

## THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

## HOUSE OF REPRESENTATIVES

## VOTES AND PROCEEDINGS

No. 47

THURSDAY, 21 FEBRUARY 1991

1 The House met, at 9.30 a.m., pursuant to adjournment. Mr Speaker (the Honourable Leo McLeay) took the Chair, and read Prayers.

2 **FINANCE AND PUBLIC ADMINISTRATION—STANDING COMMITTEE—INQUIRY—STATEMENT BY MR SPEAKER AND PAPER:** Mr Speaker referred to his statement made yesterday relating to the inquiry into the Australian banking industry by the Standing Committee on Finance and Public Administration and his instruction to have counsel seek leave to appear on his behalf in the Supreme Court of New South Wales in an action taken by Westpac Banking Corporation against a witness before that committee, Mr J. R. McLennan. Mr Speaker advised that counsel representing him had appeared in the proceedings and that following that intervention assurances were given to the Court to the effect that:

- (1) any injunction which Westpac Banking Corporation sought against Mr McLennan seeking restraint on him would be qualified to exclude disclosure or use of documents by him to the committee; and
- (2) Westpac would not seek, without first giving notice to the Speaker or the Australian Government Solicitor in Sydney, any order for the production of any document on such terms as might preclude Mr McLennan from producing the document to the committee.

Mr Speaker presented the following paper:

Parliamentary privilege—Memorandum to the Speaker prepared by Garry Downes, QC, and Stephen Gageler.

3 **PETITIONS:** The Clerk announced that the following Members had each lodged petitions for presentation, viz.:

Mr Andrew, Mrs Gallus, Mr McLachlan and Mr Wilson, from 45, 132, 38 and 23 petitioners, respectively, praying that the proposed admission charge for the Australian War Memorial be opposed.

Dr H. R. Edwards, Mr Gayler and Mr Newell, from 24, 7 and 18 petitioners, respectively, praying that certain action be taken before 1 January 2001 to reaffirm that Australia is a Christian Commonwealth according to law and its heritage, traditions and customs.

Mr Downer and Mr McLachlan, from 717 and 152 residents of South Australia, respectively, praying that a referendum be held on the introduction of the Swiss system of citizen's initiative, referendum and recall.

Mr Aldred, from 159 petitioners, praying that there be no increase in the level of Australian forces committed to the Persian Gulf region.

Mr Atkinson, from 246 petitioners, praying that amendments recognising parental rights be made to the Family Law Act and that the plight of Mr John Zabaneh be considered.

Mr Beale, from 46 petitioners, praying for a twelve month moratorium followed by a referendum to enable the citizens of Australia to consider and decide whether the United Nations Convention on the Rights of the Child should be ratified.

Mr Cadman, from 91 petitioners, praying that the United Nations Convention on the Rights of the Child be amended to recognise the importance of the family unit and the rights and responsibilities of parents and that certain international treaties be debated in Parliament.

Mr Cadman, from 19 petitioners, praying that the hostel care subsidy for non-financially disadvantaged persons be reinstigated.

Mr Campbell, from 27 residents of Western Australia, praying that wool quotas not be introduced or that, if they are, the pastoral areas of Western Australia be exempt.

Mr Dobie, from 16 petitioners, praying that funding of abortions through Medicare cease and certain other action be taken to protect the right to life of the unborn.

Mr Downer, from 20 residents of South Australia, praying that the United Nations Convention on the Rights of the Child be amended to give adequate recognition to the rights of parents with respect to the education and physical, social and moral development of their children.

Mr Filing, from 99 petitioners, praying that the continued viability of neighbourhood pharmaceutical services be guaranteed by an adequately funded Pharmaceutical Benefits Scheme.

Mr Kerr, from 50 petitioners, praying that policies be implemented to increase Australian aid, fight poverty, protect the environment and promote human rights.

Mr Langmore, from 534 residents of the Australian Capital Territory, praying that the decision to charge for entry into the Australian War Memorial be reversed.

Mr Lloyd, from 18 petitioners, praying that reservations be made to the United Nations Convention on the Rights of the Child prior to its ratification to protect the rights of parents in relation to their children.

Mr Martin, from 58 electors of the Division of Macarthur, praying for legislation to restrict the flight of hot-air balloons over rural land.

Mr O'Neil, from 259 petitioners, praying that the right of parents to supervise their children's associations be acknowledged.

Mr J. L. Scott, from 66 petitioners, praying for the establishment of a Royal Commission into the ownership and control of the press in Australia.

Mr Sinclair, from 985 residents of New South Wales, praying that UN sanctions be given time to work and that the re-establishment of democracy in Kuwait be supported.

Mr Sinclair, from 216 petitioners, praying that certain action be taken to ease the debt burden placed on Third World nations.

Mr Tuckey, from 507 petitioners, praying that regulations empowering the Australian War Memorial Council to charge an admission fee to any section of the Memorial be disallowed.

Mr Tuckey, from 77 residents of Western Australia, praying that the recently introduced assets test on family allowance payments be opposed.

Petitions received.

**4 COMMUNITY AFFAIRS—STANDING COMMITTEE—REPORT—STATEMENTS BY MEMBERS:** Mr Jenkins (Chairman) presented the following report and related papers:

Community Affairs—Standing Committee—You have your moments—A report on funding of peak health and community organisations—

Report, dated 13 February 1991.

Evidence received by the committee.

Minutes of proceedings.

Ordered—That the report be printed.

