

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

No. 70

WEDNESDAY, 29 MAY 1991

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

2 **TELECOMMUNICATIONS BILL 1991:** 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—*And on the amendment moved thereto by Mr Smith, viz.—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:*

(1) condemns the Government’s failure to allow reasonable time for consideration of the measure; and

(2) condemns the Government for choosing structural arrangements in telecommunications which do not satisfy the requirements for full micro-economic reform, noting that the Bill:

(a) lacks clarity in important areas;

(b) leaves significant detail for determination by regulation; and

(c) fails to provide for a sufficient degree of independence from Government for AUSTEL;

all of which factors have the potential to compromise further the development of the truly competitive telecommunications sector required to deliver the promised benefits to consumers and to the Australian economy at large”—

Amendment negatived.

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

Message from the Administrator: Message No. 137, dated 20 May 1991, from His Excellency the Administrator was announced recommending an appropriation of revenue for the purposes of the Bill.

The House resolved itself into a committee of the whole.

In the committee

Bill, by leave, taken as a whole.

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

Amendments—

Clause 11, page 11, omit the clause, substitute the following clause:

Regulations may make determinations concerning network boundaries

“11. (1) The regulations may make provision for or in relation to determining the equipment, lines and other facilities that are to be beyond, or not beyond, the boundaries of a telecommunications network: provided that the boundary of a network shall be deemed to be the barge board on the outside wall or perimeter of a property.

“(2) In this section ‘property’ has the same meaning as it has in section (7).”.

Clause 38, page 20, line 2, after “include” insert “ensuring that the provisions of this Act are carried out with due regard to the public interest.”.

Clause 40, page 20, lines 31 and 32, omit paragraph (b), substitute the following paragraph:

“(b) carrier performance, measured against the best international practice performance indicators available to AUSTEL, and with particular reference to consumer satisfaction, consumer benefits and quality of service.”.

Clause 57, page 25, lines 35 and 36, omit subclause (3).

Clause 60, page 26, lines 28 and 29, omit subclause (4).

Clause 63—

Page 28, after paragraph (h) insert the following paragraph:

“(ha) a condition about how the holder is to ensure and maintain the quality of service to persons to whom it supplies telecommunications services;”.

Page 28, at the end of the clause add the following subclause:

“(8) As soon as practicable after the day on which this Act receives the Royal Assent, the Minister shall cause to be laid before each House of the Parliament a copy of the form of a licence.”.

Clause 66, page 29, at the end of the clause add the following subclause:

“(4) An instrument made by the Minister under section 64 or 65 is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.

Clause 67, page 29, lines 31-34, omit subclause (1).

Clause 69, page 30, line 32, omit “may”, substitute “must”.

Clause 70—

Page 31, lines 23-27, omit subclause (3).

Page 31, lines 39-42 and page 32, lines 1-5, omit subclause (7).

Proposed new clause—

Page 32, after clause 70 insert the following new clause:

Form of agreement to be tabled

“70A. As soon as practicable after the day on which this Act receives the Royal Assent, the Minister shall cause to be laid before each House of the Parliament a copy of a form of agreement with carriers about licences.”.

Amendments—

Clause 117, page 51, after subclause (1) insert the following subclause:

“(1A) As soon as practicable after the day on which this Act receives the Royal Assent, the Minister shall cause to be laid before each House of the Parliament a copy of a draft of a National Code as may be determined under subsection (1).”.

Clause 349, page 151, line 18, omit “\$5 000 000”, substitute “\$10 000 000”.

Debate continued.

Limitation of debate: At 10.10 a.m., the Deputy Chairman having called the attention of the committee to the fact that the time allotted for the remaining stages had expired—

Amendments and proposed new clause negated.

Question—That the Bill be agreed to and that the Bill be reported without amendment—put and passed.

The House resumed; Mr L. J. Scott reported accordingly.

Question—That the report be adopted and the Bill be now read a third time—put and passed—Bill read a third time.

- 3 TELECOMMUNICATIONS (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 1991:** 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.
Limitation of debate: At 10.15 a.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—
 Question—That the Bill be now read a second time—put and passed—Bill read a second time.
 Further question—That the remaining stages of the Bill be agreed to—put and passed—Bill read a third time.
- 4 TELECOMMUNICATIONS (APPLICATION FEES) BILL 1991:** 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.
Limitation of debate: At 10.20 a.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—
 Question—That the Bill be now read a second time—put and passed—Bill read a second time.
 Further question—That the remaining stages of the Bill be agreed to—put and passed—Bill read a third time.
- 5 TELECOMMUNICATIONS (CARRIER LICENCE FEES) BILL 1991:** 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 Hand (Minister for Immigration, Local Government and Ethnic Affairs), the Bill was read a third time.
- 6 TELECOMMUNICATIONS (NUMBERING FEES) BILL 1991:** 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 Beazley (Minister for Transport and Communications), the Bill was read a third time.
- 7 TELECOMMUNICATIONS (UNIVERSAL SERVICE LEVY) BILL 1991:** 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 Hand (Minister for Immigration, Local Government and Ethnic Affairs), the Bill was read a third time.
- 8 AUSTRALIAN AND OVERSEAS TELECOMMUNICATIONS CORPORATION BILL 1991:** 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 Smith who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “the House declines to give the Bill a second reading, as it is of the opinion that the Government should be condemned for:
 (1) its failure to allow reasonable time for consideration of this measure;
 and

- (2) adopting a structure for the Corporation which:
- will not meet the stated intention of achieving greater competition in Australia's telecommunications industry;
 - does not make adequate provision for the capital requirements of the Corporation;
 - provides for an unjustified 'merger fee'; and
 - does not make adequate provision for future private equity".

