

1998-1999-2000

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 117

WEDNESDAY, 7 JUNE 2000



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

2 MIGRATION LEGISLATION AMENDMENT (PARENTS AND OTHER MEASURES) BILL 2000

Mr Ruddock (Minister for Immigration and Multicultural Affairs), pursuant to notice, presented a Bill for an Act to amend the law relating to migration and Medicare, and for related purposes.

Bill read a first time.

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

Paper

Mr Ruddock presented an explanatory memorandum to the Bill.

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

3 MIGRATION (VISA APPLICATION) CHARGE AMENDMENT BILL 2000

Mr Ruddock (Minister for Immigration and Multicultural Affairs) presented a Bill for an act to amend the *Migration (Visa Application) Charge Act 1997*, and for related purposes.

Bill read a first time.

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

Paper

Mr Ruddock presented an explanatory memorandum to the Bill.

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

4 DEFENCE LEGISLATION AMENDMENT (FLEXIBLE CAREER PRACTICES) BILL 2000

Mr Scott (Minister Assisting the Minister for Defence), pursuant to notice, presented a Bill for an Act to amend legislation relating to defence, and for related purposes.

Bill read a first time.

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

Paper

Mr Scott presented an explanatory memorandum to the Bill.

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

5 MESSAGE FROM THE SENATE—HEALTH LEGISLATION AMENDMENT (GAP COVER SCHEMES) BILL 2000

A message from the Senate was reported returning the following Bill with amendments:

6 June 2000—Message No. 383—Health Legislation Amendment (Gap Cover Schemes) 2000.

Ordered—That the amendments be considered at the next sitting.

6 APPROPRIATION BILL (NO. 1) 2000-2001—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—*And on the amendment moved thereto by Mr Tanner, viz.*—That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the Bill a second reading, the House condemns the Government for its:

- (1) failure to address the significant investment needs in the areas of education, health and the provision of social services in the 2000-2001 Budget;
- (2) wasteful and profligate spending on poor quality programs to buy Democrat support for its unfair GST;
- (3) misuse of over \$360 million of taxpayers’ money on its politically partisan GST advertising campaign;
- (4) reduction of a potential Budget cash surplus in 2000-2001 of \$11 billion, to a real Budget deficit of \$2.1 billion;
- (5) use of creative accounting techniques in an attempt to deceive the Australian public on the true state of the Budget;
- (6) mishandling of the move to accrual accounting by providing complex, confusing and uninformative budget documents;
- (7) failure to identify in the Budget papers the cost of GST collection and implementation; and
- (8) failure to put in place arrangements that deliver its guarantee that no Australian will be worse off as a result of the GST package”—

Debate resumed.

Mr Cadman was granted leave to continue his speech when the debate is resumed.

Debate adjourned, and the resumption of the debate made an order of the day for a later hour this day.

7 MESSAGES FROM THE SENATE

Messages from the Senate, 6 June 2000, were reported returning the following Bills without requests:

No. 384—Customs Tariff Amendment (No. 1) 2000.

No. 385—Excise Tariff Amendment (No. 1) 2000.

8 MINISTERIAL ARRANGEMENTS

Mr Howard (Prime Minister) informed the House that, during his absence abroad, Mr Anderson (Deputy Prime Minister) would be Acting Prime Minister.

9 QUESTIONS

Questions without notice being asked—

Papers

Mr McMullan, in accordance with standing order 321, having called for documents quoted from by Mr Hockey (Minister for Financial Services and Regulation)—

Mr Hockey presented the following papers:

Goods and services tax—Prices—

Copies of front covers of—

Beautiful Home Ideas, No. 2.

Home Ideas—

Renovating special.

Spring quarterly.

Volume 1, No. 4.

Facsimile from Simon Mullen, Group Publisher, Express Lifestyle Publications, Pty Ltd, to Mr Eugene Foo, Australian Competition and Consumer Commission, 7 June 2000.

Questions without notice continued.

10 PAPER

Mr K. J. Thomson, by leave, during a personal explanation, presented the following paper:

Beautiful Home Ideas, No. 2.

11 PAPERS

The following papers were presented:

Council of Financial Regulators—Report for 1999.

Department of Family and Community Services—Report—Evaluation of the Child Disability Assessment Tool—Government response.

