

1993-94

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 65

TUESDAY, 3 MAY 1994

1 The House met, at 12.30 p.m., pursuant to adjournment. The Speaker (the Honourable Stephen Martin) took the Chair, and read Prayers.

2 RETURNS TO WRITS—MACKELLAR AND WARRINGAH DIVISIONS

The Speaker announced that he had received returns to the writs which he had issued on 18 February 1994 for the election of Members to serve for the electoral divisions of Mackellar and Warringah, in the State of New South Wales, to fill the vacancies caused by the resignations of the Honourable James Joseph Carlton and the Honourable Michael John Randal MacKellar, respectively. By the endorsement on the writs, it was certified that Bronwyn Bishop had been elected as the Member to serve for the division of Mackellar and that Anthony John Abbott had been elected as the Member to serve for the division of Warringah.

3 OATHS OF ALLEGIANCE BY MEMBERS

Bronwyn Bishop and Anthony John Abbott were introduced, and made and subscribed the oath of allegiance required by law.

4 DEATH OF FORMER SENATOR (THE HONOURABLE JOHN EDWARD MARRIOTT)

The Speaker informed the House of the death, on 13 April 1994, of the Honourable John Edward Marriott, CBE, a Senator for the State of Tasmania from 1953 to 1975.

As a mark of respect to the memory of the deceased all Members present stood, in silence.

5 PRIVILEGE—COMPLAINT OF BREACH

Mr Howard raised, as a matter of privilege, actions reported in an article by Pamela Williams published in the *Australian Financial Review* of 29 March 1994 to the effect that a Mr Roger Boland had not been appointed to the position of Deputy President of the Industrial Relations Commission because of evidence given by Mr Boland to a Senate committee. Mr Howard stated that Mr Boland had confirmed the substance of the article to him.

The Speaker stated that he would consider the matter and report to the House at a later time.

6 MESSAGES FROM THE SENATE

Messages from the Senate were reported:

- (a) returning the Military Compensation Bill 1994 and acquainting the House that the Senate does not insist upon its amendment disagreed to by the House and has agreed to the amendment made by the House in place thereof—Message No. 242, dated 24 March 1994.
- (b) acquainting the House that the Senate has agreed to the amendments made by the House in the Foreign Evidence Bill 1994—Message No. 243, dated 24 March 1994.
- (c) returning the following Bills without amendment:
25 March 1994 a.m.—Message—
No. 244—Appropriation (Parliamentary Departments) (No. 2) 1993-94.
No. 245—Appropriation (No. 3) 1993-94 (*without requests*).
No. 246—Appropriation (No. 4) 1993-94.
- (d) transmitting a resolution agreed to by the Senate appointing Senators Campbell, Ellison, Christopher Evans, Kernot and Reynolds to be members of the Parliamentary Joint Committee on Native Title—Message No. 247, dated 25 March 1994 a.m.

7 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:

24 March 1994—Message—

No. 129—Agricultural and Veterinary Chemicals Code 1994.

No. 130—Industrial Relations Amendment 1994.

7 April 1994—Message—

No. 131—

Appropriation (No. 3) 1993-94.

Appropriation (No. 4) 1993-94.

Appropriation (Parliamentary Departments) (No. 2) 1993-94.

Military Compensation 1994.

Social Security (Home Child Care and Partner Allowances) Legislation Amendment 1994.

Taxation Laws Amendment 1994.

Training Guarantee (Administration) Amendment 1994.

No. 132—

Insurance Laws Amendment 1994.

Insurance Laws Amendment (No. 2) 1994.

No. 133—

Inspector-General of Intelligence and Security Amendment 1994.

9 April 1994—Message—

No. 134—Industry, Technology and Regional Development Legislation Amendment 1994.

No. 135—Foreign Evidence 1994.

No. 136—Migration Legislation Amendment 1994.

8 NATIVE TITLE—PARLIAMENTARY JOINT COMMITTEE

The House was informed that the Opposition Whip had nominated Mr McGauran and Mr Reith to be members of the Parliamentary Joint Committee on Native Title.

9 MESSAGE FROM THE SENATE—CRIMES (SEARCH WARRANTS AND POWERS OF ARREST) AMENDMENT BILL 1994

The following message from the Senate was reported:

Message No. 248

Mr Acting Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to amend the 'Crimes Act 1914', 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.

MICHAEL BEAHAN
President

The Senate

Canberra, 24 March 1994

Ordered—That the amendments be considered forthwith.

