

## THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

## HOUSE OF REPRESENTATIVES

## VOTES AND PROCEEDINGS

No. 184

WEDNESDAY, 3 JUNE 1987

- 1 The House met, at 10 a.m., pursuant to adjournment. Madam Speaker (the Honourable Joan Child) took the Chair, and read Prayers.
- 2 **POSTPONEMENT OF NOTICE:** Ordered—That notice No. 1, government business, be postponed until a later hour this day.
- 3 **OCCUPATIONAL SUPERANNUATION STANDARDS BILL 1987:** The House, according to order, resolved itself into a committee of the whole for the further consideration of the Bill.

*In the committee*

Clauses 4 to 6, by leave, taken together.

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

Clause 4, page 4, omit subclauses (3) and (4).

Clause 5, page 4, line 43, and page 5, line 1, omit "regulations for the purpose of subsection 7 (1) prescribing".

Clause 6, page 5, lines 43 and 44, omit "regulations for the purposes of subsection 8 (1) prescribing".

Debate continued.

Amendments negatived.

Clauses agreed to.

Clause 7—

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

Page 6, omit subclause (1), substitute the following subclause:

"(1) Standards applicable to the operation of superannuation funds shall be such as are prescribed by this Act or any other Act."

Page 6, line 12, omit "may", substitute "shall".

Debate continued.

Amendments negatived.

Mr Carlton moved the following amendment:

Page 6, subclause (2), after paragraph (j) insert the following paragraph:

"(ja) the levels of administrative fees, commissions or other deductions which may be payable from amounts contributed to superannuation funds;"

Debate continued.

Amendment negatived.

Clause agreed to.

Clause 8—

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

Page 6, omit subclause (1), substitute the following subclause:

"(1) Standards applicable to the operation of approved deposit funds shall be such as are prescribed by this Act or any other Act."

Page 6, line 41, omit "may", substitute "shall".

Debate continued.

Amendments negatived.

Clause agreed to.

Clauses 9 to 15, by leave, taken together, and agreed to.

Clause 16—

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

Page 13, line 25, omit "21", substitute "60".

Page 13, omit subclause (4), substitute the following subclause:

"(4) Where the Commissioner does not confirm, revoke or vary a decision before the expiration of the period of 60 days after the day on which the Commissioner received the request under subsection (1) to reconsider the decision, the Commissioner shall, upon the expiration of that period, be deemed to have revoked the decision under subsection (3).".

Page 14, omit subclause (7).

Debate continued.

Amendments negatived.

Clause agreed to.

Remainder of Bill, by leave, taken as a whole, and agreed to.

Bill to be reported without amendment.

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The House resumed; Mr McLeay reported accordingly.

On the motion of Mr Hurford (Minister Assisting the Treasurer), the House adopted the report, and, by leave, the Bill was read a third time.

**4 INSURANCE AND SUPERANNUATION COMMISSIONER BILL 1987:** 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.

The House resolved itself into a committee of the whole.

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*In the committee*

Bill, by leave, taken as a whole.

Mr Blunt moved the following amendment: Clause 6, page 3, line 3, omit "7", substitute "5".

Debate continued.

Amendment negatived.

Bill agreed to.

Bill to be reported without amendment.

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The House resumed; Mr McLeay reported accordingly.

On the motion of Mr Hurford (Minister Assisting the Treasurer), the House adopted the report, and, by leave, the Bill was read a third time.

**5 INSURANCE AND SUPERANNUATION COMMISSIONER (CONSEQUENTIAL PROVISIONS) BILL 1987:** 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 Hurford (Minister Assisting the Treasurer), the Bill was read a third time.

**6 DEPARTMENT OF AVIATION CENTRAL TRAINING COLLEGE, ACT—APPROVAL OF WORK:** Mr West (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 Department of Aviation Central Training College, ACT.

Debate ensued.

Question—put and passed.

- 7 ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT BILL (NO. 3) 1987:** The order of the day having been read for the second reading—Mr Holding (Minister for Aboriginal Affairs) moved—That the Bill be now read a second time.

*Paper:* Mr Holding presented an explanatory memorandum to the Bill.

Debate ensued.

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

- 8 SUSPENSION OF STANDING AND SESSIONAL ORDERS—MOTION OF CENSURE OF THE LEADER OF THE OPPOSITION:** Mr Young (Leader of the House) moved—That so much of the standing and sessional orders be suspended as would prevent the Prime Minister moving forthwith a motion of censure of the Leader of the Opposition.

Question—put and passed, with the concurrence of an absolute majority.

- 9 LEADER OF THE OPPOSITION—RESOLUTION OF CENSURE:** Mr Hawke (Prime Minister) moved—That this House censures the Leader of the Opposition for his attempts to deceive the Australian people about the status of the policies which he will present to the electorate in the coming weeks.

Debate ensued.

Question—put.

