

1998-1999-2000

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**VOTES AND PROCEEDINGS**

No. 155

TUESDAY, 28 NOVEMBER 2000

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

**2 QUESTIONS**

Questions without notice being asked—

*Paper*

Mr Sciacca, by leave, presented the following paper:

Illegal people in Woomera—Copy of facsimile from Mary Lindsay to Mr Glen Smith, State Director, Department of Immigration and Multicultural Affairs, 18 April 2000.

Questions without notice continued.

*Paper*

Mr Sciacca, by leave, presented the following paper:

Copy of facsimile transmission cover page from Mary Lindsay to Mr Glen Smith, State Director, Department of Immigration and Multicultural Affairs, 18 April 2000.

Questions without notice continued.

*Paper*

Mr Ruddock (Minister for Immigration and Multicultural Affairs) presented the following paper:

Detention Agreements between the Commonwealth of Australia and Australasian Correctional Services Pty Ltd—Department of Immigration and Multicultural Affairs, 27 February 1998.

Questions without notice continued.

*Paper*

Mr McLeay, in accordance with standing order 321, having called for a document quoted from by Mrs B. K. Bishop (Minister for Aged Care)—

Mrs B. K. Bishop presented the following paper:

Thames St nursing facility—Copy of letter from Rev. Dr Robert Johnson, General Secretary, Uniting Church in Australia, Synod of Victoria to the *Herald Sun*, Saturday, 25 November 2000.

Questions without notice continued.

### 3 PAPERS

The following papers were presented:

Australian Hearing—Report for 1999-2000.

Australian Rail Track Corporation Limited—Report for 1999-2000.

Central Land Council—Report for 1999-2000.

Civil Aviation Safety Authority—Corporate plan 2000-2001 to 2002-2003.

Commissioner of Taxation—Report for 1999-2000—Erratum.

Commonwealth Electoral Act—Redistribution of Western Australia into electoral divisions—Report 2000.

Employment Advocate—Report for 1999-2000.

Finance—Mid-year economic and fiscal outlook 2000-01.

National Rail Corporation Limited—Report for 1999-2000.

National Standards Commission—Report for 1999-2000.

Pharmaceutical Benefits Pricing Authority—Report for 1999-2000.

Productivity Commission—Report No. 13—Review of Legislation Regulating the Architectural Profession, 4 August 2000.

Repatriation Commission, Department of Veterans' Affairs and the National Treatment Monitoring Committee—Reports for 1999-2000—Erratum.

### 4 PAPERS—MOTION TO TAKE NOTE OF PAPERS

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

Finance—Mid-year economic and fiscal outlook for 2000-2001.

Commissioner of Taxation—Report for 1999-2000—Erratum.

Employment Advocate—Report for 1999-2000.

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

### 5 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—AUSTRALIA'S IMMIGRATION RECEPTION PROCESSING CENTRES

The House was informed that Mr Sciacca had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The Government's failure to properly manage Australia's Immigration Reception Processing Centres".

The proposed discussion having received the necessary support—

Mr Sciacca addressed the House.

Discussion ensued.

Discussion concluded.

#### 6 MESSAGES FROM THE GOVERNOR-GENERAL—ASSENT TO BILLS

Messages from His Excellency the Governor-General were announced informing the House that His Excellency, in the name of Her Majesty, had assented to the following Bills:

24 November 2000—Message—

No. 262—

Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) 2000.

Family and Community Services (2000 Budget and Related Measures) 2000.

Health Insurance Amendment (Rural and Remote Area Medical Practitioners) 2000.

Patents Amendment (Innovation Patents) 2000.

Veterans' Affairs Legislation Amendment (No. 1) 2000.

No. 263—

Health Insurance (Approved Pathology Specimen Collection Centres) Tax 2000.

Tobacco Advertising Prohibition Amendment 2000.

Vocational Education and Training Funding Amendment 2000.

