

## THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

## HOUSE OF REPRESENTATIVES

## VOTES AND PROCEEDINGS

No. 94

THURSDAY, 24 NOVEMBER 1988

1 The House met, at 10 a.m., pursuant to adjournment. Madam Speaker (the Honourable Joan Child) took the Chair, and read Prayers.

2 **PETITIONS:** The Clerk announced that the following Members had each lodged petitions for presentation, viz.:

Mr Adermann, Mr Andrew, Mr Beale, Mr Bilney, Mr Brumby, Mr Cadman, Mr D. M. Cameron, Mr I. M. D. Cameron, Mr Cohen, Mr Cowan, Mr Downer, Dr H. R. Edwards, Mr T. A. Fischer, Mr Fitzgibbon, Mr Griffiths, Mr Hand, Mr Hicks, Mr Jones, Mr Jull, Mr Katter, Mrs Kelly, Mr Lamb, Mr Lee, Mr Lloyd, Mr Macphee, Mr Millar, Mr Mountford, Mr Nehl, Mr Porter, Mr Pratt, Mr Reith, Mr Robinson, Mr Rocher, Mr Sawford, Mr L. J. Scott, Mr Shack, Mr Sharp, Mr Simmons, Mr Smith, Mr Spender and Mrs Sullivan, from 162, 54, 28, 162, 214, 15, 15, 160, 27, 54, 152, 54, 26, 41, 27, 48, 159, 27, 213, 27, 27, 28, 27, 81, 54, 216, 54, 67, 69, 71, 525, 27, 21, 27, 108, 304, 27, 83, 160, 27 and 27 petitioners, respectively, praying that the decision to place certain pharmaceutical drugs on the authority only listing be abandoned.

Mr Burr and Mr Miles, from 42 and 11 petitioners, respectively, praying that the incidence of crime and violence broadcast on television be reduced.

Mr Cowan, from 15 residents of the Division of Lyne, in similar terms.

Mr D. M. Cameron and Mr Macphee, from 130 and 62 petitioners, respectively, praying that the decision to place certain drugs on the "Authorities Required" list be reversed.

Mrs Jakobsen and Mr Miles, from 657 and 559 petitioners, respectively, praying that all advertising of alcohol on radio and television be banned.

Mr Brumby, from 93 petitioners, praying that the last line in each chorus of the National Song be altered from "Advance Australia Fair" to "God bless Australia Fair".

Mr Burr, from 41 petitioners, praying that action be taken to prevent dumped cement and clinker being imported into Australia.

Mr Cadman, from 14 electors of the Division of Mitchell, praying that the punitive treatment of those who have prepared for retirement by careful saving and wise investment be rejected.

Mr Cowan, from 419 petitioners, praying that legislation which would reduce pension entitlements and access to fringe benefits not apply retrospectively in relation to certain forms of investment.

Mr Downer, from 45 parents and staff of subsidised child care centres, praying that government subsidised child care centres continue to assess family income for fee relief purposes.

Mr Duffy, from 37 petitioners, praying that the Vietnamese Government be called on for clemency and remission of the death sentences imposed on 2 Buddhist leaders.

