

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 21

THURSDAY, 5 MAY 1977

1 The House met, at 10.30 a.m., pursuant to adjournment. Mr Speaker (the Right Honourable B. M. Snedden) took the Chair, and read Prayers.

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

Mr Braithwaite and Mr Carige—from certain citizens praying that private clinics be prevented from performing abortions in the A.C.T. and that abortions not be financed through Medibank.

Mr Armitage—from certain citizens praying that steps be taken to prevent the television and electronic components industry from being destroyed.

Mr FitzPatrick—from certain citizens praying that representatives of the Rhodesian Government be invited to Australia.

Mr Goodluck—from certain members of Parents Without Partners (Australia) Inc. and others praying that lone fathers receive a pension on the same basis as supporting mothers.

Mr King—from certain citizens praying that the Government totally finance national highways and provide half the cost of all other public roads.

Mr Lucock—from certain citizens praying that the recommendations of the Commonwealth Bureau of Roads for the funding of local roads in N.S.W. be adopted.

Mr Morris—from certain citizens praying that the House call on Sir John Kerr to resign as Governor-General.

Petitions received.

3 QUESTIONS: Questions without notice were asked.

4 PAPERS: The following papers were presented, by command of His Excellency the Administrator:

Darwin Cyclone Tracy Relief Trust Fund—Reports—

1976—

October.

November.

December.

1977—

January.

February.

March.

April.

5 PRIVILEGE: Mr Neil raised a matter of privilege with respect to the proposed motion of censure of the honourable Member for St George, notice of which had been given earlier this day by the honourable Member for Chifley.

Mr Speaker stated that the honourable Member had failed to establish a *prima facie* case of breach of privilege.

6 MESSAGES FROM THE SENATE: Messages from the Senate were reported returning the following Bills without amendment:

4 May 1977—Message—

No. 12—Commonwealth Bureau of Roads (Repeal) 1977.

No. 13—Automatic Data Processing Equipment Bounty 1977.

No. 14—Bed Sheeting Bounty 1977.

No. 15—Agricultural Tractors Bounty Amendment 1977.

7 SPECIAL ADJOURNMENT: Mr Sinclair (Leader of the House) moved—That the House, at its rising, adjourn until Tuesday, 24 May, at 2.15 p.m., unless Mr Speaker shall, by telegram or letter addressed to each Member of the House, fix an alternative day or hour of meeting.

Debate ensued.

Question—put and passed.

8 SUSPENSION OF STANDING ORDERS—GENERAL BUSINESS NOTICE: Mr Sinclair (Leader of the House), by leave, moved—That so much of the standing orders be suspended as would prevent notice No. 17, general business, being called on forthwith.

Question—put and passed.

9 COURT OF DISPUTED RETURNS—PROPOSED REFERENCE: Dr Jenkins, pursuant to notice, moved—

(1) The House notes:

- (a) that the firm of Patrick Partners carried on the business of stock and share brokers under that name, principally in Sydney and Melbourne;
- (b) that the said firm had 12 partners, of whom Michael Ehrenfried Baume, now the honourable Member for Macarthur, was one;
- (c) that on 27 July 1975 11 members of the firm other than the honourable Member signed an authority under sub-section 188 (1) of the *Bankruptcy Act* 1966, as amended, authorising Mr J. H. Jamison, a registered trustee, to call a meeting of his creditors and to take over control of his property, and the authority became effective for the purposes of Part X of the Act on that day;
- (d) that on 27 July 1975 the honourable Member also signed an authority under sub-section 188 (1) of the *Bankruptcy Act* 1966 as amended authorising Mr J. H. Jamison, a registered trustee, to call a meeting of his creditors and to take over control of his property, and the authority became effective for the purposes of Part X of the Act on that day;
- (e) that on 27 February 1976 deeds of arrangement with each of the 11 partners other than the honourable Member were approved by special resolutions passed under paragraph 204 (1) (b) of the *Bankruptcy Act* at creditors' meetings held on that date;
- (f) that the deeds of arrangement were executed on 19 March 1976 in compliance with sub-section 216 (1) of the *Bankruptcy Act*;
- (g) that all 11 deeds of arrangement provided in the recitals (*inter alia*) that:

Recital A. The Debtor was at all material times a partner of Patrick Partners, Stock and Share Brokers (hereinafter referred to as "the Firm") who carried on business principally in Sydney and Melbourne.

Recital B. On 27 July 1975, the members of the Firm consisted of the persons named in Part A of the First Schedule hereto. Michael Ehrenfried Baume (hereinafter referred to as "Mr Baume") was prior to 24 February 1975 a partner in the Firm and there is a dispute between Mr Baume and the Firm as to whether he was a partner thereof as at 27 July 1975. Mr Baume claims to be entitled to indemnities in respect of the debts and liabilities of the Firm from certain of the Partners and Former Partners of the Firm.

Recital C. On 27 July 1975, the Debtor, and the other members of the Firm (not including Mr Baume) signed an authority under section 188 of the Act appointing the Trustee as his Controlling Trustee. Mr Baume also appointed the Trustee as his Attorney with powers limited to dealing with his interest (if any) in the Firm.

