

## THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

## HOUSE OF REPRESENTATIVES

## VOTES AND PROCEEDINGS

No. 99

WEDNESDAY, 21 DECEMBER 1988

- 1 The House met, at 10.15 a.m., according to the terms of the resolution of 1 December last. Madam Speaker (the Honourable Joan Child) took the Chair, and read Prayers.
- 2 **PRIVILEGE—COMPLAINT OF BREACH:** Mr Sinclair (Leader of the National Party of Australia) raised, as a matter of privilege, statements by a member of the staff of the Leader of the House reported in the *Australian Financial Review* concerning the Government's intention to curtail debate at the sitting of the House on 21 December 1988.  
Madam Speaker stated that she would consider the matter and advise the House in due course.
- 3 **MESSAGES FROM THE SENATE:** Messages from the Senate were reported:
- (a) returning the following Bills without amendment:
- 1 December 1988—Message—
    - No. 243—States and Northern Territory Grants (Rural Adjustment) 1988.
    - No. 244—Triticale Levy 1988 (*without requests*).
    - No. 245—Triticale Levy Collection 1988.
    - No. 246—Rural Industries Research Amendment 1988.
    - No. 247—Wheat Marketing Amendment 1988.
    - No. 248—Petroleum Excise (Prices) Amendment 1988.
    - No. 249—Primary Industries and Energy Legislation Amendment 1988.
  - 2 December 1988, a.m.—Message—
    - No. 250—Appropriation (No. 1) 1988-89 (*without requests*).
    - No. 251—Appropriation (No. 2) 1988-89.
  - 7 December 1988—Message No. 252—Income Tax Rates Amendment 1988.
  - 8 December 1988—Message—
    - No. 256—National Crime Authority Amendment 1988.
    - No. 257—Law and Justice Legislation Amendment 1988.
    - No. 259—Australian Industry Development Corporation Amendment 1988.
  - 9 December 1988, a.m.—Message No. 260—Defence Service Homes Amendment 1988.
  - 12 December 1988—Message—
    - No. 261—ANL (Conversion into Public Company) 1988.
    - No. 262—OTC (Conversion into Public Company) 1988.
    - No. 263—Australian National Railways Commission Amendment 1988.
    - No. 264—Satellite Communications Amendment 1988.
    - No. 265—Telecommunications Amendment 1988.
    - No. 266—Postal Services Amendment 1988.
    - No. 267—Government Business Enterprises (Miscellaneous Reforms) 1988.
    - No. 268—Superannuation Amendment 1988.

## 13 December 1988—Message—

No. 269—Social Security Legislation Amendment 1988.

No. 270—Social Security and Veterans' Affairs Legislation Amendment 1988.

No. 271—Veterans' Affairs Legislation Amendment 1988.

No. 272—Child Support Amendment 1988.

No. 273—Loans Securities Amendment 1988.

## 14 December 1988—Message—

No. 275—States Grants (Schools Assistance) Amendment (No. 2) 1988.

No. 278—Higher Education Funding Amendment 1988.

No. 279—Overseas Students Charge Amendment 1988.

No. 280—Overseas Students Charge Collection Amendment 1988.

## 16 December 1988—Message—

No. 281—Australian Security Intelligence Organization Amendment 1988.

No. 282—National Companies and Securities Commission Amendment 1988.

## 19 December 1988—Message—

No. 283—Broadcasting Legislation Amendment 1988.

No. 284—Broadcasting (Limited Licences) Fees 1988 (*without requests*).

No. 285—Broadcasting (Retransmission Permits and Temporary Transmission Permits) Fees 1988 (*without requests*).

No. 286—Broadcasting (National Metropolitan Radio Plan) 1988.

No. 287—Radio Licence Fees (National Metropolitan Radio Plan) 1988.

No. 288—Crimes (Torture) 1988.

## 20 December 1988—Message—

No. 289—Bounty and Subsidy Legislation Amendment (No. 2) 1988.

No. 290—Excise Tariff Amendment (No. 2) 1988 (*without requests*).

No. 291—Migration Amendment (No. 2) 1988.

- (b) returning the following Bill and acquainting the House that the Senate does not insist upon its amendments disagreed to by the House:

8 December 1988—Message No. 255—Privacy 1988.

- (c) acquainting the House that Senator Morris had been discharged from the Joint Committee on the National Crime Authority, and that Senator Cooney had been appointed a member of the committee—Message No. 242, dated 1 December 1988.

**4 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:

1 December 1988—Message No. 156—Appropriation (Parliamentary Departments) 1988-89.

## 2 December 1988—Message—

No. 157—

Statutory Instruments (Tabling and Disallowance) Legislation Amendment 1988.

Defence Legislation Amendment 1988.

Naval Defence Amendment 1988.

No. 158—

Appropriation (No. 1) 1988-89.

Appropriation (No. 2) 1988-89.

## 6 December 1988—Message—

No. 159—Defence Legislation Amendment (No. 2) 1988.

No. 160—Great Barrier Reef Marine Park Amendment 1988.

No. 161—

Australian Capital Territory (Self-Government) 1988.

Australian Capital Territory (Electoral) 1988.

Australian Capital Territory (Planning and Land Management) 1988.

A.C.T. Self-Government (Consequential Provisions) 1988.

- 9 December 1988—Message No. 162—National Crime Authority Amendment 1988.
- 12 December 1988—Message No. 163—  
 Primary Industries and Energy Legislation Amendment 1988.  
 States and Northern Territory Grants (Rural Adjustment) 1988.  
 Wheat Marketing Amendment 1988.  
 Rural Industries Research Amendment 1988.  
 Petroleum Excise (Prices) Amendment 1988.  
 Triticale Levy 1988.  
 Triticale Levy Collection 1988.
- 13 December 1988—Message No. 164—Income Tax Rates Amendment 1988.
- 14 December 1988—Message—  
 No. 165—  
 Privacy 1988.  
 Law and Justice Legislation Amendment 1988.  
 No. 166—Telecommunications Amendment 1988.  
 No. 167—  
 Australian National Railways Commission Amendment 1988.  
 Government Business Enterprises (Miscellaneous Reforms) 1988.  
 Defence Service Homes Amendment 1988.  
 Australian Industry Development Corporation Amendment 1988.  
 Postal Services Amendment 1988.  
 ANL (Conversion into Public Company) 1988.  
 Satellite Communications Amendment 1988.  
 OTC (Conversion into Public Company) 1988.  
 Superannuation Amendment 1988.

**5 MESSAGE FROM THE SENATE—STATES GRANTS (SCHOOLS ASSISTANCE) BILL 1988:** The following message from the Senate was reported:

Message No. 274

Madam Speaker,

The Senate returns to the House of Representatives the Bill for "*An Act relating to the grant of financial assistance to the States and the Northern Territory for schools, and for related matters*", and requests the House to amend the Bill as indicated by Schedule A annexed.

The Senate desires to inform the House that the Amendments indicated by Schedule B annexed have been made by the Senate in the Bill.

KERRY SIBRAA  
 President

The Senate,  
 Canberra, 14 December 1988

Ordered—That the amendments requested by the Senate be taken into consideration, in committee of the whole House, forthwith.

*In the committee*

**SCHEDULE OF THE REQUESTS BY THE SENATE FOR AMENDMENTS**

No. 1—Page 50, Schedule 8, PART 1—NON-GOVERNMENT PRIMARY SCHOOLS, at end of Part, add "1989", "166", "112" and "56" to columns 1, 2, 3 and 4, respectively.

No. 2—Page 50, Schedule 8, PART 2—NON-GOVERNMENT SECONDARY SCHOOLS, at end of Part, add "1989", "265", "177" and "88" to columns 1, 2, 3 and 4, respectively.

Mr Dawkins (Minister for Employment, Education and Training) moved—That the requested amendments be not made.

Debate ensued.

Question—put.

The committee divided (the Chairman, Mr McLeay, in the Chair)—

AYES, 70

Mr Baldwin	Mr Dubois	Mr Johns	Mr O'Neil
Mr Beazley	Mr Duffy	Mr Jones	Mr Price
Mr Beddall	Mr Duncan	Mr Keating	Mr Saunderson
Mr Bilney	Mr R. F. Edwards	Mrs Kelly	Mr Sawford
Mr Blanchard	Ms Fatin	Mr Kent	Mr Scholes
Dr Blewett	Mr Fitzgibbon	Mr Kerin	Mr Sciacca
Mr Bowen	Mr Free	Mr Kerr	Mr J. L. Scott
Mr J. J. Brown	Mr Gear	Dr Klugman	Mr Simmons
Mr Brumby	Mr Grace	Mr Lamb*	Mr Snow
Mr Charles	Mr Griffiths	Mr Lavarch	Mr Snowdon
Dr Charlesworth	Mr Hand	Mr Lindsay	Mr Staples
Mr Chynoweth	Mrs Harvey	Mr Martin	Dr Theophanous
Mr Cleeland	Mr Holding	Mr Mildren	Mr Tickner
Mr Cohen	Mr Hollis	Mr Milton	Mr West
Mr Courtice	Mr Howe	Mr A. A. Morris	Mr Willis
Mr Cunningham*	Mr Humphreys	Mr P. F. Morris	Mr Wright
Mrs Darling	Mrs Jakobsen	Mr Mountford	
Mr Dawkins	Mr Jenkins	Mr O'Keefe	

NOES, 49

Mr Andrew*	Mr Downer	Mr McGauran	Mr Sinclair
Mr Beale	Dr H. R. Edwards	Mr MacKellar	Mr Smith
Mr Blunt	Mr Fife	Mr Miles	Mr Spender
Mr Braithwaite	Mr P. S. Fisher	Mr Millar	Mrs Sullivan
Mr N. A. Brown	Mr Goodluck	Mr Moore	Mr Taylor
Mr Burr	Mr Hall	Mr Peacock	Mr Tuckey
Mr Cadman	Mr Halverson	Mr Porter	Mr Webster
Mr E. C. Cameron	Mr Hawker	Mr Pratt	Mr White
Mr I. M. D. Cameron	Dr Hewson	Mr Reith	Mr Wilson
Mr Carlton	Mr Hicks*	Mr Rocher	Dr Woods
Mr Cobb	Mr Jull	Mr Ruddock	
Mr Connolly	Mr Lloyd	Mr Sharp	
Mr Dobie	Mr McArthur	Mr Shipton	

\* Tellers

And so it was resolved in the affirmative.

Resolution to be reported.

The House resumed; Mr McLeay reported accordingly.

Mr Dawkins moved—That the report be adopted.

Question—put.

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

AYES, 77

Mr Baldwin	Mr Dubois	Mr Jones	Mr Price
Mr Beazley	Mr Duffy	Mr Keating	Mr Punch
Mr Beddall	Mr Duncan	Mrs Kelly	Mr Saunderson
Mr Bilney	Mr R. F. Edwards	Mr Kent	Mr Sawford
Mr Blanchard	Ms Fatin	Mr Kerin	Mr Scholes
Dr Blewett	Mr Fitzgibbon	Mr Kerr	Mr Sciacca
Mr Bowen	Mr Free	Dr Klugman	Mr J. L. Scott
Mr J. J. Brown	Mr Gayler	Mr Lamb*	Mr Simmons
Mr Brumby	Mr Gear	Mr Lavarch	Mr Snow
Mr Charles	Mr Grace	Mr Lee	Mr Snowdon
Dr Charlesworth	Mr Griffiths	Mr Lindsay	Mr Staples
Mr Chynoweth	Mr Hand	Ms McHugh	Dr Theophanous
Mr Cleeland	Mrs Harvey	Mr McLeay	Mr Tickner
Mr Cohen	Mr Holding	Mr Martin	Mr Uren
Mr Courtice	Mr Hollis	Mr Mildren	Mr West
Ms Crawford	Mr Howe	Mr Milton	Mr Willis
Mr Cross	Mr Humphreys	Mr A. A. Morris	Mr Wright
Mr Cunningham*	Mrs Jakobsen	Mr P. F. Morris	
Mrs Darling	Mr Jenkins	Mr O'Keefe	
Mr Dawkins	Mr Johns	Mr O'Neil	

NOES, 51

Mr Andrew <sup>1</sup>	Mr Dobie	Mr McArthur	Mr Sharp
Mr Beale	Mr Downer	Mr McGauran	Mr Shipton
Mr Blunt	Dr H. R. Edwards	Mr MacKellar	Mr Sinclair
Mr Braithwaite	Mr Fife	Mr Miles	Mr Smith
Mr N. A. Erown	Mr P. S. Fisher	Mr Millar	Mr Spender
Mr Burr	Mr Goodluck	Mr Moore	Mrs Sullivan
Mr Cadman	Mr Hall	Mr Peacock	Mr Taylor
Mr E. C. Cameron	Mr Halverson	Mr Porter	Mr Tuckey
Mr I. M. D. Cameron	Mr Hawker	Mr Pratt	Mr Webster
Mr Carlton	Dr Hewson	Mr Reith	Mr White
Mr Cobb	Mr Hicks*	Mr Robinson	Mr Wilson
Mr Connolly	Mr Jull	Mr Rocher	Dr Woods
Mr Cowan	Mr Lloyd	Mr Ruddock	

\* Tellers

And so it was resolved in the affirmative.

