

1954-55.

## THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA.

## VOTES AND PROCEEDINGS

OF THE

## HOUSE OF REPRESENTATIVES.

No. 66.

THURSDAY, 25TH AUGUST, 1955.

1. The House met, at half-past two o'clock p.m., pursuant to adjournment.—Mr. Speaker (the Honorable A. G. Cameron) took the Chair, and read Prayers.

2. PAPERS.—The following Papers were presented, pursuant to Statute—  
Explosives Act—Explosives Regulations—Order—Berthing of a Vessel.  
Public Service Act—Appointment—Department of Air—R. V. Coleman.

3. DISCUSSION OF MATTER OF URGENCY—PROTECTION OF PRIMARY INDUSTRIES IN SHIPPING CRISIS.—  
Mr. Keon having proposed to Mr. Speaker that a definite matter of urgent public importance be submitted to the House for discussion, namely, "The urgent necessity of immediate action to protect Australian primary industries in the present shipping crisis occasioned by the unjustified and exorbitant demands of the Overseas Shipping interests"—  
Mr. Speaker called upon those Members who approved of the proposed discussion to rise in their places, and more than the necessary number of Members having risen accordingly—  
Mr. Keon addressed the House.  
Discussion ensued.  
Discussion concluded.

4. MESSAGE FROM THE GOVERNOR-GENERAL—WAR PENSIONS APPROPRIATION BILL 1955.—Mr. Speaker announced the receipt of the following Message from His Excellency the Governor-General:—

W. J. SLIM,

*Governor-General.*

*Message No. 68.*

In accordance with the requirements of section fifty-six of the Constitution of the Commonwealth of Australia, the Governor-General recommends to the House of Representatives that an appropriation of revenue be made for the purposes of a Bill for an Act to grant and apply out of the Consolidated Revenue Fund a sum for War Pensions.

Canberra, 25th August, 1955.

Ordered—That the Message be taken into consideration, in Committee of the whole House, forthwith. Mr. Speaker left the Chair, and the House resolved itself into a Committee of the Whole.

*(In the Committee.)*

Sir Arthur Fadden (Treasurer) moved, That it is expedient that an appropriation of revenue be made for the purposes of a Bill for an Act to grant and apply out of the Consolidated Revenue Fund a sum for War Pensions.

Question—put and passed.  
Resolution to be reported.

The House resumed; Mr. Adermann reported accordingly.

Sir Arthur Fadden moved, pursuant to contingent notice, That so much of the Standing Orders be suspended as would prevent the remaining stages being passed without delay.

Question—put and passed.

On the motion of Sir Arthur Fadden, the Resolution reported from the Committee was adopted by the House.

Ordered—That Sir Arthur Fadden and Sir Eric Harrison do prepare and bring in a Bill to carry out the foregoing Resolution.

25th August, 1955.

Sir Arthur Fadden then brought up the Bill accordingly, and moved, That it be now read a first time.

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

Sir Arthur Fadden moved, That the Bill be now read a second time.

Debate adjourned (Mr. Haylen), and the resumption of the debate made an Order of the Day for the next sitting.

5. LANDS ACQUISITION BILL 1954.—The Order of the Day having been read for the further consideration of this Bill in Committee of the whole House—

Mr. Speaker left the Chair, and the House resolved itself into a Committee of the Whole.

(In the Committee.)

Clauses 1 to 4 agreed to.

Clause 5—

On the motion of Mr. Freeth, the following amendment was made :—

Page 2, line 35, after “ Stipendiary ” insert “, Resident ”.

On the motion of Mr. Kent Hughes (Minister for the Interior), the following further amendment was made :—

Page 3, after the definition of “ mortgagor ” insert the following definition :—  
“ ‘ person ’ includes the Crown in right of a State ; ”.

Clause, as amended, agreed to.

Clause 6—

On the motion of Mr. Failes, the following amendment was made, after debate :—

Page 3, line 28, after “ reserved ” insert “, or is vested in trustees,”.

Clause, as amended, agreed to.

Clause 7 debated and agreed to.

Clauses 8 to 12 agreed to.

Clause 13—

On the motion of Mr. Cramer, the following amendment was made, after debate :—

Page 6, line 29, omit “ with reasonable diligence ”, insert “, after diligent inquiry,”.

On the motion of Mr. Cramer, the following further amendment was made :—

Page 6, line 32, after “ unable ” insert “, after diligent inquiry,”.

Mr. Cramer moved the following further amendment :—

Page 6, line 38, omit “ by affixing it to a conspicuous part of the land or ”, insert “ by affixing it, if practicable, to a conspicuous part of the land and ”.

Debate ensued.

Amendment withdrawn, by leave.

On the motion of Mr. Cramer, the following further amendment was made :—

Page 6, lines 36–40, omit all words from and including the word “ service ” to the end of the clause, insert “ service on that owner may be effected by causing a copy of the notice of acquisition to be published in a newspaper circulating in the district in which the land is situated and—

(c) if the land is occupied—leaving a copy of the notice of acquisition with the occupier ; or

(d) if the land is not occupied—affixing, if practicable, a copy of the notice of acquisition to a conspicuous part of the land ”.

