

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 40

FRIDAY, 5 JUNE 1981

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- 1 The House met, at 9.30 a.m., pursuant to adjournment. Mr Speaker (the Right Honourable Sir Billy Snedden) took the Chair, and read Prayers.
 - 2 PETITIONS: The Clerk announced that the following Members had each lodged petitions for presentation, viz.:
 - Mr Beazley, Mrs Child, Mr Jacobi, Mr B. O. Jones, Mr C. K. Jones and Mr Kent—from certain citizens praying that any proposal to sell Trans Australia Airlines be rejected.
 - Mr Beazley, Mr R. J. Brown, Mrs Child, Mr Humphreys and Mr Jacobi—from certain citizens praying that post-secondary tuition fees not be introduced, the Tertiary Education Assistance Scheme be extended to meet the financial needs of students, and certain other action be taken in relation to tertiary and adult education.
 - Mr Dawkins, Mr Free, Mr Howe, Mr Kent and Mr Mounford—from certain citizens praying that post-secondary tuition fees not be re-introduced and visa charges upon private overseas students be removed immediately.
 - Mr Fisher and Mr Jacobi—from certain citizens praying that the House recognise the importance of the hotel industry and that any proposal to increase the excise on beer be rejected.
 - Mr Baume—from certain residents of Wollongong, N.S.W., praying that a radio and television repeater transmitter be opened in Wollongong for both the UHF and VHF bands.
 - Mr Beazley—from certain citizens praying that steps be taken to allow child-care expenses as a deductible item from taxpayers' assessable income.
 - Dr Blewett—from certain residents of Salisbury, S.A., praying that all existing and future interest rate agreements be reduced annually with a maximum interest percentage ceiling on investor's capital being applied and a scale of interest charges for loans being made available as appropriate.
 - Mr J. J. Brown—from certain electors of the Electoral Division of Parramatta praying that any proposal to increase the excise on beer in the 1981-82 Budget not be proceeded with.
 - Mrs Child—from certain citizens praying that sanitary products for women be brought under the scrutiny of the Australian Drug Evaluation Committee and certain other actions be taken in regard to the possible threat posed to the health of women by toxic shock syndrome.
 - Mr Cunningham—from certain citizens praying that any proposal to legislate for the establishment of plant variety rights in Australia be rejected.
 - Mr Dobie—from certain citizens praying that certain recommendations of the Law Reform Commission discussion paper on Privacy and Personal Information be rejected and some other means be found to protect children from the excessive abuse of some parents.
 - Mr Groom—from certain citizens praying that public debate be promoted and a referendum be held to decide upon a new Constitution for Australia.
 - Mr Howe—from certain citizens praying that steps be taken to re-introduce a system of health care based on ability to pay and that access to health care be based on medical need.

Mr Kent—from certain residents of the Northern Territory praying that the offer of Darwin or any other location as a base or depot for American B-52 bombers be withdrawn and any request by the United States Government for the use of bases in Australia be rejected.

Mr Mountford—from certain citizens praying that the ban placed on Soviet passenger cruise vessels entering Australian ports be lifted.

Mr Mountford—from certain citizens praying that the Betsy Women's Refuge and the network of women's shelters in Australia be adequately funded.

Mr Shack—from certain residents of Western Australia praying that the residents of cottages 11 to 14 on Garden Island, W.A., be allowed to remain and to move only when the residents of the remaining northern end cottages do so.

Dr Theophanous—from certain citizens praying that tax laws be reformed to allow joint incomes to be equally divided, for taxation purposes, between husband and wife.

Mr White—from certain citizens praying that ex-servicewomen who volunteered for service in the 1939-45 war but were not sent to war zones be considered eligible for defence service home loans.

Petitions received.

3 QUESTIONS: Questions without notice were asked.

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

4 June 1981—Message—

No. 122—Housing Assistance 1981.

No. 123—Customs Tariff Validation 1981 (*without requests*).

5 June 1981, a.m.—Message No. 124—Airlines Agreement 1981.

5 PUBLIC WORKS COMMITTEE—REPORT: Mr Bungey (Chairman) presented the following report from the Parliamentary Standing Committee on Public Works:

Report relating to the proposal for the provision of Army housing at Townsville, Qld (3rd report of 1981).

Ordered to be printed.

6 PROPOSED DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—GREAT BARRIER REEF: Mr Speaker informed the House that Mr West had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The inexcusable delay in declaring further sections of the Great Barrier Reef Marine Park and the increasing danger to the Reef from the intention of the Queensland and Federal Governments to permit oil exploration and drilling in adjacent waters".

