

1959.

## THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA.

## VOTES AND PROCEEDINGS

OF THE

## HOUSE OF REPRESENTATIVES.

No. 65.

WEDNESDAY, 18TH NOVEMBER, 1959.

1. The House met, at half-past two o'clock p.m., pursuant to adjournment.—Mr. Speaker (the Honorable J. McLeay) took the Chair, and read Prayers.
2. UNITED NATIONS—COMMITTEE PROCEEDINGS—MINISTERIAL STATEMENT.—Sir Garfield Barwick (Acting Minister for External Affairs), by leave, made a Ministerial Statement with reference to voting by the Australian Delegate in the Fourth Committee of the General Assembly of the United Nations in connexion with South-West Africa.
3. PAPER.—The following Paper was presented, by command of His Excellency the Governor-General—International Labour Organization—Forty-third Session, Geneva, June, 1959—Reports of the Australian Government, Employers' and Workers' Delegates.  
Ordered to lie on the Table.
4. LIFE INSURANCE BILL 1959.—Mr. Holt (Treasurer) moved, by leave, That he have leave to bring in a Bill for an Act to amend the *Life Insurance Act 1945-1958*.  
Question—put and passed.  
Bill brought up, and read a first time.  
Mr. Holt moved, by leave, That the Bill be now read a second time.  
Debate adjourned (Mr. Calwell), and the resumption of the debate made an Order of the Day for the next sitting.
5. SUSPENSION OF STANDING ORDERS—MATRIMONIAL CAUSES BILL 1959.—Sir Garfield Barwick (Attorney-General) moved, by leave, That, during the consideration in Committee of the Whole of the Matrimonial Causes Bill 1959, so much of Standing Order No. 223 be suspended as would prevent proposed new clauses being considered in their numerical order with the clauses as printed in the Bill.  
Debate ensued.  
Question—put and passed.
6. MATRIMONIAL CAUSES BILL 1959.—The House, according to Order, resolved itself into a Committee of the Whole for the further consideration of the Bill.

*(In the Committee.)*

Clause 8—

On the motion of Sir Garfield Barwick (Attorney-General), the following amendment was made:—  
Page 6, after sub-clause (1.) insert the following sub-clause:—

“(1A.) Subject to the next succeeding sub-section, where, before or after the commencement of this Act, a matrimonial cause has been instituted, then, whether or not that matrimonial cause has been completed, proceedings for any relief or order of a kind that could be sought under this Act in proceedings in relation to that matrimonial cause shall not be instituted after the commencement of this Act except under this Act.”

Clause, as amended, agreed to.

Clause 9 debated and agreed to.

Clause 10—

On the motion of Sir Garfield Barwick, the following amendment was made, after debate:—  
Page 8, line 7, omit “a substantial”, insert “the major”.

Clause, as amended, agreed to.

Clauses 11 to 13, by leave, taken together, and agreed to.

Clauses 14 to 17, by leave, taken together, and agreed to, after debate.

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*Proposed new clause—*

Mr. Killen moved, That the following new clause be inserted in the Bill:—

“ 17A. A minister of religion (not being a marriage conciliator) is competent but not compellable in any proceedings before a court (whether exercising federal jurisdiction or not) or before a person authorized by a law of the Commonwealth or of a State or Territory of the Commonwealth to hear, receive and examine evidence, to disclose any admission or communication made to him in the course of or for the purpose of effecting marital reconciliation by parties to divorce proceedings.”.

Debate ensued.

Proposed new clause negatived.

Clause 18—

On the motion of Sir Garfield Barwick, the following amendment was made, after debate:—

Page 10, line 28, after “ sub-section ” insert “ and to section nineteen A of this Act ”.

Clause, as amended, agreed to.

Clause 19 agreed to.

*New clause—*

On the motion of Sir Garfield Barwick, the following new clause was inserted in the Bill:—

“ 19A.—(1.) Where two persons who are within the prohibited degrees of affinity wish to marry one another, they may apply, in writing, to a Judge for permission to do so. Marriage of persons within prohibited degrees of affinity.

“ (2.) If the Judge is satisfied that the circumstances of the particular case are so exceptional as to justify the granting of the permission sought, he may, by order, permit the applicants to marry one another.