Clause, as amended, agreed to.

Clause 14 agreed to.

Clause 15—

On the motion of Mr. Drummond, the following amendment was made, after debate :—

Page 7, lines 22–24, omit “ a member of the police force of a State or Territory of the Commonwealth or a peace officer appointed under the *Peace Officers Act 1925* ”, insert “ a peace officer appointed under the *Peace Officers Act 1925* or other person named in the warrant ”.

Clause, as amended, agreed to.

Clauses 16 and 17 agreed to.

Clause 18—

On the motion of Mr. Freeth, the following amendment was made, after debate :—

Page 8, line 31, after “ Stipendiary ” insert “, Resident ”.

Clause, as amended, debated and agreed to.

Clause 19—

On the motion of Mr. Kent Hughes, the following amendment was made :—

Page 8, line 41, omit “, or a State which,”.

On the motion of Mr. Freeth, the following further amendment was made, after debate :—

Page 9, omit sub-clause (2.).

On the motion of Mr. Freeth, the following further amendments were made :—

Page 9, lines 6–8, omit paragraph (a), insert the following paragraph :—

“ (a) a claim for compensation in accordance with the last preceding sub-section is not served on the Minister by that person in respect of that interest within one hundred and twenty days after the date of acquisition or within such further time as the Minister allows ; and ”.

Page 9, line 12, after “ shall ” insert “, except where compensation is not payable by reason of the operation of the last preceding sub-section,”.

25th August, 1955.

On the motion of Mr. Joske, the following further amendment was made :—

Page 9, line 22, omit "rejected the claim", insert "accepted the claim for determination".  
Clause, as amended, agreed to.

Clause 20—

On the motion of Mr. Joske, the following amendment was made :—

Page 9, at the end of the clause add the following sub-clauses :—

"(5.) Where, in relation to a claim for compensation that has been rejected by the Minister—

(a) the claimant does not, within thirty days after service on him of the notice of rejection of the claim or within such further time as the Minister allows, institute an action under this section in relation to the claim; or

(b) the claimant has so instituted an action and—

(i) the action has been dismissed, either by the court of first instance or as a result of an appeal; and

(ii) a period of not less than thirty days has elapsed since the dismissal of the action and no appeal or further appeal by the plaintiff (including an application for leave to appeal) is pending,

the Commonwealth may pay compensation in respect of the acquisition on the basis that the claimant was not, at the date of acquisition, entitled to the interest the subject of the claim and, where compensation is paid in respect of an interest which is inconsistent with the interest the subject of the claim, no compensation is payable in respect of that last-mentioned interest.

"(6.) A court in which an action is instituted under this section may, upon the application of the Commonwealth, the claimant or any other person appearing to the court to have a sufficient interest to justify the application (which application may be made at any time after the issue of the writ in the action, whether before or after the making of any declaration under sub-section (2.) of this section), order that the action shall be treated as including proceedings duly instituted under section twenty-five of this Act for determination of the amount of compensation under this Act in respect of the interest (if any) which the court declares the claimant to have had.

"(7.) The provisions of section twenty-five of this Act (other than sub-sections (1.), (2.), (6.) and (9.)) apply to and in relation to proceedings consequent upon the making of an order under the last preceding sub-section."

Clause, as amended, agreed to.

Clause 21 agreed to.

Clause 22—

On the motion of Mr. Kent Hughes, the following amendment was made :—

Page 10, line 16, after "by reason of" insert "the carrying out of or".

On the motion of Mr. Kent Hughes, the following further amendment was made, after debate :—

Page 10, line 21, after "the" (first occurring) insert "carrying out of or the".

On the motion of Mr. Kent Hughes, the following further amendment was made :—

Page 10, line 25, after "the" (first occurring) insert "carrying out of or the".

Clause, as amended, agreed to.

Clause 23 debated and agreed to.

Clause 24 agreed to.

Clause 25—

On the motion of Mr. Drummond, the following amendment was made :—

Page 11, line 4, omit "six months", insert "three months".

On the motion of Mr. Kent Hughes, the following further amendments were made :—

Page 11, line 26, after "lower court" insert ", or might have been brought in a lower court if the amount of compensation claimed had not been grossly excessive".

Page 11, line 35, after "appears" insert "or claims".

On the motion of Mr. Freeth, the following further amendment was made :—

Page 12, line 27, after "Stipendiary" insert ", Resident".

Clause, as amended, agreed to.

Clause 26—

On the motion of Mr. Freeth, the following amendment was made :—

Page 13, line 27, after "Stipendiary" insert ", Resident".

Clause, as amended, agreed to.

Clauses 27 to 31 agreed to.

Clause 32—

On the motion of Mr. Kent Hughes, the following amendment was made :—

Page 15, lines 5-9, omit sub-clause (2.), insert the following sub-clause :—

"(2.) Where the Court orders payment to a claimant of an amount of compensation which has been deposited in the Treasury, the Court may, if it sees fit, order payment of interest in respect of the whole or any part of the period from the date of that deposit to the date of payment at a rate not exceeding the rate that would have been applicable under the next succeeding section if the amount of compensation had not been deposited in the Treasury."

