

1993-94-95

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

## VOTES AND PROCEEDINGS

No. 128

WEDNESDAY, 8 MARCH 1995

1 The House met, at 9.30 a.m., pursuant to adjournment. The Speaker (the Honourable Stephen Martin) took the Chair, and read Prayers.

2 **LAND FUND AND INDIGENOUS LAND CORPORATION (ATSIC AMENDMENT) BILL 1994**

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed.

*Paper:* Mr Tickner (Minister for Aboriginal and Torres Strait Islander Affairs) presented a supplementary explanatory memorandum to the Bill.

Mr McLeay (Chief Government Whip) moved—That Mr Tickner be granted an extension of time.

Question—put.

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

AYES, 72

Mr Adams	Mr Duncan	Mr Horne*	Mr O'Connor
Mr Baldwin	Mrs Easson	Mr Howe	Mr O'Keefe
Mr Beazley	Mr Elliott	Mr Humphreys	Mr Price
Mr Beddall	Mr M. J. Evans	Mr Jenkins	Mr Punch
Mr Bevis	Ms Fatin	Mr Johns	Mr Quick
Mr Bilney	Mr Ferguson	Mr Jones	Mr Sciacca
Mr Brereton	Mr Fitzgibbon	Mr Kerr	Mr L. J. Scott
Mr Brown	Mr Free	Mr Knott	Mrs S. J. Smith
Mr Campbell	Mr Gear	Mr Latham	Mr S. F. Smith
Mr Chynoweth	Mr Gibson	Mr Lavarch	Mr Snow
Mr Cleary	Mr Gorman	Mr Lindsay	Mr Staples
Mr Cleeland	Mr Grace*	Ms McHugh	Mr Swan
Mr Crean	Mr Griffin	Mr Mack	Mr Tanner
Mrs Crosio	Mr Griffiths	Mr McLeay	Dr Theophanous
Mr Cunningham	Mr Haviland	Mr Melham	Mr Tickner
Ms Deahm	Ms Henzell	Mr A. A. Morris	Mr Walker
Mr Dodd	Mr Holding	Mr P. F. Morris	Mr Willis
Mr Duffy	Mr Hollis	Mr Newell	Mr Woods

## NOES, 54

Mr Abbott	Mr Filing	Mr McLachlan	Mr Sharp
Mr Aldred	Mr Fischer	Mr Miles	Mr Sinclair
Mr Anderson	Mr Forrest	Mr Moore	Mr Somlyay
Mr J. N. Andrew	Mr Georgiou	Mr Nehl	Mrs Sullivan
Mr K. J. Andrews	Mr Hall	Mr Neville	Mr Taylor
Mr Atkinson	Mr Halverson	Mr Nugent	Mr Truss
Mr Bradford	Mr Hawker*	Mr Prosser	Mr Tuckey
Mr Braithwaite	Mr Hicks*	Mr Pyne	Mr Vaile
Mr Cadman	Mr Jull	Mr Reid	Mr Wakelin
Mr Cameron	Mr Katter	Mr Reith	Mr Williams
Mr Charles	Mr Lieberman	Mr Rocher	Dr Wooldridge
Mr Cobb	Mr Lloyd	Mr Ronaldson	Ms Worth
Mr Connolly	Mr McArthur	Mr Ruddock	
Mr R. D. C. Evans	Mr McGauran	Mr B. C. Scott	

\* Tellers

And so it was resolved in the affirmative.

Debate continued.

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

*Message from the Governor-General:* Message No. 243, dated 23 February 1995, from His Excellency the Governor-General was announced recommending an appropriation for the purposes of the Bill.

*Consideration in detail*

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

Clause 3—

On the motion of Mr Tickner, the following amendment was made, after debate: Page 4, at the end of proposed section 191D add the following subsection:

*Searches under Native Title Act*

“(4) In performing its land acquisition functions, the Indigenous Land Corporation must search any relevant Registers of the National Native Title Tribunal to ascertain whether any claims have been lodged or accepted or determined in relation to land under consideration for acquisition.”

Clause, as amended, agreed to.

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

Bill, as amended, agreed to.

Consideration in detail concluded.

On the motion of Mr Tickner, by leave, the Bill was read a third time.

### 3 MIGRATION LEGISLATION AMENDMENT BILL (NO. 4) 1995

The order of the day having been read for the second reading—Mrs Crosio (Parliamentary Secretary to the Minister for Social Security) moved—That the Bill be now read a second time.

Debate ensued.

Mr Aldred addressing the House—

It being 3 p.m., the debate was interrupted in accordance with standing order 101A, and the resumption of the debate made an order of the day for a later hour this day.

## 4 QUESTIONS

Questions without notice being asked—

*Papers:* Mr Brereton (Minister for Transport) presented the following papers:

Sydney (Kingsford-Smith) Airport—Effect of reopening east-west runway—Copies of—

Lists of affected institutions.

Estimates of additional noise insulation program costs.

Questions without notice continued.

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*Suspension of standing and sessional orders moved*

Mr Costello (Deputy Leader of the Opposition) moved—That so much of the standing and sessional orders be suspended as would prevent the Deputy Leader of the Opposition moving forthwith—That in the light of the statements now made by Mr Packer and his advisers the Minister for Communications come into the House and apologise for his repeated false allegations that the Leader of the Opposition has made a secret deal with Mr Kerry Packer to change Australia's media ownership laws.

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

Question—put.

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

AYES, 72

Mr Adams	Mr Duncan	Mr Horne*	Mr O'Connor
Mr Baldwin	Mrs Easson	Mr Howe	Mr O'Keefe
Mr Beazley	Mr Elliott	Mr Humphreys	Mr Price
Mr Beddall	Mr M. J. Evans	Mr Jenkins	Mr Punch
Mr Bevis	Ms Fatin	Mr Johns	Mr Quick
Mr Bilney	Mr Ferguson	Mr Jones	Mr Sciacca
Mr Brereton	Mr Fitzgibbon	Mr Kerr	Mr L. J. Scott
Mr Brown	Mr Free	Mr Knott	Mrs S. J. Smith
Mr Campbell	Mr Gear	Mr Latham	Mr S. F. Smith
Mr Chynoweth	Mr Gibson	Mr Lavarch	Mr Snow
Mr Cleeland	Mr Gorman	Dr Lawrence	Mr Staples
Ms Crawford	Mr Grace*	Mr Lee	Mr Swan
Mr Crean	Mr Griffin	Mr Lindsay	Mr Tanner
Mrs Crosio	Mr Griffiths	Ms McHugh	Dr Theophanous
Mr Cunningham	Mr Haviland	Mr McLeay	Mr Tickner
Ms Deahm	Ms Henzell	Mr Melham	Mr Walker
Mr Dodd	Mr Holding	Mr A. A. Morris	Mr Willis
Mr Duffy	Mr Hollis	Mr P. F. Morris	Mr Woods

## NOES, 63

Mr Abbott	Mr Downer	Mr Lloyd	Mr Ruddock
Mr Anderson	Mr R. D. C. Evans	Mr McArthur	Mr B. C. Scott
Mr J. N. Andrew	Mr Filing	Mr McGauran	Mr Sharp
Mr K. J. Andrews	Mr Fischer	Mr Mack	Mr Sinclair
Mr Atkinson	Mr Forrest	Mr McLachlan	Mr Slipper
Mr Beale	Mrs Gallus	Mr Miles	Mr Somlyay
Mr Bradford	Mr Georgiou	Mr Moore	Mrs Sullivan
Mr Braithwaite	Mr Hall	Mrs Moylan	Mr Taylor
Mr Cadman	Mr Halverson	Mr Nehl	Mr Truss
Mr Cameron	Mr Hawker*	Mr Neville	Mr Tuckey
Mr Charles	Mr Hicks*	Mr Nugent	Mr Vaile
Mr Cleary	Mr Howard	Mr Prosser	Mr Wakelin
Mr Cobb	Mr Jull	Mr Pyne	Mr Williams
Mr Connolly	Mr Katter	Mr Reid	Dr Wooldridge
Mr Costello	Dr Kemp	Mr Reith	Ms Worth
Mr Dobie	Mr Lieberman	Mr Ronaldson	

## \* Tellers

And so it was resolved in the affirmative.

