarded as settled, either by the courts or by persons applying those provisions, but such an interpretation might now be challenged, by reliance on any of the extrinsic aids to interpretation permitted to be used by the new s.15AB.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

ACTS INTERPRETATION AMENDMENT BILL 1984
(Cont 2) (D2/84)

The Committee draws this clause to the attention of Senators in that it may be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D2/84

ADVANCE AUSTRALIA LOGO PROTECTION BILL 1984

Date Introduced: 7 March 1984

House: HOUSE OF REPRESENTATIVES
MINISTER ASSISTING THE MINISTER FOR INDUSTRY
AND COMMERCE

Purpose: To regulate the use of the Advance Australia
Logo so as to ensure that the logo is used
only in accordance with the objectives of the
Advance Australia Campaign.

The Committee draws the attention of Senators to the
following clauses of the Bill:

Clause 2 - Retrospectivity

Sub-clause 2(2) of this Bill makes the commencement of the
operative clauses of the Bill retrospective to
13 October 1983, being the date on which the Government
announced its intention to introduce this legislation. This
retrospectivity could affect the interests of a user of the
logo in question . The Committee draws this clause to the
attention of Senators in that it might be considered to
trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

Clause 6 - Retrospectivity

Clause 6 at paragraphs (b) and (c) vests the copyright of the logo in the Commonwealth prior to 28 June 1981 and in Advance Australia since that date.

The Committee draws this clause to the attention of Senators in the such retrospectivity might be considered to trespass unduly on personal rights and liberties.

Clause 10 and Clause 17 - Compensation

These clauses ensure that control of the copyright ultimately rests with the Commonwealth and that any person to whom the copyright is assigned will be subject to Ministerial direction. Sub-clauses 10(4) and 17(4) deny compensation to any person affected by the operation of sub-clauses 10(1) and (3) or 17(1) respectively.

The Committee draws sub-clauses 10(4) and 17(4) to the attention of Senators in that they might be considered to trespass unduly on personal rights and liberties.

Clause 15 - Immunity

This clause provides that both the Commonwealth and the Advance Australia Company have immunity from any civil or criminal action in relation to any "purported licence" to the logo granted prior to 13 October 1983.

The purpose of this Bill is to clarify uncertainty as to Advance Australia's title to the logo and to provide effective copyright protection for the design. In view of

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

ADVANCE AUSTRALIA LOGO PROTECTION BILL 1984
(Cont 3) (D2/84)

the confusion surrounding the title to the logo it is not inconceivable that legal action could arise out of the "purported" granting of a licence.

The Committee draws clause 15 to the attention of Senators in that such retrospectivity might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D2/84

BASS STRAIT FREIGHT ADJUSTMENT LEVY BILL 1984

Date Introduced: 8 March 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING THE MINISTER FOR
RESOURCES AND ENERGY

Purpose: To introduce a levy on crude oil produced from
offshore areas in Bass Strait.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

D2/84

BASS STRAIT FREIGHT ADJUSTMENT LEVY COLLECTION BILL 1984

Date Introduced: 8 March 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING THE MINISTER FOR
RESOURCES AND ENERGY

Purpose: To provide for the collection of the
adjustment levy imposed by the Bass Strait
Freight Adjustment Levy Bill 1984.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

D2/84

BASS STRAIT FREIGHT ADJUSTMENT TRUST FUND BILL 1984

Date Introduced: 8 March 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING THE MINISTER FOR
RESOURCES AND ENERGY

Purpose: To establish a trust fund for the purpose of making payments to refiners of crude oil produced from Bass Strait for certain costs incurred in transporting that oil to refineries.

The Committee draws the attention of Senators to the following clause of the Bill:

Clause 9 - Ministerial Determination

Clause 9(1) of this Bill empowers the Minister to determine the unit freight rate for transporting oil. By paragraphs 10(1)(c) and 10(2)(b), in making the determination the Minister shall "...have regard to such other matters as the Minister thinks appropriate." Where a Minister or official is granted a general discretion to consider any matters which he thinks appropriate without some provision for review it has been the Committee's practice to comment on the provision. In this case, while there may be review of the legality of

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

BASS STRAIT FREIGHT ADJUSTMENT TRUST FUND
BILL 1984 (Cont2) (D2/84)

the exercise of this discretion under the Administrative Decisions (Judicial Review) Act 1977, there is no provision for review of the merits of the decision.

The Committee draws this clause to the attention of Senators in that it may be considered to make rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

CHICKEN MEAT RESEARCH AMENDMENT BILL 1984

Date Introduced: 7 March 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: To provide for moneys collected as penalty for the late payment of levy under the Meat Chicken Levy Collection Act 1969 to be paid into the Research Account.

The Committee draws the attention of Senators to the following clause of the Bill:

Clause 2 - Retrospectivity

Clause 2(2) of this Bill makes the commencement of clause 3(1) retrospective to 1 July 1969. The purpose of the Bill is to make administrative changes to the management of various funds within the Trust Account. It would appear that the retrospectivity is to ensure access to reserve funds which are not matchable by Commonwealth contributions. However no clear explanation is provided with the Bill.

The Committee draws this clause to the attention of Senators in that such retrospectivity may be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D2/84

FEDERAL COURT OF AUSTRALIA AMENDMENT BILL 1984

Date Introduced: 8 March 1984

House: SENATE
ATTORNEY-GENERAL

Purpose: To amend the Federal Court of Australia Act 1976 to remove the right of appeal from the Full Court of that Court in respect of matters where the value of the subject matter involved is \$20,000 or more. The effect will be that appeals will lie from the Federal Court of Australia to the High Court only by special leave of the High Court.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D2/84

JUDICIARY AMENDMENT BILL 1984

Date Introduced: 7 March 1984

House: SENATE
ATTORNEY-GENERAL

Purpose: To provide for the enforcement throughout Australia of orders for confidentiality in relation to certain criminal proceedings made by Victorian Courts on grounds relating to the national or international security of Australia or to the physical safety of persons. The provisions of the Bill are expressed to apply for a period of two years only.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

JUDICIARY AMENDMENT BILL (NO. 2) 1984

Date Introduced: 8 March 1984

House: SENATE
ATTORNEY-GENERAL

- Purpose:
- To relieve the High Court of some of its existing workload by -
 - (i) removing existing provisions for appeal as of right to the High Court from the Federal Court and from State Supreme Courts; and
 - (ii) empowering the Court to remit certain matters now within its exclusive jurisdiction to the Federal Court or to State or Territory courts; and
 - to provide for the establishment of the Australian Government Solicitor in place of the present office of Crown Solicitor.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D2/84

QUARANTINE AMENDMENT BILL 1984

Date Introduced: 7 March 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR HEALTH

Purpose: To increase the penalties that may be imposed upon persons convicted of offences against the quarantine laws of Australia, and to make minor amendments to overcome deficiencies experienced in the administration of the Act and to make it more responsive to modern situations.

The Committee draws the attention of Senators to the following clause of the Bill:

Clause 7 - Review

Clause 7 of this Bill inserts a new sub-section 13(2A) into the principal Act. The new sub-section allows the Director of Quarantine or his delegate to grant a permit overriding a prohibition on the importation of anything. Proposed sub-section (2B) allows a permit granted under (2A) to be subject to conditions set out in the permit by the Director of Quarantine.

The Committee is concerned that there is no provision for review of the exercise of this discretion, particularly in view of the draconian penalties for breach of the conditions

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

QUARANTINE AMENDMENT BILL 1984
(Cont2) (D2/84)

set out in a permit. These penalties, in proposed section 67 inserted by clause 17, included fines of \$50,000 and imprisonment for 10 years for a person or a fine of \$200 for a body corporate.

The Committee draws this clause to the attention of Senators in that it might be considered to make rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D2/84

REGISTRATION OF DEATHS ABROAD BILL 1984

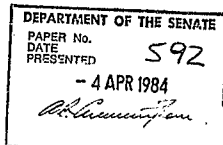
Date Introduced: 8 March 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR FOREIGN AFFAIRS

Purpose: To permit the registration of deaths abroad of Australian citizens, Australian residents, and recipients of Australian pensions, allowances and benefits.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.



SCRUTINY OF BILLS ALERT DIGEST

No. 3 of 1984

4 April 1984

ISSN 0729-6851

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

MEMBERS OF THE COMMITTEE

Senator M C Tate, Chairman
Senator A J Missen, Deputy Chairman
Senator N Bolkus
Senator R A Crowley
Senator the Hon. P D Durack
Senator J Haines

TERMS OF REFERENCE

Extract

- (1) (a) That a Standing Committee of the Senate, to be known as the Standing Committee for the Scrutiny of Bills, be appointed to report, in respect of the clauses of Bills introduced into the Senate, and in respect of Acts of the Parliament, whether such Bills or Acts, by express words or otherwise -
- (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make such rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions;
 - (iv) inappropriately delegate legislative power; or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

The Committee has considered the following Bills:

Appropriation Bill (No.3) 1983-84
Appropriation Bill (No.4) 1983-84
Appropriation (Parliamentary Departments) Bill (No.2)
1983-84
Australian Bicentennial Road Development Trust Fund
Amendment Bill 1984
Australian Government Solicitor (Consequential
Amendments) Bill 1984
Companies and Securities Legislation (Miscellaneous
Amendments) Bill (No.1) 1984
Constitution Alteration (Democratic Elections) 1984
Customs Tariff Amendments Bill 1984
Health Insurance Amendment Bill 1984
(Senator Haines)
Health Insurance Amendment Bill 1984
(Minister for Health)
Health Legislation Amendment Bill 1984
Patents Amendment Bill 1984
Pig Meat Legislation Amendment Bill 1984
Road Grants Amendment Bill 1984
Telecommunications (Interception) Amendment Bill 1984
Weights and Measures (National Standards) Amendment
Bill 1984

NOTE: This Digest is circulated to all Honourable Senators.
Any Senator who wishes to draw matters to the
attention of the Committee under its Terms of
Reference is invited to do so.

D3/84

APPROPRIATION BILL (NO.3) 1983-84

Date Introduced: 30 March 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR FINANCE

Purpose: To appropriate \$508,467,000 out of the Consolidated Revenue Fund, additional to the sum appropriated by the Appropriation Act (No.1) 1983-84, for the service of the year ending 30 June 1984.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D3/84

APPROPRIATION BILL (NO.4) 1983-84

Date Introduced: 30 March 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR FINANCE

Purpose: To appropriate \$121,864,000 out of Consolidated Revenue Fund, additional to the sum appropriated by the Appropriation Act (No.2) 1983-84, for the service of the year ending 30 June 1984.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D3/84

APPROPRIATION (PARLIAMENTARY DEPARTMENTS)
BILL (NO.2) 1983-84

Date Introduced: 30 March 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR FINANCE

Purpose: To appropriate \$1,747,000 out of Consolidated Revenue Fund, additional to the sum appropriated by the Appropriation (Parliamentary Departments) Act 1983-84, for the service, in relation to the Parliamentary Departments, of the year ending 30 June 1984.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D3/84

AUSTRALIAN BICENTENNIAL ROAD DEVELOPMENT
TRUST FUND AMENDMENT BILL 1984

Date Introduced: 28 March 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR TRANSPORT

Purpose: The purpose of the Bill is to amend the Australian Bicentennial Road Development Trust Fund Act 1982.

The Bill provides for changes to three aspects of the arrangements under which financial assistance is made available to the States and Northern Territory under the Australian Bicentennial Road Development Program.

First, the Bill provides that, where a State's expenditure on roads in any year exceeds the amount necessary to meet the requirement under the Act that spending be maintained in real terms, the excess expenditure may be treated as expenditure by the State in a subsequent year.

Secondly, the Bill removes the requirement that, where a State directs assistance received under the Act to an urban public transport project, it must maintain in real terms its own capital expenditure on urban public transport.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

AUSTRALIAN BICENTENNIAL ROAD DEVELOPMENT
TRUST FUND AMENDMENT BILL 1984
(Cont 2) (D3/84)

Thirdly, the Bill introduces some flexibility into the requirement that tenders must be called by the States for all works associated with national and arterial road projects. The Bill allows the Minister to agree, upon request by a State, to an exemption from the requirement to call tenders for particular works where the Minister is satisfied that specific circumstances apply. This particular amendment is to be backdated to 12 February 1984, the date on which the revised arrangements were announced.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D3/84

AUSTRALIAN GOVERNMENT SOLICITOR
(CONSEQUENTIAL AMENDMENTS) BILL 1984

Date Introduced: 29 March 1984

House: SENATE
ATTORNEY-GENERAL

Purpose: The purpose of the Bill is to make amendments consequential upon the provisions of the Judiciary Amendment Bill (No.2) 1984 for the establishment of the Australian Government Solicitor.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D3/84

COMPANIES AND SECURITIES LEGISLATION
(MISCELLANEOUS AMENDMENTS)
BILL (No.1) 1984

Date Introduced: 28 March 1984

House: SENATE
ATTORNEY-GENERAL

Purpose: The primary purpose of this Bill is to make certain amendments to the co-operative companies and securities scheme legislation consequent upon the proposed new articles and business rules of the various stock exchanges permitting corporate membership of the exchanges and the unfixing of certain brokerage rates. The Bill also contains a number of other amendments, of a technical nature, to the co-operative scheme legislation.

Part II of the Bill amends the registration of charges provisions of the Companies Act 1981. Parts III and IV contain amendments to the Companies and Securities (Interpretation and Miscellaneous Provisions) Act 1980 and the Securities Industry Act 1980 consequent on the proposed corporate membership of stock exchanges and on the unfixing of certain stock exchange brokerage rates as from 1 April 1984. Parts II and IV of the Bill also contain

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

COMPANIES AND SECURITIES LEGISLATION
(MISCELLANEOUS AMENDMENTS) BILL (No.1) 1984
(Cont 2) (D3/84)

amendments to the Companies Act 1981 and the
Securities Industry Act 1980 dealing with
time-sharing.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

D3/84

CONSTITUTION ALTERATION (DEMOCRATIC ELECTIONS) 1984

Date Introduced: 2 April 1984

House: SENATE
SENATOR MACKLIN

Purpose: The purpose of this Bill is to:

- 1) repeal section 25 of the Constitution (rates disqualified from voting);
- 2) provide for equality of electoral divisions in State Parliaments (divisions to be the same in respect of the numbers of electors); and
- 3) allow parliament to decide to grant the right to vote to people under the age of 18.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D3/84

CUSTOMS TARIFF AMENDMENT BILL 1984

Date Introduced: 28 March 1984

House: HOUSE OF REPRESENTATIVES
MINISTER ASSISTING THE MINISTER
FOR INDUSTRY AND COMMERCE

Purpose: This Bill proposes to amend the Customs Tariff Act 1982. It contains 9 schedules and is necessary to enact tariff changes which have been introduced into the Parliament in the 1983 Budget sittings and the 1984 Autumn sittings by Customs Tariff proposals Nos.15-19(1983) and Customs Tariff proposals Nos.1-4(1983).

General Comment

Customs tariff changes are not normally made by legislation. They are initiated by customs tariff proposals which are submitted to Parliament and "...treated as a formal procedure for the purpose of initiating the collection of the duty." Legislative validation of the proposals is accomplished by means of occasional Customs Tariff Amendment Bills which consolidate outstanding proposals and are retrospective to the date at which each proposal took effect. Thus although the operation of all the substantive clauses of this Bill are retrospective that retrospectivity is in conformity with established convention.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D3/84

HEALTH INSURANCE AMENDMENT BILL 1984

Date Introduced: 28 March 1984

House: SENATE
SENATOR HAINES

Purpose: The intention of the Bill is to amend section 17 of the Health Insurance Act 1973 to remove from the Minister for Health the sole power to set guidelines relating to agreements between Doctors and public hospitals. The amendment would ensure that any guideline or guidelines gazetted by the Minister under section 17 will be regarded as a regulation or regulations and will therefore be subject to disallowance by either House within 15 sitting days.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

HEALTH INSURANCE AMENDMENT BILL 1984

Date Introduced: 28 March 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR HEALTH

Purpose: The purpose of this Bill is to amend section 17 of the Health Insurance Act 1973. The amendments would:

- enable the Minister for Health to declare that the provisions of section 17 relating to private practice agreements between recognized hospitals and medical practitioners do not apply where arrangements have been made by a State or Territory to regulate private practice arrangements in a manner consistent with guidelines which have been formulated by the Minister under section 17 and with which the private practice agreements would be required to comply, in the absence of such a declaration, in order for Medicare benefits to be payable; and

- provide for the tabling of guidelines under Section 17 and would enable either House of Parliament to disallow them.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D3/84

HEALTH LEGISLATION AMENDMENT BILL 1984

Date Introduced: 28 March 1984

House: SENATE
SENATOR BAUME

Purpose: The purpose of the Bill is to amend section 17 of the Health Insurance Act 1973 by omitting sections 17(1)(aa) and sub-sections (2), (3) and (4).

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

PATENTS AMENDMENT BILL 1984

Date Introduced: 28 March 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR SCIENCE AND TECHNOLOGY

Purpose: The main purpose of this Bill is to amend the Patents Act 1952 to ensure that Australians can take advantage of the procedures made possible by the Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure, done at Budapest on 28 April 1977, to which Australia intends to accede. Patent applicants whose invention involves a micro-organism will be enabled, and required in certain circumstances, to make a deposit of the micro-organism in a prescribed depository institution. All international depository authorities under the Budapest Treaty will be included, so that a single deposit in one authority will, under the Treaty, satisfy deposit requirements of patent laws in all other member countries. This obviates the need for costly and cumbersome multiple deposits, and will also give Australian industry more ready access to deposited strains.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

PATENTS AMENDMENT BILL 1984
(Cont 2) (D3/84)

The Committee draws the attention of Senators to the following clauses of this Bill:

Clause 6 - Proposed sub-section 131(1A)

Proposed sub-section 131(1A) vests in the Commissioner of Patents a discretion to control access to micro-organisms deposited with a prescribed depository. This sub-section refers to prohibition or restriction of access "...in the interests of the defence of the Commonwealth". The Commissioner's exercise of this discretion is not subject to review by the Administrative Appeals Tribunal and breach of a prohibition or restriction imposed by the Commissioner carries significant criminal penalties. Section 151 of the Principal Act provides for review of a number of other decisions by the Commissioner.

The Committee draws this clause to the attention of Senators in that it might be considered to make rights, liberties and/or obligations unduly dependent on non-reviewable administrative decisions.

Clause 7 - Proposed section 154A

Proposed section 154A permits either a court or the Commissioner to declare that a specification does not comply with section 40, thus the requirements for the granting of a patent are not fulfilled. Although in other cases (see, e.g., section 15(2)) there is express provision for an appeal from a decision of the Commissioner in like circumstances, no such provision for appeal is expressly made by proposed new section 154A.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

PATENTS AMENDMENT BILL 1984
(Cont 3) (D3/84)

The Committee draws this clause to the attention of Senators in that it might be considered to make rights, liberties and/or obligations unduly dependent on non-reviewable administrative decisions.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D3/84

PIG MEAT LEGISLATION AMENDMENT BILL 1984

Date Introduced: 28 March 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: The main purpose of this Bill is to give the Promotion Committee control of its own funds. The change of the name of the Pig Meat Promotion Committee to the Pork Promotion Committee is also provided for.

The opportunity is being taken to make a number of lesser changes to the legislation;

- to appoint the second producer member on the Committee as Deputy Chairman (other producer member is Chairman);

- to provide for Ministerial approval of deputies prior to their appointment by a member;

- to provide for a quorum of three (member or deputy) at Committee meetings.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D3/84

ROAD GRANTS AMENDMENT BILL 1984

Date Introduced: 28 March 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR TRANSPORT

Purpose: *The purpose of this Bill is to amend section 24 of the Roads Grants Act 1981, under which provision of financial assistance to a State for a national road construction project is conditional upon the State inviting tenders for all works associated with the project.*

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to

do so.

D3/84

TELECOMMUNICATIONS (INTERCEPTION)
AMENDMENT BILL 1984

Date Introduced: 28 March 1984

House: SENATE
ATTORNEY-GENERAL

Purpose: The Telecommunications (Interception) Amendment Bill 1984 is necessary to permit information, which had been communicated to Mr Justice Cross, to be furnished to Mr Justice Slattery for the purpose of his Special Commission of Inquiry.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D3/84

WEIGHTS AND MEASURES (NATIONAL STANDARDS)
AMENDMENT BILL 1984

Date Introduced: 28 March 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR SCIENCE AND TECHNOLOGY

Purpose: The purpose of the Bill is to create a hierarchy of standards of physical quantities consistent with modern and international practice, and to clarify the functions and powers of the National Standard Commission in the light of modern Technology.

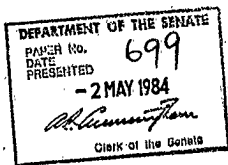
The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

DEPARTMENT OF THE SENATE	
REPORT No.	699
DATE PRESENTED	
- 2 MAY 1984	
<i>William</i>	

SCRUTINY OF BILLS

DIGEST 2 MAY 1984



SCRUTINY OF BILLS ALERT DIGEST

No. 4 of 1984

2 May 1984

ISSN 0729-6851

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

MEMBERS OF THE COMMITTEE

Senator M C Tate, Chairman
Senator A J Missen, Deputy Chairman
Senator N Bolkus
Senator R A Crowley
Senator the Hon. P D Durack
Senator J Haines

TERMS OF REFERENCE

Extract

- (1) (a) That a Standing Committee of the Senate, to be known as the Standing Committee for the Scrutiny of Bills, be appointed to report, in respect of the clauses of Bills introduced into the Senate, and in respect of Acts of the Parliament, whether such Bills or Acts, by express words or otherwise -
- (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make such rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions;
 - (iv) inappropriately delegate legislative power; or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

D4/84

The Committee has considered the following Bills:

Bounty (Two-Stroke Engines) Bill 1984

Customs (Prohibition of Importation of Nuclear Hardware)
Bill 1984

Income Tax Assessment Amendment Bill (No.2) 1984

Marriage Amendment Bill 1984

NOTE: This Digest is circulated to all Honourable Senators.
Any Senator who wishes to draw matters to the
attention of the Committee under its Terms of
Reference is invited to do so.

D4/84

BOUNTY (TWO-STROKE ENGINES) BILL 1984

Date Introduced: 4 April 1984

House: House of Representatives
Minister Assisting the Minister for
Industry and Commerce

Purpose: This Bill proposes temporary bounty assistance on the production in Australia of two-stroke air-cooled spark ignition engines.

The proposed bounty scheme will commence on 12 January 1984 and end on 11 January 1986. Payments under the bounty scheme are to be limited to \$1.2 million per annum.

The Bill forms part of a package of assistance measures to be implemented following the Government's decision on the Industries Assistance Commission report entitled "Lawnmowers, Certain Engines and Parts" No.326 of 6 July 1983.

In addition to the provisions peculiar to the bounty on the engines, the Bill contains provisions standard to other Bounty Acts providing control and inspection powers for the protection of the revenue and a right to apply to the Administrative Appeals Tribunal for review of certain administrative decisions under the Act.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

BOUNTY (TWO-STROKE ENGINES) BILL 1984
(Cont 2) (D4/84)

The Committee draws the attention of Senators to the following clauses of this Bill:

Clause 2 - Retrospectivity

This clause makes the commencement of the Bill retrospective to 12 January 1984. The Explanatory Memorandum accompanying the Bill notes that that is the date on which the Government announced its intention to introduce the bounty. Clause 24 of this Bill prevents retrospective operation of those clauses which create penal offences.

However the Committee adopts the practice of drawing all such clauses giving retrospective effect to legislation to the attention of Senators in that they might be considered to trespass unduly on personal rights and liberties.

Clause 15 - Inspection

This clause empowers authorized officers to enter a number of classes of premises. The only restriction on the power of entry is that it be exercised at "reasonable times". No warrant or specific authorization from a senior officer is required.

The classes of premises to which this power applies are registered premises or premises where bountiable items or paperwork relevant to bountiable items are stored. Paragraphs 15(1)(b) and (c) which refer to entry to non-registered premises, in one case based on the opinion of the authorized officer.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

BOUNTY (TWO-STROKE ENGINES) BILL 1984
(Cont 3) (D4/84)

This Committee has taken the view in the past that where the Government establishes an assistance scheme beneficiaries of that scheme should be subject to appropriate inspection and audit procedures, and has accepted that access to registered premises, paperwork etc, is a necessary part of the inspection process.

Nevertheless the Committee draws this clause to the attention of Senators in that such a right of entry without warrant or other specific authorization might be considered to trespass unduly on personal rights and liberties.

