

2002-03

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**VOTES AND PROCEEDINGS**

No. 141

TUESDAY, 2 DECEMBER 2003

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1 The House met, at 2 p.m., pursuant to adjournment. The Speaker (the Honourable Neil Andrew) took the Chair, and read Prayers.

**2 LEADERSHIP OF THE AUSTRALIAN LABOR PARTY**

Mr Latham, as Leader of the Opposition, informed the House that the Australian Labor Party had elected him as its Leader. Ms Gillard had been appointment Manager of Opposition Business and Mr McMullan Acting Shadow Treasurer.

Mr Howard (Prime Minister) and Mr Anderson (Leader of the National Party) congratulated Mr Latham.

**3 QUESTIONS**

Questions without notice were asked.

**4 PAPERS**

Mr Organ, by leave, presented the following papers:

Bali Honours List—Letters from Mr Michael Organ, Member for Cunningham, to Mr Howard, Prime Minister—

21 October 2003.

25 November 2003.

**5 AUDITOR-GENERAL'S REPORTS**

The Speaker presented the following papers:

Auditor-General—Audit reports of 2003–2004—Performance audits—

No. 14—Survey of fraud control arrangements in APS agencies.

No. 15—Administration of staff employed under the *Member of Parliament (Staff) Act 1984*: Department of Finance and Administration.

Reports ordered to be printed.

**6 PAPERS**

The following papers were presented:

Age Discrimination Bill 2003—Corrections to the Explanatory Memorandum.

Australian Broadcasting Corporation—Equity and diversity—Report for 2002-03.

Australian Electoral Commission—Report—2003 Redistribution of Queensland into electoral divisions.

Australian Land Transport Development Programme—Progress report for 2002-03.

Australian Rail Track Corporation Limited—Report for 2002-03.

Backing Australia's Ability—The Australian Government's Innovation Report 2003-04.

Corporations and Markets Advisory Committee—Report for 2002-03.

*Higher Education Funding Act 1988*—Report detailing determinations made under the Act in respect of 1999, 2000, 2001, 2002.

Takeovers Panel—Report for 2002-03.

**Treaties—**

List of multilateral treaty action under negotiation, consideration or review by the Australian Government as at December 2003.

*Bilateral—Text, together with national interest analysis and annexures*—Exchange of letters constituting an Agreement between the Government of Australia and the Government of the Italian Republic on the civil registry documentation to be submitted by Australian citizens wishing to marry in Italy, done at Rome on 10 February and 11 April 2000.

*Multilateral—Text, together with national interest analysis and annexures*—Agreement establishing an international foot and mouth disease vaccine bank, done at London on 26 June 1985.

**7 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—AGED CARE SERVICES**

The House was informed that Ms Ellis had proposed that a definite matter of public importance be submitted to the House for discussion, namely, “The failure of the Government to provide adequate aged care services”.

The proposed discussion having received the necessary support—

Ms Ellis addressed the House.

Discussion ensued.

Discussion concluded.

**8 MATTERS REFERRED TO MAIN COMMITTEE**

Mr Lloyd (Chief Government Whip), by leave, moved—that the following orders of the day, committee and delegation reports, be referred to the Main Committee for debate:

Transport and Regional Services—Standing Committee—Report—Regional aviation and island transport services: Making ends meet—Motion to take note of paper: Resumption of debate;

Economics, Finance and Public Administration—Standing Committee—Report—Review of the Reserve Bank of Australia report for 2002-2003—Motion to take note of paper: Resumption of debate; and

Procedure—Standing Committee—Report—Arrangements for second reading speeches—Motion to take note of paper: Resumption of debate.

Question—put and passed.

**9 MESSAGE FROM THE SENATE—NEW BUSINESS TAX SYSTEM (TAXATION OF FINANCIAL ARRANGEMENTS) BILL (NO. 1) 2003**

Message No. 380, 1 December 2003, from the Senate was reported returning the New Business Tax System (Taxation of Financial Arrangements) Bill (No. 1) 2003 with amendments.

