

1996

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 29

WEDNESDAY, 11 SEPTEMBER 1996

1 The House met, at 9.30 a.m., pursuant to adjournment. The Acting Speaker (Mr Nehl) took the Chair, and read Prayers.

2 **AUSTRALIAN PARLIAMENTARY DELEGATION—REPORT—STATEMENTS BY MEMBERS**

Mr Jenkins presented the following paper:

Australian Parliamentary Delegation to the 16th ASEAN Inter-Parliamentary Organisation (AIPO) Conference, Singapore, incorporating a bilateral visit to Thailand, September 1995—Report.

Mr Jenkins and Mr McArthur, by leave, made statements in connection with the report.

3 **HIGHER EDUCATION FUNDING AMENDMENT BILL (NO. 1) 1996**

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.

It being 2 p.m., the debate was interrupted in accordance with standing order 101A, and the resumption of the debate made an order of the day for a later hour this day.

4 **QUESTIONS**

Questions without notice were asked.

5 **PAPERS**

The following papers were presented:

Advance to the Minister for Finance—
Statement for August 1996.

Supporting applications of issues from the Advance during August 1996.

Agriculture and Resource Management Council of Australia and New Zealand—Record and resolutions—7th meeting, Sydney, 3 May 1996.

Australian Security Intelligence Organization Act—Security Appeals Tribunal—Final report, for period 1 July to 16 December 1995.

Horticultural Policy Council Act—Horticultural Policy Council—Final report, for 1995-96.

Telecommunications (Interception) Act—Report for 1994-95.

Treaty—*Bilateral with national interest analysis*—Agreement between the Government of Australia and the Government of Malta relating to Air Services, done at Canberra on 11 September 1996.

6 VIETNAM VETERANS' DELEGATION TO VIETNAM—MINISTERIAL STATEMENT

Mr Scott (Minister for Veterans' Affairs), by leave, made a ministerial statement on a Vietnam veterans' delegation to Vietnam during August 1996.

Mr Martin, by leave, also made a statement on the matter.

7 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—TELSTRA SALE

The House was informed that Mr M. J. Ferguson had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The consequences for Telstra workers, including massive job losses and the likelihood that cheap foreign labour will be used to replace Australian workers, following the sale of Telstra".

The proposed discussion having received the necessary support—

Mr M. J. Ferguson addressed the House.

Discussion ensued.

Discussion concluded.

8 LINDSAY ELECTORAL DIVISION—ORDER OF THE COURT OF DISPUTED RETURNS

The Acting Clerk presented a letter which he had received from the Chief Executive and Principal Registrar of the High Court, forwarding in accordance with section 369 of the *Commonwealth Electoral Act 1918*, an order made this day by the High Court of Australia sitting as the Court of Disputed Returns. The letter and order are as follows:

11 September 1996

Mr Ian Harris

Acting Clerk

House of Representatives

Parliament House

CANBERRA ACT 2600

Dear Mr Harris

Re: Free v. Kelly & Anor

(No. S94 of 1996)

In accordance with section 369 of the *Commonwealth Electoral Act 1918*, I enclose a copy of the order made today by the High Court of Australia, sitting as the Court of Disputed Returns, after the trial of the petition in the matter of *Free v. Kelly & Anor.*

Yours sincerely

CHRISTOPHER M DOOGAN

IN THE HIGH COURT OF AUSTRALIA
SITTING AS THE COURT OF
DISPUTED RETURNS

SYDNEY OFFICE OF THE REGISTRY

No. S94 of 1996

BETWEEN

ROSS VINCENT FREE

Petitioner

AND

JACQUELINE MARIE KELLY

First Respondent

AND

AUSTRALIAN ELECTORAL
COMMISSION

Second Respondent

ORDER

Justice: Chief Justice Brennan
Date and place of hearing: 5 September 1996 in Canberra
Date of Order: 11 September 1996
Where Made: Canberra
Appearances: J A McCarthy QC
J Hatzistergos
(for the petitioner)
T E F Hughes QC
T D F Hughes
(for the 1st respondent)
S C Kenny
(for the 2nd respondent)
B M Selway QC
(Solicitor-General for the State of South Australia)
(Intervening on behalf of the Attorney-General for the State of South Australia)

IT IS ORDERED THAT:

1. Declare that the first respondent was not capable of being chosen as a member of the House of Representatives for the Division of Lindsay at the election held on 2 March 1996.

2. Declare that the first respondent was not duly elected as a member of the House of Representatives for the Division of Lindsay at the election held on 2 March 1996.
3. Declare that the election for the Division of Lindsay held on 2 March 1996 was absolutely void.
4. The first respondent pay two-thirds of the petitioner's costs.

CAROLINE ROGERS

SENIOR REGISTRAR

9 PRIMARY INDUSTRIES, RESOURCES AND RURAL AND REGIONAL AFFAIRS—STANDING COMMITTEE

The House was informed that the Chief National Party Whip had nominated Mr Cobb to be a member of the Standing Committee on Primary Industries, Resources and Rural and Regional Affairs, in place of Mr Forrest.

10 INCOME TAX RATES AMENDMENT (FAMILY TAX INITIATIVE) BILL 1996

Mr Costello (Treasurer) presented a Bill for an Act to amend the *Income Tax Rates Act 1986* for the purposes of a family tax initiative, and for related purposes.

Bill read a first time.

Mr Costello moved—That the Bill be now read a second time.

Paper: Mr Costello presented an explanatory memorandum to the Bill.

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

11 FAMILY (TAX INITIATIVE) BILL 1996

Mr Ruddock (Minister representing the Minister for Social Security) presented a Bill for an Act to provide for a family tax initiative, and for related purposes.

Bill read a first time.

Mr Ruddock moved—That the Bill be now read a second time.

Paper: Mr Ruddock presented an explanatory memorandum to the Bill.

