

WHAT AUSTRALIA MUST DO to Survive the Depression

by the Citizens Electoral Council of Australia



PART III

Draft Legislation for Australia

1. A New National Bank

In 1994, following extensive discussions with Lyndon LaRouche, the CEC composed draft legislation to re-establish the Commonwealth Bank as a national bank, with expanded powers and functions along the lines originally envisaged by King O'Malley first, and then by John Curtin and Ben Chifley. A summary of the draft bank bill is followed by the draft legislation itself.

The Commonwealth National Credit Bank Bill

A national bank dedicated to fostering the growth of the nation's physical economy is the cornerstone of national sovereignty. Beginning with the *Commonwealth of Australia Constitution Act* in 1901, and then the *Banking Act 1959* and the *Reserve Bank Act 1959*, it is clear that Australia was never intended to break free of the colonial yoke. By these laws, the Queen's representative, the Governor-General, is granted awesome powers:

* Section 56 of the Constitution gives the Governor-General total control over the appropriation of revenue or of money, by specifying that no revenue or money bill may be enacted or even debated without the Governor-General's prior written permission delivered to the Parliament on the day.

* The *Reserve Bank Act* grants the Governor-General the right

to appoint the governor of the Bank, and thus to control all Reserve Bank policy.

* Part 2 of the *Banking Act 1959* gives the Governor-General the absolute power to issue Authorities for the conduct of the business of banking, the application of any conditions attaching to such Authorities, and the power to determine the criteria and financial standing of an applicant for an Authority to become a bank.

* Part 3 of the *Banking Act 1959* gives the Governor-General power to impose a trade embargo on all exports from, and imports into, Australia. In addition, the absolutely untrammelled extent of his powers is specified in Section 39 of that Act. Note the italicised words in the concluding phrase of this section itemising his powers to make regulations:

39. (1) Where the Governor-General considers it expedient to do so for purposes related to:

(a) foreign exchange or the foreign exchange resources of Australia;

(b) the protection of the currency or the protection of the public credit or revenue of Australia; or

(c) foreign investment in Australia, Australian investment outside Australia, foreign ownership or control of property in Australia, or of Australian property outside Australia, or Australian ownership or control of property outside Australia, or of foreign property in Australia;

the Governor-General may make regulations, *not consistent* with this Act, in accordance with this Section (emphasis added).

In other words, even though this Act grants him all-sweeping powers, the Governor-General can in addition do whatever he likes, regardless of what is specified in this Act!

So far as possible (that is, without constitutional changes), the Commonwealth National Credit Bank Bill (CNCB) strips the Governor-General of these arbitrary powers. Since the new CNCB will be clearly acting in the nation's best interests, should the Governor-General choose to exercise his powers under Section 56 of the Constitution to thwart the will of the Parliament in establishing the new Bank, or in the Bank's functioning, a political crisis will follow in which the Governor-General will be exposed for the colonial dictator he really

is, and can thus be defeated.

The CNCB bill repeals the *Reserve Bank Act 1959*, completely replacing it. It amends the *Banking Act 1959*. In particular, it removes the Governor-General's powers and grants them to the board of the new Bank. It establishes a Bank which is responsible to Parliament, instead of to the private individuals who currently run the Reserve Bank, and mandates, by law, the Bank to function in such a manner as to cause a rise in Australia's "potential population-density" through a "rise in the physical output of the nation" and in "the rate of introduction of new technologies into the economy". Precise measures to calculate such rises are specified, so that the Bank has no choice, but to so function, or an investigation is mandated.

All new credit creation by the new Bank shall, by the terms of this Bill, be tied to tangible hard commodity production. The present Reserve Bank's ability to create or extinguish credit by "open market operations" is expressly forbidden.

The "powers" of the proposed new Bank are greater than those of the existing Reserve Bank, and in addition to those of the Reserve Bank, include power:

1. to issue notes and establish credits to acquire, support and retain the sovereignty of Australia and for the defence of the lives, liberty, and happiness of the Australian people;

2. to control, and if necessary, prohibit, the movement and dealing in currency, of foreign exchange and financial instruments of the widest definition;

3. to plan, measure, and map the economic state of the nation;

4. to provide credits under a *National Emergency Credit Issue Act* to guarantee up to \$100,000 per individual person, the deposits of such persons in the event of a financial collapse of a substantial percentage of the existing trading banks. The confusing claim that the Reserve Bank, under the *Reserve Bank Act 1959*, has preference over depositors in the event of bank failure, when Section 16 of the *Banking Act 1959* states that, priority in the event of bank failure lies with the depositors, has been corrected in Section 55 of the CNCB Bill.

The new Bank will have eight divisions, as follows:

- *The Reserve Division*, responsible to licence, supervise, and regulate all financial institutions.

- *The Mint and Note Division*, responsible for the issuance of legal tender, i.e. notes and coins.

- *The National Development Division*, responsible to assess the nation's need for credit to provide for the establishment and maintenance of infrastructure of national importance and to provide such credit.

- *The Statutory Authorities, Scientific and Educational Institutions Division*, responsible to assess the nation's need for credit to provide for the capital costs of land, buildings, plant, machinery, and tangible items, as well as for scientific and technological research and development costs for statutory authorities, scientific and educational institutions, and to provide such credit.

- *The State and Local Government Division*, responsible for assessing the nation's needs for credit for the establishment and maintenance of infrastructure not specifically provided for by other divisions of the bank and to provide that credit at an annual interest rate not to exceed three per cent.

- *The Primary Industries Division*, responsible for assessing the nation's need for credit and the issuance of credit expressly for family farmers and other family producers of primary products who directly contribute to increasing the potential population-density of Australia.

- *The Manufacturing Division*, responsible for assessing the nation's need for credit and the issuance of credit for manufacturing industries of Australia.

- *The International Division*, responsible for the administration of exchange controls, and provisions of the Act relating to gold, and, if and when required, the exchange and clearance of financial instruments and other international matters.

The existing informal regulation of trading banks has been formalised, and provisions have been included to stop banks and other financial institutions from engaging in or financing speculative activities relating to currency, foreign exchange, derivatives, and the like.

All activities of the CNCB are to be open for public scrutiny and statements of account and activities are to be laid before the Parliament within 30 days of the close of each calendar month.

The Commonwealth National Credit Bank

Prime Minister

Deputy Prime Minister

Treasurer

**The
Bank
Board**

Premiers of each State
and the Chief Minister of
the Northern Territory

Five Ministers of the
Commonwealth relevant
to primary industry, sec-
ondary industry, defence,
health and education

Chief Executive Officer (Ex Officio) & Deputy Chief Executive Officer (Ex Officio)

Reserve Division

Responsible for the licencing, supervision and regulation of all financial transactions & elimination of usurious and unconscionable banking and commercial practices.

Mint & Note Division

Responsible for the issuance of Notes & Coins.

National Development Division

Responsible for the nation's need for credit, to provide for the capital costs of establishing and maintaining infrastructure.

State & Local Government Division

Responsible for assessing the nation's need for credit for the establishment and maintenance of infrastructure which comes, or would come within the responsibility of a State Government minister.

Statutory Authorities, Scientific and Educational Institutions Division

Responsible for assessing the nation's need for credit to provide for the capital costs of land, buildings, plant, machinery, and tangible items, as well as for scientific and technological research and development costs for statutory authorities, scientific and educational institutions.

Primary Industries Division

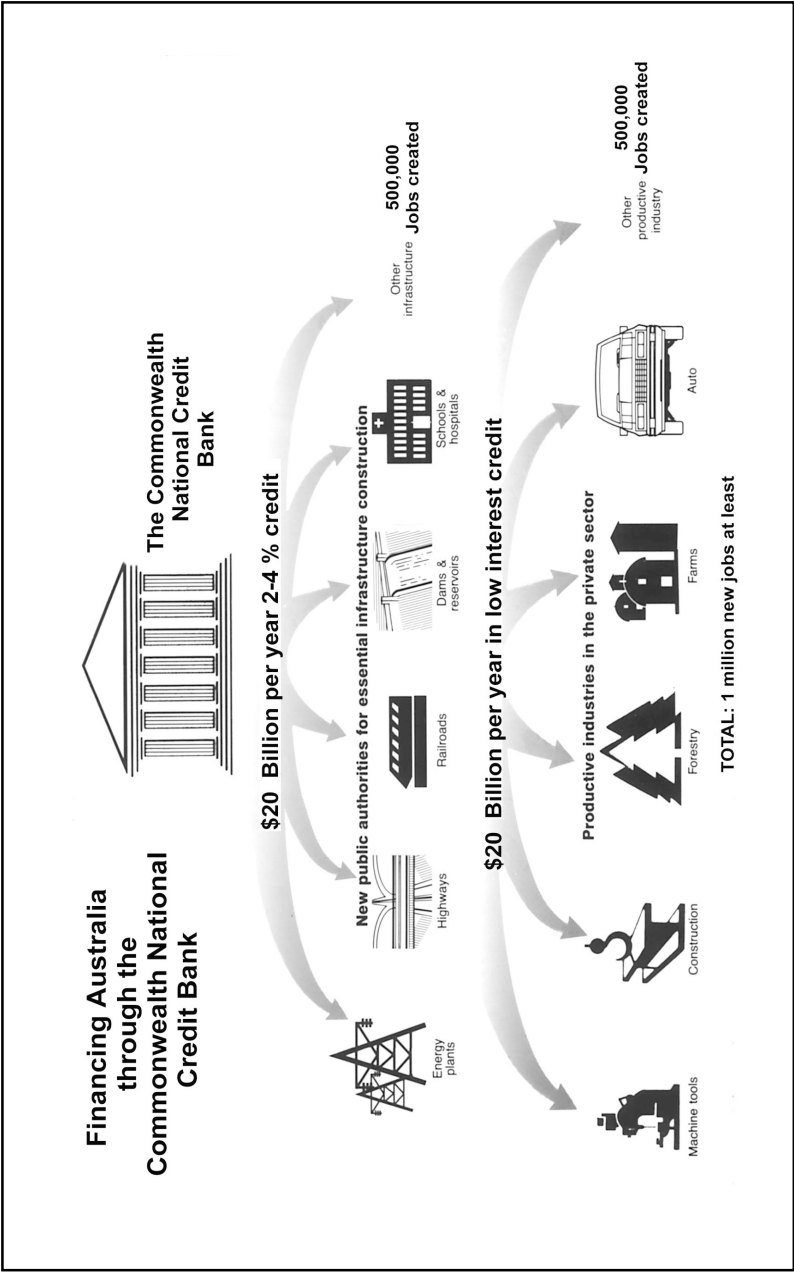
Responsible for assessing the nation's need for credit to provide for the costs of land, buildings, plant, machinery, other tangible items, and for working capital for Primary Industries of the nation.

Manufacturing Division

Responsible for assessing the nation's need for credit to provide for the costs of land, buildings, plant, machinery, other tangible items and working capital for the manufacturing industry.

International Division

Responsible for the administration of foreign exchange controls, the orderly marketing, exchange, regulation and purchase of gold, and when required to exchange and clear other financial instruments.



The Legislation

An Act to reconstitute the Reserve Bank of Australia as a Commonwealth National Credit Bank for economic development and supervision of the Banking and Non-Bank Financial Corporations systems and for other purposes.

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financial and monetary stability, one consistent with the principles of a just new world economic order, one established in time to prevent the presently ongoing process of financial, monetary, and economic collapse from plunging the planet, very soon, into a planetary New Dark Age.

