

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 169

WEDNESDAY, 30 APRIL 1980

1 The House met, at 2.15 p.m., pursuant to adjournment. Mr Speaker (the Right Honourable Sir Billy Snedden) took the Chair, and read Prayers.

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

Mr Johnston, Mr C. K. Jones, Dr Klugman, Mr J. L. McMahon, Mr Ruddock, Mr Sainsbury, Mr Simon, Mr Uren and Mr West—from certain citizens praying that pensions and benefits be increased and adjusted quarterly and that greater taxation relief be given to pensioners and others on low incomes.

Mr Burns, Mr Johnston, Mr Lynch, Mr Martyr, Mr Simon, Mr Street and Mr Yates—from certain citizens praying that the National Women's Advisory Council be abolished.

Mr Dawkins, Mr Innes, Mr James, Mr Kerin and Mr Willis—from certain sports men and women and others praying that the participation of a full Australian contingent at the Moscow Olympic Games be ensured.

Mr Bungey and Mr Giles—from certain citizens praying that taxation laws be amended to increase incentives to persons providing for their own retirement benefits.

Mr D. M. Cameron—from certain citizens praying that steps be taken to reduce the excise duty on Australian rum.

Mr Cotter—from certain citizens praying that tax laws be reformed to allow joint incomes to be equally divided, for taxation purposes, between husband and wife.

Mr Fry—from certain citizens praying that steps be taken to increase unemployment benefits, to permit unemployment benefits recipients to earn up to \$20 per week without penalty and to index unemployment benefits.

Mr Hurford—from certain citizens praying that the Government urge the South African Government to allow Ken Matime to leave South Africa so that he can resume his studies in Australia.

Mr Johnston—from certain residents of Victoria praying that carcass trade be promoted and that exports of live animals for slaughter be banned.

Mr J. L. McMahon—from certain citizens praying that the land currently used by the Australian National Line at Morts Dock, Balmain, N.S.W., be made available immediately for combination development of open space for public use and low cost housing.

Mr Young—from certain citizens praying that the boycott of the Moscow Olympic Games proposed by the Government be withdrawn and that it take certain other action on the matter.

Petitions received.

3 QUESTIONS: Questions without notice were asked.

- 4 NATIONAL YOUTH CONFERENCE RESOLUTIONS—GOVERNMENT RESPONSE—MINISTERIAL STATEMENT—PAPER NOTED: Mr Viner (Minister for Employment and Youth Affairs), by leave, made a ministerial statement informing the House of the Government's response to the resolutions of the National Youth Conference held in Canberra, October 1979, and, by command of His Excellency the Governor-General, presented the following paper:

National Youth Conference resolutions—Government response—Ministerial statement, 30 April 1980.

Mr Nixon (Minister for Primary Industry) moved—That the House take note of the paper.

Suspension of standing orders—Extended time for speech: Mr Nixon, by leave, moved—That so much of the standing orders be suspended as would prevent Mr Young speaking for a period not exceeding 31 minutes.

Question—put and passed.

Debate ensued.

Question—That the House take note of the paper—put and passed.

- 5 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—HOUSING PROGRAMS: Mr Deputy Speaker informed the House that Mr Uren had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The failure of the Government to provide programs that would ensure accessibility to, and security of, housing for the Australian people".

The proposed discussion having received the necessary support—

Mr Uren addressed the House.

Discussion ensued.

Discussion concluded.

- 6 LEGISLATION COMMITTEES: Mr Groom (Minister for Housing and Construction), for Mr Viner (Leader of the House), pursuant to notice, moved—That legislation committees appointed before 22 May 1980 have power to meet at any time on any day on which the House meets.

Question—put and passed.

- 7 HOLSWORTHY ARMY DEVELOPMENT, STAGE 2, N.S.W.—APPROVAL OF WORK: Mr Groom (Minister for Housing and Construction), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, it is expedient to carry out the following proposed work which was referred to the Parliamentary Standing Committee on Public Works and on which the committee has duly reported to Parliament: Construction of Holsworthy Army Development, Stage 2, N.S.W.

Question—put and passed.

- 8 ABORIGINAL DEVELOPMENT COMMISSION BILL 1980: 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 West, viz.*—That all words after "That" be omitted with a view to substituting the following words: "whilst not opposing the Bill, the House is of the opinion—

(1) that, while not opposing the integration of the lands fund, loans fund and grants in aid (enterprises program), the Parliament must have access to the submissions which led to the proposed integration of such programs;

(2) that the appointment of the members of the Aboriginal Development Commission should be made by the Minister acting on the advice of the National Aboriginal Conference and the various land councils, and

(3) that the Government should assure the House of its commitment to maintain and increase its financial assistance to the Commission"—

Debate resumed.

Amendment negatived.

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

Leave granted for third reading to be moved forthwith.

On the motion of Mr Viner (Minister representing the Minister for Aboriginal Affairs), the Bill was read a third time.

9 ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT BILL 1980: The order of the day having been read for the second reading—Mr Viner (Minister representing the Minister for Aboriginal Affairs) moved—That the Bill be now read a second time. Mr West moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “the Bill be withdrawn to allow for consultation with a majority of the relevant Aboriginal communities, and be re-drafted to guarantee the rights of Aborigines to be fully consulted on, and informed of the effects of, mining and drilling on traditional lands as a prime requirement for the validity of mining agreements relating to Aboriginal land conferred under this Act”.

Debate continued.