Mr Reith (seconder) addressing the House—

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

Question—put.

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

## AYES, 72

Mr Adams	Mr Duncan	Mr Horne*	Mr O'Connor
Mr Baldwin	Mrs Easson	Mr Howe	Mr O'Keefe
Mr Bezley	Mr Elliott	Mr Humphreys	Mr Price
Mr Beddall	Mr M. J. Evans	Mr Jenkins	Mr Punch
Mr Bevis	Ms Fatin	Mr Johns	Mr Quick
Mr Bilney	Mr Ferguson	Mr Jones	Mr Sciacca
Mr Brereton	Mr Fitzgibbon	Mr Kerr	Mr L. J. Scott
Mr Brown	Mr Free	Mr Knott	Mrs S. J. Smith
Mr Campbell	Mr Gear	Mr Latham	Mr S. F. Smith
Mr Chynoweth	Mr Gibson	Mr Lavarch	Mr Snow
Mr Cleeland	Mr Gorman	Dr Lawrence	Mr Staples
Ms Crawford	Mr Grace*	Mr Lee	Mr Swan
Mr Crean	Mr Griffin	Mr Lindsay	Mr Tanner
Mrs Crosio	Mr Griffiths	Ms McHugh	Dr Theophanous
Mr Cunningham	Mr Haviland	Mr McLeay	Mr Tickner
Ms Deahm	Ms Henzell	Mr Melham	Mr Walker
Mr Dodd	Mr Holding	Mr A. A. Morris	Mr Willis
Mr Duffy	Mr Hollis	Mr P. F. Morris	Mr Woods

## NOES, 63

Mr Abbott	Mr Downer	Mr Lloyd	Mr Ruddock
Mr Anderson	Mr R. D. C. Evans	Mr McArthur	Mr B. C. Scott
Mr J. N. Andrew	Mr Filing	Mr McGauran	Mr Sharp
Mr K. J. Andrews	Mr Fischer	Mr Mack	Mr Sinclair
Mr Atkinson	Mr Forrest	Mr McLachlan	Mr Slipper
Mr Beale	Mrs Gallus	Mr Miles	Mr Somlyay
Mr Bradford	Mr Georgiou	Mr Moore	Mrs Sullivan
Mr Braithwaite	Mr Hall	Mrs Moylan	Mr Taylor
Mr Cadman	Mr Halverson	Mr Nehl	Mr Truss
Mr Cameron	Mr Hawker*	Mr Neville	Mr Tuckey
Mr Charles	Mr Hicks*	Mr Nugent	Mr Vaile
Mr Cleary	Mr Howard	Mr Prosser	Mr Wakelin
Mr Cobb	Mr Jull	Mr Pyne	Mr Williams
Mr Connolly	Mr Katter	Mr Reid	Dr Wooldridge
Mr Costello	Dr Kemp	Mr Reith	Ms Worth
Mr Dobie	Mr Lieberman	Mr Ronaldson	

\* 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 and passed.

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, Mr Martin, in the Chair)—

## AYES, 61

Mr Abbott	Mr R. D. C. Evans	Mr McArthur	Mr Sharp
Mr Anderson	Mr Filing	Mr McGauran	Mr Sinclair
Mr J. N. Andrew	Mr Fischer	Mr McLachlan	Mr Slipper
Mr K. J. Andrews	Mr Forrest	Mr Miles	Mr Somlyay
Mr Atkinson	Mrs Gallus	Mr Moore	Mrs Sullivan
Mr Beale	Mr Georgiou	Mrs Moylan	Mr Taylor
Mr Bradford	Mr Hall	Mr Nehl	Mr Truss
Mr Braithwaite	Mr Halverson	Mr Neville	Mr Tuckey
Mr Cadman	Mr Hawker*	Mr Nugent	Mr Vaile
Mr Cameron	Mr Hicks*	Mr Prosser	Mr Wakelin
Mr Charles	Mr Howard	Mr Pyne	Mr Williams
Mr Cobb	Mr Jull	Mr Reid	Dr Wooldridge
Mr Connolly	Mr Katter	Mr Reith	Ms Worth
Mr Costello	Dr Kemp	Mr Ronaldson	
Mr Dobie	Mr Lieberman	Mr Ruddock	
Mr Downer	Mr Lloyd	Mr B. C. Scott	

## NOES, 73

Mr Adams	Mrs Easson	Mr Humphreys	Mr Price
Mr Baldwin	Mr Elliott	Mr Jenkins	Mr Punch
Mr Beazley	Mr M. J. Evans	Mr Johns	Mr Quick
Mr Beddall	Ms Fatin	Mr Jones	Mr Sciacca
Mr Bevis	Mr Ferguson	Mr Kerr	Mr L. J. Scott
Mr Bilney	Mr Fitzgibbon	Mr Knott	Mrs S. J. Smith
Mr Breton	Mr Free	Mr Latham	Mr S. F. Smith
Mr Brown	Mr Gear	Mr Lavarch	Mr Snow
Mr Campbell	Mr Gibson	Dr Lawrence	Mr Staples
Mr Chynoweth	Mr Gorman	Mr Lee	Mr Swan
Mr Cleeland	Mr Grace*	Mr Lindsay	Mr Tanner
Ms Crawford	Mr Griffin	Ms McHugh	Dr Theophanous
Mr Crean	Mr Griffiths	Mr Mack	Mr Tickner
Mrs Crosio	Mr Haviland	Mr McLeay	Mr Walker
Mr Cunningham	Ms Henzell	Mr Melham	Mr Willis
Ms Deahm	Mr Holding	Mr A. A. Morris	Mr Woods
Mr Dodd	Mr Hollis	Mr P. F. Morris	
Mr Duffy	Mr Horne*	Mr O'Connor	
Mr Duncan	Mr Howe	Mr O'Keefe	

\* Tellers

And so it was negated.

Questions without notice concluded.

## 5 PAPERS

The following papers were presented:

Equal Employment Opportunity (Commonwealth Authorities) Act—Equal employment opportunity program—Australian National Railways Commission (Australian National)—Report for 1993-94.

*States Grants (Primary and Secondary Education Assistance) Act 1992*—Report on financial assistance granted to each State in respect of 1993.