Science and Classical Art

The central feature of all his activities, is emphasis upon those sovereign cognitive powers of the individual human mind whose functions are merely typified by validated discoveries of physical principle. Since his original discoveries of the 1948-1952 interval, he has always emphasised that the processes responsible for discovery of physical principles are identical in nature with those responsible for the composition of metaphor in great compositions in Classical forms of poetry, music, tragedy, and plastic arts. This view he acquired in rejecting Immanuel Kant's Romantic dogma for aesthetics. Accordingly, he rejects the empiricist, Cartesian, and positivist notions of both "objective science", and the separation of science from art. He treats science and art as intrinsically subjective, rather than objective, as the subjective generation of objectively validatable new principles of science, new ideas spawned as resolutions of metaphor.

These were leading considerations in his co-founding of the scientific association, the Fusion Energy Foundation, during the mid-1970s, and his support for his wife Helga Zepp-LaRouche's founding of the international Club of Life and international Schiller Institute, during the 1980s. During the 1980s, he launched a project for clarifying certain crucial principles of Classical musical composition and performance, out of which one important book has been produced. He is currently working with some among his collaborators in developing improved approaches to education, based, inclusively, upon pedagogical models adduced variously from the scientific work of Classical Greek culture, Leonardo da Vinci, Johannes Kepler, Gottfried Leibniz, Carl Gauss, and Bernhard Riemann. The principle underlying this effort, is that the student must know, rather than merely learn the subject-matter, this by reenacting the original act of discovery of a principle in such a fashion that the student re-experiences the mental processes employed by the original discoverer of that principle. This is LaRouche's definition of the Classical Humanist method in education.

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PART I—PRELIMINARY

Short Title

- 1. This Act may be cited as the *Commonwealth National Credit Bank Act*.

Commencement

- 2. This Act shall come into operation on a date to be fixed by Proclamation.

Repeal and Amendments

- 3. (1) The *Reserve Bank Act 1959* and all regulations are repealed.
- (2) The *Banking Act 1959* is amended in the following respects:
 - (a) the words “Governor-General”, wherever appearing, are deleted and replaced with the words, “the Board”;
 - (b) the word, “Treasurer”, wherever appearing, shall be deleted and replaced with the words, “the Board”;
 - (c) Section 8 in Part II is repealed and replaced by the words, “Banking business not to be carried on without authority. A body corporate shall not carry on any banking business in the Commonwealth unless the body corporate is in possession of an authority under the Reserve Division of the *Commonwealth National Credit Bank Act*”;
 - (d) Sections 9, 10, 11A, 11B, 11C, 12, 13 and 14 are repealed;
 - (e) The words, “Reserve Bank”, wherever appearing, are deleted, and replaced with the words, “Commonwealth National Credit Bank”;
 - (f) The word “Governor”, wherever appearing in the context of the Governor of the Reserve Bank, is deleted, and replaced with the words “Chief Executive”;
 - (g) The words “Deputy Governor” and “Deputy Governors”, wherever appearing in the context of the Deputy Governor

- or Governors of the Reserve Bank, are deleted, and replaced with the words, “Deputy Chief Executive”;
- (h) Sections 17, 18, 19, 20, 21, 22, 23, 24, 25, 32, 33, 34, 35, 39, 39A and 39B, are repealed.
- (3) The *Financial Corporations Act 1974* is amended in the following respect:
 - (a) The words, “Governor-General”, wherever appearing, are deleted and replaced with the words “Commonwealth National Credit Bank Board”.

Interpretation

- 4. (1) In this Act, unless the contrary intention appears:
 - “Act” means any legislation enacted by any Parliament of the Commonwealth, States or Territories of the Commonwealth of Australia and includes the rules and regulations made pursuant to such legislation;
 - “Australia” includes the Territories;
 - “Australian currency” means notes, coins and specie, payable and denominated in Australian dollars and cents;
 - “Australian financial instruments” means any instrument denominated in Australian currency evidencing debt or property, or a surety for the fulfilment of a promise or obligation, and also means rights, options, swaps and derivatives so denominated;
 - “bank” means a person carrying on the business of banking;
 - “banking” means the business carried on by banks in accordance with the *Banking Act 1959* and by State Banks defined by relevant State legislation;
 - “Chartered Bank” means any bank in Australia upon which the Commonwealth National Credit Bank has conferred the privilege of administering monies created pursuant to a national credit issue;
 - “Commonwealth” means the Federal Commonwealth of Australia;
 - “Constitution” means the *Constitution of Australia Act* as amended;
 - “derivative” means those contracts that are based on other products either financial or real, or prices associated with financial products and which involve:
 - (a) Future delivery, receipt or exchange of financial items such as cash or another derivative instrument; or
 - (b) Future exchange of real assets for financial items where

the contract is marketable. The contracts can either be binding on both parties, as is the case with a currency swap, or subject to the exercise by one party, of a right contained in a contract, as is the case with options;

“family farmer” means any individual whose principal occupation is farming, and who resides on, or in the immediate vicinity, of the land farmed. It includes partnerships in which all individuals are related within the third degree of kinship, and where at least fifty per cent of the beneficial ownership resides with family farmers. It includes corporations in which all individuals are related within the third degree of kinship and in which at least one individual is a family farmer, or in which at least fifty per cent of the voting shares are owned by family farmers.

“farming” means any activity which directly results in the production of food (including viticulture) or fibre (including horticulture).

“financial institution” means any entity to which the provisions of the *Banking Act 1959*, or the *Financial Corporations Act 1974* applies;

“foreign currency” means notes, coins and specie denominated other than in Australian dollars and cents;

“foreign financial instruments” means any instrument denominated in any currency other than Australian currency evidencing debt or property, or a surety for the fulfilment of a promise or obligation, and also means rights, options, swaps, and derivatives so denominated;

“infrastructure” means the public or publicly regulated foundations of a national physical economy, and includes water management, transport, energy, health, education, and communications;

“legal tender of Australia” means Australian currency, which cannot legally be refused in payment of debt;

“money” means the currency of Australia, cheques, notes, credit card transactions and other financial instruments or pledges commonly or generally accepted in payment of debts;

“National Bank” means the Commonwealth National Credit Bank of Australia;

- “national banking” means the business carried on by the Commonwealth National Credit Bank of Australia in accordance with this Act;
- “National credit issue” means the issuance of credit by the Bank for circulation as money under the authority of Parliament;
- “netting agreement” means an agreement between two or more parties whereby a number of trade balances of a debit and credit nature are netted out to produce a single debit or credit figure, or whereby a number of transactions are deemed one transaction;
- “non-bank financial organisation” means any organisation to which the *Financial Corporations Act 1974* applies;
- “Nostro account” means an account maintained by a bank in Australia in which its transactions with a bank not in Australia, are recorded;
- “officer” or “officer of the Bank” means an officer of the Commonwealth National Credit Bank;
- “open market operations” means the practice of debt or monetary policy management by or through the purchase, sale or dealing in Government-issued securities;
- “Parliament” means the Parliament of the Commonwealth;
- “person” means any person, group of persons, corporation, trust, or group of corporations or trusts;
- “potential population-density” means the numbers of individuals existing per square kilometre, supported solely by the physical economy of the nation, plus the number who could be so supported. A rising potential population-density means an increasing number of individuals who could be potentially supported per unit area, and includes an increased quality of individual, through higher education, skill levels, and general culture;
- “property” includes securities and rights under securities;
- “regulations” means regulations made pursuant to the provisions of this Act or any other Act of Parliament;
- “repealed Act” means an Act repealed by this Act;
- “resident” means a person, not being a body corporate, who is ordinarily resident in Australia or a body corporate which is incorporated in Australia;
- “statutory office” means the office of Chief Executive or Deputy

PART II—CONSTITUTION, POLICY AND MANAGEMENT OF THE COMMONWEALTH NATIONAL CREDIT BANK

The Commonwealth National Credit Bank

7. The body corporate established under the *Commonwealth Bank Act 1911* under the name Commonwealth Bank of Australia, and continued in existence under the subsequent Acts, namely the *Commonwealth Bank Act 1945*, *Reserve Bank Act 1959*, and *Commonwealth National Credit Bank Act*:

- (1) is preserved and continues in existence as a body corporate under and subject to the provisions of this Act, under the name Commonwealth National Credit Bank of Australia;
- (2) shall have a seal;
- (3) is capable of acquiring, holding and disposing of real and personal property, and of suing and being sued.

General Powers

8. The Bank has such powers as are necessary for the purposes of this Act, and in particular, and in addition to any other powers conferred on it by this Act, has power:

- (1) to receive money on deposit;
- (2) to borrow and lend money;
- (3) to buy, sell, discount and rediscount bills of exchange arising from tangible hard commodity production. The practice of creating or extinguishing money supply through “open market operations” is forbidden;
- (4) to buy, sell and otherwise deal in foreign currency, specie, gold and other precious metals;
- (5) to issue notes and establish credits to acquire, support and retain the sovereignty of Australia, and for the defence of the lives, liberty, and happiness of the Australian people;
- (6) to issue notes, bills, drafts, and effect transfers of money;
- (7) to establish credits and give guarantees;
- (8) to underwrite and make loans;
- (9) to regulate financial institutions and State Banks operating beyond the borders of one state or territory, but not a State Bank operating within its home State, unless with prior agreement of the State;
- (10) to use and direct the resources of the nation to extract and

Chief Executive;

“statutory reserve deposit” means the non-callable monies deposited with the Bank in accordance with the provisions of Subsection 13(h) of the Reserve Division;

“the Bank” means the Commonwealth National Credit Bank of Australia;

“the Board” means the Commonwealth National Credit Bank Board of Directors established by this Act;

“the Chief Executive” means the Chief Executive of the Bank;

“the Deputy Chief Executive” means the Deputy Chief Executive of the Bank;

“the former Reserve Bank of Australia” means the Reserve Bank of Australia established under the *Reserve Bank Act* 1959;

“usurious” means interest rates exceeding the following rates where the purpose of the loan is related to the physical production of tangible goods:

- (a) five per cent per annum calculated daily on the unpaid balance where the debt is mainly secured by land or fixed assets thereon;
- (b) six per cent per annum calculated daily on the unpaid balance where the debt is mainly secured by plant, machinery, vehicle or other movable asset;
- (c) seven per cent per annum calculated daily on the unpaid balance where the debt is mainly secured by personal guarantee, inventory items, crop or produce lien, or the like; and,
- (d) at a rate of interest exceeding ten per cent per annum, calculated daily on the unpaid balance where the loan is not related to the physical production of tangible goods.

“Vostro account” means an account maintained by a bank in Australia in which transactions of any foreign bank are recorded.