Clause 16 - Powers of Officers

Sub-clause (1) empowers a Collector, or other authorized officer to demand the attendance of "a person" believed "to be capable of giving information relevant to the operation of this Act".

The Committee commented on a similar clause in the Bounty (Room Air Conditioners) Bill 1983 in its Second Report of 1983 suggesting that such an unlimited power embracing as it might even retail purchasers could be considered to trespass unduly on personal rights and liberties.

As a result of the Committee's comments similar clauses in subsequent bounty bills were drafted to exclude purchasers of products for their own use from the effects of these clauses. (See: Hansard, House of Representatives, 5 October 1983, p.1370-2 and for example, s.15(2) of the Bounty (Tractor Cabs) Act 1983).

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

BOUNTY (TWO-STROKE ENGINES) BILL 1984
(Cont 4) (D4/84)

It would appear that the Bill now under consideration has reverted to the earlier, unsatisfactory, practice. The Committee therefore draws this clause to the attention of Senators in that it might be considered to trespass unduly on personal rights and liberties.

Clause 16 - Self-Incrimination

Sub-clause (5) is in a standard form removing protection against self-incrimination in proceedings arising out of clause 16(3) or clause 18(3)(a) of the Bill. While recognizing that such clauses appear in all bounty legislation the Committee nevertheless draws this clause to the attention of Senators in that it might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D4/84

CUSTOMS (PROHIBITION OF IMPORTATION OF
NUCLEAR HARDWARE) BILL 1984

Date Introduced: 4 April 1984

House: Senate
Senator Chipp

Purpose: The purpose of the Bill is to prohibit the importation of nuclear hardware by, or on behalf of, the Crown, unless a permission in writing has been granted by the Minister. A permission may only be granted to the Australian Atomic Energy Agency and only for the purpose of producing medical and industrial isotopes.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D4/84

INCOME TAX ASSESSMENT AMENDMENT BILL (NO.2) 1984

Date Introduced: 4 April 1984

House: House of Representatives
Treasurer

Purpose: The provisions of the Bill would counter some tax avoidance practices associated with contrived employee superannuation funds. The Bill is a result of the rejection by the Senate of similar measures in the Income Tax Assessment Amendment Bill (No.5) 1984. The provisions are retrospective to 1 July 1977.

The Committee draws the attention of Senators to the following clause of the Bill:

Clause 3 - Retrospectivity

Clause 3 inserts a new section 26AFA in the principle Act. The operation of this proposed section is retrospective to 1 July 1977. This retrospectivity reflects the clear policy of the Government.

The Committee adopts the practice of drawing all retrospectivity in legislation to the attention of Senators in that it might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D4/84

MARRIAGE AMENDMENT BILL 1984

Date Introduced: 4 April 1984

House: Senate
Attorney-General

Purpose: The main purpose of the Bill is to amend the Marriage Act 1961 to give legislative effect in Australia to the Convention on Celebration and Recognition of the validity of marriages signed by Australia in July 1980.

Several other amendments are included:

- to provide for the legitimacy of children born as a result of artificial insemination by donor and invitrofertilisation procedures, where State or Territory law provides for their parentage;
- to extend the maximum period within which a notice of intended marriage may be received from 3 to 6 months before the date of the marriage; and
- to extend the operation of the legitimisation provisions of the Act to countries where the status of illegitimacy does not exist.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

SCRUTINY OF BILLS COMMITTEE - TABLING OF REPORT

CHAIRMAN:

MR. PRESIDENT,

ON BEHALF OF THE COMMITTEE, I LAY ON THE TABLE
SCRUTINY OF BILLS ALERT DIGEST NO.4 DATED 2 MAY 1984.

THE SENATE

- ROLL -

2-5-84

SENATORS—

1. WILLIAMS	33. JAMES
2. WILLIAMS	34. WILLIAMS
3. WILLIAMS	35. WILLIAMS
4. WILLIAMS	36. WILLIAMS
5. WILLIAMS	37. WILLIAMS
6. WILLIAMS	38. WILLIAMS
7. WILLIAMS	39. WILLIAMS
8. WILLIAMS	40. WILLIAMS
9. WILLIAMS	41. WILLIAMS
10. WILLIAMS	42. WILLIAMS
11. WILLIAMS	43. WILLIAMS
12. WILLIAMS	44. WILLIAMS
13. WILLIAMS	45. MESSNER
14. WILLIAMS	46. WILLIAMS
15. WILLIAMS	47. WILLIAMS
16. WILLIAMS	48. WILLIAMS
17. WILLIAMS	49. WILLIAMS
18. WILLIAMS	50. WILLIAMS
19. WILLIAMS	51. REYNOLDS
20. WILLIAMS	52. RICHARDSON
21. WILLIAMS	53. WILLIAMS
22. WILLIAMS	54. WILLIAMS
23. GEORGE	55. WILLIAMS
24. CARROLL	56. WILLIAMS
25. WILLIAMS	57. WILLIAMS
26. GRIMES X	58. WILLIAMS
27. WILLIAMS	59. WILLIAMS
28. WILLIAMS	60. WILLIAMS
29. WILLIAMS	61. WILLIAMS
30. WILLIAMS	62. WILLIAMS
31. WILLIAMS	63. WILLIAMS
32. WILLIAMS	64. WILLIAMS

THE SENATE

ROLL

2-5-84

SENATORS—

1. ARCHER	33. JESSOP
2. BAUME	34. JONES
3. BIELKE, PETERSEN	35. KILOARIFF
4. BOKKUS	36. LAJOVIC
5. BOSWELL	37. LEWIS
6. BUTTON	38. MACLELLAND
7. CARRICK, Sir John	39. MCCOYBON
8. CHANEY	40. MINTOSH
9. CHILDS	41. MCKELIN
10. CHIPP	42. MKOUTKE
11. COATES	43. MARTIN
12. COLEMAN	44. MASON
13. COLLARD	45. MESSNER
14. COLSTON	46. MISSIN
15. COOK	47. PRIMMER
16. CRICHTON-BROWNE	48. RAE, Peter
17. CROWLEY	49. RAY, Robert
18. DULACK	50. REID
19. ELSFOS	51. REYNOLDS
20. EVANS, Gareth	52. RICHARDSON
21. EVANS, Jack	53. ROBERTSON
22. FOLEMAN	54. RYAN
23. GEORGES	55. SCOTT
24. GHEZZELT	56. SIBLAA
25. GILES	57. TATE
26. GRIMES	58. TEAGUE
27. GULFOYLE, Dame Margaret	59. TOWNLEY
28. HAINES	60. WALSH
29. HAMER	61. WALTERS
30. HARRADINE	62. WATSON
31. HEARN	63. WITBERG
32. HILL	64. ZAKHAROV

198 4

2 day of May

1

Question,

Insurance
Contracts Bill 1983

2°
motion (Devauch)
debate be adjourned

Senate

Committee

AYES

SENATORS—

- ~~1. ARCHER~~
- ~~2. BROWN~~
- ~~3. BULLOCK-PETERSEN~~
- 4. BOLKUS
- ~~5. BOSWELL~~
- 6. BUTTON
- ~~7. GARRICK, Sir John~~
- 8. CHANEY
- 9. CHILDS
- ~~10. CHIFF~~
- 11. COATES
- 12. COLEMAN
- ~~13. COLLARD~~
- 14. COLSTON
- 15. COOK
- ~~16. CRICHTON-BROWNE~~
- 17. CROWLEY
- ~~18. DUBACK~~
- 19. ELSTOB
- 20. EVANS, Gareth
- ~~21. EVANS, Jack~~
- 22. FOREMAN
- 23. GEORGES
- 24. GIETZELT
- 25. GILES
- 26. GRIMES
- ~~27. GUILFOYLE, Dame Margaret~~
- ~~28. HAINES~~
- ~~29. HAMER~~
- 30. HARRADINE
- 31. HEARN
- ~~32. HOLT~~

- ~~33. JESSOP~~
- 34. JONES
- ~~35. KILGARTY (Federal)~~
- ~~36. LAJOVIC~~
- ~~37. LEWIS~~
- 38. MCCLELLAND
- ~~39. MCCLELLAND~~
- 40. MCINTOSH
- ~~41. MACKLEY~~
- 42. MAGUIRE
- 43. MARTIN
- ~~44. MASON~~
- 45. MESSNER
- ~~46. MESSNER~~
- 47. PRIMMER
- ~~48. RAE, Peter~~
- 49. RAY, Robert
- 50. REID
- 51. REYNOLDS
- 52. RICHARDSON
- 53. ROBERTSON
- 54. RYAN
- 55. SCOTT
- 56. SIBRAA
- 57. TATE
- ~~58. TEGG~~
- ~~59. TOWNLEY~~
- 60. WALSH
- ~~61. WALTERS~~
- ~~62. WATSON~~
- ~~63. WITHERS~~
- 64. ZAKHAROV

Ayes 28
Nos 26

TELLER FOR THE AYES—SENATOR

M. J. J. J.

1984

2 day of May

①

Insurance Contracts
Bill 1983 - Second Reading

Question, Question - That the
debate be now
adjourned

Senate
Committee

NOES
SENATORS--

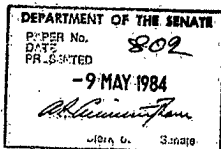
1. ARCHER
2. BAUME
3. BJELKE-PETERSEN
4. BOLKUS
5. BOSWELL
6. BUTTON
7. CARRICK, Sir John
8. CHANEY
9. CHILDS
10. CHIPP
11. COATES
12. COLMAN
13. COLLARD
14. GOLDFON
15. COOK
16. CRICHTON-BROWNE
17. CROWLEY
18. DURACK
19. EUSTON
20. EVANS, Gareth
21. EVANS, Jack
22. FOREMAN
23. GEORGE
24. GIBBERT
25. GILES
26. GRIMES
27. GUILFOYLE, Dame Margaret
28. HAINES
29. HAMER
30. HARRADINE
31. HEARN
32. HILL

33. JESSOP
34. JONES
35. KILGARIFF
36. LAJOVIC
37. LEWIS
38. McCLELLAND
39. MACGIBBON
40. MCINTOSH
41. MACKLIN
42. MACQUEEN
43. MARTIN
44. MASON
45. MESSNER
46. MISSEN
47. PRINMER
48. RAE, Peter
49. RAY, Robert
50. REID
51. REYNOLDS
52. RICHARDSON
53. ROBERTSON
54. SMYTH
55. SCOTT
56. SIBBIA
57. TITE
58. TEAGUE
59. TOWNLEY
60. WALSH
61. WALTERS
62. WATSON
63. WITHERS
64. ZAKHAROV

Zeller

Ayes 28
Noes 26

TELLER FOR THE NOES - *Robert*



SCRUTINY OF BILLS ALERT DIGEST

No. 5 of 1984

9 May 1984

ISSN 0729-6851

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

MEMBERS OF THE COMMITTEE

Senator M C Tate, Chairman
Senator A J Missen, Deputy Chairman
Senator N Bolkus
Senator R A Crowley
Senator the Hon. P D Durack
Senator J Haines

TERMS OF REFERENCE

Extract

- (1) (a) That a Standing Committee of the Senate, to be known as the Standing Committee for the Scrutiny of Bills, be appointed to report, in respect of the clauses of Bills introduced into the Senate, and in respect of Acts of the Parliament, whether such Bills or Acts, by express words or otherwise -
- (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make such rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions;
 - (iv) inappropriately delegate legislative power;
or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

The Committee has considered the following Bills:

Audit Amendment Bill 1984

Commonwealth Banks Amendment Bill 1984

Commonwealth Schools Commission Amendment Bill 1984

Customs Tariff (Stand-by Duties) Bill 1984

Defence Legislation Amendment Bill 1984

Dividend Recoupment Tax Bill 1983 (No.2)
(Acting Treasurer)

Income Tax Assessment Amendment Bill 1984 (No.2)
(Senator J.Evans)

Income Tax Assessment Amendment (Income Equalization
Deposits) Bill 1984

Liquefied Petroleum Gas (Grants) Amendment Bill 1984

Loan (Income Equalization Deposits) Amendment Bill 1984

Local Government (Personal Income Tax Sharing) Amendment
Bill 1984

States (Tax Sharing and Health Grants) Amendment Bill
1984

Supply Bill (No.1) 1984-85

Supply Bill (No.2) 1984-85

Supply (Parliamentary Departments) Bill 1984-85

Taxation (Unpaid Company Tax) Assessment Amendment Bill
1983 (No.4) (Acting Treasurer)

NOTE: This Digest is circulated to all Honourable Senators.
Any Senator who wishes to draw matters to the
attention of the Committee under its Terms of
Reference is invited to do so.

D5/84

AUDIT AMENDMENT BILL 1984

Date Introduced: 2 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR FINANCE

Purpose: The Audit Amendment Bill 1984 proposes amendments to the Audit Act 1901 which makes provision for the collection and payment of public moneys and the audit of the public accounts. The last major amendments to that Act were made in 1979.

The principal amendment in the Bill is ancillary to the proposal to consolidate, in the Appropriation Bills, the appropriations for "Salaries and Payments in the nature of Salary" and "Administrative Expenses". In future these appropriations will be shown in the appropriating Bills at sub-division level only. The amendments proposed in clause 8 of this Bill are necessary to ensure that during the early stages of the new arrangements, expenditure against those sub-divisions may be controlled at the equivalent of item level, as directed by the Minister for Finance.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D5/84

COMMONWEALTH BANKS AMENDMENT BILL 1984

Date Introduced: 2 May 1984

House: HOUSE OF REPRESENTATIVES
ACTING TREASURER

Purpose: The main provisions of the Bill will:

- change the name of the Commonwealth Trading Bank of Australia to Commonwealth Bank of Australia (Commonwealth Bank);
- establish the Commonwealth Savings Bank (Savings Bank) as a subsidiary of the Commonwealth Bank;
- provide for the reserves of the Savings Bank as at 30 June, less \$20 million, to become the share capital of the Savings Bank, and for that share capital to be vested in the Commonwealth Bank;
- provide for the injection of \$15 million by the Commonwealth Government to the capital of the Commonwealth Bank;
- provide for the transfer of \$75 million from the reserves of the Commonwealth Development Bank (Development Bank) to the capital of the Commonwealth Bank;

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

COMMONWEALTH BANKS AMENDMENT BILL 1984

(Cont 2) (D5/84)

- provide for the proportion of net profits to be paid to the Commonwealth by the Commonwealth Bank to be determined by the Treasurer, with a maximum payment of 45% of the net profits of the Commonwealth Bank and its savings bank subsidiary, the Savings Bank;
- remove the present exemption from company income tax of the Savings Bank, the Development Bank and the Corporation; and
- allow for a more flexible management and Board structure, by removing the statutory general manager positions for the Trading Bank, the Savings Bank and the Development Bank and also the statutory executive committees of those Banks.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D5/84

COMMONWEALTH SCHOOLS COMMISSION
AMENDMENT BILL 1984

Date Introduced: 2 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING MINISTER FOR
EDUCATION AND YOUTH AFFAIRS

Purpose: The primary purpose of this Bill is to put into operation the Government's commitment to re-activate the Curriculum Development Centre within the administrative structure of the Commonwealth Schools Commission.

To achieve its primary purpose the Bill repeals the Curriculum Development Centre Act 1975 and in doing so abolishes the existing Curriculum Development Centre as a statutory authority. The assets and liabilities of the existing Centre are to be vested in the Commonwealth and will be administered by the Commonwealth Schools Commission.

The legislation will establish a new Curriculum Development Council, reporting to the Minister, which will work in close consultation with the Commonwealth Schools Commission. The Chairman of the Commission will have Permanent Head powers in relation to staff appointed under the Public Service Act 1922 to assist both the Commission and the new Curriculum Development Centre Council.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

COMMONWEALTH SCHOOLS COMMISSION
AMENDMENT BILL 1984 (Cont 2) (D5/84)

In addition to the primary purpose of the Bill, the legislation also updates general provisions in the Commonwealth Schools Commission Act 1973 to take account of current legislative practices. The legislation also provides authority for the Commission to inquire into, and to furnish information and advice to the Minister, with respect to matters affecting the education of handicapped children who have not attained school age.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D5/84

CUSTOMS TARIFF (STAND-BY DUTIES) BILL 1984

Date Introduced: 2 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING MINISTER FOR
INDUSTRY AND COMMERCE

Purpose: The purpose of this Bill is to enable the imposition of a duty on the importation of certain petroleum oils, should the imposition of that duty prove to be necessary to prevent the underlifting of Australian crude oils by Australian refineries.

The Committee draws the attention of Senators to the following clauses of this Bill:

Clause 4 - Henry VIII

Clause 4(1)(b) vests in the Minister for Resources and Energy a discretion to determine whether "Australian relevant oils" are being absorbed by local refineries at a rate previously established by a notice published in the Gazette. The tariff payable on those oils is determined by reference to the rate at which they are being absorbed by local refineries.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

CUSTOMS TARIFF (STAND-BY DUTIES) BILL 1984

(Cont 2) (D5/84)

Sub-clause (1) enables the Minister for Industry and Commerce to vary the tariff classification applying to Australian relevant oils if their rate of usage falls below that previously established by the Minister for Resources and Energy. The Minister may, by notice, set out a classification different from the classification set out in the Customs Tariff Act 1982, thus in effect amending that Act by regulation.

The Committee adopts the practice of drawing all clauses which enable legislation to be amended by regulation, "Henry VIII" clauses, to the attention of Senators in that such clauses may be considered to be an inappropriate delegation of legislative power.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

DEFENCE LEGISLATION AMENDMENT BILL 1984

Date Introduced: 4 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR DEFENCE

Purpose: This Bill deals with the following matters:

- it establishes an independent Defence Force Remuneration Tribunal, with power to determine financial conditions of service for members of the Defence Force and the establishment of a Defence Force Advocate;
- it makes a minor expansion of the power of the Minister for Defence to determine financial conditions of service for members of the Defence Force;
- it increases the proportion of his retirement pay that a member of the Defence Force may commute on retirement (in order to moderate the effect of recent changes in the rules for the taxation of lump sum payments);
- it abolishes the annual training obligation of members of the Emergency Force components of the Defence Force;
- it changes the title of Chief of Defence Force Staff to Chief of the Defence Force;

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

DEFENCE LEGISLATION AMENDMENT BILL 1984

(Cont 2) (D5/84)

- it enacts into the Defence Force Discipline Act 1982 provisions of the Criminal Investigation Bill 1981 (which would have applied to the investigation of offences under that Act if that Bill had not lapsed when Parliament was dissolved in 1983);
- it enacts into the Defence Force Discipline Act 1982 certain matters that had originally been intended to be provided for by subordinate legislation;
- it amends the Defence Force Discipline Act 1982 to clarify the operation of certain provisions of the Act;
- it amends the Defence Force Discipline Act 1982 to correct certain omissions or to include certain new matters;
- it amends the Defence Force Discipline Act 1982 to require the operation of the Act to be reviewed after it has been in force for 3 years;
- it abolishes the requirement for collectors of military uniforms, badges, etc, to have an official permit issued under the Defence Act 1903;
- it abolishes the obsolescent Defence Force Retirement Benefits Board;

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

DEFENCE LEGISLATION AMENDMENT BILL 1984

(Cont 2) (D5/84)

- it enacts into the Defence Force Discipline Act 1982 provisions of the Criminal Investigation Bill 1981 (which would have applied to the investigation of offences under that Act if that Bill had not lapsed when Parliament was dissolved in 1983);
- it enacts into the Defence Force Discipline Act 1982 certain matters that had originally been intended to be provided for by subordinate legislation;
- it amends the Defence Force Discipline Act 1982 to clarify the operation of certain provisions of the Act;
- it amends the Defence Force Discipline Act 1982 to correct certain omissions or to include certain new matters;
- it amends the Defence Force Discipline Act 1982 to require the operation of the Act to be reviewed after it has been in force for 3 years;
- it abolishes the requirement for collectors of military uniforms, badges, etc, to have an official permit issued under the Defence Act 1903;
- it abolishes the obsolescent Defence Force Retirement Benefits Board;

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

DEFENCE LEGISLATION AMENDMENT BILL 1984

(Cont 3) (D5/84)

- it applies certain provisions of the Audit Act 1901 to accounting and financial reporting requirements for the Services' Trust Funds and the RAAF Veterans' Residences Trust;
- it validates certain matters relating to the transfer of certain Instructor Officers of the Navy;
- it makes consequential amendments and drafting changes to defence legislation and related Acts.

The Committee draws the attention of Senators to the following clauses of this Bill:

Clauses 35 and 36 - Rules

These clauses amend section 68(2) of the Defence Force Discipline Act 1982. At present that section requires that the specific effects of certain general punishments, for example reduction in rank or restriction of privileges, are to be set out in regulations. They are therefore disallowable by the Parliament.

The result of the amendment will be that the regulations will now set out general guidelines within which the chief of staff may determine the particular effects of certain punishments. While the guidelines embodied in the regulations will be disallowable the rules themselves will not be.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

DEFENCE LEGISLATION AMENDMENT BILL 1984

(Cont 4) (D5/84)

Proposed section 68A(2) to be inserted by clause 36 establishes a similar process of making rules subject to regulations relating to the conditions which may apply to custodial punishments.

The Committee draws these clauses to the attention of Senators in that they might be considered to be an inappropriate delegation of legislative power.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D5/84

DIVIDEND RECOUPMENT TAX BILL 1983 (NO.2)

Date Introduced: 2 May 1984.

House: HOUSE OF REPRESENTATIVES
ACTING TREASURER

Purpose: The Dividend Recoupment Tax Bill 1983 (No.2)
is identical to the Bill by the same title
that was introduced on Budget night 1983

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

D5/84

INCOME TAX ASSESSMENT AMENDMENT BILL 1984 (NO.2)

Date Introduced: 2 May 1984

House: SENATE
SENATOR JACK EVANS

Purpose: This Bill is the same as the Income Tax Assessment Amendment Bill (No.2) 1984, with the exception that it is retrospective only to 7 December 1983, not to 1 July 1977 as is the Government Bill.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D5/84

INCOME TAX ASSESSMENT AMENDMENT
(INCOME EQUALIZATION DEPOSITS) BILL 1984

Date Introduced: 2 May 1984

House: HOUSE OF REPRESENTATIVES
ACTING TREASURER

Purpose: This Bill, which is complementary to the Loan (Income Equalization Deposits) Bill 1984, will amend the income tax law to:

- terminate, with effect from 1 September 1983, the income tax deduction allowed for deposits made under the Income Equalization Deposits Scheme;
- require that holdings of drought bonds and amounts lodged as income equalization deposits before 1 September 1983 for which tax deductions have been allowed and which are transferred to the new Income Equalization Deposits Scheme be included as assessable income of the primary producer in the year in which they are transferred;
- permit the Commissioner of Taxation to communicate relevant information in relation to depositors to the Reserve Bank and the Department of Primary Industry for purposes of the administration of the new Income Equalization Deposits Scheme.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

DS/84

LIQUEFIED PETROLEUM GAS (GRANTS)
AMENDMENT BILL 1984

Date Introduced: 2 May 1984

House: HOUSE OF REPRESENTATIVES
ACTING TREASURER

Purpose: The purpose of this Bill is to amend the Liquefied Petroleum Gas (Grants) Act 1980 to extend the operation of the Liquefied Petroleum Gas (LPG) subsidy scheme to 31 March 1987 in a modified form.

The subsidy was introduced for three years in 1980 to alleviate sharp price increases in LPG and to encourage conversion to more readily available alternative fuels such as natural gas and electricity. In 1982 a revised version of the scheme was extended for 12 months until 28 March 1984.

This Bill proposes to extend the scheme for a further 3 years to counteract possible future sharp increases in the price of LPG which would be faced by consumers if the subsidy were withdrawn.

Eligibility for the subsidy will remain unaltered. However, the rate of subsidy will in future be calculated in accordance with a

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

LIQUEFIED PETROLEUM GAS (GRANTS)
AMENDMENT BILL 1984 (Cont 2) (D5/84)

formula based upon a wholesale price for LPG
as determined by the Minister for Resources
and Energy.

The Committee draws the attention of Senators to the
following clause of this Bill:

Clause 7 - Retrospectivity

Sub-clause 7(3) of this Bill makes the amendments introduced
by sub-clause 7(1) retrospective to 22 October 1982 - the
commencement date of a previous amending Act. The changes
proposed by sub-clause 7(1) are "to correct a number of
errors in that section [7A]".

