

## THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

## HOUSE OF REPRESENTATIVES

## VOTES AND PROCEEDINGS

No. 43

WEDNESDAY, 16 MARCH 1988

1 The House met, at 10 a.m., pursuant to adjournment. Madam Speaker (the Honourable Joan Child) took the Chair, and read Prayers.

2 **POSTPONEMENT OF NOTICES:** Ordered—That notices Nos. 1 and 2, government business, be postponed until a later hour this day.

3 **COMMONWEALTH BORROWING LEVY AMENDMENT BILL 1988:** 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 Peacock (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 endorses the sale of Australian Airlines, and therefore supports the Prime Minister’s statement that ‘I believe that an Australian Airlines, whether totally in private hands or an Australian Airlines with a significant private holding, with therefore correspondingly diminished demands upon public resources, could perform the function of Australian Airlines at least as well as they are now and, I would say, arguably, better’”.

Debate continued.

Question—That the words proposed to be omitted stand part of the question— put.

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

AYES, 72

Mr Baldwin	Mr Dubois	Mr Johns	Mr Mountford
Mr Beazley	Mr Duncan	Mr Jones	Mr O’Keefe
Mr Beddall	Mr R. F. Edwards	Mrs Kelly	Mr O’Neil
Mr Bilney	Ms Fatin	Mr Kent	Mr Price
Mr Blanchard	Mr Fitzgibbon	Mr Kerin	Mr Punch
Dr Blewett	Mr Free	Mr Kerr	Mr Saunderson
Mr R. J. Brown	Mr Gayler	Dr Klugman	Mr Scholes
Mr Brumby	Mr Gear	Mr Lamb*	Mr Sciacca
Mr Campbell	Mr Grace	Mr Langmore	Mr Scott
Mr Charles	Mr Griffiths	Mr Lavarch	Mr Simmons
Dr Charlesworth	Mr Hand	Mr Lindsay	Mr Snow
Mr Chynoweth	Mrs Harvey	Ms McHugh	Mr Snowdon
Mr Cleeland	Mr Hayden	Mr McLeay	Mr Staples
Mr Courtice	Mr Hollis	Mr Martin	Dr Theophanous
Ms Crawford	Mr Howe	Mr Mildren	Mr Tickner
Mr Cross	Mr Humphreys	Mr Milton	Mr West
Mr Cunningham*	Mrs Jakobsen	Mr A. A. Morris	Mr Willis
Mrs Darling	Mr Jenkins	Mr P. F. Morris	Mr Wright

## NOES, 53

Mr Adermann	Mr Connolly	Mr Lloyd	Mr Shack
Mr Aldred	Mr Dobie	Mr McArthur	Mr Sharp
Mr Andrew*	Dr H. R. Edwards	Mr McGauran	Mr Shipton
Mr Beale	Mr Fife	Mr Macphee	Mr Sinclair
Mr Blunt	Mr T. A. Fischer	Mr Miles	Mr Spender
Mr Braithwaite	Mr P. S. Fisher	Mr Millar	Mr Tuckey
Mr N. A. Brown	Mr Goodluck	Mr Nehl	Mr Webster
Mr Burr	Mr Halverson	Mr Peacock	Mr White
Mr Cadman	Mr Hawker	Mr Porter	Mr Wilson
Mr D. M. Cameron	Dr Hewson	Mr Pratt	Dr Woods
Mr E. C. Cameron	Mr Hicks*	Mr Prosser	Dr Wooldridge
Mr I. M. D. Cameron	Mr Hunt	Mr Reith	
Mr Carlton	Mr Jull	Mr Rocher	
Mr Cobb	Mr Katter	Mr Ruddock	

\* Tellers

And so it was resolved in the affirmative.

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

Leave granted for third reading to be moved forthwith.

On the motion of Mr P. F. Morris (Minister Assisting the Treasurer), the Bill was read a third time.

4 **QUESTIONS:** Questions without notice were asked.

5 **PAPERS:** The following papers were presented:

Audit Act—National Exhibition Centre Trust—Report and financial statements, including the Auditor-General's Report and freedom of information statement, for 1986-87.

Australian Capital Territory—

Agents Board—Report for 1986-87.

Bookmakers Licensing Committee—Report for 1986-87.

Bush Fire Council—Report for 1986-87.

