

1996-97

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 119

TUESDAY, 21 OCTOBER 1997

1 The House met, at 2 p.m., pursuant to adjournment. The Speaker (the Honourable Bob Halverson) took the Chair, and read Prayers.

2 QUESTIONS

Questions without notice being asked—

Motion of censure of the Government

Mr Beazley (Leader of the Opposition), by leave, moved—That this House censures the Government for forcing elderly Australians to sell the family home for what is a form of health care traditionally provided by the whole community for those who need to enter a nursing home.

Mr W. L. Smith (Minister for Family Services) moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “this House censures the Opposition for:

- (1) conducting a deliberate policy of misinformation in an effort to scare the aged in Australia;
- (2) massively underfunding nursing homes and failing to introduce any mechanism to improve capital funding and improve standards in nursing homes;
- (3) failing to disclose the tax it proposes to introduce to fund the nursing home sector; and
- (4) attempting to prey on the vulnerable for political advantage”.

Debate continued.

Question—That the amendment be agreed to—put.

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

AYES, 86

Mr Abbott	Mr Entsch	Mr Lloyd	Mr Sharp
Mr Anderson	Mr R. D. C. Evans	Mr McArthur*	Mr Sinclair
Mr Andren	Mr Fahey	Mr McDougall	Mr Slipper*
Mr J. N. Andrew	Mr Fischer	Mr McGauran	Mr A. C. Smith
Mr K. J. Andrews	Mr Forrest	Mr McLachlan	Mr W. L. Smith
Mr Anthony	Mrs Gallus	Mr Marek	Mr Somlyay
Mrs Bailey	Ms Gambaro	Mr Miles	Dr Southcott
Mr R. C. Baldwin	Mr Georgiou	Mr Moore	Mrs Stone
Mr Barresi	Mrs E. J. Grace	Mrs Moylan	Mr Taylor
Mr Bartlett	Mr Hardgrave	Mr Mutch	Mr A. P. Thomson
Mr Billson	Mr Hawker	Mr Nairn	Mr Truss
Mrs Bishop	Mr Hicks*	Dr Nelson	Mr Tuckey
Mr Brough	Mr Hockey	Mr Neville	Mr M. A. J. Vaile
Mr R. A. Cameron	Ms Jeanes	Mr Nugent	Mrs D. S. Vale
Mr Campbell	Mrs Johnston	Mr Prosser	Mr Wakelin
Mr Causley	Mr Jull	Mr Pyne	Mrs West
Mr Charles	Mr Katter	Mr Randall	Mr Williams
Mr Cobb	Mrs D. M. Kelly	Mr Reid	Dr Wooldridge
Mr Costello	Miss J. M. Kelly	Mr Reith	Ms Worth
Mr Dondas	Dr Kemp	Mr Ronaldson	Mr Zammit
Mrs Draper	Mr Lieberman	Mr Ruddock	
Mrs Elson	Mr Lindsay	Mr Scott	

NOES, 45

Mr Adams	Mr L. D. T. Ferguson	Mr Lee	Mr Price
Mr Albanese	Mr M. J. Ferguson	Mr McClelland	Mr Quick
Mr Beazley	Mr Fitzgibbon	Ms Macklin	Mr Sawford*
Mr Beddall	Mr E. L. Grace*	Mr McLeay	Mr Sercombe
Mr Bevis	Mr Griffin*	Mr McMullan	Mr Tanner
Mr Brown	Mr Hatton	Mr Martin	Dr Theophanous
Mr Crean	Mr Holding	Mr Melham	Mr K. J. Thomson
Mrs Crosio	Mr Hollis	Mr A. A. Morris	Mr Willis
Mr Dargavel	Mr Jenkins	Mr P. F. Morris	Mr Wilton
Ms Ellis	Mr Kerr	Mr Mossfield	
Mr G. J. Evans	Mr Latham	Mr O'Connor	
Mr M. J. Evans	Dr Lawrence	Mr O'Keefe	

* Tellers

And so it was resolved in the affirmative.

Question—That the motion, as amended, be agreed to—put.