**6 MESSAGE FROM THE SENATE—SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) AMENDMENT BILL (NO. 2) 1988:** The following message from the Senate was reported:

Message No. 253

Madam Speaker,

The Senate returns to the House of Representatives the Bill for "*An Act to amend the 'Sales Tax (Exemptions and Classifications) Act 1935', and for related purposes*", and acquaints the House that the Senate has agreed to the Bill with the Amendment indicated by the annexed Schedule, in which Amendment the Senate requests the concurrence of the House of Representatives.

KERRY SIBRAA  
President

The Senate,  
Canberra, 7 December 1988

Ordered—That the amendment be taken into consideration, in committee of the whole House, forthwith.

*In the committee*

SCHEDULE OF THE AMENDMENT MADE BY THE SENATE

Page 2, clause 5, lines 7 and 8, leave out "23 August 1988", insert "3 November 1988".

On the motion of Mr P. F. Morris (Minister Assisting the Treasurer), the amendment was agreed to, after debate.

Resolution to be reported.

The House resumed; Mr McLeay reported accordingly.

On the motion of Mr P. F. Morris, the House adopted the report.

**7 MESSAGE FROM THE SENATE—TAXATION LAWS AMENDMENT BILL (NO. 5) 1988:** The following message from the Senate was reported:

Message No. 254

Madam Speaker,

The Senate returns to the House of Representatives the Bill for "*An Act to amend the law relating to taxation*", 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, 7 December 1988

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

—  
*In the committee*

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Page 1, clause 2, lines 7 to 9, leave out the clause, insert the following clause:

**Commencement**

“2. (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

“(2) Division 6 of Part III commences, or shall be taken to have commenced, as the case requires, on 1 January 1989.”.

No. 2—Page 45, Part IV, lines 1 to 38, leave out the Part.

On the motion of Mr P. F. Morris (Minister Assisting the Treasurer), the amendments were agreed, after debate.

Resolution to be reported.

—

The House resumed; Mr McLeay reported accordingly.

On the motion of Mr P. F. Morris, the House adopted the report.

**8 MESSAGE FROM THE SENATE—WAR CRIMES AMENDMENT BILL 1987:** The following message from the Senate was reported:

Message No. 292

Madam Speaker,

The Senate returns to the House of Representatives the Bill for “*An Act to amend the War Crimes Act 1945*”, 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, 20 December 1988

Mr Bowen (Attorney-General) moved—That the amendments be taken into consideration, in committee of the whole House, forthwith.

Debate ensued.

Mr Bowen having spoken in reply—

Debate adjourned, by leave (Mr Beazley—Leader of the House), and the resumption of the debate made an order of the day for a later hour this day.

**9 MESSAGE FROM THE SENATE—STATES GRANTS (TECHNICAL AND FURTHER EDUCATION ASSISTANCE) BILL 1988:** The following message from the Senate was reported:

Message No. 276

Madam Speaker,

The Senate returns to the House of Representatives the Bill for “*An Act relating to the funding of technical and further education and for matters connected therewith*”, 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, 14 December 1988

*Statement by Deputy Speaker—Constitutional significance of Senate amendments:*  
The Deputy Speaker, on behalf of Madam Speaker, made the following statement:

I draw the attention of the House to the fact that the Senate amendments conveyed by this message include a purported amendment which raises an issue of constitutional significance.

Paragraph 3 of section 53 of the Constitution stipulates that—

“The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.”.

By its purported amendment number 2, the Senate resolved to omit proposed paragraph 12 (3) (b) of the Bill which alters part of the formula for providing grants to the States for approved courses provided by non-government business colleges.

I am advised that this amendment removes an element from the calculation which is used to determine payments to the States for these courses. This removes an important limitation on grants that may be made and, thus, may be said to “increase the proposed charge or burden on the people”.

The question arises whether the alteration proposed by the Senate should have been by request and not by amendment.

My task as Speaker, is to alert the House to this matter. It is for the House to decide the manner in which it will deal with the purported amendment.

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

—

*In the committee*

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Page 5, after clause 7, insert the following new clauses:

**Consultations on arrangements**

“7A. (1) The Minister shall not, in respect of a program year commencing after 31 December 1989, make an arrangement under section 7 unless and until the Employment and Skills Formation Council has considered the proposed arrangement, and the Minister has taken into account any written submissions relating to the proposed arrangement, transmitted to the Minister by the Board on behalf of the Employment and Skills Formation Council.

“(2) References in this section to the Education and Skills Formation Council and the Board are references to the Education and Skills Formation Council and the National Board of Employment, Education and Training established under paragraph 23 (c) and section 6, respectively, of the *Employment, Education and Training Act 1988*.

**Administrative Guidelines**

“7B. (1) The Minister shall, by written instrument, issue administrative guidelines in relation to the preparation of, and conditions to be contained in, arrangements of the kind that may be specified by the Minister under section 7.

“(2) A written instrument referred to in subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.

No. 2—Page 8, paragraph 12 (3) (b), lines 30 and 31, leave out the paragraph.

No. 3—Pages 9 and 10, clause 13, line 21 (page 9) to line 31 (page 10), leave out the clause.

No. 4—page 15, after Part 5, add the following new Part:

**“PART 6—AMENDMENT OF EMPLOYMENT, EDUCATION AND TRAINING ACT**

“31. (1) In this section:

‘Principal Act’ means the *Employment, Education and Training Act 1988*;

‘States Grants Act’ means the *States Grants (Technical and Further Education Assistance) Act 1988*.

“(2) Section 25 of the Principal Act is amended by adding after paragraph (1) (b):

‘(c) to inquire into, and, from time to time, report to the Board with respect to, the operation of proposed arrangements.’”

Ordered—That amendments Nos. 2 and 3 be considered together before amendments Nos. 1 and 4 together.

Mr Dawkins (Minister for Employment, Education and Training) moved—That amendments Nos. 2 and 3 be disagreed to.

Debate ensued.

Question—put.

The committee divided (the Deputy Chairman, Mr Millar, in the Chair)—

AYES, 75

Mr Baldwin	Mr Dubois	Mr Johns	Mr O’Keefe
Mr Beazley	Mr Duffy	Mr Jones	Mr Price
Mr Beddall	Mr Duncan	Mrs Kelly	Mr Punch
Mr Bilney	Mr R. F. Edwards	Mr Kent	Mr Saunderson
Mr Blanchard	Ms Fatin	Mr Kerin	Mr Sawford
Dr Blewett	Mr Fitzgibbon	Mr Kerr	Mr Scholes
Mr Bowen	Mr Free	Dr Klugman	Mr Sciacca
Mr J. J. Brown	Mr Gayler	Mr Lamb*	Mr J. L. Scott
Mr Brumby	Mr Gear	Mr Lavarch	Mr Simmons
Mr Charles	Mr Grace	Mr Lee	Mr Snow
Dr Charlesworth	Mr Griffiths	Mr Lindsay	Mr Snowdon
Mr Chynoweth	Mr Hand	Ms McHugh	Mr Staples
Mr Cleeland	Mrs Harvey	Mr McLeay	Dr Theophanous
Mr Courtice	Mr Holding	Mr Martin	Mr Tickner
Ms Crawford	Mr Hollis	Mr Mildren	Mr Uren
Mr Cross	Mr Howe	Mr Milton	Mr West
Mr Cunningham*	Mr Humphreys	Mr A. A. Morris	Mr Willis
Mrs Darling	Mrs Jakobsen	Mr P. F. Morris	Mr Wright
Mr Dawkins	Mr Jenkins	Mr Mountford	

NOES, 51

Mr Andrew*	Mr Dobie	Mr McArthur	Mr Sharp
Mr Beale	Mr Downer	Mr McGauran	Mr Shipton
Mr Blunt	Dr H. R. Edwards	Mr MacKellar	Mr Sinclair
Mr Braithwaite	Mr Fife	Mr Macphee	Mr Smith
Mr N. A. Brown	Mr P. S. Fisher	Mr Miles	Mr Spender
Mr Burr	Mr Goodluck	Mr Moore	Mrs Sullivan
Mr Cadman	Mr Hall	Mr Peacock	Mr Taylor
Mr E. C. Cameron	Mr Halverson	Mr Porter	Mr Tuckey
Mr I. M. D. Cameron	Mr Hawker	Mr Pratt	Mr Webster
Mr Carlton	Dr Hewson	Mr Reith	Mr White
Mr Cobb	Mr Hicks*	Mr Robinson	Mr Wilson
Mr Connolly	Mr Jull	Mr Rocher	Dr Woods
Mr Cowan	Mr Lloyd	Mr Ruddock	

\* Tellers

And so it was resolved in the affirmative.

Mr Dawkins moved—That amendments Nos. 1 and 4 be disagreed to, but that, in place of amendment No. 4, new Part 6 be added to the Bill:

*New Part—*

**“PART 6—AMENDMENT OF EMPLOYMENT, EDUCATION AND TRAINING ACT 1988**

**Functions of the Employment and Skills Formation Council**

“31. (1) In this section, ‘Principal Act’ means the *Employment, Education and Training Act 1988*.

“(2) Section 26 of the Principal Act is amended by adding after paragraph (1) (b) the following paragraph:

‘(c) to inquire into, and, from time to time, report to the Board with respect to, the operation of arrangements referred to in section 7 of the *States Grants (Technical and Further Education Assistance) Act 1988* and in particular to monitor the application of arrangements and advise on their role in supporting Commonwealth priorities.’”



Debate ensued.

Question—put and passed.

Resolutions to be reported.

The House resumed; Mr Millar reported accordingly.

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

Mr Dawkins moved—That Mr Lamb, Mr Cunningham and the mover be appointed a committee to draw up reasons for the House of Representatives disagreeing to amendments Nos. 1 to 3 of the Senate.

Question—put and passed.

Mr Dawkins, on behalf of the committee, brought up such reasons, which were circulated, and are as follows:

*Reasons of the House of Representatives for disagreeing to the amendments of the Senate*

Senate amendment No. 1 is not acceptable because:

The proposed additional powers for the Employment and Skills Formation Council (ESFC) run counter to the Government's objective in establishing a unified and modestly resourced advisory structure with the National Board of Employment, Education and Training (NBEET). The additional reporting activity proposed for ESFC will create demands for substantial increased administrative resources over and above the level currently provided to NBEET.

The amendment also reduces the flexibility of the arrangements the Government was introducing for Commonwealth funding of TAFE, and would make administrative processes complex and potentially delay the payment of grants to the States.

There are also technical problems with the amendments.

Senate amendment No. 2 is not acceptable because:

The amendment removes an element from the calculation which is used to determine payments to the States for approved courses provided by non-government business colleges. This removes an important limitation on grants that may be made and increases the proposed charge or burden on the people and is an infringement of section 53 of the Constitution.