Racecourse Development Fund Advisory Committee—Report for 1986-87.

Registrar of Co-operative Societies—Report for 1986-87.

Public Service Act—Department of Education—Report, including freedom of information statement, for 1986-87.

Remuneration Tribunals Act—Remuneration Tribunal—Report, including freedom of information statement, for 1986-87.

Seat of Government (Administration) Act—Report on the operations of the Consumer Affairs Council and the Consumer Affairs Bureau under the Consumer Affairs Ordinance, the administration of the Credit Ordinance and the administration of the Sale of Motor Vehicles Ordinance, for 1986-87.

6 **FINANCE AND PUBLIC ADMINISTRATION—STANDING COMMITTEE—REPORT ON AUSTRALIAN IRON AND STEEL INDUSTRY—MINISTERIAL STATEMENT:**

Mr Jones (Minister representing the Minister for Industry, Technology and Commerce), by leave, made a ministerial statement on the report of the Standing Committee on Finance and Public Administration on the Australian iron and steel industry.

Mr Moore, by leave, also made a statement in connection with the matter.

7 **LOCAL EMPLOYMENT INITIATIVES—REPORT OF NATIONAL ADVISORY GROUP ON LOCAL EMPLOYMENT INITIATIVES—PAPER AND MINISTERIAL STATEMENT:**

Mr Duncan (Minister for Employment and Education Services) presented the following paper:

Local employment initiatives: A strategic approach—Report of the National Advisory Group on Local Employment Initiatives—

and, by leave, made a ministerial statement in connection with the report.

Mr Shack, by leave, also made a statement in connection with the report.

- 8 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—PUBLIC DUTY AND CONFLICT OF INTEREST—MINISTERIAL GUIDELINES:** The House was informed that Mr Howard (Leader of the Opposition) had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The failure of the Prime Minister to maintain the integrity of his own guidelines regarding public duty and conflict of interest".

The proposed discussion having received the necessary support—  
Mr Howard addressed the House.

Discussion ensued.

Discussion concluded.

- 9 PARLIAMENTARY ZONE—CONSTRUCTION OF HIGH CAPACITY FIRE HYDRANTS—APPROVAL OF PROPOSAL:** Mr Punch (Minister for the Arts and Territories), pursuant to notice, moved—That, in accordance with section 5 of the *Parliament Act 1974*, the House approves the following proposal contained in the report of the Joint Standing Committee on the New Parliament House presented to the House on 10 December 1987, namely: The construction of high capacity fire hydrants within the parliamentary zone.

Debate ensued.

Question—put and passed.

- 10 BOUNTY AND SUBSIDY LEGISLATION AMENDMENT BILL 1988:** Mr Jones (Minister for Science, Customs and Small Business), pursuant to notice, presented a Bill for an Act to amend certain Acts providing for the payment of bounty or subsidy, and for related purposes.

Bill read a first time.

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

*Paper:* Mr Jones presented an explanatory memorandum to the Bill.

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

- 11 EXCISE TARIFF AMENDMENT BILL 1988:** Mr Jones (Minister for Science, Customs and Small Business) presented a Bill for an Act relating to Duties of Excise.

Bill read a first time.

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

*Paper:* Mr Jones presented an explanatory memorandum to the Bill.

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

- 12 INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (SHARE INCREASE) BILL 1988:** The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed.

Question—put and passed—Bill read a second time.

*Message from the Governor-General:* Message No. 65, dated 22 February 1988, from His Excellency the Governor-General was announced recommending an appropriation of revenue and moneys for the purposes of the Bill.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Humphreys (Minister for Veterans' Affairs), the Bill was read a third time.

- 13 MESSAGE FROM THE SENATE—FAMILY COURT OF AUSTRALIA (ADDITIONAL JURISDICTION AND EXERCISE OF POWERS) BILL 1987:** The following message from the Senate was reported:

Madam Speaker,

The Senate returns to the House of Representatives the Bill for "*An Act relating to the transfer of certain proceedings from the Federal Court of Australia to the Family Court of Australia and the exercise of certain jurisdiction and powers of the Family Court, and for other purposes*", and acquaints the House that the Senate has agreed to the Bill with the Amendments indicated by the annexed Schedule, in which Amendments the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA  
President

The Senate,  
Canberra, 15 March 1988

Ordered—That the amendments be taken into consideration, in committee of the whole House, forthwith.