“ (3.) Where persons marry in pursuance of permission granted under this section, the validity of their marriage is not affected by the fact that they are within the prohibited degrees of affinity.

“ (4.) The Governor-General may arrange with the Governor of a State for the performance by Judges of the Supreme Court of that State of functions under this section.

“ (5.) In this section, ‘ Judge ’ means—

(a) a Judge in respect of whom an arrangement made under the last preceding sub-section is applicable; or

(b) a Judge of the Supreme Court of a Territory to which this Act applies.

“ (6.) The Governor-General may make regulations making provision for or in relation to the practice and procedure in and in connexion with applications under this section, including provision for or in relation to the summoning of witnesses, the production of documents, the taking of evidence on oath or affirmation and the payment of expenses of witnesses.”.

Clauses 20 and 21, by leave, taken together, and agreed to, after debate.

Clause 22—

On the motion of Sir Garfield Barwick, the following amendment was made, after debate:—

Page 12, line 31, after “ marriage ” insert “ or for a decree of nullity of a voidable marriage ”.

On the motion of Sir Garfield Barwick, the following further amendment was made:—

Page 12, line 34, omit “ of marriage,”, insert “ of a void marriage or for a decree of ”.

Clause, as amended, agreed to.

Clauses 23 to 26, by leave, taken together, and agreed to.

Clause 27 debated—

Ordered to be considered by paragraphs.

Clause to the end of paragraph (a) agreed to.

Paragraph (b)—

Mr. Killen moved the following amendment:—Page 14, lines 37–39, omit the paragraph, insert the following paragraph:—

“ (b) that, since the marriage, the other party to the marriage has, without just cause or excuse, wilfully deserted the petitioner for a continuous period of not less than three years; ”.

Debate ensued.

Question—That the paragraph proposed to be omitted stand part of the clause—put.

The Committee divided (The Chairman, Mr. Bowden, in the Chair)—

AYES, 83.

Mr. Adermann	Mr. C. R. Cameron	Mr. Erwin	Mr. Jack	Mr. Pollard
Mr. Allan	Mr. D. A. Cameron	Mr. Evatt	Mr. Johnson	Mr. Robertson
Mr. Anderson	Mr. Cash	Mr. Fairbairn	Mr. Jones	Mr. Russell
Mr. Anthony	Mr. Chaney	Mr. Falkinder	Mr. Joske	Mr. Snedden
Mr. Aston	Mr. Chresby	Mr. Forbes	Mr. King	Mr. Stokes
Mr. Barnard	Mr. Clark	Mr. Fox	Mr. Lindsay	Mr. Thompson
Mr. Barnes	Mr. Clay	Mr. J. M. Fraser	Mr. Lucock	Mr. Timson
Sir G. Barwick	Mr. Cleaver	Mr. Freeth	Mr. Mackinnon	Mr. Townley
Mr. Bate	Mr. Costa	Mr. Griffiths	Mr. Makin	Mr. Turner
Mr. Bird	Mr. Courtney	Mr. Halbert	Mr. McColm	Mr. Uren
Mr. Bland	Mr. Cramer	Mr. Harrison	Mr. McEwen	Mr. Whitlam
Mr. Brimblecombe	Mr. Crean	Mr. Hasluck	Mr. McIvor	Mr. Wight
Mr. Browne	Mr. Curtin	Mr. Haworth	Mr. McMahon	Mr. Wilson
Mr. Bryant	Mr. Davidson	Mr. Holt	Mr. Menzies	
Mr. Buchanan	Mr. Downer	Mr. Holten	Mr. Murray	<i>Tellers:</i>
Mr. Bury	Mr. Drummond	Mr. Howse	Mr. Osborne	Mr. Opperman
Mr. Cairns	Mr. Duthie	Mr. Hulme	Mr. Pearce	Mr. Turnbull

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NOES, 19.

