

1993-94-95

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 124

WEDNESDAY, 1 MARCH 1995

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 **MESSAGE FROM THE SENATE—INTERNATIONAL WAR CRIMES TRIBUNAL BILL 1994**

The following message from the Senate was reported:

Message No. 412

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to provide for the Commonwealth to help the International War Crimes Tribunal perform its functions, and for related purposes*", and acquaints the House that the Senate:

- (1) has agreed to amendments nos. 1 to 23 and 25 to 27 made by the House and has disagreed to amendment no. 24 but, in place thereof, has amended the bill as indicated by annexed Schedule A; and
- (2) has made further amendments to the bill, including an amendment of the title, as indicated by annexed Schedule B.

The Senate desires the reconsideration by the House of the bill in respect of the amendment disagreed to, and the concurrence of the House in the amendment made by the Senate in place of amendment no. 24 and the further amendments made in the bill.

MICHAEL BEAHAN
President

The Senate

Canberra, 27 February 1995

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

3 **MESSAGE FROM THE SENATE—INTERNATIONAL WAR CRIMES TRIBUNAL (CONSEQUENTIAL AMENDMENTS) BILL 1994**

The following message from the Senate was reported:

Mr Speaker,

The Senate returns to the House of Representatives the bill for “*An Act to make certain amendments relating to the ‘International War Crimes Tribunal Act 1994’*”, and acquaints the House that the Senate has agreed to the amendment made by the House and has made further amendments to the bill, including an amendment of the title, as indicated by the annexed schedule.

The Senate requests the concurrence of the House in the further amendments made by the Senate.

MICHAEL BEAHAN
President

The Senate

Canberra, 27 February 1995

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

4 TRANSPORT LEGISLATION AMENDMENT BILL 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.

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

Message from the Governor-General: Message No. 240, dated 3 February 1995, from His Excellency the Governor-General was announced recommending an appropriation for the purposes of the Bill.

Consideration in detail

Clause 1 agreed to.

Clause 2—

On the motion of Mr O’Keefe (Parliamentary Secretary to the Minister for Transport), by leave, the following amendments were made together, after debate:

Page 2, line 2, omit “and (5)”, substitute “, (5) and (5A)”.

Page 2, after subclause (5) insert the following subclause:

“(5A) Subject to subsection (7), items 37 to 54 and 58 of Part G of Schedule 1 commence on a day to be fixed by Proclamation.”.

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

“(7) If items 37 to 54 and 58 of Part G of Schedule 1 do not commence within the period of 6 months beginning on the day on which the International Convention on Salvage, 1989 enters into force for Australia, they commence on the first day after the end of that period.”.

Clause, as amended, agreed to.

Clauses 3 to 10, by leave, taken together, and agreed to.

Schedule 1—

On the motion of Mr O’Keefe, by leave, the following amendments were made together:

Part G, page 30, item 38, before the proposed definition of “damage to the environment” insert the following proposed definition:

“‘common understanding concerning Articles 13 and 14 of the Salvage Convention’ means the common understanding:

- (a) that is referred to in section 315; and
- (b) the terms of which are set out in Part B of Schedule 9;”.

Part G, page 30, item 38 (proposed definition of “Salvage Convention”), omit the proposed definition, substitute:

“‘Salvage Convention’ means the International Convention on Salvage, 1989, as set out in Part A of Schedule 9 to this Act;”.

Part G, page 38, add at the end of the Part:

“58. After Schedule 8:

Add the Schedule set out in Schedule 4 to this Act.”.

Schedule, as amended, agreed to.

Schedules 2 and 3, by leave, taken together, and agreed to.

New Schedule—

On the motion of Mr O’Keefe, the following new Schedule was added to the Bill:

“**SCHEDULE 4** Section 3 and item 58 of Part G
of Schedule 1

**SCHEDULE TO BE ADDED AFTER SCHEDULE 8 TO THE NAVIGATION
ACT 1912**

‘**SCHEDULE 9** Section 294

PART A

INTERNATIONAL CONVENTION ON SALVAGE, 1989

THE STATES PARTIES TO THE PRESENT CONVENTION,

RECOGNIZING the desirability of determining by agreement uniform international rules regarding salvage operations,

NOTING that substantial developments, in particular the increased concern for the protection of the environment, have demonstrated the need to review the international rules presently contained in the Convention for the Unification of Certain Rules of Law relating to Assistance and Salvage at Sea, done at Brussels, 23 September 1910,

CONSCIOUS of the major contribution which efficient and timely salvage operations can make to the safety of vessels and other property in danger and to the protection of the environment,

CONVINCED of the need to ensure that adequate incentives are available to persons who undertake salvage operations in respect of vessels and other property in danger,

HAVE AGREED as follows:

Chapter I—General provisions

Article 1

Definitions

For the purpose of this Convention:

- (a) Salvage operation means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters whatsoever.
- (b) Vessel means any ship or craft, or any structure capable of navigation.
- (c) Property means any property not permanently and intentionally attached to the shoreline and includes freight at risk.
- (d) Damage to the environment means substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents.
- (e) Payment means any reward, remuneration or compensation due under this Convention.
- (f) Organization means the International Maritime Organization.
- (g) Secretary-General means the Secretary-General of the Organization.

