

Serial 173
Legislative Assembly
(Powers and
Privileges)
Mr Perron

NORTHERN TERRITORY OF AUSTRALIA

LEGISLATIVE ASSEMBLY
(POWERS AND PRIVILEGES) BILL 1992

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NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

relating to the powers (other than legislative powers),
privileges and immunities of the Legislative Assembly,
and for other purposes

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Legislative Assembly (Powers and Privileges) Act 1992*.

2. REPEAL

The following Acts are repealed:

*Legislative Assembly (Powers and Privileges)
Ordinance 1977 (No. 10, 1977)*
*Legislative Assembly (Powers and Privileges)
Amendment Act 1989 (No. 45, 1989)*
*Legislative Assembly (Powers and Privileges)
Amendment Act (No. 2) 1989 (No. 81, 1989)*

3. INTERPRETATION

(1) In this Act, unless the contrary intention appears -

"Assembly" means the Legislative Assembly;

"Chamber" means the room or place in which the Assembly is at any time sitting;

"Clerk" means the person appointed to be the Clerk of the Assembly and includes the Deputy Clerk or a Clerk-Assistant;

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"committee" means -

(a) a committee of the whole Assembly or a standing, select or other committee appointed by the Assembly, or a committee of the Assembly established by an Act; or

(b) a sub-committee of such a committee;

"document" includes a part of a document;

"member" means a member of the Assembly;

"officer of the Assembly" means the Clerk, the Deputy Clerk or any other person declared by the Speaker by notice in the Gazette to be an officer of the Assembly;

"the Speaker" includes a person for the time being presiding over the Assembly or, where appropriate, a committee of the whole Assembly;

"Standing Orders" means the standing rules and orders of the Assembly for the time being in force.

(2) For the purposes of this Act, the submission of a written statement by a person to the Assembly or a committee shall, if so ordered by the Assembly or by the committee, be deemed to be the giving of evidence in accordance with the statement by the person before the Assembly or committee.

(3) In this Act, a reference to an offence against the Assembly is a reference to a breach of the privileges or immunities, or a contempt, of the Assembly or of its members, committees or officers.

4. POWERS, PRIVILEGES AND IMMUNITIES NOT ELSEWHERE DECLARED

The powers (other than legislative powers), privileges and immunities of the Assembly and of its members, committees and officers, to the extent that they are not declared by this Act, other than this section, shall be the powers (other than legislative powers), privileges and immunities for the time being of the House of Representatives of the Commonwealth, and of the members, committees and officers, respectively, of that House.

5. ESSENTIAL ELEMENT OF OFFENCES

Conduct (including the use of words) does not constitute an offence against the Assembly unless it amounts, or is intended or likely to amount, to an improper interference with the free exercise by the Assembly or a committee, of its authority or functions, or

with the free performance by a member of the member's duties as a member.

6. FREEDOM OF SPEECH

(1) For the avoidance of doubt, it is hereby declared and enacted that the provisions of article 9 of the Bill of Rights, 1688 apply in relation to the Assembly and, as so applying, shall be taken to have, in addition to any other operation, the effect of the subsequent provisions of this section.

(2) For the purposes of the provisions of article 9 of the Bill of Rights, 1688 as applying in relation to the Assembly, and for the purposes of this section, "proceedings in Parliament" means all words spoken and acts done in the course of, or for the purposes of or incidental to, the transacting of the business of the Assembly or of a committee, and, without limiting the generality of the foregoing, includes -

- (a) the giving of evidence before the Assembly or a committee, and evidence so given;
- (b) the presentation or submission of a document to the Assembly or a committee;
- (c) the preparation of a document for purposes of or incidental to the transacting of any such business; and
- (d) the formulation, making or publication of a document, including a report, by or pursuant to an order of the Assembly or a committee and the document so formulated, made or published.

(3) In proceedings in a court or tribunal, it is not lawful for evidence to be tendered or received, questions asked or statements, submissions or comments made, concerning proceedings in the Assembly, by way of, or for the purpose of -

- (a) questioning or relying on the truth, motive, intention or good faith of anything forming part of those proceedings in the Assembly;
- (b) otherwise questioning or establishing the credibility, motive, intention or good faith of a person; or
- (c) drawing, or inviting the drawing of, inferences or conclusions wholly or partly from anything forming part of those proceedings in the Assembly.

