

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 69

WEDNESDAY, 15 NOVEMBER 1978

1 The House met, at 2.15 p.m., pursuant to adjournment. Mr Speaker (the Right Honourable Sir Billy Snedden) took the Chair, and read Prayers.

2 PETITIONS: The Clerk announced that the following Members had each lodged petitions for presentation, viz.:

Mr Armitage, Mr Bowen, Mr Fry, Mr Kerin, Mr Morris and Mr West—from certain citizens praying for the replacement of the 1978–79 Budget by a budget which increases the level of economic activity, lowers unemployment, assists the disadvantaged and revives business and consumer confidence.

Mr Bourchier, Mr N. A. Brown, Mr Burns, Mr Scholes, Mr Short and Mr Yates—from certain citizens praying that the Medical Benefits Schedule be amended to preclude payment of benefits for abortions.

Mr Connolly, Mr Howard, Mr Neil and Mr Shack—from certain citizens praying for the prohibition of pornographic material involving children.

Mr Bradfield—from certain citizens praying that the former post office building in Kogarah, N.S.W., be given to the people of Kogarah as a women's rest centre and community aid centre.

Mr Ellicott—from certain citizens praying that all pensions be indexed in the same fashion as wages.

Mr Ellicott—from certain citizens praying that the decision not to proceed with the Vocational Employment Training Scheme at Green Valley, N.S.W., be reversed and that funds be provided for further vocational employment training schemes in high unemployment areas.

Mr Ellicott—from certain citizens praying that a broadly representative Schools Commission be maintained to determine national priorities in education and other matters.

Mr Ellicott—from certain citizens praying for the award of a medal to members of the World War II *Jaywick* and *Rimau* commando expeditions.

Dr Everingham—from certain citizens praying for the abandonment of present restrictive economic policies in favour of an expansionary budget.

Dr Everingham—from certain citizens praying that major traditional Aboriginal land areas be resumed from the States eventually to become defined Aboriginal community co-operatives.

Mr L. R. Johnson—from certain citizens praying that an additional reactor not be constructed at the Australian Atomic Energy Establishment at Lucas Heights, N.S.W.

Mr L. R. Johnson—from certain citizens praying for the provision of funds for the construction and maintenance of an aged persons complex in the Electoral Division of Hughes.

Mr Morris—from certain citizens praying that proposed changes to Medibank not be implemented and that there be consultation with the trade unions and the community.

Mr I. L. Robinson—from certain citizens praying for a halt in the automation of rural telephone exchanges pending a Parliamentary inquiry.

Petitions received.