Article 2

Application of the Convention

This Convention shall apply whenever judicial or arbitral proceedings relating to matters dealt with in this Convention are brought in a State Party.

Article 3

Platforms and drilling units

This Convention shall not apply to fixed or floating platforms or to mobile offshore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

Article 4

State-owned vessels

- 1 Without prejudice to article 5, this Convention shall not apply to warships or other non-commercial vessels owned or operated by a State and entitled, at the time of salvage operations, to sovereign immunity under generally recognized principles of international law unless that State decides otherwise.
- 2 Where a State Party decides to apply the Convention to its warships or other vessels described in paragraph 1, it shall notify the Secretary-General thereof specifying the terms and conditions of such application.

Article 5

Salvage operations controlled by public authorities

- 1 This Convention shall not affect any provisions of national law or any international convention relating to salvage operations by or under the control of public authorities.
- 2 Nevertheless, salvors carrying out such salvage operations shall be entitled to avail themselves of the rights and remedies provided for in this Convention in respect of salvage operations.
- 3 The extent to which a public authority under a duty to perform salvage operations may avail itself of the rights and remedies provided for in this Convention shall be determined by the law of the State where such authority is situated.

Article 6

Salvage contracts

- 1 This Convention shall apply to any salvage operations save to the extent that a contract otherwise provides expressly or by implication.
- 2 The master shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel. The master or the owner of the vessel shall have the authority to conclude such contracts on behalf of the owner of the property on board the vessel.
- 3 Nothing in this article shall affect the application of article 7 nor duties to prevent or minimize damage to the environment.

Article 7

Annulment and modification of contracts

A contract or any terms thereof may be annulled or modified if:

- (a) the contract has been entered into under undue influence or the influence of danger and its terms are inequitable; or
- (b) the payment under the contract is in an excessive degree too large or too small for the services actually rendered.

Chapter II—Performance of salvage operations

Article 8

Duties of the salvor and of the owner and master

- 1 The salvor shall owe a duty to the owner of the vessel or other property in danger:
 - (a) to carry out the salvage operations with due care;
 - (b) in performing the duty specified in subparagraph (a), to exercise due care to prevent or minimize damage to the environment;
 - (c) whenever circumstances reasonably require, to seek assistance from other salvors; and
 - (d) to accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or other property in danger; provided however that the amount of his reward shall not be prejudiced should it be found that such a request was unreasonable.
- 2 The owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor:
 - (a) to co-operate fully with him during the course of the salvage operations;
 - (b) in so doing, to exercise due care to prevent or minimize damage to the environment; and
 - (c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested by the salvor to do so.

Article 9

Rights of coastal States

Nothing in this Convention shall affect the right of the coastal State concerned to take measures in accordance with generally recognized principles of international

law to protect its coastline or related interests from pollution or the threat of pollution following upon a maritime casualty or acts relating to such a casualty which may reasonably be expected to result in major harmful consequences, including the right of a coastal State to give directions in relation to salvage operations.

Article 10

Duty to render assistance

- 1 Every master is bound, so far as he can do so without serious danger to his vessel and persons thereon, to render assistance to any person in danger of being lost at sea.
- 2 The States Parties shall adopt the measures necessary to enforce the duty set out in paragraph 1.
- 3 The owner of the vessel shall incur no liability for a breach of the duty of the master under paragraph 1.

Article 11

Co-operation

A State Party shall, whenever regulating or deciding upon matters relating to salvage operations such as admittance to ports of vessels in distress or the provision of facilities to salvors, take into account the need for co-operation between salvors, other interested parties and public authorities in order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

Chapter III—Rights of salvors

Article 12

Conditions for reward

- 1 Salvage operations which have had a useful result give right to a reward.
- 2 Except as otherwise provided, no payment is due under this Convention if the salvage operations have had no useful result.
- 3 This chapter shall apply, notwithstanding that the salvaged vessel and the vessel undertaking the salvage operations belong to the same owner.

