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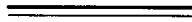
THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 64

THURSDAY, 24 MARCH 1994



1 The House met, at 9.30 a.m., pursuant to adjournment. The Acting Speaker (Mr Jenkins) took the Chair, and read Prayers.

2 **SUSPENSION OF STANDING AND SESSIONAL ORDERS—PRIVATE MEMBERS' BUSINESS NOTICE**

Ms McHugh (Minister for Consumer Affairs), by leave, moved—That so much of the standing and sessional orders be suspended as would prevent—

- (a) notice No. 14, private Members' business, relating to National Wool Week being called on forthwith; and
- (b) speech time limits in relation to the debate being as follows:
 - First 8 Members speaking—10 minutes each.
 - Other Members—5 minutes each.

Question—put and passed.

3 **NATIONAL WOOL WEEK**

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

- (1) notes that Thursday, 24 March 1994, to Wednesday, 30 March 1994, has now been officially designated National Wool Week with National Wool Day being celebrated on Wednesday, 30 March 1994;
- (2) calls upon Members and parliamentary leaders to present appropriate speeches to the House to celebrate this occasion;
- (3) pays tribute to the enormous contribution that the wool industry has made and continues to make to the economy and the Australian people;
- (4) welcomes and encourages the increasing number of value-adding industries, both small and large, which are starting up in this country to process our woollen products; and

- (5) agrees to have a committee of four Members, comprising the Members for Parkes, O'Connor, McEwen and Eden-Monaro, to publicise this day in Parliament House, including arranging any such displays or exhibitions that they see fit.

Debate ensued.

Question—put and passed.

4 AUSTRALIAN PARLIAMENTARY DELEGATION—REPORT—STATEMENTS BY MEMBERS

The Acting Speaker presented the following paper:

Australian Parliamentary Delegation to India, Bangladesh and Nepal, November-December 1993—Parliaments, progress and poverty: Facts and impressions from South Asia—Report, 24 March 1994—

and made a statement in connection with the report.

Mr McArthur, Mr Hollis, Mr Bradford and Mrs S. J. Smith, by leave, also made statements in connection with the report.

5 MESSAGE FROM THE SENATE—INSPECTOR-GENERAL OF INTELLIGENCE AND SECURITY AMENDMENT BILL 1994

Message No. 233, dated 22 March 1994, from the Senate was reported transmitting for the concurrence of the House a Bill for “*An Act to amend the ‘Inspector-General of Intelligence and Security Act 1986’*”.

Bill read a first time.

Paper: Mr Walker (Special Minister of State) presented an explanatory memorandum to the Bill.

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

Debate ensued.

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

Leave granted for third reading to be moved forthwith.

Mr Walker moved—That the Bill be now read a third time.

Debate ensued.

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

6 SUSPENSION OF STANDING ORDERS 48A AND 103

Mr Beazley (Leader of the House), pursuant to notice, moved—That standing order 48A (adjournment and next meeting) and standing order 103 (new business) be suspended for this sitting.

Debate ensued.

Question—put.

The House divided (the Acting Speaker, Mr Jenkins, in the Chair)—

AYES, 71

Mr Adams	Mrs Easson	Mr Jones	Mr Punch
Mr Baldwin	Mr Elliott	Mr Kerr	Mr Quick
Mr Beazley	Ms Fatin	Mr Knott	Mr Sawford*
Mr Beddall	Mr Ferguson	Mr Langmore	Mr Sciacca
Mr Bevis	Mr Fitzgibbon	Mr Latham	Mr L. J. Scott
Mr Bilney	Mr Free	Mr Lavarch	Mr Simmons
Mr Brereton	Mr Gear	Dr Lawrence	Mrs S. J. Smith
Mr Brown	Mr Gibson	Mr Lee	Mr S. F. Smith
Mr Campbell	Mr Gorman	Mr Lindsay	Mr Snow
Mr Chynoweth	Mr Grace*	Ms McHugh	Mr Snowdon
Mr Cleland	Mr Griffin	Mr Mack	Mr Staples
Ms Crawford	Mr Griffiths	Mr Melham	Mr Swan
Mr Crean	Mr Haviland	Mr A. A. Morris	Mr Tanner
Mr Cunningham	Ms Henzell	Mr P. F. Morris	Dr Theophanous
Ms Deahm	Mr Hollis	Mr Newell	Mr Tickner
Mr Dodd	Mr Horne	Mr O'Connor	Mr Walker
Mr Duffy	Mr Howe	Mr O'Keefe	Mr Woods
Mr Duncan	Mr Humphreys	Mr Price	

NOES, 57

Mr Aldred	Mr Evans	Mr McGauran	Mr Sharp
Mr Anderson	Mr Filing*	Mr McLachlan	Mr Slipper
Mr K. J. Andrews	Mr Fischer	Mr Moore	Mr Somlyay
Mr Atkinson	Mr Forrest	Mrs Moylan	Mrs Sullivan
Mr Beale	Mrs Gallus	Mr Nehl	Mr Taylor
Mr Bradford	Mr Hall	Mr Neville	Mr Truss
Mr Braithwaite	Mr Halverson	Mr Nugent	Mr Tuckey
Mr Cadman	Mr Hawker	Mr Prosser	Mr Vaile
Mr Cameron	Mr Hicks*	Mr Pyne	Mr Wakelin
Mr Charles	Mr Howard	Mr Reid	Mr Williams
Mr Cobb	Mr Jull	Mr Reith	Dr Wooldridge
Mr Connolly	Dr Kemp	Mr Rocher	Ms Worth
Mr Costello	Mr Lieberman	Mr Ronaldson	
Mr Dobie	Mr Lloyd	Mr Ruddock	
Mr Downer	Mr McArthur	Mr B. C. Scott	

* Tellers

And so it was resolved in the affirmative.

7 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—CONSTRUCTION OF AUSTRALIAN EMBASSY COMPLEX, HANOI, SOCIALIST REPUBLIC OF VIETNAM

Mr Sciacca (Parliamentary Secretary to the Minister for Administrative Services), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Construction of an Australian Embassy complex in Hanoi, Socialist Republic of Vietnam.

Mr Sciacca presented plans in connection with the proposed work.

Debate ensued.

Question—put and passed.

8 EMPLOYMENT, EDUCATION AND TRAINING—STANDING COMMITTEE—REPORT—STATEMENTS BY MEMBERS—MOTION TO TAKE NOTE OF PAPER

Ms Crawford (Chairman) presented the following report and related papers:

Employment, Education and Training—Standing Committee—Sticks and stones: Violence in Australian schools—

Report, March 1994.

Minutes of proceedings.

Ordered—That the report be printed.

Ms Crawford, Mr Charles, Mr Quick, Mrs S. J. Smith and Mr Neville, by leave, made statements in connection with the report.

Ms Crawford, by leave, moved—That the House take note of the report.

Debate adjourned (Mr Fischer—Leader of the National Party of Australia), and the resumption of the debate made an order of the day for the next sitting.

9 MESSAGE FROM THE SENATE—MILITARY COMPENSATION BILL 1994

The following message from the Senate was reported:

Message No. 234

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to amend the 'Safety Rehabilitation and Compensation Act 1988' and the 'Veterans' Entitlements Act 1986', and for related purposes*", and acquaints the House that the Senate has agreed to the bill with the amendment indicated by the annexed schedule, in which amendment the Senate requests the concurrence of the House of Representatives.

MICHAEL BEAHAN
President

The Senate

Canberra, 22 March 1994

Ordered—That the amendment be considered forthwith.

SCHEDULE OF THE AMENDMENT MADE BY THE SENATE

Clause 10, page 4, after proposed paragraph 89E(1)(fa) insert the following paragraph:

"(fb) a member nominated by an organisation or organisations representing veterans;"

Mr Punch (Parliamentary Secretary to the Minister for Defence) moved—That the amendment be disagreed to, but that, in place thereof, the Bill be amended as follows:

Clause 10, page 4, proposed paragraph 89E(1)(fa), line 23, omit the paragraph, substitute the following paragraph:

"(fa) a member of the Defence Force who, in the Minister's opinion, represents the interests of members and former members of the Defence Force;"

Debate ensued.

Question—put and passed.

10 POSTPONEMENT OF ORDERS OF THE DAY

Ordered—That orders of the day Nos. 1 and 2, government business, be postponed until a later hour this day.

11 LAW REFORM COMMISSION—INTERIM REPORT ON WOMEN'S ACCESS TO THE LEGAL SYSTEM—MOTION TO TAKE NOTE OF PAPER

The order of the day having been read for the resumption of the debate on the motion of Mr Beazley (Leader of the House)—That the House take note of the paper (*presented on 3 March 1994*), viz.:

Law Reform Commission Act—Law Reform Commission—Report No. 67 (interim)—Equality before the law: Women's access to the legal system—

Debate resumed.

It being approximately 3 p.m., the debate was interrupted in accordance with standing order 101A, and the resumption of the debate made an order of the day for a later hour this day.

12 RETURN TO WRIT—BONYTHON DIVISION

The Acting Speaker announced that he had received a return to the writ which the Speaker had issued on 11 February 1994 for the election of a Member to serve for the electoral division of Bonython, in the State of South Australia, to fill the vacancy caused by the resignation of the Honourable Dr Neal Blewett, and that, by the endorsement on the writ, it was certified that Martyn Evans had been elected.

13 AFFIRMATION OF ALLEGIANCE BY MEMBER

Martyn Evans was introduced, and made and subscribed the affirmation of allegiance required by law.

14 QUESTIONS

Questions without notice were asked.

15 AUDITOR-GENERAL'S REPORT—PUBLICATION OF PAPER

The Acting Speaker presented the following paper:

Audit Act—Auditor-General—Audit report No. 31 of 1993-94—Project audit—CSIRO: Information technology security review.

Mr Beazley (Leader of the House), by leave, moved—That:

- (1) this House authorises the publication of the Auditor-General's audit report No. 31 of 1993-94; and
- (2) the report be printed.

Question—put and passed.