Application to Territories

5. This Act extends to all Territories of the Commonwealth.

Act to Bind the Crown

6. This Act binds the Crown.

make available to the Bank the data upon which to measure the rate of increase of potential population-density;

(11) to control the rate of exchange of Australian currency with respect to foreign currencies;

(12) to control or prohibit, whether within, or outside the Commonwealth, the buying, borrowing, selling, lending, exchanging, or that which has the effect of such, or any other dealing or transaction that relates to Australian currency, or Australian financial instruments by a non-resident of the Commonwealth;

(13) to control or prohibit the taking or sending out of the Commonwealth, and the bringing or sending into the Commonwealth, of Australian or foreign currency, or Australian or foreign financial instruments, including the transfer of such instruments from a register outside the Commonwealth to a register within the Commonwealth or vice versa and also the transfer of Australian financial instruments between registers outside the Commonwealth;

(14) to control or prohibit whether within or outside the Commonwealth by a resident of the Commonwealth, the buying, borrowing, selling, lending, exchanging, or that which has the effect of such, or any other dealing or transaction that relates to foreign currency or foreign financial instruments, and such dealings within the Commonwealth by a non-resident of the Commonwealth;

(15) to control or prohibit the making of markets in Australian financial instruments, or foreign financial instruments within, or partly within, the Commonwealth;

(16) to control or prohibit any transaction that has the effect of, or that otherwise relates to, the buying, selling, leasing, or exchanging of, or other dealing with property, that is outside Australia, by or on behalf of a resident of the Commonwealth or the buying, selling, leasing, or exchanging of, or other dealing with property within the Commonwealth by a non-resident;

(17) to obtain accounts, books, documents, other papers, electronic data, or other information for purposes related to the exercise of the Bank's powers;

(18) to provide a continual assessment of the need for credit and to emit and issue money;

(19) in the event of a banking emergency as defined by the collapse of a substantial percentage of the corporations holding

Authorities to conduct the business of banking, the Board may prepare for the consideration of the Parliament, a bill for a “National Emergency Credit Issue Act”. The credits authorised by the enactment of such bill, shall be used to guarantee the deposits of individual depositors in financial institutions, up to a limit of \$100,000 per individual;

(20) to do anything incidental to any of its powers.

General Policy Respecting Physical Economy

9. (1) Except in the case of national emergency declared by the Parliament, the Bank shall only issue credit against the tangible wealth-creating capacity of the nation. Such capacity is defined as agriculture, mining and raw materials extraction, manufacturing, infrastructure, health care, education, and scientific research.
- (2) The Reserve Division shall monitor all new credit issuance to ensure that the policy summarised in Subsection (1) is adhered to.
- (3) The Bank shall guide its activities so as to cause a rise in both:
 - (a) the physical output of the nation; and
 - (b) the rate of introduction of new technologies into the economy.
- (4) The growth described in Sub-section (3) shall be measured and mapped in the annual accounts of the nation, which shall be placed before the Parliament, and expressly show:
 - (a) the rise in the per capita consumption of an average market basket of consumer goods from year to year, at a constant or declining cost to the consumer;
 - (b) the rising ratio of production of capital goods, plant, equipment, and basic economic infrastructure, compared to consumer goods;
 - (c) the rise in energy usage from year to year, both per capita, and per hectare;
 - (d) the rise in energy flux-density of the technologies of energy production, measured in watts per square centimetre per second, or a meaningful equivalent;
 - (e) the rise in both the actual, as well as potential population density, from year to year.

If there be no rise in any of the factors described in Sub-clauses (a), (b), (c), (d), or (e), then an investigation shall be carried out to determine the cause of that stagnation or collapse, and the results of that investigation shall be laid before the Parliament.

Authority

10. The Bank shall at all times act under authority of the Parliament and as determined in accordance with this Act.

Establishment of the Commonwealth National Credit**Bank Board**

11. There shall be a Commonwealth National Credit Bank Board, which shall be constituted as provided by Part III.

Functions of the Commonwealth National Credit Bank Board

12. It is the duty of the Board to ensure that the monetary, economic, and banking policy of the Bank is directed to the greatest advantage of the people of Australia, and that the powers of the Bank under this Act, the *Banking Act 1959* and the *Financial Corporations Act 1974*, are exercised in such a manner as will best contribute to the:
- (1) stability of the Australian currency;
 - (2) attainment and maintenance of full employment in the Commonwealth;
 - (3) economic prosperity of the people of the Commonwealth;
 - (4) defence of the lives, liberty, and happiness of the people of the Commonwealth;
 - (5) management and progressive elimination of the foreign debt of the Commonwealth, the States and of the public institutions and private sector;
 - (6) attainment and retention of national sovereignty;
 - (7) health care, welfare, education, and cultural enrichment of the people of the Commonwealth;
 - (8) security of the food supply of the people of the Commonwealth;
 - (9) provision of national and state infrastructure;
 - (10) encouragement of productive private enterprise within the Commonwealth.

Management of the Bank

13. The business of the Bank shall be managed by the Board in accordance with the provisions of this Act, and specifically:
- (1) The Board shall appoint persons to the following positions for such period, and on such terms as are consistent with the provisions of this Act, and may revoke any such appointment:

- (a) Chief Executive;
 - (b) Deputy Chief Executive; and
 - (c) Divisional Managers for each of the eight Divisions of the Bank;
- (2) The Board shall delegate to the Chief Executive and the Deputy Chief Executive executive powers, as are necessary for the proper and efficient functioning of the Bank as they so determine, and may from time to time revoke, withdraw, alter or vary, all, or any of these powers;
- (3) Divisional Managers shall manage their respective Divisions under the executive authority of the Chief Executive of the Bank:
- (4) The Deputy Chief Executive shall perform such duties as the Chief Executive directs, and in the event of a vacancy in the office of Chief Executive, or in the event that the Chief Executive is temporarily unable to fulfil his duties for any reason whatsoever, the Deputy Chief Executive shall perform the duties of the Chief Executive, and shall have, and may exercise, the powers and functions of the Chief Executive, provided that he shall first provide the Board written advice of his intention to so act;
- (5) All authority granted to each and every Division of the Bank, by this Act, shall be subject to approval of the Board.

PART III—THE COMMONWEALTH NATIONAL CREDIT BANK BOARD AND THE CHIEF EXECUTIVE AND DEPUTY CHIEF EXECUTIVE OF THE BANK

Membership of the Board

14. (1) The Commonwealth National Credit Bank Board shall consist of:
- (a) the Chief Executive (ex officio with no voting rights);
 - (b) the Deputy Chief Executive (ex officio with no voting rights);
 - (c) the Prime Minister of the Commonwealth;
 - (d) the Treasurer of the Commonwealth;
 - (e) the Premiers of each State, and the Chief Minister of the Northern Territory;
 - (f) five Federal Ministers of the Commonwealth relevant to primary industry, secondary industry, defence, health, and education.

(2) A member of the Board shall cease to be eligible to hold his seat on the Board if, and from such time, as he shall be replaced by a successor to his ministerial position, or other qualifying appointment.

(3) No member of the Board shall appoint a proxy, or any other person to act on his behalf.

Remuneration of Members

15. (1) A member of the Board shall be paid such remuneration as is determined by the Remuneration Tribunal.

(2) A member of the Board shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.

(4) A reference in this section to a member of the Board does not include a reference to the Chief Executive or Deputy Chief Executive.

Declaration by Members

16. A member of the Board shall, before entering upon his duties or exercising any power under this Act, make before a Justice of the Peace or a Commissioner for taking Affidavits, an oath or affirmation in accordance with the form described in the Regulations.

Disqualification from Membership

17. (1) A person who is a director, officer, employee or agent of a corporation (other than the Bank), or who has, during a period of three years prior to his appointment to the Board, held such a position with any such corporation, the business of which is wholly or partly that of a financial institution, is not capable of appointment, or of continuing to act as a member of the Board.

(2) A person who has been a member of the Board, shall not for a period of three years commencing from the date he ceased to be a member of the Board, act as a director, officer, employee or agent of a corporation, the business of which is wholly or partly that of a financial institution.

Vacation of Office by Board Member

18. (1) If a member of the Board appointed under Section 14:

- (a) becomes permanently incapable of performing his duties;
- (b) becomes bankrupt, applies to take the benefit of any law

for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes any assignment of his remuneration for their benefit:

- (c) resigns his office by writing under his hand, addressed to the Chairman of the Board;
- (d) is absent, except on leave granted by the Board, from all meetings of the Board held during two consecutive months or during any three months in any calendar year; or
- (e) fails to comply with his obligations under Section 23: then the remainder of the Board shall instruct the Chairman, and the Chairman shall so terminate his appointment.

Vacancies Not to Invalidate Proceedings

- 19. Subject to Sub-section (4) of Section 21, the exercise of the rights, powers, authorities or functions or the performance of the duties or obligations of the Board is not affected by reason only of there being a vacancy in the office of a member or any number of members.

Chairman and Acting Chairman

- 20. The Prime Minister of the Commonwealth shall be the Chairman of the Board, and in his absence an Acting Chairman shall be elected by the Board.

Meetings of the Board

- 21. (1) The Board shall meet at such times and places as the Board determines, but such determinations shall include not less than one meeting each calendar year in Darwin and in each capital city of the Commonwealth.
- (2) The Board shall meet not less frequently than once a month.
- (3) The Chairman shall preside at all meetings of the Board at which he is present, and, in the absence of the Chairman, the Acting Chairman so elected, shall preside.
- (4) Eight members form a quorum at a meeting of the Board.
- (5) Questions arising at a meeting of the Board shall be decided by a simple majority of the votes of the members present and voting.
- (6) The member presiding at a meeting of the Board shall have a deliberative vote, and in the event of an equality of votes, shall also have the casting vote.
- (7) The Board shall keep full minutes of its proceedings, both

audio-tape and written transcript.

Exclusion of Chief Executive and Deputy Chief Executive from Certain Deliberations

22. The Chief Executive and Deputy Chief Executive shall not be present during any deliberation of the Board, or take part in any decision of the Board, in relation to the determination or application of any terms or conditions on which the Chief Executive or Deputy Chief Executive holds office.

Disclosure of Interest in Contracts

23. (1) A member of the Board, who is directly or indirectly interested in a contract made, or proposed to be made by the Bank, shall disclose the nature of the member's interest at the first meeting of the Board at which the member is present when the relevant facts have come to the knowledge of the member.
- (2) A disclosure under Sub-section (1) shall be recorded in the minutes of the Board, and after the disclosure, the member of the Board:
- (a) shall not take part in any deliberation or decision of the Board with respect to that contract; and
 - (b) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

Chief Executive and Deputy Chief Executive

24. (1) The Chief Executive and Deputy Chief Executive:
- (a) shall be appointed by the Board and such appointments shall be ratified by Parliament;
 - (b) shall be appointed for such period, not exceeding seven years, as the Board determines, and are eligible for reappointment; and
 - (c) hold office subject to good behaviour.

Holding Office

25. The Chief Executive and Deputy Chief Executive shall hold office on such terms and conditions (including terms and conditions relating to remuneration and allowances) in relation to matters not provided for by this Act, as are determined by the Board. Such terms and conditions shall be a matter of public record.

Vacation of Office by Chief Executive or Deputy Chief Executive

26. (1) The Board shall terminate the employment of the Chief Executive or Deputy Chief Executive if he:
- (a) becomes permanently incapable of performing his duties;
 - (b) engages in any paid employment other than with the Bank, or becomes a member of, or acts in the interest or on behalf of, a secret society or society with secrets, or a foreign power, or interests associated with a foreign power;
 - (c) becomes bankrupt, applies to take benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes an assignment of his salary for their benefit; or
 - (d) resigns his office by writing under his hand addressed to the Chairman.
- (2) If the Chief Executive or the Deputy Chief Executive is guilty of protracted or gross negligence in the discharge of his duties, or repeatedly fails to act in the best interests of the Bank, and the people of Australia, the Board may, if it so resolves, terminate his appointment.

PART IV—NATIONAL BANKING

Commonwealth National Credit Bank to Act as a National Bank

27. The Bank:
- (1) is the National Bank of the Commonwealth;
 - (2) shall carry on business as a national bank;
 - (3) subject to this Act, to the *Banking Act 1959*, and the *Financial Corporations Act 1974*, shall not carry on business otherwise than as a national bank;
 - (4) shall have absolute and sole authority to issue the legal tender of the Commonwealth;
 - (5) subject to the *Banking Act 1959*, and the *Financial Corporations Act 1974*, the Bank shall regulate all financial institutions governed by such Acts.