*In the committee*

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Page 1, after subclause 2 (1), insert the following new subclause:

"(1A) Paragraphs 8A (a) and (d) commence on 1 January 1990."

No. 2—Page 2, after clause 6, insert the following new clause:

**Interpretation**

"6A. Section 20 of the Principal Act is amended:

- (a) by omitting 'a Senior Judge' from the definition of 'Chief Judge' and substituting 'the Deputy Chief Judge or a Judge Administrator if the Deputy Chief Judge or Judge Administrator is';
- (b) by inserting ', the Deputy Chief Judge, a Judge Administrator' after 'Chief Judge' in the definition of 'Judge'; and
- (c) by inserting the following definitions:
  - "Deputy Chief Judge" means the Deputy Chief Judge of the Court;
  - "Judge Administrator" means a Judge Administrator of the Court;".

No. 3—Page 2, after clause 7, insert the following new clauses:

**Creation of Court**

"7A. Section 21 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

- '(3) The Court consists of:
  - (a) a Chief Judge, who shall be called the Chief Justice of the Court;
  - (b) a Deputy Chief Judge, who shall be called the Deputy Chief Justice of the Court; and
  - (c) Judge Administrators, Senior Judges and other Judges, not exceeding, in total, such number as is prescribed.'

**Arrangement of business of Court**

"7B. Section 21B is amended by adding at the end the following subsections:

- '(2) The Deputy Chief Judge shall assist the Chief Judge in the exercise of the functions conferred on the Chief Judge by subsection (1).
- '(3) A Judge Administrator shall, in relation to such part of Australia as is from time to time assigned by the Chief Judge, assist the Chief Judge and the Deputy Chief Judge in the exercise of such of the functions conferred on the Chief Judge by subsection (1) as are from time to time so assigned.'"

No. 4—Page 2, after clause 8, insert the following new clauses:

**Appointment, removal and resignation of Judges**

"8A. Section 22 of the Principal Act is amended:

- (a) by omitting from subsection (2AA) 'Subject to subsection (2AE), the' and substituting 'The';
- (b) by inserting in subsection (2AA) ', the Deputy Chief Judge' after 'Chief Judge';

- (c) by omitting from subsection (2AC) '5' and substituting '6';
- (d) by omitting subsections (2AD) and (2AE);
- (e) by inserting in subsection (2AF) 'or the Deputy Chief Judge' after 'Chief Judge'; and
- (f) by inserting after subsection (2AF) the following subsection:

'(2AFA) Where a person holding office as a Senior Judge or Judge of the Court is appointed Deputy Chief Judge or a Judge Administrator, the person retains that office as Senior Judge or Judge, as the case may be, and may resign the office of Deputy Chief Judge or Judge Administrator without resigning that first-mentioned office.'

### Seniority

"8B. Section 23 of the Principal Act is amended by omitting subsections (2) and (3) and substituting the following subsections:

'(2) The Deputy Chief Judge is senior to all other Judges of the Court other than the Chief Judge.

'(3) The Judge Administrators and the Judges assigned to the Appeal Division have seniority next to the Deputy Chief Judge according to the days on which their appointments as Judge Administrators and their assignments to the Appeal Division (whichever first occurred) took effect.

'(4) Where, because 2 or more appointments as Judge Administrator and assignments to the Appeal Division took effect on the same day, subsection (3) does not determine priority between the Judges concerned, those Judges have such seniority in relation to each other as is assigned to them by the Governor-General.

'(5) The Senior Judges not assigned to the Appeal Division have seniority next to the Judges to whom subsection (3) applies according to the days on which their appointments as Senior Judges took effect.

'(6) Where, because 2 or more commissions of appointment as Senior Judge took effect on the same day, subsection (5) does not determine seniority between the Senior Judges concerned, those Judges have such seniority in relation to each other as is assigned to them by the Governor-General.

'(7) The Judges who are not Judge Administrators or Senior Judges and are not assigned to the Appeal Division have seniority next to the Senior Judges to whom subsection (5) applies according to the days on which their appointments as Judges took effect.