Debate continued.

Limitation of debate: At 10.40 a.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—

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

The House divided (the Deputy Speaker, Mrs Sullivan, in the Chair)—

AYES, 73

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

NOES, 65

Mr Aldred	Mr Connolly	Dr Kemp	Mr Ronaldson
Mr Anderson	Mr Costello	Mr Lloyd	Mr B. C. Scott
Mr J. N. Andrew*	Mr Cowan	Mr McArthur	Mr Shack
Mr K. J. Andrews	Mr Dobie	Mr McGauran	Mr Sharp
Mr Atkinson	Mr Downer	Mr Mack	Mr Sinclair
Mrs Bailey	Dr H. R. Edwards	Mr MacKellar	Mr Smith
Mr Beale	Mr Fife	Mr McLachlan	Mr Somlyay
Mr Bradford	Mr Filing	Mr Miles	Mr Taylor
Mr Braithwaite	Mr P. S. Fisher	Mr Moore	Mr Truss
Mr Broadbent	Mr Ford	Mr Nehl	Mr Tuckey
Mr Burr	Mr Goodluck	Mr Nugent	Mr Webster
Mr Cadman	Mr Hall	Mr Peacock	Mr Wilson
Mr Cameron	Mr Halverson	Mr Prosser	Dr R. L. Woods
Mr Carlton	Mr Hawker	Mr Reid	Dr Wooldridge
Mr Chaney	Mr Hicks*	Mr Reith	
Mr Charles	Mr Howard	Mr Riggall	
Mr Cobb	Mr Jull	Mr Rocher	

* 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.

Further question—That the remaining stages of the Bill be agreed to—put and passed—Bill read a third time.

- 9 VETERANS' ENTITLEMENTS (REWRITE) TRANSITION BILL 1991: 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.

Limitation of debate: At 11.20 a.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—

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

Message from the Administrator: Message No. 138, dated 20 May 1991, from His Excellency the Administrator was announced recommending an appropriation of revenue for the purposes of the Bill.

Further question—That the remaining stages of the Bill be agreed to—put and passed—Bill read a third time.

- 10 **CUSTOMS AMENDMENT BILL 1991:** 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 McLachlan 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, in conjunction with the amendments to anti-dumping and countervailing procedures contained in the Bill, the Government should further streamline these procedures so that Australian producers have adequate defence against dumped and subsidised imports, by condensing the entire preliminary investigation period to 55 days, after which provisional measures can be implemented, followed by a final investigation period of 120 days”.

Debate continued.

Limitation of debate: At midday, the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—

Amendment negatived.

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

Further question—That the remaining stages of the Bill be agreed to—put and passed—Bill read a third time.

- 11 **NATIONAL HEALTH AMENDMENT BILL 1991:** 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 Braithwaite 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 expresses its regret at the uncertainty caused by the Government’s delay in concluding a Charter of Residents’ Rights and a form of agreement between nursing home residents and proprietors”.

Debate continued.

Limitation of debate: At 12.45 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—

Amendment negatived.

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

Message from the Administrator: Message No. 139, dated 20 May 1991, from His Excellency the Administrator was announced recommending an appropriation of revenue for the purposes of the Bill.

Further question—That the remaining stages of the Bill be agreed to—put and passed—Bill read a third time.

- 12 **QUESTIONS:** Questions without notice were asked.

- 13 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—GOODS AND SERVICES TAX:** The House was informed that Mr Reith (Deputy Leader of the Opposition) had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The fundamental need to adopt a goods and services tax as part of a comprehensive package of structural reforms to get Australia out of its current economic malaise".

The proposed discussion having received the necessary support—

Mr Reith addressed the House.

Discussion ensued.

Discussion concluded.

- 14 MESSAGE FROM THE SENATE—FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT COMMITTEE—AMENDMENT OF RESOLUTION OF APPOINTMENT:**

A message from the Senate was reported concurring in the resolution of the House relating to the amendment of the resolution of appointment of the Joint Committee on Foreign Affairs, Defence and Trade by omitting "4 subcommittees" from paragraph (8) and substituting "5 subcommittees"—28 May 1991—Message No. 211.

- 15 MAJOR EXPLOSIVES STOREHOUSES, STAGE 1, MYAMBAT, NSW—CONSTRUCTION—APPROVAL OF WORK:** 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*, it is expedient to carry out the following proposed work which was referred to the Parliamentary Standing Committee on Public Works and on which the committee has duly reported to Parliament: Construction of major explosives storehouses, Stage 1, at Myambat, NSW.

Debate ensued.

Question—put and passed.

- 16 SINGLETON MILITARY AREA, STAGE 1, NSW—REDEVELOPMENT—APPROVAL OF WORK:** 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*, it is expedient to carry out the following proposed work which was referred to the Parliamentary Standing Committee on Public Works and on which the committee has duly reported to Parliament: Redevelopment of the Singleton Military Area, Stage 1, NSW.

Debate ensued.

Question—put and passed.