Mr. Beazley	Mr. Davis	Mr. Haylen	Mr. Minogue	Mr. Wheeler
Mr. Clarey	Mr. Fairhall	Mr. Howson	Mr. O'Connor	<i>Tellers:</i>
Mr. Cope	Mr. Fulton	Sir W. Kent Hughes	Mr. Reynolds	Mr. Luchetti
Mr. Daly	Mr. Galvin	Mr. Killen	Mr. Wentworth	Mr. Stewart

And so it was resolved in the affirmative.

Paragraphs (c) to (f), by leave, taken together, and agreed to.

Paragraph (g) debated and agreed to.

Paragraph (h) debated and agreed to.

Paragraph (i)—

On the motion of Sir Garfield Barwick, the following amendment was made:—

Page 15, lines 28–32, omit sub-paragraphs (i) and (ii), insert the following sub-paragraphs:—

- “ (i) having attempted to murder or unlawfully to kill the petitioner; or
- “ (ii) having committed an offence involving the intentional infliction of grievous bodily harm on the petitioner or the intent to inflict grievous bodily harm on the petitioner;”.

Paragraph, as amended, agreed to.

Paragraphs (j) to (l), by leave, taken together, and debated.

Mr. Cope moved the following amendment:—Page 16, lines 1–11, omit paragraph (l).

Debate continued.

Question—That the paragraph proposed to be omitted stand part of the clause—put.

The Committee divided (The Chairman, Mr. Bowden, in the Chair)—

AYES, 91.

Mr. Adermann	Mr. Chaney	Mr. Forbes	Mr. Jones	Mr. Russell
Mr. Allan	Mr. Chresby	Mr. Fox	Mr. Joske	Mr. Snedden
Mr. Anderson	Mr. Clarey	Mr. A. D. Fraser	Mr. Killen	Mr. Stokes
Mr. Anthony	Mr. Clark	Mr. J. M. Fraser	Mr. King	Mr. Thompson
Mr. Aston	Mr. Clay	Mr. Freeth	Mr. Lindsay	Mr. Timson
Mr. Barnard	Mr. Cleaver	Mr. Fulton	Mr. Lucock	Mr. Townley
Mr. Barnes	Mr. Costa	Mr. Griffiths	Mr. Mackinnon	Mr. Turnbull
Sir G. Barwick	Mr. Courtney	Mr. Halbert	Mr. Makin	Mr. Turner
Mr. Bate	Mr. Cramer	Mr. Hamilton	Mr. McColm	Mr. Uren
Mr. Bird	Mr. Crean	Mr. Harrison	Mr. McEwen	Mr. Wentworth
Mr. Brimblecombe	Mr. Davidson	Mr. Hasluck	Mr. McIvor	Mr. Whitlam
Mr. Browne	Mr. Davis	Mr. Haworth	Mr. McMahan	Mr. Wight
Mr. Bryant	Mr. Downer	Mr. Holt	Mr. Menzies	Mr. Wilson
Mr. Buchanan	Mr. Drummond	Mr. Holten	Mr. Murray	
Mr. Bury	Mr. Erwin	Mr. Howse	Mr. Osborne	<i>Tellers:</i>
Mr. Cairns	Mr. Evatt	Mr. Howson	Mr. Pearce	
Mr. C. R. Cameron	Mr. Fairbairn	Mr. Hulme	Mr. Pollard	Mr. Duthie
Mr. D. A. Cameron	Mr. Fairhall	Mr. Jack	Mr. Reynolds	Mr. Opperman
Mr. Cash	Mr. Falkinder	Mr. Johnson	Mr. Robertson	

NOES, 11.

Mr. Calwell	Mr. Daly	Mr. Kearney	<i>Tellers:</i>
Mr. Cope	Mr. Galvin	Mr. Minogue	Mr. Luchetti
Mr. Curtin	Mr. Haylen	Mr. O'Connor	Mr. Stewart

And so it was resolved in the affirmative.

Paragraphs agreed to.

Paragraph (m)—

Sir Garfield Barwick moved the following amendment:—Page 16, lines 12–17, omit the paragraph, insert the following paragraph:—

- “ (m) that the parties to the marriage have separated and thereafter have lived separately and apart for a continuous period of not less than five years immediately preceding the date of the petition, and there is no reasonable likelihood of cohabitation being resumed;”.

