

2002

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 67

TUESDAY, 10 DECEMBER 2002

1 The House met, at 2.30 p.m. The Speaker (the Honourable Neil Andrew) took the Chair, and read Prayers.

2 QUESTIONS

Questions without notice being asked—

Papers

Mr Howard (Prime Minister) presented the following papers:

Bali terrorist attack of 12 October 2002—Report by the Inspector-General of Intelligence and Security—

Annex 2—Agency responsibilities.

Introduction and summary, December 2002.

Questions without notice continuing—

Papers

Mr Crean (Leader of the Opposition), by leave, presented the following papers:

Media releases—The Hon. Peter Reith, MP, Minister for Defence—

Advice of decision not to contest the next election, 29 June 2001.

Defence integrated distribution system, 9 July 2001.

Questions without notice continuing—

Member ordered to withdraw

At 3.42 p.m. the Member for Hunter (Mr Fitzgibbon) was ordered, under standing order 304A, to withdraw from the House for one hour for continuing to interject after a warning had been given from the Chair. Mr Fitzgibbon continuing to interject—

Member named and suspended

The Speaker named the Member for Hunter (Mr Fitzgibbon).

Mr Abbott (Leader of the House) moved—That the Member for Hunter be suspended from the service of the House.

Question—put.

The House divided (the Speaker, Mr J. N. Andrew, in the Chair)—

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Mr Abbott	Mrs Draper	Mrs D. M. Kelly	Mr Ruddock
Mr Anderson	Mr Dutton	Jackie Kelly	Mr Schultz
Mr K. J. Andrews	Mrs Elson	Dr Kemp	Mr Secker
Mr Anthony	Mr Entsch	Mr P. E. King	Mr Slipper
Fran Bailey	Mr Farmer	Mrs Ley	Mr A. D. H. Smith
Mr Baird	Mr Forrest*	Mr Lindsay	Mr Somlyay
Mr Baldwin	Mrs Gallus	Mr Lloyd	Dr Southcott
Mr Barresi	Ms Gambaro	Mr McArthur*	Mr C. P. Thompson
Mr Bartlett	Mrs Gash	Mr I. E. Macfarlane	Mr Ticehurst
Mr Billson	Mr Georgiou	Mr McGauran	Mr Tollner
Mrs B. K. Bishop	Mr Haase	Mrs May	Mr Truss
Ms J. I. Bishop	Mr Hardgrave	Mrs Moylan	Mr Tuckey
Mr Brough	Mr Hartsuyker	Mr Nairn	Mr M. A. J. Vaile
Mr Cadman	Mr Hawker	Dr Nelson	Mrs D. S. Vale
Mr Cameron	Mr Hockey	Mr Neville	Mr Wakelin
Mr Charles	Mr Howard	Ms Panopoulos	Dr Washer
Mr Ciobo	Mrs Hull	Mr Pearce	Mr Williams
Mr Cobb	Mr Hunt	Mr Prosser	Ms Worth
Mr Costello	Mr Johnson	Mr Pyne	
Mr Downer	Mr Jull	Mr Randall	

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Mr Adams	Mr M. J. Ferguson	Ms Livermore	Mr Ripoll
Mr Albanese	Mr Fitzgibbon	Mr McClelland	Ms Roxon
Mr Beazley	Ms George	Ms J. S. McFarlane	Mr Rudd
Mr Bevis	Mr Gibbons	Ms Macklin	Mr Sawford
Ms Burke	Ms Gillard	Mr McLeay	Mr Sciacca
Mr Byrne	Ms Grierson	Mr McMullan	Mr Sercombe
Ms Corcoran	Mr Griffin	Mr Melham	Mr Sidebottom
Mr Cox	Ms Hall	Mr Mossfield	Mr S. F. Smith
Mr Crean	Mr Hatton	Mr Murphy	Mr Snowdon
Mrs Crosio	Ms Hoare	Ms O'Byrne	Mr Swan
Mr Danby*	Mrs Irwin	Mr B. P. O'Connor	Mr Tanner
Mr Edwards	Ms Jackson	Mr G. M. O'Connor	Mr K. J. Thomson
Ms Ellis	Mr Jenkins	Mr Organ	Mr Wilkie
Mr Emerson	Mr Kerr	Ms Plibersek	Mr Zahra
Mr Evans	Ms C. F. King	Mr Price	
Mr L. D. T. Ferguson	Mr Latham	Mr Quick*	

* Tellers

And so it was resolved in the affirmative.

The Member was, therefore, suspended at 3.52 p.m. for 24 hours under standing order 305, and he accordingly withdrew from the Chamber.

Questions without notice continued.