- 17 MIGRATION REGULATIONS—JOINT STANDING COMMITTEE—PROPOSED AMENDMENT OF RESOLUTION OF APPOINTMENT:** Mr R. J. Brown (Minister for Land Transport), for Mr Hand (Minister for Immigration, Local Government and Ethnic Affairs), pursuant to notice, moved—

(1) That the resolution of appointment of the Joint Standing Committee on Migration Regulations be amended to read:

(a) That a joint committee, to be known as the Joint Standing Committee on Migration Regulations, be appointed to inquire into and report upon:

(i) regulations made or proposed to be made under the *Migration Act 1958*;

(ii) all proposed changes to the *Migration Act 1958* and any related acts; and

(iii) such other matters relating to the *Migration Act 1958*, regulations or reports as may be referred to it by the Minister for Immigration, Local Government and Ethnic Affairs.

(b) That the committee consist of 10 members, 3 Members of the House of Representatives to be nominated by the Government

Whip or Whips, 3 Members of the House of Representatives to be nominated by the Opposition Whip or Whips or by any independent Member, 2 Senators to be nominated by the Leader of the Government in the Senate, 1 Senator to be nominated by the Leader of the Opposition in the Senate and 1 Senator to be nominated by any minority groups or independent Senators.

- (c) That every nomination of a member of the committee be forthwith notified in writing to the President of the Senate and the Speaker of the House of Representatives.
 - (d) That the committee elect a Government member as its Chairman.
 - (e) That the committee elect a non-government Senator or Member of the House of Representatives to be the deputy chairman who shall act as chairman of the committee at any time when the chairman is not present at a meeting of the committee, and at any time when the chairman and deputy chairman are not present at a meeting of the committee the members present shall elect another member to act as chairman at that meeting.
 - (f) That, in the event of an equality of voting, the chairman, or the deputy chairman when acting as chairman, have a casting vote.
 - (g) That 4 members of the committee constitute a quorum of the committee.
 - (h) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any subcommittee any matter which the committee is empowered to examine.
 - (i) That the committee appoint the chairman of each subcommittee who shall have a casting vote only and at any time when the chairman of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chairman at that meeting.
 - (j) That the quorum of a subcommittee be a majority of the members of that subcommittee.
 - (k) That the committee or any subcommittee have power to authorise publication of any evidence given before it and any document presented to it.
 - (l) That members of the committee who are not members of a subcommittee may participate in the public proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum.
 - (m) That the committee or any subcommittee have power to send for persons, papers and records.
 - (n) That the committee or any subcommittee have power to move from place to place.
 - (o) That the committee have leave to report from time to time.
 - (p) That the committee or any subcommittee have power to consider and make use of the evidence and records of the Joint Select Committee on Migration Regulations appointed in the 35th Parliament.
 - (q) That the members of the committee hold office as a joint committee until the House of Representatives is dissolved or expires by the effluxion of time.
 - (r) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.
- (2) That a message be sent to the Senate acquainting it of this resolution and requesting that it concur and take action accordingly.

Question—put and passed.

- 18 **SUPERANNUATION LEGISLATION AMENDMENT BILL 1991:** Mr Willis (Minister for Finance), pursuant to notice, presented a Bill for an Act to amend certain Acts relating to superannuation, and for related purposes.
 Bill read a first time.
 Mr Willis moved—That the Bill be now read a second time.
Paper: Mr Willis presented an explanatory memorandum to the Bill.
 Debate adjourned (Mr Howard), and the resumption of the debate made an order of the day for the next sitting.
- 19 **CORPORATIONS LEGISLATION AMENDMENT BILL 1991:** Mr Duffy (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Corporations Act 1989* and related legislation, and for related purposes.
 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 Costello), and the resumption of the debate made an order of the day for the next sitting.
- 20 **FOREIGN JUDGMENTS BILL 1991:** Mr Duffy (Attorney-General), pursuant to notice, presented a Bill for an Act relating to the enforcement of foreign judgments in the Commonwealth, and for related purposes.
 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 Peacock), and the resumption of the debate made an order of the day for the next sitting.
- 21 **LAW AND JUSTICE LEGISLATION AMENDMENT BILL 1991:** Mr Duffy (Attorney-General), pursuant to notice, presented a Bill for an Act to amend various Acts administered by the Attorney-General relating to law and justice and other matters, and for related purposes.
 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 Peacock), and the resumption of the debate made an order of the day for the next sitting.
- 22 **TRANSPORT LEGISLATION AMENDMENT BILL 1991:** Mr R. J. Brown (Minister for Land Transport), pursuant to notice, presented a Bill for an Act to amend certain laws relating to transport and the protection of the sea, and for related purposes.
 Bill read a first time.
 Mr R. J. Brown moved—That the Bill be now read a second time.
Paper: Mr R. J. Brown presented an explanatory memorandum to the Bill.
 Debate adjourned (Mr Hawker), and the resumption of the debate made an order of the day for the next sitting.
- 23 **LOCAL GOVERNMENT (FINANCIAL ASSISTANCE) AMENDMENT BILL 1991:** Ms Fatin (Minister for Local Government), pursuant to notice, presented a Bill for an Act to amend the *Local Government (Financial Assistance) Act 1986*, and for related purposes.
 Bill read a first time.
 Ms Fatin moved—That the Bill be now read a second time.
Paper: Ms Fatin presented an explanatory memorandum to the Bill.
 Debate adjourned (Dr R. L. Woods), and the resumption of the debate made an order of the day for the next sitting.