- (4) A court or tribunal shall not -
 - (a) require to be produced, or admit into evidence, a document that has been prepared for the purpose of submission, and submitted, to the Assembly or a committee and has been directed by the Assembly or a committee to be treated as evidence taken in camera, or admit evidence relating to such a document; or
 - (b) admit evidence concerning oral evidence taken by the Assembly or a committee in camera or require to be produced or admit into evidence a document, recording or reporting such oral evidence,

unless the Assembly or committee has published, or authorised the publication of, the document or a report of the oral evidence.

(5) In relation to proceedings in a court or tribunal so far as they relate to the interpretation of an Act or an Act of the Commonwealth, neither this section nor the Bill of Rights, 1688 shall be taken to prevent or restrict the admission in evidence of a record of proceedings in the Assembly published by or with the authority of the Assembly or a committee or the making of statements, submissions or comments based on that record.

(6) In relation to a prosecution for an offence against this Act or an Act establishing a committee, neither this section nor the Bill of Rights, 1688 shall be taken to prevent or restrict the admission of evidence, the asking of questions, or the making of statements, submissions or comments, in relation to proceedings in the Assembly to which the offence relates.

(7) Without prejudice to the effect that article 9 of the Bill of Rights, 1688 had, on its true construction, before the commencement of this Act, this section does not affect proceedings in a court or a tribunal that commenced before the commencement of this Act.

7. IMMUNITY FROM ARREST AND ATTENDANCE BEFORE COURTS

- (1) A member shall not -
 - (a) be required to attend before a court or a tribunal; and
 - (b) be arrested or detained in a civil cause,
- on a day -
- (c) on which the Assembly meets;

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- (d) on which a committee of which that Member is a member meets; or
- (e) which is within 5 days before or 5 days after a day referred to in paragraph (c) or (d).
- (2) An officer of the Assembly -
 - (a) shall not be required to attend before a court or a tribunal; and
 - (b) shall not be arrested or detained in a civil cause,

on a day -

- (c) on which the Assembly or a committee on which the officer is required to attend meets; or
- (d) which is within 5 days before or 5 days after a day referred to in paragraph (c).
- (3) A person who is required to attend before the Assembly or a committee on a day -
 - (a) shall not be required to attend before a court or tribunal; and
 - (b) shall not be arrested or detained in a civil cause,

on that day.

(4) A member or an officer of the Assembly is exempt from serving as a juror and the name of any such person shall not be included in a jury list.

(5) Except as provided by this section, a member, an officer of the Assembly or a person required to attend before the Assembly or a committee has no immunity from compulsory attendance before a court or a tribunal or from arrest or detention in a civil cause by reason of being a member or such an officer or person.

8. SERVICE OF PROCESS WITHIN THE PRECINCTS

A person shall not within the precincts of the Assembly -

- (a) serve or tender for service or execute a writ, summons, warrant, order or other process issued by or with the authority of a court or otherwise in accordance with a law of the Territory; or

- (b) except as authorised by section 16, arrest another person,

without the express permission of the Speaker or, in his absence, the Deputy Speaker.

9. PUBLICATION OF DOCUMENTS AND EVIDENCE

(1) It is lawful for the Assembly to authorise the publication of a document laid before it or of evidence given before it.

(2) Where a document is dealt with in such a manner that, in accordance with the Statutory Orders, it is to be deemed to have been presented to the Assembly, a document shall, for the purposes of subsection (1), be deemed to have been laid before the Assembly.

(3) It is lawful for a committee to authorise the publication of a document laid before it or of evidence given before it.

10. AUTHORITY FOR CERTAIN PUBLICATIONS

(1) Where the Assembly or a committee has ordered a document or evidence to be printed, the Assembly shall be deemed, unless the contrary intention appears in the order, to have authorised the Government Printer or the Clerk to publish the document or evidence.

(2) The Assembly shall be deemed to have authorised the Government Printer or the Clerk to publish the notice paper and the minutes of the proceedings of the Assembly and the report of the debates and proceedings of the Assembly.

