

2002

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 40

WEDNESDAY, 28 AUGUST 2002

1 The House met, at 9.30 a.m., pursuant to adjournment. The Speaker (the Honourable Neil Andrew) took the Chair, and read Prayers.

2 DAIRY INDUSTRY LEGISLATION AMENDMENT BILL 2002

Mr Truss (Minister for Agriculture, Fisheries and Forestry), pursuant to notice, presented a Bill for an Act to amend legislation relating to the dairy industry and farm household support, and for related purposes.

Bill read a first time.

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

Paper

Mr Truss presented an explanatory memorandum to the Bill.

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

3 EGG INDUSTRY SERVICE PROVISION BILL 2002

Mr Truss (Minister for Agriculture, Fisheries and Forestry), pursuant to notice, presented a Bill for an Act relating to service provision for the egg industry.

Bill read a first time.

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

Paper

Mr Truss presented an explanatory memorandum to the Bill.

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

4 EGG INDUSTRY SERVICE PROVISION (TRANSITIONAL AND CONSEQUENTIAL PROVISIONS) BILL 2002

Mr Truss (Minister for Agriculture, Fisheries and Forestry), pursuant to notice, presented a Bill for an Act to deal with transitional and consequential matters related to the enactment of the *Egg Industry Service Provision Act 2002*, and for related purposes.

Bill read a first time.

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

Paper

Mr Truss presented an explanatory memorandum to the Bill.

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

5 EDUCATION SERVICES FOR OVERSEAS STUDENTS AMENDMENT BILL 2002

Dr Nelson (Minister for Education, Science and Training), pursuant to notice, presented a Bill for an Act to amend the *Education Services for Overseas Students Act 2000*, and for related purposes.

Bill read a first time.

Dr Nelson moved—That the Bill be now read a second time.

Paper

Dr Nelson presented an explanatory memorandum to the Bill.

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

6 AUSTRALIAN CAPITAL TERRITORY LEGISLATION AMENDMENT BILL 2002

Mr Tuckey (Minister for Regional Services, Territories and Local Government), pursuant to notice, presented a Bill for an Act to amend laws relating to the Australian Capital Territory, 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 Cox), and the resumption of the debate made an order of the day for the next sitting.

7 WORKPLACE RELATIONS AMENDMENT (PROHIBITION OF COMPULSORY UNION FEES) 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, 73

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

NOES, 59

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

* 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 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 Amendment 2

This amendment deletes item 10 from the Bill. Item 10 deals with false and misleading representations about bargaining services fees. In its place the amendment would insert a new Division 5A. This amendment, however, is unacceptable to the extent that it is related to Senate amendment 1. The amendment is also unnecessary, as item 10 of the Bill already prohibits false or misleading representations about another person's liability to pay a bargaining services fee. In addition, items 6, 9 and 10 of the Bill, in conjunction with sections 298K, 298L, 298P(3) and 298S of the *Workplace Relations Act 1996*, would prohibit a range of conduct arising out of a person's refusal to pay a bargaining services fee or to join an industrial association. The House of Representatives does not accept 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.

8 TRADE PRACTICES AMENDMENT (LIABILITY FOR RECREATIONAL SERVICES) 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.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Slipper (Parliamentary Secretary to the Minister for Finance and Administration), the Bill was read a third time.

9 FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (DISABILITY REFORM) BILL (NO. 2) 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.

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.

10 QUESTIONS

Questions without notice being asked—

Paper

Mr Lloyd, in accordance with standing order 321, having called for a document quoted from by Dr Nelson (Minister for Education, Science and Training)—

Dr Nelson presented the following paper:

The Missing Millions—\$478.5m.

Questions without notice continuing—

Paper

Mr Abbott (Minister for Employment and Workplace Relations) presented the following paper:

Agreement making in Australia under the Workplace Relations Act; 2000 and 2001—Report prepared by the Department of Employment and Workplace Relations and the Office of the Employment Advocate, 28 June 2002.

Questions without notice continued.

11 PAPERS—MOTION TO TAKE NOTE OF PAPERS

Mr Abbott (Leader of the House) presented the following papers:

Commonwealth Grants Commission—Report—Jervis Bay Territory 2002.

Reserve Bank of Australia—Report for 2001-2002.

and moved—That the House take note of the papers.

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

12 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—KYOTO PROTOCOL

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 failure of the Howard Government to embrace the opportunities for jobs and prosperity which will flow from ratifying the Kyoto Protocol”.

The proposed discussion having received the necessary support—

Mr Emerson addressed the House.

Discussion ensued.

Discussion concluded.

