

1996-97

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 113

THURSDAY, 25 SEPTEMBER 1997

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

2 **MESSAGE FROM THE SENATE—TELECOMMUNICATIONS (INTERCEPTION) AND LISTENING DEVICE AMENDMENT BILL 1997**

The following message from the Senate was reported:

Message No. 321

Mr Speaker

The Senate returns to the House of Representatives the bill for **An Act to amend the *Telecommunications (Interception) Act 1979*, the *Australian Federal Police Act 1979*, the *Customs Act 1901* and the *Financial Transaction Reports Act 1988*, 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.

MARGARET REID

President

The Senate

24 September 1997

Ordered—That the amendments be considered at the next sitting.

3 **NATIVE TITLE AMENDMENT BILL 1997**

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.

Mr G. J. Evans (Deputy Leader of the Opposition) moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the Bill a second reading, the House notes that:

- (1) native title rights, including on pastoral leases, are fundamental legal property rights, acknowledged and upheld as such by the High Court, and entitled to the same respect and protection as the property rights of non-indigenous Australians: any amendment of the Native Title Act in response to the *Wik* decision or for any other reason must fully reflect that reality;
- (2) it is in the national interest that the Act balance and reconcile to the maximum possible extent the interests and reasonable expectations of both indigenous Australians and other major stakeholders—farmers, miners and Australian taxpayers generally;
- (3) it is both in the national interest, and in the interests of indigenous Australians, farmers and miners, that there be the maximum possible predicability and certainty about the status of the Act and its practical operation;
- (4) there is a need, in particular, to guarantee the constitutional validity of the legislation, by ensuring that legislation operates for the net benefit of indigenous Australians;
- (5) it is also in everyone's interest that the processes established by this legislation to deal with the registration and determination of claims, and the reconciliation of competing interests, be as effective and expeditious as possible;
- (6) there are aspects of the Bill which may advance these objectives, in particular by encouraging and assisting the entering into of agreements, and by setting a stricter regime for the registration of claims;
- (7) nonetheless, the Bill is seriously deficient, and requires substantial amendment, in many respects, including:
 - (i) the reach of the validation provisions beyond that which is necessary for the practical redress of post-*Wik* problems;
 - (ii) the manifestly unacceptable over-reach of the provisions purporting to confirm the extinguishment of native title where exclusive tenure has previously been involved;
 - (iii) the unnecessarily broad application, in relation to coexistence on pastoral leases, of the statutory authorisation of non-pastoral activities;
 - (iv) the unnecessarily broad application of extinguishment in relation to the provision of government services and public works;
 - (v) the indefensibly limited test for allowing statutory access rights for registered claimants;
 - (vi) the dramatic limitation of the right to negotiate, and in particular its effective elimination in relation to mining on pastoral leases, which (along with the provisions amounting to direct or de facto extinguishment) significantly tilts the balance of the legislation against indigenous Australians;

- (vii) the unacceptable limitation on the effective enjoyment of the right to negotiate which is involved in powers of early ministerial intervention;
- (viii) the absurd and counterproductive sunset clause, which will simply ensure a proliferation of ambit claims under the Act, and the pursuit of future claims through expensive and complex common law processes;
- (ix) the inappropriately rigid and legalistic constraints on Registrars in the management of claims; and
- (x) the inappropriate introduction of formal rules of evidence, and limitations on the extent to which cultural and customary concerns can be taken into account, in the Federal Court claims process”.

Debate continued.

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

4 DEFENCE FORCE PERSONNEL—PROVISION OF INFORMATION—MINISTERIAL STATEMENT

Mr McLachlan (Minister for Defence), by leave, made a ministerial statement concerning the provision of information relating to defence force personnel based in Darwin.

Mr Bevis, by leave, also made a statement with reference to the matter.

