

2002-03-04

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 163

MONDAY, 29 MARCH 2004

-
-
- 1 The House met, at 12.30 p.m., pursuant to adjournment. The Speaker (the Honourable Neil Andrew) took the Chair, and read Prayers.
- 2 **EDUCATION AND TRAINING—STANDING COMMITTEE—REPORT—STATEMENTS BY MEMBERS—MOTION TO TAKE NOTE OF PAPER**
Mr Bartlett (Chair) presented the following papers:
Education and Training—Standing Committee—Learning to work—Inquiry into vocational education in schools—
Report, March 2004.
Evidence received by the committee.
Minutes of proceedings.
Ordered—That the report be printed.
Statements in connection with the report were made.
The time allotted for making statements on the report having expired—
Mr Bartlett moved—That the House take note of the report.
Mr Bartlett was granted leave to continue his speech when the debate is resumed.
In accordance with standing order 102B, the debate was adjourned, and the resumption of the debate made an order of the day for the next sitting.
- 3 **MIGRATION—JOINT STANDING COMMITTEE—REPORT—STATEMENTS BY MEMBERS—MOTION TO TAKE NOTE OF PAPER**
Ms Gambaro (Chair) presented the following papers:
Migration—Joint Standing Committee—To make a contribution—Review of skilled labour migration programs 2004—
Report, March 2004.
Evidence received by the committee.
Minutes of proceedings.
Ordered—That the report be printed.
Statements in connection with the report were made.
The time allotted for making statements on the report having expired—
Ms Gambaro moved—That the House take note of the report.
Ms Gambaro was granted leave to continue her speech when the debate is resumed.
In accordance with standing order 102B, the debate was adjourned, and the resumption of the debate made an order of the day for the next sitting.
- 4 **AUSTRALIAN PARLIAMENTARY DELEGATION—REPORT—STATEMENTS BY MEMBERS**
Mr Barresi presented the following paper:

Australian Parliamentary Delegation to Syria, Lebanon and Israel, 9-21 November 2003—Report, March 2004.

Mr Barresi and Ms Roxon made statements in connection with the report.

5 WORKPLACE RELATIONS AMENDMENT (GOOD FAITH BARGAINING) BILL 2004

Mr Emerson, pursuant to notice, presented a Bill for an Act to amend the *Workplace Relations Act 1996*, and for related purposes.

Mr Emerson made a statement in relation to the Bill.

Bill read a first time.

Ordered—That the second reading be made an order of the day for the next sitting, in accordance with standing order 104A.

6 CRIMES AGAINST HUMANITY

Ms Plibersek, pursuant to notice, moved—That this House:

- (1) recalls the key role played by Australia's Chifley Government in developing the Geneva Convention on Genocide and reaffirms Australia's commitment to international treaties that aim to punish those who commit crimes against humanity, war crimes and other major human rights violations;
- (2) notes that at present Australia has no domestic legislation enabling the prosecution in Australian courts of the following international crimes committed outside Australia by people who subsequently settled here:
 - (a) Genocide (the *Genocide Convention Act 1949* did not make genocide a crime under Australian law; it only approved ratification of the Convention);
 - (b) Crimes Against Humanity (other than torture after 1988 and hostage taking after 1989); and
 - (c) War Crimes committed in the context of non-international armed conflicts anywhere in the world at any time, or committed in the context of an international conflict prior to 1957 (except Europe 1939-1945); and
- (3) calls on the Government to close the gaps in Australia's domestic laws that allow accused criminals to live here without fear of prosecution.

Debate ensued.

The time allotted for the debate having expired, the debate was interrupted, and the resumption of the debate made an order of the day for the next sitting.

7 AFGHANISTAN

Mr Rudd, pursuant to notice, moved—That this House:

- (1) recognises the continued, central importance of Afghanistan as critical to the war against terrorism;
- (2) recognises that al Qaeda, the Taliban and associated terrorist organisations continue to pose a security threat to the government of Afghanistan;
- (3) recognises that removing this threat requires both the political transformation and economic reconstruction of Afghanistan with the full support of the international community; and
- (4) recognises that Australia must play a significant and substantive role, both bilaterally and multilaterally in underpinning a long-term, secure future for the people of Afghanistan.