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

12 PROCEEDS OF CRIME AMENDMENT BILL 1996

Mr Williams (Attorney-General and Minister for Justice), pursuant to notice, presented a Bill for an Act to amend the *Proceeds of Crime Act 1987*.

Bill read a first time.

Mr Williams moved—That the Bill be now read a second time.

Paper: Mr Williams presented an explanatory memorandum to the Bill.

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

13 FAMILY LAW AMENDMENT BILL 1996

Mr Williams (Attorney-General and Minister for Justice), pursuant to notice, presented a Bill for an Act to amend the *Family Law Act 1975*.

Bill read a first time.

Mr Williams moved—That the Bill be now read a second time.

Paper: Mr Williams presented an explanatory memorandum to the Bill.

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

14 STATES GRANTS (GENERAL PURPOSES) AMENDMENT BILL 1996

Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister), for Mr Costello (Treasurer), pursuant to notice, presented a Bill for an Act to amend the *States Grants (General Purposes) Act 1994*.

Bill read a first time.

Mr Miles moved—That the Bill be now read a second time.

Paper: Mr Miles presented an explanatory memorandum to the Bill.

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

15 AUSTRALIAN CAPITAL TERRITORY GOVERNMENT SERVICE (CONSEQUENTIAL PROVISIONS) AMENDMENT BILL 1996—REPORT FROM MAIN COMMITTEE

The Deputy Speaker reported that the Australian Capital Territory Government Service (Consequential Provisions) Amendment Bill 1996 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 A. P. Thomson (Parliamentary Secretary to the Minister for Foreign Affairs), by leave, the Bill was read a third time.

16 LEGISLATIVE INSTRUMENTS BILL 1996—REPORT FROM MAIN COMMITTEE

The Deputy Speaker reported that the Legislative Instruments Bill 1996 had been fully considered by the Main Committee and agreed to with amendments (*see item No. 3, Minutes of Proceedings of the Main Committee*), and presented a certified copy of the Bill together with a schedule of amendments.

Amendments made by the Main Committee agreed to.

Bill, as amended, agreed to.

On the motion of Mr A. P. Thomson (Parliamentary Secretary to the Minister for Foreign Affairs), by leave, the Bill was read a third time.

17 BANKRUPTCY LEGISLATION AMENDMENT BILL 1996—REPORT FROM MAIN COMMITTEE

The Deputy Speaker reported that the Bankruptcy Legislation Amendment Bill 1996 had been fully considered by the Main Committee and agreed to with amendments (*see item No. 4, Minutes of Proceedings of the Main Committee*), and presented a certified copy of the Bill together with a schedule of amendments.

Amendments made by the Main Committee agreed to.

Bill, as amended, agreed to.

On the motion of Mr A. P. Thomson (Parliamentary Secretary to the Minister for Foreign Affairs), by leave, the Bill was read a third time.

18 MESSAGE FROM THE SENATE—ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION AMENDMENT BILL 1996

The following message from the Senate was reported:

Message No. 62

Mr Acting Speaker

The Senate returns to the House of Representatives the bill for **An Act relating to the Aboriginal and Torres Strait Islander Commission, and for related purposes**, and acquaints the House that the Senate has agreed to the bill with the amendments indicated by the annexed schedule, in which amendments the Senate requests the concurrence of the House of Representatives.

MARGARET REID

President

The Senate

11 September 1996

Ordered—That the amendments be considered forthwith.

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

- (1) Clause 2, page 1 (line 9), omit “subsection (2)”, substitute “this section”.
- (2) Clause 2, page 1 (after line 10), after subclause (1), insert:
 - (1A) If this Act does not receive the Royal Assent on or before 12 September 1996, item 3 of Schedule 1 commences on a day to be fixed by Proclamation.
 - (1B) If item 3 of Schedule 1 does not commence under subsection (1A) within 6 months after the day on which this Act receives the Royal Assent, that item commences on the first day after the end of that period.
- (3) Clause 2, page 2 (after line 2), at the end of the clause, add:
 - (3) Schedule 3 commences on the day, or the earliest day, on which the Minister appoints a person as a Commissioner after the person has been elected in the 1999 round of Regional Council elections.

- (4) Schedule 1, items 1 and 2, page 3 (lines 5 to 15), omit the items.
- (5) Schedule 1, page 3 (after line 8), after item 1, insert:

1A Subsection 4(1) (definition of *Commission Chairperson*)

Repeal the definition, substitute:

Commission Chairperson means the Chairperson of the Commission referred to in paragraph 27(1)(a).

1B Subsection 4(1)

Insert:

elected Commissioner means a member of the Commission referred to in paragraph 27(1)(b).

1C Subsection 4(1)

Insert:

non-elected Commissioner means the member of the Commission referred to in paragraph 27(1)(c).

- (6) Schedule 1, page 3 (before line 19), after item 3, insert:

3A Transitional

- (1) This item applies only if this Act receives the Royal Assent on or before 12 September 1996.
- (2) The amendment made by item 3 extends to the round of Regional Council elections for which the election period started on 12 July 1996 (the *current round of Regional Council elections*).
- (3) The Regional Council Election Rules are amended by repealing Schedule 1 and substituting the Schedule set out at the end of this item.
- (4) The amendment of the Regional Council Election Rules made by subitem (3) is taken to have been duly made by the Minister under section 113 of the *Aboriginal and Torres Strait Islander Commission Act 1989* and may be amended or repealed by further rules made by the Minister under that section.
- (5) Despite paragraph 100(b) of the *Aboriginal and Torres Strait Islander Commission Act 1989*, the current round of Regional Council elections is to be conducted by the Australian Electoral Commission in accordance with the Regional Council Election Rules referred to in that paragraph as amended by subitem (3).
- (6) If:
 - (a) before the commencement of this Act, the authorised electoral officer, under subsection 107(1) of the *Aboriginal and Torres Strait Islander Commission Act*

1989, declared, in relation to the current round of Regional Council elections, a candidate or candidates who nominated for election as the member or members for a Regional Council ward to be duly elected; and

- (b) the number of candidates nominated for election as the member or members for that Regional Council ward was greater than the number that, under that Act as amended by this Act, is the designated number in relation to the ward;

the declaration is taken not to have been made and a poll must be held.

