

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 100

TUESDAY, 22 MAY 1979

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- 1 The House met, at 2.15 p.m., pursuant to adjournment. Mr Speaker (the Right Honourable Sir Billy Snedden) took the Chair, and read Prayers.
 - 2 GRAYNDLER BY-ELECTION: Mr Speaker informed the House that on 15 May 1979 he had issued the writ in connection with the by-election for the Division of Grayndler, and that the dates fixed were those announced to the House on 9 May 1979.
 - 3 PETITIONS: The Clerk announced that the following Members had each lodged petitions for presentation, viz.:
 - Mr Baume, Mr Burns, Mr FitzPatrick, Dr Jenkins, Mr L. K. Johnson, Mr P. F. Johnson, Mr Keating, Mr Martin, Mr I. L. Robinson, Mr Scholes, Mr Street and Mr West—from certain citizens praying that pension payments be restored to twice-yearly adjustments and that pensions and unemployment benefits be raised to 30% of average weekly earnings.
 - Mr Aldred, Mr Anthony, Mr Braithwaite, Mr N. A. Brown, Mr E. C. Cameron, Mr Chapman, Mr Hurford, Mr Martyr and Mr Scholes—from certain citizens praying that the Metric Conversion Act be repealed and the traditional and familiar weights and measures be restored.
 - Mr Armitage, Mr Holding and Mr Street—from certain citizens praying for the resignation of Members who have not honoured an election undertaking to retain twice-yearly adjustments of social security pensions in accordance with movements in the consumer price index.
 - Mr Cotter—from certain citizens praying that the Commonwealth Employees (Redeployment and Retirement) Bill 1979 be opposed.
 - Mr Dobie—from certain citizens praying for the appointment of an independent inquiry into the Australian Broadcasting Commission to investigate the qualifications of commissioners and certain other matters.
 - Mr Fife—from certain citizens praying that a date be set for the hearing of applications for public broadcasting licences in the Albury-Wodonga area.
 - Mr Graham—from certain citizens praying for the prohibition of oil exploration within the Great Barrier Reef region and that the entire region be declared a Marine Park.
 - Mr James—from certain citizens praying that action be taken to advance the cause of universal disarmament.
 - Mr L. R. Johnson—from certain citizens praying that public debate on a replacement constitution be encouraged, a directly elected constitutional convention be convened and a referendum be conducted on its resolutions.
 - Mr Killen—from certain citizens praying that measures be taken to upgrade Australia's military capacity.
 - Mr Martyr—from certain citizens praying for the prohibition of pornographic material involving children.
 - Mr Scholes—from certain pensioners and residents of Geelong, Vic., praying that pensions be adjusted at 6 monthly intervals.

Mr Viner—from certain citizens praying that suitably qualified British ex-servicemen now resident in Australia be entitled to an Australian totally and permanently incapacitated pension.

Petitions received.

4 **QUESTIONS:** Questions without notice were asked.

5 **PAPERS:** The following papers were presented:

By command of His Excellency the Governor-General:

Environmental projects—Agreement relating to the provision of financial assistance to Tasmania during 1978–79—Statement by Senator Webster (Minister for Science and the Environment).

Industries Assistance Commission—Interim report—Fixed resistors, dated 30 March 1979.

National highways linking Sydney, Melbourne and Canberra—3rd Report—Canberra connections—Bureau of Transport Economics, Department of Transport, 1979.

Transport Planning and Research Program—Progress to 30 June 1978—Report by Department of Transport, dated April 1979.

Pursuant to statute:

Airlines Agreements Act—Ansett Transport Industries Limited—Airline activities—Financial statements for year 1977–78.

Australian National Airlines Act—Australian National Airlines Commission—33rd Annual Report and financial statements, together with the Auditor-General's Report, for year 1977–78.

Environment (Financial Assistance) Act—Agreement relating to financial assistance to Tasmania for projects related to the environment, dated 19 March 1979.

National Water Resources (Financial Assistance) Act—Agreements relating to financial assistance for projects by way of salinity control in the Murray River Valley in—

South Australia, dated 11 April 1979.

Victoria, dated 5 April 1979.

Seat of Government (Administration) Act—Health Commission Ordinance—Capital Territory Health Commission—Annual Report and financial statements, together with the Auditor-General's Report, for year 1976–77.

Urban and Regional Development (Financial Assistance) Act—Agreement relating to financial assistance to South Australia for Adelaide Water Treatment Program, dated 24 October 1975—

Notice under sub-clause 5 (2), of the agreement, dated 17 March 1979.

Project approval under section 4 of the Act, dated 3 January 1979.

6 **NUCLEAR SAFEGUARDS AGREEMENT BETWEEN AUSTRALIA AND THE REPUBLIC OF KOREA—PAPER AND MINISTERIAL STATEMENT:** Mr Peacock (Minister for Foreign Affairs), by command of His Excellency the Governor-General, presented the following paper:

Agreement between the Government of Australia and the Government of the Republic of Korea concerning co-operation in peaceful uses of nuclear energy and the transfer of nuclear material, signed at Canberra, 2 May 1979, together with a letter from the Leader of the Australian Delegation to the Leader of the Delegation of the Republic of Korea which negotiated the agreement—

and, by leave, made a ministerial statement in connection with the agreement.