Mr Jenkins and Mrs Gallus made statements in connection with the report.

**5 UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD:** Mr Peacock, pursuant to notice, moved—That this House calls on the Government to undertake that, in the event that Australia ratifies the United Nations Convention on the Rights of the Child, reservations will be lodged to safeguard the inalienable rights of parents, in particular insofar as those rights concern freedom of expression (Article 12), education (Articles 13 and 28), religion (Article 14), freedom of association (Article 15) and privacy (Article 16).

Debate ensued.

The time allotted for the debate having expired, the debate was interrupted, the resumption of the debate made an order of the day for the next sitting Thursday, and Mr L. J. Scott was granted leave to continue his speech when the debate is resumed.

**6 DISPOSAL OF STOLEN GOODS:** Mr Scholes, pursuant to notice, moved—That this House:

- (1) is concerned at the enormous growth in the amount of goods stolen from private homes and the apparent failure of police forces to uncover the disposal networks which clearly must exist; and
- (2) calls on the Minister for Justice to establish a special Commonwealth/State task force drawn from the various law enforcement organisations to carry out a comprehensive investigation into the movement of, and subsequent disposal of, the extremely large amounts of goods being stolen from private homes.

Debate ensued.

The time allotted for the debate having expired, the debate was interrupted, the resumption of the debate made an order of the day for the next sitting Thursday, and Mr Filing was granted leave to continue his speech when the debate is resumed.

**7 AGED OR DISABLED PERSONS HOMES ACT—CHARTER OF RESIDENTS' RIGHTS AND RESPONSIBILITIES:** Mr Braithwaite, pursuant to notice, moved—That, in accordance with section 10DA of the *Aged or Disabled Persons Homes Act 1954*, the following amendments be made to the statement, dated 14 September 1990, presented to the House on 17 September 1990, entitled "Charter of Residents' Rights and Responsibilities" under section 10DA of the *Aged or Disabled Persons Homes Act 1954*:

- (1) Heading, at the end add "IN APPROVED HOSTELS".
- (2) Preamble, 1st paragraph, omit "Every person" substitute "Everyone".
- (3) Preamble, 1st paragraph, omit "freedom and".
- (4) Preamble, 1st paragraph, omit "A person's rights do not diminish when they move into", substitute "People's legal and moral rights should not be diminished by reason only of moving into".
- (5) Preamble, 3rd paragraph, omit the paragraph, substitute the following paragraph:

"Australian society should have a strong commitment to social justice principles. Those principles must recognise the aspirations of all

Australians to a dignified and secure way of life with equal access to health care, housing and education, and equal rights in civil, legal and consumer matters. They should form the basis of a society which is free of prejudice and is caring, just and humane.”.

- (6) Preamble, 5th paragraph, omit the paragraph, substitute the following paragraph:  
“The personal, civil, legal and consumer rights of residents should not diminish in any way by reason only of moving into a hostel.”.
- (7) Preamble, 6th paragraph, omit the paragraph.
- (8) Charter, 1st page, before the heading “**Each Resident of a Hostel has the RIGHT:**”, insert the following paragraph:  
“The rights conferred, and the responsibilities imposed, by this Charter are subject to such limits as are imposed by applicable laws and to such other limits as can be shown to be reasonably necessary to ensure that the hostel operates as a just and supportive community and that harmony is promoted within the community without injustice to any individual.”.
- (9) Charter, 1st and 2nd pages, all material after the heading “**Each Resident of a Hostel has the RIGHT:**” to the end of the Charter, omit “their” (wherever occurring), substitute “her or his”.
- (10) Charter, 2nd page, all material after the heading “**Each Resident of a Hostel has the RIGHT:**” to the end of the Charter, omit “they” (wherever occurring), substitute “she or he”.
- (11) Charter, page 1, 2nd dot point under the heading “**Each Resident of a Hostel has the RIGHT:**”, omit “full information”, substitute “adequate and appropriate information”.
- (12) Charter, page 1, 4th dot point under the heading “**Each Resident of a Hostel has the RIGHT:**”, omit all words after “to live without”, substitute “unjust discrimination or victimisation”.
- (13) Charter, page 1, 5th dot point, under the heading “**Each Resident of a Hostel has the RIGHT:**”, omit:  
“. to personal privacy.”, substitute:  
“. not to be subjected to arbitrary or unlawful interference with her or his personal privacy.”.
- (14) Charter, page 1, 6th dot point under the heading “**Each Resident of a Hostel has the RIGHT:**”, omit “without undue restriction”, substitute “subject only to restrictions that are reasonably necessary to protect the health, safety or well-being of the resident or of other residents or to maintain the security of the hostel.”.
- (15) Charter, page 1, 7th dot point under the heading “**Each Resident of a Hostel has the RIGHT:**”, omit all words after “individual.”.
- (16) Charter, page 2, 8th dot point under the heading “**Each Resident of a Hostel has the RIGHT:**”, omit “without discrimination”, substitute “without unjust discrimination”.
- (17) Charter, page 2, 9th dot point under the heading “**Each Resident of a Hostel has the RIGHT:**”, omit:  
“. to select and maintain social and personal relationships with any other person without fear, criticism or restriction.”.
- (18) Charter, page 2, 11th dot point under the heading “**Each Resident of a Hostel has the RIGHT:**”, omit all words after “independence”.
- (19) Charter, page 2, 12th dot point under the heading “**Each Resident of a Hostel has the RIGHT:**”, omit the dot point and all words up to and including “possessions”, substitute the following:  
“. to maintain reasonable control over, and to make decisions about, the personal aspects of her or his daily life, her or his financial affairs and her or his possessions.”.