13 PUBLIC ACCOUNTS AND AUDIT—JOINT COMMITTEE—REPORT—STATEMENTS BY MEMBERS—MOTION TO TAKE NOTE OF PAPER

Mr Charles (Chair) presented the following paper:

Public Accounts and Audit—Joint Committee—Report 390—Review of Auditor-General’s reports 2001-2002—First, second and third quarters—Administration of taxation rulings; Commonwealth estate property sales; Administration of the Federation Fund Program; Personnel security: Management of security clearances, August 2002.

Ordered to be printed.

Mr Charles, Mr Georgiou and Ms Grierson, by leave, made statements in connection with the report.

Mr Charles, by leave, moved—That the House take note of the paper.

Mr Charles 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.

14 FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (DISABILITY REFORM) BILL (NO. 2) 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.

Mr Swan moved, as an amendment—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

- (1) condemns the Howard Government’s attempt to deny Disability Support Pensions to more than 100,000 Australians living with a disability over the next three years;
- (2) condemns the Government’s attempt to create two classes of people with disabilities by seeking to pay many of those who apply for a Disability Support Pension after 1 July 2003, \$52 a fortnight less than people currently receiving the payment;
- (3) endorses the view of the ALP supporting the need for welfare reforms that offer the opportunity for people with disabilities to participate fully in the community, including to work;
- (4) refuses to support Government cost cutting that will discourage people with a disability from seeking employment; and
- (5) calls on the Government to work with the ALP on a bipartisan basis to achieve real welfare reform”.

Debate continued.

Mrs Irwin 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 a later hour this day.

15 POSTPONEMENT OF ORDERS OF THE DAY

Ordered—That orders of the day Nos 4 and 5, government business, be postponed until a later hour this day.

16 NEW BUSINESS TAX SYSTEM (CONSOLIDATION, VALUE SHIFTING, DEMERGERS 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.

Consideration in detail

Bill, by leave, taken as a whole.

Paper

Mr Slipper (Parliamentary Secretary to the Minister for Finance and Administration) presented a supplementary explanatory memorandum to the Bill.

On the motion of Mr Slipper, by leave, Government amendments (1) to (53) were made together, after debate.

Bill, as amended, agreed to.

Consideration in detail concluded.

On the motion of Mr Slipper, by leave, the Bill was read a third time.

17 ADJOURNMENT

Mr Slipper (Parliamentary Secretary to the Minister for Finance and Administration) moved—That the House do now adjourn.

Debate ensued.

Debate extended

It being approximately 8 p.m., the debate was interrupted.

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

The debate continuing until 8.09 p.m., the Deputy Speaker adjourned the House until tomorrow at 9.30 a.m.

PAPERS

The following papers were deemed to have been presented on 28 August 2002:

Broadcasting Services Act—Notices—2002—

Broadcasting Services (Additional Conditions—Open Narrowcasting Radio Services).

Broadcasting Services Clarification.

Environment Protection and Biodiversity Conservation Act—

Instrument under Section 178, 4 July 2002.

Instrument under Section 183, 10 July 2002.

Higher Education Funding Act—Determination—2002 No. T14.

Sydney Airport Curfew Act—Dispensation—2002 No. 5.

ATTENDANCE

All Members attended (at some time during the sitting) except Mr Adams, Mr Cameron, Mrs Draper, Dr Kemp, Ms O'Byrne*, Ms Plibersek, Mr K. J. Thomson and Ms Worth.

* On leave

I. C. HARRIS
Clerk of the House of Representatives

2002

HOUSE OF REPRESENTATIVES
SUPPLEMENT TO VOTES AND PROCEEDINGS

No. 40

MAIN COMMITTEE

MINUTES OF PROCEEDINGS

WEDNESDAY, 28 AUGUST 2002

1 The Main Committee met at 9.40 a.m.

2 **MEMBERS' STATEMENTS**

Members' statements were made.

3 **RESEARCH INVOLVING EMBRYOS AND PROHIBITION OF HUMAN CLONING 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.

Suspension of sitting

At 10.18 a.m., a division having been called in the House, the proceedings were suspended.

Resumption of sitting

At 10.30 a.m., the proceedings were resumed.

Debate continued.

Suspension of sitting

At 1.15 p.m., the Deputy Speaker left the Chair.

Resumption of sitting

At 4 p.m., the Deputy Speaker resumed the Chair.

Debate continued.

The debate having concluded up to but not including the summing up by the mover of the motion for the second reading of the bill, or his nominee—

Bill to be returned to the House in accordance with the resolution of the House of 26 August 2002 (*see item 16, page 358*).

4 **ADJOURNMENT**

On the motion of Mr Baird, the Main Committee adjourned at 6.46 p.m.

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

B. C. WRIGHT
Clerk of the Main Committee