'(8) Where, because 2 or more commissions of appointment as Judge took effect on the same day on or after the commencement of this subsection, subsection (7) does not determine seniority between the Judges concerned, those Judges have such seniority in relation to each other as is assigned to them by the Governor-General.'

### Absence or illness of Chief Judge

"8C. Section 24 of the Principal Act is amended:

- (a) by omitting 'the next Senior Judge' and substituting 'the Deputy Chief Judge or, if the Deputy Chief Judge is unavailable, the senior Judge Administrator'; and
- (b) by adding at the end the following subsection:

'(2) A Judge who is, under subsection (1), performing the duties and exercising the powers of the Chief Judge shall be called the Acting Chief Justice of the Court.'

### Salary and Allowances

"8D. Section 25 of the Principal Act is amended by inserting in subsection (1) 'Deputy Chief Judge, Judge Administrators, Judges assigned to the Appeal Division,' after 'Chief Judge,'.

**Oath or affirmation of allegiance and office**

- "8E. Section 26 of the Principal Act is amended by inserting 'Deputy Chief Judge, Judge Administrator,' after 'Chief Judge.'".
- No. 5—Page 3, clause 9, proposed subsection 26B (1), line 2, at end of proposed subsection, add "except the power to make an order in relation to the custody, guardianship or welfare of, or access to, a child, other than an order made in undefended proceedings or with the consent of all the parties to the proceedings".
- No. 6—Page 3, clause 9, after proposed subsection 26C (2), add the following new subsection:  
 "(3) The Court may, on the application of a party or of its own motion, refer an application under subsection (1) to a Full Court of the Court.'".
- No. 7—Page 6, paragraphs 12 (a) and (b), lines 20 and 21, leave out the paragraphs, insert the following paragraph:  
 "(a) by omitting subsection (2) and substituting the following subsection:  
 '(2) The powers of the Court that may be delegated under subsection (1) do not include the power to make:  
 (a) a decree of dissolution of marriage in proceedings that are defended;  
 (b) a decree of nullity of marriage;  
 (c) a declaration as to the validity of a marriage or the dissolution or annulment of a marriage; or  
 (d) an order in relation to the custody, guardianship or welfare of, or access to, a child, other than an order made in undefended proceedings or with the consent of all the parties to the proceedings.'".
- No. 8—Page 7, clause 16, proposed section 44A, lines 5 to 11, leave out the proposed section, insert the following section:  
 "'44A. The regulations may provide that proceedings for a decree of dissolution of marriage may not be instituted in, or transferred to, a court of summary jurisdiction other than a prescribed court.'".
- No. 9—Page 7, paragraph 18 (a), proposed paragraph 46 (1) (b), lines 20 to 22, leave out "the amount in relation to which the court has jurisdiction in an action for the recovery of a debt", insert "\$10,000 and, where a motor vehicle is involved, \$20,000".
- No. 10—Page 7, after paragraph 18 (a), insert the following new paragraphs:  
 "(aa) by inserting after subsection (1A) the following subsection:  
 '(1AB) In determining the value of any property for the purposes of subsection (1), any mortgage, lien, charge or other security over the property is to be disregarded.'  
 (ab) by omitting from subsection (1B) ', as mentioned in paragraph (1) (d),';".
- No. 11—Page 7, paragraph 18 (b), proposed paragraph 46 (2A) (a), line 26, after "been", insert "instituted in or".
- No. 12—Page 7, paragraph 18 (d), proposed subsection 46 (3A), line 34, after "Family Court", insert "or the Supreme Court of a State or Territory".
- No. 13—Page 7, paragraph 18 (d), proposed subsection 46 (3A), line 36, after "Court", insert "or the Supreme Court, as the case may be".
- No. 14—Page 8, paragraph 21 (b), proposed subsection 96 (5), line 18, after "may", insert ", on the application of a party or of its own motion,".
- No. 15—Page 8, after paragraph 22 (b), add the following new paragraph:  
 "; and (c) by omitting subsection (4).".
- No. 16—Page 9, clause 24, line 11, after "Chief Judge", insert ", the Deputy Chief Judge, a Judge Administrator".
- No. 17—Page 10, clause 27, line 40, after "Chief Judge", insert ", the Deputy Chief Judge, a Judge Administrator".
- No. 18—Page 12, clause 30, proposed section 184, line 29, after "Chief Judge", insert ", the Deputy Chief Judge, a Judge Administrator".
- No. 19—Page 14, paragraph 33 (b), line 19, after "Chief Judge", insert ", the Deputy Chief Judge, a Judge Administrator".