16 PAPER

Mr Beazley (Leader of the House) presented the following paper:

Military Compensation Bill 1994—Supplementary explanatory memorandum.

17 NATIONAL BOARD OF EMPLOYMENT, EDUCATION AND TRAINING—REVIEW—MOTION TO TAKE NOTE OF PAPER

Mr Beazley (Leader of the House) presented the following paper:

Employment, Education and Training Act—National Board of Employment, Education and Training—Review, February 1994—

and moved—That the House take note of the paper.

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

18 MONITORING AND RECORDING OF TELEPHONE CONVERSATIONS AND RELATED MATTERS—MINISTERIAL STATEMENT

Mr Lee (Minister for Communications and the Arts), by leave, made a ministerial statement relating to the investigation of allegations that Telecom had monitored and recorded telephone conversations of certain customers without their consent.

Mr Sinclair, by leave, also made a statement on the matter.

19 COUNTER-TERRORISM—REVIEW OF PLANS AND ARRANGEMENTS—MINISTERIAL STATEMENT AND PAPER—MOTION TO TAKE NOTE OF PAPERS

Mr Kerr (Minister for Justice), by leave, made a ministerial statement in relation to the attack upon the premises of the Iranian Embassy in Canberra on 6 April 1992 and outlined recommendations of a review of plans and arrangements to counter terrorism by Mr Michael Codd and presented the following papers:

Counter-terrorism Review of plans and arrangements—

Ministerial statement.

Report by Mr M. H. Codd, AC, 25 May 1992.

Mr Snowdon (Parliamentary Secretary to the Minister for Employment, Education and Training) moved—That the House take note of the papers.

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

20 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—KEATING MINISTRY

The House was informed that Dr Hewson (Leader of the Opposition) had proposed that a definite matter of public importance be submitted to the House for discussion, namely, “The damage caused to good government by the instability of the Keating Ministry”.

The proposed discussion having received the necessary support—

Dr Hewson addressed the House.

Discussion ensued.

Discussion concluded.

21 SPECIAL ADJOURNMENT

Mr Bilney (Minister for Development Co-operation and Pacific Island Affairs) moved—That the House, at its rising, adjourn until Tuesday, 3 May 1994, at 12.30 p.m., unless otherwise called together by the Speaker or, in the event of the Speaker being unavailable, the Deputy Speaker.

Question—put and passed.

22 LEAVE OF ABSENCE TO ALL MEMBERS

Mr Bilney (Minister for Development Co-operation and Pacific Island Affairs) moved—That leave of absence be given to every Member of the House of Representatives from the determination of this sitting of the House to the date of its next sitting.

Question—put and passed.

23 MOOMBA-SYDNEY PIPELINE SYSTEM SALE BILL 1994

Mr Bilney (Minister for Development Co-operation and Pacific Island Affairs), for Mr Beazley (Minister for Finance), pursuant to notice, presented a Bill for an Act relating to the sale of the Moomba-Sydney pipeline system, and for related purposes.

Bill read a first time.

Paper: Mr Bilney presented an explanatory memorandum to the Bill.

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

24 SOCIAL SECURITY LEGISLATION AMENDMENT BILL (NO. 2) 1994

Mr Bilney (Minister for Development Co-operation and Pacific Island Affairs), for Mr Sciacca (Parliamentary Secretary to the Minister for Social Security), pursuant to notice, presented a Bill for an Act to amend the *Social Security Act 1991*, and for related purposes.

Bill read a first time.

Paper: Mr Bilney presented an explanatory memorandum to the Bill.

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

25 CORPORATIONS LEGISLATION AMENDMENT BILL 1994

Mr Bilney (Minister for Development Co-operation and Pacific Island Affairs), for Mr Lavarch (Attorney-General), pursuant to notice, presented a Bill for an Act to amend laws relating to corporations and securities, and for related purposes.

Bill read a first time.

Paper: Mr Bilney presented an explanatory memorandum to the Bill.

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

26 STUDENT ASSISTANCE AMENDMENT BILL 1994

Mr Bilney (Minister for Development Co-operation and Pacific Island Affairs), for Mr Free (Minister for Schools, Vocational Education and Training), pursuant to notice, presented a Bill for an Act to amend the *Student Assistance Act 1973* and the *Student Assistance Amendment Act 1992*, and for related purposes.

Bill read a first time.

Paper: Mr Bilney presented an explanatory memorandum to the Bill.

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

27 COMMONWEALTH RECIPROCAL RECOVERY LEGISLATION AMENDMENT BILL 1994

Mr Bilney (Minister for Development Co-operation and Pacific Island Affairs), for Mr Free (Minister for Schools, Vocational Education and Training), pursuant to notice, presented a Bill for an Act to amend the *Social Security Act 1991*, the *Student Assistance Act 1973* and the *Veterans' Entitlements Act 1986* in relation to recovery of amounts by the Commonwealth.

Bill read a first time.

Paper: Mr Bilney presented an explanatory memorandum to the Bill.

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

28 TAXATION LAWS AMENDMENT BILL (NO. 2) 1994

Mr Bilney (Minister for Development Co-operation and Pacific Island Affairs) presented a Bill for an Act to amend the law relating to taxation.

Bill read a first time.

Paper: Mr Bilney presented an explanatory memorandum to the Bill.

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

29 EVIDENCE (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 1994

Mr Bilney (Minister for Development Co-operation and Pacific Island Affairs), for Mr Duncan (Parliamentary Secretary to the Attorney-General), pursuant to notice, presented a Bill for an Act to repeal provisions of the *Evidence Act 1905*, to repeal the *State and Territorial Laws and Records Recognition Act 1901* and to make transitional provisions and certain amendments consequential upon the enactment of the *Evidence Act 1994*.

Bill read a first time.

Paper: Mr Bilney presented an explanatory memorandum to the Bill.

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

30 SOCIAL SECURITY LEGISLATION AMENDMENT BILL 1994—SENATE'S AMENDMENTS

The order of the day having been read for the consideration of the amendments made by the Senate, viz.:

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Clause 2, page 2, at end of clause add the following subclause:

“(10) Part 14 commences, or is taken to have commenced, on 20 March 1994, immediately after the commencement of Division 2 of Part 2 of the *Social Security (Budget and Other Measures) Legislation Amendment Act 1993*.”

No. 2—Clause 8, page 4, after proposed paragraph 1229(1)(b) insert the following word and paragraphs:

“and (ba) the Secretary makes reasonable attempts to negotiate an agreement with the person; and

(bb) the person:

- (i) is unwilling to enter into negotiation for such an agreement; or
- (ii) following such negotiation, does not agree to repayment of the debt by reasonable instalments, being instalments reasonably within the person's capacity to pay the debt;”

No. 3—Clause 8, page 4, proposed paragraph 1229(1)(d), line 35, omit “interest may become payable on the debt”, substitute “a garnishee notice may be given to another person or interest may become payable on the debt;”.

No. 4—Clause 8, page 5, after proposed subsection 1229(6), insert the following subsection:

“ (6A) A person is to be taken to have entered into an agreement under section 1229A if the Secretary has:

- (a) issued a notice under subsection 1229(1); and
- (b) subsequently issued a notice under section 1233.”

No. 5—Clause 8, page 6, proposed subsection 1229A(2), line 25, after “subsection (3)”, insert “and (3A)”.

No. 6—Clause 8, page 6, after proposed subsection 1229A(3) insert the following subsection:

“ (3A) Interest payable under subsection (2) ceases to accrue on and from the day the person:

- (a) next pays the instalment due under an agreement; or
- (b) enters into a new agreement;

whichever first occurs.”

No. 7—Clause 8, page 7, after proposed section 1229B add the following section:

Guidelines on the penalty interest charge scheme

“ 1229C.(1) The Minister must, not later than 1 July 1994, and thereafter from time to time, by notice in writing determine Guidelines for the operation of the provisions of this Act dealing with Penalty Interest Charge.

“ (2) A notice under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.”

No. 8—Part 7, line 1 (page 15) to line 3 (page 16), omit the Part.

No. 9—Part 9, line 16 (page 16) to line 18 (page 17), omit the Part.

No. 10—After Part 13, page 19, add the following Part:

“PART 14—MATURE AGE ALLOWANCES

Qualification for mature age allowance

“41. Section 660XBA of the Principal Act is amended by inserting after subsection (1) the following subsections:

CES registration

‘(1A) For the purposes of paragraph (1)(c), a person who ceases to be registered with the CES for a period of less than 13 weeks is taken to have been registered for that period.

Receipt of benefits

‘(1B) For the purposes of paragraph (1)(d), if a person ceases:

- (a) to receive one or a combination of the following:
 - (i) a social security pension;
 - (ii) a social security benefit;
 - (iii) a service pension; or
- (b) to be a benefit increase partner;

for a period of less than 13 weeks, the person is taken to have been receiving the pension or benefit, or to be a benefit increase partner, for that period.’—

On the motion of Mr Duncan (Parliamentary Secretary to the Attorney-General), Senate amendments Nos. 1, 5, 6, 7, 9 and 10 were agreed to, after debate.

Mr Duncan moved—That Senate amendments Nos. 3 and 8 be disagreed to.

Debate ensued.

Motion withdrawn, by leave.

On the motion of Mr Duncan, Senate amendment No. 3 was disagreed to, after debate.

Mr Duncan moved—That Senate amendment No. 8 be disagreed to.

Debate ensued.

Question—put.

