

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 135

WEDNESDAY, 24 JUNE 1992

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- 1 The House met, at 10 a.m., pursuant to adjournment. The Speaker (the Honourable Leo McLeay) took the Chair, and read Prayers.
- 2 **TRADE PRACTICES AMENDMENT BILL 1992:** 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, and agreed to, after debate.
Bill to be reported without amendment.

- The House resumed; Mrs Sullivan reported accordingly.
On the motion of Ms McHugh (Minister for Consumer Affairs), the House adopted the report, and, by leave, the Bill was read a third time.
- 3 **AUSTRALIAN SPORTS DRUG AGENCY AMENDMENT BILL 1992:** 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 Johns (Parliamentary Secretary to the Minister for Health, Housing and Community Services), the Bill was read a third time.
- 4 **MESSAGE FROM THE SENATE—INTERNATIONAL AIR SERVICES COMMISSION BILL 1992:** Message No. 457, dated 18 June 1992, from the Senate was reported transmitting for the concurrence of the House a Bill for “*An Act to establish the International Air Services Commission, and for related purposes*”.
Bill read a first time.
Mr Staples (Minister for Aged, Family and Health Services) moved—That the Bill be now read a second time.
Paper: Mr Staples presented an explanatory memorandum to the Bill.
Debate, by leave, ensued.
It being 12.45 p.m., the debate was interrupted in accordance with sessional order 101A, and the resumption of the debate made an order of the day for a later hour this day.

5 TELEVISIONING OF QUESTION TIME—STATEMENT BY SPEAKER: The Speaker referred to a letter he had received from Mr Ian Carroll, Acting Controller of News and Current Affairs, Australian Broadcasting Corporation (ABC), concerning a decision by the ABC not to broadcast questions without notice from the House of Representatives to New South Wales viewers today. The Speaker stated that the ABC decision was unacceptable to the Standing Committee on the Televising of the House of Representatives and the committee had resolved that if the ABC was not prepared to broadcast question time live to all States then it should not be given the feed to allow it to broadcast selectively. The Speaker advised the House that the ABC had since agreed to rebroadcast question time from the House of Representatives at 3 p.m. in NSW.

6 QUESTIONS: Questions without notice were asked.

7 AUDITOR-GENERAL'S REPORTS—PUBLICATION OF PAPERS AND REFERENCE TO COMMITTEE: The Speaker presented the following papers:

Audit Act—Auditor-General—Audit reports of 1991-92—

No. 39—Project audits—Department of Employment, Education and Training: New Enterprise Incentive Scheme (NEIS), Technical and Further Education (TAFE)—Recurrent grants and SkillShare.

No. 40—Efficiency audit—Department of Social Security: Systems for the detection of overpayments and the investigation of fraud.

No. 41—Project audits—Department of Health, Housing and Community Services: Assistance for people with disabilities—Employment grants and community participation grants and Protective security.

No. 42—Project audit—Department of Administrative Services: Debt management.

No. 44—Project audit—Department of Social Security: Entitlement checks in localities with community development employment projects.

No. 45—Efficiency audit—Department of Veterans' Affairs: Outsourcing—The management of redundancy arrangements.

No. 46—Project audit—Department of Immigration, Local Government and Ethnic Affairs: Language services.

No. 47—Efficiency audit—Energy management of Commonwealth buildings.

No. 48—Efficiency audit—Australian Institute of Marine Science: External funds generation.

No. 49—Efficiency audit—Department of Administrative Services: Management of Sydney Central construction project.

No. 49A—Efficiency audit—Department of Administrative Services: Management of Sydney Central construction project—Supplementary volume.

No. 50—Efficiency audit—Internal audit in selected government organisations.

Mr Beazley (Leader of the House), by leave, moved—That:

- (1) this House, in accordance with the provisions of the *Parliamentary Papers Act 1908*, authorises the publication of the Auditor-General's audit reports Nos. 39, 40, 41, 42, 44, 45, 46, 47, 48, 49, 49A and 50 of 1991-92;
- (2) the reports be printed; and
- (3) audit report No 40. of 1991-92—Efficiency audit—Department of Social Security: Systems for the detection of overpayments and the investigation of fraud, be referred to the Standing Committee on Banking, Finance and Public Administration.

Question—put and passed.

8 PAPERS: The following papers were presented:

Aboriginal Land Commissioner—Report to the Minister for Aboriginal Affairs and the Administrator of the Northern Territory, relating to—
Finke land claim (Report No. 39).

Kenbi (Cox Peninsula) land claim (Report No. 40).

Audit Act—Finance Regulations—Commonwealth procurement guideline 8—
Managing risk in procurement.

Community Affairs—Standing Committee—Report—Is retirement working?—
A report on the community involvement of retired persons, 24 July 1990—
Government response, June 1992.

Defence Act—Army and Air Force Canteen Service Regulations—Army and
Air Force Canteen Service Board of Management—Report for period 29
January 1991 to 27 January 1992.

Department of Defence—Schedule of special purpose flights for period 1 July
to 31 December 1991.

Employment, Education and Training Act—National Board of Employment,
Education and Training—Schools Council—Issues arising from *Australia's
teachers: An agenda for the next decade*—Assuring the quality of teachers'
work—

Report, including the Board's comments, June 1992.

Government response.

Industry Commission Act—Industry Commission—Report No. 23—Commercial
restrictions on exporting (including franchising), 27 April 1992.

Jobs, Education and Training (JET)—Evaluation report by Departments of
Social Security; Employment, Education and Training; and Health, Housing
and Community Services, May 1992.

New Parliament House—Joint Standing Committee—Government response to
reports relating to proposed works in Parliamentary zone—

Community based child care centre.

2nd report relating to a community based child care centre.

Rent assistance reform 1989-90: Housing affordability—Evaluation report—
Department of Social Security policy research paper No. 61, February 1992.

Seat of Government (Administration) Act—Ordinance—Canberra Institute of
the Arts—Report for 1991.

Services Trust Funds Act—Royal Australian Air Force Welfare Trust Fund—
Report for 1991.

9 COMMUNITY AFFAIRS—STANDING COMMITTEE—REPORT—GOVERNMENT
RESPONSE—MOTION TO TAKE NOTE OF PAPER: Mr Beazley (Leader of
the House) moved—That the House take note of the following paper:

Community Affairs—Standing Committee—Report—Is retirement working?:
A report on the community involvement of retired persons, 24 July
1990—Government response, June 1992.

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

10 NATIONAL BOARD OF EMPLOYMENT, EDUCATION AND TRAINING—
SCHOOLS COUNCIL—REPORT—MOTION TO TAKE NOTE OF PAPER: Mr
Beazley (Leader of the House) moved—That the House take note of the
following paper:

Employment, Education and Training Act—National Board of Employment,
Education and Training—Schools Council—Report, including the
Board's comments, June 1992—Issues arising from *Australia's teachers:
An agenda for the next decade*—Assuring the quality of teachers' work.

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

- 11 ABORIGINAL DEATHS IN CUSTODY—ROYAL COMMISSION—COMMONWEALTH RESPONSE—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF PAPER:** Mr Keating (Prime Minister), by leave, made a ministerial statement relating to the Commonwealth response to the Royal Commission into Aboriginal Deaths in Custody, and presented the following paper:

Aboriginal Deaths in Custody—Royal Commission—Commonwealth response—Ministerial statement, 24 June 1992.

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

Suspension of standing and sessional orders—Extended time for speech: Mr Beazley, by leave, moved—That so much of the standing and sessional orders be suspended as would prevent Dr Hewson (Leader of the Opposition) speaking for a period not exceeding 16 minutes.

Question—put and passed.

Dr Hewson addressed the House.

The time allowed for Dr Hewson having expired—

Suspension of standing and sessional orders—Further time for speech: Mr Downer moved—That so much of the standing and sessional orders be suspended as would prevent Dr Hewson speaking for a further 5 minutes.

Question—put and passed, with the concurrence of an absolute majority.

Debate continued.

Debate adjourned (Mr Tickner—Minister for Aboriginal and Torres Strait Islander Affairs), and the resumption of the debate made an order of the day for the next sitting.

- 12 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—UNEMPLOYMENT:** The House was informed that Dr Wooldridge had proposed that a definite matter of public importance be submitted to the House for discussion, namely, “The inability of the Government to address with meaningful and detailed policies the plight of all the unemployed of Australia”.

The proposed discussion having received the necessary support—

Dr Wooldridge addressed the House.

Discussion ensued.

Discussion concluded.

- 13 MESSAGES FROM THE SENATE:** Messages from the Senate were reported returning the following Bills without amendment:

17 June 1992—Message—

No. 442—Remuneration and Allowances Legislation Amendment 1992.

No. 444—Taxation Laws Amendment (No. 3) 1992.

No. 445—Development Allowance Authority 1992.

No. 446—Pooled Development Funds 1992.

No. 447—Taxation Laws Amendment (Self Assessment) 1992.

18 June 1992—Message—

No. 448—Coal Mining Industry (Long Service Leave Funding) 1992.

No. 449—Coal Mining Industry (Long Service Leave) Payroll Levy Collection 1992.

No. 450—Coal Mining Industry (Long Service Leave) Payroll Levy 1992 (*without requests*).

No. 451—States Grants (Coal Mining Industry Long Service Leave) Amendment 1992.

No. 452—Coal Research Assistance Amendment 1992.

No. 453—Coal Tariff Legislation Amendment 1992.

No. 454—Coal Industry Amendment 1992.

No. 455—Dairy Produce Amendment 1992.

No. 456—Dairy Produce Levy (No. 1) Amendment 1992 (*without requests*).

- No. 459—Social Security (Family Payment) Amendment 1992.
 No. 460—Veterans' Affairs Legislation Amendment 1992.
 No. 462—Transport and Communications Legislation Amendment (No. 2) 1992.
 No. 463—Telecommunications (Public Mobile Licence Charge) 1992 (*without requests*).
 No. 464—Aviation Fuel Revenues (Special Appropriation) Amendment 1992.
 No. 465—Wool Tax (No. 1) Amendment 1992 (*without requests*).
 No. 466—Wool Tax (No. 2) Amendment 1992 (*without requests*).
 No. 467—Wool Tax (No. 3) Amendment 1992 (*without requests*).
 No. 468—Wool Tax (No. 4) Amendment 1992 (*without requests*).
 No. 469—Wool Tax (No. 5) Amendment 1992 (*without requests*).
 No. 470—Wool Tax (Administration) Amendment 1992.
 No. 471—Primary Industries and Energy Legislation Amendment (No. 2) 1992.

19 June 1992—Message—

- No. 474—Higher Education Funding Amendment 1992.
 No. 475—States Grants (TAFE Assistance) Amendment 1992.
 No. 476—States Grants (Schools Assistance) Amendment 1992.
 No. 477—Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Amendment 1992.
 No. 478—States and Northern Territory Grants (Rural Adjustment) Amendment 1992.

22 June 1992—Message No. 479—Migration Amendment (No. 2) 1992.

23 June 1992 a.m.—Message No. 486—Customs Tariff (Anti-Dumping) Amendment 1992.

23 June 1992—Message—

- No. 487—Training Guarantee (Administration) Amendment 1992.
 No. 490—Defence Legislation Amendment 1992.

14 **MESSAGE FROM THE SENATE:** Message No. 440, dated 16 June 1992, from the Senate was reported acquainting the House that Senator Harradine had been discharged from further attendance on the Joint Standing Committee on Electoral Matters, and that Senator Chamarette had been appointed a member of the Committee.

15 **MESSAGE FROM THE SENATE—CERTAIN ASPECTS OF THE OPERATION AND INTERPRETATION OF THE FAMILY LAW ACT—JOINT SELECT COMMITTEE—EXTENSION OF TERM OF APPOINTMENT:** The following message from the Senate was reported:

Message No. 441

Mr Speaker,

The Senate transmits to the House of Representatives the following resolution which was agreed to by the Senate this day and requests the concurrence of the House of Representatives therein:

- (1) that the term of appointment of the Joint Select Committee on Certain Aspects of the Operation and Interpretation of the Family Law Act be extended for a further two months after the Committee reports to each House of the Parliament, to enable the Committee to monitor and respond to correspondence and public comment related to the Committee's report; and
- (2) that the Committee be provided with all necessary staff, facilities and resources to enable it to conduct such work.

KERRY SIBRAA
 President

The Senate,
 Canberra, 16 June 1992

Ordered—That the message be taken into consideration forthwith.

Mr Price (Parliamentary Secretary to the Minister for Defence) moved—That this House concurs in the resolution transmitted in Senate message No. 441 of 16 June 1992 relating to the extension of the term of appointment of, and provision of resources to, the Joint Select Committee on Certain Aspects of the Operation and Interpretation of the Family Law Act.

Question—put and passed.

16 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:

5 June 1992—Message—

No. 281—

Appropriation (Parliamentary Departments) (No. 2) 1991-92.

Appropriation (No. 3) 1991-92.

Appropriation (No. 4) 1991-92.

Supply (Parliamentary Departments) 1992-93.

Supply (No. 1) 1992-93.

Supply (No. 2) 1992-93.

No. 282—Parliament House Construction Authority Repeal 1992.

No. 283—Asian Development Fund 1992.

11 June 1992—Message—

No. 284—Commonwealth Electoral Amendment 1992.

No. 285—National Crime Authority Amendment 1992.

No. 286—Ozone Protection Amendment 1992.