- (20) Charter, page 2, 15th dot point under the heading "**Each Resident of a Hostel has the RIGHT:**", omit "choose to".
- (21) Charter, page 2, 16th dot point under the heading "**Each Resident of a Hostel has the RIGHT:**", omit "to information", substitute "to have access to information".
- (22) Charter, page 2, 18th dot point under the heading "**Each Resident of a Hostel has the RIGHT:**", omit all words after "redress".
- (23) Charter, page 2, 2nd dot point under the heading "**Each Resident of a Hostel has the RESPONSIBILITY:**", omit "staff and the proprietor to work in an environment which is free from harassment", substitute "of other residents, staff and the proprietor to live and work in an environment which is free from disturbance".

*Paper:* Mr Braithwaite, by leave, presented the following paper:

Nursing homes—Charter of residents' rights and responsibilities.

Debate adjourned (Mr Melham), and the resumption of the debate made an order of the day for a later hour this day.

**8 NATIONAL HEALTH ACT—CHARTER OF RESIDENTS' RIGHTS AND RESPONSIBILITIES:** Mr Braithwaite, pursuant to notice, moved—That, in accordance with section 45F of the *National Health Act 1953*, the following amendments be made to the statement dated 14 September 1990 and presented to the House on 17 September 1990, entitled "Charter of Residents' Rights and Responsibilities" under section 45F of the *National Health Act 1953*:

- (1) Heading, at the end add "IN APPROVED NURSING HOMES".
- (2) Preamble, 1st paragraph, omit "Every person" substitute "Everyone".
- (3) Preamble, 1st paragraph, omit "freedom and".
- (4) Preamble, 1st paragraph, omit "A person's rights do not diminish when they move into", substitute "People's legal and moral rights should not be diminished by reason only of moving into".
- (5) Preamble, 3rd paragraph, omit the paragraph, substitute the following paragraph:  
"Australian society should have a strong commitment to social justice principles. Those principles must recognise the aspirations of all Australians to a dignified and secure way of life with equal access to health care, housing and education, and equal rights in civil, legal and consumer matters. They should form the basis of a society which is free of prejudice and is caring, just and humane."
- (6) Preamble, 5th paragraph, omit the paragraph, substitute the following paragraph:  
"The personal, civil, legal and consumer rights of residents should not diminish in any way by reason only of moving into a nursing home."
- (7) Preamble, 6th paragraph, omit the paragraph.
- (8) Charter, 1st page, before the heading "**Each Resident of a Nursing Home has the RIGHT:**", insert the following paragraph:  
"The rights conferred, and the responsibilities imposed, by this Charter are subject to such limits as are imposed by applicable laws and to such other limits as can be shown to be reasonably necessary to ensure that the nursing home operates as a just and supportive community and that harmony is promoted within the community without injustice to any individual."
- (9) Charter, 1st and 2nd pages, all material after the heading "**Each Resident of a Nursing Home has the RIGHT:**" to the end of the Charter, omit "their" (wherever occurring), substitute "her or his".
- (10) Charter, 2nd page, all material after the heading "**Each Resident of a Nursing Home has the RIGHT:**" to the end of the Charter, omit "they" (wherever occurring), substitute "she or he".

- (11) Charter, page 1, 2nd dot point under the heading **“Each Resident of a Nursing Home has the RIGHT:”**, omit “full information”, substitute “adequate and appropriate information”.
- (12) Charter, page 1, 4th dot point under the heading **“Each Resident of a Nursing Home has the RIGHT:”**, omit all words after “to live without”, substitute “unjust discrimination or victimisation”.
- (13) Charter, page 1, 5th dot point, under the heading **“Each Resident of a Nursing Home has the RIGHT:”**, omit:
  - “to personal privacy.”, substitute:
  - “not to be subjected to arbitrary or unlawful interference with her or his personal privacy.”.
- (14) Charter, page 1, 6th dot point under the heading **“Each Resident of a Nursing Home has the RIGHT:”**, omit “without undue restriction”, substitute “subject only to restrictions that are reasonably necessary to protect the health, safety or well-being of the resident or of other residents or to maintain the security of the nursing home.”.
- (15) Charter, page 1, 7th dot point under the heading **“Each Resident of a Nursing Home has the RIGHT:”**, omit all words after “individual.”.
- (16) Charter, page 2, 8th dot point under the heading **“Each Resident of a Nursing Home has the RIGHT:”**, omit “without discrimination”, substitute “without unjust discrimination”.
- (17) Charter, page 2, 9th dot point under the heading **“Each Resident of a Nursing Home has the RIGHT:”**, omit:
  - “to select and maintain social and personal relationships with any other person without fear, criticism or restriction.”.
- (18) Charter, page 2, 11th dot point under the heading **“Each Resident of a Nursing Home has the RIGHT:”**, omit all words after “independence”.
- (19) Charter, page 2, 12th dot point under the heading **“Each Resident of a Nursing Home has the RIGHT:”**, omit the dot point and all words up to and including “possessions”, substitute the following:
  - “to maintain reasonable control over, and to make decisions about, the personal aspects of her or his daily life, her or his financial affairs and her or his possessions.”.
- (20) Charter, page 2, 15th dot point under the heading **“Each Resident of a Nursing Home has the RIGHT:”**, omit “choose to”.
- (21) Charter, page 2, 16th dot point under the heading **“Each Resident of a Nursing Home has the RIGHT:”**, omit “to information”, substitute “to have access to information”.
- (22) Charter, page 2, 18th dot point under the heading **“Each Resident of a Nursing Home has the RIGHT:”**, omit all words after “redress.”.
- (23) Charter, page 2, 2nd dot point under the heading **“Each Resident of a Nursing Home has the RESPONSIBILITY:”**, omit “staff and the proprietor to work in an environment which is free from harassment”, substitute “of other residents, staff and the proprietor to live and work in an environment which is free from disturbance”.