Mr Bowen (Deputy Leader of the Opposition), by leave, also made a statement in connection with the matter.

Mr Uren asked leave to make a statement in connection with the matter.

Objection being raised, leave not granted.

7 **ABORIGINAL AFFAIRS—STANDING COMMITTEE:** Mr Deputy Speaker informed the House that the Government Whip had nominated Mr Thomson to be a member of the Standing Committee on Aboriginal Affairs in place of Mr Katter.

8 PUBLICATIONS COMMITTEE—8TH REPORT: Mr Gillard (Chairman) presented the 8th Report from the Publications Committee (sitting in conference with the Publications Committee of the Senate). The report is as follows:

8TH REPORT

The Publications Committee has the honour to report that it has met in conference with the Publications Committee of the Senate.

The Joint Committee, having considered petitions and papers presented to Parliament since the last meeting of the Committee, and another paper previously presented, recommends that the following be printed:

Aboriginal Land Commissioner—Alyawarra and Kaititja Land Claim—Report by the Aboriginal Land Commissioner to the Minister for Aboriginal Affairs, dated 30 November 1978.

Australian Bureau of Animal Health—Report on activities 1974–78.

Australian Development Assistance Agency (Repeal) Act—Australian Development Assistance Agency—Annual Report, together with financial statements and the Auditor-General's Report thereon, for year 1976–77.

Australian Science and Technology Council—

Report, for the period 30 March 1977 to 30 June 1978.

Direct Funding of Basic Research—Report to the Prime Minister by the Council, dated December 1978.

Science and Technology in Australia 1977–78 (Volume 1B)—Report to the Prime Minister by the Council, dated January 1979.

Science and Technology in Australia 1977–78—Summary and Recommendations—Report to the Prime Minister by the Council, dated February 1979.

Science and Technology in Australia 1977–78 (Volume 2)—Report to the Prime Minister by the Council, dated December 1978.

Broadcasting and Television Act—Australian Broadcasting Tribunal—Annual Report, together with financial statements and the Auditor-General's Report thereon, for year 1977–78.

Canberra College of Advanced Education Act—Canberra College of Advanced Education—Report of the Council, together with financial statements and the Auditor-General's Report thereon, for 1977.

Dairy Produce Act—Australian Dairy Corporation—Annual Report (Third), together with financial statements and the Auditor-General's Report thereon, for year 1977–78.

Department of Foreign Affairs—Annual Report, for 1978.

Department of the House of Representatives—Annual Report for 1978.

Dried Fruits Research Act—Dried Fruits Research Committee—Annual Report (Seventh), together with financial statement, for year 1977–78.

Education Research Act—Education Research and Development Committee—Annual Report (Eighth), for year 1977–78.

Education, Training and Employment—Report of the Committee of Inquiry into Education and Training (Volumes 1 to 3), dated February 1979.

Egg Export Control Act—Australian Egg Board—Annual Report (Thirty-first), together with financial statements and the Auditor-General's Report thereon, for year 1977–78.

Emergency Relief—Joint Study Report entitled "Emergency relief—a study of agencies and clients", dated December 1978.

Employee participation—A broad view—Booklet by National Employee Participation Steering Committee.

Industries Assistance Commission—Reports—

Australian Citrus Industry, dated 2 June 1978.

Chokes and Ballasts (Developing Country Preferences), dated 15 March 1979.

C-Zero Cassettes (Developing Country Preferences), dated 23 February 1979.

Nuts, Bolts and Screws, dated 1 February 1979.

- Short Term Assistance to Non-adjustable Spanners, dated 9 February 1979.
 Sugar Industry, dated 31 March 1979.
 Tyres, Tyre Cases, etc., dated 12 January 1979.
 Vegetable Oils and Fats: Animal Oils and Fats, etc., dated 27 October 1978.
 International Monetary Agreements Act—Annual Report on the operation of the Act, and, insofar as they relate to Australia, of the International Monetary Fund and the International Bank for Reconstruction and Development, for year 1977–78.
 Medical Manpower Supply—Report of the Committee of Officials, dated 19 December 1978.
 Overseas Professional Qualifications—Report (Tenth) of the Committee on Overseas Professional Qualifications to the Minister for Immigration and Ethnic Affairs, the Honourable M. J. R. MacKellar, dated December 1978.
 Prices Justification Act—Prices Justification Tribunal—Half-yearly Report, for period of six months ended 31 December 1978.
 Snowy Mountains Hydro-electric Power Act—Snowy Mountains Hydro-electric Authority—Annual Report (Twenty-ninth), together with financial statements and the Auditor-General's Report thereon, for year 1977–78.
 United Nations Commission on Human Rights—Report of the Australian Delegation to the Thirty-fifth Session, Geneva, 1979.

