

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
 HOUSE OF REPRESENTATIVES
VOTES AND PROCEEDINGS

No. 38

FRIDAY, 21 DECEMBER 1990

- 1 The House met, at 9 a.m., pursuant to adjournment. Mr Speaker (the Honourable Leo McLeay) took the Chair, and read Prayers.
- 2 **PAPERS:** The following papers were presented:
 Agricultural and Veterinary Chemicals Act—Australian Agricultural and Veterinary Chemicals Council—Report for 1989-90.
 Aid program 1990—Annual statement by Senator Evans, Minister for Foreign Affairs and Trade.
 Australian Capital Territory (Planning and Land Management) Act—National Capital Planning Authority—National Capital Plan, dated December 1990—Plan.
 Appendices.
 Australian National Maritime Museum—Report for 1989-90.
 Commonwealth Legal Aid Act—
 National Legal Aid Advisory Committee—Report for 1989-90.
 National Legal Aid Representative Council—Report for 1989-90.
 Department of Defence—Schedule of special purpose flights for period 4 January to 30 June 1990 including supplementary schedules for 1988-89.
 Horticultural Policy Council Act—Horticultural Policy Council—Report for 1989-90.
 Legal aid for the Australian community: Legal aid policy, programs and strategies—Report by the National Legal Aid Advisory Committee, dated July 1990—
 Report.
 Government response, dated December 1990.
 Violence: Directions for Australia—Report by the National Committee on Violence—Government response.
- 3 **TRADE PRACTICES AMENDMENT BILL 1990:** Mr Duffy (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Trade Practices Act 1974*.
 Bill read a first time.
 Mr Duffy moved—That the Bill be now read a second time.
Paper: Mr Duffy presented an explanatory memorandum to the Bill.
 Debate adjourned (Mr Jull), and the resumption of the debate made an order of the day for the next sitting.
- 4 **PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—AUSTRALIAN EMBASSY COMPLEX, JAKARTA, INDONESIA—CONSTRUCTION:** Mr Beddall (Minister representing the Minister for Administrative Services), pursuant to notice, moved—That, in accordance

with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Construction of an Australian Embassy complex in Jakarta, Indonesia.

Mr Beddall presented plans in connection with the proposed work.

Question—put and passed.

5 MESSAGE FROM THE SENATE—NATIONAL HEALTH ACT—FORM OF AGREEMENT BETWEEN PROPRIETOR AND PATIENT: The following message from the Senate was reported:

Message No. 140

Mr Speaker,

The Senate acquaints the House of Representatives that, in accordance with subsection 40ABB (5) of the *National Health Act 1953*, the Senate has approved the form of agreement between residents and proprietors of approved nursing homes presented to the Senate on 18 September 1990, with the amendments indicated in the annexed schedule.

KERRY SIBRAA
President

The Senate,

Canberra, 17 December 1990

Ordered—That the message be taken into consideration forthwith.

Mr Staples (Minister for Aged, Family and Health Services) moved—That, in accordance with subsection 40ABB (5) of the *National Health Act 1953*, the House approves the form of agreement between residents and proprietors of approved nursing homes as amended by the Senate, and conveyed in Senate Message No. 140 of 17 December 1990.

Mr Braithwaite moved, as an amendment—That the following words be added to the motion:

“, subject to the following amendments being agreed to:

- (1) Interpretation section, omit all words after: ‘In this Agreement unless the contrary intention appears:’ up to and including the definition of “Minister”, substitute:

““Department” means the Department of State of the Commonwealth that is administered by the Minister for the time being administering the Act;

“Exempt Bed” means a bed in respect of which exempt status has been granted pursuant to section 39AB of the Act;

“Minister” means the Minister responsible for the administration of the Act;’.

- (2) Interpretation section, omit the definition of “Overall Management”.

- (3) Interpretation section, omit the definition of “Reprisal”, substitute:

““Reprisal” includes action by the proprietor in respect of a resident which results in restriction of any rights, restriction of access to activities inside or outside the nursing home and punishment of any sort, but does not include provision of additional services or better accommodation to an exempt resident than that which is given to a non-exempt resident;’.