Question—That the words proposed to be omitted stand part of the question—put. The House divided (the Deputy Speaker, Dr Jenkins, in the Chair)—

AYES, 74

Mr Adermann	Mr Cotter	Mr Jarman	Mr Nixon
Mr Aldred	Mr Dean	Mr Johnston	Mr O'Keefe
Mr Baillieu	Mr Dobie	Mr Jull	Mr Porter
Mr Baume	Mr Drummond	Mr Katter	Mr E. L. Robinson
Mr Birney	Dr Edwards	Mr Lloyd	Mr I. L. Robinson
Mr Bouchier	Mr Ellicott	Mr Lucock	Mr Ruddock
Mr Bradfield	Mr Falconer	Mr Lynch	Mr Sainsbury
Mr Braithwaite	Mr Fife	Mr MacKellar	Mr Shack
Mr N. A. Brown	Mr Garland	Mr MacKenzie	Mr Shipton
Mr Bungey	Mr Giles	Mr McLean	Mr Short
Mr Burns	Mr Gillard	Mr J. E. McLeay	Mr Simon
Mr Burr	Mr Goodluck	Sir William McMahon	Mr Staley
Mr Cadman	Mr Graham	Mr McVeigh	Mr Street
Mr Cairns	Mr Groom	Mr Macphee	Mr Thomson
Mr Calder	Mr Haslem	Mr Martyr	Mr Viner
Mr E. C. Cameron	Mr Hodges*	Mr Millar	Mr Wilson
Mr Carlton	Mr Hodgman	Mr Moore	Mr Yates
Mr Chapman	Mr Hunt	Mr Neil	
Mr Corbett*	Mr Hyde	Mr Newman	

NOES, 31

Mr Armitage	Dr Everingham	Mr James	Mr J. L. McMahon*
Dr Blewett	Mr FitzPatrick	Mr L. R. Johnson*	Mr Martin
Mr Bowen	Mr Fry	Mr B. O. Jones	Mr Morris
Mr J. J. Brown	Mr Howe	Mr C. K. Jones	Mr Uren
Mr Bryant	Mr Humphreys	Mr Keating	Mr Wallis
Mr C. R. Cameron	Mr Hurford	Mr Kerin	Mr West
Dr Cass	Mr Innes	Dr Klugman	Mr Willis
Mr Cohen	Mr Jacobi	Mr L. B. McLeay	

*Tellers

And so it was resolved in the affirmative.

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

The House divided (the Deputy Speaker, Dr Jenkins, in the Chair)—

AYES, 75

Mr Adermann	Mr Cotter	Mr Jarman	Mr Newman
Mr Aldred	Mr Dean	Mr P. F. Johnson	Mr Nixon
Mr Baillieu	Mr Dobie	Mr Johnston	Mr O'Keefe
Mr Baume	Mr Drummond	Mr Jull	Mr Porter
Mr Birney	Dr Edwards	Mr Katter	Mr E. L. Robinson
Mr Bouchier	Mr Ellicott	Mr Lloyd	Mr I. L. Robinson
Mr Bradfield	Mr Falconer	Mr Lucock	Mr Ruddock
Mr Braithwaite	Mr Fife	Mr Lynch	Mr Sainsbury
Mr N. A. Brown	Mr Garland	Mr MacKellar	Mr Shack
Mr Bungey	Mr Giles	Mr MacKenzie	Mr Shipton
Mr Burns	Mr Gillard	Mr McLean	Mr Short
Mr Burr	Mr Goodluck	Mr J. E. McLeay	Mr Simon
Mr Cadman	Mr Graham	Sir William McMahon	Mr Staley
Mr Cairns	Mr Groom	Mr McVeigh	Mr Street
Mr Calder	Mr Haslem	Mr Macphee	Mr Thomson
Mr E. C. Cameron	Mr Hodges*	Mr Martyr	Mr Viner
Mr Carlton	Mr Hodgman	Mr Millar	Mr Wilson
Mr Chapman	Mr Hunt	Mr Moore	Mr Yates
Mr Corbett*	Mr Hyde	Mr Neil	

NOES, 33

Mr Armitage	Dr Everingham	Mr L. R. Johnson*	Mr Morris
Dr Blewett	Mr FitzPatrick	Mr B. O. Jones	Mr Scholes
Mr Bowen	Mr Fry	Mr C. K. Jones	Mr Uren
Mr J. J. Brown	Mr Howe	Mr Keating	Mr Wallis
Mr Bryant	Mr Humphreys	Mr Kerin	Mr West
Mr C. R. Cameron	Mr Hurford	Dr Klugman	Mr Willis
Dr Cass	Mr Innes	Mr L. B. McLeay	
Mr Cohen	Mr Jacobi	Mr J. L. McMahon*	
Mr Dawkins	Mr James	Mr Martin	

*Tellers

And so it was resolved in the affirmative—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 Viner, the following amendment was made: Clause 10, page 5, after sub-clause (1) insert the following sub-clause:

“(1A) Where the Minister, in considering the making of a recommendation under sub-section (1) in relation to land, is satisfied that the first deed of grant in relation to the land—

(a) does not include land that was required to be included in accordance with the *Aboriginal Land Rights (Northern Territory) Act 1976*; or

(b) includes land that was not authorized to be included in accordance with the *Aboriginal Land Rights (Northern Territory) Act 1976*,

the Minister shall, in making the recommendation under sub-section (1)—

(c) include in that recommendation the land referred to in paragraph (a); or

(d) exclude from that recommendation the land referred to in paragraph (b), as the case may be.”

Bill, as amended, agreed to.

Bill to be reported with an amendment.

The House resumed; Mr Millar reported accordingly.

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

10 CUSTOMS AMENDMENT BILL (NO. 3) 1980: 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 Garland (Minister for Business and Consumer Affairs), by leave, the following amendments were made together, after debate:

Amendments—

Clause 2, page 1, omit the clause, substitute the following clause:

Commencement

“2. (1) Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.

“(2) Paragraph 3 (b) and sections 4 and 5 shall come into operation on a date to be fixed by Proclamation.”

Clause 4—

Page 2, line 29, omit “Act”, substitute “section”.

Page 2, line 35, omit “Act”, substitute “section”.

Clause 10, page 15, line 36, omit “Act”, substitute “section”.