Recital F. The Debtor is desirous of entering into this Deed of Arrangement in favour of his creditors in order to make arrangements for his affairs and secure payment of his debts in whole or in part to his said creditors on the terms and subject to the conditions herein-contained;

- (h) that all 11 deeds of arrangement provided in clause 9 that:

In consideration of Mr Baume completing an agreement to make arrangements for the satisfaction of the debt of \$106 082 claimed to be due by him to the Firm (the amount so paid by Mr Baume being part of the amount referred to in Clause 3 (b) hereof and forms part of the funds available for distribution to the Joint Creditors hereunder) and in consideration of the payments to be made by the Trustee in accordance with the provisions of this Deed, the Joint Creditors each covenant with the Trustee not, during the Currency of the Deed, to bring any action, suit or demand or take any steps to enforce payment by or against Mr Baume for any indebtedness in respect of which Mr Baume may be jointly or severally liable with the Debtor to any Joint Creditor and on the expiration of the Currency of the Deed the claims of all Joint Creditors (whether Participating Creditors or otherwise) against Mr Baume shall be deemed to be fully discharged and satisfied and shall thereupon be released and extinguished. The Trustee shall agree with Mr Baume to take such proceedings at the request and cost of Mr Baume and subject to such indemnities as the Trustee may determine to seek to restrain any Joint Creditor from bringing any action, suit or demand or taking any step to enforce payment against Mr Baume arising out of any indebtedness to a Joint Creditor in respect of which Mr Baume is jointly liable with the Debtor or to defend any such action, suit or demand so brought. The Trustee shall also agree with Mr Baume that the Trustee will not bring any action, suit or demand or take any steps to enforce payment by Mr Baume for any indebtedness due jointly or severally by Mr Baume to the Debtor or the Firm or in respect of which Mr Baume is responsible to the Firm whilst ever Mr Baume observes and performs the obligations on his part contained in the agreement entered into by him with the Trustee hereinbefore provided and upon the expiration of the Currency of the Deed all such claims and demands against Mr Baume shall be released and extinguished. If Mr Baume fails to complete the agreement with the Trustee as hereinbefore provided before the Commencement Date then this Clause shall not apply to Mr Baume;

- (i) that all 11 deeds of arrangement provided in clause 1 (*inter alia*) that:

In this Deed unless the context otherwise requires the following expressions shall have the meaning set opposite the same respectively:—

‘The Commencement Date’ means the date on which this deed is executed.

‘Currency of the Deed’ means the duration of the Deed is provided by Clause 14 hereof;

- (j) that all 11 deeds of arrangement provided in clause 14 that: This Deed shall operate for a period of five (5) years from the Commencement Date;
- (k) that the honourable Member executed also on 19 March 1976 before any of the 11 deeds of arrangement were executed a deed as contemplated by the opening words of clause 9 hereinbefore referred to;
- (l) that the honourable Member has complied with the requirements of the relevant covenant in that deed;

- (m) that in a judgement of 21 September 1976 Mr Justice Riley of the Federal Court of Bankruptcy determined in the matter of Dowling and others:
- (i) that on the evidence each of the deeds of arrangement was entered into in accordance with Part X of the Bankruptcy Act, complied with the requirements of that Part, and was duly executed by the debtor concerned and the Trustee;
 - (ii) that pursuant to sub-section 233 (1) of the Bankruptcy Act each deed was therefore "binding on all the creditors of the debtor";
 - (iii) that even though each of the 11 deeds related not only to the liabilities of the debtor who execute it but also those of the honourable Member, it could validly contain provisions which refer to liabilities of a person other than the executing debtor;
 - (iv) that a deed of arrangement may contain any reasonable provisions requisite to give effect to the purposes of the deed if they do not contravene those provisions of the Act made applicable to deeds under Part X of the Bankruptcy Act;
 - (v) that the effect of the provisions relating to the honourable Member which the deeds contain is that \$106 082 contributed by the honourable Member may be available for distribution among the creditors that would not otherwise be available with the added advantage of the avoidance of litigation against the honourable Member over his liabilities to creditors and by him over his entitlements to indemnity from his former partners;
 - (vi) that there is nothing in these provisions that offends any provision of the Bankruptcy Act and each of the 11 deeds is valid and binding;
 - (vii) that having regard to the circumstances of the execution of the deeds of arrangements the deed signed by the honourable Member need only have been executed by him before the debtors executed their deeds of arrangement for clause 9 to apply and therefore as he did in fact execute his deed before the deeds of arrangement were executed creditors are bound by the deeds of arrangement and clause 9 of those deeds applies to the honourable Member;
 - (viii) that the injunctions sought by Mr Jamison the trustee of the deeds of arrangements pursuant to sub-section 30 (1) of the Bankruptcy Act be granted restraining certain creditors from taking any step to enforce payment by the honourable Member for a debt in respect of which the said creditors alleged the honourable Member is liable and which was the subject of proceedings in the Supreme Court of New South Wales and the making of an order that the creditors be restrained from proceeding with the action;
- (n) That the Constitution of the Commonwealth of Australia provides (*inter alia*) in section 45 (ii) that if a member of the House of Representatives takes the benefit, whether by assignment, composition or otherwise, of any law relating to bankrupt or insolvent debtors his place shall thereupon become vacant.
- (2) The House therefore resolves that the question whether the place of the honourable Member for Macarthur has become vacant pursuant to the provisions of section 45 (ii) of the Constitution of the Commonwealth of Australia be referred for determination to the Court of Disputed Returns pursuant to section 203 of the Commonwealth Electoral Act.

Papers: Dr Jenkins, by leave, during his speech, presented the following papers:

Federal Court of Bankruptcy—Copy of judgement, dated 21 September 1976, by Riley, J. re Dowling and others, Ex parte Jamison (No N.S.W. 74 of 1975/X).

Copy of deed between Michael Ehrenfried Baume, James Hardie Jamison, the Commercial Banking Company of Sydney Limited and the Bank of New South Wales, dated 19 March 1976.

Copy of deed of arrangement between Norman Roy Course and James Hardie Jamison, dated 19 March 1976.

Debate ensued.

Ordered—That Mr Ellicott (Attorney-General) be granted an extension of time.

Papers: Mr Ellicott during his speech, by command of His Excellency the Administrator, presented the following papers:

Notice of motion concerning the honourable Member for Macarthur—Joint opinion of Mr R. J. Ellicott, Q.C., Attorney-General, and Mr M. H. Byers, Q.C., Solicitor-General, dated 4 May 1977.

