

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**VOTES AND PROCEEDINGS**

No. 46

TUESDAY, 21 DECEMBER 1993

1 The House met, at 3 p.m., pursuant to adjournment. The Speaker (the Honourable Stephen Martin) took the Chair, and read Prayers.

**2 INDUSTRY COMMISSION—PAPER—MOTION TO TAKE NOTE OF PAPER**

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

Industry Commission Act—Industry Commission—Report No. 33—  
Environmental waste management equipment, systems and services,  
17 September 1993.

Ordered to be printed.

Mr Beazley moved—That the House take note of the paper.

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

**3 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:

16 December 1993—Message—

No. 73—Australian Wine and Brandy Corporation Amendment 1993.

No. 74—Primary Industries and Energy Legislation Amendment 1993.

**4 MESSAGE FROM THE SENATE**

A message from the Senate was reported returning the Excise Tariff Amendment Bill (No. 2) 1993 and acquainting the House that the Senate has agreed to the Bill as amended by the House at the request of the Senate—Message No. 182, dated 18 December 1993.

**5 MESSAGE FROM THE SENATE—ENVIRONMENT PROTECTION (ALLIGATOR RIVERS REGION) AMENDMENT BILL 1993**

Message No. 183, dated 16 December 1993, from the Senate was reported transmitting for the concurrence of the House a Bill for "*An Act to amend the*

'Environment Protection (Alligator Rivers Region) Act 1978', and for related purposes".

Bill read a first time.

Mr Lindsay (Parliamentary Secretary to the Minister for Industry, Technology and Regional Development) moved—That the Bill be now read a second time.

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

Debate, by leave, ensued.

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

Leave granted for third reading to be moved forthwith.

On the motion of Mr Lindsay, the Bill was read a third time.

## 6 POSTPONEMENT OF BUSINESS

Ordered—That business intervening before order of the day No. 12, committee and delegation reports, be postponed until a later hour this day.

## 7 PROCEDURE—STANDING COMMITTEE—REPORT—MOTION TO TAKE NOTE OF PAPER

The order of the day having been read for the resumption of the debate on the motion of Dr Blewett—That the House take note of the paper (*presented on 28 October 1993*), viz.:

Procedure—Standing Committee—About time: Bills, questions and working hours—Inquiry into reform of the House of Representatives—Report, incorporating a dissenting report, 21 October 1993—

Debate resumed.

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*Suspension of sitting:* At 6.29 p.m., the Speaker left the Chair.

## WEDNESDAY, 22 DECEMBER 1993

*Resumption of sitting:* At 8.30 a.m., the Speaker resumed the Chair.

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

## 8 PAPER

The following paper was presented:

Anglo-Australian Telescope Agreement Act—Anglo-Australian Telescope Board—Report for 1992-93.

## 9 MESSAGE FROM THE SENATE—VETERANS' AFFAIRS LEGISLATION AMENDMENT BILL (NO. 2) 1993

The following message from the Senate was reported:

Message No. 187

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to amend the law relating to veterans' affairs, and for related purposes*", and acquaints the House that the Senate insists upon its amendment disagreed to by the House.

The Senate desires the reconsideration of the bill by the House in respect of the amendment.

KERRY SIBRAA  
President

The Senate,  
Canberra, 22 December 1993 a.m.

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

**10 MESSAGE FROM THE SENATE—STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) AMENDMENT BILL 1993**

The following message from the Senate was reported:

Message No. 188

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to amend the 'States Grants (Primary and Secondary Education Assistance) Act 1992'*", and acquaints the House that the Senate does not insist on its amendments nos 4, 5, 6, 8, 9, 10 and 11 and insists on its amendments nos 2, 3, 7, 12, 13, 14, 15, 16, 17 and 18, disagreed to by the House.

The Senate desires the reconsideration of the bill by the House in respect of amendments nos 2, 3, 7, 12, 13, 14, 15, 16, 17 and 18.

KERRY SIBRAA  
President

The Senate,  
Canberra, 22 December 1993 a.m.

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

**11 MESSAGE FROM THE SENATE—NATIVE TITLE BILL 1993**

The following message from the Senate was reported:

Message No. 184

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act about native title in relation to land or waters, 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, 22 December 1993 a.m.

*Allotment of time:* Mr Beazley (Leader of the House) moved—That the time allotted in connection with consideration of the Senate's amendments and for the remaining stages be until 9.15 a.m. this day.

Debate ensued.

Question—put and passed.

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

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*In the committee*

## SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

**Regional Agreements****Govt 1** Preamble, page 3, after line 18 insert:

“Governments should, where appropriate, facilitate negotiation on a regional basis between the parties concerned in relation to:

- (a) claims to land, or aspirations in relation to land, by Aboriginal peoples and Torres Strait Islanders; and
- (b) proposals for the use of such land for economic purposes.”

**Financial Assistance to States****Govt 2** Clause 4, page 6, table containing outline of Act, after entry relating to Part 8 insert the following entry:

8A	Financial Assistance to States and Territories: This Part provides for the Commonwealth to enter into agreements for the provision of financial assistance to States and Territories that have validated past acts.	”.
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**Govt 40** After Part 8, page 82, insert the following Part:

**“PART 8A—FINANCIAL ASSISTANCE TO STATES AND TERRITORIES**

**Financial assistance to States or Territories***Financial assistance that may be given*

“191A.(1) If a State or Territory has validated past acts as mentioned in section 18, the Commonwealth may enter into a written agreement with the State or Territory for the provision of financial assistance to that State or Territory in relation to:

- (a) the satisfaction of any liability to pay compensation arising under Part 2; or
- (b) the satisfaction of any liability to pay any costs incidental to any claim for such compensation or determination of liability for such compensation; or
- (c) costs and expenses of establishing and administering any recognised State/Territory body of that State or Territory; or
- (d) costs and expenses of administering any provisions having effect under subsection 41(1).

*Conditions*

“(2) The financial assistance is to be provided on such conditions as are determined by the Commonwealth Minister and set out in the agreement.”

**Parliamentary Joint Committee****Govt 3** Clause 4, page 6, table containing outline of Act, after entry relating to Part 10 insert the following entry:

10A	Parliamentary Joint Committee on Native Title: This Part provides for the appointment of a Parliamentary Joint Committee on Native Title.	”.
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Govt 44A After Part 10, page 84, insert the following Part:

**“PART 10A—PARLIAMENTARY JOINT COMMITTEE ON  
NATIVE TITLE**

**Establishment and membership**

“194A.(1) As soon as practicable after the commencement of this Part and after the commencement of the first session of each Parliament, a joint committee of members of the Parliament, to be known as the Parliamentary Joint Committee on Native Title, must be appointed.

“(2) The Parliamentary Joint Committee must consist of 10 members, of whom:

- (a) 5 must be senators appointed by the Senate; and
- (b) 5 must be members of the House of Representatives appointed by that House.

