

1993-94

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 71

THURSDAY, 12 MAY 1994

1 The House met, at 9.30 a.m., pursuant to adjournment. The Speaker (the Honourable Stephen Martin) took the Chair, and read Prayers.

2 BROADCASTING OF PARLIAMENTARY PROCEEDINGS—JOINT COMMITTEE—INTERIM REPORT—STATEMENTS BY SPEAKER AND MEMBER

The Speaker (Chairman) presented the following report:

Broadcasting of Parliamentary Proceedings—Joint Committee—Radio and television broadcasting of parliamentary proceedings—Interim report, May 1994—

and made a statement in connection with the report.

Mrs Bishop, by leave, also made a statement in connection with the report.

3 TAXATION LAWS AMENDMENT BILL (NO. 2) 1994

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 Rocher 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 condemns the Government for:

- (1) its desperate pursuit of every last cent of revenue, without regard for the costs that this imposes on industry and on all Australians;
- (2) unnecessarily adding further complexity to a tax system which it already has allowed to become excessively complex; and
- (3) further extending and complicating the fringe benefits tax and capital gains tax regimes, and for including Higher Education Contributions debt in the provisional tax regime”.

Debate continued.

Amendment negatived.

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

Consideration in detail

Clauses 1 to 21, by leave, taken together, and agreed to, after debate.

New Division—

On the motion of Mr Elliott (Parliamentary Secretary to the Treasurer), by leave, the following new Division (comprising clauses 21A to 21C) was inserted in the Bill, after debate:

“Division 2A—Amendments to exclude accruals assessability of certain securities

Object

“21A. The object of this Division is to exclude certain securities issued in a series from the application of the accruals assessability provisions of Division 16E of Part III of the Principal Act.

Interpretation

“21B. Section 159GP of the Principal Act is amended:

- (a) by inserting after paragraph (b) of the definition of ‘qualifying security’ in subsection (1) the following paragraph:
 - ‘(ba) that is not part of an exempt series (see subsection (9A));’;
- (b) by inserting after subsection (9) the following subsections:
 - ‘(9A) For the purposes of paragraph (ba) of the definition of “qualifying security” in subsection (1), if:
 - (a) after 16 December 1984, a person issues a security (the “first in the series”) that is not a qualifying security; and
 - (b) during the period from the end of 16 December 1984 until the issuing of the first in the series, the person did not issue any qualifying security with exactly the same payment dates, payment amounts and other terms as the first in the series; and
 - (c) after issuing the first in the series, the person issues another security (the “later security”) with exactly the same payment dates, payment amounts and other terms as the first in the series;

the later security is “**part of an exempt series**”.

‘(9B) In determining for the purposes of paragraph (9A)(b) or (c) whether a security has exactly the same other terms as another security, the fact that the first-mentioned security has a different issue price than the second-mentioned security is to be disregarded.’.

Application

“21C. The amendments made by this Division apply to securities issued after 16 December 1984.”.

Clause 22 agreed to.

Clause 23—

Mr Elliott moved the following amendment: Page 11 (line 29) to page 19 (line 9), omit proposed Division 19B, substitute the following Division:

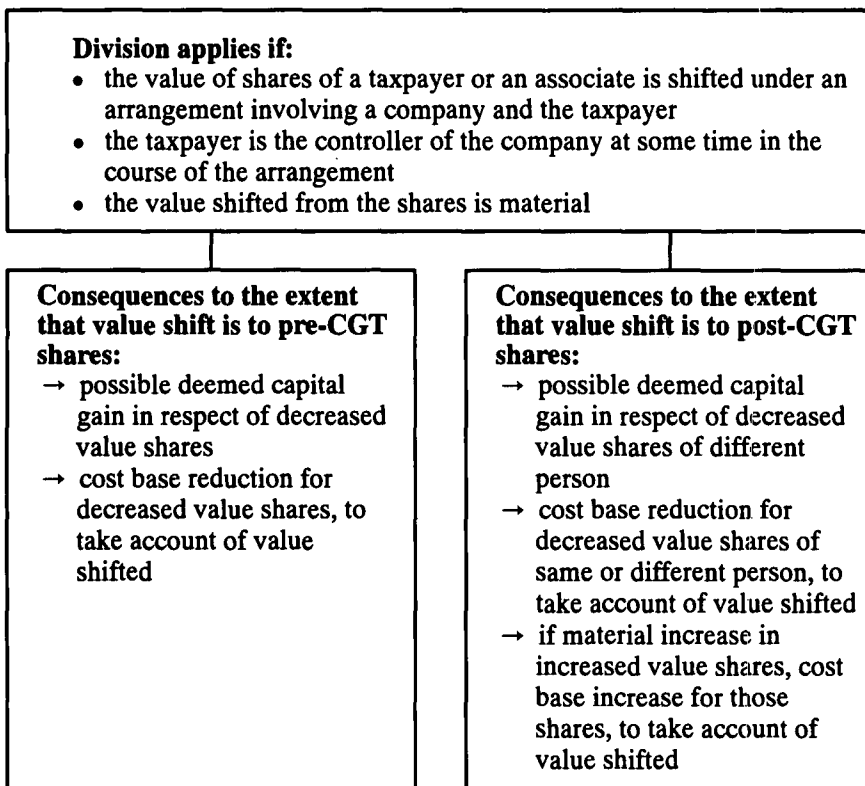
“Division 19B—Share value shifting arrangements

Object

‘160ZZRI. The object of this Division is to remove the capital gains tax advantages of share value shifting arrangements.

Simplified outline

'160ZZRJ. The following diagram is a simplified outline of this Division:



List of definitions

'160ZZRK. The following is a list of expressions defined for the purposes of this Division and their location:

arrangement	subsection 160ZZRM(3)
associate	subsection 160ZZRN(2)
controller	subsection 160ZZRN(1)
decreased value share	paragraph 160ZZRM(1)(b)
different person share	paragraph 160ZZRQ(2)(a)
entity	subsection 160ZZRN(2)
group	subsection 160ZZRN(2)
increase	subparagraph 160ZZRM(1)(c)(ii)
increased value share	paragraph 160ZZRM(1)(c)
material decrease	subsection 160ZZRO(1)
material increase	subsection 160ZZRO(2)
post-CGT share	subsection 160ZZRM(6)
pre-CGT share	subsection 160ZZRM(5)
same person share	paragraph 160ZZRQ(6)(b)
share	subsection 160ZZRM(4)
share value shift	subsection 160ZZRM(1)
total market value increase	subsection 160ZZRO(3).

Requirements for Division to apply

'160ZZRL. In order for the operative provisions of this Division (sections 160ZZRP and 160ZZRQ) to apply, the following requirements must be satisfied:

- (a) first, a share value shift must take place under an arrangement involving a company and a taxpayer (see section 160ZZRM);
- (b) secondly, the taxpayer must be a controller (see subsection 160ZZRN(1)) of the company at some time during the period beginning when the arrangement is entered into and ending when it has been implemented;
- (c) thirdly, there must be a material decrease (see subsection 160ZZRO(1)) in the market value of a share involved in the share value shift.

Share value shift under an arrangement*'Share value shift'*

'160ZZRM.(1) A "share value shift" takes place under an arrangement (see subsection (3)) involving a company and a taxpayer if:

- (a) under the arrangement, the company, the taxpayer or an associate of the taxpayer, either alone or with one or more other persons, does something in relation to a share or shares (including issuing a share or shares) in the company (for example, changing voting rights attached to a share, buying-back shares or issuing new shares at a discount on their market value); and
- (b) at the same time as, or after, the thing is done, one or more shares (each of which is a "decreased value share") in the company (whether or not shares to which paragraph (a) applies) that are post-CGT shares held by the taxpayer or an associate of the taxpayer decrease in market value; and
- (c) at the same time as, or after, the thing is done, either or both of the following happen:
 - (i) one or more existing shares (each of which is an "increased value share") in the company (whether post-CGT shares or pre-CGT shares and whether or not shares to which paragraph (a) applies) held by:
 - (A) in any case—the taxpayer or an associate of the taxpayer; or
 - (B) if any decreased value share was held by an associate of the taxpayer—an associate of that associate;
 increase in market value; or
 - (ii) one or more new shares (each of which is also an "increased value share") in the company are issued to:
 - (A) in any case—the taxpayer or an associate of the taxpayer; or
 - (B) if any decreased value share was held by an associate of the taxpayer—an associate of that associate;
 where the market value of each new share exceeds the consideration (if any) given by the taxpayer or other person for its issue (the excess is referred to in this Division as an "increase" in its market value); and
- (d) it is reasonable to conclude that the decrease and increase were caused by the doing of the thing mentioned in paragraph (a).

Increase or decrease partly due to arrangement

'(2) If it is reasonable to conclude that an increase or decrease in the market value of one or more shares is partly caused by the doing of the thing under the arrangement and partly caused by something else, subsection (1) applies to the

decrease or increase to the extent only that it is reasonable to conclude that the decrease or increase is caused by the doing of the thing under the arrangement.

'Arrangement'

'(3) An "arrangement" is:

- (a) any arrangement, agreement, understanding, promise or undertaking, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings; or
- (b) any scheme, plan, proposal, action, course of action, or course of conduct, whether of one person or more than one person.

'Share'

'(4) The expression "share" includes:

- (a) an interest in a share; or
- (b) a right or option (including a contingent right or option) to acquire a share or an interest in a share.

'Pre-CGT share'

'(5) A share is a "pre-CGT share" if it was acquired by the shareholder before 20 September 1985.

'Post-CGT share'

'(6) A share is a "post-CGT share" if it was acquired by the shareholder on or after 20 September 1985.

Controller of a company etc.

'Controller'

'160ZZRN.(1) A taxpayer is a "controller" of a company if:

- (a) the taxpayer has an associate-inclusive control interest in the company of not less than 50%; or
- (b) both the following subparagraphs apply:
 - (i) the taxpayer has an associate-inclusive control interest in the company of not less than 40%;
 - (ii) the company is not controlled by a group of entities other than a group consisting of or including the taxpayer or any of the taxpayer's associates; or
- (c) the taxpayer controls the company, either alone or together with an associate or associates.

'Associate', 'entity' and 'group'

'(2) The expressions "associate", "entity" and "group" have the same respective meanings as in Part X.

'Associate-inclusive control interest'

'(3) Subject to the modifications in subsection (4), whether a taxpayer has an associate-inclusive control interest of not less than 50%, or not less than 40%, in a company is to be determined by applying Division 3 of Part X.

Modifications of applied provisions

'(4) The modifications are as follows:

- (a) that Division 3 of Part X applies for the purpose of determining the associate-inclusive control interests in a company whether or not in the capacity of trustee;

Note: The expression "company" in Part X does not include a company in the capacity of trustee.

- (b) that the purpose of making the determination is one of the purposes for which subsection 349(4) is to be applied;

- (c) that subsections 350(6) and (7) and 355(1) do not apply;
- (d) that the reference in subsection 352(2) to a CFE is a reference to:
 - (i) a company of which the taxpayer or an associate is a controller; or
 - (ii) a partnership; or
 - (iii) a trust;
- (e) that references in section 354 to a CFP are references to any partnership;
- (f) that references in section 355 to a CFT are references to any trust.

'Material decrease', 'material increase' and 'total market value increase'

'Material decrease'

'160ZZRO.(1) A decrease (the "**current decrease**") in the market value of a share involved in a share value shift is a "**material decrease**" if:

- (a) the sum of the percentage of the current decrease and the percentages of all other decreases (if any) in the market value of the share as a result of share value shifts under the same arrangement (whether before or after the current decrease) is at least 5%; or
- (b) the sum of all decreases in the market value of all shares whose market value is decreased as a result of share value shifts at any time under the same arrangement is at least \$100,000.

'Material increase'

'(2) An increase (the "**current increase**") in the market value of a share involved in a share value shift is a "**material increase**" if:

- (a) the sum of the percentage of the current increase and the percentages of all other increases (if any) in the market value of the share as a result of share value shifts under the same arrangement (whether before or after the current increase) is at least 5%; or
- (b) the sum of all increases in the market value of all shares whose market value is increased as a result of share value shifts at any time under the same arrangement is at least \$100,000.

'Total market value increase'

'(3) The "**total market value increase**" in respect of an arrangement under which one or more share value shifts take place is the sum of:

- (a) all increases in market value of all shares whose market value is increased as a result of the share value shifts; and
- (b) all increases in market value of all other shares whose market value is increased, where it is reasonable to conclude that the doing of the thing mentioned in paragraph 160ZZRM(1)(a) in relation to any of the share value shifts caused the increase.

Consequences of value shift to pre-CGT share

Section sets out consequences

'160ZZRP.(1) If the requirements of section 160ZZRL are satisfied and a particular increased value share is a pre-CGT share, the following are the consequences.

Deemed capital gain

'(2) If:

- (a) in respect of each decreased value share for which there was a material decrease in market value, this Part were applied on the following assumptions:

- (i) that a part of the share had been disposed of by its holder immediately after the decrease in value of the share;
- (ii) that the consideration for the disposal was an amount worked out using the formula:

$$\frac{\text{Increase in market value of particular increased value share}}{\text{Total market value increase}} \times \frac{\text{Decrease in market value of decreased value share}}{\text{share}}$$

- (iii) that the cost base or indexed cost base of the part was the amount worked out by multiplying the amount that would be the cost base or indexed cost base for the whole of the share if it were being disposed of at the time, by the fraction worked out using the formula:

$$\frac{\text{Amount worked out under subparagraph (ii)}}{\text{Market value of the share immediately before the decrease}}$$

; and

- (b) as a result a capital gain would accrue to the holder;

then, for the purposes of this Act, a capital gain of that amount is taken to accrue to the holder for the year of income in respect of the disposal of an asset (even though no asset was actually disposed of).

Adjustment to acquisition consideration etc. for decreased value share

‘(3) Regardless of whether subsection (2) applies, for the purposes of any application of this Part to a later disposal by the holder of any decreased value share for which there was a material decrease in market value:

- (a) all amounts that, under section 160ZH (which deals with cost base, indexed cost base and reduced cost base) are attributable to the share in relation to the period before the decrease in value took place;

are taken to be reduced by:

- (b) the fraction worked out using the formula:

$$\frac{\text{Increase in market value of particular increased value share}}{\text{Total market value increase}} \times \frac{\text{Decrease in market value of decreased value share}}{\text{Market value of decreased value share immediately before the decrease}}$$

Consequences of value shift to post-CGT share

Section sets out consequences

‘160ZZRQ.(1) If the requirements of section 160ZZRL are satisfied and a particular increased value share is a post-CGT share, the following are the consequences.

Deemed capital gain

(2) If:

- (a) in respect of each decreased value share (a “different person share”):
 - (i) held by a person other than the holder of the particular increased value share; and
 - (ii) for which there was a material decrease in market value;

this Part were applied on the following assumptions:

- (iii) that a part of the different person share had been disposed of by its holder immediately after the decrease in value of the share;
- (iv) that the consideration for the disposal was an amount worked out using the formula:

$$\frac{\text{Increase in market value of particular increased value share}}{\text{Total market value increase}} \times \text{Decrease in market value of different person share}$$

- (v) that the cost base or indexed cost base of the part was the amount worked out by multiplying the amount that would be the cost base or indexed cost base for the whole of the share if it were being disposed of at the time, by the fraction worked out using the formula:

$$\frac{\text{Amount worked out under subparagraph (iv)}}{\text{Market value of the share immediately before the decrease}}$$

; and

- (b) as a result a capital gain would accrue to the holder;
- then, for the purposes of this Act, a capital gain of that amount is taken to accrue to the holder for the year of income in respect of the disposal of an asset (even though no asset was actually disposed of).