Michael Ehrenfried Baume—Eligibility to sit as Member of the House of Representatives—Opinions of—

D. M. J. Bennett, dated 29 April 1976.

T. E. F. Hughes, Q.C., dated 26 April 1977.

Mr Scholes addressing the House—

Closure: Mr Ellicott moved—That the question be now put.

Question—That the question be now put—put.

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

AYES, 71

Mr Adermann	Dr Edwards	Mr Katter	Mr Newman
Mr Aldred	Mr Ellicott	Mr Kelly	Mr Nixon
Mr Baillieu	Mr Falconer	Mr Killen	Mr O'Keefe
Mr Baume	Mr Fife	Mr King	Mr Porter
Mr Birney	Mr Garland	Mr Lloyd	Mr E. L. Robinson
Mr Bonnett	Mr Giles	Mr Lucock	Mr I. L. Robinson
Mr Bourchier	Mr Gillard	Mr Lusher	Mr Sainsbury
Mr Bradfield	Mr Goodluck	Mr Lynch	Mr Shipton
Mr Braithwaite	Mr Graham	Mr MacKellar	Mr Short
Mr Brown	Mr Groom	Mr MacKenzie	Mr Sinclair
Mr Bungey	Mr Hamer	Mr McLean	Mr Street
Mr Burr	Mr Hodges	Mr W. McMahan	Mr Thomson
Mr Cadman	Mr Hodgman	Mr McVeigh	Mr Wentworth
Mr K. M. Cairns	Mr Howard	Mr Macphee	Mr Wilson
Mr Calder	Mr Hunt	Mr Martyr	Mr Yates
Mr Carige	Mr Jarman	Mr Millar	<i>Tellers:</i>
Mr Dobie	Mr P. F. Johnson	Mr Moore	Mr D. M. Cameron
Mr Drummond	Mr Jull	Mr Neil	Mr Corbett

NOES, 31

Mr Armitage	Mr FitzPatrick	Mr Jones	Mr Uren
Mr Beazley	Mr Fry	Mr Keating	Mr Wallis
Mr Bowen	Mr Garrick	Dr Klugman	Mr A. P. Whitlam
Mr C. R. Cameron	Mr Hayden	Mr J. L. McMahon	Mr Willis
Dr Cass	Mr Innes	Mr Martin	Mr Young
Mr Cohen	Mr Jacobi	Mr Morris	<i>Tellers:</i>
Mr Connor	Dr Jenkins	Mr Scholes	Mr James
Mr Crean	Mr L. K. Johnson	Mr Stewart	Mr L. R. Johnson

And so it was resolved in the affirmative.

And the question—That the motion be agreed to—being accordingly put—

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

AYES, 31

Mr Armitage	Mr FitzPatrick	Mr Jones	Mr Uren
Mr Beazley	Mr Fry	Mr Keating	Mr Wallis
Mr Bowen	Mr Garrick	Dr Klugman	Mr A. P. Whitlam
Mr C. R. Cameron	Mr Hayden	Mr J. L. McMahon	Mr Willis
Dr Cass	Mr Innes	Mr Martin	Mr Young
Mr Cohen	Mr Jacobi	Mr Morris	<i>Tellers:</i>
Mr Connor	Dr Jenkins	Mr Scholes	Mr James
Mr Crean	Mr L. K. Johnson	Mr Stewart	Mr L. R. Johnson

NOES, 71

Mr Adermann	Dr Edwards	Mr Katter	Mr Newman
Mr Aldred	Mr Ellicott	Mr Kelly	Mr Nixon
Mr Baillieu	Mr Falconer	Mr Killen	Mr O'Keefe
Mr Birney	Mr Fife	Mr King	Mr Porter
Mr Bonnett	Mr Garland	Mr Lloyd	Mr E. L. Robinson
Mr Bouchier	Mr Giles	Mr Lucock	Mr I. L. Robinson
Mr Bradfield	Mr Gillard	Mr Lusher	Mr Sainsbury
Mr Braithwaite	Mr Goodluck	Mr Lynch	Mr Shipton
Mr Brown	Mr Graham	Mr MacKellar	Mr Short
Mr Bungey	Mr Groom	Mr MacKenzie	Mr Sinclair
Mr Burr	Mr Hamer	Mr McLean	Mr Street
Mr Cadman	Mr Hodges	Mr W. McMahon	Mr Thomson
Mr K. M. Cairns	Mr Hodgman	Mr McVeigh	Mr Wentworth
Mr Calder	Mr Howard	Mr Macphee	Mr Wilson
Mr Carige	Mr Hunt	Mr Martyr	Mr Yates
Mr Chapman	Mr Jarman	Mr Millar	<i>Tellers:</i>
Mr Dobie	Mr P. F. Johnson	Mr Moore	Mr D. M. Cameron
Mr Drummond	Mr Jull	Mr Neil	Mr Corbett

And so it was negatived.

The time allotted for precedence to general business having expired—

- 10 SUSPENSION OF STANDING ORDERS—GENERAL BUSINESS NOTICE: Mr Sinclair (Leader of the House), by leave, moved—That so much of the standing orders be suspended as would prevent consideration of notice No. 1, general business, being continued until 2.30 p.m.

Question—put and passed.

- 11 INDUSTRIAL ACTION—PROPOSED POLL: Mr Hamer, pursuant to notice, moved—That this House is of the opinion that the following question should be put to the citizens of Australia in a poll on the occasion of the next election for the House of Representatives: "Do you approve of industrial action by way of strikes or work bans being carried out by certain sections of the Trade Union Movement, where this action has no relation to industrial disputes?"

Debate ensued.

The extended time allotted for the consideration of general business notice No. 1 having expired, the debate was interrupted, Mr L. K. Johnson was granted leave to continue his speech when the debate is resumed, and the resumption of the debate was made an order of the day for the next sitting.