Debate ensued.

Debate adjourned, and the resumption of the debate made an order of the day for the next sitting Thursday.

9. **BALTIC STATES' INDEPENDENCE:** Mr N. A. Brown, pursuant to notice, moved—That this House:

- (1) deplores the brutality used against the citizens of Lithuania and the deaths of 14 persons arising from the use of force by Soviet troops on 13 January 1991;
- (2) condemns the assault by Soviet troops on the Interior Ministry in Riga, Latvia, on 20 January 1991, in which at least four persons were killed and nine injured;

- (3) is appalled by the additional threat of force against the democratically elected Parliaments of Estonia, Latvia and Lithuania;
- (4) demands that the Soviet Union, in accordance with universally accepted principles of human rights, desist from the use of military force and violence against the peoples of the Baltic states;
- (5) calls upon the Australian Government, in conjunction with other democratic states, to protest such brutality to the Soviet authorities and in international human rights forums; and
- (6) calls upon the Soviet Government to facilitate the peaceful transition to independence of those Republics which have expressed through democratically elected Parliaments a desire for self-determination.

Debate ensued.

Debate adjourned, and the resumption of the debate made an order of the day for the next sitting Thursday.

- 10 **GRIEVANCE DEBATE:** Pursuant to the provisions of sessional order 106, the order of the day having been read—  
Question proposed—That grievances be noted.  
Debate ensued.  
It being 1.45 p.m., the debate was interrupted in accordance with sessional order 106.  
Question—That grievances be noted—put and passed.
- 11 **MEMBERS' STATEMENTS:** Members' statements were made.
- 12 **MINISTERIAL CHANGE:** Mr Hawke (Prime Minister) informed the House that Mr Tickner had been appointed Minister Assisting the Prime Minister for Aboriginal Reconciliation.
- 13 **QUESTIONS:** Questions without notice were asked.
- 14 **PAPER:** Mr Keating (Treasurer), by indulgence, added to an answer given during question time and presented the following paper:  
Budget statements 1990-91 (Budget paper No. 1)—Appendix I—Table I: Commonwealth Budget Outlays, Revenue and Balance, 1953-54 to 1990-91.
- 15 **DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—MEDICARE:** The House was informed that Dr R. L. Woods had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The failure of Medicare to deliver high quality and accessible health care to all Australians".  
The proposed discussion having received the necessary support—  
Dr R. L. Woods addressed the House.  
Discussion ensued.  
Discussion concluded.
- 16 **POSTPONEMENT OF NOTICE:** Ordered—That notice No. 1, government business, be postponed until a later hour this day.
- 17 **SPECIAL ADJOURNMENT:** Mr Humphreys (Minister for Veterans' Affairs) moved—That the House, at its rising, adjourn until Tuesday, 5 March 1991, at 2 p.m., unless Mr Speaker fixes an alternative day or hour of meeting.
- 18 **PAPERS:** The following papers were presented:  
Aboriginal deaths in custody—Royal Commission—Report of inquiry into the death of—  
Barbara Denise Yarric.  
Fay Lena Yarric.

Australian Institute of Health Act—Australian Institute of Health—Report and financial statements, including the Auditor-General's Report, for 1989-90.

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

Commonwealth Employees' Rehabilitation and Compensation Act—Commission for the Safety, Rehabilitation and Compensation of Commonwealth Employees (Comcare)—Report and financial statements, including the Auditor-General's Report, for 1989-90.

Copyright Act—Collecting Society (Audio-visual Copyright Society Ltd)—Report and financial statements, including the auditor's report, for period 8 January to 30 June 1990.

National Museum of Australia Act—National Museum of Australia—Report and financial statements, including the Auditor-General's Report, for 1989-90.

Rural Industries Research Act—Pig Research Council—Report for 1989-90.

- 19 **ABORIGINAL DEATHS IN CUSTODY—ROYAL COMMISSION—REPORTS—PUBLICATION OF PAPERS:** Mr Humphreys (Minister for Veterans' Affairs), by leave, moved—That this House, in accordance with the provisions of the *Parliamentary Papers Act 1908*, authorises the publication of the reports of the Royal Commission into Aboriginal Deaths in Custody of the inquiry into the death of—

Barbara Denise Yarrie.

Fay Lena Yarrie.

Question—put and passed.

- 20 **AUSTRALIAN SECURITY INTELLIGENCE ORGANIZATION—PARLIAMENTARY JOINT COMMITTEE:** Mr Humphreys (Minister for Veterans' Affairs), by leave, moved—That Mrs Jakobsen be appointed a member of the Parliamentary Joint Committee on the Australian Security Intelligence Organization, in place of Mr Langmore, resigned.

Question—put and passed.