- (4) Interpretation section, omit all definitions from “Resident” to ‘The proprietor’ (both inclusive), substitute:

““Resident” has the same meaning as “qualified nursing home patient” defined in the Act, and includes where appropriate her/his legally appointed attorney, guardian, manager or next of kin; “Rules of the Nursing Home” mean the house rules as adopted or amended from time to time;

“Secretary” means the Secretary to the Department of Community Services and Health;

“Standards for Nursing Home Care” means standards prescribed by the Minister in the *Gazette* under the Act and which are commonly known as Outcome Standards;

“The Act” means the *National Health Act 1953* as amended from time to time including amendments made after the date of this Agreement;

“The proprietor” means the proprietor from time to time of the ‘..... Nursing Home’;

Words, terms and expressions used have the same meaning as in the Act.’

- (5) Clause 1, subclause 1.2, add at the end of the subclause ‘, subject to any reasonable disturbance which might flow from the carrying out of works on the premises’.
- (6) Clause 3, omit subclause 3.1, substitute the following subclause:
‘3.1 The proprietor and the resident agree to abide by the rules of the nursing home except insofar as the rules are inconsistent with this Agreement or the Charter set out in Schedule 1 or the standards for nursing home care published from time to time by the Minister.’.
- (7) Clause 5, subclause (2), omit ‘The proprietor shall not accept or seek any secret commission. For the purposes of this clause “the proprietor” means “the proprietor and any related entity”.’.
- (8) Clause 8, subclause 8.1, omit the subclause, substitute the following subclause:
‘8.1 be treated as an individual by those in, and coming into, the nursing home, as far as practicable;’.
- (9) Clause 8, subclause 3, at the end of the subclause add: ‘where, however, the rules of a charitable or similar voluntary nursing home limit such rights, nothing in this agreement shall prevent the proprietor from requiring that the rules in this regard be observed.’.
- (10) Clause 9, subclause 9.2, omit ‘at any time’, substitute ‘at a time mutually convenient to the proprietor and the resident’.
- (11) Clause 9, subclause 9.3, after ‘sexual preference’ add ‘subject to subclause 8.3.’.
- (12) Clause 10, omit subclause 10.2, substitute the following subclause:
‘10.2 of access to medical, health and social services of her/his choice, but a medical practitioner shall not have the right to treat the resident in the nursing home if the medical practitioner will not agree to observe the ethical principles of the proprietor in the exercise of the practitioner’s profession within the nursing home.’.
- (13) Clause 11, subclause 11.1, omit ‘decision’, substitute ‘decisions’.
- (14) Clause 12, subclause 12.5, omit the subclause, substitute the following subclause:
‘12.5 seek any legal, financial, administrative or other advice and support that she/he requires.’.
- (15) Clause 12, subclause 12.6, omit, ‘this Agreement and any laws that are relevant to the nursing home or the resident’, substitute ‘and this Agreement’.
- (16) Clause 15, subclause 15.1, at the end of the subclause add the following paragraph:
‘(e) where such a move is necessary to maintain an appropriate gender balance; or’.
- (17) Clause 15, subclause 15.2, omit ‘that request’ substitute ‘any reasonable request’.
- (18) Clause 15, subclause 15.3, omit ‘as assessed and certified by an independent medical practitioner’, substitute ‘as determined by the

director of nursing, but the resident shall have the right to request a review by an independent medical practitioner’.