The Government decision to phase out the subsidy to non-government business colleges was based on the consistent application of the Government's policy on the development of and support for private tertiary institutions as set out in *Higher Education: A Policy Statement*. The Government was also concerned at the inequitable nature of the scheme which applied only to a limited number of institutions and a restricted range of courses.

Senate amendment No. 3 is not acceptable because:

This amendment is consequential on Senate amendment No. 2 and is not acceptable because it would prevent full effect being given to the package of assistance originally proposed for the non-government business colleges.

On the motion of Mr Dawkins, the committee's reasons were adopted.

10 MESSAGE FROM THE SENATE—HIGHER EDUCATION FUNDING BILL 1988: The following message from the Senate was reported:

Message No. 277

Madam Speaker,

The Senate returns to the House of Representatives the Bill for "*An Act relating to the funding of certain institutions of higher education, and for matters connected therewith*", 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, 14 December 1988

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

*In the committee*

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

- No. 1—Page 9, after subclause 14 (2), add the following new subclause:  
“(3) The approved form of an educational profile to be submitted by an institution under this section shall be determined by the Minister after consultation with the institution.”
- No. 2—Page 9, after subclause 14 (2), add the following new subclauses:  
“(3) The Minister shall, by written instrument, issue guidelines to which regard shall be had when a profile is being prepared under subsection (1).  
“(4) A written instrument referred to in subsection (3) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.”
- No. 3—Page 58, after clause 122, insert the following new clause:  
**Amendments of Employment, Education and Training Act**  
“122A. (1) In this section:  
‘Principal Act’ means the *Employment, Education and Training Act 1988*;  
‘Funding Act’ means the *Higher Education Funding Act 1988*.  
(2) Section 25 of the Principal Act is amended:  
(a) by adding after paragraph (1) (b):  
    (c) to inquire into, and provide regular reports, in February and August each year, to the Board with respect to the operation of:  
        (i) section 14 of the Funding Act; and  
        (ii) the Higher Education Contribution Scheme established by the Funding Act, including its effects on access to higher education, and the level and quality of post graduate research;  
(d) to consult with institutions with regard to the preparation of educational profiles and variations of such profiles for the purposes of section 14 of the Funding Act.; and  
(b) by adding the following new subsection after subsection (2):  
    “(3) The Board shall transmit any report referred to in paragraph (1) (c) to the Minister who shall cause copies of it to be laid before each House of the Parliament within 15 sitting days of that House after the Minister has received the report.”

Ordered—That amendment No. 1 be considered before amendments Nos. 2 and 3 together.

On the motion of Mr Dawkins (Minister for Employment, Education and Training) amendment No. 1 was agreed to.

Mr Dawkins moved—That amendments Nos. 2 and 3 be disagreed to, but that, in place of amendment No. 3, new clause 122A be inserted in the Bill:

*New clause—*

**Amendments of the Employment, Education and Training Act**

“122A. (1) In this section, ‘Principal Act’ means the *Employment, Education and Training Act 1988*.

“(2) Section 25 of the Principal Act is amended:

(a) by adding after paragraph (1) (b) the following paragraphs:

'(c) to inquire into, and provide regular reports, in February and August each year, to the Board with respect to the operation of:

- (i) section 14 of the *Higher Education Funding Act 1988*, including the role of educational profiles in supporting Commonwealth priorities in higher education; and
  - (ii) the Higher Education Contribution Scheme established by the *Higher Education Funding Act 1988*, including its effects on access to higher education, and the level and quality of post-graduate research;
- (d) to consult with institutions with regard to the preparation of educational profiles and variations of such profiles for the purposes of section 14 of the *Higher Education Funding Act 1988*.'; and

(b) by adding at the end the following subsection:

'(3) The Board shall transmit any report referred to in paragraph (1) (c) to the Minister who shall cause copies of it to be laid before each House of the Parliament within 15 sitting days of that House after the Minister has received the report.'"

Debate ensued.

Question—put and passed.

Resolutions to be reported.

The House resumed; Mr Millar reported accordingly.

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

Mr Dawkins moved—That Mrs Darling, Mr Johns and the mover be appointed a committee to draw up reasons for the House of Representatives disagreeing to amendment No. 2 of the Senate.

Question—put and passed.

Mr Dawkins, on behalf of the committee, brought up such reasons, which were circulated, and are as follows:

*Reasons of the House of Representatives for disagreeing to amendment No. 2 of the Senate*

Senate amendment No. 2 is not acceptable because:

The amendment is both unnecessary and ineffectual. Guidelines on the development of educational profiles are already issued as part of normal arrangements for administration of Commonwealth higher education programs. As well, the amendment would require an institution only to "have regard" to the guidelines issued by the Minister, without any requirement to comply with those guidelines.

On the motion of Mr Dawkins, the committee's reasons were adopted.

**11 SUSPENSION OF STANDING AND SESSIONAL ORDERS MOVED:** Mr Howard (Leader of the Opposition) moved—That so much of the standing and sessional orders be suspended as would prevent the Leader of the Opposition from moving forthwith—That this Parliament censures the Prime Minister for his failure to dismiss the Minister for Aboriginal Affairs who has: (1) misled the Parliament; and (2) been publicly exposed as being incompetent in the administration of his portfolio.

*Closure of Member:* Mr Beazley (Leader of the House) moved—That the honourable Member be not further heard.

Question—put.

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

AYES, 76

Mr Baldwin	Mr Dawkins	Mr Jenkins	Mr Mountford
Mr Beazley	Mr Dubois	Mr Johns	Mr Price
Mr Beddall	Mr Duffy	Mr Jones	Mr Punch
Mr Bilney	Mr Duncan	Mrs Kelly	Mr Saunderson
Mr Blanchard	Mr R. F. Edwards	Mr Kent	Mr Sawford
Dr Blewett	Ms Fatin	Mr Kerin	Mr Scholes
Mr Bowen	Mr Fitzgibbon	Mr Kerr	Mr Sciacca
Mr J. J. Brown	Mr Free	Dr Klugman	Mr J. L. Scott
Mr R. J. Brown	Mr Gayler	Mr Lamb*	Mr L. J. Scott
Mr Brumby	Mr Gear	Mr Lavarch	Mr Simmons
Mr Charles	Mr Grace	Mr Lee	Mr Snow
Dr Charlesworth	Mr Griffiths	Mr Lindsay	Mr Snowdon
Mr Chynoweth	Mr Hand	Ms McHugh	Mr Staples
Mr Cleland	Mrs Harvey	Mr McLeay	Dr Theophanous
Mr Courtice	Mr Holding	Mr Martin	Mr Tickner
Ms Crawford	Mr Hollis	Mr Mildren	Mr Uren
Mr Cross	Mr Howe	Mr Milton	Mr West
Mr Cunningham*	Mr Humphreys	Mr A. A. Morris	Mr Willis
Mrs Darling	Mrs Jakobsen	Mr P. F. Morris	Mr Wright

NOES, 50

Mr Andrew*	Mr Downer	Mr McArthur	Mr Shipton
Mr Beale	Dr H. R. Edwards	Mr McGauran	Mr Sinclair
Mr Blunt	Mr Fife	Mr MacKellar	Mr Smith
Mr Braithwaite	Mr P. S. Fisher	Mr Macphee	Mr Spender
Mr N. A. Brown	Mr Goodluck	Mr Miles	Mrs Sullivan
Mr Burr	Mr Hall	Mr Millar	Mr Taylor
Mr Cadman	Mr Halverson	Mr Moore	Mr Tuckey
Mr E. C. Cameron	Mr Hawker	Mr Peacock	Mr Webster
Mr Carlton	Dr Hewson	Mr Porter	Mr White
Mr Cobb	Mr Hicks*	Mr Pratt	Mr Wilson
Mr Connolly	Mr Howard	Mr Rocher	Dr Woods
Mr Cowan	Mr Jull	Mr Ruddock	
Mr Dobie	Mr Lloyd	Mr Sharp	

\* Tellers

And so it was resolved in the affirmative.

Mr Miles (seconder) addressing the House—

*Closure of Member:* Mr Beazley moved—That the honourable Member be not further heard.

Question—put.

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

AYES, 78

Mr Baldwin	Mr Dawkins	Mr Johns	Mr Price
Mr Beazley	Mr Dubois	Mr Jones	Mr Punch
Mr Beddall	Mr Duffy	Mrs Kelly	Mr Saunderson
Mr Bilney	Mr Duncan	Mr Kent	Mr Sawford
Mr Blanchard	Mr R. F. Edwards	Mr Kerin	Mr Scholes
Dr Blewett	Ms Fatin	Mr Kerr	Mr Sciacca
Mr Bowen	Mr Fitzgibbon	Dr Klugman	Mr J. L. Scott
Mr J. J. Brown	Mr Free	Mr Lamb*	Mr L. J. Scott
Mr R. J. Brown	Mr Gayler	Mr Lavarch	Mr Simmons
Mr Brumby	Mr Gear	Mr Lee	Mr Snow
Mr Charles	Mr Grace	Mr Lindsay	Mr Snowdon
Dr Charlesworth	Mr Griffiths	Ms McHugh	Mr Staples
Mr Chynoweth	Mr Hand	Mr McLeay	Dr Theophanous
Mr Cleland	Mrs Harvey	Mr Martin	Mr Tickner
Mr Cohen	Mr Holding	Mr Mildren	Mr Uren
Mr Courtice	Mr Hollis	Mr Milton	Mr West
Ms Crawford	Mr Howe	Mr A. A. Morris	Mr Willis
Mr Cross	Mr Humphreys	Mr P. F. Morris	Mr Wright
Mr Cunningham*	Mrs Jakobsen	Mr Mountford	
Mrs Darling	Mr Jenkins	Mr O'Keefe	

NOES, 51

Mr Andrew"	Mr Dobie	Mr Lloyd	Mr Sharp
Mr Beale	Mr Downer	Mr McArthur	Mr Shipton
Mr Blunt	Dr H. R. Edwards	Mr McGauran	Mr Sinclair
Mr Braithwaite	Mr Fife	Mr MacKellar	Mr Smith
Mr N. A. Brown	Mr P. S. Fisher	Mr Macphee	Mr Spender
Mr Burr	Mr Goodluck	Mr Miles	Mrs Sullivan
Mr Cadman	Mr Hall	Mr Millar	Mr Taylor
Mr E. C. Cameron	Mr Halverson	Mr Moore	Mr Tuckey
Mr I. M. D. Cameron	Mr Hawker	Mr Peacock	Mr Webster
Mr Carlton	Dr Hewson	Mr Porter	Mr White
Mr Cobb	Mr Hicks*	Mr Pratt	Mr Wilson
Mr Connolly	Mr Howard	Mr Rocher	Dr Woods
Mr Cowan	Mr Jull	Mr Ruddock	

\* Tellers

And so it was resolved in the affirmative.

Closure: Mr Beazley moved—That the question be now put.

Question—That the question be now put—put.