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

AYES, 86

Mr Abbott	Mr Entsch	Mr Lloyd	Mr Sharp
Mr Anderson	Mr R. D. C. Evans	Mr McArthur*	Mr Sinclair
Mr Andren	Mr Fahey	Mr McDougall	Mr Slipper*
Mr J. N. Andrew	Mr Fischer	Mr McGauran	Mr A. C. Smith
Mr K. J. Andrews	Mr Forrest	Mr McLachlan	Mr W. L. Smith
Mr Anthony	Mrs Gallus	Mr Marek	Mr Somlyay
Mrs Bailey	Ms Gambaro	Mr Miles	Dr Southcott
Mr R. C. Baldwin	Mr Georgiou	Mr Moore	Mrs Stone
Mr Barresi	Mrs E. J. Grace	Mrs Moylan	Mr Taylor
Mr Bartlett	Mr Hardgrave	Mr Mutch	Mr A. P. Thomson
Mr Billson	Mr Hawker	Mr Nairn	Mr Truss
Mrs Bishop	Mr Hicks*	Dr Nelson	Mr Tuckey
Mr Brough	Mr Hockey	Mr Neville	Mr M. A. J. Vaile
Mr R. A. Cameron	Ms Jeanes	Mr Nugent	Mrs D. S. Vale
Mr Campbell	Mrs Johnston	Mr Prosser	Mr Wakelin
Mr Causley	Mr Jull	Mr Pyne	Mrs West
Mr Charles	Mr Katter	Mr Randall	Mr Williams
Mr Cobb	Mrs D. M. Kelly	Mr Reid	Dr Wooldridge
Mr Costello	Miss J. M. Kelly	Mr Reith	Ms Worth
Mr Dondas	Dr Kemp	Mr Ronaldson	Mr Zammit
Mrs Draper	Mr Lieberman	Mr Ruddock	
Mrs Elson	Mr Lindsay	Mr Scott	

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Mr Adams	Mr L. D. T. Ferguson	Mr Lee	Mr Price
Mr Albanese	Mr M. J. Ferguson	Mr McClelland	Mr Quick
Mr Beazley	Mr Fitzgibbon	Ms Macklin	Mr Sawford*
Mr Beddall	Mr E. L. Grace*	Mr McLeay	Mr Sercombe
Mr Bevis	Mr Griffin*	Mr McMullan	Mr Tanner
Mr Brown	Mr Hatton	Mr Martin	Dr Theophanous
Mr Crean	Mr Holding	Mr Melham	Mr K. J. Thomson
Mrs Crosio	Mr Hollis	Mr A. A. Morris	Mr Willis
Mr Dargavel	Mr Jenkins	Mr P. F. Morris	Mr Wilton
Ms Ellis	Mr Kerr	Mr Mossfield	
Mr G. J. Evans	Mr Latham	Mr O'Connor	
Mr M. J. Evans	Dr Lawrence	Mr O'Keefe	

* Tellers

And so it was resolved in the affirmative.

Questions without notice concluded.

3 PAPER

Mr Fischer (Acting Prime Minister) presented the following paper:

Residential aged care reforms—Copy of letter from Mr Howard (Prime Minister) to the Most Reverend Dr P. F. Carnley, Archbishop of Perth, President of Anglican Homes, 29 September 1997.

4 AUDITOR-GENERAL'S REPORT

The Deputy Speaker presented the following paper:

Audit Act—Auditor-General—Audit report No. 6 of 1997-98—Performance audit—Risk management in commercial compliance: Australian Customs Service.

Ordered to be printed.

5 PAPERS

The following papers were presented:

Australia New Zealand Food Authority Act—Australia New Zealand Food Authority—Report for 1996-97.

Australian Bureau of Statistics Act—Australian Statistics Advisory Council—Report for 1996-97.

Australian Law Reform Commission Act—Australian Law Reform Commission—Report No.83—Report for 1996-97.

Criminology Research Act—Australian Institute of Criminology and the Criminology Research Council—Reports for 1996-97.

Finance—Advance to the Minister for Finance—
Statements for September 1997.

Supporting applications of issues from the Advance during September 1997.

Fisheries Administration Act—Australian Fisheries Management Authority—
Report for 1996-97.

Horticultural Research and Development Corporation Act—Horticultural
Research and Development Corporation—Report for 1996-97.

Human Rights and Equal Opportunity Commission Act—Aboriginal and Torres
Strait Islander Social Justice Commissioner—5th report, for 1996-97.

Insurance and Superannuation Commission—Report for 1996-97.

National Gallery Act—National Gallery of Australia—Report for 1996-97.

National Health and Medical Research Council Act—National Health and
Medical Research Council—

Grants for 1997.

Report for 1996.

National Museum of Australia Act—National Museum of Australia—Report
for 1996-97.

Native Title Act—Aboriginal and Torres Strait Islander Social Justice
Commissioner—Native title report for 1996-97.

Primary Industries and Energy Research and Development Act—

Fisheries Research and Development Corporation—Report for 1996-97.

Land and Water Resources Research and Development Corporation and Land
and Water Resources Research and Development Corporation Selection
Committee—Report for 1996-97.

