

AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 87

THURSDAY, 21 AUGUST 1975

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- 1 The House met, at ten o'clock a.m., pursuant to adjournment. Mr Speaker (the Honourable G. G. D. Scholes) took the Chair, and read Prayers.
 - 2 PETITIONS: The Clerk announced that the following Members had each lodged petitions for presentation, viz.:
 - Mr Fraser (Leader of the Opposition), Mr Connolly, Mr Drury, Mr Fisher, Mr McVeigh, Mr Macphee, Mr E. L. Robinson and Mr Viner—from certain citizens of Australia praying that the House reject the Australian Government Insurance Office Bill.
 - Dr Edwards, Mr Jarman and Mr Newman—from certain employees and agents of the Australian insurance industry in terms similar to the preceding petition.
 - Dr Edwards, Mr Gorton, Mr Martin, Mr Newman and Mr E. L. Robinson—from certain citizens of Australia praying that the House either decrease or reject proposed increases in postal and telephone charges.
 - Mr Cope and Mr Jarman—from certain citizens of Australia praying that (1) the Metric Conversion Act be repealed and (2) the Government take urgent steps to cause the traditional and familiar units to be restored in those areas where the greatest inconveniences and distress are occurring.
 - Mr Drury and Mr Ruddock—from certain citizens of Australia praying that the House (1) support a moratorium on whaling, (2) support research into marine biology and alternatives to whale products, (3) close down whaling operations at Cheynes Beach, Western Australia, (4) ban the import of all whale products and (5) encourage the end of whaling throughout the world.
 - Mr Newman and Mr Sherry—from certain citizens of Australia praying that the House refuse financial assistance to any project which will further damage the south west Tasmanian wilderness.
 - Mr Crean (Minister for Overseas Trade)—from certain citizens of Australia praying that the House urge the Government to establish a nationalised transport system and to make all transport within Australia free to pensioners and all other underprivileged members of the community.
 - Mr Bouchier—from certain citizens of Australia praying that the House request the Postal Commission not to downgrade the Laancoorie Post Office, Victoria.
 - Mr Bouchier—from certain citizens of Australia praying that the Government not reduce spending on the Australian Schools Commission program and not revert to education planning on a yearly basis.
 - Mr Connolly—from certain citizens of Australia praying that the Government remove or substantially increase the \$300 limit on income tax deductibility on personal residential land and water rates.
 - Mr Drury—from certain citizens of Australia praying that the Government reduce the cost of the subscription to *Hansard*.
 - Mr Fisher—from certain citizens of Australia praying that the Medibank scheme be not proceeded with.
 - Mr Garland—from certain citizens of Australia praying that the Government seek information from the Soviet Government concerning Leonid Plyushch.

Dr Jenkins—from certain citizens of Australia praying that the Government ensure that education be adequately funded on a triennial basis.

Mr Newman—from certain citizens of Launceston, Tasmania, praying that the Government revoke its decision to increase Australian National Line freight and passenger charges to the State of Tasmania by forty per cent.

Mr Nicholls—from certain citizens of Australia praying that the Government reduce the increase in tax valuation of winemakers' wine stocks.

Mr Ruddock—from certain students of Macquarie University, New South Wales and certain citizens of Australia praying that the House urge the Government to provide radio station 2JJ with facilities to service adequately the whole Sydney region.

Mr Ruddock—from certain citizens of Australia praying that the House agree to the changes proposed by the Australian Union of Students to the tertiary education scheme.

Petitions received.

3 PRIVILEGE—STATEMENT BY MR SPEAKER: Mr Speaker referred to the matter raised yesterday by Mr Daly (Leader of the House) as a matter of privilege concerning articles published in the *Daily Mirror* and the *Daily Telegraph* and stated that, while the published statements were to be deprecated, he was of the opinion that the matter raised should not be accorded precedence over other business.

4 QUESTIONS: Questions without notice were asked.

5 PAPERS: The following papers were presented, by command of His Excellency the Governor-General:

Income and expenditure patterns of Australian tertiary students in 1974—Report by the Department of Education and the Australian Union of Students.

Industries Assistance Commission—Temporary Assistance Authority—Reports—

Air conditioning machines and evaporative air coolers, dated 1 August 1975.

Certain time switches and clock movements, dated 20 June 1975.

Sporting goods, dated 27 June 1975.

6 GRIEVANCE DEBATE: Pursuant to the provisions of standing order 106, the order of the day having been read—

Question proposed—That grievances be noted.