“(3) The appointment of members by a House must be in accordance with that House’s practice relating to the appointment of members of that House to serve on joint select committees of both Houses.

“(4) A person is not eligible for appointment as a member if he or she is:

- (a) a Minister; or
- (b) the President of the Senate; or
- (c) the Speaker of the House of Representatives; or
- (d) the Deputy President and Chairman of Committees of the Senate; or
- (e) the Deputy Speaker and Chairman of Committees of the House of Representatives.

“(5) A member ceases to hold office:

- (a) when the House of Representatives expires or is dissolved; or
- (b) if he or she becomes the holder of an office referred to in a paragraph of subsection (4); or
- (c) if he or she ceases to be a member of the House by which he or she was appointed; or
- (d) if he or she resigns his or her office as provided by subsection (6) or (7), as the case requires.

“(6) A member appointed by the Senate may resign his or her office by writing signed and delivered to the President of the Senate.

“(7) A member appointed by the House of Representatives may resign his or her office by writing signed and delivered to the Speaker of that House.

“(8) A House may appoint one of its members to fill a vacancy among the members of the Parliamentary Joint Committee appointed by that House.

**Powers and proceedings**

“194B. Subject to this Part, all matters relating to the Parliamentary Joint Committee’s powers and proceedings must be determined by resolution of both Houses.

**Duties**

“194C. The Parliamentary Joint Committee’s duties are:

- (a) to consult extensively about the implementation and operation of this Act with:
  - (i) groups of Aboriginal peoples and Torres Strait Islanders; and
  - (ii) industry organisations; and
  - (iii) Commonwealth, State, Territory and local governments; and
  - (iv) other appropriate persons and bodies; and
- (b) to report from time to time to both Houses on the implementation and operation of this Act; and
- (c) to examine each annual report that is prepared by the President of the NNTT and of which a copy has been laid before a House, and to report to both Houses on matters:
  - (i) that appear in, or arise out of, that annual report; and
  - (ii) to which, in the Parliamentary Joint Committee’s opinion, the Parliament’s attention should be directed; and
- (d) at the end of 2 years after the commencement of this Part, to inquire into and, as soon as practicable after the inquiry has been completed, to report to both Houses on:
  - (i) the effectiveness of the NNTT; and
  - (ii) the extent to which there are recognised State/Territory bodies; and
  - (iii) the appropriateness of powers of delegation exercisable by the Registrar under this Act; and
  - (iv) the extent of extinguishment or impairment of native title rights and interests as a result of the operation of this Act; and
  - (v) the operation of the National Aboriginal and Torres Strait Islander Land Fund established by Part 9; and
  - (vi) the effect of the operation of this Act on land management; and
- (e) to inquire into any question in connection with its duties that is referred to it by a House, and to report to that House on that question.

**Sunset provision**

“194D. This Part ceases to be in force at the end of 5 years after the Parliamentary Joint Committee is first appointed.”.

**Racial Discrimination Act**

**GWA 1A** After clause 6, page 7, insert the following clause:

**Racial Discrimination Act***Operation of RDA not affected*

“6A.(1) Nothing in this Act affects the operation of the *Racial Discrimination Act 1975*.

*Validation provisions not affected*

“(2) Subsection (1) does not affect the validation of past acts by or in accordance with this Act.”.

**Effect of Validation**

**Dem 2A(1)** Clause 10, page 8, at end of clause add the following subclause:

*Effect of subsection (1)*

“(2) An act that consists of the making, amendment or repeal of legislation on or after 1 July 1993 by the Commonwealth, a State or a Territory is only able to extinguish native title:

- (a) in accordance with Division 3 of Part 2 (which deals with future acts and native title); or
- (b) by validating past acts in relation to the native title.”.

**Govt 5** Clause 13, page 9, at end of clause add the following subclause:

*Effect of validation of law*

“(2) To avoid any doubt, if a past act validated by subsection (1) is the making, amendment or repeal of legislation, subsection (1) does not validate:

- (a) the grant or issue of any lease, licence, permit or authority; or
  - (b) the creation of any interest in relation to land or waters;
- under any legislation concerned, unless the grant, issue or creation is itself a past act attributable to the Commonwealth.”.

**Govt 7** Clause 18, page 11, at end of clause add the following subclause:

*Effect of validation of law*

“(2) To avoid any doubt, if a past act validated by subsection (1) is the making, amendment or repeal of legislation, subsection (1) does not validate:

- (a) the grant or issue of any lease, licence, permit or authority; or
  - (b) the creation of any interest in relation to land or waters;
- under any legislation concerned unless the grant, issue or creation is itself a past act attributable to the State or Territory.”.

**Onshore Waters**

**Govt 6** Clause 16, page 10, subparagraph (2)(a)(ii), line 32, omit “both sides of”.

**Govt 12** Clause 22, page 13, paragraph (6)(a), line 40, omit “both sides of”.

**Govt 61** Clause 220, page 103, paragraph (2)(a), line 24, omit “both sides of”.

**Govt 62** Clause 220, page 103, paragraph (2)(b), line 28, omit “both sides of”.

**Govt 63** Clause 220, page 104, subparagraph (5)(b)(ii), line 12, omit “both sides of”.

**Govt 64** Clause 225, page 106, paragraph (a), line 21, omit “both sides of”.

**Govt 72** Clause 238, page 113, definition of “land”, lines 7 and 8, omit the definition, substitute the following definition:

“‘land’ includes the airspace over, or subsoil under, land, but does not include waters;

Note: Because of the definition of ‘waters’, not only rivers and lakes etc., but also such things as the bed or subsoil under, and airspace over, rivers and lakes etc. will not be included in ‘land’.

**Offshore Waters**

**GWA 3A(1)** Clause 16, page 10, paragraph (2)(b), lines 34 to 38, omit the paragraph, substitute the following paragraph:

“(b) the native title concerned is to some extent in relation to an offshore place; or”.

**GWA 3A(2)** Clause 22, page 13, paragraph (4)(b), lines 11 to 17, omit the paragraph, substitute the following paragraph:

“(b) either:

- (i) the native title concerned relates to an offshore place and the act is not a low impact future act; or
- (ii) the native title concerned relates to an onshore place and the following conditions are satisfied:
  - (A) the act is not a low impact future act; and
  - (B) the similar compensable interest test is satisfied in relation to the act; and
  - (C) the law mentioned in section 225 (which defines ‘similar compensable interest test’) does not provide for compensation to the native title holders for the act;”.

**GWA 3A(3)** Clause 225, page 106, lines 14 to 24, omit the clause, substitute the following clause:

**Similar compensable interest test**

“225. The ‘**similar compensable interest test**’ is satisfied in relation to a past act or a future act if:

- (a) the native title concerned relates to an onshore place; and
- (b) the compensation would, apart from this Act, be payable under any law for the act on the assumption that the native title holders instead held ordinary title to any land or waters concerned and to the land adjoining, or surrounding, any waters concerned.”.