- (19) Clause 19, omit ‘The proprietor shall at all times, as required by the resident, provide’, substitute ‘The proprietor shall at all reasonable times, as required by the resident, use her/his best endeavours to provide’.
- (20) Clause 21, subclause 21.3, omit ‘(a) the nursing home occupied by the resident is, because of the resident’s assessed long-term physical or mental condition, no longer able to provide suitable accommodation and care for the resident.’, substitute ‘(a) the Minister or the Secretary determines that the nursing home occupied by the resident is, because of the resident’s assessed long-term physical or mental condition, no longer able to provide suitable accommodation and care for the resident.’.
- (21) Clause 21, paragraph 21.3 (b), omit ‘is made by the Minister to the effect that the resident is not in need of nursing home care and any review of the declaration is unsuccessful’, substitute ‘; or’.
- (22) Clause 21, paragraph 21.3 (c), omit ‘a persistent and serious breach of this Agreement’, substitute ‘frequent and serious breaches of this Agreement or of the rules of the nursing home; or’.
- (23) Clause 21, paragraph 21.3 (d), omit ‘for reasons within her/his control.’, substitute ‘; or’.
- (24) Clause 21, subparagraph 21.3 (f) (ii), omit ‘or an employee of the proprietor or any other resident.’, substitute ‘, an employee of the proprietor, any other resident or any other person lawfully in the nursing home or on the land on which the nursing home is situated; or’.
- (25) Clause 21, paragraph 21.3 (h), omit the paragraph, substitute the following paragraph: ‘(h) the proprietor decides to close the nursing home.’.
- (26) Clause 21, paragraph 21.4 (a), omit ‘, 21.3 (c) and 21.3 (h).’, substitute ‘and 21.3 (h); or’.
- (27) Clause 21, paragraph 21.4 (b), at the end of the paragraph add ‘and 21.3 (c); or’.
- (28) Clause 21, subclause 21.6, at the end of the subclause add ‘; where the resident ceased the activity or behaviour referred to in subclause 21.3, and thereafter wilfully repeats the activity or behaviour, such action shall not operate so as to deprive the proprietor of the right to terminate the Agreement.’.
- (29) Clause 21, subclause 21.7, omit paragraph (d).
- (30) Clause 21, subclause 21.7, at the end of the subclause add:
‘If, after 30 days, no suitable accommodation has been found, the Secretary may authorise the proprietor to proceed to terminate the Agreement.’.

Debate continued.

The debate having been closed by the reply of Mr Staples—

Mr Braithwaite, by leave, again addressed the House.

Mr Staples, by leave, again addressed the House.

Question—That the amendment be agreed to—put.

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

AYES, 60

Mr Aldred	Mr Cowan	Mr Lloyd	Mr Ronaldson
Mr Anderson	Mr Dobie	Mr McArthur	Mr Ruddock
Mr Atkinson	Dr H. R. Edwards	Mr Mack	Mr B. C. Scott
Mrs Bailey	Mr Fife	Mr MacKellar	Mr Shack
Mr Beale	Mr Filing	Mr McLachlan	Mr Sharp
Mr Bradford	Mr T. A. Fischer	Mr Miles	Mr Sinclair
Mr Braithwaite	Mr P. S. Fisher	Mr Moore	Mr Smith
Mr Broadbent	Mr Ford	Mr Nehl	Mr Somlyay
Mr Burr	Mrs Gallus	Mr Nugent	Mrs Sullivan
Mr Cadman	Mr Goodluck	Mr Peacock	Mr Taylor
Mr Cameron	Mr Halverson*	Mr Prosser	Mr Truss
Mr Carlton	Mr Hawker	Mr Reid	Mr Webster
Mr Cobb	Mr Hicks*	Mr Reith	Mr Wilson
Mr Connolly	Mr Jull	Mr Riggall	Dr R. L. Woods
Mr Costello	Dr Kemp	Mr Rocher	Dr Wooldridge

NOES, 72

Mr Baldwin	Mr Duncan	Mrs Jakobsen	Mr Price
Mr Beazley	Mr R. F. Edwards	Mr Jenkins	Mr Punch
Mr Beddall	Mr Elliott	Mr Johns	Mr Sawford
Mr Bevis	Ms Fatin	Mr Jones	Mr Scholes
Mr Bilney	Mr Ferguson	Mrs Kelly	Mr Sciacca
Mr Brereton	Mr Fitzgibbon	Mr Kerin	Mr J. L. Scott
Mr R. J. Brown	Mr Free	Mr Kerr	Mr L. J. Scott
Mr Campbell	Mr Gear*	Mr Langmore	Mr Simmons
Dr Catley	Mr Gibson	Mr Lavarch	Mr Snow
Dr Charlesworth	Mr Gorman	Mr Lee	Mr Snowdon
Mr Courtice	Mr Grace*	Mr Lindsay	Mr Staples
Ms Crawford	Mr Griffiths	Ms McHugh	Dr Theophanous
Mr Crean	Mr Hand	Mr Martin	Mr Tickner
Mrs Crosio	Mr Holding	Mr Melham	Mr Walker
Mrs Darling	Mr Hollis	Mr A. A. Morris	Mr West
Mr Dawkins	Mr Howe	Mr P. F. Morris	Mr Willis
Mr Dubois	Mr Hulls	Mr Newell	Mr H. F. Woods
Mr Duffy	Mr Humphreys	Mr O'Keefe	Mr Wright

* Tellers

And so it was negatived.