While the retrospectivity does not appear to impose any
obligations, the Committee draws this clause to the attention
of Senators in that such retrospectivity might be considered
to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

D5/84

LOAN (INCOME EQUALIZATION DEPOSITS)
AMENDMENT BILL, 1984

Date Introduced: 2 May 1984

House: HOUSE OF REPRESENTATIVES
ACTING TREASURER

Purpose: The broad purpose of the Bill is the same as that of the Principle Act; that is, to provide primary producers with an incentive to set aside income in high income years for use in lower income years. The particular purpose of the Bill is to change the basis of that incentive from an income tax deferral (with interest paid on the tax deferral as well as the investment component) to a concessionary interest rate applying to eligible deposits.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D5/84

LOCAL GOVERNMENT (PERSONAL INCOME TAX SHARING)
AMENDMENT BILL, 1984

Date Introduced: 2 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR TERRITORIES AND
LOCAL GOVERNMENT

Purpose: The purpose of this Bill is to make amendments consequential upon the introduction of the prescribed payments system to allow payments made under that system to be taken into account in the amount of personal income tax which forms the basis of local government tax sharing.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D5/84

STATES (TAX SHARING AND HEALTH GRANTS)
AMENDMENT BILL 1984

Date Introduced: 2 May 1984

House: HOUSE OF REPRESENTATIVES
ACTING TREASURER

Purpose: The purpose of this Bill is to make two separate amendments to the States (Tax Sharing and Health Grants) Act 1981. The Act determines the amount of general purpose payments to the states in the forms of tax sharing grants and identified health grants until 30 June, 1985 and provides for the distribution of the total amount of those grants among the states.

The two amendments proposed in this Bill are designed:

- first, to give effect to an agreement with the states, made in the context of the negotiation of the medicare agreements, that general purpose payments to the states after 30 June, 1984 would be reduced by amounts in respect of the operation of Commonwealth Pathology Laboratories not taken over by the states; and

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

STATES (TAX SHARING AND HEALTH GRANTS)
AMENDMENT BILL 1984 (Cont 2) (D5/84)

- second, to make provision for continuing the payment of general purpose assistance to the states after 30 June, 1985 pending the enactment of new legislation to replace the existing Act.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D5/84

SUPPLY BILL (NO.1) 1984-85

Date Introduced: 1 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR FINANCE

Purpose: Supply Bill (No.1) seeks appropriations totalling some \$6,609.3 million for the ordinary annual services of the government. This is \$868.0 million, or about 15.1 per cent, greater than the equivalent amounts provided in the Supply Act (No.1) 1983-84.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D5/84

SUPPLY BILL (NO.2) 1984-85

Date Introduced: 1 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR FINANCE

Purpose: Supply Bill (No.2) 1984-85 seeks interim appropriations, totalling \$1,711.8 million, for expenditure on capital works and services, payments to or for the states and the Northern Territory and certain other services for the period 1 July 1984 to 30 November 1984. The amount sought is \$713 million, or about 71.4 per cent, greater than provided in the Supply Act (No.2) 1983-84.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D5/84

SUPPLY (PARLIAMENTARY DEPARTMENTS)
BILL 1984-85

Date Introduced: 1 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR FINANCE

Purpose: This Bill seeks interim appropriations to meet expenditure by the Parliamentary Departments during the period 1 July 1984 to 30 November 1984. The appropriations sought total some \$17.2 million which is \$3.2 million or about 22.9 per cent greater than the amount provided for the same functions in the supply period 1983-84. This reflects, in large part, increased staffing approvals and salary and other cost increases.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D5/84

TAXATION (UNPAID COMPANY TAX) ASSESSMENT
AMENDMENT BILL 1983 (NO.4)

Date Introduced: 2 May 1984

House: HOUSE OF REPRESENTATIVES
ACTING TREASURER

Purpose: The Taxation (Unpaid Company Tax) Assessment Amendment Bill 1983 is identical to the Bill by the same title that was introduced on Budget night 1983.

This Bill will amend the unpaid company tax recoupment law to:

- extend the scope of the legislation so that personal income tax avoided by former owners of companies stripped of pre-tax profits will be subject to recoupment, but only in relation to revenue profits of years in respect of which company tax was evaded;
- ensure that liability for recoupment tax will not be escaped by reason of an ultimately unsuccessful post-sale or pre-sale tax avoidance scheme;
- authorise the Commissioner of Taxation to name in his annual report persons who fail to pay an assessed recoupment tax liability in respect of unpaid company tax;

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

TAXATION (UNPAID COMPANY TAX) ASSESSMENT
AMENDMENT BILL 1983 (NO.4) (Cont 2) (D5/84)

- remove the test which requires that an arrangement which rendered a company unable to pay its tax must be identified before a recoupment tax liability can be established;
- vary the evidentiary provision so as to make it constitutionally valid; and
- correct minor technical defects.

General Comment

This Bill is in exactly the same form as the Bill of the same title introduced into the House of Representatives by the Treasurer on 23 August 1983. The Committee's comments on that Bill in its Sixth Report of 14 September 1983 are therefore relevant to this Bill.

The Committee draws the attention of Senators to the following clause of the Bill:

Clause 22 - Evidence

Clause 21 of the Bill, which will come into force when the Bill receives the Royal Assent, substitutes a new section 23 in the Principal Act. This substitution, in the words of the Explanatory Memorandum, is necessary "... in the light of some doubt of a constitutional kind that has arisen about the legislation, and of technical deficiencies in the existing section 23 ... A feature of the new section will be that the certificate for which it provides will in all circumstances be prima facie, rather than conclusive, evidence."

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

TAXATION (UNPAID COMPANY TAX) ASSESSMENT
AMENDMENT BILL 1983 (NO.4) (Cont 3) (D5/84)

Clause 22 provides for the Principal Act to be amended to revert to the original position where a certificate is conclusive evidence in section 23, presumably when the doubts about the legislation have been resolved. Clause 22 is to come into force on a date to be fixed by Proclamation. Thus Clause 22 in effect provides a means for amending an Act by Proclamation. The Committee draws this clause to the attention of Senators in that it may be considered an inappropriate delegation of legislative power.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

DEPARTMENT OF THE SENATE
PAPER No. 934
DATE PRESENTED 30 MAY 1984
W. L. ...
Clerk of the Senate



SCRUTINY OF BILLS ALERT DIGEST

No. 6 of 1984

30 May 1984

ISSN 0729-6851

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

MEMBERS OF THE COMMITTEE

Senator M C Tate, Chairman
Senator A J Missen, Deputy Chairman
Senator N Bolkus
Senator R A Crowley
Senator the Hon. P D Durack
Senator J Haines

TERMS OF REFERENCE

Extract

- (1) (a) That a Standing Committee of the Senate, to be known as the Standing Committee for the Scrutiny of Bills, be appointed to report, in respect of the clauses of Bills introduced into the Senate, and in respect of Acts of the Parliament, whether such Bills or Acts, by express words or otherwise -
- (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make such rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions;
 - (iv) inappropriately delegate legislative power;
or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

D6/84

The Committee has considered the following Bills:

Aboriginal and Torres Strait Islander Heritage (Interim Protection) Bill 1984

Air Navigation Amendment Bill 1984

Aliens Act Repeal Bill 1984

Australian Meat and Live-stock Corporation Amendment Bill 1984

Australian Meat and Live-stock Industry Policy Council Bill 1984

Australian Meat and Live-stock Industry Selection Committee Bill 1984

Australian National Airlines Amendment Bill 1984

Australian National Airlines Commission Retention Bill 1984

Australian National University Amendment Bill 1984

Canberra College of Advanced Education Amendment Bill 1984

Cocos (Keeling) Islands Self-Determination (Consequential Amendments) Bill 1984

Commonwealth Electoral Legislation Amendment Bill 1984

Conciliation and Arbitration Amendment Bill 1984

Excise Tariff Amendment Bill 1984

Insurance (Agents and Brokers) Bill 1984

Life Insurance Amendment Bill 1984

Live-stock Export Charge Amendment Bill 1984

Live-stock Slaughter Levy Amendment Bill 1984

Live-stock Slaughter Levy Collection Amendment Bill 1984
Members of Parliament (Staff) Bill 1984
Merit Protection (Australian Government Employees) Bill
1984
Property Rights Protection Bill 1984
Public Service Reform Bill 1984
Referendum (Machinery Provisions) Bill 1984
Remuneration and Allowances Amendment Bill 1984
Social Security and Repatriation Legislation Amendment
Bill 1984
States Grants (Education Assistance - Participation and
Equity) Amendment Bill 1984
States Grants (Schools Assistance) Amendment Bill 1984
States Grants (Tertiary Education Assistance) Amendment
Bill 1984
Statute Law (Miscellaneous Provisions) Bill (No.1) 1984
Tax Avoidance Schemes Bill 1984

NOTE: This Digest is circulated to all Honourable Senators.
Any Senator who wishes to draw matters to the
attention of the Committee under its Terms of
Reference is invited to do so.

D6/84

ABORIGINAL AND TORRES STRAIT ISLANDER
HERITAGE (INTERIM PROTECTION) BILL 1984

Date Introduced: 9 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING MINISTER
FOR ABORIGINAL AFFAIRS

Purpose: The Aboriginal and Torres Strait Islander
Heritage (Interim Protection) Bill 1984 has
two main purposes:

- (1) to preserve and protect areas in
Australia and Australian waters which are
of particular significance to Aboriginals
or Islanders in accordance with
Aboriginal or Islander traditions; and
- (2) to preserve and protect objects,
including Aboriginal or Islander human
remains, which are of particular
significance to Aboriginals or Islanders
in accordance with Aboriginal or Islander
traditions.

Effect will be given to these purposes by the
making of declarations in respect of
significant Aboriginal areas and objects.
These declarations will set out provisions for
the protection and preservation of the areas
or objects from injury or desecration.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

The Committee draws the attention of Senators to the following clauses of this Bill:

Clauses 10 and 12 - Ministerial Discretion

These clauses vest in the Minister a discretion to determine whether areas or objects should be declared for the purposes of the Bill. The legality of the exercise of the discretion may be reviewed under the Administrative Decisions (Judicial Review) Act 1977 and the declarations have the force of regulations under section 48 of the Acts Interpretation Act. They are, therefore subject to disallowance by either House of Parliament. In considering a declaration, the Parliament may examine all aspects of the declaration including the merit of each case. The Senate may wish to consider whether Parliamentary scrutiny is the most effective means of reviewing the merits of what may be highly complex and contentious decisions.

The Committee draws these clauses to the attention of Senators in that they might be considered to make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions.

Clause 24 - Burden of Proof

Sub-clause 24(3) provides that an averment made by a prosecutor that a defendant knew, or ought reasonably to have known, of the existence of a declaration made under Part II of the Bill is prima facie evidence of that fact. The Committee is particularly concerned that the averment gives the prosecutor's assertion that the defendant "ought reasonably have known" certain facts the status of prima

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

facie evidence. The effect of an averment provision is to place the onus of proof with regard to the matter averred on the defendant.

The Committee also notes the recommendation of the Senate Standing Committee on Constitutional and Legal Affairs that "As a matter of legislative policy averment provisions should be kept to a minimum." (P.P.319,1982,p.73) and draws this clause to the attention of Senators in that it might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

AIR NAVIGATION AMENDMENT BILL 1984

Date Introduced: 9 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR AVIATION

Purpose: The Air Navigation Amendment Bill 1984 amends the Air Navigation Act 1920 to restrict the use of information obtained from cockpit voice recorders against crew members. Specifically, it precludes such use against crew members employed by Australian operators in criminal proceedings in Australian courts or as a basis for disciplinary action by an employer, and sets out the extent of the use of such information in civil proceedings in Australian courts.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

ALIENS ACT REPEAL BILL 1984

Date Introduced: 9 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR IMMIGRATION AND
ETHNIC AFFAIRS

Purpose: The Aliens Act Repeal Bill 1984 is designed to repeal the Aliens Act 1947 in order to remove discrimination between aliens and other non-Australian citizens thereby placing all non-Australian citizens on an equal footing.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

AUSTRALIAN MEAT AND LIVE-STOCK CORPORATION
AMENDMENT BILL 1984

Date Introduced: 10 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: The Australian Meat and Live-stock Corporation Amendment Bill 1984 is designed to modify the structure of the Corporation and to better delineate its functions and powers so as to allow it a greater degree of commercial flexibility, especially in the area of its trading and borrowing powers.

The Bill proposes to change the structure of the membership of the Corporation so that its membership is no longer representative of particular industry sectors but is composed of persons with specified qualifications and experience relevant to its functions.

The Bill confines the functions of the Corporation essentially to activities associated with commerce, viz: identifying and developing market opportunities, and the regulation of, and involvement in, export trading.

The Committee draws the attention of Senators to the following clause of this Bill:

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

Clause 23 - Proposed Section 30V

Section 30V deals with the appointment and dismissal of the Managing Director of the Corporation. Proposed paragraph (2)(b) of this section allows the Corporation to terminate such an appointment "...at any time". The Corporation is not required to provide reasons for termination of the appointment nor is it required to give a period of notice of termination. The Committee draws this clause to the attention of Senators in that such a wide discretion may be considered to make rights liberties and/or obligations unduly dependent upon insufficiently defined administrative powers.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

AUSTRALIAN MEAT AND LIVE-STOCK INDUSTRY
POLICY COUNCIL BILL 1984

Date Introduced: 10 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: The purpose of the Bill is to provide an effective mechanism for policy development in the meat and live-stock industries through the establishment of a body to be known as the Australian Meat and Live-stock Industry Policy Council.

The object of the Council will be to facilitate the development, consideration and formulation of the meat and live-stock policy of the Commonwealth Government through the provision of a forum for consultation and negotiation by representatives of the key sectors of the meat and live-stock industry, and by the establishment of a proper basis of information and analysis for that process. The Council will be required to report to the Minister.

The Bill provides for the membership of the Council to comprise the heads of key industry bodies to represent the persons, bodies and authorities which make up the meat and live-stock industry.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

The Government will meet the costs of remuneration of the part-time Chairman, the allowances payable to all members and working group members and will provide a small Secretariat to be located in the Department of Primary Industry.

The Council would be required to provide an annual report which would be tabled in Parliament.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

AUSTRALIAN MEAT AND LIVE-STOCK INDUSTRY
SELECTION COMMITTEE BILL 1984

Date Introduced: 10 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: The purpose of this Bill is to provide an effective mechanism for selecting members of the Australian Meat and Live-stock Corporation through the establishment of an Australian Meat and Live-stock Industry Selection Committee comprised of an independent Chairman and representatives of livestock producers and meat processors and exporters.

The Committee will select, and nominate to the Minister, appropriate persons for appointment to the Corporation. Those members are to be appointed on the basis of specified qualifications and experience, relevant to the functions of the Australian Meat and Live-stock Corporation. Membership will no longer be based on representation of various industry sectors.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

The Committee will have the authority to engage consultants to assist it in the selection of suitable nominees for appointment by the Minister and will also be required to provide the Minister with an annual report which would be tabled in Parliament.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

AUSTRALIAN NATIONAL AIRLINES AMENDMENT BILL 1984

Date Introduced: 9 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR AVIATION

Purpose: The purpose of this Bill is to amend the principal Act to provide the Australian National Airlines Commission with greater flexibility of management, and greater responsibility in its commercial airline operations. At the same time, the Bill provides for an appropriate level of Ministerial control and oversight.

The most significant changes relate to the Commission's capital, borrowings, profits and dividends, and staffing. Provision is made for the Commission to request capital increases when commercially justified (Clause 16). The Commission will be required to determine a commercially related profit target, review its progress in achieving that target, recommend a dividend based on commercial criteria and prepare annually corporate plans on a 3 year rolling basis, for submission to the Minister. The Minister may accept profit targets or dividends recommended by the Commission, or direct the Commission to pursue reduced or increased targets and

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

dividend payments. This power may only be exercised in accordance with commercial criteria.

Borrowing provisions have been amended to bring the arrangements into line with those applying to other statutory authorities such as the Australian Shipping Commission and the Australian National Railways Commission, and to provide for Commonwealth guarantee of loans made to wholly owned subsidiaries of the Commission which own and operate aircraft (Clause 18).

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

AUSTRALIAN NATIONAL AIRLINES COMMISSION
RETENTION BILL 1984

Date Introduced: 9 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR AVIATION

Purpose: The purpose of this Bill is to repeal the
Australian National Airlines Repeal Act 1981.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

D6/84

AUSTRALIAN NATIONAL UNIVERSITY AMENDMENT BILL 1984

Date Introduced: 9 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING MINISTER FOR
EDUCATION AND YOUTH AFFAIRS

Purpose: The main purpose of this Bill is to amend the Australian National University Act 1946 in order to remove restrictions inserted in the Act in 1979 and 1981 on the use of fees collected from students for amenities and services. The present provisions of the University Act restrict the use of general services fees to categories of amenities and services specified in a Statute made by the University Council within the terms of the Act. They restrict these funds being used for socio-political purposes including affiliation with a national association of students. By removing these restrictions in the Act, there would be a return to the situation which existed before the 1979 amendments so that it would be the responsibility of the Council of the University to supervise the use of these funds as an aspect of its responsibility for the management of the University.

The Bill also provides for minor amendments to the Act. These include removing sex-discriminatory language from the Act, adding to the membership of the Board of the

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

Institute of Advanced Studies, removing possible legal deficiencies in some aspects of the Act, and amendments undertaken to bring the Act into line with current practice in respect of such matters as the disclosure of interests of members of the University Council and Ministerial approval of payments to the University.

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 2 - Retrospectivity

Sub-clause (3) of this clause makes the commencement of clause 18 retrospective to 1 January 1984. Clause 18 repeals section 29A of the principle Act. That section restricted the power of the University Council to distribute fees to student organizations. Only organizations which conformed to certain established criteria could receive funds. The effect of the retrospective repeal of this section is to remove the restrictions so that fees paid by students at the commencement of the current academic year, which at that time could only be used within the constraints of section 29A, will now be applied to any purposes nominated by the Council. A student who paid those fees might regard it as improper that the conditions attaching to their use have been changed in this way.

The Committee draws this clause to the attention of Senators in that such retrospectivity might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

CANBERRA COLLEGE OF ADVANCED EDUCATION
AMENDMENT BILL 1984

Date Introduced: 9 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING MINISTER FOR
EDUCATION AND YOUTH AFFAIRS

Purpose: The principal purpose of this Bill is to amend the Canberra College of Advanced Education Act 1967 so as to remove restrictions inserted in the Act in 1979 on the ways fees collected from students for the provision of amenities and services can be used. The present provisions of the College Act restrict the ways in which fees collected for the provision of student amenities and services may be used. Such fees may not be used for socio-political purposes, including affiliation with a national association of students. By removing these restrictions from the Act, it would be the responsibility of the Council of the College to supervise the use of these funds as an aspect of its responsibility for the management of the College.

The Bill also provides for minor amendments to the Act. These include removing sex-discriminatory language from the Act, empowering the College to confer honorary degrees at levels approved by the Minister, and enlarging the Council of the College by

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

adding representatives of non-teaching staff and College alumni. The Bill is also intended to bring the College Act into line with current practice in respect of such matters as the disclosure of interests of members of the College Council.

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 2 - Retrospectivity

Sub-clause (2) of this clause makes the commencement of clause 18 retrospective to 1 January 1984. Clause 18 repeals section 25A of the principle Act. Section 25A is similar in purpose to section 29A of the Australian National University Act 1946. The comments on clause (2) of the Australian National University Amendment Bill 1984 also apply to this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

COCOS (KEELING) ISLANDS SELF-DETERMINATION
(CONSEQUENTIAL AMENDMENTS) BILL 1984

Date Introduced: 9 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR TERRITORIES AND
LOCAL GOVERNMENT

Purpose: The Cocos (Keeling) Islands Self-Determination (Consequential Amendments) Bill 1984 will extend Commonwealth legislation in the areas of health, social security and federal electoral representation to the Territory of Cocos (Keeling) Islands, following the decision of the residents of the territory, in the Act of Self-Determination held on 6 April 1984, to integrate with Australia.

The Bill will amend the Commonwealth Electoral Act 1918 so as to place residents of the Territory within the boundaries of the Northern Territory for federal electoral purposes. An amendment consequent upon the amendment of the Electoral Act 1918 will also be made to the Northern Territory (Self-Government) Act 1978.

The Bill will also amend the Commonwealth Grants Commission Act 1973 to enable the Grants Commission to exercise its powers and functions in relation to the Territory.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

The Bill will also amend the Health Insurance Act 1973 and the National Health Act 1953 so as to make residents of the Territory eligible for benefits under that legislation on a basis equivalent to that for mainland Australians.

The Bill will amend the Social Security Act 1947 so that a resident of the Territory will be treated as a resident of Australia for the purposes of that Act.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

COMMONWEALTH ELECTORAL LEGISLATION
AMENDMENT BILL 1984

Date Introduced: 10 May 1984

House: HOUSE OF REPRESENTATIVES
SPECIAL MINISTER OF STATE

Purpose: General Outline

The purpose of the Bill is to amend the Commonwealth Electoral Act 1918, the Commonwealth Electoral Legislation Amendment Act 1983 and the Representation Act 1983 to make changes of a machinery nature.

Those proposed amendments result from the further review of the electoral legislation following the substantial amendments inserted in the Act by the Commonwealth Electoral Legislation Amendment Act 1983.

The provisions of the Commonwealth Electoral Act 1918 as amended by this Bill are to be reprinted, incorporating the re-numbering of sections in consecutive order, as soon as possible after this Bill comes into operation.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

CONCILIATION AND ARBITRATION
AMENDMENT BILL 1984

Date Introduced: 9 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR EMPLOYMENT AND
INDUSTRIAL RELATIONS

Purpose: This Bill seeks to amend the Conciliation and
Arbitration Act 1904 to :

- (i) deem a Deputy President in certain circumstances to be an Acting President;
- (ii) enable the President to approve leave for Commissioners;
- (iii) Provide administrative machinery for the appointment of an acting Industrial Registrar or acting Deputy Industrial Registrars, adopting the standard provision for this purpose;
- (iv) clarify procedures for the filling of casual vacancies in offices of organizations;
- (v) enable an organization to provide under its rules for its accounts, statements and auditor's report and

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

those of all of its branches to be
filed together by the organization
with the Industrial Registrar;

(vi) make minor technical amendments.

This Bill also repeals section 27 of the
Conciliation and Arbitration Amendment Act
(No.2) 1983.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

D6/84

EXCISE TARIFF AMENDMENT BILL 1984

Date Introduced: 9 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING MINISTER FOR
INDUSTRY AND COMMERCE

Purpose: The main purpose of this Bill is to amend the Excise Tariff Act 1921 to allow for changes in excise duty rates beyond the number of decimal places in excise duty rates that existed prior to 23 November 1983.

The Excise Tariff Amendment Act (No.2) 1983 introduced new provisions into the Principal Act which have the effect of automatically indexing certain traditional excise duty rates on 1 February and 1 August of each year according to the C.P.I. increase for the prior two quarters of each period as published by the Australian Statistician.

Paragraph 6A(4)(b) of the Excise Tariff Act 1921 provides that, when indexation of an excise duty rate applies, the duty rate is to be rounded to the same number of decimal places in that duty rate that applied before the legislation came into force, that is, 23 November 1983.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

Clause 3 of the Bill inserts a standing provision into the Principal Act covering the imposition and application provisions which are usually included in Bills amending the Schedule to the Excise Tariff Act 1921. These provisions authorize or require the charging, collection and payment of the excise duty imposed by the amendments to the Schedule to the Principal Act.

Clause 5 of the Bill enacts Excise Tariff Proposals No.1 (1984) which alters the excise duty rate on Liquefied Petroleum Gas on and from 1 January 1984.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

INSURANCE (AGENTS AND BROKERS) BILL 1984

Date Introduced: 10 May 1984

House: HOUSE OF REPRESENTATIVES
TREASURER

Purpose: The Bill contains provisions designed to regulate the activities of life and general insurance agents and brokers. It is largely based on recommendations made in the Report of the Law Reform Commission entitled "Insurance Agents and Brokers" issued on 25 January 1980 and tabled in Parliament on 16 September 1980.