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Clause 4, page 4, after proposed subsection 3E(3) insert the following subsection:

“(3B) If the person applying for the warrant is a member or special member of the Australian Federal Police and has, at any time previously, applied for a warrant relating to the same person or premises the person must state particulars of those applications and their outcome in the information.”.

No. 2—Clause 4, page 9, proposed subsection 3K(3), line 27, omit “containing electronically stored information”.

No. 3—Clause 4, page 12, after proposed section 3N insert the following sections:

Occupier entitled to be present during search

“3NA.(1) If a warrant in relation to premises is being executed and the occupier of the premises or another person who apparently represents the occupier is present at the premises, the person is, subject to Part 1C, entitled to observe the search being conducted.

‘(2) The right to observe the search being conducted ceases if the person impedes the search.

‘(3) This section does not prevent 2 or more areas of the premises being searched at the same time.

Receipts for things seized under warrant

‘3NB.(1) If a thing is seized under a warrant or moved under subsection 3K(2), the executing officer or a constable assisting must provide a receipt for the thing.

‘(2) If 2 or more things are seized or moved, they may be covered in the one receipt.”.

No. 4—Clause 4, page 14, proposed subsection 3T(1), lines 32 and 33, omit “an offence”, substitute “an indictable offence”.

No. 5—Clause 4, page 21, proposed subparagraph 3ZG(1)(f)(ii), lines 29 to 33, omit the subparagraph, substitute the following subparagraph:

“(ii) must be conducted in the presence of a parent or guardian of the person being searched or, if that is not acceptable to the person, in the presence of another person (other than a constable) who is capable of representing the interests of the person and who, as far as is practicable in the circumstances, is acceptable to the person; and”.

No. 6—Clause 4, pages 23 and 24, proposed subsections 3ZH(8) and (9), line 26 (page 23) to line 4 (page 24), omit the subsections, substitute the following subsections:

“(8) The taking of identification material from a person who:

- (a) is under 18; or
- (b) is incapable of managing his or her affairs;

must be done in the presence of:

- (c) a parent or guardian of the person; or
- (d) if the parent or guardian of the person is not acceptable to the person, another person (other than a constable) who is capable of representing the interests of the person and who, as far as is practicable in the circumstances, is acceptable to the person.

‘(9) Despite this section, identification material may be taken from a person who:

- (a) is not a suspect; and
- (b) is under 10 or is incapable of managing his or her affairs;

if a court orders that the material be taken.

‘(10) Despite this section, identification material may be taken from a person who:

- (a) is not a suspect; and
- (b) is at least 10 but under 18; and
- (c) is capable of managing his or her affairs;

if one of the following paragraphs applies:

- (d) the person agrees in writing to the taking of the material and a parent or guardian of the person also agrees in writing or, if a parent or guardian is not acceptable to the person, another person (other than a constable) who is capable of representing the interests of the person and who, as far as is practicable in the circumstances, is acceptable to the person also agrees in writing;

(e) if:

- (i) one of those persons agrees in writing to the taking of the material but the other does not; and

(ii) a court orders that the material be taken.

‘(11) In deciding whether to make such an order, the court must have regard to the matters set out in subsection (7).

‘(12) Despite this section, identification material may be taken from a person who:

- (a) is at least 18; and
- (b) is capable of managing his or her affairs; and

(c) is not a suspect;

if the person consents in writing.”.

No. 7—Clause 4, page 25, proposed subsection 3ZK(2), line 10, after “subsection (3)” insert “and to section 3ZKA”.

No. 8—Clause 4, page 25, proposed subparagraph 3ZK(3)(b)(ii), lines 26 and 27, omit the subparagraph.

No. 9—Clause 4, page 25, proposed paragraph 3ZK(3)(c), lines 28 to 30, omit the paragraph, substitute the following paragraph:

“(c) in addition to any requirement under section 3ZKA, a legal representative or other person of the suspect’s choice may be present while the person is deciding whether to take part in the parade, and during the holding of the parade, if arrangements for that person to be present can be made within a reasonable time.”.

No. 10—Clause 4, page 27, proposed subsection 3ZK(7), lines 17 to 20, omit the subsection, substitute the following subsection:

“ (7) The following questions are to be decided according to the common law:

- (a) whether or not evidence of a suspect having refused to take part in an identification parade is admissible;
- (b) if evidence of such a refusal is admissible, what inferences (if any) may be drawn by a court or jury from the refusal;
- (c) whether, after such a refusal, evidence of alternative methods of identification is admissible.”.

No. 11—Clause 4, page 27, after proposed section 3ZK insert the following section:

Identification parades for suspects under 18 etc.

“3ZKA.(1) An identification parade must not be held for a suspect who is under 10.