Adjustment to acquisition consideration etc. for decreased value share

(3) For the purpose of any application of this Part to a later disposal by the holder of any decreased value share for which there was a material decrease in market value:

- (a) all amounts that, under section 160ZH (which deals with cost base, indexed cost base and reduced cost base) are attributable to any such share in relation to the period before the decrease in value took place; are taken to be reduced by:

- (b) the fraction worked out using the formula:

$$\frac{\text{Increase in market value of particular increased value share}}{\text{Total market value increase}} \times \frac{\text{Decrease in market value of decreased value share}}{\text{Market value of decreased value share immediately before the decrease}}$$

Adjustment to cost base expenditure for increased value share

‘(4) If there is a material increase (see subsection 160ZZRO(2)) in the market value of the particular increased value share then, for the purposes of any application of this Part to a later disposal of the particular increased value share by the holder, the holder is taken to have incurred in relation to the share, at the time of the increase in its market value, expenditure to which paragraph 160ZH(1)(c), (2)(c) or (3)(c) applies that is equal to the sum of the amounts qualifying under subsections (5) and (6) of this section.

Deemed expenditure referable to decreased value shares of different persons

‘(5) One amount qualifying for the purposes of subsection (4) is the smaller of the following:

- (a) the amount worked out by multiplying the increase in market value of the particular increased value share, to the extent that the increase is reflected in its market value at the time of the later disposal, by the following fraction:

$$\frac{\text{Sum of decreases in market value of all different person shares}}{\text{Sum of decreases in market value of all decreased value shares}}$$

- (b) the sum of the amounts worked out for each different person share using the following formula:

$$\frac{\text{Increase in market value of particular increased value share}}{\text{Total market value increase}} \times \text{Decrease in market value of different person share}$$

Deemed expenditure referable to decreased value shares of same person

‘(6) The other amount qualifying for the purposes of subsection (4) is the smallest of the following:

- (a) the amount worked out by multiplying the increase in market value of the particular increased value share, to the extent that the increase is reflected in its market value at the time of the later disposal, by the following fraction:

$$1 - \text{fraction in paragraph (5)(a)}$$

- (b) the sum of the amounts worked out for each share (a “same person share”):
 - (i) held by the person who holds the particular increased value share; and
 - (ii) for which there was a material decrease in market value;

using the following formula:

$$\frac{\text{Increase in market value of particular increased value share}}{\text{Total market value increase}} \times \text{Decrease in market value of same person share}$$

- (c) the sum of the amounts of reductions that would result from the application of subsection (3) if that subsection applied only to same person shares.’”.

Paper: Mr Elliott presented a supplementary explanatory memorandum to the Bill.

Debate ensued.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 24—

On the motion of Mr Elliott, the following amendment was made: Page 19, lines 17 to 29, omit proposed subparagraph 160ZZU(1)(b)(ii), substitute the following subparagraph:

- “(ii) if the asset is a share whose market value has suffered a material decrease under an arrangement where the requirements of section 160ZZRL (which deals with share value shifting arrangements) are satisfied:
- (A) the essential features of the arrangement; and
 - (B) the dates of the decreases in market value of all shares involved in share value shifts under the arrangement; and
 - (C) the amounts of the decreases in market value of all shares involved in share value shifts under the arrangement; and
 - (D) the amounts of the increases in market value of all shares involved in share value shifts under the arrangement and of any other shares covered by paragraph 160ZZRO(3)(b); and
 - (E) any amount that would, if the share were disposed of at the time of the decrease in market value, form part of the cost base to the person in respect of the asset; and”.

Clause, as amended, agreed to.

Clauses 25 to 54, by leave, taken together, and agreed to.

Clause 55—

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

Page 27, paragraph (a), line 4, omit “(11)”, substitute “(12)”.

Page 27, paragraph (b), line 36, proposed subsection 160ZP(14), omit “(11)”, substitute “(12)”.

Clause, as amended, agreed to.

Clauses 56 to 60, by leave, taken together, and agreed to.

Clause 61—

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

Page 29, line 11, proposed paragraph 159GZZZMA(1)(c), omit “159GZZZP(1A)”, substitute “159GZZZP(3)”.

Page 29, omit proposed subsection 159GZZZMA(2), substitute the following subsection:

“(2) For the purposes of paragraph (1)(b), so much of the purchase price of the RDA share as does not exceed the lesser of the dividend amount and the amount worked out using the following formula is taken to be paid out of the premiums:

$$\text{Purchase price} \times \frac{\text{Total of all premiums on shares issued under the arrangement} - \text{Total of purchase prices paid out of those premiums through a share premium account}}{\text{Total of purchase prices for all purchases of shares under the arrangement}}$$

where:

“**Total of purchase prices paid out of those premiums through a share premium account**” means

(a) if:

- (i) any amount (the “**credited amount**”) of the premiums on shares issued under the arrangement was credited to a share premium account of the company; and
- (ii) any amount (the “**share premium amount**”) of the purchase price of shares under the arrangement was debited against amounts standing to the credit of that account;

so much of the share premium amount as could reasonably be attributed to the credited amount; or

(b) in any other case—nil.”.

Page 30, line 17, proposed paragraph 159GZZZMA(4)(d), before “so much” insert “an amount (the ‘**dividend amount**’) being”.

Page 30, line 20, proposed subsection 159GZZZMA(5), after “exceed” insert “the lesser of the dividend amount and”.

Page 30, lines 27 and 28, proposed subsection 159GZZZMA(6), omit “purchase price any part of it”, substitute “dividend amount any part of the purchase price”.

Clause, as amended, agreed to.

Clauses 62 to 64, by leave, taken together, and agreed to.

Clause 65—

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

Page 32, paragraph (a), line 18, omit “(1A)”, substitute “(1B)”.

Page 32, paragraph (b), line 19, omit “(1)”, substitute “(1A)”.

Page 32, paragraph (b), line 20, omit “(1A)”, substitute “(1B)”.

Page 32, paragraph (c), line 24, omit “(3A)”, substitute “(3B)”.

Page 32, paragraph (d), line 25, omit “(3)”, substitute “(3A)”.

Page 32, paragraph (d), line 26, omit “(3A)”, substitute “(3B)”.

Page 32, paragraph (e), line 40, proposed paragraph 160ZK(5)(c), omit “the distribution”, substitute “an amount (the ‘**dividend amount**’) being so much of the distribution as is a dividend”.

Page 33, paragraph (e), proposed subsection 160ZK(6), omit “**Amount of distribution**”, substitute “**Dividend amount**”.

Clause, as amended, agreed to.

Clause 66 agreed to.

Clause 67—

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

Page 34, line 11, proposed paragraph 160ZLA(1)(c), omit “the distribution or payment”, substitute “an amount (the ‘**dividend amount**’) being so much of the distribution or payment as is a dividend”.

Page 34, proposed subsection 160ZLA(3), omit “**Amount of distribution or payment**”, substitute “**Dividend amount**”.

Page 35, lines 22 and 23, proposed paragraph 160ZLA(4)(d), omit “the distribution or payment”, substitute “an amount (the ‘**dividend amount**’) being so much of the distribution or payment as is a dividend”.

Page 36, proposed subsection 160ZLA(7), omit “**Amount of distribution or payment**”, substitute “**Dividend amount**”.

Clause, as amended, agreed to.

Clauses 68 to 88, by leave, taken together, and agreed to.

Clause 89—

On the motion of Mr Elliott, the following amendment was made: Page 48, line 12, omit “subsection (1)”, substitute “subsection (2)”.

Clause, as amended, agreed to.

Clauses 90 to 93, by leave, taken together and debated.

Question—That the clauses be agreed to—put.

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

AYES, 73

Mr Adams	Mr Elliott	Mrs Kelly	Mr Quick
Mr Baldwin	Mr M. J. Evans	Mr Kerr	Mr Sawford*
Mr Beazley	Ms Fatin	Mr Knott	Mr Sciacca
Mr Beddall	Mr Ferguson	Mr Langmore	Mr L. J. Scott
Mr Bevis	Mr Fitzgibbon	Mr Latham	Mr Simmons
Mr Bilney	Mr Free	Mr Lavarch	Mrs S. J. Smith
Mr Breton	Mr Gear	Mr Lee	Mr S. F. Smith
Mr Brown	Mr Gibson	Mr Lindsay	Mr Snow
Mr Campbell	Mr Gorman	Ms McHugh	Mr Snowdon
Mr Chynoweth	Mr Grace*	Mr Mack	Mr Staples
Mr Cleeland	Mr Griffin	Mr McLeay	Mr Swan
Ms Crawford	Mr Griffiths	Mr Melham	Mr Tanner
Mr Crean	Mr Haviland	Mr A. A. Morris	Dr Theophanous
Mrs Crosio	Ms Henzell	Mr P. F. Morris	Mr Tickner
Mr Cunningham	Mr Hollis	Mr Newell	Mr Walker
Ms Deahm	Mr Horne	Mr O'Connor	Mr Woods
Mr Dodd	Mr Humphreys	Mr O'Keefe	
Mr Duffy	Mr Jenkins	Mr Price	
Mrs Easson	Mr Jones	Mr Punch	

NOES, 60

Mr Abbott	Mr Costello	Mr McArthur	Mr Ruddock
Mr Aldred	Mr Downer	Mr McGauran	Mr B. C. Scott
Mr Anderson	Mr R. D. C. Evans	Mr McLachlan	Mr Sharp
Mr J. N. Andrew	Mr Filing*	Mr Miles	Mr Sinclair
Mr K. J. Andrews	Mr Forrest	Mr Moore	Mr Slipper
Mr Atkinson	Mrs Gallus	Mrs Moylan	Mr Somlyay
Mr Beale	Mr Hall	Mr Nehl	Mrs Sullivan
Mrs Bishop	Mr Hawker	Mr Neville	Mr Taylor
Mr Bradford	Mr Hicks*	Mr Nugent	Mr Truss
Mr Braithwaite	Mr Howard	Mr Peacock	Mr Tuckey
Mr Cadman	Mr Jull	Mr Prosser	Mr Vaile
Mr Cameron	Mr Katter	Mr Pyne	Mr Wakelin
Mr Charles	Dr Kemp	Mr Reith	Mr Williams
Mr Cobb	Mr Lieberman	Mr Rocher	Dr Wooldridge
Mr Connolly	Mr Lloyd	Mr Ronaldson	Ms Worth

* Tellers

And so it was resolved in the affirmative.

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

Bill, as amended, agreed to.

Consideration in detail concluded.

On the motion of Mr Elliott, by leave, the Bill was read a third time.

4 AGRICULTURAL AND VETERINARY CHEMICAL PRODUCTS (COLLECTION OF INTERIM LEVY) BILL 1994

The order of the day having been read for the second reading—Mr Beddall (Minister for Resources) moved—That the Bill be now read a second time.

Mr Beddall, by leave, declared that the Agricultural and Veterinary Chemical Products (Collection of Interim Levy) Bill 1994, Agricultural and Veterinary Chemical Products Interim Levy Imposition (Excise) Bill 1994, Agricultural and Veterinary Chemical Products Interim Levy Imposition (Customs) Bill 1994, Agricultural and Veterinary Chemical Products Interim Levy Imposition

(General) Bill 1994, Agricultural and Veterinary Chemical Products (Collection of Levy) Amendment Bill 1994 and Agricultural and Veterinary Chemicals (Administration) Amendment Bill 1994 were cognate Bills.

Debate ensued.

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

Leave granted for third reading to be moved forthwith.

On the motion of Mr Elliott (Parliamentary Secretary to the Treasurer), the Bill was read a third time.

5 POSTPONEMENT OF ORDERS OF THE DAY

Ordered—That orders of the day Nos. 3 to 8, government business, be postponed until a later hour this day.

6 MOOMBA-SYDNEY PIPELINE SYSTEM SALE BILL 1994

The order of the day having been read for the second reading—Mr Beazley (Minister for Finance) moved—That the Bill be now read a second time.

Paper: Mr Beazley presented a supplementary explanatory memorandum to the Bill.

Mr Connolly moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words:

- “(1) this House condemns the Government for 5 years of bungling in relation to the sale of the Moomba-Sydney Pipeline and, for requiring the hasty passage of this legislation without observing due process by having finalised negotiations with parties and prospective parties involved in the production, haulage and distribution of gas;
- (2) if at the conclusion of negotiations with interested parties by 20 May 1994, the date chosen by the Government, there remain important unresolved issues of relevance to the Bill, the Opposition reserves the right to refer the legislation to a Senate Committee; and
- (3) in the event that the Council of Australian Governments negotiates an agreement for the establishment of a set of national pipeline regulations, the Act be reviewed by the Minister for Resources to ensure that it conforms with such regulations”.

Debate continued.

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

The House divided (the Speaker, Mr Martin, in the Chair)—

AYES, 73

Mr Adams	Mr Elliott	Mr Jones	Mr Quick
Mr Baldwin	Mr M. J. Evans	Mrs Kelly	Mr Sawford*
Mr Beazley	Ms Fatin	Mr Kerr	Mr Sciacca
Mr Beddall	Mr Ferguson	Mr Knott	Mr L. J. Scott
Mr Bevis	Mr Fitzgibbon	Mr Langmore	Mr Simmons
Mr Bilney	Mr Free	Mr Latham	Mrs S. J. Smith
Mr Brereton	Mr Gear	Mr Lavarch	Mr S. F. Smith
Mr Brown	Mr Gibson	Mr Lee	Mr Snow
Mr Campbell	Mr Gorman	Mr Lindsay	Mr Snowdon
Mr Chynoweth	Mr Grace*	Ms McHugh	Mr Staples
Mr Cleeland	Mr Griffin	Mr McLeay	Mr Swan
Ms Crawford	Mr Griffiths	Mr Melham	Mr Tanner
Mr Crean	Mr Haviland	Mr A. A. Morris	Dr Theophanous
Mrs Crosio	Ms Henzell	Mr P. F. Morris	Mr Tickner
Mr Cunningham	Mr Hollis	Mr Newell	Mr Walker
Ms Deahm	Mr Horne	Mr O'Connor	Mr Woods
Mr Dodd	Mr Howe	Mr O'Keefe	
Mr Duffy	Mr Humphreys	Mr Price	
Mr Easson	Mr Jenkins	Mr Punch	

NOES, 61

Mr Abbott	Mr Downer	Mr Mack	Mr Sharp
Mr Aldred	Mr R. D. C. Evans	Mr McLachlan	Mr Sinclair
Mr Anderson	Mr Filing*	Mr Miles	Mr Slipper
Mr J. N. Andrew	Mr Fischer	Mr Moore	Mr Somlyay
Mr K. J. Andrews	Mr Forrest	Mrs Moylan	Mrs Sullivan
Mr Atkinson	Mrs Gallus	Mr Nehl	Mr Taylor
Mrs Bishop	Mr Hall	Mr Neville	Mr Truss
Mr Bradford	Mr Hawker	Mr Nugent	Mr Tuckey
Mr Braithwaite	Mr Hicks*	Mr Peacock	Mr Vaile
Mr Cadman	Mr Howard	Mr Prosser	Mr Wakelin
Mr Cameron	Mr Jull	Mr Pyne	Mr Williams
Mr Charles	Mr Katter	Mr Reid	Dr Wooldridge
Mr Cobb	Mr Lieberman	Mr Rocher	Ms Worth
Mr Connolly	Mr Lloyd	Mr Ronaldson	
Mr Costello	Mr McArthur	Mr Ruddock	
Mr Dobie	Mr McGauran	Mr B. C. Scott	

* Tellers

And so it was resolved in the affirmative.