22 May 1979

R. GILLARD,
Chairman

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

Question—put and passed.

9 ENVIRONMENT AND CONSERVATION—STANDING COMMITTEE—REPORT—STATEMENT BY MEMBER: Mr Hodges (Chairman) presented the following report from the Standing Committee on Environment and Conservation:

Preservation of the Quinkan Galleries, Cape York Peninsula—Report, dated March 1979, together with copies of extracts from the minutes of proceedings and transcript of evidence of the committee.

Ordered—That the report be printed.

Mr Hodges, by leave, made a statement in connection with the report.

10 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—TAXATION: Mr Deputy Speaker informed the House that both Mr Hayden (Leader of the Opposition) and Mr Cairns had proposed that definite matters of public importance be submitted to the House for discussion today. In accordance with the provisions of standing order 107, Mr Speaker had given priority to the matter proposed by Mr Hayden, namely, "The Government's failure to honour its promise of lower taxation".

The proposed discussion having received the necessary support—

Mr Hayden addressed the House.

Discussion ensued.

Mr L. K. Johnson moved—That Mr Willis be granted an extension of time.

Question—put.

The House divided (the Speaker, Sir Billy Snedden, in the Chair)—

AYES, 27

Mr Armitage	Dr Everingham	Mr James	Mr Morris
Dr Blewett	Mr FitzPatrick	Dr Jenkins	Mr Uren
Mr Bowen	Mr Holding	Mr L. K. Johnson*	Mr Wallis
Mr J. J. Brown	Mr Humphreys	Mr C. K. Jones	Mr West
Mr Bryant	Mr Hurford	Mr Kerin	Mr Willis
Mr Cohen	Mr Innes	Dr Klugman	Mr Young
Mr Dawkins	Mr Jacobi	Mr J. L. McMahon*	

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Mr Adermann	Mr Corbett*	Mr Hyde	Mr Nixon
Mr Aldred	Mr Cotter	Mr Jarman	Mr O'Keefe
Mr Anthony	Mr Dean	Mr P. F. Johnson	Mr Peacock
Mr Baillieu	Mr Dobie	Mr Johnston	Mr Porter
Mr Baume	Mr Drummond	Mr Jull	Mr E. L. Robinson
Mr Birney	Dr Edwards	Mr Katter	Mr Ruddock
Mr Burchier	Mr Falconer	Mr Killen	Mr Sainsbury
Mr Bradfield	Mr Fife	Mr Lloyd	Mr Shack
Mr Braithwaite	Mr Fisher	Mr Lcock	Mr Shipton
Mr N. A. Brown	Mr Fraser	Mr Lusher	Mr Simon
Mr Burns	Mr Giles	Mr Lynch	Mr Sinclair
Mr Burr	Mr Gillard	Mr MacKellar	Mr Staley
Mr Cadman	Mr Goodluck	Mr McLean	Mr Street
Mr Cairns	Mr Graham	Mr McLeay	Mr Thomson
Mr Calder	Mr Groom	Sir William McMahan	Mr Viner
Mr D. M. Cameron	Mr Haslem	Mr McVeigh	Mr Wilson
Mr E. C. Cameron	Mr Hodges*	Mr Macphee	Mr Yates
Mr Carlton	Mr Hodgman	Mr Millar	
Mr Chapman	Mr Howard	Mr Moore	
Mr Connolly	Mr Hunt	Mr Neil	

* Tellers

And so it was negatived.

Discussion continued.

Discussion concluded.

- 11 CUSTOMS AMENDMENT BILL 1979—LEGISLATION COMMITTEE—REPORT: Mr Giles (Chairman) reported that the Customs Amendment Bill 1979 had been considered in legislation committee and agreed to with amendments. (*See Minutes of Proceedings, pages 797 to 803*).

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

- 12 MESSAGE FROM THE SENATE—AUSTRALIAN SECURITY INTELLIGENCE ORGANIZATION BILL 1979: Message No. 230, dated 11 May 1979 a.m., from the Senate was reported transmitting for the concurrence of the House a Bill for "*An Act relating to the Australian Security Intelligence Organization*".

Bill read a first time.

Mr Viner (Minister representing the Attorney-General) moved—That the Bill be now read a second time.

Debate adjourned (Mr Bowen—Deputy Leader of the Opposition), and the resumption of the debate made an order of the day for the next sitting.

- 13 NAVIGATION AMENDMENT BILL 1979: Mr Nixon (Minister for Transport), pursuant to notice, presented a Bill for an Act to amend the *Navigation Act 1912*, and for related purposes.

Bill read a first time.

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

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

- 14 LIGHTHOUSES AMENDMENT BILL 1979: Mr Nixon (Minister for Transport), pursuant to notice, presented a Bill for an Act to amend the *Lighthouses Act 1911* in consequence of certain amendments of the *Navigation Act 1912*.

Bill read a first time.