5 HEALTH INSURANCE COMMISSION (REFORM AND SEPARATION OF FUNCTIONS) BILL 1997

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—*And on the amendment moved thereto by Ms Macklin, viz.*—That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the Bill a second reading, the House:

- (1) condemns the Government for the closure of Medicare offices, the threat of further closures as a result of this bill, and reducing access to Medibank Private retail outlets;
- (2) is appalled that the Government is risking higher premiums for Medibank Private members due to separation costs and loss of economies of scale and higher fees for other private health funds if the competitive force exerted to date by Medibank Private is weakened;
- (3) calls on the Government to fully protect the job security of all staff at the Health Insurance Commission including those at Medibank Private;
- (4) deplores the additional cost to taxpayers caused by the separation, including:
 - (a) replicating computer and information systems;
 - (b) a massive upheaval in branch office networks for both Medicare and Medibank Private offices; and

- (c) staff transfer and re-location costs; and
- (5) deplores the Government's total mismanagement of private health insurance which has seen \$1.7 billion of taxpayers money swallowed up by massive premium rises approved by the Health Minister and the Prime Minister"—

Debate resumed.

Amendment negatived.

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

Consideration in detail

Bill, by leave, taken as a whole.

Ms Worth (Parliamentary Secretary to the Minister for Health and Family Services), by leave, moved the following amendments together:

Clause 2, page 2 (after line 18), after subclause (3), insert:

- (3A) Part 3 of Schedule 1 to this Act commences at the end of the period of 5 years beginning on the day on which this Act receives the Royal Assent.

Schedule 1—

Item 13, page 44 (after line 18), after subsection (2), insert:

- (3) Without limiting subsection (1), the Commission has the power to obtain goods or services on credit from any person by the use of a credit card.
- (4) Subsection (3) has effect despite anything in section 36.

Item 19, page 45 (line 17), omit "5", substitute "9".

Item 26, page 47 (lines 21 and 22), omit the note, substitute:

Note: The heading to section 33 of the *Health Insurance Commission Act 1973* is replaced by the heading "**Money to be paid to the Commission for the purposes of certain functions**".

Item 33, page 49 (lines 17 to 30), omit subitems (2), (3), (4) and (5).

Page 56 (after line 31), at the end of the Schedule, add:

Part 3—Amendment commencing 5 years after Royal Assent

Health Insurance Commission Act 1973

81 Paragraph 10(1)(c)

Omit "9", substitute "5".

Paper

Ms Worth presented a supplementary explanatory memorandum to the Bill.

Debate continued.

Amendments agreed to.

Bill, as amended, agreed to.

Consideration in detail concluded.

Ms Worth, by leave, moved—That the Bill be now read a third time.

Debate ensued.

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

6 VETERANS' AFFAIRS LEGISLATION AMENDMENT (BUDGET AND COMPENSATION MEASURES) BILL 1997

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—

Paper

Mr Scott (Minister for Veterans' Affairs) presented a replacement explanatory memorandum to the Bill.

Debate resumed by Mr L. D. T. Ferguson who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the Bill a second reading, the House:

- (1) condemns the Government for its confused, secretive and inconsistent handling of repatriation benefits and awards for overseas service;
- (2) believes the Government should extend qualifying service status to personnel at RAAF Ubon Thailand from June 1965 to August 1968 and to RAN ships that served in the Far East Strategic Reserve during the Malayan emergency; and
- (3) recommends that the Government should restore entitlements to Vietnam naval logistical support personnel for the journey to and from Australia and Vietnam”.

Debate continued.

It being 2 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.

7 QUESTIONS

Questions without notice being asked—

Paper

Mr McGauran (Minister for Science and Technology) presented the following paper:

Travelling allowance payments—Details of payments to Mr McGauran for the period 24 March to 14 May 1997.

Questions without notice continued.

8 AUDITOR-GENERAL'S REPORTS

The Speaker presented the following papers:

Audit Act—Auditor-General—

Audit report No. 2 of 1997-98—Performance audit—Government business enterprise monitoring practices: Selected agencies.

Australian National Audit Office—Report for 1996-97.

Severally ordered to be printed.

9 PUBLIC ACCOUNTS—JOINT COMMITTEE—REPORT ON FINANCIAL REPORTING FOR THE COMMONWEALTH—GOVERNMENT RESPONSE—MOTION TO TAKE NOTE OF PAPER

Mr Reith (Leader of the House) presented the following paper:

Public Accounts—Joint Committee—Report 341—Financial reporting for the Commonwealth: Towards greater transparency and accountability—Government response—

and moved—That the House take note of the paper.