Bank to be Banker for the Commonwealth and Others

28. The Bank shall, insofar as the Commonwealth and any other recipient of a national credit issue require it to do so, act as banker

and financial agent of the Commonwealth and such other recipient.

Capital

29. The capital of the Bank shall be the aggregate of:

- (1) the capital of the former Reserve Bank of Australia immediately before the enactment of this Act; and
- (2) such other sums as are transferred from the Reserve Bank Reserve Fund in pursuance of Section 30 of this Act.

Reserve Fund

30. (1) The Bank shall have a Reserve Fund, to be called the “Commonwealth National Credit Bank Reserve Fund”, which shall consist of:

- (a) the amount standing to the credit of the Reserve Bank Reserve Fund immediately before the enactment of this Act; and
- (b) such other sums as are placed to its credit in pursuance of Section 31 of this Act.

(2) The Board may, from time to time, transfer from the Commonwealth National Credit Bank Reserve Fund to the capital of the Bank, for the purposes of Part IV of this Act, such sums as the Board determines.

Profits

31. The net profit of the Bank in each year shall be dealt with as follows:

- (1) such amount as the Board determines shall be placed to the credit of the Commonwealth National Credit Bank Reserve Fund; and
- (2) the remainder shall be paid to the Commonwealth.

Certain Prohibitions on Trading Activities of the Bank

32. Subject to Section 54 in Part VII of this Act, the Bank shall not participate as a Principal in any project financed by a national credit issue, nor is the Bank permitted to receive dividends, profit share, or other pecuniary benefit from any project financed by a national credit issue.

PART V—DIVISIONS WITHIN THE BANK

Reserve Division

33. (1) The Reserve Division shall:

- (a) licence, supervise and regulate all financial institutions;

- (b) eliminate usurious and unconscionable banking and commercial practices, and the risk of such practices;
 - (c) set the operational liquidity ratio of financial institutions at 18 per cent of the demand deposits and mandate that such liquidity ratio be held in the legal tender of Australia;
 - (d) maintain a system of national economic accounting in the form described in the Regulations to accurately reflect the economic state of the nation at all times.
- (2) The Reserve Division shall determine the criteria for issuance of authority to conduct business under the *Banking Act 1959*, and the *Financial Corporations Act 1974*, and relying upon such criteria, shall accept or reject applications for authority to carry on the business of financial institutions, and issue such authorities.
- (3) The Reserve Division shall determine the criteria for the issue of Charters to banks to become Chartered Banks, and relying upon such criteria, shall accept, or reject applications for authority to carry on the business of Chartered Banks, and issue such Charters.
- (4) The Reserve Division shall have the power, by notice in writing served on the body corporate, to which an authority or Charter was issued under the foregoing provisions, to:
- (a) impose conditions, or additional conditions, on an authority or Charter; and
 - (b) vary or revoke conditions imposed on an authority or Charter and, where an authority or Charter under this Division is subject to conditions, the body corporate shall comply with those conditions.
- (5) Where an authority or Charter under this Division is granted to a body corporate, the First Schedule of the *Banking Act 1959*, or the Register of Corporations kept for the purposes of the *Financial Corporations Act 1974*, as the case may be, is hereby amended by the authority of this Act, with the addition of the name of the body corporate.
- (6) Where the Reserve Division is satisfied that a body corporate in possession of an authority or Charter under this Division, has ceased to carry on the business of a financial institution in Australia, this Division may revoke its authority or Charter.

(7) Where:

- (a) A body corporate in possession of an authority or Charter under this Division requests the revocation of the authority or Charter, by notice in writing to the Division; and
- (b) The Division is satisfied that:
 - (i) The revocation would not prejudice the interests of the depositors of the financial institution; and
 - (ii) The revocation would not likely be to the detriment of the national interest;

then, the Bank shall revoke the authority or Charter;

- (c) If an authority or Charter under this Division is so revoked, the First Schedule of the *Banking Act 1959*, or the Register of Corporations kept for the purpose of the *Financial Corporations Act 1974*, as the case may be, is deemed to be amended by the omission of the name of the financial institution concerned.

(8) Where the Board is satisfied that a financial institution in possession of an authority or Charter under this division:

- (a) has ceased to exist; or
- (b) has changed its name; then the Division shall publish in the Gazette a notice to that effect and, upon the publication of the notice, the First Schedule of the *Banking Act 1959*, or the Register of Corporations kept for the purpose of the *Financial Corporations Act 1974*, and the register of Chartered Banks kept for the purposes of this Act, shall be amended with effect from the date on which the body corporate ceased to exist, or changed its name, by deletion or by change of the name.

(9) The Reserve Division shall publish in the Gazette, notice of any authority or Charter granted or revoked by this Division, or any instrument made under Sub-section (4) of Section 33.

(10) A person other than a body corporate shall not carry on the business of a financial institution in Australia.

(11) With effect from the date of proclamation of this Act each corporation listed in the first schedule of the *Banking Act 1959* shall be deemed to be a Chartered Bank, subject to acceptance in writing of the rules of the Charter contained in the Regulations. Such acceptance shall be conveyed in writing to the Reserve Division

within ninety days of the date of proclamation of this Act. Charters shall be granted by the Division for terms not exceeding thirty-six calendar months, and each Charter shall be granted upon such terms and conditions as the Division shall determine. Charters so granted shall be considered for renewal upon receipt by the Division of a written request to renew. Renewal shall be at the discretion of the Division. Any Charter not so renewed by the expiry date shall be deemed to have lapsed, and all concessions and business flowing from the Charter shall be withdrawn.

(12) No financial institution shall be permitted to participate directly or indirectly in the undermentioned activities:

- (a) currency speculation including derivatives thereof;
- (b) equity participation in any entity, other than for the purposes of orderly disposal of property acquired by way of default on an outstanding loan;
- (c) trade, commerce, agriculture, industry or other like undertaking;
- (d) usurious or other unconscionable practices;
- (e) trading in stocks, bonds, or other securities or financial instruments, derivatives, or the financing of any such trading, where the purpose is speculative.

(13) The Reserve Division shall prescribe regulations for the prudential conduct, supervision, and monitoring of all financial institutions. Such regulations shall require all such institutions to conduct their business in accordance with the provisions of the Regulations. Further, the Regulations shall:

- (a) provide for the collection, analysis, and publication of information in respect of the business, and financial standing of financial institutions;
- (b) encourage and promote sound ethical practice by financial institutions;
- (c) provide for evaluation of the effectiveness and implementation of the Regulations;
- (d) provide for the control of rates of interest, discount and other charges payable to, and by financial institutions, and for the elimination of usurious practices;
- (e) provide for determination of the lending policy of financial institutions including the purpose for which monies

will, and will not be advanced. Such determinations shall favour lending at low rates of interest, and on otherwise favourable terms, for purposes that increase the potential population-density, and eliminate or penalise lending for speculative purposes;

- (f) explicitly describe and determine capital adequacy ratios and prime assets ratios;
- (g) explicitly describe and determine prudential financial standards relating to market, credit, and data risks, off balance sheet business, derivative products and the like;
- (h) provide for an account to be known as the Statutory Reserve Deposit Account to be maintained with the Bank, and for such Account to be in credit to the extent specified in the Regulations;
- (i) subject to Section 33 (1) (c), explicitly describe and determine operational liquidity ratios;
- (j) provide for the percentile nominated in Section 33 (1)(c) to be reduced by one percentage point for each one percentage point that loans to productive industries, as determined by the Reserve Division, exceed 60 per cent of all loans, down to a minimum liquidity ratio of 5 per cent;
- (k) stipulate that a serious and protracted breach of the operational liquidity ratio of 18 per cent, except as specified in Sub-section (13) (j) above, shall be cause for an immediate investigation in accordance with Sub-section (14) of this section;
- (l) prescribe penalties for offences against the regulations not exceeding \$100,000 fine plus confiscation of the gains arising from such offences.

(14) The Reserve Division shall protect the depositors of financial institutions, and shall have the power with the prior consent of the Board to carry out any investigation, and to control the affairs of such financial institutions, and such financial institutions shall assist all such investigations and control, and provide all deeds, securities, financial instruments, undertakings, and other intangibles or things considered necessary, and furthermore:

- (a) a financial institution that considers that it is likely to

become unable to meet its obligations, or is about to suspend payment, shall forthwith in writing inform the Reserve Division;

- (b) where a financial institution informs the Reserve Division that it considers that it is likely to become unable to meet its obligations, or that it is about to suspend payment, or the Reserve Division is of the opinion that a financial institution is in serious and protracted breach of this Act, the *Banking Act 1959*, or the *Financial Corporations Act 1974*, or is likely to become unable to meet its obligations, or is about to suspend payments, then the Reserve Division shall investigate the affairs of such financial institution and assume control of, and carry on the business of that financial institution;
- (c) where the Reserve Division has under this section resolved to investigate the affairs of a financial institution, such corporation shall submit its business to the control of the Reserve Division, and shall provide all such access, books, accounts, documents, electronic data, information, personnel, facilities, and other intangibles and things that the Reserve Division requires to conduct the investigation, or to carry on the business of that financial institution;
- (d) where the Reserve Division in pursuance of this section has assumed control of the business of a financial institution, the Reserve Division shall, subject to Sub-section (14) (f), remain in control of, and direct the affairs of that financial institution, until such time as the Reserve Division is satisfied that suitable provision has been made for repayment of the deposits of that financial institution, and in the opinion of the Reserve Division, it is no longer necessary for the Reserve Division to remain in control of the business of that financial institution;
- (e) whenever the Reserve Division is in control of a financial institution, the laws relating to insolvency and liquidation of companies shall not apply, nor shall any other person, organisation or entity, be appointed to supervise, conduct, or determine, any matter in relation to the winding up,

- liquidation or restructuring of a financial institution;
- (f) where the Reserve Division has, in pursuance of this Sub-section, assumed control of the business of a financial institution, a Full Court of the Federal Court of Australia, may, upon application of that financial institution, order that the Reserve Division cease to control the business of that financial institution as from the date specified in the order, if, after the expiration of twelve months from the date the Reserve Division assumed control, the Court is satisfied that it is no longer necessary for the protection of the depositors of that financial institution that the Reserve Division should remain in control of the business of that financial institution;
 - (g) where the Reserve Division, in pursuance of this Sub-section, assumes control of the business of a financial institution, and ceases such control, the Reserve Division shall publish that fact in the Gazette.
- (15) The Reserve Division shall publish in the Gazette, detailed investigation reports and accounts of any corporation under investigation or control, in pursuance of the obligations contained in the preceding Sub-section.
- (16) In the event of a financial institution becoming unable to meet its obligations, or suspending payment, the assets of such corporation in the Commonwealth shall be available to meet its deposit liabilities in priority to all other liabilities of that corporation, and the provisions of any netting or similar type agreement entered into by that financial institution, shall be of no consequence or effect, and shall not operate to frustrate the intention of this Sub-section (14).
- (17) Every financial institution shall hold and own assets in the Commonwealth of a value, not less than the total amount of its deposit liabilities in the Commonwealth.

Mint and Note Division

34. The Mint and Note Division shall be responsible for the issuance, reissuance and cancellation of Australian notes and coins as defined in the *Australian Notes Act 1910*, under Part VII of the *Commonwealth Bank Act 1911*, under Part VI of the *Commonwealth*

Bank Act 1945, under Part V of the *Reserve Bank Act 1959*, and under this Act, and furthermore:

(1) Denomination of notes and coins shall be detailed in the Regulations, or any other denomination that the Board, by instrument in writing published in the Gazette, determines.