12 BILLS REFERRED TO MAIN COMMITTEE

Mr Ronaldson (Chief Government Whip), by leave, moved—That the following Bills be referred to the Main Committee for further consideration:

Appropriation (No. 1) 2000-2001;

Appropriation (No. 2) 2000-2001; and

Appropriation (Parliamentary Departments) (No. 1) 2000-2001.

Question—put and passed.

13 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—GOODS AND SERVICES TAX

The House was informed that Mr Swan had proposed that a definite matter of public importance be submitted to the House for discussion, namely, “The failure of the Government to adequately protect families, pensioners, and self-funded retirees from the impact of the GST”.

The proposed discussion having received the necessary support—

Mr Swan addressed the House.

Discussion ensued.

Discussion concluded.

14 A NEW TAX SYSTEM (TRADE PRACTICES AMENDMENT) BILL 2000—SENATE’S AMENDMENTS

The order of the day having been read for the consideration of the amendments made by the Senate—

Mr Hockey (Minister for Financial Services and Regulation) moved—That the amendments be agreed to.

Mr Crean (Deputy Leader of the Opposition), by leave, moved Opposition amendments (1) to (3) together.

Debate continued.

Question—That the amendments moved by Mr Crean be agreed to—put.

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

AYES, 62

Mr Adams	Mr Fitzgibbon	Ms Livermore	Mr Ripoll
Mr Albanese	Ms Gerick	Mr McClelland	Ms Roxon
Mr Bevis	Mr Gibbons	Ms J. S. McFarlane	Mr Rudd
Mr Brereton	Ms Gillard	Ms Macklin	Mr Sawford*
Ms Burke	Mr Griffin	Mr McLeay	Mr Sciacca
Mr Byrne	Ms Hall	Mr McMullan	Mr Sercombe*
Mr Cox	Mr Hatton	Mr Melham	Mr Sidebottom
Mr Crean	Ms Hoare	Mr Morris	Mr Smith
Mrs Crosio	Mr Hollis	Mr Mossfield	Mr Swan
Mr Danby	Mr Horne	Mr Murphy	Mr Tanner
Mr Edwards	Mrs Irwin	Ms O’Byrne	Dr Theophanous
Ms Ellis	Ms Kernot	Mr O’Connor	Mr K. J. Thomson
Mr Emerson	Mr Kerr	Mr O’Keefe	Mr Wilkie
Mr M. J. Evans	Mr Latham	Ms Plibersek	Mr Zahra
Mr L. D. T. Ferguson	Dr Lawrence	Mr Price	
Mr M. J. Ferguson	Mr Lee	Mr Quick	

NOES, 73

Mr Abbott	Mr Fahey	Mr Lindsay	Mr Secker
Mr Anderson	Mr Fischer	Mr Lloyd	Mr Slipper
Mr K. J. Andrews	Mr Forrest*	Mr McArthur*	Mr Somlyay
Mr Anthony	Mrs Gallus	Mr I. E. Macfarlane	Dr Southcott
Fran Bailey	Ms Gambaro	Mr McGauran	Dr Stone
Mr Baird	Mrs Gash	Mrs May	Mrs Sullivan
Mr Barresi	Mr Georgiou	Mr Moore	Mr C. P. Thompson
Mr Bartlett	Mr Haase	Mrs Moylan	Mr A. P. Thomson
Mr Billson	Mr Hardgrave	Mr Nairn	Mr Truss
Mrs B. K. Bishop	Mr Hawker	Mr Nehl	Mr Tuckey
Mr Brough	Mr Hockey	Dr Nelson	Mrs D. S. Vale
Mr Cadman	Mrs Hull	Mr Neville	Mr Wakelin
Mr Cameron	Mr Jull	Mr Nugent	Dr Washer
Mr Causley	Mr Katter	Mr Prosser	Mr Williams
Mr Charles	Mrs D. M. Kelly	Mr Pyne	Dr Wooldridge
Mr Costello	Jackie Kelly	Mr Reith	Ms Worth
Mrs Draper	Dr Kemp	Mr Ronaldson	
Mrs Elson	Mr Lawler	Mr St Clair	
Mr Entsch	Mr Lieberman	Mr Scott	

* Tellers

Pairs

Mr Howard	Mr Beazley
Mr Downer	Mr Wilton

And so it was negatived.

