

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 118

TUESDAY, 9 MAY 1989

- 1 The House met, at 2 p.m., pursuant to adjournment. The Acting Speaker (Mr McLeay) took the Chair, and read Prayers.
- 2 **LEADERSHIP OF THE LIBERAL PARTY OF AUSTRALIA:** Mr Peacock, as Leader of the Opposition, informed the House that the Parliamentary Liberal Party had elected him as its Leader and Senator Chaney as its Deputy Leader.
- 3 **LEADERSHIP OF THE NATIONAL PARTY OF AUSTRALIA:** Mr Blunt informed the House that the Parliamentary Party of the National Party of Australia had elected him as its Leader, and that Mr Lloyd remained its Deputy Leader.
- 4 **QUESTIONS:** Questions without notice were asked.
- 5 **PAPER:** The Acting Speaker presented the following paper:
Committee reports—Schedule of Government responses to the reports of House of Representatives and joint committees, for period 29 April 1988 to 13 April 1989, and outstanding responses to reports presented from 1982.
- 6 **PAPERS:** The following papers were presented:
Audit Act—Australian Capital Territory Housing Trust—Report, including the financial statements of the Australian Capital Territory Housing Assistance Fund and the Auditor-General's Report, for 1987-88.
Publications—Joint Committee—Report on review of the Auditor-General's efficiency audit report on the AGPS—Government response.
- 7 **DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—PHARMACEUTICAL BENEFITS SCHEME:** The House was informed that Mr Shack had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The disastrous impact of the Hawke Government's mismanagement of the Pharmaceutical Benefits Scheme on pharmacists, patients and the pharmaceutical industry".
The proposed discussion having received the necessary support—
Mr Shack addressed the House.
Discussion ensued.
Discussion concluded.
- 8 **PUBLIC WORKS COMMITTEE—REPORT—STATEMENT BY MEMBER:** Mr Hollis (Chairman) presented the following report from the Parliamentary Standing Committee on Public Works:
Report relating to the construction of the radio and orchestra project, Southbank for the ABC at Melbourne (10th report of 1989).
Ordered to be printed.
Mr Hollis, by leave, made a statement in connection with the report.

- 9 **CIRCUIT LAYOUTS BILL 1988—SENATE'S AMENDMENT:** The House, according to order, resolved itself into a committee of the whole to consider the amendment made by the Senate.

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In the committee

SCHEDULE OF THE AMENDMENT MADE BY THE SENATE

Page 4, paragraph 11(c), lines 28 and 29, leave out the paragraph.

On the motion of Mr Bowen (Attorney-General), the amendment was agreed to. Resolution to be reported.

The House resumed; Mr Millar reported accordingly.

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

- 10 **COPYRIGHT AMENDMENT BILL 1988—SENATE'S AMENDMENTS:** The House, according to order, resolved itself into a committee of the whole to consider the amendments made by the Senate.

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In the committee

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Page 2, after clause 5, insert the following new clause:

“5A. After subsection 40 (1) of the Principal Act the following new subsections are inserted:

‘(1A) A fair dealing with a literary work (other than lecture notes) does not constitute an infringement of the copyright in the work if it is for the purpose of, or associated with, an approved course of study or research by an enrolled external student of an educational institution.

‘(1B) In subsection (1A) the expression “lecture notes” means any literary work produced for the purpose of the course of study or research by a person lecturing or teaching in or in connection with the course of study or research.’”

No. 2—Page 5, after clause 10, insert the following new clause:

“10A. After section 103B of the Principal Act the following section is inserted:

Fair dealing for purpose of research or study

‘103C. (1) A fair dealing with an audio-visual item does not constitute an infringement of the copyright in the item or in any work or other audio-visual item included in the item if it is for the purpose of research or study.

‘(2) For the purposes of this Act, the matters to which regard shall be had in determining whether a dealing with an audio-visual item constitutes a fair dealing for the purpose of research or study include:

- (a) the purpose and character of the dealing;
- (b) the nature of the audio-visual item;
- (c) the possibility of obtaining the audio-visual item within a reasonable time at an ordinary commercial price;
- (d) the effect of the dealing upon the potential market for, or value of, the audio-visual item; and
- (e) in a case where part only of the audio-visual item is copied—the amount and substantiality of the part copied taken in relation to the whole item.’”

No. 3—Page 5, clause 12, heading to proposed Part VA, line 31, leave out “TELEVISION”.

No. 4—Pages 5 to 15, clause 12, proposed Part VA (other than proposed section 135B), line 33 (page 5) to line 20 (page 15), leave out “television” (wherever occurring).

No. 5—Page 5, clause 12, proposed section 135A, after the definition of “administering body”, insert the following new definition:

“‘broadcast’ means a sound broadcast or a television broadcast;”.