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

AYES, 68

Mr Adams	Mrs Easson	Mr Humphreys	Mr Punch
Mr Baldwin	Mr Elliott	Mr Johns	Mr Quick
Mr Beazley	Mr M. J. Evans	Mr Jones	Mr Sawford*
Mr Beddall	Ms Fatin	Mr Kerr	Mr Sciacca
Mr Bevis	Mr Ferguson	Mr Knott	Mr L. J. Scott
Mr Bilney	Mr Fitzgibbon	Mr Latham	Mr Simmons
Mr Brown	Mr Free	Mr Lavarch	Mrs S. J. Smith
Mr Campbell	Mr Gear	Dr Lawrence	Mr S. F. Smith
Mr Chynoweth	Mr Gibson	Mr Lee	Mr Snowdon
Mr Cleeland	Mr Gorman	Mr Lindsay	Mr Staples
Ms Crawford	Mr Grace*	Ms McHugh	Mr Swan
Mr Crean	Mr Griffiths	Mr Melham	Mr Tanner
Mr Cunningham	Mr Haviland	Mr A. A. Morris	Dr Theophanous
Ms Deahm	Ms Henzell	Mr P. F. Morris	Mr Tickner
Mr Dodd	Mr Hollis	Mr O'Connor	Mr Walker
Mr Duffy	Mr Horne	Mr O'Keefe	Mr Willis
Mr Duncan	Mr Howe	Mr Price	Mr Woods

NOES, 52

Mr Aldred	Mr Downer	Mr Lieberman	Mr Ruddock
Mr K. J. Andrews	Mr R.D.C.Evans	Mr Lloyd	Mr B. C. Scott
Mr Atkinson	Mr Filing*	Mr McArthur	Mr Sinclair
Mr Beale	Mr Fischer	Mr Mack	Mr Slipper
Mr Bradford	Mr Forrest	Mrs Moylan	Mr Somlyay
Mr Braithwaite	Mrs Gallus	Mr Neville	Mrs Sullivan
Mr Cadman	Mr Hall	Mr Nugent	Mr Taylor
Mr Cameron	Mr Halverson	Mr Prosser	Mr Truss
Mr Charles	Mr Hawker	Mr Pyne	Mr Tuckey
Mr Cobb	Mr Hicks*	Mr Reid	Mr Vaile
Mr Connolly	Mr Howard	Mr Reith	Mr Wakelin
Mr Costello	Mr Jull	Mr Rocher	Mr Williams
Mr Dobie	Dr Kemp	Mr Ronaldson	Ms Worth

* Tellers

And so it was resolved in the affirmative.

Mr Duncan moved—That Senate amendment No. 2 be disagreed to, but that, in place thereof, the following amendment be made:

Clause 8, page 4, after proposed paragraph 1229(1)(b) insert the following word and paragraphs:

“ and (ba) the Secretary has given the person a notice asking the person to pay the debt; and

(bb) 21 days after, the person:

(i) has not entered into negotiations to pay the debt; or

- (ii) has entered into negotiations to pay the debt, but has not entered into an agreement to pay the debt by reasonable instalments;’.”

Debate ensued.

Question—put and passed.

Mr Duncan moved—That Senate amendment No. 4 be disagreed to, but that, in place thereof, the following amendment be made:

Clause 8, page 5, after proposed subsection 1229(6) insert the following subsections:

“ (6A) If 2 or more payments are made in reduction of the debt in compliance with a garnishee notice under subsection 1233(1), interest that would, apart from this subsection, become payable on the debt during the garnishee notice period is not payable.

‘(6B) In this section, “**garnishee notice period**” means the period that begins on the day the first payment is made in compliance with a garnishee notice and ends on the day the last payment is made in compliance with that notice (whether or not the debt is satisfied).’.”

Debate ensued.

Question—put and passed.

On the motion of Mr Duncan, the following further amendments were agreed to, after debate:

Clause 8—

Page 4, proposed subparagraph 1229(1)(d)(ii), line 34, omit “under section 1229A to pay the debt”, substitute “to pay the debt by reasonable instalments”.

Page 5, proposed subsection 1229(6), lines 28 and 29, omit “under section 1229A to pay the debt”, substitute “to pay the debt by reasonable instalments”.

Page 6, proposed paragraph 1229A(1)(c), line 15, after “by” insert “reasonable”.

Mr Duncan moved—That Ms Deahm, Mr Dodd and the mover be appointed a committee to draw up reasons for the House of Representatives disagreeing to amendments Nos. 3 and 8 of the Senate.

Question—put and passed.

Mr Duncan, on behalf of the committee, brought up such reasons, which were circulated, and are as follows:

Reasons of the House of Representatives for disagreeing to amendments Nos. 3 and 8 of the Senate

Senate amendment No. 3

- The Government agrees with the principles that, where the Department can use the garnishee power, it should do so rather than apply penalty interest and that penalty interest should not apply **when effective recovery is in progress** under a garnishee notice. However, the amendments as drafted do not appear to achieve these objectives.
- In particular, the Government believes that Senate amendment No. 3 is superfluous and that, further, it implies a condition on the use of the garnishee power which does not exist in the Act. Section 1233 (the garnishee power) contains no requirement to issue another type of notice (ie a penalty charge notice) prior to a garnishee. If the Department has already issued a garnishee notice, the amendment would not stop the Department then applying penalty interest as well.

- The latter argument also applies to paragraph (a) of Senate amendment No. 4.
- Since the Government believes that Senate amendment No. 3 is superfluous it opposes the amendment.

Senate amendment No. 8

- Senate amendment No. 8 omits Part 7 of the Bill that relates to the value of assets used in primary production. The amendments contained in Part 7 were intended to clarify the original intention, and existing policy, that where primary production liabilities are related to primary production assets whose values are partly exempt under section 1118 of the Principal Act, only that part of the liabilities relating to the non-exempt assets will be allowed as a deduction under the assets test.
- The objective of Part 7 was merely to clarify the position as a result of the recent decision of the Social Security Appeals Tribunal in *Little*. Indeed, legal advice received from the Attorney-General's Department confirms that the existing legislation authorises the Department's existing treatment of primary production assets. As a result, there is strictly no need to proceed with Part 7. However, the Government considers that the amendments should be proceeded with so as to clarify the position—a position strongly recommended by the Attorney-General's Department.

On the motion of Mr Duncan, the committee's reasons were adopted, after debate.

31 MEMBERS' INTERESTS COMMITTEE—PAPER

Mr Grace (Chairman) presented the following paper:

Committee of Members' Interests—Register of Members' Interests for the 37th Parliament—Notifications of alterations of interests and a statement of registrable interests received during the period 16 December 1993 to 23 March 1994.

32 PUBLICATIONS COMMITTEE—10TH REPORT

Mr Fitzgibbon (Chairman) presented the following report:

PUBLICATIONS COMMITTEE 10TH REPORT

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

The Committee, having considered petitions and documents presented to the Parliament since 1 March 1994, recommends that the following be printed:

Audit Act—Auditor-General—Audit reports—1993-94—

No. 26—Audit of the Australian Wheat Board, 1992-93.

No. 29—Project audit—Department of Industry, Technology and Regional Development: National Industry Extension Service (NIES).

Commonwealth Grants Commission Act—Commonwealth Grants Commission—Report on General Revenue Grant Relativities—1994 Update.

Council for Aboriginal Reconciliation Act—Council for Aboriginal Reconciliation—Report for 1992-93.

Foreign Investment Review Board—Report for 1992-93.

Law Reform Commission Act—Law Reform Commission—Report No. 67 (Interim)—Equality before the law: Women's access to the legal system.

National Parks and Wildlife Conservation Act—Australian Nature Conservation Agency—Report for 1992-93.

Primary Industries and Energy Research and Development Act—Land and Water Resources Research and Development Corporation and Land and Water Resources Research and Development Corporation Selection Committee—Report for 1992-93.

Taxation statistics 1991-92.

Telecommunications Act 1991—Australian Telecommunications Authority—Competitive Safeguards and Carrier Performance—Report for 1992-93.

ERIC FITZGIBBON
Chairman

24 March 1994

Mr Fitzgibbon, by leave, moved—That the report be agreed to.

Question—put and passed.

33 BANKING, FINANCE AND PUBLIC ADMINISTRATION—STANDING COMMITTEE—REPORT—STATEMENTS BY MEMBERS—MOTION TO TAKE NOTE OF PAPER

Mr Simmons (Chairman) presented the following report and related papers:

Banking, Finance and Public Administration—Standing Committee—Stand and deliver: Inquiry into the efficiency dividend arrangements—

Report, 24 March 1994.

Minutes of proceedings.

Ordered—That the report be printed.

Mr Simmons and Mr Reith, by leave, made statements in connection with the report.

Mr Simmons, by leave, moved—That the House take note of the report.

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

34 LAW REFORM COMMISSION—INTERIM REPORT ON WOMEN'S ACCESS TO THE LEGAL SYSTEM—MOTION TO TAKE NOTE OF PAPER

The order of the day having been read for the resumption of the debate on the motion of Mr Beazley (Leader of the House)—That the House take note of the paper (*presented on 3 March 1994*), viz.:

Law Reform Commission Act—Law Reform Commission—Report No. 67 (interim)—Equality before the law: Women's access to the legal system—

Debate resumed.

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

Debate adjourned, and the resumption of the debate made an order of the day for a later hour this day.

35 MESSAGE FROM THE SENATE—TAXATION LAWS AMENDMENT BILL (NO. 4) 1993

The following message from the Senate was reported:

Message No. 239

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to amend the law relating to taxation*", and requests the House to amend the bill as indicated by Schedule A annexed.

The Senate has agreed to the following resolution:

The Senate declares that its agreement, on the motion of the Government, to make requests to the House of Representatives for amendments of the bill, does not indicate that the Senate considers that requests are appropriate or that the Senate has formed a conclusive view on the application of section 53 or 55 of the Constitution to the bill; and that the following matter be referred to the Standing Committee on Legal and Constitutional Affairs for inquiry and report on or before the last day of May 1994: the application and interpretation of the third paragraph of section 53 of the Constitution in relation to bills dealing with taxation.

The Senate also desires to inform the House that the amendments indicated by Schedule B annexed have been made by the Senate in the bill.

MICHAEL BEAHAN
President

The Senate

Canberra, 24 March 1994

Proper interpretation of the third paragraph of section 53 of the Constitution—Statement by Acting Speaker

The Acting Speaker made the following statement:

The issue of the proper interpretation of the third paragraph of section 53 of the Constitution is of great importance to each House. Members will realise that the application of this provision has been the source of some difficulty over many years.

