

1993-94

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

## VOTES AND PROCEEDINGS

No. 82

WEDNESDAY, 29 JUNE 1994

1 The House met, at 9.30 a.m., pursuant to adjournment. The Speaker (the Honourable Stephen Martin) took the Chair, and read Prayers.

2 MESSAGE FROM THE SENATE—AUSTRALIAN CAPITAL TERRITORY GOVERNMENT SERVICE (CONSEQUENTIAL PROVISIONS) BILL 1994

The following message from the Senate was reported:

Message No. 303

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to make provision consequential on the establishment of the Australian Capital Territory Government Service, 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, 28 June 1994

Ordered—That the amendments be considered forthwith.

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Clause 2, page 1, at end of clause, add the following subclause:

“(2) If this Act does not commence under subsection (1) within 18 months after the day on which it receives the Royal Assent, this Act is repealed on the first day after the end of that period.”.

No. 2—After clause 6, page 6, insert the following clause:

**Mobility—transfer to Australian Public Service**

“6A.(1) In this section:

‘eligible ACT officer’ means a person who:

(a) is an ACT officer; and

- (b) ceased to be an officer of the Australian Public Service by the operation of section 5; and
- (c) immediately before he or she so ceased to be an officer of the Australian Public Service, held an office in that Service other than a Senior Executive Service office;

**'vacant office'** includes an office that is expected to become vacant.

**"(2)** For the purposes only of subsection (3), a person who is an eligible ACT officer is taken to hold an office as follows:

- (a) if the person was an unattached officer immediately before he or she ceased to be an officer of the Australian Public Service by virtue of section 5, the person is taken to hold an office having a classification the same as his or her classification as an unattached officer;
- (b) in any other case, the person is taken to hold an office having a classification the same as the classification of the office held by him or her immediately before he or she ceased, by the operation of section 5, to be an officer of the Australian Public Service.

**"(3)** If an office in a Department is vacant, an eligible ACT officer who is taken to hold an office the classification of which is the same as, or higher than, the classification of the vacant office may apply for transfer to the vacant office.

**"(4)** Subject to this section, in the case of an ACT officer who has applied under subsection (3), sections 33 (except subsection (1)), 33A, 47, 50, 50E and 50G of the Public Service Act, to the extent that they relate to transfers under section 50 of that Act, apply as if the ACT officer were an officer of the Australian Public Service.

**"(5)** If, as a result of an application under subsection (3), a person (**'the transferee'**) has been transferred to a vacant office, the following provisions have effect:

- (a) if the office is vacant when the transfer takes effect, the transferee is taken to be appointed to the office in accordance with the Public Service Act on the day on which the transfer takes effect;
- (b) if the office is occupied by an officer on the day on which, apart from this paragraph, the transfer would take effect, the transfer does not take effect and the transferee is taken to be appointed, on that day, to the Australian Public Service as an unattached officer;
- (c) the transferee is taken to be appointed without probation if the transferee's appointment to the Australian Capital Territory Government Service:
  - (i) was an appointment without probation; or
  - (ii) was an appointment on probation and has been confirmed;
- (d) if paragraph (c) does not apply, the transferee is taken to be appointed on probation.

**"(6)** If a person is taken, by virtue of subsection (5), to be appointed on probation, section 47 of the Public Service Act has effect as follows:

- (a) any period of probation served by the person as an ACT officer is taken to have been part of the period of probation for the purposes of section 47;

- (b) if, immediately before the person ceased to be an officer of the Australian Public Service by the operation of section 5, he or she was an officer under an appointment on probation and the appointment had not been confirmed, the period of probation served by the person in relation to that appointment (**‘the previous Commonwealth probation period’**) is taken to be part of the period of probation for the purposes of section 47;
- (c) the period of probation for the purposes of section 47 is taken to have commenced:
  - (i) at the beginning of any period of probation as an ACT officer; or
  - (ii) if paragraph (b) applies, at the beginning of the previous Commonwealth probation period.

“(7) A transfer made on an application under subsection (3) is not subject to the approval of any person other than the Secretary who makes the transfer.

“(8) Subject to subsections (5), (9) and (10), a transfer made on an application under subsection (3) takes effect according to section 50E of the Public Service Act.

“(9) If, apart from this subsection, a transfer made on an application under subsection (3) would take effect after the end of the period of 2 years commencing on the transfer day, the transfer takes effect on the last day of that period.

“(10) A transfer made on an application under subsection (3) does not take effect unless the transferee has resigned from the Australian Capital Territory Government Service so that he or she ceases to be an ACT officer immediately before the time at which the transfer is to take effect.

“(11) If a person who has been transferred on an application under subsection (3) does not begin to perform duties as an officer within a reasonable time after the transfer takes effect:

- (a) the Secretary who made the transfer may cancel it; and
- (b) if the Secretary cancels the transfer, subsection (5) ceases to apply to the person.

“(12) A transfer of an ACT officer who has applied under subsection (3) cannot be made after the end of the period of 2 years commencing on the transfer day.”

No. 3—After Part 2, page 7, insert the following Part:

**“PART 2A—MOBILITY PROVISIONS AFFECTING THE  
PARLIAMENTARY DEPARTMENTS**

**Mobility between Parliamentary Departments and the Australian Capital Territory Government Service**

“9A.(1) Subject to subsection (2), sections 6 and 6A apply, so far as they are capable of application, as if:

- (a) paragraph 6(3)(b) and paragraphs 6(7)(a), (b) and (d) were omitted; and
- (b) a reference to section 42 of the Public Service Act included a reference to section 9 of the Public Service Act; and

- (c) a reference to notification of a vacancy in the *Gazette* under section 50, 50DA, or 50DB of the Public Service Act included a reference to notification of a vacancy in the *Gazette* for the purposes of the exercise of any powers under section 9 of the Public Service Act; and
- (d) a reference to a Department included a reference to a Department referred to in subsection 9(2) of the Public Service Act; and
- (e) a reference to an office in the Australian Public Service included a reference to an office in a Department referred to in subsection 9(2) of the Public Service Act; and
- (f) a reference to the Public Service Commissioner included a reference to the President of the Senate or the Speaker of the House of Representatives or the President and the Speaker, as the case may be; and
- (g) all words after 'Service' were omitted from paragraph 6(7)(c).

“(2) Subsection (1) applies to paragraph 6(3)(a) to the extent to which, on the date of commencement of this Act, Part III of the Public Service Act applies to a Department referred to in subsection 9(2) of the Public Service Act.”.

No. 4—Clause 16, page 9, lines 7 to 14, omit the clause, substitute the following clause:

**Amendments of Schedule 5: Merit Protection (Australian Government Employees) Act**

“16. Schedule 5 to the Principal Act is amended:

- (a) by omitting the item that inserts definitions of 'ACT enactment', 'Self-Government Act' and 'Territory authority' in subsection 3(1) of the *Merit Protection (Australian Government Employees) Act 1984* and substituting the item set out in Part 3 of Schedule 1;
- (b) by omitting the item that inserts section 6A in the *Merit Protection (Australian Government Employees) Act 1984*.”.

No. 5—Clause 18, page 9, subclause (2), lines 26 to 28, omit the subclause, substitute the following subclause:

“(2) Schedule 5 to the Principal Act is amended by omitting the heading '*Remuneration Tribunals Act 1973*' and the item relating to subsection 3(3) of that Act and substituting the headings and items set out in Part 5 of Schedule 1.”.