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

It being past 3 p.m., the proceedings were interrupted in accordance with standing order 101A, and the further consideration of the Bill made an order of the day for a later hour this day.

7 MR ALLAN BORDER—RETIREMENT FROM TEST CRICKET

Mr Keating (Prime Minister), by leave, moved—That this House:

- (1) congratulates Allan Robert Border, AO, a former Australian of the Year, on representing his country with unparalleled success in his chosen field;
- (2) recognises the courageous and tenacious leadership he has shown as captain of the Australian Test cricket team; and
- (3) extends its best wishes to Allan and Jane Border and their family for a long and happy future.

Debate ensued.

Question—put and passed.

8 QUESTIONS

Questions without notice being asked—

Papers: Mr Tickner (Minister for Aboriginal and Torres Strait Islander Affairs) presented the following papers:

Aboriginal Deaths in Custody—Royal Commission—Implementation reports of—

Queensland Government—Progress report, December 1993—

Volume 1—Summary.

Volume 2—Policies and programs.

Volume 3—Implementation of the recommendations.

Western Australian Government, December 1993.

Questions without notice continued.

9 AUDITOR-GENERAL'S REPORTS—PUBLICATION OF PAPERS

The Speaker presented the following papers:

Audit Act—Auditor-General—Audit reports of 1993-94—

No. 34—Efficiency audit—Department of Employment, Education and Training: Implementation of a new program—Landcare and Environment Action Program (LEAP).

No. 35—Efficiency audit—The compliance function: Department of Immigration and Ethnic Affairs.

Mr Beazley (Leader of the House), by leave, moved—That:

- (1) this House authorises the publication of the Auditor-General's audit reports Nos. 34 and 35 of 1993-94; and
- (2) the reports be printed.

Question—put and passed.

10 PAPERS

The following papers were presented:

Australia-China Council—Report for 1992-93.

East Asia Analytical Unit—Department of Foreign Affairs and Trade—Report—ASEAN Free Trade Area: Trading bloc or building block?

Science and technology budget statement 1994-95.

11 SCIENCE AND TECHNOLOGY BUDGET STATEMENT—PAPER—MOTION TO TAKE NOTE OF PAPER

Mr Beazley (Leader of the House) moved—That the House take note of the following paper:

Science and technology budget statement 1994-95.

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

12 HOUSE COMMITTEE

Mr Beazley (Leader of the House), by leave, moved—That Mr Beale be appointed a member of the House Committee.

Question—put and passed.

13 PRIVILEGE—NEWSPAPER REPORTS ON PROCEEDINGS OF THE STANDING COMMITTEE ON ENVIRONMENT, RECREATION AND THE ARTS—REFERENCE TO COMMITTEE OF PRIVILEGES

Mr Langmore (Chairman—Standing Committee on Environment, Recreation and the Arts) made a statement in connection with the matter of privilege he had raised on 24 February 1994 (the unauthorised disclosure of details of a draft report which the committee had considered amounted to substantial interference with its work). He informed the House that, in accordance with the Speaker's determination, steps had been taken by the committee to seek to identify the source of the unauthorised disclosure of its draft report. Mr Langmore stated that the committee had been unable to identify the source of the disclosure.

Mr Langmore produced copies of newspaper articles from the *Canberra Times* (2), the *Australian Financial Review* and the *Australian* (2) of 24 February 1994.

The Speaker stated that as the committee had now reported that there was substantial interference with its work, he would allow precedence to a motion in respect of the matter.

Mr Langmore then moved—That the matter of articles in the *Canberra Times*, the *Australian Financial Review* and the *Australian*, on 24 February 1994, which appeared to reveal a knowledge of the contents of a draft report and/or deliberations of the Standing Committee on Environment, Recreation and the Arts be referred to the Committee of Privileges.

Question—put and passed.

14 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—TAX INCREASES

The House was informed that Mr Anderson (Deputy Leader of the National Party of Australia) had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The adverse impact of the Budget's hidden tax increases on economic and social recovery".

The proposed discussion having received the necessary support—

Mr Anderson addressed the House.

Discussion ensued.

Discussion concluded.

15 MESSAGE FROM THE SENATE

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

11 May 1994—Message No. 267—Commonwealth Reciprocal Recovery Legislation Amendment 1994.

16 PUBLICATIONS COMMITTEE—11TH REPORT

Mr Griffin presented the following report:

PUBLICATIONS COMMITTEE 11TH REPORT

The Publications Committee reports that it has met in conference with the Publications Committee of the Senate.

The Committee, having considered petitions and documents presented to the Parliament since 22 March 1994, recommends that the following be printed:

Australian Science and Technology Council Act—Australian Science and Technology Council—On Target?: Review of the operation of external earnings targets for CSIRO, ANSTO and AIMS—

Report, February 1994.

Summary report, February 1994.

Automotive Industry Authority Act—Automotive Industry Authority—Report on the state of the automotive industry for 1993.

Fisheries Act—Northern Territory Fisheries Joint Authority—Reports for—
1991.

1992.

Industry Commission Act—Industry Commission—Reports—

No. 35—Impediments to regional industry adjustment, 17 December 1993—

Volume I—Report.

Volume II—Appendices.

No. 36—Workers' compensation in Australia, 4 February 1994.

War criminals in Australia—Report of investigations by the Special Investigations Unit, Attorney-General's Department, 13 September 1993.

ALAN GRIFFIN
for Chairman

12 May 1994

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

Question—put and passed.

17 POSTPONEMENT OF ORDER OF THE DAY

Ordered—That order of the day No. 10, government business, be postponed until a later hour this day.

18 MAIN COMMITTEE—AMENDMENT TO STANDING ORDER

Mr Beazley (Leader of the House), pursuant to notice, moved—That standing order 270 be amended by omitting paragraph (b) and substituting the following paragraph:

“(b) orders of the day for the resumption of debate on:

(i) motions moved in connection with committee and delegation reports;
and

(ii) motions to take note of papers, may be referred for debate.”.

Debate ensued.

Question—put and passed.

19 CHIEF GOVERNMENT WHIP

Mr Beazley (Leader of the House), pursuant to notice, moved—That:

(1) the Chief Government Whip, not being a Minister or a Parliamentary Secretary, be empowered to move motions without the requirement for a seconder relating to:

- (a) the conduct of the business of the House or the Main Committee (but not including the actual presentation or moving of the second reading or later stages of a government bill); and
- (b) the sitting arrangements of the House or the Main Committee; and
- (2) the terms of this resolution:
 - (a) so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders; and
 - (b) continue in force unless and until amended or rescinded by the House in this or a subsequent Parliament.

Debate ensued.

Question—put.

The House divided (the Speaker, Mr Martin, in the Chair)—

AYES, 72

Mr Adams	Mr Elliott	Mr Humphreys	Mr O'Connor
Mr Baldwin	Mr M. J. Evans	Mr Jenkins	Mr O'Keefe
Mr Beazley	Ms Fatin	Mr Jones	Mr Price
Mr Beddall	Mr Ferguson	Mrs Kelly	Mr Quick
Mr Bevis	Mr Fitzgibbon	Mr Kerr	Mr Sawford*
Mr Bilney	Mr Free	Mr Knott	Mr Sciacca
Mr Breerton	Mr Gear	Mr Langmore	Mr L. J. Scott
Mr Brown	Mr Gibson	Mr Latham	Mr Simmons
Mr Campbell	Mr Gorman	Mr Lavarch	Mrs S. J. Smith
Mr Chynoweth	Mr Grace*	Dr Lawrence	Mr S. F. Smith
Mr Cleeland	Mr Griffin	Mr Lee	Mr Snow
Mr Crean	Mr Griffiths	Mr Lindsay	Mr Snowdon
Mrs Crosio	Mr Haviland	Ms McHugh	Mr Staples
Mr Cunningham	Ms Henzell	Mr McLeay	Mr Tanner
Mrs Deahm	Mr Holding	Mr Melham	Dr Theophanous
Mr Dodd	Mr Hollis	Mr A. A. Morris	Mr Tickner
Mr Duffy	Mr Horne	Mr P. F. Morris	Mr Walker
Mrs Easson	Mr Howe	Mr Newell	Mr Woods

NOES, 62

Mr Abbott	Mr Downer	Mr McGauran	Mr B. C. Scott
Mr Aldred	Mr R. D. C. Evans	Mr Mack	Mr Sharp
Mr Anderson	Mr Filing*	Mr McLachlan	Mr Sinclair
Mr J. N. Andrew	Mr Fischer	Mr Miles	Mr Slipper
Mr K. J. Andrews	Mr Forrest	Mr Moore	Mr Somlyay
Mr Atkinson	Mrs Gallus	Mrs Moylan	Mrs Sullivan
Mr Beale	Mr Hall	Mr Nehl	Mr Taylor
Mrs Bishop	Mr Hawker	Mr Neville	Mr Truss
Mr Bradford	Mr Hicks*	Mr Nugent	Mr Tuckey
Mr Cadman	Mr Howard	Mr Peacock	Mr Vaile
Mr Cameron	Mr Jull	Mr Prosser	Mr Wakelin
Mr Charles	Mr Katter	Mr Pyne	Mr Williams
Mr Cobb	Dr Kemp	Mr Reid	Dr Wooldridge
Mr Connolly	Mr Lieberman	Mr Rocher	Ms Worth
Mr Costello	Mr Lloyd	Mr Ronaldson	
Mr Dobie	Mr McArthur	Mr Ruddock	

* Tellers

And so it was resolved in the affirmative.

20 POSTPONEMENT OF NOTICE

Ordered—That notice No. 3, government business, be postponed until the next sitting.

21 AUSTRALIAN CAPITAL TERRITORY GOVERNMENT SERVICE
(CONSEQUENTIAL PROVISIONS) BILL 1994

Mr Walker (Minister for Administrative Services), for Mr Johns (Special Minister of State), pursuant to notice, presented a Bill for an Act to make provision consequential on the establishment of the Australian Capital Territory Government Service, and for related purposes.

Bill read a first time.

Paper: Mr Walker presented an explanatory memorandum to the Bill.

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

22 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE
OF WORK—CONSTRUCTION OF 12 STAFF APARTMENTS, AND RECREATION
FACILITIES, AUSTRALIAN EMBASSY COMPLEX, HANOI, SOCIALIST
REPUBLIC OF VIETNAM

Mr Walker (Minister for Administrative Services), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Construction of 12 staff apartments, and recreation facilities, in the new Australian Embassy complex in Hanoi, Socialist Republic of Vietnam.

Mr Walker presented plans in connection with the proposed work.

Debate ensued.

Question—put and passed.

23 MOOMBA-SYDNEY PIPELINE SYSTEM SALE BILL 1994

The order of the day having been read for the consideration of the remaining stages of the Bill—

Consideration in detail

Clauses 1 to 26, by leave, taken together.

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

Clause 3, pages 2-4, subclause (1), insert the following definitions:

“ ‘award’ has the same meaning as in the *Industrial Relations Act 1988*;

‘post-sale transferee’ means a staff member of the Authority who becomes employed by Newco under subsection 54(2) or 57(2);

‘staff transfer agreement’ means the agreement made between:

- (a) AGL on its own behalf and on behalf of other prospective buyers of shares in Newco; and
- (b) the unions who represent the staff of the Authority; and
- (c) the Authority;

before the sale day in relation to the transfer of staff to Newco;”.

Clause 5, page 4, at the end of the clause add the following subclause:

“(2) This Act does not make the Crown liable to be prosecuted for an offence.”.

Clause 8, page 5, line 18, paragraph (2)(b), omit “, determination or agreement”.

Clause 9—

Page 5, line 23, subclause (1), omit “, award, determination or agreement”, substitute “or award”.

Page 5, lines 29-34, subclause (3), omit the subclause, substitute the following subclause:

“(3) The transferring staff member is to be regarded, on the sale day, as having:

- (a) accrued an entitlement to Long Service Leave Act benefits, recreation leave benefits and sickness leave benefits; and
- (b) an entitlement to recognition by Newco of years of service in connection with that employment;

that is equivalent to the entitlement that the person had as an officer or employee of the Authority, immediately before the sale day.”.

Clause 16, page 7, lines 25-29, subclause (3), omit the subclause, substitute the following subclause:

“(3) On and after the sale day, the dual destination instrument has effect as if the easement were an easement in favour of Newco and the Commonwealth jointly that allows Newco and the Commonwealth jointly, Newco or the Commonwealth at any time to:

- (a) construct, maintain or operate pipelines or parts of pipelines that are owned by Newco, the Commonwealth or any other person; and
- (b) licence or otherwise permit any other person to construct, maintain or operate pipelines or parts of pipelines that are owned by any person;

that are to be used, or are used, for the carriage of petroleum, in trade or commerce, between a point in a State and a point in another State or Territory.”.

Clause 18, page 8, lines 18-23, subclause (2), omit the subclause, substitute the following subclause:

“(2) On and after the sale day, an instrument referred to in subsection (1) has effect as if the easement were an easement in favour of the Commonwealth at any time to:

- (a) construct, maintain and operate pipelines or parts of pipelines that are owned by the Commonwealth; or
- (b) licence or otherwise permit any other person to construct, maintain or operate pipelines or parts of pipelines that are owned by that other person or any other person;

that are to be used, or are used, for the carriage of petroleum, in trade or commerce, between a point in a State and a point in another State or Territory.”.

Clauses, as amended, agreed to, after debate.

New clause—

On the motion of Mr Beazley, the following new clause was inserted in the Bill:

Ending of certain rights that restrict the transfer of the Moomba-Sydney pipeline system

“26A.(1) All veto rights are terminated on the sale day by force of this section.

“(2) In this section:

‘**Authority agreement**’ means an agreement:

- (a) to which the Authority is a party; and
- (b) was in operation immediately before the sale day;

‘**Moomba-Sydney pipeline**’ means any pipeline transferred to Newco under section 12;

‘**veto rights**’ means any rights that a person (‘**the contractor**’) has under an Authority agreement that, apart from this section, would have the effect of preventing the transfer of the ownership or control of a Moomba-Sydney pipeline from the Authority or any other person who owns or controls such a pipeline to another person without the consent of the contractor.”.

Clauses 27 to 43, by leave, taken together.

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

Clause 30—

Page 12, lines 4 and 5, paragraph (1)(b), omit the paragraph, substitute the following paragraph:

“(b) this Part would not be valid, apart from this section, because a particular person has not been compensated;”.

Page 12, lines 15 and 16, subclause (3), omit “and ‘**just terms**’ have the same respective meanings”, substitute “has the same meaning”.

Clause 31, page 12, lines 29-39, subclauses (2) and (3), omit the subclauses, substitute the following subclauses:

“(2) Subject to subsection (3), the staff member is, for all purposes, taken to have resigned from the staff member’s appointment or engagement under the *Pipeline Authority Act 1973*. The resignation takes effect at the time determined in writing in relation to the staff member by an authorised person for the purposes of this section.

“(3) Subsection (2) does not apply to a staff member of the Authority who notifies the Chief Executive Officer of the Authority in writing that the staff member:

- (a) is not consenting under subsection 7(2); or
- (b) is revoking his or her consent under subsection 7(3);

because he or she believes that the terms and conditions of employment, taken as a whole, that would apply to the staff member on and after the sale day are not equivalent to the terms and conditions of employment, taken as a whole, applying to the staff member immediately before the sale day.