#### 7 MESSAGE FROM THE SENATE

A message from the Senate was reported returning the following Bill without amendment:

27 November 2000—Message No. 492—Taxation Laws Amendment (No. 7) 2000.

#### 8 MAIN COMMITTEE—DAY OF NEXT MEETING

The Deputy Speaker reported that Wednesday, 29 November 2000, at 9.40 a.m., had been fixed for the next meeting of the Main Committee.

#### 9 PARLIAMENTARY ZONE—APPROVAL OF PROPOSALS

Jackie Kelly (Minister for Sport and Tourism), for Mr Anderson (Minister representing the Minister for Regional Services, Territories and Local Government), pursuant to notice, moved—That, in accordance with section 5 of the *Parliament Act 1974*, the House approves the following proposals for work in the Parliamentary Zone which were presented to the House on 27 November 2000, namely:

- (1) construction of Commonwealth Place;
- (2) construction of Magna Carta Monument; and
- (3) temporary works associated with the GMC 400 V8 Supercar Race Carnival to be held in 2001.

Question—put and passed.

**10 TRADE PRACTICES AMENDMENT BILL (NO. 1) 2000**

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—*And on the amendment moved thereto by Mr Fitzgibbon, viz.*—That all words after “That” be omitted with a view to substituting the following words:

“whilst not declining to give the Bill a second reading, the House:

- (1) condemns the Government for failing to fully embrace the recommendations of the Joint Select Committee on the Retailing Sector including:
  - (a) the establishment of a mandatory code embracing the principle of ‘like terms for like customers’ and the mandatory notification of retail stores and wholesale operation acquisitions by publicly listed corporations; and
  - (b) the establishment of a National Uniform Retail Tenancy Code; and
- (2) calls on the Government to facilitate open debate about the full impact of the GST on the viability of small businesses”—

Debate resumed.

Amendment negatived.

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

Leave granted for third reading to be moved forthwith.

On the motion of Mr Slipper (Parliamentary Secretary to the Minister for Finance and Administration), the Bill was read a third time.

**11 SELECTION COMMITTEE—REPORT**

Mr Nehl (Chair) presented the following paper:

Selection Committee—Report relating to the consideration of committee and delegation reports and private Members’ business on Monday, 4 December 2000.

**12 MESSAGE FROM THE GOVERNOR-GENERAL—ASSENT TO BILL**

A message from His Excellency the Governor-General was announced informing the House that His Excellency, in the name of Her Majesty, had assented to the following Bill:

24 November 2000—Message No. 264—National Crime Authority Amendment 2000.

**13 FUEL QUALITY STANDARDS BILL 2000**

The order of the day having been read for the second reading—Dr Stone (Parliamentary Secretary to the Minister for the Environment and Heritage) moved—That the Bill be now read a second time.

*Paper*

Dr Stone presented a revised explanatory memorandum to the Bill.

Mr K. J. Thomson moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the bill a second reading, the House condemns the Government for:

- (1) turning its back on commitments made in 1997 to protect consumers from dangerous fuel substitution;
- (2) allowing millions of dollars of excise revenue to be lost because of inadequate policing of fuel standards; and
- (3) rejecting calls by Eastern Seaboard states to better police fuel standards”.

Debate continued.

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

#### 14 MESSAGE FROM THE SENATE—STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) BILL 2000

Message No. 496, 28 November 2000, from the Senate was reported returning the States Grants (Primary and Secondary Education Assistance) Bill 2000 and acquainting the House that the Senate has considered message No. 595 of the House relating to the bill. The Senate has resolved to press its requests for amendments, and again requests the House to make the amendments, as indicated by the annexed schedule.

##### *Power of House in respect of money bills—Statement by Speaker*

The Speaker made the following statement:

It is my duty as Speaker to draw the attention of the House to the constitutional question this message involves. When similar circumstances have arisen in the past, successive Speakers have advised the House of the constitutional principles involved, and the House has invariably endorsed their statements.

The message purports to repeat the requests for amendments contained in message No. 490 which the House rejected at the last sitting. The House of Representatives has never accepted that the Senate has a right to repeat and thereby press or insist on a request for an amendment in a Bill which the Senate may not amend.