## 6 STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) ACT 1992—REPORT ON FINANCIAL ASSISTANCE—MOTION TO TAKE NOTE OF PAPER

Mr Beazley (Leader of the House) moved—That the House take note of the following paper:

*States Grants (Primary and Secondary Education Assistance) Act 1992*—Report on financial assistance granted to each State in respect of 1993.

Debate adjourned (Mr Reith), and the resumption of the debate made an order of the day for the next sitting.

## 7 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—EVALUATING COUPES FOR LOGGING

The House was informed that Mr Anderson (Deputy Leader of the National Party of Australia) had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The Government's political opportunism in evaluating coupes for logging".

The proposed discussion having received the necessary support—

Mr Anderson addressed the House.

Discussion ensued.

Discussion concluded.

#### 8 POSTPONEMENT OF BUSINESS

Ordered—That business intervening before notice No. 2, government business, be postponed until a later hour this day.

#### 9 HOUSING LEGISLATION AMENDMENT BILL 1995

Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology), for Mr Howe (Minister for Housing and Regional Development), pursuant to notice, presented a Bill for an Act to amend certain legislation relating to housing, and for related purposes.

Bill read a first time.

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

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

#### 10 ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT BILL (NO. 2) 1995

Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology), for Mr Tickner (Minister for Aboriginal and Torres Strait Islander Affairs), pursuant to notice, presented a Bill for an Act to amend the *Aboriginal Land Rights (Northern Territory) Act 1976*.

Bill read a first time.

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

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

#### 11 PRIMARY INDUSTRIES AND ENERGY LEGISLATION AMENDMENT BILL (NO. 2) 1995

Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology), for Mr Beddall (Minister for Resources), pursuant to notice, presented a Bill for an Act to amend various Acts administered by the Department of Primary Industries and Energy, and for related purposes.

Bill read a first time.

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

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

#### 12 DAIRY PRODUCE AMENDMENT BILL 1995

Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology), for Mr Beddall (Minister for Resources), pursuant to notice, presented a Bill for an Act to amend the *Dairy Produce Act 1986*.

Bill read a first time.

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

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

**13 DAIRY PRODUCE LEVY (NO. 1) AMENDMENT BILL 1995**

Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology) presented a Bill for an Act to amend the *Dairy Produce Levy (No. 1) Act 1986*.

Bill read a first time.

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

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

**14 DAIRY PRODUCE LEVY (NO. 2) AMENDMENT BILL 1995**

Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology) presented a Bill for an Act to amend the *Dairy Produce Levy (No. 2) Act 1986*.

Bill read a first time.

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

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

**15 BANKRUPTCY LEGISLATION AMENDMENT BILL 1995**

Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology), for Mr Kerr (Minister for Justice), pursuant to notice, presented a Bill for an Act to amend the *Administrative Decisions (Judicial Review) Act 1977* and the *Bankruptcy Act 1966*, and for related purposes.

Bill read a first time.

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

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

**16 POSTPONEMENT OF NOTICE**

Ordered—That notice No. 7, government business, be postponed until the next sitting.

**17 INTERSTATE ROAD TRANSPORT AMENDMENT BILL 1995**

Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology) presented a Bill for an Act to amend the *Interstate Road Transport Act 1985*.

Bill read a first time.

*Paper:* Mr Lindsay presented an explanatory memorandum to the following Bills:

Interstate Road Transport Amendment 1995; and

Interstate Road Transport Charge Amendment 1995.

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

**18 INTERSTATE ROAD TRANSPORT CHARGE AMENDMENT BILL 1995**

Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology) presented a Bill for an Act to amend the *Interstate Road Transport Charge Act 1985*.



Bill read a first time.

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

**19 SMALL SUPERANNUATION ACCOUNTS BILL 1995**

Mr Elliott (Parliamentary Secretary to the Treasurer), pursuant to notice, presented a Bill for an Act relating to the small superannuation accounts scheme.

Bill read a first time.

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

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

**20 SUPERANNUATION LAWS AMENDMENT (SMALL ACCOUNTS AND OTHER MEASURES) BILL 1995**

Mr Elliott (Parliamentary Secretary to the Treasurer), pursuant to notice, presented a Bill for an Act to amend the law relating to superannuation.

Bill read a first time.

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

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

**21 MESSAGE FROM THE SENATE—COMMUNICATIONS AND THE ARTS LEGISLATION AMENDMENT BILL 1994**

Message No. 422, dated 6 March 1995, from the Senate was reported transmitting for the concurrence of the House a Bill for “*An Act to amend various Acts relating to communications and the arts*”.

Bill read a first time.

*Paper:* Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Science and Technology) presented an explanatory memorandum to the Bill.

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

**22 MIGRATION LEGISLATION AMENDMENT BILL (NO. 4) 1995**

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed.

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*Absence of quorum:* Mr Horne called the attention of the Second Deputy Speaker to the fact that a quorum of Members was not present.

The bells having been rung, and a quorum not having been obtained within the prescribed time, the Second Deputy Speaker at 5.53 p.m., in accordance with standing order 45, announced that the Chair would be resumed at the ringing of the bells.

At 6.10 p.m., the Deputy Speaker resumed the Chair, and a quorum of Members was present.

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Debate continued.

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

Leave granted for third reading to be moved forthwith.

On the motion of Mrs Crosio (Parliamentary Secretary to the Minister for Social Security), the Bill was read a third time.

### 23 TOBACCO ADVERTISING PROHIBITION AMENDMENT BILL 1995

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed.

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

Leave granted for third reading to be moved forthwith.

On the motion of Dr Theophanous (Parliamentary Secretary to the Minister for Human Services and Health), the Bill was read a third time.

### 24 SUSPENSION OF STANDING AND SESSIONAL ORDERS—CONSIDERATION OF SENATE'S FURTHER AMENDMENTS TO BILLS

Mr Duncan (Parliamentary Secretary to the Attorney-General), for Mr Beazley (Leader of the House), pursuant to notice, moved—That so much of the standing and sessional orders be suspended as would prevent the House considering the further amendments made by the Senate to the following Bills:

International War Crimes Tribunal 1994; and

International War Crimes Tribunal (Consequential Amendments) 1994.

Question—put and passed.

### 25 INTERNATIONAL WAR CRIMES TRIBUNAL BILL 1994—SENATE'S MESSAGE NO. 412

The order of the day having been read for the consideration of Message No. 412 from the Senate (*reported 2 March 1995, see page 1845*)—

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## SCHEDULE A

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### SCHEDULE OF THE AMENDMENT MADE BY THE HOUSE OF REPRESENTATIVES DISAGREED TO BY THE SENATE, BUT BILL AMENDED IN PLACE THEREOF

Part 4, page 12, insert after the heading the following note:

“Note: Additional forms of assistance outside the scope of this Act may also be made available to the Tribunal—see section 83.”.

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AMENDMENT DISAGREED TO, BUT IN PLACE THEREOF, THE  
FOLLOWING AMENDMENT MADE

Part 4, page 12, after heading insert the following note:

“Note: Additional forms of assistance outside the scope of this Act may also be made available to the Tribunals —see section 83.”