No. 6—After clause 18, page 9, insert the following clause:

**Commencement of amended Schedule 5**

“18A.(1) Items in Schedule 5 to the Principal Act, as amended by this Act, that have not commenced under section 2 of the Principal Act commence immediately after the commencement of this Act.

“(2) This section has effect in spite of subsection 2(3) of the Principal Act.”.

No. 7—After clause 21, page 11, insert the following clause:

**Leave entitlements on appointment or transfer under section 6 or 6A**

“21A.(1) This section applies to:

- (a) a person who is appointed under section 6 to an office in a Department; and

(b) a person who, by virtue of subsection 6A(5), is taken to be appointed to an office in a Department or as an unattached officer.

“(2) This section has effect as if a person referred to in paragraph (1)(b) had been appointed on the day on which, by virtue of subsection 6A(5), he or she is to be taken to have been so appointed.

“(3) If, immediately before a person to whom this section applies ceases to be an ACT officer, the person has an entitlement, as such an officer, to leave of absence for recreation, the person retains that entitlement, on appointment to an office or as an unattached officer, as if the entitlement had accrued under the Public Service Act.

“(4) The Public Service Act has effect, in relation to the accrual, on and after the appointment of a person to an office or as an unattached officer, of the person’s entitlement to leave of absence for recreation in relation to a period since the person last gained an entitlement, as an ACT officer, to leave of absence for recreation as if service by the person as an ACT officer during that period had been service as an officer of the Australian Public Service.

“(5) If, immediately before the appointment of a person to an office or as an unattached officer, the person has an entitlement, as an ACT officer, to be paid a recreation leave loading, the person retains the entitlement as if the entitlement had accrued under clause 6 of the Australian Government Employment (Recreation Leave—Additional Payment) Award 1986, but the entitlement is subject to the provisions of that award as if it had arisen under that award.

“(6) The reference in subsection (5) to a recreation leave loading is a reference to a payment that corresponds, or substantially corresponds, to a payment under clause 6 of the Australian Government Employment (Recreation Leave—Additional Payment) Award 1986.”

No. 8—Clause 22, page 11, paragraph (2)(a), lines 27 and 28, omit the paragraph, substitute the following paragraph:

“(a) an amount would become due to a person:

(i) under the Public Service Act, or under regulations or a determination made under that Act, in lieu of leave of absence for recreation or in any other way in relation to any entitlement of the person to such leave of absence; or

(ii) under the *Long Service Leave (Commonwealth Employees) Act 1976*; and”.

No. 9—Schedule 1, Part 5, page 14, before items relating to the *Safety, Rehabilitation and Compensation Act 1988* insert the following heading and items:

**“Remuneration Tribunal Act 1973**

**Subsection 3(1):**

Insert the following definition:

““ACT office” means:

(a) an office or appointment specified in any of paragraphs (fc) to (fh) of subsection 3(4), as modified by regulations in force under the *A.C.T. Self-Government (Consequential Provisions) Act 1988*; or

- (b) an office or appointment specified in subsection 73(1) of the *Australian Capital Territory (Self-Government) Act 1988*;

**Subsection 3(3):**

Omit the subsection, substitute:

‘(3) A reference in this Part to an office includes a reference to an office that, within the meaning of the *Australian Capital Territory (Self-Government) Act 1988*, is an office of member of the Assembly or Minister and any office in or in connection with that Assembly that can be held only by a member of that Assembly.’

**Subsection 7(6):**

Omit the subsection, substitute:

‘(6) The Tribunal must give the Minister a copy of every determination made by the Tribunal, other than a determination that relates to an ACT office.

‘(6A) The Tribunal must give the Chief Minister of the Australian Capital Territory a copy of every determination made by the Tribunal in relation to an ACT office.’

**Subsection 7(7):**

After ‘determination’ (first occurring) insert ‘, other than a determination that relates to an ACT office.’

**After subsection 7(8):**

Insert:

‘(8A) If the Legislative Assembly of the Australian Capital Territory, within 30 sitting days of the Assembly after a copy of a determination that relates to an ACT office is given to the Chief Minister, passes a resolution disapproving of the determination, then:

- (a) if the determination has not come into operation—the determination does not come into operation; or
- (b) if the determination has come into operation—the determination does not have any force or effect after the day on which the resolution is passed.’”

On the motion of Mr Johns (Minister Assisting the Prime Minister for Public Service Matters), the amendments were agreed to, after debate.

**3 FURTHER DEVELOPMENT OF HMAS STIRLING, GARDEN ISLAND, WA—APPROVAL OF WORK**

Mr Walker (Minister for Administrative Services), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, it is expedient to carry out the following proposed work which was referred to the Parliamentary Standing Committee on Public Works and on which the committee has duly reported to Parliament: Further development of HMAS *Stirling*, Garden Island, WA.

Question—put and passed.

**4 CONSTRUCTION OF AUSTRALIAN EMBASSY COMPLEX, HANOI, SOCIALIST REPUBLIC OF VIETNAM—APPROVAL OF WORK**

Mr Walker (Minister for Administrative Services), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, it is expedient to carry out the following proposed work which was referred to the

Parliamentary Standing Committee on Public Works and on which the committee has duly reported to Parliament: Construction of an Australian Embassy complex in Hanoi, Socialist Republic of Vietnam.

Question—put and passed.

**5 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—UPGRADE OF TRANSONIC WIND TUNNEL AT DSTO FISHERMENS BEND, VIC.**

Mr Walker (Minister for Administrative Services), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Upgrade of transonic wind tunnel at DSTO Fishermens Bend, Vic.

Question—put and passed.

**6 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—NEW LABORATORY COMPLEX AT DSTO SALISBURY, SA**

Mr Walker (Minister for Administrative Services), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: New laboratory complex at DSTO Salisbury, SA.

Question—put and passed.

**7 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—UPGRADING OF ACCOMMODATION AT HMAS WATSON, NSW**

Mr Walker (Minister for Administrative Services), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Upgrading of accommodation at HMAS *Watson*, NSW.

Question—put and passed.

**8 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—DEVELOPMENT OF 2 FIELD HOSPITAL AT ENOGGERA, QLD**

Mr Walker (Minister for Administrative Services), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Development of 2 Field Hospital at Enoggera, Qld.

Question—put and passed.

**9 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—STAGE 2 REDEVELOPMENT OF ROYAL MILITARY COLLEGE, DUNTROON, ACT**

Mr Walker (Minister for Administrative Services), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Stage 2 redevelopment of the Royal Military College, Duntroon, ACT.

Question—put and passed.

**10 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—MIDLIFE UPGRADE OF BLAMEY BARRACKS, KAPOOKA, NSW**

Mr Walker (Minister for Administrative Services), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Midlife upgrade of Blamey Barracks, Kapooka, NSW.

Question—put and passed.

**11 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—CONSTRUCTION OF NEW CHANCERY AT PORT MORESBY, PAPUA NEW GUINEA**

Mr Walker (Minister for Administrative Services), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Construction of new chancery at Port Moresby, Papua New Guinea.

Mr Walker presented plans in connection with the proposed work.

Question—put and passed.

**12 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—HOUSING DEVELOPMENT, BLIGH PARK, NSW**

Mr Walker (Minister for Administrative Services), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Housing development at Bligh Park, NSW.

Mr Walker presented plans in connection with the proposed work.

Question—put and passed.