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

10 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—AUSTRALIAN DEFENCE FORCE MORALE

The House was informed that Mr Bevis had proposed that a definite matter of public importance be submitted to the House for discussion, namely, “The desperately low morale in the Australian Defence Force caused by the Minister for Defence’s failure to provide leadership”.

The proposed discussion having received the necessary support—

Mr Bevis addressed the House.

Discussion ensued.

Discussion concluded.

11 NATIONAL ROAD TRANSPORT COMMISSION AMENDMENT BILL 1997

Mr Ronaldson (Parliamentary Secretary to the Minister for Transport and Regional Development), for Mr Anderson (Acting Minister for Transport and Regional Development), pursuant to notice, presented a Bill for an Act to amend the *National Road Transport Commission Act 1991*, and for related purposes.

Bill read a first time.

Mr Ronaldson moved—That the Bill be now read a second time.

Paper

Mr Ronaldson presented an explanatory memorandum to the Bill.

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

12 SYDNEY AIRPORT DEMAND MANAGEMENT BILL 1997

Mr Ronaldson (Parliamentary Secretary to the Minister for Transport and Regional Development), for Mr Anderson (Acting Minister for Transport and

Regional Development), pursuant to notice, presented a Bill for an Act to limit aircraft movements at Sydney Airport, and for related purposes.

Bill read a first time.

Mr Ronaldson moved—That the Bill be now read a second time.

Paper

Mr Ronaldson presented an explanatory memorandum to the Bill.

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

13 MESSAGES FROM THE SENATE

Messages from the Senate, dated 25 September 1997, were reported returning the following Bills without amendment:

Message—

No. 323—Radiocommunications (Spectrum Licence Tax) 1997 (*without requests*).

No. 324—Radiocommunications Legislation Amendment 1997.

14 FOREIGN AFFAIRS AND TRADE LEGISLATION AMENDMENT BILL 1997—REPORT FROM MAIN COMMITTEE

The Deputy Speaker reported that the Bill had been fully considered by the Main Committee, a Governor-General's message recommending an appropriation had been reported, and the Bill had been agreed to with amendments (*see item No. 2, Minutes of Proceedings of the Main Committee*), and presented a certified copy of the Bill together with a schedule of amendments.

Amendments made by the Main Committee agreed to.

Bill, as amended, agreed to.

On the motion of Mr Scott (Minister for Veterans' Affairs), by leave, the Bill was read a third time.

15 ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT BILL 1997—REPORT FROM MAIN COMMITTEE

The Deputy Speaker reported that the Main Committee had been unable to complete consideration of the Bill and returned the Bill for further consideration (*see item No. 3, Minutes of Proceedings of the Main Committee*), and presented a certified copy of the Bill.

Debate resumed on the question—That the Bill be now read a second time—*And on the amendment moved thereto by Mr Melham, viz.—That all words after "That" be omitted with a view to substituting the following words: "consideration of the bill be deferred until a comprehensive inquiry is conducted into the operation of the Aboriginal Land Rights (Northern Territory) Act and an assessment made as to the degree to which both the Commonwealth and the Northern Territory Governments are meeting their responsibilities to the Aboriginal people of the Northern Territory in these matters".*

Question—That the words proposed to be omitted stand part of the question—
put.