17 June 1992—Message No. 287—

Taxation Administration Amendment 1992.

Repatriation Institutions (Transfer) 1992.

A.C.T. Supreme Court (Transfer) 1992.

Ministers of State Amendment 1992.

Veterans' Entitlements (Provision of Treatment) Amendment 1992.

22 June 1992—Message—

No. 288—Remuneration and Allowances Legislation Amendment 1992.

No. 289—

Wool Tax (No. 1) Amendment 1992.

Wool Tax (No. 2) Amendment 1992.

Wool Tax (No. 3) Amendment 1992.

Wool Tax (No. 4) Amendment 1992.

Wool Tax (No. 5) Amendment 1992.

Wool Tax (Administration) Amendment 1992.

Primary Industries and Energy Legislation Amendment (No. 2) 1992.

17 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REPORT—STATEMENTS BY MEMBERS: Mr Hollis (Chairman) presented the following report:

Public Works—Parliamentary Standing Committee—55th General Report of the Committee, 1992, pursuant to the Public Works Committee Act.

Ordered to be printed.

Mr Hollis and Mr Webster, by leave, made statements in connection with the report.

18 MESSAGE FROM THE SENATE—SOCIAL SECURITY LEGISLATION
AMENDMENT BILL 1992: The following message from the Senate was
reported:

Message No. 458

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to amend the 'Social Security Act 1991', and for related purposes*", and acquaints the House that the Senate has agreed to the bill with the amendments indicated by the annexed schedule, in which amendments the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA
President

The Senate,
Canberra, 18 June 1992

Ordered—That the amendments be taken into consideration, in committee of the whole House, forthwith.

—————
In the committee

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Clause 2, page 2, at end of subclause (1), add the following paragraph:
“; (h) Schedule 3.”.

No. 2—Clause 81, page 55, lines 12 to 19, omit the clause, substitute the following clause:

Agreement with Republic of Austria

“81. The Principal Act is amended by adding at the end the Schedule set out in Schedule 3 to this Act.”.

No. 3—Schedule 2, page 118, Part 6, before proposed amendment of the *Data-matching Program (Assistance and Tax) Act 1990*, insert the following amendment:

“Bankruptcy Act 1966

Section 139K (definition of ‘base income threshold amount’):

Omit ‘item 3’, substitute ‘item 2’.”.

No. 4—After Schedule 2, page 119, add the following Schedule:

“SCHEDULE 3

Section 81

NEW SCHEDULE TO SOCIAL SECURITY ACT 1991

SCHEDULE 11

Section 1208

AGREEMENT

BETWEEN

AUSTRALIA

AND

THE REPUBLIC OF AUSTRIA

ON SOCIAL SECURITY

AUSTRALIA AND THE REPUBLIC OF AUSTRIA,

Wishing to strengthen the existing friendly relations between the two countries, and

Resolved to co-operate in the field of social security;

Have agreed as follows:

PART I
INTERPRETATION AND SCOPE
GENERAL PROVISIONS

ARTICLE 1

Interpretation

1. In this Agreement:

- (a) “national” means, in relation to Australia, an Australian citizen; and, in relation to Austria, an Austrian citizen;
- (b) “legislation” means, in relation to Australia, the law specified in subparagraph 1(a) of Article 2; and, in relation to Austria, the laws, regulations and statutory instruments which relate to the branches of social security specified in subparagraph 1(b) of Article 2;
- (c) “competent authority” means, in relation to Australia, the Secretary to the Department of Social Security; and, in relation to Austria, the Federal Minister responsible for the application of the legislation specified in subparagraph 1(b) of Article 2;
- (d) “institution” means, in relation to Australia, the Department of Social Security; and, in relation to Austria, the institution responsible for the application of the Austrian legislation;
- (e) “competent institution” means, in relation to Australia, the Department of Social Security; and, in relation to Austria, the institution competent under the Austrian legislation to deal with the matter in question;
- (f) “period of Australian working life residence”, in relation to a person, means a period defined as such in the legislation of Australia but does not include any period deemed pursuant to Article 6 to be a period in which that person was an Australian resident;
- (g) “period of insurance in Austria” means a period of insurance defined as such in the Austrian legislation;
- (h) “benefit” means, in relation to a Party, a benefit, pension or allowance for which provision is made in the legislation of that Party, and includes any additional amount, increase or supplement that is payable, in addition to that benefit, pension or allowance;
- (i) “carer pension” means, in relation to Australia, a carer pension payable to a partner under the legislation of Australia;
- (j) “widowed person” means, in relation to Australia, a person who:
 - (i) stops being a married person or becomes a single person because of the death of the person’s husband or wife; or
 - (ii) is a class B widow because of the death of her husband or because she is a dependent female,
 but does not include a person who has a new partner;
- (k) “refugee” means a person defined as a refugee in Article 1 of the Convention relating to the Status of Refugees, dated 28 July 1951, and the Protocol to that Convention, dated 31 January 1967;
- (l) “stateless person” means a person defined as a stateless person in Article 1 of the Convention relating to the Status of Stateless Persons, dated 28 September 1954.

2. In the application of this Agreement, any term not defined in this Article shall, unless the context otherwise requires, have the meaning assigned to it by the legislation of either Party.

ARTICLE 2

Legislative Scope

1. Subject to paragraph 2, this Agreement shall apply to:
 - (a) in relation to Australia: the Social Security Act 1991 insofar as the Act provides for, applies to or affects:
 - (i) age pensions,
 - (ii) invalid pensions,
 - (iii) wife pensions,
 - (iv) carer pensions, and
 - (v) benefits payable to widowed persons; and
 - (b) in relation to Austria the legislation concerning pension insurance with the exception of the insurance for notaries.
2. Except as otherwise provided in paragraph 3 this Agreement shall also apply to any legislation which supersedes, replaces, amends, supplements or consolidates the legislation specified in paragraph 1.
3. Notwithstanding the provisions of paragraph 1:
 - (a) the legislation of Australia shall not include any laws made, whether before or after the date of signature of this Agreement, for the purpose of giving effect to any agreement on social security; and
 - (b) this Agreement shall not affect any other agreement on social security which Austria has concluded with a third State, except as it contains provisions relating to the apportionment of insurance burdens.

ARTICLE 3

Personal Scope

This Agreement shall apply without any restriction based on nationality to any person who:

- (a) is or has been an Australian resident; or
 - (b) is or has been subject to the Austrian legislation,
- and where applicable, to any other person with respect to the rights he or she derives from such a person described in subparagraph (a) or (b).

ARTICLE 4

Equality of Treatment

1. Unless otherwise provided in this Agreement, nationals of one Party shall, in the application of the legislation of the other Party, receive equal treatment with the nationals of that other Party.
2. Benefits under the legislation of one Party shall be granted to nationals of the other Party resident outside the territories of both Parties, under the same conditions and to the same extent as they are granted to the nationals of the first Party who reside outside the territories of the Parties.
3. Paragraph 1 shall not apply to the provisions of the Austrian legislation concerning:
 - (a) the participation of insured persons and employers in the administration of institutions and associations as well as adjudication in the field of social security;
 - (b) the apportionment of insurance burdens resulting from agreements with third States; or
 - (c) the insurance of persons employed at a diplomatic mission or consular post of Austria in a third State or by a member of such a mission or post.

4. Paragraph 1 shall apply with regard to the provisions of Austrian legislation concerning the taking into account of periods of war service and periods considered as such only to Australian nationals who were Austrian nationals immediately before 13 March 1938.

ARTICLE 5

Equivalence of Territories

1. Unless otherwise provided in this Agreement any provision of the legislation of a Party under which qualification for or payment of a benefit is dependent on a person being a resident of, and/or present in the territory of that Party shall not apply to nationals of either Party, refugees or stateless persons, or other persons who derive rights from the foregoing, who are resident in the territory of either Party and present in the territory of either Party.
2. Benefits of a Party are payable at the request of the beneficiary in the territory of the other Party.
3. Where the legislation of a Party provides that a benefit is payable outside the territory of that Party, then that benefit, when payable by virtue of this Agreement, is also payable outside the territories of both Parties.
4. In relation to Australia:
 - (a) Paragraph 1 shall apply without regard to nationality.
 - (b) Paragraph 1 shall not apply to a claimant for a wife pension or carer pension who has never been an Australian resident or to rental allowance.
 - (c) Where qualification for an Australian benefit is subject to limitations as to time, then references to Australia in those limitations shall be read also as references to the territory of Austria.
 - (d) Where a person would be qualified under the legislation of Australia or by virtue of this Agreement for an Australian benefit except for not being an Australian resident and in Australia on the date on which the claim for that benefit is lodged but:
 - (i) is an Australian resident or residing in the territory of Austria or a third State with which Australia has concluded an agreement on social security that includes provisions for cooperation in the assessment and determination of claims for benefits; and
 - (ii) is in Australia, or in the territory of Austria or that third State,
 that person shall be deemed, for the purposes of lodging that claim, to be an Australian resident and in Australia on that date.
5. As regards the Austrian legislation, paragraph 1 shall not apply to the compensatory supplement (Ausgleichszulage).

PART II

PROVISIONS CONCERNING AUSTRALIAN BENEFITS

ARTICLE 6

1. Where a person to whom this Agreement applies has claimed an Australian benefit under this Agreement and has, without the application of this Agreement, accumulated:
 - (a) a period as an Australian resident that is less than the period required to qualify him or her, on that ground, under the legislation of Australia for a benefit; and
 - (b) a period of Australian working life residence equal to or greater than the minimum period identified in accordance with paragraph 4 for that person

and has accumulated a period of insurance in Austria, then for the purposes of a claim for that Australian benefit, that period of insurance in Austria shall be deemed, only for the purposes of this Article for meeting any period required for qualification for that benefit set out in the legislation of Australia, to be a period in which that person was an Australian resident.

2. For the purposes of paragraph 1, where a person:

- (a) has been an Australian resident for a continuous period which is less than the minimum continuous period required by the legislation of Australia for entitlement of that person to a benefit; and
- (b) has accumulated a period of insurance in Austria in two or more separate periods that equals or exceeds in total the minimum period referred to in subparagraph (a),

the total of the periods of insurance in Austria shall be deemed to be one continuous period.

3. For all purposes of this Article, where a period by a person as an Australian resident and a period of insurance in Austria coincide, the period of coincidence shall be taken into account once only by Australia as a period as an Australian resident.

4. The minimum period of residence in Australia to be taken into account for the purposes of paragraph 1 shall be as follows:

- (a) for the purposes of an Australian benefit that is payable to a person who is not an Australian resident, the minimum period shall be twelve months of which at least six months must be continuous; and
- (b) for the purposes of an Australian benefit that is payable to an Australian resident, no minimum.

5. For the purposes of a claim by a person for a pension payable to a widowed person, that person shall be deemed to have accumulated a period of insurance in Austria for any period for which his or her partner accumulated a period of insurance in Austria but any period during which the person and his or her partner both accumulated a period of insurance in Austria shall be taken into account once only.

ARTICLE 7

1. Subject to paragraph 2, where an Australian benefit is payable whether by virtue of this Agreement or otherwise to a person who is outside the territory of Australia, the rate of that benefit shall be determined according to the legislation of Australia but when assessing the income of that person for the purposes of calculating the rate of the Australian benefit only a proportion of any Austrian benefit which is received by that person shall be regarded as income. That proportion shall be calculated by multiplying the number of whole months accumulated by that person in a period of Australian working life residence (not exceeding 300) by the amount of that Austrian benefit and dividing that product by 300.

2. A person referred to in paragraph 1 shall only be entitled to receive the concessional assessment of income described in that paragraph for any period during which the rate of that person's Australian benefit is proportionalised under the legislation of Australia.

3. Where an Australian benefit is payable by virtue of this Agreement or otherwise to a person who is in Austria, any compensatory supplement or social assistance and similar means-tested payment paid by Austria to that person shall be disregarded by Australia in computing that person's income for the purposes of the legislation of Australia or the application of this Agreement.

4. Subject to the provisions of paragraph 5, where an Australian benefit is payable only by virtue of this Agreement to a person who is in Australia, the rate of that benefit shall be determined by:

- (a) calculating that person's income according to the legislation of Australia but disregarding in that calculation the Austrian benefit received by that person;
- (b) deducting the amount of the Austrian benefit received by that person from the maximum rate of that Australian benefit; and
- (c) applying to the remaining benefit obtained under subparagraph (b) the relevant rate calculation set out in the legislation of Australia, using as the person's income the amount calculated under subparagraph (a).

5. Where the rate of a benefit calculated in accordance with paragraph 4 is less than the rate of that benefit which would be payable under paragraphs 1, 2 and 3 if the person concerned were outside Australia, the first-mentioned rate shall be increased to an amount equivalent to the second-mentioned rate.

6. Where a married person is, or both that person and his or her partner are, in receipt of an Austrian benefit or benefits, each of them shall be deemed, for the purposes of paragraph 4 and for the legislation of Australia, to be in receipt of one half of either the amount of that benefit or total of both of those benefits, as the case may be.

7. For the purposes of paragraph 5, a comparison of the rates of the benefits shall be made as at:

- (a) the date of the first pension pay day occurring after the date from which the benefit is payable; and
- (b) each anniversary of that pension pay day for so long as the person concerned is entitled to the benefit;

using, in that comparison, the number of months of the period of Australian working life residence accumulated by the person at the date as at which the comparison is made.