- 24 **EXPORT CONTROL AMENDMENT BILL 1991:** 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.
Limitation of debate: At 5.45 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—
Question—That the Bill be now read a second time—put and passed—Bill read a second time.
Further question—That the remaining stages of the Bill be agreed to—put and passed—Bill read a third time.
- 25 **NATIONAL FOOD AUTHORITY BILL 1991:** 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.
Limitation of debate: At 8.30 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—
Question—That the Bill be now read a second time—put and passed—Bill read a second time.
Further question—That the remaining stages of the Bill be agreed to—put and passed—Bill read a third time.
- 26 **POSTPONEMENT OF ORDERS OF THE DAY:** Ordered—That orders of the day Nos. 13 to 18, government business, be postponed until a later hour this day.
- 27 **CRIMES LEGISLATION AMENDMENT BILL (NO. 2) 1991:** 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 Peacock, by leave, moved the following amendments together:

Amendment—

Clause 2, page 1, after subclause (1) insert the following subclause:

“(1A) Section 11A and paragraph 12 (aa) commence 4 months after the day on which this Act receives the Royal Assent.”.

Proposed new clause—

Page 4, after clause 11 insert the following new clause:

Interpretation

“11A. The following definition is inserted in subsection (1) of section 3 of the Principal Act:

‘serious offence’ for the purposes of paragraph 16 means:

- (a) a serious narcotics offence, as defined in section 4 of the *Proceeds of Crime Act 1987*; murder, kidnapping or equivalent offences; an offence against section 81 of the *Proceeds of Crime Act 1987*; receipt, possession, concealment, disposition of or bringing into Australia any property, including money, that may reasonably be suspected of being proceeds of crime, being an offence against section 82 of the *Proceeds of Crime Act 1987*; or an offence against section 83 of the *Proceeds of Crime Act 1987*; and
- (b) aiding, abetting or conspiring to commit an offence of the type referred to in paragraph (a).”.

Amendment—

Clause 12, page 4, before paragraph (a) insert the following paragraph:

“(aa) by omitting from subparagraph (1)(b)(ii) ‘an offence’ and substituting ‘a serious offence’”.

Debate continued.

Amendments and proposed new clause negatived.

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

Proposed new clauses—

Page 7, after clause 20 insert the following new clause:

Interpretation

“20A. Section 3 of the Principal Act is amended by adding at the end of the definition of ‘Commonwealth Officer’ the following word and paragraph:

‘and (e) for the purposes of sections 54, 55 and 56, a person who is an agent of the Commonwealth, of a Territory or of a body referred to in paragraph (d);’.”

Page 9, after clause 21 insert the following new clauses:

Repeal of sections 31 to 44, substitution of new sections

“21A. Sections 31 to 44, inclusive, of the Principal Act are repealed and the following sections are substituted:

Interpretation

‘31. In this Part, unless the contrary intention appears:

“act” includes omission;

“benefit” includes money, real and personal property and any advantage;

“judicial office holder” means:

- (a) a Justice of the High Court; or
- (b) a judge of a court created by the Parliament; or
- (c) a justice or judge of a court of a State or Territory who is exercising federal jurisdiction or is exercising or performing jurisdiction or a power or function under a law of the Commonwealth;

and includes:

- (d) a person acting as an arbitrator or umpire under a law of the Commonwealth or of a Territory; and
- (e) a person who, alone or with other persons, is conducting proceedings under a law of the Commonwealth in which evidence may be taken on oath;

“judicial proceeding” means a proceeding before:

- (a) the High Court, a court created by the Parliament or a court of a Territory; or
- (b) a court that is:
 - (i) exercising federal jurisdiction; or
 - (ii) exercising any jurisdiction or power, or performing any function, under a law of the Commonwealth;

and includes a proceeding under a law of the Commonwealth in which evidence may be taken on oath.

Judicial corruption

‘32. (1) A judicial office holder must not ask for or receive or obtain a benefit for himself or herself or for another person on account of an act done or to be done by the office holder in his or her capacity as a judicial office holder.

Penalty: Imprisonment for 10 years.

‘(2) A person must not provide or procure, or promise or offer to provide or procure, a benefit for a judicial office holder or for another person on account of an act done or to be done by the office holder in his or her capacity as a judicial office holder.

Penalty: Imprisonment for 10 years.

'(3) This section does not apply to salary, allowances or other benefits that are or could lawfully be payable to or conferred on a judicial office holder in relation to the performance of the person's functions or duties as a judicial office holder.

Corruption relating to offences

'33. (1) A person who is:

- (a) a justice of the peace (other than a judicial office holder) and who is exercising any jurisdiction or power, or is performing any function, under a law of the Commonwealth; or
- (b) a Commonwealth officer (other than a judicial office holder) and who is employed in a capacity relating to the prosecution, detention or punishment of offenders;

must not ask for or receive or obtain a benefit for himself or herself or for another person on account of an act done or to be done by the person in relation to that exercise or performance or that capacity, as the case may be, with a view to:

- (c) interfering with the due administration of justice under a law of the Commonwealth or of a Territory; or
- (d) procuring or facilitating the commission of an offence against such a law; or
- (e) protecting an offender or intending offender against such a law from detection or punishment.

Penalty: Imprisonment for 10 years.

'(2) A person must not:

- (a) provide or procure; or
- (b) promise or offer to provide or procure;

a benefit for any person on account of an act of the kind referred to in paragraph (1) (c), (d) or (e) on the part of a person referred to in paragraph (1) (a) or (b).

Penalty: Imprisonment for 10 years.

False evidence etc.

'34. (1) A person must not, in evidence given in a judicial proceeding:

- (a) on oath, affirmation or declaration; or
- (b) after being warned that the giving of false evidence could result in criminal proceedings against the person;

knowingly or recklessly make a statement, whether admissible or not and whether of fact or opinion, that is false.