Debate ensued.

It being fifteen minutes to one o'clock p.m., the debate was interrupted in accordance with standing order 106.

Question—That grievances be noted—put and passed.

7 CONSTITUTIONAL CONVENTION—PARTICIPATION BY AUSTRALIAN PARLIAMENT: MR Whitlam (Prime Minister) moved, pursuant to notice—That the resolution of this House of 1 August 1974 concerning the participation by the Australian Parliament in the Constitutional Convention be amended as follows:

(1) Paragraphs (1) (b) and (2) (c) omit "the Australian Country Party", substitute "the National Country Party of Australia".

(2) Paragraph (2) (b) omit "the Right Honourable B. M. Snedden, Q.C.", substitute "the Honourable J. M. Fraser".

Debate ensued.

Question—put and passed.

8 DEFENCE FORCE RE-ORGANIZATION BILL 1975: The order of the day having been read for the further consideration of the Bill in committee, the House resolved itself into a committee of the whole.

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In the committee

Clauses 5 and 6, by leave, taken together, and agreed to, after debate.

Clause 7 debated and agreed to.

Clauses 8 to 111, by leave, taken together, and agreed to.

Clause 112 debated and agreed to.

Clauses 113 to 187, by leave, taken together, and agreed to.
Remainder of Bill, by leave, taken as a whole, and agreed to.
Bill to be reported without amendment.

The House resumed; Dr Jenkins reported accordingly.
On the motion of Mr Morrison (Minister for Defence), the House adopted the report, and, by leave, the Bill was read a third time.

9 DEFENCE FORCE OMBUDSMAN BILL 1975: The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed.

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

The House resolved itself into a committee of the whole.

In the committee

Bill, by leave, taken as a whole.

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

Amendments—

Clause 3—

Page 3, lines 7-10, omit paragraph (c), substitute the following paragraph:

“(c) in relation to a public authority other than a Department—

- (i) if the regulations declare an office to be the principal office in respect of the authority—the person holding, or performing the duties of, that office; or
- (ii) in any other case—the person who constitutes, or is acting as the person who constitutes, that authority or, if the authority is constituted by 2 or more persons, the person who is entitled to preside at any meeting of the authority at which he is present;”.

Page 3, omit the definition of “public authority”, substitute the following definition:

“ ‘public authority’ means—

- (a) a Department;
- (b) a body corporate, or an unincorporated body, established for a public purpose by, or in accordance with the provisions of, an enactment, other than—
 - (i) an incorporated company or association;
 - (ii) a body that has the power to take evidence on oath or affirmation and is constituted by or includes among its members, a person who is a Justice or Judge of a court established by a law of Australia or a person who has, by virtue of an Act, the same status as a Justice or Judge of such a court; and
 - (iii) a body that under sub-section (1A) or the regulations is not to be taken to be a public authority for the purposes of this Act;
- (c) any other body, whether incorporated or unincorporated, declared by the regulations to be a public authority for the purposes of this Act, being—
 - (i) a body established by the Governor-General or by a Minister; or
 - (ii) an incorporated company in which Australia has a controlling interest;

- (d) the person holding, or performing the duties of, an office established by an enactment, other than such a person who under sub-section (1B) or the regulations is not to be taken to be a public authority for the purposes of this Act; or
- (e) the person performing the duties of an appointment declared by the regulations to be an appointment the holder of which is a public authority for the purposes of this Act, being an appointment made by the Governor-General, or by a Minister, otherwise than under an enactment;”.

Page 3, lines 31-34, omit paragraph (c), substitute the following paragraph:

- “(c) in relation to action taken in relation to a matter for which a public authority other than a Department is responsible—
- (i) if a public authority referred to in paragraph (b) of the definition of ‘public authority’ is responsible for dealing with the matter—the Minister administering the enactment by which, or in accordance with the provisions of which, the public authority is established;
 - (ii) if a public authority referred to in paragraph (d) of that definition is responsible for dealing with the matter—the Minister administering the enactment by which the office is established; or
 - (iii) if a public authority referred to in paragraph (c) or (e) of that definition is responsible for dealing with the matter—the Minister declared by the regulations to be the responsible Minister in respect of that authority,”.