ARTICLE 8

A person who receives from Australia an Australian benefit due to the fact that the partner of that person receives, by virtue of this Agreement, another Australian benefit shall, for the purposes of this Agreement, be deemed to receive that first-mentioned benefit by virtue of this Agreement.

PART III

PROVISIONS CONCERNING AUSTRIAN BENEFITS

ARTICLE 9

If a person has completed periods of insurance in Austria and periods of Australian working life residence, those periods, insofar as they do not overlap, shall be added together for the purpose of qualification for an Austrian benefit.

ARTICLE 10

1. If a person who has completed periods of insurance in Austria and periods of Australian working life residence, or the survivor of such a person, is claiming a benefit, the competent institution for Austria shall determine the amount of the benefit in the following manner:

- (a) the institution shall determine, in accordance with the Austrian legislation, whether the person concerned has an entitlement to a benefit by adding together the periods as provided in Article 9;
- (b) if entitlement to a benefit is determined to exist, the institution shall first calculate the theoretical amount of the benefit which

would be payable if all the periods completed under the legislation of both Parties had been completed exclusively under the Austrian legislation; in cases where the amount of the benefit is independent of the duration of the period of insurance, this amount shall be taken to be the theoretical amount; and

- (c) the institution shall then calculate the partial benefit payable on the basis of the amount calculated in accordance with the provisions of subparagraph (b) in proportion to the ratio between the duration of the periods of insurance to be taken into consideration under the Austrian legislation and the total duration of the periods to be taken into consideration under the legislation of both Parties.

2. Where the periods of insurance to be taken into consideration under the Austrian legislation for the purpose of calculating the amount of a benefit are in aggregate less than twelve months, no benefit under that legislation shall be paid. However, the preceding sentence shall not apply if the entitlement to that benefit has been acquired under the Austrian legislation exclusively on the basis of periods of insurance completed under that legislation.

ARTICLE 11

The competent Austrian institution shall apply Articles 9 and 10 according to the following rules:

1. In determining the institution responsible for paying a benefit, only periods of insurance in Austria shall be taken into consideration.
2. Periods of Australian working life residence, during which the person concerned was employed or self-employed, shall be treated as periods of contributions.
3. Articles 9 and 10 shall apply neither to the conditions of entitlement to nor to the payment of the miners' long service allowance under the miners' pension insurance.
4. For the application of paragraph 1 of Article 10, the following shall apply:
 - (a) periods during which the insured person has been entitled to an age pension or invalid pension under the legislation of Australia shall be treated as if they were neutral periods;
 - (b) the basis of assessment shall be determined exclusively on periods of insurance in Austria;
 - (c) the contributions for supplementary insurance as well as the miners' supplementary benefit, the helpless person's allowance and the compensatory supplement shall be disregarded.
5. For the application of subparagraphs 1(b) and (c) of Article 10, overlapping periods under the legislation of the two Parties shall be taken into consideration as if they did not overlap.
6. If, for the application of subparagraph 1(c) of Article 10, the total duration of the periods to be taken into consideration under the legislation of both Parties exceeds the maximum number of months of insurance specified under the Austrian legislation for the calculation of the rate of increments, the partial pension payable shall be calculated in proportion to the ratio between the duration of the periods of insurance to be taken into consideration under the Austrian legislation and the above-mentioned maximum number of months of insurance.
7. For the calculation of the helpless person's allowance, subparagraphs 1(b) and (c) of Article 10 shall apply; Article 13 shall apply accordingly.
8. The amount calculated according to subparagraph 1(c) of Article 10 shall be increased, where applicable, by the increments for contributions

for supplementary insurance as well as the miners' supplementary benefit, the helpless person's allowance and the compensatory supplement.

9. If the award of benefits under the miners' pension insurance depends on the completion of essentially mining activities, within the meaning of the Austrian legislation, in specific undertakings, then only those periods of Australian working life residence during which the person was employed in a similar occupation in similar undertakings shall be taken into consideration.

10. The special payments shall be payable in the same amount as the Austrian partial benefit; Article 13 shall apply accordingly.

ARTICLE 12

1. Where entitlement to a benefit exists under the Austrian legislation without the application of Article 9, the competent Austrian institution shall pay the pension which would be payable exclusively on the basis of the periods of insurance to be taken into consideration under that legislation, provided there is no entitlement to a corresponding benefit under the legislation of Australia.

2. The pension determined in accordance with paragraph 1 shall be recalculated in accordance with the provisions of Article 10 as soon as entitlement arises to a corresponding benefit under the legislation of Australia. This recalculation shall have effect from the date on which the benefit under the legislation of Australia becomes payable. The irrevocability of previous decisions shall not prevent this recalculation.

ARTICLE 13

If a person is entitled to a benefit under the Austrian legislation without the application of Article 9, and if such a benefit would be greater than the total of the Austrian benefit calculated in accordance with subparagraph 1(c) of Article 10 and the corresponding Australian benefit, the competent Austrian institution shall pay, as the partial benefit, its benefit so calculated increased by the difference between such total and the benefit which would be payable if the Austrian legislation alone were applied.

PART IV

MISCELLANEOUS AND ADMINISTRATIVE PROVISIONS

ARTICLE 14

Lodgement of Documents

1. The date on which a claim, notice or appeal concerning the determination or payment of a benefit under the legislation of a Party is lodged with an authority, institution or other competent body of the other Party shall be treated, for all purposes concerning the matter to which it relates, as the date of lodgement of that document with an authority, institution or other competent body of the first Party.

2. Any claim for a benefit under the legislation of a Party shall be considered to be a claim for the corresponding benefit under the legislation of the other Party for which the applicant may be qualified if the applicant provides information at the time of claim indicating that the person on whose record benefits are claimed has completed relevant periods of residence or of insurance under the legislation of the other Party and:

- (a) the claim is lodged with the institution of the other Party; or
- (b) the claim is lodged with the institution of the first Party and that institution sends the claim within three months of its lodgement

with that institution to the competent institution of the other Party.

3. In the cases to which paragraphs 1 and 2 of this Article apply, the body to which the submission has been made shall forward the claim, notice or appeal without delay to the corresponding competent body of the other Party.

ARTICLE 15

Advance Payments and Overpayments

1. Where an Austrian institution has made an advance payment to a person for any period and arrears of a corresponding benefit become payable for the same period under the legislation of Australia, the competent institution of Australia shall deduct from those arrears the amount paid by way of advance payment and shall transfer the amount so deducted to the Austrian institution. Where an Austrian institution has overpaid a benefit for any period for which the competent institution of Australia afterwards becomes liable to pay a corresponding benefit, the overpayment shall be regarded, for the purpose of the first sentence, as an advance payment.

2. Where

- (a) an Austrian benefit is paid or payable to a person in respect of a past period;
- (b) for all or part of that period, an Australian benefit has been paid to that person; and
- (c) the amount of the Australian benefit would have been reduced had the Austrian benefit been paid during that period;

then

- (d) the amount of the Australian benefit that would not have been paid had the Austrian benefit described in subparagraph (a) been paid on a periodical basis throughout that past period, shall be a debt due by that person to the Commonwealth of Australia; and
- (e) Australia may determine according to the legislation of Australia that the amount or any part of that debt may be deducted from future payments of Australian benefit payable to that person.

3. Where an Austrian institution has not yet paid the benefit described in subparagraph 2(a) to the person:

- (a) the Austrian institution shall, at the request of the competent authority of Australia pay the amount of the benefit necessary to meet the debt described in subparagraph 2(d) to the competent institution of Australia and shall pay any excess to the person; and
- (b) any shortfall may be recovered by the competent authority of Australia under subparagraph 2(e).

ARTICLE 16

Payment of Benefits

1. The benefit-paying institution of a Party may discharge its obligations under this Agreement in the national currency of that Party.

2. A benefit payable by a Party by virtue of this Agreement shall be paid by that Party without deduction for administrative fees and charges.

ARTICLE 17

Administrative Arrangements and Mutual Assistance

1. The competent authorities of the Parties shall, by means of an Arrangement, establish the administrative measures necessary for the application of this Agreement.

2. The competent authorities shall inform each other of laws that amend, supplement or replace the legislation of their respective Parties.
3. The competent authorities and institutions of the Parties shall assist each other, including by the communication of any information, in applying the legislation specified in Article 2 and this Agreement, as if they were applying their own legislation. With the exception of cash expenditures relating thereto, such assistance shall be provided free of charge.
4. The laws of a Party concerning confidentiality shall apply to any information about an individual which is transmitted in accordance with this Agreement to that Party by the other Party. Such information shall be used only for purposes of applying this Agreement or the legislation of a Party.
5. The competent authorities of the Parties shall, in order to facilitate the application of this Agreement, particularly for the creation of a simple and fast liaison between the institutions concerned, establish liaison agencies.
6. The institutions and the competent authority of one Party may not reject claims or other documents submitted to them by reason only of the fact that they are written in an official language of the other Party.
7. If the competent institution of one Party requires an applicant or beneficiary who lives in the territory of the other Party to undergo a medical examination, such examination shall, at the request of that institution, be arranged or carried out by the institution of the latter Party at its expense.

ARTICLE 18

Exemption from Taxes and from Authentication

1. Any exemption or reduction provided for in the legislation of one Party for taxes, stamp duty, legal dues or registration fees for certificates or documents which have to be submitted for the application of this legislation shall be extended also to the respective certificates or documents which must be submitted for the application of this Agreement or the legislation of the other Party.
2. Documents and certificates of any kind which must be submitted for the application of this Agreement shall not require authentication.

ARTICLE 19

Resolution of Difficulties

1. Disagreements arising in connection with the application of this Agreement shall, as far as possible, be resolved by mutual agreement between the competent authorities of the Parties.
2. If any such disagreement has not been resolved within a period of six months, either Party may submit the matter to binding arbitration by an arbitral body whose composition and procedure shall be agreed upon by the Parties.

PART V

TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 20

Transitional Provisions

1. This Agreement shall not establish any entitlement to payment of a benefit for a period before its entry into force.
2. In determining entitlement to a benefit under this Agreement, periods of insurance in Austria and periods as an Australian resident completed

before the entry into force of this Agreement shall also be taken into consideration.

3. Subject to paragraph 1, this Agreement shall also apply to contingencies which are relevant to an entitlement which occurred before its entry into force, insofar as previously determined entitlements have not been settled by lump-sum payments. If in such cases the claim for a benefit which is payable only by virtue of this Agreement is submitted within one year from the date of entry into force of this Agreement, the benefit shall be determined and paid from that date; otherwise the benefit shall be paid from the date determined under the legislation of each Party.

4. Subject to the legislation of either Party this Agreement shall not result in any reduction in the amount of any benefit to which entitlement was established prior to its entry into force.

ARTICLE 21

Protection of Existing Rights

This Agreement shall not affect any existing rights under Austrian legislation of any person who has suffered disadvantages in the field of social security because of political or religious reasons or by reason of descent.

ARTICLE 22

Entry into Force and Termination

1. This Agreement shall enter into force on the first day of the third month following the month in which notes are exchanged by the Parties through the diplomatic channel notifying each other that all matters as are necessary to give effect to this Agreement have been finalised.

2. Subject to paragraph 3, this Agreement shall remain in force until the expiration of twelve months from the date on which either Party receives from the other written notice through the diplomatic channel of the intention of the other Party to terminate this Agreement.

3. In the event that this Agreement is terminated in accordance with paragraph 2, the Agreement shall continue to have effect in relation to all persons who:

- (a) at the date of termination, are in receipt of benefits; or
- (b) prior to the expire of the period referred to in that paragraph, have lodged claims for, and would be entitled to receive, benefits; by virtue of this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE in two copies at Canberra this first day of April, 1992 in the English and German languages, each text being equally authoritative.

FOR AUSTRALIA:

FOR THE REPUBLIC OF AUSTRIA:

NEAL BLEWETT

WALTER HIETSCH."

On the motion of Mr Duncan (Parliamentary Secretary to the Attorney-General), the amendments were agreed to, after debate.

Resolution to be reported.

The House resumed; Mrs Sullivan reported accordingly.

On the motion of Mr Duncan, the House adopted the report.

19 MESSAGE FROM THE SENATE—MIGRATION AMENDMENT BILL (NO. 3)
1992: The following message from the Senate was reported:

Message No. 480

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to amend the 'Migration Act 1958', and for related purposes*", and acquaints the House that the Senate has agreed to the bill with the amendments indicated by the annexed schedule, in which amendments the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA
President

The Senate,
Canberra, 22 June 1992

Ordered—That the amendments be taken into consideration, in committee of the whole House, forthwith.

—
In the committee

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Clause 4, page 2, proposed section 114A, after definition of "**entrance application**", insert the following definition:

"**immigration case**' means:

- (a) an entrance application made by an entrance applicant, not being an application to which paragraph (b) or (c) applies; or
- (b) entrance applications made at the same time by an entrance applicant, not being applications to which paragraph (c) applies; or
- (c) entrance applications made at the same time by entrance applicants who, under the regulations, are members of the same family unit;"

No. 2—Clause 4, page 2, proposed section 114A, after definition of "**official**", insert the following definition:

"**paid immigration assistance**' means immigration assistance for which a fee is charged or another reward is required;"

No. 3—Clause 4, page 4, at end of proposed section 114F, add the following subsections:

"(6) This section does not prohibit an individual from giving immigration assistance in his or her capacity as:

- (a) a member of a diplomatic mission; or
- (b) a member of a consular post; or
- (c) a member of an office of an international organization.

