

2002-03

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**VOTES AND PROCEEDINGS**

No. 85

TUESDAY, 25 MARCH 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 McClelland, by leave, presented the following paper:

Operation Liberty Shield—Copy of internet fact sheet from the White House, President George W. Bush, 17 March 2003.

Questions without notice continued.

**3 AUDITOR-GENERAL'S REPORT**

The Speaker presented the following paper:

Auditor-General—Audit report No. 34 of 2002-2003—Performance audit—Pest and disease emergency management: Follow-up audit—Department of Agriculture, Fisheries and Forestry—Australia.

Ordered to be printed.

**4 PAPERS**

The following papers were presented:

Australia-Japan Foundation—Report for 2001-02—Erratum.

Department of Immigration and Multicultural and Indigenous Affairs—Access and equity report for 2002.

**5 PAPER—MOTION TO TAKE NOTE OF PAPER**

Mr McGauran (Deputy Leader of the House) moved—That the House take note of the following paper:

Department of Immigration and Multicultural and Indigenous Affairs—Access and equity report for 2002.

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

**6 REHABILITATION OF FORMER NUCLEAR TEST SITES AT EMU AND MARALINGA (AUSTRALIA)—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF PAPERS**

Mr McGauran (Minister for Science), by leave, made a ministerial statement relating to the Maralinga Rehabilitation Technical Advisory Committee report on rehabilitation of former nuclear test sites at Emu and Maralinga and presented the following papers:

Rehabilitation of former nuclear test sites at Emu and Maralinga (Australia)—  
Report, March 2003.

Copy of Statement by the Minister for Science.

*Suspension of standing and sessional orders—Extended time for speech*

Dr Kemp (Minister for the Environment and Heritage), by leave, moved—That so much of the standing and sessional orders be suspended as would prevent Mr Albanese speaking for a period not exceeding 15 minutes.

Question—put and passed.

Mr Albanese addressed the House.

Mr McGauran moved—That the House take note of the papers.

Mr McGauran was granted leave to continue his speech when the debate is resumed.

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

**7 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—TERRORISM THREAT TO AUSTRALIANS ABROAD**

The House was informed that Mr Rudd had proposed that a definite matter of public importance be submitted to the House for discussion, namely, “The Government’s failure to provide credible, accurate and timely advice on the increased terrorism threat to Australians abroad as a result of the war in Iraq”.

The proposed discussion having received the necessary support—

Mr Rudd addressed the House.

Discussion ensued.

Discussion concluded.

**8 MAIN COMMITTEE—DAY OF NEXT MEETING**

The Deputy Speaker reported that Wednesday, 26 March 2003, at 9.40 a.m., had been fixed for the next meeting of the Main Committee.

**9 BILLS REFERRED TO MAIN COMMITTEE**

Ms Gallus (Parliamentary Secretary to the Minister for Foreign Affairs), by leave, moved—That the following Bills be referred to the Main Committee for further consideration:

Terrorism Insurance 2002; and

Criminal Code Amendment (Terrorism) 2002.

Question—put and passed.

**10 MESSAGE FROM THE SENATE—WORKPLACE RELATIONS AMENDMENT (FAIR DISMISSAL) BILL 2002 [NO. 2]**

Message No. 229, 24 March 2003, from the Senate was reported returning the Workplace Relations Amendment (Fair Dismissal) Bill 2002 [No. 2] and acquainting the House that the Senate had considered message No. 262 of the House relating to the Bill and again insists on its amendments disagreed to by the House and desires the reconsideration of the Bill by the House in respect of the amendments.

Mr Abbott (Minister for Employment and Workplace Relations) moved—That the Bill be laid aside.

Debate ensued.

Question—put.

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

## AYES, 79

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

## NOES, 60

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

\* Tellers

And so it was resolved in the affirmative.

**11 MESSAGE FROM THE SENATE—WORKPLACE RELATIONS AMENDMENT (PROHIBITION OF COMPULSORY UNION FEES) BILL 2002 [NO. 2]**

Message No. 230, 24 March 2003, from the Senate was reported returning the Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002 [No. 2] with amendments.

Ordered—That the amendments be considered forthwith.

On the motion of Mr Abbott (Minister for Employment and Workplace Relations), amendment No. 2 was agreed to, after debate.