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SCHEDULE B

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SCHEDULE OF THE FURTHER AMENDMENTS MADE BY THE  
SENATE

- No. 1—Clause 1, page 1, line 4, omit “*Tribunal*”, substitute “*Tribunals*”.
- No. 2—Clause 3, page 2, line 6, omit “the Tribunal”, substitute “a Tribunal”.
- No. 3—Clause 4, page 3, definition of “**forfeiture order**”, paragraph (a), line 2, omit “the Tribunal” (first occurring), substitute “a Tribunal”.
- No. 4—Clause 4, page 3, definition of “**forfeiture order**”, paragraph (b), line 5, omit “the Tribunal” (first occurring), substitute “a Tribunal”.
- No. 5—Clause 4, page 3, after definition of “**forfeiture order**” insert the following definition:
- “ **‘Former Yugoslavia Tribunal’**:
- (a) means the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, established by Resolution 827 (1993) of the Security Council of the United Nations, a copy of the English text of which is set out in Schedule 1; and
  - (b) includes any of the organs referred to in Article 11 of the Statute of the Tribunal;”.
- No. 6—Clause 4, page 4, after definition of “**recently used conveyance**” insert the following definition:
- “ **‘Rwanda Tribunal’**:
- (a) means the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994, established by Resolution 955 (1994) of the Security Council of the United Nations, a copy of the English text of which is set out in Schedule 3; and
  - (b) includes any of the organs referred to in Article 10 of the Statute of the Tribunal;”.

No. 7—Clause 4, page 4, definition of “**Statute of the Tribunal**”, lines 26 to 29, omit the definition, substitute the following definition:

“**‘Statute of the Tribunal’** means:

- (a) in the case of the Former Yugoslavia Tribunal—the Statute of the Tribunal (a copy of the English text of which is set out in Schedule 2) adopted by Resolution 827 (1993) of the Security Council of the United Nations (a copy of the English text of which is set out in Schedule 1); and
- (b) in the case of the Rwanda Tribunal—the Statute of the Tribunal (a copy of the English text of which is set out in Schedule 4) adopted by Resolution 955 (1994) of the Security Council of the United Nations (a copy of the English text of which is set out in Schedule 3);”.

No. 8—Clause 4, page 5, definition of “**Tribunal**”, lines 1 to 9, omit the definition, substitute the following definition:

“**‘Tribunal’** means:

- (a) the Former Yugoslavia Tribunal; or
- (b) the Rwanda Tribunal;”.

No. 9—Clause 4, page 5, definition of “**Tribunal offence**”, lines 10 and 11, omit the definition, substitute the following definition:

“**‘Tribunal offence’** means:

- (a) an offence for which the Former Yugoslavia Tribunal has the power to prosecute persons under Article 2, 3, 4 or 5 of the Statute of the Tribunal; or
- (b) an offence for which the Rwanda Tribunal has the power to prosecute persons under Article 2, 3 or 4 of the Statute of the Tribunal;”.

No. 10—Part 2, page 5, heading, line 20, omit “**THE TRIBUNAL**”, substitute “**A TRIBUNAL**”.

No. 11—Clause 7, page 5, subclause (1), line 22, omit “the Tribunal”, substitute “a Tribunal”.

No. 12—Clause 7, page 6, subclause (3), line 1, omit “the Tribunal”, substitute “a Tribunal”.

No. 13—Part 3, page 6, heading, line 20, omit “**THE TRIBUNAL**”, substitute “**A TRIBUNAL**”.

No. 14—Clause 9, page 6, paragraph (a), line 24, omit “the Tribunal”, substitute “a Tribunal”.

No. 15—Clause 10, page 7, paragraph (2)(a), lines 3 and 4, omit “the Tribunal”, substitute “a Tribunal”.

No. 16—Clause 11, page 7, paragraph (a), lines 18 to 20, omit the paragraph, substitute the following paragraph:

“(a) the Attorney-General is satisfied that a request from a Tribunal that would oblige the Attorney-General to issue a notice under section 9 in relation to the person will not be received; or”.

No. 17—Clause 13, page 8, paragraph (a), lines 9 to 11, omit the paragraph, substitute the following paragraph:

“(a) the Attorney-General is satisfied that a request from a Tribunal that would oblige the Attorney-General to issue a notice under section 9 in relation to the person will not be received; or”.

- No. 18—Clause 16, page 9, at end of subclause (1) add “that sought the arrest of the person under that Division”.
- No. 19—Clause 16, page 9, paragraph (3)(a), line 36, omit “exceptional”, substitute “special”.
- No. 20—Clause 21, page 11, subclause (1), line 2, omit “a person”, substitute “the person”.
- No. 21—Clause 24, page 12, subclause (1), line 2, omit “the Tribunal”, substitute “a Tribunal”.
- No. 22—Clause 25, page 12, paragraph (a), line 15, omit “the Tribunal”, substitute “a Tribunal”.
- No. 23—Part 4, page 12, heading, line 24, omit “**THE TRIBUNAL**”, substitute “**A TRIBUNAL**”.
- No. 24—Clause 26, page 12, subclause (1), line 27, omit “the Tribunal”, substitute “a Tribunal”.
- No. 25—Clause 26, page 13, paragraph (3)(b), line 5, omit “exceptional”, substitute “special”.
- No. 26—Clause 31, page 14, paragraph (3)(a), line 25, omit “the Tribunal”, substitute “a Tribunal”.
- No. 27—Clause 32, page 14, subclause (2), definition of “**Tribunal immunity certificate**”, paragraph (a), line 37, omit “the Tribunal” (first occurring), substitute “a Tribunal”.
- No. 28—Clause 33, page 15, paragraph (1)(a), line 11, omit “the Tribunal”, substitute “a Tribunal”.
- No. 29—Clause 33, page 15, paragraph (2)(b), line 23, omit “exceptional”, substitute “special”.
- No. 30—Clause 35, page 16, paragraph (1)(a), line 18, omit “the Tribunal”, substitute “a Tribunal”.
- No. 31—Clause 35, page 16, paragraph (2)(b), line 38, omit “exceptional”, substitute “special”.
- No. 32—Clause 36, page 17, paragraph (1)(a), line 3, omit “the Tribunal”, substitute “a Tribunal”.
- No. 33—Clause 36, page 18, paragraph (4)(b), line 15, omit “exceptional”, substitute “special”.
- No. 34—Clause 37, page 18, subclause (1), line 21, omit “The Tribunal”, substitute “A Tribunal”.
- No. 35—Clause 38, page 19, paragraph (a), line 6, omit “the Tribunal”, substitute “a Tribunal”.
- No. 36—Clause 39, page 19, paragraph (1)(a), line 14, omit “the Tribunal”, substitute “a Tribunal”.
- No. 37—Clause 39, page 19, paragraph (1)(b), line 16, omit “the Tribunal”, substitute “a Tribunal”.
- No. 38—Clause 39, page 19, paragraph (1)(c), line 17, omit “the Tribunal”, substitute “a Tribunal”.
- No. 39—Clause 40, page 19, subclause (1), line 33, omit “the Tribunal”, substitute “a Tribunal”.