- 12 FOREIGN AFFAIRS AND DEFENCE—JOINT COMMITTEE—STATEMENT BY MEMBER: Mr Beazley (Deputy Chairman), by leave, made a statement concerning the activities of the Joint Committee on Foreign Affairs and Defence.

- 13 LOAN (WAR SERVICE LAND SETTLEMENT) BILL 1977: Mr Sinclair (Minister for Primary Industry), pursuant to notice, presented a Bill for an Act to authorize the Raising and Expending of a sum not exceeding \$3,000,000 for a Defence Purpose, namely, Financial Assistance to South Australia, Western Australia and Tasmania in connexion with War Service Land Settlement.

Bill read a first time.

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

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

- 14 ROADS ACTS AMENDMENT BILL 1977: Mr Nixon (Minister for Transport), pursuant to notice, presented a Bill for an Act relating to Financial Assistance to the States in relation to Roads.

Bill read a first time.

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

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

- 15 INTERNATIONAL DEVELOPMENT ASSOCIATION (FURTHER PAYMENT) BILL 1977: Mr Peacock (Minister for Foreign Affairs), pursuant to notice, presented a Bill for an Act to approve the making by Australia of a further Payment to the International Development Association.
Bill read a first time.
Mr Peacock moved—That the Bill be now read a second time.
Debate adjourned (Mr Bowen), and the resumption of the debate made an order of the day for the next sitting.
- 16 INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT BILL 1977: Mr Peacock (Minister for Foreign Affairs), pursuant to notice, presented a Bill for an Act relating to the International Fund For Agricultural Development.
Bill read a first time.
Mr Peacock moved—That the Bill be now read a second time.
Debate adjourned (Mr Bowen), and the resumption of the debate made an order of the day for the next sitting.
- 17 STATES GRANTS (ADVANCED EDUCATION ASSISTANCE) AMENDMENT BILL 1977: Mr Staley (Minister for the Capital Territory), pursuant to notice, presented a Bill for an Act to amend the *States Grants (Advanced Education) Act 1976* and the *States Grants (Advanced Education Assistance) Act 1976*, and for related purposes.
Bill read a first time.
Mr Staley moved—That the Bill be now read a second time.
Debate adjourned (Mr Bowen), and the resumption of the debate made an order of the day for the next sitting.
- 18 STATES GRANTS (SCHOOLS ASSISTANCE) AMENDMENT BILL 1977: Mr Staley (Minister for the Capital Territory), pursuant to notice, presented a Bill for an Act to amend the *States Grants (Schools) Act 1972*, the *States Grants (Schools) Act 1976* and the *States Grants (Schools Assistance) Act 1976*, and for related purposes.
Bill read a first time.
Mr Staley moved—That the Bill be now read a second time.
Debate adjourned (Mr Bowen), and the resumption of the debate made an order of the day for the next sitting.
- 19 STATES GRANTS (TECHNICAL AND FURTHER EDUCATION ASSISTANCE) AMENDMENT BILL 1977: Mr Staley (Minister for the Capital Territory), pursuant to notice, presented a Bill for an Act to amend the *States Grants (Technical and Further Education) Act 1974* and the *States Grants (Technical and Further Education Assistance) Act 1976*, and for related purposes.
Bill read a first time.
Mr Staley moved—That the Bill be now read a second time.
Debate adjourned (Mr Bowen), and the resumption of the debate made an order of the day for the next sitting.
- 20 STATES GRANTS (UNIVERSITIES ASSISTANCE) AMENDMENT BILL 1977: Mr Staley (Minister for the Capital Territory), pursuant to notice, presented a Bill for an Act to amend the *States Grants (Universities) Act 1976* and the *States Grants (Universities Assistance) Act 1976*.
Bill read a first time.
Mr Staley moved—That the Bill be now read a second time.
Debate adjourned (Mr Bowen), and the resumption of the debate made an order of the day for the next sitting.
- 21 ADMINISTRATIVE APPEALS TRIBUNAL AMENDMENT BILL 1977: 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 Ellicott (Attorney-General) 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 a later hour this day.

- 22 INTELLIGENCE AND SECURITY SERVICES—MINISTERIAL STATEMENT AND PAPER: Mr Fraser (Prime Minister), by leave, made a ministerial statement informing the House of Government decisions concerning the organisation and administration of the intelligence and security services, and, by command of His Excellency the Administrator, presented the following paper:

Royal Commission on Intelligence and Security—Abridged findings and recommendations of third report, dated April 1977.

Mr E. G. Whitlam (Leader of the Opposition), by leave, also made a statement with reference to the matter.

- 23 PRICE AND WAGE INCREASES—3 MONTH PAUSE—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF PAPER: Mr Howard (Minister for Business and Consumer Affairs), by leave, made a ministerial statement relating to the progress of the Government's proposals for a 3 month pause in price and wage increases, and, by command of His Excellency the Administrator, presented the following paper:

Price and wage increases—3 month pause—Ministerial statement, 5 May 1976.

Mr McLeay (Minister for Construction) moved—That the House take note of the paper. Debate ensued.

Mr Bouchier moved—That the debate be now adjourned.

Question—put.