'(7) In this section:

"**member of a consular post**" means a person who is a member of a consular post for the purposes of the *Consular Privileges and Immunities Act 1972*;

"**member of a diplomatic mission**" means a person who is a member of a mission for the purposes of the *Diplomatic Privileges and Immunities Act 1967*;

"**member of an office of an international organization**" means the holder of an office in, an employee of, or a voluntary worker for, a body that, under section 3 of the *International Organizations (Privileges and Immunities) Act 1963*, is an international organization within the meaning of that Act."

No. 4—Clause 4, page 7, at end of proposed subsection 114P(3), add the following paragraph:

"(c) if the applicant proposes to give paid immigration assistance in no more than 5 immigration cases during the period of registration—an estimate of the extent of the applicant's proposed immigration assistance".

No. 5—Clause 4, page 7, at end of proposed section 114Q, add the following subsection:

“(3) For the purposes of subsection (2), subsection 6(2) of the *Migration Agents Registration (Application) Levy Act 1992* is taken to apply to an applicant who, at the time of making the application, proposes to give paid immigration assistance in no more than 5 immigration cases during the period of registration.”.

No. 6—Clause 4, page 10, at end of proposed section 114ZC, add the following subsection:

“(2) For the purposes of paragraph (1)(b), subsection 6(2) of the *Migration Agents Registration (Renewal) Levy Act 1992* is taken to apply to an applicant who, at the time of the renewal, proposes to give paid immigration assistance in no more than 5 immigration cases during the period for which registration continues.”.

No. 7—Clause 4, page 10, at end of proposed section 114ZD, add the following subsection:

“(2) The Secretary must deregister a registered agent by removing his or her name from the Register if:

- (a) subsection 114Q(3) or 114ZC(2) applied to the agent; and
- (b) the agent gives paid immigration assistance in more than 5 immigration cases in the period of registration or the period for which the registration continues, as the case may be; and
- (c) the balance of the registration application fee or renewal fee payable by the agent is not paid to the Commonwealth within 2 months after the agent gives paid immigration assistance in the sixth immigration case in the period.”.

No. 8—Clause 4, page 13, at end of proposed subsection 114ZP(2), add the following word and paragraph:

“; and (c) if the applicant proposes to give paid immigration assistance in no more than 5 immigration cases in the period of registration—an estimate of the extent of the applicant’s proposed immigration assistance”.

On the motion of Mr Duncan (Parliamentary Secretary to the Attorney-General), the amendments were agreed to, after debate.

Resolution to be reported.

The House resumed; Mrs Sullivan reported accordingly.

On the motion of Mr Duncan, the House adopted the report.

20 MESSAGE FROM THE SENATE—MIGRATION AGENTS REGISTRATION (APPLICATION) LEVY BILL 1992: The following message from the Senate was reported:

Message No. 481

Mr Speaker,

The Senate returns to the House of Representatives the bill for “*An Act to impose a levy on applications by individuals for registration as migration agents*”, and requests the House to amend the bill as indicated by the annexed schedule.

KERRY SIBRAA
President

The Senate,
Canberra, 22 June 1992

Ordered—That the amendments requested by the Senate be taken into consideration, in committee of the whole House, forthwith.

In the committee

SCHEDULE OF THE REQUESTS BY THE SENATE FOR AMENDMENTS

No. 1—Clause 3, page 1, line 10, after “immigration assistance” insert “, ‘immigration case’, ‘paid immigration assistance’”.

No. 2—Clause 6, page 2, lines 11 to 24, omit the clause, substitute the following clause:

Amount of levy

“6.(1) Subject to subsection (2), the amount of levy is:

(a) if the individual who makes the registration application proposes, at the time of making the application, to give immigration assistance in the capacity of an employee of:

- (i) a registered agent; or
- (ii) a partnership at least one of whose members is a registered agent; or
- (iii) a corporation at least one of whose executive officers is a registered agent—

\$500; or

(b) in any other case—\$1,000.

“(2) The amount of levy on the making of a registration application by an individual who:

(a) proposes, at the time of making the application, to give paid immigration assistance in no more than 5 immigration cases during the period of registration; and

(b) gives paid immigration assistance in no more than 5 immigration cases during that period;

is:

(c) if he or she proposes, at the time of making the application, to give immigration assistance in the capacity of an employee of:

- (i) a registered agent; or
- (ii) a partnership at least one of whose members is a registered agent; or
- (iii) a corporation at least one of whose executive officers is a registered agent—

\$50; or

(d) in any other case—\$100.”.

On the motion of Mr Free (Minister for Science and Technology), the requested amendments were made.

Resolution to be reported.

The House resumed; Mrs Sullivan reported accordingly.

On the motion of Mr Free, the House adopted the report.

21 MESSAGE FROM THE SENATE—MIGRATION AGENTS REGISTRATION (RENEWAL) LEVY BILL 1992: The following message from the Senate was reported:

Message No. 482

Mr Speaker,

The Senate returns to the House of Representatives the bill for “*An Act to impose a levy on renewals of individuals’ registrations as migration agents*”, and requests the House to amend the bill as indicated by the annexed schedule.

KERRY SIBRAA
President

The Senate,
Canberra, 22 June 1992

Ordered—That the amendments requested by the Senate be taken into consideration, in committee of the whole House, forthwith.

In the committee

SCHEDULE OF THE REQUESTS BY THE SENATE FOR AMENDMENTS

No. 1—Clause 3, page 1, line 10, after “immigration assistance” insert “, immigration case, paid immigration assistance”.

No. 2—Clause 6, page 2, lines 8 to 20, omit the clause, substitute the following clause:

Amount of levy

“6.(1) Subject to subsection (2), the amount of levy is:

(a) if the individual whose registration is renewed gives, at the time of the renewal, immigration assistance in the capacity of an employee of:

- (i) a registered agent; or
- (ii) a partnership at least one of whose members is a registered agent; or
- (iii) a corporation at least one of whose executive officers is a registered agent—

\$500; or

(b) in any other case—\$1,000.

“(2) The amount of levy on the renewal of registration of an individual who:

- (a) proposes, at the time of the renewal, to give paid immigration assistance in no more than 5 immigration cases during the period for which registration is continued; and
- (b) gives paid immigration assistance in no more than 5 immigration cases during that period;

is:

(c) if, at the time of the renewal, he or she gives immigration assistance in the capacity of an employee of:

- (i) a registered agent; or
- (ii) a partnership at least one of whose members is a registered agent; or
- (iii) a corporation at least one of whose executive officers is a registered agent—

\$50; or

(d) in any other case—\$100.”.

On the motion of Mr Free (Minister for Science and Technology), the requested amendments were made.

Resolution to be reported.

The House resumed; Mrs Sullivan reported accordingly.

On the motion of Mr Free, the House adopted the report.

22 MESSAGE FROM THE SENATE—CUSTOMS TARIFF AMENDMENT BILL 1992:

The following message from the Senate was reported:

Message No. 484

Mr Speaker,

The Senate returns to the House of Representatives the bill for “*An Act to amend the Customs Tariff Act 1987*”, and requests the House to amend the bill as indicated by the annexed schedule.

KERRY SIBRAA
President

The Senate,
Canberra, 23 June 1992 a.m.

Ordered—That the amendments requested by the Senate be taken into consideration, in committee of the whole House, forthwith.

In the committee

SCHEDULE OF THE REQUESTS BY THE SENATE FOR AMENDMENTS

No. 1—Clause 2, page 2, after subclause (9), insert the following subclauses:

“(9A) Section 16 is taken to have commenced on 1 May 1992.

“(9B) Section 17 is taken to have commenced on 2 June 1992.”.

No. 2—After clause 15, page 4, add the following clauses:

Amendments of Schedule 1 having effect from 1 May 1992

“16. The Principal Act is amended as set out in Schedule 11.

Amendments of Schedule 1 having effect from 2 June 1992

“17. The Principal Act is amended as set out in Schedule 12.”.

No. 3—Schedule 5, page 12, amendment 4 of Schedule 1 to the *Customs Tariff Act 1987*, omit the amendment, substitute the following amendment:

“4. After the entry in Division 2 of Part II relating to French Polynesia insert:

‘Former Yugoslav Republic of Macedonia . . . FYRM’.”.

No. 4—After Schedule 10, page 94, add the following Schedules:

“SCHEDULE 11

Section 16

AMENDMENTS HAVING EFFECT FROM 1 MAY 1992

Amendments of Schedule 1

1. After the entry in Division 1 of Part II relating to Bolivia insert:

‘Bosnia and Herzegovina . . . BOHR’.

2. Omit from Division 2 of Part II:

‘Bosnia-Hercegovina BOHR’.

“SCHEDULE 12

Section 17

AMENDMENT HAVING EFFECT FROM 2 JUNE 1992

Amendment of Schedule 1

Omit from Division 2 of Part II:

‘Montenegro MTRO’.”.

On the motion of Mr Free (Minister for Science and Technology), the requested amendments were made.

Resolution to be reported.

The House resumed; Mrs Sullivan reported accordingly.

On the motion of Mr Free, the House adopted the report.

23 MESSAGE FROM THE SENATE—CUSTOMS LEGISLATION (TARIFF CONCESSIONS AND ANTI-DUMPING) AMENDMENT BILL 1992: The following message from the Senate was reported:

Message No. 485

Mr Speaker,

The Senate returns to the House of Representatives the bill for “*An Act to amend the ‘Customs Act 1901’, the ‘Anti-Dumping Authority Act 1988’, and for related purposes*”, and acquaints the House that the Senate has agreed to the bill with the amendments indicated by the annexed schedule, in which amendments the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA
President

The Senate,
Canberra, 23 June 1992 a.m.

Ordered—That the amendments be taken into consideration, in committee of the whole House, forthwith.

In the committee

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Clause 13, page 24, paragraph (a), line 43, omit “25 days”, substitute “5 days”.

No. 2—Clause 13, page 25, paragraph (b), line 7, omit the paragraph.

No. 3—Clause 13, page 25, paragraph (d), line 19, omit “25 days”, substitute “5 days”.

No. 4—Clause 13, page 25, paragraph (e), line 26, omit the paragraph.

On the motion of Mr Bilney (Minister for Defence Science and Personnel), amendments Nos. 1 and 3 were together disagreed to, after debate.

On the motion of Mr Bilney, amendments Nos. 2 and 4 were together agreed to, after debate.

Resolutions to be reported.

The House resumed; Mrs Sullivan reported accordingly.

On the motion of Mr Bilney, the House adopted the report.

Mr Bilney moved—That Mr Wright, Mr Lee and the mover be appointed a committee to draw up reasons for the House of Representatives disagreeing to amendments Nos. 1 and 3 of the Senate.

Question—put and passed.

Mr Bilney, on behalf of the committee, brought up such reasons, which were circulated, and are as follows:

Reasons of the House of Representatives for disagreeing to amendments Nos. 1 and 3 of the Senate

Senate amendments Nos. 1 and 3, the effect of which would be to reduce the *prima facie* stage of a dumping inquiry from 25 days to 5 days, are not acceptable because:

- (1) 5 days leaves insufficient time to give effect to the requirements under the General Agreement on Tariffs and Trade (GATT) Anti-Dumping Code, and the requirements of Australia's domestic legislation, relating to the consideration of an application for anti-dumping relief prior to the initiation of an anti-dumping investigation;
- (2) 5 days leaves insufficient time to comply with the requirement under the GATT Subsidies Code for consultation with affected Governments for the purpose of clarifying the situation and arriving at a mutually agreed solution, *prior* to the initiation of a subsidisation/countervailing duty inquiry; and
- (3) a 5 day *prima facie* period effectively nullifies the reforms contained in the Bill which enable the Australian Customs Service (ACS) to supplement an application for dumping relief with other relevant information, by leaving the ACS with insufficient time to obtain and properly weight such other information.

On the motion of Mr Bilney, the committee's reasons were adopted.

24 MESSAGE FROM THE SENATE—AUSTRALIAN NUCLEAR SCIENCE AND TECHNOLOGY ORGANISATION AMENDMENT BILL 1992: The following message from the Senate was reported:

Message No. 473

Mr Speaker,

The Senate returns to the House of Representatives the bill for “*An Act to amend the Australian Nuclear Science and Technology Organisation*”

Act 1987, and for related purposes”, and acquaints the House that the Senate has agreed to the bill with the amendments indicated by the annexed schedule, in which amendments the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA
President

The Senate,
Canberra, 18 June 1992

Ordered—That the amendments be taken into consideration, in committee of the whole House, forthwith.

In the committee

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Clause 4, page 2, after paragraph (1)(d), insert the following paragraph:
“(da) by inserting after subsection (1) the following subsections:

‘(1A) A regulation made for the purposes of subparagraph (1)(ba)(iv) must not have the effect of authorising the premises on which the Lucas Heights Research Laboratories are situated to become a national nuclear waste repository.

‘(1B) In subsection (1A):

“**national nuclear waste repository**” means a site chosen by the Commonwealth, after the commencement of this subsection, for the storage of nuclear waste with a view to it never being moved to another site.’”.

No. 2—Clause 12, page 7, proposed subsection 37D(1), line 8, omit “may”, substitute “must”.

No. 3—Clause 12, page 7, at end of proposed section 37D, add the following subsection:

“(3) The Minister must, within 15 sitting days of issuing a notice to the Director under this section, cause a copy of the notice to be tabled in each House of the Parliament.”.