Public Service Act—

Australian Telecommunications Authority (AUSTEL)—Report for 1996-97.

Department of Communications and the Arts—Report for 1996-97.

Department of Industry, Science and Tourism—Report for 1996-97.

National Science and Technology Centre—Report for 1996-97.

Special Broadcasting Service Act—Special Broadcasting Service Corporation (SBS)—Report for 1996-97.

Superannuation (Resolution of Complaints) Act—Superannuation Complaints Tribunal—Report for 1996-97.

Treaties—*Bilateral with national interest analysis—*

Agreement between Australia and the Kingdom of the Netherlands on gainful employment of dependants of diplomatic and consular personnel, done at Canberra on 24 September 1997.

Agreement between the Government of Australia and the Government of the Federal Republic of Germany on the establishment and operation of a mobile ground station in Australia for the “PRARE” Project.

Agreement between the Government of Australia and the International Bureau of the World Intellectual Property Organization in relation to the functioning of the Australian Patent Office as an International Searching Authority and International Preliminary Examining Authority under the Patent Cooperation Treaty of June 1970.

Agreement on medical treatment for temporary visitors between Australia and Ireland, done at Dublin on 12 September 1997.

Exchange of notes, done at Canberra on 20 October 1997, constituting an Agreement between the Government of Australia and the Government of Japan concerning co-operation on the project for the Geostationary Meteorological Satellite-5 System.

Films Co-production Agreement between the Government of Australia and the Government of the State of Israel, done at Canberra on 25 June 1997.

Multilateral with national interest analysis—

Agreement on the Network of Aquaculture Centres in Asia and the Pacific, done at Bangkok on 8 January 1988, as amended by the fourth session of the Governing Council in Hong Kong 8-11 December 1992.

6 PAPERS—MOTION TO TAKE NOTE OF PAPERS

Mr Reith (Leader of the House) moved—That the House take note of the following papers:

Australian Bureau of Statistics Act—Australian Statistics Advisory Council—Report for 1996-97.

Finance—Advance to the Minister for Finance—

Statements for September 1997.

Supporting applications of issues from the Advance during September 1997.

Insurance and Superannuation Commission—Report for 1996-97.

National Gallery Act—National Gallery of Australia—Report for 1996-97.

National Museum of Australia Act—National Museum of Australia—Report for 1996-97.

Public Service Act—

Australian Telecommunications Authority (AUSTEL)—Report for 1996-97.

Department of Communications and the Arts—Report for 1996-97.

National Science and Technology Centre—Report for 1996-97.

Special Broadcasting Service Act—Special Broadcasting Service Corporation (SBS)—Report for 1996-97.

Superannuation (Resolution of Complaints) Act—Superannuation Complaints Tribunal—Report for 1996-97.

Treaty—*Bilateral with national interest analysis*—Agreement between the Government of Australia and the International Bureau of the World Intellectual Property Organization in relation to the functioning of the Australian Patent Office as an International Searching Authority and International Preliminary Examining Authority under the Patent Cooperation Treaty of June 1970.

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

7 PAPERS

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

Petitions not in accord with standing and sessional orders of the House—

Support for total ban on anti-personnel land mines (Mr Howard, 11 820 petitioners).

Support for fair trading (Mr P. F. Morris and Mr Martin, 36 and 126 petitioners, respectively).

8 PROPOSED DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—NURSING HOME ENTRY FEES

The House was informed that Ms Macklin had proposed that a definite matter of public importance be submitted to the House for discussion, namely, “The failure of the Government to acknowledge that people who need nursing home care are very old, frail and sick and must not be confronted with up front entry fees”.

The proposed discussion having received the necessary support—

Ms Macklin rising to address the House—

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

Question—put and passed.

9 SELECTION COMMITTEE—REPORT

Mr Nehl (Chair) presented the following paper:

Selection Committee—Report relating to the consideration of committee and delegation reports and private Members' business on Monday, 27 October 1997.

10 POSTPONEMENT OF NOTICES

Ordered—That notices Nos. 1 and 2, given by the Speaker, be postponed until a later hour this day.

11 BILLS REFERRED TO MAIN COMMITTEE

Mr J. N. Andrew (Chief Government Whip), pursuant to notice, moved—That the following Bills be referred to the Main Committee for further consideration:

Taxation Laws Amendment (Trust Loss and Other Deductions) 1997;

Family Trust Distribution Tax (Primary Liability) 1997;

Family Trust Distribution Tax (Secondary Liability) 1997;

Medicare Levy Consequential Amendment (Trust Loss) 1997;

Superannuation Industry (Supervision) Amendment 1997;

Snowy Hydro Corporatisation 1997; and

Snowy Hydro Corporatisation (Consequential Amendments) 1997.