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

AYES, 69

Mr Abel	Mr Dobie	Mr Jarman	Mr Nixon
Mr Adermann	Mr Drummond	Mr P. F. Johnson	Mr O'Keefe
Mr Aldred	Dr Edwards	Mr Jull	Mr Peacock
Mr Baillieu	Mr Ellicott	Mr Katter	Mr Porter
Mr Baume	Mr Falconer	Mr Kelly	Mr I. L. Robinson
Mr Birney	Mr Fife	Mr Killen	Mr Sainsbury
Mr Bonnett	Mr Garland	Mr King	Mr Shipton
Mr Bouchier	Mr Giles	Mr Lloyd	Mr Short
Mr Bradfield	Mr Gillard	Mr MacKellar	Mr Sinclair
Mr Braithwaite	Mr Goodluck	Mr McLean	Mr Staley
Mr Brown	Mr Graham	Mr McLeay	Mr Street
Mr Bungey	Mr Groom	Mr McVeigh	Mr Thomson
Mr Burr	Mr Hamer	Mr Macphee	Mr Wilson
Mr Cadman	Mr Hodges	Mr Martyr	
Mr K. M. Cairns	Mr Hodgman	Mr Millar	<i>Tellers:</i>
Mr Calder	Mr Holten	Mr Moore	Mr D. M. Cameron
Mr Carige	Mr Howard	Mr Neil	Mr Corbett
Mr Chapman	Mr Hunt	Mr Newman	

NOES, 30

Mr Armitage	Mr Fry	Mr Keating	Mr Wallis
Mr Beazley	Mr Garrick	Dr Klugman	Mr A. P. Whitlam
Mr Bowen	Mr Hayden	Mr J. L. McMahon	Mr Willis
Dr J. F. Cairns	Mr Innes	Mr Martin	Mr Young
Mr C. R. Cameron	Mr Jacobi	Mr Morris	
Dr Cass	Dr Jenkins	Mr Scholes	<i>Tellers:</i>
Mr Crean	Mr L. K. Johnson	Mr Stewart	Mr James
Mr FitzPatrick	Mr Jones	Mr Uren	Mr I. R. Johnson

And so it was resolved in the affirmative.

Question—That the resumption of the debate be made an order of the day for the next sitting—put.

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

AYES, 71

Mr Abel	Mr Dobie	Mr Jarman	Mr Newman
Mr Adermann	Mr Drummond	Mr P. F. Johnson	Mr Nixon
Mr Aldred	Dr Edwards	Mr Jull	Mr O'Keefe
Mr Baillieu	Mr Ellicott	Mr Katter	Mr Peacock
Mr Baume	Mr Falconer	Mr Kelly	Mr Porter
Mr Birney	Mr Fife	Mr Killen	Mr I. L. Robinson
Mr Bonnett	Mr Garland	Mr King	Mr Sainsbury
Mr Bourchier	Mr Giles	Mr Lloyd	Mr Shipton
Mr Bradfield	Mr Gillard	Mr MacKellar	Mr Short
Mr Braithwaite	Mr Goodluck	Mr McLean	Mr Sinclair
Mr Brown	Mr Graham	Mr McLeay	Mr Staley
Mr Bungey	Mr Groom	Mr W. McMahan	Mr Street
Mr Burr	Mr Hamer	Mr McVeigh	Mr Thomson
Mr Cadman	Mr Hodges	Mr Macphee	Mr Wilson
Mr K. M. Cairns	Mr Hodgman	Mr Martyr	Mr Yates
Mr Calder	Mr Holten	Mr Millar	<i>Tellers:</i>
Mr Carige	Mr Howard	Mr Moore	Mr D. M. Cameron
Mr Chapman	Mr Hunt	Mr Neil	Mr Corbett

NOES, 30

Mr Armitage	Mr Fry	Mr Keating	Mr Wallis
Mr Beazley	Mr Garrick	Dr Klugman	Mr A. P. Whitlam
Mr Bowen	Mr Hayden	Mr J. L. McMahon	Mr Willis
Dr J. F. Cairns	Mr Innes	Mr Martin	Mr Young
Mr C. R. Cameron	Mr Jacobi	Mr Morris	<i>Tellers:</i>
Dr Cass	Dr Jenkins	Mr Scholes	Mr James
Mr Crean	Mr L. K. Johnson	Mr Stewart	Mr L. R. Johnson
Mr FitzPatrick	Mr Jones	Mr Uren	

And so it was resolved in the affirmative.

24 DEPUTY SPEAKER'S RULING—DISSENT FROM RULING MOVED: Mr Hayden proceeding to move a motion for the suspension of standing orders—

Point of order: Mr Sinclair (Leader of the House) raised a point of order that the motion for the suspension of standing orders was out of order as the matter had been canvassed and voted upon by the House.

Deputy Speaker's ruling: The Deputy Speaker (Mr Lucock) ruled that the motion was not acceptable as it covered the same subject on which the House had just voted to adjourn debate.

Paper: Mr Howard (Minister for Business and Consumer Affairs), by command of His Excellency the Administrator, presented the following paper:

Price and wage increases—3 month pause—Copy of telex message from Mr Fraser (Prime Minister) to Premiers, dated 5 May 1977.

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

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

Question—put.

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

AYES, 66

Mr Adermann	Dr Edwards	Mr Jull	Mr Nixon
Mr Aldred	Mr Ellicott	Mr Katter	Mr O'Keefe
Mr Baillieu	Mr Falconer	Mr Kelly	Mr Porter
Mr Bonnett	Mr Fife	Mr Killen	Mr I. L. Robinson
Mr Bourchier	Mr Garland	Mr King	Mr Sainsbury
Mr Bradfield	Mr Giles	Mr Lloyd	Mr Shipton
Mr Braithwaite	Mr Gillard	Mr MacKellar	Mr Short
Mr Brown	Mr Goodluck	Mr McLean	Mr Sinclair
Mr Bungey	Mr Graham	Mr McLeay	Mr Staley
Mr Burr	Mr Groom	Mr W. McMahan	Mr Street
Mr Cadman	Mr Hamer	Mr McVeigh	Mr Thomson
Mr K. M. Cairns	Mr Hodges	Mr Macphee	Mr Wilson
Mr Calder	Mr Hodgman	Mr Martyr	Mr Yates
Mr Carige	Mr Howard	Mr Millar	<i>Tellers:</i>
Mr Chapman	Mr Hunt	Mr Moore	Mr D. M. Cameron
Mr Dobie	Mr Jarman	Mr Neil	Mr Corbett
Mr Drummond	Mr P. F. Johnson	Mr Newman	

NOES, 28

Mr Armitage	Mr Garrick	Dr Klugman	Mr Willis
Mr Beazley	Mr Hayden	Mr J. L. McMahon	Mr Young
Mr C. R. Cameron	Mr Innes	Mr Morris	
Dr Cass	Mr Jacobi	Mr Scholes	
Mr Cohen	Dr Jenkins	Mr Stewart	
Mr Crean	Mr L. K. Johnson	Mr Uren	<i>Tellers:</i>
Mr FitzPatrick	Mr Jones	Mr Wallis	Mr James
Mr Fry	Mr Keating	Mr A. P. Whitlam	Mr L. R. Johnson

And so it was resolved in the affirmative.