“(4) If:

(a) a staff member:

- (i) has not consented under subsection 7(2); or
- (ii) has revoked his or her consent under subsection 7(3); and

(b) the terms and conditions of employment, taken as a whole, that would apply to the staff member on and after the sale day are not equivalent to the terms and conditions of employment, taken as a whole, applying to the staff member immediately before the sale day;

Newco may, after the sale day but before 15 October 1994, make a second offer of employment with Newco under subsection 54(1).

“(5) If:

(a) a staff member:

(i) has not consented under subsection 7(2); or

(ii) has revoked his or her consent under subsection 7(3); and

(b) the terms and conditions of employment, taken as a whole, that would apply to the staff member on and after the sale day are equivalent to the terms and conditions of employment, taken as a whole, applying to the staff member immediately before the sale day;

Newco must make a second offer of employment with Newco under subsection 54(1) that is the same terms and conditions as the offer under subsection 7(1).

“(6) For the purposes of subsections (4) and (5), the question of whether terms and conditions of employment, taken as a whole, are equivalent, is to be determined in accordance with the staff transfer agreement.

“(7) If an authorised person makes a determination under subsection (2), the authorised person must give the staff member a copy of the determination as soon as practicable after it is made.”

Clause 37, page 16, line 33, insert “in relation to service on and after the sale day” after “rights”.

Clauses, as amended, agreed to.

New clause—

On the motion of Mr Beazley, the following new clause was inserted in the Bill:

Contribution day for the purposes of the *Superannuation Act 1976*

“43A. If the sale day is 30 June 1994, then, for the purposes of the *Superannuation Act 1976*, 29 June 1994 is taken to be a contribution day in relation to a transferring staff member for the purposes of that Act.”

Clauses 44 to 48, by leave, taken together, and agreed to.

New clause—

On the motion of Mr Beazley, the following new clause was inserted in the Bill:

Commonwealth payment to Newco

“48A.(1) The Minister for Finance may, on the Commonwealth’s behalf, make payments to Newco in accordance with the asset purchase agreement.

“(2) The Consolidated Revenue Fund is appropriated for payments under subsection (1).

“(3) The total amount of any payments under subsection (1) must not exceed \$6,500,000.”

Clauses 49 to 52, by leave, taken together, and agreed to.

New Parts—

On the motion of Mr Beazley, by leave, the following new Parts (comprising clauses 53 to 170) were added to the Bill, after debate:

“PART 5—POST-SALE DAY STAFF PROVISIONS

Transfer time

“53.(1) The ‘transfer time’ for a staff member of the Authority for the purposes of this Part is the time the Commonwealth and Newco agree to in writing for the purposes of this section.

“(2) If the Commonwealth and Newco agree, the transfer time may be revoked or varied.

Staff members who receive a Newco employment offer after sale day

“54.(1) This section applies to each staff member of the Authority who receives a post-sale Newco employment offer. For this purpose, ‘**post-sale Newco employment offer**’ means an initial offer of employment with Newco beginning at the transfer time that is made by Newco after the sale day but before 15 October 1994.

“(2) The staff member may consent to being employed by Newco by notice in writing given to the Chief Executive Officer of the Authority within 2 weeks after the staff member receives the offer of employment.

“(3) The staff member may revoke his or her consent at any time before the staff member’s transfer time by notice in writing given to the Chief Executive Officer of the Authority.

Certain staff members of the Authority who received a Newco employment offer under section 54 taken to have resigned

“55.(1) This section applies to a staff member of the Authority:

- (a) who was eligible to consent under subsection 54(2) but has not done so; or
- (b) who consented under subsection 54(2) but revoked that consent under subsection 54(3).

“(2) Subject to subsection (3), the staff member is, for all purposes, taken to have resigned from the staff member’s appointment or engagement under the *Pipeline Authority Act 1973*. The resignation takes effect at the time determined in writing in relation to the staff member by an authorised person for the purposes of this section.

Note: A person does not come within paragraph 87N(2)(c) of the *Public Service Act 1922* if the person’s employment with a public authority is terminated because of the person’s resignation.

“(3) Subsection (2) does not apply to a staff member of the Authority who notifies the Chief Executive Officer of the Authority in writing that the staff member:

- (a) is not consenting under subsection 54(2); or
- (b) is revoking his or her consent under subsection 54(3);

because he or she believes that the terms and conditions of employment, taken as a whole, that would apply to the staff member on and after his or her transfer time are not equivalent to the terms and conditions of employment, taken as a whole, applying to the staff member immediately before his or her transfer time.

“(4) If:

- (a) a staff member:
 - (i) has not consented under subsection 54(2); or
 - (ii) has revoked his or her consent under subsection 54(3); and
- (b) the terms and conditions of employment, taken as a whole, that would apply to the staff member on and after his or her transfer time are not equivalent to the terms and conditions of employment, taken as a whole, applying to the staff member immediately before his or her transfer time;

Newco may make a second offer of employment with Newco under subsection 54(1).

“(5) If:

(a) a staff member:

(i) has not consented under subsection 54(2); or

(ii) has revoked his or her consent under subsection 54(3); and

(b) the terms and conditions of employment, taken as a whole, that would apply to the staff member on and after the sale day are equivalent to the terms and conditions of employment, taken as a whole, applying to the staff member immediately before the sale day;

Newco must make a second offer of employment with Newco under subsection 56(1) that is the same terms and conditions as the offer under subsection 54(1).

“(6) For the purposes of subsections (4) and (5), the question of whether terms and conditions of employment, taken as a whole, are equivalent, is to be determined in accordance with the staff transfer agreement.

“(7) If an authorised person makes a determination under subsection (2), the authorised person must give the staff member a copy of the determination as soon as practicable after it is made.

Staff members who receive a second Newco employment offer may consent to being employed by Newco after the sale day

“56.(1) This section applies to each staff member of the Authority covered by section 31 or 55 who receives a second Newco employment offer. For this purpose, ‘second Newco employment offer’ means an offer of employment with Newco beginning at the transfer time that is made after the sale day but at least 8 days before 31 December 1994.

“(2) The staff member may consent to being employed by Newco by notice in writing given to the Chief Executive Officer of the Authority within a week after the staff member receives the second offer of employment.

“(3) The staff member may revoke his or her consent at any time before his or her transfer time by notice in writing given to the Chief Executive Officer of the Authority.

Certain staff members of the Authority to become employees of Newco

“57.(1) This section applies to each staff member of the Authority who:

(a) has consented to being employed by Newco under section 54 or 56; and

(b) has not revoked his or her consent before his or her transfer time; and

(c) was a staff member of the Authority immediately before his or her transfer time.

“(2) At the staff member’s transfer time, the staff member:

(a) ceases, by force of this section, to be an officer or employee of the Authority; and

(b) becomes an employee of Newco, by force of this section, on the same terms and conditions that applied to the staff member immediately before his or her transfer time because of an award.

“(3) This section has effect subject to sections 58 and 59.

Part not to affect certain matters relating to transferring staff members

“58.(1) On and after a staff member’s transfer time, this section has effect for the purposes of applying a law or award to Newco’s employment of a post-sale transferee.

“(2) The service of the post-sale transferee as an employee of Newco is to be regarded for all purposes as having been continuous with his or her service, immediately before the sale day, as an officer or employee of the Authority.

“(3) The post-sale transferee is to be regarded, immediately after his or her transfer time, as having:

- (a) accrued an entitlement to Long Service Leave Act benefits, recreation leave benefits and sickness leave benefits; and
- (b) an entitlement to recognition by Newco of years of service in connection with that employment;

that is equivalent to the entitlement that the person had as an officer or employee of the Authority, immediately before his or her transfer time.

“(4) The post-sale transferee is not entitled to receive any payment or other benefit by reason only of having ceased to be an officer or employee of the Authority because of this Act.

Variation of terms and conditions of employment

“59.(1) Neither section 57 nor 58 prevents the terms and conditions of a post-sale transferee’s employment after his or her transfer time from being varied:

- (a) in accordance with those terms and conditions; or
- (b) by or under a law (including another provision of this Part), award or determination or agreement.

“(2) In this section:

‘vary’, in relation to terms and conditions, includes:

- (a) omitting any of those terms and conditions; or
- (b) adding to those terms and conditions; or
- (c) substituting new terms or conditions for any of those terms and conditions.

Post-sale transferee not to be eligible for re-appointment under the Public Service Act 1922

“60. Paragraph 87N(2)(c) of the *Public Service Act 1922* does not apply to a post-sale transferee.

Certain staff members of the Authority taken to have resigned

“61.(1) This section applies to a staff member of the Authority:

- (a) who was eligible to consent under subsection 56(2) and who has not done so; or
- (b) who consented under subsection 56(2) but revoked that consent under subsection 56(3).

“(2) Subject to subsection (3), the staff member is, for all purposes, taken to have resigned from his or her appointment or engagement under the *Pipeline Authority Act 1973*. The resignation takes effect at the time determined in writing in relation to the staff member by an authorised person for the purposes of this section.

Note: A person does not come within paragraph 87N(2)(c) of the *Public Service Act 1922* if the person’s employment with a public authority is terminated because of the person’s resignation.

“(3) Subsection (2) does not apply to a staff member who does not consent under subsection 56(2), or has revoked his or her consent under subsection 56(3), because the terms and conditions of employment, taken as a whole, that would apply to the staff member on and after his or her transfer time have been determined not to be equivalent in accordance with the staff transfer agreement to the terms and conditions of employment, taken as a whole, applying to the staff member immediately before his or her transfer time.

Application of other transitional and saving provisions

“62.(1) A specified provision applies to a post-sale transferee as if:

- (a) for the expression ‘sale day’ (wherever occurring) in the specified provision there were substituted the expression ‘staff member’s transfer time’; and
- (b) for the expression ‘transferring staff member’ (wherever occurring) in the specified provision there were substituted the expression ‘post-sale transferee’; and
- (c) for the expression ‘staff member’ (wherever occurring) in the specified provision (other than where the specified provision is section 42, 43, 44, 45, 46 or 47) there were substituted the expression ‘transferee’; and
- (d) if the specified provision is paragraph 33(1)(a), 34(1)(a), 45(1)(b) or 46(1)(b)—for the expression ‘section 8’ in those paragraphs there were substituted the expression ‘section 57’; and
- (e) if the specified provision is paragraph 47(1)(b) or (2)(b)—for the expression ‘subsection 31(1)’ in those paragraphs there were substituted the expression ‘section 55 or 61’.

“(2) In this section:

‘specified provision’ means section 32, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46, 47 or 48.

“PART 6—REGULATORY PROVISIONS RELATING TO THE MOOMBA-SYDNEY PIPELINE SYSTEM

“Division 1—Preliminary

Definitions

“63.(1) In this Part, unless the contrary intention appears:

‘access dispute’ means an access dispute notified under subsection 72(1) or (4);

‘associate member of the PSA’ has the same meaning as ‘associate member’ in the *Prices Surveillance Act 1983*;

‘controlling distributor’, in relation to a Moomba operator, means:

- (a) a body corporate that:
 - (i) has a substantial degree of power in the market for the supply of gas to end users of gas in New South Wales; and

(ii) controls the Moomba operator or is a related body corporate of a body corporate that controls the Moomba operator (other than the Moomba operator); or

(b) a related body corporate of a body corporate covered by paragraph (a) (other than the Moomba operator);

'director' has the same meaning as in the Corporations Law;

'Federal Court' means the Federal Court of Australia;

'gas' means any petroleum gas, including any petroleum gas that liquefies under pressure;

'haulage service' means the service of hauling gas in a Moomba pipeline;

'member of the PSA' has the same meaning as 'member' in the *Prices Surveillance Act 1983*;

'member of the staff of the PSA' means:

(a) a member of the staff of the PSA referred to in subsection 41(1) of the *Prices Surveillance Act 1983*; or

(b) a person engaged by the PSA under subsection 42(1) of that Act;

'Moomba operator' means a trading entity that owns or operates a Moomba pipeline;

'Moomba pipeline' means:

(a) any pipeline transferred to Newco by section 12; and

(b) any addition to a Moomba pipeline if, immediately after the addition was completed, it was owned by a trading entity that, immediately before completion, owned the Moomba pipeline to which the addition was connected;

'officer' has the same meaning as in the Corporations Law;

'parties to an arbitration' has the meaning given by section 86;

'pipeline' means:

(a) a pipeline for the haulage of gas; and

(b) any part of such a pipeline;

together with any associated equipment or structures;

'PSA' means the Prices Surveillance Authority established by the *Prices Surveillance Act 1983*;

'PSA Chairperson' means the Chairman of the PSA;

'related body corporate' has the same meaning as in the Corporations Law;

'spare capacity' has the meaning given by section 64;

'TPC' means the Trade Practices Commission established by the *Trade Practices Act 1974*;

'TPC Chairperson' means the Chairman of the TPC;

'TPC Deputy Chairperson' means the Deputy Chairman of the TPC;

'TPC member' means:

(a) the TPC Chairperson; and

(b) the TPC Deputy Chairperson; and

(c) a member of the TPC other than the TPC Chairperson or the TPC Deputy Chairperson; and

(d) an associate member of the TPC;

‘trading corporation’ means a trading corporation within the meaning of paragraph 51(xx) of the Constitution;

‘trading entity’ means:

- (a) a trading corporation; or
- (b) 2 or more trading corporations in a joint venture;

‘Tribunal’ means the Trade Practices Tribunal established by the *Trade Practices Act 1974*.

“(2) For the purposes of this Part, a person is bound by a determination made under this Part if section 100 requires the person not to contravene the determination.

Interpretation—meaning of ‘spare capacity’

“64.(1) At a particular time a pipeline has spare capacity for the purposes of this Part if the Moomba operator concerned is not actually using the total capacity of the pipeline to provide haulage services at that time.

“(2) Subsection (1) applies even if the Moomba operator concerned has entered into contracts to provide haulage services where those haulage services, if provided, would use all the capacity of the pipeline or more of the capacity of the pipeline than is actually used from time to time.

“(3) The amount of the spare capacity at any time is the difference between:

- (a) the total capacity of the pipeline at that time; and
- (b) the capacity actually used at that time to provide:
 - (i) haulage services; and
 - (ii) fuel gas used for the operation of the pipeline.

Conduct by directors, servants or agents

“65.(1) If, in a proceeding under this Part in respect of conduct engaged in by a body corporate, it is necessary to establish the state of mind of the body corporate in relation to particular conduct, it is sufficient to show:

- (a) that the conduct was engaged in by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; and
- (b) that the director, servant or agent had the state of mind.

“(2) Any conduct engaged in on behalf of a body corporate:

- (a) by a director, servant or agent of the body corporate within the scope of the person’s actual or apparent authority; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the body corporate, if the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent;

is taken for the purposes of this Part to have been engaged in also by the body corporate unless the body corporate establishes that the body corporate took reasonable precautions and exercised due diligence to avoid the conduct.

“(3) If, in a proceeding under this Part in respect of conduct engaged in by an individual, it is necessary to establish the state of mind of the individual, it is sufficient to show:

- (a) that the conduct was engaged in by a servant or agent of the individual within the scope of his or her actual or apparent authority; and
- (b) that the servant or agent had the relevant state of mind.