Ordered—that the amendments be considered forthwith.

On the motion of Mr Cameron (Parliamentary Secretary to the Treasurer), the amendments were agreed to.

**10 MESSAGE FROM THE SENATE—TRADE PRACTICES LEGISLATION AMENDMENT BILL 2003**

Message No. 378, 1 December 2003, from the Senate was reported returning the Trade Practices Legislation Amendment Bill 2003 with amendments.

Ordered—that the amendments be considered forthwith.

On the motion of Mr Cameron (Parliamentary Secretary to the Treasurer), the amendments were disagreed to, after debate.

Mr Cameron presented reasons, which were circulated, and are as follows:

*Reasons of the House of Representatives for disagreeing to the amendments of the Senate*

*Senate Amendments 1-26*

These amendments propose a significant change to measures contained in the Bill that will allow price inquiries by either the regulator (the Australian Competition and Consumer Commission) or another inquiry body. The Senate's amendments would allow for price inquiries only by the regulator. By contrast, in its Review of the Prices Surveillance Act, the Productivity Commission recommended that price inquiries be conducted with input from, but not by, the regulator. (In other words, it recommended

that the regulator should conduct no price inquiries.) Instead of those extremes, it is proposed that Part VIIA will sensibly allow price inquiries by either the regulator or another inquiry body, as appropriate to the circumstances.

In most circumstances the expertise of the regulator may help to expedite a price inquiry and the regulator would be the preferred inquiry body. However, an inquiry by a body other than the regulator (that is, an external inquiry) would be appropriate where the Minister (the Treasurer) considers there is a real or possible conflict of interest involving the regulator and the subject matter of the inquiry, such that a harmful perception of regulatory bias might arise if the regulator were to conduct the price inquiry.

An external inquiry body could be an established organisation, or simply a group of two or more suitable individuals in the case of less complex price inquiries.

Nothing in this Bill prevents the Australian Competition and Consumer Commission being chosen as the inquiry body.

Accordingly, the House of Representatives does not accept the amendments made to the Bill by the Senate.

On the motion of Mr Cameron, the reasons were adopted.

#### **11 MESSAGE FROM THE SENATE—TRADE PRACTICES AMENDMENT (PERSONAL INJURIES AND DEATH) BILL 2003**

Message No. 379, 1 December 2003, from the Senate was reported returning the Trade Practices Amendment (Personal Injuries and Death) Bill 2003 with amendments.

Ordered—That the amendments be considered forthwith.

On the motion of Mr Cameron (Parliamentary Secretary to the Treasurer), the amendments were disagreed to, after debate.

Mr Cameron presented reasons, which were circulated, and are as follows:

*Reasons of the House of Representatives for disagreeing to the amendments of the Senate  
Senate Amendments 1 and 2*

These amendments make a number of variations to a Bill which was drafted to implement a commitment made by the Commonwealth at the Ministerial Meeting on Public Liability Insurance on Friday 15 November 2002. At that meeting, the Commonwealth agreed to legislate to implement recommendations 19 and 20 of the Review of the Law of Negligence, preventing individuals, and the Australian Competition and Consumer Commission in a representative capacity, from bringing actions for damages for personal injuries or death resulting from contraventions of Division 1 of Part V of the *Trade Practices Act 1974*. The Bill is designed to complement State and Territory initiatives directed to ensuring that outcomes in negligence actions reflect community expectations.

At the Council of Australian Governments' (COAG) meeting on Friday 6 December 2002, COAG noted the Commonwealth's commitment to amend the *Trade Practices Act 1974* to ensure that State and Territory legislation will not be compromised. Acceptance of the amendments would fail to address the potential of the *Trade Practices Act 1974* being used as a no-fault alternative to claims of negligence, allowing State and Territory reforms to be evaded and undermined.