The proposed discussion having received the necessary support—

Mr West rising to address the House—

Mr Sinclair (Leader of the House) moved—That the business of the day be called on. Question—put.

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

AYES, 65

Mr Adermann	Mr Cowan	Mr Hyde	Mr Robinson
Mr Anthony	Mr Dean	Mr Jarman	Mr Rocher
Mr Baume	Mr Dobie	Mr Jull	Mr Ruddock
Mr Birney	Dr Edwards	Mr Katter	Mr Sainsbury
Mr Burchier	Mr Falconer	Mr Killen	Mr Shack
Mr Bradfield	Mr Fife	Mr Lusher	Mr Shipton
Mr Braithwaite	Mr Fisher*	Sir Phillip Lynch	Mr Sinclair
Mr N. A. Brown	Mr Giles	Mr MacKellar	Mr Spender
Mr Bungey	Mr Goodluck	Mr MacKenzie	Mr Street
Mr Cadman	Mr Groom	Mr McLean	Mr Tambling
Mr D. M. Cameron	Mr Hall	Mr McVeigh	Mr Thomson
Mr E. C. Cameron	Mr Harris	Mr Macphee	Mr Tuckey
Mr I. M. D. Cameron	Mr Hicks	Mr Millar	Mr White
Mr Carlton	Mr Hodges*	Mr Newman	Mr Wilson
Mr Chapman	Mr Hodgman	Mr O'Keefe	
Mr Coleman	Mr Howard	Mr Peacock	
Mr Connolly	Mr Hunt	Mr Porter	

NOES, 45

Mr Armitage	Mr Dawkins	Dr Jenkins	Mr Morris
Mr Beazley	Mr Duffy	Mr Johnson*	Mr Morrison
Dr Blewett	Dr Everingham	Mr B. O. Jones	Mr Mountford
Mr Bowen	Mr Free	Mr C. K. Jones	Mr Scholes
Mr J. J. Brown	Mr Fry	Mrs Kelly	Dr Theophanous
Mr R. J. Brown	Mr Hawke	Mr Kent	Mr Uren
Dr Cass	Mr Holding	Mr Kerin	Mr Wallis
Mr Charles	Mr Howe	Dr Klugman	Mr West
Mrs Child	Mr Humphreys*	Mr McLeay	Mr Willis
Mr Cohen	Mr Hurford	Mr J. L. McMahon	
Mr Cunningham	Mr Innes	Mr Mildren	
Mrs Darling	Mr Jacobi	Mr Milton	

*Tellers

And so it was resolved in the affirmative.

7 BROADCASTING AND TELEVISION AMENDMENT BILL 1981: 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 Dawkins who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “the House is of the opinion that the Bill should be withdrawn and redrafted because—

- (1) many of the provisions of the Bill are ambiguous and vague and, if enacted, will place extraordinary hardships on those who have to administer it;
- (2) the Bill removes the possibility of the Australian Broadcasting Tribunal considering the concentration of media ownership as a criterion of public interest as it has done in the past;
- (3) the Bill will jeopardise the autonomy of less financially strong stations by making them more vulnerable to takeover, and
- (4) the Bill will permit 50% foreign ownership of each and every radio and television station in this country”.

Debate continued.

Question—That the words proposed to be omitted stand part of the question—put.
The House divided (the Deputy Speaker, Mr Millar, in the Chair)—

AYES, 64

Mr Adermann	Mr Connolly	Mr Howard	Mr Peacock
Mr Anthony	Mr Cowan	Mr Hunt	Mr Porter
Mr Baume	Mr Dean	Mr Hyde	Mr Robinson
Mr Birney	Mr Dobie	Mr Jarman	Mr Rocher
Mr Bouchier	Dr Edwards	Mr Jull	Mr Ruddock
Mr Bradfield	Mr Falconer	Mr Katter	Mr Sainsbury
Mr Braithwaite	Mr Fife	Mr Killen	Mr Shack
Mr N. A. Brown	Mr Fisher*	Mr Lusher	Mr Shipton
Mr Bungey	Mr Giles	Sir Phillip Lynch	Mr Sinclair
Mr Burr	Mr Goodluck	Mr MacKellar	Mr Spender
Mr Cadman	Mr Groom	Mr MacKenzie	Mr Street
Mr E. C. Cameron	Mr Hall	Mr McLean	Mr Tambling
Mr I. M. D. Cameron	Mr Harris	Mr McVeigh	Mr Thomson
Mr Carlton	Mr Hicks	Mr Macphee	Mr Tuckey
Mr Chapman	Mr Hodges*	Mr Newman	Mr White
Mr Coleman	Mr Hodgman	Mr O'Keefe	Mr Wilson

