

2002-03

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**VOTES AND PROCEEDINGS**

No. 112

TUESDAY, 19 AUGUST 2003

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

**2 QUESTIONS**

Questions without notice being asked—

*Paper*

Mr Costello (Treasurer) presented the following paper:

Cash economy facing increased scrutiny—Media release by Australian Taxation Office, 18 August 2003.

Questions without notice continuing—

*Papers*

Mr G. M. O'Connor, by leave, presented the following papers:

Traffic infringement—Letters from Hon. Wilson Tuckey, MP, Minister for Regional Services, Territories and Local Government, to the Hon. Patrick Conlon, MP, Minister for Government Enterprise, Energy, Police and Emergency Services, South Australia—

25 September 2002.

11 November 2002.

16 January 2003.

Questions without notice continued.

**3 PAPER**

The following paper was presented:

Australian Competition and Consumer Commission—Telecommunications reports—2001-02—Report 1: Telecommunications competitive safeguards; Report 2: Changes in prices paid for telecommunications services in Australia; Report 3: Telstra's compliance with price control arrangements.

**4 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—BARGAINING CAPACITY AND LIVING STANDARDS**

The House was informed that Mr Emerson had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The Government's sustained attacks on the bargaining capacity and living standards of working Australians".

The proposed discussion having received the necessary support—

Mr Emerson addressed the House.

Discussion ensued.

*Member ordered to withdraw*

At 4.13 p.m. the Member for Rankin (Mr Emerson) was ordered, under standing order 304A, to withdraw from the House for one hour for continuing to interject after a warning had been given from the Chair, and he accordingly withdrew from the Chamber.

Discussion continued.

Discussion concluded.

## 5 MESSAGE FROM THE SENATE

Message No. 312, 18 August 2003, from the Senate was reported acquainting the House of the following resolution agreed to by the Senate:

- (1) That, in accordance with section 54 of the *Parliamentary Service Act 1999*, the Senate resolves that:
  - (a) the Joint House Department, Department of the Parliamentary Library and Department of the Parliamentary Reporting Staff are abolished with effect from 31 January 2004; and
  - (b) a new joint service department, to be called the 'Department of Parliamentary Services' be established from 1 February 2004 to fulfil all the functions of the former joint departments; and supports the Presiding Officers in the following endeavours:
    - (c) to reinforce the independence of the Parliamentary Library by strengthening the current role of the Library committees of both Houses of Parliament;
    - (d) to bring forward amendments to the *Parliamentary Service Act 1999* to provide for a statutory position of Parliamentary Librarian within the new joint service department and conferring on the Parliamentary Librarian direct reporting responsibilities to the Presiding Officers and to the Library committees of both Houses of Parliament;
    - (e) to ensure that the resources and services to be provided to the Parliamentary Library in the new joint service department be specified in an annual agreement between the Departmental Secretary and the Parliamentary Librarian, approved by the Presiding Officers following consideration by the Library committees of both Houses of Parliament; and
    - (f) to consider, after the establishment of the joint service department, that department providing human resources and financial transaction-processing activities for all the Parliamentary departments, subject to such an arrangement being proven to be both cost-effective and efficient.
- (2) That any savings achieved by the amalgamation may be used to offset increases in costs of security measures approved by the Presiding Officers for Parliament House, but if those increases in costs exceed those savings, the appropriations for the Parliamentary departments are to be supplemented for the excess.
- (3) That any redundancies arising from the amalgamation must be of a voluntary nature and that no staff will be forced to take involuntary redundancies as a result of the amalgamation.

## 6 BILLS REFERRED TO MAIN COMMITTEE

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

Education Services for Overseas Students (Registration Charges) Amendment 2003;

Communications Legislation Amendment (No. 3) 2003;

Legislative Instruments 2003;

Legislative Instruments (Transitional Provisions and Consequential Amendments) 2003;

ACIS Administration Amendment 2003; and

Customs Tariff Amendment (ACIS) 2003.

Question—put and passed.

## 7 SELECTION COMMITTEE—REPORT

Mr Causley (Chair) presented the following paper:

Selection Committee—Report relating to the consideration of committee and delegation reports and private Members' business on Monday, 8 September 2003.