- Mr Duffy, from 585 petitioners, in similar terms.
- Mr T. A. Fischer, from 42 petitioners, praying that the hire and sale of R, X and the proposed Non-Violent Erotica rated videos be banned.
- Mr T. A. Fischer, from 54 petitioners, praying that the proposed changes to rules for pension eligibility be reviewed.
- Mr T. A. Fischer, from 550 petitioners, praying that the showing of the film *The Last Temptation of Christ* be banned.
- Mr T. A. Fischer, from 36 petitioners, praying that television stations refrain from showing any adult material or adult advertising until after 9 p.m.
- Mr T. A. Fischer, from 175 petitioners, praying that PAYE taxes and all sales taxes be reduced by one third and certain action be taken in relation to government and statutory authority charges.
- Mr T. A. Fischer, from 32 petitioners, praying that television stations be compelled to reduce the incidence of crime and violence broadcast by 50 percent.
- Mr Hawker, from 13 petitioners, praying that entry into Australia by homosexuals under the family reunion program be forbidden.
- Mr Hawker, from 614 petitioners, praying that X-rated video material and its R-rated equivalent be refused classification for the purpose of Commonwealth laws.
- Mr Hawker, from 560 residents of the Division of Wannan, praying that the incidence of crime and violence broadcast on television be reduced and tighter controls on the sale and classification of videos be introduced.
- Mr Hawker, from 247 residents of Merino and district, Vic., praying that the Merino Bush Nursing Hospital be able to continue its vital role in the Merino community.
- Mr Hawker, from 250 petitioners, praying that the circulation of X-rated videos be prevented and laws regarding obscenity in the media be revived and enforced.
- Mr Hunt, from 18 petitioners, praying that the Department of Social Security establish a full-time office in Muswellbrook, NSW, to serve the Upper Hunter region.
- Mr Kerr, from 30 petitioners, praying that the importation of any radioactive substances or machinery for the purposes of food irradiation be banned and certain other action be taken in relation to food irradiation.
- Mr Langmore, from 319 petitioners, praying that Western Tasmania Stage 2 immediately be nominated for World Heritage listing.
- Mr Macphee, from 11 petitioners, praying that the national flag not be changed except by a referendum.
- Mr Mildren, from 70 electors of the Division of Ballarat, praying that the importance of roads to the economy be recognised, federal funds for roads be increased and certain other action be taken in relation to road funding.
- Mr Miles, from 109 petitioners, praying that the conclusion of a treaty between Aboriginal and other Australians or any proposal which divides rather than unites Australia be opposed.
- Mr Miles, from 140 residents of Tasmania, praying that the entry into Australia of the film *The Last Temptation of Christ* be rejected.
- Mr Miles, from 66 electors of the Division of Braddon, praying that the proposed closure of the Burnie, Tas., office of the Australian Electoral Commission be opposed.
- Mr Rocher, from 64 petitioners, praying that the Romanian Government be called on to desist from the destruction of certain villages envisaged in its bulldozer policy.
- Mr Ruddock, from 2114 petitioners, praying that the closure of the post office at Dundas, NSW, be prevented.
- Mr J. L. Scott, from 28 petitioners, praying that the establishment of the public interest functions of the Australian Government Analytical Laboratories

be given high priority and certain other action be taken in relation to food analysis.

Mr Shack, from 2 petitioners, praying that a non-violent erotica video classification not be adopted and certain other action be taken in relation to film classifications.

Mr Shack, from 146 petitioners, praying that section 13 of the Customs (Cinematograph Films) Regulations be retained and certain other action be taken in relation to censorship.

Mr Sinclair, from 184 petitioners, praying that sections of the Customs Act which regulate the export of military equipment be maintained and certain other action be taken in relation to Australia's military equipment industry.

Mr Smith, from 69 petitioners, praying that mail be delivered 5 times each week in the Pipers River Road area, Tas.

Mr Staples, from 268 petitioners, praying that the manufacture and sale of toys of war and violence be banned.

Mrs Sullivan, from 684 petitioners, praying that the May and November adjustment dates for the aged pension be restored and certain other action be taken in relation to the pension.

Mrs Sullivan, from 263 electors of the Division of Moncrieff, praying that a Medicare facility in the Runaway Bay and Helensvale districts, Qld, be established as soon as possible.

Dr Woods, from 31 petitioners, praying that the creation of embryos for the specific purpose of life destroying research be banned.

Petitions received.

**3 COMMUNITY AFFAIRS—STANDING COMMITTEE—REPORT—STATEMENTS BY MEMBERS:** Mr O'Keefe (Chairman) presented the following report from the Standing Committee on Community Affairs:

Community Affairs—Standing Committee—After the march: strengthening support for the veterans—Inquiry into counselling and ancillary services for Vietnam veterans—

Report, dated October 1988.

Evidence received by the committee.

Minutes of proceedings.

Ordered—That the report be printed.

Mr O'Keefe, Mr T. A. Fischer, Ms McHugh, Mrs Harvey, Mr Dubois and Mr Sciacca made statements in connection with the report.

**4 ELECTORAL MATTERS—JOINT STANDING COMMITTEE—REPORT—STATEMENTS BY MEMBERS—MOTION TO TAKE NOTE OF PAPER:** Mr Lee (Chairman) presented the following report from the Joint Standing Committee on Electoral Matters:

Electoral Matters—Joint Standing Committee—“Is this where I pay the electricity bill?”—Inquiry into the report on the efficiency scrutiny into regionalisation within the Australian Electoral Commission—Report No. 2, dated October 1988.

Ordered to be printed.

Mr Lee, Mr Blunt and Dr Wooldridge made statements in connection with the report.

The time allotted for making statements on the report having expired—

Mr Lee moved—That the House take note of the report.

In accordance with sessional order 102B the debate was adjourned, and the resumption of the debate made an order of the day for the next sitting Thursday.

**5 TRANSPORT, COMMUNICATIONS AND INFRASTRUCTURE—STANDING COMMITTEE—REPORT—STATEMENTS BY MEMBERS—MOTION TO TAKE NOTE OF PAPER:**

Mr Langmore presented the following report from the Standing Committee on Transport, Communications and Infrastructure:

Transport, Communications and Infrastructure—Standing Committee—Canberra leasehold system—Report, dated November 1988.