Question—That the motion be agreed to—put and passed.

- 6 **MESSAGE FROM THE GOVERNOR-GENERAL—SOCIAL SECURITY LEGISLATION AMENDMENT BILL 1990:** Message No. 77, dated 14 December 1990, from His Excellency the Governor-General was announced recommending an appropriation of revenue for the purposes of amendments to the Social Security Legislation Amendment Bill 1990.
- 7 **SOCIAL SECURITY LEGISLATION AMENDMENT BILL 1990—SENATE'S AMENDMENTS:** The House, according to order, resolved itself into a committee of the whole to consider the amendments made by the Senate.

In the committee

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Clause 4, page 2, subclause (7), lines 33 and 34, omit “sections 31, 32, 44, 45 and 50 and paragraphs 70 (c) and 71 (b)”, substitute “sections 31 and 32 and paragraph 71 (1) (b)”.

No. 2—Clause 4, page 2, subclause (8), line 37, omit “33”.

No. 3—Clause 4, page 3, after subclause (9) insert the following subclause:

“(9A) The amendments of the Principal Act made by sections 44, 45 and 50 and paragraph 70 (c) apply in relation to claims lodged on or after 1 February 1991.

Commencement: 1 February 1991”.

No. 4—Clause 4, page 3, subclause (13), line 17, after “71” insert “(1)”.

- No. 5—Clause 39, pages 22, lines 13 to 28, omit the clause.
- No. 6—Clause 44, page 23, proposed subsection 116C (2), line 30, omit "\$5,000", substitute "the person's maximum reserve".
- No. 7—Clause 44, page 23, proposed paragraph 116C (3) (a), line 35, omit "\$5,000", substitute "the person's maximum reserve".
- No. 8—Clause 44, page 24, after proposed subsection 116C (4) insert the following subsection:
 "(4A) Where the Secretary is satisfied that the application of the 4 weeks waiting period required by this section will cause undue long term disadvantage or significant hardship to a person, the Secretary may:
 (a) waive the 4 weeks waiting period; and
 (b) authorise payment of the benefit to the person."
- No. 9—Clause 44, page 25, at end of proposed subsection 116C (9) add the following definition:
 "'maximum reserve', in relation to a person, means:
 (a) in the case of an unmarried person without a dependent child—\$5,000; or
 (b) in the case of any other person—\$10,000."
- No. 10—Clause 44, page 25, proposed section 116C, line 16, omit "*1 December 1990*", substitute "*1 February 1991*".
- No. 11—Clause 45, page 25, proposed subsection 117AA (2), line 23, omit "\$5,000", substitute "the person's maximum reserve".
- No. 12—Clause 45, page 25, proposed paragraph 117AA (3) (a), line 29, omit "\$5,000", substitute "the person's maximum reserve".
- No. 13—Clause 45, page 26, at end of proposed subsection 117AA (9) add the following definition:
 "'maximum reserve', in relation to a person, means:
 (a) in the case of an unmarried person without a dependent child—\$5,000; or
 (b) in the case of any other person—\$10,000."
- No. 14—Clause 45, page 26, proposed section 117AA, line 35, omit "*1 December 1990*", substitute "*1 February 1991*".
- No. 15—Clause 50, page 27, line 32, omit "*1 December 1990*", substitute "*1 February 1991*".
- No. 16—Clause 56, page 30, paragraph (b), line 42, omit "subsection", substitute "subsections".
- No. 17—Clause 56, page 31, paragraph (b), proposed subsection 136 (2), line 1, omit "For", substitute "Subject to subsection (2AA), for".
- No. 18—Clause 56, page 31, paragraph (b), after proposed subsection 136 (2), add the following subsection:
 "(2AA) For the purposes of paragraph (1) (b), a person who enrolls in a course is not taken to be so enrolled during periods of deferment."
- No. 19—Clause 70, page 42, paragraph (b), line 1, omit "XVIA", substitute "XVIIA".
- No. 20—Clause 70, page 41, paragraph (c), line 5, omit "*1 December 1990*", substitute "*1 February 1991*".
- No. 21—Clause 71, page 41, paragraph (b), line 11, omit "(4AA)", substitute "(4AAA)".
- No. 22—Clause 71, page 41, paragraph (b), line 19, omit "29", substitute "1".
- On the motion of Mr Sciacca (Parliamentary Secretary to the Minister for Social Security), the amendments were agreed to, after debate.
 Resolution to be reported.