Penalty: Imprisonment for 5 years.

'(2) A person must not, in a statement from the dock in a judicial proceeding and after being warned that the making of a false statement could result in criminal proceedings against the person, knowingly or recklessly make a statement, whether of fact or opinion, that is false.

Penalty: Imprisonment for 5 years.

'(3) An interpreter in a judicial proceeding must not knowingly or recklessly give an interpretation that is false or misleading.

Penalty: Imprisonment for 5 years.

'(4) A person must not knowingly or recklessly make a statement, whether of fact or opinion, that is false in an affidavit, statutory declaration or certificate that:

- (a) is made for the purpose of a judicial proceeding; and
- (b) is made admissible in the proceeding (whether or not admitted).

Penalty: Imprisonment for 5 years.

'(5) A person must not knowingly or recklessly make a statement, whether of fact or opinion, that is false in a document that is

intended to be placed before a court in a judicial proceeding that is a committal proceeding.

Penalty: Imprisonment for 5 years.

'(6) An offence under subsection (4) or (5) is not committed unless:

- (a) the affidavit, statutory declaration, certificate or document was made on oath, affirmation or declaration; or

- (b) the person was warned in writing before making the statement that the making of a false statement could result in criminal proceedings against the person; or

- (c) a warning of that kind was given orally and the affidavit, statutory declaration, certificate or document acknowledges that the warning was given.

'(7) An offence under this section is not committed if:

- (a) the court, tribunal, body or person did not have jurisdiction in the proceeding; or

- (b) the statement or interpretation was not material in the proceeding.

'(8) A person cannot be convicted of an offence under this section on the uncorroborated evidence of one person.

'(9) For the purposes of a prosecution for an offence against this section, the following matters are immaterial:

- (a) whether or not the court, tribunal or body was properly constituted;

- (b) whether or not the judicial proceeding was held in the proper place;

- (c) whether or not the person who made the statement was a competent witness.

'(10) The question whether a statement is material in a proceeding is one of law.

Fabricating, altering or concealing evidence

'35. (1) A person must not, intending to:

- (a) influence a decision by a person whether or not to institute a judicial proceeding; or

- (b) influence the outcome of a judicial proceeding, whether the proceeding is already in progress or is to be or may be instituted at a later time;

fabricate evidence or alter, conceal or destroy any thing that may be required in evidence in the proceeding.

Penalty: Imprisonment for 5 years.

'(2) A person must not, intending to:

- (a) influence a decision by a person whether or not to institute a judicial proceeding; or

- (b) influence the outcome of a judicial proceeding, whether the proceeding is already in progress or is to be or may be instituted at a later time;

use evidence that has been fabricated, or a thing that has been altered, as mentioned in subsection (1).

Penalty: Imprisonment for 5 years.

Corruption of, and threats against, witnesses

'36. (1) A person must not:

- (a) use threats against another person; or

- (b) provide or procure, or promise or offer to provide or procure, a benefit for another person;

intending to induce the other person or a third person:

- (c) not to attend as a witness at a judicial proceeding, whether the proceeding is already in progress or is to be or may be instituted at a later time; or

- (d) not to give evidence at such a proceeding; or
- (e) to give false evidence at such a proceeding; or
- (f) to withhold truthful evidence at such a proceeding.

Penalty: Imprisonment for 5 years.

'(2) A person must not:

- (a) prevent another person attending as a witness at a judicial proceeding, whether the proceeding is already in progress or is to be or may be instituted at a later time; or
- (b) prevent another person producing a thing in evidence at such a proceeding.

Penalty: Imprisonment for 5 years.

Deceiving witnesses

'37. A person must not do an act with the intention of deceiving another person in any way in order to affect the evidence of the other person at a judicial proceeding, whether the proceeding is already in progress or is to be or may be instituted at a later time.

Penalty: Imprisonment for 2 years.

Threatening or causing violence, injury or damage on account of an exercise of a person's duty at a judicial proceeding

'38. (1) A person must not cause or procure, or threaten to cause or procure, any violence, injury or damage (whether to a person or property) on account of anything said or done by:

- (a) a person who was a judicial office holder at a judicial proceeding; or
- (b) a person who was involved in a judicial proceeding as a witness, a juror, a legal practitioner or officer of a court; or
- (c) in the case of a judicial proceeding involving an offence—a person who was an accused person or a prosecutor in the proceeding;

in the course of, or in relation to, the proceeding.

Penalty: Imprisonment for 5 years.

'(2) Subsection (1) does not apply to a thing done in relation to a person who was involved in a judicial proceeding as a witness if the person:

- (a) gave false evidence in the proceeding; and
- (b) knew at the time when the evidence was given that it was false.

Threatening a person with intention to influence outcome of a judicial proceeding

'39. (1) A person must not make a threat of any kind to any person with the intention of inducing a person who is, or is to be:

- (a) a judicial office holder at a judicial proceeding; or
- (b) involved in a judicial proceeding as a witness, a juror, a legal practitioner or officer of a court;

to act in a way that will influence the outcome of the proceeding.

Penalty: Imprisonment for 5 years.

'(2) The threat referred to in subsection (1) need not be made against the person referred to in paragraph (1)(a) or (b).