Ordered to be printed.

Mr Langmore and Mr Downer made statements in connection with the report.

Mr Langmore moved—That the House take note of the report.

In accordance with sessional order 102B the debate was adjourned, and the resumption of the debate made an order of the day for the next sitting Thursday.

**6 PROCEDURE—STANDING COMMITTEE—REPORT—STATEMENTS BY MEMBERS—MOTION TO ADOPT REPORT:** Mr Mountford (Chairman) presented the following report from the Standing Committee on Procedure:

Procedure—Standing Committee—The publication of tabled papers—

Report, dated November 1988 (3rd Report).

Minutes of proceedings.

Ordered—That the report be printed.

Mr Mountford and Mr Scholes made statements in connection with the report.

Mr Mountford moved—That the report be adopted.

In accordance with sessional order 102B the debate was adjourned, and the resumption of the debate made an order of the day for the next sitting Thursday.

**7 PAPER:** Mr P. F. Morris (Minister for Industrial Relations) presented the following paper:

Remuneration Tribunals Act—Remuneration Tribunal—1988 Review—Determinations—

1988/13—Ministers of State—Expense of office allowance.

1988/14—Office Holders of the Parliament—Salary additional to basic salary and allowance.

1988/15—Senators and Members of the House of Representatives—Basic salary and electorate allowance.

1988/16—Parliamentary Secretaries—Reimbursement of expenses.

1988/17—Travelling Allowance within Australia—Ministers, Office Holders and Members of the Parliament.

1988/18—Entitlements of Members of the Parliament.

1988/19—Secretaries of Departments and Holders of Public Offices.

1988/20—Members of Aboriginal Land Councils.

1988/21—Members of the Norfolk Island Legislative Assembly.

Reports—

1988/2—Ministers of State.

1988/3—Judges.

1988/4—President and Members of the Inter-State Commission.

Statement.

**8 AGED CARE:** Mr Hicks, pursuant to notice, moved—That this House notes with concern the problems confronting nursing homes, aged persons hostels and other aged persons facilities as a result of the most recent changes to Commonwealth funding of those facilities.

Debate ensued.

Mr Nehl addressing the House—

The time allotted for the debate having expired, the debate was interrupted, the resumption of the debate made an order of the day for the next sitting Thursday, and Mr Nehl was granted leave to continue his speech when the debate is resumed.

**9 DALAI LAMA AND TIBET:** Mr Cleeland, pursuant to notice, moved—That this House:

- (1) commends the Dalai Lama for his past efforts to resolve the problems of Tibet through negotiation with the People's Republic of China and for dissuading the Tibetan people from using violence to regain their freedom;
- (2) commends the Dalai Lama for his new proposal in his continued quest for peace and expresses its support for the thrust of his proposals;
- (3) calls on the leaders and the Government of the People's Republic of China to respond positively to the proposal of the Dalai Lama and to enter into earnest discussions with the Dalai Lama; or his representatives, to resolve the question of Tibet along the lines proposed by the Dalai Lama; and
- (4) calls on the Prime Minister and the Minister for Foreign Affairs and Trade to express the support of the Australian Parliament for the proposals of the Dalai Lama and to use their best efforts to persuade the leaders and the Government of the People's Republic of China to enter into discussions with the Dalai Lama, or his representatives, regarding the proposal of the Dalai Lama and the question of Tibet.

Debate ensued.

The time allotted for the debate having expired, the debate was interrupted and the resumption of the debate made an order of the day for the next sitting Thursday.

**10 PERSONAL TAXATION:** Mr Hawker, pursuant to notice, moved—That this House deplores the continuing high levels of personal taxation and the distortion which when coupled with assistance to low income families has seriously lowered incentive for people to reduce their dependence on fellow taxpayers.

Debate ensued.

It being 12.30 p.m., the debate was interrupted in accordance with sessional order 104A and the resumption of the debate was made an order of the day for the next sitting Thursday.

**11 GRIEVANCE DEBATE:** Pursuant to the provisions of sessional order 106, the order of the day having been read—

Question proposed—That grievances be noted.

Debate ensued.

It being 1.45 p.m., the debate was interrupted in accordance with sessional order 106.

Question—That grievances be noted—put and passed.

**12 MEMBERS' STATEMENTS:** Members' statements were made.

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

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

Girls in schools—Report on the national policy for the education of girls in Australian schools, by the Department of Employment, Education and Training, dated October 1988.

Higher education funding for the 1989-91 triennium—Report by Mr Dawkins, Minister for Employment, Education and Training, dated 24 November 1988.

