

COMMONWEALTH DIGEST

This Digest is intended to provide lawyers with a key to those questions and Ministerial Statements in the Commonwealth Parliament in which they are most likely to be interested, and it is, of course, selective. It covers the period 8 March 1966 to 28 October 1966, and is compiled from the published debates of the Parliament of the Commonwealth of Australia.

The page references to Parliamentary Debates ('S. Deb.' and 'H.R. Deb.') are to the published debates of the Senate and the House of Representatives, for the first Session of the Twenty-fifth Parliament, fifth and sixth periods.

Australian Capital Territory

On 31 March, the Attorney-General, in answer to a question without notice, stated that legislation for the introduction of strata titles in the Territory was in the course of preparation and would be ready in the not too distant future. The Territory legislation would improve on that already in existence in New South Wales and Victoria. H.R. Deb. 800-801.

On 12 May, the Minister representing the Treasurer in the Senate, in answer to a question without notice, stated that the Government did propose introducing stamp duty on various transactions in the Territory, but details had not yet been finalised. H.R. Deb. 999.

Bankruptcy

On 19 April, the Attorney-General, in reply to a question upon notice, listed details of matters under the Bankruptcy Act which were heard by Federal judges or officials. H.R. Deb. 957.

On 25 August, the Attorney-General, in reply to a question upon notice, stated that it was not possible to announce a date for the commencement of the 1966 Bankruptcy Act until the Rules to the Act were completed and made available to the public. H.R. Deb. 501.

Civil Aviation

On 29 March, the Minister representing the Minister for Civil Aviation in the Senate, in reply to a question upon notice, outlined the terms and conditions of airline passengers' insurance cover. S. Deb. 276-277.

On 5 May, the Minister for Civil Aviation, in reply to a question upon notice, indicated the composition of the expert committee to inquire into parallel timetables of the two major domestic airlines. H.R. Deb. 1500.

On 30 August, the Minister for Civil Aviation, in reply to a question upon notice, outlined the position in respect of State legislation complementary to the Crimes (Aircraft) Act 1963 and uniform State legislation covering surface damage caused by aircraft. H.R. Deb. 575.

On 28 October, the Minister for Civil Aviation, in reply to a question upon notice, stated that, despite dissatisfaction on the part of the United States Civil Aviation authorities, the Australian Government was satisfied with the limits of liability of airlines as fixed by the 1955 Hague Protocol.¹ S. Deb. 1629.

Civil Liberties

On 26 April, the Prime Minister, in reply to a question upon notice, listed those countries which had appointed an ombudsman, but he repeated that the Government saw no reason to create a similar office in Australia as, in the Government's view, the processes of law and of responsible government already provided wide safeguards for civil liberties. H.R. Deb. 1195.

Committee of Attorneys-General

On 25 August, the Attorney-General, in reply to a question upon notice, outlined the progress made by the Standing Committee of Commonwealth and State Attorneys-General towards securing uniform laws in various matters including trade practices, maintenance and adoption, domicile. H.R. Deb. 500-501.

Commonwealth Employees' Compensation Act

On 24 August, the Treasurer, in reply to a question upon notice, defined the progress made towards amending the Act in accordance with previous Government assurances. H.R. Deb. 406.

Commonwealth Law Ministers' Conference

On 13 September, the Attorney-General, in reply to a question upon notice, informed the House that the only decision taken by the Ministers at their London meeting in 1966 which called for administrative or legislative action was the decision to recommend that the various members of the Commonwealth should adopt a uniform legislative code to provide for the extradition of fugitive offenders between Commonwealth countries. H.R. Deb. 831.

Constitutional Law

On 9 March, the Prime Minister, in answer to a question without notice, stated that the Government's legal authorities had advised that section 128 of the Commonwealth Constitution was not mandatory. H.R. Deb. 51.

On 4 May, the Minister representing the Minister for Shipping and Transport in the Senate, in reply to a question upon notice, suggested that the appropriate place for the States to discuss the judicial decisions on 'border-hopping' was the meeting of the Australian Transport

¹ The Hague Protocol of 1955 doubled the previous limit of liability for passengers on international flights to approximately \$15,000.

Advisory Council and not a Commonwealth-State Conference.² S. Deb. 740.

On 10 May, the Prime Minister, in reply to a question upon notice, stated the Government's intention to defer the referendum proposal concerning removal of the reference to Aborigines in section 51 (xxvi.) of the Constitution until the next Parliament.³ H.R. Deb. 1659.