- No. 40—Clause 40, page 20, paragraph (2)(b), line 5, omit “exceptional”, substitute “special”.
- No. 41—Part 5, page 20, heading, line 6, omit “**THE TRIBUNAL**”, substitute “**A TRIBUNAL**”.
- No. 42—Clause 41, page 20, subclause (1), line 8, omit “The Tribunal”, substitute “A Tribunal”.
- No. 43—Clause 41, page 20, subclause (2), line 10, omit “the Tribunal”, substitute “a Tribunal”.
- No. 44—Clause 42, page 20, subclause (1), line 16, omit “the Tribunal”, substitute “a Tribunal”.
- No. 45—Clause 42, page 20, at end of subclause (1) add “in respect of the Tribunal”.
- No. 46—Clause 42, page 20, subclause (3), lines 24 and 25, omit “adopted under Article 15 of the Statute of the Tribunal”, substitute the following words and paragraphs:  
“adopted under:  
    (a) in the case of the Former Yugoslavia Tribunal—Article 15 of the Statute of the Tribunal; or  
    (b) in the case of the Rwanda Tribunal—Article 14 of the Statute of the Tribunal.”.
- No. 47—Clause 43, page 20, paragraph (a), line 28, omit “the Tribunal”, substitute “a Tribunal”.
- No. 48—Clause 43, page 20, paragraph (b), line 30, omit “the Tribunal”, substitute “a Tribunal”.
- No. 49—Clause 44, page 21, paragraph (1)(a), line 5, omit “the Tribunal”, substitute “a Tribunal”.
- No. 50—Clause 44, page 21, paragraph (3)(b), line 20, omit “exceptional”, substitute “special”.
- No. 51—Clause 48, page 23, paragraph (1)(a), line 20, omit “the Tribunal’s proceeding or investigation relates”, substitute “the application for the warrant relates”.
- No. 52—Clause 72, page 36, at end of paragraph (1)(h) add “to which the person’s custody relates”.
- No. 53—Clause 72, page 36, at end of paragraph (1)(i) add “to which the person’s custody relates”.
- No. 54—Clause 77, page 38, subclause (4), line 33, omit “the Tribunal”, substitute “a Tribunal”.
- No. 55—Clause 77, page 38, paragraph (5)(b), line 37, omit “the Tribunal”, substitute “a Tribunal”.
- No. 56—Clause 82, page 40, paragraph (b), line 13, omit “the Tribunal”, substitute “a Tribunal”.
- No. 57—Clause 83, page 40, line 15, omit “the Tribunal”, substitute “a Tribunal”.
- No. 58—Schedule 2, page 43, heading, omit the heading, substitute the following heading:

“STATUTE OF THE FORMER YUGOSLAVIA TRIBUNAL”.

No. 59—At end of bill, page 55, add the following Schedules:

“SCHEDULE 3

Section 4

RESOLUTION 955 (1994)

Adopted by the Security Council at its 3453rd meeting on 8 November 1994

The Security Council,

Reaffirming all its previous resolutions on the situation in Rwanda,

Having considered the reports of the Secretary-General pursuant to paragraph 3 of resolution 935 (1994) of 1 July 1994 (S/1994/879 and S/1994/906), and having taken note of the reports of the Special Rapporteur for Rwanda of the United Nations Commission on Human Rights (S/1994/1157, annex I and annex II),

Expressing appreciation for the work of the Commission of Experts established pursuant to resolution 935 (1994), in particular its preliminary report on violations of international humanitarian law in Rwanda transmitted by the Secretary-General’s letter of 1 October 1994 (S/1994/1125),

Expressing once again its grave concern at the reports indicating that genocide and other systematic, widespread and flagrant violations of international humanitarian law have been committed in Rwanda,

Determining that this situation continues to constitute a threat to international peace and security,

Determined to put an end to such crimes and to take effective measures to bring to justice the persons who are responsible for them,

Convinced that in the particular circumstances of Rwanda, the prosecution of persons responsible for serious violations of international humanitarian law would enable this aim to be achieved and would contribute to the process of national reconciliation and to the restoration and maintenance of peace,

Believing that the establishment of an international tribunal for the prosecution of persons responsible for genocide and the other above-mentioned violations of international humanitarian law will contribute to ensuring that such violations are halted and effectively redressed,

Stressing also the need for international cooperation to strengthen the courts and judicial system of Rwanda, having regard in particular to the necessity for those courts to deal with large numbers of suspects,

Considering that the Commission of Experts established pursuant to resolution 935 (1994) should continue on an urgent basis the collection of information relating to evidence of grave violations of international humanitarian law committed in the territory of Rwanda and should submit its final report to the Secretary-General by 30 November 1994,

Acting under Chapter VII of the Charter of the United Nations,

1. Decides hereby, having received the request of the Government of Rwanda (S/1994/1115), to establish an international tribunal for the sole purpose of prosecuting persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed

in the territory of neighbouring States, between 1 January 1994 and 31 December 1994 and to this end to adopt the Statute of the International Criminal Tribunal for Rwanda annexed hereto;

2. Decides that all States shall cooperate fully with the International Tribunal and its organs in accordance with the present resolution and the Statute of the International Tribunal and that consequently all States shall take any measures necessary under their domestic law to implement the provisions of the present resolution and the Statute, including the obligation of States to comply with requests for assistance or orders issued by a Trial Chamber under Article 28 of the Statute, and requests States to keep the Secretary-General informed of such measures;

3. Considers that the Government of Rwanda should be notified prior to the taking of decisions under articles 26 and 27 of the Statute;

4. Urges States and intergovernmental and non-governmental organizations to contribute funds, equipment and services to the International Tribunal, including the offer of expert personnel;

5. Requests the Secretary-General to implement this resolution urgently and in particular to make practical arrangements for the effective functioning of the International Tribunal, including recommendations to the Council as to possible locations for the seat of the International Tribunal at the earliest time and to report periodically to the Council;

6. Decides that the seat of the International Tribunal shall be determined by the Council having regard to considerations of justice and fairness as well as administrative efficiency, including access to witnesses, and economy, and subject to the conclusion of appropriate arrangements between the United Nations and the State of the seat, acceptable to the Council, having regard to the fact that the International Tribunal may meet away from its seat when it considers it necessary for the efficient exercise of its functions; and decides that an office will be established and proceedings will be conducted in Rwanda, where feasible and appropriate, subject to the conclusion of similar appropriate arrangements;

7. Decides to consider increasing the number of judges and Trial Chambers of the International Tribunal if it becomes necessary;

8. Decides to remain actively seized of the matter.

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#### “SCHEDULE 4

Section 4

#### STATUTE OF THE RWANDA TRIBUNAL

Having been established by the Security Council acting under Chapter VII of the Charter of the United Nations, the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994 (hereinafter referred to as “the International Tribunal for Rwanda”) shall function in accordance with the provisions of the present Statute.



Article 1

Competence of the International Tribunal for Rwanda

The International Tribunal for Rwanda shall have the power to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994, in accordance with the provisions of the present Statute.

Article 2

Genocide

1. The International Tribunal for Rwanda shall have the power to prosecute persons committing genocide as defined in paragraph 2 of this article or of committing any of the other acts enumerated in paragraph 3 of this article.

2. Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

3. The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

Article 3

Crimes against humanity

The International Tribunal for Rwanda shall have the power to prosecute persons responsible for the following crimes when committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation;
- (e) Imprisonment;
- (f) Torture;
- (g) Rape;
- (h) Persecutions on political, racial and religious grounds;
- (i) Other inhumane acts.