“(4) Conduct engaged in on behalf of an individual:

- (a) by a servant or agent of the individual within the scope of the actual or apparent authority of the servant or agent; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a servant or agent of the individual, if the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the servant or agent;

is taken, for the purposes of this Part, to have been engaged in also by that individual unless that individual establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

“(5) If:

- (a) an individual is convicted of an offence; and
- (b) the individual would not have been convicted of the offence if subsections (3) and (4) had not been enacted;

the individual is not liable to be punished by imprisonment for that offence.

“(6) A reference in subsection (1) or (3) to the state of mind of a person includes a reference to:

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person’s reasons for the intention, opinion, belief or purpose.

“(7) A reference in this section to engaging in conduct includes a reference to failing or refusing to engage in conduct.

Other provisions that relate to proving purpose

“66.(1) For the purposes of this Part, a person is taken to have engaged or to engage in conduct for a particular purpose or a particular reason if:

- (a) the person engaged, or engages, in the conduct for purposes including that purpose or for reasons including that reason; and
- (b) that purpose or reason was or is a substantial purpose or reason for engaging in the conduct.

“(2) Without limiting the manner in which the purpose of a person may be established for the purposes of subsection (1), the person may be taken to have engaged in conduct for a purpose referred to in subsection (1) even though, after all the evidence has been considered, the existence of that purpose is ascertainable only by inference from the conduct of the person or from other relevant circumstances.

Part not to apply so as to exceed Commonwealth power

“67.(1) Unless the contrary intention appears, if a provision of this Part:

- (a) would, apart from this section, have an invalid application; but
- (b) also has at least one valid application;

it is the Parliament's intention that the provision is not to have the invalid application, but is to have every valid application.

“(2) Despite subsection (1), the provision is not to have a particular valid application if:

- (a) apart from this section, it is clear, taking into account the provision's context and the purpose or object underlying this Part, that the provision was intended to have that valid application only if every invalid application, or a particular invalid application, of the provision had also been within the Commonwealth's legislative power; or
- (b) the provision's operation in relation to that valid application would be different in a substantial respect from what would have been its operation in relation to that valid application if every invalid application of the provision had been within the Commonwealth's legislative power.

“(3) Subsection (2) does not limit the cases where a contrary intention may be taken to appear for the purposes of subsection (1).

“(4) This section applies to a provision of this Part, whether enacted before, at or after the commencement of this section.

“(5) In this section:

‘**application**’ means an application in relation to:

- (a) one or more particular persons, things, matters, places, circumstances or cases; or
- (b) one or more classes (however defined or determined) of persons, things, matters, places, circumstances or cases;

‘**invalid application**’, in relation to a provision, means an application because of which the provision exceeds the Commonwealth's legislative power;

‘**valid application**’, in relation to a provision, means an application that, if it were the provision's only application, would be within the Commonwealth's legislative power.

*“Division 2—Restrictions relating to the Moomba pipeline
and a Moomba operator*

Moomba pipeline may only be owned and operated by a trading entity

“68.(1) A person other than a trading entity must not own or operate a Moomba pipeline if:

- (a) the pipeline is a pipeline that is used for hauling gas from:
 - (i) Moomba in South Australia; or
 - (ii) a point in another State (other than New South Wales) or a Territory;

to a point in New South Wales or the Australian Capital Territory; or

- (b) the pipeline is a part of the pipeline referred to in paragraph (a).

“(2) Paragraph (1)(b) does not apply to the ownership or operation of a Moomba pipeline for the haulage of gas if:

- (a) the Moomba pipeline is located entirely in one State or Territory; and
- (b) the gas is produced in the State or Territory; and

- (c) the gas is introduced into the pipeline within the State or Territory; and
- (d) the gas is delivered to a point within the State or Territory.

“(3) An agreement is of no effect if it is entered into in breach of subsection (1).

Restrictions applying to a Moomba operator

“69.(1) A Moomba operator must not carry on a business other than the business of doing either or both of the following:

- (a) designing, constructing, maintaining, operating or owning pipelines for the haulage of gas;
- (b) providing consultancy and haulage support services in relation to designing, constructing, maintaining or operating pipelines for the haulage of gas.

“(2) A Moomba operator must:

- (a) ensure that none of its officers (other than a validly appointed non-executive director) is also an officer of a controlling distributor who manages or takes part in any other way in the business activities of the distributor that relate to the haulage or supply of gas in New South Wales or the Australian Capital Territory; and
- (b) ensure that none of its consultants is also an officer of a controlling distributor who manages or takes part in any other way in the business activities of the distributor that relate to the haulage or supply of gas in New South Wales or the Australian Capital Territory; and
- (c) maintain its records in such a way that information relating to its Moomba pipeline business can readily be extracted; and
- (d) ensure that confidential information in its records that relate to its Moomba pipeline business (other than shared technical information) is not made available to a controlling distributor.

“(3) Paragraph (2)(b) does not apply to a Moomba operator if:

- (a) the operator has applied in writing to the TPC for the TPC’s approval to the operator engaging an officer of a controlling distributor to provide particular services; and
- (b) the TPC approves in writing the engaging of the officer to provide those services.

“(4) An approval may be:

- (a) subject to terms and conditions specified in the approval; or
- (b) limited to a period specified in the approval.

“(5) The TPC may revoke an approval, by notice in writing given to the operator, if it is satisfied that the terms and conditions of the approval are not being complied with by the operator.

“(6) In this section:

‘**consultant**’ means a person who is engaged to provide services;

‘**shared technical information**’ means information relating to the operation of the Moomba pipeline that it is necessary for the Moomba operator to provide to a haulage services customer to enable the safe and efficient supply of haulage services to that customer.

“Division 3—Access to the Moomba pipeline

Moomba operator etc. must not prevent or hinder access

“70.(1) A Moomba operator or a related body corporate of the Moomba operator must not engage in conduct that has the purpose of preventing or hindering the provision of haulage services to a person in New South Wales or the Australian Capital Territory.

“(2) A reference in subsection (1) to engaging in conduct includes a reference to failing or refusing to do an act or thing.

Access to the Moomba pipeline

“71.(1) A Moomba operator who operates a Moomba pipeline must, subject to this Part, supply haulage services by means of that pipeline to any other person who wants those haulage services supplied. The haulage services are to be supplied on terms and conditions agreed between the operator and the other person, or if agreement on the terms and conditions cannot be reached, on terms and conditions determined by the TPC under this Part.

“(2) The only rights arising in respect of the failure of the Moomba operator and the person who wants haulage services supplied to agree on the supply of haulage services are the rights to notify the TPC under subsections 72(1) and (6).

Access disputes

“72.(1) If a Moomba operator and any other person are unable to agree on any of the following matters the operator or the other person may notify the TPC that an access dispute exists:

- (a) the existence of spare capacity in a Moomba pipeline sufficient to provide the services requested;
- (b) the interconnection of a pipeline to a Moomba pipeline;
- (c) increasing the capacity of a Moomba pipeline operated by the operator;
- (d) terms and conditions (including the haulage charge) for the supply of haulage services by the operator that uses the whole or part of the spare capacity or increased capacity in a Moomba pipeline.

“(2) If a Moomba operator intends to enter into an agreement with a person to supply haulage services, the operator must give a notice to any other person who is a party to an agreement with the operator for the supply of haulage services advising:

- (a) that the operator intends entering into the agreement; and
- (b) a reasonable estimate of the amount of spare capacity that would be used under the proposed agreement.

“(3) Subsection (2) does not apply to a spot sales agreement.

“(4) If subsection (2) applies to a Moomba operator, the operator must not enter into the agreement unless:

- (a) all the persons given a notice under subsection (2) agree; or
- (b) at the end of the period of 21 days after the giving of the notice, no person has notified the TPC under subsection (6).

“(5) An agreement is of no effect if it is entered into:

- (a) without the giving of a notice in accordance with subsection (2); or
- (b) in breach of subsection (4).

“(6) A person who has been given a notice under subsection (2) may notify the TPC that an access dispute exists.

“(7) A notice under subsection (1) or (6) must specify the matter in dispute.

“(8) A notice under subsection (1), (2) or (6) must be in writing.

“(9) In this section:

‘spot sales agreement’ means an agreement under which all those haulage services are to be provided within 3 months after the agreement is made.

Procedure on receipt of notification of an access dispute

“73.(1) If a Moomba operator or another person notifies the TPC of an access dispute, the TPC must give a written notice of the dispute to:

- (a) a person who could have notified the TPC of the dispute under subsection 72(1) but did not do so; and
- (b) any other person who:
 - (i) is a party to an agreement for the supply of haulage services in relation to the Moomba pipeline that is the subject matter of the dispute; or
 - (ii) is bound by a determination in relation to the Moomba pipeline that is the subject matter of the dispute; or
 - (iii) is a party to an access dispute in respect of which a determination has not been made.

“(2) The TPC must give the notice as soon as practicable after the TPC is notified of the access dispute.

Withdrawal of notification

“74.(1) A person who has notified the TPC under section 72 may withdraw that notification at any time before a determination is made by the TPC.

“(2) If a person withdraws a notification under subsection (1), the person is taken, for the purposes of this Part, not to have notified the TPC.

“Division 4—Arbitration of access disputes

“Subdivision A—TPC objectives and arbitration powers

TPC objectives

“75. The TPC must, in carrying out its functions under this Part, pursue the objective of providing a mechanism of arbitration that is fair, economical, informal and quick.

Functions of TPC

“76. The TPC has the function of arbitrating access disputes under this Part.

TPC arbitration powers

“77.(1) If the TPC arbitrates an access dispute, it must make a written determination about the matter to which the arbitration relates.

“(2) A determination must:

- (a) specify the Moomba pipeline concerned; and
- (b) if paragraph 72(1)(a) or subsection 72(6) applies—set out the volume of any spare capacity and the method used for working out that volume of spare capacity; and
- (c) if paragraph 72(1)(b) applies—set out the terms and conditions on which the pipeline is to be interconnected to the Moomba pipeline; and

- (d) if paragraph 72(1)(c) applies—set out the terms and conditions on which the Moomba operator is to increase the capacity of the Moomba pipeline; and
- (e) if the TPC determines that the Moomba operator is to supply haulage services to a person—set out the terms and conditions (including the haulage charge) on which the operator is to supply the haulage services; and
- (f) set out the reasons for the determination.

“(3) The TPC must not make a determination, that would deprive a person (**‘the contractor’**) of:

- (a) the contractor’s right to require the Moomba operator to supply haulage services that are sufficient to enable the contractor to meet the contractor’s ‘take or pay’ obligations under a gas supply agreement that was entered into before the commencement of this section; or
- (b) the contractor’s right to require the Moomba operator to supply haulage services that are sufficient to enable the contractor to meet its obligations to supply gas to its customers under:
 - (i) negotiated contracts entered into before notice of the dispute was given to the TPC under subsection 72(1) or (6); or
 - (ii) rights that can reasonably be expected to arise in the future because of exercising an option in a negotiated contract entered into before notice of the dispute was given to the TPC under subsection 72(1) or (6); or
- (c) the contractor’s right to require the Moomba operator to supply haulage services sufficient to enable the contractor to meet the reasonably anticipated requirements of the contractor’s tariff customers taking into account abnormal seasonal variations.

“(4) The TPC must not make a determination that requires the Moomba operator to bear any of the costs of establishing and maintaining the increased capacity of the Moomba pipeline.

“(5) The terms and conditions set out under paragraph (2)(e) must only relate to such of the following as are appropriate in the particular case:

- (a) the appropriate period for the provision of haulage services by the Moomba operator;
- (b) delivery points;
- (c) the interconnection of pipelines;
- (d) the increase in capacity;
- (e) the haulage charge;
- (f) any other matters that are reasonably necessary to deal with for the purposes of the provision of haulage services;
- (g) matters incidental to a matter of a kind referred to in a preceding paragraph.

“(6) In making a determination under subsection (1), the TPC must have regard to the following matters:

- (a) the legitimate business interests of the Moomba operator;
- (b) the benefit to the public in having competitive markets;

- (c) any relevant technical issues relating to the capacity of the Moomba pipeline or increasing the capacity of the Moomba pipeline;
- (d) the interests of other persons who have agreed to acquire haulage services from the Moomba operator, including the actual haulage service requirements of such persons;
- (e) the interests of other persons who acquire haulage services from the Moomba operator under a determination under this section;
- (f) any national regime for third party access to essential facilities.

“(7) The TPC must give a copy of its determination under subsection (1) to the parties to the arbitration on the day it makes the determination.

“(8) In this section:

‘Moomba gas’ means gas that has been hauled by a Moomba pipeline;

‘negotiated contract’ means a contract for the supply of at least 10 terajoules of Moomba gas per year to or on behalf of an end user;

‘tariff customer’ means a gas user who is supplied with less than 10 terajoules of Moomba gas per year by a person who carries on the business of supplying gas.

Period within which TPC to make its determination

“78.(1) Subject to subsection (2), if the TPC does not make a determination in relation to the arbitration of an access dispute within the allowable period, then the TPC is to be taken to have made a determination at the end of that period, refusing to require the Moomba operator to provide haulage services to the person who wanted haulage services provided. The **‘allowable period’** is:

- (a) 60 days from the end of the 21 day period referred to in section 85 (**‘the 60 day period’**); or
- (b) if the TPC, before the end of the 60 day period, gives to a party to the arbitration, a notice under section 92—the period consisting of the 60 day period increased by the number of days in the period beginning on the day on which the notice is given to the party and ending on the day on which the party gives to the TPC the information or additional documents.

“(2) If the parties to an arbitration notify the TPC in writing before the end of the period referred to in subsection (1) that the parties agree to the TPC taking a specified longer period for making the determination in relation to the access dispute, subsection (3) applies.

“(3) The period for the purposes of subsection (1) is taken to be the period notified under subsection (2).

Operation of determinations

“79.(1) If a party to an arbitration does not apply, under section 102, to the Tribunal for a review of the determination of the TPC in relation to the access dispute, the determination has effect 21 days after the making of the determination.

“(2) If a party to an arbitration applies, under section 102, to the Tribunal for a review of the determination of the TPC in relation to the access dispute, the determination is of no effect until the Tribunal makes its determination under section 104.

Constitution of TPC for conduct of arbitration

“80. For the purposes of a particular arbitration, the TPC is to be constituted by 2 or more TPC members nominated in writing by the TPC Chairperson.

Presiding member

“81.(1) The TPC Chairperson is, subject to subsection (2), to preside at an arbitration.

“(2) If the TPC Chairperson is not a member of the TPC as constituted under section 80 in relation to a particular arbitration, the TPC Chairperson must nominate a TPC member to preside at the arbitration.

Reconstitution of TPC

“82.(1) This section applies if a TPC member who is one of the TPC members who constitute the TPC for the purposes of a particular arbitration:

- (a) stops being a TPC member; or
- (b) for any reason, is not available for the purpose of the arbitration.

“(2) The TPC Chairperson must either:

- (a) direct that the TPC is to be constituted for the purposes of finishing the arbitration by the remaining TPC member or members; or
- (b) direct that the TPC is to be constituted for that purpose by the remaining TPC member or members together with another TPC member or members.

“(3) If a direction under subsection (2) is given, the TPC as constituted in accordance with the direction must continue and finish the arbitration and may, for that purpose, have regard to any record of the proceedings of the arbitration made by the TPC as previously constituted.

“(4) In exercising powers under this section, the TPC Chairperson must have regard to the objectives set out in section 75.