**13 WORKING NATION—MINISTERIAL STATEMENT AND PAPERS—MOTION TO TAKE NOTE OF PAPERS**

The order of the day having been read for the resumption of the debate on the motion of Mr Beazley (Leader of the House)—That the House take note of the papers (*presented on 4 May 1994*), viz.:

Working nation, 4 May 1994—

Ministerial statement.

Policies and programs.

White paper on employment and growth—

Debate resumed.

Debate adjourned (Mr Taylor), and the resumption of the debate made an order of the day for a later hour this day.

**14 MESSAGE FROM THE SENATE—VETERANS' AFFAIRS (1994-95 BUDGET MEASURES) LEGISLATION AMENDMENT BILL 1994**

The following message from the Senate was reported:



No. 12—Clause 11, page 11, proposed subsection 196B(7), line 26, after “196C(4)” insert “in a case where paragraph (a) applies”.

No. 13—Clause 11, page 12, after proposed subsection 196B(9) insert the following subsections:

“(9A) If the Review Council has, by a decision notified in the *Gazette*, directed the Authority to amend a Statement of Principles in respect of a particular kind of injury, disease or death, the Authority must make a determination amending the Statement of Principles determined in respect of that kind of injury, disease or death in accordance with the directions of the Council.

“(9B) If, after reviewing a decision of the Authority not to determine a Statement of Principles under subsection 196B(2) in respect of a particular kind of injury, disease or death, the Review Council has, by a decision notified in the *Gazette*, directed the Authority to make such a Statement of Principles, the Authority must determine a Statement of Principles in respect of that kind of injury, disease or death setting out, in accordance with the directions of the Council:

- (a) the factors that must as a minimum exist; and
- (b) which of those factors must be related to service rendered by a person;

before it can be said that a reasonable hypothesis has been raised connecting an injury, disease or death of that kind with the circumstances of that service.

Note: For “factor related to service” see subsection (10).

“(9C) If, after reviewing a decision of the Authority not to determine a Statement of Principles under subsection 196B(3) in respect of a particular kind of injury, disease or death, the Review Council has, by a decision notified in the *Gazette*, directed the Authority to make such a Statement of Principles, the Authority must determine a Statement of Principles in respect of that kind of injury, disease or death setting out, in accordance with the directions of the Council:

- (a) the factors that must exist; and
- (b) which of those factors must be related to service rendered by a person;

before it can be said that, on the balance of probabilities, an injury, disease or death of that kind is connected with the circumstances of that service.

Note: For “factor related to service” see subsection (10).

“(9D) A determination under subsection (9A) amending a Statement of Principles, or a Statement of Principles under subsection (9B) or (9C) is to be taken to have had effect from the day on which the decision of the Review Council was notified in the *Gazette*. The determination or Statement of Principles must specify that day.”.

No. 14—Clause 11, page 14, proposed subsection 196F(1), line 35, after “submission” insert “in writing”.

No. 15—Clause 11, page 14, proposed subsection 196F(2), line 38, after “submission” insert “in writing”.

No. 16—Clause 11, page 15, proposed subsection 196F(3), lines 1 and 2, omit the subsection, substitute the following subsections:

“(3) If an individual, the Commission or an organisation has made a written submission, the individual or his or her representative, or a representative of the Commission or of the organisation may, subject to subsection (4), appear before the Authority to make an oral submission complementing the written submission. The oral submission may not cover any legal matter.

“(4) A person or organisation may not be represented before the Authority by a legal practitioner.”.

No. 17—Clause 11, page 16, after proposed section 196J insert the following section:

**Repatriation Medical Authority to send information to Review Council**

“196JA. The Repatriation Medical Authority must, within 28 days after being notified that the Review Council has been asked to review:

- (a) a Statement of Principles; or
- (b) its decision not to determine a Statement of Principles in respect of a particular kind of injury, disease or death; or
- (c) its decision under subsection 196C(4) not to carry out an investigation in respect of a particular kind of injury, disease or death;

send to the Council a copy of all the information that was available to it when it:

- (d) determined, amended, or last amended, the Statement of Principles; or
- (e) decided, or last decided, not to determine a Statement of Principles in respect of that kind of injury, disease or death; or
- (f) decided not to carry out the investigation.”.

No. 18—Clause 11, page 18, after proposed Part XIA insert the following Part:

**“PART XIB—THE SPECIALIST MEDICAL REVIEW COUNCIL**

***‘Division 1—Establishment and functions***

**Establishment of Council**

‘196U.(1) A Specialist Medical Review Council is established.

‘(2) The Review Council:

- (a) is a body corporate with perpetual succession; and
- (b) has a common seal; and
- (c) may sue and be sued.

‘(3) All courts, judges and persons acting judicially must:

- (a) take judicial notice of the imprint of the seal of the Review Council appearing on a document; and
- (b) presume that the document was duly sealed.

‘(4) Debts incurred by the Review Council in the performance of its functions are, for all purposes, taken to be debts incurred by the Commonwealth.

**Functions of Review Council**

‘196V.(1) This section sets out the functions of the Review Council.

‘(2) If the Council is asked under section 196X to review:

- (a) the contents of a Statement of Principles in respect of a particular kind of injury, disease or death; or
- (b) a decision of the Repatriation Medical Authority not to determine a Statement of Principles under subsection 196B(2), or a Statement of Principles under subsection 196B(3), in respect of a particular kind of injury, disease or death;

subject to subsection (3), the Council must, for that purpose, carry out a review of all the information that was available to the Authority when it:

- (c) determined, amended, or last amended, the Statement of Principles; or
- (d) decided, or last decided, not to determine a Statement of Principles; in respect of that kind of injury, disease or death.

‘(3) If the Council has been asked to review the contents of a Statement of Principles, the Council may carry out a review under subsection (2) only if:

- (a) the period within which the Statement of Principles may be disallowed under section 48 of the *Acts Interpretation Act 1901* has ended; and
- (b) the Statement of Principles has not been disallowed.

‘(4) If after carrying out the review, the Council is of the view that there is sound medical-scientific evidence on which the Authority could have relied:

- (a) to amend the Statement of Principles in force in respect of that kind of injury, disease or death; or
- (b) to determine a Statement of Principles under subsection 196B(2), or a Statement of Principles under subsection 196B(3), in respect of that kind of injury, disease or death;

the Council must make a declaration in writing stating its views, setting out the evidence in support and:

- (c) directing the Authority to amend the Statement of Principles, or determine a Statement of Principles (as the case may be), in accordance with the directions given by the Council; or
- (d) remitting the matter for reconsideration in accordance with any directions or recommendations of the Council.

‘(5) If, after carrying out the review, the Council is of the view:

- (a) that there is no sound medical-scientific evidence that justifies the making of a Statement of Principles, or an amendment of the Statement of Principles in force, in respect of that kind of injury, disease or death; or
- (b) that the sound medical-scientific evidence available to the Authority is insufficient to justify the making of a Statement of Principles, or an amendment of the Statement of Principles, in respect of that kind of injury, disease or death;

the Council must make a declaration in writing to that effect giving the reasons for its decision. The Council may include in the declaration any recommendation that it considers fit to make about any future investigation that the Authority may carry out in respect of that kind of injury, disease or death.