3 NORTHERN TERRITORY—LEGISLATIVE ASSEMBLY—RESOLUTION—EAST TIMORESE ASYLUM SEEKERS

The Speaker presented a copy of a resolution passed by the Legislative Assembly of the Northern Territory on 26 November 2002 relating to East Timorese asylum seekers.

4 AUDITOR-GENERAL'S REPORTS

The Speaker presented the following papers:

Auditor-General—

Audit report No. 20 of 2002-2003—Performance audit—Employee entitlements support schemes: Department of Employment and Workplace Relations.

Report by Independent Auditor—Report on results of a performance audit of contract management arrangements within the Australian National Audit Office, December 2002.

Reports ordered to be printed.

5 PAPERS

The following papers were presented:

Administrative Review Council—Report on the Council of Australasian Tribunals, October 2002.

Coal Mining Industry (Long Service Leave Funding) Corporation—Report for 2001-02.

Copyright Agency Limited—Report for 2001-02.

Department of Communications, Information Technology and the Arts—Report on review of the operation of Schedule 6 of the *Broadcasting Services Act 1992* (Datacasting services), December 2002.

Export Market Development Grants—List of grant recipients 2001-02.

Foreign Affairs, Defence and Trade—Joint Standing Committee—Report—Visits to Immigration Detention Centres—Government Response.

Human Rights and Equal Opportunity Commission—Reports—

No. 22—Inquiry into a complaint by Mr XY concerning his continuing detention despite having completed his criminal sentence.

No. 23—Inquiry into a complaint by Mr Hassan Ghomwari concerning his immigration detention and the adequacy of the medical treatment he received while detained.

No. 24—Inquiry into complaints by five asylum seekers concerning their detention in the separation and management block at the Port Hedland Immigration Reception and Processing Centre.

No. 25—Inquiry into a complaint by Mr Mohammed Badraie on behalf of his son Shayan regarding acts or practices of the Commonwealth of Australia (the Department of Immigration, Multicultural and Indigenous Affairs).

Migration—Joint Standing Committee—Report—Review of Migration Regulation 4.31B—Government response.

National Road Transport Commission—Report for 2001-02—Erratum.

Remuneration Tribunal—Report for 2001-02.

Screenrights—Report for 2001-02.

Telecommunications Act 1997—Funding of section 593 grants in relation to telecommunications—Annual Report 2001-02.

6 PAPERS—MOTION TO TAKE NOTE OF PAPERS

Mr McGauran (Deputy Leader of the House) moved—That the House take note of the following papers:

Export Market Development Grants—List of grant recipients 2001-02.

National Road Transport Commission—Report for 2001-02—Erratum.

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

7 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—BORDER SECURITY

The House was informed that Mr Latham had proposed that a definite matter of public importance be submitted to the House for discussion, namely, “The need for an effective border security strategy, including an Australian Coastguard”.

The proposed discussion having received the necessary support—

Mr Latham addressed the House.

Discussion ensued.

Discussion concluded.

8 BILLS REFERRED TO MAIN COMMITTEE

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

Crimes Legislation Amendment (People Smuggling, Firearms Trafficking and Other Measures) 2002;
Renewable Energy (Electricity) Amendment 2002; and
Plant Breeder's Rights Amendment 2002.

Question—put and passed.

9 MESSAGES FROM THE GOVERNOR-GENERAL—ASSENT TO BILLS

Messages from His Excellency the Governor-General were announced informing the House that His Excellency, in the name of Her Majesty, had assented to the following Bills:

2 December 2002—Message—

No. 86—

Excise Laws Amendment (No. 1) 2002.

Excise Tariff Amendment (No. 2) 2002.

Health Care (Appropriation) Amendment 2002.

Members of Parliament (Life Gold Pass) 2002.

Medical Indemnity Agreement (Financial Assistance—Binding Commonwealth Obligations) 2002.

No. 87—

Higher Education Legislation Amendment (No. 3) 2002.

Excise Tariff Amendment (No. 1) 2002.

Customs Tariff Amendment (No. 2) 2002.

Egg Industry Service Provision (Transitional and Consequential Provisions) 2002.

Egg Industry Service Provision 2002.

No. 88—

New Business Tax System (Consolidation and Other Measures) (No. 1) 2002.

New Business Tax System (Franking Deficit Tax) Amendment 2002.

Taxation Laws Amendment (No. 5) 2002.

Broadcasting Legislation Amendment (No. 2) 2002.

Family Law Legislation Amendment (Superannuation) (Consequential Provisions) 2002.

Australian Animal Health Council (Live-stock Industries) Funding Amendment 2002.

10 MESSAGE FROM THE SENATE

Message No. 182, 9 December 2002, from the Senate was reported returning the Bankruptcy Legislation Amendment Bill 2002 and acquainting the House that the Senate does not insist upon its amendments disagreed to by the House of Representatives.