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

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

- 15 POLLUTION OF THE SEA BY OIL (SHIPPING LEVY COLLECTION) AMENDMENT BILL 1979: Mr Nixon (Minister for Transport), pursuant to notice, presented a Bill for an Act to amend section 3 of the *Pollution of the Sea by Oil (Shipping Levy Collection) Act 1972* in consequence of certain amendments of the *Navigation Act 1912*.

Bill read a first time.

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

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

- 16 SEA-CARRIAGE OF GOODS AMENDMENT BILL 1979: Mr Nixon (Minister for Transport), pursuant to notice, presented a Bill for an Act to amend section 10 of the *Sea-Carriage of Goods Act 1924* in consequence of certain amendments of the *Navigation Act 1912*.

Bill read a first time.

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

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

- 17 SEAMEN'S COMPENSATION AMENDMENT BILL 1979: Mr Nixon (Minister for Transport), pursuant to notice, presented a Bill for an Act to amend section 11 of the *Seamen's Compensation Act 1911* in consequence of certain amendments of the *Navigation Act 1912*.

Bill read a first time.

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

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

- 18 STATES GRANTS (SCHOOLS ASSISTANCE) AMENDMENT BILL 1979: Mr Staley (Minister representing the Minister for Education), pursuant to notice, presented a Bill for an Act to amend the *States Grants (Schools Assistance) Act 1977* and the *States Grants (Schools Assistance) Act 1978*, and for related purposes.

Bill read a first time.

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

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

- 19 STATES GRANTS (TERTIARY EDUCATION ASSISTANCE) AMENDMENT BILL 1979: Mr Staley (Minister representing the Minister for Education), pursuant to notice, presented a Bill for an Act to amend the *States Grants (Tertiary Education Assistance) Act 1977* and the *States Grants (Tertiary Education Assistance) Act 1978*, and for related purposes.

Bill read a first time.

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

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

- 20 CUSTOMS TARIFF AMENDMENT BILL 1979: Mr Fife (Minister for Business and Consumer Affairs) presented a Bill for an Act to amend the *Customs Tariff Act 1966*.

Bill read a first time.

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

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

- 21 CUSTOMS TARIFF PROPOSALS NO. 18 (1979): Mr Fife (Minister for Business and Consumer Affairs) moved Customs Tariff Proposals No. 18 (1979).

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

- 22 COMMONWEALTH EMPLOYEES (REDEPLOYMENT AND RETIREMENT) BILL 1979: 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—

Mr Young 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.

23 PHILIPPINES AND INDONESIA—VISIT BY PRIME MINISTER—MINISTERIAL STATEMENT: Mr Fraser (Prime Minister), by leave, made a ministerial statement relating to his recent visit to the Philippines and Indonesia.

Mr Hayden (Leader of the Opposition), by leave, also made a statement with reference to the matter.

24 COMMONWEALTH EMPLOYEES (REDEPLOYMENT AND RETIREMENT) BILL 1979: 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 Young who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “the Bill be withdrawn and re-drafted to incorporate (a) specific reasoning for termination of employment, and (b) a comprehensive appeal system relating to termination of employment and redeployment”.

Debate continued.

Mr L. K. Johnson addressing the House—

25 ADJOURNMENT: It being 10.30 p.m.—The question was proposed—That the House do now adjourn.

Debate ensued.

The House continuing to sit until 11 p.m.—Mr Deputy Speaker adjourned the House until tomorrow at 2.15 p.m.

PAPERS: The following papers were deemed to have been presented on 22 May 1979, pursuant to statute:

Cocos (Keeling) Islands Act—Ordinance—1979—No. 2—Local Government.

Commonwealth Banks Act—Appointment certificates—H. F. Chesterman, B. E. Richards.

Customs Tariff Act—Order—Developing Country—No. 3 (1979).

Defence Act, Naval Defence Act and Air Force Act—Regulations—Statutory Rules 1979, No. 69.

International Organizations (Privileges and Immunities) Act—Regulations—Statutory Rules 1979, No. 72.

Lands Acquisition Act—Statement of lands acquired by agreement authorised under sub-section 7 (1).

Norfolk Island Act—Ordinance—1979—No. 3—Liquor (Amendment).

Papua New Guinea (Application of Laws) Act—Regulation—Statutory Rules 1979, No. 71.

Public Service Act—Regulations—Statutory Rules 1979, Nos. 68, 73, 74.

Public Service Arbitration Act—Public Service Arbitrator—Determinations accompanied by statements regarding possible inconsistency with the law—1979—

No. 11—Federated Clerks Union of Australia.

No. 27—Australian Licensed Aircraft Engineers Association.

Nos. 28 and 29—Amalgamated Metal Workers' and Shipwrights Union and others.

No. 30—Administrative and Clerical Officers' Association, Commonwealth Public Service and others.

No. 31—Association of Professional Engineers, Australia.

No. 32—Association of Professional Engineers, Australia and another.

No. 33—Professional Officers Association, Australian Public Service.

No. 34—Association of Officers of the Commonwealth Scientific and Industrial Research Organization and another.