I note that the Senate has advised the House that it has referred the following matter to its Standing Committee on Legal and Constitutional Affairs:

The application and interpretation of the third paragraph of section 53 of the Constitution in relation to Bills dealing with taxation.

In view of the importance of this matter to each House I suggest that the House may wish to consider the desirability of referring this matter to its Standing Committee on Legal and Constitutional Affairs and resolving to ask the Senate that its committee meet with the House committee in relation to the matter—but perhaps not confining the consideration to Bills dealing with taxation.

Mr Gear (Assistant Treasurer) moved—That:

- (1) the question of the interpretation and application of the provisions of the third paragraph of section 53 of the Constitution be referred to the Standing Committee on Legal and Constitutional Affairs; and

- (2) a message be sent to the Senate acquainting it of this resolution and asking that the Senate:
- (a) consider broadening the terms of its reference of 24 March 1994 to its Standing Committee on Legal and Constitutional Affairs to allow its committee to consider the interpretation and application of the third paragraph of section 53 generally; and
 - (b) agree to an order to permit its committee to confer with the House of Representatives Standing Committee on Legal and Constitutional Affairs on this matter with a view to reports being presented to both Houses.

Debate ensued.

Debate adjourned (Dr Theophanous—Parliamentary Secretary to the Prime Minister), and the resumption of the debate made an order of the day for a later hour this day.

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

SCHEDULE OF THE REQUESTS BY THE SENATE FOR AMENDMENTS

No. 1—Clause 2, page 2, at end of clause add the following subclauses:

“(5) Subsection 70B(1) is taken to have commenced immediately after the commencement of section 16 of the *Taxation Laws Amendment (Superannuation) Act 1989*.

“(6) Subsection 70C(1) is taken to have commenced immediately after the commencement of section 11 of the *Taxation Laws Amendment Act (No. 5) 1989*.

“(7) Subsection 70G(1) is taken to have commenced immediately after section 12 of the *Taxation Laws Amendment Act (No. 5) 1989*.

“(8) Subsection 70Q(1) is taken to have commenced immediately after the commencement of section 24 of the *Taxation Laws Amendment (Superannuation) Act 1989*.

“(9) Subsections 70B(2), 70C(2) and 70Q(2) are taken to have commenced immediately after the commencement of the *Taxation Laws Amendment (Foreign Income) Act 1990*.

“(10) Section 94 is taken to have commenced immediately after the commencement of section 17 of the *Taxation Laws Amendment (Superannuation) Act 1989*.”.

No. 2—Clause 48, page 19, lines 11 to 15, omit the clause, substitute the following clause:

Application of amendments

“48.(1) The amendments made by sections 42, 46 and 47 apply for the 1994-95 year of income and all later years of income.

“(2) The amendments made by sections 43, 44 and 45 apply for the 1995-96 year of income and all later years of income.”.

No. 3—After Division 10, page 33, insert the following Division:

*“Division 10A—Life assurance companies and
registered organizations*

Object of Division

“70A. The object of this Division is to clarify the deductions allowable to life assurance companies and registered organizations.

Deductions to be allowable for expenditure incurred in gaining superannuation premiums

“70B.(1) Section 111A of the Principal Act is amended by adding at the end the following subsection:

‘(1A) For the purposes of the application of this section to assessments in respect of income of the year of income in which 1 July 1988 occurred and to assessments in respect of income of any later year of income that is derived before the end of the 1989-90 year of income, the reference in subsection (1) to superannuation premiums does not include a reference to premiums that are:

- (a) received in respect of a superannuation policy issued by a life assurance company in the course of a business carried on by it at or through a permanent establishment of the company in a foreign country; or
- (b) exempt from tax under paragraph 23(r).’

“(2) Section 111A of the Principal Act is amended:

- (a) by omitting subsection (2);
- (b) by adding at the end the following subsection:

‘(3) For the purposes of the application of this section to assessments in respect of income of the 1990-91 year of income or to assessments in respect of income of any later year of income, the reference in subsection (1) to superannuation premiums does not include a reference to premiums that are:

- (a) received in respect of eligible non-resident policies; or
- (b) exempt from tax under section 23AH; or
- (c) exempt from tax under paragraph 23(r).’

“(3) Section 111A of the Principal Act is amended by adding at the end the following subsection:

‘(4) This section does not apply, and is taken not to have applied, to superannuation premiums received on or after 1 January 1994.’

Deductions to be allowable for expenditure incurred in gaining the investment component of certain premiums

“70C.(1) Section 111AA of the Principal Act is amended by inserting after subsection (1) the following subsection:

‘(1A) The reference in subsection (1) to premiums received in respect of life assurance policies does not include a reference to premiums that are received on or after 1 January 1990 and before the end of the 1989-90 year of income and:

- (a) are so received in respect of a life assurance policy issued by a life assurance company in the course of a business carried on by it at or through a permanent establishment of the company in a foreign country; or
- (b) are exempt from tax under paragraph 23(r).’

“(2) Section 111AA of the Principal Act is amended:

- (a) by omitting from paragraph (1)(c) ‘amounts; or’ and substituting ‘amounts.’;
- (b) by omitting paragraphs (1)(d) and (e);
- (c) by inserting after subsection (1A) the following subsection:
‘(1B) For the purposes of the application of this section to assessments in respect of income of the 1990-91 year of income or to assessments in respect of income of later years of income, the reference in subsection (1) to premiums received in respect of life assurance policies does not include a reference to premiums that are:
 - (a) received in respect of eligible non-resident policies; or
 - (b) exempt from tax under section 23AH; or
 - (c) exempt from tax under paragraph 23(r).’

“(3) Section 111AA of the Principal Act is amended by adding at the end the following subsection:

‘(4) This section does not apply, and is taken not to have applied, to premiums received on or after 1 January 1994.’

“(4) If, in relation to a particular life assurance company:

- (a) as a result of an amendment made by this section, the premiums to which section 111AA of the Principal Act as amended by this section applies in respect of a year of income differ from the premiums to which that section would have applied in respect of that year of income if the amendment had not been made; and
- (b) the company obtained a certificate under section 111AA of the Principal Act in relation to that year of income;

section 111AA of the Principal Act as amended by this section is taken not to have applied to premiums received by the company in that year of income unless:

- (c) after the commencement of this subsection the company furnishes an amended return in respect of that year of income; and
- (d) after that commencement but before the amended return is furnished (or within such further period as the Commissioner allows) the company obtains a further certificate under section 111AA of the Principal Act as amended by this section with respect to the operation of that section in relation to that year of income.

Repeal of sections 111A and 111AA

“70D. Sections 111A and 111AA of the Principal Act are repealed.

Insertion of new sections

“70E. Before section 111B of the Principal Act the following sections are inserted:

Reinsurance recoveries and refunds of premiums not assessable income

‘111AB.(1) If:

- (a) a life assurance company has entered into a contract of reinsurance in respect of the whole or any part of a life assurance policy; and
- (b) a premium paid or payable by the company under the contract of reinsurance is not an allowable deduction to the company because of paragraph 112BA(1)(c);

the company's assessable income does not include:

- (c) any amount received or recovered by it under the contract of reinsurance in respect of its liability under the life assurance policy, or the part of that policy, that was reinsured; or
- (d) any amount received or recovered by it that is a refund, or in the nature of a refund, of the premium.

'(2) This section applies to assessments in respect of income of the year of income in which 1 July 1988 occurred and to assessments in respect of income of all later years of income.

Deductions to be allowable for expenditure incurred in obtaining superannuation premiums

'111AC.(1) Subject to this section, the expenses mentioned in subsection (2) that are incurred by a life assurance company in the year of income in connection with the obtaining of superannuation premiums are allowable deductions.

'(2) The expenses to which subsection (1) applies are:

- (a) salaries, wages, bonuses, commissions, allowances, or similar benefits, in respect of the sale, renewal or continuation of superannuation policies; and
- (b) expenditure in recruiting or training people in the selling of superannuation policies; and
- (c) salaries, wages, allowances or similar benefits paid or payable to employees of the company to the extent to which the benefits relate to the provision of administrative, technical or other assistance or support to people who sell superannuation policies; and
- (d) expenditure in developing, or engaging in research in connection with, superannuation policies; and
- (e) any other losses or outgoings to the extent to which they are incurred in preparing, selling or issuing superannuation policies or collecting superannuation premiums.

'(3) If:

- (a) a provision of this Act (other than this section or section 51 or 111AD) allows a deduction from a taxpayer's assessable income in respect of a loss, outgoing or expenditure; and

(b) the provision extends to a taxpayer that is a life assurance company; the provision has effect in determining the deductions allowable to a life assurance company as if any reference in the provision to assessable income included a reference to superannuation premiums.

'(4) Expenses incurred by a life assurance company that are of a capital nature (other than expenses in respect of which a deduction is allowable because of subsection (3)) are not allowable deductions under this section.

'(5) Expenses incurred by a life assurance company in the general management of the business of the company within the meaning of section 113 or 113A are not allowable deductions under this section.

'(6) If, assuming that:

- (a) the *Taxation Laws Amendment Act (No. 4) 1993* had not been enacted; and

(b) this Act provided that a life assurance company's assessable income included the superannuation premiums received by the company; a deduction would not have been allowed to a life assurance company in respect of a loss, outgoing or expenditure or a part of a loss, outgoing or expenditure, then, a deduction is not allowable to the company in respect of the loss, outgoing or expenditure or the part of the loss, outgoing or expenditure, as the case may be, under this section or under another provision of this Act as it has effect because of this section.

'(7) A reference in this section to a deduction in respect of a loss, outgoing or expenditure includes a reference to a deduction based on, or calculated by reference to, all or a portion of the loss, outgoing or expenditure.

'(8) In this section:

"superannuation premiums" does not include:

- (a) premiums received in respect of eligible non-resident policies; or
- (b) premiums exempt from tax under section 23AH; or
- (c) premiums exempt from tax under paragraph 23(r).

'(9) This section applies to expenses incurred, or to deductions in respect of a loss, outgoing or expenditure incurred, on or after 1 January 1994.