**Compensation Rights**

**Govt 8** Clause 19, page 12, subclause (3), lines 1 and 2, omit the subclause, substitute the following subclauses:

*Recovery of compensation*

“(3) The native title holders may recover the compensation from the State or Territory.

*States or Territories may create compensation entitlement*

“(4) This section does not prevent a law of a State or Territory from creating an entitlement to compensation for a past act or for the validation of a past act.

Note: Paragraph 47(b) deals with the situation where there are multiple rights to compensation under Commonwealth, State and Territory laws.

**Govt 10** Clause 22, page 13, subparagraph (4)(b)(iii), line 16, after “compensation” insert “to the native title holders”.

**Govt 11** Clause 22, page 13, subclause (5), line 21, omit “compensation is payable by”, substitute “native title holders may recover the compensation from”.

**Govt 13** Clause 23, page 15, subclause (2), line 7, omit “compensation is payable by”, substitute “native title holders may recover the compensation from”.

**Govt 19** Clause 43, page 25, at end of clause add the following subclause:

*Recovery of compensation*

“(2) If the act took place before 1 January 1994 and is attributable to the Commonwealth, a State or a Territory, the native title holders may recover



the compensation from the Commonwealth, the State or the Territory, as the case requires.”.

**Govt 22** Clause 48, page 27, subclauses (3) and (4), lines 4 to 14, omit the subclauses.

### **Right to Negotiate**

**Govt 9** Clause 22, page 13, after subclause (3) insert the following note:

“Note: Subdivision B (which deals with the right to negotiate) applies to some acquisitions under Compulsory Acquisition Acts.”.

**Govt 17** Clause 37, page 21, paragraph (1)(b), lines 24 to 26, omit the paragraph, substitute the following paragraph:

- “(b) any assessment of the effect of the proposed act on the natural environment of the land or waters concerned:
- (i) made by a court or tribunal; or
  - (ii) made, or commissioned, by the Crown in any capacity or by a statutory authority;”.

**Dem 9A(1)** Clause 41, page 24, after paragraph (2)(d) insert the following paragraph:

“(da) make provision on similar terms to section 29 and contain time limits similar to those applicable under this Subdivision; and”.

### **Extinguishment by Compulsory Acquisition**

**GWA 6A** Clause 22, page 13, paragraph (3)(a), lines 1 to 3, omit the paragraph, substitute the following paragraphs:

- “(a) the non-extinguishment principle applies to the acquisition; and
- (aa) nothing in this Act prevents any act that is done in giving effect to the purpose of the acquisition from extinguishing the native title rights and interests; and”.

### **Negotiations**

**GWA 31A** After clause 31, page 19, insert the following clause:

#### **Negotiations to include certain things**

“**31A.** Without limiting the scope of any negotiations, they may, where relevant, include the possibility of including a condition that has the effect that native title parties are to be entitled to payments worked out by reference to:

- (a) the amount of profits made; or
- (b) any income derived; or
- (c) any things produced;

by any grantee party as a result of doing anything in relation to the land or waters concerned after the act is done.”.

### **Overruling of Determinations**

**GWA 14C** Clause 14, page 10, at end of clause add the following subclause:

“(2) The extinguishment effected by this section does not by itself confer any right to eject or remove any Aboriginal persons who reside on or who exercise access over land or waters covered by a pastoral lease the grant, re-grant or extension of which is validated by section 13.”.

**Pastoral Lease Conversions**

**Govt 20** Clause 45, page 26, subclause (2), lines 7 to 10, omit the subclause, substitute the following subclause:

“(2) For all purposes under this Act in relation to the application, any extinguishment of the native title rights and interests by any of the following acts must be disregarded:

- (a) the grant of the lease itself;
- (b) the creation of any other interest itself in relation to the area;
- (c) the doing of any act under the lease or by virtue of holding the interest.

Note: The applicant will still need to show the existence of any connection with the land or waters concerned that may be required by the common law concept of native title.

**Govt 21** Clause 45, page 26, paragraph (3)(a), line 14, omit the paragraph, substitute the following paragraph:

- “(a) the determination does not affect:
- (i) the validity of the lease; or
  - (ii) any interest of the Crown in any capacity, or of any statutory authority, in any public works on the land or waters concerned; and”.

**Compensation Held by Trustees**

**Govt 23** Clause 50, page 29, at end of subclause (1) add the following paragraph:

“; (e) none of paragraphs (a), (b), (c) and (d) applies and the Federal Court decides, on application by any person, that it would be just and equitable in all the circumstances to pay the negotiated compensation to that person or another person”.

**Govt 24** Clause 50, page 30, at end of clause add the following subclause:

*Paragraph (1)(e) case*

“(7) In a paragraph (1)(e) case, the trustee must pay the negotiated compensation in accordance with the decision of the Federal Court mentioned in that paragraph.”.

**Protection of Native Title from Debt Recovery**

**Govt 25** Clause 53A, page 32, at end of clause add the following subclauses:

*Protection of native title from debt recovery processes etc.*

“(5) Subject to subsection (6), native title rights and interests held by the body corporate are not able to be:

- (a) assigned, restrained, garnisheed, seized or sold; or
- (b) made subject to any charge or interest; or
- (c) otherwise affected;

as a result of:

- (d) the incurring, creation or enforcement of any debt or other liability of the body corporate (including a debt or liability owed to the Crown in any capacity or to any statutory authority); or
- (e) any act done by the body corporate.

*Subsection (5) not applicable to dealings authorised by regulations*

“(6) Subsection (5) does not apply if the incurring of the debt, creation of the liability or doing of the act was in connection with a dealing with the

native title rights and interests authorised by regulations for the purposes of paragraph (4)(c).”.

### **Bodies Corporate**

**Govt 75(1)** Clause 4, page 5, table containing outline of Act, entry relating to Part 2, paragraph (e), lines 16 and 17, omit the paragraph, substitute the following paragraph:

“(e) Division 6 provides for prescribed bodies corporate to perform functions in relation to native title, which may include holding the native title on trust.”.

**Govt 75(2)** Clause 28, page 18, paragraph (2)(a), line 3, omit “holder”, substitute “body corporate”.

**Govt 75(3)** Clause 29, page 18, lines 23 to 26, omit the clause, substitute the following clause:

“**29.** Each of the following is also a ‘**native title party**’:

- (a) any person who, within the period of 2 months starting when the notice is given, becomes a registered native title claimant in relation to any of the land or waters that will be affected by the act;
- (b) any body corporate that, within that period of 2 months, becomes a registered native title body corporate in relation to any of the land or waters that will be affected by the act.”.

**Govt 75(4)** Clause 41, page 24, paragraph (2)(a), line 26, omit “holders”, substitute “bodies corporate”.

**Govt 75(5)** Clause 41, page 24, paragraph (2)(d), line 31, omit “holders”, substitute “bodies corporate”.

**Govt 75(6)** Clause 50, page 29, subparagraph (1)(c)(i), line 15, omit “by a body corporate”, substitute “in trust”.

**Govt 75(7)** Clause 50, page 29, subparagraph (1)(c)(ii), line 18, omit “body corporate holding the native title under Division 6”, substitute “registered native title body corporate”.

