

1950.

## THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA.

## VOTES AND PROCEEDINGS

OF THE

## HOUSE OF REPRESENTATIVES.

No. 34.

TUESDAY, 23RD MAY, 1950.

1. The House met, at half-past two o'clock p.m., pursuant to adjournment.—Mr. Speaker (the Honorable A. G. Cameron) took the Chair, and read Prayers.
2. DISTINGUISHED VISITORS.—Mr. Speaker informed the House that Sir Ramaswami Mudaliar, Head of the Indian Delegation, and the Honorable J. R. Jayewardene, Minister for Finance and Head of the Ceylonese Delegation to the meeting of the British Commonwealth Consultative Committee, were within the precincts. The distinguished visitors thereupon, with the concurrence of honorable Members, were provided with seats on the floor of the House.
3. MINISTERIAL STATEMENT—LEAVE TO MAKE NOT GRANTED.—Mr. Beale (Minister for Supply) asked leave to make a Ministerial Statement.  
Objection being raised, leave not granted.
4. PAPERS.—The following Papers were presented, pursuant to Statute—  
Commonwealth Public Service Act—Appointment—Department of Labour and National Service—J. C. Lowson.  
Lands Acquisition Act—Land acquired for—  
Department of Civil Aviation purposes—  
Camooweal, Queensland.  
Rockhampton, Queensland.  
Postal purposes—Burnie, Tasmania.  
Seat of Government Acceptance Act and Seat of Government (Administration) Act—  
Ordinance—1950—No. 2—Building Operations Control Repeal.
5. COMMUNIST PARTY DISSOLUTION BILL 1950.—The Order of the Day having been read for the further consideration of this Bill in Committee of the whole House—  
Mr. Speaker left the Chair, and the House resolved itself into a Committee of the Whole.

*(In the Committee.)*

Clause 9—

Debate resumed on the amendment moved by Mr. Evatt, viz. :—Omit sub-clauses (3.), (4.) and (5.), insert the following sub-clauses :—

“(3.) A person in respect of whom a declaration is made under the last preceding sub-section may, within twenty-eight days after the publication of the declaration in the *Gazette*, apply to—

(a) the Supreme Court (constituted by a single Judge) of the State or Territory of the Commonwealth in which the applicant resides ; or

(b) the High Court (constituted by a single Justice)

to set aside the declaration.

“(4.) If, upon the hearing, the Commonwealth satisfies the court—

(a) that the applicant is a person to whom this section applies ; and

(b) that the applicant is engaged, or is likely to engage, in activities prejudicial to the security and defence of the Commonwealth or to the execution or maintenance of the Constitution or of the laws of the Commonwealth,

the court shall dismiss the application and the declaration shall, subject to this section, remain in force.

“(5.) If the Commonwealth does not so satisfy the court, the court shall set aside the declaration.

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"(5A.) The applicant or the Commonwealth, as the case may be, may, within twenty-one days after the decision of a court under sub-section (4.) or (5.) of this section, appeal against the decision—

(a) where the application was made to the Supreme Court of a State—to the Full Court of that Supreme Court; or

(b) where the application was made to the High Court or to the Supreme Court of a Territory of the Commonwealth—to the Full Court of the High Court,

and the decision of the court on the appeal shall be final and conclusive.

"(5B.) Where a declaration under this section is set aside by a court (including a Full Court upon appeal from a single Justice or Judge) or the setting aside of such a declaration is confirmed by a court, the court in its decision—

(a) shall order the Commonwealth to pay to the applicant the costs of the application and of any appeal; and

(b) may order the Commonwealth to pay to the declared person such sum by way of compensation as the court thinks just in all the circumstances.

"(5C.) Where a declaration is in force under this section in respect of a person and the procedure provided by the preceding provisions of this section for the setting aside of the declaration is no longer available (whether or not that person made an application under those provisions) that person may, subject to this section, at any time apply to—

(a) the Full Court of the Supreme Court of the State or Territory of the Commonwealth in which the applicant resides; or

(b) the Full Court of the High Court,

for leave to apply to have the declaration revoked.

"(5D.) Where, upon such an application, the court grants leave, the court shall direct whether the application for revocation of the declaration is to be heard—

(a) by the court constituted by a single Justice or Judge; or

(b) by the Full Court.

"(5E.) The court so constituted, or the Full Court, as the case may be, may hear and determine the application for revocation of the declaration and revoke the declaration or refuse the application, as it thinks just, and its decision shall not be subject to appeal.

"(5F.) A declaration which is revoked under the last preceding sub-section shall cease to have effect upon the day upon which the order of the Court revoking the declaration is made."

*Limitation of Debate.*—At half-past ten o'clock p.m., the Chairman having called the attention of the Committee to the fact that the time allotted for the Committee stage had expired—

Question—That the amendment be agreed to—put.