SCHEDULE TO BE INSERTED IN REGIONAL COUNCIL
ELECTION RULES

SCHEDULE 1

Rule 2A

WARDS

Column 1 Region that contains the following place	Column 2 Ward	Column 3 Designated number for ward	Column 4 Map depicting boundaries of wards
PART 1 - NEW SOUTH WALES			
Coffs Harbour	Gattang	7	ATSIC Coffs
	Northern Rivers	5	Harbour Region - ATSIC 96/1
	Tamworth	5	ATSIC
	Tingha	3	Tamworth
	Quirindi	4	Region - ATSIC 96/2
Sydney	Sydney	12	ATSIC Sydney Region - ATSIC 96/3
Bourke	Wangkumara	7	ATSIC
	NSW Far West	3	Bourke Region - ATSIC 96/4

Column 1 Region that contains the following place	Column 2 Ward	Column 3 Designated number for ward	Column 4 Map depicting boundaries of wards
Wagga	Deniliquin	1	ATSIC Wagga
Wagga	Wirawongam	7	Wagga Region
	Murrumbidgee/ Lachlan	4	- ATSIC 96/5
Queanbeyan	Bogong	5	ATSIC
	Umbara	6	Queanbeyan Region - ATSIC 96/6
PART 2 - NORTHERN TERRITORY			
Katherine	Ward 1	1	ATSIC
	Ward 2	2	Katherine
	Ward 3	3	Region -
	Ward 4	2	ATSIC 96/7
	Ward 5	3	
Jabiru	Tiwi Islands	3	ATSIC Jabiru
	Jabiru	4	Region -
	Coburg	1	ATSIC 96/8
	Wadeye	2	
	Daly River	1	
Nhulunbuy	West	5	ATSIC
	East	3	Nhulunbuy
	South	3	Region - ATSIC 96/9
Darwin	Ward 1	6	ATSIC
	Ward 2	3	Darwin
	Ward 3	1	Region -
	Ward 4	1	ATSIC 96/10
Alice Springs	Alice Springs	10	ATSIC Alice Springs Region - ATSIC 96/11

Column 1 Region that contains the following place	Column 2 Ward	Column 3 Designated number for ward	Column 4 Map depicting boundaries of wards
Tennant Creek	Tennant Creek	9	ATSIC Tennant Creek Region - ATSIC 96/12
Apatula	Papunya Impiyara Arltarpilta	6 1 3	ATSIC Apatula Region - ATSIC 96/13
PART 3 - QUEENSLAND			
Cooktown	Cooktown	10	ATSIC Cooktown Region - ATSIC 96/14
Mt Isa	Burke Morningson Mount Isa South East Carpentaria	2 1 4 2 1	ATSIC Mt Isa Region - ATSIC 96/15
Brisbane	Brisbane Brisbane North Brisbane South	6 2 4	ATSIC Brisbane Region - ATSIC 96/16
Cairns	Cairns	12	ATSIC Cairns Region - ATSIC 96/17
Townsville	Townsville Palm Island Mackay Ingham Charters Towers	4 2 4 1 1	ATSIC Townsville Region - ATSIC 96/18
Roma	Roma	11	ATSIC Roma Region - ATSIC 96/19

Column 1 Region that contains the following place	Column 2 Ward	Column 3 Designated number for ward	Column 4 Map depicting boundaries of wards
Rockhampton	Rockhampton	11	ATSIC Rockhampton Region - ATSIC 96/20
PART 4 - SOUTH AUSTRALIA			
Adelaide	Kaurna	8	ATSIC
	Murrundi	4	Adelaide Region - ATSIC 96/21
Port Augusta	Amata	2	ATSIC Port
	Indulkana	2	Augusta
	Coober Pedy	1	Region -
	Nulla Wanga	4	ATSIC 96/22
	Tjuta South		
	Nulla Wanga	1	
	Tjuta North		
Ceduna	Wangka Pulka North	4	ATSIC Ceduna
	Wangka Pulka South	3	Region - ATSIC 96/23
	Kakarrara	2	
	Wilurrara		
PART 5 - TASMANIA			
Hobart	Hobart	12	ATSIC Hobart Region - ATSIC 96/24
PART 6 - VICTORIA			
Wangaratta	Gippsland	3	ATSIC
	Goulburn	3	Wangaratta
	Valley	5	Region -
	East		ATSIC 96/26
	Melbourne		
Ballarat	Tumbukka	7	ATSIC
	West	5	Ballarat
	Melbourne		Region - ATSIC 96/27

Column 1 Region that contains the following place	Column 2 Ward	Column 3 Designated number for ward	Column 4 Map depicting boundaries of wards
PART 7 - WESTERN AUSTRALIA			
Perth	Perth	12	ATSIC Perth Region - ATSIC 96/28
Narrogin	Moora	1	ATSIC
	Northam	2	Narrogin
	Bunbury	3	Region -
	Narrogin	1	ATSIC 96/29
Albany	Albany	3	
	Jayida Buru	5	ATSIC Derby
	Bandaral Ngadu	5	Region - ATSIC 96/30
Kununurra	Wunan	5	ATSIC
	Yarleyel	3	Kununurra
	Kutjungka	2	Region - ATSIC 96/31
Broome	Broome	5	ATSIC
	Outer Areas	4	Broome Region - ATSIC 96/32
South Hedland	Port Hedland	4	ATSIC South
	Roebourne	3	Hedland
	Ashburton	1	Region -
	East Pilbara	2	ATSIC 96/33
Geraldton	Geraldton	10	ATSIC Geraldton Region - ATSIC 96/34
Kalgoorlie	Town	4	ATSIC
	North	2	Kalgoorlie
	South	3	Region - ATSIC 96/35