Page 3, after sub-clause (1) insert the following sub-clauses:

“(1A) An unincorporated body, being a board, council, committee, sub-committee or other body established by, or in accordance with the provisions of, an enactment for the purpose of assisting, or performing functions connected with, the Defence Force or a public authority shall not be taken to be a public authority for the purpose of this Act, but action taken by the body, or by a person on its behalf, shall, for the purpose of this Act, be deemed to have been taken by the Defence Force or that public authority, as the case may be.

“(1B) A person shall not be taken to be a public authority by virtue of his holding, or performing the duties of—

- (a) an office the duties of which he performs as duties of his employment as an officer or employee of a Department or as a member of the staff of another public authority;
- (b) an office of member of a body; or
- (c) an office established by an enactment for the purposes of a public authority,

but any action taken by or on behalf of such a person in his capacity as the person holding or performing the duties of the office concerned shall, for the purposes of this Act, be deemed to have been taken by the Department, body or other public authority, as the case may be.”.

Page 4, after sub-clause (5) insert the following sub-clause:

“(5A) Where—

- (a) action is taken by a person in the exercise of a power or the performance of a function conferred by or under an enactment;
- (b) the person does not exercise the power or perform the function by virtue of holding, or performing the duties of, an office established by, or in accordance with the provisions of, an enactment;
- (c) the person is not an officer of a public authority for the purposes of this Act; and
- (d) the person is not authorized to exercise the power or perform the function by reason of his being a Judge of a court of, or a magistrate of, a State or Territory,

the action shall be deemed to have been taken, for the purposes of this Act, by the Department responsible for dealing with the matter in connexion with which the action is taken.”

Page 5, after sub-clause (10) add the following sub-clause:

“(11) On and after the date fixed by proclamation under section 2 of the *Defence Force Re-organization Act 1975* as the date of commencement of section 7 of that Act, a reference in this Act to the Chairman, Chiefs of Staff Committee, shall be read as a reference to the Chief of Defence Force Staff.”

Clause 5, page 6, omit sub-clause (4).

Clause 9, page 8, at the end of the clause add the following sub-clauses:

“(2) A person who is detained in custody is entitled, upon making a request to the person in whose custody he is detained or to another person performing duties in connexion with his detention—

- (a) to be provided with facilities for preparing a complaint under this Act and for enclosing the complaint in a sealed envelope; and
- (b) to have forwarded to the Defence Force Ombudsman, without undue delay, a sealed envelope delivered by him to the person and addressed to the Defence Force Ombudsman.

“(3) Where a sealed envelope is delivered to a person under sub-section (2) for forwarding to the Defence Force Ombudsman, neither the person in whose custody he is detained nor any other person performing duties in connexion with his detention is entitled to open the envelope or inspect any document enclosed in the envelope.”

Clause 11—

Page 10, omit sub-clause (4), substitute the following sub-clause:

“(4) Notwithstanding the provisions of any enactment, a person is not excused from furnishing any information, producing a document or other record or answering a question when required to do so under this Act on the ground that the furnishing of the information, the production of the document or record or the answer to the question—

- (a) would contravene the provisions of any other Act, would be contrary to the public interest or might tend to incriminate him or make him liable to a penalty; or
- (b) would disclose legal advice furnished to a Minister, the Defence Force or a public authority,

but his answer to any such question is not admissible in evidence against him in proceedings other than proceedings for an offence against section 35.”

Page 11, omit sub-clause (6).

Clause 16, page 13, omit sub-clause (4), substitute the following sub-clauses:

“(4) For the purposes of an investigation under this Act, an authorized person is entitled to inspect any documents relevant to the investigation kept at premises entered by him under this section, other than documents in respect of which a Minister has furnished a certificate under sub-section 11 (3), at a reasonable time of the day arranged with the principal officer of the Defence Force or public authority concerned.

“(4A) Sub-section (4) shall not be taken to restrict the operation of section 11.”

Clause 20, page 16, line 5, omit “1975”, substitute “1976”.

New clause—

Page 16, after clause 20 insert the following new clause in Part II:

“20A. (1) The Defence Force Ombudsman may, from time to time, submit to the Minister, for presentation to the Parliament, a report of the operations of the Defence Force Ombudsman during a part of a year or a report concerning a particular investigation or particular investigations carried out under this Act. Additional reports to Parliament.

“(2) The Ombudsman shall not, in a report submitted to the Minister under sub-section (1), refer to an investigation in relation to which he has made a report in accordance with sub-section 17 (2) unless he is of the opinion that action that is adequate and appropriate in the circumstances has been taken with respect to the matters and recommendations included in that report.