No. 35—Amalgamated Metal Workers' and Shipwrights Union and others.

No. 36—Australian Public Service Association (Fourth Division Officers).

No. 37—Commonwealth Medical Officers Association.

No. 38—Repatriation Department Medical Officers Association.

No. 39—Professional Para-Medical Officers Association (Commonwealth Public Service).

- No. 40—Professional Officers Association, Australian Public Service.
 No. 41—Hospital Employees Federation of Australia.
 No. 42—Royal Australian Nursing Federation.
 No. 43—Federated Miscellaneous Workers Union of Australia.
 No. 44—Royal Australian Nursing Federation.
 No. 45—Hospital Employees Federation of Australia.
 No. 46—Royal Australian Nursing Federation.
 No. 47—Professional Officers Association, Australian Public Service.
 No. 48—Commonwealth Medical Officers Association.
 No. 49—Repatriation Department Medical Officers Association.
 No. 50—Professional Officers Association, Australian Public Service.
 No. 51—Federated Miscellaneous Workers Union of Australia.
 No. 52—Association of Professional Engineers, Australia and others.
 No. 53—Association of Architects, Engineers, Surveyors and Draughtsmen of Australia and others.
 No. 54—Professional Radio and Electronics Institute of Australasia.
 No. 55—Association of Architects, Engineers, Surveyors and Draughtsmen of Australia.
 No. 56—Association of Architects, Engineers, Surveyors and Draughtsmen of Australia and another.
 No. 57—Australian Public Service Association (Fourth Division Officers).
 No. 58—Association of Architects, Engineers, Surveyors and Draughtsmen of Australia.
 No. 59—Federated Liquor and Allied Industries Employees Union of Australia.
 No. 60—Administrative and Clerical Officers' Association, Commonwealth Public Service and others.
 No. 61—Australian Journalists Association.
 No. 62—Federated Miscellaneous Workers Union of Australia.
 Nos. 63 and 64—Association of Architects, Engineers, Surveyors and Draughtsmen of Australia.
 No. 65—Commonwealth Foremen's Association of Australia, Commonwealth Public Service.
 No. 66—Professional Officers Association, Australian Public Service.
 No. 67—Professional Radio and Electronics Institute of Australasia.
 No. 68—Australian Public Service Artisans' Association.
 No. 69—Association of Professional Engineers, Australia and others.
 No. 70—Professional Officers Association, Australian Public Service.
 No. 71—Australian Public Service Association (Fourth Division Officers).
 No. 72—Commonwealth Works Supervisors Association.
 No. 73—Australian Public Service Association (Fourth Division Officers).†
 († Not accompanied by statement)

Seat of Government (Administration) Act—

Regulations—1979—No. 10 (Building and Services Ordinance).

Variations (2) of plan of lay-out of City of Canberra and its environs, dated 21 May 1979.

Superannuation Act—Regulations—Statutory Rules 1979, No. 70.

MEMBERS PRESENT: All Members were present (at some time during the sitting) except Mr C. R. Cameron, Dr Cass, Mr Ellicott, Mr Fry, Mr Garland, Mr L. R. Johnson, Mr B. O. Jones*, Mr Keating, Mr Martin, Mr Martyr, Mr Newman, Mr I. L. Robinson and Mr Scholes.

* On leave

J. A. PETTIFER,
 Clerk of the House of Representatives

1978-79

HOUSE OF REPRESENTATIVES

SUPPLEMENT TO VOTES AND PROCEEDINGS No. 100

LEGISLATION COMMITTEE

ON

CUSTOMS AMENDMENT BILL 1979

MINUTES OF PROCEEDINGS

WEDNESDAY, 9 MAY 1979

(Bill having been read a second time and referred to a legislation committee on the motion of Mr Fife (Minister for Business and Consumer Affairs), for Mr Sinclair (Leader of the House), on 3 May 1979.)

The Committee was constituted as follows:

Mr Giles had been appointed Chairman.

GOVERNMENT MEMBERS:

Mr Fife (Member in charge of the Bill)
 Mr D. M. Cameron
 Mr Carlton
 Mr Chapman
 Mr Hyde
 Mr Lusher
 Mr McLean
 Sir William McMahon
 Mr McVeigh
 Mr I. L. Robinson
 Mr Short

OPPOSITION MEMBERS:

Dr Blewett
 Mr Bowen
 Mr Bryant (*from 10 May*)
 Mr Hurford (*until 10 May*)
 Mr Jacobi
 Dr Klugman

The committee met at 8.02 p.m.

Clause 1 agreed to.

Clause 2—

On the motion of Mr Fife, the clause was omitted, and the following clause substituted, after debate:

“ 2. (1) Subject to sub-section (2), this Act shall come into operation on ^{Commence-} the day on which it receives the Royal Assent.

“(2) Sections 5 and 6 shall come into operation on a date to be fixed by Proclamation.”.

Clauses 3 and 4 agreed to.