False accusations that a person has committed an offence

'40. (1) A person must not allege or suggest that another person has committed an offence that the person knows or believes the other person did not commit, intending that:

- (a) the other person will be charged with committing the offence; or
- (b) police or other authorities will pursue criminal investigations against the other person in relation to the alleged offence.

Penalty: Imprisonment for 10 years.

'(2) A person cannot be convicted of an offence under subsection (1) on the uncorroborated evidence of one person.

Obstructing, preventing, perverting or defeating the course of justice

'41. A person must not obstruct, prevent, pervert or defeat the course of justice in a judicial proceeding in a manner that is not specifically dealt with in another provision of this Part.

Penalty: Imprisonment for 5 years.

Impersonating jurors etc.

'42. A person must not:

- (a) take an oath as a member of a jury in a judicial proceeding knowing that he or she has not been selected to be a member of the jury; or
- (b) take the place of a member of a jury in a judicial proceeding knowing that he or she is not a member of the jury.

Penalty:

- (c) if the person did the act intending to obstruct, prevent, pervert or defeat the course of justice in that or another judicial proceeding—imprisonment for 5 years; or
- (d) in any other case—imprisonment for 2 years.

Impeding proper investigation etc. of offences

'43. (1) A person who knows that an offence has been committed must not, intending to impede investigations into the offence, to prevent or impede the apprehension, prosecution or conviction of the person who committed the offence or to impede the production of evidence materially relevant to the guilt or innocence of any person in relation to the offence:

- (a) make a threat of any kind, or give or agree or offer to give a benefit, to another person in order to induce another person to:
 - (i) provide information that the person knows to be false; or
 - (ii) withhold information; or
- (b) receive or agree to receive a benefit for himself or herself or for another person in return for:
 - (i) providing information that the person knows to be false; or
 - (ii) withholding information.

Penalty: Imprisonment for 5 years.

'(2) If:

- (a) a person is charged with an offence under subsection (1) relating to the receipt of a benefit in return for withholding information; and
- (b) the offence to which the withholding of information relates is not an indictable offence;

it is a defence to a prosecution for the offence referred to in paragraph (a) if the defendant proves that the benefit amounted only to:

- (c) the making good of any loss or injury caused by the offence referred to in paragraph (b); or
- (d) reasonable compensation for that loss or injury.

'(3) A person may be convicted of an offence under subsection (1) even though the person was not aware of the exact circumstances surrounding the commission of the offence that the person knew to have been committed.

Compounding of offences

'44. (1) A person must not ask for or receive or obtain, or agree to receive or obtain, a benefit for himself or herself or for another person on the agreement or understanding that the person will:

- (a) conceal the commission of an offence; or
- (b) abstain from, discontinue or delay a prosecution for an offence; or
- (c) withhold information that might be materially relevant in proceedings for an offence; or
- (d) provide false information in respect of the commission of an offence.

Penalty: Imprisonment for 3 years.

'(2) If:

- (a) a person is charged with an offence under subsection (1) relating to concealing the commission of an offence (the "compounded offence"); and
- (b) the compounded offence is not an indictable offence; it is a defence to a prosecution for the offence charged if the defendant proves that the benefit amounted only to:
 - (c) the making good of any loss or injury caused by the compounded offence; or
 - (d) reasonable compensation for that loss or injury.'

Insertion of new Part IV

"21B. After Part III of the Principal Act the following Part is inserted:

'PART IV—BRIBERY AND CORRUPTION**Interpretation**

'51. In this Part:

"act" includes omission;

"association officer" means:

- (a) an officer or employee of an organisation of employers or employees registered under the *Industrial Relations Act 1988*; or
- (b) a person who performs services for or on behalf of such an organisation; and, in sections 54, 55 and 56, includes an agent of such an organisation;

"benefit" includes money, real and personal property and any advantage;

"committee of management" has the same meaning as in the *Industrial Relations Act 1988*;

"Commonwealth office" means an office under the Commonwealth, and includes:

- (a) an office in the Australian Public Service; and
- (b) an office in the Defence Force or in a public authority under the Commonwealth; and
- (c) an office of member or special member of the Australian Federal Police; and
- (d) an office in the Public Service of a Territory or in an authority of a Territory;

"reward" does not include salary, wages, allowances, fees or other remuneration payable to a member of the Parliament, a Commonwealth officer or an association officer under the law or under the terms of his or her employment or engagement as such a person.

Demanding or receiving benefit on basis of official office

'52. If:

- (a) a person demands, exacts or requires the provision of a benefit to himself or herself or any other person from another person; and

- (b) in making the demand, exaction or requirement, the person suggests or implies that it should be complied with because the person holds:
 - (i) a Commonwealth office; or
 - (ii) employment by the Commonwealth, a Territory, a public authority under the Commonwealth or an authority of a Territory;
 whether or not the person holds that office or employment; and
- (c) the person knows that there is no legal entitlement to the benefit;

the person is guilty of an offence.

Penalty: Imprisonment for 2 years.

Buying or selling public offices

'53. (1) If a person:

- (a) asks for or receives or obtains, or agrees to ask for or receive or obtain, an additional benefit for himself or herself or for another person on account of an act done or to be done by the person or another person with regard to the appointment or possible appointment of a person to an office or employment in the Australian Public Service, the public service of a Territory or a public authority under the Commonwealth; or
- (b) gives to, confers on or procures for, or offers to give to, confer on or procure for, another person an additional benefit in connection with such an appointment or possible appointment;

the person is guilty of an offence.

Penalty: Imprisonment for 2 years.

