

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 72

TUESDAY, 21 NOVEMBER 1978

1 The House met, at 2.15 p.m., pursuant to adjournment. Mr Speaker (the Right Honourable Sir Billy Snedden) took the Chair, and read Prayers.

2 PETITIONS: The Clerk announced that the following Members had each lodged petitions for presentation, viz.:

Mr J. J. Brown, Mr James, Mr L. R. Johnson, Mr J. L. McMahon, Mr Martin and Mr West—from certain citizens praying for the replacement of the 1978–79 Budget by a budget which increases the level of economic activity, lowers unemployment, assists the disadvantaged and revives business and consumer confidence.

Mr Dobie, Dr Edwards, Mr Millar, Mr Ruddock and Mr Stewart—from certain citizens praying for the prohibition of pornographic material involving children.

Mr Aldred, Mr Burns, Mr Lynch and Mr Staley—from certain citizens praying that the Medical Benefits Schedule be amended to preclude payment of benefits for abortions.

Dr Everingham—from certain citizens praying that major traditional Aboriginal land areas be resumed from the States eventually to become defined Aboriginal community co-operatives.

Mr L. R. Johnson—from certain citizens praying for the provision of funds for the construction and maintenance of an aged persons complex in the Electoral Division of Hughes.

Mr L. R. Johnson—from certain citizens praying that Kingsford-Smith Airport, Sydney, not be extended and that no related decisions be taken without consultation with affected communities.

Mr L. R. Johnson—from certain citizens praying that indirect tax measures, such as a retail turnover tax or a value added tax, not be introduced.

Mr Porter—from certain citizens praying for continued and increased Federal subsidies to maintain all existing South Australian country rail services.

Mr West—from certain citizens praying that proposed changes to Medibank not be implemented and that there be consultation with the trade unions and the community.

Petitions received.

3 QUESTIONS: Questions without notice were asked.

4 PARLIAMENTARY DELEGATION TO THE U.S.S.R.—STATEMENT BY MR SPEAKER: Mr Speaker made a statement concerning the composition of a Parliamentary Delegation to the U.S.S.R., a matter which had been raised with him by Mr Scholes on 16 November 1978.

Dr Klugman, by leave, made a statement with reference to the matter.

Mr Hayden (Leader of the Opposition) asked leave to make a statement in connection with the matter.

Objection being raised, leave not granted.

Mr Hayden, by leave, made a statement with reference to the matter.

Mr Peacock (Minister for Foreign Affairs), by leave, making a statement with reference to the matter—

Point of order: Mr Hayden raised as a point of order an alleged misrepresentation by the Minister for Foreign Affairs.

Speaker's ruling: Mr Speaker ruled that there was no substance to the point of order and directed the Leader of the Opposition to resume his seat.

Dissent from ruling moved: Mr Hayden moved—That the ruling be dissented from.

Closure of Member moved: Mr Sinclair (Leader of the House) moved—That the honourable Member be not further heard.

Mr Speaker declined to accept the motion as he desired to hear the basis of the motion of dissent from his ruling.

Debate ensued on the motion of dissent.

Question—put.

The House divided (the Speaker, Sir Billy Snedden, in the Chair)—

AYES, 32

Mr Armitage	Mr Hayden	Mr Keating	Mr West
Dr Blewett	Mr Holding	Mr Kerin	Mr Willis
Mr Bowen	Mr Howe	Dr Klugman	Mr Young
Mr J. J. Brown	Mr Humphreys	Mr J. L. McMahan	
Mr C. R. Cameron	Mr Hurford	Mr Martin	
Dr Cass	Mr James	Mr Morris	
Mr Cohen	Dr Jenkins	Mr Stewart	<i>Tellers:</i>
Mr Dawkins	Mr B. O. Jones	Mr Uren	Mr L. K. Johnson
Mr FitzPatrick	Mr C. K. Jones	Mr Wallis	Mr L. R. Johnson