The House divided (the Speaker, Mrs Child, in the Chair)—

AYES, 78

Mr Baldwin	Mr Dubois	Mrs Jakobsen	Mr P. F. Morris
Mr Beazley	Mr Duffy	Mr Jenkins	Mr Mountford
Mr Beddall	Mr Duncan	Mr Jones	Mr O'Keefe
Mr Bilney	Mr R. F. Edwards	Mr Keating	Mr O'Neil
Mr Blanchard	Ms Fatin	Mrs Kelly	Mr Price
Dr Blewett	Mr Fitzgibbon	Mr Kent	Mr Punch
Mr Bowen	Mr Free	Mr Kerin	Mr Saunderson
Mr J. J. Brown	Mr Gayler	Dr Klugman	Mr Scholes
Mr R. J. Brown	Mr Gear	Mr Lamb	Mr Scott
Mr Brumby	Mr Gorman	Mr Langmore	Mr Simmons
Mr Campbell	Mr Grace	Mr Lee	Mr Snow
Mr Charles	Mr Griffiths	Mr Lindsay	Dr Theophanous
Dr Charlesworth	Mr Hand	Ms McHugh	Mr Tickner
Mr Chynoweth	Mr Hawke	Mr McLeay	Mr Uren
Mr Cleeland	Mr Hayden	Mr Maher	Mr West
Mr Cohen	Mr Holding	Mr Martin	Mr Willis
Mr Cross	Mr Hollis	Mrs Mayer	Mr Wright
Mr Cunningham*	Mr Howe	Mr Mildren	Mr Young
Mrs Darling	Mr Humphreys*	Mr Milton	
Mr Dawkins	Mr Hurford	Mr A. A. Morris	

## NOES, 58

Mr Adermann	Mr Conquest	Mr Howard	Mr Robinson
Mr Aldred	Mr Cowan	Mr Hunt	Mr Rocher
Mr Andrew*	Mr Dobie	Mr Jull	Mr Ruddock
Mr Beale	Mr Downer	Mr Katter	Mr Shack
Mr Blunt	Mr Everingham	Mr Lloyd	Mr Sharp
Mr Braithwaite	Mr Fife	Mr McArthur	Mr Shipton
Mr N. A. Brown	Mr T. A. Fischer	Mr MacKellar	Mr Sinclair
Mr Burr	Mr P. S. Fisher	Mr McVeigh	Mr Smith
Mr Cadman	Mr Goodluck	Mr Macphee	Mr Spender
Mr D. M. Cameron	Mr Hall	Mr Miles	Mrs Sullivan
Mr E. C. Cameron	Mr Halverson	Mr Millar	Mr Tuckey
Mr I. M. D. Cameron	Mr Hawker	Mr Nehl	Mr White
Mr Carlton	Mr Hicks*	Mr Peacock	Mr Wilson
Mr Cobb	Mr Hodges	Mr Porter	
Mr Connolly	Mr Hodgman	Mr Reith	

\* Tellers

And so it was resolved in the affirmative.

**10 EFFICIENCY AUDITS—REPORTS OF AUDITOR-GENERAL—PUBLICATION OF PAPERS:** Madam Speaker presented the following papers:

Efficiency audits—Reports of the Auditor-General, dated 2 June 1987—

Australian Customs Service: Licensing and administration of customs agents, and

Department of Employment and Industrial Relations: Community Employment Program.

Mr Young (Leader of the House), by leave, moved—

(1) That this House, in accordance with the provisions of the *Parliamentary Papers Act 1908*, authorises the publication of the Reports of the Auditor-General, dated 2 June 1987, upon efficiency audits of—

Australian Customs Service: Licensing and administration of customs agents, and

Department of Employment and Industrial Relations: Community Employment Program, and

(2) That the reports be printed.

Question—put and passed.

**11 NEW PARLIAMENT HOUSE—JOINT STANDING COMMITTEE—REPORT:** Madam Speaker presented the following report from the Joint Standing Committee on the New Parliament House:

Proposed works in the Parliamentary Zone—Traffic control signals—Report.

Minutes of proceedings.

Ordered—That the report be printed.

**12 PAPERS:** The following papers were presented:

Administrative Review Council—Reports—

No. 27—Access to administrative review, Stage 1: Notification of decisions and rights of review—

Copy of letter from Dr C. A. Saunders, Chairman, Administrative Review Council to Mr Bowen, Attorney-General, dated 13 March 1987.

Report.

No. 28—Review of customs and excise decisions, Stage 3: Anti-dumping and countervailing duty decisions.

Canned Fruits Marketing Act—Australian Canned Fruits Corporation—Report and financial statements, together with the Auditor-General's Report, for 1986.

Code of conduct for Australian companies with interests in the Republic of South Africa—First report of the Administrator, dated March 1987.