Determination of questions

“83. If the TPC is constituted for an arbitration by 2 or more TPC members, any question before the TPC is to be decided:

- (a) unless paragraph (b) applies—according to the opinion of the majority of those members; or
- (b) if the members are evenly divided on the question—according to the opinion of the TPC member who is presiding.

Disclosure of TPC interests by members

“84.(1) If a TPC member other than the TPC Chairperson is taking part, or is to take part, in a particular arbitration and the member has or acquires any pecuniary interest that could conflict with the proper performance of his or her functions in relation to the arbitration:

- (a) the member must disclose the interest to the TPC Chairperson; and
- (b) the member must not take part, or continue to take part, in the arbitration if:
 - (i) the TPC Chairperson gives a direction under paragraph (2)(a) in relation to the matter; or
 - (ii) all of the persons concerned in the arbitration do not consent to the member taking part in the arbitration.

“(2) If the TPC Chairperson becomes aware that a TPC member is taking part, or is to take part, in a particular arbitration and that the member has in relation to the particular arbitration such an interest:

- (a) if the TPC Chairperson considers that the TPC member should not take part, or should not continue to take part, in the arbitration—the TPC Chairperson must give a direction to the member accordingly; or
- (b) in any other case—the TPC Chairperson must cause the interest of the member to be disclosed to the parties to the arbitration.

“Subdivision B—Preliminary matters

TPC to arbitrate if access dispute not settled within 21 days

“85. If an access dispute is unable to be settled within 21 days after the TPC receives notification of the dispute, the TPC must, subject to the provisions of this Part, proceed to arbitrate the dispute.

Parties to arbitration

“86. The parties to the arbitration of an access dispute are:

- (a) the Moomba operator; and
- (b) if the person who notified the TPC under subsection 72(1) is the Moomba operator—the person who could have notified the TPC under subsection 72(1) but did not do so; and
- (c) if the person who notified the TPC under section 72 is a person other than the Moomba operator—that person; and
- (d) any person who:
 - (i) is a party to an agreement with the Moomba operator currently in force in relation to the supply of haulage services using the pipeline; and
 - (ii) the TPC thinks ought to be made a party to the arbitration; and
- (e) any person who:
 - (i) is bound by a determination under section 77 that relates to the Moomba pipeline; and
 - (ii) the TPC thinks ought to be made a party to the arbitration; and
- (f) any person who:
 - (i) has applied to the TPC to be a party to the arbitration; and
 - (ii) the TPC thinks ought to be made a party to the arbitration.

TPC to notify parties that it must arbitrate the dispute

“87. After the end of the 21 day period referred to in section 85, the TPC must notify the parties to the access dispute that, subject to this Part, it is required to arbitrate the dispute under this Part.

TPC may decide not to arbitrate a dispute if subject matter of dispute is trivial etc.

“88.(1) The TPC may, in writing, terminate an arbitration if it thinks:

- (a) the subject matter of the dispute is trivial, misconceived or lacking in substance; or
- (b) that the person who notified the dispute has not engaged in negotiations in good faith.

“(2) If the TPC decides not to arbitrate the dispute, the person who notified the dispute is taken to have withdrawn the notification under section 74.

TPC not to arbitrate an access dispute if subject matter of dispute is subject of Federal Court proceedings brought under section 111

“89. The TPC must not arbitrate an access dispute if the TPC or any other person has begun a proceeding in the Federal Court under section 111 in relation to the same subject matter.

Right to representation

“90. In arbitration proceedings before the TPC under this Part:

- (a) an individual may appear in person; and
- (b) an individual may be represented by an employee of the individual approved by the TPC; and
- (c) a body corporate may be represented by an employee, or a director or other officer, of the body corporate approved by the TPC; and
- (d) any person may be represented by a barrister or a solicitor of the Supreme Court of a State or Territory or of the High Court.

Giving of relevant documents to TPC

“91. A party to an arbitration may give the TPC a copy of all documents or parts of documents that are in the party’s possession or under the control of the party and are considered by the party to be relevant to the access dispute.

Power to obtain information and documents

“92.(1) If the TPC has reason to believe that a person is capable of giving information or producing additional documents relevant to an access dispute, the TPC or the TPC Chairperson may, by written notice to the person signed by the TPC Chairperson or any TPC member nominated by the TPC Chairperson, require the person at such place, and within such period or on such date and at such time, as are stated in the notice:

- (a) to give to the TPC, by writing signed by the person or, if the person is a body corporate, by a competent officer of the body corporate, any such information; or
- (b) to produce to the TPC such documents or copies of such documents as are stated in the notice.

“(2) If documents (whether originals or copies) are produced to the TPC, the TPC:

- (a) may take possession of, and make copies of, and take extracts from, the documents; and
- (b) may keep the documents for as long as is necessary for the purpose of arbitrating the access dispute.

“(3) A person must not:

- (a) without reasonable excuse, contravene a notice under subsection (1) to the extent that the person is capable of complying with it; or
- (b) in purported compliance with such a notice, knowingly or recklessly give information that is false or misleading in a material particular.

Penalty for a contravention of this subsection: 30 penalty units.

“Subdivision C—Arbitration hearings

Procedure of TPC

“93.(1) The TPC, in an arbitration hearing about an access dispute:

- (a) is not bound by technicalities, legal forms or rules of evidence; and
- (b) must act as speedily as a proper consideration of the dispute allows, having regard to the objectives in section 75 and the need to carefully and quickly inquire into and investigate the dispute and all matters affecting the merits, and fair settlement, of the dispute; and
- (c) may inform itself of any matter relevant to the dispute in any way it thinks appropriate.

“(2) The TPC may determine the periods that are reasonably necessary for the fair and adequate presentation of the respective cases of the parties to an access dispute, and may require that the cases be presented within those periods.

“(3) The TPC may require evidence or argument to be presented in writing, and may decide the matters on which it will hear oral evidence or argument.

“(4) The TPC may determine that an arbitration hearing is to be conducted by:

- (a) telephone; or
- (b) closed circuit television; or
- (c) any other means of communication.

Hearing to be in private

“94.(1) Subject to subsection (2), an arbitration hearing for an access dispute is to be in private.

“(2) If the parties to an arbitration hearing agree, an arbitration hearing or part of an arbitration hearing may be conducted in public.

“(3) The presiding TPC member may give directions as to the persons who may be present at an arbitration hearing conducted in private.

“(4) In giving directions under subsection (3), the presiding TPC member must have regard to the wishes of the parties and the need for commercial confidentiality.

“(5) Directions under subsection (3) must be in writing.

Power to take evidence on oath or affirmation

“95.(1) The TPC may take evidence on oath or affirmation and for that purpose a member of the TPC may administer an oath or affirmation.

“(2) The presiding TPC member may summon a person to appear before the TPC to give evidence and to produce such documents (if any) as are referred to in the summons.

Particular powers of TPC

“96. Subject to any other provision of this Part, or the regulations, the TPC may, for the purposes of an access dispute:

- (a) give a direction in the course of, or for the purposes of, the arbitration hearing; and
- (b) hear and determine the arbitration hearing in the absence of a person who has been summonsed or served with a notice to appear; and
- (c) sit at any place; and
- (d) adjourn to any time and place; and
- (e) refer any matter to an expert and accept the expert’s report as evidence; and

- (f) generally give all such directions, and do all such things, as are necessary or expedient for the speedy hearing and determination of the access dispute.

Party may request TPC to treat material as confidential

“97.(1) A party to an arbitration hearing may:

- (a) inform the TPC that, in the party’s opinion a specified part of a document contains confidential commercial information; and
- (b) request the TPC not to give a copy of that part to another party.

“(2) On receiving a request, the TPC must:

- (a) inform the other party or parties that the request has been made and of the general nature of the matters to which the relevant part of the document relates; and
- (b) ask the other party or parties whether there is any objection to the TPC complying with the request.

“(3) If there is an objection to the TPC complying with a request, the party objecting may inform the TPC of its objection and of the reasons for it.

“(4) After considering:

- (a) a request; and
- (b) any objection; and
- (c) any further submissions that any party has made in relation to the request;

the TPC may decide not to give to the other party or parties a copy of so much of the document as contains confidential commercial information that the TPC thinks should not be so given.

Non-party may request TPC to treat information etc. as confidential

“98.(1) A person who:

- (a) is not a party to an arbitration; and
- (b) has given information or produced a document under section 92;

may:

- (c) inform the TPC that in the person’s opinion specified information is confidential information or a specified part of a document contains confidential commercial information; and
- (d) request the TPC not to give that information or give a copy of that part of the document to a party to the arbitration.

“(2) On receiving a request, the TPC must:

- (a) inform the parties to the arbitration that the request has been made and of the general nature of the information or the matters to which the relevant part of the document relates; and
- (b) ask the parties whether there is any objection to the TPC complying with the request.

“(3) If there is an objection to the TPC complying with the request, the party objecting may inform the TPC of its objection and of the reasons for it.

“(4) After considering:

- (a) a request; and

- (b) any objection; and
- (c) any further submissions that any party has made in relation to the request;

the TPC may decide not to give the parties the confidential commercial information or a copy of so much of the document as contains confidential commercial information that the TPC thinks should not be so given.

Consent determinations

“99. If:

- (a) the parties to an arbitration consent to a proposed determination; and
- (b) the TPC is satisfied that the determination is the appropriate one in all the circumstances;

the TPC may make the determination in the terms proposed.

Parties to an arbitration not to contravene determination

“100.(1) A party to an arbitration must not contravene a determination made in the arbitration.

“(2) The only right arising in respect of a contravention of subsection (1) is the right of a party to an arbitration to make an application under section 112.

“Subdivision D—Variation of determinations

Variation of determinations

“101.(1) A determination made under section 77 may, with the approval of the TPC, be varied if all the parties to the arbitration agree.

“(2) If the parties to an arbitration are unable to agree on whether to vary a determination, or on how to vary it, then the Moomba operator and each other party to the arbitration may notify an access dispute under subsection 72(6).

“(3) If an access dispute is notified to the TPC because of subsection (2), and the TPC thinks that:

- (a) there is no sufficient reason why the current determination should not continue to have effect in its present form; or
- (b) the notification is trivial, vexatious, misconceived or lacking in substance;

the TPC may decide not to arbitrate the dispute or not to make a determination in relation to the dispute.

“(4) For the purposes of subsection (3), the TPC must have regard to:

- (a) how long it is since the determination was made, or last varied; and
- (b) the nature of the matters in dispute; and
- (c) such other matters as the TPC thinks relevant.

“(5) If the TPC decides not to arbitrate the dispute or not to make a determination in relation to the dispute, the person who notified the dispute is taken to have withdrawn the notification under section 74.

“Division 5—Review by Tribunal of determinations of the TPC

Applications for review

“102.(1) A party to an arbitration who is dissatisfied with a determination by the TPC under section 77 may apply to the Tribunal for a review of the determination.

“(2) An application for review must be:

- (a) made within 21 days of the TPC making its determination; and
- (b) in writing.

Tribunal review to be merits review

“103. A review by the Tribunal is a re-hearing of the access dispute and Division 4 of this Part (other than sections 78, 79, 81, 82, 83, 84, 85 and 87) and sections 137 to 139 apply in relation to the Tribunal as if:

- (a) a reference to the TPC were a reference to the Tribunal; and
- (b) a reference to the TPC Chairperson were a reference to the President of the Tribunal.

Functions and powers of the Tribunal

“104. On a review of a determination by the TPC under section 77, the Tribunal:

- (a) must make a written determination affirming, setting aside or varying the determination of the TPC; and
- (b) may, for the review, perform all the functions and exercise all of the powers of the TPC.

Time period for review of TPC determinations

“105.(1) If a party to an arbitration applies for a review of a determination under section 102, the Tribunal must make its determination on the review within 60 days after receiving the application for review (**‘the 60 day period’**).

“(2) The 60 day period does not apply if:

- (a) the Tribunal, having obtained the views of all the parties to the arbitration, thinks that the matter cannot be dealt with properly within the 60 day period, either because of its complexity or because of other special circumstances; or
- (b) all the parties to the arbitration agree that the 60 day period should not apply to the review and the Tribunal thinks it appropriate that in the circumstances the 60 day period should not apply.

Determination of Tribunal taken to be determination of TPC

“106.(1) A determination by the Tribunal affirming, setting aside or varying a determination of the TPC under section 77 is, for the purposes of this Part other than this Division or section 79, taken to be a determination by the TPC.

“(2) A determination by the Tribunal has effect from when the determination is made.

TPC to give Tribunal certain information

“107. For the purposes of a review by the Tribunal, the member of the Tribunal presiding at the review may require the TPC to give such information, make such reports and provide such other assistance to the Tribunal as the member specifies.

Regulations as to certain matters

“108. The regulations may make provision:

- (a) in relation to the constitution of the Tribunal; and
- (b) in relation to the arrangement of the business of the Tribunal; and

- (c) in relation to the disclosure of interests by members of the Tribunal; and
- (d) for determining questions before the Tribunal and questions that arise during a review; and
- (e) in relation to evidence and procedure.

“Division 6—Enforcement and remedies

Interpretation

“109. A reference in this Division to a person involved in a contravention of a determination or provision is a reference to a person who has:

- (a) aided, abetted, counselled or procured the contravention; or
- (b) induced the contravention, whether through threats or promises or otherwise; or
- (c) been in any way (directly or indirectly) knowingly concerned in or a party to the contravention; or
- (d) conspired with others to effect the contravention.

Enforcement of sections 68 and 69 and regulations under section 127

“110. If the Federal Court is satisfied, on the application of the TPC, that a person has engaged, is engaging, or is proposing to engage in conduct constituting a contravention of section 68 or 69 or a regulation under section 127, the Court may make all or any of the following orders:

- (a) an order granting an injunction on such terms as the Court thinks appropriate:
 - (i) restraining the person from engaging in the conduct; or
 - (ii) if the conduct involves refusing or failing to do something—requiring the person to do that thing;
- (b) an order that the Court thinks appropriate directing the person to compensate a person who has suffered loss or damage as a result of the contravention;
- (c) any other order that the Court thinks appropriate.

Enforcement of section 70 and subsection 126(1)

“111.(1) If the Federal Court is satisfied, on the application of the TPC or any other person, that a Moomba operator or a related body corporate of the Moomba operator has engaged, is engaging, or is proposing to engage in conduct constituting a contravention of section 70 or subsection 126(1), the Court may make all or any of the following orders:

- (a) an order granting an injunction on such terms as the Court thinks appropriate:
 - (i) restraining the operator or related body corporate from engaging in the conduct; or
 - (ii) if the conduct involves refusing or failing to do something—requiring the operator or related body corporate to do that thing;
- (b) an order that the Court thinks appropriate directing the operator or related body corporate to compensate a person who has suffered loss or damage as a result of the contravention;
- (c) any other order that the Court thinks appropriate.

“(2) The TPC or a party to an access dispute must not make an application under this section in relation to conduct that is the subject of an access dispute that has been notified to the TPC under section 72 and which has not been finally determined.

Enforcement of determinations under section 77

“112. If the Federal Court is satisfied, on the application of a party to an arbitration, that another party to an arbitration has engaged, is engaging, or is proposing to engage in conduct constituting a contravention of the determination made in the arbitration, the Court may make all or any of the following orders:

- (a) an order granting an injunction on such terms as the Court thinks appropriate:
 - (i) restraining the other party from engaging in the conduct; or
 - (ii) if the conduct involves refusing or failing to do something—requiring the other party to do that thing;
- (b) an order that the Court thinks appropriate directing the other party to compensate the applicant for loss or damage suffered as a result of the contravention;
- (c) any other order that the Court thinks appropriate.