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

AYES, 79

Mr Baldwin	Mr Dawkins	Mr Johns	Mr O'Neil
Mr Beazley	Mr Dubois	Mr Jones	Mr Price
Mr Beddall	Mr Duffy	Mrs Kelly	Mr Punch
Mr Bilney	Mr Duncan	Mr Kent	Mr Saunderson
Mr Blanchard	Mr R. F. Edwards	Mr Kerin	Mr Sawford
Dr Blewett	Ms Fatin	Mr Kerr	Mr Scholes
Mr Bowen	Mr Fitzgibbon	Dr Klugman	Mr Sciacca
Mr J. J. Brown	Mr Free	Mr Lamb*	Mr J. L. Scott
Mr R. J. Brown	Mr Gayler	Mr Lavarch	Mr L. J. Scott
Mr Brumby	Mr Gear	Mr Lee	Mr Simmons
Mr Charles	Mr Grace	Mr Lindsay	Mr Snow
Dr Charlesworth	Mr Griffiths	Ms McHugh	Mr Snowdon
Mr Chynoweth	Mr Hand	Mr McLeay	Mr Staples
Mr Cleelanc	Mrs Harvey	Mr Martin	Dr Theophanous
Mr Cohen	Mr Holding	Mr Mildren	Mr Tickner
Mr Courtice	Mr Hollis	Mr Milton	Mr Uren
Ms Crawford	Mr Howe	Mr A. A. Morris	Mr West
Mr Cross	Mr Humphreys	Mr P. F. Morris	Mr Willis
Mr Cunningham*	Mrs Jakobsen	Mr Mountford	Mr Wright
Mrs Darling	Mr Jenkins	Mr O'Keefe	

NOES, 50

Mr Andrew"	Mr Dobie	Mr Lloyd	Mr Shipton
Mr Beale	Mr Downer	Mr McArthur	Mr Sinclair
Mr Blunt	Dr H. R. Edwards	Mr McGauran	Mr Smith
Mr Braithwaite	Mr Fife	Mr MacKellar	Mr Spender
Mr N. A. Brown	Mr P. S. Fisher	Mr Miles	Mrs Sullivan
Mr Burr	Mr Goodluck	Mr Millar	Mr Taylor
Mr Cadman	Mr Hall	Mr Moore	Mr Tuckey
Mr E. C. Cameron	Mr Halverson	Mr Peacock	Mr Webster
Mr I. M. D. Cameron	Mr Hawker	Mr Porter	Mr White
Mr Carlton	Dr Hewson	Mr Pratt	Mr Wilson
Mr Cobb	Mr Hicks*	Mr Rocher	Dr Woods
Mr Connolly	Mr Howard	Mr Ruddock	
Mr Cowan	Mr Jull	Mr Sharp	

\* Tellers

And so it was resolved in the affirmative.

And the question—That the motion for the suspension of standing and sessional orders be agreed to—being accordingly put—

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

AYES, 50

Mr Andrew*	Mr Dobie	Mr Lloyd	Mr Shipton
Mr Beale	Mr Downer	Mr McArthur	Mr Sinclair
Mr Blunt	Dr H. R. Edwards	Mr McGauran	Mr Smith
Mr Braithwaite	Mr Fife	Mr MacKellar	Mr Spender
Mr N. A. Brown	Mr P. S. Fisher	Mr Miles	Ms Sullivan
Mr Burr	Mr Goodluck	Mr Millar	Mr Taylor
Mr Cadman	Mr Hall	Mr Moore	Mr Tuckey
Mr E. C. Cameron	Mr Halverson	Mr Peacock	Mr Webster
Mr I. M. D. Cameron	Mr Hawker	Mr Porter	Mr White
Mr Carlton	Dr Hewson	Mr Pratt	Mr Wilson
Mr Cobb	Mr Hicks*	Mr Rocher	Dr Woods
Mr Connolly	Mr Howard	Mr Ruddock	
Mr Cowan	Mr Jull	Mr Sharp	

NOES 79

Mr Baldwin	Mr Dawkins	Mr Johns	Mr O'Neil
Mr Beazley	Mr Dubois	Mr Jones	Mr Price
Mr Beddall	Mr Duffy	Mrs Kelly	Mr Punch
Mr Bilney	Mr Duncan	Mr Kent	Mr Saunderson
Mr Blanchard	Mr R. F. Edwards	Mr Kerin	Mr Sawford
Dr Blewett	Ms Fatin	Mr Kerr	Mr Scholes
Mr Bowen	Mr Fitzgibbon	Dr Klugman	Mr Sciacca
Mr J. J. Brown	Mr Free	Mr Lamb*	Mr J. L. Scott
Mr R. J. Brown	Mr Gayler	Mr Lavarch	Mr L. J. Scott
Mr Brumby	Mr Gear	Mr Lee	Mr Simmons
Mr Charles	Mr Grace	Mr Lindsay	Mr Snow
Dr Charlesworth	Mr Griffiths	Ms McHugh	Mr Snowdon
Mr Chynoweth	Mr Hand	Mr McLeay	Mr Staples
Mr Cleland	Mrs Harvey	Mr Martin	Dr Theophanous
Mr Cohen	Mr Holding	Mr Mildren	Mr Tickner
Mr Courtice	Mr Hollis	Mr Milton	Mr Uren
Ms Crawford	Mr Howe	Mr A. A. Morris	Mr West
Mr Cross	Mr Humphreys	Mr P. F. Morris	Mr Willis
Mr Cunningham*	Mrs Jakobsen	Mr Mountford	Mr Wright
Mrs Darling	Mr Jenkins	Mr O'Keefe	

\* Tellers

And so it was negatived.

- 12 STATES GRANTS (TECHNICAL AND FURTHER EDUCATION ASSISTANCE) BILL 1988—REASONS FOR HOUSE DISAGREEING TO SENATE AMENDMENT:** Mr Beazley (Leader of the House) sought leave of the House for the reasons of the House of Representatives for disagreeing to Senate amendment No. 1 to be read by the Clerk and for the reasons to form part of the earlier resolution (*see* entry No. 9).

Leave being granted—

The Clerk read the reasons of the House of Representatives for disagreeing to Senate amendment No. 1.

- 13 PAPERS:** The following papers were presented:

Aboriginal Hostels Limited—Report and financial statements, including the Auditor-General's Report, for 1987-88.

Aboriginal Land Commissioner—Report to the Minister for Aboriginal Affairs and the Administrator of the Northern Territory relating to Jawoyn (Katherine area) Land Claim (Report No. 27).

Administrative Review Council—Report No. 31—Review of decisions under Industry Research and Development legislation.

Advance to the Minister for Finance—Statement for October 1988.

AIDS—3rd National Conference, Hobart, 4-6 August 1988—Report—Living with AIDS toward the year 2000.

Albury-Wodonga Development Act—Albury-Wodonga Development Corporation—15th Report and financial statements, including the Auditor-General's Report and freedom of information statement, for 1987-88.

- Australia-China Council—Report for 1987-88.
- Australia New Zealand Foundation—Report for 1987-88.
- Australian Airlines Limited—Report and financial statements, including the Auditor-General's Report, for 1987-88.
- Australian Capital Territory—  
Bookmakers Licensing Committee—Report for 1987-88.  
Racecourse Development Fund Advisory Committee—Report for 1987-88.
- Australian Capital Territory Electricity Supply Act—Australian Capital Territory Electricity Authority—Report and financial statements, including the Auditor-General's Report and freedom of information statement, for 1987-88.
- Australian Centre for International Agricultural Research Act—Australian Centre for International Agricultural Research—Report and financial statements, including the Auditor-General's Report, for 1987-88.
- Australian Dried Fruits Corporation Act—Australian Dried Fruits Corporation—9th Report and financial statements, including the Auditor-General's Report, for 1987-88.
- Australian Film, Television and Radio School Act—Australian Film, Television and Radio School—Report and financial statements, including the Auditor-General's Report, for 1987-88.
- Australian Forestry Council—Summary of resolutions and recommendations—24th meeting, Perth, 21 July 1988—  
Report  
Explanatory statement.
- Australian Institute of Aboriginal Studies Act—Council of the Australian Institute of Aboriginal Studies—Report and financial statements, including the Auditor-General's Report, for 1987-88.
- Australian Institute of Marine Science Act—Australian Institute of Marine Science—Report and financial statements, including the Auditor-General's Report and freedom of information statement, for 1987-88.
- Australian Manufacturing Council—Report for 1987-88.
- Australian Nuclear Science and Technology Organisation Act—Australian Nuclear Science and Technology Organisation—Report and financial statements, including the Auditor-General's Report and freedom of information statement, for 1987-88.
- Australian quarantine: Looking to the future—A Government policy statement, dated December 1988.
- Australian Trade Commission Act—Australian Trade Commission—Report and financial statements, including the Auditor-General's Report and freedom of information statement, for 1987-88.
- Canberra Development Board—Report for 1987-88.
- Christmas Island Act—Phosphate Mining Corporation of Christmas Island Ordinance—Phosphate Mining Corporation of Christmas Island—Report and financial statements, including the Auditor-General's Report, for 1986-87.
- Commonwealth Legal Aid Act—  
National Legal Aid Advisory Committee—Report for period 25 August 1987 to 30 June 1988.  
National Legal Aid Representative Council—Report for period 25 August 1987 to 30 June 1988.
- Criminology Research Act—  
Australian Institute of Criminology—16th Report and financial statements, including the Auditor-General's Report, for 1987-88.  
Criminology Research Council—16th Report and financial statements, including the Auditor-General's Report, for 1987-88.
- Dairy Produce Act—Australian Dairy Corporation—Report and financial statements, including the Auditor-General's Report, for 1987-88.

- Defence Service Homes Act—Defence Service Homes Corporation—Report and financial statements, including the Auditor-General's Report and freedom of information statement, for 1987-88.
- Equal Employment Opportunity (Commonwealth Authorities) Act—Snowy Mountains Hydro-Electric Authority—Equal employment opportunity—Report for 1987-88.
- Family Law Council—Child sexual abuse—Report, dated September 1988.
- Financial Management Improvement Program—Report 1988 by Department of Finance in co-operation with departments and agencies, dated December 1988.
- First Home Owners Act—First Home Owners Scheme—Report for 1987-88.
- Fisheries Act—
- Copies of agreements between the Commonwealth of Australia and—
    - Government of the People's Republic of China, dated 17 November 1988.
    - Karina Fisheries Pty Ltd, dated 1 November 1988.
    - Touchstone Pty Ltd, dated 6 November 1988.
  - Copy of subsidiary agreement between the Government of Australia and the Government of Japan concerning Japanese tuna long-line fishing, dated 27 October 1988.
- Guidelines for organisations seeking approval under the *Family Law Act 1975*—Part II of *Marriage Act 1961*—Part IA, in relation to the conduct of programs of marriage counselling, family mediation or marriage education—Paper.
- Honey Industry Act—Australian Honey Board—25th Report and financial statements, including the Auditor-General's Report, for 1987-88.
- Horticultural Policy Council Act—Horticultural Policy Council—Report for period 26 December 1987 to 30 June 1988.
- Housing Loans Insurance Act—Housing Loans Insurance Corporation—24th Report and financial statements, including the Auditor-General's Report, for 1987-88.
- Law Reform Commission Act—Law Reform Commission—Reports—
- No. 45—General insolvency inquiry—Volumes 1 and 2.
  - No. 46—Grouped proceedings in the Federal Court.
- Management and Investment Companies Act—Management and Investment Companies Licensing Board—Report, including freedom of information statement, for 1987-88.
- Members of Parliament (Staff) Act—Report on consultants engaged under section 4, for 1987-88.
- Parliament House Construction Authority Act—Parliament House Construction Authority—Report and financial statements, including the Auditor-General's Report, for 1987-88.
- Public Service Act—
- Attorney-General's Department—Report, including freedom of information statement, for 1987-88 and report of the Office of Parliamentary Counsel, for 1987-88 pursuant to the Parliamentary Counsel Act.
  - Department of Foreign Affairs and Trade—Report, including freedom of information statement and report on the activities of the Australian International Development Assistance Bureau, for 1987-88.
  - Department of Primary Industries and Energy—Report for 1987-88—Report.
  - Supplement to Report—Freedom of information statement 1988.
- Public Service Board—Equal Employment Opportunity—Report for 1986-87.
- Seat of Government (Administration) Act—Taxation (Administration) Ordinance—Commissioner for Australian Capital Territory Revenue Collections—Report for period 1 August 1987 to 30 June 1988.
- Snowy Mountains Hydro-electric Power Act—Snowy Mountains Hydro-electric Authority—Report and financial statements, including the Auditor-General's Report, for 1987-88.
- Soil Conservation (Financial Assistance) Act—Soil Conservation Advisory Committee—Report for 1987-88.



Veterans' Entitlements Act and Public Service Act—Reports of the Repatriation Commission and the Department of Veterans' Affairs, including freedom of information statements, for 1987-88.

Petition not in accord with standing and sessional orders of the House on the following subject: Perth airport (Mr Beazley, 2060 petitioners).

14 PAPER: Madam Speaker presented the following paper:

Public Service Act—Department of the Parliamentary Library—Report for 1987-88.