Article 13

Criteria for fixing the reward

- 1 The reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are presented below:
 - (a) the salvaged value of the vessel and other property;
 - (b) the skill and efforts of the salvors in preventing or minimizing damage to the environment;
 - (c) the measure of success obtained by the salvor;

- (d) the nature and degree of the danger;
 - (e) the skill and efforts of the salvors in salvaging the vessel, other property and life;
 - (f) the time used and expenses and losses incurred by the salvors;
 - (g) the risk of liability and other risks run by the salvors or their equipment;
 - (h) the promptness of the services rendered;
 - (i) the availability and use of vessels or other equipment intended for salvage operations;
 - (j) the state of readiness and efficiency of the salvor's equipment and the value thereof.
- 2 Payment of a reward fixed according to paragraph 1 shall be made by all of the vessel and other property interests in proportion to their respective salvaged values. However, a State Party may in its national law provide that the payment of a reward has to be made by one of these interests, subject to a right of recourse of this interest against the other interests for their respective shares. Nothing in this article shall prevent any right of defence.
- 3 The rewards, exclusive of any interest and recoverable legal costs that may be payable thereon, shall not exceed the salvaged value of the vessel and other property.

Article 14

Special compensation

- 1 If the salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under article 13 at least equivalent to the special compensation assessable in accordance with this article, he shall be entitled to special compensation from the owner of that vessel equivalent to his expenses as herein defined.
- 2 If, in the circumstances set out in paragraph 1, the salvor by his salvage operations has prevented or minimized damage to the environment, the special compensation payable by the owner to the salvor under paragraph 1 may be increased up to a maximum of 30% of the expenses incurred by the salvor. However, the tribunal, if it deems it fair and just to do so and bearing in mind the relevant criteria set out in article 13, paragraph 1, may increase such special compensation further, but in no event shall the total increase be more than 100% of the expenses incurred by the salvor.
- 3 Salvor's expenses for the purpose of paragraphs 1 and 2 means the out-of-pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in article 13, paragraph 1(h), (i) and (j).
- 4 The total special compensation under this article shall be paid only if and to the extent that such compensation is greater than any reward recoverable by the salvor under article 13.

- 5 If the salvor has been negligent and has thereby failed to prevent or minimize damage to the environment, he may be deprived of the whole or part of any special compensation due under this article.
- 6 Nothing in this article shall affect any right of recourse on the part of the owner of the vessel.

Article 15

Apportionment between salvors

- 1 The apportionment of a reward under article 13 between salvors shall be made on the basis of the criteria contained in that article.
- 2 The apportionment between the owner, master and other persons in the service of each salvaging vessel shall be determined by the law of the flag of that vessel. If the salvage has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and his servants.

Article 16

Salvage of persons

- 1 No remuneration is due from persons whose lives are saved, but nothing in this article shall affect the provisions of national law on this subject.
- 2 A salvor of human life, who has taken part in the services rendered on the occasion of the accident giving rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salvaging the vessel or other property or preventing or minimizing damage to the environment.

Article 17

Services rendered under existing contracts

No payment is due under the provisions of this Convention unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger arose.

Article 18

The effect of salvor's misconduct

A salvor may be deprived of the whole or part of the payment due under this Convention to the extent that the salvage operations have become necessary or more difficult because of fault or neglect on his part or if the salvor has been guilty of fraud or other dishonest conduct.

Article 19

Prohibition of salvage operations

Services rendered notwithstanding the express and reasonable prohibition of the owner or master of the vessel or the owner of any other property in danger which is not and has not been on board the vessel shall not give rise to payment under this Convention.

Chapter IV—Claims and actions

Article 20

Maritime lien

- 1 Nothing in this Convention shall affect the salvor's maritime lien under any international convention or national law.
- 2 The salvor may not enforce his maritime lien when satisfactory security for his claim, including interest and costs, has been duly tendered or provided.

Article 21

Duty to provide security

- 1 Upon the request of the salvor a person liable for a payment due under this Convention shall provide satisfactory security for the claim, including interest and costs of the salvor.
- 2 Without prejudice to paragraph 1, the owner of the salvaged vessel shall use his best endeavours to ensure that the owners of the cargo provide satisfactory security for the claims against them including interest and costs before the cargo is released.
- 3 The salvaged vessel and other property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operations until satisfactory security has been put up for the salvor's claim against the relevant vessel or property.

Article 22

Interim payment

- 1 The tribunal having jurisdiction over the claim of the salvor may, by interim decision, order that the salvor shall be paid on account such amount as seems fair and just, and on such terms including terms as to security where appropriate, as may be fair and just according to the circumstances of the case.
- 2 In the event of an interim payment under this article the security provided under article 21 shall be reduced accordingly.

Article 23

Limitation of actions

- 1 Any action relating to payment under this Convention shall be time-barred if judicial or arbitral proceedings have not been instituted within a period of two years. The limitation period commences on the day on which the salvage operations are terminated.
- 2 The person against whom a claim is made may at any time during the running of the limitation period extend that period by a declaration to the claimant. This period may in the like manner be further extended.
- 3 An action for indemnity by a person liable may be instituted even after the expiration of the limitation period provided for in the preceding paragraphs, if brought within the time allowed by the law of the State where proceedings are instituted.