Other orders

“113. If the Federal Court has power under section 110, 111 or 112 to grant an injunction restraining a person from engaging in particular conduct, or requiring a person to do anything, the Court may make such other orders (including granting an injunction) as it thinks appropriate against any other person who was involved in the contravention concerned.

Consent injunctions

“114. On an application for an injunction under section 110, 111 or 112, the Federal Court may, if the Court thinks it appropriate, grant an injunction by consent of all of the parties to the proceedings, whether or not the Court is satisfied that the section applies.

Interim injunctions

“115. If the Federal Court thinks it is appropriate to do so, the Federal Court may grant an interim injunction pending determination of an application under sections 110 to 113.

Discharge or variation of injunction or other order

“116.(1) The Federal Court may discharge or vary an injunction granted under sections 110 to 113.

(2) The Federal Court may discharge or vary an order granted under sections 110 to 113.

Factors relevant to the granting of a restraining injunction

“117. The power of the Federal Court to grant an injunction restraining a person from engaging in conduct may be exercised whether or not:

- (a) it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind; or
- (b) the person has previously engaged in conduct of that kind; or
- (c) there is an imminent danger of substantial damage to any person if the firstmentioned person engages in conduct of that kind.

Factors relevant to the granting of a mandatory injunction

“118. The power of the Federal Court to grant an injunction requiring a person to do an act or thing may be exercised whether or not:

- (a) it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that thing; or
- (b) the person has previously refused or failed to do that thing; or
- (c) there is an imminent danger of substantial damage to any person if the first-mentioned person refused or failed to do that thing.

Undertakings as to damages unnecessary in certain circumstances

“119. If the TPC makes an application to the Federal Court for an injunction under section 110 or 111, the Court must not require the TPC or any other person, as a condition of granting an interim injunction, to give any undertakings as to damages.

Enforcement of undertakings

“120.(1) The TPC may accept a written undertaking given by a person for the purposes of this section in connection with a matter in relation to which the TPC has a power or function under this Part.

“(2) The person may withdraw or vary the undertaking at any time, but only with the consent of the TPC.

“(3) If the TPC thinks that the person who gave the undertaking has breached any of its terms, the TPC may apply to the Federal Court for an order under subsection (4).

“(4) If the Federal Court is satisfied that the person has breached a term of the undertaking, the Court may make all or any of the following orders:

- (a) an order directing the person to comply with that term of the undertaking;
- (b) an order directing the person to pay to the Commonwealth an amount up to the amount of any financial benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach;
- (c) any order that the Court thinks appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach;
- (d) any other order that the Court thinks appropriate.

Powers of Federal Court where non-compliance with TPC requirements

“121.(1) This section applies if the TPC is satisfied that a person has, without reasonable excuse, failed to comply with a requirement made under section 92.

“(2) The TPC may by writing certify the failure to the Federal Court.

“(3) If the TPC does so, the Federal Court may inquire into the case and may order the person to comply with the requirement as specified in the order.

Jurisdiction of courts

“122. The Federal Court has jurisdiction with respect to the matters arising under this Part and that jurisdiction is exclusive of the jurisdiction of all other courts, other than the jurisdiction of the High Court under section 95 of the Constitution.

“Division 7—Appeals**Appeals to Federal Court from determinations of the Tribunal**

“123.(1) A party to an arbitration may appeal to the Federal Court, on a question of law, from the determination of the Tribunal under section 104.

“(2) An appeal by a person under subsection (1) is to be instituted:

- (a) not later than the 28th day after the day on which the determination of the Tribunal is made or within such further period as the Federal Court (whether before or after the end of that day) allows; and
- (b) in accordance with the Rules of Court made under the *Federal Court of Australia Act 1976*.

“(3) The Federal Court is to hear and determine the appeal and may make such order as it thinks appropriate.

“(4) The orders that may be made by the Federal Court on appeal include but are not limited to:

- (a) an order affirming or setting aside the determination of the Tribunal; and
- (b) an order remitting the matter to be determined again by the Tribunal in accordance with the directions of the Federal Court.

Operation and implementation of a determination that is subject to appeal

“124.(1) Subject to this section, the bringing of an appeal to the Federal Court from a determination of the Tribunal does not affect the operation of the determination or prevent the taking of action to implement the determination.

“(2) If an appeal is brought to the Federal Court from a determination of the Tribunal, the Federal Court or a judge of the Federal Court may make such orders staying or otherwise affecting the operation or implementation of the determination of the Tribunal as the Federal Court or judge thinks appropriate to secure the effectiveness of the hearing and determination of the appeal.

“(3) If an order is in force under subsection (2) (including an order previously varied under this subsection), the Federal Court or a judge of the Federal Court may make an order varying or revoking the first-mentioned order.

“(4) An order in force under subsection (2) (including an order previously varied under subsection (3)):

- (a) is subject to such conditions as are specified in the order; and
- (b) has effect until:
 - (i) the end of any period for the operation of the order that is specified in the order; or
 - (ii) the giving of a decision on the appeal;whichever is earlier.

Sending of documents to, and return of documents by, the Federal Court

“125. If an appeal is instituted in the Federal Court:

- (a) the Tribunal must send to the Federal Court all documents that were before the Tribunal in connection with the matter to which the appeal relates; and
- (b) at the conclusion of the proceedings before the Federal Court in relation to the appeal, the Federal Court must return the documents to the Tribunal.

*“Division 8—Provision of information on haulage charges etc.***Haulage charges etc. to be given on request**

“126.(1) If a person asks the Moomba operator in writing for information about the prices for hauling gas in a Moomba pipeline operated by the operator, the operator must give the person a written statement within the 21 day period:

- (a) specifying the haulage charges that the operator would charge the person for hauling a quantity of gas specified by the person between points specified by the person; and
- (b) explaining any pricing principles or other terms and conditions that would apply to the haulage of gas referred to in paragraph (a).

“(2) The Moomba operator may charge the person a reasonable fee for giving the information.

“(3) In this section:

‘21 day period’ means the 21 day period after the Moomba operator is asked for information under subsection (1).

Publishing of information by Moomba operator

“127.(1) The regulations may require a Moomba operator to publish or otherwise make available information about the supply of haulage services by the operator.

“(2) The information that the regulations may require an operator to publish or otherwise make available under subsection (1) includes, but is not limited to, the following:

- (a) the policies for determining haulage tariffs;
- (b) the policies for the allocation of costs to different types of haulage services;
- (c) an indicative haulage charge structure for the supply of different types of haulage services;
- (d) a reasonable estimate of the amount of spare capacity and the method used to measure it.

PSA to monitor haulage charges

“128. The PSA has the function of monitoring the haulage charges in relation to the provision of haulage services by a Moomba operator.

Information to be supplied to the PSA

“129.(1) Subject to subsection (2), the PSA Chairperson may, by written notice, ask Moomba operator to:

- (a) give the PSA in accordance with the notice, by writing signed on behalf of the operator, such information in relation to the affairs of the operator as is so specified; or
- (b) to produce to the PSA, in accordance with the notice, such documents in relation to the affairs of the operator as are so specified.

“(2) The PSA Chairperson may only ask for information or documents which are related to the supply of haulage services by the Moomba operator.

“(3) A notice under subsection (1) must specify a reasonable time for complying with it.

“(4) A Moomba operator must not:

- (a) without reasonable excuse, contravene a notice under subsection (1) to the extent that the operator is capable of complying with it; or
- (b) in purported compliance with such a notice, knowingly or recklessly give information that is false or misleading.

Penalty for a contravention of this subsection: 30 penalty units.

Reports etc. to be given to PSA if any transactions are not at arm’s length

“130.(1) This section applies if a Moomba operator enters into a transaction during a financial year that is not an arm’s length transaction.

“(2) The Moomba operator must give the PSA a report prepared under this section within the time prescribed by the regulations.

Penalty: 60 penalty units.

“(3) The report must set out the information shown in the Moomba operator’s financial statements and reports for the financial year, changed as set out in subsection (4).

“(4) The information included in the report must be changed so that the amount of a transaction that was not at arm’s length is shown as the amount that would have been the amount of the transaction if the parties to the transaction had been dealing with each other at arm’s length.

“(5) The report is to identify the changes made because of subsection (4).

“(6) In this section:

‘**financial statements and reports**’ means the financial statements and reports that are required to be laid before the annual general meeting of a company because of section 316 of the Corporations Law.

Confidential information

“131. If:

- (a) a Moomba operator claims that information given, or contained in a report or other document given, by the operator under section 129 or 130 is information the disclosure of which would damage the competitive position of the operator; and
- (b) the PSA thinks that the claim is justified and does not think that disclosure of the information is necessary in the public interest;

the PSA must take all reasonable steps to ensure that the information is not, without the consent of the operator, disclosed by the PSA to a person other than:

- (c) a member or associate member of the PSA; or
- (d) a member of the staff of the PSA who receives the information in the course of his or her duties.

PSA to report to Treasurer

“132. The PSA:

- (a) must give the Treasurer a report of its monitoring of haulage charges in relation to the provision of haulage services by a Moomba operator within 30 days after 30 June each year; and
- (b) may give the Treasurer a report about such haulage charges at such other times as the PSA thinks appropriate.

*“Division 9 —Miscellaneous***Compensation for acquisition of property**

“133.(1) If:

- (a) a determination under section 77 would result in an acquisition of property; and
- (b) the determination would not be valid, apart from this section, because a particular person has not been compensated;

the Commonwealth must pay that person:

- (c) a reasonable amount of compensation agreed on between the person and the Commonwealth; or
- (d) failing agreement—a reasonable amount of compensation determined by a court of competent jurisdiction.

“(2) Any damages or compensation recovered, or other remedy, in a proceeding begun otherwise than under this section must be taken into account in assessing compensation payable in a proceeding begun under this section and arising out of the same event or transaction.

“(3) In this section, ‘**acquisition of property**’ has the same meaning as in paragraph 51(xxxi) of the Constitution.

Commonwealth to pay compensation for the ending of certain contractual rights

“134.(1) The Minister for Finance may, on the Commonwealth’s behalf, enter into a written agreement on the sale day with a person under which the Commonwealth agrees to compensate the person for the ending of any of the person’s contractual rights in relation to the Moomba pipeline that existed immediately before the commencement of this section.

“(2) The Consolidated Revenue Fund is appropriated for compensation payments under an agreement entered into under subsection (1).

TPC approval of certain agreements for the supply of haulage services

“135.(1) An agreement (other than the Gas Transportation Agreement) entered into after the commencement of this section between:

- (a) a Moomba operator or a related body corporate of the operator; and
- (b) a controlling distributor of the Moomba operator or a related body corporate of the controlling distributor;

in relation to the supply of haulage services by the operator is of no effect until approved by the TPC. The approval may be given either before or after the agreement is made.

“(2) The TPC must not refuse to approve an agreement or a proposed agreement covered by subsection (1) unless the TPC thinks the agreement would be likely to have the effect of substantially lessening, preventing or hindering competition.

“(3) If the TPC has not made a decision to approve or refuse to approve an agreement or a proposed agreement within 2 months after being given the agreement or the proposed agreement, the TPC is taken to have approved the agreement or the proposed agreement.

“(4) A decision of the TPC to approve or refuse to approve an agreement or a proposed agreement must be notified in writing to the party to the agreement or proposed agreement who sought the approval as soon as practicable after the decision is made.

“(5) In this section:

‘**Gas Transportation Agreement**’ means the agreement entered into by Newco and AGL Sydney Ltd on the sale day in relation to the provision of haulage services by Newco.

Part not to limit Part IV of the *Trade Practices Act 1974*

“136. This Part does not limit the operation of Part IV of the *Trade Practices Act 1974*.

Failure of witness to attend

“137. A person served, as prescribed, with a summons to appear as a witness before the TPC must not, without reasonable excuse:

- (a) fail to attend as required by the summons; or
- (b) fail to appear and report himself or herself from day to day unless excused, or released from further attendance, by a member of the TPC.

Penalty: 60 penalty units.

Refusal to be sworn or to answer questions

“138.(1) A person appearing as a witness before the TPC must not, without reasonable excuse:

- (a) refuse or fail to be sworn or to make an affirmation; or
- (b) refuse or fail to answer a question that the person is required to answer by the TPC; or
- (c) refuse or fail to produce a document that he or she was required to produce by a summons under this Part served on him or her as prescribed.

Penalty: 60 penalty units.

“(2) For the purposes of subsection (1), it is a reasonable excuse for a person:

- (a) to refuse or fail to answer a question because the answer to the question may tend to incriminate him or her; or
- (b) to refuse or fail to produce a document because the production of the document may tend to incriminate him or her.

Intimidation etc.

“139. A person must not:

- (a) threaten, intimidate or coerce another person; or
- (b) cause or procure damage, loss or disadvantage to another person;

because that other person:

- (c) proposes to furnish or has furnished information, or proposes to produce or has produced documents, to the TPC; or
- (d) proposes to appear or has appeared as a witness before the TPC.

Penalty: Imprisonment for 12 months.

Criminal proceedings

“140. Criminal proceedings may only be brought against a person for a contravention of a provision of this Act if this Act provides a penalty for a contravention of the provision.

Application of Part to joint ventures

“141.(1) If a Moomba operator consists of 2 or more trading corporations participating in a joint venture, the following provisions apply.

“(2) If this Part requires or permits something to be done by the Moomba operator, the thing may be done by one of the trading corporations on behalf of the operator.

“(3) If a provision of this Part refers to a body corporate controlling the Moomba operator, the provision is to apply as if the provision referred to controlling any of the trading corporations.

“(4) If a provision of this Part refers to a related body corporate of the Moomba operator, the provision is to apply as if the provision referred to a related body corporate of any of the trading corporations.

“(5) If a provision of this Part refers to the Moomba operator bearing any costs, the provision is to apply as if the provision referred to any of the trading corporations bearing any costs.

“(6) If a provision of this Part refers to the Moomba operator doing something, the provision is to apply as if the provision referred to:

- (a) one of the trading corporations doing the thing on behalf of the joint venture; or
- (b) 2 or more of the trading corporations doing the thing jointly on behalf of the joint venture.

“(7) If:

- (a) a provision of this Part requires the Moomba operator to do something, or prohibits the operator doing something; and
- (b) a contravention of the provision is an offence;

the provision is to apply as if a reference to the Moomba operator were a reference to any person responsible for the day to day management and control of the joint venture.

“(8) If:

- (a) a provision of this Part requires a Moomba operator to do something, or prohibits an operator doing something; and
- (b) a contravention of the provision is not a criminal offence;

the provision is to apply as if the reference to an operator were a reference to each trading corporation participating in the joint venture and any other person responsible for the day to day management and control of the joint venture.

Application of Part to trading entities

“142. If a provision of this Part refers to a trading entity owning a thing the provision is to apply as if the provision referred to:

- (a) one of the trading corporations owning the thing; or
- (b) 2 or more of the trading corporations owning the thing jointly.

“PART 7—AMENDMENTS OF THE PIPELINE AUTHORITY ACT 1973

Principal Act

“143. In this Part, ‘Principal Act’ means the *Pipeline Authority Act 1973*¹.