Mr Morris addressing the House—

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

Question—put.

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

AYES, 53

Mr Abel	Mr Chapman	Mr Holten	Mr O'Keefe
Mr Aldred	Mr Dobie	Mr Jarman	Mr Porter
Mr Baillieu	Mr Drummond	Mr P. F. Johnson	Mr Sainsbury
Mr Birney	Dr Edwards	Mr Jull	Mr Shipton
Mr Bonnett	Mr Falconer	Mr Katter	Mr Short
Mr Bouchier	Mr Fife	Mr King	Mr Sinclair
Mr Bradfield	Mr Giles	Mr Lloyd	Mr Thomson
Mr Braithwaite	Mr Gillard	Mr McLean	Mr Wilson
Mr Brown	Mr Goodluck	Mr McVeigh	Mr Yates
Mr Bungey	Mr Graham	Mr Macphee	
Mr Burr	Mr Groom	Mr Martyr	
Mr Cadman	Mr Hamer	Mr Millar	<i>Tellers:</i>
Mr Calder	Mr Hodges	Mr Moore	Mr D. M. Cameron
Mr Carige	Mr Hodgman	Mr Neil	Mr Corbett

NOES, 26

Mr Armitage	Mr Garrick	Mr Keating	Mr A. P. Whitlam
Mr Beazley	Mr Hayden	Dr Klugman	Mr Willis
Mr C. R. Cameron	Mr Innes	Mr J. L. McMahon	Mr Young
Dr Cass	Mr Jacobi	Mr Morris	
Mr Cohen	Dr Jenkins	Mr Scholes	<i>Tellers:</i>
Mr FitzPatrick	Mr L. K. Johnson	Mr Uren	Mr James
Mr Fry	Mr Jones	Mr Wallis	Mr L. R. Johnson

And so it was resolved in the affirmative.

Closure: Mr Sinclair moved—That the question be now put.

Question—That the question be now put—put and passed.

And the question—That the ruling be dissented from—being accordingly put—

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

AYES, 28

Mr Armitage	Mr Hayden	Mr J. L. McMahon	Mr Willis
Mr Beazley	Mr Innes	Mr Martin	Mr Young
Mr C. R. Cameron	Mr Jacobi	Mr Morris	
Dr Cass	Dr Jenkins	Mr Scholes	
Mr Cohen	Mr L. K. Johnson	Mr Stewart	
Mr Crean	Mr Jones	Mr Uren	<i>Tellers:</i>
Mr FitzPatrick	Mr Keating	Mr Wallis	Mr James
Mr Fry	Dr Klugman	Mr A. P. Whitlam	Mr L. R. Johnson

NOES, 50

Mr Abel	Mr Calder	Mr Hodgman	Mr O'Keefe
Mr Aldred	Mr Carige	Mr Holten	Mr Porter
Mr Baillieu	Mr Chapman	Mr Jarman	Mr Sainsbury
Mr Baume	Mr Dobie	Mr Jull	Mr Shipton
Mr Birney	Mr Drummond	Mr Katter	Mr Short
Mr Bonnett	Dr Edwards	Mr King	Mr Sinclair
Mr Bouchier	Mr Falconer	Mr McLean	Mr Thomson
Mr Bradfield	Mr Fife	Mr McLeay	Mr Wilson
Mr Braithwaite	Mr Giles	Mr McVeigh	Mr Yates
Mr Brown	Mr Gillard	Mr Martyr	
Mr Bungey	Mr Goodluck	Mr Millar	<i>Tellers:</i>
Mr Burr	Mr Graham	Mr Moore	Mr D. M. Cameron
Mr Cadman	Mr Groom	Mr Neil	Mr Corbett

And so it was negatived.

25 ADMINISTRATIVE APPEALS TRIBUNAL AMENDMENT BILL 1977: 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—

Question—put and passed—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 Ellicott (Attorney-General), by leave, the following amendments were made together, after debate:

Clause 12, page 7, line 18, after “ 29 ” insert “ (3A),”.

Clause 17—

Page 12, before paragraph (a) insert the following paragraph:

“(aa) by omitting from sub-section (1) the words ‘within the prescribed period’;”.

Page 12, line 37, omit “ and ” (last occurring).

Page 12, after paragraph (a) insert the following paragraph:

“(ab) by inserting after sub-section (1) the following sub-sections:—

‘(1A) A person to whom a request for a statement in relation to a decision is made under sub-section (1) may refuse to prepare and furnish the statement if—

(a) in the case of a decision the terms of which were recorded in writing and set out in a document that was furnished to the applicant—the request was not made on or before the twenty-eighth day after the day on which that document was furnished to the applicant; or

(b) in any other case—the request was not made within a reasonable time after the decision was made, and in any such case the person to whom the request was made shall give to the applicant, within 14 days after receiving the request, notice in writing stating that the statement will not be furnished to him and giving the reason why the statement will not be so furnished.

‘(1B) For the purposes of paragraph (1A) (b), a request for a statement in relation to a decision shall be deemed to have been made within a reasonable time after the decision was made if the Tribunal, on application by the person who made the request, declares that the request was made within a reasonable time after the decision was made.’; and ”.

Page 13, omit proposed sub-section (5).