Article 24

Interest

The right of the salvor to interest on any payment due under this Convention shall be determined according to the law of the State in which the tribunal seized of the case is situated.

Article 25

State-owned cargoes

Unless the State owner consents, no provision of this Convention shall be used as a basis for the seizure, arrest or detention by any legal process of, nor for any proceedings *in rem* against, non-commercial cargoes owned by a State and entitled, at the time of the salvage operations, to sovereign immunity under generally recognized principles of international law.

Article 26

Humanitarian cargoes

No provision of this Convention shall be used as a basis for the seizure, arrest or detention of humanitarian cargoes donated by a State, if such State has agreed to pay for salvage services rendered in respect of such humanitarian cargoes.

Article 27

Publication of arbitral awards

States Parties shall encourage, as far as possible and with the consent of the parties, the publication of arbitral awards made in salvage cases.

Chapter V—Final clauses

Article 28

Signature, ratification, acceptance, approval and accession

- 1 This Convention shall be open for signature at the Headquarters of the Organization from 1 July 1989 to 30 June 1990 and shall thereafter remain open for accession.
- 2 States may express their consent to be bound by this Convention by:
 - (a) signature without reservation as to ratification, acceptance or approval; or
 - (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
 - (c) accession.
- 3 Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

Article 29

Entry into force

- 1 This Convention shall enter into force one year after the date on which 15 States have expressed their consent to be bound by it.

- 2 For a State which expresses its consent to be bound by this Convention after the conditions for entry into force thereof have been met, such consent shall take effect one year after the date of expression of such consent.

Article 30

Reservations

- 1 Any State may, at the time of signature, ratification, acceptance, approval or accession, reserve the right not to apply the provisions of this Convention:
 - (a) when the salvage operation takes place in inland waters and all vessels involved are of inland navigation;
 - (b) when the salvage operations take place in inland waters and no vessel is involved;
 - (c) when all interested parties are nationals of that State;
 - (d) when the property involved is maritime cultural property of prehistoric, archaeological or historic interest and is situated on the sea-bed.
- 2 Reservations made at the time of signature are subject to confirmation upon ratification, acceptance or approval.
- 3 Any State which has made a reservation to this Convention may withdraw it at any time by means of a notification addressed to the Secretary-General. Such withdrawal shall take effect on the date the notification is received. If the notification states that the withdrawal of a reservation is to take effect on a date specified therein, and such date is later than the date the notification is received by the Secretary-General, the withdrawal shall take effect on such later date.

Article 31

Denunciation

- 1 This Convention may be denounced by any State Party at any time after the expiry of one year from the date on which this Convention enters into force for that State.
- 2 Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.
- 3 A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the receipt of the instrument of denunciation by the Secretary-General.

Article 32

Revision and amendment

- 1 A conference for the purpose of revising or amending this Convention may be convened by the Organization.
- 2 The Secretary-General shall convene a conference of the States Parties to this Convention for revising or amending the Convention, at the request of eight States Parties, or one fourth of the States Parties, whichever is the higher figure.
- 3 Any consent to be bound by this Convention expressed after the date of entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.

Article 33

Depositary

- 1 This Convention shall be deposited with the Secretary-General.
- 2 The Secretary-General shall:
 - (a) inform all States which have signed this Convention or acceded thereto, and all Members of the Organization, of:
 - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;
 - (ii) the date of the entry into force of this Convention;
 - (iii) the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect;
 - (iv) any amendment adopted in conformity with article 32;
 - (v) the receipt of any reservation, declaration or notification made under this Convention;
 - (b) transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.
- 3 As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 34

Languages

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed this Convention.

DONE AT LONDON this twenty-eighth day of April one thousand nine hundred and eighty-nine.

PART B**COMMON UNDERSTANDING CONCERNING ARTICLES 13 AND 14 OF THE INTERNATIONAL CONVENTION ON SALVAGE, 1989**

It is the common understanding of the Conference that, in fixing a reward under article 13 and assessing special compensation under article 14 of the International Convention on Salvage, 1989 the tribunal is under no duty to fix a reward under article 13 up to the maximum salvaged value of the vessel and other property before assessing the special compensation to be paid under article 14.'”.

Title agreed to.

Bill, as amended, agreed to.

Consideration in detail concluded.

On the motion of Mr O'Keefe, by leave, the Bill was read a third time.

5 SOCIAL SECURITY (NON-BUDGET MEASURES) LEGISLATION AMENDMENT BILL 1994

The order of the day having been read for the second reading—Mrs Crosio (Parliamentary Secretary to the Minister for Social Security) moved—That the Bill be now read a second time.

Debate ensued.

Mr Bradford addressing the House—

It being 3 p.m., the debate was interrupted in accordance with standing order 101A, and the resumption of the debate made an order of the day for a later hour this day.