Interpretation

“144. Section 3 of the Principal Act is amended:

- (a) by omitting ‘petroleum’ from paragraph (a) of the definition of ‘associated equipment and structures’ in subsection (1) and substituting ‘gas’;

- (b) by omitting 'petroleum' from the definition of 'pipeline' in subsection (1) and substituting 'gas';
- (c) by omitting 'petroleum' from the definition of 'tank station' in subsection (1) and substituting 'gas';
- (d) by omitting 'petroleum' from the definition of 'valve station' in subsection (1) and substituting 'gas';
- (e) by omitting the definition of 'part-time director' from subsection (1) and substituting the following definition:
' "part-time director" means a director of the Authority appointed to be a part-time director under subsection 6(2);';
- (f) by omitting from subsection (1) the definitions of 'petroleum' and 'petroleum pool';
- (g) by inserting in subsection (1) the following definition:
' "gas" means any petroleum gas, including petroleum gas that liquefies under pressure;';
- (h) by omitting subsection (3) and substituting the following subsection:
'(3) In this Act, unless the contrary intention appears, a reference to a pipeline includes a reference to part of a pipeline.'

Membership of Authority

"145. Section 6 of the Principal Act is amended:

- (a) by omitting paragraph (1)(d);
- (b) by inserting in paragraph (1)(e) 'up to' before '4 other directors'.

Leave of absence

"146. Section 8 of the Principal Act is amended by omitting from subsection (1) 'a full-time director' and substituting 'the Chief Executive Officer'.

Chief Executive Officer

"147. Section 10 of the Principal Act is amended:

- (a) by adding at the end of subsection (1) 'on a full-time or part-time basis';
- (b) by omitting subsection (3).

Acting appointments—part-time directors

"148. Section 11 of the Principal Act is amended by omitting subsection (2).

Meetings of Authority

"149. Section 12 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

'(3) At a meeting of the Authority, a majority of the directors constitute a quorum.'

"150.(1) Section 13 of the Principal Act is repealed and the following section is substituted:

Functions of Authority

'13.(1) The Authority has the following functions:

- (a) to design, for itself or another person, pipelines for the carriage of gas in trade and commerce between a point in a State and a point in another State;

- (b) to construct, for itself or another person, pipelines for the carriage of gas in trade or commerce between a point in a State and a point in another State;
- (c) to maintain, for itself or another person, pipelines for the carriage of gas in trade or commerce between a point in a State and a point in another State or Territory;
- (d) to operate, for itself or another person, pipelines for the carriage of gas in trade or commerce between a point in a State and a point in another State or a Territory;
- (e) to give advice to the Minister about its functions under paragraphs (a) to (d).

‘(2) The Authority may, in accordance with sections 14 and 28, carry on business for the purposes of performing those functions.’

“(2) Despite the repeal of section 13 by subsection (1), the Authority may carry on business for the purpose of finalising any business activities that relate to its functions under the *Pipeline Authority Act 1973* immediately before the commencement of this section.

Duties of the Authority

“151. Section 14 of the Principal Act is amended:

- (a) by omitting from paragraphs (1)(b) and (c) ‘its’ (wherever occurring);
- (b) by omitting from subsection (2) ‘petroleum’ and substituting ‘gas’;
- (c) by omitting from subsection (2) ‘its’.

“152. After section 14 of the Principal Act the following section is inserted:

Authority to act in accordance with Ministerial determination

‘14A.(1) The Minister may, after consulting the Authority, give the Authority a written determination setting out the policies and objectives that are to be carried out by the Authority for the purposes of performing its functions.

‘(2) It is the duty of the directors to give effect to a determination under subsection (1).

‘(3) If the Minister gives a determination under subsection (1), the Minister must cause a copy of the determination to be laid before each House of the Parliament within 15 sitting days of that House after giving the determination.’

Particular powers of the Authority

“153. Section 16 of the Principal Act is amended:

- (a) by omitting paragraph (d) and substituting the following paragraph:
‘(d) to sell or otherwise dispose of land or an interest in land;’;
- (b) by omitting paragraphs (j) and (ka).

“154.(1) Section 16A of the Principal Act is repealed and the following section is substituted:

Authority must not form etc. companies

‘16A. The Authority must not:

- (a) form, or participate in the formation of, a company; or
- (b) subscribe for, or otherwise acquire, shares in a company that is not a subsidiary of the Authority.’

“(2) If, immediately before the repeal of section 16A of the Principal Act, a subsidiary of the Authority was a subsidiary whose approval under subsection 16A(1) of the Principal Act was subject to terms and conditions specified in the approval, then despite the repeal of section 16A of the Principal Act:

- (a) the terms and conditions that applied under section 16A of the Principal Act immediately before the repeal; and
- (b) subsections 16A(3) to (6) of the Principal Act as in force immediately before the repeal;

continue to apply in relation to the subsidiary.

Repeal of sections 18A and 25

“155. Sections 18A and 25 of the Principal Act are repealed.

“156. Section 28 of the Principal Act is repealed and the following section is substituted:

Financial policy

‘28.(1) If:

- (a) the construction of a pipeline from Moomba in South Australia to Botany in New South Wales is commenced by the Authority; and
- (b) the Authority continues to operate and maintain any transferred pipelines for another person after the sale day;

the Authority must pursue a policy of acting in accordance with sound commercial principles in relation to:

- (c) the construction of the pipeline; and
- (d) the operation and maintenance of the transferred pipelines; and
- (e) finalising its business activities in relation to any assets that cease to be assets of the Authority because of the Sale Act; and
- (f) the winding down of the Authority’s business activities to facilitate the abolition of the Authority by the Sale Act.

‘(2) If:

- (a) the construction of a pipeline from Moomba in South Australia to Botany in New South Wales is not commenced by the Authority; and
- (b) the Authority continues to operate and maintain any transferred pipelines for another person after the sale day;

the Authority must pursue policy of acting in accordance with sound commercial principles in relation to:

- (c) the operation and maintenance of the transferred pipelines; and
- (d) finalising its business activities in relation to any assets that cease to be assets of the Authority because of the Sale Act; and
- (e) the winding down of the Authority’s business activities to facilitate the abolition of the Authority by the Sale Act.

‘(3) If:

- (a) the construction of a pipeline from Moomba in South Australia to Botany in New South Wales is not commenced by the Authority; and
- (b) the Authority does not continue to operate any transferred pipelines for another person after the sale day;

the Authority must pursue a policy of acting in accordance with sound commercial principles in relation to:

- (c) finalising its business activities in relation to any assets that cease to be assets of the Authority because of the Sale Act; and
- (d) the winding down of the Authority's business activities to facilitate the abolition of the Authority by the Sale Act.

'(4) In this section:

"sale day" has the same meaning as in the Sale Act;

"transferred pipeline" means a pipeline that ceases to be an asset of the Authority because of the Sale Act.'

Repeal of section 33B

"157. Section 33B of the Principal Act is repealed.

"PART 8— ABOLITION OF THE PIPELINE AUTHORITY

Principal Act

"158. In this Part, 'Principal Act' means the *Pipeline Authority Act 1973*¹.

Definitions

"159. In this Part, unless the contrary intention appears:

'repeal day' means:

- (a) the day notified by the Minister in the *Gazette* for the purposes of this Part; or
- (b) 31 December 1996;

whichever occurs first;

'residual assets' means:

- (a) any legal or equitable estates or interests in real or personal property, including contingent or prospective ones; and
- (b) any rights, privileges and immunities including contingent or prospective ones;

of the Authority immediately before the repeal day;

'residual instruments' means instruments that are in force immediately before the repeal day:

- (a) to which the Authority is a party; or
- (b) that were given to, by or in favour of the Authority; or
- (c) in which a reference is made to the Authority; or
- (d) under which any money is or may become payable, or any other property is to be, or may become liable to be, transferred, conveyed or assigned, to or by the Authority;

'residual liability' means liabilities and duties of the Authority, including contingent and prospective ones, immediately before the repeal day.

"160. Sections 3 and 4 of the Principal Act are repealed and the following section is substituted:

Interpretation

'3.(1) In this Act a reference to the Authority is a reference to the Pipeline Authority as it was established by this Act before the repeal day.

(2) In this section:

'repeal day' has the same meaning as in Part 7 of the *Moomba-Sydney Pipeline System Sale Act 1994*.

Repeal of Parts II, III, IV and VI

"161. Parts II, III, IV and VI of the Principal Act are repealed on the repeal day.

Residual assets and liabilities to become Commonwealth assets and liabilities of the Commonwealth

"162.(1) By force of this section, all the residual assets of the Authority cease to be assets of the Authority and become assets of the Commonwealth on the repeal day.

"(2) By force of this section, all residual liabilities of the Authority cease to be liabilities of the Authority and become liabilities of the Commonwealth on the repeal day.

"(3) A residual instrument continues to have effect on and after the repeal day as if a reference in the instrument to the Authority were a reference to the Commonwealth.

Pending proceedings

"163. If, immediately before the repeal day, proceedings to which the Authority was a party are pending in a court, then, on and after the repeal day, the Commonwealth is substituted for the Authority in the proceedings and has the same rights and obligations as the Authority would have had in the proceedings.

Minister may dispose of or deal with residual assets

"164. The Minister may, on behalf of the Commonwealth, dispose of or otherwise deal with the residual assets that become assets of the Commonwealth under section 162.

Exemption from certain State and Territory stamp duties

"165.(1) No stamp duty is payable under a law of a State or Territory in respect of an exempt matter or anything connected with an exempt matter.

"(2) An authorised person may, by signed writing, certify that:

(a) a specified matter or thing is an exempt matter; or

(b) a specified thing was done in connection with a specified exempt matter.

"(3) In all courts and for all purposes, a certificate under subsection (2) is evidence of the matter stated in the certificate.

"(4) A document that appears to be a certificate under subsection (2) is taken to be such a certificate and to have been properly given unless the contrary is established.

"(5) In this section:

'exempt matter' means:

(a) residual assets and residual liabilities ceasing to be assets and liabilities of the Authority under section 162 and becoming assets and liabilities of the Commonwealth under that section; or

(b) the operation of this Part in any other respect.

Certificates in relation to interests in land

“166.(1) This section applies if:

- (a) land becomes land of the Commonwealth under this Part; and
- (b) there is lodged with a land registration official a certificate that:
 - (i) is signed by an authorised person; and
 - (ii) identifies the land, whether by reference to a map or otherwise; and
 - (iii) states that the land has become land of the Commonwealth under this Part.

“(2) The land registration official may:

- (a) register the matter in the same way in which dealings in land of that kind are registered; and
- (b) deal with, and give effect to, the certificate.

“(3) A document that appears to be a certificate under subsection (1) is taken to be such a certificate and to have been properly given unless the contrary is established.

“(4) In this section:

‘land registration official’ means the Registrar of Titles or other proper officer of the State or Territory in which the land is situated.

Certificates in relation to other assets

“167.(1) This section applies if:

- (a) an asset becomes an asset of the Commonwealth under this Part; and
- (b) there is lodged with an assets official a certificate that:
 - (i) is signed by an authorised person; and
 - (ii) identifies the asset; and
 - (iii) states that the asset has, under this Part, become an asset of the Commonwealth.

“(2) The assets official may:

- (a) deal with, and give effect to, the certificate as if the certificate were a proper and appropriate instrument for transactions in relation to assets of that kind; and
- (b) make such entries in the register as are necessary having regard to the effect of section 162.

“(3) A document that appears to be a certificate under subsection (1) is taken to be such a certificate and to have been properly given unless the contrary is established.

“(4) In this section:

‘assets official’ means a person or authority who, under the law of the Commonwealth or of a State or Territory, has responsibility for keeping a register in relation to assets of the kind concerned.

Part to have effect in spite of laws and agreements prohibiting transfer etc.

“168.(1) This Part has effect, and must be given effect to, in spite of anything in:

- (a) any other law of the Commonwealth or any law of a State or Territory; or
- (b) any instrument.

“(2) Without limiting subsection (1), if, apart from this section, the consent of a person would be necessary in order to give effect to this Part in a particular respect, the consent is taken to have been given.

Saving and transitional matters

“169. The regulations may make provision for saving or transitional measures in relation to the abolition of the Authority by this Part.

“PART 9—MISCELLANEOUS

Regulations

“170.(1) The Governor-General may make regulations prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

“(2) In particular but without limiting subsection (1), the regulations may prescribe:

- (a) the fees payable to the TPC on making a prescribed application, or giving a prescribed notice, to the TPC under this Act or the regulations; and
- (b) matters in connection with the procedure of the TPC; and
- (c) fees and expenses of witnesses in proceedings before the TPC; and
- (d) matters for and in relation to the costs, if any, that may be awarded by the Federal Court in proceedings before the Federal Court under this Act.”.

“NOTE

“1. No. 42, 1973, as amended. For previous amendments, see No. 216, 1973; No. 91, 1976; No. 36, 1978; No. 109, 1980; Nos. 65, 159 and 166, 1985; No. 76, 1986; Nos. 21 and 129, 1989; Nos. 122 and 199, 1991; and Nos. 7 and 188, 1992.”.

Messages from the Governor-General: The following messages from His Excellency the Governor-General were announced, by leave:

No. 148, dated 9 April 1994, recommending an appropriation for the purposes of the Bill; and

No. 149, dated 11 May 1994, recommending an appropriation for the purpose of amendments to the Bill.

Title agreed to.

Bill, as amended, agreed to.

Consideration in detail concluded.

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

24 APPROPRIATION BILL (NO. 1) 1994-95—BUDGET DEBATE

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.

Debate adjourned (Mr Beazley—Minister for Finance), and the resumption of the debate made an order of the day for the next sitting.

25 AGRICULTURAL AND VETERINARY CHEMICAL PRODUCTS INTERIM LEVY IMPOSITION (EXCISE) BILL 1994

The order of the day having been read for the second reading—Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology) moved—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 Lindsay, the Bill was read a third time.

26 AGRICULTURAL AND VETERINARY CHEMICAL PRODUCTS INTERIM LEVY IMPOSITION (CUSTOMS) BILL 1994

The order of the day having been read for the second reading—Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology) moved—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 Lindsay, the Bill was read a third time.

27 AGRICULTURAL AND VETERINARY CHEMICAL PRODUCTS INTERIM LEVY IMPOSITION (GENERAL) BILL 1994

The order of the day having been read for the second reading—Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology) moved—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 Lindsay, the Bill was read a third time.

28 AGRICULTURAL AND VETERINARY CHEMICAL PRODUCTS (COLLECTION OF LEVY) AMENDMENT BILL 1994

The order of the day having been read for the second reading—Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology) moved—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 Lindsay, the Bill was read a third time.

29 AGRICULTURAL AND VETERINARY CHEMICALS (ADMINISTRATION) AMENDMENT BILL 1994

The order of the day having been read for the second reading—Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology) moved—That the Bill be now read a second time.

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

Message from the Governor-General: Message No. 150, dated 11 May 1994, from His Excellency the Governor-General was announced recommending an appropriation for the purposes of the Bill.

Leave granted for third reading to be moved forthwith.

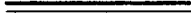
On the motion of Mr Lindsay, the Bill was read a third time.

30 ADJOURNMENT

Mr Beazley (Leader of the House) moved—That the House do now adjourn.

Question—put and passed.

And then the House, at 8.05 p.m., adjourned until Monday, 30 May 1994, at 12.30 p.m.



PAPERS

The following papers were deemed to have been presented on 12 May 1994:

Currency Act—Determination 1994 No. 3.

Health Insurance Act—Declaration QAA No. 1/1994.



ATTENDANCE

All Members attended (at some time during the sitting) except Mr Duncan, Mr Halverson and Mr Johns.



L. M. BARLIN

Clerk of the House of Representatives