No. 6—Page 5, clause 12, proposed section 135A, definition of “collecting society”, lines 37 and 38, leave out the definition, insert the following definition:

“‘collecting society’ means a body that is, for the time being, declared to be a collecting society under section 135B;”.

No. 7—Page 6, clause 12, at end of proposed section 135A, add the following new definition:

“‘television broadcast’ includes an audio-visual item within the meaning of section 135B.”.

No. 8—Page 6, clause 12, proposed section 135B, lines 21 to 27, leave out the proposed section. insert the following section:

Copies of broadcasts

“135B. In this Part:

- (a) a reference to a copy of a broadcast is a reference to a record embodying a sound recording of the broadcast or a copy of a cinematograph film of the broadcast; and
- (b) a reference to the making of a copy of a broadcast is a reference to the making of a copy of the whole or a part of the broadcast.”.

No. 9—Page 6, clause 12, heading to proposed Division 2, line 39, leave out “television”.

No. 10—Page 6, clause 12, proposed subsection 135E (1), lines 41 and 42, leave out “or in any work, sound recording or cinematograph film included in a television broadcast.”.

No. 11—Page 7, clause 12, proposed subsection 135F (1), lines 27 to 29, leave out the proposed subsection, insert the following subsection:

“(1) The copyright in a broadcast is not infringed by the making of a preview copy of the broadcast.”.

No. 12—Page 7, clause 12, proposed subsection 135F (2), line 30, leave out “television”.

No. 13—Page 11, clause 12, after proposed section 135N, line 19, leave out the heading “Division 3—The collecting society”, insert the heading “Division 3—Collecting Societies”.

No. 14—Pages 11 and 12, clause 12, proposed section 135P, line 20 (page 11) to line 3 (page 12), leave out the proposed section, insert the following section:

Collecting societies

“135P. (1) Subject to this section, the Attorney-General may, by notice in the *Gazette*, declare the body named in the notice to be the collecting society for all relevant copyright owners or for such classes of relevant copyright owners as are specified in the notice.

“(2) Where the Attorney-General declares a body to be the collecting society for a specified class of copyright owners and subsequently declares another body to be the collecting society for that class of copyright owners:

- (a) the first-mentioned collecting society ceases to be the collecting society for that class of copyright owners on the day on which the subsequent declaration is made; and
- (b) any remuneration notice given to that collecting society ceases to be in force to the extent to which it relates to licensed copies of works or other subject-matter the copyright owners of which are included in that class of copyright owners.

“(3) The Attorney-General shall not declare the body to be a collecting society unless:

- (a) it is a company limited by guarantee and incorporated under a law in force in a State or Territory relating to companies;
- (b) all persons who are included in a class of relevant copyright owners to be specified in the declaration, or their agents, are entitled to become its members;
- (c) its rules prohibit the payment of dividends to its members; and

Resolutions to be reported.

The House resumed; Mr Millar reported accordingly.

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

Mr Bowen moved—That Dr Klugman, Mr Scholes and the mover be appointed a committee to draw up reasons for the House of Representatives disagreeing to amendments Nos. 6 and 7 and 10 to 14 of the Senate.

Question—put and passed.

Mr Bowen, on behalf of the committee, brought up such reasons, which were circulated, and are as follows:

Reasons of the House of Representatives for disagreeing to the amendments of the Senate

Senate amendments Nos. 6, 13 and 14:

These amendments would replace the provisions providing for the declaration of one collecting society for collecting TV copying royalties with provisions for the declaration of more than one society.

These amendments are rejected as the provision for a single collective society is at least as much benefit to educational institutions using the TV copying licence (extended to radio copying by Senate amendments Nos. 3 to 5, 8 and 9) as it is for copyright owners. It is clearly administratively more convenient for them to have to deal with one society than to do so with 2 or more.

Senate amendments Nos. 7, 10, 11 and 12:

Retention of amendments Nos. 7, 10, 11 and 12 would create serious inconsistencies with the other provisions in new Part VA of the Bill establishing the TV-radio copying licence:

Whereas amendments Nos. 3 to 4 and 9 remove references to "television" wherever the expression "television broadcast" appears in Part VA (other than in the new definition of "broadcast"), amendment No. 7 *inserts* a new definition of "television broadcast". Also, that definition includes an "audio-visual item" which is not defined in Part VA. Amendment No. 10 is consequential upon amendment No. 7, as is amendment No. 11.

Amendment No. 12 duplicates what is already provided for in amendment No. 4 and is therefore otiose.

On the motion of Mr Bowen, the committee's reasons were adopted.

11 MESSAGE FROM THE SENATE—TRANSPORT AND COMMUNICATIONS LEGISLATION AMENDMENT BILL 1989: The following message from the Senate was reported:

Message No. 341

Mr Acting Speaker,

The Senate returns to the House of Representatives the Bill for "*An Act to amend certain laws relating to Transport and Communications*", and acquaints the House that the Senate has agreed to the Bill with the Amendment indicated by the annexed Schedule, in which Amendment the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA
President

The Senate,
Canberra, 8 May 1989

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

In the committee

SCHEDULE OF THE AMENDMENT MADE BY THE SENATE

Page 4, paragraph 12 (a), lines 12 and 13, leave out the paragraph.