Debate ensued.

At 1.45 p.m., the time allotted for the debate having expired, the debate was interrupted in accordance with standing order 106A, Mr Scott was granted leave to continue his speech when the debate is resumed, and the resumption of the debate was made an order of the day for the next sitting.

8 MEMBERS' STATEMENTS

Members' statements were made.

9 QUESTIONS

Questions without notice being asked—

Papers

Mr S. F. Smith, by leave, presented the following papers:

Aged care facilities: Divestment process—Frequently asked questions—Salvation Army, Australian Southern Territorial Headquarters, 12 February 2004.

Victorian deaf society sells Lake Park, Blackburn—Media release, Victorian Deaf Society website, 19 March 2004.

Questions without notice continuing—

Suspension of standing and sessional orders moved

Mr Latham (Leader of the Opposition) moved—That so much of the standing and sessional orders be suspended as would prevent the Minister for Education, Science and Training from making a statement to:

- (1) correct the public record following his misrepresentation on Thursday, 25 March, in which he fabricated correspondence from a Green Valley constituent of the Leader of the Opposition; and
- (2) apologise for misleading the House.

Debate ensued.

Paper

Dr Nelson (Minister for Education, Science and Training), by leave, presented the following paper:

The introduction of new TAFE administration fees—The full impact on students—Research report by Tina Acker, Melissa Brady and Amy Hans.

Debate continued.

The time allowed by standing order 91 for debate on the motion having expired—

Question—put.

The House divided (the Speaker, Mr J. N. Andrew, in the Chair)—

AYES, 59

Mr Adams	Mr Fitzgibbon	Dr Lawrence	Mr Ripoll
Mr Albanese	Ms George	Ms Livermore	Ms Roxon
Mr Brereton	Mr Gibbons	Mr McClelland	Mr Rudd
Ms Burke	Ms Gillard	Ms Macklin	Mr Sawford
Mr Byrne	Ms Grierson	Mr McLeay	Mr Sercombe
Ms Corcoran	Mr Griffin	Mr McMullan	Mr Sidebottom
Mr Cox	Ms Hall	Mr Melham	Mr S. F. Smith
Mr Crean	Mr Hatton	Mr Mossfield	Mr Swan
Mrs Crosio	Ms Hoare	Mr Murphy	Mr Tanner
Mr Danby*	Mrs Irwin	Ms O'Byrne	Mr K. J. Thomson
Mr Edwards	Ms Jackson	Mr B. P. O'Connor	Ms Vamvakinou
Mr Emerson	Mr Jenkins	Mr G. M. O'Connor	Mr Wilkie
Mr Evans	Mr Kerr	Ms Plibersek	Mr Windsor
Mr L. D. T. Ferguson	Ms C. F. King	Mr Price	Mr Zahra
Mr M. J. Ferguson	Mr Latham	Mr Quick*	

NOES, 77

Mr Abbott	Mr Downer	Mr P. E. King	Mr Secker
Mr Anderson	Mr Dutton	Mrs Ley	Mr Slipper
Mr K. J. Andrews	Mrs Elson	Mr Lindsay	Mr A. D. H. Smith
Mr Anthony	Mr Farmer	Mr Lloyd	Mr Somlyay
Fran Bailey	Mr Forrest*	Mr McArthur*	Dr Southcott
Mr Baird	Ms Gambaro	Mr I. E. Macfarlane	Dr Stone
Mr Baldwin	Mrs Gash	Mr McGauran	Mr C. P. Thompson
Mr Barresi	Mr Georgiou	Mrs May	Mr Ticehurst
Mr Bartlett	Mr Haase	Mrs Moylan	Mr Tollner
Mr Billson	Mr Hardgrave	Mr Nairn	Mr Truss
Mrs B. K. Bishop	Mr Hartsuyker	Dr Nelson	Mr Tuckey
Ms J. I. Bishop	Mr Hawker	Mr Neville	Mr M. A. J. Vaile
Mr Brough	Mr Hockey	Ms Panopoulos	Mrs D. S. Vale
Mr Cadman	Mr Howard	Mr Pearce	Mr Wakelin
Mr Cameron	Mr Hunt	Mr Prosser	Dr Washer
Mr Causley	Mr Johnson	Mr Pyne	Mr Williams
Mr Charles	Mr Jull	Mr Randall	Ms Worth
Mr Ciobo	Mrs D. M. Kelly	Mr Ruddock	
Mr Cobb	Jackie Kelly	Mr Schultz	
Mr Costello	Dr Kemp	Mr Scott	

* Tellers

And so it was negatived.