‘(2) An identification parade must not be held for a suspect who is incapable of managing his or her affairs unless a court orders that it be held.

‘(3) An identification parade must not be held for a suspect who:

- (a) is at least 10 but under 18; and
- (b) is capable of managing his or her affairs;

unless one of the following paragraphs applies:

- (c) the suspect agrees to or requests in writing the holding of the parade and a parent or guardian of the suspect agrees in writing to the holding of the parade or, if the parent or guardian is not acceptable to the suspect, another person (other than a constable) who is capable of representing the interests of the suspect and who, as far as is practicable in the circumstances, is acceptable to the suspect agrees in writing to the holding of the parade;
- (d) if:
 - (i) one of those persons agrees in writing to the holding of the parade but the other does not; and
 - (ii) a court orders that the parade be held.

‘(4) In deciding whether to make such an order, the court must have regard to:

- (a) the seriousness of the offence; and
- (b) the age or any disability of the person; and
- (c) such other matters as the court thinks fit.

‘(5) An identification parade for a suspect who is under 18 or is incapable of managing his or her affairs must be held in the presence of:

- (a) a parent or guardian of the suspect; or
- (b) if the parent or guardian is not acceptable to the suspect, another person (other than a constable) who is capable of representing the interests of the suspect and who, as far as is practicable in the circumstances, is acceptable to the suspect.”.

No. 12—Clause 4, page 28, proposed paragraph 3ZL(2)(g), lines 18 and 19, omit the paragraph, substitute the following paragraph:

“(g) the constable must notify the suspect or his or her legal representative in writing that a copy of the record is available for the suspect;”.

No. 13—Clause 4, pages 29 and 30, proposed subsection 3ZN(2), line 36 (page 29) to line 6 (page 30), omit the subsection, substitute the following subsections:

“(2) Subject to subsection (3), a constable must, if requested to do so by a person who has been charged with an offence, provide the person with the name of every person who, to the knowledge of the constable, claims to have seen, at or about the time of the commission of the offence, a person who is suspected of being involved in its commission.

‘(2A) If:

- (a) a record of a description of a person is made under subsection (1); and
- (b) the person is charged with an offence to which the description relates;

a constable must notify the person or his or her legal representative in writing that a copy of the record, and of any other record of a description that the constable knows about of a person who is suspected of being involved in the commission of the offence, is available for the person.”.

No. 14—Clause 4, page 30, proposed subsection 3ZN(3), line 11, omit “may provide only the matter referred to in paragraph (2)(b)”, substitute “is not required to provide the name of the person”.

No. 15—Clause 4, page 30, proposed subsection 3ZP(1), line 18, omit “The executing officer or a constable assisting”, substitute “A constable”.

No. 16—Clause 4, page 30, proposed subsection 3ZP(2), line 23, omit “The executing officer or a constable assisting”, substitute “A constable”.

No. 17—Clause 4, page 30, proposed paragraph 3ZP(2)(a), lines 26 and 27, omit “the executing officer and the constable assisting”, substitute “a constable”.

No. 18—Clause 4, page 32, proposed subsection 3ZT(3), lines 15 and 16, omit the subsection, substitute the following subsection:

“(3) Before making the application, the constable must:

- (a) take reasonable steps to discover who has an interest in the retention of the thing; and
- (b) if it is practicable to do so, notify each person who the constable believes to have such an interest of the proposed application.”.

No. 19—Clause 4, page 32, proposed section 3ZV, line 26, omit “including”, substitute “excluding”.

Mr Kerr (Minister for Justice) moved—That the amendments be agreed to.

Paper: Mr Kerr presented an explanatory memorandum taking account of amendments made by the Senate to the Bill.

Debate ensued.

Question—put and passed.

10 ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT BILL 1994

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 the Environment, Sport and Territories), the Bill was read a third time.

11 DEFENCE FORCE (HOME LOANS ASSISTANCE) AMENDMENT BILL 1994

The order of the day having been read for the second reading—Mr Punch (Minister for Defence Science and Personnel) moved—That the Bill be now read a second time.

Debate ensued.

Mr Price addressing the House—

It being 3 p.m., the debate was interrupted in accordance with standing order 101A, and the resumption of the debate made an order of the day for a later hour this day.

12 PAPER

Mr Beazley (Leader of the House) presented the following paper:

Roster of Ministers to attend question time as at 3 May 1994.

13 MINISTERIAL ARRANGEMENTS

Mr Beazley (Leader of the House) informed the House that, during the respective absences of Mr Gear (Assistant Treasurer) and Mr Bilney (Minister for Development Co-operation and Pacific Island Affairs), Mr Willis (Treasurer) would answer questions on behalf of Mr Gear and Mr Beazley would answer questions on behalf of Mr Bilney.