NOES, 78

Mr Aldred	Mr Cotter	Mr Johnston	Mr O'Keefe
Mr Anthony	Mr Dean	Mr Jull	Mr Peacock
Mr Baillieu	Mr Dobie	Mr Katter	Mr Porter
Mr Baume	Dr Edwards	Mr Killen	Mr E. L. Robinson
Mr Birney	Mr Ellicott	Mr Lloyd	Mr I. L. Robinson
Mr Bouchier	Mr Falconer	Mr Lusher	Mr Sainsbury
Mr Bradfield	Mr Fife	Mr Lynch	Mr Shack
Mr Braithwaite	Mr Fisher	Mr MacKellar	Mr Short
Mr N. A. Brown	Mr Giles	Mr MacKenzie	Mr Simon
Mr Bungey	Mr Gillard	Mr McLean	Mr Sinclair
Mr Burns	Mr Goodluck	Mr McLeay	Mr Staley
Mr Burr	Mr Graham	Sir William McMahan	Mr Street
Mr Cadman	Mr Groom	Mr McVeigh	Mr Thomson
Mr Cairns	Mr Haslem	Mr Macphee	Mr Viner
Mr Calder	Mr Hodgman	Mr Martyr	Mr Wilson
Mr D. M. Cameron	Mr Howard	Mr Millar	Mr Yates
Mr E. C. Cameron	Mr Hunt	Mr Moore	
Mr Carlton	Mr Hyde	Mr Neil	<i>Tellers:</i>
Mr Chapman	Mr Jarman	Mr Newman	Mr Corbett
Mr Connolly	Mr P. F. Johnson	Mr Nixon	Mr Hodges

And so it was negatived.

Mr Peacock concluded his statement.

5 PAPERS: The following papers were presented:

By command of His Excellency the Governor-General:

Aboriginal communities in the Northern Territory—Self-sufficiency (with land rights)—2nd Report to the Minister for Aboriginal Affairs by Shann Turnbull, Director, Management and Investment Limited, dated 9 June 1978.

Australian Biological Resources Study, 1973–78—Report, dated 17 August 1978—Report.

Statement by Senator Webster (Minister for Science).

Defence Service Homes Corporation—Interim report for year 1977–78.

Education—Progress since 1976—Report by Senator Carrick (Minister for Education), dated 21 November 1978.

“Fawnmac Group”—Fawns & McAllan Pty Ltd, Rotary Tableting Corporation Pty Ltd, Croydon Investments Pty Ltd. and Barker House Pty Ltd—Report and financial accounts, for year 1977–78.

National Training Council—4th Annual Report, for 1977.

Postal and Telecommunications Department—Report for year 1977–78.

Pursuant to statute:

Australian Heritage Commission Act—Australian Heritage Commission—2nd Annual Report and financial statements, together with the Auditor-General’s Report, for year 1977–78.

Australian Housing Corporation Act and Defence Service Homes Act—Australian Housing Corporation—Report and financial statements, together with the Auditor-General’s Report, for year 1975–76.

Australian Institute of Aboriginal Studies Act—Council of the Australian Institute of Aboriginal Studies—Report and financial statements, together with the Auditor-General’s Report, for year 1977–78.

Australian Tourist Commission Act—Australian Tourist Commission—11th Annual Report and financial statements, together with the Auditor-General’s Report, for year 1977–78.

Coal Industry Act—Joint Coal Board—31st Annual Report and financial accounts, together with the Auditor-General’s Report, for year 1977–78.

Commonwealth Serum Laboratories Act—Commonwealth Serum Laboratories Commission—17th Annual Report and financial statements, together with the Auditor-General’s Report, for year 1977–78.

Criminology Research Act—Criminology Research Council—6th Annual Report and financial statements, together with the Auditor-General’s Report, for year 1977–78.

Defence Service Homes Act and Defence Services Homes Corporation Act—Defence Services Homes Corporation—Report and financial statements, together with the Auditor-General’s Report, for year 1976–77.

Overseas Telecommunications Act—Overseas Telecommunications Commission (Australia)—Report and financial statements, together with the Auditor-General’s Report, for year ended 31 March 1978.

Prices Justification Act—Prices Justification Tribunal—5th Annual Report, for year 1977–78.

Report on price increases for period 1 January to 30 June 1978.