The House resumed; Mrs Sullivan reported accordingly.
 On the motion of Mr Sciacca, the House adopted the report.

- 8 **DATA-MATCHING PROGRAM (ASSISTANCE AND TAX) BILL 1990:** The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed.

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

Leave granted for third reading to be moved forthwith.

On the motion of Mr Sciacca (Parliamentary Secretary to the Minister for Social Security), the Bill was read a third time.

- 9 **INDUSTRIAL RELATIONS LEGISLATION AMENDMENT BILL 1990:** 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.

The House divided (the Deputy Speaker, Mr R. F. Edwards, in the Chair)—

AYES, 72

Mr Baldwin	Mr Duncan	Mrs Jakobsen	Mr Price
Mr Beazley	Mr Elliott	Mr Jenkins	Mr Punch
Mr Beddall	Ms Fatin	Mr Johns	Mr Sawford
Mr Bevis	Mr Ferguson	Mr Jones	Mr Scholes
Mr Bilney	Mr Fitzgibbon	Mrs Kelly	Mr Sciacca
Mr Brereton	Mr Free	Mr Kerin	Mr J. L. Scott
Mr R. J. Brown	Mr Gayler	Mr Kerr	Mr L. J. Scott
Mr Campbell	Mr Gear*	Mr Langmore	Mr Simmons
Dr Catley	Mr Gibson	Mr Lavarch	Mr Snow
Dr Charlesworth	Mr Gorman	Mr Lee	Mr Snowdon
Mr Courtice	Mr Grace*	Mr Lindsay	Mr Staples
Ms Crawford	Mr Griffiths	Ms McHugh	Dr Theophanous
Mr Crean	Mr Hand	Mr Martin	Mr Tickner
Mrs Crosio	Mr Holding	Mr Melham	Mr Walker
Mrs Darling	Mr Hollis	Mr A. A. Morris	Mr West
Mr Dawkins	Mr Howe	Mr P. F. Morris	Mr Willis
Mr Dubois	Mr Hulls	Mr Newell	Mr H. F. Woods
Mr Duffy	Mr Humphreys	Mr O'Keefe	Mr Wright

NOES, 55

Mr Aldred	Mr Cowan	Mr Jull	Mr Ronaldson
Mr Anderson	Mr Dobie	Dr Kemp	Mr Ruddock
Mr Atkinson	Dr H. R. Edwards	Mr Lloyd	Mr Shack
Mrs Bailey	Mr Fife	Mr McArthur	Mr Sharp
Mr Beale	Mr Filing	Mr Mack	Mr Smith
Mr Bradford	Mr T. A. Fischer	Mr MacKellar	Mr Somlyay
Mr Braithwaite	Mr P. S. Fisher	Mr McLachlan	Mrs Sullivan
Mr Broadbent	Mr Ford	Mr Miles	Mr Taylor
Mr Burr	Mrs Gallus	Mr Nehl	Mr Truss
Mr Cadman	Mr Goodluck	Mr Nugent	Mr Webster
Mr Carlton	Mr Halverson*	Mr Peacock	Mr Wilson
Mr Cobb	Mr Hawker	Mr Reid	Dr R. L. Woods
Mr Connolly	Dr Hewson	Mr Reith	Dr Wooldridge
Mr Costello	Mr Hicks*	Mr Rocher	

* Tellers

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

Leave granted for third reading to be moved forthwith.