The Committee divided (The Chairman, Mr. Adermann, in the Chair)—

**AYES, 40.**

Mr. G. Anderson	Mr. Chambers	Mr. Duthie	Mr. Keon	Mr. Thompson
Mr. Andrews	Mr. Chifley	Mr. Evatt	Mr. Minogue	Mr. Ward
Mr. Beazley	Mr. Clarey	Mr. Fitzgerald	Mr. Morgan	Mr. Watkins
Mr. Bird	Mr. Clark	Mr. Fraser	Mr. Mullens	
Mr. W. M. Bourke	Mr. Costa	Mr. Griffiths	Mr. O'Connor	
Mr. Bryson	Mr. Cremean	Mr. E. James	Mr. Peters	<i>Tellers:</i>
Mr. T. P. Burke	Mr. Curtin	Harrison	Mr. Pollard	
Mr. Calwell	Mr. Davies	Mr. Haylen	Mr. Riordan	Mr. Daly
Mr. C. R. Cameron	Mr. Drakeford	Mr. Holloway	Mr. Rosevear	Mr. Sheehan

**NOES, 60.**

Mr. C. G. W. Anderson	Mr. Davis	Mr. Graham	Mr. Mackinnon	Mr. Timson
Mr. Anthony	Mr. Downer	Mr. Grayden	Mr. McBride	Mr. Townley
Mr. Bate	Mr. Drummond	Mr. Hamilton	Mr. McColm	Mr. Treloar
Mr. Beale	Mr. Drury	Mr. Handby	Mr. McDonald	Mr. Turnbull
Mr. Berry	Mr. Eggins	Mr. Hasluck	Mr. McEwen	Mr. Wentworth
Mr. Bostock	Mr. Fadden	Mr. Haworth	Mr. McLeay	Mr. B. M. Wight
Mr. Bowden	Mr. Failes	Mr. Holt	Mr. McMahan	Mr. Wilson
Mr. Brown	Mr. Fairbairn	Mr. Howse	Mr. Menzies	
Mr. D. A. Cameron	Mr. Fairhall	Mr. Hughes	Mr. Opperman	
Mr. Casey	Mr. Falkinder	Mr. Hulme	Mr. Pearce	<i>Tellers:</i>
Mr. Corser	Mr. Francis	Mr. Jack	Mr. C. W. Russell	
Mr. Cramer	Mr. Freeth	Mr. Lawrence	Mr. Ryan	Mr. Davidson
	Mr. Gilmore	Mr. Leslie	Mr. Swartz	Mr. Gullett

And so it was negatived.

Further question—That clause 9 and the circulated amendments of the Government to that clause, be agreed to—put.

The Committee divided (The Chairman, Mr. Adermann, in the Chair)—

**AYES, 60.**

Mr. C. G. W. Anderson	Mr. Davis	Mr. Graham	Mr. Mackinnon	Mr. Timson
Mr. Anthony	Mr. Downer	Mr. Grayden	Mr. McBride	Mr. Townley
Mr. Bate	Mr. Drummond	Mr. Hamilton	Mr. McColm	Mr. Treloar
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Mr. Calwell	Mr. Davies	Mr. Haylen	Mr. Riordan	Mr. Daly
Mr. C. R. Cameron	Mr. Drakeford	Mr. Holloway	Mr. Rosevear	Mr. Sheehan

And so it was resolved in the affirmative.

The circulated amendments of the Government were accordingly made in the clause, and are as follows:—

Page 7, line 3, omit "High Court", insert "appropriate court".

Page 7, omit sub-clauses (4.) and (5.), insert the following sub-clauses:—

"(4.) Upon the hearing of the application, the declaration made by the Governor-General under sub-section (2.) of this section shall, in so far as it declares that the applicant is a person to whom this section applies, be *prima facie* evidence that the applicant is such a person.

"(5.) If, upon the hearing, the court finds that the applicant is not a person to whom this section applies, the court shall set aside the declaration.

"(5A.) If the court does not so find, the court shall dismiss the application and the declaration shall remain in force."

Further question—That the remainder of the Bill (including postponed clause 3) and the amendments and new clauses circulated by the Government be agreed to, and that the Bill be reported with amendments—put.

The Committee divided (The Chairman, Mr. Adermann, in the Chair)—

## AYES, 60.

Mr. C. G. W. Anderson	Mr. Davis	Mr. Graham	Mr. Mackinnon	Mr. Timson
Mr. Anthony	Mr. Downer	Mr. Grayden	Mr. McBride	Mr. Townley
Mr. Bate	Mr. Drummond	Mr. Hamilton	Mr. McCole	Mr. Treloar
Mr. Beale	Mr. Drury	Mr. Handby	Mr. McDonald	Mr. Turnbull
Mr. Berry	Mr. Eggins	Mr. Hasluck	Mr. McEwen	Mr. Wentworth
Mr. Bostock	Mr. Fadden	Mr. Haworth	Mr. McLeay	Mr. B. M. Wight
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Mr. C. R. Cameron	Mr. Drakeford	Mr. Holloway	Mr. Rosevear	Mr. Sheehan

And so it was resolved in the affirmative.