National Companies and Securities Commission Act—National Companies and Securities Commission—9th Report and financial statements, including the Auditor-General's Report and freedom of information statement, for 1987-88.

Political exchange program—Australian Political Exchange Committee—Report for period 1 July 1986 to 30 June 1988.

Seat of Government (Administration) Act—Radiation Ordinance—Australian Capital Territory Radiation Council—Report for 1987-88.

Superannuation Act—

Commissioner for Superannuation—Report, including freedom of information statement and report on the administration of the Australian Government Retirement Benefits Office pursuant to the Public Service Act, for 1987-88.

Superannuation Fund Investment Trust—Report and financial statements, including the Auditor-General's Report, for 1987-88.

War Graves Act—Office of Australian War Graves, Department of Veterans' Affairs—Report, including freedom of information statement, for 1987-88.

**15 POLITICAL EXCHANGE PROGRAM—REPORT—MOTION TO TAKE NOTE OF PAPER:** Mr Beazley (Leader of the House) moved—That the House take note of the following paper:

Political exchange program—Australian Political Exchange Committee—Report for period 1 July 1986 to 30 June 1988.

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

**16 HIGHER EDUCATION FUNDING—REPORT—MOTION TO TAKE NOTE OF PAPER:** Mr Beazley (Leader of the House) moved—That the House take note of the following paper:

Higher education funding for the 1989-91 triennium—Report by Mr Dawkins, Minister for Employment, Education and Training, dated 24 November 1988.

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

**17 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—DEFENCE FORCE CAPABILITIES:** The House was informed that Mr White had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The Government's failure to act to halt the decline in Australia's Defence Force capabilities".

The proposed discussion having received the necessary support—Mr White addressed the House.

Discussion ensued.

Discussion concluded.

**18 SELECTION COMMITTEE—REPORT:** Mr McLeay (Chairman) presented the report of the Selection Committee relating to the program of business prior to 12.30 p.m. on Thursday, 1 December 1988 and on the first sitting Thursday of the Autumn period of sittings 1989.

**19 PUBLIC WORKS COMMITTEE—REPORTS—STATEMENT BY MEMBER:** Mr Hollis (Chairman) presented the following reports from the Parliamentary Standing Committee on Public Works:

Reports relating to the construction of the new Commonwealth offices—Frankston, Vic. (11th report of 1988).

Oakleigh, Vic. (12th report of 1988).

Severally ordered to be printed.

Mr Chynoweth, by leave, made a statement in connection with the reports.

**20 SALES TAX LAWS AMENDMENT BILL 1988:** 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 Dr Hewson who 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 notes that:

- (1) the Keating/Hawke Government presides over a ramshackle wholesale sales tax system which abounds in anomalies and inconsistencies;
- (2) the sales tax system is made incredibly difficult to understand and administer by ambiguous legislation;
- (3) the Australian computer software industry, an increasing supplier of exports, has especially suffered from ambiguous and confusing sales tax legislation, and as a result vital export income that could contribute to the paying-off of Australia's huge net foreign debt of \$89 billion has been lost; and

- (4) the proposals contained in the Bill are a further indication that Government taxation policies are creating substantial inequities in the effect of taxation upon individual Australians”.

Debate continued.

Amendment negatived.

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.

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*In the committee*

Bill, by leave, taken as a whole.

Dr Hewson, by leave, moved the following amendments together:

Clause 4—

Page 2, omit paragraph (a).

Page 2, at the end of the clause add the following paragraph:

“(c) by inserting in subsection (1) the following definition:

‘module’, in relation to computer programs, means a product licensed or sold in its own right as a separate and standard existing unit comprising either a single computer program which performs a self-contained function or a group of computer programs which together perform a set of integrated functions;”.

Clause 7—

Page 3, line 20, omit “computer programs”, substitute “modules”.

Page 3, line 23 omit “programs”, substitute “modules”.

Amendments negatived.

Bill agreed to.

Bill to be reported without amendment.

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The House resumed; Mr Cowan reported accordingly.

On the motion of Mr R. J. Brown (Minister for Land Transport and Shipping Support), the House adopted the report, and the Bill was read a third time.

- 21 **SALES TAX ASSESSMENT BILL (NO. 12) 1988:** 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—

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

Leave granted for third reading to be moved forthwith.

On the motion of Mr R. J. Brown (Minister for Land Transport and Shipping Support), the Bill was read a third time.

- 22 **SALES TAX BILL (NO. 12) 1988:** 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—

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

Leave granted for third reading to be moved forthwith.

On the motion of Mr R. J. Brown (Minister for Land Transport and Shipping Support), the Bill was read a third time.

- 23 **SALES TAX BILL (NO. 1A) 1988:** 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—

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

Leave granted for third reading to be moved forthwith.