- 6 DEPARTMENT OF PRODUCTIVITY—THE FIRST 2 YEARS—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF PAPER: Mr Macphee (Minister for Productivity), by leave, made a ministerial statement concerning the significant activities of the Department of Productivity in its first 2 years of operation, and, by command of His Excellency the Governor-General, presented the following paper:

Department of Productivity—The first 2 years—Ministerial statement, 21 November 1978.

Mr Groom (Minister for Environment, Housing and Community Development) moved—That the House take note of the paper.

Debate ensued.

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

- 7 MESSAGE FROM THE SENATE: A message from the Senate was reported returning the following Bill without amendment:

17 November 1978—Message No. 159—Tasmania Grant (The Mount Lyell Mining and Railway Company Limited) Amendment (No. 2) 1978.

- 8 MESSAGE FROM THE GOVERNOR-GENERAL—ASSENT TO BILL: A message from His Excellency the Governor-General was announced informing the House that His Excellency, in the name of Her Majesty, had assented to the following Bill:

20 November 1978—Message No. 100—Great Barrier Reef Marine Park Amendment 1978.

9 PUBLIC ACCOUNTS COMMITTEE—REPORTS—STATEMENT BY MEMBER: Mr Connolly (Chairman) presented the following reports from the Joint Committee of Public Accounts:

170th Report—Finance Minutes on the 153rd, 163rd and 165th Reports, together with summaries of those reports.

171st Report—Report of the Auditor-General—Financial year 1976–77.

172nd Report—Financing and administration of property owned or leased overseas by the Commonwealth Government.

173rd Report—Expenditure from Advance to the Minister for Finance (Appropriation Acts 1977–78).

Severally ordered to be printed.

Mr Connolly, by leave, made a statement in connection with the reports.

10 AUSTRALIAN CAPITAL TERRITORY—JOINT COMMITTEE—STATEMENT BY MEMBER: Mr Haslem, by leave, made a statement in connection with the Inquiry of the Joint Committee on the Australian Capital Territory into planning procedures and processes in the Australian Capital Territory.

11 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—HOUSING—MEETING OF COMMONWEALTH AND STATE MINISTERS: Mr Deputy Speaker informed the House that Mr Uren, Mr E. C. Cameron and Mr Hodgman had each proposed that definite matters of public importance be submitted to the House for discussion today. In accordance with the provisions of standing order 107, Mr Speaker had given priority to the matter proposed by Mr Uren, namely, “The lack of frankness and co-operation displayed by the Minister for Environment, Housing and Community Development at the meeting of Commonwealth and State Ministers of housing in Adelaide on 17 November 1978”.

The proposed discussion having received the necessary support—

Mr Uren addressed the House.

Discussion ensued.

Mr Howe rising to address the House—

Mr Hodges moved—That the business of the day be called on.

Question—put.

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

AYES, 78

Mr Aldred	Mr Dean	Mr Johnston	Mr O’Keefe
Mr Baillieu	Mr Dobie	Mr Jull	Mr Peacock
Mr Baume	Mr Drummond	Mr Katter	Mr Porter
Mr Birney	Dr Edwards	Mr Killen	Mr E. L. Robinson
Mr Bouchier	Mr Ellicott	Mr Lloyd	Mr I. L. Robinson
Mr Bradfield	Mr Falconer	Mr Lucock	Mr Ruddock
Mr Braithwaite	Mr Fife	Mr Lusher	Mr Sainsbury
Mr N. A. Brown	Mr Fisher	Mr MacKellar	Mr Shack
Mr Bungey	Mr Giles	Mr MacKenzie	Mr Short
Mr Burns	Mr Gillard	Mr McLean	Mr Simon
Mr Burr	Mr Goodluck	Mr McLeay	Mr Sinclair
Mr Cadman	Mr Graham	Sir William McMahon	Mr Staley
Mr Cairns	Mr Groom	Mr McVeigh	Mr Thomson
Mr Calder	Mr Haslem	Mr Macphee	Mr Viner
Mr D. M. Cameron	Mr Hodgman	Mr Martyr	Mr Wilson
Mr E. C. Cameron	Mr Howard	Mr Millar	Mr Yates
Mr Carlton	Mr Hunt	Mr Moore	
Mr Chapman	Mr Hyde	Mr Neil	<i>Tellers:</i>
Mr Connolly	Mr Jarman	Mr Newman	Mr Corbett
Mr Cotter	Mr P. F. Johnson	Mr Nixon	Mr Hodges