#### Article 4

##### Violations of Article 3 common to the Geneva

##### Conventions and of Additional Protocol II

The International Tribunal for Rwanda shall have the power to prosecute persons committing or ordering to be committed serious violations of Article 3 common to the Geneva Conventions of 12 August 1949 for the Protection of War Victims, and of Additional Protocol II thereto of 8 June 1977. These violations shall include, but shall not be limited to:

- (a) Violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;
- (b) Collective punishments;
- (c) Taking of hostages;
- (d) Acts of terrorism;
- (e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;
- (f) Pillage;
- (g) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples;
- (h) Threats to commit any of the foregoing acts.

#### Article 5

##### Personal jurisdiction

The International Tribunal for Rwanda shall have jurisdiction over natural persons pursuant to the provisions of the present Statute.

#### Article 6

##### Individual criminal responsibility

1. A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 4 of the present Statute, shall be individually responsible for the crime.

2. The official position of any accused person, whether as Head of State or Government or as a responsible Government official, shall not relieve such person of criminal responsibility nor mitigate punishment.

3. The fact that any of the acts referred to in articles 2 to 4 of the present Statute was committed by a subordinate does not relieve his or her superior of criminal responsibility if he or she knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

4. The fact that an accused person acted pursuant to an order of a Government or of a superior shall not relieve him or her of criminal responsibility, but may be considered in mitigation of punishment if the International Tribunal for Rwanda determines that justice so requires.

Article 7

Territorial and temporal jurisdiction

The territorial jurisdiction of the International Tribunal for Rwanda shall extend to the territory of Rwanda including its land surface and airspace as well as to the territory of neighbouring States in respect of serious violations of international humanitarian law committed by Rwandan citizens. The temporal jurisdiction of the International Tribunal for Rwanda shall extend to a period beginning on 1 January 1994 and ending on 31 December 1994.

Article 8

Concurrent jurisdiction

1. The International Tribunal for Rwanda and national courts shall have concurrent jurisdiction to prosecute persons for serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens for such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994.

2. The International Tribunal for Rwanda shall have primacy over the national courts of all States. At any stage of the procedure, the International Tribunal for Rwanda may formally request national courts to defer to its competence in accordance with the present Statute and the Rules of Procedure and Evidence of the International Tribunal for Rwanda.

Article 9

Non bis in idem

1. No person shall be tried before a national court for acts constituting serious violations of international humanitarian law under the present Statute, for which he or she has already been tried by the International Tribunal for Rwanda.

2. A person who has been tried by a national court for acts constituting serious violations of international humanitarian law may be subsequently tried by the International Tribunal for Rwanda only if:

- (a) The act for which he or she was tried was characterized as an ordinary crime; or
- (b) The national court proceedings were not impartial or independent, were designed to shield the accused from international criminal responsibility, or the case was not diligently prosecuted.

3. In considering the penalty to be imposed on a person convicted of a crime under the present Statute, the International Tribunal for Rwanda shall take into account the extent to which any penalty imposed by a national court on the same person for the same act has already been served.

Article 10

Organization of the International Tribunal for Rwanda

The International Tribunal for Rwanda shall consist of the following organs:

- (a) The Chambers, comprising two Trial Chambers and an Appeals Chamber;
- (b) The Prosecutor; and
- (c) A Registry.

Article 11Composition of the Chambers

The Chambers shall be composed of eleven independent judges, no two of whom may be nationals of the same State, who shall serve as follows:

- (a) Three judges shall serve in each of the Trial Chambers;
- (b) Five judges shall serve in the Appeals Chamber.

Article 12Qualification and election of judges

1. The judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. In the overall composition of the Chambers due account shall be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law.

2. The members of the Appeals Chamber of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Law Committed in the Territory of the Former Yugoslavia since 1991 (hereinafter referred to as "the International Tribunal for the Former Yugoslavia") shall also serve as the members of the Appeals Chamber of the International Tribunal for Rwanda.

3. The judges of the Trial Chambers of the International Tribunal for Rwanda shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

- (a) The Secretary-General shall invite nominations for judges of the Trial Chambers from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;
- (b) Within thirty days of the date of the invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in paragraph 1 above, no two of whom shall be of the same nationality and neither of whom shall be of the same nationality as any judge on the Appeals Chamber;
- (c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than twelve and not more than eighteen candidates, taking due account of adequate representation on the International Tribunal for Rwanda of the principal legal systems of the world;
- (d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect the six judges of the Trial Chambers. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-Member States maintaining permanent observer missions at United Nations Headquarters, shall be declared elected. Should two candidates of the same nationality obtain the required majority vote, the one who received the higher number of votes shall be considered elected.

4. In the event of a vacancy in the Trial Chambers, after consultation with the Presidents of the Security Council and of the General Assembly, the Secretary-General shall appoint a person meeting the qualifications of paragraph 1 above, for the remainder of the term of office concerned.

5. The judges of the Trial Chambers shall be elected for a term of four years. The terms and conditions of service shall be those of the judges of the International Tribunal for the Former Yugoslavia. They shall be eligible for re-election.

#### Article 13

##### Officers and members of the Chambers

1. The judges of the International Tribunal for Rwanda shall elect a President.

2. After consultation with the judges of the International Tribunal for Rwanda, the President shall assign the judges to the Trial Chambers. A judge shall serve only in the Chamber to which he or she was assigned.

3. The judges of each Trial Chamber shall elect a Presiding Judge, who shall conduct all of the proceedings of that Trial Chamber as a whole.

#### Article 14

##### Rules of procedure and evidence

The judges of the International Tribunal for Rwanda shall adopt, for the purpose of proceedings before the International Tribunal for Rwanda, the rules of procedure and evidence for the conduct of the pre-trial phase of the proceedings, trials and appeals, the admission of evidence, the protection of victims and witnesses and other appropriate matters of the International Tribunal for the Former Yugoslavia with such changes as they deem necessary.

#### Article 15

##### The Prosecutor

1. The Prosecutor shall be responsible for the investigation and prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994.

2. The Prosecutor shall act independently as a separate organ of the International Tribunal for Rwanda. He or she shall not seek or receive instructions from any Government or from any other source.

3. The Prosecutor of the International Tribunal for the Former Yugoslavia shall also serve as the Prosecutor of the International Tribunal for Rwanda. He or she shall have additional staff, including an additional Deputy Prosecutor, to assist with the prosecutions before the International Tribunal for Rwanda. Such staff shall be appointed by the Secretary-General on the recommendation of the Prosecutor.

#### Article 16

##### The Registry

1. The Registry shall be responsible for the administration and servicing of the International Tribunal for Rwanda.

2. The Registry shall consist of a Registrar and such other staff as may be required.

3. The Registrar shall be appointed by the Secretary-General after consultation with the President of the International Tribunal for Rwanda. He or she shall serve for a four-year term and be eligible for reappointment. The terms and conditions of service of the Registrar shall be those of an Assistant Secretary-General of the United Nations.