- 3 QUESTIONS: Questions without notice were asked.
- 4 PAPER: The following paper was presented, by command of His Excellency the Governor-General:
Foreign Investment Review Board—Report for year 1977–78.
- 5 TRADE PRACTICES AMENDMENT BILL 1978—LEGISLATION COMMITTEE: Mr Speaker informed the House that Mr J. J. Brown and Sir William McMahon had been discharged from the legislation committee considering the Trade Practices Amendment Bill 1978 and that Mr Humphreys and Mr Simon had been nominated in their places.
- 6 AUDIT AMENDMENT BILL 1978—LEGISLATION COMMITTEE: Mr Speaker informed the House that Mr Hurford and Mr Simon had been discharged from the legislation committee considering the Audit Amendment Bill 1978 and that Sir William McMahon and Mr Stewart had been nominated in their places.
- 7 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—AUSTRALIAN WORKFORCE: Mr Speaker informed the House that Mr Young, Mr E. C. Cameron and Mr Hodgman had each proposed that definite matters of public importance be submitted to the House for discussion today. In accordance with the provisions of standing order 107, he had given priority to the matter proposed by Mr Young, namely, “The Government’s failure, as reflected in the Prime Minister’s speech to the nation, to recognise the massive problems facing the Australian workforce”.
The proposed discussion having received the necessary support—
Mr Young addressed the House.
Discussion ensued.
Discussion concluded.
- 8 MESSAGE FROM THE GOVERNOR-GENERAL—ASSENT TO BILLS: A message from His Excellency the Governor-General was announced informing the House that His Excellency, in the name of Her Majesty, had assented to the following Bills:
15 November 1978—Message No. 96—
Dairying Industry Research and Promotion Levy Amendment 1978.
Dairying Industry Research and Promotion Levy Collection 1978.
- 9 LEGISLATION COMMITTEES: Mr Sinclair (Leader of the House), pursuant to notice, moved—
That legislation committees have power to meet during the sitting of the House on Wednesday, 15 November 1978.
Question—put and passed.
- 10 EXPORT MARKET DEVELOPMENT GRANTS AMENDMENT BILL 1978: Mr Anthony (Minister for Trade and Resources), pursuant to notice, presented a Bill for an Act to amend the *Export Market Development Grants Act 1974*.
Bill read a first time.
Mr Anthony moved—That the Bill be now read a second time.
Debate adjourned (Mr Uren), and the resumption of the debate made an order of the day for the next sitting.
- 11 AUSTRALIAN DRIED FRUITS CORPORATION BILL 1978: Mr Sinclair (Minister for Primary Industry), pursuant to notice, presented a Bill for an Act to establish an Australian Dried Fruits Corporation, and for related purposes.
Bill read a first time.
Mr Sinclair moved—That the Bill be now read a second time.
Debate adjourned (Mr Uren), and the resumption of the debate made an order of the day for the next sitting.
- 12 DRIED VINE FRUITS EQUALIZATION LEVY BILL 1978: Mr Sinclair (Minister for Primary Industry) presented a Bill for an Act to impose a levy upon certain dried vine fruits for the purposes of an equalization scheme in respect of the proceeds of sales of dried vine fruits.

Bill read a first time.

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

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

- 13 DRIED VINE FRUITS EQUALIZATION BILL 1978: Mr Sinclair (Minister for Primary Industry), pursuant to notice, presented a Bill for an Act to provide for an equalization scheme in respect of the proceeds of sales of dried vine fruits, and for related purposes.

Bill read a first time.

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

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

- 14 DRIED FRUITS EXPORT CHARGES AMENDMENT BILL 1978: Mr Sinclair (Minister for Primary Industry) presented a Bill for an Act to amend the *Dried Fruits Export Charges Act 1924*.

Bill read a first time.

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

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

- 15 TRADE UNION TRAINING AUTHORITY AMENDMENT BILL (No. 2) 1978: Mr Street (Minister for Employment and Industrial Relations), pursuant to notice, presented a Bill for an Act to amend the *Trade Union Training Authority Act 1975*.

Bill read a first time.

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

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

- 16 QUEENSLAND GRANT (SPECIAL ASSISTANCE) BILL 1978: Mr Howard (Treasurer), pursuant to notice, presented a Bill for an Act to grant financial assistance to Queensland.

Bill read a first time.

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

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

- 17 BROADCASTING AND TELEVISION AMENDMENT BILL (No. 2) 1978: Mr Staley (Minister for Post and Telecommunications), pursuant to notice, presented a Bill for an Act relating to applications for the grant or renewal of licences under the *Broadcasting and Television Act 1942*.

Bill read a first time.

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

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

- 18 POSTAL SERVICES AMENDMENT BILL 1978: Mr Staley (Minister for Post and Telecommunications), pursuant to notice, presented a Bill for an Act to terminate the extension of the *Postal Services Act 1975* to the Territory of Cocos (Keeling) Islands.

Bill read a first time.

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

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

- 19 STATES GRANTS (TERTIARY EDUCATION ASSISTANCE) BILL 1978: Mr Staley (Minister representing the Minister for Education), pursuant to notice, presented a Bill for an Act relating to the grant of financial assistance to the States in connection with universities, colleges of advanced education and technical and further education institutions.

Bill read a first time.

