

1959.

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA.

VOTES AND PROCEEDINGS

OF THE

HOUSE OF REPRESENTATIVES.

No. 13.

TUESDAY, 7TH APRIL, 1959.

1. The House met, at half-past two o'clock p.m., pursuant to adjournment.—Mr. Speaker (the Honorable J. McLeay) took the Chair, and read Prayers.
2. MINISTERIAL ARRANGEMENTS.—Mr. Menzies (Prime Minister) informed the House that during the absence abroad of Mr. McEwen, Mr. Townley (Minister for Defence) would act as Minister for Trade.
3. PAPERS.—The following Paper was presented, by command of His Excellency the Governor-General—Parliament of the Commonwealth—Salaries and Allowances of Members—Report of Committee of Inquiry (1959).
Ordered to lie on the Table.
The following Papers were presented, pursuant to Statute—
Commonwealth Bank Act—Appointment Certificates—R. T. Oram, A. J. Williamson.
Defence Act—Regulations—Statutory Rules 1959, No. 22.
Explosives Act—Explosives Regulations—Order—Berthing of a vessel.
International Organizations (Privileges and Immunities) Act—Regulations—Statutory Rules 1959, No. 20.
Lands Acquisition Act—Land, &c., acquired for—
Civil Aviation purposes—Point Lookout, New South Wales.
Postal purposes—
Dalbeg, Queensland.
Fernbrook, New South Wales.
Weather service purposes—Wagga Wagga, New South Wales.
Northern Territory (Administration) Act—Regulations—1958—Nos. 17 and 19 (Hospitals and Medical Services Ordinance).
Post and Telegraph Act—Regulations—Statutory Rules 1959, No. 21.
Public Service Act—Appointments—Department—
Civil Aviation—E. M. Barden.
Defence—P. M. G. Metzler.
Health—K. Moo.
Interior—R. T. G. Greaves.
National Development—J. M. Henry, J. D. Pinn.
Repatriation—F. C. Bourgault du Coudray, B. F. C. Smith, B. A. Stewart.
Treasury—J. E. Worthington.
Works—M. J. Dennett.
Public Service Arbitration Act—Determinations—1959—Nos. 6 and 7—Australian Broadcasting Commission Staff Association.
Sulphuric Acid Bounty Act—Return for year 1957–58.
4. MESSAGE FROM THE SENATE.—A Message from the Senate was reported returning the following Bill without amendment:—
20th March, 1959, a.m.—*Message No. 8*—Export Payments Insurance Corporation 1959.
5. 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 and on behalf of Her Majesty, had assented to the following Bill:—
25th March, 1959—*Message No. 4*—Export Payments Insurance Corporation 1959.
6. COMMITTEE OF PRIVILEGES—STATEMENT BY MEMBER.—Mr. Killen, by leave, made a Statement concerning his membership of the Committee of Privileges.

7th April, 1959.

7. COMMITTEE OF PRIVILEGES.—Mr. Holt (Treasurer) moved, by leave, That during the consideration of the matter referred to the Committee of Privileges on the 18th March, 1959, Mr. Killen be discharged from attendance on the Committee and Mr. Joske be appointed to serve in his place.
Question—put and passed.

8. MESSAGE FROM THE SENATE—CIVIL AVIATION (CARRIERS' LIABILITY) BILL 1959.—Mr. Speaker reported the receipt of the following Message from the Senate:—

MR. SPEAKER,

Message No. 6.

The Senate has passed a Bill for " *An Act relating to Carriage by Air* ", and transmits the same to the House of Representatives for its concurrence.

The Senate,

Canberra, 19th March, 1959.

A. M. McMULLIN,
President.

On the motion of Mr. Townley (Minister representing the Minister for Civil Aviation), the Bill was read a first time.

Mr. Townley moved, by leave, That the Bill be now read a second time.

Debate adjourned (Mr. Whitlam), and the resumption of the debate made an Order of the Day for a later hour this day.

9. MESSAGE FROM THE SENATE—AUSTRALIAN NATIONAL AIRLINES BILL 1959.—Mr. Speaker reported the receipt of the following Message from the Senate:—

MR. SPEAKER,

Message No. 7.