NOES, 41

Mr Beazley	Mr Duffy	Dr Jenkins	Mr Morris
Dr Blewett	Dr Everingham	Mr Johnson*	Mr Morrison
Mr J. J. Brown	Mr Free	Mr B. O. Jones	Mr Mountford
Mr R. J. Brown	Mr Fry	Mr C. K. Jones	Mr Scholes
Dr Cass	Mr Hawke	Mrs Kelly	Dr Theophanous
Mr Charles	Mr Holding	Mr Kent	Mr Wallis
Mrs Child	Mr Howe	Mr Kerin	Mr West
Mr Cohen	Mr Humphreys*	Mr McLeay	Mr Willis
Mr Cunningham	Mr Hurford	Mr J. L. McMahon	
Mrs Darling	Mr Innes	Mr Mildren	
Mr Dawkins	Mr Jacobi	Mr Milton	

*Tellers

And so it was resolved in the affirmative.

Question—That the Bill be now read a second time—put.

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

AYES, 64

Mr Adermann	Mr Connolly	Mr Howard	Mr Peacock
Mr Anthony	Mr Cowan	Mr Hunt	Mr Porter
Mr Baume	Mr Dean	Mr Hyde	Mr Robinson
Mr Birney	Mr Dobie	Mr Jarman	Mr Rocher
Mr Bouchier	Dr Edwards	Mr Jull	Mr Ruddock
Mr Bradfield	Mr Falconer	Mr Katter	Mr Sainsbury
Mr Braithwaite	Mr Fife	Mr Killen	Mr Shack
Mr N. A. Brown	Mr Fisher*	Mr Lusher	Mr Shipton
Mr Bungey	Mr Giles	Sir Phillip Lynch	Mr Sinclair
Mr Burr	Mr Goodluck	Mr MacKellar	Mr Spender
Mr Cadman	Mr Groom	Mr MacKenzie	Mr Street
Mr E. C. Cameron	Mr Hall	Mr McLean	Mr Tambling
Mr I. M. D. Cameron	Mr Harris	Mr McVeigh	Mr Thomson
Mr Carlton	Mr Hicks	Mr Macphee	Mr Tuckey
Mr Chapman	Mr Hodges*	Mr Newman	Mr White
Mr Coleman	Mr Hodgman	Mr O'Keefe	Mr Wilson

NOES, 41

Mr Beazley	Mr Duffy	Dr Jenkins	Mr Morris
Dr Blewett	Dr Everingham	Mr Johnson*	Mr Morrison
Mr J. J. Brown	Mr Free	Mr B. O. Jones	Mr Mountford
Mr R. J. Brown	Mr Fry	Mr C. K. Jones	Mr Scholes
Dr Cass	Mr Hawke	Mrs Kelly	Dr Theophanus
Mr Charles	Mr Holding	Mr Kent	Mr Wallis
Mrs Child	Mr Howe	Mr Kerin	Mr West
Mr Cohen	Mr Humphreys*	Mr McLeay	Mr Willis
Mr Cunningham	Mr Hurford	Mr J. L. McMahon	
Mrs Darling	Mr Innes	Mr Mildren	
Mr Dawkins	Mr Jacobi	Mr Milton	

*Tellers

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

The House resolved itself into a committee of the whole.

In the committee

Bill, by leave, taken as a whole.

Mr Sinclair (Minister for Communications), by leave, moved the following amendments together:

Clause 13, page 11, line 40, omit "90c", substitute "90G".

Clause 16, page 13, lines 22 to 27, omit proposed sub-paragraph (iv), substitute the following sub-paragraph:

"(iv) the need for the commercial viability of the station operated by virtue of the licence; or".