On 18 October, the Treasurer, in answer to a question without notice, refused to express an opinion on the validity or otherwise of the proposed tax to be applied by the Victorian Government to the sale of gas and electricity, and in particular whether it amounted to an excise tax and was therefore beyond the constitutional power of the Victorian Government. H.R. Deb. 1855.

Copyright

On 20 April, the Attorney-General made a Ministerial Statement on the revision of the copyright law which was then in progress.⁴ H.R. Deb. 971.

Crimes of Violence : Compensation

On 20 September, the Minister for Social Services, in answer to a question without notice, outlined the progress made between the Commonwealth and the States towards securing a system of compensation for victims of crimes of violence without their losing Commonwealth social service benefits.⁵ H.R. Deb. 1033.

Extradition

On 25 August, the Minister for External Affairs, in reply to a question upon notice, listed those countries with which Australia had extradition treaties and those treaties which extended to cover Australia's external territories and trust territories. H.R. Deb. 498.

High Court

On 29 September, the Attorney-General, in reply to a question upon notice, gave statistics of High Court appeals during the years 1963-1965. H.R. Deb. 1520-1521.

On 27 October, the Attorney-General, in reply to a question upon notice, listed the numbers of taxation and industrial property matters heard by either single justices or the Full Court of the High Court during 1964-1965. H.R. Deb. 2363.

² See the latest decision in this area: *Freightlines and Construction Holding Limited v. State of New South Wales and Commissioner of Motor Transport* (1967) 40 A.L.J.R. 525.

³ This proposal was passed at a referendum held on 27 May 1967.

⁴ On 18 May 1967 the 1967 Copyright Bill went through the Second Reading stage in the House of Representatives.

⁵ On 12 July 1967 the New South Wales Attorney-General announced that legislation providing for compensation to victims of criminal violence would soon be introduced in that State and it was hoped that it would be in operation by the new year.

International Conventions, Treaties

On 30 August, the Minister for Works and Acting Minister for External Affairs laid on the table of the Senate the texts of a number of treaties to which Australia had recently become a party or was considering becoming a party. S. Deb. 152.

On 27 October, the Minister for External Affairs, in reply to a question upon notice, gave detailed information relating to a number of recent conventions and treaties to which Australia was a party. H.R. Deb. 2366-2367.

Law Reform

On 30 August, the Attorney-General, in reply to a question upon notice, outlined the progress made towards law reform and uniformity in the areas of trade practices and criminal law, together with progress made in the introduction of a new Acts Interpretation Act, a new Designs Act and a Cheques Act. H.R. Deb. 571-572.

Legal Aid

On 27 October, the Attorney-General, in reply to a question upon notice, set out the results of Commonwealth-State communications on legal aid and the forms of such aid which were then available. H.R. Deb. 2369-2370.

Legal Service Bureau

On 14 September, the Attorney-General made a Ministerial Statement on the legal assistance available to national servicemen through the facilities of the Legal Service Bureau. H.R. Deb. 847-848.

On 27 October, the Attorney-General, in reply to a question upon notice, listed the persons to whom, and the matters in which the Legal Service Bureau was authorized to furnish legal advice. H.R. Deb. 2361.

Matrimonial Law

On 5 May, the Minister for External Affairs, in reply to a question upon notice, outlined Australia's treaty arrangements for the reciprocal enforcement of maintenance orders. H.R. Deb. 1593.

On 11 May, the Attorney-General, in answer to a question without notice, noted the difficulty often faced by migrants in proving the death of a former spouse. He further stated that he would not issue directives to allow the acceptance of statutory declarations as proof of marriage. H.R. Deb. 1670-1671.

On 27 October, the Attorney-General, in reply to a question upon notice, stated what he thought to be the possibilities of giving greater publicity to the work of marriage guidance councils. H.R. Deb. 2368-2369.

On 27 October, the Attorney-General, in reply to a question upon notice, provided statistics of marriage dissolutions in Australia and

defended the present Australian system of court litigation for domestic issues indicating that provisions in the Matrimonial Causes Act fully covered such matters. H.R. Deb. 2370-2371.

Military Law

On 24 August, the Minister representing the Minister for Defence in the Senate, in reply to a question upon notice, set out the circumstances in which Imperial legislation applied to Australian Forces. He stated that defence legislation had been under constant review and that it was hoped to replace Imperial legislation by Australian legislation in the near future. S. Deb. 42.