- 21 **MESSAGES FROM THE SENATE:** Messages from the Senate, dated 20 February 1991, were reported—

(a) returning the following Bill without requests:

Appropriation (No. 3) 1990-91—Message No. 167.

(b) acquainting the House that Senator Reynolds had been discharged from further attendance on the Parliamentary Joint Committee on the National Crime Authority and that Senator Jones had been appointed a member of the committee—Message No. 168.

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

Selection Committee—Report relating to the program of business prior to 12.30 p.m. on Thursday, 7 March 1991.

- 23 **MARINE NAVIGATION (REGULATORY FUNCTIONS) LEVY BILL 1991:** Mr R. J. Brown (Minister for Land Transport) presented a Bill for an Act to impose a levy on certain sea-going ships to provide funding for certain marine regulatory and related functions of the Australian Maritime Safety Authority, 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 Sinclair), and the resumption of the debate made an order of the day for the next sitting.

- 24 MARINE NAVIGATION (REGULATORY FUNCTIONS) LEVY COLLECTION BILL 1991:** Mr R. J. Brown (Minister for Land Transport) presented a Bill for an Act to provide for the collection of the levy imposed by the *Marine Navigation (Regulatory Functions) Levy Act 1991*, 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 (Dr R. L. Woods), and the resumption of the debate made an order of the day for the next sitting.
- 25 NATIONAL CRIME AUTHORITY—PARLIAMENTARY JOINT COMMITTEE—PAPERS:** Mr Lindsay (Chairman), by leave, presented the following papers:  
Operation Ark—Copies of—  
Letter to Mr E. J. Lindsay, RFD, MP, Chairman, Parliamentary Joint Committee on the National Crime Authority, from Mr Justice D. G. Stewart, Resource Assessment Commission, dated 30 November 1990.  
Statement by the Chairman of the Parliamentary Joint Committee on the National Crime Authority.
- 26 PUBLICATIONS COMMITTEE—6TH REPORT:** Mr Gorman (Chairman) presented the following report:  
**PUBLICATIONS COMMITTEE 6TH REPORT**  
The Publications Committee reports that it has met in conference with the Publications Committee of the Senate.  
The committee, having considered petitions and papers presented to the Parliament since 6 December 1990, recommends that the following be printed:  
Aboriginal Deaths in Custody—Royal Commission—Reports—Inquiry into the death of—  
Glenn Allan Clark.  
The man who died in the Darwin Prison on 5 July 1985.  
Kwementyaye Price.  
Aboriginal and Torres Strait Islander Commission Act—Aboriginal and Torres Strait Islander Commercial Development Corporation—Report—Period—5 March to 30 June 1990.  
Aboriginal Land Rights (Northern Territory) Act—  
Aboriginals Benefit Trust Account—Report for 1989-90.  
Central Land Council—Report for 1989-90.  
Northern Land Council—Report for 1989-90.  
Tiwi Land Council—Report for 1989-90.  
Advance Australia Logo Protection Act—Advance Australia Foundation—Report for 1989-90.  
Australian Dried Fruits Corporation Act—Australian Dried Fruits Corporation—Report for 1989-90.  
Australian Institute of Aboriginal and Torres Strait Islander Studies Act—Australian Institute of Aboriginal and Torres Strait Islander Studies—Report for 1989-90.  
Commonwealth Serum Laboratories Act—Commonwealth Serum Laboratories Commission—Report for 1989-90.  
Complaints (Australian Federal Police) Act—Federal Police Disciplinary Tribunal—Report for 1989-90.  
Criminology Research Act—Criminology Research Council—Report for 1989-90.  
Family Law Act—Australian Institute of Family Studies—Report for 1989-90.  
Fishing Industry Research and Development Act—Fishing Industry Research and Development Council—Report for 1989-90.

Industry Commission Act—Industry Commission—Report—The automotive industry, dated 17 December 1990 (No. 5).

Privacy Act—Privacy Commissioner—Report for 1989-90.

Public Service Act—Department of the Parliamentary Reporting Staff—Report for 1989-90.

Rural Industries Research Act—

Cotton Research Council—Report for 1989-90.

Tobacco Research Council—Report for 1989-90.

Torres Strait Fisheries Act—Protected Zone Joint Authority—Report for 1989-90.

Wheat Marketing Act—Australian Wheat Board—Report for year ended 30 September 1990.

RUSS GORMAN  
Chairman

21 February 1991

Mr Gorman, by leave, moved—That the report be agreed to.

Question—put and passed.

- 27 **FAMILY LAW 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.

On the motion of Mr Costello, the following amendment was agreed to:

Clause 12, page 5, line 19, at the end of proposed subsection 70BA (2) add “, and serve a true copy of the notice upon the person who is alleged to have abused the child or from whom the child is alleged to be at risk of abuse”.

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

Clause 12—

Page 5, line 31 to page 6, line 8, omit proposed section 70BB, substitute the following section:

**Court personnel who suspect certain child abuse**

“70BB. (1) In this section:

“abuse” in relation to a child, includes:

- (a) an unlawful assault of the child (whether sexual or otherwise);
- (b) involvement of the child in a sexual activity with a person in which the child is used, directly or indirectly, as a sexual object by the person, and where there is unequal power in the relationship between the child and the person who involves the child in the activity;
- (c) ill-treatment of the child.