The Senate has passed a Bill for " *An Act to amend the ' Australian National Airlines Act 1945-1958 ' , and for other purposes* ", and transmits the same to the House of Representatives for its concurrence.

The Senate,

Canberra, 20th March, 1959, a.m.

A. M. McMULLIN,
President.

On the motion of Mr. Townley (Minister representing the Minister for Civil Aviation), the Bill was read a first time.

Mr. Townley moved, by leave, That the Bill be now read a second time.

Debate adjourned (Mr. Whitlam), and the resumption of the debate made an Order of the Day for a later hour this day.

10. CIVIL AVIATION (CARRIERS' LIABILITY) BILL 1959.—The Order of the Day having been read for the resumption of the debate on the question, That the Bill be now read a second time—

Debate resumed by Mr. Whitlam who moved, as an amendment, That all words after " That " be omitted with a view to inserting the following words in place thereof:—" the Bill be withdrawn and redrafted to incorporate, in relation to Australian domestic air services within Commonwealth competence, the general principle of unlimited liability at law for negligence on the part of airline operators in respect of passengers, cargo and baggage ".

Debate continued.

Question—That the words proposed to be omitted stand part of the question—put.

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

AYES, 66.

Mr. Adermann	Mr. Bury	Mr. Fairhall	Mr. Jack	Mr. Stokes
Mr. Allan	Mr. D. A. Cameron	Mr. Falkinder	Mr. Kelly	Mr. Swartz
Mr. Anderson	Mr. Cash	Mr. Forbes	Sir W. Kent Hughes	Mr. Townley
Mr. Anthony	Mr. Chaney	Mr. Fox	Mr. Killen	Mr. Turner
Mr. Aston	Mr. Chresby	Mr. J. M. Fraser	Mr. King	Mr. Wentworth
Mr. Bandidt	Mr. Cleaver	Mr. Freeth	Mr. Lindsay	Mr. Wheeler
Mr. Barnes	Mr. Cramer	Mr. Halbert	Mr. Lucock	Mr. Wight
Sir G. Warwick	Mr. Davidson	Mr. Hamilton	Mr. Mackinnon	Mr. Wilson
Mr. Bate	Mr. Davis	Mr. Hasluck	Mr. McColm	
Mr. Bland	Mr. Dean	Mr. Holt	Mr. McMahon	<i>Tellers:</i>
Mr. Bowden	Mr. Downer	Mr. Holten	Mr. Murray	
Mr. Brimblecombe	Mr. Drummond	Mr. Howse	Mr. Osborne	Mr. Opperman
Mr. Browne	Mr. Failes	Mr. Howson	Mr. Pearce	Mr. Turnbull
Mr. Buchanan	Mr. Fairbairn	Mr. Hulme	Mr. Roberton	

NOES, 36.

Mr. Barnard	Mr. Cope	Mr. Haylen	Mr. O'Connor	Mr. Ward
Mr. Beazley	Mr. Costa	Mr. Johnson	Mr. Peters	Mr. Whitlam
Mr. Bird	Mr. Courtney	Mr. Jones	Mr. Pollard	
Mr. Bryant	Mr. Crean	Mr. Lawson	Mr. Reynolds	<i>Tellers:</i>
Mr. Cairns	Mr. Curtin	Mr. Luchetti	Mr. Russell	
Mr. Calwell	Mr. Daly	Mr. Makin	Mr. Sexton	Mr. Duthie
Mr. Clarey	Mr. Fulton	Mr. McIvor	Mr. Thompson	Mr. Stewart
Mr. Clay	Mr. Harrison	Mr. Minogue	Mr. Uren	

And so it was resolved in the affirmative.

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

The House resolved itself into a Committee of the Whole.

7th April, 1959.

(In the Committee.)

Clauses 1 to 14, by leave, taken together, and agreed to.

Clause 15—

On the motion of Mr. Townley (Minister representing the Minister for Civil Aviation), the following amendment was made:—

Page 5, line 21, omit “ or ” (last occurring).