The main provisions of the Bill will:

- establish the responsibilities of insurers for the conduct of their intermediaries;
- determine the arrangements concerning the discharge of financial obligations between an insured and intermediaries;
- deal with questions of misrepresentation by insurance intermediaries;
- require annual registration of brokers and permit suspension or cancellation of registration;

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

- establish financial controls and requirements for insurance which indemnifies brokers in respect of liabilities arising out of or in the course of their business operations;
- establish measures to minimise the risk of compromise of a broker's impartiality; and
- provide for a number of limits or checks on brokers holding clients' moneys to speed up their remittance to insurers and to ensure that moneys held by brokers and due to insureds are paid expeditiously.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

LIFE INSURANCE AMENDMENT BILL 1984

Date Introduced: 10 May 1984

House: HOUSE OF REPRESENTATIVES
TREASURER

Purpose: This Bill contains a number of amendments to the Life Insurance Act 1945 which would be necessary or desirable consequent upon the enactment of the Insurance Contracts Bill 1983.

The amendments recognise that the Insurance Contracts Bill contains a number of more up-to-date and comprehensive provisions relating to life insurance policies than the existing provisions in the Life Insurance Act (the Principal Act).

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

LIVE-STOCK EXPORT CHARGE AMENDMENT BILL 1984

Date Introduced: 10 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: The purpose of the Live-stock Export Charge Amendment Bill 1984, which amends the Live-stock Export Charge Act 1977 is to redefine the process by which the Australian Meat and Live-stock Corporation (AMLC) consults with industry prior to making recommendations to the Minister for varying the individual components of the live-stock export charge.

Under this Bill the consultation process is to be through the AMLC's annual general meeting (AGM). Any proposal of the AMLC to make a recommendation to the Minister for varying the export charge must first be put before the AGM. This process replaces arrangements for industry consultation through the Consultative Groups which are abolished under the Australian Meat and Live-stock Corporation Amendment Bill 1984.

Interim arrangements are included in the Bill to permit the AMLC to vary the export charge pending the first AGM. Under the interim

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

arrangements the AMLC is required to consult with those industry organisations previously represented on the Consultative Groups.

Proposals in respect of charges for research purposes are to be made direct to the Minister by the Australian Meat Research Committee after undergoing a similar industry consultation process.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

LIVE-STOCK SLAUGHTER LEVY
AMENDMENT BILL 1984

Date Introduced: 10 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: The purpose of the Live-stock Slaughter Levy Amendment Bill 1984, which amends the Live-stock Slaughter Levy Act 1964, is to redefine the process by which the Australian Meat and Live-stock Corporation (AMLC) consults with industry prior to making recommendations to the Minister for varying the rate of slaughter levy.

Under this Bill the consultation process is to be through the AMLC's annual general meeting (AGM). Any proposal of the AMLC to make a recommendation to the Minister for varying the rate of slaughter levy must first be put before the AGM. This process replaces arrangements for industry consultation through the Consultative Groups which are abolished under the Australian Meat and Live-stock Corporation Amendment Bill 1984.

Interim arrangements are included in the Bill to permit the AMLC to vary the rate of slaughter levy pending the first AGM. Under the interim arrangements the AMLC is required

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

to consult with those industry organizations previously represented on the Consultative Groups.

Proposals in respect of levies for research purposes are to be made direct to the Minister by the Australian Meat Research Committee after undergoing a similar industry consultation process.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

LIVE-STOCK SLAUGHTER LEVY COLLECTION
AMENDMENT BILL 1984

Date Introduced: 10 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: The Bill retrospectively validates payments made to the Northern Territory since 1 July 1978 from the National Cattle Disease Eradication Trust Account, and authorises the continuation of such payments in future.

Responsibility for conducting and funding animal disease control measures in the Northern Territory devolved from the Commonwealth to the Territory when it achieved self-Government in 1978.

However, the Live-Stock Slaughter Levy Collection Act 1964 as it now stands requires that Trust Account payments may be made only to States and the Commonwealth.

However, the Government has received advice that legally the Northern Territory is not embraced within the description of a State as used in the current act and the proposed amendment will place the legality of payments made to the Northern Territory since 1978

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

beyond question and ensure the legality of future payment for national cattle disease eradication purposes.

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 2 - Retrospectivity

This clause deems the Act to have come into operation on 1 July 1978. The purpose of this Bill is to validate payments already made to the Northern Territory out of the National Cattle Disease Eradication Trust Account. These payments have been made as if the Northern Territory were a State. However, the Government has received legal advice that this practice is invalid. Thus the Bill is made retrospective to the date on which the Territory achieved self-government.

While this Bill will not have an adverse effect on any individual, in view of the significant period for which the Bill is made retrospective, the Committee draws it to the attention of Senators in that such retrospectivity might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

MEMBERS OF PARLIAMENT (STAFF) BILL 1984

Date Introduced: 9 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER ASSISTING THE PRIME MINISTER
FOR PUBLIC SERVICE MATTERS

Purpose: The purpose of this Bill is to create a legislative scheme for the engagement of consultants to provide services for Ministers of State, and for the employment of staff by Ministers, office-holders in the Government and Opposition, and by Senators and Members.

Under Part II of this Bill, Ministerial consultants (either persons or companies) will be engaged by Ministers after approval by the Prime Minister of written agreements specifying the duties to be performed (clause 4). The terms and conditions of the engagement will be determined by the Public Service Board (clause 5) except for superannuation (clause 8). Engagements will be for periods of up to three years, with special provisions for the termination of the consultancy (clause 9). Special provisions will define the rights of officers and employees of the Australian Public Service (APS) who are engaged as consultants.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

Part III provides that the staff of officeholders (being the holders of the offices defined in clause 3) will be employed upon the approval of the Prime Minister (clause 12) by written agreements (clause 13). The terms and conditions of employment are to be the same as the terms and conditions applying to an officer in the APS having an equivalent classification to that specified in the employment agreement (clause 14) except for superannuation (clause 15) and the termination of the employment (clause 16) or as otherwise varied by the Prime Minister.

Under Part IV, staff employed by Senators or Members will be subject to the same requirements as specified in Part III.

The Re-integration Assessment Committee in Part V will assess applications made by officers of the Australian Public Service who are engaged or employed under this Bill and who subsequently seek to return to the Service.

Provision is made for the application of the Public Service Arbitration Act 1920 to staff employed by Ministers, officeholders and Members of Parliament (clause 31).

The Committee draws the attention of Senators to the following clauses of this Bill:

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

Clause 14 and Clause 21 - Ministerial Discretion

Sub-clause (3) of each of these clauses vests in the Prime Minister an unreviewable discretion to vary the terms and conditions of employment of the staff of members of Parliament. Clause 14 refers to staff of holders of parliamentary offices and clause 21 refers to the staff of Senators and Members of the House of Representatives.

The Committee draws these clauses to the attention of Senators in that such unreviewable discretions may be considered to make personal rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

MERIT PROTECTION (AUSTRALIAN GOVERNMENT EMPLOYEES)
BILL 1984

Date Introduced: 9 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER ASSISTING THE PRIME MINISTER
FOR PUBLIC SERVICE MATTERS

Purpose: The purpose of the Merit Protection
(Australian Government Employees) Bill 1984 is
to provide for the setting up of an
independent grievance authority to be known as
the Merit Protection and Review Agency.

At present the Public Service Board makes a wide range of personnel management rules for the Australian Public Service (APS) and at the same time adjudicates on grievances arising from their administration, sometimes when it or its delegates are the initial decision-makers. These two functions do not fit comfortably together. It is proposed, therefore, to establish a new, independent statutory authority to be responsible for handling the grievances of public servants which are now dealt with under the aegis of the Board. It is also proposed that the various statutory appeal and review committees which deal with, for example, APS promotion appeals and discipline appeals be established under the auspices of the Agency. Under

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

proposed legislation the Agency will comprise a full-time Director and up to four other members, two of whom may also be full-time.

An important element of the proposed legislation is that it includes provisions to enable the various appeal, review and grievance avenues to be extended to areas of Commonwealth employment outside the APS.

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 85 - Henry VIII

Paragraph (1)(k) of this clause permits regulations to be made prescribing the application of the Bill "...to the other areas of Commonwealth employment that are not comprehended by the APS or by the definition of 'Commonwealth authority'". Regulations may also be made modifying and adapting the provisions of the Bill as they will apply to those areas of Commonwealth authority.

The Committee adopts the practice of drawing all "Henry VIII" clauses to the attention of Senators in that such clauses might be considered to be inappropriate delegation of legislative power.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

PROPERTY RIGHTS PROTECTION BILL 1984

Date Introduced: 10 May 1984

House: SENATE
SENATOR HAINES

Purpose: The purpose of this Bill is to protect private property from unjust acquisition by State Governments.

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 7 - Retrospectivity

Clause 7 of the Bill states that just compensation will be payable to a person for the unjust acquisition of property if that acquisition occurred after 13 November 1980, being the day on which the International Covenant on civil and political rights entered into force for Australia.

The Committee notes that it is the clear policy intention of the Bill that it have retrospective effect. Nevertheless the Committee draws this clause to the attention of Senators in that such retrospectivity might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

PUBLIC SERVICE REFORM BILL 1984

Date Introduced: 9 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER ASSISTING THE PRIME MINISTER
FOR PUBLIC SERVICE MATTERS

Purpose: The principal purpose of this Bill is to implement the decisions the Government has taken to reform the Australian Public Service.

The most significant proposals contained in the Bill are in Part II - amendments of the Public Service Act - and relate to the following decisions of the Government:

- to amend the appointment provisions for Permanent Heads (now to be described as Secretaries of Departments) (Clause 27);
- to permit the transfer, unattachment and redeployment of Secretaries of Departments (Clauses 81-83);
- to establish a Senior Executive Service to provide for a group of staff who will undertake the higher level policy advising, managerial and professional responsibilities, with provisions for selection, promotion, transfer and

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

retirement designed to meet the circumstances of senior management (Clauses 16,25,31 and 85-88);

- to empower Secretaries to create, abolish and reclassify offices in Departments in accordance with classification guidelines developed by the Board and within numbers and salary profile controls administered by the Department of Finance (Clause 17);
- to provide a clear statement of the objects of the Public Service Act (Clause 4);
- to provide a clear statement of merit principles in the Act and to proscribe any form of unjustifiable discrimination (Clause 23);
- to provide for the conduct of Personnel Management Reviews (Clause 10);
- to provide for Departments and prescribed authorities to formulate equal employment opportunity programs to promote equality of employment opportunity, including measures for designated groups and to provide for the extension of such programs to other areas of Commonwealth employment (Clause 11);

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

- to provide for Departments and prescribed authorities to prepare industrial democracy plans to further participative decision-making within Departments (Clause 12);
- to provide for the introduction of permanent part-time work in the Public Service (Clause 19);
- to streamline the promotion process by making provision for promotions to be made following advice from Joint Selection Committees, with promotions made in accordance with that advice not being subject to appeal (Clause 44).

The Committee draws the attention of Senators to the following clauses of this Bill:

Proposed Section 22B and Section 22C - Henry VIII Clause

Sub-section (14) of section 22 and sub-section (13) of section 22C are expressed in the same wording as clause 85(1)(k) of the Merit Protection (Australian Government Employees) Bill 1984 considered above. Each sub-section enables the relevant parts of the legislation to be applied by regulation to Commonwealth officers employed under legislation other than the Public Service Act 1922.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

Proposed Section 29E - Henry VIII Clause

This proposed section allows the provisions of legislation to be modified if necessary and applied to part-time offices and officers within the APS.

Proposed Section 76Q(2)(b) - Henry VIII

Section 76Q deals with benefits payable to officers who retire under the provisions of proposed section 76L. Section 76Q(2)(b) enables the regulations to apply the provisions of the Superannuation Act 1976, subject to modification and adaption, to the benefits payable under this Bill, thus altering this Bill and extending the scope of the Superannuation Act.

The Committee draws the attention of Senators to each of these "Henry VIII" clauses in that they might be considered to be inappropriate delegation of legislative power.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

REFERENDUM (MACHINERY PROVISIONS) BILL 1984

Date Introduced: 9 May 1984

House: HOUSE OF REPRESENTATIVES
SPECIAL MINISTER OF STATE

Purpose: The purpose of this Bill is to repeal the Referendum (Constitution Alteration) Act 1906 and subsequent amending Acts, make machinery provision for voting at referendums (including voting by electors in the Territories), make changes to referendum provisions consequential upon the passage of the Commonwealth Electoral Legislation Amendment Act 1983, and incorporate modifications to current referendum procedures.

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 45 - Burden of Proof

Under clause 45, paragraph (11)(b) an elector who fails to respond to a notice issued in accordance with clause 45(3) is guilty of an offence. The purpose of the notice is to require the elector to show cause why proceedings for failing to vote should not be instituted against him. The Divisional Returning Officer is required to prepare a list of electors

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

who failed to vote in a referendum. Any certified extract from that list is prima facie evidence that a notice under clause 45(3) was received by the electors whose names appear on it.

In any prosecution under clause 45(11)(b) the prosecution is required merely to produce a certified list prepared under clause 45(3). It is then for the accused person to prove that a notice under sub-clause (3) was not received and that no offence had been committed.

The Committee draws the attention of Senators to this clause in that such a shifting of the burden of proof to the defendant might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

51.

D6/84

REMUNERATION AND ALLOWANCES AMENDMENT BILL 1984

Date Introduced: 10 May 1984

House: HOUSE OF REPRESENTATIVES
SPECIAL MINISTER OF STATE

Purpose: The purpose of this Bill is to vary the rates of expenses for offices within the jurisdiction of the Remuneration Tribunal as recommended by the Tribunal.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

SOCIAL SECURITY AND REPATRIATION LEGISLATION
AMENDMENT BILL 1984

Date Introduced: 10 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING MINISTER
FOR SOCIAL SECURITY

Purpose: This Bill would amend seven Acts. The more important amendments are as follows -

1. Social Security Act 1947 -
 - . eligibility for remote area allowances would be extended in certain circumstances;
 - . some restrictions upon the granting of pensions would be removed; and
 - . eligibility for supplementary assistance or supplementary allowance (rent assistance) would be extended in some circumstances.

2. Social Security Legislation Amendment Act 1983 -
 - two minor corrections would be made;
 - . to ensure that administrative arrangements made to implement the personal care subsidy introduced under the 1983-84 Budget in Part III of the

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

Aged or Disabled Persons Homes Act 1954 would have their intended legal effect; and

. to ensure that a family income supplement under Part V of the Social Security Act 1947 would be payable to the wife (in general) in a low income family as from 1 May 1984.

3. Repatriation Act 1920 -

. consequential amendments would be made so that the Act remains in line with corresponding provisions of the Social Security Act 1947, particularly in respect of remote area allowance.

4. Aged or Disabled Persons Homes Act 1954 -

. a respite care subsidy would be introduced which is payable to approved organizations providing respite care to aged or disabled persons who normally live with relatives or friends.

5. Compensation (Commonwealth Government Employees) Act 1971 -

. a secrecy provision would be inserted to protect the confidentiality of the affairs of persons to whom the Act relates;

. limitations would be placed on the recovery of compensation by the Commonwealth out of common law damages relating to a loss for which compensation under the Act is not payable;

- . the disqualification from receiving compensation would be removed where an employee receives compensation (other than worker's compensation) under a law of a State or Territory;
 - . elements of sex discrimination would be removed to bring the Act more into line with the spirit of the Sex Discrimination Act 1984.
6. Handicapped Persons Assistance Act 1974 -
- . the approval of a maintenance project would become possible after completion of the project (eg emergency repairs).
7. Seamen's Compensation Act 1911 -
- . elements of sex discrimination would be removed to bring the Act more into line with the spirit of the Sex Discrimination Act 1984.

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 2 - Retrospectivity

A number of parts of this legislation are made retrospective in their operation by this clause. Generally the period of retrospectivity is minor - to the date of introduction of the legislation. However the commencement of clause 46 is made retrospective to 27 October 1982 and of Part III to 24 October 1983.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

SOCIAL SECURITY AND REPATRIATION LEGISLATION
AMENDMENT BILL 1984 (Cont 4) (D6/84)

55.

Retrospectivity in both cases is to validate current administrative practice and does not disadvantage any person. Nevertheless the Committee draws this clause to the attention of Senators in that such retrospectivity might be considered to trespass on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

STATES GRANTS (EDUCATION ASSISTANCE -
PARTICIPATION AND EQUITY) AMENDMENT BILL 1984

Date Introduced: 9 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING MINISTER
FOR EDUCATION AND YOUTH AFFAIRS

Purpose: The primary purpose of this Bill is to amend the States Grants (Education - Participation and Equity) Act 1983 to supplement the grants available to the States and the Northern Territory to take account of cost increases since the enactment of the legislation in December 1983. This Act provides funds for the Participation and Equity Program which commenced in 1984 and will continue in 1985 and 1986.

By this amendment the total of grants available to the States and the Northern Territory for each of 1984, 1985 and 1986 will be increased by \$1,074,000 from \$73,408,000 to \$74,482,000.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

STATES GRANTS (SCHOOLS ASSISTANCE)
AMENDMENT BILL 1984

Date Introduced: 9 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING MINISTER FOR
EDUCATION AND YOUTH AFFAIRS

Purpose: The principal purpose of this Bill is to supplement grants in respect of 1984 schools assistance programs administered by the Commonwealth Schools Commission. The Bill gives effect to adjustments arising from movements in prices as measured by the Schools Price Index. The index measures changes in the costs of services and commodities purchased by school authorities and has two separate components: recurrent prices and building prices. Supplementation is made in accordance with actual movements in the index.

In addition to the principal purpose, provisions are included to facilitate the administration of grants in relation to building and equipment projects in connection with schools serving predominately Aboriginal communities.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

STATES GRANTS (SCHOOLS ASSISTANCE)
AMENDMENT BILL 1984 (Cont 2) (D6/84)

58.

The adjustments to the 1984 programs provided
for in this Bill are estimated to cost
\$9.7 million.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

D6/84

STATES GRANTS (TERTIARY EDUCATION ASSISTANCE)
AMENDMENT BILL 1984

Date Introduced: 9 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING MINISTER
FOR EDUCATION AND YOUTH AFFAIRS

Purpose: The primary purpose of this Bill is to supplement tertiary education grants to the States and Northern Territory for cost increases by amending the States Grants (Tertiary Education Assistance) Act 1981. This Act provides grants to the States and Northern Territory for financial assistance to universities, colleges of advanced education, and technical and further education for the triennium 1982-84. The total amount of supplementation to be provided is \$62.2m. This brings program amounts for salaries and wages to estimated June 1984 price levels. Capital and equipment grants, together with the non-salary component of recurrent grants, have been adjusted to December quarter/end of December 1983 price levels. Under current supplementation arrangements, there will be no further adjustment to these costs. The current adjustments are made by the amendment of certain clauses, and the replacement of related schedules.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

STATES GRANTS (TERTIARY EDUCATION ASSISTANCE)
AMENDMENT BILL 1984 (Cont 2) (D6/84)
60.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

61.

D6/84.

STATUTE LAW (MISCELLANEOUS PROVISIONS)
BILL (NO.1) 1984

Date Introduced: 10 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING THE
ATTORNEY-GENERAL

Purpose: The amendments made by this Bill have a number of purposes such as the tidying up, correction or up-dating of legislation. Other amendments implement changes that are of minor policy significance or are of a routine administrative nature.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D6/84

TAX AVOIDANCE SCHEMES BILL 1984

Date Introduced: 9 May 1984

House: SENATE
SENATOR JACK EVANS

Purpose: This Bill seeks to reconcile the two principles: the need to prevent tax avoidance and the wish not to use retrospectivity in tax laws.

Under this Bill the Treasurer may, upon application, declare that a proposed scheme will not be treated as a blatant tax avoidance scheme. A person concerned in, or affected by, the scheme will be entitled to treat the declaration as a firm assurance that no government of the Commonwealth will propose or support legislation that would retrospectively alter adversely to that person the tax law relating to that scheme.

Where an application is made, the Treasurer shall, within 90 days, either make a declaration or refuse the application. If the application is refused, then the reasons for refusal must be stated. Before deciding an application, the Treasurer may consult with the Commissioner of Taxation.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

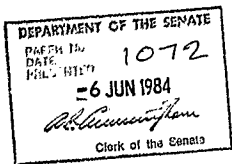
Upon declaration, notice of the declaration, including a description of the essential features of the scheme, will be published by the Treasurer in the Gazette.

If a person does not enter into, or does not carry out, the scheme in exact conformity with the particulars identified in the declaration, then that person cannot rely upon the declaration to protect them.

In addition, a declaration does not affect any liability in relation to a scheme under the law as in force when the scheme is entered or commenced. (This includes liability under Part IVA of the Income Tax Act).

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.



SCRUTINY OF BILLS ALERT DIGEST

No. 7 of 1984

6 June 1984

ISSN 0729-6851

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

MEMBERS OF THE COMMITTEE

Senator M C Tate, Chairman
Senator A J Missen, Deputy Chairman
Senator N Bolkus
Senator R A Crowley
Senator the Hon. P D Durack
Senator J Haines

TERMS OF REFERENCE

Extract

- (1) (a) That a Standing Committee of the Senate, to be known as the Standing Committee for the Scrutiny of Bills, be appointed to report, in respect of the clauses of Bills introduced into the Senate, and in respect of Acts of the Parliament, whether such Bills or Acts, by express words or otherwise -
- (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make such rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions;
 - (iv) inappropriately delegate legislative power; or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

D7/84

The Committee has considered the following Bills:

Australian Federal Police Amendment Bill 1984
Bankruptcy Amendment Bill 1984
Copyright Amendment Bill 1984
Extradition (Commonwealth Countries) Amendment Bill 1984
Extradition (Foreign States) Amendment Bill 1984
Income Tax Assessment Amendment Bill (No.3) 1984
Income Tax (Companies, Corporate Unit Trusts and
Superannuation Funds) Amendment Bill 1984
Repatriation Legislation Amendment Bill 1984
Sales Tax (Exemptions and Classifications) Amendment
Bill 1984

NOTE: This Digest is circulated to all Honourable Senators.
Any Senator who wishes to draw matters to the
attention of the Committee under its Terms of
Reference is invited to do so.

D7/84

AUSTRALIAN FEDERAL POLICE AMENDMENT
BILL 1984

Date Introduced: 30 May 1984

House: HOUSE OF REPRESENTATIVES
SPECIAL MINISTER OF STATE

Purpose: The Australian Federal Police Amendment Bill
1984 has two main purposes:

1. to delete from the Australian Federal Police Act 1979 all references to the protective service component and to the Australian Federal Police (AFP) as comprising two components (clauses 3-8,10-14,16 and 17); and
2. to make two other amendments to the principal Act following recommendations by a Joint Management Review of AFP administration, namely, to -
 - . provide that the Commissioner may delegate his powers under the Act to members of the Public Service staff of the AFP (clause 9); and
 - . refine the present 'efficiency' criterion on the basis of which members of the AFP are selected for promotion (clause 15).

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D7/84

BANKRUPTCY AMENDMENT BILL 1984

Date Introduced: 30 May 1984

House: SENATE
ATTORNEY-GENERAL

- Purpose:
1. The Bankruptcy Amendment Bill 1984 makes amendments to the Bankruptcy Act 1966 following a review of the operation of the Act, and following the decision by the Government to reverse the legislative implementation of the Review of Commonwealth Functions ("RCF") decision in this area.
 2. Those amendments resulting from the review of the operation of the Act are designed to:
 - . achieve greater uniformity with comparable provisions of the Companies Act 1981, particularly in the area of priority of debts and registration and control of trustees;
 - . enhance the special protection already accorded to maintenance creditors;

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

- . remove anomalies from the Act; and
- . improve the administration of the Act, particularly in the area of appointment to statutory offices under the Act. At present such appointments are made by the Governor-General. It is proposed that such appointments be made by the Permanent Head of the responsible Ministry of State.

3. The substantive provisions of the Bill will come into operation on such date or dates as are fixed by Proclamation. This is to permit the preparation of Rules which are needed to supplement some of the amendments to the Act.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D7/84

COPYRIGHT AMENDMENT BILL 1984

Date Introduced: 4 June 1984

House: SENATE
ATTORNEY-GENERAL

Purpose: The Copyright Amendment Bill 1984 will amend the Copyright Act 1968:

. to protect computer software as a literary work;

. to clarify the nature and scope of that protection; and

. to make certain miscellaneous drafting or consequential amendments that are considered necessary or desirable.