Clause 5—

On the motion of Mr Fife, the following amendment was made: Page 3, line 16, after paragraph (a) insert the following paragraph:

“(aa) by omitting ‘The officer may detain’ and substituting ‘An officer may detain’ ”.

Clause, as amended, agreed to.

Clause 6—

On the motion of Mr Fife, the following amendment was made: Page 3, lines 22 and 23, omit “6. After section 196 of the Principal Act the following section is inserted:”, substitute—

“6. After section 196 of the Principal Act the following sections are inserted:

‘196AA. (1) An order shall not be made by a Magistrate under section 196 ^{Orders for searches of suspected persons} for the searching of a suspected person unless the Magistrate is satisfied, by information on oath, that there is reasonable ground for suspecting that the person is unlawfully carrying, or has secreted about him, any goods subject to the control of the Customs, any prohibited imports or any prohibited exports.

‘(2) An order of a Magistrate under section 196 for the searching of a suspected person shall be in accordance with the prescribed form.”.

On the motion of Mr Fife, the following further amendment was made, after debate: Page 3, line 37, after sub-section (3) of proposed section 196A insert the following sub-sections:

“(3A) A medical practitioner who carries out an examination of the body cavities of a person in pursuance of arrangements made by an officer of Customs or of police under this section may sign a certificate, in accordance with the prescribed form, setting out the results of the examination.

“(3B) In any proceedings under this Act, a certificate by a medical practitioner under sub-section (3A) is *prima facie* evidence of the matters stated in the certificate.

“(3C) For the purposes of sub-section (3B), a document purporting to be a certificate under sub-section (3A) and to be signed by a medical practitioner shall, unless the contrary is proved, be deemed to be such a certificate and to have been duly given.”.

Clause, as amended, agreed to.

Clause 7 agreed to.

Clause 8—

Mr Bowen, by leave, moved the following amendments together:

Page 4, proposed section 219A, before the definition of “listening device” insert the following definition:

“ ‘Judge’ means a Judge holding the judicial rank of Justice of the Supreme Court of a State or Territory or of the Federal Court of Australia;”.

Pages 5 and 6, proposed section 219B, omit sub-sections (5) and (6), substitute the following sub-sections:

“ ‘(5) Where an affidavit is laid before a Judge by the Comptroller alleging that—

- (a) there are reasonable grounds for believing that a person has committed, or is likely to commit, a narcotics offence; and
- (b) the use by officers of Customs of a listening device to listen to or record words spoken by or to that person will, or is likely to, assist officers of Customs in, or in connection with—
 - (i) if there are reasonable grounds for believing that a person has committed a narcotics offence—inquiries that are being made in relation to that offence by that person; or
 - (ii) if there are reasonable grounds for believing that a person is likely to commit a narcotics offence—inquiries that are being made in relation to the likely commission, by that person, of that offence,

the Judge may, by writing under his hand, authorize officers of Customs, subject to any conditions or restrictions that are specified in the warrant, to use a listening device for the purposes of listening to or recording words spoken by, to or in the presence of that person, and such a warrant may authorize officers of Customs to enter any premises specified in the warrant in which that person is, or is likely to be, for the purpose of installing, maintaining, using or recovering a listening device or a part of a listening device.

‘(6) A Judge shall not issue a warrant under sub-section (5) in relation to an affidavit of the Comptroller unless—

- (a) the affidavit of the Comptroller under sub-section (5) specifies the facts and other grounds on which the issue of the warrant is sought;

- (b) the Comptroller has given to the Judge, either orally or by further affidavit, such further information as the Judge requires concerning the grounds on which the issue of a warrant is being sought;
- (c) the Judge is satisfied as to the matters specified in paragraphs (a) and (b) of sub-section (5);
- (d) the Judge is satisfied that other methods of investigation have been tried without success, or would be unlikely to be successful, or would be impracticable; and
- (e) the Judge is satisfied that, given the seriousness of the suspected offence, or suspected likely offence, the issue of a warrant would be in the public interest.

‘(6A) Where an affidavit is laid before a Judge by the Comptroller alleging that—

- (a) there are reasonable grounds for believing that particular premises have been, or are likely to be, used in connection with the commission of a narcotics offence; and
- (b) the use by officers of Customs of a listening device to listen to or to record words spoken by or to persons in those premises will, or is likely to, assist officers of Customs in, or in connection with, inquiries that are being made in relation to the use, or likely use, of the premises in connection with a narcotics offence for which there are reasonable grounds for believing has been, or is likely to be, committed,

the Judge may, by writing under his hand, authorize officers of Customs, subject to any conditions or restrictions that are specified in the warrant, to use a listening device for the purposes of listening to or recording words spoken by, or to any person while the person is in those premises, and such a warrant may authorize officers of Customs to enter those premises for the purpose of installing, maintaining, using or recovering a listening device, or a part of a listening device.