Deductions to be allowable for expenditure incurred in obtaining the investment component of certain premiums

'111AD.(1) In this section:

"relevant life assurance premiums" means premiums received in respect of life assurance policies other than:

- (a) superannuation premiums; or
- (b) premiums received in respect of exempt policies; or
- (c) specified roll-over amounts; or
- (d) premiums received in respect of eligible non-resident policies; or
- (e) premiums exempt from tax under section 23AH; or
- (f) premiums exempt from tax under paragraph 23(r);

"relevant life assurance policy" means a life assurance policy in respect of which premiums received are relevant life assurance premiums.

'(2) Subject to this section, the expenses mentioned in subsection (3) that are incurred by a life assurance company in the year of income in connection with the obtaining of relevant life assurance premiums, to the extent to which the expenses relate to the investment component of those premiums, are allowable deductions.

'(3) The expenses to which subsection (2) applies are:

- (a) salaries, wages, bonuses, commissions, allowances, or similar benefits, in respect of the sale, renewal or continuation of relevant life assurance policies; and
- (b) expenditure in recruiting or training people in the selling of relevant life assurance policies; and
- (c) salaries, wages, allowances or similar benefits paid or payable to employees of the company to the extent to which the benefits relate to the provision of administrative, technical or other assistance or support to people who sell relevant life assurance policies; and

- (d) expenditure in developing, or engaging in research in connection with, relevant life assurance policies; and
- (e) any other losses or outgoings to the extent to which they are incurred in preparing, selling or issuing relevant life assurance policies or collecting relevant life assurance premiums.

'(4) If:

- (a) a provision of this Act (other than this section or section 51 or 111AC) allows a deduction from a taxpayer's assessable income in respect of a loss, outgoing or expenditure; and

(b) the provision extends to a taxpayer that is a life assurance company; the provision has effect in determining the deductions allowable to a life assurance company as if any reference in the provision to assessable income included a reference to the investment component of relevant life assurance premiums.

'(5) Expenses incurred by a life assurance company that are of a capital nature (other than expenses in respect of which a deduction is allowable because of subsection (4)) are not allowable deductions under this section.

'(6) Expenses incurred by a life assurance company in the general management of the business of the company within the meaning of section 113 or 113A are not allowable deductions under this section.

'(7) If, assuming that:

- (a) the *Taxation Laws Amendment Act (No. 4) 1993* had not been enacted; and
- (b) this Act provided that a life assurance company's assessable income included the investment component of relevant life assurance premiums received by the company;

a deduction would not have been allowed to a life assurance company in respect of a loss, outgoing or expenditure or a part of a loss, outgoing or expenditure, then, a deduction is not allowable to the company in respect of the loss, outgoing or expenditure or the part of the loss, outgoing or expenditure, as the case may be, under this section or under another provision of this Act as it has effect because of this section.

'(8) This section does not apply to premiums derived by a life assurance company in a year of income unless the company obtains a certificate by an authorised actuary, in the approved form, with respect to the operation of this section in relation to that year of income, before the date of lodgment of the return of income of the company of the year of income or within such further time as the Commissioner allows.

'(9) A reference in this section to a deduction in respect of a loss, outgoing or expenditure includes a reference to a deduction based on, or calculated by reference to, all or a portion of the loss, outgoing or expenditure.

'(10) This section applies to expenses incurred, or to deductions in respect of a loss, outgoing or expenditure incurred, on or after 1 January 1994.'

Reduction in deductions that are not exclusively related to producing assessable income

"70F.(1) Section 111C of the Principal Act is amended:

- (a) by omitting from paragraph (1)(a) '51 or 113' and substituting '51, 111AC (other than subsection (3)), 111AD (other than subsection (4)) or 113';
- (b) by omitting from subsection (2) all the words from and including 'where:' to the end of the subsection;
- (c) by adding at the end the following subsection:
 - '(4) In this section:
 - "Deduction"** means the amount of the deduction concerned;
 - "Assessable income"**, in relation to a life assurance company includes:
 - (a) superannuation premiums to which section 111AC applies that are received by the company; and
 - (b) the investment component of relevant life assurance premiums to which section 111AD applies that are received by the company;

"Total income" means the total of all the amounts that would be assessable income of the company apart from any exempting provision.'

"(2) The amendment made by paragraph (1)(a) applies in apportioning deductions in respect of a loss, outgoing or expenditure (including a deduction based on, or calculated by reference to, all or a portion of a loss, outgoing or expenditure) incurred on or after 1 January 1994.

"(3) The amendments made by paragraphs (1)(b) and (c) apply in respect of premiums received on or after 1 January 1994.

Deductions not allowable for expenditure incurred in gaining certain premium income

"70G.(1) Section 112 of the Principal Act is amended by inserting in subparagraph (1)(a)(i) "to which section 111A applies" after "premiums".

"(2) The amendment made by subsection (1) applies to expenditure incurred on or after 1 January 1990.

Repeal of section and substitution of new section

"70H. Section 112 of the Principal Act is repealed and the following section is substituted:

Deductions not allowable for expenditure incurred in gaining certain premium income

'112.(1) A deduction is not allowable to a life assurance company in respect of expenditure incurred exclusively in gaining:

- (a) premiums that are excluded from assessable income by section 111 other than:
 - (i) superannuation premiums to which section 111AC applies; or
 - (ii) the investment component of relevant life assurance premiums to which section 111AD applies; or
- (b) the risk component of any such relevant life assurance premiums.

'(2) This section applies to expenditure incurred on or after 1 January 1994.'

Insertion of new section

"70J. After section 112A of the Principal Act the following section is inserted:

Deductions not allowable for benefits or reinsurance premiums

'112BA.(1) Despite any other provision of this Act, a deduction is not allowable to a life assurance company in respect of:

- (a) a benefit paid or payable under a life assurance policy; or
- (b) the inclusion of an amount in the company's reserves for the purpose of meeting any future liability (including a contingent liability) of the company to pay benefits to which paragraph (a) would apply; or
- (c) a premium paid or payable by the company in respect of the reinsurance of the whole or any part of a life assurance policy; or
- (d) an amount paid or payable to, or to an associate of, the holder of a life assurance policy in settlement of a dispute as to the liability of the company under the policy.

'(2) A reference in subsection (1) to a benefit paid or payable under a life assurance policy:

- (a) includes a reference to an amount paid or payable:
 - (i) in respect of a claim under the policy; or
 - (ii) as consideration for, in connection with, or as a consequence of, the surrender, cancellation, forfeiture, termination or disposal of the policy or any rights under the policy; or
 - (iii) in respect of a bonus under the policy; or
 - (iv) in respect of an annuity under the policy; or
 - (v) that is a refund, or is in the nature of a refund, of a premium that, under section 111, is not included in the company's assessable income; but
- (b) does not include any interest payable under section 57 of the *Insurance Contracts Act 1984*.

'(3) To remove any doubt, it is declared that a supplementary benefit (known as a rider benefit) that is paid or payable in respect of a non-life assurance risk (including an accident and disability risk, a sickness risk and a trauma risk) and in respect of which the premiums received by the life assurance company that issued the relevant life assurance policy are included in the company's assessable income is not a benefit paid or payable under a life assurance policy for the purposes of subsection (1).

'(4) In this section:

"associate" has the same meaning as in subsection 26AAB(14).

'(5) This section applies to assessments in respect of income of the year of income in which 1 July 1988 occurred and to assessments in respect of income of all later years of income.'

Expenses of general management relating to producing assessable income

"70K.(1) Section 113 of the Principal Act is amended by adding at the end the following subsection:

'(5) In this section:

"assessable income", in relation to a life insurance company, includes:

- (a) superannuation premiums to which section 111AC applies that are received by the company; and

- (b) the investment component of relevant life assurance premiums to which section 111AD applies that are received by the company.’.

“(2) The amendment made by subsection (1) applies to expenditure incurred on or after 1 January 1994.

Insertion of new section

“70L. After section 113 of the Principal Act the following section is inserted:

Expenses of general management incurred in obtaining certain premiums

‘113A.(1) If:

- (a) expenditure is incurred by a life assurance company in the year of income in the general management of the company’s business; and
- (b) the expenditure is not an allowable deduction under section 113 because of paragraph 113(3)(b);

the expenditure is an allowable deduction to the extent to which it was incurred in gaining or producing:

- (c) superannuation premiums to which section 111AC applies; or
- (d) the investment component of relevant life insurance premiums to which section 111AD applies.

‘(2) If, assuming that:

- (a) the *Taxation Laws Amendment Act (No. 4) 1993* had not been enacted; and
- (b) this Act provided that a life assurance company’s assessable income included the superannuation premiums and the investment component of relevant life assurance premiums received by the company;

a deduction would not have been allowed to a life assurance company in respect of a loss, outgoing or expenditure or a part of a loss, outgoing or expenditure, then, a deduction is not allowable to the company in respect of the loss, outgoing or expenditure or the part of the loss, outgoing or expenditure, as the case may be, under this section.

‘(3) For the purposes of this section, expenditure of a capital nature is taken not to be expenditure incurred in the general management of the business of the company.

‘(4) A reference in this section to a deduction in respect of a loss, outgoing or expenditure includes a reference to a deduction based on, or calculated by reference to, all or a portion of the loss, outgoing or expenditure.

‘(5) In this section:

“**relevant life assurance premiums**” means premiums received in respect of life assurance policies other than:

- (a) superannuation premiums; or
- (b) premiums received in respect of exempt policies; or
- (c) specified roll-over amounts; or
- (d) premiums received in respect of eligible non-resident policies; or
- (e) premiums exempt from tax under section 23AH; or
- (f) premiums exempt from tax under paragraph 23(r).

‘(6) This section applies to expenses incurred, or to deductions in respect of a loss, outgoing or expenditure incurred, on or after 1 January 1994.’.

Apportionment of current year deductions between classes

“70M.(1) Section 116CF of the Principal Act is amended:

- (a) by omitting from subsections (4), (5) and (6) ‘subsection 111A(1)’ and substituting ‘section 111AC’; and
- (b) by omitting from subsections (4), (6) and (7) ‘section 111AA’ and substituting ‘section 111AD’.