Column 1 Region that contains the following place	Column 2 Ward	Column 3 Designated number for ward	Column 4 Map depicting boundaries of wards
Warburton	Western	4	ATSIC
	Desert	4	Warburton
	Warburton	1	Region -
	Cundeelee		ATSIC 96/36

- (7) Schedule 1, item 4, page 4 (after line 11), at the end of section 21A, add:
- (3) The land is taken, for the purposes of the *Aboriginal Land Rights (Northern Territory) Act 1976*, to be alienated Crown land in which all estates and interests not held by the Crown are held on behalf of Aboriginals.
- (8) Schedule 1, page 4 (after line 11), after item 4, insert:

4A Section 27

Repeal the section, substitute:

27 Constitution of the Commission

- (1) The Commission consists of 19 members, as follows:
- (a) a Chairperson;
 - (b) 17 members, who are to be the persons elected under Division 7 of Part 3 to represent the several zones;
 - (c) 1 other member.
- (2) The members are to be appointed by the Minister.
- (3) The Chairperson may be, but is not required to be, a person elected under Division 7 of Part 3 to represent a zone.
- (4) The member referred to in paragraph (1)(c) must not be a person elected under Division 7 of Part 3 to represent a zone.
- (5) If the Minister appoints as the Chairperson a person elected under Division 7 of Part 3 to represent a zone, the person ceases to hold office as the member representing the zone and as a Regional Councillor.

4B Section 31A

Repeal the section.

4C Subsection 33(1)

Repeal the subsection, substitute:

- (1) The Commission Chairperson holds office as Commission Chairperson for such period, not exceeding 3 years, as is stated in, or worked out under, the instrument of appointment.

4D After subsection 33(1B)

Insert:

(1C) The non-elected Commissioner holds office for such period, not exceeding 3 years, as is stated in, or worked out under, the instrument of appointment.

(9) Schedule 1, page 5 (after line 5), after item 8, insert:

8A Paragraph 36(1)(a)

Omit “a person has previously been elected as Commission Chairperson”, substitute “an appointment has previously been made to the office”.

(10) Schedule 1, page 6 (after line 8), after item 10, insert:

10A After subsection 36(3)

Insert:

(4) The Minister may appoint a person to act in the office of non-elected Commissioner:

- (a) during a vacancy in that office whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the non-elected Commissioner is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.

(5) A person appointed to act during a vacancy in the office of non-elected Commissioner under section (4):

- (a) must not continue so to act for more than 6 months; and
- (b) must not be re-appointed to act during the vacancy for a period that would be continuous with the period of 6 months from the day when the person first started acting during that vacancy.

(11) Schedule 1, item 11, page 6 (lines 12 and 13), omit “a Commissioner (other than the Commission Chairperson)”, substitute “an elected Commissioner”.

(12) Schedule 1, item 11, page 6 (line 17), before “Commissioner”, insert “elected”.

(13) Schedule 1, page 6 (after line 29), after item 13, insert:

13A Subsection 39(2)

Omit “A Commissioner is”, substitute “An elected Commissioner is”.

(14) Schedule 1, page 7 (after line 6), after item 14, insert:

14A Subsection 40(6)

Omit “appointment of a Commissioner”, substitute “appointment of an elected Commissioner”.

- (15) Schedule 1, item 15, page 7 (line 9), omit “a Commissioner”, substitute “an elected Commissioner”.
- (16) Schedule 1, item 15, page 7 (line 12), omit “a Commissioner”, substitute “an elected Commissioner”.
- (17) Schedule 1, page 7 (after line 12), after item 15, insert:

15A Subsection 44(3)

Omit “7”, substitute “8”.

15B Subsection 44(4)

Omit “11”, substitute “12”.

15C Paragraph 44(5)(c)

Omit “7”, substitute “8”.

- (18) Schedule 1, item 19, page 7 (line 21) to page 11 (line 16), omit the item.
- (19) Schedule 1, item 28, page 12 (line 24) to page 13 (line 3), omit the item.
- (20) Schedule 1, item 30, page 13 (lines 8 to 15), omit the item.
- (21) Schedule 1, page 13 (after line 15), after item 30, insert:

30A After subsection 115(1)

Insert:

- (1A) The performance of the functions or the exercise of the powers of a Regional Council is not affected merely because there are more than the prescribed number of members of the Regional Council provided that the number of members of the Regional Council is not more than the number that was the prescribed number of members at the beginning of the election period for the last round of Regional Council elections.

- (22) Schedule 1, page 13 (after line 15), after item 30, insert:

30B At the end of subsection 115(1)

Add “and such number (if any) of other members as are appointed under section 116”.

30C After section 115

Add:

116 Additional members of Regional Councils

- (1) Subject to subsection (2), if the Minister is of the opinion that the number of members of a particular Regional Council is insufficient to enable the Council properly to perform its functions, the Minister may, after consulting the

Commission, appoint an additional person or persons to be a member or members of the Regional Council.