‘(6B) A Judge shall not issue a warrant under sub-section (6A) in relation to an affidavit of the Comptroller unless—

- (a) the affidavit of the Comptroller under sub-section (6A) specifies the facts and other grounds on which the issue of the warrant is sought;
- (b) the Comptroller has given to the Judge, either orally or by further affidavit, such further information as the Judge requires concerning the grounds on which the issue of a warrant is being sought;
- (c) the Judge is satisfied as to the matters specified in paragraphs (a) and (b) of sub-section (6A);
- (d) the Judge is satisfied that other methods of investigation have been tried without success, or would be unlikely to be successful, or would be impracticable; and
- (e) the Judge is satisfied that, given the seriousness of the suspected offence, or suspected likely offence, the issue of a warrant would be in the public interest.”.

Page 6, line 29, omit “the Minister”, substitute “the Judge issuing the warrant”.

Page 6, lines 34–36, omit “6 months, but may be revoked by the Minister at any time before the expiration of the period so specified”, substitute “30 days”.

Page 6, proposed section 219B, after sub-section (9) insert the following sub-section:

“‘(9A) Where a Judge issues a warrant under sub-section (5) or sub-section (6A), he shall state on the affidavit furnished to him by the Comptroller, which of the grounds specified in that affidavit he has relied on to justify the issue of the warrant and particulars of any other grounds relied on by him to justify the issue of the warrant.”.

Page 7, omit proposed section 219C.

Page 7, omit proposed section 219D, substitute the following section:

“‘219D. (1) Where it is impracticable for the Comptroller to make application to a Judge for the issue of a warrant in accordance with section 219B, the Comptroller may make application for the issue of a warrant authorizing the use of a listening device to a Judge, by telephone, in accordance with this section.

‘(2) Before making application to a Judge by telephone under sub-section (1), the Comptroller shall prepare an affidavit setting out the grounds on which the issue of the warrant is being sought, but may, if it is necessary to do so, make the application before the affidavit has been sworn.

'(3) Where a Judge is, upon application made under sub-section (1), satisfied—
 (a) after having considered the terms of the affidavit prepared in accordance with sub-section (2); and

(b) after having had given to him such further information (if any) as he requires and the Comptroller is able to give concerning the grounds on which the issue of the warrant is being sought,

that there are reasonable grounds for issuing the warrant, the Judge shall issue such a warrant as he would issue under section 219B if the application had been made to him in accordance with that section.

'(4) Where a Judge issues a warrant under sub-section (3)—

(a) the Judge shall complete and sign the warrant;

(b) the Judge shall inform the Comptroller of the terms of the warrant signed by him, and record on the warrant his reasons for issuing the warrant; and

(c) the Comptroller shall complete a form of warrant in the terms furnished to him by the Judge and write on it the name of the Judge who issued the warrant and the date on which and the time at which it was issued.

'(5) Where a Judge issues a warrant under sub-section (3), the Comptroller shall, not later than the day next following the date of expiry of the warrant, forward to the Judge who issued the warrant the form of warrant prepared by him and the information and affidavit duly sworn in connection with the issue of the warrant.

'(6) Upon receipt of the documents referred to in sub-section (5), the Judge shall attach to them the warrant signed by him and deal with the documents in the manner in which he would have dealt with the information if the application for the warrant had been made to him in accordance with section 219B.

'(7) A form of warrant duly completed by the Comptroller in accordance with sub-section (4), is, if it is in accordance with the terms of the warrant signed by the Judge, authority for the use of any listening device in relation to any particular person or premises that it authorizes.

'(8) Where it is necessary for the Court, in any proceeding, to be satisfied that the use of a listening device was authorized by a warrant issued by a Judge in accordance with this section, and the warrant signed by a Judge in accordance with this section authorizing the entry or seizure is not produced in evidence, the Court shall assume, unless the contrary is proved, that the entry or seizure was not authorized by such a warrant."

Page 7, after proposed section 219D insert the following section:

"219DA. The Comptroller shall, upon receipt of a warrant under section 219B or 219D forthwith furnish to the Minister a copy of the warrant, a copy of any affidavit furnished to a Judge in connection with the issue of warrants under this part, and a copy of any endorsement on an affidavit by a Judge under sub-section 219B (9A)."

Copy of
warrant, &c.,
to be
furnished
to Minister

Page 9, omit proposed section 219J, substitute the following section:

"219J. The Comptroller shall cause to be retained in the records of the Department all warrants issued to him under this Division, and all affidavits and other documents furnished to a Judge under this Division."

Retention of
warrants, &c.

Debate continued.

Sitting of committee suspended at 9.34 p.m.

Sitting of committee resumed at 10.35 p.m.

Debate continued.

The committee adjourned at 11.04 p.m.

L. M. BARLIN,
Clerk to the Committee

1978-79

HOUSE OF REPRESENTATIVES

SUPPLEMENT TO VOTES AND PROCEEDINGS No. 100

LEGISLATION COMMITTEE

ON

CUSTOMS AMENDMENT BILL 1979

MINUTES OF PROCEEDINGS

THURSDAY, 10 MAY 1979

The committee met at 11.40 a.m.