## 8 FAMILY AND COMMUNITY AFFAIRS—STANDING COMMITTEE

The House was informed that the Chief Opposition Whip had nominated Mr Price to be a member of the Standing Committee on Family and Community Affairs in place of Mr Edwards.

Mr Abbott (Leader of the House), by leave, moved—That Mr Edwards be discharged from the Standing Committee on Family and Community Affairs and that, in his place, Mr Price be appointed a member of the committee.

Question—put and passed.

#### 9 POSTPONEMENT OF ORDERS OF THE DAY

Ordered—That orders of the day Nos 1 and 2, government business, be postponed until a later hour this day.

#### 10 WORKPLACE RELATIONS AMENDMENT (TRANSMISSION OF BUSINESS) BILL 2002—SENATE'S AMENDMENTS

The order of the day having been read for the consideration of the amendments made by the Senate—

Mr Abbott (Minister for Employment and Workplace Relations) moved—That the amendments be disagreed to.

Debate ensued.

Question—put.

The House divided (the Deputy Speaker, Mr Jenkins, in the Chair)—

#### AYES, 78

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

#### NOES, 60

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

\* Tellers

And so it was resolved in the affirmative.

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

*Reasons of the House of Representatives for disagreeing to the amendments of the Senate  
Senate Amendment Numbers (1) and (2)*

These amendments respectively delete items 1 and 2 of the Bill. These items made clear (where there is room for doubt) that people and organisations involved in a transmission of certified agreement matter before the Australian Industrial Relations Commission (AIRC) could appeal the outcome to the Full Bench of the AIRC.

The House of Representatives rejects these amendments, as they may deprive interested persons and organisations of important procedural rights.

*Senate Amendment Number (3)*

This amendment has two elements. The first element deletes item 4 (a legislative note that cross-references items 1 and 2 with section 494 of the *Workplace Relations Act 1996*), and substitutes a new item. The new item 4 inserts a test in section 149 of the *Workplace Relations Act* to assist the AIRC in identifying whether there has been a transmission of business so as to make an employer bound to an award. The amended test departs from the test laid down by the High Court of Australia in *PP Consultants v Finance Sector Union of Australia* (2000) 201 CLR 648. The House of Representatives does not accept that there are valid reasons for overturning the High Court's preferred approach to transmission of business.

In addition, Senate amendment number (3) requires the AIRC to consider relative disadvantage for employees in the transmitted business for the purposes of making an order under section 149. The House of Representatives does not accept that such mandatory considerations are needed, and notes that this amendment applies to awards when the Bill is confined to the legal relationship created under certified agreements.

Accordingly, the House of Representatives rejects this amendment.

*Senate Amendment Numbers (4) and (8)*

Respectively, Senate amendment numbers (4) and (8) insert a new section 149A and section 170MBB into the *Workplace Relations Act*. These new sections would make an award binding on an employer who operates a ship that has moved from operating under a coasting trade licence to a continuing voyage permit under the *Navigation Act 1912*.

The House is of the view that Australia should have an internationally competitive shipping industry that supports Australian trade at home and abroad. These amendments are contrary to this objective. The House of Representatives rejects these amendments.

*Senate Amendment Number (5)*

This amendment deletes items 6 to 9 of the Bill which make clear that, following a transmission of business, a new employer is bound by a certified agreement 'subject to any order of the Commission made under subsection 170MBA(2)'. Instead, the Senate has substituted a test in section 170MB to assist the AIRC in identifying whether there has been a transmission of business so as to make an employer bound to a certified agreement. The House of Representatives rejects this amendment for the same reasons that it disagrees with Senate amendment number (3).

*Senate Amendment Number (6)*

This amendment would require the AIRC, where there is no agreement on a draft transmission of business order, to only make such an order if it is satisfied that the affected employees would not be disadvantaged by it.

The House of Representatives believes that this amendment is unworkable in its present form and therefore rejects it.

*Senate Amendment Number (7)*

This amendment would allow only the incoming employer to make an application for a transmission of business order before the business has transmitted. The Senate amendment is misconceived. An incoming employer is not bound by the certified agreement until the business has transmitted, and has no legally enforceable rights in relation to the certified agreement until transmission has occurred. The

House believes that it is common sense for only the employer who is bound by the certified agreement, in possession of the relevant business information concerning the business, and who is contemplating a transmission of business, to have the right to seek an order from the AIRC before the business has transmitted.