**Govt 75(8)** Clause 50, page 29, subparagraph (1)(c)(ii), line 20, omit “it”, substitute “the native title holders”.

**Govt 75(9)** Division 6, line 18 (page 31) to line 22 (page 33), omit the Division, substitute the following Division:

*“Division 6—Native title functions of prescribed bodies corporate and holding of native title in trust*

### **Determinations by NNTT and Federal Court**

“**53.** If:

- (a) the NNTT or the Federal Court proposes to make an approved determination of native title; and
- (b) the determination is that native title exists at the time of making the determination;

the NNTT or the Federal Court must, at the same time as it makes the determination, make the determinations in section 53A (which deals with holding the native title on trust) and 53B (which deals with non-trust functions of prescribed bodies corporate).

### **Determination whether native title to be held in trust**

#### *Trust determination*

“53A.(1) One of the determinations that the NNTT or the Federal Court must make is whether the native title is to be held in trust, and, if so, by whom.

#### *Steps in making determination*

“(2) The NNTT or the Federal Court is to take the following steps in making the determination:

- (a) first, it must request a representative of the persons it proposes to include in the determination of native title as the native title holders (the ‘**common law holders**’) to indicate whether the common law holders intend to have the native title held in trust by:
  - (i) nominating, in writing given to the NNTT or the Federal Court within a specified period, a prescribed body corporate to be trustee of the native title; and
  - (ii) including with the nomination the written consent of the body corporate; and
- (b) secondly, if the common law holders give the nomination within the period, the NNTT or the Federal Court must determine that the prescribed body corporate is to hold the rights and interests from time to time comprising the native title in trust for the common law holders; and
- (c) thirdly, if the common law holders do not give the nomination within the period, the NNTT or the Federal Court must determine that the rights and interests are to be held by the common law holders.

#### *Native title held in trust*

“(3) On the making of a determination under paragraph (2)(b), the prescribed body corporate holds, in accordance with the regulations, the rights and interests from time to time comprising the native title in trust for the common law holders.

#### *Holding of native title to be as prescribed*

“(4) The regulations may also make provision in respect of the following matters relating to the holding in trust of the native title rights and interests:

- (a) the functions to be performed by the body corporate;
- (b) the nature of any consultation with, or other role for, the common law holders;
- (c) the circumstances in which the rights and interests may be surrendered, transferred or otherwise dealt with;
- (d) the determination of any other matter by the NNTT or the Federal Court;
- (e) the termination of the trust or replacement of the trustee where the common law holders wish the trust to be terminated or the trustee to be replaced;
- (f) any other matter.

### **Determination of prescribed body corporate etc.**

#### *Where trustee*

“53B.(1) If the determination under section 53A is that the native title rights and interests are to be held in trust by a prescribed body corporate, the

prescribed body corporate, after becoming a registered native title body corporate (see the definition of that expression in section 238), must also perform:

- (a) any other functions given to it as a registered native title body corporate under particular provisions of this Act; and
- (b) any functions given to it as a registered native title body corporate under the regulations (see section 53C).

*Where not trustee*

“(2) If the determination under section 53A is not as mentioned in subsection (1) of this section, the NNTT or the Federal Court must take the following steps in determining which prescribed body corporate is, after becoming a registered native title body corporate, to perform the functions mentioned in subsection (3):

- (a) first, it must request a representative of the common law holders to nominate, in writing given to the NNTT or the Federal Court within a specified period, a prescribed body corporate for the purpose;
- (b) secondly, if a prescribed body corporate is nominated in accordance with the request, the NNTT or the Federal Court must determine that the body is to perform the functions;
- (c) thirdly, if no prescribed body corporate is nominated in accordance with the request, the NNTT or the Federal Court must, in accordance with the regulations, determine which prescribed body is to perform the functions.

*Functions where not trustee*

“(3) After becoming a registered native title body corporate, the body must perform:

- (a) any functions given to it as a registered native title body corporate under particular provisions of this Act; and
- (b) any functions given to it under the regulations (see section 53C).

**Functions under regulations**

“53C. The regulations may make provision for a registered native title body corporate to do all or any of the following:

- (a) if it does not hold the native title on trust under section 53A—to act as agent or representative of the common law holders in respect of matters relating to the native title;
- (b) to perform in a specified way any functions in relation to the native title given to it under other provisions of this Act;
- (c) to hold on trust, or perform functions in relation to, compensation under this Act for acts affecting the native title;
- (d) to consult with, and act in accordance with the directions of, the common law holders in performing any of their functions;
- (e) if it does not hold the native title on trust to enter into agreements in relation to the native title that are binding on the common law holders, if:
  - (i) the common law holders have been consulted about, and have authorised, the agreements; and
  - (ii) the agreements have been made in accordance with processes set out in the regulations;

(f) to perform any other functions in relation to the native title.

#### **Kinds of prescribed bodies corporate**

**“53D.** The regulations may prescribe the kinds of bodies corporate that may be determined under section 53A or 53B in either or both of the following ways:

- (a) by providing that bodies corporate may be established and operated for the purpose in a specified way;
- (b) by providing that the bodies corporate may be those that have been or may be established by other laws of the Commonwealth, a State or a Territory.

#### **Replacement of prescribed bodies corporate**

**“53E.** The regulations may make provision for the replacement of a prescribed body corporate by another prescribed body corporate at the initiation of the common law holders.”.

**Govt 75(10)** Clause 55, page 34, subclause (1), table of applications, “Revised native title determination application” entry, **Persons who may make application** column, line 23, omit “holder”, substitute “body corporate”.

**Govt 75(11)** Clause 55, page 34, subclause (1), table of applications, “Compensation application” entry, **Persons who may make application** column, line 35, omit “holder”, substitute “body corporate”.

**Govt 75(12)** Clause 59, page 37, subparagraph (2)(a)(iv), line 8, omit “holder”, substitute “body corporate”.

**Govt 75(13)** Clause 87, line 34 (page 45) to line 8 (page 46), omit the clause, substitute the following clause:

**“87.** If the Federal Court makes an order that compensation is payable, the order must set out:

- (a) the name of the person or persons entitled to the compensation or the method for determining the person or persons; and
- (b) the method (if any) for determining the amount or kind of compensation to be given to each person; and
- (c) the method for determining any dispute regarding the entitlement of a person to an amount of the compensation.”.

**Govt 75(14)** Clause 153, page 68, lines 5 to 16, omit the clause, substitute the following clause:

**“153.** If the Tribunal makes a determination that compensation is payable, the determination must set out:

- (a) the name of the person or persons entitled to the compensation or the method for determining the person or persons; and
- (b) the method (if any) for determining the amount or kind of compensation to be given to each person; and
- (c) the method for determining any dispute regarding the entitlement of a person to an amount of the compensation.”.