On the motion of Mr R. J. Brown (Minister for Land Transport and Shipping Support), the Bill was read a third time.

24 **FEDERAL AIRPORTS CORPORATION AMENDMENT BILL 1988:** 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 Blunt who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “the Bill be referred to the Standing Committee on Transport, Communications and Infrastructure for inquiry and report with particular reference to the following:

- (1) the powers and responsibilities granted under the Federal Airports Corporation legislation;
- (2) the value of assets transferred by the Government and the basis for financing the Corporation with particular reference to the implications for charges imposed by the Corporation;
- (3) the Corporation’s plans for developing its airports, and in particular its proposals for Sydney, Brisbane and Perth airports;
- (4) the procedures adopted by the Corporation for its commercial activities with emphasis on requirements and procedures for calling tenders and letting contracts;
- (5) the implications of the Federal Airports Corporation monopoly position for the aviation industry, in particular general and sports aviation and non-scheduled airline and charter operations;
- (6) the appropriateness of the Federal Airports Corporation monopoly position in a deregulated aviation industry;
- (7) the legislative basis, financial structure and corporate objectives of the Corporation; and
- (8) the Corporation’s organisation, structure and staff numbers”.

Debate continued.

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 R. J. Brown (Minister for Land Transport and Shipping Support), the Bill was read a third time.

25 **CUSTOMS AND EXCISE LEGISLATION AMENDMENT BILL 1988:** 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.

*Limitation of debate:* At 9 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—

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

Further question—That the remaining stages of the Bill be agreed to—put and passed—Bill read a third time.

26 **CUSTOMS TARIFF AMENDMENT BILL (NO. 3) 1988:** 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.

*Limitation of debate:* At 9 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—

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

Further question—That the remaining stages of the Bill be agreed to—put and passed—Bill read a third time.



27 **COMMUNITY SERVICES AND HEALTH LEGISLATION AMENDMENT BILL (NO. 2) 1988:** 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 Shack who 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:

- (1) expresses its concern about deficiencies and inequities in the Medicare health care system;
- (2) deplores the way in which Government policies have had, and continue to have, a negative impact upon health insurance funds; and
- (3) calls upon the Government to ensure that its policies are conducive to fostering the delivery of the best possible health services to the people of this nation”.

Debate continued.

*Limitation of debate:* At 10 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—

Amendment negatived.

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

*Message from the Governor-General:* Message No. 147, dated 16 November 1988, from His Excellency the Governor-General was announced recommending an appropriation of revenue for the purposes of the Bill.

Question—That the remaining stages of the Bill be agreed to—put and passed—Bill read a third time.

28 **FOREIGN TAKEOVERS AMENDMENT BILL 1988:** 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.

*Limitation of debate:* At 11 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—

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

Further question—That the remaining stages of the Bill be agreed to—put and passed—Bill read a third time.

29 **DEFENCE SERVICE HOMES AMENDMENT BILL 1988:** 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.

The House continuing to sit until after 12 midnight—

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Debate continued.

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

*Message from the Governor-General:* Message No. 148, dated 16 November 1988, from His Excellency the Governor-General was announced recommending an appropriation of revenue for the purposes of the Bill.

The House resolved itself into a committee of the whole.

#### *In the committee*

Bill, by leave, taken as a whole.

Mr. T. A. Fischer moved the following amendment: Clause 5, page 4, at the end of the clause add the following subclauses:

“(2) On and after 15 May 1991, the words added to section 4AAA of the Principal Act by subsection (1) are omitted from that subsection and, subject to subsection (3), the Principal Act has effect as if subsection (1) had not been enacted.

“(3) Notwithstanding the provisions of subsection (2), the Secretary shall not issue a certificate of entitlement in relation to an advance to a person whose first service in the Defence Force began after 14 May 1985, and no such person may exercise any right under that subsection, unless and until a new or amended arrangement, concerning these persons, is negotiated and endorsed by the enactment of legislation.”.

Debate continued.

Amendment negatived.

Bill agreed to.

Bill to be reported without amendment.

The House resumed; Mr McLeay reported accordingly.

On the motion of Mr Humphreys (Minister for Veterans' Affairs), the House adopted the report, and the Bill was read a third time.

30 **MESSAGES FROM THE SENATE:** Messages from the Senate were reported returning the following Bills without amendment:

24 November 1988—Message—

No. 232—Defence Legislation Amendment 1988.

No. 234—Naval Defence Amendment 1988.

No. 235—Statutory Instruments (Tabling and Disallowance) Legislation Amendment 1988.