The circulated amendments and new clauses of the Government were accordingly made in the Bill, and are as follows:—

Clause 11, page 8, line 1, omit "High Court", insert "appropriate court".

Clause 11, page 8, line 7, omit "High Court", insert "appropriate court".

Clause 11, page 8, line 9, omit "High Court", insert "court".

Clause 11, page 8, omit from sub-clause (4.) "High Court" (wherever occurring), insert "court".

Clause 20, page 10, omit the clause, insert the following clause:—

"20. If a police, stipendiary or special magistrate is satisfied by information on Search warrants. the oath of an authorized person that there is reasonable ground for suspecting that there is in any house, vessel or place any property of, or books, documents or papers belonging to, an unlawful association, he may grant a search warrant authorizing the authorized person, with such assistance as he thinks necessary, to enter at any time the house, vessel or place named or described in the warrant, if necessary by force, and to take possession of, remove and impound any property (including books, documents or papers) which the authorized person is satisfied belong to that association."

Clause 21, page 10, omit the clause, insert the following clause:—

"21.—(1.) The High Court shall have jurisdiction to hear and determine any application made to it under section five, nine or fifteen of this Act. Jurisdiction of High Court and Supreme Courts.

"(2.) The Supreme Court of each State is hereby invested with federal jurisdiction, and jurisdiction is hereby conferred on the Supreme Court of each Territory (being a Territory forming part of the Commonwealth), to hear and determine any application made to it under section five or nine of this Act.

"(3.) The jurisdiction of the High Court or of a Supreme Court in relation to an application under section five, nine or fifteen of this Act shall be exercised by a single Justice or Judge and the decision of that Justice or Judge shall be final and conclusive.

"(4.) The Commonwealth shall be the respondent to any application under section five or nine of this Act."

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Postponed clause 3, page 3, after the definition of "property" insert the following definition:—

" 'the appropriate court' means—

- (a) in relation to an application by a body of persons—the High Court, the Supreme Court of the State or Territory (being a Territory forming part of the Commonwealth) in which the principal office of the body is situated or the Supreme Court of a State or Territory (being a Territory forming part of the Commonwealth) in which a majority of members of the body are resident; and
- (b) in relation to an application by a person—the High Court or the Supreme Court of the State or Territory (being a Territory forming part of the Commonwealth) in which that person resides;".

Postponed clause 3, page 4, at the end of the clause add the following sub-clause:—

"(3.) For the purposes of this Act, an application to a court which is discontinued or withdrawn shall be deemed to be dismissed."

*New Clauses—*

"11A.—(1.) Upon the publication under sub-section (3.) of section ten of this Act of an instrument declaring an industrial organization to be an industrial organization to which that section applies, any office in that industrial organization or in a branch of that industrial organization held by a person in respect of whom a declaration is in force under this Act shall, by force of this Act, but subject to this section, become vacant. Further provisions with respect to disqualified persons.

"(2.) If, at the time of the publication of that instrument, the time within which an application may be made to the appropriate court by that person to set aside the declaration has not elapsed, that person shall, by force of this Act, be suspended from that office.

"(3.) Unless an application has been made to the appropriate court to set aside the declaration, that office shall, by force of this Act, become vacant upon the expiration of the twenty-eighth day after the day upon which the declaration was published in the *Gazette*.

"(4.) If an application is made to the appropriate court to set aside the declaration, the suspension effected by sub-section (2.) of this section shall continue until the making of an order by the court upon the application.

"(5.) If the court sets aside the declaration, the suspension of the person concerned shall cease, but, if the court dismisses the application, the office held by that person shall, by force of this Act, become vacant upon the day upon which the court dismisses the application.

"(6.) A person whose office becomes vacant under this section shall, for the purpose of the determination of his rights in respect of superannuation or other retirement benefit, be deemed to have resigned."

"21A. The High Court or the Supreme Court of a State or Territory of the Commonwealth may award costs in all matters before it under this Act, including matters dismissed for want of jurisdiction." Costs.

The House resumed; Mr. Adermann reported accordingly.

On the motion of Mr. Menzies (Prime Minister), the House adopted the Report, and the Bill was read a third time.

6. ADJOURNMENT.—Mr. Menzies (Prime Minister) moved, That the House do now adjourn.  
Question—put and passed.

And then the House, at ten minutes to eleven o'clock p.m., adjourned until to-morrow at half-past two o'clock p.m.

MEMBERS PRESENT.—All Members were present (at some time during the sitting) except Mr. Dean, Mr. Edmonds, Mr. Eric J. Harrison\*, Mr. James\*, Mr. Johnson, Mr. Kekwick, Mr. Kent Hughes, Mr. Lawson, Mr. Lazzarini, Dame Enid Lyons, Mr. Mulcahy\*, Mr. Osborne, Sir Earle Page, Mr. Pittard, Mr. Robertson, Mr. E. H. D. Russell, Mr. Wheeler and Mr. T. W. White.

\* On leave.

F. C. GREEN,

*Clerk of the House of Representatives.*