- (2) The Minister may not appoint a person as a member of a Regional Council under subsection (1) unless the person is qualified for election as a member for a Regional Council ward for the Regional Council concerned.
 - (3) A person appointed as a member of a Regional Council under this section holds office until the end of the next round of Regional Council elections following his or her appointment.
 - (4) If a person appointed under this section as a member of a Regional Council ceases to hold the office to which he or she was appointed, the Minister may appoint another person as a member of the Regional Council in place of the first-mentioned person.
- (23) Schedule 1, page 19 (after line 3), after item 42, insert:
- 42A Paragraph 138(1)(b)**
- Before “Commissioners”, insert “elected”.
- (24) Schedule 1, page 21 (after line 8), after item 43, insert:
- 43A At the end of section 141**
- Add:
- (6) A report to the Minister under subsection (3) in respect of the first Regional Council elections conducted after 1 July 1996 must include an examination of ways in which the representation of distinct community groups on Regional Councils could be accommodated.
- (25) Schedule 1, item 45, page 21 (line 22) to page 22 (line 4), omit the item.
- (26) Schedule 1, item 46, page 22 (line 5) to page 26 (line 5), omit the item.
- (27) Schedule 1, item 48, page 26 (line 23), omit “Imprisonment for 1 year”, substitute “50 penalty units”.
- (28) Schedule 1, item 50, page 27 (line 25), at the end of the penalty, add “or 100 penalty units”.
- (29) Schedule 1, item 52, page 28 (line 3), at the end of subsection (3), add “or 10 penalty units”.
- (30) Schedule 1, item 55, page 28 (line 14), omit “Imprisonment for 6 months”, substitute “25 penalty units”.
- (31) Schedule 1, item 55, page 28 (line 18), omit “Imprisonment for 6 months”, substitute “25 penalty units”.
- (32) Schedule 1, page 28 (after line 18), at the end of the Schedule, add:

56 Application

- (1) In this item:

appointment day means the day, or the earliest day, on which the Minister appoints a person as a Commissioner after the person has been elected in the first zone election (other than a zone election for the Torres Strait zone) held after the end of the election period that started on 12 July 1996.

deferred items means items 1A, 1B, 1C, 4A, 4B, 4C, 4D, 8A, 10A, 11, 13A, 14A, 15, 15A, 15B, 15C and 42A.

- (2) The amendments made by the deferred items do not apply until the appointment day.
 - (3) The person who held office as the Commission Chairperson immediately before the appointment day ceases to hold that office on that day.
- (33) Schedule 2, page 29 (lines 2 to 11), omit the Schedule.
- (34) Page 29 (after line 11), at the end of the bill, add:

Schedule 3—Amendment of the Aboriginal and Torres Strait Islander Commission Act 1989

1 Subsection 4(1) (definition of *Commission Chairperson*)

Repeal the definition, substitute:

Commission Chairperson means the Chairperson of the Commission elected under section 31A.

2 Subsection 4(1) (definition of *elected Commissioner*)

Repeal the definition.

3 Subsection 4(1) (definition of *non-elected Commissioner*)

Repeal the definition.

4 Section 27

Repeal the section, substitute:

27 Constitution of the Commission

- (1) The Commission consists of 17 members appointed by the Minister.
- (2) The members are to be the persons elected under Division 7 of Part 3 to represent the several zones.

5 After section 30

Insert:

31A Commission Chairperson

- (1) At the first meeting of the Commission after each round of zone elections (other than an election for the Torres Strait

zone), the Commissioners must elect one of their number to be the Commission Chairperson.

- (2) At any other meeting of the Commission, the Commissioners must elect one of their number to be the Commission Chairperson if there is a vacancy in that office.

6 Subsection 33(1)

Repeal the subsection, substitute:

- (1) The Commission Chairperson holds office as Commission Chairperson until:
- (a) he or she ceases to be a Commissioner; or
 - (b) another person is elected as the Chairperson under section 31A;

whichever happens first.

7 Subsection 33(1C)

Repeal the subsection.

8 Paragraph 36(1)(a)

Omit “an appointment has previously been made to the office”, substitute “a person has previously been elected as Commission Chairperson”.

9 Subsections 36(4) and (5)

Repeal the subsections.

10 Subsection 39(2)

Omit “An elected Commissioner is”, substitute “A Commissioner is”.

11 Subsection 40(6)

Omit “appointment of an elected Commissioner”, substitute “appointment of a Commissioner”.

12 Subsection 40(6A)

Omit “an elected Commissioner” (wherever occurring), substitute “a Commissioner”.

13 Subsection 44(3)

Omit “8”, substitute “7”.

14 Subsection 44(4)

Omit “12”, substitute “11”.

15 Paragraph 44(5)(c)

Omit “8”, substitute “7”.

16 Paragraph 138(1)(b)

Omit “elected”.

On the motion of Dr Wooldridge (Minister representing the Minister for Aboriginal and Torres Strait Islander Affairs), the amendments were agreed to, after debate.

19 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REPORT—STATEMENTS BY MEMBERS

Mr J. N. Andrew (Chairman) presented the following paper:

Public Works—Parliamentary Standing Committee—59th general report of the Committee, 1996, pursuant to the Public Works Committee Act.

Ordered to be printed.

Mr J. N. Andrew and Mr Hollis, by leave, made a statements in connection with the report.

20 HIGHER EDUCATION FUNDING AMENDMENT BILL (NO. 1) 1996

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. 40, dated 11 July 1996, from His Excellency the Governor-General was announced recommending an appropriation for the purposes of the Bill.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Abbott (Parliamentary Secretary to the Minister for Employment, Education, Training and Youth Affairs), the Bill was read a third time.