4. The staff of the Registry shall be appointed by the Secretary-General on the recommendation of the Registrar.

#### Article 17

##### Investigation and preparation of indictment

1. The Prosecutor shall initiate investigations ex-officio or on the basis of information obtained from any source, particularly from Governments, United Nations organs, intergovernmental and non-governmental organizations. The Prosecutor shall assess the information received or obtained and decide whether there is sufficient basis to proceed.

2. The Prosecutor shall have the power to question suspects, victims and witnesses, to collect evidence and to conduct on-site investigations. In carrying out these tasks, the Prosecutor may, as appropriate, seek the assistance of the State authorities concerned.

3. If questioned, the suspect shall be entitled to be assisted by counsel of his or her own choice, including the right to have legal assistance assigned to the suspect without payment by him or her in any such case if he or she does not have sufficient means to pay for it, as well as to necessary translation into and from a language he or she speaks and understands.

4. Upon a determination that a prima facie case exists, the Prosecutor shall prepare an indictment containing a concise statement of the facts and the crime or crimes with which the accused is charged under the Statute. The indictment shall be transmitted to a judge of the Trial Chamber.

#### Article 18

##### Review of the indictment

1. The judge of the Trial Chamber to whom the indictment has been transmitted shall review it. If satisfied that a prima facie case has been established by the Prosecutor, he or she shall confirm the indictment. If not so satisfied, the indictment shall be dismissed.

2. Upon confirmation of an indictment, the judge may, at the request of the Prosecutor, issue such orders and warrants for the arrest, detention, surrender or transfer of persons, and any other orders as may be required for the conduct of the trial.

#### Article 19

##### Commencement and conduct of trial proceedings

1. The Trial Chambers shall ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the rules of procedure and evidence, with full respect for the rights of the accused and due regard for the protection of victims and witnesses.

2. A person against whom an indictment has been confirmed shall, pursuant to an order or an arrest warrant of the International Tribunal for Rwanda, be taken into custody, immediately informed of the charges against him or her and transferred to the International Tribunal for Rwanda.

3. The Trial Chamber shall read the indictment, satisfy itself that the rights of the accused are respected, confirm that the accused understands the indictment, and instruct the accused to enter a plea. The Trial Chamber shall then set the date for trial.

4. The hearings shall be public unless the Trial Chamber decides to close the proceedings in accordance with its rules of procedure and evidence.

#### Article 20

##### Rights of the accused

1. All persons shall be equal before the International Tribunal for Rwanda.

2. In the determination of charges against him or her, the accused shall be entitled to a fair and public hearing, subject to article 21 of the Statute.

3. The accused shall be presumed innocent until proved guilty according to the provisions of the present Statute.

4. In the determination of any charge against the accused pursuant to the present Statute, the accused shall be entitled to the following minimum guarantees, in full equality:

- (a) To be informed promptly and in detail in a language which he or she understands of the nature and cause of the charge against him or her;
- (b) To have adequate time and facilities for the preparation of his or her defence and to communicate with counsel of his or her own choosing;
- (c) To be tried without undue delay;
- (d) To be tried in his or her presence, and to defend himself or herself in person or through legal assistance of his or her own choosing; to be informed, if he or she does not have legal assistance, of this right; and to have legal assistance assigned to him or her, in any case where the interests of justice so require, and without payment by him or her in any such case if he or she does not have sufficient means to pay for it;
- (e) To examine, or have examined, the witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her;
- (f) To have the free assistance of an interpreter if he or she cannot understand or speak the language used in the International Tribunal for Rwanda;
- (g) Not to be compelled to testify against himself or herself or to confess guilt.

#### Article 21

##### Protection of victims and witnesses

The International Tribunal for Rwanda shall provide in its rules of procedure and evidence for the protection of victims and witnesses. Such protection measures shall include, but shall not be limited to, the conduct of in camera proceedings and the protection of the victim's identity.

## Article 22

### Judgement

1. The Trial Chambers shall pronounce judgements and impose sentences and penalties on persons convicted of serious violations of international humanitarian law.

2. The judgement shall be rendered by a majority of the judges of the Trial Chamber, and shall be delivered by the Trial Chamber in public. It shall be accompanied by a reasoned opinion in writing, to which separate or dissenting opinions may be appended.

## Article 23

### Penalties

1. The penalty imposed by the Trial Chamber shall be limited to imprisonment. In determining the terms of imprisonment, the Trial Chambers shall have recourse to the general practice regarding prison sentences in the courts of Rwanda.

2. In imposing the sentences, the Trial Chambers should take into account such factors as the gravity of the offence and the individual circumstances of the convicted person.

3. In addition to imprisonment, the Trial Chambers may order the return of any property and proceeds acquired by criminal conduct, including by means of duress, to their rightful owners.

## Article 24

### Appellate proceedings

1. The Appeals Chamber shall hear appeals from persons convicted by the Trial Chambers or from the Prosecutor on the following grounds:

- (a) An error on a question of law invalidating the decision; or
- (b) An error of fact which has occasioned a miscarriage of justice.

2. The Appeals Chamber may affirm, reverse or revise the decisions taken by the Trial Chambers.

## Article 25

### Review proceedings

Where a new fact has been discovered which was not known at the time of the proceedings before the Trial Chambers or the Appeals Chamber and which could have been a decisive factor in reaching the decision, the convicted person or the Prosecutor may submit to the International Tribunal for Rwanda an application for review of the judgement.

## Article 26

### Enforcement of sentences

Imprisonment shall be served in Rwanda or any of the States on a list of States which have indicated to the Security Council their willingness to accept convicted persons, as designated by the International Tribunal for Rwanda. Such imprisonment shall be in accordance with the applicable law of the State concerned, subject to the supervision of the International Tribunal for Rwanda.



Article 27

Pardon or commutation of sentences

If, pursuant to the applicable law of the State in which the convicted person is imprisoned, he or she is eligible for pardon or commutation of sentence, the State concerned shall notify the International Tribunal for Rwanda accordingly. There shall only be pardon or commutation of sentence if the President of the International Tribunal for Rwanda, in consultation with the judges, so decides on the basis of the interests of justice and the general principles of law.

Article 28

Cooperation and judicial assistance

1. States shall cooperate with the International Tribunal for Rwanda in the investigation and prosecution of persons accused of committing serious violations of international humanitarian law.

2. States shall comply without undue delay with any request for assistance or an order issued by a Trial Chamber, including, but not limited to:

- (a) The identification and location of persons;
- (b) The taking of testimony and the production of evidence;
- (c) The service of documents;
- (d) The arrest or detention of persons;
- (e) The surrender or the transfer of the accused to the International Tribunal for Rwanda.

Article 29

The status, privileges and immunities of the International Tribunal for Rwanda

1. The Convention on the Privileges and Immunities of the United Nations of 13 February 1946 shall apply to the International Tribunal for Rwanda, the judges, the Prosecutor and his or her staff, and the Registrar and his or her staff.

2. The judges, the Prosecutor and the Registrar shall enjoy the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

3. The staff of the Prosecutor and of the Registrar shall enjoy the privileges and immunities accorded to officials of the United Nations under articles V and VII of the Convention referred to in paragraph 1 of this article.

4. Other persons, including the accused, required at the seat or meeting place of the International Tribunal for Rwanda shall be accorded such treatment as is necessary for the proper functioning of the International Tribunal for Rwanda.