- Mr Staley moved—That the Bill be now read a second time.
 Debate adjourned (Dr Cass), and the resumption of the debate made an order of the day for the next sitting.
- 20 INDUSTRIAL RESEARCH AND DEVELOPMENT INCENTIVES AMENDMENT BILL 1978: Mr Macphee (Minister for Productivity), pursuant to notice, presented a Bill for an Act to amend the *Industrial Research and Development Incentives Act 1976*.
 Bill read a first time.
 Mr Macphee moved—That the Bill be now read a second time.
 Debate adjourned (Dr Cass), and the resumption of the debate made an order of the day for the next sitting.
- 21 BOUNTY (COMMERCIAL MOTOR VEHICLES) BILL 1978: Mr Fife (Minister for Business and Consumer Affairs), pursuant to notice, presented a Bill for an Act to provide for the payment of bounty on the production of certain motor vehicles.
 Bill read a first time.
 Mr Fife moved—That the Bill be now read a second time.
 Debate adjourned (Dr Cass), and the resumption of the debate made an order of the day for the next sitting.
- 22 CUSTOMS AMENDMENT BILL 1978: Mr Fife (Minister for Business and Consumer Affairs) presented a Bill for an Act to amend the *Customs Act 1901* in respect of certain matters relating to the value of goods for duty.
 Bill read a first time.
 Mr Fife moved—That the Bill be now read a second time.
 Debate adjourned (Dr Cass), and the resumption of the debate made an order of the day for the next sitting.
- 23 EXCISE TARIFF AMENDMENT BILL (No. 2) 1978: Mr Fife (Minister for Business and Consumer Affairs) presented a Bill for an Act relating to duties of Excise.
 Bill read a first time.
 Mr Fife moved—That the Bill be now read a second time.
 Debate adjourned (Dr Cass), and the resumption of the debate made an order of the day for the next sitting.
- 24 LOANS (TAXATION EXEMPTION) BILL 1978: 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 Dawkins who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “whilst not opposing the Bill the House is of the opinion that the foreign loan program which will be facilitated by this Bill is seriously extending Australia’s foreign debt burden and should only be continued if the Government can assure the House that the program will be of limited duration”.
 Debate continued.
 Amendment negatived.
 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 Mr Staley (Minister for Post and Telecommunications), the Bill was read a third time.
- 25 LIVE-STOCK SLAUGHTER LEVY AMENDMENT BILL 1978: 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 Groom (Minister for Environment, Housing and Community Development), the Bill was read a third time.

- 26 TRADE PRACTICES AMENDMENT BILL 1978—LEGISLATION COMMITTEE—REPORT: Dr Jenkins (Chairman) reported that the Trade Practices Amendment Bill 1978 had been considered in legislation committee and agreed to with amendments (*See Minutes of Proceedings, page 543*).
Ordered—That consideration of the report be made an order of the day for the next sitting.
- 27 LIVE-STOCK EXPORT CHARGE AMENDMENT BILL 1978: 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 Groom (Minister for Environment, Housing and Community Development), the Bill was read a third time.
- 28 LIVESTOCK DISEASES BILL 1978: 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.
Message from the Governor-General: Message No. 97, dated 14 September 1978, from His Excellency the Governor-General was announced recommending an appropriation of revenue for the purposes of the Bill.
Leave granted for third reading to be moved forthwith.
On the motion of Mr Groom (Minister for Environment, Housing and Community Development), the Bill was read a third time.
- 29 ASIAN DEVELOPMENT FUND BILL 1978: 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.
Dr Blewett addressing the House—
- 30 ADJOURNMENT: It being 10.30 p.m.—
Privilege—Statement by Mr Speaker: Mr Speaker referred to the matter raised yesterday by Mr Bowen (Deputy Leader of the Opposition) referring to the declaration on Crown privilege of the High Court in the case of *Sankey v Whitlam and others* (9 November 1978) and stated that the course proposed by Mr Bowen could not be adopted by the Speaker.
Parliamentary broadcasts—Statement by Mr Speaker: Mr Speaker made a statement concerning the ban placed on all Parliamentary broadcasts by members of the Australian Broadcasting Commission Staff Association in Sydney.
Mr Speaker proposed the question—That the House do now adjourn.
Debate ensued.
The House continuing to sit until 11.07 p.m. Mr Deputy Speaker adjourned the House until tomorrow at 10.30 a.m.