21 APPROPRIATION BILL (NO. 1) 1996-97—BUDGET DEBATE

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 G. J. Evans (Deputy Leader of the Opposition), viz.—That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the Bill a second reading, the House notes that:*

- (1) the Budget betrays the Australian promise of working towards a more fair, just, inclusive and united society;
- (2) the Budget is both mindless and heartless, and its prescriptions are not what the Australian economy needs at present;
- (3) the Budget will have a savagely contractionary impact on economic growth and make impossible the job creation necessary to reduce Australia’s still unacceptably high level of unemployment;
- (4) with stronger economic growth the Budget could be restored to underlying balance over the life of this Parliament through a much more moderate program of fiscal consolidation;

- (5) the spending cuts and tax increases contained in the Budget are, on the evidence of the Government's own Budget Papers, not necessary to reduce the Commonwealth Government's debt-to-GDP ratio and will not produce a significant improvement in the current account deficit;
- (6) the Budget not only offers no hope to the unemployed but actively harms their prospects of finding a job by cutting labour market programs and privatising the previously publicly provided employment service function of the CES;
- (7) the Budget will have unfair and unjust consequences for the struggling and disadvantaged in our midst—the poor, the old, the sick, indigenous Australians and newly-arrived migrants;
- (8) the many spending cuts concerned with education and training, research and development, trade development (including breaches of promise with respect to EMDG, ITES and IAMP), production bounties, and other business support, will be counter-productive in their longer term consequences;
- (9) there is deception involved in the family tax package contained in the Budget, whereby what the Prime Minister appears to be putting into one pocket is for most middle Australian families being taken right out of the other by the Treasurer in higher education fees, Austudy changes, higher nursing home charges, higher fees and charges;
- (10) there are many breaches of Coalition election promises contained in this Budget, which amount to over \$17 billion over four years, and which will cause hardship, insecurity and dismay for millions of Australians;
- (11) the Budget involves a massive betrayal of regional Australia through the abolition of the \$150 million regional development program, large cuts to road funding, the closure of regional Government offices such as Medicare and CES offices, and the cuts to the ABC and university funding;
- (12) the mean-spirited decision to introduce large, up-front entry fees and massively increased daily fees for nursing homes, and increase user-charges will harm elderly Australians;
- (13) the abolition of Childcare Operational Subsidies will impact heavily upon community based child care centres;
- (14) the reduction of \$800 million over four years in public hospital funding will cause longer waiting lists for the sick and reduce the quality of hospital and medical assistance for millions of people;
- (15) the Budget involves a breaking of the Government's so called 'core' commitment to maintain Medicare in its entirety through cuts to rebates for numerous items under Medicare;
- (16) the cruel decision to abolish the Commonwealth Dental Health Programme will cause serious problems for the less well off;

- (17) harsh and promise-breaking decisions will force Australian families to pay substantially more for the cost of their prescription medicines;
- (18) the massive funding cuts to education, the increased HECS charges and AUSTUDY changes will penalise the less well off;
- (19) the Budget's comprehensive and ideological assault on the public sector will cost 10 500 jobs in 1996-97 alone;
- (20) the Government has failed to honour its election commitment to maintain the environment budget and to provide an additional \$84 million in the 1996-97 Budget, instead cutting by 13 per cent the environmental budget and forward estimates;
- (21) the reckless decision to reduce funding for the National Highway by \$622 million over four years, breaches a clear Coalition election commitment at the 1996 election, and with other decisions will reduce the level of public infrastructure investment, especially in regional Australia;
- (22) the decision to impose a 500 per cent increase in the taxation arrangements for visits to the Great Barrier Reef will discourage tourism and cost jobs in Queensland;
- (23) the Government has failed to honour its promise to not cut Australia's foreign aid beyond the election commitment to abolish the DIFF program, and in doing so will allow the estimated ODA/GDP ratio for Australia in 1996-97 to fall to 0.29 per cent;
- (24) the Government has failed to honour its election promise that Defence expenditure would not be cut, whilst cutting \$165 million from the 1995 Defence Budget estimates for 1996-97, and reducing Defence expenditure as a percentage of GDP to its lowest level since 1939;
- (25) the mean-spirited and discriminatory approach to migrants and ethnic communities will harm outworkers, hurt newly-arrived migrants and refugees, cut humanitarian aid and penalise asylum seekers;
- (26) the substantial cuts to ATSIC and to indigenous-related Commonwealth programs represent a massive setback to the process of reconciliation in Australia;
- (27) the savage cuts to the ABC, of \$209 million over four years, are in complete breach of the Coalition's solemn election promise to maintain existing levels of Commonwealth funding to the ABC;
- (28) the Budget has failed to honour the promise to maintain levels of arts funding and spend an additional \$60 million over three years; and
- (29) the Government's plan to substantially increase Commonwealth court and tribunal fees, coupled with deep cuts to legal aid, will result in a severe curtailment of access to justice by many Australians"—

Debate resumed.

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

22 ADJOURNMENT

It being approximately 7.30 p.m.—The question was proposed—That the House do now adjourn.

Debate ensued.

The House continuing to sit until 8 p.m.—The Acting Speaker adjourned the House until tomorrow at 9.30 a.m.

PAPERS

The following papers were deemed to have been presented on 11 September 1996:

Defence Act—

Defence Force Remuneration Tribunal—Determinations 1996 Nos. 17,18.

Determinations under section 58B—1996 Nos. 25, 26.

Remuneration Tribunal Act—Determination 1996 No. 11.

ATTENDANCE

All Members attended (at some time during the sitting) except Mr Griffin, Mr Halverson, Mr Holding, Mr Langmore, Dr Theophanous and Mr Wilton.

I. C. HARRIS

Acting Clerk of the House of Representatives

1996

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

No. 29

MAIN COMMITTEE

MINUTES OF PROCEEDINGS

WEDNESDAY, 11 SEPTEMBER 1996

1 The Main Committee met at 10 a.m.

**2 AUSTRALIAN CAPITAL TERRITORY GOVERNMENT SERVICE
(CONSEQUENTIAL PROVISIONS) AMENDMENT BILL 1996**

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 the question on the report to be put forthwith.

Question—That the Bill be reported to the House without amendment—put and passed.

3 LEGISLATIVE INSTRUMENTS BILL 1996

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.

Ordered—That Mr Williams (Attorney-General and Minister for Justice) be granted an extension of time.

Question—put and passed—Bill read a second time.

Consideration in detail

Bill, by leave, taken as a whole.