The Bill will specifically include computer programs in the existing copyright category of "literary works" and will give to computer programs the protection now applied to literary works. Other amendments will clarify the nature and scope of this protection having regard to the distinctive features of computer software. A presumption will be created that the making of a "back-up copy" of a computer program is permitted. New offence provisions to deter and combat piracy of programs will be introduced.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D7/84

EXTRADITION (COMMONWEALTH COUNTRIES)
AMENDMENT BILL 1984

Date Introduced: 30 May 1984

House: SENATE
ATTORNEY-GENERAL

Purpose: The Extradition (Commonwealth Countries) Act 1966 in conjunction with the domestic legislation of other Commonwealth countries regulates extradition between Australia and all other Commonwealth countries. This legislation is based on a scheme agreed to by Commonwealth Law Ministers in 1966. In 1983 Commonwealth Law Ministers agreed to certain amendments to that scheme to improve its operation. Those changes which require amendment to the Extradition (Commonwealth Countries) Act 1966 are incorporated in this Bill. The Bill also incorporates amendments which are considered necessary to resolve difficulties which have arisen in the practical operation of the legislation and to tidy up the drafting and organisation of the legislation.

The Committee draws the attention of Senators to the following clauses of this Bill:

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

Clause 4 - Henry VIII

This clause inserts a new section 4 into the Principal Act. The section provides that "...regulations may amend the list of crimes for which extradition may be granted to give effect to obligations which Australia may undertake in the future pursuant to Treaty. This clause will remove the need for amending the Principal Act whenever Australia becomes party to a Treaty..." (Explanatory Memorandum p.3)

The committee draws this clause to the attention of Senators in that a "Henry VIII" clause might be considered to be an inappropriate delegation of legislative power.

Clause 8 - Unreviewable Discretion

Proposed section 12(2)(b) vests in the Attorney-General a discretion to determine whether an offence is of a political character. If the offence is considered to be a political offence the Attorney-General shall not give notice under sub-section (1) initiating the process of extradition. At present it is the responsibility of a magistrate to determine whether an offence is of a political character. The Explanatory Memorandum notes that "...it is considered that such a decision is more appropriately taken by the executive than the judiciary." It is worth noting that the fugitive could initiate proceedings for habeas corpus when such a decision is taken by, a magistrate, thus reviewing the grounds for the magistrate's decision. However no avenue for review of the merits of the Attorney-General's decision is available under this amendment.

The Committee draws this clause to the attention of Senators in that it might be considered to make personal rights, liberties and/or obligations unduly dependent on non-reviewable administrative decisions.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D7/84

EXTRADITION (FOREIGN STATES)
AMENDMENT BILL 1984

Date Introduced: 30 May 1984

House: SENATE
ATTORNEY-GENERAL

Purpose: In 1983 Commonwealth Law Ministers agreed to amendments to the Commonwealth scheme which regulates the extradition of fugitive offenders between Commonwealth countries to improve the operation of the scheme. That scheme is the basis of domestic legislation in Commonwealth countries [in Australia's case the Extradition (Commonwealth Countries) Act 1966] which now requires amendment as a result of the changes agreed to by Commonwealth Law Ministers. Since many of the amendments agreed to by Commonwealth Law Ministers would also improve the operation of the Extradition (Foreign States) Act 1966 which regulate Australia's extradition relations with non-Commonwealth countries similar amendments will be made to that Act by this Bill. The Bill also incorporates amendments which are considered necessary to resolve difficulties which have arisen in the practical operation of the legislation and to tidy up the drafting and organisation of the legislation.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

EXTRADITION (FOREIGN STATES) AMENDMENT
BILL 1984 (Cont 2) (D7/84)

13.

Clauses 4 and 7

The comments on clauses 4 and 8 of the Extradition (Commonwealth Countries) Amendment Bill 1984 apply to clauses 4 (new section 4A) and 7 (new section 15(2)(b) of this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D7/84

INCOME TAX ASSESSMENT AMENDMENT
BILL (NO.3) 1984

Date Introduced: 30 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER ASSISTING THE TREASURER

Purpose: There are two major purposes of this Bill:

. to introduce new taxation arrangements for retirement and kindred payments (effective for payments made on or after 1 July 1983); and

. to strengthen section 26(a) of the Income Tax Assessment Act which imposes tax on profits made on the sale of property acquired for the purpose of resale at a profit.

Other minor purposes include measures to:

. give effect to the taxation concession for investors of share capital to licensed venture capital companies;

. tax the income of friendly societies from the investment of their funds from life, disability and accident insurance business, on a basis broadly comparable with life assurance companies;

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

- . clarify the operation of the income tax law with respect to deductions for repairs to property that is used only partly for the purpose of producing assessable income;
- . reduce the paperwork burden of the prescribed payments system by removing the requirement for deduction forms to be lodged with income tax returns;
- . authorise deductions for capital contributions to the cost of railway rolling-stock owned by a government or tax exempt government authority that is used for the transport of petroleum or minerals; and
- . exempt from tax rent subsidy payments made to persons to assist with their rent costs under the Commonwealth/State mortgage and rent relief scheme.

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 60 - Retrospectivity

This clause gives retrospective effect to a number of the amendments made by this Bill. Clause 6 will have effect from 17 August 1982. However the clause widens the range of income exempt from tax and is thus unobjectionable. Clause 60 also states that the changes made by various provisions of the Bill shall apply to assessable income for the year commencing 1 July 1983. Most of these changes were foreshadowed in the Government's Economic Statement of 19 May 1983 while others were announced on Budget night in August of 1983. Income tax on the various types of payments referred

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

to in the relevant clauses is not assessable until the end of the financial year, thus these provisions may also be regarded as acceptable.

The Committee continues to take the view that Senators should be alerted to retrospectivity in legislation and thus notes this clause in that it might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D7/84

INCOME TAX (COMPANIES, CORPORATE UNIT TRUSTS AND
SUPERANNUATION FUNDS) AMENDMENT BILL 1984

Date Introduced: 29 May 1984

House: HOUSE OF REPRESENTATIVES
MINISTER ASSISTING THE TREASURER

Purpose: This Bill is complementary to proposals contained in the Income Tax Assessment Amendment Bill (No.3) 1984. It will amend the Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Act 1983 which imposes income tax on income derived by companies, corporate unit trusts and superannuation funds and establishes rates of tax for that purpose.

The purpose of the amendments made by this Bill is to declare and impose the rate of tax payable on the taxable income of certain approved deposit funds - whose establishment is provided for under the previous Bill - in cases where such a fund fails to meet the statutory requirements for tax exemption set by that Bill. The rate of tax so imposed on the income of a non-complying approved deposit fund by this Bill is to be 46 per cent and will apply for the 1983-84 financial year and, until the Parliament otherwise provides, for the 1984-85 financial year.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

In accordance with established practice, rates of tax applying to the 1983-84 year of income for companies - which will, at the rate of 20%, also apply to the insurance business of friendly societies and other registered organisations - will be declared by a Bill to be introduced in the Budget Sittings. Similarly, rates of tax for 1984-85 in respect of superannuation funds will be dealt with then.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D7/84

REPATRIATION LEGISLATION AMENDMENT BILL 1984

Date Introduced: 29 May 1984

House: SENATE
MINISTER FOR VETERANS' AFFAIRSPurpose: The Bill amends the following Acts:
Repatriation Act 1920; Interim Forces Benefits Act 1947; Repatriation (Far East Strategic Reserve) Act 1956; Repatriation (Special Overseas Service) Act 1962; and Seamen's War Pensions and Allowances Act 1940.

The main purposes of this Bill are to :

- . abolish Repatriation Boards (clause 6);
- . provide that the Repatriation Commission will be responsible for primary decision on claims and applications for disability pensions, of applications for increases in the rates of pensions payable and of claims for service pension (clause 12, proposed Section 29A), (clause 15, proposed Section 90A);
- . establish a 'veterans' Review Board to operate as the intermediate level of review of decisions of Repatriation Commission delegates in respect of disability pension matters (clause 19);

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

. provide for appeal delegates of the Repatriation Commission to operate as the intermediate level of review of decisions of primary delegates in respect of service pension matters (clause 15, proposed section 90C);

. abolish the Repatriation Review Tribunal (clause 19);

. provide for the Administrative Appeals Tribunal to operate as the final level of review on the merits of all claims for disability pensions and service pensions and all applications for increases in the rates of disability pensions payable (clause 19, proposed Part IIIB);

. provide for the Veterans' Review Board to operate as the intermediate level of review and the Administrative Appeals Tribunal as the final level of review on the merits in respect of claims and applications for pensions under the Seamen's War Pensions and Allowances Act 1940 (clauses 38-47).

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 13 - Review of Decisions

This clause proposes to insert a new section 31 in the Principal Act. It provides that the Repatriation Commission may, on a variety of grounds, review its own decisions. Where such a review is undertaken by the Commission and the decision under review is affirmed then, under sub-clause

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

31(7), the avenues for review are closed off. If the Commission pre-empts other avenues of appeal and affirms its decision then a pensioner may have no rights of appeal.

The Committee draws this clause to the attention of Senators in that it might be considered to make personal rights and liberties unduly dependent on non-reviewable administrative decisions.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D7/84

SALES TAX (EXEMPTIONS AND CLASSIFICATIONS)
AMENDMENT BILL 1984

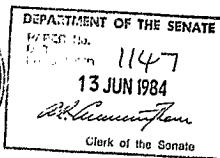
Date Introduced: 29 May 1984

House: SENATE
SENATOR MACKLIN

Purpose: This Bill is designed to eliminate an anomaly in the Sales Tax (Exemptions and Classifications) Act 1935 which discriminates against handicapped persons. Exemptions from sales tax relating to disabled people are limited to items specifically designed for the handicapped and not usually used by others. This Bill would provide for exemptions from sales tax of goods to be used by handicapped people which can be adapted after purchase to become aids, or which can be used without modification.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.



SCRUTINY OF BILLS ALERT DIGEST

No. 8 of 1984

13 June 1984

ISSN 0729-6851

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

MEMBERS OF THE COMMITTEE

Senator M C Tate, Chairman
Senator A J Missen, Deputy Chairman
Senator N Bolkus
Senator R A Crowley
Senator the Hon. P D Durack
Senator J Haines

TERMS OF REFERENCE

Extract

- (1) (a) That a Standing Committee of the Senate, to be known as the Standing Committee for the Scrutiny of Bills, be appointed to report, in respect of the clauses of Bills introduced into the Senate, and in respect of Acts of the Parliament, whether such Bills or Acts, by express words or otherwise -
- (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make such rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions;
 - (iv) inappropriately delegate legislative power; or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

DB/84

The Committee has considered the following Bills:

Biological Control Bill 1984

Corporations (Employee-Owned Co-Operatives) Bill 1984

NOTE: This Digest is circulated to all Honourable Senators. Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

DB/84

BIOLOGICAL CONTROL BILL 1984

Date Introduced: 6 June 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: The Biological Control Bill 1984 has the following main purposes:

(1) to provide an opportunity for equitably assessing proposed biological control activities to ensure that they are in the public interest, by

. publishing proposals with a view to obtaining public comment

. where appropriate, ordering public inquiries to investigate and report on the implications of proposals

. providing for review of administrative decisions;

(2) to authorise the release of biological control agents and to ensure that where biological control activities are approved in terms of the Bill, they are not subject to legal proceedings intended to prevent the activities from being undertaken;

(3) to authorise existing biological control programs

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

which may nevertheless in some cases be subject to the assessment procedures applying to new proposals;

(4) to provide for action to be taken in the event of emergencies developing which could be prevented by immediate implementation of biological control;

(5) to provide a nexus with complementary legislation in the States and the Northern Territory to ensure that the administration and legal status of biological control has a uniform basis throughout Australia.

The Committee draws the attention of Senators to the following clauses of this Bill:

Clauses 36 and 37 - Immunity from Legal Process

Where an organism is released in accordance with the procedures set out in this legislation the persons releasing the organism will not be liable at law for any loss or injury that may result, nor can the release of the organism be delayed by a court order. However, the legislation sets out extensive procedures which must be followed prior to the release of an organism and provides for review by the Administrative Appeals Tribunal of the various decisions taken by the Commonwealth Biological Control Authority. Provision is also made for compensating persons adversely

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

affected by the release of organisms. In addition where the correct procedures are not followed prior to release, normal channels of legal redress are open to the citizen.

Thus although at first sight these clauses might be considered objectionable to the Committee in view of the extensive processes of review available they are considered acceptable.

Clause 33 - Unreviewable Discretion

Clause 31 enables the Authority to declare organisms released prior to the commencement of the legislation as subject to the legislation. Where the Authority is contemplating such a declaration it may under clause 33 conduct an inquiry into the proposal. A decision not to conduct an inquiry under clause 33 is not reviewable. Decisions not to hold inquiries under clauses 19 and 28 are, in contrast, reviewable under clause 56.

The Committee draws this clause to the attention of Senators in that it might be considered to make rights, liberties and/or obligations unduly dependent on non-reviewable administrative decisions.

Clause 51 - Burden of Proof

Sub-clause (2) creates an offence of dismissing, threatening or prejudicing a person in his or her employment, as a result of that person's participation in an inquiry before a Commission established under this legislation.

As a result of sub-clause (3) in any proceedings arising out of sub-clause (2) the burden of proof that a person was not dismissed, threatened or prejudiced in his or her employment is placed on the defendant - the employer.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

The Committee draws this clause to the attention of Senators in that it might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

DB/84

CORPORATIONS (EMPLOYEE-OWNED CO-OPERATIVES)
BILL 1984

Date Introduced: 6 June 1984

House: SENATE
SENATOR JACK EVANS

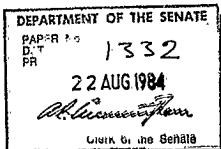
Purpose: This Bill provides a legal framework to enable and encourage the transformation of corporations into corporations operating as employee-owned co-operatives.

It establishes an Employee-Owned Corporation Board, to which a corporation may apply if it wishes to be registered as an employee-owned co-operative.

Under this Bill, a corporation may place before the Board, a proposal for re-organising itself to enable it to become an employee-owned co-operative. Such a proposal would have to be approved by a majority of the employees of the corporation.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.



SCRUTINY OF BILLS ALERT DIGEST

No. 9 of 1984

22 August 1984

ISSN 0729-6851

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

MEMBERS OF THE COMMITTEE

Senator M C Tate, Chairman
Senator A J Missen, Deputy Chairman
Senator N Bolkus
Senator R A Crowley
Senator the Hon. P D Durack
Senator J Haines

TERMS OF REFERENCE

Extract

- (1) (a) That a Standing Committee of the Senate, to be known as the Standing Committee for the Scrutiny of Bills, be appointed to report, in respect of the clauses of Bills introduced into the Senate, and in respect of Acts of the Parliament, whether such Bills or Acts, by express words or otherwise -
- (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make such rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions;
 - (iv) inappropriately delegate legislative power;
or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

D9/84

The Committee has considered the following Bills:

Commission of Inquiry (Chamberlain Convictions) Bill
1984

Constitution Alteration (Appropriation Bills)
Bill 1984

Constitution Alteration (Interchange of Powers) Bill
1984

Constitution Alteration (Simultaneous Elections) Bill
1984

Nuclear Weapons Prohibitions Bill 1984

NOTE: This Digest is circulated to all Honourable Senators.
Any Senator who wishes to draw matters to the
attention of the Committee under its Terms of
Reference is invited to do so.

D9/84

COMMISSION OF INQUIRY
(CHAMBERLAIN CONVICTIONS) BILL 1984

Date Introduced: 14 June 1984

House: SENATE
SENATOR MASON

Purpose: The purpose of this Bill is to establish a Commission of Inquiry into the convictions of Micheal Leigh Chamberlain and Alice Lyne Chamberlain, and to establish by considering fresh evidence in conjunction with evidence already adduced, whether either or both convictions constituted a miscarriage of justice.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D9/84

CONSTITUTION ALTERATION
(APPROPRIATION BILLS) BILL 1984

Date Introduced: 13 June 1984

House: SENATE
SENATOR PETER RAE

Purpose: The purpose of the Bill is to provide for automatic and simultaneous dissolution of both Houses of Parliament in the event of disagreement between the Houses in relation to the passing of proposed laws appropriating revenue or moneys for ordinary annual services of the Government.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D9/84

CONSTITUTION ALTERATION
(INTERCHANGE OF POWERS) BILL 1984

Date Introduced: 13 June 1984

House: SENATE
ATTORNEY-GENERAL

Purpose: This Bill proposes to amend the Constitution to enable the Commonwealth to 'designate' (in effect refer) matters within the Commonwealth's exclusive powers, on which the States may wish to legislate. The Bill would also clarify aspects of the existing constitutional provision that enables the Commonwealth to legislate on matters referred to it by the States.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D9/84

CONSTITUTION ALTERATION
(SIMULTANEOUS ELECTIONS) BILL 1984

Date Introduced: 13 June 1984

House: SENATE
ATTORNEY-GENERAL

Purpose: This Bill proposes to amend the Constitution to provide for simultaneous elections for the Senate and the House of Representatives. It provides for half-Senate elections to be brought into line with elections of the House of Representatives, whenever those elections may occur.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D9/84

NUCLEAR WEAPONS PROHIBITIONS BILL 1984

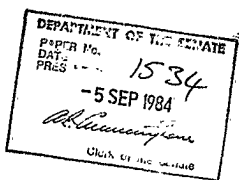
Date Introduced: 15 June 1984

House: SENATE
SENATOR CHIPP

Purpose: The purpose of this Bill is to prohibit the manufacture of nuclear weapons in, and the introduction of nuclear weapons into Australia.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.



SCRUTINY OF BILLS ALERT DIGEST

No. 10 of 1984

5 September 1984

ISSN 0729-6851

W. H. H. H. H.

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

MEMBERS OF THE COMMITTEE

Senator M C Tate, Chairman
Senator A J Missen, Deputy Chairman
Senator N Bolkus
Senator R A Crowley
Senator the Hon. P D Durack
Senator J Haines

TERMS OF REFERENCE

Extract

- (1) (a) That a Standing Committee of the Senate, to be known as the Standing Committee for the Scrutiny of Bills, be appointed to report, in respect of the clauses of Bills introduced into the Senate, and in respect of Acts of the Parliament, whether such Bills or Acts, by express words or otherwise -
- (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make such rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions;
 - (iv) inappropriately delegate legislative power;
or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

D10/84

The Committee has considered the following Bills:

Appropriation Bill (No.1) 1984-5

Appropriation Bill (No.2) 1984-5

Appropriation (Parliamentary Departments) Bill 1984-5

Bounty (Agricultural Tractors) Amendment Bill 1984

Bounty (Tractor Cabs) Amendment Bill 1984

Customs Tariff Amendment Bill (No.2) 1984

Loan Bill 1984

Passports Amendment Bill 1984

Petroleum Retail Marketing Franchise Amendment Bill 1984

Petroleum Retail Marketing Sites Amendment Bill 1984

Remuneration and Allowances Amendment Bill 1984 (No.2)

Sales Tax (Exemptions and Classifications) Amendment
Bill 1984 Hon. C. Hurford

Sales Tax (Nos.1-9) Amendment Bills 1984

Social Security and Repatriation (Budget Measures and
Assets Test) Bill 1984

NOTE: This Digest is circulated to all Honourable Senators.
Any Senator who wishes to draw matters to the
attention of the Committee under its Terms of
Reference is invited to do so.

D10/84.

APPROPRIATION BILL (NO.1) 1984-85

Date Introduced: 21 August 1984

House: HOUSE OF REPRESENTATIVES
TREASURER

Purpose: To appropriate money from the Consolidated Revenue Fund for the ordinary annual services of Government provided for in the 1984-85 Budget.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D10/84

APPROPRIATION BILL (NO.2) 1984-85

Date Introduced: 21 August 1984

House: HOUSE OF REPRESENTATIVES
TREASURER

Purpose: To appropriate money from the Consolidated Revenue Fund for expenditure on various goods and services, for making advances and loans, and grants to the States and the Northern Territory.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D10/84

APPROPRIATION (PARLIAMENTARY DEPARTMENTS)
BILL 1984-85

Date Introduced: 21 August 1984

House: HOUSE OF REPRESENTATIVES
TREASURER

Purpose: To appropriate sums from the Consolidated
Revenue Fund for the purposes of Parliamentary
Departments during the 1984-85 financial year.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

D10/84

BOUNTY (AGRICULTURAL TRACTORS)
AMENDMENT BILL 1984

Date Introduced: 22 August 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING MINISTER FOR
INDUSTRY AND COMMERCE

Purpose: This Bill proposes a continuation of short term bounty assistance to the industry producing agricultural tractors in Australia until 31 December 1984 or until the Government's decision on the Industries Assistance Commission report on long term assistance to this industry is announced.

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 3

The purpose of this Bill is to extend the short term bounty assistance on agricultural tractors, which should have ended on 9 June 1984, until 31 December 1984 or until the Government's decision on the I.A.C Report on the industry is announced, being a date not later than 30 June 1985. The actual date of termination is to be determined by the Minister.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

The Committee draws this clause to the attention of Senators in that such a Ministerial discretion might be considered to be an inappropriate delegation of legislative power.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D10/84

BOUNTY (TRACTOR CABS) AMENDMENT BILL 1984

Date Introduced: 22 August 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING MINISTER FOR
INDUSTRY AND COMMERCE

Purpose: This Bill proposes a continuation of short term bounty assistance to the industry producing agricultural tractor cabs in Australia until 31 December 1984 or until the Government's decision on the Industries Assistance Commission report on long term assistance to this industry is announced.

A technical amendment to the definition of bountiable cab is also proposed to enable producers of cabs to be paid bounty where a glass superior to heat-treated safety glass is used.

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 3

This Bill is in the same form and has a similar purpose to the Bounty (Agricultural Tractors) Amendment Bill 1984. The Committee's comments on clause 3 of that Bill also apply to this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D10/84

CUSTOMS TARIFF AMENDMENT BILL (NO.2) 1984

Date Introduced: 21 August 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING MINISTER FOR
INDUSTRY AND COMMERCE

Purpose: To impose Customs duties equivalent to a sales tax of 100% on alcoholic grape wine and 20% on alcoholic cider and beer containing not more than 1.15% by volume of alcohol.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D10/84.

LOAN BILL 1984

Date Introduced: 21 August 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR FINANCE

Purpose: To enable the financing of the prospective 1984-85 Budget deficit which gives rise to an estimated short fall of the same order in the amount of money legally available to the Consolidated Revenue Fund.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D10/84

PASSPORTS AMENDMENT BILL 1984

Date Introduced: 23 August 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR FOREIGN AFFAIRS

Purpose: The Bill proposes to amend the Passports Act 1938 to:

- a) remove the present distinction between British subjects who are not Australian citizens and other non-citizens, and prohibits the issue of passports to all non-citizens;
- b) provide for a simplified procedure for the issue of passports to children in exceptional circumstances; and
- c) make certain decisions under the Passports Act 1938 and Regulations subject to review by the Administrative Appeals Tribunal.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D10/84

PETROLEUM RETAIL MARKETING FRANCHISE
AMENDMENT BILL 1984

Date Introduced: 22 August 1984

House: SENATE
MINISTER FOR INDUSTRY AND COMMERCE

Purpose: The main purpose of this Bill is to amend the Petroleum Retail Marketing Franchise Act 1980, which confers basic rights on lessee/franchisee service station dealers. The rights in general relate to the disclosure of relevant information, security of tenure, and a prohibition of certain price discrimination.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D10/84

PETROLEUM RETAIL MARKETING SITES
AMENDMENT BILL 1984

Date Introduced: 22 August 1984

House: SENATE
MINISTER FOR INDUSTRY AND COMMERCE

Purpose: This Bill proposes to simplify the administration of the Petroleum Retail Marketing Sites Act 1980 and clarify its application to retail sites operated by major oil companies (referred to as prescribed corporations) principally by:

- replacing the current percentage-based application test for determining whether a particular site is subject to the Act, with a more precise volume-based test;
- removing current exemptions from quota for market-research and training sites, and clarifying the remaining exemptions for diesel fuel and temporarily operated sites;
- adding new provisions to define which motor fuels and which sales of those motor fuels will be subject to the Act;
- altering the application of the Act from a basis of sales made on a particular day to a basis of sales made during a particular month,

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

to accord more closely with commercial practice and to reduce the administrative requirements on prescribed corporations;

- repealing the section relating to associates to clarify that direct company operation is not restricted where the only link between companies is that they are associates;

- amending the pecuniary penalty provisions to ensure that each site operated in excess of quota, and each contravention of the returns provisions of the Act, constitutes a separate contravention, liable to a separate pecuniary penalty; and

- introducing a new transitional provision to protect incumbent commission agents at sites which a prescribed corporation ceases to operate directly during the eighteen month phasing period (1 January 1985 to 30 June 1986) effected by the new quota allocation scheme.