- Commonwealth programs and policy development for schools 1988—Report by Commonwealth Schools Commission.
- International Labour Organisation—International Labour Conference—71st session, 1985—Report of the Australian Delegation.
- Inter-State Commission Act—Inter-State Commission—Review of the financial performance of the Australian National Line—Report, dated March 1987.
- Law Reform Commission Act—Law Reform Commission—Reports—  
No. 35—Contempt.  
No. 37—Spent convictions.
- Marine Research Allocations Advisory Committee—Report on Marine Sciences and Technologies Grants for 1987.
- Metal and electrical trades—Report of the Australian tripartite mission which studied the level and scope of trade skills, the application of those trade skills, relevant training and classification of skilled workers in Austria, Italy and Yugoslavia in those trades in 1984.
- Official Establishments Trust—Report for 1985-86.
- Student Assistance Act—Report by Minister on operation of Act, for 1986.
- Trade testing facilities—Report of the Australian tripartite mission which investigated the feasibility of establishing facilities in Austria, Italy and the Socialist Federal Republic of Yugoslavia to enable potential immigrants to have their skills assessed before leaving for Australia.

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

- Mr Adermann, Mr Blunt, Mr D. M. Cameron, Mr Cleeland, Mr Cowan and Mr Tickner—from certain citizens praying that the pension discounting effect of the Superannuation and Other Benefits Legislation Amendment Act be limited to restore the base level for pension adjustment and certain other action be taken in relation to the Commonwealth Occupational Superannuation Schemes.
- Mr Beale, Mr Kent, Mr Saunderson and Mr Scott—from certain citizens praying that importation of cobalt 60 and other radioactive substances be banned and regulations permitting irradiation of food in Australia be disallowed.
- Mr Blunt and Mr Slipper—from certain residents of the Divisions of Richmond and Fisher, respectively, praying that prescription drugs continue to be provided to pensioners without fee.
- Mr D. M. Cameron and Mrs Sullivan—from certain citizens praying that the proposed introduction of a \$2 coin not proceed.
- Mr Charles and Mr Lloyd—from certain citizens praying that the Flags Amendment Bill receive a speedy passage.
- Mr T. A. Fischer and Mr Ruddock—from certain citizens praying that the Department of Veterans' Affairs remain a separate department.
- Mr Andrew—from certain residents of the Division of Wakefield praying that Telecom not charge for the total time spoken on local calls.
- Mr Beale—from certain citizens praying that any capital gains tax legislation be rejected.
- Mr Blanchard—from certain citizens praying that certain action be taken to prevent France from testing nuclear devices in the Kerguelen Islands.
- Mr Blunt—from certain residents of the Division of Richmond praying that the capital gains tax be repealed.
- Mr Connolly—from certain citizens praying that the Killarney Heights post office agency, NSW, not be closed.
- Dr H. R. Edwards—from certain citizens praying that the fringe benefits tax legislation be repealed.
- Mr Hawker—from certain citizens praying that the assets test on pensions be repealed.

- Mr Humphreys—from certain citizens praying that Australian diplomatic representation in Lebanon be re-established.
- Mrs Jakobsen—from certain citizens praying that new initiatives be taken to encourage all member states of the United Nations to conclude a treaty banning all nuclear weapons tests and that certain other action be taken in relation to nuclear weapons tests.
- Mr Kent—from certain citizens praying that the Government support the stand taken by the New Zealand Government on nuclear vessels and that the policy of developing zones of peace and nuclear free zones in the Indian and Pacific Oceans be implemented.
- Mr Kent—from certain citizens praying that any proposal for a national identification numbering system be rejected.
- Mr Lamb—from certain citizens praying that the national flag not be changed except by a referendum.
- Mr Nehl—from certain citizens praying that funding be provided to improve the Pacific Highway between Port Macquarie and Woolgoolga, NSW.
- Mr Slipper—from certain citizens praying that the closure of post office agencies be prevented and their services be extended.
- Mr Slipper—from certain residents of the Division of Fisher praying that the deletion of the 45 commonly prescribed drugs from the Pharmaceutical Benefits Scheme be reconsidered.
- Mr Slipper—from certain residents of the Division of Fisher praying that family allowances be restored to 1976 real values and certain other action be taken in relation to family incomes.
- Mr Slipper—from certain residents of the Division of Fisher praying that the Australian Bill of Rights Bill be repealed.
- Mr Slipper—from certain residents of the Division of Fisher praying that home loan interest rates be tax deductible.
- Mr Slipper—from certain residents of the Division of Fisher praying that the assets test be reconsidered.
- Mr Slipper—from certain residents of the Division of Fisher praying that pharmaceutical benefits be restored to their former level.
- Mr Slipper—from certain residents of the Division of Fisher praying that means be sought for the protection of the people's interests to reverse the decision to hand Ayers Rock over to an Aboriginal Land Council.
- Mr Slipper—from certain residents of the Division of Fisher praying that the capital gains tax proposal be abandoned.
- Mr Slipper—from certain residents of the Division of Fisher praying that the right to work be acknowledged and protected and that certain other action be taken to protect workers.
- Mr Slipper—from certain residents of the Division of Fisher praying that the existing national flag remain sacrosanct.
- Mr Slipper—from certain residents of the Division of Fisher praying that unemployed people in the CES district serving Caboolture, Qld, be allowed to lodge their completed unemployment benefits forms at the Caboolture Job Centre.
- Mr Slipper—from certain residents of Queensland praying that the further means testing of veterans' disability pensions not proceed.
- Mr Slipper—from certain residents of Queensland praying that public funding for projects which are undesirable or of dubious worth be halted.
- Mr Slipper—from certain residents of Queensland praying that the fringe benefits tax be abandoned.
- Mr Tickner—from certain citizens praying that pension adjustments related to November and May CPI increases not be deferred but paid immediately.