Clause 17, page 14, lines 29 to 33, omit all the words after "the opinion that" down to the end of proposed sub-section 86A (2), substitute—

- “(—
- (a) an additional commercial broadcasting station to serve that area is reasonably likely to be commercially viable after the expiration of the period of 3 years (in this section referred to, in relation to the licence, as the 'prescribed period') commencing on the renewal of the licence; and
 - (b) having considered the need for an adequate and comprehensive service to be provided in pursuance of a licence for such an additional station, having regard only to—
 - (i) the nature of the community to be served in pursuance of such a licence;
 - (ii) the diversity of the interests of that community; and
 - (iii) the nature of the broadcasting and television services of which satisfactory reception is being obtained by that community,
 it is advisable in the public interest that applications for such a licence be invited”.

Clause 18, page 17, line 41, omit “to any of”, substitute “only to”.

Clause 28, page 27, line 15, omit “to any of”, substitute “only to”.

Clause 32, page 35, line 28, after “(10)”, insert “or section 92FAB”.

Clause 38—

Page 41, line 34, omit “to any of”, substitute “only to”.

Page 45, after proposed section 92FAA, insert the following proposed section:

Certain transactions to require prior approval

“92FAB. (1) In this section—

“prescribed company” means a company that, but for the operation of sub-section (3) of section 92, would be in contravention of that section;

“transaction” means a transaction in relation to which section 92F applies, being a transaction in respect of shares in a prescribed company.

“(2) A reference in this section to the proportion of a person’s shareholding interests in a company has the same meaning as in section 92F.

“(3) For the purposes of this section, the following persons are associates of a person:

- (a) a partner of the person;
- (b) where the person is a company—
 - (i) a director or secretary of the company;
 - (ii) a company that is related to the first-mentioned company;
 - (iii) a director or secretary of a company that is related to the first-mentioned company;
- (c) a director or secretary of a company of which the person is a director or secretary;
- (d) a company whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the person or, where the person is a company, of the directors of the person;
- (e) a company in accordance with the directions, instructions or wishes of which, or of the directors of which, the person is accustomed or under an obligation, whether formal or informal, to act;
- (f) a company of which the person is in a position to exercise control;
- (g) a person with whom the person is acting in concert in relation to the transaction concerned;
- (h) a person with whom the person is associated, whether formally or informally, in any other way in relation to the transaction concerned;
- (j) if the person has entered into a transaction (including any transaction as defined by section 91), or has done any other act or thing, with a view to becoming an associate of a person as mentioned in paragraph (g) or (h)—that last-mentioned person;
- (k) a person who is, by virtue of the regulations, to be regarded as an associate of the person;
- (m) a person who is, by virtue of paragraph (g), (h), (j) or (k), an associate of any other person who is an associate of the person by virtue of any of those paragraphs or by virtue of another application or other applications of this paragraph.

“(4) For the purposes of sub-section (3), the question whether companies are related to each other shall be determined in the same manner as the question whether corporations are related to each other would be determined under the *Companies Ordinance* 1962 of the Australian Capital Territory as amended and in force for the time being.

'(5) A person shall not be taken to be an associate of another person by virtue of paragraph (3) (g), (h), (j) or (k) by reason only that the person furnishes advice to, or acts on behalf of, that other person in the proper performance of the functions attaching to his professional capacity.

'(6) This section applies to a person in relation to a transaction if, and only if—

- (a) the person is a party to the transaction;
- (b) as a result of the transaction, the person becomes the holder of shareholding interests in a prescribed company; and
- (c) by reason of the person being the holder of those shareholding interests (together with any other share holding interests of which he is the holder) the person—
 - (i) is in a position to exercise control of that company; or
 - (ii) would be in such a position if he were also the holder of the total shareholding interests in that company held, whether or not as a result of the transaction, by any associate or associates of the person.

'(7) Where—

- (a) this section applies to a person in relation to a transaction; and
- (b) the transaction takes place without the Tribunal first having approved the transaction in whole or in part in so far as it affects the person, the person is guilty of a separate offence in respect of each day (including the day of a conviction under this sub-section or any subsequent day) during which he holds shareholding interests in the prescribed company to which the transaction relates exceeding in amount or proportion the shareholding interests that he had in that company immediately before the transaction took place.

'(8) Where a transaction in relation to which this section applies to a person takes place as described in paragraph (7) (b)—

- (a) notwithstanding anything in section 92F or 92FAA, the Tribunal shall not approve the transaction in whole or in part in so far as it affects the person; and
- (b) sub-section 92F (7A) does not apply to the person in relation to the transaction.

'(9) This section does not apply in relation to a transaction that takes place on or after 1 July 1983.'

Clause 40—

Page 47, line 6, omit "or 92FAA", substitute ", 92FAA or 92FAB".