15 FINANCE AND PUBLIC ADMINISTRATION—STANDING COMMITTEE—REFERENCE:

Mr Beazley (Leader of the House), by leave, moved—That the Financial Management Improvement Program Report 1988 be referred to the Standing Committee on Finance and Public Administration.

Question—put and passed.

16 PROPOSED DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—ABORIGINAL

AFFAIRS MALADMINISTRATION: The House was informed that Mr Miles had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The increasing concern regarding the Government's maladministration of Aboriginal affairs".

The proposed discussion having received the necessary support—

Mr Miles rising to address the House—

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

Question—put and passed.

17 MESSAGE FROM THE SENATE—COMMUNITY SERVICES AND HEALTH LEGISLATION AMENDMENT BILL (NO. 2) 1988: The following message from the Senate was reported:

Message No. 293

Madam Speaker,

The Senate returns to the House of Representatives the Bill for "*An Act to amend laws relating to community services and health, 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, 20 December 1988

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

*In the committee*

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Page 3, paragraph 7 (b), proposed paragraph (c) of definition of "Australian resident", line 18, leave out "or".

No. 2—Page 3, paragraph 7 (b), after proposed paragraph (d) of definition of "Australian resident", add the following new paragraph:

"or (e) a person (not being a person referred to in paragraph (a), (b), (c) or (d)) who:

(i) is the holder of a temporary entry permit in force under the *Migration Act 1958*; and

(ii) has applied for an entry permit that is not intended to operate as a temporary entry permit under the *Migration Act 1958*;

and who, in the opinion of the Secretary, is a person with respect to whom it is more likely than not that:

- (iii) territorial asylum in Australia may be granted;
- (iv) another person, being the person's spouse, parent or child, is an Australian citizen or the holder of an entry permit that is not intended to operate as a temporary entry permit under the *Migration Act 1958*;
- (v) a determination may be made that the person has the status of a refugee within the meaning of the Convention relating to the status of refugees that was done at Geneva on 28 July 1951 or of the protocol relating to the Status of Refugees that was done at New York on 31 January 1967;
- (vi) there is in force an authorisation to work in Australia and the person is not a prescribed non-citizen under the *Migration Act 1958*; or
- (vii) strong compassionate or humanitarian grounds for the grant of an entry permit may be found to exist;"

No. 3—Page 5, clauses 12 and 13, lines 6 to 15, leave out the clauses.

Amendment No. 1—

Progress to be reported, and leave asked to sit again.

The House resumed; Mr McLeay reported accordingly.

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

18 WAR CRIMES AMENDMENT BILL 1987—SENATE'S AMENDMENTS: The order of the day having been read for the resumption of the debate on the motion of Mr Bowen (Attorney-General)—That the amendments be taken into consideration, in committee of the whole House, forthwith (*see* entry No. 8)—

Question—put and passed.

*In the committee*

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Page 1, clauses 3 and 4, lines 10 to 14, leave out the clauses, insert the following clause:

**Substitution of Preamble**

"3. The Preamble to the Principal Act is repealed and the following Preamble is substituted:

"WHEREAS:

- (a) concern has arisen that a significant number of persons who committed serious war crimes in Europe during World War II may since have entered Australia and become Australian citizens or residents;
- (b) it is appropriate that persons accused of such war crimes be brought to trial in the ordinary criminal courts in Australia; and
- (c) it is also essential in the interests of justice that persons so accused be given a fair trial with all the safeguards for accused persons in trials in those courts, having particular regard to matters such as the gravity of the allegations and the lapse of time since the alleged crimes:"

No. 2—Page 2, clause 6, proposed section 5, definition of "occupation", line 18, leave out the definition, insert the following definition:

"'occupation' means:

- (a) an occupation of territory arising out of a war; or
- (b) without limiting the generality of paragraph (a), an occupation of territory in Latvia, Lithuania or Estonia as a direct or indirect result of:
  - (i) the agreement of 23 August 1939 between Germany and the Union of Soviet Socialist Republics; or
  - (ii) any protocol to that agreement;"

- No. 3—Pages 2 and 3, clause 6, proposed section 5, definition of “war”, line 35 (page 2) to line 3 (page 3), leave out all words from and including “in so far as” to the end of the proposed section, insert “in so far as it occurred in Europe in the period beginning on 1 September 1939 and ending on 8 May 1945.”.
- No. 4—Page 3, clause 6, proposed subsection 6 (4), line 41, leave out “(whether or not across frontiers)”.
- No. 5—Page 4, clause 6, after proposed subsection 7 (3), add the following new subsection:
- “(4) Two or more serious crimes together constitute a war crime if:
- (a) they are of the same or a similar character;
  - (b) they form, or are part of, a single transaction or event; and
  - (c) each of them is also a war crime by virtue of either or both of subsections (1) and (3).”.

No. 6—Page 4, clause 6, proposed section 8, lines 37 to 41, leave out the proposed section, insert the following section:

**Effect of sections 6 and 7**

“8. (1) Subject to subsection 7 (2), nothing in section 6 or 7 limits the generality of anything else in that section.

‘(2) An act may be a serious crime by virtue of one or more of subsections 6 (1), (3), (4) and (5), but not otherwise.

‘(3) A serious crime may be a war crime by virtue of either or both of subsections 7 (1) and (3), but not otherwise.

‘(4) Two or more serious crimes may together constitute a war crime by virtue of subsection 7 (4), but not otherwise.”.

No. 7—Page 5, clause 6, proposed paragraph 9 (1) (a), line 4, leave out “29 October 1945”, insert “8 May 1945”.

No. 8—Page 5, clause 6, proposed paragraph 9 (1) (b), line 5, leave out the proposed paragraph.

No. 9—Page 5, clause 6, proposed subsection 13 (2), lines 35 to 37, leave out all words from and including “this Act” to the end of the subsection, insert the following words and paragraphs:

“this Act has effect, in relation to an act that is, or is alleged to be, the offence, as if:

    - (e) a reference in subsection 6 (3) or section 16 to a part of Australia were a reference to that State or Territory; and
    - (f) without limiting subsection 6 (2), all defences under the law in force in that State or Territory when the person is charged with the offence had been defences under the law in force in that State or Territory at the time of the act.”.

No. 10—Page 6, clause 6, after proposed subsection 13 (3), insert the following new subsections:

“(4) Nothing in Part II or subsection 9 (1) shall be taken to exclude, limit or otherwise prejudice:

      - (a) the application in proceedings for offences against this Act of the normal rules of evidence and procedure that apply in proceedings for offences against the laws of the Commonwealth; or
      - (b) any of the powers of a court in respect of proceedings for offences against the laws of the Commonwealth, including, but not limited to, the powers of a court to take action to prevent an abuse of process.

‘(5) Where, on the trial of a person for an offence against this Act, the person satisfies the judge, on the balance of probabilities, that:

      - (a) the person is unable to obtain evidence that he or she would, but for the lapse of time or some other reason beyond his or her control, have been able to obtain;

- (b) the person's inability to obtain that evidence has substantially prejudiced, or will substantially prejudice, the preparation or conduct of his or her defence; and
- (c) the interests of justice require the making of an order under this subsection;

the judge may make such order as he or she thinks appropriate for a stay of proceedings for the offence.

'(6) Nothing in subsections (4) and (5) limits the generality of anything else in those subsections."

No. 11—Page 6, clause 6, before proposed section 14, insert the following new sections:

**Objection to venue**

'13A. (1) This section applies where a proceeding for an offence against this Act is being held in a State or internal Territory.

'(2) The defendant may apply to the magistrate or judge for an order that all proceedings for the offence be held in another State or internal Territory.

'(3) An application may only be made:

- (a) as soon as reasonably practicable after the defendant is charged with the offence; or
- (b) at such later time as the magistrate or judge allows.

'(4) If an application is made, the magistrate or judge shall, unless he or she is satisfied on the balance of probabilities that the defendant, when charged with the offence:

- (a) was a resident of the State or Territory referred to in subsection (1); or
- (b) was not a resident of that other State or Territory;

order that all proceedings for the offence be held in that other State or Territory.

'(5) An order under this section is subject to appeal or review to the same extent, and in the same manner, as any other order or decision by the magistrate or judge made in the proceeding.

'(6) For the purposes of this section, the Australian Capital Territory and the Jervis Bay Territory constitute a single Territory.

**Effect of order for change of venue**

'13B. (1) This section applies where:

- (a) a proceeding for an offence against this Act is being held in a State or internal Territory; and
- (b) the magistrate or judge orders under section 13A that all proceedings for the offence be held in another State or internal Territory.

'(2) The magistrate or judge may order that the defendant be taken, as soon as practicable, in the custody of a specified person, to that other State or Territory and there delivered into the custody of a person having authority to arrest him or her.

'(3) The magistrate or judge may make such further orders as he or she thinks necessary to facilitate the carrying into effect of an order made under subsection (2).

'(4) While the order under section 13A is in force:

- (a) a proceeding for the offence shall not be held except in that other State or Territory; and
- (b) the defendant is not entitled to apply to a magistrate or judge in that other State or Territory for an order under section 13A in relation to the offence."

No. 12—Page 6, clause 6, proposed section 14, line 12, leave out "The", insert "Subject to subsections 6 (2) and 13 (2), the"

No. 13—Page 6, clause 6, proposed section 15, lines 17 to 22, leave out the proposed section, insert the following section:

**Defence based on laws, customs and usages of war**

“15. (1) This section has effect for the purposes of a proceeding for an offence against this Act.

‘(2) Subject to section 14, it is a defence if the doing by the defendant of the act alleged to be the offence:

- (a) was permitted by the laws, customs and usages of war; and
- (b) was not under international law a crime against humanity.

‘(3) To avoid doubt, the doing of the act by the defendant was permitted by the laws, customs and usages of war if it was reasonably justified by the exigencies and necessities of the conduct of war.

‘(4) The defendant is not entitled to rely on a defence under subsection (2) unless there is evidence of the existence of the facts constituting the defence.

‘(5) However, if there is such evidence, the onus of establishing, beyond a reasonable doubt, that those facts either do not exist or do not constitute the defence lies on the prosecution.”.

No. 14—Page 7, clause 6, before proposed section 17, insert the following new section:

**Legal assistance**

“16A. (1) A person who has been, or is about to be, charged with an offence against this Act may apply to the Attorney-General for assistance under this section.

‘(2) If the Attorney-General is satisfied that in all the circumstances it is appropriate and reasonable to grant an application made under this section, he or she may authorise the provision by the Commonwealth to the applicant of such legal or financial assistance in connection with a proceeding for the offence as the Attorney-General determines.

‘(3) An authorisation under subsection (2) may be made subject to such conditions (if any) as the Attorney-General determines.

‘(4) In considering an application made under this section, the Attorney-General shall have regard to any hardship to the applicant that refusal of the application would involve.

‘(5) As soon as practicable after deciding to refuse an application made under this section, the Attorney-General shall give the applicant a written notice that:

- (a) sets out the decision and the reasons for it; and
- (b) requests the applicant to consent in writing to a copy of the notice being laid before each House of the Parliament in accordance with subsection (6).

‘(6) Where an applicant gives a consent in writing pursuant to a request under subsection (5), the Attorney-General shall cause a copy of the notice to which the consent relates to be laid before each House of the Parliament within 15 sitting days of that House after the Attorney-General receives the consent.”.

No. 15—Page 7, clause 6, after proposed section 17, add the following new section:

**Annual report**

“18. (1) The Attorney-General shall, as soon as practicable after 30 June in each year:

- (a) cause a report about the operation of this Act during the year ending on that 30 June to be prepared; and
- (b) cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the report is prepared.

‘(2) A report under subsection (1) shall include particulars of:

- (a) how many suspected offences against this Act were under investigations during the year;
- (b) how many prosecutions for alleged offences against this Act were begun during the year;
- (c) the resources available during the year for the purposes of investigating such suspected offences and carrying on such prosecutions; and

(d) the timetable for finalising:

- (i) investigations of such suspected offences; and
- (ii) such prosecutions.”

No. 16—Clause 6, after proposed new section 18, add the following new section:

**Persons accused of war crimes not be extradited unless *prima facie* case established**

“19. (1) Subject to Part II, an expression has the same meaning in this section as in the *Extradition Act 1988*.