(2) Australian notes and coins issued by the Mint and Note Division are to be legal tender throughout the Commonwealth.

(3) The Mint and Note Division shall ensure that there is sufficient supply of legal tender as required by the Australian economy, and that such supply and issue is first authorised by the Parliament.

(4) The Australian notes and coins issued in pursuance of this Division, shall bear such signatures, and be of such design, as detailed in the Regulations.

(5) Neither a person, nor a State, shall issue a bill, or note, or coin, for payment of money payable to bearer on demand, and intended for circulation as legal tender.

National Development Division

35. The National Development Division shall be responsible for assessment of the nation's need for credit, to provide for the capital costs of establishing and maintaining infrastructure, not otherwise specifically provided for by other Divisions of the Bank, but as defined by the Constitution and under the authority of a minister responsible to the Parliament. It shall be the further responsibility of this Division to provide such credit, upon such terms, as specified in the relevant "National Development Credit Issue Act", and as the Board determines at an annual interest rate not to exceed three per cent.

The National Development Division shall:

(1) Annually call upon the resources of Commonwealth Departments, and advertise in the major media, for the people of Australia, to assist in the assessment of the need for both:

(a) new infrastructure;

(b) the maintenance and modification of existing infrastructure.

(2) After receiving submissions from the public and Commonwealth Departments, and assessing the Nation's needs, for credit for the ensuing twelve months, prepare, for approval by the Board,

a Parliamentary bill in the terms described in the Regulations for a *National Development Credit Issue Act*, for a national credit issue.

(3) Upon approval by the Board, and by no later than 31st May each year, cause the Treasurer to introduce into the Parliament the Bill to authorise creation of the required credit.

(4) Use the Proclamation of the bill; as amended by Parliament; as the authority for the national credit issue for the works detailed therein, and furthermore:

- (a) such bill shall be subject to normal constitutional procedures and requirements, as a law appropriating monies;
- (b) nothing herein, shall prevent the submission and enactment of more than one bill each year for a national credit issue, through this Division of the Bank;
- (c) under authority of the *National Development Credit Issue Act*, the Division shall credit a "National Development Account", the total amount authorised by the Act, and from such account, the Bank shall pay to the credit of each Commonwealth Department's "National Infrastructure Account" with the Bank, such amounts as specified in the *National Development Credit Issue Act*.

Statutory Authorities, Scientific and Educational Institutions Division

36. The Statutory Authorities, Scientific and Educational Institutions Division, shall be responsible for assessing the nation's needs for credit to provide for the capital costs of land, buildings, plant, machinery, and tangible items, as well as for scientific and technological research and development costs for statutory authorities, scientific and educational institutions. It shall be the further responsibility of this Division to provide such credit, upon such terms, as specified in the relevant "Statutory Authorities, Scientific and Educational Institutions National Credit Issue Act", and as the Board determines but at an annual interest rate not to exceed three per cent.

(1) The Statutory Authorities, Scientific and Educational Institutions Division shall:

- (a) annually call upon the resources of Commonwealth and

State authorities and institutions and the people of Australia, by advertisement in the major media and otherwise, to assist in the assessment of the need for land, buildings, plant, machinery, and tangible items, the maintenance and modification of such existing property, together with scientific and technological research and development;

- (b) after receiving submissions from the public, and Commonwealth and State authorities and institutions, and assessing the Nation's needs for credit for the ensuing twelve months, prepare for approval of the Board, a bill in the terms described in the Regulations, for a Parliamentary Act entitled, *Statutory Authorities, Scientific and Educational Institutions National Credit Issue Act*, for a national credit issue, to pay for the costs for establishing, modifying, and maintaining the property, and for the scientific and technological research and development detailed therein;
 - (c) upon approval by the Board, and by no later than 31st May each year, cause the Treasurer to introduce into Parliament, the bill to authorise creation of the required credit;
 - (d) use the Proclamation of the bill, as amended by Parliament, as the authority for the national credit issue for the property, works, research, and development described therein.
- (2) Furthermore:
- (a) such bill shall be subject to normal constitutional procedures and requirements, as a law appropriating monies;
 - (b) nothing herein shall prevent the submission and enactment of more than one bill each year, for a national credit issue through this Division of the Bank;
 - (c) under authority of the *Statutory Authorities, Scientific and Educational Institutions National Credit Issue Act*, the Bank shall credit an account designated "Statutory Authorities, Scientific and Educational Institutions National Credit Issue Account", the total amount authorised by the Act. From such account, the Bank shall pay

to the credit of each Statutory Authority, Scientific or Educational Institutions Account with the Bank, such amounts as specified in the *Statutory Authorities, Scientific and Educational Institutions National Credit Issue Act*;

- (d) such credit shall be for the payment of capital works and research purposes, and not for operating costs or budget supplement;
- (e) the Bank shall, in every instance, take a security charge over the asset created, or the outcome of research, and hold such charge until the borrowing has been repaid or extinguished;
- (f) at the time of preparing the bill described in Subsection (2), there shall also be prepared a document citing the reasons for inclusion or exclusion of each proposal considered, and such document shall be submitted to the Board with the draft bill, and shall become a matter of public record.

State and Local Government Division

37. The State and Local Government Division shall be responsible for assessing the nation's needs for credit for establishment and maintenance of infrastructure which comes, or would come within the responsibility of a State Government Minister. A further responsibility of this Division shall be to provide credit upon such terms as specified in the relevant "State and Local Government National Credit Issue Act", at an annual interest rate not to exceed three per cent.

(1) The State and Local Government Division shall:

- (a) annually call upon the State and Territorial Governments and the people of Australia, by advertisement in the major media and otherwise, to assist in the assessing of the need for the establishment of new infrastructure and the maintenance of existing infrastructure;
- (b) after receiving submissions from the public and State and Territorial Governments, and assessing of the needs of each State and Territory for credit for the ensuing twelve months, prepare for approval by the Board, a

parliamentary bill in the terms described in the Regulations for a *State and Local Government National Credit Issue Act*;

- (c) upon approval by the Board, and by no later than 31st May each year, cause the Treasurer to introduce into the Parliament the bill to authorise creation of the required credit;
 - (d) use the Proclamation of the bill, as amended by Parliament, as the authorisation for the national credit issue for the works detailed therein.
- (2) Furthermore:
- (a) such bill shall be subject to normal constitutional procedures and requirements as a law appropriating monies;
 - (b) nothing herein shall prevent the submission and enactment of more than one bill each year for a national credit issue through this Division of the Bank;
 - (c) under authority of the State and Local Government Credit Issue Act, the Bank shall credit an account designated “State and Local Government National Credit Issue Account” the total amount authorised by the Act. From such account the Bank shall pay to the credit of each State and Local Government National Credit Issue Drawings Account with the Chartered Bank or State Bank named in the Act for that purpose, the total amount due to each particular State;
 - (d) the State and Chartered Banks shall permit the State Government Departments, and Local Government Councils, to draw funds due to them in monthly tranches, after completion of all security arrangements detailed in Subclauses (e) and (f), and after approval by the State or Chartered Bank of the invoices for work carried out or goods and property purchased, in connection with each project funded by the National Credit Issue;
 - (e) the State Bank or Chartered Bank shall, in every instance, take a security charge over the asset created, and the land upon which it is constructed, and hold such charge until the borrowing has been repaid or extinguished;
 - (f) the State and Chartered Banks’ liability to the Bank, in

respect of a national credit issue under this Division, shall be secured by a floating or specific charge, and discharged upon repayment to the Bank, of the amount of the original credit and all other appertaining charges and interest;

- (g) such national credit shall be for the payment of capital works and their maintenance, and not for operating costs or budget supplement;
- (h) at the time of preparing any bill described in this section, there shall also be prepared a document citing the reasons for inclusion or exclusion of each proposal considered, and such document shall be submitted to the Board with the draft bill, and it shall be a matter of public record;
- (i) interest, and all other charges by the State and Chartered Banks in relation to loans, made in accordance with the provisions of this Division, shall be not more than two per cent per annum of the outstanding balance, in addition to interest charges of the Bank.

Primary Industries Division

38. The Primary Industries Division is responsible for assessing the nation's need for credit to provide for the costs of land, buildings, plant, machinery, other tangible items, and working capital for primary industry.

A further responsibility of this Division shall be to provide credit upon such terms as specified in the relevant "Primary Industries National Credit Issue Act", and, at an interest rate to Chartered Banks for relending to primary producers of not more than two per cent and, subject to Sub-section (8) of Section 38, at an interest rate for loans directly to primary producers of not more than five per cent.

- (1) The Primary Industries Division shall:
 - (a) assess the needs for credit for the primary industries of Australia;
 - (b) provide credit upon terms defined herein and otherwise as the Board determines, expressly for:
 - (i) family farmers, and other family producers of primary products, who directly contribute to increasing the

- potential population-density of Australia;
 - (ii) relief from the effects of catastrophe;
 - (iii) price support mechanisms and marketing structures, provided that not more than five per cent of the voting stock or equity of any such mechanism or structure, is held or controlled by any one individual or organisation or group;
 - (c) after assessing the needs for credit for the primary industries of Australia, for the ensuing twelve months, prepare for approval of the Board, a parliamentary bill in terms described in the Regulations for a *Primary Industries National Credit Issue Act*;
 - (d) upon approval by the Board, and by no later than 31st May each year, cause the Treasurer to introduce into the Parliament the bill to authorise creation of the required credit;
 - (e) use the Proclamation of the bill, as amended by Parliament, as the authority for the national credit issue.
- (2) Such bill shall be subject to normal constitutional procedures and requirements as a law appropriating monies.
- (3) Nothing herein shall prevent the submission and enactment of more than one bill each year for a national credit issue through this Division of the Bank.
- (4) Under authority of the *Primary Industries National Credit Issue Act*, the Bank shall credit an account designated the "Primary Industries National Credit Issue Account", the total amount authorised by the Act. From such account, the Bank shall pay to the credit of a "Primary Industries National Credit Issue Drawings Account" with the Chartered Banks or branches of the Bank nominated by the prospective recipients, such monies, in tranches, to cover the monthly approved credit advances to all such recipients nominating each such Chartered Bank or branch of the Bank.
- (5) The Chartered Banks and branches of the Bank, shall effect transfers from their respective drawings accounts to the credit of the borrowers' accounts, after completion of all security arrangements detailed in Sub-sections (6) and (7), and after approval by the Chartered Bank or branch of the Bank, of the invoices for work carried out, and for goods and property purchased in

connection with each project funded wholly, or in part, by the national credit issue.

(6) The Bank or Chartered Bank shall, in every instance, take a security charge over the asset created or enhanced, constructed or purchased, whether plant, machines, unsold produce, land, and the like, related to the purpose for which the credit is authorised.

(7) The Chartered Banks' liability to the Bank in respect of national credit issues under this Division shall be secured by a floating or specific charge, and discharged upon repayment of the amount of the original credit and all other appertaining charges.

(8) Interest, and all other charges payable by the primary industry borrower, shall not exceed five per cent per annum, based on the outstanding balance of any loan, whether wholly or in part comprising a national credit issue, and whether arranged with a Chartered Bank, or a branch of the Bank.

Manufacturing Division

39. The Manufacturing Division is responsible for assessing the Nation's need for credit to provide for the costs of land, buildings, plant, machinery, other tangible items, and working capital for the manufacturing industry.

A further responsibility of this Division shall be to provide credit upon such terms as specified in the relevant "Manufacturing Industries National Credit Issue Act", and, at an interest rate to Chartered Banks for relending to manufacturers of not more than two per cent and subject to Sub-section (8) of Section 39, at an interest rate for loans directly to manufacturers, of not more than five per cent.