Clause 18—

Page 13, line 28, before “shall” insert “if the terms of the decision were recorded in writing and set out in a document that was furnished to the applicant or the decision is deemed to be made by reason of the operation of sub-section 25 (5)—”.

Page 14, line 19, after “thing” insert “, being a decision the terms of which were recorded in writing and set out in a document that was furnished to the applicant”.

Page 14, after proposed sub-section (3) insert the following sub-sections:

“(3A) Where—

(a) no time is prescribed for the lodging with the Tribunal of applications for review of a particular decision; or

(b) no time is prescribed for the lodging with the Tribunal by a particular person of an application for a review of a particular decision, and the Tribunal is of the opinion that the application was not lodged within a reasonable time after the decision was made, the Tribunal shall, subject to sub-section (3c)—

- (c) in a case to which paragraph (a) applies—refuse to entertain an application for a review of the decision referred to in that paragraph; or
- (d) in a case to which paragraph (b) applies—refuse to entertain an application by the person referred to in that paragraph for a review of the decision so referred to.

‘(3B) In forming an opinion for the purposes of sub-section (3A), the Tribunal shall have regard to—

- (a) the time when the applicant became aware of the making of the decision; and
- (b) in a case to which paragraph (3A) (b) applies—the period or periods prescribed for the lodging by another person or other persons of an application or applications for review of the decision, and may have regard to any other matters that it considers relevant.

‘(3c) Notwithstanding sub-section (3B), the Tribunal may entertain an application referred to in that sub-section if it is of the opinion that there are special circumstances that justify it in doing so.’”.

Clause 19, page 15, omit the clause, substitute the following clause:

“ 19. Section 30 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the word ‘The’ (first occurring) and substituting the words ‘Subject to paragraph 42A (2) (b), the ’; and
- (b) by omitting from paragraph (c) of sub-section (1) the words ‘any other person who was entitled to apply to the Tribunal for a review of the decision,’ and substituting the words ‘any other person (including the Commonwealth or an authority of the Commonwealth) whose interests are affected by the decision and who ’.”.

Parties to
proceeding
before
Tribunal.

Bill, as amended, agreed to.

Bill to be reported with amendments.

The House resumed; Mr Giles reported accordingly.

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

26 ADMINISTRATIVE DECISIONS (JUDICIAL REVIEW) BILL 1977: 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—

Question—put and passed—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 Ellicott (Attorney-General), by leave, the following amendments were made together:

Clause 3—

Page 1, lines 13–15, omit “or a decision that is included in a class of decisions that are declared by the regulations to be decisions to which this Act does not apply”.

Page 2, line 4, after “Act” insert “other than the *Commonwealth Places (Application of Laws) Act 1970*”.

Page 2, line 7, before “an Act” insert “such”.

Clause 9, page 7, line 1, omit “section 39 of the *Judiciary Act 1903*”, substitute “anything contained in any Act other than this Act”.

Clause 11—

Page 8, lines 16–18, omit “(other than a decision by way of a report or recommendation) that has been made, including a decision”, substitute “that has been made and the terms of which were recorded in writing and set out in a document that was furnished to the applicant, including such a decision”.

Page 9, after sub-clause (3) insert the following sub-clauses:

“(3A) Where—

(a) no period is prescribed for the making of applications for orders of review in relation to a particular decision; or

(b) no period is prescribed for the making of an application by a particular person for an order of review in relation to a particular decision,

the Court may—

(c) in a case to which paragraph (a) applies—refuse to entertain an application for an order of review in relation to the decision referred to in that paragraph; or

(d) in a case to which paragraph (b) applies—refuse to entertain an application by the person referred to in that paragraph for an order of review in relation to the decision so referred to,

if the Court is of the opinion that the application was not made within a reasonable time after the decision was made.

“(3B) In forming an opinion for the purposes of sub-section (3A), the Court shall have regard to—

(a) the time when the applicant became aware of the making of the decision; and

(b) in a case to which paragraph (3A) (b) applies—the period or periods prescribed for the making by another person or other persons of an application or applications for an order or orders of review in relation to the decision,

and may have regard to such other matters as it considers relevant.”.

Clause 13—

Page 9, line 36, omit “within the prescribed period”.

Page 9, line 41, omit “sub-section (3)”, substitute “this section”.

Page 10, after sub-clause (4) insert the following sub-clauses:

“(4A) A person to whom a request for a statement in relation to a decision is made under sub-section (1) may refuse to prepare and furnish the statement if—

(a) in the case of a decision the terms of which were recorded in writing and set out in a document that was furnished to the person who made the request—the request was not made on or before the twenty-eighth day after the day on which that document was so furnished; or

(b) in any other case—the request was not made within a reasonable time after the decision was made,

and in any such case the person to whom the request was made shall give to the person who made the request, within 14 days after receiving the request, notice in writing stating that the statement will not be furnished to him and giving the reason why the statement will not be so furnished.

“(4B) For the purposes of paragraph (4A) (b), a request for a statement in relation to a decision shall be deemed to have been made within a reasonable

time after the decision was made if the Court, on application by the person who made the request, declares that the request was made within a reasonable time after the decision was made.”

Page 10, omit sub-clause (7).

Clause 19, page 13, omit sub-clause (1), substitute the following sub-clauses:

“(1) The regulations may declare a class or classes of decisions to be decisions that are not subject to judicial review by the Court under this Act.

“(1A) If a regulation is so made in relation to a class of decisions—

(a) section 5 does not apply in relation to a decision included in that class;

(b) section 6 does not apply in relation to conduct that has been, is being, or is proposed to be, engaged in for the purpose of making a decision included in that class; and

(c) section 7 does not apply in relation to a failure to make a decision included in that class,

but the making of the regulation does not affect the exclusion by section 9 of the jurisdiction of the courts of the States in relation to such a decision, such conduct or such a failure.”

Bill, as amended, agreed to.

Bill to be reported with amendments.

The House resumed; Mr Giles reported accordingly.