A majority of the State and Territory Governments, New South Wales, Western Australia, South Australia, Tasmania, the Australian Capital Territory and the Northern Territory, have written providing support for the approach adopted by the Commonwealth.

The House of Representatives therefore does not accept these amendments.

On the motion of Mr Cameron, the reasons were adopted.

#### **12 MESSAGE FROM THE SENATE—STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) AMENDMENT BILL 2003**

Message No. 377, 1 December 2003, from the Senate was reported returning the States Grants (Primary and Secondary Education Assistance) Amendment Bill 2003 with amendments.

Ordered—That the amendments be considered forthwith.

Dr Nelson (Minister for Education, Science and Training) moved—That the amendments be disagreed to.

Debate ensued.

*Papers*

Dr Nelson presented the following papers:

States Grants (Primary and Secondary Education Assistance) Amendment Bill 2003—Proposed Opposition amendments—Letters from—

Mr Allan Dooley, Acting Chair, National Catholic Education Commission, to Dr Brendan Nelson, Minister for Education, Science and Training, 27 November 2003.

Mr Bill Daniels, Executive Director, Independent Schools Council of Australia, to Dr Brendan Nelson, Minister for Education, Science and Training, 27 November 2003.

Mr Bill Daniels, Executive Director, Independent Schools Council of Australia, to Ms Macklin, Shadow Minister for Employment, Education and Training, 27 November 2003.

Question—put and passed.

Dr Nelson presented reasons, which were circulated, and are as follows:

*Reasons of the House of Representatives for disagreeing to the amendments of the Senate  
Senate Amendments 1 and 2*

The Capital Grants Programme operates at arms length from the government. The effect of these amendments would be to remove this arms-length approach to the allocation of capital grants to non-government schools, an approach that has operated effectively for both government and non-government schools capital funding since 1988 and is supported by education authorities.

Under the current arrangements expert Block Grant Authorities (or BGA's) made up of representatives from their respective education sectors assess all applications for capital funding from non-government schools against detailed ministerially approved Guidelines and provide recommendations to the government on projects and schools to be funded.

In making their recommendations, the BGAs are required to take into account both the financial needs of individual schools and the relative educational disadvantage of the student population of each school with the more disadvantaged being given priority over the less disadvantaged. Their methodology is primarily quantitative and must be sufficient to justify their recommendations to an independent appeal body or to a Departmental audit.

The amendments would fundamentally change the relationship between the Minister and the BGAs. Instead of relying upon the professional judgement of the BGAs for funding recommendations, the Government would be required, at great expense, to check every project recommendation to enable the Minister to make a Determination specifying educational and financial need. That could spell the end of an arm's length approach by Government to decisions on schools' capital funding. Further, the non-government school sector was not fully consulted on these amendments and does not support the amendments. The Acting Chair of the National Catholic Education Commission, Mr Allan Dooley, has said that "The Amendment may lead to the duplication of assessment of applications for capital funding, with the Commonwealth having to double-check the decisions of Block Grant Authorities, as the Minister may require the department to advise him or her as the correctness of the BGA assessments. This may lead to inefficiency and uncertainty". The Executive Director of the Independent Schools Council of Australia has made similar statements.

Any decisions which change the way programs are administered for the non-government schools sector should be made in consultation with the sector.

Accordingly the House of Representatives does not accept these amendments.

On the motion of Dr Nelson, the reasons were adopted.

**13 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REPORTS—STATEMENT BY MEMBER**

Mrs Moylan (Chair) presented the following papers:

Public Works—Parliamentary Standing Committee—Reports—

Proposed development of off-base housing for Defence at Queanbeyan, NSW (14th report of 2003).

Proposed respecified Christmas Island immigration reception and processing centre (15th report of 2003).

Proposed community recreation centre on Christmas Island (16th report of 2003).

Reports ordered to be printed.

Mrs Moylan, by leave, made a statement in connection with the reports.