New clauses—

Page 15, after clause 10, insert the following new clauses:

“10A. (1) Divisions 1, 2 and 3 of Part XI of the Principal Act are repealed and the following Divisions substituted:

‘Division 1—Preliminary

Interpretation

‘180. (1) In this Part, unless the contrary intention appears—

“agents licence” means a licence to act as a customs agent granted under section 183c and includes such a licence that has been renewed under section 183c;

“Committee” means the National Customs Agents Licensing Advisory Committee established by section 183d;

“corporate customs agent” means a customs agent that is a company or a partnership;

“customs agent” means a person who is the holder of an agents licence that is in force and, in relation to a place, means a person who is the holder of such a licence to act as a customs agent at that place;

“nominee”, in relation to a corporate customs agent, means a customs agent whose name is endorsed on the agents licence held by the corporate customs agent as a nominee of the corporate customs agent;

“person” means a natural person, a company or a partnership;

“prescribed offence” means—

(a) an offence against this Act; or

(b) an offence punishable under a law of the Commonwealth (other than this Act), or by a law of a State or of a Territory, by imprisonment for 1 year or longer.

‘(2) A reference in this Part to the Comptroller shall be read as including a reference to a Collector of Customs for a State or Territory.

‘Division 2—Rights and liabilities of agents

Authorized agents

‘181. (1) Subject to sub-section (2), an owner of goods may, in writing, authorize a person to be his agent for the purposes of the Customs Acts at a place or places specified by the owner.

‘(2) Where the Minister, by notice published in the *Gazette*, declares that a place specified in the notice is a place to which this sub-section applies, an owner of goods shall not authorize a person to be his agent for the purposes of the Customs Acts at that place unless that person is—

(a) a natural person who is an employee of the owner and is not an employee of any other person; or

(b) a customs agent at that place.

‘(3) Where an owner of goods authorizes a person to be his agent for the purposes of the Customs Acts at a place, the owner may comply with the provisions of, or requirements under, the Customs Acts at that place by—

(a) except where paragraph (b) applies—that agent; or

(b) where the agent is a corporate customs agent—a nominee of the corporate customs agent who is a customs agent at that place.

‘(4) A person, other than the owner of goods or a person who, in accordance with this section, may comply with the provisions of, or requirements under, the Customs Acts on behalf of the owner in relation to those goods, shall not—

(a) do any act or thing in relation to the goods that is required or permitted to be done by the owner of the goods under the Customs Acts; or

(b) represent that he is able to do, or able to arrange to be done, any act or thing in relation to the goods that is required or permitted to be done by the owner under the Customs Acts.

‘(5) A person who contravenes sub-section (4) is guilty of an offence punishable on conviction—

(a) in the case of a person not being a company—by a fine not exceeding \$200; or

(b) in the case of a person being a company—by a fine not exceeding \$1,000.

Authority to be produced

‘182. (1) Where a person claims to be the agent of an owner of goods for the purposes of the Customs Acts at a place, an officer may require that person to produce written authority from the owner authorizing that person to be such an agent and, if that written authority is not produced, the officer may refuse to recognize the authority of that person to act on behalf of the owner at that place.

‘(2) Where a nominee of a corporate customs agent claims that that corporate customs agent is the agent of an owner of goods for the purposes of the Customs Acts at a place, an officer may require the nominee to produce a copy of the written authority from the owner of the goods authorizing the corporate customs agent to be such an agent and, if that written authority is not produced, the officer may refuse to recognize the authority of the nominee to act on behalf of the owner at that place.

Agents personally liable

‘183. (1) Where a person is, holds himself out to be or acts as if he were the agent of an owner of goods for the purposes of the Customs Acts, that person shall, for the purposes of the Customs Acts (including liability to penalty), be deemed to be the owner of those goods.

‘(2) Where a corporate customs agent is the agent of an owner of goods for the purposes of the Customs Acts and a person who is, holds himself out to be or acts as if he were a nominee of that corporate customs agent acts in relation to those goods, that person shall, for the purposes of those Acts, (including liability to penalty), be deemed to be the owner of those goods.

‘(3) Any act done, or representation made, by a nominee of a corporate customs agent for the purposes of the Customs Acts shall be deemed to be an act done or, a representation made, by that corporate customs agent.

‘(4) Nothing in this section shall be taken to relieve any owner from liability.

Principal liable for agents acting

‘183A. (1) Where an agent of, or a nominee of a corporate customs agent that is an agent of, an owner of goods makes a declaration for the purposes of this Act in relation to those goods, that declaration shall, for the purposes of this Act (including the prosecution of an offence against this Act), be deemed to be made with the knowledge and consent of the owner.

‘(2) Notwithstanding any other provision of this Act, a person who is convicted of an offence by reason of the operation of sub-section (1) shall not be subject to a penalty of imprisonment.

‘Division 3—Licensing of customs agents

Interpretation

‘183B. (1) In this Division, unless the contrary intention appears, “application” means an application under section 183CA.

‘(2) For the purposes of this Division, a person shall be taken to participate in the work of a corporate customs agent if—

(a) he has authority as a nominee of, or as an agent, officer or employee of, the corporate customs agent, to do any act or thing for the purposes of the Customs Acts on behalf of an owner of goods; or

- (b) he has authority to direct a person who has authority referred to in paragraph (a) in the exercise of that authority.

Grant of licence

'183c. (1) Subject to this Part, the Comptroller may grant a person a licence in writing, to be known as an agents licence, to act as a customs agent at a place or places specified in the licence.

'(2) An agents licence granted to a corporate customs agent shall not specify a place as a place at which the corporate customs agent may act as a customs agent unless the licence specifies as a nominee of the corporate customs agent a customs agent at that place who, in accordance with section 183cd, is eligible to be its nominee.

Application for licence

'183ca. (1) An application for an agents licence shall—

- (a) be in writing;
- (b) specify the place or places at which the applicant proposes to act as a customs agent;
- (c) where the application is made by a company or a partnership—specify the person or each person who, if the licence is granted, is to be its nominee;
- (d) set out such particulars of the persons and matters that the Comptroller is required to consider for the purposes of sections 183cc and 183cd as will enable him adequately to consider those matters; and
- (e) contain such other information as is prescribed.