Petitions received.

**14 MESSAGES FROM THE SENATE:** Messages from the Senate were reported returning the following Bills without amendment:

2 June 1987—Message—

No. 455—Communications Legislation Amendment 1987.

No. 456—Radio Licence Fees Amendment 1987.

No. 457—Television Licence Fees Amendment (No. 2) 1987.

No. 458—Broadcasting Amendment (No. 2) 1987.

3 June 1987—Message—

No. 460—Ships (Capital Grants) 1987.

No. 461—Ministers of State Amendment 1987.

No. 462—Defence Legislation Amendment 1987.

**15 MESSAGES FROM THE GOVERNOR-GENERAL—ASSENT TO BILLS:** Messages from His Excellency the Governor-General were announced informing the House that His Excellency, in the name of Her Majesty, had assented to the following Bills:

2 June 1987—Message—

No. 259—

Appropriation (Parliamentary Departments) (No. 2) 1986-87.

Appropriation (No. 3) 1986-87.

Appropriation (No. 4) 1986-87.

Supply (Parliamentary Departments) 1987-88.

Supply (No. 1) 1987-88.

Supply (No. 2) 1987-88.

No. 260—Aboriginal Land (Lake Condah and Framlingham Forest) 1987.

**16 PROPOSED DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—MEDICARE:**

The House was informed that Mr Porter had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The growing community outrage at the increases in the cost of Medicare which needs fundamental changes to ensure all Australians have access to affordable high quality health care".

The proposed discussion having received the necessary support—

Mr Young (Leader of the House) moved—That the business of the day be called on.

Question—put.

The House divided (the Deputy Speaker, Mr McLeay, in the Chair)—

AYES, 73

Mr Baldwin	Mr Dubois	Mr Jenkins	Mr O'Keefe
Mr Beazley	Mr Duffy	Mr Jones	Mr O'Neil
Mr Beddall	Mr Duncan	Mrs Kelly	Mr Price
Mr Bilney	Mr R. F. Edwards	Mr Kent	Mr Punch
Mr Blanchard	Ms Fatin	Mr Kerin	Mr Sanderson
Dr Blewett	Mr Fitzgibbon	Dr Klugman	Mr Scholes
Mr Bowen	Mr Free	Mr Lamb	Mr Scott
Mr J. J. Brown	Mr Gear	Mr Langmore	Mr Simmons
Mr R. J. Brown	Mr Gorman	Mr Lee	Mr Snow
Mr Brumby	Mr Grace	Mr Lindsay	Dr Theophanous
Mr Campbell	Mr Griffiths	Ms McHugh	Mr Tickner
Mr Charles	Mr Hand	Mr Maher	Mr Uren
Dr Charlesworth	Mr Hayden	Mr Martin	Mr West
Mr Chynoweth	Mr Holding	Mrs Mayer	Mr Willis
Mr Cleeland	Mr Hollis	Mr Mildren	Mr Wright
Mr Cross	Mr Howe	Mr Milton	Mr Young
Mr Cunningham*	Mr Humphreys*	Mr A. A. Morris	
Mrs Darling	Mr Hurford	Mr P. F. Morris	
Mr Dawkins	Mrs Jakobsen	Mr Mountford	

## NOES, 54

Mr Adermann	Mr Connolly	Mr Hodges	Mr Reith
Mr Aldred	Mr Conquest	Mr Hodgman	Mr Rocher
Mr Andrew*	Mr Cowan	Mr Hunt	Mr Ruddock
Mr Beale	Mr Dobie	Mr Jull	Mr Sharp
Mr Blunt	Mr Downer	Mr Katter	Mr Shipton
Mr Braithwaite	Mr Everingham	Mr McArthur	Mr Sinclair
Mr N. A. Brown	Mr Fife	Mr MacKellar	Mr Smith
Mr Burr	Mr T. A. Fischer	Mr McVeigh	Mr Spender
Mr Cadman	Mr P. S. Fisher	Mr Macphee	Mrs Sullivan
Mr D. M. Cameron	Mr Goodluck	Mr Miles	Mr Tuckey
Mr E. C. Cameron	Mr Hall	Mr Millar	Mr White
Mr I. M. D. Cameron	Mr Halverson	Mr Nehl	Mr Wilson
Mr Carlton	Mr Hawker	Mr Peacock	
Mr Cobb	Mr Hicks*	Mr Porter	

\* Tellers

And so it was resolved in the affirmative.