It is a matter of constitutional propriety as between the Houses based on the provisions of sections 53 to 57 of the Constitution. Legal opinions supporting the argument that the Constitution does not empower the Senate to press a request have been advanced by Quick and Garran, who were intimately involved in the development of the Constitution, and by eminent constitutional lawyers, past and present. Respectfully, I agree with the opinions but do not propose to repeat the arguments which are summarised in *House of Representatives Practice*.

It rests with the House as to whether it will consider message No. 496 insofar as it purports to press the requests that were contained in message No. 490.

Dr Kemp (Minister for Education, Training and Youth Affairs) moved—That:

- (1) the House endorses the statement of the Speaker in relation to the constitutional questions raised by Message No. 496 transmitted by the

Senate in relation to the States Grants (Primary and Secondary Education Assistance) Bill 2000;

- (2) the House refrains from the determination of its constitutional rights in respect of Senate message No. 496; and
- (3) the message be considered forthwith.

Question—put and passed.

Dr Kemp moved—That the requested amendments which the Senate has purported to press be not made.

Debate ensued.

*Closure*

Mr McGauran (Minister for the Arts and the Centenary of Federation) moved—That the question be now put.

Question—That the question be now put—put.

The House divided (the Speaker, Mr J. N. Andrew, in the Chair)—

AYES, 71

Mr Abbott	Mr Entsch	Mr McArthur*	Mr Scott
Mr Anderson	Mr Fischer	Mr I. E. Macfarlane	Mr Secker
Mr K. J. Andrews	Mrs Gallus	Mr McGauran	Mr Slipper
Mr Anthony	Ms Gambaro	Mrs May	Mr Somlyay
Fran Bailey	Mrs Gash	Mr Moore	Dr Southcott
Mr Baird	Mr Georgiou	Mrs Moylan	Dr Stone
Mr Barresi	Mr Haase	Mr Nairn	Mrs Sullivan
Mr Bartlett	Mr Hardgrave	Mr Nehl	Mr C. P. Thompson
Mr Billson	Mr Hawker	Dr Nelson	Mr A. P. Thomson
Ms J. I. Bishop	Mrs Hull	Mr Neville*	Mr Truss
Mr Brough	Mr Jull	Mr Nugent	Mr Tuckey
Mr Cadman	Mr Katter	Mr Prosser	Mr M. A. J. Vaile
Mr Cameron	Mrs D. M. Kelly	Mr Pyne	Mrs D. S. Vale
Mr Causley	Dr Kemp	Mr Reith	Mr Wakelin
Mr Charles	Mr Lawler	Mr Ronaldson	Dr Washer
Mr Costello	Mr Lieberman	Mr Ruddock	Dr Wooldridge
Mr Downer	Mr Lindsay	Mr St Clair	Ms Worth
Mr Elson	Mr Lloyd	Mr Schultz	

## NOES, 59

Mr Adams	Ms Gerick	Mr McClelland	Mr Ripoll
Mr Albanese	Mr Gibbons	Ms J. S. McFarlane	Ms Roxon
Mr Bevis	Ms Gillard	Ms Macklin	Mr Rudd
Mr Brereton	Mr Griffin	Mr McLeay	Mr Sawford*
Ms Burke	Ms Hall	Mr McMullan	Mr Sciacca
Mr Byrne	Mr Hatton	Dr Martin	Mr Sercombe*
Ms Corcoran	Ms Hoare	Mr Melham	Mr Sidebottom
Mr Cox	Mr Horne	Mr Morris	Mr Smith
Mr Danby	Mrs Irwin	Mr Mossfield	Mr Snowdon
Mr Edwards	Mr Jenkins	Mr Murphy	Mr Swan
Ms Ellis	Ms Kernot	Mr O'Connor	Mr Tanner
Mr Emerson	Mr Kerr	Mr O'Keefe	Mr K. J. Thomson
Mr M. J. Evans	Mr Latham	Ms Plibersek	Mr Wilkie
Mr L. D. T. Ferguson	Dr Lawrence	Mr Price	Mr Zahra
Mr M. J. Ferguson	Mr Lee	Mr Quick	

\* Tellers

*Pairs*

Mr Howard	Mr Beazley
Mr Forrest	Mr Crean

And so it was resolved in the affirmative.