(3) The Clerk shall, at the request of a person, supply a copy of the notice paper, of the minutes of the proceedings of the Assembly, of the reports of the debates and proceedings of the Assembly or of any other reports, documents or papers published by the authority of the Assembly or a committee, to the person on payment by the person of the appropriate fee.

(4) The appropriate fee in respect of a publication referred to in subsection (3) is such fee as is fixed from time to time for the publication by the Speaker with the advice, if any, of the committee appointed by the Assembly to advise the Speaker on matters relating to publications of the Assembly.

11. NO ACTION FOR PUBLISHING AUTHORISED PUBLICATIONS

(1) No action, suit or proceeding, civil or criminal, shall lie against a person for publishing a document or evidence published under an authority given in pursuance of section 9 or which shall be deemed to have been given by virtue of section 10.

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(2) In an action or prosecution commenced in respect of the publication of a document or evidence published under an authority given in pursuance of section 9 or which shall be deemed to have been given by virtue of section 10, the defendant may after giving to the plaintiff or prosecutor 24 hours notice of his or her intention to do so bring before the court in which the action or prosecution is pending a certificate under the hand of the Speaker or Clerk, stating that the document or evidence in respect of which the action or prosecution has been commenced was published or shall be deemed to have been published under that authority and the court shall thereupon stay the action or prosecution and may order the plaintiff or prosecutor to pay the defendant his or her costs of defence.

(3) No action, civil or criminal, shall lie against an employee of the Assembly in respect of the publication, in the normal course of the employee's duties, to a member or any other person, of a document that has been laid before the Assembly or a committee or which shall be deemed to have been laid before the Assembly or a committee.

(4) This section does not deprive a person of a defence that would have been available to the person if this section had not been enacted.

12. PERSONS NOT TO PRINT MATTER CONTRARY TO ORDER

Where the Assembly has ordered that words or a matter published in the Assembly shall not be printed or published, a person shall not print or publish outside the Assembly the words or matter or any part or report of the words or matter.

13. REPORTS OF PROCEEDINGS

(1) It is a defence to an action for defamation that the defamatory matter was published by the defendant without any adoption by the defendant of the substance of the matter, and the defamatory matter was contained in a fair and accurate report of proceedings at a meeting of the Assembly or a committee.

(2) Subsection (1) does not apply in respect of matter published in contravention of section 22.

(3) This section does not deprive a person of a defence that would have been available to the person if this section had not been enacted.

14. PRECINCTS OF ASSEMBLY

(1) The precincts of the Assembly is the area of land described in Schedule 1, together with the building erected on the land.

(2) The Speaker may, by notice in the *Gazette*, declare that on a date specified in the notice the precincts described in Schedule 1 shall no longer be the precincts of the Assembly and, on and from that date, the precincts of the Assembly shall be the land described and delineated in Schedule 2, together with the building erected on the land and that land and building shall be the precincts accordingly.

(3) Subject to the directions, if any, of the Assembly, the Speaker has the control and management of the precincts of the Assembly.

15. ACT NOT TO LIMIT POWERS OF SPEAKER OR ASSEMBLY UNDER
STANDING ORDERS

Nothing in this Act limits the powers or the authority of the Speaker or the Assembly, or a committee, under the Standing Orders.

16. REMOVAL OF PERSONS FROM THE PRECINCTS

(1) The Speaker may, at any time, direct that a member, ordered by the Assembly to be excluded or removed from the Chamber, be excluded or removed from the Chamber.

(2) The Speaker may, at any time whether the Assembly is sitting or not, direct that a person who is not a member be removed from, or be prohibited from entering, the precincts of the Assembly.

(3) In the exercise of his or her powers under subsections (1) and (2) the Speaker may require a person to exclude or remove by force the member or other person whom the Speaker has directed be excluded or removed, or prohibited from entering the precincts.

(4) Neither the Speaker nor a person acting under his or her directions is liable in civil or criminal proceedings for an act done, or purported to be done, in good faith, in pursuance of this section.