On the motion of Mr. Townley, the following further amendment was made, after debate:—

Page 5, after paragraph (b) insert the following paragraphs:—

“(ba) any sum in respect of a pension, social service benefit or repatriation benefit paid or payable, consequent upon the death or injury, by any government or person;

“(bb) in the case of death, any sum in respect of the acquisition by a spouse or child of the deceased, consequent upon the death, of, or of an interest in, a dwelling used at any time as the home of that spouse or child, or of, or of an interest in, the household contents of any such dwelling; or”.

Clause, as amended, agreed to.

Clauses 16 to 36, by leave, taken together, and agreed to.

Clause 37—

Mr. Whitlam moved the following amendment:—Page 14, at the end of the clause add the following sub-clause:—

“(2.) Nothing in this Part shall exclude or limit the liability of a carrier or his servants or agents, for damage resulting from negligence.”.

Debate ensued.

Question—That the amendment be agreed to—put.

The Committee divided (The Chairman, Mr. Bowden, in the Chair)—

AYES, 38.

Mr. Barnard	Mr. Cope	Mr. Griffiths	Mr. McIvor	Mr. Thompson
Mr. Beazley	Mr. Costa	Mr. Harrison	Mr. Minogue	Mr. Uren
Mr. Bird	Mr. Courtney	Mr. Haylen	Mr. O'Connor	Mr. Ward
Mr. Bryant	Mr. Crean	Mr. Johnson	Mr. Peters	Mr. Whitlam
Mr. Cairns	Mr. Curtin	Mr. Jones	Mr. Pollard	
Mr. Calwell	Mr. Daly	Mr. Lawson	Mr. Reynolds	Tellers:
Mr. Clarey	Mr. Davies	Mr. Luchetti	Mr. Russell	Mr. Duthie
Mr. Clay	Mr. Fulton	Mr. Makin	Mr. Sexton	Mr. Stewart

NOES, 61.

Mr. Adermann	Mr. D. A. Cameron	Mr. Forbes	Sir W. Kent Hughes	Mr. Timson
Mr. Allan	Mr. Cash	Mr. Fox	Mr. Killen	Mr. Townley
Mr. Anderson	Mr. Chaney	Mr. J. M. Fraser	Mr. King	Mr. Turner
Mr. Anthony	Mr. Chresby	Mr. Halbert	Mr. Lindsay	Mr. Wentworth
Mr. Aston	Mr. Cleaver	Mr. Hamilton	Mr. Lucock	Mr. Wheeler
Mr. Bandidt	Mr. Cramer	Mr. Hasluck	Mr. Mackinnon	Mr. Wight
Mr. Barnes	Mr. Davidson	Mr. Holt	Mr. McColm	Mr. Wilson
Sir G. Barwick	Mr. Davis	Mr. Holten	Mr. McMahan	
Mr. Bate	Mr. Dean	Mr. Howse	Mr. Murray	Tellers:
Mr. Brimblecombe	Mr. Downer	Mr. Howson	Mr. Osborne	Mr. Opperman
Mr. Browne	Mr. Drummond	Mr. Hulme	Mr. Robertson	Mr. Turnbull
Mr. Buchanan	Mr. Failles	Mr. Jack	Mr. Stokes	
Mr. Bury	Mr. Fairbairn	Mr. Kelly	Mr. Swartz	

And so it was negatived.

Mr. Whitlam moved the following amendment:—Page 14, at the end of the clause add the following sub-clause:—

“(2.) Nothing in this Part shall exclude or limit the liability of a carrier for an act or omission of the carrier or his servants or agents done—

(i) with intent to cause damage, or

(ii) recklessly and with knowledge that damage would probably result.”.

Debate continued.

Question—That the amendment be agreed to—put.

The Committee divided (The Temporary Chairman, Mr. Lucock, in the Chair)—

AYES, 38.