#### **14 ASIO LEGISLATION AMENDMENT BILL 2003**

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 Ruddock (Attorney-General), the Bill was read a third time.

#### **15 AGRICULTURE, FISHERIES AND FORESTRY—STANDING COMMITTEE**

The House was informed that the Government Whip had nominated Mr Tuckey to be a member of the Standing Committee on Agriculture, Fisheries and Forestry in place of Mrs Gash.

Mr Anthony (Minister for Children and Youth Affairs), by leave, moved—That Mrs Gash be discharged from the Standing Committee on Agriculture, Fisheries and Forestry and that, in her place, Mr Tuckey be appointed a member of the committee.

Question—put and passed.

#### **16 AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT BILL (NO. 1) 2002**

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.

*Message from the Governor-General*

Message No. 193, 11 June 2002, from His Excellency the Governor-General was announced recommending an appropriation for the purposes of the Bill.

*Consideration in detail*

Bill, by leave, taken as a whole.

*Paper*

Mr Truss (Minister for Agriculture, Fisheries and Forestry) presented a supplementary explanatory memorandum to the Bill.

On the motion of Mr Truss, by leave, Government amendments (1) and (2) were made together.

Bill, as amended, agreed to.

Consideration in detail concluded.

On the motion of Mr Truss, by leave, the Bill was read a third time.

#### **17 AVIATION TRANSPORT SECURITY BILL 2003**

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed by Mr M. J. Ferguson who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “while not declining to give the Bill a second reading, the House:

- (1) condemns the Government for the unnecessary confusion that will be caused by its insistence on using a whole new terminology in its legislation instead of using and building on the terminology already used in the industry and recognised internationally;
- (2) calls on the Government to ensure that the regulations spell out agreed, clear and consistent roles and responsibilities for land-side security between the different operators and authorities;
- (3) calls on the Government to improve the accountability and transparency of the aviation security rule making, compliance and incident investigation governance arrangements;

- (4) calls on the Government to discuss with industry appropriate ways to close the security gap caused by the ability of unscreened service personnel and unchecked vehicles to access aircraft;
- (5) calls on the Government to impose stricter controls, cross-checking and audit arrangements on who is using ASIC passes, to minimise the number of missing passes;
- (6) calls on the Government to use the proceeds from the Ansett ‘ticket tax’ to have screening equipment and related physical infrastructure provided in respect of the airports at:
  - (a) Burnie;
  - (b) Devonport;
  - (c) Dubbo;
  - (d) Albury;
  - (e) Wagga Wagga;
  - (f) Gladstone
  - (g) Port Lincoln;
  - (h) Tamworth;
  - (i) Port Macquarie; and
  - (j) Kingscote
- if requested by the relevant airport managers;
- (7) calls on the Government to require that the regulator consult formally with aviation industrial organisations on an ongoing basis in respect of security matters; and
- (8) calls on the Minister to ask the House Transport and Regional Services Committee to conduct a post-implementation review of the new security arrangements within 12 months of the Bill’s commencement”.

Debate continued.

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## 18 ADJOURNMENT

It being 9 p.m.—The question was proposed—That the House do now adjourn.

Debate ensued.

The House continuing to sit until 9.30 p.m.—The Speaker adjourned the House until tomorrow at 9 a.m.

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## PAPERS

The following papers were deemed to have been presented on 2 December 2003:

Australian Meat and Live-stock Industry Act—Orders—2003—

Australian Meat and Live-stock Industry (Export of Cattle) Amendment (No. 1).

Australian Meat and Live-stock Industry (Export of live sheep and goat exports to the Middle East) Amendment (No. 1).

Environment Protection and Biodiversity Conservation Act—Instrument under subsection 303EC(1), 3 November 2003.

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**ATTENDANCE**

All Members attended (at some time during the sitting) except Dr Lawrence, Mr Schultz, Mr A. D. H. Smith and Mr Snowdon\*.

\* On leave

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**I. C. HARRIS**  
Clerk of the House of Representatives