The House of Representatives rejects this amendment.

*Senate Amendment Number (9)*

This amendment would delete item 11, which extends the Bill to Part XV of the Workplace Relations Act (Matters Referred by Victoria). The effect of the Senate amendment is to deny a limited number of Victorian employers, and their employees, the opportunity of obtaining orders from the AIRC to address anomalies that may arise from the transmission of certified agreements.

The House of Representatives rejects this amendment.

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

#### 11 WORKPLACE RELATIONS AMENDMENT (CODIFYING CONTEMPT OFFENCES) 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—*And on the amendment moved thereto by Mr Emerson, viz.*—That all words after “That” be omitted with a view to substituting the following words: “the House declines to give the Bill a second reading and condemns the Government for:

- (1) bringing divisive and unnecessary legislation before this House aimed at inflaming conflict in Australian workplaces; and
- (2) failing to provide adequate collective bargaining rights for working Australians, and instead proposing legislation that would make the settlement of industrial disputes more difficult”—

Debate resumed.

Amendment negatived.

Question—That the Bill be now read a second time—put and passed—Bill read a second time.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Abbott (Minister for Employment and Workplace Relations), the Bill was read a third time.

#### 12 TREATIES—JOINT STANDING COMMITTEE—REPORT—STATEMENTS BY MEMBERS—MOTION TO TAKE NOTE OF PAPER

Ms J. I. Bishop (Chair) presented the following papers:

Treaties—Joint Standing Committee—Report 53—Treaties tabled in May and June 2003: Investments—Sri Lanka; Social Security Agreements—Belgium, Chile and Slovenia; International Unification Agreement—Timor-Leste; International Labour Organization Conventions; Medical Treatment for Temporary Visitors—Norway; Highly Migratory Fish Stocks in the Western and Central Pacific Ocean; Fulbright Agreement—United States of America—

Report, August 2003.

Evidence received by the committee.

Minutes of proceedings.

Ordered—That the report be printed.

Ms J. I. Bishop and Mr Wilkie, by leave, made statements in connection with the report.

Ms J. I. Bishop, by leave, moved—That the House take note of the report.

Ms J. I. Bishop was granted leave to continue her speech when the debate is resumed.

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

#### 13 TELSTRA (TRANSITION TO FULL PRIVATE OWNERSHIP) 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—

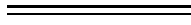
Debate resumed.

**14 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.

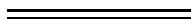
**PAPERS**

The following papers were deemed to have been presented on 19 August 2003:

A New Tax System (Family Assistance) Act—Determination—2003 Family Assistance (Meeting the immunisation requirements).

Social Security Act—Determination—2003 Child Disability Assessment Amendment.

Telecommunications (Consumer Protection and Service Standards) Act—Telecommunications (Customer Service Guarantee) Direction No. 1 of 1999 (Amendment No. 1 of 2003).

**ATTENDANCE**

All Members attended (at some time during the sitting) except Ms Ellis, Mr Howard, Mr I. E. Macfarlane\* and Mrs Moylan.

\* On leave



**I. C. HARRIS**

Clerk of the House of Representatives

2002-03

**HOUSE OF REPRESENTATIVES**  
**SUPPLEMENT TO VOTES AND PROCEEDINGS**

No. 112

**MAIN COMMITTEE**

**MINUTES OF PROCEEDINGS**

**TUESDAY, 19 AUGUST 2003**

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1 The Main Committee met at 4.30 p.m.

**2 SOLOMON ISLANDS—PAPER—MOTION TO TAKE NOTE OF PAPER**

The order of the day having been read for the resumption of the debate on the motion of Mr Abbott (Minister for Employment and Workplace Relations)—That the House take note of the paper (*presented on 12 August 2003*), viz.:

Copy of the Prime Minister's motion on the Solomon Islands—  
Debate resumed.

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*Suspension of sitting*

At 4.55 p.m., a division having been called in the House, the proceedings were suspended.

*Resumption of sitting*

At 5.09 p.m., the proceedings were resumed.

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Debate continued.

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

**3 ADJOURNMENT**

On the motion of Mrs Elson, the Main Committee adjourned at 7.26 p.m.

The Deputy Speaker fixed tomorrow at 9.40 a.m. for the next meeting of the Main Committee.

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**B. C. WRIGHT**  
Clerk of the Main Committee