On the motion of Mr Abbott, amendments Nos 1 and 3 to 6 were disagreed to, after debate.

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 1*

This amendment would allow a majority vote to impose a compulsory bargaining services fee on all employees (as long as certain specified criteria were met), irrespective of whether individual employees had sought the bargaining services to which the fee relates. The House of Representatives does not accept that an employee's right to freedom of association and freedom of choice should be contravened in this manner. The *Workplace Relations Act 1996* already ensures that an agreement cannot override certain individual rights by prohibiting clauses that are discriminatory or which breach Part XA of the Act (the freedom of association provisions). The Bill seeks to extend this principle. Senate Amendment 1 is contrary to this approach.

Accordingly, the House of Representatives opposes this amendment.

*Senate Amendments 3 and 5*

Senate amendment number 3 would remove item 11 from the Bill. Item 11 ensures that a provision of a certified agreement is void to the extent that it requires payment of a bargaining services fee. The deletion of item 11 from the Bill will prolong the continuing uncertainty as to whether or not bargaining services fees are enforceable. Making it clear that such clauses are unenforceable is a key element of the Bill. Accordingly, the House of Representatives opposes this amendment. As amendment number 5 is consequential upon amendment number 3, the House of Representatives also opposes this amendment.

*Senate Amendments 4 and 6*

The effect of amendment number 4 would be to delete item 12 from the Bill. Item 12 amends the definition of 'objectionable provision' in section 298Z of the *Workplace Relations Act 1996* to include a clause that imposes a bargaining services fee.

This is a key element of the Bill as the Act provides that the Commission cannot certify an agreement containing an objectionable provision and is empowered to remove such clauses from existing agreements.

Section 298Z of the *Workplace Relations Act* currently provides that a provision may be removed from a certified agreement if it requires or permits any conduct that would contravene the freedom of association provisions of the *Workplace Relations Act*. Despite the Australian Industrial Relations Commission finding that bargaining services fee clauses have a coercive intent, in practice it has been found that the requirement for prohibited conduct has imposed a technical hurdle that is hard to overcome.

The House of Representatives does not accept Senate Amendment 4. Amendment number 6 is consequential upon amendment number 4 and the House of Representatives also opposes this amendment.

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

**12 MARITIME LEGISLATION AMENDMENT (PREVENTION OF POLLUTION FROM SHIPS) BILL 2003**

Mr Tuckey (Minister for Regional Services, Territories and Local Government), for Mr Anderson (Minister for Transport and Regional Services), pursuant to notice, presented a Bill for an Act to amend legislation relating to the prevention of pollution from ships, and for related purposes.

Bill read a first time.

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

*Paper*

Mr Tuckey presented an explanatory memorandum to the Bill.

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

**13 PARLIAMENTARY ZONE—DESIGN AND LOCATION OF PEDESTRIAN AND STREET LIGHTS—APPROVAL OF PROPOSAL**

Mr Tuckey (Minister for Regional Services, Territories and Local Government), pursuant to notice, moved—That, in accordance with section 5 of the *Parliament Act 1974*, the House approves the following proposal for work in the Parliamentary Zone which was presented to the House on 20 March 2003, namely: Design and location of pedestrian and street lights.

Question—put and passed.

**14 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—MULTI USER DEPOT AT HMAS HARMAN, ACT**

Mr Slipper (Parliamentary Secretary to the Minister for Finance and Administration), by leave, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Multi User Depot at HMAS Harman, ACT.

Question—put and passed.

**15 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—PROVISION OF FACILITIES FOR COLLOCATION AND RE-EQUIPPING OF THE 1ST AVIATION REGIMENT AT ROBERTSON BARRACKS, DARWIN**

Mr Slipper (Parliamentary Secretary to the Minister for Finance and Administration), by leave, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Provision of facilities for collocation and re-equipping of the 1st aviation regiment at Robertson Barracks, Darwin.

Debate ensued.

Question—put and passed.

**16 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—FITOUT OF NEW CUSTOMS BUILDING AT SYDNEY AIRPORT**

Mr Slipper (Parliamentary Secretary to the Minister for Finance and Administration), by leave, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Fitout of new customs building at Sydney Airport.

Debate ensued.