No. 4—Clause 12, page 10, proposed subsection 37U(1), line 18, omit “may”, substitute “must”.

No. 5—Clause 12, page 10, proposed subsection 37U(3), lines 23 to 26, omit the subsection, substitute the following subsection:

“(3) The Minister must, within 15 sitting days of receiving a report under this section, cause a copy of the report to be tabled in each House of the Parliament.”.

On the motion of Mr Bilney (Minister for Defence Science and Personnel), the amendments were agreed to.

Resolution to be reported.

The House resumed; Mrs Sullivan reported accordingly.

On the motion of Mr Bilney, the House adopted the report.

25 MESSAGE FROM THE SENATE—HEALTH, HOUSING AND COMMUNITY SERVICES LEGISLATION AMENDMENT BILL 1992: The following message from the Senate was reported:

Message No. 483

Mr Speaker,

The Senate returns to the House of Representatives the bill for “*An Act to amend legislation relating to health, housing and community services, and for related purposes*”, and acquaints the House that the Senate has agreed to the bill with the amendment indicated by the annexed schedule, in which amendment the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA
President

The Senate,
Canberra, 22 June 1992

Ordered—That the amendment be taken into consideration, in committee of the whole House, forthwith.

In the committee

SCHEDULE OF THE AMENDMENT MADE BY THE SENATE

After clause 5, page 3, insert the following clause:

“5A.(1) Section 5 of the Principal Act is repealed and the following section is substituted:

Principles, objectives and guidelines

‘5.(1) The Minister must formulate principles and objectives to be furthered and guidelines to be complied with in the administration of this Act.

‘(2) A copy of the guidelines formulated under subsection (1) is to be laid before each House of the Parliament within 15 sitting days of that House after the guidelines are formulated and the guidelines take effect only as provided by the following provisions of this section.

‘(3) If:

- (a) a notice of motion to amend the guidelines is given in either House of the Parliament within 15 sitting days after the guidelines have been laid before that House; and
- (b) the guidelines, whether or not as amended, are subsequently approved by that House; and
- (c) the other House approves the guidelines in the form approved by the firstmentioned House;

the guidelines take effect in the form so approved from the day on which that other House approves the guidelines in that form.

‘(4) If no notice of a motion to amend the guidelines is given in the House of Representatives or the Senate within 15 sitting days of the particular House after the guidelines have been laid before that House, the guidelines take effect from the day immediately after that 15th sitting day or, where that day differs in respect of each House, the later of those days.’.

“(2) Despite the amendment of the Principal Act made by subsection (1):

- (a) any principles and objectives formulated by the Minister under section 5 of the Principal Act and in force immediately before the commencement of this section continue in force after the commencement of this section;
- (b) any guidelines formulated by the Minister under section 5 of the Principal Act and in force immediately before the commencement of this section continue in force after the commencement of this section but cease to be in force:
 - (i) upon the first guidelines made by the Minister after the commencement of this section becoming of force and effect, whether with or without amendments; or
 - (ii) upon the expiration of 5 months after the commencement of this section;

whichever first occurs.”.

On the motion of Mr Bilney (Minister for Defence Science and Personnel), the amendment was agreed to.

Resolution to be reported.

The House resumed; Mrs Sullivan reported accordingly.

On the motion of Mr Bilney, the House adopted the report.

26 MESSAGE FROM THE SENATE—TRANSPORT AND COMMUNICATIONS LEGISLATION AMENDMENT BILL 1992: The following message from the Senate was reported:

Message No. 461

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to amend certain laws relating to transport and communications, and for related purposes*", and acquaints the House that the Senate has agreed to the bill with the amendments indicated by the annexed schedule, in which amendments the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA
President

The Senate,
Canberra, 18 June 1992

Ordered—That the amendments be taken into consideration, in committee of the whole House, forthwith.

In the committee

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

- No. 1—Clause 2, page 2, subclause (4), line 5, omit "Part 3 is", substitute "Sections 16, 17 and 18, subsection 19(1) and section 20 are".
- No. 2—Clause 4, page 2, proposed subsection 10(2), line 20, omit the penalty, substitute the following penalty:
"Penalty:
(a) in the case of an individual—imprisonment for 2 years; or
(b) in the case of a body corporate—\$100,000."
- No. 3—Clause 5, page 2, subclause (1), proposed subsection 12(1A), line 28, omit the penalty, substitute the following penalty:
"Penalty:
(a) in the case of an individual—imprisonment for 7 years; or
(b) in the case of a body corporate—\$500,000."
- No. 4—Clause 7, page 3, proposed subsection 13A(2), line 30, omit the penalty, substitute the following penalty:
"Penalty:
(a) in the case of an individual—imprisonment for 2 years; or
(b) in the case of a body corporate—\$100,000."
- No. 5—Clause 8, page 4, paragraph (b), proposed subsection 14(3), line 12, omit the penalty, substitute the following penalty:
"Penalty:
(a) in the case of an individual—imprisonment for 2 years; or
(b) in the case of a body corporate—\$100,000."
- No. 6—Clause 9, page 4, paragraph (b), proposed subsection 15(2B), line 36, omit the penalty, substitute the following penalty:
"Penalty:
(a) in the case of an individual—imprisonment for 2 years; or
(b) in the case of a body corporate—\$100,000."
- No. 7—Clause 11, page 5, paragraph (b), proposed subsection 17(1A), line 34, omit the penalty, substitute the following penalty:
"Penalty:
(a) in the case of an individual—imprisonment for 2 years; or
(b) in the case of a body corporate—\$100,000."
- No. 8—Clause 13, page 6, proposed subsection 19(3), line 18, omit the penalty, substitute the following penalty:
"Penalty:
(a) in the case of an individual—imprisonment for 7 years; or

(b) in the case of a body corporate—\$100,000.”

No. 9—After clause 16, page 6, insert the following clause:

Interpretation

“16A. Section 4 of the Principal Act is amended by adding at the end of the definition of ‘election’ in subsection (1) ‘(other than a by-election for a local government authority of a State or a Territory)’.”

No. 10—Clause 19, page 7, at end of clause, add the following subclause:

“(2) Section 80B of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsections:

‘(1) If, in considering whether to make a decision to which this subsection applies, the Tribunal is required to have regard to the commercial viability of a service provided under any licence, the service is commercially viable if, and only if, the Tribunal is satisfied on the balance of probabilities that, were the Tribunal to make the decision, the service would continue to be provided under that licence (including that licence as renewed or further renewed) for at least 5 years after the day on which the Tribunal made the decision.

‘(1A) Subsection (1) applies to a decision of the Tribunal under this Part:

- (a) to grant a licence; or
- (b) relating to the conditions upon which or the form in accordance with which a licence is to be granted or renewed; or
- (c) to vary or revoke any of the conditions of a licence or to impose further conditions in respect of a licence.

‘(1B) For the purposes of the Tribunal’s consideration of the renewal of a licence under this Part, the service provided under the licence is commercially viable if, and only if, the Tribunal is satisfied on the balance of probabilities that, were the licence to be renewed, the service would continue to be provided for the term of the licence.’;

- (b) by inserting in subsection (2) ‘under this section’ after ‘satisfied’;
- (c) by omitting from subsection (3) ‘subsection (1)’ and substituting ‘this section’.”

Mr Bilney (Minister for Defence Science and Personnel) moved—That the amendments be agreed to.

Debate ensued.

Question—put.

The committee divided (the Deputy Chairman, Mrs Sullivan, in the Chair)—

AYES, 72

Mr Baldwin	Mr Duncan	Mrs Jakobsen	Mr O’Keefe
Mr Beazley	Mr R. F. Edwards	Mr Jenkins	Mr Price
Mr Beddall	Mr Elliott	Mr Johns	Mr Punch
Mr Bevis	Ms Fatin	Mr Jones	Mr Sawford
Mr Bilney	Mr Ferguson	Mrs Kelly	Mr Scholes
Dr Blewett	Mr Fitzgibbon	Mr Kerin	Mr Sciacca
Mr R. J. Brown	Mr Frece	Mr Kerr	Mr J. L. Scott
Mr Campbell	Mr Gear*	Mr Langmore	Mr L. J. Scott
Dr Catley	Mr Gibson	Mr Lavarch	Mr Simmons
Dr Charlesworth	Mr Gorman	Mr Lee	Mr Snow
Mr Cleary	Mr Grace*	Mr Lindsay	Mr Snowdon
Mr Courtice	Mr Griffiths	Ms McHugh	Mr Staples
Ms Crawford	Mr Hand	Mr Mack	Dr Theophanous
Mr Crean	Mr Holding	Mr Martin	Mr Tickner
Mrs Darling	Mr Hollis	Mr Melham	Mr West
Mr Dawkins	Mr Howe	Mr A. A. Morris	Mr Willis
Mr Dubois	Mr Hulls	Mr P. F. Morris	Mr H. F. Woods
Mr Duffy	Mr Humphreys	Mr Newell	Mr Wright

NOES, 57

Mr Anderson	Mr Cobb	Mr Jull	Mr Shack
Mr J. N. Andrew*	Mr Connolly	Dr Kemp	Mr Sharp
Mr K. J. Andrews	Mr Costello	Mr McArthur	Mr Sinclair
Mr Atkinson	Mr Dobie	Mr McGauran	Mr Smith
Mrs Bailey	Mr Downer	Mr MacKellar	Mr Somlyay
Mr Beale	Dr H. R. Edwards	Mr Miles	Mr Taylor
Mr Bradford	Mr Fife	Mr Nehl	Mr Truss
Mr Braithwaite	Mr T. A. Fischer	Mr Prosser	Mr Tuckey
Mr Broadbent	Mr Ford	Mr Reid	Mr Webster
Mr Burr	Mrs Gallus	Mr Reith	Mr Wilson
Mr Cadman	Mr Hall	Mr Riggall	Dr R. L. Woods
Mr Cameron	Mr Halverson	Mr Rocher	Dr Wooldridge
Mr Carlton	Mr Hawker	Mr Ronaldson	
Mr Chaney	Mr Hicks*	Mr Ruddock	
Mr Charles	Mr Howard	Mr B. C. Scott	

* Tellers

And so it was resolved in the affirmative.
Resolution to be reported.

The House resumed; Mrs Sullivan reported accordingly.
On the motion of Mr Bilney, the House adopted the report.

27 MESSAGE FROM THE SENATE—TAXATION LAWS AMENDMENT BILL
(NO. 2) 1992: The following message from the Senate was reported:

Message No. 443

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to amend the law relating to taxation*", and acquaints the House that the Senate has agreed to the bill with the amendments indicated by the annexed schedule, in which amendments the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA
President

The Senate,
Canberra, 17 June 1992

Ordered—That the amendments be taken into consideration, in committee of the whole House, forthwith.

In the committee

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Clause 5, page 2, after paragraph 5(a), insert the following paragraph:

“(ab) by inserting after subsection 23AC(2) the following subsections:

‘(2A) A certificate issued in accordance with paragraph (2)(cb) shall cease to have force only in accordance with a certificate of revocation signed by the Chief of the Defence Force.

‘(2B) A certificate of revocation made in accordance with subsection (2A) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.’.”.

No. 2—Clause 66, page 40, subclause (1), after definition of “**amended Act**” insert the following definition:

“‘**arrangement**’ has the same meaning as in section 26AJ of the Principal Act;”.

No. 3—Clause 66, page 41, after subclause (3), insert the following subclauses:
[**Modification of acquisition contract date**]

“(3A) For the purposes of this section, a unit of property that was acquired at a particular time (in this subsection called the ‘**acquisition time**’) by a taxpayer (in this subsection called the ‘**first taxpayer**’) under a contract

entered into after 26 February 1992 is taken to have been acquired by the first taxpayer under a contract entered into before 27 February 1992 if:

- (a) the property was not used by the taxpayer who owned the property immediately before the acquisition time; and
- (b) the taxpayer, or any of the taxpayers, who first used the property after the acquisition time (which taxpayer may be the first taxpayer) is:
 - (i) the same taxpayer as the taxpayer who owned the property immediately before the acquisition time; or
 - (ii) an associate of the taxpayer who owned the property immediately before the acquisition time; and
- (c) the property was pre-27 February 1992 property of the taxpayer who owned the property immediately before the acquisition time.

[Modification of acquisition contract date]

“(3B) For the purposes of this section, a unit of property that was acquired at a particular time (in this subsection called the ‘**acquisition time**’) by a taxpayer (in this subsection called the ‘**first taxpayer**’) under a contract entered into after 26 February 1992 is taken to have been acquired by the first taxpayer under a contract entered into before 27 February 1992 if:

- (a) before 27 February 1992, another taxpayer entered into a contract or arrangement for the acquisition of the property; and
- (b) after 26 February 1992 and at a time when the other taxpayer was:
 - (i) a party to the contract or arrangement mentioned in paragraph (a); and
 - (ii) not the owner of the property;
 the other taxpayer entered into an arrangement under which:
 - (iii) an associate of the other taxpayer became the owner of the property; or
 - (iv) the other taxpayer, or an associate of the other taxpayer, became the lessee or end-user of the property; and
- (c) if subparagraph (b)(iii) applies—the first taxpayer is the associate mentioned in that subparagraph; and
- (d) if subparagraph (b)(iv) applies—the first taxpayer is the owner of the property at the time when the other taxpayer, or the associate of the other taxpayer, first became the lessee or end-user of the property.”.