NOES, 28

Dr Blewett	Mr Holding	Dr Klugman	Mr Willis
Mr Bowen	Mr Howe	Mr J. L. McMahon	Mr Young
Mr J. J. Brown	Mr Humphreys	Mr Martin	
Mr C. R. Cameron	Mr Hurford	Mr Morris	
Mr Cohen	Dr Jenkins	Mr Stewart	
Mr Dawkins	Mr B. O. Jones	Mr Uren	<i>Tellers:</i>
Dr Everingham	Mr C. K. Jones	Mr Wallis	Mr L. K. Johnson
Mr Fry	Mr Keating	Mr West	Mr L. R. Johnson

And so it was resolved in the affirmative.

- 12 AIR NAVIGATION (CHARGES) AMENDMENT BILL 1978: 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 forthwith.

On the motion of Mr Fife (Minister for Business and Consumer Affairs), the Bill was read a third time.

- 13 TRADE PRACTICES AMENDMENT BILL 1978: The order of the day having been read for the consideration of the report of the legislation committee—

SCHEDULE OF THE AMENDMENTS MADE IN LEGISLATION COMMITTEE

- (1) Clause 4, page 2, line 6, after “be,” insert “or, but for the provision of any contract, arrangement or understanding or of any proposed contract, arrangement or understanding, would be, or would be likely to be,”.
- (2) Clause 8, page 3, line 19, omit “made available as a result of”, substitute “in pursuance of, and made available as a result of,”.
- (3) Clause 14, page 4, line 15, after “statement” insert “in relation to the quality, performance or characteristics of the goods”.
- (4) Clause 14, page 4, line 30, omit “or”.
- (5) Clause 14, page 7, line 28, after “consumer” insert “or any person who derives title to the goods through or under the consumer”.
- (6) Clause 14, page 7, line 30, after “consumer” insert “or person who so derives title to the goods”.
- (7) Clause 14, page 7, line 31, after “consumer” insert “or person who so derives title to the goods”.
- (8) Clause 14, page 7, line 35, omit “the consumer or some other person”, substitute “any person”.
- (9) Clause 14, page 9, lines 33–34, omit “a corporation took reasonable action to ensure that a consumer acquiring goods,”, substitute “the corporation took reasonable action to ensure that the consumer acquiring the goods”.
- (10) Clause 14, page 10, lines 28 and 29, omit paragraph (a), substitute the following paragraph:
“(a) an undertaking, assertion or statement in relation to the quality, performance or characteristics of goods was given or made in connection with the supply of the goods or in connection with the promotion by any means of the supply or use of the goods; and”.
- (11) Clause 14, page 10, line 30, after “been” insert “given or”.
- (12) Clause 14, page 10, lines 38 and 39, omit “liable under this Act to compensate”, substitute “under a liability to”.
- (13) Clause 14, page 11, line 4, omit “also”.
- (14) Clause 14, page 11, line 11, omit “also”.
- (15) Clause 14, page 11, lines 15–17, omit “and the seller may, by action against the manufacturer in a court of competent jurisdiction, recover an amount sufficient to indemnify him in respect of his liability to the consumer”, substitute “and the seller may, in respect of the manufacturer’s liability to indemnify the seller, institute an action against the manufacturer in a court of competent jurisdiction for such legal or equitable relief as the seller could have obtained if the liability of the manufacturer to indemnify the seller had arisen under a contract of indemnity made between the manufacturer and the seller”.
- (16) Clause 14, page 11, omit proposed section 74J, substitute the following section:
“74J. (1) Subject to this section, an action under a provision of this ^{Time for} Division may be commenced at any time within 3 years after the day on ^{commencing} which the cause of action accrued ^{actions}.”