Questions without notice concluded.

10 PETITIONS

Petitions lodged for presentation were announced.

11 TAIWAN AND THE WORLD HEALTH ASSEMBLY

Mr Billson, pursuant to notice, moved—That this House:

- (1) recognises:
 - (a) Taiwan is a thriving democracy of 23 million people, with a world-class health-care system that has contributed to one of the highest life expectancy in Asia, very low maternal and infant mortality rates, successful disease eradication and preventative health programs; and
 - (b) Taiwan's strong commitment to international health security through provision of aid funding and expertise to developing countries in the form of permanent medical assistance programs and emergency response medical teams;
- (2) notes that:
 - (a) the experience of SARS in 2003 shows the vital importance of seamless global coordination in responding to international health emergencies;
 - (b) Taiwan's containment and management efforts during the SARS epidemic in 2003 were severely hampered by its inability to access the expertise and coordination of the WHO, including the WHO's Global Outbreak Alert and Response Network (GOARN);
 - (c) the World Health Assembly's Rules of Procedure formally allow, through several mechanisms, for the participation of observers, as distinct from states, in the activities of the organization without involving issues of sovereignty as evidenced by the role of current observers including Palestine, the Holy See, the Order of Malta, and the International Red Cross and Red Crescent;
 - (d) support for Taiwan's previous bids has come from many other governments, including the US, in the May 2003 Summit of the World Health Assembly in Geneva;

- (e) there is considerable public support of Taiwan's participation in the WHO from major professional medical organizations; and
 - (f) last year a private Members' motion was moved in the Australian House of Representatives, supporting Taiwan in its 2003 bid to gain observer status in the WHA; and
- (3) supports:
- (a) Taiwan's case before the WHA, a specialised health agency of the UN, based on scientific, humanitarian, and health security considerations; and
 - (b) Taiwan's participation in the WHA as an Observer, allowing it as a health entity to contribute further to the international community, bringing its population of 23 million to within WHO protection against future health emergencies of the type of SARS.

Debate ensued.

The time allotted for private Members' business having expired, the debate was interrupted, and the resumption of the debate made an order of the day for the next sitting.

12 GRIEVANCE DEBATE

Pursuant to the provisions of standing order 106, the order of the day having been read—

Question proposed—That grievances be noted.

Debate ensued.

Question—That grievances be noted—put and passed.

13 MESSAGES FROM THE SENATE

Messages from the Senate, 29 March 2004, were reported returning the following Bills without amendment:

Message—

No. 445—Greater Sunrise Unitisation Agreement Implementation 2004.

No. 446—Customs Tariff Amendment (Greater Sunrise) 2004.

14 POSTPONEMENT OF BUSINESS

Ordered—That business intervening before order of the day No. 22, government business, be postponed until a later hour this day.

15 FAMILY ASSISTANCE LEGISLATION AMENDMENT (EXTENSION OF TIME LIMITS) BILL 2003—SENATE'S MESSAGE NO. 361

The order of the day having been read for the consideration of Message No. 361 from the Senate (*reported 27 November 2003, see page 1335*)—

Purported pressed requests—Statement by Deputy Speaker

The Deputy Speaker made the following statement:

It is my duty, on behalf of the Speaker, to draw the attention of the House to the constitutional question this message involves.

The House has never accepted that the Senate has a right to repeat its requests for amendments to a Bill when the House has rejected the requests. There are no House standing orders covering a situation for consideration of pressed requests, suggesting a belief, in the minds of those framing the standing orders, that the House would not, in the normal transaction of business, require procedural rules of this kind.

It is a matter of constitutional propriety as between the Houses based on the provisions of sections 53 to 57 of the Constitution. Legal opinions supporting the argument that the Constitution does not empower the Senate to press requests have been advanced by Quick and Garran, who were intimately involved in the development of the Constitution, and by eminent constitutional lawyers, past and present. I draw the attention of the House to the arguments which are summarised in House of Representatives Practice.