On the motion of Mrs Kelly (Minister for Telecommunications and Aviation Support), the amendment was agreed to, after debate.
Resolution to be reported.

The House resumed; Mr Millar reported accordingly.

On the motion of Mrs Kelly, the House adopted the report.

12 SOCIAL SECURITY AND VETERANS' AFFAIRS LEGISLATION AMENDMENT BILL

1989: 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 Connolly, 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) is of the opinion that the measure of relief it provides has been made more necessary as a result of the decline in living standards suffered by Australian families with children, and pension and benefit recipients, in common with all Australians; and
- (2) condemns the Hawke Government for presiding over 6 years of these declining living standards of Australian families”—

Debate resumed.

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

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

AYES, 75

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

NOES, 52

Mr Adermann	Mr Connolly	Mr Hicks*	Mr Rocher
Mr Aldred	Mr Cowan	Mr Jull	Mr Ruddock
Mr Andersor	Mr Dobie	Mr Katter	Mr Shack
Mr Andrew*	Mr Downer	Mr Lloyd	Mr Sharp
Mr Beale	Dr H. R. Edwards	Mr McArthur	Mr Shipton
Mr Blunt	Mr Fife	Mr MacKellar	Mr Smith
Mr Braithwaite	Mr T. A. Fischer	Mr Macphee	Mrs Sullivan
Mr N. A. Brown	Mr P. S. Fisher	Mr Miles	Mr Taylor
Mr Cadman	Mr Goodluck	Mr Nehl	Mr Tuckey
Mr E. C. Cameron	Mr Hall	Mr Porter	Mr Webster
Mr I. M. C. Cameron	Mr Halverson	Mr Pratt	Mr Wilson
Mr Carlton	Mr Hawker	Mr Prosser	Dr Woods
Mr Cobb	Dr Hewson	Mr Robinson	Dr Wooldridge

* Tellers

And so it was resolved in the affirmative.

On the motion of Mrs Kelly (Minister for Telecommunications and Aviation Support), the House adopted the report, and, by leave, the Bill was read a third time.

- 17 TELECOMMUNICATIONS AND POSTAL SERVICES (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 1989: 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.

The House resolved itself into a committee of the whole.

In the committee

Bill, by leave, taken as a whole.

Mr Sharp moved the following amendment: Clause 15, pages 13 and 14, omit proposed section 76.

Debate continued.

Amendment negatived.

Bill agreed to.

Bill to be reported without amendment.

The House resumed; Mr R. F. Edwards reported accordingly.

On the motion of Mrs Kelly (Minister for Telecommunications and Aviation Support), the House adopted the report, and, by leave, the Bill was read a third time.

- 18 TELECOMMUNICATIONS BILL 1989: 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 Sharp 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 notes:

- (1) the Government's failure to introduce meaningful deregulation of, and competition into, the Australian telecommunications industry; and
- (2) that while the monopolies proposed for the telecommunications carriers are based on the needs for cross subsidies to deliver on community service obligations:
 - (a) the Government has nevertheless failed to specify or detail the exact nature or extent of the community service obligations of Telecom; and
 - (b) no community service obligations are imposed on OTC Limited or AUSSAT Pty Ltd so that there is no justification for OTC or AUSSAT remaining wholly in public ownership”.

Amendment negatived.

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

The House resolved itself into a committee of the whole.

In the committee

Bill, by leave, taken as a whole, and agreed to, after debate.

Bill to be reported without amendment.

The House resumed; Mr R. F. Edwards reported accordingly.

The House continuing to sit until after 12 midnight—

WEDNESDAY, 10 MAY 1989

On the motion of Mrs Kelly (Minister for Telecommunications and Aviation Support), the House adopted the report, and, by leave, the Bill was read a third time.

19 **TELECOMMUNICATIONS (APPLICATION FEES) BILL 1989:** 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 Mrs Kelly (Minister for Telecommunications and Aviation Support), the Bill was read a third time.

20 **ADJOURNMENT:** Mrs Kelly (Minister for Telecommunications and Aviation Support) moved—That the House do now adjourn.

Question—put and passed.

And then the House, at 12.02 a.m., adjourned until this day at 10 a.m.

PAPERS: The following papers were deemed to have been presented on 9 May 1989:
Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—Parts—
95—Amendments, dated 5 April 1989.
100—Amendments, dated 12 April 1989(7).

MEMBERS PRESENT: All Members were present (at some time during the sitting) except Mrs Child, Mr Cohen, Mr Gayler, Mr Mountford, Mr Sawford and Mr Spender.

A. R. BROWNING
Clerk of the House of Representatives