“(2) Subsections 116CF(4), (5), (6) and (7) of the Principal Act as amended by subsection (1) of this section apply in relation to premiums received by a life assurance company on or after 1 January 1994.

Insertion of new section

“70N. After section 116GD of the Principal Act the following section is inserted:

Reinsurance recoveries and refunds of premiums not assessable income

‘116GE.(1) If:

- (a) a registered organization has entered into a contract of reinsurance in respect of the whole or any part of a life assurance policy; and
- (b) a premium paid or payable by the organization under the contract of reinsurance is not an allowable deduction to the organization because of paragraph 116HAD(1)(c);

the organization’s assessable income does not include:

- (c) any amount received or recovered by it under the contract of reinsurance in respect of its liability under the life assurance policy, or the part of that policy, that was reinsured; or
- (d) any amount received or recovered by it that is a refund, or in the nature of a refund, of the premium.

‘(2) This section applies to assessments in respect of income of the year of income in which 1 July 1988 occurred and to assessments in respect of income of all later years of income.’

Deductions allowable from assessable income of registered organizations

“70P.(1) Section 116H of the Principal Act is amended:

- (a) by inserting after paragraph (a) the following paragraph:

‘(aa) any deductions that, apart from this section, would be allowable to the organization in relation to the year of income under section 116HAB or 116HAC; and’;

- (b) by adding at the end the following subsection:

‘(2) In paragraph (1)(b):

“**assessable income**”, in relation to a registered organization:

- (a) includes superannuation premiums to which section 116HAB applies that are received on or after 1 January 1994 by the organization; and
- (b) includes the investment component of relevant life assurance premiums to which section 116HAC applies that are received on or after 1 July 1994 by the organization.’

“(2) The amendment made by paragraph (1)(a) applies to deductions in respect of a loss, outgoing or expenditure (including a deduction based on, or calculated by reference to, all or a portion of a loss, outgoing or expenditure) incurred:

- (a) in respect of deductions under section 116HAB—on or after 1 January 1994; or
- (b) in respect of deductions under section 116HAC—on or after 1 July 1994.

Deductions to be allowable for expenditure incurred in gaining superannuation premiums

“70Q.(1) Section 116HA of the Principal Act is amended by adding at the end the following subsection:

‘(2) For the purposes of the application of this section to assessments in respect of income of the year of income in which 1 July 1988 occurred and to assessments in respect of income of any later year of income that is derived before the end of the 1989-90 year of income, if:

- (a) a registered organization receives premiums (the “foreign premiums”) in respect of a superannuation policy issued by it in the course of a business carried on by it at or through a permanent establishment of the organization in a foreign country; and
- (b) the organization’s assessable income does not include the income from the investment of the foreign premiums;

then the reference in subsection (1) to superannuation premiums does not include a reference to the foreign premiums.’.

“(2) Section 116HA of the Principal Act is amended by adding at the end the following subsection:

‘(3) For the purposes of the application of this section to assessments in respect of income of the 1990-91 year of income or to assessments in respect of income of any later year of income, the reference in subsection (1) to superannuation premiums does not include a reference to premiums that are exempt from tax under section 23AH.’.

“(3) Section 116HA of the Principal Act is amended by adding at the end the following subsection:

‘(4) This section does not apply to premiums received on or after 1 January 1994.’.

Repeal of sections 116HA and 116HAA

“70R. Sections 116HA and 116HAA of the Principal Act are repealed.

Insertion of new sections

“70S. Before section 116HB of the Principal Act the following sections are inserted:

Deductions to be allowable for expenditure incurred in obtaining superannuation premiums

‘116HAB.(1) Subject to this section, the expenses mentioned in subsection (2) that are incurred by a registered organization in the year of income in connection with the obtaining of superannuation premiums are allowable deductions.

‘(2) The expenses to which subsection (1) applies are:

- (a) salaries, wages, bonuses, commissions, allowances, or similar benefits, in respect of the sale, renewal or continuation of superannuation policies; and

- (b) expenditure in recruiting or training people in the selling of superannuation policies; and
- (c) salaries, wages, allowances or similar benefits paid or payable to employees of the organization to the extent to which the benefits relate to the provision of administrative, technical or other assistance or support to people who sell superannuation policies; and
- (d) expenditure in developing, or engaging in research in connection with, superannuation policies; and
- (e) any other losses or outgoings to the extent to which they are incurred in preparing, selling or issuing superannuation policies or collecting superannuation premiums; and
- (f) expenses in the general management of the organization's business to the extent to which the expenses are incurred in gaining or producing superannuation premiums.

'(3) If:

- (a) a provision of this Act (other than this section or section 51, 116H or 116HAC) allows a deduction from a taxpayer's assessable income in respect of a loss, outgoing or expenditure; and
- (b) the provision extends to a taxpayer that is a registered organization;

the provision has effect in determining the deductions allowable to a registered organization as if any reference in the provision to assessable income included a reference to superannuation premiums.

'(4) Expenses incurred by a registered organization (other than expenses in respect of which a deduction is allowable because of subsection (3)) that are of a capital nature are not allowable deductions under this section.

'(5) If, assuming that:

- (a) the *Taxation Laws Amendment Act (No. 4) 1993* had not been enacted; and
- (b) this Act provided that a registered organization's assessable income included the superannuation premiums received by the organization;

a deduction would not have been allowed to a registered organization in respect of a loss, outgoing or expenditure or a part of a loss, outgoing or expenditure, then, a deduction is not allowable to the organization in respect of the loss, outgoing or expenditure or the part of the loss, outgoing or expenditure, as the case may be, under this section or under another provision of this Act as it has effect because of this section.

'(6) A reference in this section to a deduction in respect of a loss, outgoing or expenditure includes a reference to a deduction based on, or calculated by reference to, all or a portion of the loss, outgoing or expenditure.

'(7) In this section:

"superannuation premiums" do not include premiums that are exempt from tax under section 23AH.

'(8) This section applies to expenses incurred, or to deductions in respect of a loss, outgoing or expenditure incurred, on or after 1 January 1994.

Deductions to be allowable for expenditure incurred in obtaining the investment component of certain premiums

'116HAC.(1) In this section:

"authorised actuary", in relation to a registered organization, means a Fellow or an Accredited Member of the Institute of Actuaries of Australia;

"relevant life assurance premiums" means premiums received in respect of life assurance policies other than:

- (a) superannuation premiums; or
- (b) premiums received in respect of eligible policies; or
- (c) specified roll-over amounts; or
- (d) premiums exempt from tax under section 23AH;

"relevant life assurance policy" means a life assurance policy in respect of which premiums received are relevant life assurance premiums.

'(2) Subject to this section, the expenses mentioned in subsection (3) incurred by a registered organization in the year of income in connection with the obtaining of relevant life assurance premiums, to the extent to which the expenses relate to the investment component of those premiums, are allowable deductions.

'(3) The expenses to which subsection (2) applies are:

- (a) salaries, wages, bonuses, commissions, allowances, or similar benefits, in respect of the sale, renewal or continuation of relevant life assurance policies; and
- (b) expenditure in recruiting or training people in the selling of relevant life assurance policies; and
- (c) salaries, wages, allowances or similar benefits paid or payable to employees of the organization to the extent to which the benefits relate to the provision of administrative, technical or other assistance or support to people who sell relevant life assurance policies; and
- (d) expenditure in developing, or engaging in research in connection with, relevant life assurance policies; and
- (e) any other losses or outgoings to the extent to which they are incurred in preparing, selling or issuing relevant life assurance policies or collecting relevant life assurance premiums; and
- (f) expenses in the general management of the organization's business to the extent to which the expenses are incurred in gaining or producing relevant life assurance premiums.

'(4) If:

- (a) a provision of this Act (other than this section or section 51, 116H or 116HAB) allows a deduction from a taxpayer's assessable income in respect of a loss, outgoing or expenditure; and
- (b) the provision extends to a taxpayer that is a registered organization;

the provision has effect in determining the deductions allowable to a registered organization as if any reference in the provision to assessable income included a reference to the investment component of relevant life assurance premiums.

'(5) Expenses incurred by a registered organization (other than expenses in respect of which a deduction is allowable because of subsection (4)) that are of a capital nature are not allowable deductions under this section.

'(6) If, assuming that:

- (a) the *Taxation Laws Amendment Act (No. 4) 1993* had not been enacted; and
- (b) this Act provided that a registered organization's assessable income included the investment component of relevant life assurance premiums received by the organization;

a deduction would not have been allowed to a registered organization in respect of a loss, outgoing or expenditure or a part of a loss, outgoing or expenditure, then, a deduction is not allowable to the organization in respect of the loss, outgoing or expenditure or the part of the loss, outgoing or expenditure, as the case may be, under this section or under another provision of this Act as it has effect because of this section.

'(7) This section does not apply to premiums derived by a registered organization in a year of income unless the organization obtains a certificate by an authorised actuary, in the approved form, with respect to the operation of this section, before the date of lodgment of the return of income of the organization of the year of income or within such further time as the Commissioner allows.

'(8) A reference in this section to a deduction in respect of a loss, outgoing or expenditure includes a reference to a deduction based on, or calculated by reference to, all or a portion of the loss, outgoing or expenditure.

'(9) This section applies to expenses incurred, or to deductions in respect of a loss, outgoing or expenditure incurred, on or after 1 July 1994.

Deductions not allowable for benefits or reinsurance premiums

'116HAD.(1) Despite any other provision of this Act, a deduction is not allowable to a registered organization in respect of:

- (a) a benefit paid or payable under a life assurance policy; or
- (b) the inclusion of an amount in the organization's reserves for the purpose of meeting any future liability (including a contingent liability) of the organization to pay benefits to which paragraph (a) would apply; or
- (c) a premium paid or payable by the organization in respect of the reinsurance of the whole or any part of a life assurance policy; or
- (d) an amount paid or payable to, or to an associate of, the holder of a life insurance policy in settlement of a dispute as to the liability of the organization under the policy.