6 QUESTIONS

Questions without notice were asked.

7 INJUNCTION CONCERNING REPORT OF COMMONWEALTH OMBUDSMAN

The Speaker referred to the matter raised yesterday by Mr Price in connection with a court injunction being sought to prevent publication of a report by the Commonwealth Ombudsman. The Speaker said that no *prima facie* case of breach of privilege or contempt had been made out and that it was not desirable that he be represented in the court proceedings.

Mr Howard (Leader of the Opposition) asked the Speaker if he would be prepared to allow precedence to a motion to require the Commonwealth Ombudsman to have a copy of her report presented to the House. The Speaker stated that he would consider the matter and report back to the House.

8 PAPERS

The following papers were presented:

Advance Australia Logo Protection Act—Advance Australia Foundation—Report for 1993-94.

Employment, Education and Training Act—National Board of Employment, Education and Training—Australian Research Council, including the Board's comments—Reports—

Collaborative activities of the Institute of Advanced Studies, the Australian National University, January 1995.

Reviews of grants outcomes—No. 16—Inorganic chemistry 1988-1992, January 1995.

International Monetary Agreements Act—Australia and the IMF—Report for 1993-94.

9 AUSTRALIA AND THE IMF—PAPER—MOTION TO TAKE NOTE OF PAPER

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

International Monetary Agreements Act—Australia and the IMF—Report for 1993-94.

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

10 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—TELECASTING OF MAJOR SPORTING EVENTS

The House was informed that both Dr Kemp and Mr S. F. Smith had proposed that definite matters of public importance be submitted to the House for discussion today. In accordance with the provisions of standing order 107, the Speaker had given priority to the matter proposed by Dr Kemp, namely, "The incompetence of the Government's handling of the telecasting of major sporting events which threatens to deny most Australians access to free to air television broadcasts of the Australian Cricket Team's tour of the West Indies".

The proposed discussion having received the necessary support—

Dr Kemp addressed the House.

Discussion ensued.

Discussion concluded.

11 CRIMINAL CODE BILL 1995—REPORT FROM MAIN COMMITTEE

The Deputy Speaker reported that the Criminal Code Bill 1995 had been fully considered in the Main Committee and agreed to without amendment, and presented a certified copy of the Bill.

Bill agreed to.

On the motion of Mrs Crosio (Parliamentary Secretary to the Minister for Social Security), by leave, the Bill was read a third time.

12 CRIMES AMENDMENT BILL 1995—REPORT FROM MAIN COMMITTEE

The Deputy Speaker reported that the Crimes Amendment Bill 1995 had been fully considered in the Main Committee and agreed to without amendment, and presented a certified copy of the Bill.

Bill agreed to.

On the motion of Mrs Crosio (Parliamentary Secretary to the Minister for Social Security), by leave, the Bill was read a third time.

13 ARCHIVES AMENDMENT BILL 1995—REPORT FROM MAIN COMMITTEE

The Deputy Speaker reported that the Archives Amendment Bill 1995 had been fully considered in the Main Committee and agreed to without amendment, and presented a certified copy of the Bill.

Bill agreed to.

On the motion of Mrs Crosio (Parliamentary Secretary to the Minister for Social Security), by leave, the Bill was read a third time.

14 MATTERS REFERRED TO MAIN COMMITTEE

Mr McLeay (Chief Government Whip), pursuant to notice, moved—That the following orders of the day be referred to the Main Committee for debate:

Government business

Employment, Education and Training—Standing Committee—Report on violence in Australian schools—Government response—Motion to take note of paper: Resumption of debate.

Department of Social Security and Data-matching Agency—Report on Data-matching Program—Motion to take note of paper: Resumption of debate.

Department of Social Security—Performance standards 1993-94—Motion to take note of paper: Resumption of debate.

Department of Employment, Education and Training—Report on Data-matching Program—Motion to take note of paper: Resumption of debate.

Committee and delegation reports

Foreign Affairs, Defence and Trade—Joint Standing Committee—Report on visit to Thailand and Laos—Motion to take note of paper: Resumption of debate.

Question—put and passed.

15 SOCIAL SECURITY (NON-BUDGET MEASURES) LEGISLATION AMENDMENT BILL 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.

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

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

No. 241, dated 12 December 1994, recommending an appropriation for the purposes of the Bill; and

No. 242, dated 28 February 1995, recommending an appropriation for the purpose of amendments to the Bill.

Consideration in detail

Clause 1 agreed to.

Clause 2—

On the motion of Mrs Crosio (Parliamentary Secretary to the Minister for Social Security), the following amendment was made: Page 2, after subclause (7) insert the following subclause:

“(7A) Division 20B of Part 2 commences on 20 March 1995.”.

Clause, as amended, agreed to.

Clauses 3 to 14, by leave, taken together, and agreed to.