11 MESSAGE FROM THE SENATE—TELECOMMUNICATIONS COMPETITION BILL 2002

Message No. 181, 9 December 2002, from the Senate was reported returning the Telecommunications Competition Bill 2002 with amendments.

Ordered—That the amendments be considered forthwith.

On the motion of Ms Gallus (Parliamentary Secretary to the Minister for Foreign Affairs), the amendments were agreed to.

12 TAXATION LAWS AMENDMENT (STRUCTURED SETTLEMENTS) BILL 2002—SENATE'S AMENDMENTS

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

On the motion of Mr Slipper (Parliamentary Secretary to the Minister for Finance and Administration), by leave, amendments (1) to (8), (10) to (12) and (14) to (64) were agreed to, after debate.

On the motion of Mr Slipper, by leave, amendments (9) and (13) were disagreed to, after debate.

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

*Reasons of the House of Representatives for disagreeing to the amendments of the Senate
Senate Amendment 9*

This amendment would allow an injured person or his or her legal personal representative to purchase a tax-free annuity under the terms of a settlement.

The bill was originally drafted on the principle that the exemption should be restricted to the situation where the tax-free annuity was purchased by defendant or the defendant's insurer. The bill is intended to encourage the take up of compensation in the form of periodic payments rather than lump sums. Periodic payments give the injured person a more secure income over the longer term and, more importantly in this context, allows the compensation to be more closely aligned to an injured person's needs. By better matching compensation with needs, the Bill may have some impact on reducing claims costs for insurers.

This benefit could be lost if the injured person or his or her representative took the compensation in the form of a lump sum. Although the requirement for an agreement between the injured person and the defendant is not being removed, there would be no guarantee that the lump sum settled would not effectively differ from the lump sum settlements currently paid.

If an injured person could accept a lump sum, the injured person might not be as rigorous in financial planning before accepting the settlement. The injured person or his or her representatives would then have to ensure that he or she got the most appropriate structured arrangement in return for the lump sum that was received.

In addition, there would need to be extra rules about the time in which an annuity must be purchased and rules to ensure that an annuity is actually purchased and the money not dissipated before the annuity can be purchased.

The requirement that only the defendant or their insurer can purchase the annuity ensures that more appropriate settlements can be reached with the defendant that take into account longer term considerations.

Requiring the defendant or insurer to make the final purchase ensures that only funds received in compensation are used to purchase the structured settlement, rather than other funds. It also ensures that the annuity is used to meet expenses arising from the injuries rather than for a different purpose.

It is also not accepted that a defendant or defendant's insurer would not necessarily be able to purchase annuities at as competitive a rate as an injured person or his or her representative.

The House of Representatives therefore does not accept this amendment.

Senate Amendment 13

This amendment would require injured persons to obtain independent financial advice before entering into a structured settlement.

However there is no definition of an independent financial adviser in this context and so the provision would be difficult to enforce. The nature of the advice to be sought is also poorly defined. As it stands, each case would require a decision about whether the advice was independent and was "financial advice", before adherence to the terms of the law could be determined.

Furthermore, it is not clear what the consequence is if the injured person fails to obtain "independent financial advice". Because of the position of the amendment in the Bill, it is not clear whether the intention is that this should mean that the exemption is denied.

The House of Representatives does not accept this amendment.

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

13 TAXATION LAWS AMENDMENT (EARLIER ACCESS TO FARM MANAGEMENT DEPOSITS) BILL 2002

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 third reading to be moved forthwith.

On the motion of Mr Slipper (Parliamentary Secretary to the Minister for Finance and Administration), the Bill was read a third time.

14 WORKPLACE RELATIONS AMENDMENT (FAIR TERMINATION) BILL 2002

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 P. E. King addressing the House—

15 ADJOURNMENT

It being 10.30 p.m.—The question was proposed—That the House do now adjourn.

Debate ensued.

Question—put and passed.

And then the House, at 11 p.m., adjourned until tomorrow at 9.30 a.m.

PAPERS

The following papers were deemed to have been presented on 10 December 2002:

Civil Aviation Act—Civil Aviation Regulations—Exemptions—2002 Nos CASA EX35, CASA EX45.

Commonwealth Authorities and Companies Act—Notices under section 45—

Resignation of members of Aboriginal Hostels Limited.

Sale of National Rail Corporation.

Quarantine Act—Proclamation—2002 Quarantine Amendment (No. 1).

ATTENDANCE

All Members attended (at some time during the sitting) except Mr Brereton*, Mr Causley*, Mr Katter, Dr Lawrence, Mr Scott*, Dr Stone and Ms Vamvakinou.

* On leave

I. C. HARRIS

Clerk of the House of Representatives