PAPER: The following paper was deemed to have been presented on 15 November 1978, pursuant to statute:

States Grants (Petroleum Products) Act—Amendment of the Schedule to the subsidy scheme in relation to the State of New South Wales, dated 10 November 1978.

MEMBERS PRESENT: All Members were present (at some time during the sitting) except Mr Adermann, Mr Bryant*, Mr Garland, Mr Graham, Mr Jacobi*, Mr Lucock* and Mr Shipton*.

* On leave

J. A. PETTIFER,
Clerk of the House of Representatives

1978

HOUSE OF REPRESENTATIVES

SUPPLEMENT TO VOTES AND PROCEEDINGS No. 69

LEGISLATION COMMITTEE

ON

TRADE PRACTICES AMENDMENT BILL 1978**MINUTES OF PROCEEDINGS**

WEDNESDAY, 15 NOVEMBER 1978

(Bill having been read a second time and referred to a legislation committee on the motion of Mr Fife (Minister for Business and Consumer Affairs), for Mr Sinclair (Leader of the House), on 17 October 1978.)

The Committee was constituted as follows:

Dr Jenkins had been appointed chairman.

GOVERNMENT MEMBERS:

Mr Fife (Member in charge of the Bill)
 Mr Baillieu
 Mr Braithwaite
 Mr Dean
 Dr Edwards
 Mr Hyde
 Mr Lusher
 Mr McLean
 Mr I. L. Robinson
 Mr Short
 Mr Simon

OPPOSITION MEMBERS:

Mr Holding
 Mr Humphreys
 Mr Hurford
 Mr B. O. Jones
 Mr Kerin

The committee met at 8.01 p.m.

Clauses 1 to 3 agreed to.

Clause 4—

On the motion of Mr Fife, the following amendment was made: Page 2, line 6, after “be,” insert “or, but for the provision of any contract, arrangement or understanding, or of any proposed contract, arrangement or understanding, would be, or would be likely to be,”.

Clause, as amended, agreed to.

Clauses 5 to 7 agreed to.

Clause 8—

On the motion of Mr Fife, the following amendment was made, after debate: Page 3, line 19, omit “made available as a result of”, substitute “in pursuance of, and made available as a result of,”.

Clause, as amended, agreed to.

Clauses 9 to 12 agreed to.

Clause 13 debated and agreed to.

Clause 14—

On the motion of Mr Fife, by leave, the following amendments were made together, after debate:

Page 4, line 15, after “statement” insert “in relation to the quality, performance or characteristics of the goods”.

Page 4, line 30, omit “or”.

On the motion of Mr Fife, by leave, the following further amendments were made together, after debate:

Page 7, line 28, after "consumer" insert "or any person who derives title to the goods through or under the consumer".

Page 7, line 30, after "consumer" insert "or person who so derives title to the goods".

Page 7, line 31, after "consumer" insert "or person who so derives title to the goods".

Page 7, line 35, omit "the consumer or some other person", substitute "any person".

On the motion of Mr Fife, the following further amendment was made, after debate: Page 9, lines 33 and 34, omit "a corporation took reasonable action to ensure that a consumer acquiring goods", substitute "the corporation took reasonable action to ensure that the consumer acquiring the goods".

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

Page 10, lines 28 and 29, omit paragraph (a), substitute the following paragraph:

"(a) an undertaking, assertion or statement in relation to the quality, performance or characteristics of goods was given or made in connection with the supply of the goods or in connection with the promotion by any means of the supply or use of the goods; and".

Page 10, line 30, after "been" insert "given or".

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

Page 10, lines 38 and 39, omit "liable under this Act to compensate", substitute "under a liability to".

Page 11, line 4, omit "also".

Page 11, line 11, omit "also".