Mr. Barnard	Mr. Cope	Mr. Griffiths	Mr. McIvor	Mr. Thompson
Mr. Beazley	Mr. Costa	Mr. Harrison	Mr. Minogue	Mr. Uren
Mr. Bird	Mr. Courtney	Mr. Haylen	Mr. O'Connor	Mr. Ward
Mr. Bryant	Mr. Crean	Mr. Johnson	Mr. Peters	Mr. Whitlam
Mr. Cairns	Mr. Curtin	Mr. Jones	Mr. Pollard	
Mr. Calwell	Mr. Daly	Mr. Lawson	Mr. Reynolds	Tellers:
Mr. Clarey	Mr. Davies	Mr. Luchetti	Mr. Russell	Mr. Duthie
Mr. Clay	Mr. Fulton	Mr. Makin	Mr. Sexton	Mr. Stewart

NOES, 59.

Mr. Adermann	Mr. D. A. Cameron	Mr. Falkinder	Sir W. Kent Hughes	Mr. Turner
Mr. Allan	Mr. Cash	Mr. Forbes	Mr. Killen	Mr. Wentworth
Mr. Anderson	Mr. Chaney	Mr. Fox	Mr. King	Mr. Wheeler
Mr. Aston	Mr. Chresby	Mr. Halbert	Mr. Lindsay	Mr. Wight
Mr. Bandidt	Mr. Cleaver	Mr. Hamilton	Mr. Mackinnon	Mr. Wilson
Mr. Barnes	Mr. Cramer	Mr. Hasluck	Mr. McColm	
Sir G. Barwick	Mr. Davidson	Mr. Holt	Mr. Murray	Tellers:
Mr. Bate	Mr. Davis	Mr. Holten	Mr. Pearce	Mr. Opperman
Mr. Bowden	Mr. Dean	Mr. Howse	Mr. Robertson	Mr. Turnbull
Mr. Brimblecombe	Mr. Downer	Mr. Howson	Mr. Stokes	
Mr. Browne	Mr. Drummond	Mr. Hulme	Mr. Swartz	
Mr. Buchanan	Mr. Failles	Mr. Jack	Mr. Timson	
Mr. Bury	Mr. Fairbairn	Mr. Kelly	Mr. Townley	

And so it was negatived.

7th April, 1959.

Clause agreed to.

Clause 38—

On the motion of Mr. Townley, the following amendment was made:—

Page 14, line 24, omit “ or ” (last occurring).

On the motion of Mr. Townley, the following further amendment was made, after debate:—

Page 14, after paragraph (b) insert the following paragraphs:—

“(ba) any sum in respect of a pension, social service benefit or repatriation benefit paid or payable, consequent upon the death or injury, by any government or person;

“(bb) in the case of death, any sum in respect of the acquisition by a spouse or child of the deceased, consequent upon the death, of, or of an interest in, a dwelling used at any time as the home of that spouse or child, or of, or of an interest in, the household contents of any such dwelling; or”.

Clause, as amended, agreed to.

Clauses 39 and 40, by leave, taken together, and agreed to.

Clause 41—

On the motion of Mr. Townley, the following amendment was made, after debate:—

Page 15, line 23, at the end of the clause add the following:—

“, but so that no adaptation or modification of the provisions of Article 22 of the Warsaw Convention, as replaced by Article XI. of the Hague Protocol, shall have the effect of limiting the liability of the carrier to a sum less than the sum to which his liability would be limited if those provisions were applied without adaptation or modification.”.

Clause, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole, and agreed to.

Bill to be reported with amendments.

The House resumed; Mr. Lucock reported accordingly.

On the motion of Mr. Townley, by leave, the House adopted the Report, and, by leave, the Bill was read a third time.

11. ADJOURNMENT.—Mr. Townley (Minister for Defence) moved, That the House do now adjourn.

Question—put and passed.

And then the House, at twenty-nine minutes past ten o'clock p.m., adjourned until to-morrow at half-past two o'clock p.m.

MEMBERS PRESENT.—All Members were present (at some time during the sitting) except Mr. Casey, Mr. Haworth, Mr. Kearney*, Mr. McEwen and Mr. Riordan.

* On leave.

A. G. TURNER,
Clerk of the House of Representatives.