‘(6) If the Council is asked under section 196Y to review a decision of the Repatriation Medical Authority under subsection 196C(4) not to carry out an investigation in respect of a particular kind of injury, disease or death, the Council must consider:

- (a) the reasons given by the Authority for making the decision; and
- (b) the information on which it relied in making that decision; and
- (c) the grounds on which the request for the review was made and any submission made in support of those grounds.

‘(7) If, after considering the matters referred to in paragraphs (6)(a), (b), and (c), the Council is of the view that:

- (a) there appears to be a new body of sound medical-scientific evidence in respect of that kind of injury, disease or death that has not been previously considered by the Authority; and
- (b) that new body of evidence, together with the sound medical-scientific evidence available to the Authority, could justify the making of a Statement of Principles, or an amendment of the Statement of Principles already determined, in respect of that kind of injury, disease or death;

the Council must make a declaration in writing to that effect giving the reasons for its decision and directing the Authority to carry out an investigation under subsection 196B(7) in respect of that kind of injury, disease or death. The Council may include in the declaration any recommendation or direction that the Council considers fit to make about the carrying out of the investigation.

‘(8) If, after considering the matters referred to in paragraphs (6)(a), (b) and (c), the Council is not of the view referred to in subsection (7) in respect of that kind of injury, disease or death, the Council must make a declaration in writing:

- (a) affirming the decision of the Authority not to carry out the investigation; and
- (b) giving the reasons for its decision.

The Council may include in the declaration any recommendation that it considers fit to make about any future investigation that the Authority may carry out in respect of that kind of injury, disease or death.

#### **Notification of decision of Review Council to be notified in *Gazette***

‘196W.(1) A decision of the Review Council under section 196V must be notified in the *Gazette*.

‘(2) The Council must also give a copy of the decision to:

- (a) the person or organisation that asked for the review; and
- (b) the Commission (if it is not the person referred to in (a)); and
- (c) the Repatriation Medical Authority.

#### **Request for review of contents of Statement of Principles etc.**

‘196X.(1) Subject to subsection (2), any of the following:

- (a) the Commission;
- (b) a person eligible to make a claim for a pension under Part II or IV;
- (c) an organisation representing veterans, Australian mariners, members of the Forces, members of Peacekeeping Forces or their dependants;

may ask the Review Council to review:

- (d) the contents of a Statement of Principles in force under Part XIA; or

- (e) a decision of the Repatriation Medical Authority not to make a Statement of Principles in respect of a particular kind of injury, disease or death.

‘(2) The request must be made:

- (a) in the case of a request to review the contents of a Statement of Principles—within 3 months after the Statement of Principles was made, amended or last amended; or
- (b) if paragraph (a) does not apply—within 3 months after the decision of the Authority.

‘(3) A request must:

- (a) be in a form approved by the Review Council; and
- (b) state the grounds on which the review is sought; and
- (c) be lodged at an office of the Department.

‘(4) The Secretary must send the request to the Review Council, and notify the Repatriation Medical Authority of the request, within 28 days.

**Request for review of decision of Repatriation Medical Authority not to carry out an investigation**

‘196Y.(1) If:

- (a) a person or organisation asks the Repatriation Medical Authority under section 196E to review:
  - (i) the contents of a Statement of Principles in respect of a particular kind of injury, disease or death; or
  - (ii) its decision not to make a Statement of Principles in respect of a particular kind of injury, disease or death; and
- (b) the Authority refuses under subsection 196C(4) to carry out an investigation in respect of that kind of injury, disease or death;

the person or organisation may, within 3 months, ask the Review Council to review the decision of the Authority not to carry out the investigation.

‘(2) The request must:

- (a) be in a form approved by the Review Council; and
- (b) state the grounds on which the review is sought; and
- (c) be lodged at an office of the Department, together with any submission that the person or organisation wishes to submit in support of those grounds.

‘(3) The Secretary must send the request and any accompanying material to the Review Council, and notify the Repatriation Medical Authority of the request, within 28 days.

**Submissions to Review Council**

‘196Z.(1) If the Review Council is carrying out a review under subsection 196V(2), any person referred to in paragraph 196X(1)(a) or (b), or an organisation referred to in paragraph 196X(1)(c), may make a submission in writing to the Council about any information that was available to the Repatriation Medical Authority and is relevant to the review (“**relevant information**”).

‘(2) A person having expertise in a field relevant to the investigation may make a submission in writing to the Review Council on any relevant information pertaining to that field.

‘(3) If an individual, the Commission or an organisation has made a written submission, the individual or his or her representative, or a representative of the Commission or of the organisation may, subject to subsection (5), appear before the Review Council to make an oral submission complementing the written submission.

‘(4) If the Review Council is carrying out a review under subsection 196V(6) at the request of an individual, the Commission or an organisation, the individual or his or her representative, or a representative of the Commission or of the organisation may, subject to subsection (5), appear before the Review Council to make an oral submission complementing the written submission (if any) lodged under paragraph 196Y(2)(c).

‘(5) A person or organisation may not be represented before the Review Council by a legal practitioner.

‘(6) In this section, a reference to a submission does not include a submission on a legal matter.

#### **Notice of investigation**

‘196ZA.(1) As soon as practicable after the Review Council has been asked under section 196X to review:

- (a) a decision of the Repatriation Medical Authority to make or not to make a Statement of Principles; or
- (b) a review of the contents of a Statement of Principles in respect of a particular kind of injury, disease or death;

the Council must publish in the *Gazette* a notice:

- (c) stating that the Council intends to carry out a review of the information available to the Authority about that kind of injury, disease or death; and
- (d) inviting persons or organisations authorised under subsection 196Z(1) to do so to make written submissions to the Council.

‘(2) A notice is to specify:

- (a) the date on which the Council will hold its first meeting for the purposes of the review; and
- (b) the date by which all submissions must have been received by the Council.

‘(3) A notice must be published in the *Gazette* at least 28 days before the date of the first meeting of the Council.

‘(4) A notice is not invalid merely because it fails to comply with subsection (2).

#### **Copyright in submissions**

‘196ZB.(1) The Review Council is not the owner of any copyright subsisting in material (“**submitted material**”) contained in a submission made to the Council for the purposes of an investigation under section 196B.

‘(2) In spite of the *Copyright Act 1968*, the Review Council does not infringe any copyright subsisting in submitted material if, in performing its functions or exercising its powers, the Council does an act comprised in the copyright without the licence of the owner of the copyright.

**Access to information**

'196ZC.(1) Subject to subsection (2), a person referred to in paragraph 196X(1)(a) or (b), or an organisation referred to in paragraph 196X(1)(c), is entitled, on request made in writing to the Review Council, to have reasonable access to any document containing information considered by the Review Council for the purposes of an investigation.

'(2) The Review Council may not disclose any personal information about a particular person if the information is likely to reveal the identity of that person.

***Division 2—Constitution and meetings*****Membership**

'196ZD.(1) The Review Council consists of such number of members as the Minister determines from time to time to be necessary for the proper exercise of the functions of the Council.

'(2) The councillors are to be appointed on a part-time basis by the Minister as provided in this section.

'(3) When appointing councillors, the Minister must have regard to the branches of medical science expertise in which would be necessary for deciding matters referred to the Review Council for review. In respect of each of those branches, the Minister must ensure that, at any time, the number (not less than 2) of councillors having experience in that branch is sufficient for the proper exercise of the functions of the Council.

'(4) Each person to be appointed councillor is to be selected from a list, or lists, of nominees submitted by such colleges or similar bodies of medical practitioners or medical scientists (for example, the Royal Australasian College of Physicians) as were asked by the Minister to submit nominees for the purposes of the appointment.