Amendments made by the Senate agreed to.

15 CORPORATIONS LAW AMENDMENT (EMPLOYEE ENTITLEMENTS) BILL 2000—SENATE'S AMENDMENT

The order of the day having been read for the consideration of the amendment made by the Senate—

On the motion of Mr Hockey (Minister for Financial Services and Regulation), the amendment was disagreed to, after debate.

Mr Hockey presented reasons, which were circulated, and are as follows:

Reasons of the House of Representatives for disagreeing to the amendment of the Senate

The amendment proposes the insertion of a new Division 6A into Part 5.7B of the Corporations Law to extend the liability of all bodies corporate for the debts of related insolvent companies where the Court thinks it “just” to do so.

The Bill is a significant step towards protecting employee entitlements. The amendment made to the Bill bears little relation to the protection of employee entitlements and raises a number of significant concerns.

The principle that every company is a separate legal entity is an important concept in Australian corporate law. The proposed amendment will have a serious impact on the operation of that principle and should therefore not be introduced on an ad hoc basis. It should be carefully considered and debated in the context of the whole of the Corporations Law and other laws and policies that have built up around the separate legal entity concept. Introducing the proposed amendment with little consultation and debate, and without proper consideration is not a prudent course and would have serious unforeseen consequences.

The amendment gives little guidance to bodies corporate and their advisers as to permitted and non-permitted conduct. The proposed “just” test is to be applied in hindsight, which will create uncertainty in business decision-making. It could take a number of years for the courts to build up sufficient jurisprudence for the test to give any certainty. The question of whether or not a body corporate is liable for the debts of another is of critical importance to economic decisions affecting investment, jobs and other business activity faced every day by hundreds of thousands of companies. The effect of the amendment by the Senate would be to significantly increase the uncertainty faced by business in making those decisions, with a consequential chilling effect on economic activity.

The erosion of ‘firewalls’ between separate legal entities is perhaps of most concern and may have very severe confidence effects on corporate groups, due to exposure to potential claims against others in the group. This is particularly serious in the case of corporate groups that include prudentially supervised entities such as deposit-taking institutions. In addition, the likely increase in litigation arising from claims by a range of different creditors could frustrate the timely and cost-effective winding up of an insolvent company, thereby prejudicing the claims of the main body of creditors.

Innocent shareholders and creditors who have had nothing to do with the running of other companies in the group may effectively be held responsible for the debts of those companies. The result of this could be devastating for small trade creditors, who think they are dealing with a sound company, only to find it is going into liquidation because of related company liability. It will therefore be incumbent on creditors to assure themselves of the bona fides of all companies in a group, assuming they are aware that they are dealing with a group in the first place.

Furthermore, the Legal Committee of the Companies and Securities Advisory Committee is currently examining a number of issues involving corporate groups, including mandatory contribution orders, in a wider context than the protection of employee entitlements. The Advisory Committee’s decision should not be pre-empted.

In any case, amendments to the Corporations Law generally require the approval of the Ministerial Council for Corporations (‘MINCO’) under the Corporations Agreement that underpins the national regulation scheme for companies and securities. This amendment potentially has such far-reaching

ramifications and it should not proceed without the required consultation with the States and Territories.

Accordingly the House of Representatives does not accept this amendment.

On the motion of Mr Hockey, the reasons were adopted.

16 POSTPONEMENT OF ORDER OF THE DAY

Ordered—That order of the day No. 6, government business, be postponed until a later hour this day.

17 MESSAGE FROM THE SENATE

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

7 June 2000—Message No. 386—Telecommunications (Interception) Legislation Amendment 2000.

18 PETROLEUM (SUBMERGED LANDS) LEGISLATION AMENDMENT BILL (NO. 2) 2000—REPORT FROM MAIN COMMITTEE

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

Bill agreed to.

On the motion of Mr Hockey (Minister for Financial Services and Regulation), by leave, the Bill was read a third time.

19 FINANCIAL MANAGEMENT AND ACCOUNTABILITY AMENDMENT BILL 2000—REPORT FROM MAIN COMMITTEE

The Deputy Speaker reported that the Bill had been fully considered by the Main Committee, a Governor-General's message recommending an appropriation had been reported, and the Bill had been agreed to without amendment, and presented a certified copy of the Bill.