Mr Williams, by leave, moved the following amendments together:

Clause 27—

Page 25 (after line 22), after subsection (1), insert:

(1A) The rule-maker must indicate in the consultation statement whether, disregarding the operation of sections 28, 30 and 31 and of

subsection 61(5), the rule-maker would have been required to comply with the obligations of sections 20 to 25 and:

- (a) if the rule-maker would not have been so required to comply with the obligations of sections 20 to 25:
 - (i) indicate whether there was any consultation prior to the making of the legislative instrument; and
 - (ii) if there was any such consultation—provide brief particulars of that consultation; or
- (b) if the rule-maker would have been so required to comply with the obligations of sections 20 to 25—include in the consultation statement all particulars required under subsection (2).

Page 26 (after line 9), after paragraph (c), insert:

- (ca) if, under subsection 21(5), the regulatory review body had certified that it was satisfied of the matters referred to in paragraphs (a) and (b) of that subsection—a statement that the regulatory review body had so certified; and

Page 27 (line 3), after “certified”, insert “under section 21 that it was satisfied of the matters referred to in paragraphs 21(5)(a) and (b) and”.

Page 27 (line 4), omit “matters referred to in subsection 31(1) or (2)”, substitute “the matter or matters referred to in paragraph 31(1)(b) or (2)(b)”.

Page 27 (after line 11), after paragraph (c), insert:

- (ca) if, under section 21, the regulatory review body certified that it was satisfied of the matters referred to in paragraphs 21(5)(a) and (b)—a copy of that certificate;

Page 27 (lines 25 to 27), omit paragraph (g), substitute:

- (g) if, under section 28, the regulatory review body certified that it was satisfied of a matter referred to in subparagraph 28(1)(a)(i) or (ii)—a copy of that certificate;
- (h) if, under paragraph 31(1)(b) or (2)(b), the regulatory review body certified that it was satisfied of the matter or matters referred to in that paragraph—a copy of that certificate.

Clause 28, page 28 (line 19), after “37A”, insert “(4)”.

Clause 29, page 31 (after line 25), after subsection (6), insert:

- (6A) If the Attorney-General issues a certificate under paragraph (6)(c), he or she must:
 - (a) include in the certificate a statement of the reasons for the issue of a certificate; and
 - (b) cause a copy of the certificate to be laid before each House of the Parliament not later than 6 sitting days of that House after the issue of the certificate.

Clause 30, page 34 (after line 6), after subsection (7), insert:

(7A) If the Attorney-General issues a certificate under paragraph (7)(c), he or she must:

- (a) include in the certificate a statement of the reasons for the issue of a certificate; and
- (b) cause a copy of the certificate to be laid before each House of the Parliament not later than 6 sitting days of that House after the issue of the certificate.

Clause 31, page 34 (line 16) to page 35 (line 8), omit subclauses (1) and (2), substitute:

(1) If the regulatory review body:

- (a) has certified, under section 21, that a Legislative Instrument Proposal meets the requirements of this Part; and
- (b) certifies under this paragraph, that the consultation required to be undertaken by the rule-maker in relation to the making of the instrument under the enabling legislation or an enabling agreement constitutes a level of consultation comparable with that required under sections 22, 23, 24 and 25;

the rule-maker is not required to comply with sections 22, 23, 24 and 25 in relation to that instrument.

(2) If the regulatory review body:

- (a) has certified, under section 21, that a Legislative Instrument Proposal meets the requirements of this Part; and
- (b) certifies, under this paragraph, that, in the particular circumstances of the case:
 - (i) the costs of undertaking consultation in accordance with sections 22, 23, 24 and 25 in relation to the legislative instrument would outweigh any benefits from that consultation; and
 - (ii) the consultation required to be undertaken by the rule-maker in relation to the making of the instrument under the enabling legislation or an enabling agreement constitutes a sufficient level of consultation;

the rule-maker is not required to comply with sections 22, 23, 24 and 25 in relation to that instrument.

Clause 32, page 35 (line 22), omit “or by-law”, substitute “, by-law or plan of management”.

Clause 61, page 64 (after line 14), after paragraph (c), insert:

- (ca) a Proclamation under section 2A, 2B or 12, subsection 13(1), section 20B, subsection 26(2) or section 26A of the *Quarantine Act 1908*;

Deadline for a proposal

- (2) The **deadline** for a proposal is:
- (a) if it is a debt agreement proposal—the end of the 25th working day after the Official Trustee accepted the proposal for processing; or
 - (b) if it is a proposal to vary or terminate a debt agreement—the end of the 25th working day after the proposal was given to the Official Trustee.

Working day

- (3) For the purposes of subsection (2), a **working day** is:
- (a) in relation to a debt agreement proposal—a day that is not a Saturday, Sunday or a public holiday in the District in which the proposal was accepted for processing; or
 - (b) in relation to a proposal to vary or terminate a debt agreement—a day that is not a Saturday, Sunday or public holiday in the District in which the proposal for the debt agreement was accepted for processing.

Item 325, page 74 (lines 6 and 7), omit paragraph (c), substitute:

- (c) inform the creditor of the person to whom the statement should be given and of the need to give the statement before the deadline.

Item 325, page 75 (line 11), omit “the Official Trustee”, substitute “a specified person (being the Official Trustee, a registered trustee or another person)”.

Item 325, page 75 (line 15), at the end of subsection (3), add “If the person specified under paragraph (2)(c) is not the Official Trustee, the proposal may also provide for the remuneration of that person.”.

Item 325, page 75 (lines 29 and 30) to page 76 (lines 1 and 2), omit paragraph (c), substitute:

- (c) at the proposal time, the value of the debtor’s property that would be divisible among creditors if the debtor were bankrupt is more than the threshold amount; or
- (d) the debtor’s after tax income (see subsection (5)) in the year beginning at the proposal time is likely to exceed half the threshold amount.