'(2) Where a company or a partnership makes an application, it—

- (a) shall not propose a person as its nominee at a place unless, at the time the application is made—
 - (i) that person is a customs agent or a person qualified to become a customs agent;
 - (ii) where that person is acting as the nominee of a corporate customs agent—he intends, if an agents licence is granted to the applicant, to cease so to act; or
 - (iii) where that person is acting as a customs agent in his own right—he intends, if an agents licence is granted to the applicant, to cease so to act; and
- (b) shall not propose a person as its nominee at more than one place unless that person will be able to attend to his duties as nominee at each of those places in a satisfactory manner.

'(3) A person shall not be proposed under paragraph (c) of sub-section (1) unless he has consented, in writing, to the proposal.

Reference of application to Committee

'183cb. (1) Where the Comptroller receives an application, he shall refer the application to the Committee for a report relating to the application and shall not grant, or refuse to grant, an agents licence to the applicant unless he has received and considered the report.

'(2) Where the Comptroller refers an application to the Committee under sub-section (1), the Committee shall investigate the matters that the Comptroller is required to consider in relation to the application and, after its investigation, report to the Comptroller on those matters.

Requirements for grant of licence

'183cc. (1) Where an application is made, the Comptroller shall not grant an agents licence if, in his opinion—

- (a) where the application is made by a natural person—
 - (i) the applicant is not a person of integrity; or
 - (ii) the applicant is not qualified to be a customs agent;

- (b) where the application is made by a company—
 - (i) a director of the company who would participate in the work of the company if it were a customs agent is not a person of integrity; or
 - (ii) an officer or employee of the company who would participate in the work of the company if it were a customs agent is not a person of integrity; or
 - (c) where the application is made by a partnership—
 - (i) a partner in the partnership is not a person of integrity; or
 - (ii) an employee of the partnership who would participate in the work of the partnership if it were a customs agent is not a person of integrity.
- ‘(2) For the purposes of sub-section (1), an applicant shall be taken to be qualified to be a customs agent if, and only if—
- (a) except where he has been exempted under sub-section (3), he has completed a course of study or instruction approved under sub-section (5); and
 - (b) he has acquired experience that, in the opinion of the Comptroller, fits him to be a customs agent.
- ‘(3) The Comptroller may, by writing signed by him, exempt an applicant from the requirements of paragraph (a) of sub-section (2), where, having regard to the experience or training of the applicant, he considers that it is appropriate to do so.
- ‘(4) The Comptroller shall, in determining whether a person is a person of integrity for the purposes of sub-section (1), have regard to—
- (a) any conviction of the person for a prescribed offence;
 - (b) whether the person is an undischarged bankrupt;
 - (c) any misleading statement made in the application by or in relation to the person; and
 - (d) where any statement by the person in the application was false—whether the person knew, or ought reasonably to have known, that the statement was false.
- ‘(5) The Minister may, after obtaining and considering the advice of the Committee, approve, in writing, a course or courses of study or instruction that fits or fit him to be a customs agent.

Eligibility to be nominee

- ‘183CD. (1) A customs agent is eligible to be the nominee of a corporate customs agent if, and only if—
- (a) where the corporate customs agent is a company—he is a director or employee of the company;
 - (b) where the corporate customs agent is a partnership—he is a member or employee of the partnership;
 - (c) he is not the nominee of another customs agent;
 - (d) he is not authorized to be an agent in accordance with sub-section (1) of section 181;
 - (e) he is a customs agent at a place at which the corporate customs agent is an agent; and
 - (f) subject to sub-section (2), he is not a customs agent at any other place.
- ‘(2) A customs agent shall not be ineligible to be the nominee of a corporate customs agent by reason only of paragraph (f) of sub-section (1) if—
- (a) all the places at which he is a customs agent are places at which the corporate customs agent is an agent; and
 - (b) the Comptroller is satisfied that the customs agent could attend to the duties of the nominee of the corporate customs agent at all those places in a satisfactory manner.

Original endorsements on licence

'183CE. (1) Where the Comptroller grants an agents licence, he shall—

- (a) endorse on the licence the name of the place or places at which the holder of the licence may act as a customs agent; and
- (b) where the licence is granted to a corporate customs agent—endorse on the licence the name of each customs agent who is a nominee of the corporate customs agent and opposite to each such name the name of the place or places at which he acts as a customs agent.

'(2) The Comptroller shall not, in pursuance of sub-section (1), endorse a licence so as to show a person as a nominee of that corporate customs agent if—

- (a) that person is not a customs agent;
- (b) that person is the nominee of another corporate customs agent; or
- (c) that person acts as a customs agent in his own right.

'(3) The Comptroller shall not, in pursuance of sub-section (1), endorse on a licence so as to show a person as the nominee of that corporate customs agent at more than one place unless the Comptroller is satisfied that that person will be able to attend satisfactorily to his duties as nominee at each of those places.

Variation of licences

'183CF. (1) Subject to sub-section (3), the Comptroller may, upon application in writing by a customs agent and the production of his agents licence, vary the endorsements on the licence so that a place is specified, or ceases to be specified, in the licence as a place at which the holder of the licence may act as a customs agent.

'(2) Subject to sub-section (3), the Comptroller may, upon application in writing by a corporate customs agent and the production of its agents licence, vary the endorsements on the licence so that a person is specified, or ceases to be specified, in the licence as a nominee of the corporate customs agent.

'(3) The Comptroller shall not vary the endorsements on a licence so that the licence ceases to comply with sub-section (2) of section 183c.

'(4) A person shall not be endorsed under sub-section (2) as a nominee of a corporate customs agent unless he has consented, in writing, to the endorsement.

Licence granted subject to conditions

'183CG. (1) An agents licence is subject to the condition that if—

- (a) the holder of the licence is convicted of a prescribed offence;
- (b) in the case of a licence held by a natural person—the holder of the licence becomes bankrupt; or
- (c) in the case of a licence held by a company—the holder of the licence goes into liquidation,

the holder of the licence shall forthwith give the Comptroller particulars in writing of the conviction, bankruptcy or liquidation, as the case requires.