31 **MESSAGE FROM THE SENATE—DEFENCE LEGISLATION AMENDMENT BILL (NO. 2) 1988:** Message No. 233, dated 24 November 1988, from the Senate was reported transmitting for the concurrence of the House a Bill for “*An Act to amend certain Acts relating to Defence*”.

Bill read a first time.

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

32 **PRIVACY BILL 1988—SENATE'S AMENDMENTS:** The House, according to order, resolved itself into a committee of the whole to consider the amendments made by the Senate.

*In the committee*

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Page 11, clause 14, Information Privacy Principles, Principle 2, lines 37 and 38, leave out “the individual concerned is generally aware of”, insert “the individual concerned is informed, in writing, of”.

No. 2—Page 12, clause 14, Information Privacy Principles, Principle 3, paragraph (c), lines 18 to 19, leave out “and is up to date and complete”, insert “and is up to date, complete and accurate”.

No. 3—Page 13, clause 14, Information Privacy Principles, Principle 5, subparagraph 1 (b) (ii), line 4, leave out the subparagraph, insert the following subparagraph:  
“(ii) each purpose for which that information is used;”.

No. 4—Page 13, clause 14, Information Privacy Principles, Principle 5, after subparagraph 1 (b) (ii), insert the following new subparagraphs:

“(iia) the purposes of disclosure of records to third parties;

“(iib) the record-keeper's policies and practices regarding storage of, retrievability of, access to, controls over, retention of and disposal of, records; and”.

No. 5—Page 33, subparagraph 52 (1) (b) (iii), lines 14 and 15, leave out “except where the complaint was dealt with as a representative complaint—”.

No. 6—Page 33, subclause 52 (3), lines 23 and 24, leave out “(other than a determination made on a representative complaint)”.

No. 7—Page 33, subclause 52 (4), lines 29 to 31, leave out the subclause.

No. 8—Page 34, subclause 58 (1), lines 39 to 42, leave out the subclause, insert the following subclause:

“(1) Application may be made to the Administrative Appeals Tribunal for review of:

- (a) a declaration of the kind referred to in subparagraph 52 (1) (b) (iii) or subsection 52 (3) that is included in a determination to which this Division applies; or
- (b) a decision of the Commissioner refusing to include such a declaration in a determination to which this Division applies.”.

No. 9—Page 36, after clause 63, insert the following new clauses in Division 4:

**Action for breach of privacy**

“63A. An interference with the privacy of an individual taking place after the commencement of this Act shall give rise to an action at the suit of the individual for breach of privacy.

**Action may be brought against agency or tax file recipient or both**

“63B. An action for breach of privacy may be brought against an agency or a tax file number recipient or both.

**Court may award damages, grant injunction etc.**

“63C. In any action under section 63A or 63B, the Federal Court or the Supreme Court of a State or Territory may:

- (a) award damages;
- (b) grant an injunction;
- (c) order the defendant to deliver up to the plaintiff any document brought into existence in the course of the interference with the privacy of the plaintiff; or
- (d) make any other order that to the Court seems just.

**Right of action not in derogation of any other right etc.**

“63D. The right of action conferred by this Act shall be in addition to and not in derogation of either, any right conferred by this Act to make a complaint to the Commissioner, or any other procedure in the course of which the privacy of an individual may be examined.”.

Ordered—That amendment No. 8 be considered before other amendments.

On the motion of Mr Beazley (Minister for Defence), amendment No. 8 was agreed to.

On the motion of Mr Beazley, amendments Nos. 1 to 7, and 9 were disagreed to, after debate.

Resolutions to be reported.

The House resumed; Mr McLeay reported accordingly.

On the motion of Mr Beazley, the House adopted the report.

Mr Beazley moved—That Mr Cunningham, Mr Lamb and the mover be appointed a committee to draw up reasons for the House of Representatives disagreeing to amendments Nos. 1 to 7, and 9 of the Senate.

Question—put and passed.

Mr Beazley, 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 the amendments of the Senate*

Senate amendment No. 1 is not acceptable because:

The proposed requirement that the individual be informed in writing would be burdensome for agencies and of limited benefit to some individuals.

Information Privacy Principle 2 is expressed in terms that would cover a wide range of collection practices of agencies and can be tailored to suit a variety of circumstances. The Privacy Commissioner is empowered to issue guidelines on what would be sufficient information for an individual to be made generally aware of the purpose of collection, the legal authority for the collection and the usual disclosure practices of the collector.

Senate amendment No. 2 is not acceptable because:

There are practical difficulties in imposing an obligation on agencies to check the accuracy of personal information at the time of collection.

Information Privacy Principle 3 requires a record-keeper collecting personal information to take reasonable steps to ensure that the information is relevant to the purpose of collection, up to date and complete. The record-keeper is also required to ensure that the collection of the information does not intrude to an unreasonable extent upon the personal affairs of the individual concerned.