No. 4—Clause 67, page 42, subclause (5), line 33, omit “sections 25 and 28”, substitute “section 25”.

No. 5—Clause 67, page 42, after subclause (5), insert the following subclause:

[Deemed consideration in respect of the disposal of an asset]

“(5A) The amendment made by section 28 applies to disposals of assets after 15 August 1989.”.

On the motion of Mr Bilney (Minister for Defence Science and Personnel), the amendments were agreed to, after debate.

Resolution to be reported.

The House resumed; Mr Jenkins reported accordingly.

On the motion of Mr Snowdon (Parliamentary Secretary to the Minister for Employment, Education and Training), the House adopted the report.

28 **INTERNATIONAL AIR SERVICES COMMISSION BILL 1992:** 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 Snowdon (Parliamentary Secretary to the Minister for Employment, Education and Training), the Bill was read a third time.

- 29 **MESSAGE FROM THE SENATE—INDUSTRIAL RELATIONS LEGISLATION AMENDMENT BILL 1992:** Message No. 472, dated 17 June 1992, from the Senate was reported transmitting for the concurrence of the House a Bill for “*An Act to amend the law about industrial relations, and for related purposes*”.

Bill read a first time.

Mr R. J. Brown (Minister for Land Transport) moved—That the Bill be now read a second time.

Paper: Mr R. J. Brown presented an explanatory memorandum to the Bill.

Debate, by leave, ensued.

Mr Howard 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.

- 30 **MESSAGE FROM THE SENATE—LOCAL GOVERNMENT (FINANCIAL ASSISTANCE) AMENDMENT BILL 1992:** The following message from the Senate was reported:

Message No. 489

Mr Speaker,

The Senate returns to the House of Representatives the bill for “*An Act to amend the ‘Local Government (Financial Assistance) Act 1986’*”, and acquaints the House that the Senate has agreed to the bill with the amendments indicated by the annexed schedule, in which amendments the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA
President

The Senate,
Canberra, 23 June 1992

Statement by Speaker—Constitutional significance of Senate amendment No. 2:
The Speaker made the following statement:

The message from the Senate I have just reported returns to the House the Local Government (Financial Assistance) Amendment Bill 1992 with two amendments.

I have had an opportunity to consider these amendments.

Amendment No. 2 seeks to increase the maximum amount which may be paid to Tasmania by way of assistance for local government purposes.

There is a standing appropriation in the Principal Act which appropriates funds from the Consolidated Revenue Fund for whatever payments are made under the Act.

The effect of the amendment clearly is to increase the sum of money that may be appropriated under the Act.

The House will be aware that the third paragraph of section 53 of the Constitution states:

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The issue therefore arises as to whether the Senate is able, under the Constitution, to amend the Bill in this way or whether the desired change should have been made to the House by way of a request for an amendment.

In considering this question, it needs to be said that both in the second reading speech of the Minister and in the explanatory memorandum on the Bill it is said that the net financial impact of the changes

proposed in the Bill is nil. This situation was explained by the Minister in these words:

“Increases in funding to the Northern Territory and Tasmanian local government will be offset by an equivalent reduction in general purpose assistance provided to those State Governments”.

In other words, I understand it is the intention of the Government to reduce the payments to the Northern Territory and to Tasmania made under other legislation by the increases in funding made under this Bill.

This intention is not however, reflected in the Bill presently before the House.

In the terms of the Bill presently before the House, the amendment increases the potential charge on the Consolidated Revenue Fund.

As I said in a similar situation on 20 December last, it is naturally for the House itself to consider such matters, and not for the Speaker—I believe that my role is limited to bringing such issues to the notice of Members.

Ordered—That the amendments be taken into consideration, in committee of the whole House, forthwith.

In the committee

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Clause 4, page 2, proposed subsection 10A(2B), definition of ‘Gazetted amount’, line 36, after “Minister”, insert “after consultation with the respective States and Municipal Association of Tasmania in the case of Tasmania and the Local Government Association of the Northern Territory in the case of the Northern Territory”.

No. 2—Clause 4, page 3, proposed paragraph 10A(2C)(a), line 1, omit “\$4,410,000”, substitute “\$5,193,000”.

On the motion of Mr R. J. Brown (Minister for Land Transport), amendment No. 1 was agreed to.

Mr R. J. Brown moved—That the committee:

- (1) considers that the effect of amendment No. 2 of the Senate would be to increase the burden on the people in contravention of section 53 of the Constitution and declines to consider the amendment; and
- (2) recommends that the Senate be informed that if amendment No. 2 contained in message No. 489 is forwarded to the House as a request for an amendment, the request will be considered by the House.

Debate ensued.

Question—put and passed.

Resolutions to be reported.

The House resumed; Mr R. F. Edwards reported accordingly.

On the motion of Mr R. J. Brown, the House adopted the report.

31 **SELECTION COMMITTEE—AMENDED REPORT:** Mr R. F. Edwards (Chairman) presented the following report:

Selection Committee—Amended report relating to the program of business prior to 12.30 p.m. on Thursday, 25 June 1992—

and, by leave, moved—That the report be adopted in lieu of the report presented on 4 June 1992.

Question—put and passed.

32 **INDUSTRIAL RELATIONS LEGISLATION AMENDMENT BILL 1992:** 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 L. J. Scott), and the resumption of the debate made an order of the day for a later hour this day.

33 **MESSAGES FROM THE SENATE:** Messages from the Senate were reported returning the following Bills without amendment:

24 June 1992—Message—

No. 493—Superannuation Guarantee Charge 1992 (*without requests*).

No. 494—Superannuation Legislation (Consequential Amendments and Transitional Provisions) 1992.

34 **MESSAGE FROM THE SENATE—SUPERANNUATION GUARANTEE (ADMINISTRATION) BILL 1992:** The following message from the Senate was reported:

Message No. 491

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act relating to the establishment and administration of the Superannuation Guarantee Scheme, and for related purposes*", and acquaints the House that the Senate has agreed to the bill with the amendments indicated by the annexed schedule, in which amendments the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA
President

The Senate,
Canberra, 24 June 1992

Ordered—That the amendments be taken into consideration, in committee of the whole House, forthwith.

In the committee

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Clause 6, page 3, subclause (1), definition of "**contribution period**", paragraphs (a) and (b), lines 28 and 29, omit the paragraphs, insert the following paragraphs:

"(a) a period of 6 months commencing on 1 July 1992 or 1 January 1993; or

(b) a period of 3 months commencing on 1 July, 1 October, 1 January or 1 April in the 1993-94 year or any later year;"

No. 2—Clause 6, page 4, subclause (1), after definition of "**government body**", insert the following definition:

"**'half-year'** means a contribution period of 6 months;"

No. 3—Clause 6, page 5, subclause (1), after definition of "**public sector scheme**", insert the following definition:

"**'quarter'** means a contribution period of 3 months;"

No. 4—Clause 10, page 7, subclauses (2) to (4), lines 19 to 41, omit the subclauses, substitute the following subclauses:

"(2) The notional employer contribution rate, in relation to a class of employees specified in a benefit certificate relating to one or more defined benefit superannuation schemes, is the contribution rate required to meet the expected long-term cost, to an employer who contributes to the scheme or schemes for the benefit of employees in the class, of the minimum benefits accruing in respect of all employees in the class from the date of effect of the benefit certificate onwards.

"(3) A benefit certificate has effect from the date specified in the certificate until:

(a) a superannuation scheme to which it relates is amended in a way that affects, or may affect, the level or method of calculation of

benefits provided under the scheme for the class of employees specified in the certificate; or

- (b) another benefit certificate is issued in relation to the same class of employees and the same scheme or schemes; or
- (c) a period of 5 years from the date of issue expires;

whichever occurs first.

“(4) A benefit certificate may not be expressed to have effect from a date earlier than the date of issue except as provided by subsection (5).

“(5) A benefit certificate issued in the period commencing on 1 July in a particular year and ending on:

- (a) 14 August in the following year; or
- (b) a later date allowed by the Commissioner;

may be expressed to have effect from:

- (c) the first day of that period; or
- (d) any later day up to the day of issue.

“(6) The regulations may make provision regarding:

- (a) the issue and form of benefit certificates; and
- (b) the way in which the expected long-term cost to an employer of benefits accruing to all employees is to be calculated under subsection (2); and
- (c) the manner in which the contribution rate is to be expressed under subsection (2); and
- (d) the way in which minimum benefits accruing to all employees are to be calculated under subsection (2).”.

No. 5—Clause 11, page 8, paragraph (1)(e), line 12, omit “payments to”, substitute “remuneration of”.

No. 6—Clause 13, page 10, at end of subclause (2), add “or, where the employer is contributing to the fund in accordance with an industrial award or a law of the Commonwealth or of a State or Territory, equate to a rate of earnings prescribed under that industrial award or law, by reference to which the requisite employer contribution is to be calculated”.

No. 7—Clause 14, page 10, at end of subclause (2), add “or, where the employer is contributing to the fund in accordance with an industrial award or a law of the Commonwealth or of a State or Territory, equate to a rate of earnings prescribed under that industrial award or law, by reference to which the requisite employer contribution is to be calculated”.

No. 8—Clause 14, page 11, subclause (3), line 11, after “applicable superannuation scheme”, insert “(except where the contribution is made in accordance with a law of the Commonwealth or of a State or Territory)”.

No. 9—Clause 15, page 11, subclause (1), lines 22 and 23, omit “the contribution period commencing on 1 July 1992 is \$80,000”, substitute “a contribution period in the 1992-93 year is \$40,000”.

No. 10—Clause 15, page 11, subclause (2), lines 26 to 28, omit the formula, substitute the following formula:

$$\frac{\$40,000 \times \text{Indexation factor for the 1992-93 year}}{2}$$

No. 11—Clause 18, page 12, lines 10 to 18, omit the clause, substitute the following clause:

“18.(1) An employer’s individual superannuation guarantee shortfall in respect of an employee for the 1992-93 year is the sum of the employer’s half-yearly shortfalls in respect of that employee for that year.

“(2) An employer’s half-yearly shortfall in respect of an employee for a half-year is the amount worked out using the formula:

$$\frac{\text{Total salary or wages paid by the employer to the employee for the half-year}}{\times} \frac{\text{Charge percentage for the employer for the half-year}}{100}$$

where:

‘Charge percentage for the employer for the half-year’ means the number ascertained in relation to that employer and that half-year according to section 20 or 21 or that number as reduced, in respect of the employee, by section 22 or 23, as the case may be.”

No. 12—Clause 19, page 12, lines 21 to 32, omit the clause, substitute the following clause:

“19.(1) An employer’s individual superannuation guarantee shortfall in respect of an employee for a year (other than the 1992-93 year) is the sum of the employer’s quarterly shortfalls in respect of that employee for that year.

“(2) An employer’s quarterly shortfall in respect of an employee for a quarter is the amount worked out using the formula:

$$\frac{\text{Total salary or wages paid by the employer to the employee for the quarter}}{\times} \frac{\text{Charge percentage for the employer for the quarter}}{100}$$

where:

‘Charge percentage for the employer for the quarter’ means the number ascertained in relation to that employer and that quarter according to section 20 or 21 or that number as reduced, in respect of the employee, by section 22 or 23, as the case may be.”

No. 13—Clause 20, page 13, subclauses (3) and (4), lines 1 to 10, omit the subclauses, substitute the following subclauses:

“(3) Subject to, subsection (4) and sections 22 and 23, if an employer’s annual national payroll for the base year exceeded \$1,000,000, the employer’s charge percentage for a contribution period in a year, or a part of a year, specified in the following table is the number specified in that table in relation to that year or part of a year (as the case may be):

Year	Percentage
1992-93 (1 July-31 December)	4
1992-93 (1 January-30 June)	5
1993-94	5
1994-95	5
1995-96	6
1996-97	6
1997-98	6
1998-99	7
1999-2000	7
2000-01	8
2001-02	8
2002-03 and subsequent years	9

“(4) In the case of an employer whose charge percentage for the contribution period commencing on 1 January 1993 would, apart from this subsection, be 5, the charge percentage is 4 if:

- (a) a regulation prescribing a charge percentage of 5 for the contribution period, in relation to employers whose annual national payrolls for the base year exceeded \$1,000,000, is not made within 28 days after the day on which this Act receives the Royal Assent; or

(b) if such a regulation is made, it is disallowed by either House of the Parliament on or before:

(i) the second day after 8 December 1992 that is a sitting day for both Houses of the Parliament; or

(ii) 31 December 1992;
whichever is earlier.

“(5) Subject to sections 22 and 23, if an employer’s annual national payroll for the base year did not exceed \$1,000,000, the employer’s charge percentage for a contribution period in a year specified in the following table is the number specified in that table in relation to that year:

Year	Percentage
1992-93	3
1993-94	3
1994-95	4
1995-96	5
1996-97	6
1997-98	6
1998-99	7
1999-2000	7
2000-01	8
2001-02	8
2002-03 and subsequent years	9

No. 14—Clause 21, pages 13 and 14, subclauses (3) to (7), line 18 (page 14) to line 12 (page 14), omit the subclauses, substitute the following subclauses:

“(3) The employer’s charge percentage for a contribution period in a year in the period up to and including the base year is the number specified in the following table in relation to that year:

Year	Percentage
1992-93	3
1993-94	3
1994-95	4
1995-96	5
1996-97	6
1997-98	6
1998-99	7
1999-2000	7
2000-01	8
2001-02	8
2002-03 and subsequent years	9

“(4) If the employer’s annual national payroll for the base year exceeds \$1,000,000, the employer’s charge percentage for a contribution period in a subsequent year specified in the following table is the number specified in that table in relation to that year:

Year	Percentage
1992-93	4
1993-94	5
1994-95	5
1995-96	6
1996-97	6
1997-98	6
1998-99	7

Year	Percentage
1999-2000	7
2000-01	8
2001-02	8
2002-03 and subsequent years	9

“(5) If the employer’s annual national payroll for the base year does not exceed \$1,000,000, the employer’s charge percentage for a contribution period in a subsequent year specified in the table in subsection (3) is the number specified in that table in relation to that year.

