

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 114

TUESDAY, 2 MAY 1989

-
- 1 The House met at 2 p.m., pursuant to adjournment.
 - 2 **ABSENCE OF MADAM SPEAKER:** The Clerk having informed the House that Madam Speaker (the Honourable Joan Child) was unavoidably absent, the Chairman of Committees (Mr McLeay) took the Chair as Acting Speaker, and read Prayers.
 - 3 **AUTHORITY TO ADMINISTER OATH OR AFFIRMATION OF ALLEGIANCE TO MEMBERS:** The Acting Speaker announced that he had received from His Excellency the Governor-General the following authority:

I, WILLIAM GEORGE HAYDEN, Governor-General of the Commonwealth of Australia, pursuant to section 42 of the Constitution of the Commonwealth of Australia, hereby authorise LEO BOYCE MCLEAY, Acting Speaker of the House of Representatives, during any absence of the Speaker, at Parliament House, Canberra, in the Australian Capital Territory, to administer the oath or affirmation of allegiance to such Members of the House of Representatives as have not already made and subscribed that oath or affirmation since their election or last election to the House of Representatives.

Dated 2 May 1989

BILL HAYDEN
Governor-General

By His Excellency's Command
BOB HAWKE
Prime Minister
 - 4 **RETURN TO WRIT—GWYDIR DIVISION:** The Acting Speaker announced that he had received a return to the writ which Madam Speaker had issued on 6 March 1989 for the election of a Member to serve for the electoral division of Gwydir, in the State of New South Wales, to fill the vacancy caused by the resignation of the Honourable Ralph James Dunnet Hunt, and that, by the endorsement on the writ, it was certified that John Anderson had been elected.
 - 5 **OATH OF ALLEGIANCE BY MEMBER:** John Anderson was introduced, and made and subscribed the oath of allegiance required by law.
 - 6 **DEATH OF FORMER MEMBER (MR F. L. O'KEEFE):** Mr Hawke (Prime Minister) referred to the death of Mr F. L. O'Keefe, and moved—

That this House expresses its deep regret at the death on Friday, 21 April 1989, of Mr Frank Lionel O'Keefe, AM, a Member of the House of Representatives for the Division of Paterson from 1969 to 1984, places on record its appreciation of his long and meritorious public service and tenders its profound sympathy to the members of his family in their bereavement.

And Mr Howard (Leader of the Opposition) having seconded the motion, and Mr Sinclair (Leader of the National Party of Australia) and other Members having addressed the House in support thereof, and all Members present having risen, in silence—

Question—passed.

7 **MINISTERIAL ARRANGEMENTS:** Mr Hawke (Prime Minister) informed the House that, during the absence abroad of Mr Keating (Treasurer), Mr Dawkins (Minister for Employment, Education and Training) was acting as Treasurer.

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

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

Aboriginal deaths in custody—Royal Commission—Reports—Inquiry into the death of—

Christine Lesley Ann Jones.

Malcolm Charles Smith.

Advance to the Minister for Finance—

Statement for March 1989.

Supporting applications of issues from the Advance during March 1989.

Airlines Agreement Act—

Ansett Transport Industries Limited—Financial statements, including the auditor's report, for 1987-88.

Australian Airlines Limited and subsidiaries—Financial statements, including the Auditor-General's Report, for 1987-88.

Joint report by Ansett Transport Industries Limited and Australian Airlines Limited on consultations held during 1988 on airfares, load factors and airport capacity.

Automotive Industry Authority Act—Automotive Industry Authority—Report on the state of the automotive industry for 1988.

Commonwealth Electoral Act—Redistribution of Electoral Divisions, 1989—Western Australia—Documents pursuant to section 75.

Defence Housing Authority Act—Defence Housing Authority—Report and financial statements, including the Auditor-General's Report and freedom of information statement, for the period 1 January to 30 June 1988.

Equal Employment Opportunity (Commonwealth Authorities) Act—Reports—Equal Employment Opportunity programs—

Aussat Pty Ltd—Report for 1988.

Australia Post—Report, dated January 1989.

Australian Film, Television and Radio School—Report for 1987-88.

Australian National Line—Report.

Telecom Australia—

Affirmative Action Program.

Report for 1987-88 on progress of the Affirmative Action Program.

Fishing Industry Research Act—Report on operation of Act for 1987-88.

National Parks and Wildlife Conservation Act—Lihou Reef National Nature Reserve—

Comments on the representations on the Plan of Management by the Director of National Parks and Wildlife.

Plan of Management.