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

27 AUSTRALIAN NATIONAL RAILWAYS AMENDMENT BILL 1977: 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.

The House resolved itself into a committee of the whole.

In the committee

Clauses 1 to 13, by leave, taken together, and agreed to, after debate.

Clause 14—

On the motion of Mr Nixon (Minister for Transport), the following amendment was made, after debate: Page 10, line 36, omit “*Australian*”, substitute “*Commonwealth*”.

Clause, as amended, agreed to.

Clauses 15 to 17, by leave, taken together, and agreed to.

Clause 18—

On the motion of Mr Nixon, the following amendment was made, after debate: Page 12, at end of the clause add the following paragraph:

“(c) by omitting sub-section (4) and substituting the following sub-section:—

‘(4) Sections 48 and 49 of the *Acts Interpretation Act* 1901 apply to by-laws in like manner as they apply to regulations.’”

Clause, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole, and agreed to.

Bill to be reported with amendments.

The House resumed; Mr Lucock reported accordingly.

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

28 MESSAGES FROM THE SENATE: Messages from the Senate were reported returning the following Bills without amendment:

5 May 1977—Message—

No. 16—Insurance Amendment 1977.

No. 17—Life Insurance Amendment 1977.

No. 18—States Grants (Dwellings for Pensioners) Amendment 1977.

No. 19—New Zealand Re-exports (Repeal) 1977.

29 HOUSING LOANS INSURANCE AMENDMENT BILL 1977: 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 by Mr Uren (Deputy Leader of the Opposition) who moved, as an amendment—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 is of the opinion that the Government by reducing the present and future capital available to the Corporation has ignored the opportunities available to it to influence the policies of lending institutions in the housing and land fields”.

Debate adjourned (Mr Sinclair—Minister for Primary Industry), and the resumption of the debate made an order of the day for a later hour this day.

30 SUSPENSION OF STANDING ORDERS—MINISTERIAL STATEMENT: Mr Sinclair (Leader of the House) moved—That so much of the standing orders be suspended as would prevent the Minister for the Capital Territory making a statement to the House.

Question—put.

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

AYES, 69

Mr Abel	Dr Edwards	Mr Katter	Mr Peacock
Mr Adermann	Mr Ellicott	Mr Kelly	Mr Porter
Mr Aldred	Mr Falconer	Mr King	Mr E. L. Robinson
Mr Baillieu	Mr Fife	Mr Lloyd	Mr Sainsbury
Mr Baume	Mr Garland	Mr Lucock	Mr Shipton
Mr Birney	Mr Gillard	Mr Lynch	Mr Short
Mr Bonnett	Mr Goodluck	Mr MacKellar	Mr Sinclair
Mr Bourchier	Mr Graham	Mr McLean	Mr Staley
Mr Bradfield	Mr Groom	Mr McLeay	Mr Street
Mr Braithwaite	Mr Hamer	Mr McVeigh	Mr Thomson
Mr Burr	Mr Haslem	Mr Macphee	Mr Wentworth
Mr Cadman	Mr Hodges	Mr Martyr	Mr Wilson
Mr K. M. Cairns	Mr Hodgman	Mr Millar	Mr Yates
Mr Calder	Mr Holten	Mr Moore	
Mr Carige	Mr Hunt	Mr Neil	
Mr Chapman	Mr Jarman	Mr Newman	<i>Tellers:</i>
Mr Dobie	Mr P. F. Johnson	Mr Nixon	Mr D. M. Cameron
Mr Drummond	Mr Jull	Mr O’Keefe	Mr Corbett

NOES, 20

Mr Armitage	Mr Jacobi	Mr Morris	
Mr C. R. Cameron	Mr L. K. Johnson	Mr Scholes	
Dr Cass	Mr Jones	Mr Stewart	
Mr FitzPatrick	Mr Keating	Mr Uren	<i>Tellers:</i>
Mr Hayden	Mr J. L. McMahon	Mr Wallis	Mr James
Mr Hurford	Mr Martin	Mr Willis	Mr L. R. Johnson

And so it was resolved in the affirmative by an absolute majority.

31 AUSTRALIAN LABOR PARTY HEADQUARTERS—POSSIBLE THEFT OF DOCUMENTS—PAPERS AND MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF PAPERS: Mr Staley (Minister for the Capital Territory), by command of His Excellency the Administrator, presented the following papers:

Australian Capital Territory Police—Criminal Investigation Division—Investigation by Detective Senior Constable R. T. Ninness into possible theft of documents from Australian Labor Party Headquarters, John Curtin House, Barton, A.C.T.—Copies of reports dated 16 and 25 January 1976.

Mr Staley made a ministerial statement in connection with the reports.

Adjournment negatived: It being 10.30 p.m.—The question was proposed—That the House do now adjourn.

Mr Sinclair (Leader of the House) requiring the question to be put forthwith without debate—

Question—put and negatived.

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

Debate ensued.

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

32 ADJOURNMENT: Mr Sinclair (Leader of the House) moved—That the House do now adjourn.

Debate ensued.

The House continuing to sit until 11 p.m.—Mr Deputy Speaker adjourned the House until Tuesday, 24 May, at 2.15 p.m., unless Mr Speaker shall, by telegram or letter addressed to each Member of the House, fix an alternative day or hour of meeting.

PAPERS: The following papers were deemed to have been presented on 5 May 1977, pursuant to statute:

Christmas Island Act—Ordinance—1977—No. 6—Immigration (Amendment).

Cocos (Keeling) Islands Act—Ordinance—1977—No. 1—Immigration (Amendment).

Family Law Act—Regulation—Statutory Rules 1977, No. 55.

MEMBERS PRESENT: All Members were present (at some time during the sitting) except Mr Anthony, Mr Bryant, Mr Fisher, Mr Hyde, Mr Nicholls*, Dr Richardson, Mr Ruddock and Mr Simon.

* On leave

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