**Govt 75(15)** Clause 185, page 81, paragraph (2)(d), lines 7 to 9, omit the paragraph, substitute the following paragraph:

“(d) the matters determined, including:

- (i) who the common law holders of the native title are; and

- (ii) the name of any prescribed body corporate that holds the native title rights and interests on trust; and
- (iii) the name and address of the prescribed body corporate determined under section 53A or 53B in relation to the native title.”.

**Govt 75(16)** Clause 207, page 94, table containing list of definitions, after entry for **“Register of Native Title Claims”** insert the following entry:

**“registered native title body corporate . . . . . 238”.**

**Govt 75(17)** Clause 207, page 94, table containing list of definitions, line 21, omit **“registered native title . . . . . 238”.**

**Govt 75(18)** Clause 209, page 96, paragraph (a), lines 4 and 5, omit the paragraph, substitute the following paragraph:

“(a) if a prescribed body corporate is registered on the National Native Title Register as holding the native title rights and interests on trust—the prescribed body corporate; or”.

**Govt 75(19)** Clause 223, page 105, subclause (5), line 26, omit “etc. by bodies corporate”, substitute “on trust”.

**Govt 75(20)** Clause 238, page 112, definition of **“common law holders”**, line 6, omit “53”, substitute “53A”.

**Govt 75(21)** Clause 238, page 114, after definition of **“Register of Native Title Claims”** insert the following definition:

“**‘registered native title body corporate’** means the prescribed body corporate whose name and address are registered on the National Native Title Register under subparagraph 185(2)(d)(iii);”.

**Govt 75(22)** Clause 238, page 114, definition of **“registered native title holder”**, lines 34 and 35, omit the definition.

**Applications**

**Dem 23** Clause 55, page 34, subclause (1), table of applications, “Revised native title determination application” entry, **Application** column, omit “21(1)”, substitute “12(1)”.

**GWA 22A(1)** Clause 56, page 35, paragraphs (1)(a) and (b), lines 14 to 22, omit the paragraphs, substitute the following paragraphs:

- “(a) be accompanied by an affidavit sworn by the applicant that the applicant:
  - (i) believes that native title has not been extinguished in relation to any part of the area; and
  - (ii) believes that none of the area is covered by an entry in the National Native Title Register; and
  - (iii) believes that all of the statements made in the application are true; and
- (b) contain all information known to the applicant about interests in relation to any of the land or waters concerned that are held by persons other than as native title holders; and
- (ba) contain a description of the area over which the native title is claimed; and”.

**GWA 22A(2)** Clause 57, line 28 (page 35) to line 17 (page 36), omit the clause, substitute the following clauses:

**Applications complying with section 56**

*Acceptance of applications that are not frivolous etc.*

“57.(1) If the requirements of section 56 are complied with in relation to the application, the Registrar must accept it, unless he or she is of the opinion:

- (a) that the application is frivolous or vexatious; or
- (b) that *prima facie* the claim cannot be made out.

*Reference of vexatious etc. cases to presidential member*

“(2) If the Registrar is of the opinion mentioned in paragraph (1)(a) or (b), the Registrar must refer the application to a presidential member.

*Where presidential member agrees that application is vexatious etc.*

“(3) If the presidential member is of the same opinion, the presidential member must:

- (a) advise the applicant in writing of the fact and give the applicant a reasonable opportunity to satisfy the presidential member that the application is not frivolous or vexatious, or that a *prima facie* claim can be made out, as the case requires; and
- (b) if the applicant so satisfies the presidential member—direct the Registrar to accept the application; and
- (c) if the applicant does not so satisfy the presidential member—direct the Registrar not to accept the application.

*Where presidential member considers application not vexatious etc.*

“(4) If the presidential member is not of the same opinion as the Registrar, the presidential member must direct the Registrar to accept the application.

**Applications not complying with section 56**

*Reference to presidential member*

“57A.(1) If the Registrar considers that the requirements of section 56 are not complied with in relation to the application, the Registrar must refer the application to a presidential member.

*Where presidential member considers requirements not complied with*

“(2) If the presidential member also considers that the requirements are not complied with, the presidential member must:

- (a) advise the applicant in writing of the fact and give the applicant a reasonable opportunity to satisfy the presidential member that the requirements are complied with; and
- (b) if the applicant so satisfies the presidential member—direct the Registrar to accept the application; and
- (c) if the applicant does not so satisfy the presidential member—direct the Registrar not to accept the application.

*Where presidential member considers requirements are complied with*

“(3) If the presidential member considers the requirements are complied with, the presidential member must direct the Registrar to accept the application.”.



**Tribunal and Court Procedure**

**Govt 26** Clause 59, page 37, after subparagraph (2)(a)(iv) insert the following subparagraph:

“(iva) any person who holds a proprietary interest in any of the area covered by the application, being an interest that is registered in a register of interests in relation to land or waters maintained by the Commonwealth, a State or a Territory; and”.

**Govt 27** Clause 60, pages 37 and 38, subclause (2), line 34 (page 37) to line 3 (page 38), omit the subclause, substitute the following subclause:

*Effect if an application by native title claimants is accepted*

“(2) If:

- (a) within the period specified in the notice under section 59, a person or persons claiming to hold native title give a native title determination application (the ‘**claimant application**’) that covers any part of the area covered by the non-claimant application to the Registrar or to a recognised State/Territory body entitled to receive it; and
- (b) the claimant application is accepted (whether initially or on appeal and whether or not within the specified period);

then:

- (c) if the non-claimant application is by or on behalf of a Minister, the Crown in any capacity or a statutory authority—the non-claimant application is taken to be dismissed; or
- (d) in any other case—the non-claimant application is taken, for all purposes after the claimant application is given to the Registrar, not to relate to the area covered by the claimant application.”.

**Govt 28** Clause 64, page 39, paragraphs (c) and (d), lines 21 to 25, omit the paragraphs, substitute the following paragraph:

“(c) the Tribunal is satisfied that a determination in, or consistent with, those terms would be within the powers of the Tribunal and would be appropriate in the circumstances;”.

**Govt 29** Clause 65, page 39, after subclause (2) insert the following subclause:

*Statements at conference are without prejudice*

“(2A) In proceedings before the Federal Court, and at a hearing before the Tribunal, unless the parties otherwise agree, evidence may not be given, and statements may not be made, concerning any words spoken or act done at a conference.”.

**Govt 30** Clause 65, page 39, subclause (3), line 37, omit “A member”, substitute “Unless the parties otherwise agree, a member”.

**Govt 31** Clause 65, page 39, at end of clause add the following subclause:

*Participation by telephone etc.*

“(4) The member may allow a person to participate by:

- (a) telephone; or
- (b) closed-circuit television; or
- (c) any other means of communication.”.