- 17 **ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT BILL (NO. 3) 1987:** 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.

Ordered—That Mr Hand be granted an extension of time.

Debate continued.

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

The House resolved itself into a committee of the whole.

*In the committee*

Clauses 1 and 2, by leave, taken together, and agreed to.

Clause 3 postponed until after clause 5.

Clause 4—

Mr Connolly moved the following amendment: Page 2, line 37, omit “ ‘42, 43, 44, 46, 48A, 48B or 48D,’ ”, substitute “ ‘41,’ ”.

Amendment negatived.

Clause agreed to.

Clause 5—

Mr Connolly moved the following amendment: Pages 2-24, omit the clause, substitute the following clause:

“5. Part IV of the Principal Act is repealed and the following part is substituted:

**‘PART IV—MINING INTERESTS AND MINING OPERATIONS**

**Interpretation**

‘40. (1) A reference in this Part to the warden’s court is a reference to the warden’s court established by the *Mining Act* of the Northern Territory at a place closest to the land to which the reference relates and includes a reference to the warden constituting that court.

‘(2) A reference in this Part to a mining interest includes, where the context so requires, a reference to the land to which the mining interest relates.

**Grant of mining interests**

‘41. (1) Subject to this Act and the *Atomic Energy Act 1953*, a mining interest in respect of Aboriginal land may be granted under a law of the Northern Territory relating to mining for minerals.

‘(2) A mining interest in respect of Aboriginal land shall not be granted unless the applicant for the mining interest has first entered into an agreement in writing with the Land Council in whose area the Aboriginal land is situated relating to:

(a) the compensation to be paid on the granting of the mining interest;



- (b) the guidelines to be adopted after the granting of the mining interest in relation to the identification and protection of sacred sites; and
- (c) the employment opportunities to be offered to Aboriginals in the operations to be conducted under the mining interest.

**Agreement provisions**

'42. (1) An agreement referred to in section 41:

- (a) shall make provision for the distribution of monies paid to the Land Council under the agreement to or for the benefit of such traditional Aboriginal owners as are specified in the agreement;
- (b) may make provision for the applicant for the mining interest to lodge with the Land Council a security in such form, for such amount and from such person as the Land Council thinks fit, to secure the applicant's compliance with the conditions referred to in section 47;
- (c) may make provision for a process of arbitration, in accordance with a law of the Northern Territory relating to commercial arbitration, to determine disputes relating to compliance with the conditions referred to in section 47 and failing such provision in the agreement, the parties to the agreement shall be deemed to have appointed a warden constituting the warden's court as the arbitrator under that law of the Northern Territory in respect of such disputes; and
- (d) may provide that where a condition referred to in section 47 requires the holder of the mining interest to do anything in relation to the mining interest and the holder does not, within the time provided in the condition, do that thing, the Land Council or a person authorised by the Land Council may enter on the mining interest with such assistance as, and take whatever action, the Land Council or that person, as the case may be, considers necessary for doing that thing, and the costs reasonably incurred by the Land Council or that person in so doing shall be a debt due and payable by the holder of the mining interest to the Land Council or that person, as the case may be, whether or not at the time that the thing was done by the Land Council or that person the mining interest had been cancelled, forfeited or surrendered or had expired.

'(2) A condition referred to in paragraph (1) (d) shall not entitle the Land Council, or a person authorised by it, to take any action in pursuance of the condition until the grounds on which the Land Council claims to be entitled to take or authorise the taking of such action have been referred to arbitration under a condition referred to in paragraph (1) (c), the arbitrator has determined that the holder of the mining interest is required under the agreement to do the thing to which the matter relates and the further time (if any) determined by the arbitrator for the holder of the mining interest to do that thing has expired.

**Aboriginal consultation**

'43. (1) In consulting with traditional Aboriginal owners in accordance with the requirements of subsection 23 (3) in relation to an application for a mining interest referred to in this Part, the Land Council shall ensure that the applicant is given an opportunity to present to the traditional Aboriginal owners for their consideration, in such form and manner as may be prescribed, an explanation of the purposes for which the mining interest is required and the operations to be conducted thereunder.

'(2) Where a Land Council entering into an agreement referred to in section 41 fails to comply in all respects with subsection 23 (3) in relation to the Aboriginal land to which the agreement relates, that failure does not of itself invalidate the agreement.