'(2) An agents licence held by a natural person is subject to the condition that the holder of the licence shall not act as a customs agent in his own right at any time at which he is a nominee of a corporate customs agent.

'(3) An agents licence held by a corporate customs agent is subject to the condition that if—

- (a) a person not described in the application for the licence as participating in the work of the corporate customs agent commences so to participate;
- (b) a nominee of the corporate customs agent dies or ceases to act as nominee of the corporate customs agent;
- (c) a person who participates in the work of the corporate customs agent is convicted of a prescribed offence or becomes bankrupt; or

(d) in the case of a licence held by a partnership—

(i) a member of the partnership is convicted of a prescribed offence or becomes bankrupt; or

(ii) there is a change in the membership of the partnership,

the holder of the licence shall forthwith give the Comptroller particulars in writing of that person, change, conviction or bankruptcy, as the case requires.

'(4) An agents licence held by a corporate customs agent is subject to the condition that the agent shall do all things necessary to ensure that—

(a) all persons who participate in the work of the corporate customs agent are persons of integrity; and

(b) in the case of a licence held by a partnership—all members of the partnership are persons of integrity.

'(5) An agents licence is subject to such other conditions (if any) as are prescribed.

'(6) An agents licence is subject to such other conditions (if any) as are specified in the licence, being conditions considered by the Comptroller to be necessary or desirable for the protection of the revenue.

'(7) The Comptroller may, upon application in writing by a customs agent and the production of the licence held by the customs agent, vary the conditions specified in the licence by making an alteration to, or an endorsement on, the licence.

'(8) Where a customs agent fails to comply with a condition of his licence the Comptroller may, by notice in writing served on him, require him to comply with that condition within the time specified in the notice.

Duration of licence

'183CH. (1) An agents licence—

(a) comes into force on a date specified in the licence or, if no date is so specified, the date on which it is granted; and

(b) subject to this Part, remains in force until 31 December next following the grant of the licence but may be renewed in accordance with section 183CJ.

'(2) A licence granted to a natural person ceases to have effect on the death of that person.

Renewal of licence

'183CJ. (1) Where a customs agent, within one month before the date on which his agents licence is due to expire, applies in writing to the Comptroller for the renewal of the licence, the Comptroller, unless the Minister has given an order under paragraph (d) of sub-section (1) of section 183CS in relation to the licence or the customs agent is, by virtue of section 183CK, not entitled to hold an agents licence, shall, by writing, renew the licence.

'(2) A renewal of a licence shall not take effect if, on or before the date on which the licence would, apart from the renewal, expire, the licence is revoked.

'(3) Where the licence held by a customs agent has been suspended, sub-section (1) applies as if the licence had not been suspended, but the renewal of the licence does not have any force or effect until the licence ceases to be suspended.

'(4) Where the Comptroller renews a licence under sub-section (1), he may, in accordance with sub-section (6) of section 183CG, specify conditions different from those specified in the original licence.

'(5) Subject to this Part, a licence that has been renewed continues in force for 12 months after the renewal but may be further renewed.

Security

'183CK. (1) The Comptroller may, by notice in writing served on a person making an application for an agents licence or a person who holds

an agents licence, require that person to give, within the time specified in the notice, security in an amount determined by the Comptroller, not being an amount exceeding the amount prescribed in respect of the prescribed class of applicants or customs agents to which the person belongs, by bond, guarantee or cash deposit, or by any or all of those methods, for compliance by him with the Customs Acts, for compliance with the conditions or requirements to which the importation or exportation of goods is subject and generally for the protection of the revenue and that person is not entitled to be granted or to hold an agents licence, as the case may be, unless he gives security accordingly.

'(2) Where the amount of the security in force in respect of a customs agent is less than the amount prescribed in respect of the prescribed class of customs agents to which the customs agent belongs, the Comptroller may, by notice in writing to the customs agent, require the customs agent to give, within such period as is specified in the notice, a fresh security in lieu of the security in force under sub-section (1) in an amount specified in the notice, being an amount not exceeding the amount so prescribed, and, if the customs agent fails to comply with the notice, the customs agent shall not be entitled to hold an agents licence.

'(3) Where, by virtue of sub-section (1), an applicant for an agents licence is not entitled to be granted the licence, the Comptroller may refuse to grant the licence to the applicant.

'(4) Where, by virtue of sub-section (1) or (2), a customs agent is not entitled to hold an agents licence, the Comptroller may cancel the agents licence held by the customs agent.

'(5) Regulations made for the purposes of this section may prescribe different amounts in respect of different classes of applicants or customs agents and, without limiting the generality of the foregoing, may prescribe different amounts in respect of applicants who are natural persons and applicants that are partnerships or companies and in respect of customs agents who are natural persons and corporate customs agents.

Fees

'183CL. (1) Such fees (if any) as are prescribed are payable in respect of agents licences.

'(2) Regulations made for the purposes of this section may prescribe—

(a) different fees in respect of different classes of customs agents and, without limiting the generality of the foregoing, may prescribe different fees in respect of customs agents who are natural persons and corporate customs agents; and

(b) the time within which fees payable under this section are to be paid.

'(3) Fees prescribed under sub-section (1) may include an amount calculated with regard to the cost of the establishment, administration and operation of the Committee.

Nominees

'183CM. For the purposes of this Part, a person shall be taken to be a nominee of a corporate customs agent from the time when the name of the nominee is endorsed, in pursuance of paragraph (b) of sub-section (1) of section 183CE or of section 183CF, on the licence of the corporate customs agent until the nominee dies or until the Comptroller deletes the name of the nominee from that licence under section 183CF, whichever occurs first.

Removal of nominee

'183CN. (1) The Comptroller shall delete the name of a nominee of a corporate customs agent from the agents licence of that corporate customs agent if—

- (a) the nominee dies;
- (b) the nominee ceases to hold an agents licence;
- (c) the nominee ceases to act as nominee of the corporate customs agent;
- (d) the nominee requests the Comptroller, in writing, to delete his name from the licence; or
- (e) the name of the nominee is found to have been endorsed on the licence in circumstances where the endorsement should not have been made.