Information Privacy Principles 7 and 8 provide important privacy safeguards for individuals by requiring record-keepers to correct inaccuracies before making any use of information in records.

Senate amendment No. 3 is not acceptable because:

Information Privacy Principle 5 requires the record-keeper to provide information to enable any person to ascertain the main purposes for which that information is used.

Agencies may have a range of purposes for which personal information is used. It would be impractical to require agencies to set out all the possible purposes for which information held by an agency is used.

Senate amendment No. 4 is not acceptable because:

The amendment is directed at enabling a person to find out the information handling practices of the record-keeper. The Information Privacy Principles already do this. Information Privacy Principle 2 requires information to be provided by record-keepers about their disclosure practices. Information Privacy Principle 5 also requires the record-keeper to maintain a public record setting out extensive information about the personal records kept and how to obtain access to those records.

The Privacy Commissioner is empowered to issue guidelines on the safe storage and security of records of personal information. It is not appropriate for individuals to be given details of security controls on information held by a record-keeper.

Senate amendment No. 5 is not acceptable because:

It is a condition for the handling of a complaint as a representative complaint that the Privacy Commissioner is satisfied that the class of persons making complaints is so numerous that joinder of all its members is impracticable. The Commissioner can waive this condition if justice demands that the matter be dealt with as a representative complaint. Accordingly, the awarding of compensation to each member of the class is likely to give rise to practical difficulties.

In the case of representative complaints, the main remedy is likely to be the cessation of the act or practice giving rise to the complaint rather than compensation. A similar approach has been taken in relation to complaints under the Sex Discrimination Act and the Racial Discrimination Act.

An individual who believes compensation is justifiable can bring an individual complaint notwithstanding that a representative complaint has been brought.

Senate amendment No. 6 is not acceptable because:

It is a condition for the handling of a complaint as a representative complaint that the Privacy Commissioner is satisfied that the class of persons making a complaint is so numerous that joinder of all its members is impracticable. The Commissioner can waive this condition if justice demands that the matter be dealt with as a representative complaint. Accordingly, the awarding of expenses

for costs incurred in making the complaint to each member of the class is likely to give rise to practical difficulties.

Senate amendment No. 7 is not acceptable because:

The provision should not be deleted as the definition of complainant in relation to a representative complaint needs to include all the persons on whose behalf the complaint is made.

Senate amendment No. 9 is not acceptable because:

The Bill provides a right to complain to the Privacy Commissioner, who conducts an investigation and may award compensation. This will give the Australian people a simple and effective remedy. For most people, it will be a more accessible and cheaper remedy than an action in the courts.

This is the approach the Parliament has adopted for other interferences with the rights of individuals in the areas of sex discrimination and race discrimination.

An injunction can also be obtained from the Federal Court to restrain a breach of the Privacy Act. The remedy enables the Privacy Commissioner or an individual to get a privacy infringing practice stopped.

On the motion of Mr Beazley, the committee's reasons were adopted.

- 33 SUSPENSION OF STANDING AND SESSIONAL ORDERS—COPYRIGHT AMENDMENT BILL 1988—RECONSIDERATION:** Mr Beazley (Leader of the House), by leave, moved—That so much of the standing and sessional orders be suspended as would prevent the recorded decisions of the committee of the whole House and the House itself yesterday, on the committee, report and third reading stages of the Copyright Amendment Bill 1988 being rescinded and the committee and remaining stages being considered again.

Question—put and passed.

- 34 COPYRIGHT AMENDMENT BILL 1988—RESCISSION OF RECORDED DECISIONS—COMMITTEE, REPORT AND THIRD READING STAGES:** Mr Beazley (Leader of the House) moved—That the recorded decisions of the committee of the whole House and the House itself yesterday, on the committee, report and third reading stages of the Copyright Amendment Bill 1988 be rescinded and the committee and remaining stages be considered again.

Debate ensued.

Question—put and passed.

- 35 COPYRIGHT AMENDMENT BILL 1988:** The House resolved itself into a committee of the whole for the consideration of the Bill.

*In the committee*

Clauses 1 to 11, by leave, taken together.

Mr N. A. Brown, by leave, moved the following amendments together:

Clause 2, page 1, after subclause (1) insert the following subclause:

“(1A) Section 10 commences on a day on which it is declared by Proclamation that an amendment has been made to the *Designs Act 1906* and that amendment has commenced operation, being an amendment that enables the registration under the *Designs Act 1906* of corresponding designs that are presently not registrable under that Act for any reason other than that they are not new or original.”.