'(3) Where a Land Council, by reason of not being able to identify all of the relevant traditional Aboriginal owners of land, is unable to comply with

the requirements of subsection 23 (3) within 12 months after being notified in writing by the applicant for a mining interest of the applicant's wish to commence negotiations for an agreement referred to in section 41, the Land Council shall, in accordance with this Act and subject to section 45, negotiate for and enter into the agreement with the applicant and all monies subsequently paid under the agreement to the Land Council for the benefit of the traditional Aboriginal owners shall be held in trust for those traditional Aboriginal owners by the Land Council pending the identification of those traditional Aboriginal owners by it.

#### **Determination of compensation**

'44. (1) The compensation to be paid under an agreement referred to in section 41 shall be limited to compensation:

- (a) for the traditional Aboriginal owners being deprived of the use of the surface or part of the surface of the land;
- (b) for the effect that the carrying out of exploration and mining activities on the land may have on:
  - (i) the preservation and protection of the lifestyle, culture and traditions of the traditional Aboriginal owners of the land;
  - (ii) the social, cultural and economic structures of those owners; and
  - (iii) the freedom of access of those owners and their freedom to carry out, in accordance with tradition, rites, ceremonies and other activities on the land;
- (c) for damage to the surface of the land through exploration or mining activities conducted on the land;
- (d) for the traditional Aboriginal owners being deprived of the use of improvements on the land;
- (e) for the severance of the land from other land held in trust for or occupied by the traditional Aboriginal owners; and
- (f) for all other damage to the land or improvements on the land arising out of operations to be conducted under the mining interest.

'(2) In determining the amount of compensation to be paid under an agreement referred to in section 41, no account shall be taken of minerals known or supposed to be on or under the land or of the giving of consent to the agreement.

#### **Arbitration on agreement**

'45. (1) Where a Land Council and the applicant for a mining interest in respect of Aboriginal land cannot agree on the terms and conditions of an agreement referred to in section 41 within 12 months after the applicant having notified the Land Council in writing of the applicant's wish to commence negotiations for such an agreement or within that time the Land Council refuses or fails to enter into such negotiations, either the Land Council or the applicant may refer the matter to the warden's court for its determination of the appropriate terms and conditions of the agreement.

'(2) In determining the terms and conditions of the agreement referred to in subsection (1), the warden's court shall have regard only to the requirements of sections 41, 42 and 43 in relation to the terms and conditions to be agreed upon and shall determine as appropriate only those terms and conditions that, in its opinion, should in the circumstances be acceptable to the Land Council and to the applicant and the determination of the warden's court is binding on the Land Council and the applicant.

'(3) In determining a term or condition of an agreement referred to in section 41 requiring a security to be lodged by the applicant for the mining interest to secure the applicant's compliance with the conditions referred to in section 47, the warden's court shall take into account any security that the applicant may be required to lodge under a law of the Northern Territory relating to mining for minerals in respect of the mining interest and shall

make its determination so that, as far as practicable, the applicant is not required to provide more than one security in respect of the same matter.

**Applicant for mining interest not bound to proceed with application**

'46. An agreement referred to in section 41 shall not be construed so as to compel the applicant for the mining interest to which the agreement relates to proceed with the application.

**Implied conditions etc. in grant**

'47. In addition to the terms and conditions subject to which a mining interest in respect of Aboriginal land is granted, that mining interest shall be subject to the conditions that:

- (a) the holder of the mining interest or the holder's employees, servants or agents shall not unlawfully interfere with any historical site or object, or any Aboriginal sacred site or object, declared as such by or under a law of the Northern Territory;
- (b) the holder of the mining interest shall keep to a minimum the number of people associated with the exploration or development on the land to which the mining interest relates;
- (c) except for the purposes of consumption by its employees, servants, agents, contractors or sub-contractors at its camps, the holder of the mining interest shall not bring or permit to be brought onto the mining interest any alcohol;
- (d) the holder of the mining interest shall not bring or permit to be brought onto the mining interest firearms of any kind or, except with the prior consent of the Land Council, any animal;
- (e) the holder of the mining interest shall at all times give full consideration to the aspirations and welfare of the local Aboriginals and co-operate with the traditional Aboriginal owners and not interfere with the growth and development of the Aboriginal social, cultural and economic structures on the mining interest;
- (f) the holder of the mining interest shall employ and engage, and shall ensure that its agents, contractors and sub-contractors employ and engage, as many Aboriginals or Incorporated Aboriginal Associations or groups associated with the mining interest as is practicable who are capable of carrying out, or being trained (including by on-the-job training) to carry out, in a satisfactory manner, the particular work required to be carried out in relation to the mining interest at the usual award rates for the type of work performed and subject to the usual conditions of employment;
- (g) the holder of the mining interest shall progressively rehabilitate and restore, as far as practicable, all areas disturbed by its activities in accordance with good environmental practice;
- (h) the holder of the mining interest shall liaise with the Land Council on the exploration or development programs in relation to the mining interest and discuss the possible relocation of proposed works and details of the program as it develops;
- (j) the holder of the mining interest shall, before carrying out a program involving substantial disturbance of the surface of the mining interest, advise the relevant Northern Territory authority and the Land Council, in writing, of that program and comply with such directions as the relevant Northern Territory authority considers appropriate for the protection of the environment in the carrying out of the program;
- (k) the holder of the mining interest shall advise the relevant Northern Territory authority and the Land Council, in writing, of the proposed location of all infrastructure facilities on the mining interest and the proposed method to be used in disposing of waste, and comply with