14 QUESTIONS

Questions without notice were asked.

15 PAPERS

Mr Beazley (Leader of the House) presented the following papers:

Petitions not in accord with standing and sessional orders of the House:

Adult literacy and basic education funding (Mr Beazley, 168 petitioners).

Family Law Act (Mr Aldred, Mr Beazley, Mr Cleary, Mr Costello, Mr Crean, Mr Hawker, Mr Jenkins, Mr Jones, Dr Kemp, Mr Kerr, Mr McArthur, Mr Nugent, Mr O'Connor, Mr Peacock, Mr Reid, Mr Reith, Mr Ronaldson, Mr Somlyay, Mr Staples and Mr Tanner, 1494, 3075, 1049, 1324, 1000, 145, 370, 1116, 1037, 53, 190, 1061, 269, 641, 140, 2894, 146, 11, 527 and 2087 petitioners, respectively).

Income tax concessions relating to donations to school buildings (Mr Howard, 230 petitioners).

United Nations resolutions (Mr Gorman, 818 petitioners).

16 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—UNEMPLOYMENT ASSISTANCE

The House was informed that Dr Wooldridge (Deputy Leader of the Opposition) had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The Labor Government's mismanaged and ineffective assistance for unemployed Australians".

The proposed discussion having received the necessary support—

Dr Wooldridge addressed the House.

Discussion ensued.

Discussion concluded.

17 MESSAGE FROM THE SENATE—TRANSPORT AND COMMUNICATIONS LEGISLATION AMENDMENT BILL 1994

Message No. 249, dated 24 March 1994, from the Senate was reported transmitting for the concurrence of the House a Bill for "*An Act to amend the law relating to transport and communications, and for related purposes*".

Bill read a first time.

Paper: Mr Punch (Minister for Defence Science and Personnel) presented an explanatory memorandum to the Bill.

Ordered—That the second reading be made an order of the day for the next sitting.

18 DEFENCE FORCE (HOME LOANS ASSISTANCE) AMENDMENT BILL 1994

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 Punch (Minister for Defence Science and Personnel), the Bill was read a third time.

19 POSTPONEMENT OF ORDER OF THE DAY

Ordered—That order of the day No. 3, government business, be postponed until the next sitting.

20 EXCISE TARIFF AMENDMENT BILL 1994

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.

Papers: Mr Sharp, by leave, presented the following papers:

Monarch Airlines—Copies of—

Civil Aviation Authority (CAA)—Electronic memo from Neil Morton to Ken Cannane, 29 October 1993.

Letters from—

Anthony T Kearney, Blayney, NSW, to Mary O'Brien, District Flight Operations Manager, CAA, Condell Park, NSW, 29 September 1992.

Jill Middleton to Monarch Air Travel, 9 May 1992.

Richard MacLean, Managing Director, Monarch Air, Condell Park, NSW, to Jill Middleton, Harden, NSW, 15 June 1992.

VH-NDU—Note for file by Neil Morton, A/DAM, Bankstown North Zone, 20 April 1993.

Debate continued.

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

Leave granted for third reading to be moved forthwith.

On the motion of Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology), the Bill was read a third time.

21 POSTPONEMENT OF ORDER OF THE DAY

Ordered—That order of the day No. 5, government business, be postponed until the next sitting.

22 CRIMES (CHILD SEX TOURISM) AMENDMENT BILL 1994

The order of the day having been read for the second reading—Mr Kerr (Minister for Justice) moved—That the Bill be now read a second time.

Debate ensued.

Mr Williams 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.

23 SELECTION COMMITTEE—REPORT

Mr Jenkins (Chairman) presented the following report:

Selection Committee—Report relating to the program of business prior to 2.45 p.m. on Monday, 9 May 1994.

24 CRIMES (CHILD SEX TOURISM) AMENDMENT BILL 1994

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.

25 ADJOURNMENT

It being approximately 7.30 p.m.—The question was proposed—That the House do now adjourn.

Debate ensued.

The House continuing to sit until 8 p.m.—The Speaker adjourned the House until tomorrow at 9.30 a.m.

PAPERS

The following papers were deemed to have been presented on 3 May 1994:

Aboriginal and Torres Strait Islander Commission Act—

Determination under section 119 1994 No. 1.

Zone election rules—1994 Amendment No. 2.

Audit Act—Regulations—Statutory Rules 1994 No. 69.

Australian Horticultural Corporation Act—Australian Horticultural Corporation (Australian Dried Fruits Board) Regulations—Orders 1994 No. 1.