**Govt 32** Clause 66, page 40, paragraphs (c) and (d), lines 9 to 13, omit the paragraphs, substitute the following paragraph:

“(c) the Tribunal is satisfied that a determination in, or consistent with, those terms would be within the powers of the Tribunal and would be appropriate in the circumstances;”.

**Govt 33** Clause 76, page 42, subclause (1), line 19, omit “is to”, substitute “may”.

**Govt 34** Clause 80, page 43, paragraphs (c) and (d), lines 28 to 34, omit the paragraphs, substitute the following paragraph:

“(c) the Court is satisfied that an order in, or consistent with, those terms would be within the power of the Court;”.

**Govt 35** Clause 88, page 46, subclause (2), lines 14 and 15, omit “on the nomination of the President”.

**Govt 36** Clause 132, page 63, paragraph (1)(a), line 1, omit “or 64”, substitute “, 64 or 66”.

**Govt 37** Clause 139, page 64, paragraph (b), line 33, before “findings” insert “report;”.

**Govt 38** After clause 141, page 65 insert the following clause:

**Power of Tribunal where applicant requests dismissal**

“141A. The Tribunal may dismiss an application if:

- (a) the applicant requests, in writing, that the application be dismissed; and
- (b) the Tribunal is satisfied that it is appropriate to dismiss the application.”.

**Govt 39** Clause 178, page 78, after subclause (1) insert the following note:

“Note: The person mentioned in paragraph (1)(d) is the registered native title claimant. This is the person to whom notices, for example under paragraph 28(2)(b), are to be given.”.

**Dem 27** Clause 108, page 53, subclause (2), lines 1 to 5, omit the subclause.

**Offences**

**GWA 26** Clause 163, page 73, line 24, omit “Penalty: Imprisonment for 3 months”, substitute “Maximum Penalty: 20 penalty units”.

**GWA 27** Clause 164, page 73, line 32, omit “Penalty: Imprisonment for 3 months”, substitute “Maximum Penalty: 20 penalty units”.

**GWA 28** Clause 165, page 73, line 36, omit “Penalty: Imprisonment for 3 months”, substitute “Maximum Penalty: 40 penalty units”.

**GWA 29** Clause 166, page 74, line 5, omit “Penalty: Imprisonment for 3 months”, substitute “Maximum Penalty: 20 penalty units”.

**GWA 30** Clause 167, page 74, line 20, omit “Penalty: Imprisonment for 3 months”, substitute “Maximum Penalty: 40 penalty units”.

**GWA 31** Clause 168, page 74, line 24, omit “Penalty: Imprisonment for 3 months”, substitute “Maximum Penalty: 40 penalty units”.

**GWA 32** Clause 169, page 74, line 32, omit “Penalty: Imprisonment for 3 months”, substitute “Maximum Penalty: 40 penalty units”.

**Report by Social Justice Commission**

**Dem 28A** After clause 195, page 85, insert the following clause:

**Reports by Aboriginal and Torres Strait Islander Social Justice Commissioner***Yearly report*

“**195A.(1)** As soon as practicable after 30 June in each year, the Aboriginal and Torres Strait Islander Social Justice Commissioner (appointed under the *Human Rights and Equal Opportunity Commission Act 1986*) must prepare and submit to the Commonwealth Minister a report on:

- (a) the operation of this Act; and
- (b) the effect of this Act on the exercise and enjoyment of human rights of Aboriginal peoples and Torres Strait Islanders.

*Reports on particular matters*

“(2) The Commonwealth Minister may at any time, by written notice, direct the Commissioner to report to the Commonwealth Minister on any matter covered by paragraph (1)(a) or (b).”

**Government Funding**

**Govt 41** Clause 194, page 84, subclause (1), line 5, after “Minister” insert “or ATSIC”.

**Govt 42** Clause 194, page 84, subclause heading and subclause (2), lines 6 and 7, omit the heading and “(2) If”, substitute:

*Grant of assistance—Commonwealth Minister*

“(2) If an application is made to the Commonwealth Minister and”.

**Govt 43** Clause 194, page 84, at end of clause add the following subclauses:

*Grant of assistance—ATSIC*

“(3) If an application is made to ATSIC and ATSIC is satisfied in all the circumstances that it is reasonable to do so, ATSIC may authorise the provision of financial assistance, from money appropriated for the purposes of ATSIC, to enable the body to perform its functions under subsection 193(4).

*Definition of ATSIC*

“(4) In this section:

‘ATSIC’ means the Aboriginal and Torres Strait Islander Commission established by the *Aboriginal and Torres Strait Islander Commission Act 1989*.”.

**Preservation of Rights**

**GWA 33B** After clause 196, page 85, insert the following clause:

**Preservation of certain native rights and interests***Requirements for removal of prohibition etc. on native title holders*

“**196A.(1)** Subsection (2) applies if:

- (a) the exercise or enjoyment of native title rights and interests in relation to land or waters consists of or includes carrying on a particular class of activity (defined in subsection (3)); and

- (b) a law of the Commonwealth, a State or a Territory prohibits or restricts persons from carrying on the class of activity other than in accordance with a licence, permit or other instrument granted or issued to them under the law; and
- (c) the law is not one that confers rights or interests only on, or for the benefit of, Aboriginal peoples or Torres Strait Islanders.

*Removal of prohibition etc. on native title holders*

“(2) If this subsection applies, the law does not prohibit or restrict the native title holders from carrying on the class of activity, or from gaining access to the land or waters for the purpose of carrying on the class of activity, where they do so:

- (a) for the purpose of satisfying their personal, domestic or non-commercial communal needs; and
- (b) in exercise or enjoyment of their native title rights and interests.

*Definition of ‘class of activity’*

“(3) Each of the following is a separate ‘class of activity’:

- (a) hunting;
- (b) fishing;
- (c) gathering;
- (d) a cultural or spiritual activity;
- (e) any other kind of activity prescribed for the purpose of this paragraph.”.

**Fishing Rights**

**GWA 34A** Clause 197, page 86, subclause (3), lines 1 to 5, omit the subclause, substitute the following subclause:

*Effect of confirmation under subsection (2)*

“(3) Any confirmation under this section does not extinguish or impair any native title rights and interests and does not affect any conferral of land or waters, or an interest in land or waters, under a law that confers benefits only on Aboriginal peoples or Torres Strait Islanders.”.

**Revocation of Recognition**

**Govt 46** Clause 199, page 86, at end of clause add the following paragraph:

“;(c) a revocation of a determination under paragraph 236(4)(b)”.

**Govt 68** Clause 236, page 111, paragraph (4)(b), line 11, before “revoke” insert “in writing,”.

**Aboriginal and Torres Strait Islander Land**

**Govt 47** Clause 207, page 92, table containing list of definitions, after entry for “Aboriginal peoples” insert the following entry:

“Aboriginal/Torres Strait Islander land or waters . . . . . 238”.