Clause 8—

Debate resumed on the clause and on the amendments moved by Mr Bowen (*see minutes of proceedings of 9 May 1979, pages 798-800*).

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 7

Dr Blewett
Mr Bowen
Mr Bryant
Mr D. M. Cameron
Mr Jacobi
Dr Klugman
Sir William McMahon

NOES, 5

Mr Carlton
Mr Chapman
Mr Fife
Mr Hyde
Mr McVeigh

And so it was resolved in the affirmative.

Mr Bowen moved the following further amendment: Page 10, at the end of proposed section 219L add the following sub-sections:

“(2) The Minister shall, as soon as practicable after 30 June each year, cause to be laid before both Houses of Parliament, a report which shall compile in full the reports made to the Minister by the Comptroller-General under sub-section (1) during the preceding year.

“(3) Notwithstanding sub-section (2) the Minister shall not be required to disclose in a report under sub-section (1) any information which would or would be reasonably likely to—

- (a) prejudice the investigation of a breach or possible breach of the law or the enforcement or proper administration of the law in a particular instance;
- (b) prejudice the fair trial of a person or the impartial adjudication of a particular case;
- (c) disclose, or enable a person to ascertain, the identity of a confidential source of information in relation to the enforcement or administration of the law;

- (d) disclose methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law, the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or
- (e) endanger the lives or physical safety of persons engaged in or in connection with law enforcement.
- “(4) Where any information is withheld from a report to Parliament under sub-section (3), the report shall detail the number of cases to which sub-section (3) applies and the reason, being a reason specified in paragraph (a), (b), (c), (d) or (e) of sub-section (3), for non-disclosure of information in each case.
- “(5) Any information withheld under sub-section (3) shall be detailed in an annual report to Parliament under sub-section (2) at the first available opportunity after the reason for non-disclosure, being a reason specified in paragraph (a), (b), (c), (d) or (e) of sub-section (3), is no longer applicable.”.

Debate continued.

Amendment negatived.

Clause, as amended, agreed to.

Clauses 9 to 11 agreed to.

Clause 12—

Mr Bowen, by leave, moved the following amendments together:

Page 11, lines 10–26, omit sub-paragraph (ii) of proposed paragraph (c).

Page 11, line 32, after “substance” insert “multiplied by 5”.

Page 11, line 35, after “cannabis” insert “or cannabis resin”.

Page 11, line 38, after “cannabis” insert “or cannabis resin”.

Page 11, line 40, after proposed paragraph (d) insert the following paragraph:

- “(da) where the Court is satisfied that the narcotic goods in relation to which the offence was committed consist of a quantity of a narcotic substance that is not less than the traffickable quantity applicable to the substance but is less than the traffickable quantity applicable to the substance multiplied by 5—
- (i) if the narcotic substance is a narcotic substance other than cannabis or cannabis resin—a fine not exceeding \$40,000 or imprisonment for a period not exceeding 10 years, or both; or
- (ii) if the narcotic substance is cannabis or cannabis resin—a fine not exceeding \$2,000 or imprisonment for a period not exceeding 4 years, or both; or”.

Debate continued.

Sitting of committee suspended at 1.03 p.m.

Sitting of committee resumed at 4.02 p.m.

Debate continued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 5
 Dr Blewett
 Mr Bowen
 Mr Bryant
 Mr Jacobi
 Dr Klugman

NOES, 6
 Mr D. M. Cameron
 Mr Carlton
 Mr Chapman
 Mr Fife
 Mr Hyde
 Sir William McMahon

And so it was negatived.

Clause agreed to.

Clause 13—

Mr Bowen moved the following amendment: Page 17, omit proposed section 243D, substitute the following section:

“ ‘243D. Any question of fact which relates to whether a person has engaged in a particular prescribed narcotics dealing or has engaged in prescribed narcotics dealings during a particular period shall be determined by jury.”

Question of
fact
determined
by jury

Debate continued.

Amendment negatived.

Mr Bowen moved the following amendment: Page 17, omit proposed section 243E, substitute the following section:

“ ‘243E. In a proceeding under this matter the degree to which the Court must be satisfied in respect of a matter shall be—

Degree
of proof

- (a) if the matter involves a question specified in section 243D—satisfaction of the Court on the matter beyond reasonable doubt; or
- (b) any matter other than a matter involving a question specified in section 243D—satisfaction of the Court on the matter on the balance of probabilities.”

Debate continued.

Mr I. L. Robinson took the Chair as temporary Chairman.

Debate continued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 6	NOES, 5
Dr Blewett	Mr Carlton
Mr Bowen	Mr Chapman
Mr Bryant	Mr Fife
Mr D. M. Cameron	Mr Hyde
Mr Jacobi	Mr McVeigh
Sir William McMahon	

And so it was resolved in the affirmative.

Clause, as amended, agreed to.

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

Bill to be reported with amendments.

The committee adjourned at 5.47 p.m.

L. M. BARLIN,
Clerk to the Committee