“(3) The Minister shall cause a report submitted to him under sub-section (1) to be laid before each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.

“(4) Where the Defence Force Ombudsman refers in a report submitted under sub-section (1) to an investigation made by him under this Act, the Defence Force Ombudsman shall not, in referring to the investigation, set out opinions that are, either expressly or impliedly, critical of the Defence Force, a public authority or a person unless the Defence Force Ombudsman has complied with sub-section 10 (5) in relation to the investigation.”.

Amendments—

Clause 33, page 19, line 33, omit “19 or 20”, substitute “19, 20 or 20A”.

Clause 34—

Page 20, line 7, at the end of paragraph (c) add “or who is an authorized person”.

Page 20, line 9, omit “except in the performance of his duty as an officer,”.

Page 20, after sub-clause (2) insert the following sub-clause:

“(2A) Sub-section (2) does not prevent an officer—

- (a) from making a record of, or divulging or communicating to any person, information acquired by him in the performance of his duties as an officer and for purposes connected with the performance of the functions of the Defence Force Ombudsman under this Act; or
- (b) from divulging or communicating information to a person—
 - (i) if the information was furnished by a member of the Defence Force or an officer of a public authority in the performance of his duties as such member or officer—with the consent of the principal officer of the Defence Force or authority or of the responsible Minister; or
 - (ii) if the information was furnished by a person otherwise than as set out in sub-paragraph (i)—with the consent of the person who furnished the information.”.

New clause—

Page 21, after clause 35 insert the following new clause:

“35A. Civil proceedings do not lie against a person in respect of loss, damage or injury of any kind suffered by another person by reason of—

Protection
from civil
actions.

- (a) the making of a complaint to the Defence Force Ombudsman under this Act; or
- (b) the making of a statement to, or the furnishing of a document or information to, a person, being an officer within the meaning of section 34, for the purposes of this Act.”.

Bill, as amended, agreed to.

Bill to be reported with amendments.

The House resumed; Dr Jenkins reported accordingly.

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

- 10 MESSAGE TO THE SENATE—CONSTITUTIONAL CONVENTION—AMENDMENT OF RESOLUTION: Mr Daly (Leader of the House) moved, by leave—That a message be sent to the Senate acquainting it of the resolution agreed to by the House of Representatives earlier this day amending the House resolution of 1 August 1974 relating to the participation of the Australian Parliament in the Constitutional Convention.
Question—put and passed.
- 11 MESSAGE FROM THE SENATE: A message from the Senate was reported returning the following Bill and acquainting the House that the Senate had agreed to the amendments made by the House consequent upon Senate Amendments Nos. 14 and 16, and had agreed to the amendments made by the House on Senate Amendments Nos. 20 to 23, 25 to 28 and 32:
21 August 1975—Message No. 257—Administrative Appeals Tribunal 1975.
- 12 CRIMES BILL 1975: The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—
Debate resumed.
Question—put and passed—Bill read a second time.
The House resolved itself into a committee of the whole.

In the committee

Bill, by leave, taken as a whole.

Proposed new clause—

Mr Howard moved—That the following new clause be added to the Bill:

“4. The *Crimes Act* 1914–1973 is amended by adding at the end thereof the following section:

‘92. Any person who being an officer, member or employee of an organization registered pursuant to the *Conciliation and Arbitration Act* 1904–1975 by menaces, threat or intimidation of any kind to whomsoever directed compels or induces an employee, employer or any organization so registered (or any member or servant thereof) to pay any money or deliver any property to himself, to any organization or to any other person shall be guilty of an offence.

An offence to intimidate an employer, employee or registered organization.

Penalty: Imprisonment for 7 years.’”.

Point of order: Mr Enderby (Attorney-General) raised a point of order that the proposed new clause was out of order as it did not come within the title nor was it relevant to the subject matter of the Bill.

Mr Howard addressed himself to the point of order.

Chairman’s ruling: The Chairman upheld the point of order for the reason stated.
Bill agreed to.

Bill to be reported without amendment.

The House resumed; Dr Jenkins reported accordingly.

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

- 13 AUSTRALIAN NATIONAL UNIVERSITY BILL 1975: 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 Beazley (Minister for Education), the Bill was read a third time.
- 14 CANBERRA COLLEGE OF ADVANCED EDUCATION BILL 1975: 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—
Question—put and passed—Bill read a second time.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Beazley (Minister for Education), the Bill was read a third time.