'(2) A reference in subsection (1) to a benefit paid or payable under a life assurance policy includes a reference to an amount paid or payable:

- (a) in respect of a claim under the policy; or
- (b) as consideration for, in connection with, or as a consequence of, the surrender, cancellation, forfeiture, termination or disposal of the policy or any rights under the policy; or
- (c) in respect of a bonus under the policy; or
- (d) in respect of an annuity under the policy; or
- (e) that is a refund, or is in the nature of a refund, of a premium that is not included in the organization's assessable income.

'(3) To remove any doubt, it is declared that a supplementary benefit (known as a rider benefit) that is paid or payable in respect of a non-life assurance risk (including an accident and disability risk, a sickness risk and a trauma risk) and

in respect of which the premiums received by the registered organization that issued the relevant life assurance policy are included in the organization's assessable income is not a benefit paid or payable under a life assurance policy for the purposes of subsection (1).

'(4) If a registered organization makes a late payment in respect of an amount that the organization is liable to pay under, or in relation to, a life assurance policy, any interest paid or payable by the organization because of the late payment is not a benefit paid or payable under the policy for the purposes of subsection (1).

'(5) In this section:

"**associate**" has the same meaning as in subsection 26AAB(14).

'(6) This section applies to assessments in respect of income of the year of income in which 1 July 1988 occurred and to assessments in respect of income of all later years of income.'

Period allowed for furnishing amended returns without incurring penalty

"70T.(1) If:

- (a) a taxpayer furnished a return of income before the commencement of this section; and
- (b) the return included a claim for a deduction under Division 8 or 8A of the Principal Act; and
- (c) when the return was made it was reasonably arguable that the deduction was allowable under that Division; and
- (d) that deduction is taken by the Principal Act as amended by this Division not to have been allowable; and
- (e) within 6 months (or such further period as the Commissioner allows) after the day on which this Act received the Royal Assent the taxpayer furnishes an amended return that does not include a claim for the deduction;

no penalty is payable by the taxpayer because of the claim for the deduction but the *Income Tax (Interest on Underpayments) Act 1986* applies in respect of any underpayment of tax as a result of any increase in tax that is payable because the deduction is not allowable.

"(2) The question whether a matter was reasonably arguable as mentioned in paragraph (1)(c) is to be determined in the same way as the question would be determined under section 222C of the *Income Tax Assessment Act 1936* if that section were applicable."

No. 4—At end of bill, page 40, add the following Part:

**"PART 5—AMENDMENT OF THE TAXATION LAWS
AMENDMENT(SUPERANNUATION) ACT 1989**

Principal Act

"92. In this Part, '**Principal Act**' means the *Taxation Laws Amendment (Superannuation) Act 1989*.

Object of Part

"93. This Part makes an amendment that is consequential on the amendments made by Division 10A of Part 3.

Amendment of section 17 of the Principal Act

“94.(1) Section 17 of the Principal Act is amended by omitting subsection (2) of the section 112 that was inserted in the *Income Tax Assessment Act 1936* by section 17 of the Principal Act and substituting the following subsection:

‘(2) This section does not apply to superannuation premiums to which section 111A applies.’.

“(2) To remove any doubt, it is declared that, for all purposes (including the purposes of section 65 of the *Taxation Laws Amendment (Superannuation) Act 1989*), the section that was inserted in the *Income Tax Assessment Act 1936* by section 17 of the Principal Act is taken to have been that section as amended by subsection (1) of this section.

“(3) This section does not affect the operation of paragraph 12(b) of the *Taxation Laws Amendment Act (No. 5) 1989* and, to remove any doubt, it is declared that the subsection 112(2) of the *Income Tax Assessment Act 1936* that was omitted by that paragraph is taken to have been that subsection as amended by subsection (1) of this section.”.

On the motion of Mr Gear, the requested amendments were made, after debate.

36 HUMAN SERVICES AND HEALTH LEGISLATION AMENDMENT BILL 1994

Dr Theophanous (Parliamentary Secretary to the Minister for Housing, Local Government and Human Services), by leave, presented a Bill for an Act to amend legislation relating to human services and health, and for related purposes.

Bill read a first time.

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

37 MESSAGE FROM THE SENATE—MIGRATION LEGISLATION AMENDMENT BILL 1994

Message No. 238, dated 24 March 1994, from the Senate was reported transmitting for the concurrence of the House a Bill for “*An Act to amend the ‘Migration Act 1958’, and for related purposes*”.

Bill read a first time.

Paper: Dr Theophanous (Parliamentary Secretary to the Minister for Housing, Local Government and Human Services) presented an explanatory memorandum to the Bill.

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

Debate ensued.

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

Leave granted for third reading to be moved forthwith.

On the motion of Dr Theophanous, the Bill was read a third time.

38 PRIVILEGE—COMPLAINT OF BREACH

Ms Crawford (Chairman—Standing Committee on Employment, Education and Training) raised, as a matter of privilege, an article in today’s *Sydney Morning Herald* which she said represented an unauthorised disclosure of a small portion of the committee’s report which was presented today. Ms Crawford further stated that while the committee had agreed that the disclosure had not caused substantial

interference with its work, subsequent advice had been received which had caused the committee to reconsider its decision and after further deliberations she would report the outcome to the House.

The Deputy Speaker stated that the Acting Speaker would await the results of the committee's deliberations on the matter.

39 MESSAGE FROM THE SENATE—PARLIAMENTARY JOINT COMMITTEE ON NATIVE TITLE—POWERS AND PROCEEDINGS

The following message from the Senate was reported:

Message No. 235

Mr Speaker,

The Senate transmits to the House of Representatives the following resolution which was agreed to by the Senate this day:

That, in accordance with section 204 of the *Native Title Act 1993*, matters relating to the powers and proceedings of the Parliamentary Joint Committee on Native Title shall be as follows:

- (1) That the committee consist of 3 Members of the House of Representatives to be nominated by the Government Whip or Whips, 2 Members of the House of Representatives to be nominated by the Opposition Whip or Whips, 2 Senators to be nominated by the Leader of the Government in the Senate, 2 Senators to be nominated by the Leader of the Opposition in the Senate and 1 Senator to be nominated by any minority groups or independent Senators.
- (2) That every nomination of a member of the committee be forthwith notified in writing to the President of the Senate and the Speaker of the House of Representatives.
- (3) That the committee elect a member nominated by the Government Whips or the Leader of the Government in the Senate as its chairman.
- (4) That the committee elect a deputy chairman who shall act as chairman of the committee at any time when the chairman is not present at a meeting of the committee, and at any time when the chairman and deputy chairman are not present at a meeting of the committee the members present shall elect another member to act as chairman at that meeting.
- (5) That, in the event of the votes on a question before the committee being equally divided, the chairman, or the deputy chairman when acting as chairman, have a casting vote.
- (6) That 5 members of the committee constitute a quorum of the committee.
- (7) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any subcommittee any matter which the committee is empowered to examine.
- (8) That the committee appoint the chairman of each subcommittee who shall have a casting vote only, and at any time when the chairman of a subcommittee is not present at a meeting of a subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chairman at that meeting.
- (9) That the quorum of a subcommittee be a majority of the members of that subcommittee.

- (10) That members of the committee who are not members of a subcommittee may participate in the proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum.
- (11) That the committee and a subcommittee have power to send for persons, papers and records.
- (12) That the committee and a subcommittee have power to move from place to place.
- (13) That a subcommittee have power to adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives.
- (14) That the committee have leave to report from time to time.
- (15) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

The Senate requests the concurrence of the House of Representatives in this resolution.

MICHAEL BEAHAN
President

The Senate
Canberra, 24 March 1994

Ordered—That the message be considered forthwith.

Mr Lavarch (Attorney-General) moved—That this House concurs in the resolution transmitted in Senate message No. 235 of 24 March 1994 relating to the powers and proceedings of the Parliamentary Joint Committee on Native Title.

Question—put and passed.

40 MESSAGES FROM THE SENATE

Messages from the Senate, dated 24 March 1994, were reported:

- (a) acquainting the House that the Senate has agreed to the amendments made by the House in the Industry, Technology and Regional Development Legislation Amendment Bill 1994—Message No. 236; and
- (b) returning the Training Guarantee (Administration) Amendment Bill 1993 and acquainting the House that the Senate does not insist upon its amendments disagreed to by the House and has agreed to the amendments made by the House in place thereof—Message No 237.

41 LAW REFORM COMMISSION—INTERIM REPORT ON WOMEN'S ACCESS TO THE LEGAL SYSTEM—MOTION TO TAKE NOTE OF PAPER

The order of the day having been read for the resumption of the debate on the motion of Mr Beazley (Leader of the House)—That the House take note of the paper (*presented on 3 March 1994*), viz.:

Law Reform Commission Act—Law Reform Commission—Report No. 67 (interim)—Equality before the law: Women's access to the legal system—

Debate resumed.

Ordered—That Mr Knott be granted an extension of time.

Debate adjourned (Ms Deahm), and the resumption of the debate made an order of the day for a later hour this day.

42 LEGAL AND CONSTITUTIONAL AFFAIRS—STANDING COMMITTEE—REFERENCE

The order of the day having been read for the resumption of the debate on the motion of Mr Gear (Assistant Treasurer) (*see* entry No. 35)—That:

- (1) the question of the interpretation and application of the provisions of the third paragraph of section 53 of the Constitution be referred to the Standing Committee on Legal and Constitutional Affairs; and
- (2) a message be sent to the Senate acquainting it of this resolution and asking that the Senate:
 - (a) consider broadening the terms of its reference of 24 March 1994 to its Standing Committee on Legal and Constitutional Affairs to allow its committee to consider the interpretation and application of the third paragraph of section 53 generally; and
 - (b) agree to an order to permit its committee to confer with the House of Representatives Standing Committee on Legal and Constitutional Affairs on this matter with a view to reports being presented to both Houses—

Debate resumed.

Question—put and passed.