Page 11, lines 15-17, omit "and the seller may, by action against the manufacturer in a court of competent jurisdiction, recover an amount sufficient to indemnify him in respect of his liability to the consumer", substitute "and the seller may, in respect of the manufacturer's liability to indemnify the seller, institute an action against the manufacturer in a court of competent jurisdiction for such legal or equitable relief as the seller could have obtained if the liability of the manufacturer to indemnify the seller had arisen under a contract of indemnity made between the manufacturer and the seller".

On the motion of Mr Fife, the following further amendment was made, after debate: Page 11, omit proposed section 74J, substitute the following section:

"74J. (1) Subject to this section, an action under a provision of this Division may be commenced at any time within 3 years after the day on which the cause of action accrued. Time for commencing actions

(2) For the purposes of this section, a cause of action shall be deemed to have accrued—

(a) in the case of an action other than an action under section 74H, on the day on which the consumer first became aware, or ought reasonably to have become aware—

(i) in the case of an action under section 74B—that the goods were not reasonably fit for the purpose referred to in that section;

(ii) in the case of an action under section 74C—that the goods did not correspond with the description referred to in that section;

(iii) in the case of an action under section 74D—that the goods were not of merchantable quality;

(iv) in the case of an action under section 74E—that the bulk of the goods did not correspond with the sample in quality or the goods had the defect referred to in that section;

(v) in the case of an action under section 74F—that the goods required to be repaired or that the part was required for the goods, as the case may be; or

(vi) in the case of an action under section 74G—of the failure of the corporation to comply with the express warranty referred to in that section; or

(b) in the case of an action under section 74H, on—

- (i) the day, or the first day, as the case may be, on which the seller referred to in that section made a payment in respect of, or otherwise discharged in whole or in part, the liability of that seller to the consumer; or
- (ii) the day on which a proceeding was instituted by the consumer against that seller in respect of that liability or, if more than one such proceeding was instituted, the day on which the first such proceeding was instituted, whichever was the earlier.

‘(3) In an action under a provision of this Division, it is a defence if the defendant proves that the action was not commenced within 10 years after the time of the first supply to a consumer of the goods to which the action relates.’.

On the motion of Mr Fife, the following further amendment was made, after debate: Page 11, at the end of proposed section 74K add the following sub-section:

“(3) Nothing in this section applies to a term of a contract referred to in sub-section 74L (4).”.

On the motion of Mr Fife, the following further amendment was made, after debate: Pages 11 and 12, omit proposed section 74L, substitute the following section:

“74L. (1) Notwithstanding section 74H but subject to this section, in the case of goods other than goods of a kind ordinarily acquired for personal, domestic or household use or consumption, the liability under that section of a manufacturer to a seller is limited to a liability to pay to the seller an amount equal to—

Limitation in certain circumstances of liability of manufacturer to seller

- (a) the cost of replacing the goods;
- (b) the cost of obtaining equivalent goods; or
- (c) the cost of having the goods repaired,

whichever is the lowest amount.

‘(2) Sub-section (1) does not apply in relation to particular goods if the seller establishes that it is not fair or reasonable for the liability of the manufacturer in respect of those goods to be limited as mentioned in sub-section (1).

‘(3) In determining for the purposes of sub-section (2) whether or not it is fair or reasonable for the liability of a manufacturer to a seller in respect of goods to be limited as mentioned in sub-section (1), a court shall have regard to all the circumstances of the case and, in particular, to—

- (a) the availability of suitable alternative sources of supply of the goods;
- (b) the availability of equivalent goods; and
- (c) whether the goods were manufactured, processed or adapted to the special order of the seller.

‘(4) This section is subject to any term of a contract between the manufacturer and the seller imposing on the manufacturer a greater liability than the liability mentioned in sub-section (1).

‘(5) In this section, the expressions “manufacturer” and “seller” have the same respective meanings as in section 74H.’.

Clause, as amended, agreed to.

Clauses 15 to 20 agreed to.

Title agreed to.

Bill to be reported with amendments.

The committee adjourned at 9.11 p.m.

D. M. BLAKE,
Clerk to the Committee