Page 47, line 30, omit "or 92FAA", substitute ", 92FAA or 92FAB".

Page 48, line 31, omit "or 92FAA", substitute ", 92FAA or 92FAB".

Page 49, line 13, after "92FAA," insert "92FAB,".

Debate continued.

Mr Dawkins moved—That the Chairman do report progress and ask leave to sit again.

Question—put.

The committee divided (the Deputy Chairman, Mr Giles, in the Chair)—

AYES, 41

Mr Beazley	Mr Duffy	Dr Jenkins	Mr Morris
Dr Blewett	Dr Everingham	Mr Johnson*	Mr Morrison
Mr J. J. Brown	Mr Free	Mr B. O. Jones	Mr Mountford
Mr R. J. Brown	Mr Fry	Mr C. K. Jones	Mr Scholes
Dr Cass	Mr Hawke	Mrs Kelly	Dr Theophanous
Mr Charles	Mr Holding	Mr Kent	Mr Wallis
Mrs Child	Mr Howe	Mr Kerin	Mr West
Mr Cohen	Mr Humphreys*	Mr McLeay	Mr Willis
Mr Cunningham	Mr Hurford	Mr J. L. McMahon	
Mrs Darling	Mr Innes	Mr Mildren	
Mr Dawkins	Mr Jacobi	Mr Milton	

NOES, 64

Mr Adermann	Mr Connolly	Mr Hunt	Mr Peacock
Mr Anthony	Mr Cowan	Mr Hyde	Mr Porter
Mr Baume	Mr Dean	Mr Jarman	Mr Robinson
Mr Birney	Mr Dobie	Mr Jull	Mr Rocher
Mr Bouchier	Dr Edwards	Mr Katter	Mr Ruddock
Mr Bradfield	Mr Falconer	Mr Killen	Mr Sainsbury
Mr Braithwaite	Mr Fife	Mr Lusher	Mr Shack
Mr N. A. Brown	Mr Fisher*	Sir Phillip Lynch	Mr Shipton
Mr Bungey	Mr Goodluck	Mr MacKellar	Mr Sinclair
Mr Burr	Mr Groom	Mr MacKenzie	Mr Spender
Mr Cadman	Mr Hall	Mr McLean	Mr Street
Mr E. C. Cameron	Mr Harris	Mr McVeigh	Mr Tambling
Mr I. M. D. Cameron	Mr Hicks	Mr Macphee	Mr Thomson
Mr Carlton	Mr Hodges*	Mr Millar	Mr Tuckey
Mr Chapman	Mr Hodgman	Mr Newman	Mr White
Mr Coleman	Mr Howard	Mr O'Keefe	Mr Wilson

*Tellers

And so it was negatived.

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

Question—That the question be now put—put.

The committee divided (the Deputy Chairman, Mr Giles, in the Chair)—

AYES, 63

Mr Adermann	Mr Cowan	Mr Hyde	Mr Porter
Mr Baume	Mr Dean	Mr Jarman	Mr Robinson
Mr Birney	Mr Dobie	Mr Jull	Mr Rocher
Mr Bouchier	Dr Edwards	Mr Katter	Mr Ruddock
Mr Bradfield	Mr Falconer	Mr Killen	Mr Sainsbury
Mr Braithwaite	Mr Fife	Mr Lusher	Mr Shack
Mr N. A. Brown	Mr Fisher*	Sir Phillip Lynch	Mr Shipton
Mr Bungey	Mr Goodluck	Mr MacKellar	Mr Sinclair
Mr Burr	Mr Groom	Mr MacKenzie	Mr Spender
Mr Cadman	Mr Hall	Mr McLean	Mr Street
Mr E. C. Cameron	Mr Harris	Mr McVeigh	Mr Tambling
Mr I. M. D. Cameron	Mr Hicks	Mr Macphee	Mr Thomson
Mr Carlton	Mr Hodges*	Mr Millar	Mr Tuckey
Mr Chapman	Mr Hodgman	Mr Newman	Mr White
Mr Coleman	Mr Howard	Mr O'Keefe	Mr Wilson
Mr Connolly	Mr Hunt	Mr Peacock	

NOES, 40

Mr Beazley	Mr Dawkins	Mr Jacobi	Mr Mildren
Dr Blewett	Mr Duffy	Dr Jenkins	Mr Milton
Mr J. J. Brown	Dr Everingham	Mr Johnson*	Mr Morris
Mr R. J. Brown	Mr Free	Mr B. O. Jones	Mr Morrison
Dr Cass	Mr Fry	Mr C. K. Jones	Mr Mountford
Mr Charles	Mr Hawke	Mrs Kelly	Mr Scholes
Mrs Child	Mr Holding	Mr Kent	Dr Theophanous
Mr Cohen	Mr Howe	Mr Kerin	Mr Wallis
Mr Cunningham	Mr Humphreys*	Mr McLeay	Mr West
Mrs Darling	Mr Hurford	Mr J. L. McMahon	Mr Willis

*Tellers

And so it was resolved in the affirmative.