A number of matters relating to the precise application of this Bill are to be fixed by regulation rather than specified in the Bill itself.

The Committee draws the attention of Senators to the following clauses of this Bill:

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

Clause 3

Paragraph (f) of this clause leaves the definition of "prescribed oil company" to be made by regulation. Under proposed new sub-section 3(6) to be inserted by this clause "prescribed number" may likewise be defined by regulation. This latter definition is important in that it refers to quantities of fuel sold and the volume of fuel sold at a site is integral to the definition of that site, as a retail site for the purposes of the legislation.

Clause 5

Proposed sub-clause 7(2) to be inserted by clause 5 states that the criteria which determine the operation of a retail site shall include the sale of a quantity of fuel which may be determined by regulation.

Clause 6

Proposed sub-section 10(2) states that the maximum number of retail outlets which a prescribed oil company may operate in any given month is to be set out in regulations. At present the number of retail outlets which prescribed corporations may operate is contained in a schedule to the principal act. Any change in the schedule can only be made by amending legislation.

The Committee draws the attention of Senators to each of these clauses in that they might be considered to be inappropriate delegations of legislative power.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D10/84

REMUNERATION AND ALLOWANCES
AMENDMENT BILL 1984 (NO.2)

Date Introduced: 24 August 1984

House: SENATE
SENATOR HARRADINE

Purpose: This Bill proposes to modify Determination No.18 of 1984 of the Remuneration Tribunal relating to the condition under which financial assistance for overseas study travel for Senators and Members of Parliament is made available.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D10/84

SALES TAX (EXEMPTIONS AND CLASSIFICATIONS)
AMENDMENT BILL 1984

Date Introduced: 21 August 1984

House: HOUSE OF REPRESENTATIVES
MINISTER ASSISTING THE TREASURER

Purpose: The Bill proposes to amend the Sales Tax
(Exemptions and Classifications) Act 1935 to:

- introduce a 6th Schedule into the Act covering goods upon which a sales tax of 10% is to be imposed;
- remove certain anomalies and make certain structural changes in the classification of goods between the various schedules of the Act; and
- ensure that the exemptions from sales tax of certain goods for export and for import are not used for tax avoidance purposes.

The Committee draws the attention of Senators to the following clause of this Bill:

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

Clause 2 - Retrospectivity

Sub-clause 2 of this clause makes the commencement of proposed sub-sections 4(1) and 5(3) retrospective to 8 May 1984. These amendments impose sales tax on currently exempt items. 8 May 1984 was the date on which the Treasurer announced the proposed change.

The Committee has in the past adopted the practice of overlooking brief periods of retrospectivity in legislation particularly where no new taxes, charges or other obligations are imposed, for example the backdating of changes made as a result of budget decisions to Budget night is generally acceptable. However where new charges are imposed retrospectively and the backdating is to the date of a Ministerial announcement the Committee believes that it should be reported. Thus this clause is drawn to the attention of Senators in that retrospectivity may be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D10/84

SALES TAX (NOS.1-9) AMENDMENT BILLS 1984

Date Introduced: 21 August 1984

House: HOUSE OF REPRESENTATIVES
MINISTER ASSISTING THE TREASURER

Purpose: To impose tax, at the new rate of 10% on the sale value of goods to be covered by the proposed 6th Schedule to the Sales Tax (Exemptions and Classifications) Act 1935. The Bills will also re-impose sales tax on goods covered by the 2nd-5th Schedules of the Sales Tax (Exemptions and Classifications) Act, as well as on goods not covered by that Act.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D10/84

SOCIAL SECURITY AND REPATRIATION
(BUDGET MEASURES AND ASSETS TEST) BILL 1984

Date Introduced: 21 August 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING MINISTER
FOR SOCIAL SECURITY

Purpose: To provide for the major Budget measures for 1984-85 requiring the amendment of the Social Security Act 1947, the Repatriation Act 1920 and the Seamen's War Pensions and Allowances Act 1940, and for the introduction of a separate assets test upon pensions and service pensions under those Acts which are currently income tested.

The Committee draws the attention of Senators to the following clause of this Bill which amends the Repatriation Act 1920.

Clause 61 - Proposed Section 121B - Self-Incrimination

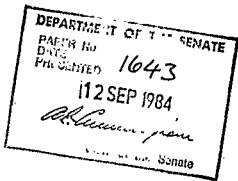
Proposed section 121A defines the powers of the Repatriation Department to obtain information relevant to the payment of a pension. Persons may be required to provide information which affects the payment of their own or another persons pension.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

Proposed section 121B is in the now standard form, withdrawing protection against self-incrimination for any person required to furnish information under sections 121 and 121A. The evidence given may not however be used in any proceedings other than those arising out of sub-sections 121(5) and 121A(3). These sub-sections create offences of refusal to comply with a direction to provide information and of supplying false information.

The Committee draws this clause to the attention of Senators in might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.



SCRUTINY OF BILLS ALERT DIGEST

No. 11 of 1984

12 September 1984

ISSN 0729-6851

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

MEMBERS OF THE COMMITTEE

Senator M C Tate, Chairman
Senator A J Missen, Deputy Chairman
Senator N Bolkus
Senator R A Crowley
Senator the Hon. P D Durack
Senator J Haines

TERMS OF REFERENCE

Extract

- (1) (a) That a Standing Committee of the Senate, to be known as the Standing Committee for the Scrutiny of Bills, be appointed to report, in respect of the clauses of Bills introduced into the Senate, and in respect of Acts of the Parliament, whether such Bills or Acts, by express words or otherwise -
- (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make such rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions;
 - (iv) inappropriately delegate legislative power;
or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

D11/84

The Committee has considered the following Bills:

- Automatic Data Processing Equipment Bounty Amendment Bill (No.2) 1984
- Bank Account Debits Tax Administration Amendment Bill 1984
- Bank Account Debits Tax Amendment Bill 1984
- Bounty (Computers) Bill 1984
- Bounty (Electric Motors) Bill 1984
- Christmas Island Administration (Miscellaneous Amendments) Bill 1984
- Dairy Products (Export Inspection Charge) Amendment Bill 1984
- Dairy Products (Export Inspection Charge) Collection Amendment Bill 1984
- Egg Export Legislation Repeal Bill 1984
- Eggs (Export Inspection Charge) Amendment Bill 1984
- Eggs (Export Inspection Charge) Collection Amendment Bill 1984
- Income Tax Assessment Amendment Bill (No.2) 1984
- Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Bill 1984
- Income Tax (Individuals) Bill 1984
- Income Tax (Rates) Amendment Bill 1984
- International Development Association (Further Payment) Bill 1984
- Judicial and Statutory Officers (Remuneration and Allowances) Bill 1984
- Medicare Levy Bill 1984
- National Crime Authority (Status and Rights of Chairman) Bill 1984

Overseas Students Charge Amendment Bill 1984.

Qantas Airways Limited (Loan Guarantee) Bill 1984

States (Works and Housing) Assistance Bill 1984

Stevedoring Industry Finance Committee Amendment Bill 1984

Telecommunications (Interception) Amendment Bill (No.2)
1984

NOTE: This Digest is circulated to all Honourable Senators.
Any Senator who wishes to draw matters to the
attention of the Committee under its Terms of
Reference is invited to do so.

D11/84

AUTOMATIC DATA PROCESSING EQUIPMENT
BOUNTY AMENDMENT BILL (NO.2) 1984

Date Introduced: 5 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING MINISTER FOR
INDUSTRY AND COMMERCE

Purpose: This Bill proposes to terminate the Automatic Data Processing Equipment Bounty Act 1977 on 5 July 1984, that is the day upon which the Government announced its decision on new assistance measures for the computer industry in Australia.

On 4 May 1984 the period of the Automatic Data Processing Equipment Bounty Act 1977 was extended from 6 May 1984 to 6 August 1984 by Ministerial notification in the Gazette pending the Government's decision on the long term assistance needs for this industry.

The termination of this Act is consequential upon the introduction of the proposed Bounty (Computers) Bill timed to commence on 6 July 1984.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

BANK ACCOUNT DEBITS TAX ADMINISTRATION
AMENDMENT BILL 1984

Date Introduced: 5 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER ASSISTING THE TREASURER

Purpose: This Bill will amend the bank account debits tax law to:

- . exempt debits made to an account of an organisation whose sole function is support of a specified public benevolent or religious institution, hospital, school, college or university that is presently exempt from the bank account debits tax;
- . exempt debits made in relation to a minor or insignificant business activity of a government body (including local municipal councils) that does not carry out as its sole or principal function an activity in the nature of a business;
- . make it clear that a tax exemption provision contained in the enabling legislation of a government body does not apply to exempt that body from bank account debits tax; and

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

7.

vary a machinery provision dealing with the lodgment by banks of returns relating to exempt accounts.

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 3 - Delegation

Sub-clause 3(1)(a) of this Bill would repeal and replace the definitions of "excepted goods" and "excepted services" in the principal Act. In so doing, it would permit these definitions to be given any content solely by means of regulations. Although the principal Act, as it now stands, permits the extension of the definition of these terms by regulation, there is an indication, in the reference to goods or services which form a minor or insignificant part of a body's activities, of the classes of goods and services intended to be exempt. Under the proposed amendment, there is no such indication.

The Committee draws this clause to the attention of Senators in that it might be considered to be an inappropriate delegation of legislative power.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

BANK ACCOUNT DEBITS TAX AMENDMENT BILL 1984

Date Introduced: 5 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER ASSISTING THE TREASURER

Purpose: This Bill will give effect to the proposals announced in the Budget Speech to exempt debits below \$1 from the bank account debits tax and to increase the tax on debits of \$10,000 or more from \$1 to \$1.50.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

BOUNTY (COMPUTERS) BILL 1984

Date Introduced: 5 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTATING MINISTER FOR
INDUSTRY AND COMMERCE

Purpose: The Bill proposes to introduce bounty assistance, for a 6 year period from 6 July 1984, on the production in Australia of certain computer hardware, computer sub-assemblies and electronic microcircuits. The Bill supersedes the Automatic Data Processing Equipment Bounty Act 1977.

The Committee draws the attention of Senators to the following clauses of this Bill:

Clause 5 - Delegation

Sub-clause 5(1) empowers the Minister by notice in the Gazette to extend the range of equipment on which bounty is payable. Sub-clause (4) permits such a notice to have retrospective effect in relation to the inclusion (but not the exclusion) of equipment within the terms of the Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

The Committee recognizes that this clause is beneficial to recipients of the bounty but nevertheless draws sub-clause 5(4) to the attention of Senators in that the delegation of the power to make regulations having a retrospective effect is considered to be an inappropriate delegation of legislative authority.

Clause 25

Sub-clause 25(1) gives to a collector or other authorized officer power to require a person to attend and answer questions in relation to the manufacture of bountiable products. The Committee has had misgivings about similar clauses in the past - see, most recently, the Fourth Report of 1984, paras 38-43, in relation to the Bounty (Two-Stroke Engines) Bill. The Explanatory Memorandum to this Bill states that "the purchase of equipment from a manufacturer in itself would not be sufficient ground to require a purchaser to provide information." Although the Memorandum gives no reason to support this view, such a reason may lie in the fact that, in the legislation to which the Committee has in the past objected the information to be provided related to the manufacture, "sale or other disposal, or use" of the equipment - see Bounty (Room Air Conditioners) Act 1983, s.16(1). The non-inclusion of these words from the present Bill may have the effect claimed for them, but it is by no means as clear as the author of the Explanatory Memorandum appears to believe.

The Committee draws this clause to the attention of Senators in that it might be considered to make right, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

Clause 25(5) - Self-Incrimination

Sub-clause (5) of this clause removes the protection against self-incrimination for any person giving information in accordance with sub-clause 25(1). However any answer to a question or other material which tends to incriminate the person can only be used in proceedings arising out of clauses 25 and 27 of the Bill. These clauses refer to the provision of misleading information.

This clause is in a standard form and is widely used in legislation. Nonetheless the Committee draws it to the attention of Senators in that it might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

BOUNTY (ELECTRIC MOTORS) BILL 1984

Date Introduced: 5 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING MINISTER FOR
INDUSTRY AND COMMERCE

Purpose: This Bill proposes temporary bounty assistance on the production in Australia of certain integral electric motors for 12 months from 17 July 1984 or until the Government's decision on the Industries Assistance Commission's report on long term assistance to the industry is announced.

The proposed bounty scheme provides for payment of bounty at a rate of \$14 per motor.

The Committee draws the attention of the Senators to the following clauses of this Bill:

Clause 3 - Inappropriate Delegation

Sub-clause (2) of this clause permits the Minister to extend the bounty period beyond 16 July 1985 by notice published in the Gazette. The notice is not subject to Parliamentary review. The Explanatory Memorandum states that this is a

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

mechanism to enable the bounty to be terminated on the date that the Government's decision on the I.A.C. report on assistance to the industry is announced.

The Committee drew the attention of Senators to a similar provision in the Bounty (Agricultural Tractors) Amendment Bill 1984 in its Alert Digest No. 10, 1984. That provision, in contrast to the one under discussion, restricted the Ministerial discretion to determining a termination date being a date not later than 30 June 1985. This Bill places no such "upper-limit" on the extension which the Minister may grant.

The Committee draws this clause to the attention of Senators in that a decision to extend the period of financial assistance to an industry, which is not subject to Parliamentary scrutiny might be considered to be an inappropriate delegation of legislative power.

The Committee also draws attention to sub-clauses 7(1) and (2) which are similar in effect to sub-clause 6(6) of the Bounty (Computers) Bill; to sub-clause 27(1) which is similar to sub-clause 25(1) of that Bill and to sub-clause 27(5) which is similar to sub-clause 25(5) of that Bill. The comments made on the clauses of the Bounty (Computers) Bill 1984 apply equally to the relevant clauses of this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

CHRISTMAS ISLAND ADMINISTRATION
(MISCELLANEOUS AMENDMENTS) BILL 1984

Date Introduced: 5 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR TERRITORIES AND
LOCAL GOVERNMENT

Purpose: The Christmas Island Administration (Miscellaneous Amendments) Bill 1984 will extend commonwealth legislation in the areas of health, social security, federal electoral representation and education to the Territory of Christmas Island, following the decision of the Government to bring living conditions in the Territory into line with those in mainland Australia.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

DAIRY PRODUCTS (EXPORT INSPECTION CHARGE)
AMENDMENT BILL 1984

Date Introduced: 5 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: The Dairy Products (Export Inspection Charge) Amendment Bill 1984 will amend the Dairy Products (Export Inspection Charge) Act 1982 for the purpose of reflecting changes to export inspection practices in relation to dairy products to be introduced towards the end of this year or early in 1985 that affect the imposition of the export inspection charge on dairy products.

Without this Bill, there would be an expected loss in revenue to the Commonwealth during the remainder of 1984-85 of approximately \$260,000 as costs of inspection could only be recovered in respect of the very small proportion of product that was physically inspected and examined prior to export.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

DAIRY PRODUCTS (EXPORT INSPECTION CHARGE)
COLLECTION AMENDMENT BILL 1984

Date Introduced: 5 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: The Dairy Products (Export Inspection Charge) Collection Amendment Bill 1984 will amend the Dairy Products (Export Inspection Charge) Collection Act 1982 for the purpose of reflecting changes to export inspection practices in relation to dairy products to be introduced towards the end of this year or early in 1985 that affect the collection of the export inspection charge on dairy products.

Without this Bill, there would be an expected loss in revenue to the Commonwealth during the remainder of 1984-85 of approximately \$260,000 as costs of inspection could only be recovered in respect of the very small proportion of product that was physically inspected and examined prior to export.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to

D11/84

EGG EXPORT LEGISLATION REPEAL BILL 1984

Date Introduced: 5 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: The Bill repeals the Egg Export Control Act 1947, which established the Australian Egg Board (AEB) and the Egg Export Charges Act 1947 which provided for funding of Board operations.

While the Bill effectively terminates the Board's activities from 31 December 1984 a number of administrative actions will need to be completed after that date to fully wind up the AEB. Provisions are therefore made to retain the Board until final auditing, accounting, discharge of liabilities, reporting, etc. are completed.

Abolition of the Board has been the subject of extensive discussions with States and Industry. All sectors support the proposal and adequate future alternate export egg marketing arrangements of a non-statutory nature have been agreed upon by all parties concerned.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

EGGS (EXPORT INSPECTION CHARGE)
AMENDMENT BILL 1984

Date Introduced: 5 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: The Eggs (Export Inspection Charge) Amendment Bill 1984 will amend the Eggs (Export Inspection Charge) Act 1982 for the purpose of reflecting changes to export inspection practices in relation to eggs and egg products that are to be introduced towards the end of this year or early in 1985 that affect the imposition of the export inspection charge on eggs and egg products. Without this Bill there would be an expected loss in revenue to the Commonwealth during the remainder of 1984-85 of approximately \$40,000 as costs of inspection could only be recovered in respect of the very small proportion of product that was physically inspected and examined prior to export.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

EGGS (EXPORT INSPECTION CHARGE) COLLECTION
AMENDMENT BILL 1984

Date Introduced: 5 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR PRIMARY INDUSTRY

Purpose: The Eggs (Export Inspection Charge) Collection Amendment Bill 1984 will amend the Eggs (Export Inspection Charge) Collection Act 1982 for the purpose of reflecting changes to export inspection practices in relation to eggs and egg products to be introduced towards the end of this year or early in 1985 that affect the collection of the export inspection charge on eggs and egg products.

Without this Bill, there would be an expected loss in revenue to the Commonwealth during the remainder of 1984-85 of approximately \$40,000 as costs of inspection could only be recovered in respect of the very small proportion of product that was physically inspected and examined prior to export.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

INCOME TAX ASSESSMENT AMENDMENT
BILL (NO.2) 1984

Date Introduced: 5 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER ASSISTING THE TREASURER

Purpose: The provisions of this Bill would counter some tax avoidance practices associated with contrived employee superannuation funds.

This Bill is identical to the Income Tax Assessment Amendment Bill (No.2) 1984 introduced into the Senate on 4 April 1984 and laid aside for 12 months from 13 June 1984.

This Bill is, in all material respects, identical to a Bill of the same title introduced on 4 April 1984 and reported by the Committee in its Fourth Report, 9 May 1984.

The Committee draws the attention of Senators to the following clause of this Bill:

Clause 3 - Retrospectivity

This clause inserts a new section 26 AFA into the principal Act. The operation of the proposed section is retrospective to 1 July 1977.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

21.

The Committee adopts the policy of drawing all such examples of retrospectivity to the attention of Senators in that they might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

INCOME TAX (COMPANIES, CORPORATE UNIT TRUSTS AND
SUPERANNUATION FUNDS) BILL 1984

Date Introduced: 7 September 1984

House: HOUSE OF REPRESENTATIVES
TREASURER

Purpose: This Bill will declare and impose the rates of tax payable for 1984-85 by companies and registered organizations, by trustees of corporate unit trusts, superannuation funds and ineligible approved deposit funds, and by trustees in respect of trust income of non-resident company beneficiaries of trust estates.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

INCOME TAX (INDIVIDUALS) BILL 1984

Date Introduced: 7 September 1984

House: HOUSE OF REPRESENTATIVES
TREASURER

Purpose: This is an annual measure which formally imposes personal income tax rates for the current financial year.

The rates imposed by this Bill are those declared in the Income Tax (Rates) Act 1982 as proposed to be amended by the Income Tax (Rates) Amendment Bill 1984.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

INCOME TAX (RATES) AMENDMENT BILL 1984

Date Introduced: 7 September 1984

House: HOUSE OF REPRESENTATIVES
TREASURER

Purpose: The purpose of this Bill is to amend the Income Tax (Rates) Act 1982, which declares the rates of tax payable by individuals and trustees generally, to implement the Budget proposal to alter the personal income tax rate scale.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

INTERNATIONAL DEVELOPMENT ASSOCIATION
(FURTHER PAYMENT) BILL 1984

Date Introduced: 5 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR TRADE

Purpose: The International Development Association (Further Payment) Bill 1984 is designed to authorise a contribution by Australia of \$A200 million to the seventh replenishment of the resources of the International Development Association (IDA).

The IDA is an affiliate of the World Bank and provides interest free loans to its poorest developing member countries.

The resources of the Association are replenished every three years. The seventh replenishment, which totals \$US9 billion, is intended to cover IDA's lending operations over the three year period commencing 1 July 1984.

Australia has been a member of the Association since it was established in 1960 and has contributed to the previous six IDA replenishments.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

INTERNATIONAL DEVELOPMENT ASSOCIATION (FURTHER
PAYMENT) BILL 1984 (Cont 2) (D11/84)

26.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

D11/84

JUDICIAL AND STATUTORY OFFICERS
(REMUNERATION AND ALLOWANCES) BILL 1984

Date Introduced: 5 September 1984

House: HOUSE OF REPRESENTATIVES
SPECIAL MINISTER OF STATE

Purpose: The purpose of this Bill is to give effect to the Government's decision to accept report No.5 and Report No.6 of the Remuneration Tribunal's 1984 Review.

The Tribunal's Reports propose:

- (a) an increase of 11.7% in the salaries payable to judges and to the President of the Inter-State Commission;
- (b) the phasing-in of that increase: a 6% increase with effect from 1 July 1984 and a further 5.7% increase with effect from 1 January 1985;
- (c) the application to each of the increased rates of salary of any National Wage increases after 1 July 1984; and
- (d) increases in travelling allowance to reflect increases in costs.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

JUDICIAL AND STATUTORY OFFICERS (REMUNERATION AND
ALLOWANCES) BILL 1984 (Cont 2) (D11/84)

28.

The cost of implementing the Tribunal's
recommendations in respect of Judges and the
Inter-State Commission will be of the order of
\$0.9 million in 1984-85.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to
do so.

D11/84

MEDICARE LEVY BILL 1984

Date Introduced: 7 September 1984

House: HOUSE OF REPRESENTATIVES
TREASURER

Purpose: This Bill declares the basic rate of Medicare Levy for 1984-85 and, until the Parliament otherwise provides, for 1985-86. This rate will be 1% of taxable income. The Bill also makes provision for fixing the maximum amount of levy payable and for arrangements relating to certain "prescribed persons".

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

NATIONAL CRIME AUTHORITY (STATUS AND RIGHTS
OF CHAIRMAN) BILL 1984

Date Introduced: 5 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER REPRESENTING THE
ATTORNEY-GENERAL

Purpose: The purpose of this Bill is to make special provision for the remuneration and allowances, leave, conditions of service, pension rights, and status of the Chairman of the National Crime Authority, the Honourable Donald Gerard Stewart, upon his resignation as a Judge of the Supreme Court of New South Wales. It also modifies the Administrative Appeals Tribunal Act to enable Mr Justice Stewart to be appointed a full-time Deputy President of the Tribunal, notwithstanding that he holds the office of Chairman of the National Crime Authority.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

OVERSEAS STUDENTS CHARGE AMENDMENT BILL 1984

Date Introduced: 7 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR COMMUNICATIONS

Purpose: The Bill is designed to amend section 6 of the Overseas Students Charge Act 1979 to enable new regulations to fix the rates of charge up to the maximum amount of \$3,350 instead of the current amount not exceeding \$2,900.

The Bill gives effect to a Budget measure.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

QANTAS AIRWAYS LIMITED
(LOAN GUARANTEE) BILL 1984

Date Introduced: 5 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR AVIATION

Purpose: The purpose of the Qantas Airways Limited (Loan Guarantee) Bill 1984 is to authorize the Treasurer, on behalf of the Commonwealth, to guarantee borrowings raised by Qantas Airways Limited to finance the purchase by the Company of two Boeing 767-200 Extended Range aircraft and related spare parts and equipment. The guarantee is limited to an aggregate of \$US200 million or its equivalent in other currencies.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

STATES (WORKS AND HOUSING) ASSISTANCE BILL 1984

Date Introduced: 7 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR HOUSING AND CONSTRUCTION

Purpose: The main purpose of the Bill is to obtain the approval of Parliament for the payment in 1984-85 of:

- interest-free capital grants to the States of \$521,500,000 as part of the 1984-85 States' Loan Council programs; and
 - amounts States may nominate from their 1984-85 Loan Council programs (and the Northern Territory from its equivalent general purpose capital advances) as being for the purpose of public housing and payable under the concessional loan terms and conditions of the Commonwealth-State Housing Agreement;
- in accordance with arrangements approved at the June 1984 Loan Council meeting.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

STEVEDORING INDUSTRY FINANCE COMMITTEE
AMENDMENT BILL 1984

Date Introduced: 5 September 1984

House: HOUSE OF REPRESENTATIVES
MINISTER FOR EMPLOYMENT AND
INDUSTRIAL RELATIONS

Purpose: The Stevedoring Industry Finance Committee Amendment Bill 1984 amends the Stevedoring Industry Finance Committee Act 1977 to authorise the Stevedoring Industry Finance Committee (SIFC) to refinance a loan taken out by the Association of Employers of Waterside Labour (AEWL) to fund redundancies in the stevedoring industry. That loan was taken out from the Australian Industry Development Corporation (AIDC) on 2 May 1983.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D11/84

TELECOMMUNICATIONS (INTERCEPTION)
AMENDMENT BILL (NO.2) 1984

Date Introduced: 5 September 1984

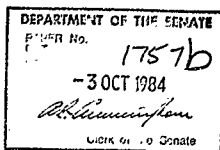
House: SENATE
ATTORNEY-GENERAL

Purpose: The purpose of this Bill is to amend the Telecommunications (Interception) Act 1979 (the Principal Act) so as to permit certain documents, including tape recordings, held by Mr I.D. Temby, Q.C. in connection with his appointment as a Special Prosecutor, to be given to the Royal Commission being conducted by the Honourable Mr Justice D.G. Stewart, the New South Wales Commissioner for Public Complaints, or both.