Nuclear Non-Proliferation (Safeguards) Act—Australian Safeguards Office—Report for 1987-88.

Tasmanian World Heritage Area Council—Summary record of meetings—

6th, Cradle Mountain, 13 November 1987.

7th, Hobart, 27 June 1988.

8th, Cradle Mountain, 23 October 1988.

- 10 AUSTRALIAN AIRLINES LIMITED—REPORT—MOTION TO TAKE NOTE OF PAPER:**
Mr Beazley (Leader of the House) moved—That the House take note of the following paper:
Airlines Agreement Act—Australian Airlines Limited and subsidiaries—Financial statements, including the Auditor-General's Report, for 1987-88.
Debate adjourned (Mr Fife), and the resumption of the debate made an order of the day for the next sitting.
- 11 MESSAGES FROM THE GOVERNOR-GENERAL—ASSENT TO BILLS:** Messages from His Excellency the Governor-General were announced informing the House that His Excellency, in the name of Her Majesty, had assented to the following Bills:
13 April 1989—Message No. 188—Foreign Takeovers Amendment 1989.
17 April 1989—Message No. 189—Lands Acquisition 1989.
20 April 1989—Message—
No. 190—
Insurance Legislation Amendment 1989.
General Insurance Supervisory Levy 1989.
Insurance Supervisory Levies Collection 1989.
Qantas Airways Limited (Loan Guarantee) 1989.
Ministers of State Amendment 1989.
No. 191—
Lands Acquisition (Repeal and Consequential Provisions) 1989.
Life Insurance Supervisory Levy 1989.
- 12 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—HOME LOAN INTEREST RATES:** The House was informed that Mr Downer had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The devastating effects of the Hawke Government's policy of forcing home loan interest rates to their highest level in history".
The proposed discussion having received the necessary support—
Mr Downer addressed the House.
Discussion ensued.
Discussion concluded.
- 13 PUBLIC WORKS COMMITTEE—REPORT—STATEMENT BY MEMBER:** Mr Hollis (Chairman) presented the following report:
Public Works Committee Act—Parliamentary Standing Committee on Public Works—52nd General Report, 1989.
Ordered to be printed.
Mr Hollis, by leave, made a statement in connection with the report.
- 14 CUSTOMS TARIFF PROPOSALS NO. 10 (1989):** Mr Jones (Minister for Science, Customs and Small Business) moved Customs Tariff Proposals No. 10 (1989).
Debate adjourned (Mr Braithwaite), and the resumption of the debate made an order of the day for the next sitting.
- 15 SNOWY MOUNTAINS ENGINEERING CORPORATION (CONVERSION INTO PUBLIC COMPANY) BILL 1989:** The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—*And on the amendment moved thereto by Mr Moore, viz.—That all words after "That" be omitted with a view to substituting the following words: "whilst not declining to give the Bill a second reading, the House is of the opinion that the Government should sell the Snowy Mountains Engineering Corporation to the private sector, with the first option to purchase being given to the Corporation's employees"*—
Debate resumed.
Amendment negatived.

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

Leave granted for third reading to be moved forthwith.

On the motion of Mr Jones (Minister for Science, Customs and Small Business), the Bill was read a third time.

16 INTERNATIONAL ARBITRATION AMENDMENT 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 6, clause 7, after proposed section 28, insert the following new section:

Representation in proceedings

“28A. (1) Where, in accordance with the Model Law, with the agreement of the parties or at the request of a party, as the case may be, the arbitral tribunal holds oral hearings for the presentation of evidence or for oral argument, or conducts proceedings on the basis of documents or other materials, the following provisions shall, without prejudice to the Model Law, apply.

(2) A party may appear in person before an arbitral tribunal and may be represented:

- (a) by himself or herself;
- (b) by a duly qualified legal practitioner from any legal jurisdiction of that party's choice; or
- (c) by any other person of that party's choice.

(3) A legal practitioner or a person, referred to in paragraphs (2) (b) or (c) respectively, while acting on behalf of a party to an arbitral proceeding to which Part III applies, including appearing before an arbitral tribunal, shall not thereby be taken to have breached any law regulating admission to, or the practice of, the profession of the law within the legal jurisdiction in which the arbitral proceedings are conducted.

(4) Where, subject to the agreement of the parties, an arbitral tribunal conducts proceedings on the basis of documents and other materials, such documents and materials may be prepared and submitted by any legal practitioner or person who would, under subsection (2), be entitled to appear before the tribunal, and, in such a case, subsection (3) shall apply with the same force and effect to such a legal practitioner or person.”