43 LAW REFORM COMMISSION—INTERIM REPORT ON WOMEN'S ACCESS TO THE LEGAL SYSTEM—MOTION TO TAKE NOTE OF PAPER

The order of the day having been read for the resumption of the debate on the motion of Mr Beazley (Leader of the House)—That the House take note of the paper (*presented on 3 March 1994*), viz.:

Law Reform Commission Act—Law Reform Commission—Report No. 67 (interim)—Equality before the law: Women's access to the legal system—

Debate resumed.

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

44 MESSAGE FROM THE SENATE—TAXATION LAWS AMENDMENT BILL (NO. 4) 1993

The following message from the Senate was reported:

Message No. 241

Mr Acting Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to amend the law relating to taxation*", and acquaints the House that the Senate has agreed to the bill as amended by the House at the request of the Senate, with the amendments indicated by the annexed schedule.

The Senate requests the concurrence of the House in the amendments made by the Senate.

MICHAEL BEAHAN
President

The Senate

Canberra, 24 March 1994

Ordered—That the amendments be considered forthwith.

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

- No. 1—Division 4, line 32 (page 6) to line 17 (page 9), omit the Division.
- No. 2—Clause 51, page 20, paragraph (a), line 1, omit “both”, substitute “all”.
- No. 3—Clause 51, page 20, subparagraph (a)(ii), line 5, omit “and after 14 December 1993”.
- No. 4—Clause 51, page 20, subparagraph (a)(ii), line 8, omit “or”.
- No. 5—Clause 51, page 20, at end of paragraph (a) add the following subparagraph:
- “(iii) the declaration under section 160AQF of the Principal Act that relates to the dividend mentioned in subparagraph (ii) of this paragraph was made after 14 December 1993; or”.
- No. 6—Clause 51, page 20, paragraph (b), line 9, omit “on or”.
- No. 7—Clause 53, page 21, proposed section 159UA, paragraph A1 of the outline, omit “\$10,000”, substitute “\$5,000”.
- No. 8—Clause 53, page 21, proposed section 159UA, paragraph C2 of the outline, omit “\$10,000”, substitute “\$5,000”.
- No. 9—Clause 53, page 22, proposed section 159UB, definition of “**Minister**”, line 9, omit “the Arts and Administrative Services”, substitute “Communications and the Arts”.
- No. 10—Clause 53, page 22, proposed section 159UB, definition of “**Secretary**”, lines 19 and 20, omit “the Arts and Administrative Services”, substitute “Communications and the Arts”.
- No. 11—Clause 53, page 23, proposed paragraph 159UF(1)(b), line 11, omit “\$10,000”, substitute “\$5,000”.
- No. 12—Clause 53, page 25, proposed paragraph 159UM(1)(b), line 21, omit “\$10,000”, substitute “\$5,000”.
- No. 13—Clause 78, page 36, lines 2 to 5, omit the clause, substitute the following clause:

Object of Division

“78. The object of this Division is to allow employers in the maritime industry who contribute to the Seafarers’ Retirement Fund to use the notional earnings base.”.

- No. 14—Clause 79, page 36, lines 6 to 16, omit the clause, substitute the following clauses:

Interpretation: notional earnings base where employer contributing to superannuation fund for benefit of employee immediately before 21 August 1991

“79. Section 13 of the Principal Act is amended by inserting after paragraph (a) of the definition of ‘reference earnings’ in subsection (5) the following paragraph:

- ‘(aa) if the employer is contributing for the benefit of the employee in relation to a contribution period to the superannuation fund known as the Seafarers’ Retirement Fund that was established by a trust deed on 3 May 1973—the benchmark rate stated in the trust deed; and’.

Insertion of new section

“79A. After section 13 of the Principal Act the following section is inserted:

Interpretation: notional earnings base where employer contributing to Seafarers' Retirement Fund

‘13A.(1) This section deals with the meaning of the expression “notional earnings base” in relation to an employee if:

- (a) an employer is contributing for the benefit of the employee in relation to a contribution period to the superannuation fund known as the Seafarers' Retirement Fund that was established by a trust deed on 3 May 1973; and
- (b) the employer was not so contributing immediately before 21 August 1991; and
- (c) section 13 would apply in relation to the employee if the employer had been so contributing immediately before that date.

‘(2) The expression “notional earnings base” has, in relation to the employee, the same meaning as in section 13.’

Application of amendments

“79B. The amendments made by sections 79 and 79A have effect as if those sections had commenced on 1 July 1992, immediately after the commencement of the Principal Act.’”.

On the motion of Mr Gear (Assistant Treasurer), the amendments were agreed to.

45 MESSAGE FROM THE SENATE—SOCIAL SECURITY (HOME CHILD CARE AND PARTNER ALLOWANCES) LEGISLATION AMENDMENT BILL 1994—SENATE'S RESOLUTION

The following message from the Senate was reported:

Message No. 240

Mr Acting Speaker,

The Senate returns to the House of Representatives the bill for “*An Act to amend the ‘Social Security Act 1991’, and for related purposes*”, and acquaints the House that the Senate has considered message No. 236 of the House relating to the bill.

The Senate does not press its requests for amendments, which the House has not made, has agreed to the bill, but has agreed to the following resolution:

The Senate:

1. notes that without amendments the bill will exclude from eligibility from the Home Child Care Allowance:
 - (a) families in which the child or (otherwise eligible) parent is overseas for longer than thirteen weeks; and
 - (b) families with children who are dependent full-time students aged 18 to 25 when the child's income is under \$1,785 a year; and
 - (c) families with children who are receiving prescribed student payments; and
 - (d) families who are ineligible for the HCCA as a result of the more onerous income definitions under the *Social Security Act 1991*; and

2. also notes that the combined complexities of the *Social Security Act 1991* and the *Income Tax Assessment Act 1936*, made it extremely difficult for requests for amendments to be prepared that ensure that the bill would not unfairly exclude these families from access to Home Child Care Allowance without having any unforeseen consequences; and
3. recalls that during the debate on the second reading of the bill the Senate considered the legal complexity of the issues involved in amending the bill, but did not, at that time, choose to urge the Government to prepare requests for amendments and instead agreed to requests for amendments moved by Senator Harradine; and
4. notes that on 2 March 1994 these requests for amendments were the subject of a letter from the Minister for Social Security, Mr Peter Baldwin MP, to Mr Philip Ruddock MP, highlighting a range of alleged unforeseen consequences; and
5. notes that in light of this correspondence Senator Patterson arranged for the preparation of a revised amendment in the following form:
 “Clause 3, page 13, after proposed Division 5, insert the following Division:

‘Division 5A—Preservation of home child care allowance

Preservation of home child care allowance where rebates would be available

‘929A.(1) If:

- (a) under subsection 159J(1B) of the *Income Tax Assessment Act 1936* as in force on 1 January 1994, a person or a person’s spouse would be entitled to a rebate in respect of a dependent child in respect of a year of income; and
- (b) a home child care allowance would not be payable to the person during a period during the year of income, or would be payable but at a lower rate than the amount of the rebate in respect of that period;

a home child care allowance is payable to the person for the child during that period at the rate equal to the amount of the rebate in respect of that period.

‘(2) For the purpose of working out the amount of the rebate in respect of that period, the maximum rate of the rebate is taken to be the amount per annum for the time being applicable under section 928.

‘(3) This section only applies to a person who lodges a claim in writing, in accordance with a form approved by the Secretary and with section 917, for this section to apply to the person.’; and

6. notes that this revised amendment would go some way to addressing the concerns and unintended consequences identified by the Minister; and
7. notes that any remaining concerns or unintended consequences could have been readily overcome if the Government had ensured that the necessary expertise was made available for the drafting of amendments in such a way as to guarantee the elimination of such concerns and unintended consequences; and
8. further notes that in letters from Mr Philip Ruddock MP, and from Senator Patterson, dated 3 March 1994 and 9 March 1994

respectively, the Minister had been asked to redraft the amendments, in order to eliminate the alleged unforeseen consequences while ensuring that the proposed Home Child Care Allowance benefits were not denied to those families who would otherwise have been unfairly excluded from them; and

9. expresses its concern that on 10 March 1994 the Minister again refused to have the requests for amendments redrafted by the Government or to make available to the Senate's drafter, departmental officers expert in the intricacies of the relevant social security and income tax law; and
10. reminds the Government that, in virtually identical circumstances, on 2 March 1994, while the Senate was considering proposed amendments to the *Training Guarantee (Administration) Amendment Bill 1993*, Senator McMullan, the Minister for Trade and Administrative Services undertook "to give effect in the House of Representatives to the Senate's intention by redrafting the amendments, sending them back to the Senate, and having the same purpose with better drafting", an undertaking given because of the complexity of the issues involved; and
11. expresses its disappointment that the Government, through the Minister, Senator Crowley, has made it known that the Government will not redraft the Senate's amendments or make experts available who could assist the Senate to redraft the amendments, to ensure that the bill delivered its benefits to the families currently intended to receive them and also to those families, referred to in paragraph 1. above, to whom the Government would otherwise deny them; and
12. condemns the Government for its failure to treat all those families who should be entitled to the Home Child Care Allowance, equally.

MICHAEL BEAHAN
President

The Senate

Canberra, 24 March 1994

46 ADJOURNMENT

Mr Kerr (Minister for Justice) moved—That the House do now adjourn.

Question—put and passed.

And then the House, at 11.05 p.m., adjourned until Tuesday, 3 May 1994, at 12.30 p.m., in accordance with the resolution agreed to this day.

PAPERS

The following papers were deemed to have been presented on 24 March 1994:

Australian Bureau of Statistics Act—Australian Bureau of Statistics—Proposal 1994 No. 6.

Export Control Act—Export Control Orders 1994 No. 2.

National Health Act—Determination No. 1993–94/11.

ATTENDANCE

All Members attended (at some time during the sitting) except Mr J. N. Andrew, Mrs Crosio, Mr Holding, Mrs Kelly, Mr McLeay, Mr Martin and Mr Miles.

L. M. BARLIN

Clerk of the House of Representatives