Item 325, page 76 (after line 3), before the definition of **threshold amount**, insert:

after tax income, in relation to a debtor and a year, means the amount that is likely to be the taxable income of the debtor for the year less the income tax and the medicare levy imposed on that taxable income (worked out treating the year as a year of income if it is not actually a year of income).

Note: For the purposes of this definition, *taxable income*, *income tax* and *year of income* have the same meanings as in the *Income Tax Assessment Act 1936*, and *medicare levy* means the levy imposed by the *Medicare Levy Act 1986*.

Item 325, page 76 (line 17), after “proposal”, insert “for processing”.

Item 325, page 76 (line 20), after “if”, insert “the Official Trustee thinks that subsections 185C(2) and (4) have been complied with and”.

Item 325, page 76 (lines 22 to 32) to page 77 (lines 1 to 3), omit subsection (3), substitute:

- (3) The Official Trustee must not accept a debt agreement proposal for processing if the Official Trustee thinks that the creditors’ interests would be better served by not accepting the proposal for processing.

Item 325, page 78 (line 23), omit “receives no replies”, substitute “no replies are received”.

Item 325, page 86 (line 9), after “Official Trustee”, insert “or another person”.

Item 325, page 86 (line 16), after “Official Trustee”, insert “or another person”.

Item 325, page 86 (after line 17), at the end of section 185W, add:

Note: Other persons who might be exercising the Official Trustee’s powers are an Official Receiver (see subsection 18(8)) or a registered trustee to whom powers have been delegated (see section 185Y).

Item 325, page 86 (after line 20), at the end of Division 7, add:

185Y Delegation of powers and functions relating to processing of proposals

- (1) The Official Trustee may delegate to a registered trustee all or any of the Official Trustee’s processing powers and functions in relation to a particular:
 - (a) debt agreement proposal that has been accepted for processing; or
 - (b) proposal to vary a debt agreement; or
 - (c) proposal to terminate a debt agreement.
- (2) A delegation can only be made with the written consent of the debtor and the registered trustee.
- (3) A delegation must be in writing.
- (4) A delegation is subject to any conditions:
 - (a) specified in the instrument of delegation; or
 - (b) specified by the Official Trustee by notice in writing given to the registered trustee.
- (5) The Official Trustee’s *processing powers and functions* in relation to a proposal are:
 - (a) if it is a debt agreement proposal—the powers and functions of the Official Trustee in relation to the proposal under

subsections 185E(5) and (6) and section 185A (including the provisions applied by subsection 185A(2)); or

- (b) if it is a proposal to vary a debt agreement—the powers and functions of the Official Trustee in relation to the proposal under subsection 185M(2) and section 185A (including the provisions applied by subsection 185A(2)); or
- (c) if it is a proposal to terminate a debt agreement—the powers and functions of the Official Trustee in relation to the proposal under subsection 185P(2) and section 185A (including the provisions applied by subsection 185A(2)).

Note: An Official Receiver may exercise powers of the Official Trustee under this section (see subsection 18(8)).

185Z Remuneration of registered trustees and other persons

- (1) A person (other than the Official Trustee) who is dealing with property under a debt agreement may be remunerated as provided in the agreement (see subsection 185C(3)).

Note: For the remuneration payable to the Official Trustee, see section 163.

- (2) A registered trustee to whom powers or functions have been delegated under section 185Y is not entitled to be remunerated for, or to be reimbursed for costs incurred in, the exercise or performance of those powers or functions.

Item 338, page 88 (line 25), omit “Subject to subsection (1B), the ”, substitute “The”.

Item 338, page 89 (lines 7 to 14), omit subsection (1B).

Item 340, page 92 (line 14), after “Official Receiver”, insert “and to each of the creditors”.

Item 340, page 92 (line 23), after “Official Receiver”, insert “ and to each of the creditors”.

Item 353, page 95 (lines 15 to 17), omit the item.

Item 355, page 95 (lines 22 to 29), omit subsections (7) and (8).

Item 356, page 96 (lines 3 to 32) to page 97 (lines 1 to 20), omit the item.

Item 357, page 97 (lines 21 to 24), omit the item.

Item 359, page 97 (lines 31 to 34), omit the item.

Item 361, page 98 (lines 7 to 10), omit the item.

Item 362, page 98 (lines 11 to 13), omit the item.

Item 363, page 98 (lines 14 and 15), omit the item.

Item 398, page 103 (lines 16 to 25), omit subsection (3).

Item 456, page 115 (line 12), omit the item heading, substitute:

456 Item 91

Item 456, page 115 (line 13), omit “The amendments made by items 91 and 92 do”, substitute “The amendment made by item 91 does”.

Item 458, page 115 (lines 20 to 27), omit the item.

Item 492, page 121 (line 8), omit the item heading, substitute:

492 Items 354 and 355

Item 492, page 121 (line 9), omit “353 to 355”, substitute “354 and 355”.

Item 493, page 121 (lines 16 to 22), omit the item.

Paper: Mr Williams presented a supplementary explanatory memorandum to the Bill.

Amendments agreed to.

Bill, as amended, agreed to.

Ordered—That the Bill be reported to the House with amendments.

5 AUSTRALIAN ANIMAL HEALTH COUNCIL (LIVE-STOCK INDUSTRIES) FUNDING BILL 1996

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.

Paper: Mr R. C. Baldwin, by leave, presented the following paper:

Canadian salmon—Howard has bigger fish to fry—Article published in the *Sun-Herald*, 8 September 1996.

Debate continued.

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

6 ADJOURNMENT

On the motion of Mrs Gallus, the Main Committee adjourned at 1 p.m.

The Acting Deputy Speaker fixed tomorrow at 10 a.m. for the next meeting of the Main Committee.

B. C. WRIGHT
Clerk of the Main Committee