'(2) In subsection (1):

"additional benefit" means a benefit of any kind other than:

- (a) salary or allowances payable in the ordinary course of business or employment; or
- (b) fees or other remuneration paid to a person for services provided to another person in the ordinary course of business or employment in consideration for assistance provided to the other person in qualifying for, preparing an application for or determining suitability for such an appointment.

Influencing duty, functions or authority of Commonwealth officers or association officers

'54. (1) A Commonwealth officer or an association officer who asks for or receives or obtains, or agrees to receive or obtain, a benefit for himself or herself or for another person on the basis that the exercise or performance by the officer of:

- (a) his or her duty, functions or authority as such an officer; or
- (b) any duty, functions or authority that the officer has held himself or herself out as having;

will be influenced or affected is guilty of an offence.

Penalty: Imprisonment for 5 years.

'(2) A person who, in order to influence or affect the exercise or performance of the duty, functions or authority of a Commonwealth officer or an association officer as such an officer, provides, or promises to provide, a benefit for any person is guilty of an offence.

Penalty: Imprisonment for 5 years.

'(3) In a prosecution for an offence under this section, evidence to show that the provision of a benefit is customary in any trade or calling is not admissible.

Asking for or receiving secret benefits

'55. (1) A person who is or has been a Commonwealth officer or an association officer and who, without the knowledge and consent of the relevant authority, asks for or receives or obtains, or agrees to receive or obtain, a benefit for himself or herself or for another person as a reward or inducement for any act done or to be done by the officer or former officer:

- (a) in his or her capacity as such an officer; or
- (b) in relation to the functions or activities of the body in which the officer is or was employed or for or on behalf of which the officer performs or performed services or acts or acted as agent;

is guilty of an offence.

Penalty: Imprisonment for 2 years.

'(2) A person who, without the knowledge and consent of the relevant authority, provides or promises to provide a benefit for any person as a reward or inducement for any act done or to be done by a Commonwealth officer or an association officer:

- (a) in his or her capacity as such an officer; or
- (b) in relation to the functions or activities of the body in which the officer is employed or for or on behalf of which the officer performs services or acts as agent;

is guilty of an offence.

Penalty: Imprisonment for 2 years.

'(3) For the purposes of this section, the relevant authority is:

- (a) if the officer is or was:
 - (i) the Secretary or permanent head of a Department of the Australian Public Service or of the public service of a Territory or a person having the powers of such a Secretary or permanent head; or
 - (ii) the Commissioner of the Australian Federal Police; or
 - (iii) the head of a public authority under the Commonwealth or the holder of a statutory office;
- (b) the relevant Minister; or
- (b) if the officer is or was the Clerk of the Senate or the Clerk of the House of Representatives—the President of the Senate or the Speaker of the House of Representatives, as the case may be; or
- (c) if the officer is or was the Secretary of the Joint House Department, the Secretary of the Department of the Parliamentary Reporting Staff or the Parliamentary Librarian—the President of the Senate and the Speaker of the House of Representatives; or
- (d) if the officer is or was an officer of the Department of the Senate, the Department of the House of Representatives, the Joint House Department, the Department of the Parliamentary Reporting Staff or the Department of the Parliamentary Library (other than a person to whom paragraph (b) or (c) applies)—the Clerk of the Senate, the Clerk of the House of Representatives, the Secretary of the Joint House Department, the Secretary of the Department of the Parliamentary Reporting Staff or the Parliamentary Librarian, as the case may be; or
- (e) if the officer is or was a member or special member of the Australian Federal Police (other than the Commissioner of the Australian Federal Police)—the Commissioner of the Australian Federal Police; or
- (f) if the officer is or was a person employed in, or performing services for, a Department of State or a Department of the

public service of a Territory (other than a person to whom paragraph (a) applies)—the Secretary or permanent head of that department; or

- (g) if the officer is or was an officer of, a person employed in, or performing services for, a public authority under the Commonwealth (other than a person to whom paragraph (a) applies)—the head of that authority; or
- (h) if the officer is or was an association officer—the committee of management of the relevant organisation; or
- (j) in any other case—the person who appointed or engaged the officer or the person who has power to terminate the person's employment or engagement.

'(4) If, in a prosecution for an offence against this section, it appears that the receipt of the benefit, or the expectation that the officer had of the provision of the benefit, would, in all the circumstances, be likely to have influenced the officer to do an act contrary to his or her duty, the benefit is, in the absence of evidence to the contrary, to be taken to have been provided or promised as a reward or inducement for the doing of that act.

Using false or misleading documents

'56. A person who:

- (a) gives to a Commonwealth officer or to an association officer; or
- (b) being a Commonwealth officer or an association officer, receives or uses;

intending to deceive the body in which the officer is employed or for or on behalf of which the officer performs services or acts as an agent, a document that contains false or misleading information that:

- (c) is intended to be acted on by that body; or
- (d) relates to a dealing, transaction or matter with which the body is concerned;

is guilty of an offence.

Penalty: Imprisonment for 2 years.

Buying or selling property by agents

'57. (1) If an agent of the Commonwealth, a Territory, a public authority under the Commonwealth or an organisation of employers or employees registered under the *Industrial Relations Act 1988*, without the knowledge and consent of the relevant authority, buys from, or sells to:

- (a) himself or herself; or
- (b) a firm of which he or she is a partner; or
- (c) a body corporate of which he or she is a director, manager, officer or employee; or
- (d) a body corporate in whose shares he or she has a legal or beneficial interest and that is a proprietary company for the purposes of the *Companies Act 1981*;

any property for or on behalf of the body of which the person is an agent, the agent is guilty of an offence.