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

AYES, 75

Mr Abbott	Mrs Draper	Miss J. M. Kelly	Mr Ronaldson
Mr J. N. Andrew	Mrs Elson	Dr Kemp	Mr Scott
Mr K. J. Andrews	Mr Entsch	Mr Lieberman	Mr Sinclair
Mr Anthony	Mr R. D. C. Evans	Mr Lindsay	Mr Slipper*
Mrs Bailey	Mr Fahey	Mr Lloyd	Mr A. C. Smith
Mr R. C. Baldwin	Mr Fischer	Mr McArthur*	Mr W. L. Smith
Mr Barresi	Mr Forrest	Mr McDougall	Mr Somlyay
Mr Bartlett	Mrs Gallus	Mr Marek	Dr Southcott
Mr Billson	Ms Gambaro	Mr Miles	Mrs Stone
Mrs Bishop	Mrs Gash	Mr Mutch	Mrs Sullivan
Mr Bradford	Mr Georgiou	Mr Nairn	Mr A. P. Thomson
Mr Broadbent	Mrs E. J. Grace	Mr Nehl	Mr Truss
Mr Brough	Mr Hardgrave	Dr Nelson	Mr M. A. J. Vaile
Mr Cadman	Mr Hawker	Mr Neville	Mrs D. S. Vale
Mr R. A. Cameron	Mr Hicks*	Mr Nugent	Mr Wakelin
Mr Causley	Mr Hockey	Mr Prosser	Mrs West
Mr Charles	Ms Jeanes	Mr Randall	Ms Worth
Mr Cobb	Mrs Johnston	Mr Reid	Mr Zammit
Mr Downer	Mrs D. M. Kelly	Mr Reith	

NOES, 41

Mr Adams	Mr M. J. Ferguson	Ms Macklin	Mr Quick
Mr Andren	Mr Fitzgibbon	Mr McLeay	Mr Sawford*
Mr Beddall	Mr E. L. Grace*	Mr McMullan	Mr Sercombe
Mr Bevis	Mr Griffin*	Mr Martin	Mr S. F. Smith
Mr Breton	Mr Hatton	Mr Melham	Dr Theophanous
Mr Brown	Mr Holding	Mr A. A. Morris	Mr K. J. Thomson
Mr Crean	Mr Hollis	Mr P. F. Morris	Mr Willis
Mr Dargavel	Mr Jones	Mr Mossfield	Mr Wilton
Ms Ellis	Mr Kerr	Mr O'Connor	
Mr M. J. Evans	Mr Lee	Mr O'Keefe	
Mr L. D. T. Ferguson	Mr McClelland	Mr Price	

* Tellers

And so it was resolved in the affirmative.

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

Consideration in detail

Bill, by leave, taken as a whole.

On the motion of Ms Worth (Parliamentary Secretary to the Minister for Health and Family Services), by leave, the following amendments were made together:

Schedule 1—

Page 3 (after line 8), after item 1, insert:

1A At the end of paragraphs 67A(5)(a) and (b)

Add “or”.

1B Paragraph 67A(5)(c)

Repeal the paragraph, substitute:

- (c) the Commissioner informs the Minister, in the Commissioner’s report to the Minister in respect of the claim:
 - (i) that the Commissioner finds that there are no Aboriginals who are the traditional Aboriginal owners of the area of land; or
 - (ii) that the Commissioner is unable to make a finding that there are Aboriginals who are the traditional Aboriginal owners of the area of land; or

Item 2, page 3 (lines 11 to 17), omit subsection (6), substitute:

(6) If:

- (a) an application has been made under section 50 by or on behalf of Aboriginals claiming to have a traditional land claim to an area of land; and
- (b) either:
 - (i) the application was made after 5 June 1997; or
 - (ii) subsection 50(2D) applies to the application;

the traditional land claim, in so far as it relates to that area of land, is taken to have been finally disposed of.

Note: Subparagraph (b)(i) relates to subsection 50(2A), which prevents Commissioners considering applications relating to traditional land claims made after the expiration of 10 years after the commencement of that subsection. That subsection commenced on 5 June 1987.

Paper

Ms Worth presented a supplementary explanatory memorandum to the Bill.

Bill, as amended, agreed to.

Consideration in detail concluded.

On the motion of Ms Worth, by leave, the Bill was read a third time.

16 VETERANS’ AFFAIRS LEGISLATION AMENDMENT (BUDGET AND COMPENSATION MEASURES) BILL 1997

The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—*And on the amendment moved thereto by Mr L. D. T. Ferguson, viz.*—That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the Bill a second reading, the House:

- (1) condemns the Government for its confused, secretive and inconsistent handling of repatriation benefits and awards for overseas service;

- (2) believes the Government should extend qualifying service status to personnel at RAAF Ubon Thailand from June 1965 to August 1968 and to RAN ships that served in the Far East Strategic Reserve during the Malayan emergency; and
- (3) recommends that the Government should restore entitlements to Vietnam naval logistical support personnel for the journey to and from Australia and Vietnam”—

Debate resumed.