No. 2—Page 7, clause 7, proposed section 29, lines 1 to 4, leave out the proposed section.

On the motion of Mr Bowen (Attorney-General), the amendments were agreed to, after debate.

Resolution to be reported.

The House resumed; Mr R. F. Edwards reported accordingly.

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

17 BOUNTY (SHIPS) BILL 1989: 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.

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

The House resolved itself into a committee of the whole.

In the committee

Bill, by leave, taken as a whole.

Mr Downer moved the following amendment: Clause 17, page 14, lines 1-3, omit subparagraph (6) (d) (ii).

Debate continued.

Amendment negatived.

Bill agreed to.

Bill to be reported without amendment.

The House resumed; Mrs Darling reported accordingly.

On the motion of Mr Jones (Minister for Science, Customs and Small Business), the House adopted the report, and, by leave, the Bill was read a third time.

18 **PATENTS 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.

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

The House resolved itself into a committee of the whole.

In the committee

Bill, by leave, taken as a whole.

On the motion of Mr Jones (Minister for Science, Customs and Small Business), by leave, the following amendments were made together:

Amendments—

Clause 3—

Page 2, lines 5 to 29, omit the proposed definitions of “extension eligibility certificate” and “importation and general marketing approval”, substitute the following definition:

“‘marketing approval certificate’, in relation to a pharmaceutical substance, means a certificate given by the Secretary to the Department of Community Services and Health certifying that he or she has approved the marketing of the substance, or a product containing the substance, in Australia;”.

Page 2, line 33, after “system,” insert “or involves action on an infectious agent, or on a toxin or other poison, within a human body.”.

New clause—

Page 3, after clause 4 insert the following new clause:

Validity of patent of addition

“4A. Section 76 of the Principal Act is amended by adding at the end the following subsection:

“(2) In this section:

“patent of addition” includes a patent of addition that has become an independent patent under subsection 75 (2A).”.

Amendments—

Clause 5—

Page 3, omit proposed paragraphs 90 (1) (a), (b) and (c), substitute the following paragraph:

“(a) a pharmaceutical substance is in substance disclosed in the complete specification of a standard patent and in substance falls within the scope of the claim or claims of that complete specification; and”.

Page 4, line 1, omit “an extension eligibility”, substitute “a marketing approval”.

Page 4, line 4, omit “21”, substitute “12”.

Page 4, line 6, at the end of proposed subsection 90 (1) add the following:
 “and any other pharmaceutical substance which is in substance disclosed in the specification and in substance falls within the scope of the claim or claims of the specification”.

Page 4, omit proposed subsection 90 (2).

Page 4, line 31, omit “an extension eligibility”, substitute “a marketing approval”.

Page 4, omit proposed paragraphs 92 (a) and (b), substitute the following paragraphs:

- “(a) a patentee makes a request in writing to the Secretary to the Department of Community Services and Health for the issue of a marketing approval certificate in respect of a pharmaceutical substance; and
- (b) the Secretary to the Department of Community Services and Health has approved the marketing of the substance, or a product containing the substance, in Australia;”.

Page 5, lines 1 to 12, omit proposed paragraph 92 (c).

Page 5, line 13, omit “give an extension eligibility certificate”, substitute “forthwith give a marketing approval certificate in the prescribed form”.

Page 5, line 25, omit “extension eligibility”, substitute “marketing approval”.

Page 5, at the end of proposed section 94 add the following words and paragraphs:

- “on either or both of the following grounds, but on no other ground:
 - (a) that the application for the extension, the marketing approval certificate, or the proposed claim or claims, is or are not in accordance with the requirements of this Act;
 - (b) that the proposed claim or claims claim matter other than the pharmaceutical substance or substances to which the application relates”.

Page 6, line 8, omit “extension eligibility”, substitute “marketing approval”.

Page 6, line 10, omit “and the regulations”.

Page 6, line 12, after “substance” insert “or substances”.

Page 7, lines 1 and 2, omit “or offering or distribution for sale, of the”, substitute “offering for sale, or distribution for a purpose other than obtaining marketing approval, of any”.

Page 7, at the end of proposed section 96 add the following subsection:

- “(2) In this section:
 - ‘marketing approval’, in relation to a pharmaceutical substance, means the approval of the Secretary to the Department of Community Services and Health for the marketing of the substance, or a product containing the substance, in Australia.”.

Clause 10, page 8, line 26, omit “24,”, substitute “15”.

Bill, as amended, agreed to.

Bill to be reported with amendments.