“(6) This section has effect subject to sections 22 and 23.”

No. 15—Clause 22, pages 14 and 15, paragraphs (2)(a) and (b), line 18 (page 15) to line 2 (page 15), omit the paragraphs, substitute the following paragraphs:

- “(a) a benefit certificate in relation to one or more complying superannuation schemes has effect for the whole or a part of a contribution period; and
- (b) a scheme in relation to which the certificate has effect is operating for the benefit of a person as an employee of an employer; and
- (c) the certificate specifies a figure as the notional employer contribution rate in relation to a class of employees (being a class that includes the employee referred to in paragraph (b)) as members of the scheme or schemes (as the case may be);”.

No. 16—Clause 22, page 15, subclause (2), lines 9 to 18, omit all words from and including “A’ is the figure”, substitute the following:

“‘A’ is the figure referred to in paragraph (c);

‘B’ is:

(A) 1; or

(B) if, in relation to the contribution period, the employment period is greater than the scheme membership period or the certificate period—either the fraction that represents the scheme membership period as a proportion of the employment period or the fraction that represents the certificate period as a proportion of the employment period or, if one fraction is smaller than the other, the smaller fraction”.

No. 17—Clause 22, page 15, after subclause (2) insert the following subclause:
“(2A) For the purposes of subsection (2):

‘the employment period’ means the period in the contribution period for which the employee is employed by the employer;

‘the scheme membership period’ means the period in the contribution period for which the employee is a member of the superannuation scheme;

‘the certificate period’ means the period in the contribution period for which the benefit certificate has effect in relation to the scheme.”.

No. 18—Clause 23, page 18, subclause (6), lines 35 to 40, omit the subclause, substitute the following subclause:

“(6) A contribution to a complying superannuation fund made by an employer for the benefit of an employee in the period commencing on 1 July 1992 and ending on 14 August 1993 may be taken into account under this section as if it had been made in either contribution period in the 1992-93 year.”.

No. 19—Clause 23, page 19, at end of paragraph (9)(b), add “or, where the employer is contributing to the fund in accordance with an industrial award or a law of the Commonwealth or of a State or Territory, a rate of earnings prescribed under that industrial award or law”.

No. 20—After clause 23, page 19, insert the following new clauses:

Certain benefit certificates presumed to be certificates in relation to complying superannuation scheme

“23A.(1) Subject to subsections (3) and (4), a benefit certificate that has effect in relation to a superannuation scheme (being a scheme to which an employer has contributed for the benefit of an employee) for the whole or a part of a contribution period is, for the purposes of section 22, conclusively presumed, in relation to the employer, to be a certificate that has effect in relation to a complying superannuation scheme for the whole, or that part, as the case may be, of the contribution period if:

- (a) within 30 days of the day on which the contribution period, or the part of the contribution period, as the case may be, commences, the employer obtains a written statement, provided by or on behalf of the trustee of the scheme, that the scheme:
 - (i) is operated in accordance with the superannuation fund conditions under the *Occupational Superannuation Standards Act 1987*; and
 - (ii) has been so operated from the day on which the benefit certificate is expressed to take effect; or
- (b) in an earlier contribution period, the employer has obtained a statement of the kind referred to in paragraph (a).

“(2) Subject to subsections (3) and (4), a benefit certificate that has effect in relation to a superannuation scheme (being a scheme to which an employer has contributed for the benefit of an employee) for the whole or a part of a contribution period is, if the employer obtains a statement of the kind referred to in paragraph (1)(a):

- (a) within the contribution period; but
- (b) later than 30 days after the day on which the contribution period, or the part of the contribution period, as the case may be, commences;

for the purposes of section 22, conclusively presumed, in relation to the employer, to be a certificate that has effect in relation to a complying superannuation scheme for the period commencing on the day on which the employer obtains the statement and ending on the last day of the contribution period.

“(3) A presumption relating to a benefit certificate under subsection (1) or (2) is not, in relation to an employer and a superannuation scheme, effective in respect of any period for which the scheme is operating while in breach of a superannuation fund condition under the *Occupational Superannuation Standards Act 1987* if:

- (a) the employer has been notified of that breach by the trustee; and
- (b) the employer has not been further notified by the trustee that the Commissioner of Insurance and Superannuation is satisfied that the breach has been rectified.

“(4) A presumption relating to a benefit certificate under subsection (1) or (2) is not, in relation to an employer and a superannuation scheme, effective in respect of any period for which the scheme is operating while in breach of a superannuation fund condition under the *Occupational Superannuation Standards Act 1987* if, in that period:

- (a) the employer:
 - (i) is the trustee or manager of the scheme; or
 - (ii) has an association, within the meaning of subsection 26AAB(14) of the *Income Tax Assessment Act 1936*, with the trustee or the manager of the scheme; and

- (b) the employer has reasonable grounds for believing that the scheme is operating while in breach of a superannuation fund condition under the *Occupational Superannuation Standards Act 1987*.

Certain contributions presumed to be contributions to complying superannuation fund

“23B.(1) Subject to subsection (2), a contribution by an employer for the benefit of an employee to a superannuation fund is conclusively presumed to be a contribution to a complying superannuation fund for the purposes of section 23 if, at the time the contribution is made:

- (a) the employer has obtained a written statement, provided by or on behalf of the trustee of the fund, that the fund is operated in accordance with the superannuation fund conditions under the *Occupational Superannuation Standards Act 1987*; and
- (b) either:
- (i) the employer has not been notified by the trustee that the fund is operating while in breach of a superannuation fund condition under the *Occupational Superannuation Standards Act 1987*; or
 - (ii) the employer has been so notified, but has been further notified by the trustee that the Commissioner of Insurance and Superannuation is satisfied that the breach has been rectified.

“(2) Subsection (1) does not apply to a contribution to a superannuation fund if, at the time the contribution is made:

- (a) the employer:
- (i) is the trustee or the manager of the fund; or
 - (ii) has an association, within the meaning of subsection 26AAB(14) of the *Income Tax Assessment Act 1936*, with the trustee or the manager of the fund; and
- (b) the employer has reasonable grounds for believing that the fund is operating while in breach of a superannuation fund condition under the *Occupational Superannuation Standards Act 1987*.

Certain periods not to count as periods of employment

“23C.(1) Any period in respect of which excluded salary or wages are paid by an employer to an employee is not, for the purposes of section 22 or 23, to be taken into account as a period for which the employee is employed by the employer.

“(2) For the purposes of subsection (1), excluded salary or wages are salary or wages that, under section 24 or 25, are not to be taken into account for the purpose of making a calculation under section 18 or 19.”

No. 21—Clause 24, page 19, subclause (2), line 36, omit “\$250”, substitute “\$450”.

No. 22—Clause 30, page 21, paragraph (2)(f), line 23, omit “\$500,000”, substitute “\$1,000,000”.

No. 23—After clause 48, page 28, insert the following clauses:

Liquidation

“48A. In the winding up of a company, any superannuation guarantee charge payable by the company is, for the purposes of payment, to have a priority equal to that of a debt of the company of the kind referred to in paragraph 556(1)(e) of the Corporations Law.

Receivers

“48B.(1) If a person (the ‘asset holder’), as a receiver or a receiver and manager for debenture holders of an employer that is a company, takes possession of assets of the employer, the asset holder must, within 14 days, give written notice of the fact to the Commissioner.

“(2) The Commissioner must, as soon as practicable, give the asset holder written notice of the amount that, in the Commissioner’s opinion, is sufficient to provide for any amount of superannuation guarantee charge that is or may become payable by the employer (the ‘**notified charge amount**’).

“(3) The asset holder:

- (a) must not, without the Commissioner’s permission, part with any of the company’s assets before receiving notice of the notified charge amount; and
- (b) must set aside, out of the assets available for paying the company’s ordinary debts, assets having the value worked out using the formula:

$$\text{Total value of assets available to pay ordinary debts} \times \left[\frac{\text{Notified charge amount} + \text{Company's notified tax amount} + \text{Sum of company's other ordinary debts}}{\text{Notified charge amount} + \text{Company's notified tax amount} + \text{Sum of company's other ordinary debts}} \right]$$

“(4) The asset holder is liable to pay the superannuation guarantee charge payable by the company to the extent of the value of the assets that the asset holder is required to set aside.

“(5) Paragraph (3)(a) does not prevent the asset holder from parting with the company’s assets to pay the company’s debts that are not ordinary debts.

“(6) For the purposes of subsections (3) and (5), a company’s debt is an ordinary debt if:

- (a) it is unsecured; and
- (b) it is not required, under a Commonwealth, State or Territory law, to be paid in priority to some or all of the company’s other debts.

“(7) If the asset holder, without reasonable excuse, contravenes this section or fails to pay the superannuation guarantee charge for which the asset holder is liable under subsection (4), the asset holder is guilty of an offence punishable on conviction by a fine not exceeding \$1,000.

“(8) This section is not taken to limit an obligation or liability of the asset holder arising otherwise than under this section.

“(9) If 2 or more persons are asset holders in relation to the same company, the obligations and liabilities imposed on an asset holder by this section are imposed on both or all of the persons jointly.

“(10) In this section:

‘**notified tax amount**’ means an amount that the Commissioner has notified to the company or the respective asset holder under a section of another Act that corresponds to this section;

‘**superannuation guarantee charge**’ includes additional superannuation guarantee charge under section 46 or Part 7.”.

No. 24—Clause 60, page 37, line 10, after “60.” insert “(1)”.

No. 25—Clause 60, page 37, at end of clause, add the following subclause:

“(2) A payment of a shortfall component made or arranged by the Commissioner for the benefit of an employee to a superannuation fund is conclusively presumed to be a payment to a complying superannuation fund for the purposes of subsection (1) if, at the time the payment is made:

- (a) the Commissioner has obtained a written statement, provided by or on behalf of the trustee of the fund, that the fund is operated in accordance with the superannuation fund conditions under the *Occupational Superannuation Standards Act 1987*; and

(b) either:

- (i) the Commissioner has not been notified by the trustee that the fund is operating while in breach of a superannuation fund condition under the *Occupational Superannuation Standards Act 1987*; or
- (ii) the Commissioner has been so notified, but has been further notified by the trustee that the Commissioner of Insurance and Superannuation is satisfied that the breach has been rectified.”.

On the motion of Mr Johns (Parliamentary Secretary to the Minister for Health, Housing and Community Services), the amendments were agreed to, after debate.

Resolution to be reported.

The House resumed; Mr Jenkins reported accordingly.

On the motion of Mr Johns, the House adopted the report.

35 MESSAGE FROM THE SENATE—SUPERANNUATION GUARANTEE (CONSEQUENTIAL AMENDMENTS) BILL 1992: The following message from the Senate was reported:

Message No. 492

Mr Speaker,

The Senate returns to the House of Representatives the bill for “*An Act to make certain amendments in consequence of the enactment of the ‘Superannuation Guarantee (Administration) Act 1992’, and for related purposes*”, and acquaints the House that the Senate has agreed to the bill with the amendments indicated by the annexed schedule, in which amendments the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA
President

The Senate,
Canberra, 24 June 1992

Ordered—That the amendments be taken into consideration, in committee of the whole House, forthwith.

In the committee

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Schedule, page 4, after proposed amendment to the *Defence Force Retirement and Death Benefits Act 1973* insert:

“*Fringe Benefits Tax Assessment Act 1986*

After paragraph 96(7)(ca):

Insert:

‘(cb) notified charge amount within the meaning of section 48B of the *Superannuation Guarantee (Administration) Act 1992*; or’.”.

No. 2—Schedule, page 4, after proposed amendment to section 202 of the *Income Tax Assessment Act 1936* insert:

“After paragraph 215(3D)(b):

Insert:

‘(ba) notified charge amount within the meaning of section 48B of the *Superannuation Guarantee (Administration) Act 1992*; or’.”.

No. 3—Schedule, page 4, after proposed amendments to the *Income Tax Assessment Act 1936* insert:

“Industrial Relations Act 1988

After section 90:

Insert:

Commission to have regard to operation of Superannuation Guarantee legislation when making National Wage Case decision

‘90A. In making a National Wage Case decision, the Commission must have regard to the operation of:

- (a) the *Superannuation Guarantee Charge Act 1992*; and
- (b) the *Superannuation Guarantee (Administration) Act 1992*.’”.

No. 4—Schedule, page 5, proposed amendment to the *Occupational Superannuation Standards Act 1987*, omit the amendment, substitute:

“Occupational Superannuation Standards Act 1987

Subsection 3(1):

Insert:

“**employer sponsor**”, in relation to a superannuation fund, means an employer who has contributed to the fund for the benefit of an employee;’.

Subsection 10(1):

Omit the subsection, substitute:

‘(1) The trustees of a superannuation fund established on or after 1 July 1992 must, within the prescribed period after establishment, give the Commissioner the prescribed information.