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

The committee divided (the Deputy Chairman, Mr Giles, in the Chair)—

AYES, 63

Mr Adermann	Mr Cowan	Mr Hyde	Mr Porter
Mr Baume	Mr Dean	Mr Jarman	Mr Robinson
Mr Birney	Mr Dobie	Mr Jull	Mr Rocher
Mr Bouchier	Dr Edwards	Mr Katter	Mr Ruddock
Mr Bradfield	Mr Falconer	Mr Killen	Mr Sainsbury
Mr Braithwaite	Mr Fife	Mr Lusher	Mr Shack
Mr N. A. Brown	Mr Fisher*	Sir Phillip Lynch	Mr Shipton
Mr Bungey	Mr Goodluck	Mr MacKellar	Mr Sinclair
Mr Burr	Mr Groom	Mr MacKenzie	Mr Spender
Mr Cadman	Mr Hall	Mr McLean	Mr Street
Mr E. C. Cameron	Mr Harris	Mr McVeigh	Mr Tambling
Mr I. M. D. Cameron	Mr Hicks	Mr Macphee	Mr Thomson
Mr Carlton	Mr Hodges*	Mr Millar	Mr Tuckey
Mr Chapman	Mr Hodgman	Mr Newman	Mr White
Mr Coleman	Mr Howard	Mr O'Keefe	Mr Wilson
Mr Connolly	Mr Hunt	Mr Peacock	

NOES, 40

Mr Beazley	Mr Dawkins	Mr Jacobi	Mr Mildren
Dr Blewett	Mr Duffy	Dr Jenkins	Mr Milton
Mr J. J. Brown	Dr Everingham	Mr Johnson*	Mr Morris
Mr R. J. Brown	Mr Free	Mr B. O. Jones	Mr Morrison
Dr Cass	Mr Fry	Mr C. K. Jones	Mr Mountford
Mr Charles	Mr Hawke	Mrs Kelly	Mr Scholes
Mrs Child	Mr Holding	Mr Kent	Dr Theophanous
Mr Cohen	Mr Howe	Mr Kerin	Mr Wallis
Mr Cunningham	Mr Humphreys*	Mr McLeay	Mr West
Mrs Darling	Mr Hurford	Mr J. L. McMahon	Mr Willis

*Tellers

And so it was resolved in the affirmative.

Bill, as amended, agreed to.

Bill to be reported with amendments.

The House resumed; Mr Giles reported accordingly.

On the motion of Mr Sinclair, by leave, the House adopted the report.

Mr Sinclair asked leave to move—That the Bill be now read a third time.

Objection being raised, leave not granted.

Mr Sinclair, pursuant to contingent notice, moved—That so much of the standing orders be suspended as would prevent the remaining stages being passed without delay.

Question—put.

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

AYES, 62

Mr Adermann	Mr Dean	Mr Hyde	Mr Robinson
Mr Baume	Mr Dobie	Mr Jarman	Mr Rocher
Mr Birney	Dr Edwards	Mr Jull	Mr Ruddock
Mr Bouchier	Mr Falconer	Mr Katter	Mr Sainsbury
Mr Bradfield	Mr Fife	Mr Killen	Mr Shack
Mr Braithwaite	Mr Fisher*	Mr Lusher	Mr Shtiopon
Mr N. A. Brown	Mr Giles	Sir Phillip Lynch	Mr Sinclair
Mr Burr	Mr Goodluck	Mr MacKellar	Mr Spender
Mr Cadman	Mr Groom	Mr MacKenzie	Mr Street
Mr E. C. Cameron	Mr Hall	Mr McLean	Mr Tambling
Mr I. M. D. Cameron	Mr Harris	Mr McVeigh	Mr Thomson
Mr Carlton	Mr Hicks	Mr Macphee	Mr Tuckey
Mr Chapman	Mr Hodges*	Mr Newman	Mr White
Mr Coleman	Mr Hodgman	Mr O'Keefe	Mr Wilson
Mr Connolly	Mr Howard	Mr Peacock	
Mr Cowan	Mr Hunt	Mr Porter	