'(5) The Minister must appoint one of the councillors to be the Convener.

**Qualifications**

'196ZE. The Minister is to appoint a person to be a councillor only if the person is a registered medical practitioner, or a medical scientist, with at least 10 years experience.

**Tenure of office**

'196ZF.(1) Subject to this Act, a person appointed as Convener or as a councillor holds office for the period specified in the instrument of appointment.

'(2) A person may not hold office for a period of more than 5 years but is eligible for reappointment.

**Resignation**

'196ZG. A councillor may resign from office by written notice given to the Minister.

**Termination of appointment**

'196ZH. The Minister may terminate the appointment of a person as councillor:

- (a) for misbehaviour or for physical or mental incapacity; or

- (b) if he or she becomes bankrupt, applies to take the benefit of a law for the relief of bankruptcy or insolvent debtors, compounds with his or her creditors or assigns remuneration or property for their benefit.

#### **Acting Convener**

'196ZI. The Minister may appoint a councillor to act as Convener:

- (a) during a vacancy in the office of Convener, whether or not an appointment has previously been made to the office; or  
 (b) during any period, or during all periods, when the Convener is absent from Australia or from duty.

#### **Conduct of reviews**

'196ZJ.(1) The Review Council is, for the purposes of a review, to be constituted by at least 3, but not more than 5, councillors selected by the Convener.

'(2) If the Review Council as constituted for the purposes of a review includes the Convener, the Convener presides at all meetings of the Council as so constituted.

'(3) If the Review Council as constituted for the purposes of a review does not include the Convener, the Convener must appoint one of the councillors selected for the purposes of the review ("**presiding councillor**") to preside at all meetings of the Council as so constituted.

'(4) The Convener or the presiding councillor may convene meetings of the Council as he or she considers necessary to carry out the review. The Convener may delegate this power to another councillor or to a member of the staff of the Council.

'(5) A question before the Council is to be decided by a majority of the votes of the councillors present and voting. The Convener or presiding councillor has only a deliberative vote.

'(6) The Council must keep minutes of the proceedings at each meeting.

'(7) Subject to this section, the Council determines the procedures for convening its meetings and for conducting its business.

#### **Remuneration and allowances**

'196ZK.(1) A councillor is to be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, a member is to be paid such remuneration as the Minister determines in writing.

'(2) A councillor is to be paid such allowances as the Minister determines in writing.

'(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

#### ***'Division 3—Staff***

#### **Staff**

'196ZL. The staff necessary to assist the Review Council consists of persons appointed or employed under the *Public Service Act 1922* and made available to the Council by the Secretary."

On the motion of Mr Walker (Minister for Administrative Services), the amendments were agreed to, after debate.

**15 WORKING NATION—MINISTERIAL STATEMENT AND PAPERS—MOTION TO TAKE NOTE OF PAPERS**

The order of the day having been read for the resumption of the debate on the motion of Mr Beazley (Leader of the House)—That the House take note of the papers (*presented on 4 May 1994*), viz.:

Working nation, 4 May 1994—

Ministerial statement.

Policies and programs.

White paper on employment and growth—

Debate resumed.

It being approximately 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.

**16 QUESTIONS**

Questions without notice were asked.

**17 PAPERS**

The following papers were presented:

Australian Nuclear Science and Technology Organisation Act—Nuclear Safety Bureau—Report for period 1 January to 31 March 1994.

Defence Act—Army and Air Force Canteen Service Regulations—Army and Air Force Canteen Service Board of Management—Report for period 2 February 1993 to 31 January 1994.

Department of Defence—Schedule of special purpose flights for period 1 July to 31 December 1993.

Employment, Education and Training Act—National Board of Employment, Education and Training—Higher Education Council, including the Board's comments—Advice on funds allocated to higher education institutions, May 1994.

Law Reform Commission Act—Law Reform Commission—Report No. 68—Compliance with the *Trade Practices Act 1974*.

Services Trust Funds Act—Australian Military Forces Relief Trust Fund—Report for 1993.

Standing Advisory Committee on Commonwealth/State Cooperation for Protection Against Violence (SAC-PAV)—Report of 1993 review.

Student Assistance Act—Report by Minister for 1993.

**18 PAPERS—MOTION TO TAKE NOTE OF PAPERS**

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

Department of Defence—Schedule of special purpose flights for period 1 July to 31 December 1993.

Law Reform Commission Act—Law Reform Commission—Report No. 68—Compliance with the *Trade Practices Act 1974*.

Services Trust Funds Act—Australian Military Forces Relief Trust Fund—Report for 1993.

Standing Advisory Committee on Commonwealth/State Cooperation for Protection Against Violence (SAC-PAV)—Report of 1993 review.

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

**19 AUSTRALIAN INSTITUTE OF HEALTH AND WELFARE—REPORT—MOTION TO TAKE NOTE OF PAPER**

Mr Beazley (Leader of the House), by leave, moved—That the House take note of the following paper:

Australian Institute of Health and Welfare Act—Australian Institute of Health and Welfare—Report—Australia's health 1994.

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

**20 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—AGED CARE**

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 Government's procrastination and inactivity in addressing problems in aged care".

The proposed discussion having received the necessary support—

Dr Wooldridge addressed the House.

Discussion ensued.

Discussion concluded.

**21 INDUSTRY, SCIENCE AND TECHNOLOGY LEGISLATION AMENDMENT BILL 1994—REPORT FROM MAIN COMMITTEE**

The Deputy Speaker reported that the Industry, Science and Technology Legislation Amendment Bill 1994 had been fully considered in the Main Committee and agreed to without amendment, and presented a certified copy of the Bill.

Bill agreed to.

On the motion of Mr Beazley (Leader of the House), by leave, the Bill was read a third time.

**22 CRIMES (CHILD SEX TOURISM) AMENDMENT BILL 1994—REPORT FROM MAIN COMMITTEE**

The Deputy Speaker reported that the Crimes (Child Sex Tourism) Amendment Bill 1994 had been fully considered in the Main Committee and agreed to with amendments (*see item No. 3, Minutes of Proceedings of the Main Committee*), and presented a certified copy of the Bill together with a schedule of amendments.

Amendments made by the Main Committee agreed to.

Bill, as amended, agreed to.

On the motion of Mr Beazley (Leader of the House), by leave, the Bill was read a third time.

**23 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REPORT—STATEMENT BY MEMBER**

Mr Hollis (Chairman) presented the following report:

Public Works—Parliamentary Standing Committee—57th General Report of the Committee, 1994, pursuant to the Public Works Committee Act.

Ordered to be printed.

Mr Hollis, by leave, made a statement in connection with the report.

#### 24 TARIFF PROPOSALS

Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology) moved—

Customs Tariff Proposal No. 3 (1994); and

Excise Tariff Proposals Nos. 3 and 4 (1994).

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

#### 25 MESSAGE FROM THE SENATE

A message from the Senate was reported returning the following Bill without amendment:

28 June 1994—Message No. 302—Industrial Relations Amendment (No. 2) 1994.

#### 26 FINANCIAL MANAGEMENT AND ACCOUNTABILITY BILL 1994

Mr Beazley (Minister for Finance), pursuant to notice, presented a Bill for an Act to provide for the proper use and management of public money, public property and other Commonwealth resources, and for related purposes.

Bill read a first time.

