

2008-09

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 135

TUESDAY, 24 NOVEMBER 2009

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

2 QUESTIONS

Questions without notice were asked.

3 AUDITOR-GENERAL'S REPORT

The Speaker presented the following document:

Auditor-General—Audit report No. 13 of 2009–2010—Assurance report—2008-09 Major Projects Report: Defence Materiel Organisation.

Ordered to be made a Parliamentary Paper.

4 DOCUMENTS

The following documents were presented:

ASC Pty Ltd—Statement of corporate intent for 2009-12.

Criminal Code Act 1995—Control orders and preventative detention orders—Report for 2008-09.

Equal Opportunity for Women in the Workplace Agency—Report for 2008-09.

Fisheries Research and Development Corporation—Report for 2008-09.

Grains Research and Development Corporation—Report for 2008-09.

Members of Parliament (Staff) Act 1984—Report for 2008-09.

National Security Information (Criminal and Civil Proceedings) Act 2004—Non-disclosure and witness exclusion certificates—Report for 2008-09.

Native Title Act 1993—Native title representative bodies—Central Land Council—Report for 2008-09.

5 DOCUMENTS—MOTION TO TAKE NOTE OF DOCUMENTS

Mr Albanese (Leader of the House) moved—That the House take note of the following documents:

ASC Pty Ltd—Statement of corporate intent for 2009-12.

Equal Opportunity for Women in the Workplace Agency—Report for 2008-09.

Members of Parliament (Staff) Act 1984—Report for 2008-09.

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

6 DOCUMENT

Mr Albanese (Leader of the House) presented the following document:

Freedom of Information reform—Statement by the Special Minister of State and Cabinet Secretary, Senator the Hon. Joe Ludwig, 24 November 2009.

7 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—SMALL BUSINESS

The House was informed that Mr Oakeshott had proposed that a definite matter of public importance be submitted to the House for discussion, namely, “Assisting small business in regional and rural Australia”.

The proposed discussion having received the necessary support—

Mr Oakeshott addressed the House.

Discussion ensued.

The time allotted under standing order 1 having expired, the discussion was interrupted.

8 MESSAGE FROM THE SENATE

Message No. 359, 23 November 2009, from the Senate was reported informing the House of the following resolution agreed to by the Senate:

That the time for the presentation of the report of the Parliamentary Joint Committee on Corporations and Financial Services on financial products and services in Australia be extended to 24 November 2009.

9 MESSAGE FROM THE SENATE—HEALTH INSURANCE AMENDMENT (COMPLIANCE) BILL 2009

Message No. 360, 23 November 2009, from the Senate was reported returning the Health Insurance Amendment (Compliance) Bill 2009 with amendments.

Constitutional questions raised by proposed Senate amendments—Statement by Deputy Speaker.

The Deputy Speaker made the following statement: The Speaker’s attention has been drawn to proposed Senate Amendments numbers (1) and (10). On behalf of the Speaker, I inform the House of the Constitutional questions raised by the amendments.

As I understand it, advice has been provided that the amendments, if enacted, would have the effect of increasing amounts that would be payable under a standing appropriation in the *Health Insurance Act 1973*, and would be construed as appropriating money.

There is doubt that the Senate may proceed in these circumstances by way of amendment because of section 53 of the Constitution. Among other things, this section prohibits the Senate from amending any bill so as to increase “any proposed charge or burden on the people”. The view has been taken that where revenue or moneys are to be appropriated in these circumstances, section 56 of the Constitution requires that the proposed appropriation must be recommended by a message from the Governor-General.

The House will need to consider the way in which it should proceed to deal with the matters raised in the Senate amendments. If the House wishes to entertain the proposal reflected in the amendments, it may choose to proceed by alternative means.

Ordered—That the amendments be considered immediately.

On the motion of Ms Roxon (Minister for Health and Ageing), Senate amendments Nos 2 to 9 were agreed to, after debate.

Ms Roxon moved—That Senate amendments Nos 1 and 10 be disagreed to.