Penalty: Imprisonment for 2 years.

'(2) For the purposes of this section, the relevant authority is:

- (a) if the person is an agent of a Department of State or a Department of the public service of a Territory—the Secretary or permanent head of that Department; or
- (b) if the person is an agent of the Department of the Senate, the Department of the House of Representatives, the Joint House Department, the Department of the Parliamentary Reporting Staff or the Department of the Parliamentary Library—the

Clerk of the Senate, the Clerk of the House of Representatives, the Secretary of the Joint House Department, the Secretary of the Department of the Parliamentary Reporting Staff or the Parliamentary Librarian, as the case may be; or

- (c) if the person is an agent of the Australian Federal Police—the Commissioner of the Australian Federal Police; or
- (d) if the officer is an agent of a public authority under the Commonwealth—the head of that authority; or
- (e) if the person is an agent of an organisation of employees or employers—the committee of management of the organisation.

Influencing duty, functions or authority of members of Parliament

'58. (1) A member of the Parliament who asks for or receives or obtains, or agrees to receive or obtain, a benefit for himself or herself or for another person on the basis that the exercise or performance by the member of:

- (a) his or her duty, functions or authority as such a member; or
- (b) duty, functions or authority that the member has held himself or herself out as having;

will be influenced or affected is guilty of an offence.

Penalty: Imprisonment for 5 years.

'(2) A person who, in order to:

- (a) influence or affect the exercise or performance of the duty, functions or authority of a member of the Parliament; or
- (b) induce a member of the Parliament to absent himself or herself from the House of which he or she is a member or from a committee of that House or of both Houses of the Parliament;

provides, or promises to provide, a benefit for any person is guilty of an offence.

Penalty: Imprisonment for 5 years.

Member of Parliament asking for or receiving secret benefits

'59. (1) A person who is or has been a member of the Parliament who, without first informing the Presiding Officer of the House of which the person is or was a member, asks for or receives or obtains, or agrees to receive or obtain, a benefit for himself or herself or for another person as a reward or inducement for any act done or to be done by the member or former member in his or her capacity as such a member is guilty of an offence.

Penalty: Imprisonment for 2 years.

'(2) A person who provides or promises to provide a benefit for a person who is or was a member of the Parliament, without first informing the Presiding Officer of the House of which the person is or was a member, as a reward or inducement for any act done or to be done by the member or former member in his or her capacity as such a member is guilty of an offence.

Penalty: Imprisonment for 2 years.

'(3) If, in a prosecution for an offence against this section, it appears that the receipt of the benefit, or the expectation that the member of Parliament had of the receipt of the benefit, would, in all the circumstances, be likely to have influenced the member or former member to do an act in his or her capacity as such a member, the benefit is, in the absence of evidence to the contrary, to be taken to have been provided or promised as a reward or inducement for the doing of that act.

'(4) Where the Presiding Officer of a House of the Parliament is informed of a matter under this section, the Presiding Officer may table details of the matter in that House.'

Repeals

“21C. Sections 73, 73A and 88 of the Principal Act are repealed.

Amendments of Acts

“21D. The Acts specified in Schedule 1 are amended as set out in Schedule 1.”.

Amendment—

Clause 22, page 9, line 15, omit “the Schedule”, substitute “Schedule 2”.

Proposed new schedule—

Page 20, before the schedule insert the following schedule:

“SCHEDULE 1

Section 21D

AMENDMENT OF ACTS*Commonwealth Electoral Act 1918***Subsection 326 (2):**

Omit all words after paragraph (e), substitute “give to, confer on or procure for, or offer or promise to give to, confer on or procure for, that other person or a third person any property or benefit of any kind.”.

Referendum (Machinery Provisions) Act 1984

Subsection 119 (2):

Omit all words before paragraph (a), substitute “A person must not give to, confer on or procure for, or offer or promise to give to, confer on or procure for, another person any property or benefit of any kind:”.

Amendment—

Page 20, omit “SCHEDULE”, substitute “SCHEDULE 2”.

Debate continued.

Proposed new clauses, amendments and proposed new schedule negatived.

Bill agreed to.

Bill to be reported without amendment.

The House resumed; Mr Jenkins reported accordingly.

On the motion of Mr Duffy (Attorney-General), the House adopted the report.

Mr Duffy, by leave, moved—That the Bill be now read a third time.

Debate ensued.

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

- 28 **GREAT BARRIER REEF MARINE PARK AMENDMENT BILL 1991:** 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 Lindsay 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 the next sitting.

- 29 **ADJOURNMENT:** Mr Snowdon (Parliamentary Secretary to the Minister for Transport and Communications) moved—That the House do now adjourn. Debate ensued.

Question—put and passed.

And then the House, at 11 p.m., adjourned until tomorrow at 9.30 a.m.

PAPERS: The following papers were deemed to have been presented on 29 May 1991:

Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—

Part 20—Amendment, dated 24 May 1991.

Part 100—Amendment, dated 24 May 1991.

Remuneration Tribunal Act—Remuneration Tribunal—Determination—
1991/6—Interim Chairperson, National Food Authority and part-time
holders of public offices on other bodies.

ATTENDANCE: All Members attended (at some time during the sitting) except Mr
T. A. Fischer, Mr Gorman*, Mr Howe, Mr Jones and Mr Ruddock.

* On leave

L. M. BARLIN
Clerk of the House of Representatives