'(2) Where the deletion of the name of a nominee from a licence of a corporate customs agent is required under sub-section (1), the corporate customs agent shall forthwith deliver the licence to the Comptroller for the purpose of having the deletion effected.

Notice to nominate new nominee

'183CP. If the agents licence of a corporate customs agent ceases to comply with sub-section (2) of section 183c, the Comptroller may, by notice in writing served on the corporate customs agent, require the corporate customs agent to apply within such period as specified in the notice, for such variation of the endorsements on the licence as would result in the licence complying with that sub-section.

'Division 4—Suspension, revocation and non-renewal of licences**Investigation of matters relating to an agents licence**

'183CQ. (1) The Comptroller may give notice in accordance with this section to a customs agent if he has reasonable grounds to believe that—

- (a) the customs agent has been convicted of a prescribed offence;
- (b) the customs agent, being a natural person, is an undischarged bankrupt;
- (c) the customs agent, being a company, is in liquidation;
- (d) the customs agent has ceased to perform the duties of a customs agent in a satisfactory and responsible manner;
- (e) the customs agent is guilty of conduct that is an abuse of the rights and privileges arising from his licence;
- (f) the customs agent has not, within 28 days after the day prescribed for the payment of any fees, paid those fees;
- (g) the customs agent made a false or misleading statement in the application for the licence;
- (h) the customs agent has not complied with a condition imposed on the grant or renewal of the licence and, having been served with a notice under sub-section (8) of section 183CG in relation to the non-compliance with that condition, the customs agent has not, within the time specified in the notice, complied with that condition; or
- (j) in the case of a corporate customs agent—the customs agent has not, within the time specified in a notice under section 183CP, complied with that notice,

or it otherwise appears to him to be necessary for the protection of the revenue or otherwise in the public interest to give the notice.

'(2) Without limiting the generality of paragraph (d) of sub-section (1), a customs agent shall be taken, for the purposes of that paragraph, to have ceased to perform the duties of a customs agent in a satisfactory and

responsible manner if the documents prepared by the customs agent for the purposes of this Act contain errors that are unreasonable having regard to the nature or frequency of those errors.

‘(3) Notice in accordance with this section to a customs agent shall be in writing and shall be served, either personally or by post, on the customs agent.

‘(4) A notice in accordance with this section to a customs agent shall state—

- (a) the grounds on which the notice is given;
- (b) that the Comptroller intends forthwith to refer to the Committee, for investigation and report to the Minister, the question whether the Minister should take action in relation to the licence under sub-section (1) of section 183cs;
- (c) the powers that the Minister may exercise in relation to a licence under sub-section (1) of section 183cs; and
- (d) the rights of the customs agent under sections 183j and 183s to take part in the proceedings before the Committee.

‘(5) Where the Comptroller gives notice in accordance with this section to a customs agent, he shall refer the question whether the Minister should take action in relation to the licence under sub-section (1) of section 183cs to the Committee, for investigation and report to the Minister.

‘(6) Where the Comptroller refers a question to the Committee under sub-section (5), he shall give particulars to the Committee of all the information in his possession that is relevant to the question so referred.

‘(7) Where a question is referred to the Committee under sub-section (5), the Committee shall, as soon as practicable, conduct an investigation into the question and make a report on the question to the Minister.

Interim suspension by Comptroller

‘183CR. (1) Where the Comptroller gives notice in accordance with section 183CQ to a customs agent, he may, if he considers it necessary for the protection of the revenue or otherwise in the public interest to do so, suspend the licence of the customs agent pending the investigation and report of the Committee.

‘(2) The Comptroller may suspend the agents licence of a customs agent in pursuance of sub-section (1) by—

- (a) including in the notice to the customs agent in accordance with section 183CQ a statement to the effect that the licence is suspended under that sub-section; or
- (b) giving further notice in writing to the customs agent to the effect that the licence is suspended under that sub-section,

such notice to include also a statement that any person whose interests are affected by the suspension may make an application to the Administrative Appeals Tribunal for a review of the decision to suspend the licence.

‘(3) A suspension of a licence by the Comptroller under sub-section (1) has effect until the suspension is revoked by the Comptroller or the Minister has dealt with the matter in accordance with section 183cs, whichever first occurs.

‘(4) Where an agents licence is suspended under this section, the Comptroller may at any time revoke the suspension.

Powers of Minister

‘183CS. (1) Where the Minister, after considering a report under sub-section (7) of section 183CQ in relation to an agents licence, is—

- (a) satisfied in relation to the licence as to any of the matters mentioned in paragraphs (a) to (j) (inclusive) of sub-section (1) of section 183CQ; or

(b) satisfied on any other grounds that it is necessary to do so for the protection of the revenue,

he may, by notice to the customs agent—

- (c) cancel the licence;
- (d) if the licence is about to expire—order that the licence not be renewed;
- (e) reprimand the customs agent;
- (f) in a case where the licence is not already suspended—suspend the licence for a period specified in the notice; or
- (g) in a case where the licence is already suspended—further suspend the licence for a period specified in the notice.

‘(2) Where the Minister, after considering a report under sub-section (7) of section 183cQ in relation to an agents licence, decides not to take any further action in the matter, he shall, by notice in writing to the customs agent, inform the customs agent accordingly, and, if the licence of the customs agent is suspended, he shall revoke the suspension.

‘(3) A notice under sub-section (1) shall—

- (a) be in writing;
- (b) be served, either personally or by post, on the holder of the licence;
- (c) shall set out the ground or grounds for the decision of the Minister; and
- (d) state that any person whose interests are affected by the decision of the Minister may make an application to the Administrative Appeals Tribunal for a review of that decision.

‘(4) The period for which the Minister may suspend or further suspend a licence under sub-section (1) may be a period expiring after the date on which the licence, if not renewed, would expire.