'(2) For the purposes of this section, a cause of action shall be deemed to have accrued—

- (a) in the case of an action other than an action under section 74H, on the day on which the consumer first became aware, or ought reasonably to have become aware—
 - (i) in the case of an action under section 74B—that the goods were not reasonably fit for the purpose referred to in that section;
 - (ii) in the case of an action under section 74C—that the goods did not correspond with the description referred to in that section;
 - (iii) in the case of an action under section 74D—that the goods were not of merchantable quality;
 - (iv) in the case of an action under section 74E—that the bulk of the goods did not correspond with the sample in quality or the goods had the defect referred to in that section;
 - (v) in the case of an action under section 74F—that the goods required to be repaired or that the part was required for the goods, as the case may be; or
 - (vi) in the case of an action under section 74G—of the failure of the corporation to comply with the express warranty referred to in that section; or
- (b) in the case of an action under section 74H, on—
 - (i) the day, or the first day, as the case may be, on which the seller referred to in that section made a payment in respect of, or otherwise discharged in whole or in part, the liability of that seller to the consumer; or
 - (ii) the day on which a proceeding was instituted by the consumer against that seller in respect of that liability or, if more than one such proceeding was instituted, the day on which the first such proceeding was instituted, whichever was the earlier.

'(3) In an action under a provision of this Division, it is a defence if the defendant proves that the action was not commenced within 10 years after the time of the first supply to a consumer of the goods to which the action relates."

(17) Clause 14, page 11, at the end of proposed section 74K add the following sub-section:

"'(3) Nothing in this section applies to a term of a contract referred to in sub-section 74L (4)."

(18) Clause 14, pages 11 and 12, omit proposed section 74L, substitute the following section:

"'74L. (1) Notwithstanding section 74H but subject to this section; in the case of goods other than goods of a kind ordinarily acquired for personal, domestic or household use or consumption, the liability under that section of a manufacturer to a seller is limited to a liability to pay to the seller an amount equal to—

Limitation in certain circumstances of liability of manufacturer to seller

- (a) the cost of replacing the goods;
 - (b) the cost of obtaining equivalent goods; or
 - (c) the cost of having the goods repaired,
- whichever is the lowest amount.

'(2) Sub-section (1) does not apply in relation to particular goods if the seller establishes that it is not fair or reasonable for the liability of the manufacturer in respect of those goods to be limited as mentioned in sub-section (1).

'(3) In determining for the purposes of sub-section (2) whether or not it is fair or reasonable for the liability of a manufacturer to a seller in respect of goods to be limited as mentioned in sub-section (1), a court shall have regard to all the circumstances of the case and, in particular, to—

- (a) the availability of suitable alternative sources of supply of the goods;
- (b) the availability of equivalent goods; and
- (c) whether the goods were manufactured, processed or adapted to the special order of the seller.

(4) This section is subject to any term of a contract between the manufacturer and the seller imposing on the manufacturer a greater liability than the liability mentioned in sub-section (1).

(5) In this section, the expressions "manufacturer" and "seller" have the same respective meanings as in section 74H.'".

Mr Fife (Minister for Business and Consumer Affairs) moved—That the report be adopted.

Debate ensued.

Question—put and passed.

Mr Fife, by leave, moved—That the Bill be now read a third time.

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

14 PAPERS: The following papers were presented, by command of His Excellency the Governor-General:

Australian Science and Technology Council—Reports—Bureau of Mineral Resources, Geology and Geophysics (BMR)—

Report, dated 26 October 1978.

Supplement, dated 15 November 1978.

15 TRADE PRACTICES AMENDMENT BILL (No. 2) 1978: 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—

Statement by Minister: Mr Fife (Minister for Business and Consumer Affairs), by leave, made a statement informing the House of an amendment which he proposed to move during the committee stage of the Bill.

Debate resumed.

Question—put.