‘(2) Subsection (3) applies where, in proceedings that are conducted in a State or Territory under section 19 of the *Extradition Act 1988* in relation to a person, the magistrate is satisfied that there are substantial grounds for believing that an extradition offence for which the extradition country concerned seeks the person’s surrender is constituted by conduct constituting an offence against this Act.

‘(3) For the purposes of the *Extradition Act 1988*, the person is not eligible for surrender in relation to the extradition offence unless the magistrate is satisfied that there has been established a *prima facie* case that the person committed the offence against this Act, in other words, that there is evidence that, if uncontroverted, would provide sufficient grounds:

- (a) to put the person on trial in a court of that State or Territory for the last-mentioned offence; or
- (b) for inquiry by such a court in relation to the last-mentioned offence.

‘(4) For the purposes of subsection (3), subsection 13 (1) shall be disregarded.

‘(5) This section has effect despite any law or treaty.’”

Amendment No. 1—

Mr Bowen moved—That the amendment be agreed to.

Debate ensued.

Progress to be reported, and leave asked to sit again.

The House resumed; Mr McLeay reported accordingly.

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

19 COMMUNITY SERVICES AND HEALTH LEGISLATION AMENDMENT BILL (NO. 2) 1988—SENATE’S AMENDMENTS: The House, according to order, again resolved itself into a committee of the whole to consider the amendments made by the Senate.

*In the committee*

Ordered—That amendments Nos. 1 and 2 be considered together.

On the motion of Dr Blewett (Minister for Community Services and Health), amendments Nos. 1 and 2 were agreed to, after debate.

On the motion of Dr Blewett, amendment No. 3 was disagreed to, after debate.

Resolutions to be reported.

The House resumed; Mr McLeay reported accordingly.

On the motion of Dr Blewett, the House adopted the report.

Dr Blewett moved—That Mr Kerr, Mr Griffiths and the mover be appointed a committee to draw up reasons for the House of Representatives disagreeing to amendment No. 3 of the Senate.

Question—put and passed.

Dr Blewett, on behalf of the committee, brought up such reasons, which were circulated, and are as follows:

*Reasons of the House of Representatives for disagreeing to the amendment No. 3 of the Senate*

Senate amendment No. 3 is not acceptable because:

Repeal of section 21 implements a 1988-89 Budget decision to discontinue the payment of Medicare benefits for medical services provided overseas. This should be accepted by the Senate.

The proposed repeal of section 21 removes confusion in the minds of Australians travelling overseas concerning the extent of Medicare cover and highlights their need for comprehensive travel insurance. The acceptance of the amendment would continue the confusion in the minds of the Australian travellers overseas.

On the motion of Dr Blewett, the committee's reasons were adopted.

- 20 **WAR CRIMES AMENDMENT BILL 1987—SENATE'S AMENDMENTS:** The House, according to order, again resolved itself into a committee of the whole for the further consideration of the amendments made by the Senate (*see* entry No. 18).

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*In the committee*

Debate resumed on amendment No. 1.

Amendment agreed to.

On the motions of Mr Bowen (Attorney-General)—

Amendment No. 2 agreed to, after debate.

Amendment No. 3 agreed to, after debate.

Amendment No. 4 agreed to.

Amendment No. 5 agreed to, after debate.

Amendment No. 6 agreed to, after debate.

Amendment No. 7 agreed to, after debate.

Amendment No. 8 agreed to, after debate.

Amendment No. 9—

Mr Bowen moved—That the amendment be agreed to.

Debate ensued.

Mr N. A. Brown, who had already spoken twice, again addressed the committee, by leave.

Debate continued.

Amendment agreed to.

On the motions of Mr Bowen—

Amendment No. 10 agreed to, after debate.

Amendments Nos. 11 to 16 agreed to, after debate.

Resolution to be reported.

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The House resumed; Mr Mountford reported accordingly.

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

- 21 **MESSAGE FROM THE SENATE—TRANSPORT LEGISLATION AMENDMENT BILL (NO. 2) 1988:** Message No. 258, dated 8 December 1988, from the Senate was reported transmitting for the concurrence of the House a Bill for "*An Act to amend the 'Navigation Act 1912', the 'Ships (Capital Grants) Act 1987' and various other Acts relating to transport, and for related purposes*".

Bill read a first time.

Ordered—That the second reading be made an order of the day for the next sitting.

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*Suspension of sitting:* At 5.03 p.m., the Deputy Speaker left the Chair.

*Resumption of sitting:* At 6.28 p.m., the Deputy Speaker resumed the Chair.

**22 MESSAGE FROM THE SENATE—STATES GRANTS (SCHOOLS ASSISTANCE) BILL**  
 1988: The following message from the Senate was reported:

Message No. 295

Madam Speaker,

The Senate returns to the House of Representatives the Bill for "*An Act relating to the grant of financial assistance to the States and the Northern Territory for schools, and for related matters*", and acquaints the House of Representatives that the Senate has considered Message No. 359 of the House, dated 21 December 1988, in reference to such Bill.

The Senate has resolved to press its Requests for the amendments, and again requests the House of Representatives to make such amendments, as indicated by Schedule A annexed.

The Senate desires to inform the House that the amendments indicated by Schedule B annexed have been made by the Senate in the Bill.

KERRY SIBRAA  
 President

The Senate,  
 Canberra, 21 December 1988

*Statement by Deputy Speaker—Power of House in respect of money bills:*

The Deputy Speaker, on behalf of Madam Speaker, made the following statement:

I draw the attention of the House to the constitutional question this message involves. The message purports to repeat the requests for amendments contained in Message No. 274 which the House rejected at its sitting earlier today. The "right" of the Senate to repeat and thereby press or insist on a request for an amendment has never been accepted by the House of Representatives.

On several previous occasions when a request was pressed on the House by repetition the House had regard to the claim that the public welfare required passage of the legislation which was the subject of the pressed request and gave the pressed request the House's consideration notwithstanding that the House resolved to refrain from determining its constitutional rights. The House so informed the Senate of the terms of its resolution in its message to the Senate in reply.

It is not certain whether the Senate's "right" to press a request by repetition is justiciable in the courts. However it is a matter of constitutional propriety as between the Houses based on the provisions of sections 53 to 57 of the Constitution. Strong arguments that the Constitution does not give the Senate the right to press a request were advanced by Quick and Garran who were intimately involved in the development of the Constitution. Their views may be found on pages 671-2 of their treatise on the Constitution.

In 1943, some 40 years later, the question was examined by 4 eminent constitutional lawyers, Garran, Knowles, Bailey and Castieau, who, after considering other learned opinion, summed up the question in the following words:

"In our opinion, the Constitution in denying the right of amendment and conferring the right of request intended a substantial difference. In this we respectfully agree with the views expressed by Sir Harrison Moore, Sir Isaac Isaacs and Sir John Latham. We think it clear that the Constitution did not intend to stultify itself by giving back in one clause what it had taken away in another. The essence of the difference between request and amendment is that in the case of a request the right of decision as to the form of the Bill rests solely with the House of Representatives. To press a request is to insist upon it—which is a contradiction in terms, and also in our opinion unconstitutional."

Other more recent legal opinion has been of a similar view, including the opinions of Professors Richardson, Sawyer and Pearce.

I respectfully agree with these opinions, as I had reason to indicate to the House as recently as 11 April 1986. I might also add that my immediate



predecessors, Speaker Snedden on 21 October 1981 and Speaker Jenkins on 20 August 1985, also indicated their agreement to these opinions in similar statements.

It rests with the House whether it will consider Message No. 295 insofar as it purports to press the requests that were contained in Message No. 274.

In the circumstances of the present case, the House may deem it expedient to pass a resolution, as has been done on occasions in the past, that the public welfare demands the early passage of the legislation and that the House refrains from determining its constitutional rights.

Mr Dawkins (Minister for Employment, Education and Training) moved—That—

- (1) this House endorses the statement of the Speaker in relation to the constitutional questions raised by Message No. 295 transmitted from the Senate in relation to the States Grants (Schools Assistance) Bill 1988;
- (2) this House, having regard to the fact that the public interest demands the early passage of the legislation, refrains from the determination of its constitutional rights in respect of such message;
- (3) this House resolves to consider the message in committee of the whole House forthwith; and
- (4) part (2) of this resolution be incorporated in the message when the Bill is returned to the Senate.

Question—put.

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

AYES, 73

Mr Baldwin	Mr Duffy	Mrs Kelly	Mr Punch
Mr Beazley	Mr Duncan	Mr Kent	Mr Saunderson
Mr Beddall	Ms Fatin	Mr Kerin	Mr Sawford
Mr Bilney	Mr Fitzgibbon	Mr Kerr	Mr Scholes
Mr Blanchard	Mr Free	Dr Klugman	Mr Sciacca
Mr J. J. Brown	Mr Gayler	Mr Lamb*	Mr L. J. Scott
Mr R. J. Brown	Mr Gear	Mr Lavarch	Mr Simmons
Mr Brumby	Mr Griffiths	Mr Lee	Mr Snow
Mr Charles	Mr Hand	Mr Lindsay	Mr Snowdon
Dr Charlesworth	Mrs Harvey	Ms McHugh	Mr Staples
Mr Chynoweth	Mr Holding	Mr Martin	Dr Theophanous
Mr Cleeland	Mr Hollis	Mr Mildren	Mr Tickner
Mr Courtice	Mr Howe	Mr Milton	Mr Uren
Ms Crawford	Mr Humphreys	Mr A. A. Morris	Mr West
Mr Cross	Mrs Jakobsen	Mr P. F. Morris	Mr Willis
Mr Cunningham*	Mr Jenkins	Mr Mountford	Mr Wright
Mrs Darling	Mr Johns	Mr O'Keefe	
Mr Dawkins	Mr Jones	Mr O'Neil	
Mr Dubois	Mr Keating	Mr Price	

NOES, 46

Mr Aldred	Dr H. R. Edwards	Mr McArthur	Mr Sinclair
Mr Andrew*	Mr Fife	Mr MacKellar	Mr Smith
Mr Beale	Mr P. S. Fisher	Mr Macphee	Mr Spender
Mr Blunt	Mr Goodluck	Mr Miles	Mrs Sullivan
Mr Braithwaite	Mr Hall	Mr Millar	Mr Taylor
Mr N. A. Brown	Mr Halverson	Mr Peacock	Mr Tuckey
Mr Cadman	Mr Hawker	Mr Porter	Mr Webster
Mr E. C. Cameron	Dr Hewson	Mr Pratt	Mr White
Mr Carlton	Mr Hicks*	Mr Reith	Mr Wilson
Mr Connolly	Mr Howard	Mr Ruddock	Dr Woods
Mr Dobie	Mr Jull	Mr Sharp	
Mr Downer	Mr Lloyd	Mr Shipton	

\* Tellers

And so it was resolved in the affirmative.

*Message from the Governor-General:* Message No. 168, dated 21 December 1988, from His Excellency the Governor-General was announced recommending an appropriation of revenue for the purpose of any amendment made, on motion by a Minister, upon consideration of the request of the Senate for amendment to the Bill.

Ordered—That the amendments requested by the Senate be taken into consideration, in committee of the whole House, forthwith.

*In the committee*

The committee proceeded to consider the requested amendments pressed by the Senate which are as follows:

SCHEDULE SHOWING THE ORIGINAL REQUESTED AMENDMENTS OF  
THE SENATE WHICH THE HOUSE OF REPRESENTATIVES HAS NOT  
MADE, AND WHICH THE SENATE AGAIN REQUESTS THE HOUSE TO  
MAKE

No. 1—Page 50, Schedule 8 PART 1—NON-GOVERNMENT PRIMARY SCHOOLS, at end of Part, add “1989”, “166”, “112” and “56” to columns 1, 2, 3 and 4, respectively.

No. 2—Page 50, Schedule 8 PART 2—NON-GOVERNMENT SECONDARY SCHOOLS, at end of Part, add “1989”, “265”, “177” and “88” to columns 1, 2, 3 and 4, respectively.

