

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 42

WEDNESDAY, 13 FEBRUARY 1991

- 1 The House met, at 10 a.m., pursuant to adjournment. Mr Speaker (the Honourable Leo McLeay) took the Chair, and read Prayers.
- 2 **CRIMES 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 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 Peacock, by leave, moved the following amendments and new clause together:

Amendment—

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

“(1A) Section 20A and paragraph 21 (aa) commence 4 months after the day on which this Act receives the Royal Assent.”.

Proposed new clause—

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

Interpretation

“20A. Section 3 of the Principal Act is amended by inserting in subsection (1) the following definition:

‘**serious offence**’ for the purposes of subparagraph 16 (1) (b) (ii) means:

- (a) a murder, or an offence of a kind equivalent to murder;
- (b) a kidnapping, or an offence of a kind equivalent to kidnapping;
- (c) a serious narcotics offence, being an offence in relation to a narcotic substance as defined by subsection 4(1) of the *Proceeds of Crime Act 1987*:
 - (a) constituted by the production, possession (including possession for supply), supply, importation or export of a narcotic substance; and
 - (b) involving a quantity of the narcotic substance that is equal to or greater than the trafficable quantity applicable to the narcotic substance;
- (d) a money laundering offence, being an offence against section 81 of the *Proceeds of Crime Act 1987*;
- (e) the receipt, possession (including possession for supply), concealment, disposition of or bringing into Australia any money, or any other property, that may reasonably be suspected

- of being proceeds of crime, being an offence against section 82 of the *Proceeds of Crime Act 1987*;
- (f) an organised fraud offence, being an offence against section 83 of the *Proceeds of Crime Act 1987*; and
- (g) an offence constituted by aiding, abetting or conspiring to commit an offence of the kind referred to in paragraphs (a), (b), (c), (d), (e) or (f)."

Amendment—

Clause 21, page 7, 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.

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, and, by leave, the Bill was read a third time.

- 3 **TAXATION LAWS AMENDMENT BILL (NO. 6) 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.

Mr Taylor addressing the House—

It being 12.45 p.m., the debate was interrupted in accordance with sessional order 101A, and the resumption of the debate made an order of the day for a later hour this day.

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

- 5 **PAPER:** The following paper was presented:

Family Law Act—Australian Institute of Family Studies—Report and financial statements, including the Auditor-General's Report and freedom of information statement, for 1989-90.

- 6 **DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—AUSTRALIA'S FINANCIAL SYSTEM:** 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 current crisis in Australia's financial system brought about by the failure of the Treasurer's economic policies and the inadequate supervision of financial institutions".

The proposed discussion having received the necessary support—

Mr Reith addressed the House.

Discussion ensued.

Papers: Mr Keating (Treasurer), by leave, presented the following papers:

Monetary policy and interest rates—Copies of—

Newspaper articles (2).

Press releases (4) by Dr J. Hewson, MP.

Proof transcripts of interviews with—

Dr Hewson, dated 23 January 1990 (2).

Senator J. Stone, dated 24 January 1990.

Discussion continued.

Discussion concluded.

- 7 **MEAT CHICKEN LEVY AMENDMENT BILL 1991:** Mr R. J. Brown (Minister for Land Transport) presented a Bill for an Act to amend the *Meat Chicken Levy Act 1969*.

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 Ruddock), and the resumption of the debate made an order of the day for the next sitting.

8 TAXATION LAWS AMENDMENT BILL (NO. 6) 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.

The House resolved itself into a committee of the whole.

In the committee

Bill, by leave, taken as a whole.

On the motion of Mr R. J. Brown (Minister for Land Transport), by leave, the following amendments were made together, after debate:

Amendments—

Clause 2, page 2, at the end of the clause add the following subclause:

“(5) Subsections 51 (2) and 59 (2), sections 61A, 61B, 61C, 61D and 61E and subsections 63 (2) and 79 (11A) commence on the day after the day on which this Act receives the Royal Assent.”.

Clause 51, page 25, at the end of the clause add the following subclause:

“(2) Section 160Z of the Principal Act is amended by inserting in subsection (5) ‘or (h) (iv)’ after ‘160ZZO (1) (g) (iv)’.”.