And the question—That the requested amendments which the Senate has purported to press be not made—being accordingly put—

The House divided (the Speaker, Mr J. N. Andrew, in the Chair)—

## AYES, 72

Mr Abbott	Mr Entsch	Mr Lloyd	Mr Schultz
Mr Anderson	Mr Fischer	Mr McArthur*	Mr Scott
Mr K. J. Andrews	Mrs Gallus	Mr I. E. Macfarlane	Mr Secker
Mr Anthony	Ms Gambaro	Mr McGauran	Mr Slipper
Fran Bailey	Mrs Gash	Mrs May	Mr Somlyay
Mr Baird	Mr Georgiou	Mr Moore	Dr Southcott
Mr Barresi	Mr Haase	Mrs Moylan	Dr Stone
Mr Bartlett	Mr Hardgrave	Mr Nairn	Mrs Sullivan
Mr Billson	Mr Hawker	Mr Nehl	Mr C. P. Thompson
Ms J. I. Bishop	Mrs Hull	Dr Nelson	Mr A. P. Thomson
Mr Brough	Mr Jull	Mr Neville*	Mr Truss
Mr Cadman	Mr Katter	Mr Nugent	Mr Tuckey
Mr Cameron	Mrs D. M. Kelly	Mr Prosser	Mr M. A. J. Vaile
Mr Causley	Jackie Kelly	Mr Pyne	Mrs D. S. Vale
Mr Charles	Dr Kemp	Mr Reith	Mr Wakelin
Mr Costello	Mr Lawler	Mr Ronaldson	Dr Washer
Mr Downer	Mr Lieberman	Mr Ruddock	Dr Wooldridge
Mrs Elson	Mr Lindsay	Mr St Clair	Ms Worth

## NOES, 59

Mr Adams	Ms Gerick	Mr McClelland	Mr Ripoll
Mr Albanese	Mr Gibbons	Ms J. S. McFarlane	Ms Roxon
Mr Bevis	Ms Gillard	Ms Macklin	Mr Rudd
Mr Brereton	Mr Griffin	Mr McLeay	Mr Sawford*
Ms Burke	Ms Hall	Mr McMullan	Mr Sciacca
Mr Byrne	Mr Hatton	Dr Martin	Mr Sercombe*
Ms Corcoran	Ms Hoare	Mr Melham	Mr Sidebottom
Mr Cox	Mr Horne	Mr Morris	Mr Smith
Mr Danby	Mrs Irwin	Mr Mossfield	Mr Snowdon
Mr Edwards	Mr Jenkins	Mr Murphy	Mr Swan
Ms Ellis	Ms Kernot	Mr O'Connor	Mr Tanner
Mr Emerson	Mr Kerr	Mr O'Keefe	Mr K. J. Thomson
Mr M. J. Evans	Mr Latham	Ms Plibersek	Mr Wilkie
Mr L. D. T. Ferguson	Dr Lawrence	Mr Price	Mr Zahra
Mr M. J. Ferguson	Mr Lee	Mr Quick	

\* Tellers

*Pairs*

Mr Howard	Mr Beazley
Mr Forrest	Mr Crean

And so it was resolved in the affirmative.

**15 ADJOURNMENT**

Mr McGauran (Minister for the Arts and the Centenary of Federation) moved—  
That the House do now adjourn.

Debate ensued.

Question—put and passed.

And then the House, at 10.59 p.m., adjourned until tomorrow at 9.30 a.m.



**PAPERS**

The following papers were deemed to have been presented on 28 November 2000:

Australian Bureau of Statistics Act—Australian Bureau of Statistics—Proposal 2000 No. 16.

National Health Act—Determination 2000 No. PIB 29.



**ATTENDANCE**

All Members attended (at some time during the sitting) except Mr Crean, Mr Forrest, Mr Hollis\*, Ms Livermore, Ms O’Byrne and Dr Theophanous.

\* On leave



**I. C. HARRIS**

Clerk of the House of Representatives