The Committee continuing to sit until after midnight—

THURSDAY, 19TH NOVEMBER, 1959.

Debate ensued.

Question—That the paragraph proposed to be omitted stand part of the clause—put and negated.

Question—That the paragraph proposed to be inserted be so inserted—put.

The Committee divided (The Chairman, Mr. Bowden, in the Chair)—

AYES, 70.

Mr. Adermann	Mr. Cash	Mr. Fox	Mr. Joske	Mr. Thompson
Mr. Allan	Mr. Chaney	Mr. J. M. Fraser	Mr. King	Mr. Timson
Mr. Anderson	Mr. Chresby	Mr. Freeth	Mr. Lindsay	Mr. Townley
Mr. Anthony	Mr. Clay	Mr. Griffiths	Mr. Lucock	Mr. Turnbull
Mr. Aston	Mr. Cleaver	Mr. Halbert	Mr. Makin	Mr. Turner
Mr. Barnes	Mr. Costa	Mr. Hamilton	Mr. McColm	Mr. Whitlam
Sir G. Barwick	Mr. Crean	Mr. Harrison	Mr. McIvor	Mr. Wight
Mr. Bate	Mr. Davidson	Mr. Hasluck	Mr. McMahan	Mr. Wilson
Mr. Brimblecombe	Mr. Downer	Mr. Holt	Mr. Menzies	
Mr. Browne	Mr. Drummond	Mr. Holten	Mr. Murray	
Mr. Bryant	Mr. Erwin	Mr. Howse	Mr. Osborne	<i>Tellers:</i>
Mr. Buchanan	Mr. Evatt	Mr. Hulme	Mr. Pearce	
Mr. Bury	Mr. Fairbairn	Mr. Jack	Mr. Robertson	Mr. Duthie
Mr. C. R. Cameron	Mr. Falkinder	Mr. Johnson	Mr. Snedden	Mr. Opperman
Mr. D. A. Cameron	Mr. Forbes	Mr. Jones	Mr. Stokes	

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		Noes, 25.		
Mr. Barnard	Mr. Courtney	Mr. Howson	Mr. Reynolds	<i>Tellers:</i>
Mr. Beazley	Mr. Curtin	Mr. Kearney	Mr. Uren	
Mr. Bird	Mr. Davis	Sir W. Kent Hughes	Mr. Ward	Mr. Luchetti
Mr. Calwell	Mr. Fairhall	Mr. Killen	Mr. Wentworth	Mr. Stewart
Mr. Clarey	Mr. Haworth	Mr. Mackinnon	Mr. Wheeler	
Mr. Cope	Mr. Haylen	Mr. Minogue		

And so it was resolved in the affirmative.  
Progress to be reported, and leave asked to sit again.

The House resumed; Mr. Bowden reported accordingly.  
Ordered—That the House will, at the next sitting, again resolve itself into the said Committee.

7. MESSAGE FROM THE SENATE.—A Message from the Senate was reported returning the following Bill without amendment:—

19th November, 1959, a.m.—*Message No. 83*—Rayon Yarn Bounty (No. 2) 1959.

8. PAPERS.—The following Papers were presented, pursuant to Statute—  
Public Service Act—Appointment—Department of the Interior—B. J. Franklin.  
Public Service Arbitration Act—Determinations—1959—  
Nos. 79 and 80—Musicians' Union of Australia.  
No. 81—Australian Workers' Union and others.  
Nos. 82, 83 and 84—Amalgamated Engineering Union and others.  
No. 85—Australian Journalists' Association.

9. ADJOURNMENT.—Sir Garfield Barwick (Attorney-General) moved, That the House do now adjourn.  
Question—put and passed.

And then the House, at eleven minutes past three o'clock in the morning, adjourned until this day at half-past ten o'clock a.m.

MEMBERS PRESENT.—All Members were present (at some time during the sitting) except Mr. Bandidt, Mr. Casey, Mr. Dean, Mr. Drury, Mr. Failes, Mr. Kelly, Mr. Lawson, Mr. Peters\*, Mr. Riordan, Mr. Sexton\* and Mr. Swartz.

\* On leave.

A. G. TURNER,  
*Clerk of the House of Representatives.*