Banks (Shareholdings) Act—Regulations—Statutory Rules 1994 No. 97.

Broadcasting Services Act—Notice of reservation, 17 March 1994.

Christmas Island Act—Casino Control Ordinance—Appointment of members to the Casino Surveillance Authority, 19 April 1994.

Civil Aviation Act—

Civil Aviation Regulations—Civil Aviation Orders—Parts—

100—Amendment, 20 April 1994.

105—Amendments 1994, March 18(6), 22, 28, April 6, 14(2), 15, 18(2), 19(3), 21.

106—Amendments 1994, March 18, April 5.

107—Amendments 1994, April 5, 6.

Regulations—Statutory Rules 1994 No. 93.

Customs Act—Regulations—Statutory Rules 1994 Nos. 82, 85.

Defence Act—

Defence Force Remuneration Tribunal—Determinations 1994 Nos. 7, 8, 9.

Determinations under section 58B 1994 Nos. 11, 12.

Excise Act—Regulations—Statutory Rules 1994 No. 81.

Family Law Act—Regulations—Statutory Rules 1994 No. 86.

Fishing Levy Act and Fisheries Management Act—Regulations—Statutory Rules 1994 Nos. 70, 71, 72, 73, 74, 75, 76, 78.

Fisheries Management Act—Regulations—Statutory Rules 1994 No. 77.

Higher Education Funding Act—Determinations Nos. T97/93, T98/93, T99/93, T13/94.

Income Tax Assessment Act—Regulations—Statutory Rules 1994 Nos. 95, 96.

Industrial Relations Act—

Rules of the Australian Industrial Relations Commission—Statutory Rules 1994 No. 80.

Regulations—Statutory Rules 1994 Nos. 68, 79.

Interstate Road Transport Act—Regulations—Statutory Rules 1994 No. 94.

Lands Acquisition Act—Statements under—

Subsection 40(1).

Section 125.

Migration Act—Regulations—Statutory Rules 1994 Nos. 87, 88.

Military Superannuation and Benefits Act—Declaration—Statutory Rules 1994 No. 98.

Mutual Assistance in Criminal Matters Act—Regulations—Statutory Rules 1994 No. 84.

National Health Act—

Declarations 1994 Nos. PB 4, PB 5.

Determinations 1994 Nos. HIT 1, HIT 3, PB 6, 24 SH1.

Navigation Act—Orders 1994 Nos. 1, 2, 3.

Proclamations by His Excellency the Governor-General fixing the dates on which the following provisions of Acts shall come into operation—

Corporate Law Reform Act 1994—Items, and paragraphs of items, of Schedules 3 and 4—15 April 1994.

Customs and Excise Legislation Amendment Act 1993—Sections 8, 10, 11, 12, 13 and 17—1 April 1994.

Customs Legislation Amendment Act 1993—

Sections 9, 10, 20 and 22—1 April 1994.

Section 19—2 May 1994.

Industrial Relations Act 1988—Subdivision B (except section 170DA) of Division 3 of Part VIA—30 March 1994.

Industrial Relations Reform Act 1993—Part 2, Part 3 (other than section 17), Parts 4, 5 and 6, Divisions 2, 3 and 4 of Part 7, Part 8 (other than section 80), and Schedules 1, 2, 3 and 4—30 March 1994.

Law and Justice Legislation Amendment Act 1993—Part 6—11 April 1994.

Public Service Act—Determinations 1994 Nos. 5, 6, 7, 8, 9, 10, 18, 20, 22, 23, 24, 40, 121, 122, 124, 125, LES 6.

Remuneration Tribunal Act—Remuneration Tribunal—Determinations 1994 Nos. 5, 6, 7, 8.

Safety, Rehabilitation and Compensation Act—Notice 1994 No. V1.

Seat of Government (Administration) Act—Ordinance 1994 No. 4.

Shipping Registration Act—Regulations—Statutory Rules 1994 No. 92.

Trade Practices Act—Regulations—Statutory Rules 1994 No. 83.

Wool International Act—Regulations—Statutory Rules 1994 No. 89.

Wool Tax (Administration) Act—Regulations—Statutory Rules 1994 No. 90.

ATTENDANCE

All Members attended (at some time during the sitting) except Mr Beale, Mr Bilney, Mr Brereton, Mr Gear, Mr Halverson, Mr Howe, Mr Jones, Mr Katter, Mr Keating, Ms McHugh, Mr Ruddock, Mr Tickner and Mr Woods.

L. M. BARLIN

Clerk of the House of Representatives