Article 30

Expenses of the International Tribunal for Rwanda

The expenses of the International Tribunal for Rwanda shall be expenses of the Organization in accordance with Article 17 of the Charter of the United Nations.

Article 31

Working languages

The working languages of the International Tribunal shall be English and French.

Article 32Annual report

The President of the International Tribunal for Rwanda shall submit an annual report of the International Tribunal for Rwanda to the Security Council and to the General Assembly.

”.

No. 60—Title, page 1, omit “**Tribunal perform its**”, substitute “**Tribunals perform their**”—

Mr Duncan (Parliamentary Secretary to the Attorney-General) moved—That the House of Representatives does not insist on its amendment No. 24 disagreed to by the Senate, agrees to the amendment made by the Senate in place thereof, and agrees to the further amendments, including an amendment of the title, made to the Bill by the Senate.

*Paper:* Mr Duncan presented a supplementary explanatory memorandum to the Bill.

Debate ensued.

*Paper:* Mr Duncan presented a revised explanatory memorandum to the Bill.

Question—put and passed.

**26 INTERNATIONAL WAR CRIMES TRIBUNAL (CONSEQUENTIAL AMENDMENTS) BILL 1994—SENATE’S MESSAGE NO. 413**

The order of the day having been read for the consideration of Message No. 413 from the Senate (*reported 2 March 1995, see pages 1845-6*)—

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

No. 1—Clause 1, page 1, line 3, omit “*Tribunal*”, substitute “*Tribunals*”.

No. 2—Schedule, pages 3 to 5, omit “*Tribunal*” (wherever occurring), substitute “*Tribunals*”.

No. 3—Title, page 1, omit “*Tribunal*”, substitute “*Tribunals*”—

Mr Duncan (Parliamentary Secretary to the Attorney-General) moved—That the further amendments, including an amendment of the title, made to the Bill by the Senate be agreed to.

*Paper:* Mr Duncan presented a revised explanatory memorandum to the Bill.

Question—put and passed.

**27 DECLARATION OF BILLS AS COGNATE BILLS**

Mr Duncan (Parliamentary Secretary to the Attorney-General), by leave, declared that the Radiocommunications (Transmitter Licence Tax) Amendment Bill 1994, the Radiocommunications (Receiver Licence Tax) Amendment Bill 1994 and the Radiocommunications Taxes Collection Amendment Bill 1994 were cognate Bills.

**28 RADIOCOMMUNICATIONS (TRANSMITTER LICENCE TAX) AMENDMENT BILL 1994**

The order of the day having been read for the second reading—Mr Elliott (Parliamentary Secretary to the Minister for Communications and the Arts) moved—That the Bill be now read a second time.

Debate ensued.

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## 29 ADJOURNMENT

It being approximately 7.30 p.m.—The question was proposed—That the House do now adjourn.

Debate ensued.

The House continuing to sit until 8 p.m.—The Speaker adjourned the House until tomorrow at 9.30 a.m.

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## PAPERS

The following papers were deemed to have been presented on 8 March 1995:

Higher Education Funding Act—

Determinations Nos. T5-95, T6-95.

Guidelines No. G2-95.

Navigation Act—Orders 1994 Nos. 13, 14.

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## ATTENDANCE

All Members attended (at some time during the sitting) except Mr Keating, Mr Langmore, Mr Sawford and Mr Snowdon.

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**L. M. BARLIN**

Clerk of the House of Representatives

1993-94-95

**HOUSE OF REPRESENTATIVES**  
**SUPPLEMENT TO VOTES AND PROCEEDINGS**

No. 128

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**MAIN COMMITTEE**

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**MINUTES OF PROCEEDINGS**

**WEDNESDAY, 8 MARCH 1995**

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- 1 The Main Committee met at 10 a.m.
- 2 **DEPARTMENT OF SOCIAL SECURITY AND DATA-MATCHING AGENCY—REPORT ON DATA-MATCHING PROGRAM—MOTION TO TAKE NOTE OF PAPER**

The order of the day having been read for the resumption of the debate on the motion of Mr Beazley (Leader of the House)—That the House take note of the paper (*presented on 11 October 1994*), viz.:

Data-matching Program (Assistance and Tax) Act—Department of Social Security and the Data-matching Agency—Report, October 1994—

Debate resumed.

Debate adjourned (Mr Vaile), and the resumption of the debate made an order of the day for the next sitting.

- 3 **DEPARTMENT OF SOCIAL SECURITY—PERFORMANCE STANDARDS 1993-94—MOTION TO TAKE NOTE OF PAPER**

The order of the day having been read for the resumption of the debate on the motion of Mr Beazley (Leader of the House)—That the House take note of the paper (*presented on 23 March 1994*), viz.:

Department of Social Security—Performance standards 1993-94—

Debate resumed.

Debate adjourned (Mr Hicks), and the resumption of the debate made an order of the day for the next sitting.

- 4 **DEPARTMENT OF EMPLOYMENT, EDUCATION AND TRAINING—REPORT ON DATA-MATCHING PROGRAM—MOTION TO TAKE NOTE OF PAPER**

The order of the day having been read for the resumption of the debate on the motion of Mr Beazley (Leader of the House)—That the House take note of the paper (*presented on 18 October 1994*), viz.:

Data-matching Program (Assistance and Tax) Act—Department of Employment, Education and Training—Report on progress, October 1994—

Debate resumed.

Debate adjourned (Mr Hicks), and the resumption of the debate made an order of the day for the next sitting.

**5 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—REPORT ON VISIT TO THAILAND AND LAOS—MOTION TO TAKE NOTE OF PAPER**

The order of the day having been read for the resumption of the debate on the motion of Mr Ferguson—That the House take note of the paper (*presented on 27 February 1995*), viz.:

Foreign Affairs, Defence and Trade—Joint Standing Committee—Visit to Thailand and Laos—Report, February 1995—

Debate resumed.

Debate adjourned (Mr Hicks), and the resumption of the debate made an order of the day for the next sitting.

**6 LEGAL AND CONSTITUTIONAL AFFAIRS—STANDING COMMITTEE—EXPOSURE DRAFT ON SECTION 53(3) OF THE CONSTITUTION—MOTION TO TAKE NOTE OF PAPER**

The order of the day having been read for the resumption of the debate on the motion of Mr Melham—That the House take note of the paper (*presented on 6 March 1995*), viz.:

Legal and Constitutional Affairs—Standing Committee—The third paragraph of section 53 of the Constitution—Exposure draft, 6 March 1995—

Debate resumed.

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*Suspension of sitting:* At 12.42 p.m., a division having been called in the House, the proceedings were suspended.

*Resumption of sitting:* At 12.55 p.m., the proceedings were resumed.

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Debate continued.

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

Debate adjourned (Mr Duncan—Parliamentary Secretary to the Attorney-General), and the resumption of the debate made an order of the day for the next sitting.

**7 ADJOURNMENT**

On the motion of Mr Duncan (Parliamentary Secretary to the Attorney-General), the Main Committee adjourned at 1.08 p.m.

The Deputy Speaker fixed tomorrow at 10 a.m. for the next meeting of the Main Committee.

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**I. C. HARRIS**  
Clerk of the Main Committee