Off Shore Jurisdiction

On 16 March, the Attorney-General, in answer to a question without notice, outlined the proposed scheme of Commonwealth-State 'mirror' legislation to control off shore oil and gas deposits off the coast of Victoria. H.R. Deb. 273-274.

On 29 March, the Attorney-General, in answer to a question without notice, gave details of progress made towards the scheme of joint Commonwealth-State legislation and described the general provisions of the proposed Acts. H.R. Deb. 664-665.

Probate and Estate Duty

On 31 March, the Treasurer, in answer to a question without notice, stated that the valuation of rural properties for probate and estate duties was based upon a system of comparative land values, as shown by land sales in that area, and not upon an estimation of the productive value of the holding. H.R. Deb. 798-799.

On 28 October, the Prime Minister, in response to a question without notice, explained the policy reasons behind the system of calculating probate and estate duties upon market value as derived from prices at district land sales. H.R. Deb. 2436.

Shipping

On 4 May, the Minister for Shipping and Transport, in reply to a question upon notice, stated that the Government did not contemplate amending the Constitution to give it more extensive powers over shipping. H.R. Deb. 1497.

Taxation

On 10 March, the Treasurer, in answer to a question without notice, expressed an opinion that the total amount of money spent by a company on scientific research was deductible under section 73A. of the Income Tax Assessment Act, provided the money had been spent for the purposes of the company's business. H.R. Deb. 115.

On 24 March, the Treasurer, in reply to a question upon notice, confirmed that an anomaly existed in relation to zone allowances under the Income Tax Assessment Act. He added that this was because no suitable alternative course had been found, but the situation was under constant review. H.R. Deb. 657.

On 10 May, the Treasurer, in reply to a question upon notice, stated that according to general principles of income tax law and the decision of the High Court in *Herald and Weekly Times Ltd v. Federal Commissioner of Taxation*⁶ a newspaper proprietor could claim a tax deduction in respect of costs incurred in defending a libel action on his satisfying certain conditions. The same tests of deductibility applied to any taxpayer who however, in the opinion of the Treasurer, would find it difficult to satisfy the necessary conditions. H.R. Deb. 1662.

On 13 May, the Treasurer, in reply to a question upon notice, listed those countries with which Australia had made double taxation agreements. H.R. Deb. 1902.

Territorial Waters

On 3 May, the Minister representing the Prime Minister in the Senate, in reply to a question upon notice, gave a brief outline of Australia's control over its territorial waters and mentioned the possibility of an extension of these limits from three to twelve miles with regard to control over fisheries. S. Deb. 694.

Territories

On 31 March and 21 April, the Minister for Territories made Ministerial Statements upon future constitutional development in Papua and New Guinea. H.R. Deb. 805-806, H.R. Deb. 1087-1089.

Trade Practices

On 13 May, the Attorney-General, in reply to a question upon notice, outlined the action that had been taken by the Government to persuade the States to pass legislation complementary to the Commonwealth Trade Practices Act. At that stage the Governments of Victoria, Queensland and Western Australia had declined to pass such legislation, while the New South Wales Government was examining the matter and the South Australian Government had not replied. Only the Tasmanian Government had definitely agreed to pass complementary legislation.⁷ H.R. Deb. 1893.

On 18 August, the Attorney-General made a Ministerial Statement announcing the appointment of Mr R. M. Bannerman to the office of Commissioner of Trade Practices. H.R. Deb. 214.

⁶ (1932) 48 C.L.R. 113.

⁷ The Tasmanian Trade Practices Act 1965-1967 referred power to the Commonwealth under section 51 (xxxvii.) of the Commonwealth Constitution.

On 20 October, the Minister representing the Attorney-General in the Senate, in reply to a question upon notice, said that although the Trade Practices Act had not yet been proclaimed, some progress had been made upon the appointment of personnel.⁸ S. Deb. 1291.

On 28 October, the Prime Minister, in reply to a question upon notice, announced that the South Australian Government had advised the Commonwealth of its intention to introduce legislation complementary to the Trade Practices Act.⁹ H.R. Deb. 2433.

Vehicle Safety Standards

On 5 May, the Minister for Shipping and Transport, in answer to a question without notice, said that vehicle safety standards would remain a responsibility of the States. H.R. Deb. 1505.

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⁸ On 17 July 1967 the Attorney-General announced that the Trade Practices Act would come into force on 1 September 1967.

⁹ The South Australian Government subsequently failed to get the proposed legislation through both Houses of Parliament.