In 1983, the action of the Senate in pressing requests was taken as failure to pass proposed legislation and included as the basis for a simultaneous dissolution of both Houses.

However, there have been occasions in the past when the House has refrained from determining its constitutional rights. The message has subsequently been considered.

There are, of course, situations where negotiations between the Houses concerning **amendments** to Bills, that is proposed changes to Bills which the Constitution permits the Senate to make, are unresolved. The standing orders of the House provide for situations of this kind. They provide for a stage at which, if the requirements of the House are not met, the Bill in question must be laid aside or a conference with the Senate sought. Standing orders would need to be suspended to enable acceptance of the Senate amendments or alternative amendments. It has been considered to be inappropriate to suspend standing orders to continue the process of disagreement.

It is important that the House has regard to the constitutional implications and is not taken to have determined its privileges simply by the act of consideration of a Senate message. However it should be open to the House to take whatever course it thinks appropriate in situations where the Senate purports to press its requests for amendments to proposed legislation. This could involve a range of options extending from declining to consider the message to considering the message and making or not making the amendments requested by the Senate by one means or another.

It rests with the House as to whether it will consider Senate message No. 361 insofar as it purports to press the requests that were contained originally in Senate message No. 350.

Mr Pyne (Parliamentary Secretary to the Minister for Family and Community Services) moved—That:

(1) the House:

- (a) endorses the statement of the Speaker in relation to the constitutional questions raised by message No. 361 transmitted by the Senate in relation to the Family Assistance Legislation Amendment (Extension of Time Limits) Bill 2003;
- (b) notes that, in the past, the purported pressing of requests was accepted as a failure to pass proposed legislation in the terms of section 57 of the Constitution;
- (c) asserts that, in considering this constitutionally unsound practice of the Senate in purporting to press its requests, the House refrains from any determination of its constitutional rights in respect of Senate message No. 361;
- (d) declines to consider further the requested amendments which the Senate has purported to press; and

(2) the message returning the Bill to the Senate convey the terms of this resolution.

Question—put and passed.

16 OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) AMENDMENT (EMPLOYEE INVOLVEMENT AND COMPLIANCE) BILL 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.

Consideration in detail

Bill, by leave, taken as a whole.

Mr Emerson, by leave, moved Opposition amendments (1) to (40) together.

Debate continued.

Amendments negatived.

Bill agreed to.

Consideration in detail concluded.

On the motion of Mr K. J. Andrews (Minister for Employment and Workplace Relations), by leave, the Bill was read a third time.

17 WORKPLACE RELATIONS AMENDMENT (AWARD SIMPLIFICATION) BILL 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.

Mr Randall addressing the House—

18 ADJOURNMENT

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

Debate ensued.

Question—put and passed.

And then the House, at 9.28 p.m., adjourned until tomorrow at 2 p.m.

PAPERS

The following papers were deemed to have been presented on 29 March 2004:

Civil Aviation Act—Civil Aviation Regulations—

Amendment Order—2004 No. 2.

Exemptions—2004 Nos CASA EX09, CASA EX14, CASA EX17.

Instrument—2004 No. CASA 114.

Health Insurance Act—Principles—2004 Health Insurance (Accredited Pathology Laboratories—Approval) Amendment No. 1.

Taxation Administration Act—Rulings—

1996 No. TR 14 (Addendum).

2004 Nos CR 27, CR 28, CR 29, PR 24 (Erratum), PR 32, PR 33, PR 34.

Telecommunications (Interception) Act—Declaration—2004 Corruption and Crime Commission of Western Australia, 24 March 2004.

Veterans' Entitlements Act—Instruments under section 196B—2004 Nos 5, 6, 7, 8, 9, 10.

ATTENDANCE

All Members attended (at some time during the sitting) except Mr Beazley*, Mr Bevis, Mrs Draper, Ms Ellis*, Mr Entsch, Mrs Gallus, Mrs Hull*, Ms J. S. McFarlane* and Mr Sciacca.

* On leave

I. C. HARRIS

Clerk of the House of Representatives