Question—put and passed.

12 TELECOMMUNICATIONS (INTERCEPTION) AND LISTENING DEVICE AMENDMENT BILL 1997—SENATE'S AMENDMENTS

The order of the day having been read for the consideration of the amendments made by the Senate, viz.:

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE

(1) Page 2 (after line 14), after clause 2, insert:

2A Cessation of operation of amendments made by certain items

The amendments made by items 6, 19, 20, 24, 25, 27 to 39 (inclusive), 47 to 50 (inclusive) and 52 of Schedule 1, Schedule 2 and items 1 to 8 (inclusive) and 11 to 13 (inclusive) of Schedule 3 cease to have effect at the end of 1999.

(2) Clause 3, page 2 (line 16), omit "section 2", substitute "sections 2 and 2A".

(3) Schedule 1, page 13 (after line 10), at the end of the Schedule, add:

52 After paragraph 103(aa)

Insert:

(ab) information about the availability of judges to issue warrants under Part VI and the extent to which nominated AAT members have been used for that purpose, but not including information that would identify a particular judge or AAT member; and

53 After section 103

Insert:

103A Annual report for 1999-2000

- (1) The annual report for 1999-2000 must include a review of the amendments made by the *Telecommunications (Interception) and Listening Device Amendment Act 1997* to this Act.
- (2) For the purposes of the review, the Minister must arrange for a public notice, in plain English, to be published in at least one daily newspaper circulating in each State and Territory, calling for submissions from the public on the operation of amendments providing for the issuing of warrants by nominated AAT members, and including an address to which submissions may be sent—

On the motion of Mr Williams (Attorney-General), the amendments were agreed to, after debate.

13 AIRPORTS 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.

Debate adjourned (Mr A. P. Thomson—Minister for Sport and Tourism), and the resumption of the debate made an order of the day for the next sitting.

14 BILL REFERRED TO MAIN COMMITTEE

Mr A. P. Thomson (Minister for Sport and Tourism), by leave, moved—That the Airports Legislation Amendment Bill 1997 be referred to the Main Committee for further consideration.

Question—put and passed.

15 SUPERANNUATION CONTRIBUTIONS TAX (MEMBERS OF CONSTITUTIONALLY PROTECTED SUPERANNUATION FUNDS) ASSESSMENT AND COLLECTION 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.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister), the Bill was read a third time.

16 SUPERANNUATION CONTRIBUTIONS TAX (MEMBERS OF CONSTITUTIONALLY PROTECTED SUPERANNUATION FUNDS) IMPOSITION 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—

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

Leave granted for third reading to be moved forthwith.

On the motion of Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister), the Bill was read a third time.

17 SUPERANNUATION CONTRIBUTIONS AND TERMINATION PAYMENTS TAXES 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—

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

Consideration in detail

Bill, by leave, taken as a whole.

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

Schedule 4—

Page 23, after item 39 (after line 6), insert:

39A Section 43 (at the end of proposed subparagraph (a)(ii) of the definition of *adjusted taxable income*)

Omit “and”, substitute “or”.

Page 23, after item 39 (after line 6), insert:

39B Section 43 (at the end of proposed subparagraph (a) of the definition of *adjusted taxable income*)

Insert:

- (iii) that were retention bonuses for members of the Australian Defence Force; and

Debate continued.

Question—That the amendments be agreed to—put.

The House divided (the Deputy Speaker, Mrs D. M. Kelly, in the Chair)—

AYES, 41

Mr Adams	Mr Fitzgibbon	Mr McClelland	Mr Sawford*
Mr Albanese	Mr E. L. Grace*	Mr McLeay	Mr Sercombe
Mr P. J. Baldwin	Mr Griffin*	Mr McMullan	Mr S. F. Smith
Mr Bevis	Mr Hatton	Mr Martin	Mr Tanner
Mr Brown	Mr Holding	Mr Melham	Dr Theophanous
Mrs Crosio	Mr Hollis	Mr A. A. Morris	Mr K. J. Thomson
Mr Dargavel	Mr Jenkins	Mr P. F. Morris	Mr Willis
Ms Ellis	Mr Kerr	Mr Mossfield	Mr Wilton
Mr M. J. Evans	Mr Latham	Mr O'Connor	
Mr L. D. T. Ferguson	Dr Lawrence	Mr O'Keefe	
Mr M. J. Ferguson	Mr Lee	Mr Quick	

NOES, 79

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

* Tellers

And so it was negatived.