The Bill also declares that persons in possession of documents suspected of being evidence of an offence of telecommunications interception under the Principal Act, may give such documents to certain law enforcement agencies.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.



SCRUTINY OF BILLS ALERT DIGEST

No. 12 of 1984

3 October 1984

ISSN 0729-6851

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

MEMBERS OF THE COMMITTEE

Senator M C Tate, Chairman
Senator A J Missen, Deputy Chairman
Senator N Bolkus
Senator R A Crowley
Senator the Hon. P D Durack
Senator J Haines

TERMS OF REFERENCE

Extract

- (1) (a) That a Standing Committee of the Senate, to be known as the Standing Committee for the Scrutiny of Bills, be appointed to report, in respect of the clauses of Bills introduced into the Senate, and in respect of Acts of the Parliament, whether such Bills or Acts, by express words or otherwise -
- (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make such rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions;
 - (iv) inappropriately delegate legislative power;
or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

The Committee has considered the following Bills:

Air Navigation Amendment Bill (No. 2) 1984
Air Navigation (Charges) Amendment Bill 1984
Australian Waters (Nuclear-powered Ships and Nuclear Weapons Prohibition) Bill 1984
Bass Strait Sea Passenger Service Agreement Bill 1984
Canned Fruits Levy Amendment Bill 1984
Canned Fruits Levy Collection Amendment Bill 1984
Canned Fruits Marketing Amendment Bill 1984
Conciliation and Arbitration Amendment Bill (No. 2) 1984
Constitution Alteration (External Affairs) Bill 1984
Customs Tariff Amendment Bill (No. 3) 1984
Customs Tariff (Coal Export Duty) Amendment Bill 1984
Dried Vine Fruits Equalization Amendment Bill 1984
Electoral and Referendum Amendment Bill 1984
Excise Tariff Amendment Bill (No. 2) 1984
Fisheries Licences Levy Bill 1984
Fishing Legislation Amendment Bill (No. 2) 1984
Flags Amendment Bill 1984
Foreign Ownership and Control Register Bill 1984
Health Legislation Amendment Bill 1984
Housing Assistance Bill 1984
Human Rights and Equal Opportunity Commission Bill 1984
Human Rights and Equal Opportunity Commission (Transitional Provisions and Consequential Amendments) Bill 1984
Income Equalization Deposits (Interest Adjustment) Bill 1984
Income Tax Assessment Amendment Bill (No. 4) 1984
Income Tax Assessment Amendment (Income Equalization Deposits) Bill 1984 (No. 2)
Income Tax (International Agreements) Amendment Bill 1984
Loan (Income Equalization Deposits) Amendment Bill 1984 (No. 2)
Meat Export Charge Bill 1984
Meat Export Charge Collection Bill 1984
Petroleum (Submerged Lands) Amendment Bill 1984
Representation Amendment (Order of Election of Senators) Bill 1984
Social Security and Repatriation Legislation Amendment Bill (No. 2) 1984
Statute Law (Miscellaneous Provisions) Bill (No. 2) 1984
Taxation Laws Amendment Bill 1984
Trade Practices Amendment Bill 1984

Wheat Marketing Amendment Bill 1984
Wheat Marketing Bill 1984
Wheat Research Amendment Bill 1984
Wheat Tax Amendment Bill 1984
Wheat Tax (Permit) Bill 1984
Wheat Tax (Permit) Collection Bill 1984

NOTE: This Digest is circulated to all Honourable Senators. Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

GENERAL COMMENT

The Committee wishes to draw to the attention of Senators that a total of forty-one Bills were introduced into Parliament in the sitting week commencing on Monday, 10 September. Thirty-six of these are Government measures including the Human Rights and Equal Opportunity Commission Bill 1984, and associated legislation, and the Taxation Laws Amendment Bill 1984. This latter Bill seeks to amend 27 separate Acts having relevance to the Tax area. The clause-by-clause explanation of this Bill was not available at the time of the preparation of this Digest. The Committee understands that the Explanatory Memorandum is more than one hundred pages long. The list also includes complex machinery legislation in a number of areas and the Statute Law (Miscellaneous Provisions) Bill (No. 2) 1984.

The Committee recognizes that a number of these Bills are not intended for passage this session. However a significant number of Bills are considered essential and are to be passed this session. The Committee is concerned that the practice of introducing large volumes of legislation, in this way inhibits both its, and the Senates, capacity to scrutinize legislation effectively.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

AIR NAVIGATION AMENDMENT BILL (NO. 2) 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Transport.

The purpose of the Bill is to amend the Air Navigation Act 1920 to give the Commonwealth power to suspend or cancel international airline licences in certain circumstances.

The Committee draws attention to the following clause of this Bill:

Clause 2

This clause inserts new sub-sections 13(c) and (d) in the principal Act. These sub-sections give to the Minister the discretion to determine matters relating to overseas airlines operating in Australia and if necessary cancel their licences. The matters subject to determination include the general operations of the airline and the standards of aircraft operated by an airline and consideration of fair competition in international airline services.

A decision to cancel a licence to operate in Australia could be a very serious matter for the airline and its employees. The Committee is concerned that the exercise of this discretion is not subject to review of its merits and therefore draws this clause to the attention

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

AIR NAVIGATION AMENDMENT BILL
(No. 2) 1984 (cont 2) (D12/84)

of Senators in that it may be considered to make rights, liberties or obligations unduly dependent on unreviewable administrative decisions.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

AIR NAVIGATION (CHARGES) AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Transport.

This Bill proposes to:

- . improve the Commonwealth's ability to collect air navigation charges;
- . place payment and penalty provisions on a more commercial basis; and
- . introduce separate airport and airway charges.

The Committee draws attention to the following clause of the Bill:

Clause 5 - Discretion

This clause inserts a new section 5A into the principal Act. The new section gives to "... the Minister, the Secretary or an [authorized] officer of the Department ..." the power to remit or refund all or part of a charge or penalty payable under the Act "... as that person thinks just in all the circumstances ...". Clause 7(1) of the Bill proposes to insert a new paragraph 8A into Schedule I of the principal Act. The Committee is concerned that such discretions should be granted in general terms and therefore draws them to the attention of Senators in that it might be considered to make rights, liberties and/or obligations unduly dependent on insufficiently defined administrative powers.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

AUSTRALIAN WATERS (NUCLEAR-POWERED SHIPS AND NUCLEAR WEAPONS PROHIBITION) BILL 1984

This Bill was introduced into the Senate on 11 September 1984 by Senator Chipp.

The purpose of this Bill is to prohibit vessels (ships or aircraft) carrying nuclear weapons or powered by nuclear means entering Australian waters or airspace.

The Committee draws attention to the following clause of this Bill:

Clause 6 - Discretion

Sub-clause (2) gives the Minister a discretion to take action including the use of force to prevent contravention of this legislation. The exercise of that discretion is reviewable only as to its legality under the Administrative Decisions (Judicial Review) Act 1977. No provision is made for review of the merits of the exercise of the discretion nor is any requirement to report the exercise of the discretion to Parliament included in the legislation.

Sub-clause (4) protects "the Commonwealth, the Minister or any other person ..." against legal liability for actions taken by virtue of an instrument issued under sub-section (2). All such actions are deemed to be lawfully taken.

The Committee draws this clause to the attention of Senators in that sub-clause (4) might be considered to trespass unduly on personal rights and liberties and sub-clause (2) to make those rights and liberties dependent upon non-reviewable administrative decisions.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

BASS STRAIT SEA PASSENGER SERVICE AGREEMENT BILL 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Transport.

The purpose of this Bill is to approve an agreement between the Commonwealth and Tasmania relating to the provision of Bass Strait sea passenger services.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

CANNED FRUITS LEVY AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Primary Industry.

The purpose of this Bill is to redefine the term 'season' so that it is more closely aligned with the canning season for deciduous fruits.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

CANNED FRUITS LEVY COLLECTION AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Primary Industry.

The purpose of the Bill is to amend the Canned Fruits Levy Collection Act 1979 to change the due date for payment of levy imposed on canned deciduous fruits produced in Australia.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

CANNED FRUITS MARKETING AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Primary Industry.

The purpose of the Bill is to extend the marketing provisions of the Canned Fruits Marketing Act 1979 for three years ending 31 December 1987, and to implement a number of changes to the Act which are designed primarily to improve the operation and commercial flexibility of the Australian Canned Fruits Corporation.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

CONCILIATION AND ARBITRATION AMENDMENT BILL
(No. 2) 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Employment and Industrial Relations.

The Bill proposes several amendments designed primarily to overcome certain administrative problems, and require immediate rectification.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

CONSTITUTION ALTERATION (EXTERNAL AFFAIRS) BILL 1984

This Bill was introduced into the Senate on
12 September 1984 by Senator Durack.

The purpose of this Bill is to amend the External
Affairs power in section 51 of the Constitution to
narrow the very wide interpretation it received by a
majority of the High Court in Commonwealth v State
of Tasmania (The Franklin Dam Case).

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to do
so.

D12/84

CUSTOMS TARIFF AMENDMENT BILL (NO. 3) 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister representing the Minister for Industry and Commerce.

The purpose of the Bill is to amend the Customs Tariff Act 1982 in relation to certain customs tariffs including tariff rates applying to beer, manufactured tobacco and aviation fuels.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

CUSTOMS TARIFF (COAL EXPORT DUTY) AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister Representing the Minister for Industry and Commerce.

This Bill proposes to provide an exemption from the payment of export duty under the Customs Tariff (Coal Export Duty) Act 1975 on certain high quality open-cut coking coal.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

DRIED VINE FRUITS EQUALIZATION AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Primary Industry.

The purpose of the Bill is to insert various amendments of an administrative nature, concerning the timing of the payment of the equalization levy.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

ELECTORAL AND REFERENDUM AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Special Minister of State.

The purpose of this Bill proposes to amend the laws relating to the prohibition of the publication of misleading or deceptive political material.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

EXERCISE TARIFF AMENDMENT BILL (NO.2) 1984.

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister Representing the Minister for Industry and Commerce.

The purpose of this Bill is to amend the Excise Tariff Act 1921 to incorporate Excise Tariff Proposals Nos 2 and 3 (1984), tabled in Parliament on 24 August 1984.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

FISHERIES LICENCES LEVY BILL 1984.

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Primary Industry.

The purpose of the Bill is to provide basic authority for imposing a levy on Australian boats to raise revenue to support fisheries management measures.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

FISHING LEGISLATION AMENDMENT BILL (NO. 2) 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Primary Industry.

This Bill proposes to facilitate collection of the levy to be imposed under the provision of the Fisheries Licences Levy Bill 1984.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

FLAGS AMENDMENT BILL 1984

This Bill was introduced into the Senate on 11 September 1984 by Senator Durack.

The Bill proposes to amend the Flags Act 1953:

- (a) by requiring the appointment of a flag or ensign other than the Australian National Flag by regulation only; and
- (b) by inserting a referendum provision requiring any proposal to alter the Australian National Flag to be put to the people.

The Committee has no comments on the Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

FOREIGN OWNERSHIP AND CONTROL REGISTER BILL 1984

This Bill was introduced into the Senate on 13 September 1984 by Senator Jack Evans.

This Bill seeks to establish a public register of foreign corporations which own or control major Australian properties or other assets.

The Committee draws attention to the following clause of the Bill:

Clause 12 - Reversal of the Burden of Proof.

Sub-clause (3) states that any officer or agent of a foreign Corporation registered under the Companies Act in a State or Territory "... shall, unless the contrary is proved, be deemed to be knowingly concerned in and party to any contravention by the Corporation..." or sub-section 12 (1).

The Committee draws this clause to the attention of Senators in that such a shifting of the burden of proof may be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

HEALTH LEGISLATION AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Health.

The purpose of this Bill is to amend the Epidemiological Studies Act 1981, the National Health Act 1953 and the Tuberculosis Act 1948.

The Committee has no comments to make on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

HOUSING ASSISTANCE BILL 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Housing and Construction.

The purpose of this Bill is to authorise the execution of agreements between the Commonwealth and the States (including the Northern Territory) relating to the provision of financial assistance for public housing.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION BILL 1984

This Bill was introduced into the Senate on 12 September 1984 by the Attorney-General.

The purpose of this Bill is to seek to establish a new Human Rights and Equal Opportunity Commission, through which the Racial Discrimination Act 1975 and the Sex Discrimination Act 1984 will be administered.

The Committee draws attention to the following clauses of the Bill:

Clause 21

This clause would give the Commission power to require any person believed to be capable of giving oral or printed information to appear before the Commission or to provide relevant documents. The clause does not impose any limitation on the grounds of reasonableness on the time and place at which a person may be required to attend. This Committee has, in the past, expressed concern at broad powers to require persons to appear before Tribunals - see for example the Committee's Second Report, 18 May 1983 para 17.

The Committee draws this clause to the attention of the Senators in that such ill-defined powers might be considered both to trespass on personal rights and liberties and make rights, liberties and obligations unduly dependent on inadequately defined administrative powers.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION BILL 1984
(Cont 2) (D12/84)

Clause 24 - Self Incrimination

Sub-clause (2) of this clause is an extended version of standard clauses withdrawing the individuals right to protection against self-incrimination, while providing general immunity from prosecution. A person is not excused from giving information, producing a document or answering a question on the grounds that to do so

- i) would disclose legal advice furnished to a Minister or person acting on behalf of the Commonwealth or an authority of the Commonwealth;
- ii) contravene any other Act or be contrary to the public interest;
- iii) make the person liable to a penalty; or
- iv) tend to incriminate the person.

As is common with such clauses information given cannot be used in any proceedings other than proceedings for an offence of giving false information.

The Committee draws this clause to the attention of Senators in that it might be considered to trespass unduly on personal rights and liberties.

Clause 31 - Ministerial Discretion

Sub-clause (2) of this clause gives to the Minister a discretion to determine whether a "... distinction, exclusion or preference ... in employ or occupation

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION BILL 1984
(Cont 3) (D12/84)

constitutes discrimination for the purposes of the Act." The Minister's determination is not subject to administrative review nor does it have the character of a regulation, thus it is not reviewable by the Parliament.

The Committee draws this clause to the attention of Senators in that it might be considered to make rights, liberties and/or obligations unduly dependent on non-reviewable administrative decisions.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION
(TRANSITIONAL PROVISIONS AND CONSEQUENTIAL
AMENDMENTS) BILL 1984.

This Bill was introduced into the Senate on
12 September 1984 by the Attorney-General.

The purpose of this Bill is to repeal the Human
Rights Commission Act 1981 and contains transitional
provisions necessitated by the repeal. It also
contains consequential and other amendments of the
Racial Discrimination Act 1975 and the Sex
Discrimination Act 1984.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to do
so.

D12/84

**INCOME EQUALIZATION DEPOSITS (INTEREST ADJUSTMENT)
BILL 1984.**

This Bill was introduced into the House of Representatives on 13 September 1984 by the Treasurer.

The purpose of this Bill is to provide for certain adjustments of interest payments, subject to commencement of the Loan (Income Equalization Deposits) Amendment Bill 1984.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

INCOME TAX ASSESSMENT AMENDMENT BILL (NO. 4) 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Treasurer.

The purpose of the Bill is to amend the Income Tax law, primarily to give effect to the Government's Budget proposals in the business and personal tax area.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

**INCOME TAX ASSESSMENT AMENDMENT (INCOME EQUALIZATION DEPOSITS)
BILL 1984 (No. 2)**

This Bill was introduced into the House of Representatives on 13 September 1984 by the Treasurer.

The purpose of this Bill is to provide primary producers with an incentive to set aside income in high income years for use in lower income years via a concessionary interest rate applying to eligible deposits.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

**INCOME TAX (INTERNATIONAL AGREEMENTS) AMENDMENT
BILL 1984.**

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Finance.

The purpose of this Bill is to amend certain aspects of the taxation law in relation to Australia's international taxation agreements.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

LOAN (INCOME EQUALIZATION DEPOSITS) AMENDMENT
BILL 1984 (No. 2)

This Bill was introduced into the House of Representatives on 13 September 1984 by the Treasurer.

The purpose of this Bill is to provide primary producers with an incentive to set aside income in high income years for use in lower income years via a concessionary interest rate applying to eligible deposits.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

MEAT EXPORT CHARGE BILL 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Primary Industry.

The purpose of this Bill is to impose a charge on the export from Australia of meat that is intended for human consumption.

The Committee draws attention to the following clause of the Bill:

Clause 3 - Definitions

The definitions of "meat" and "meat product" contained in sub-clause (1) may be extended by regulation. The purpose of the Bill is to impose charges on meat or meat products for export, thus it might be considered that the classes of products subject to the charges should not be subject to alteration by regulation. The Committee draws this clause to the attention of Senators in that it might be considered to be an inappropriate delegation of the taxing powers of the Parliament.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

MEAT EXPORT CHARGE COLLECTION BILL 1984.

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Primary Industry.

The purpose of this Bill is to make provision for the collection of charges to be imposed by the Meat Export Charge Act.

The Committee draws attention to the following clause of the Bill:

Clause 9 - Discretion

Sub-clause (3) states that the Minister or an authorized person may for reasons they think sufficient, remit the whole or part of a penalty payable under the legislation. A remission shall not exceed \$1000. The exercise of this discretion is not reviewable as the merits of any decision. The Committee is concerned that the level of penalties payable under this legislation can be altered in specific cases, particularly by a Departmental Officer and, therefore, draws this clause to the attention of Senators in that it might be considered to be an inappropriate delegation of legislative power.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

PETROLEUM (SUBMERGED LANDS) AMENDMENT BILL 1984.

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister Representing Minister for Resources and Energy.

The purpose of this Bill is to establish an unauthorised area for shipping around the Bass Strait petroleum production facilities, and transfer from the designated authority to the Joint Authority power to exercise control over rates of petroleum production.

The Committee draws attention to the following clause :

Clause 24 - Proposed section 140C

Proposed sub-section (2) of this new section would give to the Designated Authority a discretion to authorize, upon application, the entry of a ship into an area otherwise to be avoided. By sub-section (3) authority to enter an area may be made subject to conditions. No mechanism for review of the exercise of these discretions is provided for. These provisions are similar to proposed S.140B (2) and (3) included in a Bill of the same name which the Committee commented on in the Alert Digest No. 15 of 11 November 1982.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

PETROLEUM (SUBMERGED LANDS) AMENDMENT BILL 1984.
(Cont 2) (D12/84)

The Committee draws this provision to the attention of Senators in that it might be considered to make rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

REPRESENTATION AMENDMENT (ORDER OF ELECTION OF
SENATORS) BILL 1984

This Bill was introduced into the Senate on
11 September 1984 by Senator Macklin.

The purpose of the Bill is to ensure that the methods
by which the order in which Senators are elected is
determined at the next election, remains unchanged.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of
the Committee under its Terms of Reference is invited to do
so.

SOCIAL SECURITY AND REPATRIATION LEGISLATION
AMENDMENT BILL (No. 2) 1984.

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister Representing Minister for Social Security.

The purpose of this Bill is to establish an omnibus Bill which would provide for those Budget measures for 1984-85 which require amendments to the Aged or Disabled Persons Homes Act 1954, and the Delivered Meals Subsidy Act 1970.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL
(No. 2) 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister Representing the Attorney-General.

The purpose of this Bill is to correct or update various pieces of legislation, and to implement changes that are of minor policy significance or are of routine administrative nature.

The Committee draws attention to various amendments contained in Schedule 1 of the Bill:

Aboriginal Councils and Associations Act 1976.

Proposed section 59A of this Act gives to the Registrar the discretion to register an Association while exempting it from the requirements of section 59 of the Act and also to impose other requirements in relation to the management of the Association as the Registrar thinks appropriate.

The intent of this provision is beneficial to Aboriginal Associations. However, in as much as the Registrar's exercise of his discretion is not reviewable on the merits the Committee draws the provision to the attention of Senators in that it might be considered to make rights, liberties and/or obligations unduly dependent upon non-reviewable

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL
(No. 2) 1984.
(Cont 2) (D12/84)

administrative decisions.

Copyright Act 1968

Proposed S.10A of this Act permits the Attorney-General by notice in the Gazette to declare certain institutions for the purpose of the Act. At present this is done by regulations which are subject to Parliamentary scrutiny and disallowance.

The Committee draws the provision to the attention of Senators in that it might be considered that under it the exercise of legislative power will be subject to insufficient parliamentary scrutiny.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

TAXATION LAWS AMENDMENT BILL 1984.

This Bill was introduced into the House of Representatives on 13 September 1984 by the Treasurer.

The purpose of this Bill is to strengthen existing mechanisms for the collection of tax, and increase levels of penalty of breaches of taxation laws.

This Bill makes amendment to a number of laws relating to taxation. The Committee draws attention to the following amendments:

Taxation Administration Act 1953

Clause 297 - Reversal of Onus

Clause 297 proposes to insert new sections 8K, 8L, 8Y (2) and (3). Each of these sections contains a reversal of the burden of proof. For example sub-section 8K (2) places the onus on a defendant to prove that he lacked guilty intent in providing a false or misleading statement. Section 8L (2) is in a similar form. Section 8Y relates to the liability of officers of corporations. Where a corporation commits a taxation offence the management of the corporation shall be deemed to have committed that offence.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

TAXATION LAWS AMENDMENT BILL 1984.

(Cont 2) (D12/84)

In such a case the defendant must prove that he was not involved in, or aware of, the offence.

The Committee draws this clause to the attention of Senators in that it might be considered to trespass unduly on personal rights and liberties.

Clause 297 - Averment

Proposed section 82L states in S.S. (1) that

"In a prosecution for a prescribed taxation offence a statement or averment contained in the information ... is prima facie evidence of the matter ..."

This has the effect of shifting the onus on to the defendant to rebut the matters stated in the averment.

GENERAL COMMENT

The Committee notes the recommendation of the Senate Standing Committee on Constitutional and Legal Affairs in its report The Burden of Proof in Criminal Proceedings (P.P. 319, 1982) that the imposing of evidential burdens on a defendant and the use of averments should be kept to a minimum and used only in clearly defined and restricted circumstances.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

TAXATION LAWS AMENDMENT BILL 1984.

(Cont 3) (D12/84)

The Committee draws this provision to the attention of Senators in that it might be considered to trespass on individual rights and liberties.

General Comment

This Bill proposes to insert in a number of the Acts which it seeks to amend a provision by which a person becomes liable to pay a penalty, on making a false statement etc., even though the person might have no reason to believe that the statement was false. In each provision the Commissioner of Taxation is given the discretion to remit all or part of the penalty.

A typical example of the provision is proposed section 70, sub-section (2) and (6) of the Australian Capital Territory Taxation (Administration) Act 1984, at page 4 of this Bill. Other examples are on pages 14, 24-25, 31-32, 60, 67, 85-86, 98, 100, 164 and 174. The exercise of the discretion is not reviewable as to its merits.

The Committee draws all these provisions to the attention of Senators in that such a discretion to remit a penalty should not be given without some guidance as to its exercise and in its present form might be considered to make rights, liberties and obligations unduly dependent on both non-reviewable administrative decisions and insufficiently defined administrative powers.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

TRADE PRACTICES AMENDMENT BILL 1984.

This Bill was introduced into the House of Representatives on 13 September by the Minister for Employment and Industrial Relations.