Clause 10—

Page 4, lines 33 and 34, omit all words after “whether” to the end of proposed paragraph 77 (1) (a), substitute “made at any time on or after the commencement of this section”.

Page 4, line 36, after “elsewhere” insert “at any time on or after the commencement of this section.”.

Amendments negatived.

Clauses agreed to.

Clauses 12 and 13, by leave, taken together.

On the motion of Mr Beazley (Minister for Defence), by leave, the following amendments were made together:

Clause 12—

Page 7, line 27, after “by” insert “whom”.

Page 13, line 37, omit “subsection (1)”, substitute “with the consent of the administering body by whom, or on whose behalf, it is made, subsection (1)”.

Page 14, line 25, omit “(c)”, substitute “(d)”.

Clause 13, page 30, line 11, after “by” insert “whom”.

Clauses, as amended, agreed to.

Clause 14—

On the motion of Mr Beazley, the following amendment was made: Page 31, lines 5 and 6, omit “or a body corporate incorporated under a law of a foreign country”.

Mr N. A. Brown, by leave, moved the following amendments together:

Page 31, proposed section 135ZZJ, after the definition of “exemption number” insert the following definition:

“‘prescribed organisation’ means

- (a) an educational institution;
- (b) an institution assisting handicapped readers;
- (c) an institution assisting intellectually handicapped persons;
- (d) an institution assisting the blind or the visually impaired;
- (e) an institution assisting the deaf or the hearing impaired;
- (f) an organisation engaged in broadcasting;
- (g) an organisation engaged in the business of producing pre-recorded cassettes; and
- (h) such other organisation as may be prescribed;”.

Page 35, after proposed subsection 135ZZW (1) insert the following subsection:

“(1A) The Attorney-General shall cause a copy of the report sent to the Attorney-General under subsection (1) to be laid before each House of the Parliament within 15 sitting days of that House after the receipt of the report by the Attorney-General.”.

Amendments negatived.

Clause, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole.

On the motion of Mr Beazley, by leave, the following amendments were made together:

Clause 16, page 39, line 6, omit “a copy of a television broadcast”, substitute “copies of television broadcasts”.

Clause 21, page 43, at the end of the clause add the following paragraphs:

- “(c) by omitting from subsection (3) ‘the last two preceding subsections’ and substituting ‘subsections (1), (2) and (2A)’;
- (d) by omitting from subsection (4) ‘(1) and (2)’ and substituting ‘(1), (2) and (2A)’.”.

Clause 26—

Page 47, after the proposed definition of “authorised” insert the following definition:

“‘cinematograph film’ includes an article in which visual images are embodied and which is capable of being used to show those images as a moving picture, and a sound-track associated with those images;”.

Page 49, after the proposed definition of “recording” insert the following definition:

“‘sound recording’ includes an article in which sounds are embodied;”.

Page 50, line 10, omit “a copy of”.

Page 50, line 14, omit “the copy”, substitute “it”.

Page 50, line 16, omit “the copy”, substitute “it”.

Page 50, line 17, omit "the copy", substitute "it".

Page 51, omit proposed paragraph 248G (2) (c), substitute the following paragraph:

"(c) makes, for use in a sound-track, a copy of an authorised sound recording of the performance and the person knows, or ought reasonably to know, that the making of the sound recording was not authorised for the purpose of use in a sound-track;"

Page 54, lines 23–25, omit all the words from and including "authorised solely" to the end of proposed subsection 248P (3), substitute the following: "not authorised for the purpose of use in a sound-track and the copy is made for the purpose of such use."

Remainder of Bill, as amended, agreed to.  
Bill to be reported with amendments.

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The House resumed; Mr McLeay reported accordingly.

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

36 **ADJOURNMENT**: Mr Beazley (Leader of the House) moved—That the House do now adjourn.

Question—put and passed.

And then the House, at 1.07 a.m., adjourned until Monday next at 2 p.m.

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**PAPERS**: The following papers were deemed to have been presented on 24 November 1988:

Export Control Act—Export Control (Orders) Regulations—Orders—1988—No. 17—Export Control (Fresh Fruits and Vegetables) (Amendment).

Health Insurance Act—Determination pursuant to subsection 3C (1), dated 15 November 1988.

Proclamation by His Excellency the Governor-General fixing 1 December 1988 as the date on which amendments to the *Commonwealth Prisoners Act 1967* made under the *Statute Law (Miscellaneous Provisions) Act 1987* shall come into operation.

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**MEMBERS PRESENT**: All Members were present (at some time during the sitting) except Mr Bowen, Mr J. J. Brown, Mr D. M. Cameron\*, Mrs Darling\*, Mr Katter and Mr Kerin.

\* On leave

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**A. R. BROWNING**  
Clerk of the House of Representatives