On the motion of Mr Dawkins, the requested amendments were made, after debate.

Resolution to be reported.

The House resumed; Mr Millar reported accordingly.

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

- 23 **MESSAGE FROM THE SENATE:** A message from the Senate was reported returning the following Bill and acquainting the House that the Senate does not insist upon its amendments Nos. 1 and 2 disagreed to by the House, and has agreed to the amendment made by the House in place of amendment No. 3:

21 December 1988—Message No. 297—Higher Education Funding 1988.

- 24 **MESSAGE FROM THE SENATE—STATES GRANTS (TECHNICAL AND FURTHER EDUCATION ASSISTANCE) BILL 1988:** The following message from the Senate was reported:

Message No. 296

Madam Speaker,

The Senate returns to the House of Representatives the Bill for “*An Act relating to the funding of technical and further education and for matters connected therewith*”, and acquaints the House that the Senate does not insist upon its amendments Nos. 1 and 4 disagreed to by the House, insists upon Amendments Nos. 2 and 3 disagreed to by the House, and has agreed to the Amendment made by the House in place of Amendment No. 4.

The Senate desires the reconsideration of the Bill in respect of Amendments Nos. 2 and 3.

KERRY SIBRAA  
President

The Senate,  
Canberra, 21 December 1988

Ordered—That the message be taken into consideration, in committee of the whole House, forthwith.

*In the committee*

Mr Dawkins (Minister for Employment, Education and Training) moved—That the committee insists on disagreeing to the amendments insisted on by the Senate.

Debate ensued.

Question—put.

The committee divided (the Deputy Chairman, Mr Millar, in the Chair)—

## AYES, 74

Mr Baldwin	Mr Dubois	Mrs Kelly	Mr Price
Mr Beazley	Mr Duffy	Mr Kent	Mr Punch
Mr Beddall	Mr Duncan	Mr Kerin	Mr Saunderson
Mr Bilney	Ms Fatin	Mr Kerr	Mr Sawford
Mr Blanchard	Mr Fitzgibbon	Dr Klugman	Mr Scholes
Mr J. J. Brown	Mr Free	Mr Lamb*	Mr Sciacca
Mr R. J. Brown	Mr Gayler	Mr Lavarch	Mr L. J. Scott
Mr Brumby	Mr Gear	Mr Lee	Mr Simmons
Mr Charles	Mr Griffiths	Mr Lindsay	Mr Snow
Dr Charlesworth	Mr Hand	Ms McHugh	Mr Snowdon
Mr Chynoweth	Mrs Harvey	Mr McLeay	Mr Staples
Mr Cleeland	Mr Holding	Mr Martin	Dr Theophanous
Mr Cohen	Mr Hollis	Mr Mildren	Mr Tickner
Mr Courtice	Mr Howe	Mr Milton	Mr Uren
Ms Crawford	Mr Humphreys	Mr A. A. Morris	Mr West
Mr Cross	Mrs Jakobsen	Mr P. F. Morris	Mr Willis
Mr Cunningham*	Mr Jenkins	Mr Mountford	Mr Wright
Mrs Darling	Mr Johns	Mr O'Keefe	
Mr Dawkins	Mr Jones	Mr O'Neil	

## NOES, 44

Mr Aldred	Mr Downer	Mr Lloyd	Mr Sharp
Mr Andrew*	Dr H. R. Edwards	Mr McArthur	Mr Shipton
Mr Beale	Mr Fife	Mr MacKellar	Mr Smith
Mr Blunt	Mr P. S. Fisher	Mr Macphee	Mr Spender
Mr Braithwaite	Mr Goodluck	Mr Miles	Mrs Sullivan
Mr N. A. Brown	Mr Hall	Mr Moore	Mr Taylor
Mr Cadman	Mr Halverson	Mr Peacock	Mr Tuckey
Mr E. C. Cameron	Mr Hawker	Mr Porter	Mr Webster
Mr Carlton	Dr Hewson	Mr Pratt	Mr White
Mr Connolly	Mr Hicks*	Mr Reith	Mr Wilson
Mr Dobie	Mr Jull	Mr Ruddock	Dr Woods

\* Tellers

And so it was resolved in the affirmative.

Resolution to be reported.

The House resumed; Mr Millar reported accordingly.

On the motion of Mr Beazley (Leader of the House), the House adopted the report.

**25 SUSPENSION OF STANDING AND SESSIONAL ORDERS—MOTION OF CENSURE OF PRIME MINISTER:** Mr Howard (Leader of the Opposition) moved—That so much of the standing and sessional orders be suspended as would prevent the Leader of the Opposition moving forthwith a motion of censure of the Prime Minister.

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

**26 PRIME MINISTER—MOTION OF CENSURE:** Mr Howard (Leader of the Opposition) moved—That this House censures the Prime Minister for his failure to dismiss the Minister for Aboriginal Affairs who has (1) misled the Parliament; and (2) been publicly exposed as being incompetent in the administration of his portfolio.

Debate ensued.

*Closure:* Mr Hand (Minister for Aboriginal Affairs) moved—That the question be now put.

Question—That the question be now put—put and passed.

And the question—That the motion be agreed to—being accordingly put—

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

AYES, 47

Mr Aldred	Dr H. R. Edwards	Mr McArthur	Mr Shipton
Mr Andrew*	Mr Fife	Mr MacKellar	Mr Sinclair
Mr Beale	Mr P. S. Fisher	Mr Macphee	Mr Smith
Mr Blunt	Mr Goodluck	Mr Miles	Mr Spender
Mr Braithwaite	Mr Hall	Mr Millar	Mrs Sullivan
Mr N. A. Brown	Mr Halverson	Mr Moore	Mr Taylor
Mr Cadman	Mr Hawker	Mr Peacock	Mr Tuckey
Mr E. C. Cameron	Dr Hewson	Mr Porter	Mr Webster
Mr Carlton	Mr Hicks*	Mr Pratt	Mr White
Mr Connolly	Mr Howard	Mr Reith	Mr Wilson
Mr Dobie	Mr Jull	Mr Ruddock	Dr Woods
Mr Downer	Mr Lloyd	Mr Sharp	

NOES, 75

Mr Baldwin	Mr Duffy	Mr Keating	Mr O'Neil
Mr Beazley	Mr Duncan	Mrs Kelly	Mr Price
Mr Beddall	Ms Fatin	Mr Kent	Mr Punch
Mr Bilney	Mr Fitzgibbon	Mr Kerin	Mr Saunderson
Mr Blanchard	Mr Free	Mr Kerr	Mr Sawford
Mr J. J. Brown	Mr Gayler	Dr Klugman	Mr Scholes
Mr R. J. Brown	Mr Gear	Mr Lamb*	Mr Sciacca
Mr Brumby	Mr Griffiths	Mr Lavarch	Mr L. J. Scott
Mr Charles	Mr Hand	Mr Lee	Mr Simmons
Dr Charlesworth	Mrs Harvey	Mr Lindsay	Mr Snow
Mr Chynoweth	Mr Hawke	Ms McHugh	Mr Snowdon
Mr Cleeland	Mr Holding	Mr McLeay	Mr Staples
Mr Cohen	Mr Hollis	Mr Martin	Dr Theophanous
Mr Courtice	Mr Howe	Mr Mildren	Mr Tickner
Ms Crawford	Mr Humphreys	Mr Milton	Mr Uren
Mr Cross	Mrs Jakobsen	Mr A. A. Morris	Mr West
Mr Cunningham*	Mr Jenkins	Mr P. F. Morris	Mr Willis
Mrs Darling	Mr Johns	Mr Mountford	Mr Wright
Mr Dubois	Mr Jones	Mr O'Keefe	

\* Tellers

And so it was negatived.

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

Question—put and passed.

- 28 **PRIVILEGE—STATEMENT BY MADAM SPEAKER:** Madam Speaker referred to the matter of privilege raised earlier this day by Mr Sinclair (Leader of the National Party of Australia) (*see* entry No. 2). Madam Speaker stated that she had examined the newspaper report and it did not appear to constitute a threat or attempt to interfere with the free exercise of the House's functions or the free performance of Members' duties and, in her opinion, a *prima facie* case of contempt had not been made out. Madam Speaker said she was not prepared, therefore, to give priority to a motion in connection with the matter.

- 29 **PUBLIC ACCOUNTS COMMITTEE—REPORT AND PAPER:** Mr Tickner (Chairman) presented the following report from the Joint Committee of Public Accounts:

295th Report—Therapeutic goods: a review of the therapeutic goods evaluation and testing program.

Ordered to be printed.

Mr Tickner, by leave, presented the following paper:

Public Accounts Committee—Report on therapeutic goods—Statement by Chairman.

- 30 **MESSAGE FROM THE SENATE—STATES GRANTS (SCHOOLS ASSISTANCE) BILL 1988:** The following message from the Senate was reported:

Message No. 298

Madam Speaker,

The Senate returns to the House of Representatives the Bill for "*An Act relating to the grant of financial assistance to the States and the Northern Territory for schools, and for related matters*", and acquaints the House that the Senate has agreed to the Bill as amended by the House at the request of the Senate, with the Amendments indicated by the annexed Schedule.

The Senate requests the concurrence of the House in the Amendments made by the Senate.

KERRY SIBRAA  
President

The Senate,  
Canberra, 21 December 1988

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

*In the committee*

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

No. 1—Page 10, subclause 6 (5), lines 16 and 17, leave out "being a change that occurred due to circumstances outside the control of the approved authority,".

No. 2—Page 24, after clause 18, insert the following new clauses in Part IV:

**Agreements with States**

"18A. (1) For the purposes of this Part, in respect of any program year commencing after 31 December 1989, the Minister shall not specify an agreement to be entered into by a State with the Commonwealth, unless and until the Schools Council has considered the proposed agreement, and the Minister has taken into account any written submissions relating to the proposed agreement, transmitted to the Minister by the Board on behalf of the Schools Council.

"(2) References in this section to the Schools Council and the Board are references to the Schools Council and the National Board of Employment, Education and Training established under paragraph 23 (a) and section 6, respectively, of the *Employment, Education and Training Act 1988*.

**Administrative guidelines**

"18B. (1) The Minister shall, by written instrument, issue administrative guidelines in relation to the preparation of, and conditions to be contained in, agreements of the kind that may be specified by the Minister under this part.

"(2) A written instrument referred to in subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*."

No. 3—Page 27, after subclause 22 (2), insert the following new subclause:

"(2A) Where a school has been provisionally approved to commence in the year beginning January 1, 1989, the Minister may, by determination in writing, authorise the payment to the State under this section by way of financial assistance to the State for recurrent expenditure of the school in respect of a program year (not being a year commencing more than three years after the commencement of the establishment year) of an amount not exceeding the sum of:

- (a) the product of the amount set out in the column of part 1 of Schedule 8 that relates to that year and the number of students (including the full-time equivalent of part-time students) receiving primary education at the school on the schools census day for the State for that year or on such other day as the Minister, in special circumstances, determines in writing; and
- (b) the product of the amount set out in the column of part 2 of Schedule 8 that relates to that year and the number of students (including the full-time equivalent of part-time students) receiving secondary education

at the school on the census day for the State for that year or on such other day as the Minister, in special circumstances, determines in writing.”

No. 4—Page 27, paragraph 22 (5) (b), line 44, after “that year”, insert “or the Minister is satisfied that factors outside the control of the authority have prevented it from entering into such an agreement”.

No. 5—Page 45, after clause 51, insert the following new clause:

**Amendment of Employment, Education and Training Act**

“51A. (1) In this section:

‘Principal Act’ means the *Employment, Education and Training Act 1988*;

‘States Grants Act’ means the *States Grants (Schools Assistance) Act 1988*.

“(2) Section 25 of the Principal Act is amended by adding after paragraph

(1) (b):

‘(c) to inquire into and, from time to time, report to the Board with respect to the operation of proposed agreements.’”.

Ordered—That amendments Nos. 1, 3 and 4 be considered together before amendments Nos. 2 and 5 together.