Clause 59—

Page 35, after paragraph (b) insert the following paragraph:

“(ba) by omitting from paragraph (1) (e) ‘or’ and substituting ‘and’;”.

Page 36, at the end of the clause add the following subclause:

“(2) Section 160ZZO of the Principal Act is amended by adding at the end of subsection (1) the following word and paragraph:

‘; and (h) if:

(i) the transferor is dissolved after the time of the disposal; and

(ii) at a particular time (in this paragraph called the “**trigger time**”) after the time of the dissolution the transferee had not disposed of the asset and:

(A) a company that, at the time of the disposal, was a group company in relation to the transferee disposes of a share in the transferee; or

(B) the transferee issues a share to a person who was not, at the time of the disposal, a group company in relation to the transferee;

the transferee is taken:

(iii) to have disposed of the asset at, or at the earlier or earliest, trigger time for a consideration equal to the market value of the asset at, or at the earlier or earliest, trigger time; and

(iv) to have immediately re-acquired the asset for a consideration equal to the market value of the asset at, or at the earlier or earliest, trigger time.’”.

Clause 61, page 43, line 8, after “first” insert “asset”.

New clauses—

Page 43, after clause 61 insert the following new clauses:

Transfers of assets between companies under common ownership

“61A. Section 160ZZRD of the Principal Act is amended:

(a) by omitting from subsection (1) ‘This’ and substituting ‘Subject to this section, this’;

(b) by omitting paragraphs (1) (b), (c) and (d) and substituting the following paragraphs:

‘(b) at the first asset disposal time, the transferor and the transferee are under common ownership; and

(c) the transferee is not a subsidiary of the transferor.’;

(c) by omitting subsection (2) and substituting the following subsection:

‘(2) Sections 160ZZRE, 160ZZRG and 160ZZRH only apply in relation to the disposal of the first asset if:

(a) in a case where the first asset was acquired by the transferor before 20 September 1985—the consideration in respect of the disposal of the first asset is less than the market value of the first asset immediately before the first asset disposal time; or

(b) in a case where the first asset was acquired by the transferor on or after 20 September 1985—the consideration in respect of the disposal of the first asset is less than whichever is the lesser of the following amounts:

(i) whichever of the following is applicable:

(A) the indexed cost base to the transferor of the first asset;

(B) the amount that would have been the indexed cost base to the transferor of the first asset for the purposes of this Part if this Part had applied in respect of the disposal of the first asset;

(ii) the market value of the first asset immediately before the first asset disposal time;

(which lesser amount is in this Division called the “indexed threshold amount”).’.

Shares in, and loans to, transferor—deemed disposal and re-acquisition

“61B. Section 160ZZRE of the Principal Act is amended by inserting after subsection (1) the following subsection:

‘(1A) This section only applies in relation to the disposal of the first asset if the first asset was acquired by the transferor on or after 20 September 1985.’.

First asset acquired before transferor and transferee came under common ownership—shares in, and loans to, transferor—reduction in cost base etc.

“61C. Section 160ZZRF of the Principal Act is amended:

(a) by inserting before paragraph (2) (a) the following paragraph:

‘(aa) the first asset was acquired by the transferor on or after 20 September 1985 (otherwise than because of section 160ZZS); and’;

(b) by omitting from paragraph (2) (a) ‘section’ and substituting ‘subsection’;

(c) by adding at the end the following subsection:

‘(3) If:

(a) either of the following conditions is satisfied:

(i) the first asset was acquired by the transferor before 20 September 1985;

(ii) the first asset was acquired by the transferor on or after 20 September 1985 because of section 160ZZS; and

(b) at the first asset disposal time, a taxpayer (in this subsection called the “second taxpayer”) held an asset, being:

- (i) a share in the transferor that was acquired by the second taxpayer on or after 20 September 1985; or
- (ii) a loan to the transferor that was acquired by the second taxpayer on or after 20 September 1985;

the cost base, the indexed cost base or the reduced cost base of the share or the loan to the second taxpayer is reduced by such amount (if any) as is reasonable having regard to:

- (c) the circumstances in which the share or the loan was acquired by the second taxpayer; and
- (d) the extent (if any) to which the market value of the share or the loan was reduced as a result of the disposal of the first asset at the first asset disposal time; and
- (e) the extent (if any) to which any consideration paid or given by the second taxpayer for the acquisition of the share or the loan was attributable to the first asset.’.