**Govt 56** Clause 214, page 101, paragraph (3)(d), at end of paragraph add the following word and subparagraph:

“; or (iv) a grant over land or waters that, on 1 January 1994, are Aboriginal/Torres Strait Islander land or waters”.

**Govt 58** Clause 215, page 102, paragraph (d), at end of paragraph add the following word and subparagraph:

“; or (iv) a grant over land or waters that, on 1 January 1994, are Aboriginal/Torres Strait Islander land or waters”.

**Govt 59** Clause 218, page 102, subclause (1), line 11, omit “subsection (2)”, substitute “this section”.

**Govt 60** Clause 218, page 102, at end of clause add the following subclause:

*Acts creating or affecting Aboriginal/Torres Strait Islander land or waters excluded*

“(3) Subsection (1) does not apply to any of the following acts:

- (a) an act that causes land or waters to be held by or for the benefit of Aboriginal peoples or Torres Strait Islanders under a law mentioned in the definition of ‘Aboriginal/Torres Strait Islander land or waters’ in section 238;
- (b) any act affecting Aboriginal/Torres Strait Islander land or waters.”.

**Govt 69A** Clause 238, page 111, after definition of “Aboriginal peoples” insert the following definition:

“‘Aboriginal/Torres Strait Islander land or waters’ means land or waters held by or for the benefit of Aboriginal peoples or Torres Strait Islanders under:

- (a) any of the following laws of the Commonwealth:
  - (i) the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986*;
  - (ii) the *Aboriginal Land (Lake Condah and Framlingham Forest) Act 1987*;
  - (iii) the *Aboriginal Land Rights (Northern Territory) Act 1976*; or
- (b) any of the following laws of South Australia:
  - (i) the *Aboriginal Lands Trust Act 1966*;
  - (ii) the *Maralinga Tjarutja Land Rights Act 1984*;
  - (iii) the *Pitjantjatjara Land Rights Act 1981*; or
- (c) any other law prescribed for the purposes of the provision in which the expression is used;”.

**Definitions: Mining, Native Title, etc.**

**Govt 48** Clause 207, page 92, table containing list of definitions, after entry for “determination of native title” insert the following entry:

“**explore** . . . . . 238”.

**Govt 49** Clause 208, page 95, subclause (3), line 28, omit “If”, substitute “Subject to subsection (4), if”.

**Govt 50A** Clause 208, page 95, at end of clause add the following subclause:

*Case not covered by subsection (3)*

“(4) To avoid any doubt, subsection (3) does not apply to rights and interests created by a reservation or condition (and which are not native title rights and interests):

- (a) in a pastoral lease granted before 1 January 1994; or
- (b) in legislation made before 1 July 1993, where the reservation or condition applies because of the grant of a pastoral lease before 1 January 1994.”.

**Govt 65** Clause 227, page 106, at end of clause add the following subclause:

*References to mining lease*

“(2) In the case only of references to a mining lease, the expression ‘lease’ also includes a licence issued, or an authority given, by or under a law of the Commonwealth, a State or a Territory.”.

**Govt 66** Clause 228, page 106, line 36, omit “The”, substitute “Subject to subsection (2), the”.

**Govt 67** Clause 228, page 106, at end of clause add the following subclause:

*Lessee of certain mining leases*

“(2) In the case of a lease that is a mining lease because of subsection 227(2) (which covers licences and authorities given by or under laws), the expression ‘lessee’ means:

- (a) the person to whom the licence mentioned in that subsection was issued, or the authority so mentioned was given; or
- (b) any person who, by assignment, succession or otherwise, acquires or enjoys the licence or authority or is entitled to exercise rights under the licence or the authority.”.

**Govt 71** Clause 238, page 112, after definition of “**Compulsory Acquisition Act**” insert the following definition:

“‘**explore**’ includes:

- (a) conduct a geological, geophysical or geochemical survey; or
- (b) take samples for the purpose of analysis;”.

**GWA 37** Clause 208, page 95, subsection (3), line 28, after “subsection (1) are” insert “, or have been at any time in the past,”.

**Miscellaneous Definitions**

**Govt 52** Clause 212, page 97, lines 8 to 10, omit the clause, substitute the following clause:

“**212.** An act ‘**affects**’ native title if it extinguishes the native title rights and interests or if it is otherwise wholly or partly inconsistent with their continued existence, enjoyment or exercise.”.

**Govt 54** Clause 214, page 100, subclause (2), line 11, omit “The”, substitute “A past act consisting of the”.

**Govt 55** Clause 214, page 100, subclause (3), line 28, omit “The”, substitute “A past act consisting of the”.

**Govt 57** Clause 214, page 101, subclause (4), line 12, omit “The”, substitute “A past act consisting of the”.

**Govt 70** Clause 238, page 112, definition of “**Compulsory Acquisition Act**”, paragraph (a), lines 13 and 14, omit the paragraph, substitute the following paragraph:

“(a) permits both:

- (i) the compulsory acquisition by the Commonwealth, the State or the Territory of native title rights and interests; and
- (ii) the compulsory acquisition by the Commonwealth, the State or the Territory of other interests in relation to land or waters; and”.

**Govt 73** Clause 238, page 114, definition of “**registered native title claimant**”, line 33, after “Native Title Claims” insert “as the person who is taken to be the claimant”.

**GWA 39** Clause 210, page 96, subparagraph (b)(iii), lines 17 and 18, omit the subparagraph, substitute the following subparagraph:

“(iii) those native title rights and interests that the maker of the determination considers to be of importance; and”.

**GWA 47** Clause 214, page 100, subparagraph (2)(b)(i), line 21, omit “in the same capacity”, substitute “in any capacity”.

**GWA 49** Clause 214, page 101, subparagraph (3)(d)(i), line 5, omit “in the same capacity”, substitute “in any capacity”.

**GWA 51** Clause 215, page 101, subparagraph (d)(i), line 36, omit “in the same capacity”, substitute “in any capacity”.

**GWA 58** Clause 222, page 104, paragraph (c), lines 37 to 39, after “land” (wherever occurring) insert “or waters”.

**GWA 63** Clause 236, page 110, subclause (2), lines 5 and 6, omit “, when the body becomes a recognised State/Territory body under this Act”.

**Definition of “act”**

**Govt 51** Clause 211, page 97, subclause (4), lines 4 to 6, omit the subclause.

**Definition of “permissible future act”**

**Dem 53** Clause 220, page 104, after subclause (6) insert the following subclause:

*Renewals, re-grants or extensions of certain leases*

“(6A) A future act is also a ‘permissible future act’ if:

- (a) it is:
  - (i) the renewal; or
  - (ii) the re-grant; or
  - (iii) the extension of the term;
    - of a commercial, agricultural, pastoral or residential lease; and
- (b) the renewal, re-grant or extension takes effect at the end of the term of the lease, or at the time of any earlier termination of the lease; and
- (c) the act does not:
  - (i) create a proprietary interest where the lease previously created only a non-proprietary interest; or
  - (ii) create a larger proprietary interest than was previously created by the lease; and
- (d) if the lease contains a reservation or condition for the benefit of Aboriginal peoples or Torres Strait Islanders—the renewed, re-granted or extended lease contains the same reservation or condition.”.

