DEPARTMENT OF THE PARLIAMENTARY LIBRARY
LEGISLATIVE RESEARCH SERVICE
BILLS DIGEST INFORMATION SERVICE

COMMISSION OF INQUIRY (CHAMBERLAIN CONVICTIONS) BILL 1984

Date Introduced: 14 June 1984
House: Senate
Presented by: Senator C. Mason

Short Digest of Bill

Purpose

To set up a Commission of Inquiry to report as to whether fresh evidence, considered with evidence presented at the trial, indicates that the conviction of Michael and Lindy Chamberlain constituted a miscarriage of justice.

Background

Alice Lynne Chamberlain was convicted on 29 October 1982 of murdering her daughter, Azaria, at Ayers Rock. Her husband, Michael Leigh Chamberlain, was convicted of being an accessory after the fact. The Full Federal Court unanimously dismissed an appeal from the conviction. Special leave to appeal to the High Court was refused.

The grant of a pardon is a matter for the Crown (the prerogative of mercy). Section 31 of the Northern Territory (Self-Government) Act 1978 states that the powers of the Administrator extend to the exercise of the prerogatives of the Crown. The Criminal Code Act 1983 (N.T.) does not abridge the power of pardon (section 389). The Code specifically provides for the mechanisms of pardon (section 431) and conditional remission of sentence (section 432).

Representations have also been made to the Governor-General to exercise his power of pardon. The Bill would establish a Commission of Inquiry to report to the Governor-General whether, in the opinion of the three Commissioners, a miscarriage of justice has occurred in the Chamberlain case.

Main Provisions

Clause 4 establishes the Chamberlain Case Commission, of three Commissioners appointed by the Governor-General. The Commissioners must be judges or former judges of a Federal Court or the Supreme Court of a State or Territory.
The Commission's inquiry is to be conducted in public, with a power to exclude any person. The Commission is to report to the Governor-General, with copies to be laid before each House of the Parliament. The Commission is to report its opinion as to whether "fresh evidence", defined as evidence not adduced at the trial, in conjunction with evidence adduced at the trial and at the two inquests into the death of Azaria Chamberlain, justifies the conclusion that one or both of the convictions constituted a miscarriage of justice.

Clause 7 applies certain provisions of the Royal Commissions Act (1902). These comprise most substantial provisions of that Act. Certain provisions relating to State laws, foreign laws and the taking of evidence outside Australia are not applied. The suspension of the privilege against self-incrimination set out in section 6A is applied.

For further information, if required, contact:

Law & Government Group
LEGISLATIVE RESEARCH SERVICE

16 August 1984