The House resumed; Mr R. F. Edwards reported accordingly.

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

19 **ADJOURNMENT:** Mr Jones (Minister for Science, Customs and Small Business) moved—That the House do now adjourn.

Debate ensued.

Question—put and passed.

And then the House, at 10.58 p.m., adjourned until tomorrow at 10 a.m.

PAPERS: The following papers were deemed to have been presented on 2 May 1989:

A.C.T. Self-Government (Consequential Provisions) Act—Regulations—Statutory Rules 1989, No. 52.

Aged or Disabled Persons Homes Act—Determinations—
No. 1, dated 12 April 1989.

No. 2, dated 14 April 1989.

Audit Act—Regulations—Statutory Rules 1989, No. 56.

Australian National Railways Commission Act—Australian National Railways Commission—General By-Law—Amendment No. 3.

Banks (Shareholdings) Act—Regulation—Statutory Rules 1989, No. 64.

Census and Statistics Act—

Australian Bureau of Statistics—Statement of disclosure of information—1989—
No. 4—List of names and addresses for Accident Compensation Commission,
Victoria.

Regulations—Statutory Rules 1989, No. 71.

Child Support Act—Regulations—Statutory Rules 1989, No. 51.

Civil Aviation Act—

Civil Aviation Regulations—Civil Aviation Orders—Parts—

105—Amendments, dated 30 March and 5, 6, 10 (2), 11, 14, 20, 26 April
1989.

106—Amendments, dated 11 April 1989.

107—Amendments, dated 11, 20 April 1989.

Customs Act—Regulations—Statutory Rules 1989, No. 57.

Defence Act—Determinations under section 58B—1989—

No. 30—Rates of Travelling Allowance—Vietnam.

No. 31—Rates of Travelling Allowance—Algeria, and other allowances.

No. 32—Education Assistance.

No. 33—Rates of Travelling Allowance—Singapore, and other allowances.

No. 34—Rates of Travelling Allowance—USA—Houston, and other allowances.

No. 45—Expense of Office Allowance.

No. 46—Meal Allowance.

Excise Act—Regulations—Statutory Rules 1989, No. 61.

Family Law Act—Regulation—Statutory Rules 1989, No. 53.

Federal Court of Australia Act—Rules of Court—Statutory Rules 1989, No. 50.

Fisheries Act—

Copy of agreement between the Commonwealth of Australia and—
Darabick Pty Ltd, dated 10 April 1989.

Marine Resources Development Pty Ltd, dated 6 April 1989.

Plan of Management—No. 22—South East Trawl Fishery Preliminary Management
Plan (Amendment).

Regulation—Statutory Rules 1989, No. 69.

Fisheries Levy Act—Regulations—Statutory Rules 1989, Nos. 68, 72.

Health Insurance Act—Regulations—Statutory Rules 1989, No. 54.

Health Insurance Commission Act—Regulation—Statutory Rules 1989, No. 55.

Income Tax Assessment Act—Regulations—Statutory Rules 1989, No. 67.

Migration Act—Regulations—Statutory Rules 1989, No. 66.

Proclamations by His Excellency the Governor-General fixing the dates on which
the following Acts and sections of Acts shall come into operation—

Parliament House Construction Authority Act 1979—Amendments made by
the *Administrative Services Legislation Amendment Act 1989*—22 April
1989.

Public Service and Statutory Authorities Amendment Act 1980—Section 40
and subsections 45 (1), (3) and (5)—1 May 1989.

Public Service Act—

Determinations—1989—Nos. 20, 32, 42, 43, 44, 45, 46, 49, 50, 58.

Regulations—Statutory Rules 1989, No. 58.

Seat of Government (Administration) Act—

Ordinance—1989—No. 20—Taxation (Administration) (Amendment).

Regulations—1989—No. 7 (Magistrates Court (Civil Jurisdiction) Ordinance).

Social Security Act—Regulations—Statutory Rules 1989, Nos. 62, 63.***States Grants (Tertiary Education Assistance) Act 1987—Directions—1988—Nos. 16, 17, 18.*****Telecommunications Act—Australian Telecommunications Commission—By-laws—Telecommunications (Charging Zones and Charging Districts)—Amendment No. 88.**

MEMBERS PRESENT: All Members were present (at some time during the sitting) except Mr I. M. D. Cameron, Mr Campbell, Mrs Child, Ms Fatin, Mr Gayler, Mr Keating, Ms McHugh, Mr Miles, Mr Milton and Dr Theophanous.

A. R. BROWNING
Clerk of the House of Representatives