Bill agreed to.

On the motion of Mr Hockey (Minister for Financial Services and Regulation), by leave, the Bill was read a third time.

20 TRANSPORT LEGISLATION AMENDMENT BILL 2000—REPORT FROM MAIN COMMITTEE

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

Bill agreed to.

On the motion of Mr Hockey (Minister for Financial Services and Regulation), by leave, the Bill was read a third time.

**21 INTERNATIONAL TAX AGREEMENTS AMENDMENT BILL (NO. 1) 2000—
REPORT FROM MAIN COMMITTEE**

The Deputy Speaker reported that the Main Committee had returned the Bill for further consideration (*see item No. 6, Minutes of Proceedings of the Main Committee*), and presented a certified copy of the Bill.

Ordered—That further proceedings on the Bill be made an order of the day for the next sitting.

**22 PUBLIC ACCOUNTS AND AUDIT—JOINT COMMITTEE—REPORT—
STATEMENT BY MEMBER—MOTION TO TAKE NOTE OF PAPER**

Mr Charles (Chair) presented the following paper:

Public Accounts and Audit—Joint Committee—Report 376—Financial information in management reports and control structures of major Commonwealth agencies—Review of Auditor-General's reports 1999-2000: First quarter, 31 May 2000.

Ordered to be printed.

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

Mr Charles, by leave, moved—That the House take note of the paper.

Mr Charles was granted leave to continue his speech when the debate is resumed.

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

**23 PARLIAMENTARY ZONE—OLD PARLIAMENT HOUSE REFURBISHMENT OF
SOUTH WEST WING—APPROVAL OF PROPOSAL**

Mr Hockey (Minister for Financial Services and Regulation), for Mr Anderson (Minister representing the Minister for Regional Services, Territories and Local Government), pursuant to notice, moved—That, in accordance with section 5 of the *Parliament Act 1974*, the House approves the following proposals for works in the Parliamentary Zone which were presented to the House on 13 April 2000, namely: Old Parliament House refurbishment of south west wing.

Question—put and passed.

24 TAXATION LAWS AMENDMENT BILL (NO. 6) 2000

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.

Mr K. J. Thomson 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 use of \$410 million to sell the GST to Australians whilst it could only spend \$200 per small business to provide real help in meeting the onerous compliance costs of small business; and

(2) its continual amendment and complication of the tax system”.

Debate continued.

Debate adjourned (Mr McGauran—Minister for the Arts and the Centenary of Federation), and the resumption of the debate made an order of the day for the next sitting.

25 NEW BUSINESS TAX SYSTEM (MISCELLANEOUS) BILL 1999—SENATE’S AMENDMENTS

The order of the day having been read for the consideration of the amendments made by the Senate—

Constitutional significance of Senate amendments—Statement by Deputy Speaker

The Deputy Speaker made the following statement:

It is my duty to draw to the attention of the House an issue concerning the Senate’s amendments to this Bill.

Amendment No. 7 is the key amendment. I understand that it extends to charities eligibility to benefit from franking credits and consequential payment from public funds. The other amendments support this.

Section 53 of the Constitution provides that the Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

It seems that the effect of the Senate amendments will be to increase the class eligible to receive payments as a result of the franking credit provisions.

In these circumstances, the House might want to consider the course it should take in respect of these alterations.

Mr McGauran (Minister for the Arts and the Centenary of Federation) moved—That the House endorses the statement of the Deputy Speaker in relation to the constitutional questions raised by the Senate’s amendments to the Bill.

Debate ensued.

Question—put and passed.

On the motion of Mr McGauran, Senate amendments Nos 1 to 7 were disagreed to.

Message from the Governor-General

Message No. 201, 12 April 2000, from His Excellency the Governor-General was announced recommending an appropriation for the purposes of amendments to the Bill.

On the motion of Mr McGauran, Government amendments (1) to (7) were made in place of the Senate’s amendments disagreed to.

26 ADJOURNMENT

Mr McGauran (Minister for the Arts and the Centenary of Federation) moved—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.