On the motion of Mr Simmons (Minister for the Arts, Tourism and Territories), the Bill was read a third time.

- 10 **SELECTION COMMITTEE—REPORT:** Mr R. F. Edwards (Chairman) presented the following report:

Selection Committee—Report relating to the program of business prior to 12.30 p.m. on Thursday, 14 February 1991.

11 MESSAGES FROM THE SENATE: Messages from the Senate were reported:

(a) returning the following Bills without amendment:

20 December 1990—Message—

No. 135—European Bank for Reconstruction and Development 1990.

No. 136—International Development Association (Further Payment) 1990.

No. 138—Sales Tax Laws Amendment (No. 3) 1990.

No. 139—Bounty Legislation Amendment (No. 2) 1990.

No. 141—Stevedoring Industry Legislation Amendment 1990.

No. 142—Stevedoring Industry Levy Amendment 1990 (*without requests*).

No. 143—Transport and Communications Legislation Amendment 1990.

No. 144—AUSSAT Amendment 1990.

21 December 1990—Message—

No. 152—Commonwealth Funds Management Limited 1990.

No. 153—Defence Force (Home Loans Assistance) 1990.

No. 154—Commonwealth and State Housing Agreement (Service Personnel) 1990.

No. 155—Housing Loans Insurance Corporation (Sale of Assets and Abolition) 1990.

No. 156—Australian Heritage Commission Amendment 1990.

No. 157—Australian Sports Drug Agency 1990.

(b) acquainting the House that the Senate had agreed to the following Bills as amended by the House at the request of the Senate:

21 December 1990—Message—

No. 146—Customs Tariff Amendment 1990.

No. 147—Cattle Transaction Levy 1990.

No. 148—Beef Production Levy 1990.

No. 149—Cattle Export Charge 1990.

No. 150—Live-stock Slaughter Levy Amendment 1990.

No. 151—Live-stock Export Charge Amendment 1990.

12 MESSAGE FROM THE SENATE—THERAPEUTIC GOODS ACT—REGULATIONS:

The following message from the Senate was reported:

Message No. 145

Mr Speaker,

The Senate acquaints the House of Representatives that, in accordance with section 2 of the *Therapeutic Goods Act 1989*, the Senate approves the Therapeutic Goods Regulations as contained in Statutory Rules 1990 No. 394, made under the Act and tabled in the Senate on 11 December 1990.

KERRY SIBRAA
President

The Senate,

Canberra, 20 December 1990

Ordered—That consideration of the message be made an order of the day for the next sitting.

13 SPECIAL ADJOURNMENT: Mr Hawke (Prime Minister) moved—That the House, at its rising, adjourn until Tuesday, 12 February 1991, at 2 p.m., unless otherwise called together by Mr Speaker or, in the event of Mr Speaker being unavailable, by the Chairman of Committees.

Debate ensued.

Question—put and passed.

14 **LEAVE OF ABSENCE TO ALL MEMBERS:** Mr Beazley (Leader of the House) moved—That leave of absence be given to every Member of the House of Representatives from the determination of this sitting of the House to the date of its next sitting.

Question—put and passed.

15 **ADJOURNMENT:** Mr Beazley (Leader of the House) moved—That the House do now adjourn.

Question—put and passed.

And then the House, at 3.11 p.m., adjourned until Tuesday, 12 February 1991, at 2 p.m., in accordance with the resolution agreed to this day.

PAPERS: The following papers were deemed to have been presented on 21 December 1990:

Australian National Railways Commission Act—Australian National Railways Commission—By-laws—General, Amendment No. 10.

Telecommunications Act—Determination of Technical Standards pursuant to section 106, dated 28 November 1990.

ATTENDANCE: All Members attended (at some time during the sitting) except Mr Andrew, Dr Blewett, Mr N. A. Brown, Mr Chaney, Mr Charles, Mr Downer, Mr Hall, Mr Howard, Mr Keating, Mr McGauran, Mr O'Neil and Mr Tuckey.

A. R. BROWNING
Clerk of the House of Representatives