Bill agreed to.

Consideration in detail concluded.

On the motion of Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister), by leave, the Bill was read a third time.

18 SUPERANNUATION CONTRIBUTIONS TAX IMPOSITION 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—

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

Leave granted for third reading to be moved forthwith.

On the motion of Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister), the Bill was read a third time.

19 TERMINATION PAYMENTS TAX IMPOSITION 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—

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

Leave granted for third reading to be moved forthwith.

On the motion of Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister), the Bill was read a third time.

20 SUPERANNUATION LEGISLATION AMENDMENT (SUPERANNUATION CONTRIBUTIONS TAX) 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—

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

Message from the Governor-General

Message No. 191, dated 2 October 1997, from His Excellency the Governor-General was announced recommending an appropriation for the purposes of the Bill.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Miles (Parliamentary Secretary (Cabinet) to the Prime Minister), the Bill was read a third time.

21 PAPERS

Mrs Sullivan (Parliamentary Secretary to the Minister for Foreign Affairs) during a personal explanation, presented the following papers:

Travelling allowance payments—Copies of—

Letter from N. J. Baker, Partner, KPMG to Mrs Sullivan, 4 September 1997.

More MPs pay back—Article published in the *Sun Herald*, 12 October 1997.

22 SPEAKER'S PANEL

The following warrant revoking a nomination and nominating a member of the Speaker's panel, pursuant to standing order 18, was laid on the Table:

HOUSE OF REPRESENTATIVES

Pursuant to the provisions of standing order 18, I revoke the nomination of Kathryn Jean Martin Sullivan to be a member of the Speaker's panel.

Pursuant to the provisions of standing order 18, I nominate the Honourable Nicholas Manuel Dondas to be a member of the Speaker's panel to assist the Chair when requested to do so by the Speaker or Deputy Speaker.

Given under my hand on 21 October 1997.

ROBERT HALVERSON

Speaker

23 COMMUNICATIONS, TRANSPORT AND MICROECONOMIC REFORM—STANDING COMMITTEE

The House was informed that the Chief National Party Whip had nominated Mr Marek to be a member of the Standing Committee on Communications, Transport and Microeconomic Reform in place of Mr M. A. J. Vaile (Minister for Transport and Regional Development).

24 MESSAGE FROM THE SENATE

Message No. 342, dated 21 October 1997, from the Senate was reported acquainting the House that Senator Minchin had been discharged from

attendance on the Joint Standing Committee on Electoral Matters, and that Senator Lightfoot had been appointed a member of the committee.

25 MESSAGE FROM THE SENATE—HEALTH INSURANCE COMMISSION (REFORM AND SEPARATION OF FUNCTIONS) BILL 1997

A message from the Senate was reported returning the following Bill with amendments:

20 October 1997—Message No. 340—Health Insurance Commission (Reform and Separation of Functions) 1997.

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

26 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—*And on the amendment moved thereto by Mr G. J. Evans (Deputy Leader of the Opposition), 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 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 predictability 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:

- (a) the reach of the validation provisions beyond that which is necessary for the practical redress of post-*Wik* problems;
- (b) the manifestly unacceptable over-reach of the provisions purporting to confirm the extinguishment of native title where exclusive tenure has previously been involved;
- (c) the unnecessarily broad application, in relation to coexistence on pastoral leases, of the statutory authorisation of non-pastoral activities;
- (d) the unnecessarily broad application of extinguishment in relation to the provision of government services and public works;
- (e) the indefensibly limited test for allowing statutory access rights for registered claimants;
- (f) 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;
- (g) the unacceptable limitation on the effective enjoyment of the right to negotiate which is involved in powers of early ministerial intervention;
- (h) 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;
- (i) the inappropriately rigid and legalistic constraints on Registrars in the management of claims; and
- (j) 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 resumed.

Mr Brown addressing the House—

27 ADJOURNMENT

It being 10.30 p.m.—The question was proposed—That the House do now adjourn.

Debate ensued.

The House continuing to sit until 11 p.m.—The Speaker adjourned the House until tomorrow at 9.30 a.m.

PAPERS

The following papers were deemed to have been presented on 21 October 1997:

Defence Act—Determinations 1997 Nos. 35, 36, 37.

Parliament Act—Parliamentary Zone—Administrative Building—Lowering of parapets.

ATTENDANCE

All Members attended (at some time during the sitting) except Mr Bradford, Mr Brereton, Mrs Gash, Ms Hanson, Mr Howard and Mr Jones.

I. C. HARRIS

Clerk of the House of Representatives