The purpose of this Bill is to amend the Trade Practices Act 1974 to repeal the secondary boycott provision and widen the coverage of resale price maintenance provisions.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

WHEAT MARKETING AMENDMENT BILL 1984.

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Primary Industry.

The purpose of this Bill is to amend the calculation of Commonwealth liability in the event of a payout under the wheat guaranteed minimum price arrangements.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

WHEAT MARKETING BILL 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Primary Industry.

The purpose of this Bill is to implement the new wheat marketing arrangements.

The Committee draws attention to the following clause of this Bill:

Clause 60 - Self-Incrimination

Sub-clause (4) is a standard clause withdrawing the individuals right to refuse to answer a question or provide material in that it might tend to incriminate the person while providing general immunity against prosecution. Material so furnished may only be used in proceedings under this Act which relate to refusal to provide information or supply documents or the provision of misleading information.

The Committee nevertheless draws this clause to the attention of Senators in that it might be considered to trespass on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

WHEAT RESEARCH AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Primary Industry.

The purpose of this Bill is to amend the Wheat Research Act 1957 to enable the payment to the wheat research account of the wheat research taxes collected by the Australian Wheat Board on the sale of domestic stockfeed outside normal wheat pools.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

WHEAT TAX AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Primary Industry.

The purpose of this Bill is to extend the imposition of the Wheat Research tax, on grower to buyer wheat sales.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D12/84

WHEAT TAX (PERMIT) BILL 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Primary Industry.

The purpose of this Bill is to set out the amount of tax to be paid on the issue of permits by the Australian Wheat Board for sales of domestic stockfeed wheat outside normal wheat pooling arrangements.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

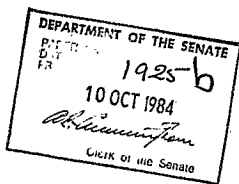
WHEAT TAX PERMIT (COLLECTION) BILL 1984

This Bill was introduced into the House of Representatives on 13 September 1984 by the Minister for Primary Industry.

The purpose of this Bill is to provide for the collection by the Australian Wheat Board of a tax in respect of permits issued for the sale of domestic stockfeed wheat outside normal wheat pooling arrangements.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.



SCRUTINY OF BILLS ALERT DIGEST

No. 13 of 1984

10 October 1984

ISSN 0729-6851

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

MEMBERS OF THE COMMITTEE

Senator M C Tate, Chairman
Senator A J Missen, Deputy Chairman
Senator N Bolkus
Senator R A Crowley
Senator the Hon. P D Durack
Senator J Haines

TERMS OF REFERENCE

Extract

- (1) (a) That a Standing Committee of the Senate, to be known as the Standing Committee for the Scrutiny of Bills, be appointed to report, in respect of the clauses of Bills introduced into the Senate, and in respect of Acts of the Parliament, whether such Bills or Acts, by express words or otherwise -
- (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make such rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions;
 - (iv) inappropriately delegate legislative power;
or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

D13/84

The Committee has considered the following Bills:

- Arbitration (Contract Carriers and Bailee Drivers)
Bill 1984
- Automotive Industry Authority Bill 1984
- Banks (Shareholdings) Amendment Bill 1984
- Broadcasting and Television Amendment Bill 1984
- Broadcasting Stations Licence Fees Amendment Bill 1984
- Canned Fruits Levy Collection Amendment Bill 1984 (No. 2)
- Industries Assistance Commission Amendment Bill 1984
- National Crime Authority Amendment Bill 1984
- National Crime Authority (Consequential Amendments)
Amendment Bill 1984
- States Grants (Education Assistance-Participation and
Equity) Amendment Bill (No. 2) 1984
- States Grants (Schools Assistance) Bill 1984
- States Grants (Tertiary Education Assistance) Bill 1984
- Television Stations Licence Fees Amendment Bill 1984

ARBITRATION (CONTRACT CARRIERS AND BAILEE DRIVERS).
BILL 1984

This Bill was introduced into the Senate on 3 October 1984 by Senator Jack Evans.

The purpose of the Bill is to establish Tribunals to make determinations relating to remuneration and other conditions applying to classes of owner drivers.

The Committee draws attention to the following clause of this Bill:

Clause 35 - Unreviewable Determinations

Proposed section 16 of this Bill provides for the establishment of Contracts Disputes Tribunals. By sub-clause 35(1) a determination by the Tribunal is to be final and conclusive and is not to be subject to any challenge or review.

The Committee takes the view that decisions of arbitral or quasi-judicial proceedings should be subject to review at least as to the legality of the decision arrived at. This clause is drawn to the attention of Senators in that it might be considered to make rights, liberties and/or obligations unduly dependent upon unreviewable administrative decisions.

Sub-clause 35(2) states that a "determination shall not be called in question ... on the ground that it was made by a Tribunal ..." not constituted in accordance with the legislation. The Committee is not satisfied that where a Tribunal is exercising quasi-judicial powers it

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

ARBITRATION (CONTRACT CARRIERS AND BAILEE DRIVERS)
BILL 1984 (Cont 1) D13/84

should be able to make decisions which cannot be challenged, reviewed etc. even though it was improperly constituted. The Committee therefore draws this clause to the attention of Senators in that it might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

AUTOMOTIVE INDUSTRY AUTHORITY BILL 1984

This Bill was introduced into the House of Representatives on 4 October 1984 by the Minister Representing the Minister for Industry and Commerce.

The purpose of the Bill is to implement the decision to establish an Automotive Industry Authority.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

BANKS (SHAREHOLDINGS) AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 3 October 1984 by the Treasurer.

The purpose of the Bill is to facilitate the establishment of new banks in Australia.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

BROADCASTING AND TELEVISION AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 3 October 1984 by the Minister for Communications.

The purpose of the Bill is to remedy deficiencies in existing legislation relating to the concentration of media ownership, and also relating to licensing procedures.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

BROADCASTING STATIONS LICENCE FEES AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 3 October 1984 by the Minister for Communications.

The purpose of the Bill is to provide a method for calculating total licence fees payable when one or more commercial radio station licensees are licensed to operate a supplementary radio service.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

CANNED FRUITS LEVY COLLECTION AMENDMENT BILL 1984 (No.2)

This Bill was introduced into the House of Representatives on 3 October 1984 by the Minister for Primary Industry.

The purpose of the Bill is to change the due date for payment of levy imposed on canned deciduous fruits produced in Australia.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

INDUSTRIES ASSISTANCE COMMISSION AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 5 October 1984 by the Minister Representing the Minister for Industry and Commerce.

The purpose of the Bill proposes to amend the Industries Assistance Commission Act 1973 as a consequence of an independent review of the functions and operations of the Industries Assistance Commission (IAC) conducted by Mr J. Uhrig.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

NATIONAL CRIME AUTHORITY AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 4 October 1984 by the Hon. A.S. Peacock, Leader of the Opposition.

The purpose of the Bill is to amend the existing initiation and veto provisions relating to the National Crime Authority.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

**NATIONAL CRIME AUTHORITY (CONSEQUENTIAL AMENDMENTS)
AMENDMENT BILL 1984**

This Bill was introduced into the House of Representatives on 4 October 1984 by the Hon. A.S. Peacock, Leader of the Opposition.

The purpose of the Bill is to strengthen the powers of the National Crime Authority, consequent on the enactment of the National Crime Authority Amendment Bill 1984.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

STATES GRANTS (EDUCATION ASSISTANCE-PARTICIPATION AND
EQUITY) AMENDMENT BILL (NO. 2) 1984

This Bill was introduced into the House of Representatives on 4 October 1984 by the Minister Representing the Minister for Education.

The purpose of the Bill is to amend the States Grants (Education Assistance-Participation and Equity) Act 1983 to:

- a) supplement for cost increases grants available to government and non-government education authorities; and
- b) allocate some 1985 funds specifically for PEP projects related to Aboriginal education.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

STATES GRANTS (SCHOOLS ASSISTANCE) BILL 1984

This Bill was introduced into the House of Representatives on 4 October 1984 by the Minister Representing the Minister for Education.

The purpose of the Bill is to fund various primary and secondary education programs in the States and the Northern Territory for 1985.

The Committee draws attention to the following clause of this Bill:

Clause 83- Ministerial Direction

Schedules 6 and 12 to this Bill set out the amounts to be paid to each State for computer education programs in 1985 and 1986.

By sub-clause 83(1) the Minister may direct that the amounts allocated to each State may be varied but a Ministerial direction may not alter the aggregate amount that may be paid to the States. Thus the affect of this clause is that funds allocated to one State in the relevat schedules may, by Ministerial direction, be applied to another State.

The Minister's directions need not be tabled in Parliament nor are they subject to disallowance. The only obligation on the Minister is to report to Parliament as soon as possible after 30 June each year.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

STATES GRANTS (SCHOOLS ASSISTANCE) BILL 1984

(Cont 2) D13/84

The Committee is concerned that where the Parliament has legislated to set levels of payment to each State for a particular purpose that those levels may be altered by Ministerial direction without any possibility for further Parliamentary scrutiny. The Committee therefore draws this clause to the attention of Senators in that by empowering the Minister to amend schedules by direction it may be considered to be an inappropriate delegation of legislative power. The Committee adopts the practice of drawing all such "Henry VIII" clauses to the attention of Senators.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

STATES GRANTS (TERTIARY EDUCATION ASSISTANCE) BILL 1984

This Bill was introduced into the House of Representatives on 4 October 1984 by the Minister Representing the Minister for Education.

The purpose of the Bill is to provide a Principal Act for the provision of financial assistance for tertiary education for the 1985-87 triennium.

The Committee draws attention to the following clauses of this Bill:

Clauses 26 to 30, 35 and 41 - Ministerial Directions

These clauses have a similar purpose to clause 83 of the preceding Bill. By each clause the Minister may direct that amounts specified in the relevant schedules shall be varied in accordance with that direction. The directions may not alter the aggregate amount to be expended on any program but it may vary the amount paid to each State for a particular program. These clauses affect the amounts set out in Schedules 1, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21 and 22.

The Minister's power has some slight limits placed on it by clauses 31, 36 and 42 in that an amount payable to a State may not be varied unless the Minister or the Tertiary Education Commission has consulted the State in relation to the proposed variation. A direction cannot have the result that a State becomes liable to repay money to the Commonwealth. The only reporting requirements on the Minister are that under sub-clause 31(3) where a direction increases or decreases the amounts payable to a State under

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

STATES GRANTS (TERTIARY EDUCATION ASSISTANCE)
BILL 1984 (Cont 2) D13/84

this Act, the Minister shall table a copy of the direction in Parliament as soon as practicable after the direction is made.

Each of these clauses has the affect of permitting amendment of the relevant schedules to the Act by Ministerial direction. The Committee draws these "Henry VIII" clauses to the attention of Senators in that they might be considered to be an inappropriate delegation of legislative power.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

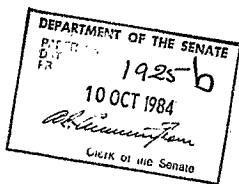
TELEVISION STATIONS LICENCE FEES AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 3 October 1984 by the Minister for Communications.

The purpose of the Bill is to provide a method of calculating total licence fees payable when one or more commercial television station licensees are licensed to operate a supplementary television service.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.



SCRUTINY OF BILLS ALERT DIGEST

No. 13 of 1984

10 October 1984

ISSN 0729-6851

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

MEMBERS OF THE COMMITTEE

Senator M C Tate, Chairman
Senator A J Missen, Deputy Chairman
Senator N Bolkus
Senator R A Crowley
Senator the Hon. P D Durack
Senator J Haines

TERMS OF REFERENCE

Extract

- (1) (a) That a Standing Committee of the Senate, to be known as the Standing Committee for the Scrutiny of Bills, be appointed to report, in respect of the clauses of Bills introduced into the Senate, and in respect of Acts of the Parliament, whether such Bills or Acts, by express words or otherwise -
- (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make such rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions;
 - (iv) inappropriately delegate legislative power;
or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

D13/84

The Committee has considered the following Bills:

- Arbitration (Contract Carriers and Bailee Drivers)
Bill 1984
- Automotive Industry Authority Bill 1984
- Banks (Shareholdings) Amendment Bill 1984
- Broadcasting and Television Amendment Bill 1984
- Broadcasting Stations Licence Fees Amendment Bill 1984
- Canned Fruits Levy Collection Amendment Bill 1984 (No. 2)
- Industries Assistance Commission Amendment Bill 1984
- National Crime Authority Amendment Bill 1984
- National Crime Authority (Consequential Amendments)
Amendment Bill 1984
- States Grants (Education Assistance-Participation and
Equity) Amendment Bill (No. 2) 1984
- States Grants (Schools Assistance) Bill 1984
- States Grants (Tertiary Education Assistance) Bill 1984
- Television Stations Licence Fees Amendment Bill 1984

ARBITRATION (CONTRACT CARRIERS AND BAILEE DRIVERS).
BILL 1984

This Bill was introduced into the Senate on 3 October 1984 by Senator Jack Evans.

The purpose of the Bill is to establish Tribunals to make determinations relating to remuneration and other conditions applying to classes of owner drivers.

The Committee draws attention to the following clause of this Bill:

Clause 35 - Unreviewable Determinations

Proposed section 16 of this Bill provides for the establishment of Contracts Disputes Tribunals. By sub-clause 35(1) a determination by the Tribunal is to be final and conclusive and is not to be subject to any challenge or review.

The Committee takes the view that decisions of arbitral or quasi-judicial proceedings should be subject to review at least as to the legality of the decision arrived at. This clause is drawn to the attention of Senators in that it might be considered to make rights, liberties and/or obligations unduly dependent upon unreviewable administrative decisions.

Sub-clause 35(2) states that a "determination shall not be called in question ... on the ground that it was made by a Tribunal ..." not constituted in accordance with the legislation. The Committee is not satisfied that where a Tribunal is exercising quasi-judicial powers it

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

ARBITRATION (CONTRACT CARRIERS AND BAILEE DRIVERS)
BILL 1984 (Cont 1) D13/84

should be able to make decisions which cannot be challenged, reviewed etc. even though it was improperly constituted. The Committee therefore draws this clause to the attention of Senators in that it might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

AUTOMOTIVE INDUSTRY AUTHORITY BILL 1984

This Bill was introduced into the House of Representatives on 4 October 1984 by the Minister Representing the Minister for Industry and Commerce.

The purpose of the Bill is to implement the decision to establish an Automotive Industry Authority.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

BANKS (SHAREHOLDINGS) AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 3 October 1984 by the Treasurer.

The purpose of the Bill is to facilitate the establishment of new banks in Australia.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

BROADCASTING AND TELEVISION AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 3 October 1984 by the Minister for Communications.

The purpose of the Bill is to remedy deficiencies in existing legislation relating to the concentration of media ownership, and also relating to licensing procedures.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

BROADCASTING STATIONS LICENCE FEES AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 3 October 1984 by the Minister for Communications.

The purpose of the Bill is to provide a method for calculating total licence fees payable when one or more commercial radio station licensees are licensed to operate a supplementary radio service.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

CANNED FRUITS LEVY COLLECTION AMENDMENT BILL 1984 (No.2)

This Bill was introduced into the House of Representatives on 3 October 1984 by the Minister for Primary Industry.

The purpose of the Bill is to change the due date for payment of levy imposed on canned deciduous fruits produced in Australia.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

INDUSTRIES ASSISTANCE COMMISSION AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 5 October 1984 by the Minister Representing the Minister for Industry and Commerce.

The purpose of the Bill proposes to amend the Industries Assistance Commission Act 1973 as a consequence of an independent review of the functions and operations of the Industries Assistance Commission (IAC) conducted by Mr J. Uhrig.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

NATIONAL CRIME AUTHORITY AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 4 October 1984 by the Hon. A.S. Peacock, Leader of the Opposition.

The purpose of the Bill is to amend the existing initiation and veto provisions relating to the National Crime Authority.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

**NATIONAL CRIME AUTHORITY (CONSEQUENTIAL AMENDMENTS)
AMENDMENT BILL 1984**

This Bill was introduced into the House of Representatives on 4 October 1984 by the Hon. A.S. Peacock, Leader of the Opposition.

The purpose of the Bill is to strengthen the powers of the National Crime Authority, consequent on the enactment of the National Crime Authority Amendment Bill 1984.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

STATES GRANTS (EDUCATION ASSISTANCE-PARTICIPATION AND
EQUITY) AMENDMENT BILL (NO. 2) 1984

This Bill was introduced into the House of Representatives on 4 October 1984 by the Minister Representing the Minister for Education.

The purpose of the Bill is to amend the States Grants (Education Assistance-Participation and Equity) Act 1983 to:

- a) supplement for cost increases grants available to government and non-government education authorities; and
- b) allocate some 1985 funds specifically for PEP projects related to Aboriginal education.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

STATES GRANTS (SCHOOLS ASSISTANCE) BILL 1984

This Bill was introduced into the House of Representatives on 4 October 1984 by the Minister Representing the Minister for Education.

The purpose of the Bill is to fund various primary and secondary education programs in the States and the Northern Territory for 1985.

The Committee draws attention to the following clause of this Bill:

Clause 83- Ministerial Direction

Schedules 6 and 12 to this Bill set out the amounts to be paid to each State for computer education programs in 1985 and 1986.

By sub-clause 83(1) the Minister may direct that the amounts allocated to each State may be varied but a Ministerial direction may not alter the aggregate amount that may be paid to the States. Thus the affect of this clause is that funds allocated to one State in the relevat schedules may, by Ministerial direction, be applied to another State.

The Minister's directions need not be tabled in Parliament nor are they subject to disallowance. The only obligation on the Minister is to report to Parliament as soon as possible after 30 June each year.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

STATES GRANTS (SCHOOLS ASSISTANCE) BILL 1984

(Cont 2) D13/84

The Committee is concerned that where the Parliament has legislated to set levels of payment to each State for a particular purpose that whose levels may be altered by Ministerial direction without any possibility for further Parliamentary scrutiny. The Committee therefore draws this clause to the attention of Senators in that by empowering the Minister to amend schedules by direction it may be considered to be an inappropriate delegation of legislative power. The Committee adopts the practice of drawing all such "Henry VIII" clauses to the attention of Senators.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

STATES GRANTS (TERTIARY EDUCATION ASSISTANCE) BILL 1984

This Bill was introduced into the House of Representatives on 4 October 1984 by the Minister Representing the Minister for Education.

The purpose of the Bill is to provide a Principal Act for the provision of financial assistance for tertiary education for the 1985-87 triennium.

The Committee draws attention to the following clauses of this Bill:

Clauses 26 to 30, 35 and 41 - Ministerial Directions

These clauses have a similar purpose to clause 83 of the preceding Bill. By each clause the Minister may direct that amounts specified in the relevant schedules shall be varied in accordance with that direction. The directions may not alter the aggregate amount to be expended on any program but it may vary the amount paid to each State for a particular program. These clauses affect the amounts set out in Schedules 1, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21 and 22.

The Minister's power has some slight limits placed on it by clauses 31, 36 and 42 in that an amount payable to a State may not be varied unless the Minister or the Tertiary Education Commission has consulted the State in relation to the proposed variation. A direction cannot have the result that a State becomes liable to repay money to the Commonwealth. The only reporting requirements on the Minister are that under sub-clause 31(3) where a direction increases or decreases the amounts payable to a State under

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

STATES GRANTS (TERTIARY EDUCATION ASSISTANCE)
BILL 1984 (Cont 2) D13/84

this Act, the Minister shall table a copy of the direction in Parliament as soon as practicable after the direction is made.

Each of these clauses has the affect of permitting amendment of the relevant schedules to the Act by Ministerial direction. The Committee draws these "Henry VIII" clauses to the attention of Senators in that they might be considered to be an inappropriate delegation of legislative power.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

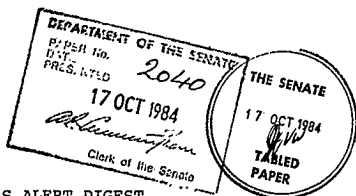
TELEVISION STATIONS LICENCE FEES AMENDMENT BILL 1984

This Bill was introduced into the House of Representatives on 3 October 1984 by the Minister for Communications.

The purpose of the Bill is to provide a method of calculating total licence fees payable when one or more commercial television station licensees are licensed to operate a supplementary television service.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.



SCRUTINY OF BILLS ALERT DIGEST

No. 14 of 1984

17 October 1984

ISSN 0729-6851

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

MEMBERS OF THE COMMITTEE

Senator M C Tate, Chairman
Senator A J Missen, Deputy Chairman
Senator N Bolkus
Senator R A Crowley
Senator the Hon. P D Durack
Senator J Haines

TERMS OF REFERENCE

Extract

- (1) (a) That a Standing Committee of the Senate, to be known as the Standing Committee for the Scrutiny of Bills, be appointed to report, in respect of the clauses of Bills introduced into the Senate, and in respect of Acts of the Parliament, whether such Bills or Acts, by express words or otherwise -
- (i) trespass unduly on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make such rights, liberties and/or obligations unduly dependent upon non-reviewable administrative decisions;
 - (iv) inappropriately delegate legislative power; or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

D14/84

The Committee has considered the following Bills:

HORTICULTURAL-PLANT VARIETY RIGHTS BILL 1984
QUEENSLAND RAINFOREST CONSERVATION BILL 1984
TRUST RECOUPMENT (CONSEQUENTIAL AMENDMENTS) BILL 1984
TRUST RECOUPMENT TAX ASSESSMENT BILL 1984
TRUST RECOUPMENT TAX BILL 1984

NOTE: This Digest is circulated to all Honourable Senators.
Any Senator who wishes to draw matters to the
attention of the Committee under its Terms of
Reference is invited to do so.

D14/84

HORTICULTURAL-PLANT VARIETY RIGHTS BILL 1984

This Bill was introduced into the Senate on 11 October 1984 by Senator Hill.

The purpose of the Bill is to establish an Australia-wide scheme for the granting of proprietary rights to plant breeders over any new horticultural varieties they may develop.

General Comment

This Bill gives to the Secretary of the Department of Primary Industry a number of discretions. The exercise of each of these discretions is reviewable before the Administrative Appeals Tribunal. The Committee notes that when informing a person of a decision the Secretary is not obliged to indicate that avenues of appeal against the decision do exist. This Committee has taken the view in the past that notification of a decision should include a statement of the rights of appeal available to the parties adversely affected by the decision.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D14/84

QUEENSLAND RAINFOREST CONSERVATION BILL 1984

This Bill was introduced into the Senate on 11 October 1984 by Senator Macklin.

The purpose of the Bill is to act as an interim protection measure for tropical rainforests by issuing "natural heritage" status for certain areas upon application to the courts.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D14/84

TRUST RECOUPMENT (CONSEQUENTIAL AMENDMENTS) BILL 1984

This Bill was introduced into the House of Representatives on 9 October 1984 by the Treasurer.

The purpose of the Bill is to recoup tax sought to be avoided under new generation trust stripping schemes.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D14/84

TRUST RECOUPMENT TAX ASSESSMENT BILL 1984

This Bill was introduced into the House of Representatives on 9 October 1984 by the Treasurer.

The purpose of the Bill is to recoup tax sought to be avoided under new generation trust stripping schemes.

The Committee draws attention to the following clauses of the Bill:

Clauses 5, 12 & 13 - Retrospectivity

Clause 5 defines "Taxable amounts" which will be subject to the legislation. By paragraph 5(1)(c) the legislation will apply to all trusts entered into for the purpose of tax avoidance on or after 1 July 1980.

Clause 12, sub-sections (1) and (2) seek to impose a retrospective penalty tax from 28 April 1983. The penalty is fixed by reference to movement in the Consumer Price Index and is designed to preserve the real value of the tax assessed by this Bill.

Clause 13 seeks to nullify the effect of any transfers of property that have taken place since 28 April 1983 where the purpose of the transfer was to minimize the collection of tax to be assessed by this Bill.

The Committee notes that it is the clear policy of the Government to use retrospective legislation to put an end to blatant tax avoidance schemes. Nevertheless the Committee draws these clauses to the attention of Senators in that such retrospectivity might be considered to trespass unduly on personal rights and liberties.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.

D14/84

TRUST RECOURPMENT TAX BILL 1984

This Bill was introduced into the House of Representatives on 9 October 1984 by the Treasurer.

The purpose of the Bill is to impose a tax on the taxable amount determined in accordance with the rules to be enacted in the Trust Recoupment Tax Assessment Bill 1984.

The Committee has no comments on this Bill.

Any Senator who wishes to draw matters to the attention of the Committee under its Terms of Reference is invited to do so.