PAPERS

The following papers were deemed to have been presented on 7 June 2000:

Consular Privileges and Immunities Act—Determination—2000 Consular Privileges and Immunities (Indirect Tax Concession Scheme).

Diplomatic Privileges and Immunities Act—Determination—2000 Diplomatic Privileges and Immunities (Indirect Tax Concession Scheme).

Export Market Development Grants Act—Determination—2000 No. 1.

Farm Household Support Act—Dairy Exit Program Scheme 2000.

Health Insurance Act—Declaration—2000 No. QAA 2.

Telecommunications (Consumer Protection and Service Standards) Act—Determination—2000 Net Universal Service Cost for the 1999-2000 financial year (No. 1).

Telecommunications Act 1997 and Telecommunications Legislation Amendment Act—Determination—2000 Net Universal Service Cost for the 1998-1999 financial year (No. 1).

ATTENDANCE

All Members attended (at some time during the sitting) except Ms J. I. Bishop, Mr Downer, Mr Martin, Mr Schultz, Mr Snowdon, Mr M. A. J. Vaile and Mr Wilton.

I. C. HARRIS

Clerk of the House of Representatives

1998-1999-2000

HOUSE OF REPRESENTATIVES
SUPPLEMENT TO VOTES AND PROCEEDINGS

No. 117

MAIN COMMITTEE

MINUTES OF PROCEEDINGS

WEDNESDAY, 7 JUNE 2000

1 The Main Committee met at 9.40 a.m.

2 MEMBERS' STATEMENTS

Members' statements were made.

3 PETROLEUM (SUBMERGED LANDS) LEGISLATION AMENDMENT BILL (NO. 2) 2000

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.

Leave granted for the question on the report to be put forthwith.

Question—That the Bill be reported to the House without amendment—put and passed.

4 FINANCIAL MANAGEMENT AND ACCOUNTABILITY AMENDMENT BILL 2000

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. 200, 24 May 2000, from His Excellency the Governor-General was announced recommending an appropriation for the purposes of the Bill.

Leave granted for the question on the report to be put forthwith.

Question—That the Bill be reported to the House without amendment—put and passed.

5 TRANSPORT LEGISLATION AMENDMENT BILL 2000

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.

Leave granted for the question on the report to be put forthwith.

Question—That the Bill be reported to the House without amendment—put and passed.

6 INTERNATIONAL TAX AGREEMENTS AMENDMENT BILL (NO. 1) 2000

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.

Mr Neville moved—That further proceedings on the Bill be conducted in the House.

Question—put and passed—Bill to be returned to the House.

Suspension of sitting

At 12.55 p.m., the Deputy Speaker left the Chair.

Resumption of sitting

At 4.30 p.m., the Deputy Speaker resumed the Chair.

7 APPROPRIATION BILL (NO. 1) 2000-2001—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—*And on the amendment moved thereto by Mr Tanner, viz.*—That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the Bill a second reading, the House condemns the Government for its:

- (1) failure to address the significant investment needs in the areas of education, health and the provision of social services in the 2000-2001 Budget;
- (2) wasteful and profligate spending on poor quality programs to buy Democrat support for its unfair GST;
- (3) misuse of over \$360 million of taxpayers’ money on its politically partisan GST advertising campaign;
- (4) reduction of a potential Budget cash surplus in 2000-2001 of \$11 billion, to a real Budget deficit of \$2.1 billion;
- (5) use of creative accounting techniques in an attempt to deceive the Australian public on the true state of the Budget;

- (6) mishandling of the move to accrual accounting by providing complex, confusing and uninformative budget documents;
- (7) failure to identify in the Budget papers the cost of GST collection and implementation; and
- (8) failure to put in place arrangements that deliver its guarantee that no Australian will be worse off as a result of the GST package”—

Debate resumed.

Suspension of sitting

At 4.49 p.m., a division having been called in the House, the proceedings were suspended.

Resumption of sitting

At 5.01 p.m., the proceedings were resumed.

Debate continued.

Ms Ellis was granted leave to continue her speech when the debate is resumed.

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

8 ADJOURNMENT

On the motion of Mr Causley, the Main Committee adjourned at 6.59 p.m.

The Deputy Speaker fixed tomorrow at 9.40 a.m. for the next meeting of the Main Committee.

B. C. WRIGHT
Clerk of the Main Committee