Clauses 15 and 16 (Division 7 of Part 2), by leave, taken together and omitted, after debate.

Clauses 17 to 46, by leave, taken together, and agreed to.

Clauses 47 to 136, by leave, taken together.

On the motion of Mrs Crosio, by leave, the following amendments were made together, after debate:

Clause 47, page 21, lines 8 and 9, omit proposed paragraph 73B(e), substitute the following paragraphs:

“(e) because of the occurrence of the event or change in circumstances:

(i) the maximum payment rate for calculating the person’s rate of pension is to be reduced; and

(ii) as a result, the person’s rate of pension is to be reduced; and

(f) the person’s rate of pension is not reduced before the end of the notification period;”.

Clause 52, page 22, lines 16 and 17, omit proposed paragraph 141A(e), substitute the following paragraphs:

- “(e) because of the occurrence of the event or change in circumstances:
 - (i) the maximum payment rate for calculating the person’s rate of pension is to be reduced; and
 - (ii) as a result, the person’s rate of pension is to be reduced; and
- (f) the person’s rate of pension is not reduced before the end of the notification period;”.

Clause 57, page 23, lines 26 and 27, omit proposed paragraph 177A(e), substitute the following paragraphs:

- “(e) because of the occurrence of the event or change in circumstances:
 - (i) the maximum payment rate for calculating the person’s rate of pension is to be reduced; and
 - (ii) as a result, the person’s rate of pension is to be reduced; and
- (f) the person’s rate of pension is not reduced before the end of the notification period;”.

Clause 62, page 24, lines 32 and 33, omit proposed paragraph 227B(e), substitute the following paragraphs:

- “(e) because of the occurrence of the event or change in circumstances:
 - (i) the maximum payment rate for calculating the person’s rate of pension is to be reduced; and
 - (ii) as a result, the person’s rate of pension is to be reduced; and
- (f) the person’s rate of pension is not reduced before the end of the notification period;”.

Clause 67, page 26, lines 5 and 6, omit proposed paragraph 290B(e), substitute the following paragraphs:

- “(e) because of the occurrence of the event or change in circumstances:
 - (i) the maximum payment rate for calculating the person’s rate of pension is to be reduced; and
 - (ii) as a result, the person’s rate of pension is to be reduced; and
- (f) the person’s rate of pension is not reduced before the end of the notification period;”.

Clause 72, page 27, lines 13 and 14, omit proposed paragraph 347A(e), substitute the following paragraphs:

- “(e) because of the occurrence of the event or change in circumstances:
 - (i) the maximum payment rate for calculating the person’s rate of allowance is to be reduced; and
 - (ii) as a result, the person’s rate of allowance is to be reduced; and
- (f) the person’s rate of allowance is not reduced before the end of the notification period;”.

Clause 77, page 28, lines 22 and 23, omit proposed paragraph 395A(e), substitute the following paragraphs:

- “(e) because of the occurrence of the event or change in circumstances:

- (i) the maximum payment rate for calculating the person's rate of pension is to be reduced; and
- (ii) as a result, the person's rate of pension is to be reduced; and
- (f) the person's rate of pension is not reduced before the end of the notification period;”.

Clause 82, page 29, lines 32 and 33, omit proposed paragraph 408MAA(e), substitute the following paragraphs:

- “(e) because of the occurrence of the event or change in circumstances:
 - (i) the maximum payment rate for calculating the woman's rate of allowance is to be reduced; and
 - (ii) as a result, the woman's rate of allowance is to be reduced; and
- (f) the woman's rate of allowance is not reduced before the end of the notification period;”.

Clause 87, page 31, lines 6 and 7, omit proposed paragraph 456A(e), substitute the following paragraphs:

- “(e) because of the occurrence of the event or change in circumstances:
 - (i) the maximum payment rate for calculating the rate of the person's supplement is to be reduced; and
 - (ii) as a result, the rate of the person's supplement is to be reduced; and
- (f) the rate of the person's supplement is not reduced before the end of the notification period;”.

Clause 92, page 32, lines 13 and 14, omit proposed paragraph 582A(e), substitute the following paragraphs:

- “(e) because of the occurrence of the event or change in circumstances:
 - (i) the maximum payment rate for calculating the person's rate of allowance is to be reduced; and
 - (ii) as a result, the person's rate of allowance is to be reduced; and
- (f) the person's rate of allowance is not reduced before the end of the notification period;”.

Clause 97, page 33, lines 22 and 23, omit proposed paragraph 660EA(e), substitute the following paragraphs:

- “(e) because of the occurrence of the event or change in circumstances:
 - (i) the maximum payment rate for calculating the person's rate of allowance is to be reduced; and
 - (ii) as a result, the person's rate of allowance is to be reduced; and
- (f) the person's rate of allowance is not reduced before the end of the notification period;”.