‘(5) Where the Minister orders under paragraph (d) of sub-section (1) that a licence not be renewed, he shall notify the appropriate Collector accordingly.

Effect of Suspension

‘183cr. (1) During a period in which an agents licence held by a natural person is suspended under this Division, the person shall not—

- (a) act as a customs agent; or
- (b) act as a nominee of a corporate customs agent.

‘(2) During a period in which an agents licence held by a corporate customs agent is suspended under this Division—

- (a) the corporate customs agent shall not act as a customs agent; and
- (b) a nominee of the corporate customs agent shall not act as such a nominee.

Service of notices

‘183cu. For the purposes of the application of section 29 of the *Acts Interpretation Act* 1901 to the service by post of a notice under this Division on a person who holds or held an agents licence, such a notice posted as a letter addressed to that person at the last address of that person known to the sender shall be deemed to be properly addressed.’

“(2) All places that, immediately before the commencement of this section, were places to which the limitation expressed in section 180 of the *Principal Act* extended by virtue of a proclamation under that section shall be deemed to be places to which sub-section 181 (2) of the *Principal Act*, as amended by this Act, applies.

“(3) A licence granted under section 183A of the *Principal Act* as in force immediately before the commencement of this section that was in force immediately before the commencement of this section is deemed to be a licence granted under section 183c of the *Principal Act* as amended by this Act.

Heading to Division 4 of Part XI

“10B. The heading to Division 4 of Part XI of the *Principal Act* is omitted and the following heading substituted:

‘**Division 5—National Customs Agents Licensing Advisory Committee**’.

“10c. Section 183D of the Principal Act is repealed and the following sections substituted:

National Customs Agents Licensing Advisory Committee

‘183D. (1) There is established by this section a Committee by the name of the National Customs Agents Licensing Advisory Committee.

‘(2) The functions of the Committee are—

- (a) to investigate and report on applications referred to it by the Comptroller under section 183CB;
- (b) to investigate and report on questions referred to it by the Comptroller under section 183CQ;
- (c) to advise the Minister in relation to the approval of courses of study under section 183CC; and
- (d) where the Minister requests the Committee to advise him on the standards that customs agents should meet in the performance of their duties and obligations as customs agents—to advise the Minister accordingly.

Constitution of Committee

‘183DA. (1) The Committee shall consist of the following members:

- (a) the Chairman;
- (b) a member to represent customs agents;
- (c) a member to represent the Commonwealth.

‘(2) The Chairman shall be a person who—

- (a) is or has been a Stipendiary, Police, Special or Resident Magistrate of a State or Territory; or
- (b) in the opinion of the Minister, possesses special knowledge or skill in relation to matters that the Committee is to advise or report on.

‘(3) A member referred to in paragraph (a) or (b) of sub-section (1) shall be appointed by the Minister for a period not exceeding 2 years but is eligible for re-appointment.

‘(4) The member referred to in paragraph (b) of sub-section (1) shall be appointed on the nomination of an organization that, in the opinion of the Minister, represents customs agents.

‘(5) The member referred to in paragraph (c) of sub-section (1) shall be the person for the time being holding, or performing the duties of, the office in the Department of Business and Consumer Affairs that the Minister specifies, in writing signed by him, to be the office for the purposes of this sub-section.

‘(6) The appointment of a member is not invalidated, and shall not be called in question, by reason of a deficiency or irregularity in, or in connection with, his nomination or appointment.

Remuneration and allowances

‘183DB. (1) A member referred to in paragraph (a) or (b) of sub-section (1) of section 183DA shall be paid such remuneration as is determined by the Remuneration Tribunal, but if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

‘(2) A member referred to in paragraph (a) or (b) of sub-section (1) of section 183DA shall be paid such allowances as are prescribed.

‘(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.

Acting Chairman

‘183DC. (1) Subject to sub-section (2), the Minister may appoint a person to act as Chairman—

- (a) during a vacancy in the office of Chairman; or
- (b) during any period, or during all periods, when the Chairman is absent from duty or from Australia or is for any other reason, unable to perform the functions of his office.

'(2) A person shall not be appointed to act as Chairman unless he is qualified, in accordance with sub-section (2) of section 183DA, to be appointed as Chairman.

'(3) A person appointed to act as Chairman shall be paid such fees, allowances and expenses as the Minister determines.

Deputy member

'183DD. (1) The Minister may appoint a person, on the nomination of an organization referred to in sub-section (4) of section 183DA, to be the deputy of the member referred to in paragraph (b) of sub-section (1) of that section during the pleasure of the Minister and the person so appointed shall, in the event of the absence of the member from a meeting of the Committee, be entitled to attend that meeting and, when so attending, shall be deemed to be a member of the Committee.

'(2) Where the Minister specifies an office in the Department of Business and Consumer Affairs for the purposes of this sub-section, the person for the time being holding, or performing the duties of, that office shall be the deputy of the member referred to in paragraph (c) of sub-section (1) of section 183DA and that person shall, in the event of the absence of that member from a meeting of the Committee, be entitled to attend that meeting and, when so attending, shall be deemed to be a member of the Committee.

'(3) A deputy of the member referred to in paragraph (b) of sub-section (1) of section 183DA shall be paid such fees, allowances and expenses as the Minister determines.'

Customs agent affected by investigations to be given notice

"10D. Section 183J of the Principal Act is amended—

- (a) by omitting from sub-section (1) 'The Chairman of a Committee' and substituting 'Where an application is referred to the Committee under section 183CB or a question is referred to the Committee under section 183CQ, the Chairman of the Committee';
- (b) by omitting from sub-section (1) 'the matter referred to the Committee' and substituting 'the reference of the application or question to the Committee';
- (c) by omitting from sub-section (1) 'the matter' (second occurring) and substituting 'the application or question';
- (d) by omitting from sub-section (1) 'the customs agent concerned in the matter' and substituting 'the person making the application or holding the licence to which the question relates, as the case may be,';
- (e) by omitting from sub-sections (2) and (3) 'the customs agent' (wherever occurring) and substituting 'the person'; and
- (f) by adding at the end thereof the following sub-section:

'(4) Where an application is referred to the Committee under section 183CB or a question is referred to the Committee under section 183CQ, the Chairman of the Committee may cause a notice in writing of the reference of the application or question to the Committee, and of the time and place at which the Committee intends to hold an inquiry into the application or question, to be served on such other persons who, in the opinion of the Chairman, have a special interest in, or are specially affected by, the inquiry.'