NOES, 41

Mr Beazley	Mr Duffy	Dr Jenkins	Mr Morris
Dr Blewett	Dr Everingham	Mr Johnson*	Mr Morrison
Mr J. J. Brown	Mr Free	Mr B. O. Jones	Mr Mountford
Mr R. J. Brown	Mr Fry	Mr C. K. Jones	Mr Scholes
Dr Cass	Mr Hawke	Mrs Kelly	Dr Theophanous
Mr Charles	Mr Holding	Mr Kent	Mr Wallis
Mrs Child	Mr Howe	Mr Kerin	Mr West
Mr Cohen	Mr Humphreys*	Mr McLeay	Mr Willis
Mr Cunningham	Mr Hurford	Mr J. L. McMahon	
Mrs Darling	Mr Innes	Mr Mildren	
Mr Dawkins	Mr Jacobi	Mr Milton	

*Tellers

And so it was resolved in the affirmative.

On the motion of Mr Sinclair, the Bill was read a third time.

- 8 BROADCASTING STATIONS LICENCE FEES AMENDMENT BILL 1981: 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.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Sinclair (Minister for Communications), the Bill was read a third time.

9 OVERSEAS TELECOMMUNICATIONS AMENDMENT BILL 1981: 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.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Sinclair (Minister for Communications), the Bill was read a third time.

10 INCOME TAX LAWS AMENDMENT BILL (No. 2) 1981: 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.

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In the committee

Bill, by leave, taken as a whole.

Mr Willis, by leave, moved the following amendments together:

Clause 7—

Pages 2 and 3, omit proposed section 177A, substitute the following section:

Object and interpretation of Part

“177A. (1) The object of this Part is to ensure a fair sharing of the tax burden and to promote the revenue-raising, economic and redistributive functions of this Act by preventing or counteracting tax avoidance, and accordingly the provisions of this Part shall be deemed to be remedial and shall be given such large, liberal and purposive construction as will best ensure the attainment of the object of this Part.

“(2) In this Part, unless the contrary intention appears—

“liability” includes a potential or prospective liability;

“scheme” includes—

(a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings; and

(b) any plan, proposal, action, omission, course of action or course of conduct,

and without limiting the generality of the foregoing includes—

(c) any act, omission, transaction or other step preliminary to or forming part of a scheme; and

(d) a unilateral arrangement, plan, proposal, action, omission, course of action or course of conduct; and

“taxpayer” includes a taxpayer in the capacity of a trustee.

“(3) The definition of “taxpayer” in sub-section (2) shall not be taken to affect in any way the interpretation of that expression where it is used in this Act other than this Part.

“(4) A reference in this Part to a person acting or omitting to act in relation to a scheme shall be read as including a reference to a person acting or omitting to act in relation to a scheme together with another person or other persons.

“(5) A reference in this Part to a person acting or omitting to act in relation to a scheme or part of a scheme for a particular purpose shall be read as including a reference to a person acting or omitting to act in relation to a scheme or part of a scheme for two or more purposes if—

(a) such purposes included or include that purpose; and

(b) that purpose was not or is not merely an incidental purpose.”.

Page 3, proposed section 177B, omit sub-sections (3) and (4).

Pages 3 to 5, omit proposed section 177C, substitute the following section:

Tax benefits

“177C. A reference in this Part to the obtaining by a taxpayer of a tax benefit in relation to a scheme shall be read as a reference to a taxpayer being liable but for the operation of this Part—

- (a) to pay less income tax in respect of a year of income than he would have been liable, or might reasonably have been expected by the Commissioner to be liable, to pay in respect of that year of income but for the scheme; or
- (b) to pay any income tax in respect of a year of income which is a later year of income than the year of income in respect of which he would have been liable, or might reasonably have been expected by the Commissioner to be liable, to pay that income tax but for the scheme.’ ”.