- such directions as the relevant Northern Territory authority considers appropriate in relation to the disposal of that waste;
- (m) the holder of the mining interest shall not erect a permanent building or facility on the mining interest except with the approval in writing of the relevant Northern Territory authority; and
  - (n) the holder of the mining interest shall comply with the terms and conditions of the agreement referred to in section 41 in relation to the mining interest.

#### **Access to Aboriginal land**

'48. Notwithstanding sections 68 and 70, where a person has the right under a law of the Northern Territory to occupy Aboriginal land by virtue of the grant of a mining interest, that person has for himself, his employees and his agents, a right of access from a public road to that land and across other parts of the Aboriginal land of which the mining interest is part and any contiguous Aboriginal land, by the shortest practicable route, being a route agreed upon by the person and the traditional Aboriginal owners of the land.

'(2) Where the traditional Aboriginal owners and the holder of a mining interest cannot agree on the route by which a right of access under subsection (1) may be exercised, the matter may be referred by those owners or the holder of the mining interest to the warden's court for determination and the decision of the warden's court in relation to that matter is binding.

#### **Right of way in respect of services etc.**

'48A. (1) The grant of a mining interest entitles the holder of the mining interest to a right of way over Aboriginal land for all reasonable ancillary purposes in connection with the operations to be conducted under the mining interests.

'(2) For the purposes of subsection (1), a right of way extends to access for or in connection with:

- (a) the erection and use of conveyor apparatus in connection with the transporting of minerals or substances containing minerals;
- (b) the erection of electricity lines;
- (c) the construction of roads;
- (d) the cutting and construction of water races or drains; and
- (e) the boring, sinking for, pumping, raising of or conveying of water.

'(3) Where the holder of a mining interest is entitled under subsection (1) to a right of way, that right of way may be exercised by a route agreed to by the holder of the mining interest and the traditional Aboriginal owners of the land.

'(4) Where the traditional Aboriginal owners and the holder of a mining interest cannot agree on the route by which a right of way under subsection (1) may be exercised, the matter may be referred by those owners or the holder of the mining interest to the warden's court for determination and the decision of the warden's court in relation to that matter is binding.

'(5) Compensation shall be payable by the holder of the mining interest to the relevant traditional Aboriginal owners in respect of a right of way under subsection (1).

'(6) The compensation to be paid under subsection (5) shall be determined on the same basis as under section 44 in respect of the grant of a mining interest.

'(7) Where an amount of compensation payable under subsection (5) cannot be agreed upon between the traditional Aboriginal owners and the holder of the mining interest, the traditional Aboriginal owners or the holder of the mining interest may refer the matter to the warden's court for determination and the decision of the warden's court in relation to that matter is binding.

'(8) A right of way under subsection (1) shall not be exercised until compensation has been paid in accordance with this section.

**Jurisdiction and supervision of warden's court**

'48B. Where, by or under this Part, a power is conferred or a function imposed on the warden's court, the warden's court has the jurisdiction to exercise that power or perform that function as if it had been conferred or imposed on it by or under the *Mining Act* of the Northern Territory and an appeal shall lie to the Supreme Court of the Northern Territory from a decision or determination of the warden's court under this Part in the same manner as an appeal against a decision of the warden's court under that Act.'".

Debate continued.

Amendment negatived.

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

Page 4, after proposed subsection 41 (5) insert the following subsection:

"'(5A) The applicant may cause a copy of the application to be sent to any Aboriginal community or group that may be affected by the grant of the licence provided that the application has first been submitted to the Land Council.'".

Page 5, proposed section 42, at the end of subsection (2) add the following word and paragraph:

“; and (c) agreed with the applicant that all the traditional Aboriginal owners (if any) of the land to which the application relates and all Aboriginal communities or groups that may be affected by the grant of the licence have been consulted.”.

Page 6, line 19, after “notify the applicant” insert “in writing”.

Page 21, at the end of proposed paragraph 48F (1) (a) add “or the Supreme Court of the Northern Territory”.

Amendments negatived.

Clause agreed to.

Postponed clause 3—

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

Page 2, line 21, after “holds” insert “, or has made an application for the grant of,”.

Page 2, after paragraph (b) insert the following paragraph:

“(ba) by inserting ‘, or for which an application has been made,’ after ‘granted’ in the definition of ‘mining interest’ in subsection (1);”.