Arrest of witness failing to appear

"10E. Section 183M of the Principal Act is repealed.

Offences by witness

"10F. Section 183P of the Principal Act is amended by omitting 'Two Hundred dollars or imprisonment for six months' and substituting '\$1,000'.

“10G. Section 183Q of the Principal Act is repealed and the following section substituted:

Statements by witness

‘183Q. A person is not excused from answering a question or producing a book or document when required to do so under section 183P on the ground that the answer to the question, or the production of the book or document, might tend to incriminate him or make him liable to a penalty, but his answer to any such question is not admissible in evidence against him in proceedings other than proceedings for—

- (a) an offence against paragraph (b) or (c) of section 183P; or
- (b) an offence in connection with the making by him of a statement in an examination before the Committee under section 183N.’.”

Amendments—

Clause 21—

Proposed section 273G—

Page 20, sub-section (1), at the end of paragraph (j) add “and”.

Page 20, sub-section (1), omit paragraphs (k) and (l), substitute the following paragraph:

“(k) a decision of the Minister, the Comptroller, or a Collector for the purposes of Part XI.”

Page 21, omit sub-section (8).

Page 21, line 5, omit “(9)”, substitute “(8)”.

New clause—

Page 21, after clause 23, insert the following new clause:

Additional Amendments

“23A. The Principal Act is amended as set out in the Schedule to this Act.”.

Amendment—

Clause 24, page 21, line 33, omit “Act”, substitute “section”.

New Schedule—

Page 21, after clause 24, insert the following new Schedule:

“SCHEDULE

Section 23A

“ADDITIONAL AMENDMENTS OF PRINCIPAL ACT

1. The following provisions of the Principal Act are amended by omitting ‘a Committee’ (wherever occurring) and substituting ‘the Committee’:

Sections 183G, 183H, 183K, 183P, 183R, 183S, 183T and 183U.

2. The following provisions of the Principal Act are amended by omitting ‘A Committee’ and substituting ‘The Committee’:

Sections 183F, 183K and 183N.

3. The Principal Act is further amended as set out in the following table:

Provision	Amendment
Section 183E	Omit ‘Committees’, substitute ‘the Committee’.
Sub-section 183J (2)	(a) omit ‘the next succeeding sub-section’, substitute ‘sub-section (3)’.
	(b) omit ‘the last preceding sub-section’, substitute ‘sub-section (1)’.”.

Bill, as amended, agreed to.

Bill to be reported with amendments.

The House resumed; Mr Millar reported accordingly.

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

- 11 **MIGRATION AMENDMENT BILL 1980:** 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 Mr Garland (Minister for Business and Consumer Affairs), the Bill was read a third time.

- 12 **BROADCASTING AND TELEVISION AMENDMENT BILL 1980:** 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 Dr Cass who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “the Bill be withdrawn and re-drafted to provide for a Public Broadcasting Authority instead of an Independent and Multicultural Broadcasting Corporation, such Authority—

- (a) to be charged with the responsibility of developing new and innovative forms of programming of the highest standards to foster an Australian national and cultural identity reflecting the diversity of the social, ethnic, geographic and cultural backgrounds of the Australian community;
- (b) to be responsible for the provision of ethnic broadcasting services in both radio and television;
- (c) to allow specific interest groups participating in such an Authority to be responsible for programs, and
- (d) to be provided with adequate government funds to assist all public broadcasting”.

Mr Howe addressing the House—

Adjournment negated: It being 10.30 p.m.—The question was proposed—That the House do now adjourn.

Mr Staley (Minister for Post and Telecommunications) requiring the question to be put forthwith without debate—
Question—put and negated.

Mr Howe continued his speech.

Amendment negated.

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

Mr Staley, for Mr Viner (Leader of the House), pursuant to notice, moved—That this Bill be referred to a legislation committee for report by 14 May 1980.

Question—put and passed.

- 13 **BROADCASTING AND TELEVISION AMENDMENT BILL 1980—LEGISLATION COMMITTEE:** Mr Deputy Speaker informed the House of the following nominations of Members to be members of the legislation committee to consider the Broadcasting and Television Amendment Bill 1980:

Government Members:

Mr Staley (Minister for Post and Telecommunications) (Member in charge of the Bill), Mr E. C. Cameron, Mr Corbett, Mr Cotter, Mr Dean, Mr Falconer, Mr Jull, Mr Katter, Mr MacKenzie, Mr Simon and Mr Wilson.

Opposition Members:

Mr Bryant, Dr Cass, Mr Innes, Mr B. O. Jones and Dr Klugman.

- 14 **ADJOURNMENT:** Mr Staley (Minister for Post and Telecommunications) moved—That the House do now adjourn.
Debate ensued.

The House continuing to sit until 11 p.m.—Mr Deputy Speaker adjourned the House until tomorrow at 10.30 a.m.

PAPERS: The following papers were deemed to have been presented on 30 April 1980, pursuant to statute:

Australian Bureau of Statistics Act—Australian Bureau of Statistics—Proposal for collection of information—1980—No. 1—New topics to be included in the population survey: May 1980.

Judiciary Act—Rule of Court—Statutory Rules 1980, No. 88.

Public Service Act—Appointment—Department of Social Security—T. C. Agius.

MEMBERS PRESENT: All Members were present (at some time during the sitting) except Mr D. M. Cameron, Mr Fisher, Mr Howard and Mr L. K. Johnson.

J. A. PETTIFER,

Clerk of the House of Representatives