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

AYES, 73

Mr Aldred	Mr Dean	Mr Jull	Mr E. L. Robinson
Mr Baillieu	Mr Dobie	Mr Katter	Mr I. L. Robinson
Mr Baume	Dr Edwards	Mr Lloyd	Mr Ruddock
Mr Birney	Mr Ellicott	Mr Lucock	Mr Sainsbury
Mr Bouchier	Mr Falconer	Mr Lusher	Mr Shack
Mr Bradfield	Mr Fife	Mr Lynch	Mr Short
Mr Braithwaite	Mr Fisher	Mr MacKellar	Mr Simon
Mr N. A. Brown	Mr Gillard	Mr MacKenzie	Mr Sinclair
Mr Burns	Mr Goodluck	Mr McLean	Mr Staley
Mr Burr	Mr Graham	Mr McLeay	Mr Street
Mr Cadman	Mr Groom	Mr McVeigh	Mr Thomson
Mr Cairns	Mr Haslem	Mr Macphee	Mr Viner
Mr Calder	Mr Hodgman	Mr Martyr	Mr Wilson
Mr D. M. Cameron	Mr Howard	Mr Millar	Mr Yates
Mr E. C. Cameron	Mr Hunt	Mr Moore	
Mr Carlton	Mr Hyde	Mr Neil	
Mr Chapman	Mr Jarman	Mr Newman	<i>Tellers:</i>
Mr Connolly	Mr P. F. Johnson	Mr Peacock	Mr Corbett
Mr Cotter	Mr Johnston	Mr Porter	Mr Hodges

NOES, 30

Mr Armitage	Mr Holding	Mr C. K. Jones	Mr Wallis
Dr Blewett	Mr Howe	Mr Keating	Mr West
Mr C. R. Cameron	Mr Humphreys	Mr Kerin	Mr Willis
Mr Cohen	Mr Hurford	Dr Klugman	Mr Young
Mr Dawkins	Mr Innes	Mr J. L. McMahon	
Dr Everingham	Mr James	Mr Morris	<i>Tellers:</i>
Mr FitzPatrick	Dr Jenkins	Mr Stewart	Mr L. K. Johnson
Mr Fry	Mr B. O. Jones	Mr Uren	Mr L. R. Johnson

And so it was resolved in the affirmative—Bill read a second time.

The House resolved itself into a committee of the whole.

In the committee

Bill, by leave, taken as a whole.

On the motion of Mr Fife, the following amendment was made: Clause 4, page 2, lines 15–20, omit paragraph (a) of proposed sub-section (1B), substitute the following paragraphs:

“(a) that the conduct concerned is the subject of an authorization in force under section 88;

(aa) that a notice in respect of the conduct has been duly given to the Commission under sub-section 93 (1) and the Commission has not given a notice in respect of the conduct under sub-section 93 (3); or”.

Bill, as amended, agreed to.

Bill to be reported with an amendment.

The House resumed; Mr Millar reported accordingly.

On the motion of Mr Fife, by leave, the House adopted the report, and, by leave, the Bill was read a third time.

16 ADJOURNMENT: It being past 10.30 p.m.—The question was proposed—That the House do now adjourn.

Debate ensued.

The House continuing to sit until 11 p.m.—Mr Deputy Speaker adjourned the House until tomorrow at 2.15 p.m.

PAPERS: The following papers were deemed to have been presented on 21 November 1978, pursuant to statute:

Customs Act and Commerce (Trade Descriptions) Act—Regulations—Statutory Rules 1978, Nos. 216, 217.

International Organizations (Privileges and Immunities) Act—Regulations—Statutory Rules 1978, Nos. 213, 214, 215.

Lands Acquisition Act—

Land acquired for defence purposes—Yampi Peninsula, W.A.

Statement of lands acquired by agreement authorised under sub-section 7 (1).

Navigation Act—Regulations—Statutory Rules 1978, Nos. 219, 220, 221, 222.

Public Service Act—Appointment—Department of Aboriginal Affairs—E. D. Kyle.

Trade Commissioners Act—Regulations—Statutory Rules 1978, No. 218.

MEMBERS PRESENT: All Members were present (at some time during the sitting) except Mr Adermann, Mr Bryant*, Mr Garland, Mr Scholes and Mr Shipton*.

* On leave

J. A. PETTIFER,
Clerk of the House of Representatives