Mr Keating (Prime Minister) moved—That the amendments be agreed to.

Debate ensued.

*Limitation of debate:* At 9.15 a.m., the Chairman having called the attention of the committee to the fact that the time allotted for the consideration of the Senate’s amendments and the remaining stages of the Bill had expired—

Question—That the amendments be agreed to—put and passed.

Resolution to be reported.

The House resumed; Mr Jenkins reported accordingly.

Question—That the report be adopted—put.

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

AYES, 78

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

NOES, 62

Mr Aldred	Mr Evans	Mr McArthur	Mr Ruddock
Mr Anderson	Mr Filing*	Mr McGauran	Mr B. C. Scott
Mr J. N. Andrew	Mr Fischer	Mr MacKellar	Mr Sharp
Mr K. J. Andrews	Mr Forrest	Mr McLachlan	Mr Sinclair
Mr Atkinson	Mrs Gallus	Mr Moore	Mr Slipper
Mr Beale	Mr Hall	Mrs Moylan	Mrs Sullivan
Mr Bradford	Mr Halverson	Mr Nehl	Mr Taylor
Mr Braithwaite	Mr Hawker	Mr Neville	Mr Truss
Mr Cadman	Dr Hewson	Mr Nugent	Mr Tuckey
Mr Cameron	Mr Hicks*	Mr Peacock	Mr Vaile
Mr Charles	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 Rocher	
Mr Downer	Mr Lloyd	Mr Ronaldson	

\* Tellers

And so it was resolved in the affirmative.

## 12 MESSAGE FROM THE SENATE—SOCIAL SECURITY (BUDGET AND OTHER MEASURES) LEGISLATION AMENDMENT BILL 1993

The following message from the Senate was reported:

Message No. 185

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to amend the 'Social Security Act 1991', 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, 22 December 1993 a.m.



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—Clause 5, page 5, after proposed section 660XBA(1) insert the following subsection:

“(1A) The qualifications in paragraphs (1)(c) and (1)(d) do not apply if the person has previously received mature age allowance or mature age partner allowance.”.

No. 2—Clause 5, page 5, proposed subsection 660XBA(2), lines 33 to 36, omit the subsection.

No. 3—Clause 5, page 6, proposed subsection 660XBA(3), lines 1 to 9, omit the subsection.

No. 4—Clause 69, line 15 (page 90) to line 19 (page 91), omit the clause, substitute the following clause:

**Compensation recovery definitions**

“**69.** Section 17 of the Principal Act is amended by omitting ‘male employees’ from paragraph (a) of the definition of ‘**average weekly earnings**’ in subsection (1) and substituting ‘employees (all persons)’.”.

No. 5—Clause 70, page 91, lines 20 to 32, omit the clause.

No. 6—Clause 71, page 91, lines 33 to 37, omit the clause.

No. 7—Clause 72, page 92, lines 1 to 4, omit the clause.

No. 8—Clause 73, page 92, lines 5 to 8, omit the clause.

No. 9—Clause 74, page 92, lines 9 to 12, omit the clause.

No. 10—Clause 88, page 101, lines 8 to 30, omit the clause.

No. 11—Clause 89, page 102, lines 1 to 3, omit the clause.

No. 12—After clause 100, page 106 insert the following clause:

**Guidelines relating to privacy**

“**100A.** Subsection 12(2A) of the Principal Act is amended by omitting all the words after ‘each House of the Parliament’ and substituting ‘further comprehensive reports including references to all the matters identified in Guideline 12 of the Privacy Commissioner’s Guidelines:

- (a) by the end of October 1994; and  
(b) by the end of October 1995.’.”.

No. 13—Part 3, page 106, Division 2, lines 26 and 27, omit the Division, substitute the following Division:

*“Division 2—Operation of the Act*

**Cessation of operation of Act**

“**102.** Section 21 of the Principal Act is amended by omitting ‘22 January 1994’ and substituting ‘22 January 1996’.”.

On the motion of Mr Sciacca (Parliamentary Secretary to the Minister for Social Security), the amendments were agreed to, after debate.

Resolution to be reported.

The House resumed; Mr Jenkins reported accordingly.

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

**13 MESSAGE FROM THE SENATE—SOCIAL SECURITY AMENDMENT BILL (NO. 2) 1993**

The following message from the Senate was reported:

Message No. 186

Mr Speaker,

The Senate returns to the House of Representatives the bill for "*An Act to amend the 'Social Security Act 1991'*", 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, 22 December 1993 a.m.

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—Clause 3, page 2, paragraph (b), proposed point 1068–B3, line 8, after "items" insert "3, 4,".

No. 2—After clause 6, page 3, insert the following clause:

**Schedule 1A**

"6A. Schedule 1A of the Principal Act is amended by adding at the end the following clause:

**Transitional saving for existing student parents**

'69. The amendments to this Act made by section 5 of the *Social Security Amendment Act (No. 2) 1993* do not apply to a person who, prior to 1 January 1994, was eligible to receive payments in respect of the Post-Graduate Awards Scheme, until the person loses such eligibility by operation of this Act other than as it is amended by section 5.'."

On the motion of Mr Sciacca (Parliamentary Secretary to the Minister for Social Security), the amendments were agreed to, after debate.

Resolution to be reported.

The House resumed; Mr Jenkins reported accordingly.

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

**14 SPECIAL ADJOURNMENT**

Mr Beazley (Leader of the House) moved—That the House, at its rising, adjourn until Tuesday, 1 February 1994, at 2 p.m., unless otherwise called together by the Speaker or, in the event of the Speaker being unavailable, by the Deputy Speaker and Chairman of Committees.

Question—put and passed.

**15 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.

**16 ADJOURNMENT**

Mr Beazley (Leader of the House) moved—That the House do now adjourn.

Question—put and passed.

And then the House, at 9.39 a.m., adjourned until Tuesday, 1 February 1994, at 2 p.m., in accordance with the resolution agreed to at this sitting.

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**PAPERS**

The following papers were deemed to have been presented on 21 December 1993:  
Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—Parts—

105—Amendments 1993—December 9, 10(2), 13, 14, 15, 17(2), 20.

107—Amendment, 13 December 1993.

Proclamation by His Excellency the Governor—General fixing 9 November 1993 as the day on which section 37 of the *Snowy Mountains Engineering Corporation Limited Sale Act 1993* commences.

Public Service Act—Determinations 1993 Nos. 96, 97, 226, 228, 234, 238, 239.

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**ATTENDANCE**

All Members attended (at some time during the sitting) except Mr Bilney, Mr Campbell, Mr Carlton, Mr Miles and Mr Somlyay.

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**L. M. BARLIN**

Clerk of the House of Representatives