No. 20—Page 15, after Part VII, add the following new Part:

**“PART VIII—AMENDMENTS OF THE FAMILY LAW AMENDMENT  
ACT 1987**

**Principal Act**

“35. In this Part, ‘Principal Act’ means the *Family Law Amendment Act 1987*’.

**Transfer of proceedings from court of summary jurisdiction in certain cases**

“36. Section 20 of the Principal Act is amended by omitting from the proposed subsection (1) in paragraph (a) ‘the amount in relation to which the court has jurisdiction in an action for the recovery of a debt’ and substituting ‘\$10,000 and, where a motor vehicle is involved, \$20,000’.

**Transitional provision in relation to section 46 of Family Law Act**

“37. Section 65 of the Principal Act is amended:

- (a) by omitting ‘section 18 of the *Family Court of Australia (Additional Jurisdiction and Exercise of Powers) Act 1987*’ and substituting ‘the amendment of subsection 46 (1) of the *Family Law Act 1975* made by the *Family Court of Australia (Additional Jurisdiction and Exercise of Powers) Act 1988*’; and
- (b) by omitting ‘the first-mentioned section’ and substituting ‘that amendment’.”.

ADDITION TO NOTES

7. No. 181, 1987.

Amendments Nos. 1 to 3—

On the motion of Mr Bowen (Attorney-General), the amendments were agreed to. Amendment No. 4—

On the motion of Mr Bowen, the following amendment to the Senate’s amendment was made:

Clause 8B, page 3, omit proposed subsections (3), (4) and (5), substitute the following subsections:

“(3) Judges appointed as Judge Administrators or assigned to the Appeal Division before, or not later than 3 months after, the commencement of section 8B of the *Family Court of Australia (Additional Jurisdiction and Exercise of Powers) Act 1988* have seniority next to the Deputy Chief Judge, and have such seniority in relation to each other as they had immediately before that commencement.

“(4) The remaining Judge Administrators and Judges assigned to the Appeal Division have seniority next to the Judges to whom subsection (3) applies according to the days on which their appointments as Judge Administrators and their assignments to the Appeal Division (whichever first occurred) took effect.

“(4A) Where, because 2 or more appointments as Judge Administrator and assignments to the Appeal Division took effect on the same day, subsection (4) does not determine priority between the Judges concerned, those Judges have such seniority in relation to each other as is assigned to them by the Governor-General.

“(5) The Senior Judges not assigned to the Appeal Division have seniority next to the Judges to whom subsection (4) applies according to the days on which their appointments as Senior Judges took effect.”.

Amendment, as amended, agreed to.

Amendment No. 5—

On the motion of Mr Bowen, the following amendment to the Senate’s amendment was made, after debate: After “other than an order” insert “until further order or an order”.

Amendment, as amended, agreed to.

Amendments Nos 6 to 20—

Mr Bowen moved—That the amendments be agreed to.

Debate ensued.

On the motion of Mr Johns, by leave, the following amendments to the Senate's amendments were made together, after debate:

Amendment No. 9—Omit "\$10,000 and, where a motor vehicle is involved, \$20,000", substitute "\$20,000".

Amendment No. 20—Omit "\$10,000 and, where a motor vehicle is involved, \$20,000", substitute "\$20,000".

Amendments 6 to 20, as amended, agreed to.

Resolutions to be reported.

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The House resumed; Mr McLeay reported accordingly.

On the motion of Mr Bowen, the House adopted the report.

- 14 **REFERENDUM (MACHINERY PROVISIONS) AMENDMENT BILL 1988:** 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 Blanchard addressing the House—

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- 15 **ADJOURNMENT:** It being 10.30 p.m.—The question was proposed—That the House do now adjourn.

Debate ensued.

The House continuing to sit until 11 p.m.—Madam Speaker adjourned the House until tomorrow at 10 a.m.

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**MEMBERS PRESENT:** All Members were present (at some time during the sitting) except Mr Dawkins, Mr Downer, Mr Duffy, Mr Hall and Mr Lee.

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**A. R. BROWNING**  
Clerk of the House of Representatives