Clause, as amended, agreed to.

Clause 33—

On the motion of Mr. Kent Hughes, the following amendments were made :—

Page 15, line 14, omit "at the rate of Three pounds per centum per annum".

Page 15, after sub-clause (1.) insert the following sub-clause :—

"(1A.) The rate at which interest is payable under the last preceding sub-section is—

(a) Three pounds per centum per annum for so much of the period for which the interest is payable as does not exceed two years; and

(b) Four pounds ten shillings per centum per annum for so much (if any) of the period for which the interest is payable as exceeds two years."

Page 15, line 23, after "compensation" insert "(not being compensation deposited in the Treasury)".

25th August, 1955.

Clause, as amended, debated and agreed to.

Clauses 34 to 40 agreed to.

Clause 41—

On the motion of Mr. Freeth, the following amendment was made :—

Page 20, line 10, after "entitled to" insert "payment by the Commonwealth of".

Clause, as amended, agreed to.

Clauses 42 to 47 agreed to.

Clause 48 debated and agreed to.

Clauses 49 to 51 agreed to.

Clause 52—

On the motion of Mr. Drummond, the following amendment was made :—

Page 22, lines 25-27, omit "a member of the police force of a State or Territory of the Commonwealth or a peace officer appointed under the *Peace Officers Act 1925*", insert "a peace officer appointed under the *Peace Officers Act 1925* or other person named in the warrant".

Clause, as amended, agreed to.

Clauses 53 to 58 agreed to.

Clause 59—

On the motion of Mr. Kent Hughes, the following amendment was made :—

Page 23, after sub-clause (1.) insert the following sub-clause :—

"(1A.) A delegation of any of the powers or functions of the Minister under section twenty-three or section twenty-four of this Act does not operate so as to authorize the delegate to agree upon an amount of compensation exceeding Five hundred pounds."

Clause, as amended, agreed to.

Clause 60 agreed to.

Clause 61—

On the motion of Mr. Cramer, the following amendment was made, after debate :—

Page 24, at the end of the clause add the following sub-clause :—

"(3.) A notice or other document served or given by post in accordance with the last preceding sub-section shall, where practicable, be sent by *avis de réception* registered post."

Clause, as amended, agreed to.

Clause 62 agreed to.

*Proposed new clause—*

Mr. W. M. Bourke moved, That the following new clause be inserted in the Bill :—

"18A. Where by reason of any restriction on the use of land imposed under the law of the Commonwealth, land which is suitable for use for residential purposes cannot lawfully be used for that purpose, the Commonwealth shall if so required by the owner acquire that land under this Act and compensation shall be payable as if such restriction did not exist."

Debate ensued.

Proposed new clause withdrawn, by leave.

*New clauses—*

On the motion of Mr. Freeth, the following new clause was inserted in the Bill, after debate :—

"36A. For the purposes of this Part, moneys shall not be deemed to have been <sup>Mortgage</sup> due to a mortgagee under a mortgage, or to have been secured by the mortgage, at the <sup>moneys barred</sup> date of acquisition of land that was subject to the mortgage if the right of the mortgagee <sup>by statutes of</sup> to recover those moneys was, at that date, barred by a statute relating to the limitation of actions <sup>limitations.</sup> unless the mortgagee had, at that date, a power of sale or other remedy exercisable in relation to that land."

On the motion of Mr. Joske, the following further new clause was inserted in the Bill, after debate :—

"39A.—(1.) Where any land acquired under this Act by compulsory process <sup>Court may</sup> was, at the date of acquisition, subject to a mortgage, and proceedings by the mortgagee <sup>order stay of</sup> in relation to the mortgage were pending at the date of acquisition or are commenced <sup>proceedings</sup> or proposed to be commenced after that date and before compensation has been paid in full to the mortgagor in respect of the acquisition, the High Court or the Supreme Court may, upon the application of the mortgagor and subject to such conditions as it thinks fit, order a stay of those proceedings or enjoin the mortgagee against commencing or continuing those proceedings and make such other orders as it thinks necessary.

"(2.) In this section, 'proceedings' means any action to enforce the rights of the mortgagee under the mortgage, whether or not the proceedings are in a court, including action with a view to taking possession of or selling land or foreclosing."

Title agreed to.

Bill to be reported with amendments.

The House resumed; Mr. Adermann reported accordingly.

On the motion of Mr. Kent Hughes, by leave, the House adopted the Report, and, by leave, the Bill was read a third time.

6. ADJOURNMENT.—Sir Eric Harrison (Vice-President of the Executive Council) moved, That the House do now adjourn.

Question—put and passed.

And then the House, at nineteen minutes past ten o'clock p.m., adjourned until Tuesday next at half-past two o'clock p.m.

MEMBERS PRESENT.—All Members were present (at some time during the sitting) except Mr. Beale, Mr. Calwell, Mr. Clark, Mr. Drury, Mr. Fairhall, Mr. Johnson, Mr. Lemmon, Mr. Leslie, Mr. Nelson, Sir Earle Page and Mr. Riordan.

A. A. TREGEAR,  
Clerk of the House of Representatives.