(1) The Manufacturing Division shall:

- (a) assess the needs for credit for the manufacturing industries of Australia;
- (b) provide credit upon terms defined herein, and otherwise, as the Board determines, expressly for:
 - (i) manufacturers producing goods which directly contribute to increasing the potential population-density of Australia;
 - (ii) relief from the effects of catastrophe;
- (c) after assessing the needs for credit for the ensuing twelve

- months, prepare, for the approval of the Board, a parliamentary bill in the terms described in the Regulations for a *Manufacturing Industries National Credit Issue Act*;
- (d) upon approval by the Board, and by no later than 31st May each year, cause the Treasurer to introduce into the Parliament, the bill to authorise creation of the required credit;
- (e) use the Proclamation of the bill as amended by Parliament, as the authority for a national credit issue.
- (2) Such bill shall be subject to normal constitutional procedures and requirements, as a law appropriating monies.
- (3) Nothing herein, shall prevent the submission and enactment of more than one bill each year for a national credit issue through this Division of the Bank.
- (4) Under authority of the *Manufacturing Industries National Credit Issue Act*, the Bank shall credit an account designated the "Manufacturing Industries National Credit Issue Account" the total amount authorised by the Act. From such account the Bank shall pay to the credit of a "Manufacturing Industries National Credit Issue Drawings Account" with the Chartered Banks or branches of the Bank nominated by the respective recipients, such monies, in tranches, to cover the monthly approved credit advances to all such recipients nominating each such Chartered Bank or branch of the Bank.
- (5) The Chartered Banks and branches of the Bank shall effect transfers from their respective drawings accounts, to the credit of the borrowers' account, after completion of all security arrangements detailed in Sub-sections (6) and (7) and after approval by the Chartered Bank or branch of the Bank, of the invoices for work carried out, or goods and property purchased, in connection with each project funded wholly, or in part, by the national credit issue.
- (6) The Bank or Chartered Bank, shall in every instance, take a security charge over the asset created, enhanced, constructed, or purchased, whether plant, machines, unsold products, land, and the like, related to the purpose for which the credit is authorised.
- (7) The Chartered Bank's liability to the Bank in respect of national credit issues under this Division, shall be secured by a

floating or specific charge, and discharged upon repayment of the amount of the original credit and all other appertaining charges.

(8) Interest, and all other charges payable by the manufacturing industry borrower, shall not exceed five per cent per annum, based on the outstanding balance of any loan whether wholly, or in part, comprising a national credit issue, and whether arranged with a Chartered Bank, or a branch of the Bank.

International Division

40. The International Division is responsible for administration of exchange control, and provisions of this Act relating to gold, and if, and when required, the exchange and clearance of financial instruments and other international matters.

(1) The International Division shall:

- (a) administer the exchange control provisions of this Act;
- (b) administer the provisions of this Act relating to gold;
- (c) administer any consolidating legislation which requires the Bank to regulate the clearance, settlement or transfer of financial instruments;
- (d) deal with any matter or issue relating to international affairs within the powers of the Bank, including provision of information to, and cooperation with, the Commission, established in accordance with the provisions of the *Foreign Debt Moratorium Act**.

(2) This Division shall impose restrictions and controls on, and regulate and monitor, and if necessary, prohibit transactions involving any foreign exchange, or the dealing in Australian currency or Australian financial instruments by non-residents of the Commonwealth. Such transactions may involve but are not limited to:

- (a) rates of exchange;
- (b) the buying, borrowing, selling, lending, exchanging, or that which has the effect of such, or any other dealing or transaction that relates to Australian currency, or Australian financial instruments whether within, or outside the Commonwealth, by a non-resident of the Commonwealth;

* See pp. 39-42, *Sovereign Australia Part II: The Legislative Programme To Save Our Nation*, Citizens Electoral Council, 1994

- (c) the taking or sending out of the Commonwealth, and the bringing or sending into the Commonwealth, of Australian or foreign currency, or Australian or foreign financial instruments, including the transfer of such instruments from a register outside the Commonwealth to a register within the Commonwealth or vice versa and also the transfer of Australian financial instruments between registers outside the Commonwealth;
 - (d) the buying, borrowing, selling, lending, exchanging, or that which has the effect of such, or any other dealing or transaction that relates to foreign currency, or foreign financial instruments;
 - (e) the making of markets in Australian financial instruments or foreign financial instruments within or partly within the Commonwealth by a non-resident of the Commonwealth;
 - (f) any transaction that has the effect of, or that otherwise relates to, the buying, selling, leasing, or exchanging of, or other dealing with property, that is outside Australia, by or on behalf of a resident of the Commonwealth or the buying, selling, leasing, or exchanging of, or other dealing with property within the Commonwealth by a non-resident:
- (3) This Division shall be responsible for administering the following provisions regarding gold within the Commonwealth:
- (a) a person shall not take, or send any gold out of the Commonwealth, unless prior consent, in writing, of this Division, be first obtained. Such consent shall only be granted in exceptional circumstances, or in the event of national emergency. The Bank shall lay before the Parliament, a copy of any consent so granted, and the reasons therefore;
 - (b) this Division shall be a permanent buyer for all gold produced and traded in the Commonwealth and the price to be paid shall be, subject to Sub-clause (g), not less than that published by the Bank in the Gazette;
 - (c) this Division may purchase foreign gold as it determines necessary;
 - (d) any person who owns gold, not in gold coins, the total

- value of which exceeds \$100,000 where such gold is not used in connection with the purpose of the person's lawful profession or trade, shall deliver the gold to the Bank within one month of coming into possession of such gold;
- (e) where a person lawfully in possession of gold for his profession or trade, ceases that profession or trade he shall deliver all such gold subject to Subclause (d) to the Bank within one month of his ceasing that profession or trade;
 - (f) all gold delivered in pursuance of this section shall thereupon vest in this Division, absolutely free from any mortgage, charge, lien, trust or other interest, in, or affecting the gold, and the Bank shall pay for the gold, to the person delivering the gold, on behalf of all persons having any interest in the gold, an amount determined in accordance with this section and this Division shall not be under any liability to any other person claiming any interest in the gold;
 - (g) the price to be paid for any gold delivered in pursuance of this section, shall be determined by this Division, and based on the estimate of this Division as to an equitable cost of production, plus a fair margin for profit;
 - (h) a person shall not sell, or otherwise dispose of gold, to a person other than this Division:
 - (i) a person may buy gold from this Division solely for the purpose of using it in his lawful profession or trade.
- (4) This Division shall work to establish an international gold reserve system to support trade between all nations.
- (5) No international treaty, protocol, covenant or the like, or memorandum signed with non-Australian bodies which relates to banking or economic matters, shall be valid or binding unless such document has first been approved by the Board, and ratified by Parliament.
- (6) This Division may receive and deal in the notes, financial instruments, and specie of other nations, and has authority to maintain "Nostro" and "Vostro" accounts for its dealings with foreign banks and for the dealings of foreign banks with this Division of the Bank.

(7) This Division shall prepare for approval of the Board, a parliamentary bill in the terms described in the Regulations for a *Gold Purchase National Credit Issue Act*, for a national credit issue to pay for the costs of purchasing.

(8) Upon approval by the Board, this Division shall cause the Treasurer to introduce into the Parliament, the bill to authorise creation of the required credit, and the International Division shall use the Proclamation of the bill, as amended by Parliament, as the authority for a national credit issue.

(9) Such bill shall be subject to normal constitutional procedures and requirements, as a law appropriating monies.

(10) This Division shall credit an account designated the “Gold Purchases National Credit Issue Account”, with the total amount of each national credit issue, authorised by the Act. From such account it shall issue currency for the purchase of gold.

(11) Each financial institution shall, within 30 days of the Proclamation of this Act, notify this Division of all foreign currency in its possession or under its control. Such foreign currency shall not be used except with prior written permission of this Division and as specified in the Regulations.

(12) This Division shall have power to reverse any transaction undertaken up to twelve calendar months prior to this Act coming into force, by any financial institution, where it appears that the purpose or consequence of such transaction was other than the financing of lawful trade in physical goods, or which otherwise would be inconsistent with the provisions of this Act, if it were at the time of such transaction, enacted as a law of the Commonwealth.

PART VI—COMMONWEALTH NATIONAL CREDIT BANK SERVICE

Appointment of Officers

41. (1) The Bank may appoint such officers as are necessary for the purposes of this Act.

(2) The officers appointed under this Part shall constitute the Commonwealth National Credit Bank Service.

(3) Subject to this Part, and to the Regulations, officers hold office on such terms as the Bank determines.

Requirements for Appointment

42. A person shall not be appointed under this Act to the Commonwealth National Credit Bank Service, unless:
- (1) he or she is an Australian citizen;
 - (2) he or she makes and subscribes before a Justice of the Peace or a Commissioner for taking Affidavits, an oath or affirmation of allegiance, in accordance with the form described in the Regulations;
 - (3) the Bank is satisfied as to his or her health and physical fitness for the work involved.

Regulations for Bank Service

43. The regulations may make provision in relation to the Commonwealth National Credit Bank Service, and in particular, may prescribe terms and conditions of employment of officers.

Superannuation Fund

44. (1) There shall be a Superannuation Fund of the Bank.
- (2) The Bank may, with the approval of the Minister for Finance, make rules not inconsistent with this Act or the Regulations, for, or in relation to the Superannuation Fund.

Borrowing by Members of the Board and Officers

45. (1) In respect to any member of the Board, or officer, or employee of the Bank, the Bank shall not:
- (a) lend money; or
 - (b) provide guarantees relating to the payment of money, provided that any loans or guarantees to which this section applies, were issued prior to Proclamation of this Act. Such loans or guarantees shall be permitted to continue for a period not exceeding ninety days from the date of Proclamation of this Act.

Indemnity of Personnel

46. (1) The Chief Executive and Deputy Chief Executive, and other members of the Board, and other persons employed by the Bank, shall be indemnified by the Bank in respect of any liability, loss, claim, or proceeding incurred, or made by any person, whilst such officer, members, or other persons employed by the Bank, are acting within the scope of their duties.

PART VII—MISCELLANEOUS

Head Office

47. (1) The location of the Head Office of the Bank shall be determined by the Board.
- (2) The Head Office of the Bank shall not be in the same building as any other bank or person.

Branch Offices of the Bank

48. In the exercise of its powers and the performance of its functions, the Bank may establish branch offices at such places, whether within or beyond Australia, as the Board determines.

Agents

49. (1) In the exercise of its powers and the performance of its functions, the Bank shall not:
- (a) arrange with any person to act as agent of the Bank whether within or beyond Australia; or
 - (b) act as the agent of a bank carrying on business within or beyond Australia.

Guarantee by the Commonwealth

50. The Commonwealth is responsible for the payment of all monies due by the Bank, but nothing in this section authorises a creditor or other person claiming against the Bank to sue the Commonwealth in respect of his or her claim.

Taxation

51. The Bank is not liable to taxation under any law of a State or of a Territory to which the Commonwealth is not subject, and the income of the Bank is not liable to income tax under any law of the Commonwealth.

Audit and Public Accountability

52. (1) Within the bounds of sound and ethical commercial practice, all activities of the Bank shall be made public.
- (2) The Bank shall not be exempt under the *Freedom of Information Act*.
- (3) Within thirty days of the close of each calendar month, a statement of the accounts and activities of the Bank shall be made to Parliament, and all records shall be audited quarterly. Such

statement is to be available to the public at the cost of printing and postage.

(4) All records relating to Australia and the International Monetary Fund, Bank for International Settlements and World Bank, are to be a matter of public record after expiration of one year.