On the motion of Mr Dawkins (Minister for Employment, Education and Training), amendments Nos. 1, 3 and 4 were agreed to.

Mr Dawkins moved—That amendments Nos. 2 and 5 be disagreed to, but that, in place of amendment No. 5, new clause 51A be inserted in the Bill:

*New clause—*

**Amendment of Employment, Education and Training Act**

“51A. (1) In this section, ‘Principal Act’ means the *Employment, Education and Training Act 1988*.

“(2) Section 24 of the Principal Act is amended by adding after paragraph (1) (b) the following paragraph:

‘(c) To inquire into and, from time to time, report to the Board with respect to the operation of agreements referred to in Part IV of the *States Grants (Schools Assistance) Act 1988* for both government and non-government sectors and in particular to monitor the application of agreements and advise on their role in supporting Commonwealth priorities.’”.

Debate ensued.

Question—put and passed.

Resolutions to be reported.

The House resumed; Mr McLeay reported accordingly.

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

Mr Dawkins moved—That Mr Brumby, Mr Scholes and the mover be appointed a committee to draw up reasons for the House of Representatives disagreeing to amendment No. 2 of the Senate.

Question—put and passed.

Mr Dawkins, on behalf of the committee, brought up such reasons, which were circulated, and are as follows:

*Reasons of the House of Representatives for disagreeing to amendment No. 2 of the Senate*

Senate amendment No. 2 is not acceptable because:

The amendment inserting new clause 18A:

(a) would have the effect of broadening the role and range of tasks of NBEET and the Schools Council in ways not originally envisaged by, and acceptable to, the Government;

(b) would inevitably, and unnecessarily, hamper the administrative process for agreements between the Government and various education authorities;

(c) in the case of government schools, the Schools Council would not be an appropriate body for this purpose given its make-up.

The amendment inserting new clause 18B allows for disallowance of administrative guidelines, to be determined in accordance with the new clause,

by the Parliament. This approach introduces uncertainty into the consultation and negotiation process with States on agreements. It represents an inappropriate form of Parliamentary scrutiny and unwarranted intrusion into the workings of Government. A legislative requirement to provide information on the processes of Government decision-making, especially the power to intrude into those processes, is unacceptable.

On the motion of Mr Dawkins, the committee's reasons were adopted.

**31 MESSAGE FROM THE SENATE—COMMUNITY SERVICES AND HEALTH LEGISLATION AMENDMENT BILL (NO. 2) 1988:** The following message from the Senate was reported:

Message No. 299

Madam Speaker,

The Senate returns to the House of Representatives the Bill for "*An Act to amend laws relating to community services and health, and for related purposes*", and acquaints the House that the Senate insists upon its Amendment No. 3 disagreed to by the House of Representatives.

The Senate desires the reconsideration of the Bill in respect of the Amendment.

KERRY SIBRAA  
President

The Senate,  
Canberra, 21 December 1988

Ordered—That the message be taken into consideration, in committee of the whole House, forthwith.

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*In the committee*

On the motion of Mr Staples (Minister for Housing and Aged Care), the amendment insisted on by the Senate was agreed to, after debate.  
Resolution to be reported.

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The House resumed; Mr McLeay reported accordingly.  
On the motion of Mr Staples, the House adopted the report.

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*Suspension of sitting:* At 10.25 p.m., the Deputy Speaker left the Chair.  
*Resumption of sitting:* At 11.37 p.m., Madam Speaker resumed the Chair.

**32 SPECIAL ADJOURNMENT:** Mr Beazley (Leader of the House) moved—That the House, at its rising, adjourn until Tuesday, 28 February 1989, at 2 p.m., unless otherwise called together by Madam Speaker or, in the event of Madam Speaker being unavailable, by the Chairman of Committees.

Question—put and passed.

**33 LEAVE OF ABSENCE TO ALL MEMBERS:** Mr Beazley (Leader of the House) moved—That leave of absence be given to every Member of the House of Representatives from the determination of this sitting of the House to the date of its next sitting.

Question—put and passed.

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

Question—put and passed.

And then the House, at 11.38 p.m., adjourned until Tuesday, 28 February 1989, at 2 p.m., in accordance with the resolution agreed to this day.

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**PAPERS:** The following papers were deemed to have been presented on 21 December 1988:

- Acts Interpretation Act—Statement relating to extension of specified period for presentation of periodic report—
  - Australian Heritage Commission—Report for 1987-88.
  - Christmas Island Services Corporation—Report for 1987-88.
  - Phosphate Mining Corporation of Christmas Island—Report for 1987-88.
- Air Force Act—Regulations—Statutory Rules 1988, No. 344.
- Archives Act—Regulation—Statutory Rules 1988, No. 340.
- Audit Act—Regulation—Statutory Rules 1988, No. 318.
- Australian Capital Territory Supreme Court Act—Rules of Court—Statutory Rules 1988, No. 331.
- Australian Citizenship Act—Regulations—Statutory Rules 1988, Nos. 324, 325.
- Australian Federal Police Act—Regulations—Statutory Rules 1988, Nos. 363, 364.
- Automotive Industry Authority Act—Regulation—Statutory Rules 1988, No. 362.
- Bankruptcy Act—Rules—Statutory Rules 1988, Nos. 342, 343.
- Banks (Shareholdings) Act—Regulations—Statutory Rules 1988, Nos. 323, 379.
- Bounty (Ships)—Regulations—Statutory Rules 1988, No. 359.
- Canberra College of Advanced Education Act—Statute—No. 65—Honorary Degree 1988.
- Civil Aviation Act—
  - Civil Aviation Regulations—Civil Aviation Orders—Parts—
    - 105—Amendments, dated 22, 29 and 30 November, and 1, 5 and 9 December 1988.
    - 106—Amendments, dated 22 November and 9 December 1988.
    - 107—Amendments, dated 22 November and 9 December 1988.
  - Regulations—Statutory Rules 1988, No. 373.
- Cocos (Keeling) Islands Act—Ordinance—1988—No. 3—Criminal Procedure Code (Amendment).
- Commonwealth Electoral Act—Regulation—Statutory Rules 1988, No. 339.
- Currency Act—Regulation—Statutory Rules 1988, No. 380.
- Customs Act—Regulations—Statutory Rules 1988, Nos. 326, 327, 361.
- Defence Act—
  - Determinations under section 58B—1988—Nos. 70 and 71—Overseas Living Allowances and other allowances.
  - Order—Rifle Clubs (Firearms) (Revocation), dated 5 December 1988.
  - Regulations—Statutory Rules 1988, Nos. 321, 322, 333.
- Epidemiological Studies (Confidentiality) Act—Regulation—Statutory Rules 1988, No. 315.
- Futures Industry Act—Regulations—Statutory Rules 1988, No. 341.
- Health Insurance Act—
  - Guidelines pursuant to subsection 124H (1), dated 17 November 1988.
  - Regulations—Statutory Rules 1988, No. 314.
- Income Tax Assessment Act—Regulations—Statutory Rules 1988, No. 382.
- Lands Acquisition Act—Statement of lands acquired by agreement authorised under subsection 7 (1).
- Long Service Leave (Commonwealth Employees) Act—Regulations—Statutory Rules 1988, No. 356.
- Meat Inspection Act—Meat Inspection (Orders) Regulations—Orders—1988—No. 8—Meat Inspection (Victoria) (Amendment).
- Merit Protection (Australian Government Employees) Act—Regulations—Statutory Rules 1988, No. 367.
- National Health Act—Declaration pursuant to subsection—
  - 85 (2), dated 16 November 1988.
  - 85 (2AA), dated 16 November 1988.



National Parks and Wildlife Conservation Act—Regulation—Statutory Rules 1988, No. 332.

Plant Variety Rights Act—Regulations—Statutory Rules 1988, No. 369.

Postal Services Act—Australian Postal Commission—By-laws—1988—Postal—Amendment—No. 6.

Proclamations by His Excellency the Governor-General fixing the dates on which the following Acts and sections of Acts shall come into operation:

*A.C.T. Self-Government (Consequential Provisions) Act 1988—*

(a) Part I, sections 6, 8, 11, and 31 and section 32 so far as it relates to the amendments of paragraph 40 (1) (e) of the *Australian Federal Police Act 1979* and the *Broadcasting Act 1942*, subparagraphs 47C (1) (a) (i) and 82B (1) (a) (i) of the *Public Service Act 1922* and subsection 3 (3) of the *Remuneration Tribunals Act 1973*, commence; and

(b) the amendments of paragraph 40 (1) (e) of the *Australian Federal Police Act 1979*, the *Broadcasting Act 1942*, subparagraph 47C (1) (a) (i) and 82B (1) (a) (i) of the *Public Service Act 1922* and subsection 3 (3) of the *Remuneration Tribunals Act 1973*, made by Schedule 5 of the first mentioned Act—7 December 1988.

*Australian Capital Territory (Self-Government) Act 1988—*Parts I, III and VIII and sections 73 and 74—7 December 1988.

*Banking Legislation Amendment Act 1986—*Sections 9, 10 and 11 and Part III—30 November 1988.

*Broadcasting (Ownership and Control) Act 1988—*

Subsections 6 (2) and 7 (2), section 12 and subsection 14 (2), other than those parts of Schedule 2 that amend subparagraphs 90L (1) (a) (i) and 92G (1) (a) (i) of the *Broadcasting Act 1942*—8 December 1988.

Parts of Schedule 2 that amend subparagraphs 90L (1) (a) (i) and 92G (1) (a) (i) of the *Broadcasting Act 1942*—8 June 1989.

*Companies and Securities Legislation (Miscellaneous Amendments) Act 1985—*Section 162—9 December 1988.

*Crimes Legislation Amendment Act (No. 2) 1988—*Sections 13 to 19 (inclusive)—1 December 1988.

*Extradition Act 1988—*1 December 1988.

Public Service Act—

Determinations—1988—Nos. 233, 235, 238, 239, 241, 244, 246, 247, 251.

Parliamentary Presiding Officers' Determination—1988—No. 4

Public Works Committee Act—Regulation—Statutory Rules 1988, No. 312.

Quarantine Act—Regulations—Statutory Rules 1988, No. 328.

Radiocommunications Act—Regulations—Statutory Rules 1988, Nos. 348, 349.

Remuneration Tribunals Act—

Determination—1988/11—Master, Supreme Court of the Australian Capital Territory and holders of public offices on other bodies.

Regulations—Statutory Rules 1988, Nos. 319, 320, 355, 357, 387.

Seamen's Compensation Act—Regulations—Statutory Rules 1988, No. 330.

Seamen's War Pensions and Allowances Act—Regulations—Statutory Rules 1988, No. 334.

Seat of Government (Administration) Act—Regulations—Statutory Rules 1988, No. 313.

South Pacific Nuclear Free Zone Treaty Act—Regulations—Statutory Rules 1988, No. 353.

Student Assistance Act—Regulations—Statutory Rules 1988, Nos. 316, 346, 347.

Superannuation Act—Regulations—Statutory Rules 1988, Nos. 317, 329.

Superannuation Benefit (Interim Arrangements) Act—Regulations—Statutory Rules 1988, No. 351.

Telecommunications Act—Australian Telecommunications Commission—  
By-laws—  
Telecommunications (General)—Amendment No. 53.  
Telecommunications (Charging Zones and Charging Districts) Amendment  
No. 85.  
Regulations—Statutory Rules 1988, No. 386.  
Veterans' Entitlements Act—Regulation—Statutory Rules 1988, No. 335.  
World Heritage Properties Conservation Act—  
Proclamation pursuant to subsection 6 (3), dated 15 December 1988.  
Regulations—Statutory Rules 1988, No. 389.

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**MEMBERS PRESENT:** All Members were present (at some time during the sitting) except Mr Adermann, Mr D. M. Cameron, Mr Campbell, Mr T. A. Fischer, Mr Gorman, Mr Hunt, Mr Katter\*, Mr Langmore, Mr Nehl, Mr Prosser, Mr Shack and Dr Wooldridge.

\* On leave

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**A. R. BROWNING**  
Clerk of the House of Representatives