Mr Nairn was granted leave to continue his speech when the debate is resumed.

Debate adjourned, and the resumption of the debate made an order of the day for a later hour this day.

17 TRAVELLING ALLOWANCE PAYMENTS TO MINISTERS—MINISTERIAL STATEMENT

Mr Howard (Prime Minister), by leave, made a ministerial statement concerning travelling allowance payments to Ministers.

Mr Crean, by leave, also made a statement with reference to the matter.

18 ADJOURNMENT

It being 5.30 p.m.—The question was proposed—That the House do now adjourn.

Debate ensued.

The House continuing to sit until 6 p.m.—The Speaker adjourned the House until Monday next at 12.30 p.m.

PAPER

The following paper was deemed to have been presented on 25 September 1997:

Export Control Act—Export Control (Orders) Regulations—Export Control Orders 1997 No. 4.

ATTENDANCE

All Members attended (at some time during the sitting) except Mr Albanese, Mr P. J. Baldwin, Mr Costello, Mr Jenkins, Mr Latham, Mrs Moylan, Mr Pyne, Mr Taylor and Dr Wooldridge.

I. C. HARRIS

Clerk of the House of Representatives

1996-97

HOUSE OF REPRESENTATIVES
SUPPLEMENT TO VOTES AND PROCEEDINGS

No. 113

MAIN COMMITTEE

MINUTES OF PROCEEDINGS

THURSDAY, 25 SEPTEMBER 1997

1 The Main Committee met at 10 a.m.

2 FOREIGN AFFAIRS AND TRADE LEGISLATION AMENDMENT BILL 1997

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.

Message from the Governor-General

Message No. 181, dated 28 July 1997, from His Excellency the Governor-General was announced recommending an appropriation for the purposes of the Bill.

Consideration in detail

Bill, by leave, taken as a whole.

On the motion of Mr A. P. Thomson (Parliamentary Secretary to the Minister for Foreign Affairs), by leave, the following amendments were made together:

Schedule 1—

Page 3 (after line 11), after item 1, insert:

Consular Fees Act 1955

1A Title

After “**Officers**” (second occurring), insert “**and Employees**”.

1B Paragraph 3(b)

Omit “of Foreign Affairs”.

1C Paragraph 3(b)

Omit “that”, substitute “the”.

1D At the end of section 3

Add:

; or (c) an employee of the Commonwealth authorised, in writing, by the Secretary to the Department; or

- (d) an employee of the Australian Trade Commission authorised, in writing, by the Secretary to the Department.

Item 5, page 6 (lines 1 and 2), omit “give effect to the instrument by which the international tribunal is established.”, substitute:

give effect to:

- (f) if the instrument by which the international tribunal is established relates to the privileges and immunities at the international tribunal—that instrument; or
- (g) if an agreement to which Australia and one or more other countries are parties relates to the privileges and immunities of the international tribunal—that agreement.

Paper

Mr A. P. Thomson presented a supplementary explanatory memorandum to the Bill.

Bill, as amended, agreed to.

Consideration in detail concluded.

Ordered—That the Bill be reported to the House with amendments.

3 ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT BILL 1997

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

Debate resumed by Mr Melham who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “consideration of the bill be deferred until a comprehensive inquiry is conducted into the operation of the Aboriginal Land Rights (Northern Territory) Act and an assessment made as to the degree to which both the Commonwealth and the Northern Territory Governments are meeting their responsibilities to the Aboriginal people of the Northern Territory in these matters”.

Debate continued.

Mr Griffin moved—That further proceedings on the Bill be conducted in the House.

Question—put and passed.

4 ADJOURNMENT

On the motion of Mr Slipper, the Main Committee adjourned at 1.03 p.m.

The Deputy Speaker fixed Wednesday, 1 October 1997, at 10 a.m., for the next meeting of the Main Committee.

B. C. WRIGHT
Clerk of the Main Committee