Annual Reports and Financial Statements

53. (1) The Board shall, as soon as practicable after each 30th June, and in the terms detailed in the Regulations, prepare and submit to the Parliament:

- (a) a report on the operations of the Bank during the year ending on that day;
- (b) a report on the operations of the financial institutions during the year ending on that day; and
- (c) a report on the economic state of the nation.

Power to Improve Property and Carry on Business

54. Where the Bank holds any property, (whether real or personal), or business (including a bank), as security for a loan or advance, and the property or business passes to the Bank due to failure or default of the owner under the terms or conditions of the loan or advance, the Bank may maintain, repair or improve the property, or carry on the business, until the Bank can, in its discretion, dispose of the property or business, in the best interests of the Bank.

Priority of Debts Due By Other Banks

55. Notwithstanding anything contained in any law relating to the winding up of companies, debts due to the Bank by any financial institution shall, in winding up, have priority over all other debts other than debts due to the Commonwealth and the depositors of the financial institutions.

Regulations

56. (1) The Board may make Regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, for carrying out, or giving effect to this Act, or for the conduct of business by the Bank, and in particular, prescribing penalties for offences against the Regulations, not exceeding a fine of \$100,000 and confiscation of all benefits derived from such violation.

(2) The Regulations shall apply both within and without Australia.

Penalties

57. (1) A person who contravenes a provision of this Act specified in column 1 of the table at the end of this section:

- (a) if the contravention continues beyond the end of the day on which it commenced—is guilty of an offence in respect of each day during the whole or part of which the contravention continues (including the day of conviction for any such offence or any later day); or
- (b) in any other case of contravention, is guilty of an offence.

(2) An offence in relation to a provision of this Act specified in column 1 of the table is punishable, on conviction, as follows:

- (a) if the letter A is specified in column 2 opposite to the reference to the provision in column 1:
 - (i) if the offender is a natural person—by a fine not exceeding \$20,000, and in default, to gaol for a term not exceeding one year;
 - (ii) if the offender is a body corporate—by a fine not exceeding \$50,000;
- (b) if the letter B is specified in column 2 of the table opposite to the reference to the provision in column 1:
 - (i) if the offender is a natural person—by a fine not exceeding \$100,000, and in default, to gaol for a term not exceeding two years;
 - (ii) if the offender is a body corporate—by a fine not exceeding \$250,000;
- (c) if the letter C is specified in column 2 of the table opposite to the reference to the provision in column 1:
 - (i) if the offender is a natural person—by a fine not exceeding \$250,000 and in default, to gaol for a term not exceeding ten years;
 - (ii) if the offender is a body corporate—by a fine not exceeding \$1,000,000.

(3) Every director, officer or agent of a company which directed, authorised, assented to, acquiesced or participated in the commission of an offence by the company is guilty of an offence and liable on conviction to a penalty for each offence as a natural

person as detailed in Sub-section (2).

(4) Nothing in this section is intended to imply that Section 4K of the *Crimes Act 1914* does not apply to offences against this Act or the Regulations.

Table of Offences

Item	Column 1	Column 2 penalty level
1.	Section 12	A
2.	Section 16	A
3.	Section 17	A
4.	Section 23	B
5.	Section 26(1)(b)	B
6.	Section 26(2)	B
7.	Sub-section 27(4)	C
8.	Sub-section 33(4)	B
9.	Sub-section 33(10)	B
10.	Sub-section 33(12)	C
11.	Sub-section 33(14)	B
12.	Sub-section 40(2)	C
13.	Sub-section 40(3)	C
14.	Sub-section 40(5)	C
15.	Sub-section 40(10)	B
16.	Sub-section 40(11)	C
17.	Sub-section 42(1)	A
18.	Sub-section 42(2)	A
19.	Sub-section 45(1)	A
20.	Any Other Provision	A

2. A Debt Moratorium for Farms and Industries

Under globalisation, deregulation, and an unjust tax system, our hard-working farmers and industrial entrepreneurs have been savaged. They urgently need relief, in order that we can begin the process of the reconstruction of Australia's physical economy. Toward that end, the CEC drafted the *Productive Industries and Farms Domestic Debt Moratorium, Amelioration, and Restructuring Bill*, a summary of which follows and then the legislation itself.

The Productive Industries and Farms Domestic Debt Moratorium, Amelioration, and Restructuring Bill

Our domestic debt load, most of which was contracted at highly usurious rates, is crushing our nation's farms and industries. In order to stop this destruction, this Bill will establish a "Commission to Review Domestic Debt", to determine which persons are protected by the terms of this Bill. Such "nominated persons" are specified as anyone who "derived more than 50 per cent of his gross income in the financial year immediately preceding proclamation of this Act and each anniversary thereafter, from sources that are directly attributable to increasing the potential population-density of Australia. Such sources are limited to: food produced by family farmers, or the production of manufactured goods, fibres, minerals, metals, oil, and gas."

The Bill defines basic parameters for “illegitimate debt” and empowers the Commission to determine others.

The proposed debt moratorium has a term of four years, and the Act is automatically repealed upon expiration.

During the moratorium period the following procedures apply for the benefit of “nominated persons”:

- a. All actions and proceedings relating to recovery of debt commenced prior to the coming into operation of the Act, are stayed and adjourned.
- b. No action or proceeding shall be commenced to recover or enforce payment of a debt.
- c. There shall be no payment of principal or interest on any debt, legitimate or illegitimate.
- d. Assets seized (including twelve months retroactively) in an effort to recover a debt, or enforce payment, are to be returned. Where such assets have been sold, the gross proceeds, or fair market value (if the latter is higher) as determined by the Commission, shall be refunded to the nominated person.

Provision also exists for:

1. nominated persons to replace existing debt with long-term credits at two per cent interest from the proposed new national bank, the Commonwealth National Credit Bank;
2. extinguishment of debt where total payments exceed the sum of the principal and interest calculated at five per cent, six per cent or seven per cent, depending upon whether the security is fixed, movable, or by way of personal guarantee;
3. debts to be rendered void where creditors fail to comply with the provisions of the Act.

Agreements evidencing debt between members of the same immediate family or under the same corporate ownership or control are not affected by the Act.

As an indication of the amount of debt subject to this Act, according to the Australian Bureau of Statistics (ABS), as of 1998-99 the total indebtedness of Australian individuals and enterprises was \$2,680.6 billion. Gross farm indebtedness for the same year (most of which pertained to family farms, and is therefore subject to this Act) was \$24.3 billion, up 12% from the year before.

The Legislation

An Act to make provision for a moratorium on debts (other than foreign debts) owed by persons comprising productive Australian industries and family farms which produce goods that enhance the physical economy of the nation. To afford to such persons certain amelioration of the effect of illegitimate debt, to provide the means whereby such persons can terminate high-interest loans in favour of low-interest loans, and to provide other means of relief from illegitimate debt.

WHEREAS:

1. Australia is in a state of economic depression;
2. Many productive industries and farms in Australia are now collapsing under the weight of excessive cost of debt;
3. The number and output of Australian farms and factories has fallen to dangerously low levels;
4. The future ability of the nation to be self-sufficient in food and essential manufactures is in doubt, posing urgent problems of national security;
5. The high interest rates of the previous years, largely determined by forces outside Australia, together with declining prices for output and rising prices for inputs, have resulted in a massive debt burden and decapitalisation for the Australian family farmer;
6. The nation's taxation revenue is collapsing due to fewer and poorer tax-payers;
7. The number of unemployed and under-employed persons continues to rise, imposing an increasing financial and social burden on the nation;
8. Austerity measures are now causing a decline in the nation's infrastructure, and hospitals, schools, railways, and other essential services are contracting or closing down;
9. The economic collapse has produced an intolerable crisis in public morality, reflected in crime and suicides of epidemic proportions.

THEREFORE:

There exists an urgent need to encourage Australian farms and industries producing tangible commodities which enhance the physical economy of the nation, to return to a profitable operational level.

NOW IT IS PROPOSED:

That the Government undertake certain legislative action to protect and assist the productive, wealth-creating sector of Australia, in the interests of the lives, liberty and happiness of all the residents of Australia.

PART I—PRELIMINARY

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2. Commencement
3. Interpretation
4. Persons to Whom the Immediate Benefits of This Act Apply
5. Persons to Whom No Benefit Under This Act Applies
6. Application to Territories
7. Act to Bind the Crown
8. Term
9. Act to Supersede All Other Laws

PART II—ESTABLISHMENT AND MANAGEMENT OF THE COMMISSION TO REVIEW DOMESTIC DEBT

10. Authority
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13. Functions of the Commissioners
14. Management
15. Chief Executive and Deputy Chief Executive

PART III—MORATORIUM

16. Stay of Proceedings
17. Assets Seized
18. Assets Sold

PART IV—AMELIORATION AND RESTRUCTURING

19. Illegitimate Debt
20. New Loans to Nominated Persons

PART V—ELIMINATION OF DEBT

21. Debt Extinguished
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23. Pay-Out Penalties

PART VI—MISCELLANEOUS

- 24. Agreements Within Same Family Excluded
- 25. Penalties
- 26. Regulations

PART I—PRELIMINARY

Short Title

- 1. This Act may be cited as the *Productive Industries and Farms Domestic Debt Moratorium, Amelioration, and Restructuring Act*.

Commencement

- 2. This Act shall come into operation on a date to be fixed by Proclamation.

Interpretation

- 3. In this Act unless the contrary intention appears:
 - “Act” means any legislation enacted by any Parliament of the Commonwealth, States, or Territories of the Commonwealth of Australia, and includes the rules and regulations made pursuant to such legislation and all amendments thereto.
 - “Commission” means the Commission to Review Domestic Debt.
 - “Commissioner” means a person who is a member of the Commission.
 - “Commonwealth” means the Federal Commonwealth of Australia.
 - “Excluded Person” means any person:
 - (1) the ultimate control or ownership of whose enterprise is outside Australia, or whose ultimate control or ownership is not held by Australian citizens; or
 - (2) who earned more than 50 per cent of his gross income, in the financial year immediately preceding Proclamation of this Act, and for each anniversary thereafter, from sources other than those which qualify a person as a Nominated Person.
 - “family farmer” means any individual whose principal occupation is farming, and who resides on, or in the immediate vicinity, of the land farmed. It includes partnerships in which all individuals are related within the third degree of kinship and where at least fifty per cent of the beneficial ownership resides with family farmers. It includes corporations in which all individuals are related within the third degree of kinship

and in which at least one individual is a family farmer, or in which at least fifty per cent of the voting shares are owned by family farmers.

“farming” means any activity which directly results in the production of food (including viticulture) or fibre (including horticulture).

“gross income” means the monetised value of all receipts.

“illegitimate debt” means any obligation (other than an obligation within the immediate family) which binds a Nominated Person to pay any person, any sum of money however expressed, which violates principles of equity under natural law. Such illegitimate debt may arise from, but is not limited to:

- (1) usurious terms of contraction, meaning payment of interest (in addition to principal) of more than;
 - (a) five per cent per annum calculated daily on the unpaid balance, where the debt is mainly secured by land or fixed assets thereon;
 - (b) six per cent per annum calculated daily on the unpaid balance, where the debt is mainly secured by plant, machinery, vehicle or other movable asset;
 - (c) seven per cent per annum calculated daily on the unpaid balance, where the debt is mainly secured by personal guarantee, inventory items, crop or produce lien, or the like.
- (2) contraction of new debt to pay old debt contracted at usurious terms.

“immediate family” means persons related to one another (and their spouses) within the third degree of kinship according to the rules of civil law.