*Paper:* Mr Beazley presented an explanatory memorandum to the Bill.

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

#### 27 COMMONWEALTH AUTHORITIES AND COMPANIES BILL 1994

Mr Beazley (Minister for Finance), pursuant to notice, presented a Bill for an Act to provide reporting, accountability and other rules for Commonwealth authorities and Commonwealth companies, and for related purposes.

Bill read a first time.

*Paper:* Mr Beazley presented an explanatory memorandum to the Bill.

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

#### 28 AUDITOR-GENERAL BILL 1994

Mr Beazley (Minister for Finance), pursuant to notice, presented a Bill for an Act to provide for the appointment of an Auditor-General, to set out the functions of the Auditor-General, and for related purposes.

Bill read a first time.

*Paper:* Mr Beazley presented an explanatory memorandum to the Bill.

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

**29 BILLS—REFERENCE TO COMMITTEE**

Mr Beazley (Minister for Finance), pursuant to notice, moved—

(1) That:

(a) subsequent to the presentation and first reading of the Financial Management and Accountability Bill 1994, the Commonwealth Authorities and Companies Bill 1994 and the Auditor-General Bill 1994 and associated memoranda, the Bills be referred to the Joint Committee of Public Accounts for consideration and an advisory report to the House by 23 August 1994; and

(b) the terms of this resolution, so far as they are inconsistent with the standing and sessional orders, have effect notwithstanding anything contained in the standing and sessional orders.

(2) That a message be sent to the Senate acquainting it of this reference to the committee.

Question—put and passed.

**30 AUDITOR-GENERAL'S REPORT—PUBLICATION OF PAPER**

The Second Deputy Speaker presented the following paper:

Audit Act—Auditor-General—Audit report No. 43 of 1993-94—Parliament's right to know: Legislation to replace the *Audit Act 1901*.

Mr Bevis (Parliamentary Secretary to the Minister for Defence), by leave, moved—That:

(1) this House authorises the publication of the Auditor-General's audit report No. 43 of 1993-94; and

(2) the report be printed.

Question—put and passed.

**31 CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) BILL 1994**

Mr Bevis (Parliamentary Secretary to the Minister for Defence), for Mr Lavarch (Attorney-General), pursuant to notice, presented a Bill for an Act relating to the classification of publications, films and computer games, and related matters.

Bill read a first time.

*Paper:* Mr Bevis presented an explanatory memorandum to the Bill.

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

**32 HUMAN SERVICES AND HEALTH LEGISLATION AMENDMENT BILL (NO. 2) 1994**

Mr Bevis (Parliamentary Secretary to the Minister for Defence), for Dr Theophanous (Parliamentary Secretary to the Minister for Human Services and Health), pursuant to notice, presented a Bill for an Act to amend legislation relating to human services and health, and for related purposes.

Bill read a first time.

*Paper:* Mr Bevis presented an explanatory memorandum to the Bill.

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

**33 ABORIGINAL EDUCATION (SUPPLEMENTARY ASSISTANCE) AMENDMENT BILL 1994**

Mr Bevis (Parliamentary Secretary to the Minister for Defence), for Mr Free (Minister for Schools, Vocational Education and Training), pursuant to notice, presented a Bill for an Act to amend the *Aboriginal Education (Supplementary Assistance) Act 1989*.

Bill read a first time.

*Paper:* Mr Bevis presented an explanatory memorandum to the Bill.

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

**34 STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) AMENDMENT BILL (NO. 2) 1994**

Mr Bevis (Parliamentary Secretary to the Minister for Defence), for Mr Free (Minister for Schools, Vocational Education and Training), pursuant to notice, presented a Bill for an Act to amend the *States Grants (Primary and Secondary Education Assistance) Act 1992*, to clarify the validity of certain acts done under that Act and under the *States Grants (Schools Assistance) Act 1988*, and for related purposes.

Bill read a first time.

*Paper:* Mr Bevis presented an explanatory memorandum to the Bill.

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

**35 STUDENT ASSISTANCE (BUDGET MATTERS) AMENDMENT BILL 1994**

Mr Bevis (Parliamentary Secretary to the Minister for Defence), for Mr Free (Minister for Schools, Vocational Education and Training), pursuant to notice, presented a Bill for an Act to amend the *Student Assistance Act 1973*.

Bill read a first time.

*Paper:* Mr Bevis presented an explanatory memorandum to the Bill.

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

**36 STATES GRANTS (GENERAL PURPOSES) BILL 1994**

Mr Bevis (Parliamentary Secretary to the Minister for Defence), for Mr Gear (Assistant Treasurer), pursuant to notice, presented a Bill for an Act to provide for grants to the States, the Northern Territory and the Australian Capital Territory, and for related purposes.

Bill read a first time.

*Paper:* Mr Bevis presented an explanatory memorandum to the Bill.

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

**37 WORKING NATION—MINISTERIAL STATEMENT AND PAPERS—MOTION TO TAKE NOTE OF PAPERS**

The order of the day having been read for the resumption of the debate on the motion of Mr Beazley (Leader of the House)—That the House take note of the papers (*presented on 4 May 1994*), viz.:

Working nation, 4 May 1994—

Ministerial statement.

Policies and programs.

White paper on employment and growth—

Debate resumed.

Debate adjourned (Mr Staples), and the resumption of the debate made an order of the day for a later hour this day.

**38 WORKING NATION—MINISTERIAL STATEMENT AND PAPERS—MOTION TO TAKE NOTE OF PAPERS**

The order of the day having been read for the resumption of the debate on the motion of Mr Beazley (Leader of the House)—That the House take note of the papers (*presented on 4 May 1994*), viz.:

Working nation, 4 May 1994—

Ministerial statement.

Policies and programs.

White paper on employment and growth—

Debate resumed.

Debate adjourned (Mr Tuckey), and the resumption of the debate made an order of the day for a later hour this day.

**39 PRIVILEGE—STATEMENT BY MEMBER**

Mr Price (Chairman, Joint Select Committee on Certain Family Law Issues), by leave, made a statement in connection with a matter of privilege raised on 27 June 1994 by Mr Williams, relating to newspaper articles purporting to disclose the contents of a draft report of the committee. Mr Price informed the House that the committee had passed a resolution on the matter. It had however determined that there was no serious interference with its work and therefore did not propose to take any further action in relation to the matter.

The Deputy Speaker stated that he would bring this statement to the attention of the Speaker.

**40 PUBLIC ACCOUNTS—JOINT COMMITTEE**

Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology), by leave, moved—That Mrs Moylan be discharged from attendance on the Joint Committee of Public Accounts, and that, in her place, Mr Beale be appointed a member of the committee.

Question—put and passed.

**41 STANDING AND JOINT COMMITTEES—MEMBERSHIP**

The House was informed of the nominations by the Chief Opposition Whip of Members to be members of the following committees:

*Corporations and Securities—Parliamentary Joint Committee:*

Mr Beale in place of Mr Moore.

*Employment, Education and Training—Standing Committee:*

Mr Ronaldson in place of Mrs Sullivan.

*National Capital and External Territories—Joint Standing Committee:*

Mr Cameron in place of Mr Halverson.

*Native Title—Parliamentary Joint Committee:*

Mrs Gallus in place of Mr Reith.