‘(1AAA) The trustees of an approved deposit fund established on or after 1 July 1992 must, within the prescribed period after establishment, give the Commissioner the prescribed information.’.

After subsection 10(2):

Insert:

‘(3) If the trustee of a superannuation fund provides the information prescribed for the purposes of subsection (1) to the Commissioner, the Commissioner must give notice in writing to the trustee acknowledging receipt of that information.’.

After subsection 12(3):

Insert:

‘(3A) In making a decision under subsection (3) in relation to a fund and a year of income, the Commissioner must disregard a breach of a superannuation fund condition by the fund if:

- (a) the trustee of the fund:
 - (i) notified the Commissioner and all employer sponsors in relation to the fund of the breach as soon as practicable after becoming aware of the breach; and
 - (ii) caused the breach to be rectified within a period of 30 days (or such further period as the Commissioner allows) after becoming aware of the breach; or
- (b) within the period referred to in subparagraph (a)(ii), moneys in the fund equal in amount to the accrued benefits of members of the fund at the time of transfer have been transferred to another fund in respect of which the Commissioner has given:
 - (i) notice under subsection (3) stating that the Commissioner is satisfied that the superannuation fund conditions have been satisfied in relation to the year of income; or
 - (ii) a notice under subsection 13(3) stating that the fund should be treated as if it had satisfied the conditions in relation to the year of income;

and the moneys are in such a fund at the time the Commissioner’s decision is made.’.

After subsection 18(2):

Insert:

'(2A) Nothing in subsection (2) is to be read as preventing the Commissioner from publishing a list containing:

- (a) the names of superannuation funds in respect of which a notice, or a particular kind of notice, has been given by the Commissioner under section 10, 12 or 13, and the addresses at which business relating to those funds is transacted; and
- (b) such other information as is reasonably necessary to enable members of the public to contact a person who has a function in relation to the fund;

or from disclosing, by any other means, the information referred to in paragraphs (a) and (b).'

"Pay-roll Tax (Territories) Assessment Act 1971

After paragraph 30(3C)(b):

Insert:

'(ba) notified charge amount within the meaning of section 48B of the *Superannuation Guarantee (Administration) Act 1992*; or'.

"Petroleum Resource Rent Tax Assessment Act 1987

After paragraph 88(7)(d):

Insert:

'(da) notified charge amount within the meaning of section 48B of the *Superannuation Guarantee (Administration) Act 1992*; or'.

"Sales Tax Assessment Act (No. 1) 1930

After paragraph 32(2D)(c):

Insert:

'(ca) notified charge amount within the meaning of section 48B of the *Superannuation Guarantee (Administration) Act 1992*; or'.

No. 5—Schedule, page 6, at end of Schedule, add:

"Tobacco Charges Assessment Act 1955

After paragraph 27(3C)(c):

Insert:

'(caa) notified charge amount within the meaning of section 48B of the *Superannuation Guarantee (Administration) Act 1992*; or'.

"Training Guarantee (Administration) Act 1990

Subsection 78(10) (after paragraph (e) of the definition of 'prescribed tax provision'):

Insert:

'(ea) section 48B of the *Superannuation Guarantee (Administration) Act 1992*; or'.

"Wool Tax (Administration) Act 1964

After paragraph 47(3C)(c):

Insert:

'(ca) notified charge amount within the meaning of section 48B of the *Superannuation Guarantee (Administration) Act 1992*; or'.

On the motion of Mr Johns (Parliamentary Secretary to the Minister for Health, Housing and Community Services), the amendments were agreed to, after debate.

Resolution to be reported.

The House resumed; Mr Jenkins reported accordingly.

On the motion of Mr Johns, the House adopted the report.

- 36 **INDUSTRIAL RELATIONS LEGISLATION AMENDMENT BILL 1992:** 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.

Paper: Mr Charles, by leave, presented the following paper:

Industrial Relations Amendment Bill 1992—Independent contractors and the AIRC jurisdiction—Copy of letter from William Szekely of Taylor, Szekely and Kelso, Lawyers, to Dr Ron Silberberg, National Executive Director, Housing Industry Association, 24 June 1992.

Debate continued.

Question—put.

The House divided (the Deputy Speaker, Mr L. J. Scott, in the Chair)—

AYES, 67

Mr Baldwin	Mr Duncan	Mrs Jakobsen	Mr Price
Mr Beazley	Mr R. F. Edwards	Mr Jenkins	Mr Punch
Mr Beddall	Mr Elliott	Mr Johns	Mr Sawford
Mr Bevis	Ms Fatin	Mr Jones	Mr Scholes
Mr Bilney	Mr Ferguson	Mrs Kelly	Mr Sciacca
Dr Blewett	Mr Fitzgibbon	Mr Kerr	Mr J. L. Scott
Mr R. J. Brown	Mr Free	Mr Langmore	Mr Simmons
Mr Campbell	Mr Gear*	Mr Lavarch	Mr Snow
Dr Catley	Mr Gibson	Mr Lee	Mr Snowdon
Dr Charlesworth	Mr Gorman	Mr Lindsay	Mr Staples
Mr Cleary	Mr Grace*	Ms McHugh	Dr Theophanous
Mr Courtice	Mr Griffiths	Mr Martin	Mr Tickner
Ms Crawford	Mr Hand	Mr Melham	Mr West
Mr Crean	Mr Hollis	Mr A. A. Morris	Mr Willis
Mr Dawkins	Mr Howe	Mr P. F. Morris	Mr H. F. Woods
Mr Dubois	Mr Hulls	Mr Newell	Mr Wright
Mr Duffy	Mr Humphreys	Mr O'Keefe	

NOES, 56

Mr Anderson	Mr Charles	Mr Jull	Mr B. C. Scott
Mr J. N. Andrew*	Mr Cobb	Dr Kemp	Mr Shack
Mr K. J. Andrews	Mr Connolly	Mr McArthur	Mr Sharp
Mr Atkinson	Mr Costello	Mr McGauran	Mr Sinclair
Mrs Bailey	Mr Dobie	Mr Mack	Mr Smith
Mr Beale	Mr Downer	Mr Miles	Mr Somlyay
Mr Bradford	Dr H. R. Edwards	Mr Nehl	Mrs Sullivan
Mr Braithwaite	Mr T. A. Fischer	Mr Prosser	Mr Taylor
Mr Broadbent	Mr Ford	Mr Reid	Mr Truss
Mr Burr	Mrs Gallus	Mr Reith	Mr Tuckey
Mr Cadman	Mr Hall	Mr Riggall	Mr Webster
Mr Cameron	Mr Halverson	Mr Rocher	Mr Wilson
Mr Carlton	Mr Hawker	Mr Ronaldson	Dr R. L. Woods
Mr Chaney	Mr Hicks*	Mr Ruddock	Dr Wooldridge

* Tellers

And so it was resolved in the affirmative—Bill read a second time.

Leave granted for third reading to be moved forthwith.

On the motion of Ms McHugh (Minister for Consumer Affairs), the Bill was read a third time.

37 MESSAGE FROM THE SENATE—INDUSTRIAL CHEMICALS (NOTIFICATION AND ASSESSMENT) AMENDMENT BILL 1992: Message No. 488, dated 18 June 1992, from the Senate was reported transmitting for the concurrence of the House a Bill for “*An Act to amend the ‘Industrial Chemicals (Notification and Assessment) Act 1989’*”.

Bill read a first time.

Ms McHugh (Minister for Consumer Affairs) moved—That the Bill be now read a second time.

Paper: Ms McHugh presented an explanatory memorandum to the Bill.

Debate, by leave, ensued.

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

Leave granted for third reading to be moved forthwith.

On the motion of Ms McHugh, the Bill was read a third time.

38 ADJOURNMENT: Ms McHugh (Minister for Consumer Affairs) moved—That the House do now adjourn.

Question—put and passed.

And then the House, at 11.40 p.m., adjourned until tomorrow at 9.30 a.m.

PAPERS: The following papers were deemed to have been presented on 24 June 1992:

- Aboriginal and Torres Strait Islander Commission Act—Determination—1992—No. 4.
- Aboriginal Land Rights (Northern Territory) Act—Regulations—Statutory Rules 1992, No. 133.
- Acts Interpretation Act—Statement relating to the extension of specified period for presentation of periodic report—University of Canberra.
- Air Navigation Act—Regulations—Statutory Rules 1992, No. 153.
- Australian Film, Television and Radio School Act—Regulations—Statutory Rules 1992, No. 135.
- Australian Meat and Live-stock Corporation Act—Order—1992—No. M50/92.
- Regulations—Statutory Rules 1992, No. 141.
- Australian Postal Corporation Act—Regulations—Statutory Rules 1992, No. 132 (*in substitution for paper presented on 3 June 1992*).
- Australian Wool Corporation Act—Regulations—Statutory Rules 1992, No. 142.
- Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—Parts—
 - 105—Amendments, 4 and 19 (2) June 1992.
 - 106—Amendments, 19 June 1992.
 - 107—Amendments, 19 June 1992.
- Customs Act—Regulations—Statutory Rules 1992, Nos. 154, 155.
- Dairy Produce Levy (No. 1) Act—Regulations—Statutory Rules 1992, No. 143.
- Defence Act—
 - Defence Force Remuneration Tribunal—Determinations—1992—Nos. 6, 7, 8.
 - Determinations under section 58B—1992—Nos. 25, 26, 27, 28.
- Designs Act—Regulations—Statutory Rules 1992, No. 149.
- Fisheries Act—Plans of management—Nos. 31, 32.
- Health Insurance Act—Revocation of approval of premises pursuant to subsection 23DN(6), 4 June 1992.
- Higher Education Funding Act—Determinations—1992—
 - No. T17—Grants for expenditure for operating purposes (Adjustment for fee paying postgraduate students).
 - No. T18—Grants for expenditure for operating purposes (HECS reimbursement of State funded places).
 - Nos. T19 and T20—Grants for expenditure for operating purposes.
 - Nos. T58 and T59—Grants for expenditure for operating purposes (Adjustment to HECS liabilities).
- Industrial Relations Act—Regulations—Statutory Rules 1992, No. 139.
- Lands Acquisition Act—Statements (2) of lands acquired by agreement authorised under subsection 40(1).
- Laying Chicken Levy Act—Regulations—Statutory Rules 1992, No. 140.
- Live-stock Slaughter Levy Act—Regulations—Statutory Rules 1992, No. 152.
- Long Service Leave (Commonwealth Employees) Act—Regulations—Statutory Rules 1992, No. 138.
- Maternity Leave (Commonwealth Employees) Act—Regulations—Statutory Rules 1992, No. 137.
- Meat Chicken Levy Act—Regulations—Statutory Rules 1992, No. 144.
- Migration Act—Regulations—Statutory Rules 1992, No. 157.

- National Health Act—
 Principles—1992—NNH 1, 24SH 1.
 Regulations—Statutory Rules 1992, No. 136.
- Navigation Act—Navigation (Orders) Regulations—Orders—1992—
 No. 5—Marine, Part 32.
 No. 8—Marine, Part 14.
- Patents Act—Regulations—Statutory Rules 1992, No. 148.
- Pig Slaughter Levy Act—Regulations—Statutory Rules 1992, No. 145.
- Primary Industries Levies and Charges Collection Act and Horticultural
 Export Charge Act—Regulations—Statutory Rules 1992, No. 147.
- Primary Industries Levies and Charges Collection Act and Horticultural
 Levy Act—Regulations—Statutory Rules 1992, No. 146.
- Public Service Act—Determinations—1992—Nos. 139, 140, 141, 142, 143,
 144, 145.
- Public Works Committee Act—Regulations—Statutory Rules 1992, No. 134.
- Radiocommunications Act—Multipoint Distribution System Band Plan
 (Amendment)—Statutory Rules 1992, No. 156.
- Seamen's Compensation Act—Regulations—Statutory Rules 1992, No. 151.
- States Grants (TAFE Assistance) Act—Determination—No. TAFE 13/92.
- Telecommunications Act 1991—*
 Declarations under subsections—
 267(1)—3 June 1992.
 290(1)—1992—No. 1.
 Directions pursuant to subsections—
 50(1)—1992—No. 1.
 244(1)—1992—No. 1.
 250(2)—1992—No. 1.
 Notice under section 280—3 June 1992.
- Therapeutic Goods Act—Determination—1992—No. MP 1.
- Trade Marks Act—Regulations—Statutory Rules 1992, No. 150.
- University of Canberra Act—Statute—No. 16—Student Conduct 1992.
- Veterans' Entitlements Act—Approval, pursuant to subsection 29(3), of (1)
 instrument revoking Guide to the Assessment of Rates of Veterans'
 Pensions and (2) the Guide to the Assessment of Rates of Veterans'
 Pensions, to come into force on 1 July 1992, 28 May 1992 (*in substitution*
for papers presented on 1 June 1992).
- World Heritage Properties Conservation Act—Notice of consent pursuant
 to section 9, 2 June 1992.

ATTENDANCE: All Members attended (at some time during the sitting) except Mr Aldred, Mr Brereton, Mr Cowan, Mrs Crosio, Mr Filing, Mr P. S. Fisher, Mr Gayler, Mr Goodluck, Mr Lloyd, Mr McLachlan, Mr Moore, Mr Nugent, Mr O'Neil, Mr Peacock and Mr Walker.

L. M. BARLIN
 Clerk of the House of Representatives