Debate ensuing—

Documents

Mr Dutton, by leave, presented the following documents:

Medicare benefit payable in respect of eye cataract surgery—

Disallowance of provisions of regulations—Memorandum from Blake Dawson, 13 September 2009.

Health Insurance Amendment (Revival of Table Items) Bill 2009—Letter from Mr Harry Evans, Clerk of the Senate to Senator Cormann, 29 October 2009.

Debate continued.

Question—put and passed.

Ms Roxon 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 Numbers 1 and 10

These amendments have no substantial relationship to the Health Insurance Amendment (Compliance) Bill 2009.

These amendments passed by the Senate would mean that in the event that an item in a table of medical services prescribed in accordance with subsection (1) is disallowed under section 42 of the *Legislative Instruments Act 2003*, the corresponding item, if any, in the previous regulations is taken to apply in place of the disallowed item from the time of disallowance.

The Government has a fiscal responsibility to manage the budget in a sustainable way that provides the best outcome for the taxpayer. This amendment could hinder the Government's ability to ensure sustainability of the medical benefits program in the face of population ageing and growth in the costs of medical technology, prevent the reinvestment of appropriate dividends from progress in medical technology and practice towards needed health reforms and otherwise undermine the Government's ability to deliver the best outcome for the taxpayer.

These amendments are also intended to act retrospectively from 26 October 2009. This is clearly intended to have an effect of increasing the Medicare Benefits Schedule (MBS) fee for items disallowed by the Senate on 28 October 2009. Legal advice to the Government confirms that this effectively would be increasing a standing appropriation and would be construed as appropriating money. Thus, these amendments must be considered to be unconstitutional as contrary to s.53 of the Constitution, which provides inter alia that:

- *Proposed laws appropriating revenue or moneys or imposing taxation shall not originate in the Senate; and*
- *The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.*

On this basis, the House of Representatives does not support these amendments.

On the motion of Ms Roxon, the reasons were adopted.

10 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REPORT—STATEMENT BY MEMBER

Mr Price (Chief Government Whip) presented the following document:

Public Works—Parliamentary Standing Committee—Report—Redevelopment of the Villawood Immigration Detention Facility (6th report of 2009).

Ordered to be made a Parliamentary Paper.

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

11 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REPORT—STATEMENT BY MEMBER

Mr Price (Chief Government Whip) presented the following document:

Public Works—Parliamentary Standing Committee—Report—Referrals made August to October 2009 (7th report of 2009).

Ordered to be made a Parliamentary Paper.

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

12 BILLS REFERRED TO MAIN COMMITTEE

Mr Price (Chief Government Whip), by leave, moved—That the following bills be referred to the Main Committee for further consideration:

Statute Law Revision; and

Aviation Transport Security Amendment (2009 Measures No. 2) 2009.

Question—put and passed.

13 NATIVE TITLE AMENDMENT BILL (NO. 2) 2009—REPORT FROM MAIN COMMITTEE

The Deputy Speaker reported that the bill had been fully considered by the Main Committee and agreed to without amendment, and presented a certified copy of the bill.

Bill agreed to.

On the motion of Mr L. D. T. Ferguson (Parliamentary Secretary for Multicultural Affairs and Settlement Services), by leave, the bill was read a third time.

14 COAL MINING INDUSTRY (LONG SERVICE LEAVE FUNDING) AMENDMENT BILL 2009

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. 267, 16 November 2009, from Her Excellency the Governor-General was announced recommending an appropriation for the purposes of the bill.

Leave granted for third reading to be moved immediately.

On the motion of Mr Clare (Parliamentary Secretary for Employment), the bill was read a third time.

15 ACIS ADMINISTRATION AMENDMENT (APPLICATION) BILL 2009

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 immediately.

On the motion of Dr Emerson (Minister for Competition Policy and Consumer Affairs), the bill was read a third time.

16 AUSTRALIAN CENTRE FOR RENEWABLE ENERGY BILL 2009

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 Katter addressing the House—

17 ADJOURNMENT

It being 8.30 p.m.—The question was proposed—That the House do now adjourn.