**42 WORKING NATION—MINISTERIAL STATEMENT AND PAPERS—MOTION TO TAKE NOTE OF PAPERS**

The order of the day having been read for the resumption of the debate on the motion of Mr Beazley (Leader of the House)—That the House take note of the papers (*presented on 4 May 1994*), viz.:

Working nation, 4 May 1994—

Ministerial statement.

Policies and programs.

White paper on employment and growth—

Debate resumed.

Debate adjourned (Mr Lavarch—Attorney-General), and the resumption of the debate made an order of the day for a later hour this day.

**43 MESSAGE FROM THE SENATE—CORPORATIONS LEGISLATION AMENDMENT BILL 1994**

The following message from the Senate was reported:

Message No. 301

Mr Speaker,

The Senate returns to the House of Representatives the bill for “*An Act to amend laws relating to corporations and securities, 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, 28 June 1994

Ordered—That the amendments be considered forthwith.

**SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE**

No. 1—Clause 2, page 2, subclause (4), line 7, omit “Schedules 2, 4, 7 and 8”, substitute “Schedules 2, 7 and 8”.

No. 2—Clause 2, page 2, after subclause (4), insert the following subclause:

“(4A) Schedule 4 commences on a day to be fixed by Proclamation, being a day after each House of the Parliament has, by resolution, approved of regulations referred to in subsection 195(1) of the ASC Act, as amended by Schedule 4 of this Act.”.

No. 3—Schedule 4, page 35, item 19, omit the item, substitute the following item:

**“19. Subsection 194(4):**

Omit the subsection, substitute:

‘(4) A person who appears at an inquiry is entitled to have another person present to assist the person and a person who so assists is entitled to address the Panel.’.”.

Amendments Nos. 1 and 2—

On the motion of Mr Lavarch (Attorney-General) the amendments were disagreed to, but, in place thereof, the following amendment was made: Schedule 4, page 35, item 20, omit proposed new subsection 195(3).

Amendment No. 3—

On the motion of Mr Lavarch the amendment was agreed to, after debate.

#### 44 ADJOURNMENT

Mr Lavarch (Attorney-General) moved—That the House do now adjourn.

Debate ensued.

Question—put and passed.

And then the House, at 8.01 p.m., adjourned until tomorrow at 9.30 a.m.

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#### PAPERS

The following papers were deemed to have been presented on 29 June 1994:

Civil Aviation Act—Civil Aviation Regulations—

Exemption 1994 No. 2.

Instrument 1994 No. DASR 19.

Industrial Relations Act—Rules of Court—Statutory Rules 1994 No. 200.

Ozone Protection Act—Extension of CFC quota period, 20 June 1994.

Rice Levy Act—Rice Levy Rates Instrument 1994 No. 1.

Treaties—Text of—

Bilateral—

- (1) Treaty with Ecuador on Mutual Assistance in Criminal Matters, done at Quito on 16 December 1993. The Treaty will enter into force 30 days after an exchange of Notes pursuant to Article 22.1.
- (2) Agreement with the European Community on Trade in Wine, and Protocol, done at Brussels and Canberra on 26 and 31 January 1994. The Agreement and Protocol entered into force on 1 March 1994, the first day of the second month after an exchange of Notes, pursuant to Article 28.1.
- (3) Exchange of Letters, done at Brussels on 30 March 1994, constituting an Agreement with the European Community further amending and extending the Agreement of 22 January 1990 which amended the Agreement on Trade in Mutton, Lamb and Goatmeat of 14 November 1980. The Agreement entered into force retrospectively from 31 December 1993, the date specified in the Letters.
- (4) Agreement with the European Community relating to Scientific and Technical Co-operation, done at Canberra on 23 February 1994. The Agreement will enter into force on the date of an exchange of Notes pursuant to Article 11.1.
- (5) Agreement with Hong Kong for the Surrender of Accused and Convicted Persons, done at Hong Kong on 15 November 1993. The Agreement will enter into force 30 days after an exchange of Notes pursuant to Article 21(1).

- (6) Exchange of Notes, done at Hong Kong on 3 December 1993, constituting an Agreement with Hong Kong to extend the Agreement concerning the Investigation of Drug Trafficking and the Confiscation of the Proceeds of Drug Trafficking of 22 April 1991. The Agreement entered into force on 3 December 1993, the date of the Note in reply.
- (7) Subsidiary Agreement to the Agreement of 17 October 1979 with Japan concerning Japanese Tuna Long-Line Fishing, done at Hobart on 24 December 1993, with entry into force on the same date pursuant to Article IX.
- (8) Agreement with Latvia on Trade and Economic Cooperation, done at Canberra on 23 November 1993, with entry into force on the same date pursuant to Article 10.1.
- (9) Agreement with Laos on the Reciprocal Promotion and Protection of Investments, done at Vientiane on 6 April 1994. The Agreement will enter into force 30 days after an exchange of Notes pursuant to Article 15(1).
- (10) Agreement with Lithuania on Trade and Economic Cooperation, done at Vilnius on 9 December 1993, with entry into force on the same date pursuant to Article 11.
- (11) Exchange of Notes constituting an Agreement with the United Kingdom concerning Maralinga and other Sites in Australia, done at London on 10 December 1993. The Agreement entered into force on 10 December 1993, the date of the Note in reply.
- (12) Exchange of Letters constituting an Agreement with the United Kingdom relating to Nauru, done at Canberra on 24 March 1994. The Agreement entered into force on 24 March 1994, the date of the Letter in reply.
- (13) Exchange of Notes, done at Washington on 22 February 1994, constituting an Agreement with the United States of America to amend the Air Transport Agreement of 3 December 1946 and the Agreement concerning Capacity of 23 March 1989. The Agreement entered into force on 22 February 1994, the date of the Note in reply, with retrospective effect from 17 December 1993, the date specified in the Notes.

Multilateral—

- (14) Annex V, done at Bonn on 18 October 1991, on Area Protection and Management to the Protocol on Environmental Protection to the Antarctic Treaty of 4 October 1991. Instrument of approval deposited for Australia on 6 April 1994. The Annex is not yet in force.

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ATTENDANCE

All Members attended (at some time during the sitting) except Mr Beale, Mr Crean, Mr Forrest, Mr Free, Mr Griffiths, Mr Howe, Mr Keating, Mrs Kelly, Mr Latham, Dr Lawrence, Mr Punch, Mr Snowdon, Mr Swan, Mr Tickner and Mr Willis.

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L. M. BARLIN

Clerk of the House of Representatives

1993-94

**HOUSE OF REPRESENTATIVES**

**SUPPLEMENT TO VOTES AND PROCEEDINGS**

No. 82

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**MAIN COMMITTEE**

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**MINUTES OF PROCEEDINGS**

**WEDNESDAY, 29 JUNE 1994**

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1 The Main Committee met at 10.00 a.m.

**2 INDUSTRY, SCIENCE AND TECHNOLOGY LEGISLATION 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 the motion for the Bill to be reported to be moved forthwith.

On the motion of Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology), Bill to be reported to the House without amendment.

**3 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—

*Paper:* Mr Kerr (Minister for Justice), by leave, presented the following paper:

Legal and Constitutional Affairs—Standing Committee—Advisory report 30 May 1994—Crimes (Child Sex Tourism) Amendment Bill 1994—Government response, 8 June 1994.

Debate resumed.

Mr Williams, who had already spoken in the debate, by leave, addressed the Committee.

Debate continued.

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

*Consideration in detail*

Bill, by leave, taken as a whole.