“member of the court personnel” means:

- (a) a court counsellor; or
- (b) a welfare officer; or
- (c) the Registrar or a Deputy Registrar of the Registry of the Family Court of Australia; or
- (d) the Registrar or a Deputy Registrar of the Family Court of Western Australia;

“(2) Where a member of the court personnel, in the course of carrying out duties, performing functions or exercising powers as a member, has reasonable grounds for suspecting, and does suspect, that a child has been abused, the member may, as soon as practicable,

notify a prescribed child welfare authority of his or her suspicion and the basis for that suspicion.

'(3) Where notice under this section is given orally, written notice confirming the oral notice is to be given to the prescribed child welfare authority as soon as practicable after the giving of the oral notice.

'(4) Subsection (2) applies in spite of any obligation of confidentiality imposed on the member of the court personnel by:

- (a) this or any other Act; or
- (b) any other law; or
- (c) anything else, including a contract or professional ethics."

Page 6, lines 9 to 22, omit proposed section 70BC, substitute the following section:

**No liability for notification pursuant to section 70BA or 70BB**

"'70BC. (1) A person is not liable in civil or criminal proceedings and is not to be considered to have breached any professional ethics, in respect of a notification pursuant to section 70BA or 70BB, where the notification or disclosure is made in good faith.

'(2) Evidence of a notification pursuant to section 70BA or 70BB is not admissible in any court except where that evidence is given by the member who made the notification or disclosure.

'(3) In this section:

"**"court"** means a court (whether or not exercising jurisdiction under this Act) and includes a tribunal or other body concerned with professional ethics.'".

Clause 14, page 7, lines 24 to 40, omit proposed section 92A, substitute the following section:

**Intervention in child abuse cases**

"'92A. (1) This section applies to proceedings under this Act in which it has been alleged that a child has been abused or is at risk of being abused.

'(2) Each of the following persons may apply for leave to intervene in the proceedings and the court may make an order entitling that person to intervene in the proceedings:

- (a) a guardian of the child;
- (b) a person who is entitled to the custody of the child;
- (c) a person who is responsible for the daily care and control of the child;
- (d) a prescribed child welfare authority;
- (e) a person who is alleged to have abused the child or from whom the child is alleged to be at risk of abuse;
- (f) a person who has been granted access to the child;
- (g) any other persons with an interest in the welfare of the child.

'(3) An order may be made by the court pursuant to this section upon such conditions as the court thinks fit.

'(4) Where a person intervenes in proceedings by leave of the court pursuant to this section, the person is, unless the court otherwise orders, to be taken to be a party to the proceedings with all the rights, duties and liabilities of a party.'".

Debate continued.

Amendments negatived.

On the motion of Mr Duffy (Attorney-General), by leave, the following amendments were made together, after debate:

Clause 3, page 1, lines 7 to 13, omit the clause, substitute the following clause:

**Approval of marriage counselling organisations**

“3. Section 12 of the Principal Act is amended:

- (a) by omitting from subsections (1), (2), (3), (4) and (6) ‘Attorney-General’ (wherever occurring) and substituting ‘Minister’;
- (b) by omitting subsection (7) and substituting the following subsection:

‘(7) A list of all organisations approved under this section (other than organisations whose approvals have been revoked) must be published annually in such manner as the Minister considers appropriate.’.”

Clause 4, page 2, proposed definition of “abuse”, lines 4 to 10, omit the definition, substitute the following definitions in their respective appropriate alphabetical positions (determined on a letter-by-letter basis):

“‘abuse’, in relation to a child, means:

- (a) an assault, including a sexual assault, of the child which is an offence under a law, written or unwritten, in force in the State or Territory in which the act constituting the assault occurs; or
- (b) a person involving the child in a sexual activity with that person or another person in which the child is used, directly or indirectly, as a sexual object by the first-mentioned person or the other person, and where there is unequal power in the relationship between the child and the first-mentioned person;

‘member of the Court personnel’ means:

- (a) a court counsellor; or
- (b) a welfare officer; or
- (c) the Registrar or a Deputy Registrar of a Registry of the Family Court of Australia; or
- (d) the Registrar or a Deputy Registrar of the Family Court of Western Australia.”

Clause 5, page 3, proposed subsection 60A (4), lines 1 to 4, omit the subsection, substitute the following subsection:

“‘(4) The following provisions apply in relation to a child of a marriage who is adopted by a prescribed adopting parent:

- (a) if a court granted leave under section 60AA for the adoption proceedings to be commenced—the child ceases to be a child of the marriage for the purposes of this Act;
- (b) in any other case—the child continues to be a child of the marriage for the purposes of this Act.’.”

Clause 7, page 3, proposed subsection 63F (4), lines 15 to 21, omit the subsection, substitute the following subsection:

“‘(4) The following provisions apply in relation to rights of custody or guardianship of a child, or access to a child, existing under this Act immediately before the adoption of the child:

- (a) if the child is adopted by a person who, before the adoption, is not a prescribed adopting parent—those rights cease; or
- (b) if the child is adopted by a prescribed adopting parent, where a court granted leave under section 60AA for the adoption proceedings to be commenced—those rights cease; or
- (c) if the child is adopted by a prescribed adopting parent and leave was not granted under section 60AA for the adoption proceedings to be commenced—those rights do not cease.’.”