Debate ensued.

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

DOCUMENTS

The following documents were deemed to have been presented on 24 November 2009:

Lands Acquisition Act—Statements under section 125—November 2009.

Sydney Airport Curfew Act—Dispensations—2009 No. 10.

ATTENDANCE

All Members attended (at some time during the sitting) except Mr Bevis, Mr Bowen, *Ms A. L. Ellis, Mr Farmer, *Mr Neville and Mr S. F. Smith.

* On leave

I. C. HARRIS
Clerk of the House of Representatives

2008-09

HOUSE OF REPRESENTATIVES
SUPPLEMENT TO VOTES AND PROCEEDINGS

No. 135

MAIN COMMITTEE

MINUTES OF PROCEEDINGS

TUESDAY, 24 NOVEMBER 2009

1 The Main Committee met at 4 p.m.

2 MEMBERS' CONSTITUENCY STATEMENTS

Members' constituency statements being made—

Document

Mr Murphy, by leave, presented the following document:

Climate change—(*Receipt of document as a petition subject to approval by the Standing Committee on Petitions*).

Members' constituency statements continued.

3 CORPORATIONS AND FINANCIAL SERVICES—PARLIAMENTARY JOINT COMMITTEE—MOTION TO TAKE NOTE OF DOCUMENT

The order of the day having been read for the resumption of the debate on the motion of Mr Ripoll—That the House take note of the document (*presented on Monday, 23 November 2009*), *viz.*—

Corporations and Financial Services—Parliamentary Joint Committee—Inquiry into financial products and services in Australia—Report, November 2009—

Debate resumed.

Mr Ripoll, by leave, addressed the Main Committee without closing the debate.

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

4 INFRASTRUCTURE, TRANSPORT, REGIONAL DEVELOPMENT AND LOCAL GOVERNMENT—STANDING COMMITTEE—MOTION TO TAKE NOTE OF DOCUMENT

The order of the day having been read for the resumption of the debate on the motion of Ms King—That the House take note of the document (*presented on Monday, 23 November 2009*), *viz.*—

Infrastructure, Transport, Regional Development and Local Government—Standing Committee—The global financial crisis and regional Australia—Report, November 2009—

Debate resumed.

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

5 HEALTH AND AGEING—STANDING COMMITTEE—MOTION TO TAKE NOTE OF DOCUMENT

The order of the day having been read for the resumption of the debate on the motion of Mr Georganas—That the House take note of the document (*presented on Monday, 23 November 2009*), *viz.*—

Health and Ageing—Standing Committee—Treating impotence: Roundtable forum on impotence medications in Australia—Report, October 2009—

Debate resumed.

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

6 EMPLOYMENT AND WORKPLACE RELATIONS—STANDING COMMITTEE—MOTION TO TAKE NOTE OF DOCUMENT

The order of the day having been read for the resumption of the debate on the motion of Ms Jackson—That the House take note of the document (*presented on Monday, 23 November 2009*), viz.—

Employment and Workplace Relations—Standing Committee—Making it fair: Pay equity and associated issues related to increasing female participation in the workforce—Report, incorporating a minority report, November 2009—

Debate resumed.

Ms Jackson, by leave, addressed the Main Committee without closing the debate.

Debate continued.

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

7 INDUSTRY, SCIENCE AND INNOVATION—STANDING COMMITTEE—MOTION TO TAKE NOTE OF DOCUMENT

The order of the day having been read for the resumption of the debate on the motion of Ms Vamvakinou—That the House take note of the document (*presented on Monday, 23 November 2009*), viz.—

Industry, Science and Innovation—Standing Committee—Seasonal forecasting in Australia—Report, November 2009—

Debate resumed.

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

8 ADJOURNMENT

On the motion of Ms Vamvakinou, the Main Committee adjourned at 8.05 p.m.

The Deputy Speaker fixed 9.30 a.m. tomorrow for the next meeting of the Main Committee.

=====

B. C. WRIGHT
Clerk of the Main Committee