Question—put and passed.

**17 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—REDEVELOPMENT OF THE AUSTRALIAN INSTITUTE OF SPORT, BRUCE, ACT**

Mr Slipper (Parliamentary Secretary to the Minister for Finance and Administration), by leave, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Redevelopment of the Australian Institute of Sport, Bruce, ACT.

Question—put and passed.

**18 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—CONSTRUCTION OF A NEW CHANCERY BUILDING FOR THE AUSTRALIAN HIGH COMMISSION, COLOMBO, SRI LANKA**

Mr Slipper (Parliamentary Secretary to the Minister for Finance and Administration), by leave, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Construction of a new chancery building for the Australian High Commission, Colombo, Sri Lanka.

Question—put and passed.

**19 HEALTH INSURANCE AMENDMENT (DIAGNOSTIC IMAGING, RADIATION ONCOLOGY AND OTHER MEASURES) BILL 2002**

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. 112, 2 December 2002, 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 Ms Worth (Parliamentary Secretary to the Minister for Health and Ageing), the Bill was read a third time.

**20 MESSAGE FROM THE SENATE**

Message No. 231, 25 March 2003, from the Senate was reported acquainting the House that Senator Colbeck had been discharged from attendance on the Joint Committee of Public Accounts and Audit, and Senator Humphries had been appointed a member of the committee.

**21 ENERGY GRANTS (CREDITS) SCHEME 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 McMullan, 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 condemns the Government for its gross mismanagement of fuel tax policy, in particular:

- (1) its failure to deliver measures to promote cleaner fuels, despite its explicit promise to do so in the agreement with the Democrats leading to passage of *A New Tax System* through the Parliament;
- (2) its overall policy paralysis and deception, shown most starkly by its decision to dump all the Fuel Taxation Inquiry recommendations even before the report was released; and
- (3) its inexcusable delay in finalising even the limited set of measures included in this Bill and the Energy Grants (Credits) Scheme (Consequential Amendments) Bill, which has left the transport industry with an extremely short timeframe to prepare for the new scheme before it comes into operation on 1 July 2003”—

Debate resumed.

Debate adjourned (Ms Worth—Parliamentary Secretary to the Minister for Health and Ageing), and the resumption of the debate made an order of the day for a later hour this day.

**22 TREATIES—JOINT STANDING COMMITTEE—REPORT—STATEMENTS BY MEMBERS**

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

Treaties—Joint Standing Committee—Report 51—Treaties tabled on 12 November and 3 December 2002—

Report, March 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.

**23 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REPORT—STATEMENTS BY MEMBERS**

Mrs Moylan (Chair) presented the following paper:

Public Works—Parliamentary Standing Committee—66th annual report of the Committee, March 2003, pursuant to the Public Works Committee Act.

Ordered to be printed.

Mrs Moylan and Mr B. P. J. O’Connor, by leave, made statements in connection with the report.

**24 ENERGY GRANTS (CREDITS) SCHEME 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 McMullan (see item No. 21, page 824)*—

Debate having been resumed by Ms O’Byrne—

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**25 ADJOURNMENT**

It being 9 p.m.—The question was proposed—That the House do now adjourn.

Debate ensued.

*Debate extended*

It being 9.30 p.m., the debate was interrupted.

Mr Hardgrave (Minister for Citizenship and Multicultural Affairs) required the debate to be extended.

The debate continuing until 9.32 p.m., the Speaker adjourned the House until tomorrow at 9 a.m.

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**PAPERS**

The following papers were deemed to have been presented on 25 March 2003:

Australian Bureau of Statistics Act—Australian Bureau of Statistics—Proposal 2003 No. 5.

Civil Aviation Act—Civil Aviation Regulations—Amendment Order—2003 No. 3.

Federal Court of Australia Act—Rules of Court—Statutory Rules 2003 No. 35.

National Health Act—Determination under paragraph (bj) of Schedule 1—2003 No. PHS 3.

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**ATTENDANCE**

All Members attended (at some time during the sitting) except Mr K. J. Andrews, Mrs Crosio\*, Mrs Draper, Ms Grierson, Ms Livermore\* and Mr Lloyd\*.

\* On leave

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**I. C. HARRIS**  
Clerk of the House of Representatives