Amendments negatived.

Clause agreed to.

Remainder of Bill, by leave, taken as a whole, and agreed to.

Bill to be reported without amendment.

The House resumed; Mr McLeay reported accordingly.

On the motion of Mr Holding (Minister for Aboriginal Affairs), the House adopted the report, and, by leave, the Bill was read a third time.

- 18 **ABORIGINAL AND TORRES STRAIT ISLANDER HERITAGE PROTECTION AMENDMENT BILL 1987—SENATE'S AMENDMENT:** The House, according to order, resolved itself into a committee of the whole to consider the amendment made by the Senate.

*In the committee*

**SCHEDULE OF THE AMENDMENT MADE BY THE SENATE**

Page 2, clause 2, lines 17 and 18, leave out “the day on which it receives the Royal Assent”, insert “a day to be fixed by Proclamation”.

On the motion of Mr Holding (Minister for Aboriginal Affairs), the amendment was agreed to.

Resolution to be reported.

The House resumed; Mr McLeay reported accordingly.

On the motion of Mr Holding, the House adopted the report.

- 19 **ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT BILL 1986—SENATE'S AMENDMENTS:** The House, according to order, resolved itself into a committee of the whole to consider the amendments made by the Senate.

*In the committee*

**SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE**

No. 1—Page 1, sub-clause 2 (1), line 9, leave out “sub-section (2)”, insert “this section”.

No. 2—Page 1, after sub-clause 2 (1), insert the following new sub-clause:

“(1A) Paragraph 23 (1) (ea) and sub-sections 50 (2D) and (2E) of the Principal Act inserted by this Act, and section 34, shall come into operation on a day, or on respective days, to be fixed by Proclamation.”

No. 3—Page 5, proposed paragraph 11 (1AF) (b), lines 23 and 24, leave out “referred to in sub-section 50 (2E)”, insert “to which sub-section 50 (2E) applies”.

On the motion of Mr Holding (Minister for Aboriginal Affairs), the amendments were agreed to.

Resolution to be reported.

The House resumed; Mr McLeay reported accordingly.

On the motion of Mr Holding, the House adopted the report.

- 20 **MESSAGE FROM THE SENATE—BROADCASTING AMENDMENT BILL 1986:** The following message from the Senate was reported:

Message No. 453

Madam Speaker,

The Senate returns to the House of Representatives the Bill for “*An Act to amend the 'Broadcasting Act 1942', and for related purposes*”, and acquaints the House that the Senate has agreed to the Bill with the Amendments indicated by the annexed Schedule, in which Amendments the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA  
President

The Senate,  
Canberra, 2 June 1987

Ordered—That the amendments be taken into consideration, in committee of the whole House, at a later hour this day.

- 21 **MESSAGE FROM THE SENATE—BROADCASTING (OWNERSHIP AND CONTROL) BILL 1987:** The following message from the Senate was reported:

Message No. 454

Madam Speaker,

The Senate returns to the House of Representatives the Bill for “*An Act to amend the 'Broadcasting Act 1942', and for related purposes*”, and acquaints the House that the Senate has agreed to the Bill with the Amendments indicated by the annexed Schedule, in which Amendments the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA  
President

The Senate,  
Canberra, 2 June 1987

Ordered—That the amendments be taken into consideration, in committee of the whole House, at a later hour this day.

22 MESSAGE FROM THE SENATE—SOCIAL SECURITY AMENDMENT BILL 1987: The following message from the Senate was reported:

Message No. 459

Madam Speaker,

The Senate returns to the House of Representatives the Bill for "*An Act relating to social security*", and acquaints the House that the Senate has agreed to the Bill with the Amendments indicated by the annexed Schedule, in which Amendments the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA  
President

The Senate,  
Canberra, 3 June 1987

Ordered—That the amendments be taken into consideration, in committee of the whole House, at the next sitting.

23 ADJOURNMENT: Mr Holding (Minister for Aboriginal Affairs) moved—That the House do now adjourn.

Question—put and passed.

And then the House, at 6.52 p.m., adjourned until tomorrow at 10 a.m.

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PAPERS: The following papers were deemed to have been presented on 3 June 1987:  
Environment Protection (Impact of Proposals) Act—Order pursuant to section 6, dated 29 May 1987.  
Navigation Act—Navigation (Orders) Regulations—Order—1987—No. 3—Marine, Part 16.  
Public Service Act—Determinations—1987—  
No. 15.  
No. 24 (*in substitution for paper presented on 26 May 1987*).

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MEMBERS PRESENT: All Members were present (at some time during the sitting) except Mr Coleman, Mr Drummond, Mr Jacobi, Mr Keogh, Mr Moore, Mr Staples, Dr Watson and Mr Webster.

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A. R. BROWNING  
Clerk of the House of Representatives