Clause 8, page 3, paragraph 8 (b), lines 27 to 29, omit the paragraph, substitute the following paragraphs:

“(b) by omitting from paragraph (ba) ‘section 60D and paragraph (b) of this section’ and substituting ‘paragraphs (a) and (b)’;

(ba) by inserting after subparagraph (1)(b)(v) the following subparagraph:

‘(va) the need to protect the child from abuse, ill treatment, or exposure or subjection to behaviour which psychologically harms the child;’

(bb) by omitting from paragraph (c) ‘section 60D and paragraphs’ and substituting ‘paragraphs (a),’;

Clause 9, page 4, proposed paragraph 64A (10) (c), line 23, add at the end of the paragraph “, and to a legal practitioner representing that person.”.

Clause 12—

Page 5, definition of “prescribed” in proposed subsection 70BA (4), line 24, omit the definition, substitute the following definition:

“‘**prescribed form**’ means the form prescribed by the Rules;”.

Page 5, lines 31 to 41 and page 6, lines 1 to 8, proposed section 70BB, omit the section, substitute the following section:

**Court personnel who suspect certain child abuse**

“70BB. (1) Where a member of the Court personnel, in the course of carrying out duties, performing functions or exercising powers as a member, has reasonable grounds for suspecting that a child has been abused, or is at risk of being abused, the member must, as soon as practicable, notify a prescribed child welfare authority of his or her suspicion and the basis for the suspicion.

‘(2) Where a member of the Court personnel, in the course of carrying out duties, performing functions or exercising powers as a member, has reasonable grounds for suspecting that a child:

(a) has been ill treated, or is at risk of being ill treated; or

(b) has been exposed or subjected, or is at risk of being exposed or subjected, to behaviour which psychologically harms the child;

the member may notify a prescribed child welfare authority of his or her suspicion and the basis for the suspicion.

‘(3) A member of the Court personnel need not notify a prescribed child welfare authority of his or her suspicion that a child has been abused, or is at risk of being abused, where the member knows that the authority has previously been notified about the abuse or risk under subsection (1) or subsection 70BA (3), but the member may notify the authority of his or her suspicion.

‘(4) Where notice under this section is given orally, written notice confirming the oral notice is to be given to the prescribed child welfare authority as soon as practicable after the oral notice.

‘(5) Where a member of the Court personnel notifies a prescribed child welfare authority under this section or subsection 70BA (3), the member may make such disclosures of other information as the member reasonably believes are necessary to enable the authority to properly manage the matter the subject of the notification.”.

Page 6, proposed subsections 70BC (1) and (2), lines 10 to 18, omit the subsections, substitute the following subsections:

“70BC. (1) A member of the Court personnel:

(a) must give notice under subsection 70BA (3) or 70BB (1); or

(b) may give notice under subsection 70BB (2) or (3); or

(c) may disclose other information under subsection 70BB (5);

in spite of any obligation of confidentiality imposed on the member by this Act, another Act, another law or anything else (including a contract or professional ethics).

‘(1A) A member of the Court personnel is not liable in civil or criminal proceedings, and is not to be considered to have breached any professional ethics, in respect of a notification under subsection 70BA (3) or 70BB (1).

‘(1B) A member of the Court personnel is not liable in civil or criminal proceedings, and is not to be considered to have breached any professional ethics, in respect of a notification under subsection 70BB (2) or (3), or a disclosure under subsection 70BB (5), where the notification or disclosure is made in good faith.

‘(2) Evidence of a notification under subsection 70BA (3) or subsection 70BB (1), (2) or (3), or a disclosure under subsection 70BB (5), is not admissible in any court except where that evidence is given by the member who made the notification or disclosure.’.

Clause 15, page 8, proposed subsection 100A (1), line 5, omit “admissible”, substitute “not inadmissible solely because of the law against hearsay”.

Clause 17—

Page 8, proposed subsections 102A (1) and (2), lines 26 to 29, omit the subsections, substitute the following subsections:

“‘102A. (1) Subject to this section, where a child is examined without the leave of the court, the evidence resulting from the examination which relates to the abuse of, or the risk of abuse of, the child is not admissible in proceedings under this Act.

‘(2) Where a person causes a child to be examined for the purpose of deciding:

(a) to bring proceedings under this Act involving an allegation that the child has been abused or is at risk of being abused; or

(b) to make an allegation in proceedings under this Act that the child has been abused or is at risk of being abused;

subsection (1) does not apply in relation to evidence resulting from the first examination which the person caused the child to undergo.’.”

Page 9, proposed subsections 102A (4) and (5), lines 2 to 15, omit the subsections, substitute the following subsections:

“‘(4) In proceedings under this Act, a court may admit evidence which is otherwise inadmissible under this section where it is satisfied that:

(a) the evidence relates to relevant matters on which the evidence already before the court is inadequate; and

(b) the court will not be able to determine the proceedings properly unless the evidence is admitted; and

(c) the welfare of the child concerned is likely to be served by the admission of the evidence.

‘(5) In this section:

“**examined**”, in relation to a child, means:

(a) subjected to a medical procedure; or

(b) examined or assessed by a psychiatrist or psychologist (other than by a court counsellor or welfare officer).’.”

Schedule, page 11, omit the Schedule, substitute the following Schedule:

**“SCHEDULE**

Section 20

**FURTHER AMENDMENTS**

**Section 11:**

Omit ‘Attorney-General’ (wherever occurring), substitute ‘Minister’.

**Section 13:**

Omit 'Attorney-General' (wherever occurring), substitute 'Minister'.

**Section 60D:**

Repeal the section.

**Subsection 63 (2):**

After '70D' insert 'but not including proceedings for leave under section 60AA'.