- 15 NATIONAL HEALTH BILL (No. 3) 1975 [No. 2]: 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 Lloyd who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “the House is of the opinion that the Bill should not be proceeded with until the Industries Assistance Commission has completed and published its report on pharmaceutical and veterinary products”.

Debate continued.

Question—That the words proposed to be omitted stand part of the question—put. The House divided (the Speaker, Mr Scholes, in the Chair)—

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Mr Armitage	Mr Daly	Mr L. K. Johnson	Mr Oldmeadow
Mr Beazley	Mr Davies	Mr L. R. Johnson	Dr Patterson
Mr Bennett	Mr Dawkins	Mr Jones	Mr Reynolds
Mr Berinson	Mr Duthie	Mr Keating	Mr Riordan
Mr Bowen	Mr Enderby	Mr Keogh	Mr Sherry
Mr Bryant	Dr Everingham	Mr Kerin	Mr Stewart
Dr J. F. Cairns	Mr FitzPatrick	Dr Klugman	Mr Thorburn
Mr C. R. Cameron	Mr Fry	Mr Lamb	Mr Uren
Mrs Child	Mr Fulton	Mr Luchetti	Mr Wallis
Mr Clayton	Mr Garrick	Mr McKenzie	Mr Whan
Mr Cohen	Dr Gun	Mr Martin	Mr Willis
Mr Collard	Mr Hayden	Mr Mathews	Mr Young
Mr Connor	Mr Innes	Mr Morris	<i>Tellers:</i>
Mr Crean	Mr Jacobi	Mr Morrison	Mr James
Mr Cross	Dr Jenkins	Mr Mulder	Mr Nicholls

NOES, 56

Mr Adermann	Mr Fairbairn	Mr Lloyd	Mr I. L. Robinson
Mr Anthony	Mr Fisher	Mr Lucock	Mr Ruddock
Mr Bonnett	Mr Garland	Mr Lusher	Mr Sinclair
Mr Bouchier	Mr Gorton	Mr Lynch	Mr Snedden
Mr Bungey	Mr Hewson	Mr MacKellar	Mr Staley
Mr Cadman	Mr Hodges	Mr McLeay	Mr Street
Mr K. M. Cairns	Mr Holten	Mr McMahan	Mr Viner
Mr Calder	Mr Howard	Mr McVeigh	Mr Wentworth
Mr Chipp	Mr Hunt	Mr Macphee	Mr Wilson
Mr Connolly	Mr Hyde	Mr Millar	
Mr Corbett	Mr Jarman	Mr Newman	
Mr Drummond	Mr Katter	Mr Nixon	
Mr Drury	Mr Kelly	Mr O'Keefe	<i>Tellers:</i>
Dr Edwards	Mr Killen	Mr Peacock	Mr D. M. Cameron
Mr Ellicott	Mr King	Mr E. L. Robinson	Mr England

And so it was resolved in the affirmative.

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

Leave granted for third reading to be moved forthwith.

On the motion of Dr Everingham (Minister for Health), the Bill was read a third time.

- 16 UNITED STATES NAVAL COMMUNICATION STATION AGREEMENT BILL 1975: 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 Cross), and the resumption of the debate made an order of the day for a later hour this day.

- 17 PAPER: Mr Speaker presented, pursuant to statute:

Reserve Bank Act—Reserve Bank of Australia—Report and financial statements, together with the Auditor-General's Reports thereon, for year 1974-75.

18 UNITED STATES NAVAL COMMUNICATION STATION AGREEMENT BILL 1975: 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 Morrison (Minister for Defence), the Bill was read a third time.

19 ADJOURNMENT: Mr Morrison (Minister for Defence) moved—That the House do now adjourn.

Debate ensued.

Question—put and passed.

And then the House, at three minutes to eleven o'clock p.m., adjourned until Tuesday next at fifteen minutes past two o'clock p.m.

PAPERS: The following papers were deemed to have been presented on 21 August 1975, pursuant to statute:

Commonwealth Banks Act—Appointment certificate—J. N. Newnan.

Public Service Act—Appointment—Department of the Media—G. T. Chamberlin.

Trade Practices Act—Regulation—Statutory Rules 1975, No. 154.

MEMBERS PRESENT: All Members were present (at some time during the sitting) except Mr Coates, Mr Erwin, Dr Forbes, Mr Giles, Mr Graham and Mr Hurford.

N. J. PARKES,
Clerk of the House of Representatives