

1983-84

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

JUDICIARY AMENDMENT BILL 1984

EXPLANATORY MEMORANDUM

(Circulated by the authority of the
Minister representing the Attorney-General,
the Honourable Lionel Bowen, Deputy Prime
Minister.)

OUTLINE

The purpose of the Judiciary Amendment Bill 1984 is to amend the Judiciary Act 1903 to provide for the enforcement throughout Australia of orders for confidentiality in relation to certain criminal proceedings made by Victorian Courts on grounds relating to the national or international security of Australia or to the physical safety of persons. The provisions of the Bill are expressed to apply for a period of 2 years only.

NOTES ON CLAUSES

- Clause 1 - This clause states the title of the Bill.
- Clause 2 - The date of operation is dealt with.
- Clause 3 - This clause inserts into the Judiciary Act 1903 a new Part (Part VIII) to provide for the enforcement of orders for confidentiality in relation to certain criminal proceedings made by Victorian Courts on grounds relating to national or international security or to the physical safety of persons. The provisions of the proposed sections 46 to 51 are as follows:
- Proposed Section 46 deals with interpretation.
- Proposed Section 47 applies Part VIII to all natural persons, whether or not they are resident in Australia or are Australian citizens and to all bodies corporate whether incorporated in Australia or not, and also declares the Part to apply to acts or omissions outside Australia.
- Proposed Section 48 provides for Part VIII to bind the Crown in right of the Commonwealth, the States, the Northern Territory and Norfolk Island.
- Proposed Section 49 applies where, in relation to criminal proceedings before it, a Victorian Court makes a relevant order on the ground, however expressed, that it is necessary or desirable in the interests of the national or international security of Australia or of the physical safety of persons: proposed sub-section 49(1). Orders of the relevant kind are defined in proposed sub-section 49(3) as orders: for the closure of the proceedings or any part thereof;

excluding a person or class of persons from the whole or part of the proceedings; prohibiting or restricting disclosure of information respecting the whole or part of the proceedings; prohibiting or restricting publication of a report relating to the whole or part of the proceedings; ensuring that, without the approval of the court, no person has access (before, during or after the hearing of proceedings) to any document used in, or court records relating to, the proceedings: proposed sub-sections 49(1) and 49(3). Proposed sub-section 49(2) applies an order of the relevant kind, (so far as is consistent with the order's express terms) to the same wide territorial extent and to all natural persons and bodies corporate as Part VIII applies by virtue of proposed section 47. Proposed sub-sections 49(1) and 49(4) have the effect that any contravention of an order of the relevant kind is punishable by the Federal Court of Australia as if the contravention were a contempt of that Court.

Proposed sub-section 50 requires the Attorney-General to make an annual report to Parliament on the number of proceedings known to him in which such orders were made and the outcome of those proceedings, but such a report is to be in terms which do not breach those orders.

Proposed Section 51 provides that Part VIII is not to apply to an order made later than 2 years after the commencement of the Victorian Criminal Proceedings Act 1984.