Page 5, omit proposed section 177D, substitute the following section:

Schemes to which Part applies

“177D. (1) This Part applies to any scheme in relation to which a person acts or omits to act or has acted or omitted to act after 27 May 1981 (other than a scheme in relation to which a person acted or omitted to act before that date), whether in Australia or outside Australia or partly in Australia and partly outside Australia, where—

- (a) the Commissioner is satisfied that a taxpayer (in this section referred to as “the relevant taxpayer”)—
 - (i) has obtained a tax benefit in relation to the scheme;
 - (ii) would but for section 177F obtain a tax benefit in relation to the scheme; or
 - (iii) might reasonably be expected to obtain in the future a tax benefit in relation to the scheme; and
- (b) the Commissioner is satisfied that a person who acted or omitted to act in relation to the scheme or any part of the scheme did so for the purpose of tax avoidance, whether or not the first-mentioned person obtains any tax benefit in connection with the scheme and whether or not any person affected by the scheme is a party thereto.

(2) In determining whether a person acted or omitted to act in relation to a scheme or part of a scheme for the purpose of tax avoidance the Commissioner may have regard to any one or more of the following—

- (a) the manner in which the scheme was entered into or carried out;
- (b) the form and substance of the scheme;
- (c) the time at which the scheme was entered into and the length of the period during which the scheme was carried out;
- (d) the result in relation to the operation of this Act that, but for this Part, would be achieved by the scheme;
- (e) any change in the financial position of the relevant taxpayer that has resulted, will result, or may reasonably be expected to result, from the scheme;
- (f) any change in the financial position of any person who has, or has had, any connection (whether of a business, family or other nature) with the relevant taxpayer, being a change that has resulted, will result, or may reasonably be expected to result, from the scheme;
- (g) any other consequence for the relevant taxpayer, or for any person referred to in paragraph (f), of the scheme having been entered into or carried out;
- (h) the nature of any connection (whether of a business, family or other nature) between the relevant taxpayer and any person referred to in paragraph (f);

- (j) the extent (if any) to which the relevant taxpayer used or committed his own funds in the scheme;
- (k) whether the scheme created or failed to create rights or obligations which normally would not or would, as the case may be, be created between persons dealing with each other at arm's length; and
- (l) any other relevant matter.

'(3) A reference in this Part to a person acting or omitting to act in relation to a scheme for the purpose of tax avoidance shall be read as a reference to a person acting or omitting to act in relation to a scheme or part of a scheme for the purpose of—

- (a) directly or indirectly altering the incidence of any income tax;
- (b) directly or indirectly relieving any person from liability to income tax; or
- (c) directly or indirectly avoiding, reducing or postponing any liability to income tax,

and references in this sub-section to the incidence of income tax or to a liability to income tax shall be read as including references to income tax which might reasonably have been expected to be incident upon any person but for the scheme or income tax to which any person might reasonably have been expected to be liable but for the scheme, as the case may be.

'(4) The Commissioner may be satisfied that a person acted or omitted to act in relation to a scheme for the purpose of tax avoidance notwithstanding that the scheme or any part of the scheme or any tax benefit obtained in relation to the scheme was or might be contemplated by another provision or other provisions of this Act.' "

Page 7, proposed section 177F, omit proposed sub-sections (1) and (2), substitute the following sub-sections:

"(1) Whenever this Part applies and notwithstanding any other provision of this Act other than this Part, the Commissioner may at any time in relation to the year or years of income in which the tax benefit is obtained, or in relation to any other year of income—

- (a) treat the scheme or any part of the scheme as void for the purposes of this Act; and
- (b) adjust the taxable income or liability to income tax of any person affected by the scheme to the extent necessary to counteract the tax benefit obtained in relation to the scheme or to any lesser extent.

'(2) Where pursuant to sub-section (1) any income is included in the taxable income of any person or any adjustment is made to the liability of any person to income tax, then for the purposes of this Act such income shall be deemed to have been derived by virtue of this section by that person and by no other person or such adjustment shall be deemed to have been made by virtue of this section to the liability of that person and of no other person, as the case may be.' "

Debate continued.

Progress to be reported, and leave asked to sit again.

The House resumed; Mr Dobie reported accordingly.

Ordered—That the House will, at the next sitting, again resolve itself into the said committee.

11 ADJOURNMENT: Mr Howard (Treasurer) moved—That the House do now adjourn.

Question—put and passed.

And then the House, at 4.29 p.m., adjourned until Tuesday next at 2.15 p.m.

MEMBERS PRESENT: All Members were present (at some time during the sitting) except Mr Campbell, Mr Drummond, Mr Keating, Mr Lloyd, Sir William McMahan, Mr Moore, Mr Nixon, Mr Scott, Mr Viner and Mr Young.

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