“61D. After section 160ZZRF of the Principal Act the following section is inserted:

First asset acquired when transferor and transferee under common ownership—shares in, and loans to, transferor—reduction in cost base etc.

‘160ZZRFA. (1) This section applies where the transferor acquired the first asset at or after the latest time (in this section called the “common ownership time”):

- (a) earlier than the first asset disposal time; and
- (b) at which the transferor and the transferee came under common ownership.

‘(2) If:

- (a) the first asset was acquired by the transferor before 20 September 1985; and
- (b) at the first asset disposal time, a taxpayer (in this subsection called the “second taxpayer”) held an asset, being:

- (i) a share in the transferor that was acquired by the second taxpayer on or after 20 September 1985; or
- (ii) a loan to the transferor that was acquired by the second taxpayer on or after 20 September 1985;

the cost base, the indexed cost base or the reduced cost base of the share or the loan to the second taxpayer is reduced by such amount (if any) as is reasonable having regard to:

- (c) the circumstances in which the share or the loan was acquired by the second taxpayer; and
- (d) the extent (if any) to which the market value of the share or the loan was reduced as a result of the disposal of the first asset at the first asset disposal time.’.

Equity interests in transferee—compensatory increase in cost base etc.

“61E. Section 160ZZRH of the Principal Act is amended:

- (a) by inserting in paragraph (a) ‘, 160ZZRFA’ after ‘160ZZRF’;
- (b) by inserting in paragraph (d) ‘or (3) or 160ZZRFA (2)’ after ‘160ZZRF (2)’.

Amendments—

Clause 63, page 45, at the end of the clause add the following subclause:

“(2) Section 160ZZU of the Principal Act is amended:

(a) by inserting after subsection (3) the following subsection:

‘(3A) A transferee (within the meaning of section 160ZZO) who acquires, or after 13 February 1991 has acquired, an asset (other than an excepted asset) as a result of a disposal mentioned in paragraph 160ZZO (1) (a) to which section 160ZZO applies, must keep such records in the English language as are necessary to enable the ascertainment of:

(a) the acts, transactions and other circumstances (including the identity of the transferor concerned) that resulted in section 160ZZO applying in relation to the disposal; and

(b) the transferee’s status as a group company (within the meaning of section 160ZZO) in relation to each company (being a company that was a shareholder in the transferee at the time of the disposal mentioned in paragraph 160ZZO (1) (a)) at a time before the earlier of the following:

(i) the trigger time, or the earlier or earliest trigger time, mentioned in paragraph 160ZZO (1) (h);

(ii) the time when the asset was disposed of by the transferee; and

(c) the earlier of the times mentioned in subparagraph (b) (i) or (ii) of this subsection.

Penalty: \$3,000.’;

(b) by inserting in subsection (4) ‘and paragraphs (3A) (b) and (c)’ before ‘do not’;

(c) by inserting in subsection (5) ‘or (3A)’ after ‘(3)’;

(d) by omitting from paragraph (6) (b) ‘(3) (b).’ and substituting ‘(3) (b); and’;

(e) by inserting after paragraph (6) (b) the following paragraph:

‘(c) if subsection (3A) applies—the end of 5 years after the earlier of the times mentioned in subparagraph (3A) (b) (i) or (ii).’.”

Clause 79—

Page 53, lines 24-26, omit all of the words after “(n),” substitute “section 50, subsection 51 (1), sections 52, 53, 55, 56, 57 and 58, subsection 59 (1) and sections 60, 61, 62 and 74 apply in relation to disposals of assets after 6 December 1990.”

Page 53, after subclause (11) insert the following subclause:

“(11A) The amendments made by subsections 51 (2) and 59 (2) and sections 61A, 61B, 61C, 61D and 61E apply in relation to disposals of assets after 13 February 1991.”

Paper: Mr R. J. Brown presented a supplementary explanatory memorandum to the Bill.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

On the motion of Mr R. J. Brown, by leave, the House adopted the report, and, by leave, the Bill was read a third time.

9 **INSURANCE 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 and passed—Bill read a second time.

Leave granted for third reading to be moved forthwith.