Clause 102, page 35, lines 4 and 5, omit proposed paragraph 660XJFA(e), substitute the following paragraphs:

- “(e) because of the occurrence of the event or change in circumstances:
 - (i) the maximum payment rate for calculating the person's rate of allowance is to be reduced; and
 - (ii) as a result, the person's rate of allowance is to be reduced; and

- (f) the person's rate of allowance is not reduced before the end of the notification period;"

Clause 107, page 36, lines 13 and 14, omit proposed paragraph 728GA(e), substitute the following paragraphs:

- "(e) because of the occurrence of the event or change in circumstances:
 - (i) the maximum payment rate for calculating the person's rate of allowance is to be reduced; and
 - (ii) as a result, the person's rate of allowance is to be reduced; and
- (f) the person's rate of allowance is not reduced before the end of the notification period;"

Clause 112, page 37, lines 23 and 24, omit proposed paragraph 771NHA(e), substitute the following paragraphs:

- "(e) because of the occurrence of the event or change in circumstances:
 - (i) the maximum payment rate for calculating the person's rate of allowance is to be reduced; and
 - (ii) as a result, the person's rate of allowance is to be reduced; and
- (f) the person's rate of allowance is not reduced before the end of the notification period;"

Clause 117, page 39, lines 1 and 2, omit proposed paragraph 814A(e), substitute the following paragraphs:

- "(e) because of the occurrence of the event or change in circumstances:
 - (i) the maximum payment rate for calculating the person's rate of pension is to be reduced; and
 - (ii) as a result, the person's rate of pension is to be reduced; and
- (f) the person's rate of pension is not reduced before the end of the notification period;"

Clause 122, page 40, lines 9 and 10, omit proposed paragraph 876A(e), substitute the following paragraphs:

- "(e) because of the occurrence of the event or change in circumstances:
 - (i) the maximum payment rate for calculating the person's rate of family payment is to be reduced; and
 - (ii) as a result, the person's rate of family payment is to be reduced; and
- (f) the person's rate of family payment is not reduced before the end of the notification period;"

Clause 126, page 41, lines 13 and 14, omit proposed paragraph 948A(e), substitute the following paragraphs:

- "(e) because of the occurrence of the event or change in circumstances:
 - (i) the maximum payment rate for calculating the person's rate of home child care allowance is to be reduced; and
 - (ii) as a result, the person's rate of home child care allowance is to be reduced; and
- (f) the person's rate of home child care allowance is not reduced before the end of the notification period;"

Clause 131, page 42, lines 22 and 23, omit proposed paragraph 951FA(e), substitute the following paragraphs:

- “(e) because of the occurrence of the event or change in circumstances:
- (i) the maximum payment rate for calculating the person’s rate of allowance is to be reduced; and
 - (ii) as a result, the person’s rate of allowance is to be reduced; and
- (f) the person’s rate of allowance is not reduced before the end of the notification period;”

Clause 136, page 43, lines 32 and 33, omit proposed paragraph 983A(e), substitute the following paragraphs:

- “(e) because of the occurrence of the event or change in circumstances:
- (i) the maximum payment rate for calculating the person’s rate of allowance is to be reduced; and
 - (ii) as a result, the person’s rate of allowance is to be reduced; and
- (f) the person’s rate of allowance is not reduced before the end of the notification period;”

Clauses, as amended, agreed to.

Clauses 137 to 140, by leave, taken together, and agreed to.

New Divisions—

On the motion of Mrs Crosio, by leave, the following new Divisions 20A and 20B (comprising new clauses 140A to 140J) were inserted in the Bill, after debate:

“Division 20A—Waiver of debts

Application

“140A. Section 1236A of the Principal Act is amended by omitting ‘and 1237A’ and substituting ‘, 1237A and 1237AB’.

Insertion of section

“140B. After section 1237A of the Principal Act the following section is inserted:

Secretary may waive debts of a particular class

‘1237AB.(1) The Secretary may, on behalf of the Commonwealth, decide to waive the Commonwealth’s right to recover debts arising under or as a result of this Act that are included in a class of debts specified by the Minister by notice published in the *Gazette*.

‘(2) A decision under subsection (1) takes effect:

- (a) if no day is specified in the decision—on the day on which the decision is made; or
- (b) if a day is specified in the decision—on the day so specified (whether that day is before, after or on the day on which the decision is made).’.

“Division 20B—Amendments consequential upon income support supplement becoming payable under the Veterans’ Entitlement Act

General definitions

“140C. Section 23 of the Principal Act is amended by inserting in subsection (1):

‘“income support supplement” means income support supplement under Part IIIA of the Veterans’ Entitlement Act;’.

Qualification for carer pension

“140D. Section 198 of the Principal Act is amended:

- (a) by omitting from subparagraph (1)(d)(i) ‘or a service pension’ and substituting ‘, a service pension or income support supplement’;
- (b) by inserting in paragraph (1A)(b) ‘or income support supplement’ after ‘pension’.