*Paper:* Mr Kerr presented a supplementary explanatory memorandum to the Bill. On the motion of Mr Kerr, by leave, the following amendments were made together, after debate:

Clause 3—

Page 2, proposed subsection 50AA(1), definition of “act of indecency”, line 5, omit “has its meaning clarified by subsection 50AB(3)”, substitute “has the meaning given by section 50ABA”.

Page 2, after proposed section 50AA insert the following section:

**Meaning of “act of indecency”**

“ ‘50ABA.(1) In this Part:

‘act of indecency’ means an act that:

- (a) is of a sexual nature; and
- (b) involves the human body, or bodily actions or functions; and
- (c) is so unbecoming or offensive that it amounts to a gross breach of ordinary contemporary standards of decency and propriety in the Australian community.

“ ‘(2) To avoid doubt, ‘act of indecency’ includes an indecent assault.”.

Page 3, lines 8 to 10, omit proposed subsection 50AB(3).

Page 3, proposed section 50BA, line 24, omit “12”, substitute “16”.

Page 3, lines 26 to 29, omit proposed section 50BB.

Page 3, proposed section 50BC, line 31, omit “12”, substitute “16”.

Page 4, lines 1 to 5, omit proposed section 50BD.

Page 4, lines 6 to 17, omit proposed section 50BE, substitute the following section:

**Sexual conduct involving child under 16**

“ ‘50BE. A person (‘**the first person**’) contravenes this section if, while the first person is outside Australia:

- (a) the first person commits an act of indecency on a person who is under 16; or
- (b) the first person submits to an act of indecency committed by a person who is under 16; or
- (c) the first person commits an act of indecency in the presence of a person who is under 16 (‘**the child**’), and the first person intends to derive gratification from the child’s presence during the act; or
- (d) the first person submits to an act of indecency committed in the presence of a person who is under 16 (‘**the child**’), and the first person intends to derive gratification from the child’s presence during the act; or
- (e) the first person engages in sexual intercourse with another person in the presence of a person who is under 16 (‘**the child**’), and the first person intends to derive gratification from the child’s presence during the sexual intercourse.

Penalty: Imprisonment for 12 years.”.

Page 4, lines 18 to 29, omit proposed section 50BF.

Page 4, proposed section 50BG, lines 30 to 40, omit “offender” (wherever occurring), substitute “first person”.

Page 4, proposed subsection 50BG(1), line 32, omit “12”, substitute “16”.

Page 4, proposed subsection 50BG(2), line 38, omit “12”, substitute “16”.

Page 5, lines 1 to 12, omit proposed section 50BH.

Page 5, proposed section 50CA, lines 15 and 16, omit “section 50BB, 50BD, 50BF or 50BH”, substitute “Division 2”.

Page 5, proposed section 50CA, line 17, omit “(‘the alleged victim’)”.

Page 5, proposed section 50CA, lines 18 to 29, omit all the words from and including “over and consented” to the end of the section, substitute “over.”.

Page 5, proposed section 50CB, line 34, omit “(‘the alleged victim’)”.

Page 6, lines 3 to 14, omit proposed paragraph 50CB(c).

Page 6, proposed section 50CD, line 20, omit “or paragraph 50CB(c)”.

Page 6, lines 22 to 35, omit proposed section 50CE.

Page 6, lines 36 to 39, and page 7, lines 1 to 25, omit proposed section 50CF.

Page 7, proposed paragraph 50DA(1)(a), line 31, after “benefiting” insert “, whether financially or not,”.

Page 7, proposed subsection 50DA(1), line 36, omit “10 years”, substitute “17 years”.

Page 8, proposed subsection 50DB(1), line 10, omit “10 years”, substitute “17 years”.

Page 8, after proposed paragraph 50EA(c) insert the following paragraph:

“(ca) the court is satisfied that attendance of the witness at the court to give the evidence would:

- (i) cause unreasonable expense or inconvenience; or
- (ii) cause the witness psychological harm or unreasonable distress; or
- (iii) cause the witness to become so intimidated or distressed that his or her reliability as a witness would be significantly reduced; and”.

Page 8, proposed paragraph 50EA(d), line 31, omit “it is in the interests of justice”, substitute “it is consistent with the interests of justice”.

Page 8, lines 33 to 38, and page 9, lines 1 to 5, omit proposed section 50EB.

Page 9, proposed paragraph 50EF(a), line 31, omit “defendant”, substitute “witness”.

Page 10, lines 10 to 18, omit proposed section 50FA, substitute the following section:

**Certain material taken to be evidence of age**

“50FA.(1) In determining for the purposes of this Part whether a person is under 16, or was under 16 at a particular time, or how old a person is or was at a particular time, a jury or court may treat any of the following as admissible evidence:

- (a) the person's appearance;
- (b) medical or other scientific opinion;
- (c) a document that is or appears to be an official or medical record from a country outside Australia;
- (d) a document that is or appears to be a copy of such a record.

“(2) This section does not make any other kind of evidence inadmissible, and does not affect a prosecutor's duty to do all he or she can to adduce the best possible evidence for determining the question.

“(3) If, on a trial for an offence against this Part, evidence may be treated as admissible because of subsection (1), the court must warn the jury that it must be satisfied beyond reasonable doubt in determining the question.”.

Page 10, lines 19 to 37, omit proposed section 50FB, substitute the following section:

#### **Alternative verdicts**

“50FB.(1) If, on a trial for an offence against section 50BA, the jury is not satisfied that the defendant is guilty of the offence, but is satisfied that he or she is guilty of an offence against section 50BE, it may find the defendant not guilty of the offence against section 50BA but guilty of the offence against section 50BE.

“(2) If, on a trial for an offence against section 50BC, the jury is not satisfied that the defendant is guilty of the offence, but is satisfied that he or she is guilty of an offence against subsection 50BG(1), it may find the defendant not guilty of the offence against section 50BC but guilty of the offence against subsection 50BG(1).”.

Page 11, lines 1 to 12, omit proposed section 50FC.

Page 11, after proposed section 50FD insert the following section in proposed Division 6:

#### **Sentencing**

“50FE.(1) In determining the sentence to be passed, or the order to be made, in respect of a person for an offence against Division 2, the court must take into account the age and maturity of the person in relation to whom the offence was committed, so far as these matters are relevant and known to the court.

“(2) The matters mentioned in subsection (1) are in addition to any other matters the court must take into account, for example, the matters mentioned in subsection 16A(2).”.

**NOTES**

This table shows new section headings required because of the amendments of the Bill.

| Amendment number | Proposed section | New heading  |
|------------------|------------------|--|
| 3                | 50AB             | Meaning of "sexual intercourse"                          |
| 4                | 50BA             | Sexual intercourse with child under 16                   |
| 6                | 50BC             | Inducing child under 16 to engage in sexual intercourse  |
| 11, 12           | 50BG             | Inducing child under 16 to be involved in sexual conduct |
| 16               | 50CA             | Defence based on belief about age                        |
| 18               | 50CB             | Defence based on valid and genuine marriage              |

Bill, as amended, agreed to.

Consideration in detail concluded.

Ordered—That the Bill, be reported to the House with amendments.

**4 ADJOURNMENT**

On the motion of Mr Kerr (Minister for Justice) the Main Committee adjourned at 1.07 p.m.

The Deputy Speaker fixed tomorrow at 10 a.m. for the next meeting of the Main Committee.

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**I. C. HARRIS**

Clerk of the Main Committee