**Subsection 66D (1):**

Omit 'sections 60D and 66A', substitute 'section 66A'.

**Subsection 66E (1):**

Omit 'sections 60D, 66A and 66B', substitute 'sections 66A and 66B'.

**Subsection 66N (9):**

Omit 'section 60D,'.

**Subsection 66ZE (2):**

Omit 'the provisions of sections 60D and 64', substitute 'section 64'.

**Paragraphs 70AA (5) (b), (6) (b) and (6)(c):**

After 'application' (wherever occurring) insert ', or no longer any application,'.

**Subsections 70A (1) and (2):**

Omit '\$10,000 or imprisonment for 3 years, or both', substitute 'Imprisonment for 3 years'.

**Subsections 70A (3), (4), (5) and (6):**

Omit the subsections.

**Subsections 70B (1) and (2):**

Omit '\$5,000', substitute '\$6,000'.

**Paragraph 90 (1) (a):**

Omit 'or Part VII'.

**Paragraph 112AD (2) (b):**

Omit the paragraph, substitute the following:

'(b) fine the person not more than:

(i) for a natural person—\$6,000; or

(ii) for a body corporate—\$30,000;'

**Section 112AL:**

Omit 'an order under Part VII, or'.

**Subsection 121 (1):**

Omit all words after 'punishable,' substitute 'upon conviction by imprisonment for a period not exceeding one year.'.

**Subsection 121 (2):**

Omit all words after 'punishable,' substitute 'upon conviction by imprisonment for a period not exceeding one year.'.

**Subsections 121 (6) and (7):**

Omit the subsections.'.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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The House resumed; Mr Hollis reported accordingly.

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

28 COMPANIES (INSOLVENCY ASSISTANCE) 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 Ms Fatin (Minister for Local Government), the Bill was read a third time.

- 29 **MEAT CHICKEN LEVY 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.

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

Leave granted for third reading to be moved forthwith.

On the motion of Ms Fatin (Minister for Local Government), the Bill was read a third time.

- 30 **AUSTRALIAN CAPITAL TERRITORY—JOINT COMMITTEE—REPORT:** Mr Langmore (Chairman) presented the following report:

Australian Capital Territory—Joint Committee—Report on proposals for variations 1989/1 (Item 1) to the plan of layout of the City of Canberra and its environs, dated 19 February 1991.

Ordered to be printed.

- 31 **MIGRATION ACT—PAPER—MOTION TO TAKE NOTE OF PAPER:** Mr Hand (Minister for Immigration, Local Government and Ethnic Affairs) presented the following paper:

Migration Act—Statement pursuant to subsection 137 (1), of reasons for setting aside a decision of the Immigration Review Tribunal—  
and moved—That the House take note of the paper.

Debate adjourned (Mr Chaney), and the resumption of the debate made an order of the day for the next sitting.

- 32 **AUSTRALIAN HORTICULTURAL CORPORATION 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.

*Message from the Governor-General:* Message No. 97, dated 3 December 1990, from His Excellency the Governor-General 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*

Clause 1 debated.

Mr Lloyd (Deputy Leader of the National Party of Australia) moved—That progress be reported.

Question—put.

The committee divided (the Chairman, Mr R. F. Edwards, in the Chair)—

AYES, 64

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

## NOES, 71

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

\* Tellers

And so it was negatived.

Debate continued.

Clause agreed to.

Clause 2—

Progress to be reported and leave asked to sit again.

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

Ordered—That the House will, at a later hour this day, again resolve itself into the said committee.

- 33 **SUSPENSION OF SESSIONAL ORDER 48A AND STANDING ORDER 103:** Mr Beazley (Leader of the House), by leave, moved—That sessional order 48A (adjournment of House) and standing order 103 (11 o'clock rule) be suspended for this sitting.

Debate ensued.

Question—put and passed.

- 34 **POSTPONEMENT OF ORDER OF THE DAY:** Ordered—That order of the day No. 6, government business, be postponed until a later hour this day.

- 35 **AUSTRALIAN BROADCASTING TRIBUNAL—REPORT ON TV VIOLENCE IN AUSTRALIA—STATEMENT—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 31 May 1990*), viz.:

Broadcasting Act—Australian Broadcasting Tribunal—Report—TV violence in Australia—Statement by Mr Beazley, Minister for Transport and Communications, dated May 1990—

Debate resumed.

The House continuing to sit until after 12 midnight—

**FRIDAY, 22 FEBRUARY 1991**

Debate continued.

Debate adjourned, the resumption of the debate made an order of the day for the next sitting and Mr Wright was granted leave to continue his speech when the debate is resumed.

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

Question—put and passed.

And then the House, at 12.43 a.m., adjourned until Tuesday, 5 March 1991, at 2 p.m., in accordance with the resolution agreed to at this sitting.

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**PAPERS:** The following papers were deemed to have been presented on 21 February 1991:

Defence Service Homes Act—Guidelines, pursuant to subsections 18 (5C), 20 (4), 21 (3) and 23 (6) relating to financial hardship and serious financial hardship, approved by Minister, 21 January 1991.

Fisheries Act—Notices—Nos. SET 1, SET 2, SET 3.

States Grants (Schools Assistance) Act—Determination of amounts and approval of payments under sections 16 and 17, dated 14 February 1991.

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**ATTENDANCE:** All Members attended (at some time during the sitting) except Mr Nehl, Mr Snow and Dr Theophanous.

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**A. R. BROWNING**

Clerk of the House of Representatives