Continuation of carer pension for bereavement period where person cared for dies

“140E. Section 235 of the Principal Act is amended by inserting in paragraph (4)(a) ‘or IIIA’ after ‘Part III’.

Lump sum payable in some circumstances

“140F. Section 236A of the Principal Act is amended by adding at the end of sub-subparagraph (1)(d)(ii)(C) ‘or income support supplement’.

Qualification for payments under this Subdivision

“140G. Section 237 of the Principal Act is amended by inserting in subparagraph (1)(d)(viii) ‘or income support supplement’ after ‘pension’.

Continued payment of partner’s pension or allowance

“140H. Section 238 of the Principal Act is amended by inserting in paragraph (1)(b) ‘or income support supplement’ and ‘or IIIA (as the case may be)’ after ‘pension’ (first occurring) and ‘Part III’ respectively.

Benefits under this Subdivision

“140I. Section 242 of the Principal Act is amended:

- (a) by inserting in paragraph (1)(b) ‘or IIIA’ after ‘Part III’;
- (b) by inserting in paragraph (2)(b) ‘or IIIA’ after ‘Part III’.

Death of recipient

“140J. Section 246 of the Principal Act is amended by inserting in sub-subparagraph (1)(b)(ii)(C) ‘or income support supplement’ after ‘pension’.”.

Clauses 141 to 152, by leave, taken together, and agreed to.

Schedule—

On the motion of Mr Ruddock, the following amendment was made, after debate: Page 52, add to the Schedule:

“19. Paragraph 1251(1)(b):

Omit the paragraph, substitute the following paragraph:

- ‘(b) the adverse decision:
 - (i) depends on the exercise of a discretion by a person or the holding of an opinion by a person; or
 - (ii) would result in the application of a deferment period; and

Note: For “deferment period” see section 23.’.

20. After section 1251:

Insert the following section:

Guidelines for exercise of Secretary’s power to continue payment

‘1251A. (1) The Minister, by determination in writing:

- (a) is to set guidelines for the exercise of the Secretary's power to make declarations under subsection 1251(1) in relation to social security payments to persons who are subject to deferment periods; and
- (b) may revoke or vary those guidelines.

Note: For "deferment period" see section 23.

'(2) A determination made under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.'".

Schedule, as amended, agreed to.

Title agreed to.

Bill, as amended, agreed to.

Consideration in detail concluded.

On the motion of Mrs Crosio, by leave, the Bill was read a third time.

16 TOBACCO ADVERTISING PROHIBITION AMENDMENT BILL 1995

The order of the day having been read for the second reading—Dr Theophanous (Parliamentary Secretary to the Minister for Human Services and Health) moved—That the Bill be now read a second time.

Debate ensued.

17 ADJOURNMENT

It being 7.30 p.m.—The question was proposed—That the House do now adjourn.

Debate ensued.

The House continuing to sit until 8 p.m.—The Speaker adjourned the House until tomorrow at 9.30 a.m.

ATTENDANCE

All Members attended (at some time during the sitting) except Mr Dobie, Mr Howe, Mr Keating, Mr Kerr, Mr Punch, Mr Swan, Mr Vaile and Mr Willis.

L. M. BARLIN

Clerk of the House of Representatives

1993-94-95

HOUSE OF REPRESENTATIVES**SUPPLEMENT TO VOTES AND PROCEEDINGS**

No. 124

MAIN COMMITTEE**MINUTES OF PROCEEDINGS**

WEDNESDAY, 1 MARCH 1995

1 The Main Committee met at 10 a.m.

2 DECLARATION OF BILLS AS COGNATE BILLS

Mr Kerr (Minister for Justice), by leave, declared that the Criminal Code Bill 1995 and the Crimes Amendment Bill 1995 were cognate bills.

3 CRIMINAL CODE BILL 1995

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

Debate ensued.

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

Leave granted for the motion for the Bill to be reported to be moved forthwith.

On the motion of Mr Kerr, Bill to be reported to the House without amendment.

4 CRIMES AMENDMENT BILL 1995

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

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

Leave granted for the motion for the Bill to be reported to be moved forthwith.

On the motion of Mr Kerr, Bill to be reported to the House without amendment.

5 ARCHIVES AMENDMENT BILL 1995

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.

Debate ensued.

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

Leave granted for the motion for the Bill to be reported to be moved forthwith.

On the motion of Mr Lindsay, Bill to be reported to the House without amendment.

6 ADJOURNMENT

On the motion of Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology), the Main Committee adjourned at 1 p.m.

The Deputy Speaker fixed tomorrow at 10 a.m. for the next meeting of the Main Committee.



I. C. HARRIS

Clerk of the Main Committee