On the motion of Mr R. J. Brown (Minister for Land Transport), the Bill was read a third time.

10 **CRIMES (INVESTIGATION OF COMMONWEALTH OFFENCES) 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.

Papers: Mr Aldred, by leave, presented the following papers:

Crimes (Investigation of Commonwealth Offences) Amendment Bill 1990—
Copies of letters from—

Mr R. McAulay, Commissioner, Australian Federal Police, to Mr C. Eaton, National Secretary, Australian Federal Police Association, dated 16 November 1990.

Hon. D. W. Manzie, MLA, Attorney-General of the Northern Territory, to the Hon. A. S. Peacock, MP, dated 1 February 1991.

Hon. M. B. Perron, MLA, Chief Minister of the Northern Territory, to the Hon. A. S. Peacock, MP, dated 12 February 1991.

Debate continued.

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 Peacock, by leave, moved the following amendments together:

Clause 3—

Page 3, lines 12 and 13, omit the proposed definition of “**investigation period**”.

Page 4—

Lines 11 to 33, omit proposed subsections 23C(2) to (5), substitute the following subsections:

“(2) Subject to subsection (3), the person may be detained for the purpose of investigating whether the person committed the offence or any other Commonwealth offence.

“(3) The person must be:

(a) released unconditionally; or

(b) released on bail; or

(c) brought before a magistrate;
within a reasonable time of being arrested.”.

Lines 34 and 35, proposed subsection 23C(6), omit “In ascertaining any period of time for the purposes of subsection (4) or (5)”, substitute “In determining what constitutes a reasonable time for the purposes of subsection (3)”.

Page 5, line 26, to and including page 7, line 3, omit proposed sections 23D and 23E.

Debate continued.

Amendments negatived.

Bill agreed to.

Bill to be reported without amendment.

The House resumed; Mr Dubois reported accordingly.

On the motion of Mr Duffy (Attorney-General), the House adopted the report, and, by leave, the Bill was read a third time.

11 **POSTPONEMENT OF ORDER OF THE DAY:** Ordered—That order of the day No. 5, government business, be postponed until the next sitting.

12 **PIG SLAUGHTER LEVY 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 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.

13 **PRIMARY INDUSTRIES AND ENERGY LEGISLATION AMENDMENT BILL (NO. 2) 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 Crean (Minister for Science and Technology), the Bill was read a third time.

14 **INDUSTRY COMMISSION—REPORT—MOTION TO TAKE NOTE OF PAPER:**

The order of the day having been read for the resumption of the debate on the motion of Mr Beazley (Leader of the House)—That the House take note of the paper (*presented on 21 August 1990*), viz.:

Industry Commission Act—Industry Commission—Report No. 1—Pulp and paper: bleaching and the environment, dated 21 May 1990—

Debate resumed.

Mr Dobie addressing the House—

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

Debate ensued.

The House continuing to sit until 11 p.m.—The Deputy Speaker adjourned the House until tomorrow at 9.30 a.m.

PAPERS: The following papers were deemed to have been presented on 13 February 1991:

Australian National Maritime Museum Act—Regulations—Statutory Rules 1991, No. 10.

Cash Transaction Reports Act—Regulations—Statutory Rules 1991, No. 7.

Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—Part 20—Amendment, dated 7 February 1991.

Industrial Relations Act—Regulations—Statutory Rules 1991, Nos. 9, 11.

Migration Act—Regulations—Statutory Rules 1991, No. 8.

Occupational Superannuation Standards Act—Regulations—Statutory Rules 1991, No. 16.

Stevedoring Industry Finance Committee Act—Regulations—Statutory Rules 1991, No. 15.

Stevedoring Industry Levy Act—Regulations—Statutory Rules 1991, No. 13.

Stevedoring Industry Levy Collection Act—Regulations—Statutory Rules 1991, Nos. 12, 14.

Superannuation Act 1990—Declaration—Statutory Rules 1991, No. 17.

ATTENDANCE: All Members attended (at some time during the sitting) except Mr Costello, Mr Gibson, Mr A. A. Morris, Mr Nehl, Mr Riggall, Mr Sinclair, Mr Snow and Dr Theophanous.

A. R. BROWNING
Clerk of the House of Representatives