“natural law” means the ordering principle of the universe, characterised by maximum beauty, goodness, and development.

“Nominated Person” means any person or corporation, not being an Excluded Person, who derived more than 50 per cent of his gross income in the financial year immediately preceding proclamation of this Act and each anniversary thereafter, from sources that are directly attributable to increasing the potential population-density of Australia. Such sources

are limited to: food or fibre produced by family farmers, the production of manufactured goods, minerals, metals, oil, and gas.

“Parliament” means the Parliament of the Commonwealth.

“person” means any person, group of person, corporation, trust or group of corporations or trusts.

“potential population-density” means the number of individuals existing per square kilometre, supported solely by the physical economy of the nation, plus the number who could be so supported. A rising potential population-density means an increasing number of individuals who could be potentially supported per unit area, and includes an increased quality of individual, through higher education, skill levels, and general culture.

“the Bank” means the Commonwealth National Credit Bank of Australia as established by the *Commonwealth National Credit Bank Act*.

“the court” means a court of relevant jurisdiction.

Persons to Whom the Immediate Benefits of This Act Apply

4. The beneficial provisions of this Act are available to, and apply to “Nominated Persons”.

Persons to Whom No Benefit Under This Act Applies

5. The beneficial provisions of this Act are not available to “Excluded Persons”.

Application to Territories

6. This Act extends to all Territories of the Commonwealth.

Act to Bind the Crown

7. This Act binds the Crown.

Term

8. This Act shall remain in force for a period of four years from the date of Proclamation, and thereafter shall be considered repealed.

Act to Supersede All Other Laws

9. Notwithstanding anything contained in any other Act, Court Order, Agreement, or otherwise to the contrary, the provisions of this Act prevail.

PART II—ESTABLISHMENT AND MANAGEMENT OF THE COMMISSION TO REVIEW DOMESTIC DEBT

Authority

10. There shall be established the Commission to Review Domestic Debt. The Commission shall at all times act under authority of this Act, and additionally shall have authority to call upon and receive assistance from the Commonwealth National Credit Bank.

Powers

11. (1) The Commission has such powers as are necessary for the purposes of this Act, and in particular, and in addition to any other powers conferred on it by this Act, has power to engage the services of such personnel, and upon such terms as it considers necessary, to:
 - (a) inspect and carry out investigations of the activities, accounts, records, assets, and liabilities of all persons who have applied to the Commission in accordance with the provisions of this Act, and such of their creditors as shall be necessary for the purposes of this Act;
 - (b) decide who are Nominated Persons and Excluded Persons, and what is legitimate, partly legitimate and illegitimate debt, for the purposes of this Act; and
 - (c) to make orders not inconsistent with the provisions of this Act.

The Commissioners

12. (1) There shall be seven Commissioners who shall be appointed within fourteen days of this Act coming into force. The Premier of each State and the Chief Minister of the Northern Territory, shall each appoint one Commissioner, who, not being an Excluded Person, shall be drawn from the productive sectors subject to this Act. The Commissioners shall be full-time, working members of the Commission, and paid such remuneration and allowances as determined by the Remuneration Tribunal.
- (2) A Commissioner shall, before entering upon his duties or exercising any power under this Act, make before a Justice of the Peace or a Commissioner for taking Affidavits, an oath of affirmation in accordance with the form in the Regulations.
- (3) If a Commissioner:

- (a) becomes permanently incapable of performing his duties;
- (b) resigns his office by writing under his hand addressed to the Chairman of the Commissioners;
- (c) is absent from daily duties, except on leave granted by the Commissioners, or is absent from all meetings of the Commission held during two consecutive months, or during any three months in any period of twelve months;
- (d) engages in any paid employment other than that of the Commission, or becomes a member of, or acts in the interests of, or on behalf of, a secret society or a society with secrets, or a foreign power, or interests associated with a foreign power; or
- (e) fails to comply with his obligations under Section 13; then the remaining Commissioners shall request the Federal Minister for Primary Industries to terminate his appointment, and such minister shall have the power to so act. Notice of any such termination, together with the precise reasons for the termination, shall be laid before the Parliament and published in the Gazette.

Functions of the Commissioners

13. It is the duty of the Commissioners, within the limits of their powers, to ensure that the domestic portion of the national debt, as is applicable to Nominated Persons, is adjusted to eliminate “illegitimate debt”. In determining, who are Nominated Persons, and what is illegitimate debt, the Commissioners shall at all times exercise their judgement in the interest of Nominated Persons, and of the nation, and not inconsistently with the provisions of this Act.

Management

14. (1) The business of the Commission shall be managed by the Commissioners in accordance with the provisions of this Act.
- (2) The Commission shall appoint one of their number as Chairman and another as Deputy Chairman, both for the term of twelve calendar months.
- (3) The Chairman shall preside at all meetings of the Commission at which he is present and, in the absence of the Chairman, the Deputy Chairman shall preside.

(4) The exercise of the rights, powers, authorities or functions, or the performance of the duties, or obligations of the Commission, is not affected by reason only of there being a vacancy in the office of a member or, subject to Sub-section (5), any number of members.

(5) Four members form a quorum at a meeting of the Commission.

(6) The Commissioners shall meet at such times as is necessary, but not less frequently than once each week.

(7) Questions arising at a meeting of the Commissioners shall be decided by a majority of the votes of the members present and voting.

(8) The member presiding at a meeting of the Commission, shall have a deliberative vote, and in the event of an equality of votes, shall have a casting vote.

(9) The Commission shall keep full minutes of its proceedings, both audio-tape and written transcript, both of which shall be held as a public record.

Chief Executive and Deputy Chief Executive

15. The Chief Executive and Deputy Chief Executive shall be appointed by the Commissioners for such period, and upon such terms, as the Commissioners determine. The Commission shall delegate to the Chief Executive and the Deputy Chief Executive, such powers as are necessary for the proper and efficient functioning of the Commission, but they shall not delegate the powers which determine who are Nominated Persons, what is illegitimate debt or any other power to make orders under this Act. The Commission may from time to time revoke, withdraw, alter or vary all or any of the powers of the Chief Executive and Deputy Chief Executive.

PART III—MORATORIUM

Stay of Proceedings

16. (1) All actions and proceedings commenced prior to the coming into operation of this Act, against a Nominated Person to recover a debt or to enforce payment of a debt, are hereby stayed and adjourned absolutely until the expiration of the term of this Act.

(2) No action or proceeding shall be commenced against a Nominated Person to recover a debt, or to enforce payment of a debt, during the term of this Act.

(3) There shall be no payment of principal or interest on any debt, legitimate or illegitimate, due by Nominated Persons at the commencement of this Act, during the term of this Act, nor shall there be any accumulation of interest charged to Nominated Persons during such period. Repayment of principal and interest deemed to be legitimate under this Act, shall commence only upon expiration of this Act.

Assets Seized

17. Where, in an effort to recover a debt or enforce payment of a debt owed by a Nominated Person, any person, within a period of twelve calendar months prior to Proclamation of this Act, has seized or taken possession of any asset owned or used by a Nominated Person, such asset shall be returned to the Nominated Person within fourteen days of demand by notice in writing by such Nominated Person for return of the asset.

Assets Sold

18. Where any person has, within a period of twelve months prior to Proclamation of this Act, sold any asset owned or used by a Nominated Person in an effort to recover a debt or enforce payment of a debt owed by a Nominated Person, the gross amount recovered by a creditor of a Nominated Person shall be returned to the Nominated Person within fourteen days of the date of a written request by the Nominated Person. If the proceeds of the sale do not, in the opinion of the Nominated Person, represent fair market value, or in the event the creditor does not refund the gross amount recovered by the sale, the Nominated Person may apply to the Commission for a ruling, and any order made by the Commission shall be final and binding on the parties.

The Commission shall have the power to attach bank accounts or other assets in fulfilment of its orders.

PART IV—AMELIORATION AND RESTRUCTURING

Illegitimate Debt

19. A Nominated Person claiming a debt to be illegitimate, shall serve notice upon his creditor to that effect in writing. Such creditor

shall either admit or deny such claim within fourteen days. If admitted, the creditor shall, from the date of notice aforesaid, reduce the interest rate or the amount of principal or both, as the case may be, to the amount which is legitimate.

In the case of denial, or no response, the Nominated Person may apply to the Commission for a ruling. If the Commission finds that the debt is illegitimate or partially illegitimate, the Commission shall make an award detailing such legitimate terms as it considers should apply and henceforth those terms shall apply, subject to Sub-section (3) of Section 16.

New Loans to Nominated Persons

20. (1) Nominated Persons may apply to the Reserve Bank of Australia or the Commonwealth National Credit Bank, whichever is in existence at the time, for new loans based on the average costs of production of any five years within the last ten, or an average of all years if the productive unit has been in existence less than ten years.

(2) Three years average production cost, as determined in Sub-section (1) of Section 20, or any lesser sum specified by the Nominated Person, shall be granted by the Reserve Bank or the Commonwealth National Credit Bank for a term of ten years, and at an interest rate of two per cent per annum, calculated on the outstanding daily balance.

PART V—ELIMINATION OF DEBT

Debt Extinguished

21. (1) The Commission shall, upon application by any Nominated Person in writing, declare any debt of a Nominated Person to be extinguished, and all covenants, obligations, liens, duties, or responsibilities whatever, to be at an end, if the total payments made by the Nominated Person in respect to such debt, exceed the sum of the original principal; and

- (a) five per cent per annum calculated daily on the unpaid balance, where the debt is mainly secured by land or fixed assets thereon;
- (b) six per cent per annum calculated daily on the unpaid balance, where the debt is mainly secured by plant, machinery, vehicle or other movable asset;

- (c) seven per cent per annum calculated daily on the unpaid balance, where the debt is mainly secured by personal guarantee, inventory items, crop or produce lien, or the like.

Agreements Evidencing Debt Rendered Void

- 22. Any contract or agreement evidencing a debt owed by a Nominated Person to a creditor shall be deemed null and void absolutely if the creditor has not complied with the provisions of this Act, or order of the Commission. Where such non-compliance continues for a period exceeding thirty days from the date of the order of the Commission, the Nominated Person shall have no further obligations under the contract or agreement, and the creditor shall have no rights thereunder, but remains liable for all amounts specified by order of the Commission.

Pay-Out Penalties

- 23. Any condition, term or undertaking contained in any contract or agreement evidencing a debt owed by a Nominated Person, which imposes upon that Nominated person any penalty for early pay-out, shall be deemed null and void.

PART VI—MISCELLANEOUS

Agreements Within Same Family Excluded

- 24. (1) This Act shall not apply to any asset owned or used by, or any contract or agreement or evidence of debt, where the parties owning or using the asset, or named in such contract or agreement or evidence, are:
 - (a) in the same immediate family; or
 - (b) under the same corporate ownership or control.

Penalties

- 25. (1) Any person who violates any of the provisions of this Act is guilty of an offence, and liable upon conviction to a fine of not less than three times the amount specified in any appertaining order of the Commission, and in default of payment, to imprisonment for a term of not less than sixty days and not more than five years.
 - (2) Every director, officer or agent of a company which directed, authorised, assented to, acquiesced or participated in the commission of an offence by the company is guilty of an offence and liable

on summary conviction to a fine of not less than \$10,000 and in default of payment, to imprisonment for a term of not less than sixty days, whether or not the company has been prosecuted or convicted.

Regulations

26. Upon Proclamation of this Act, the Commissioners shall, in consultation with the senior legal officer in the Parliament, draw and promulgate regulations not inconsistent with the provisions of this Act, for its fulfilment.