17. PERSONS TO OBEY DIRECTIONS OF SPEAKER

Where the Speaker has directed the exclusion of a person from the precincts of the Assembly, the person shall not -

(a) refuse or fail to leave the precincts; or

(b) re-enter or attempt to re-enter the precincts at any time during which the direction is in force.

18. SUMMONS TO WITNESS

(1) On the order of the Assembly or of a committee which has been authorised by the Assembly to send for persons, papers and records, the Clerk or in the case of

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a committee, either the Clerk or the clerk of the committee, may issue under his or her hand a summons to a person (not being a member) to attend before the Assembly or the committee to give evidence before the Assembly or the committee or to produce to the Assembly or the committee the papers, books, documents or articles specified in the summons.

(2) A summons under subsection (1) -

(a) may be in or to the effect of the appropriate form in Schedule 3; and

(b) shall be served personally on the person to whom it is directed.

19. EVIDENCE MAY BE TAKEN ON OATH

(1) A person summonsed to attend before the Assembly pursuant to section 18 may be required to give evidence before the Assembly and be examined on oath.

(2) A committee which has been authorised by the Assembly to send for persons, papers, and records, may require that a fact, matter or thing relating to the subject of the inquiry by the committee be verified or ascertained by the oral examination of witnesses and may cause such witnesses to be examined on oath.

(3) The Clerk or the clerk attending the committee may administer an oath to a witness appearing before the Assembly or a committee authorised by subsections (1) and (2) to examine witnesses on oath.

20. PROTECTION OF WITNESSES

(1) A person shall not, by fraud, intimidation, force or threat, by the offer or promise of an inducement or benefit, or by other improper means, influence or attempt to influence another person in respect of any evidence given or to be given before the Assembly or a committee, or induce or attempt to induce another person to refrain from giving such evidence.

Penalty: In the case of a natural person, \$5,000 or imprisonment for 6 months.

In the case of a corporation, \$25,000.

(2) A person shall not inflict a penalty or injury on another person, or deprive a person of a benefit, on account of -

(a) the giving or proposed giving of evidence; or

(b) evidence given or to be given,
before the Assembly or a committee.

Penalty: In the case of a natural person, \$5,000 or imprisonment for 6 months.

In the case of a corporation, \$25,000.

(3) This section does not prevent the imposition of a penalty by the Assembly in respect of an offence against the Assembly or by a court in respect of an offence against an Act establishing a committee.

21. OFFENCES BY WITNESSES

A person who is served with a summons issued under section 18 shall not -

- (a) refuse or fail, without reasonable excuse, to appear at the time and at the place specified in the summons;
- (b) refuse to be sworn or to make an affirmation;
- (c) refuse or fail, without reasonable excuse, to answer a relevant question put to the person;
- (d) refuse or fail, without reasonable excuse, to produce to the Assembly or a committee the books, papers, documents or articles specified in the summons;
- (e) give false evidence or make a statement which is false or untrue in a particular; or
- (f) present to the Assembly or a committee a document which is, to his or her knowledge, false or falsified.

Penalty: In the case of a natural person, \$5,000 or imprisonment for 6 months.

22. UNAUTHORISED DISCLOSURE OF EVIDENCE

A person shall not, without the authority of the Assembly or a committee, publish or disclose -

- (a) a document which has been prepared for the purpose of submission, and submitted, to the Assembly or a committee and has been directed by the Assembly or the committee to be treated as evidence taken in camera or the publication of which has not been authorised by the Assembly or the committee; or

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- (b) any oral evidence taken by the Assembly or a committee in camera, or a report of any such oral evidence,

unless the Assembly or committee has published, or authorised the publication of, the oral evidence.

Penalty: In the case of a natural person, \$5,000 or imprisonment for 6 months.

In the case of a corporation, \$25,000.

23. BROADCASTING AND TELEVISIONING OF PROCEEDINGS

(1) No broadcast, re-broadcast or televising of a portion of the debates or proceedings of the Assembly or of a committee shall be made except by the authority of the Assembly and in accordance with such conditions, if any, as are determined by the Assembly.

(2) No action or proceeding, civil or criminal, shall lie against a person for broadcasting, re-broadcasting or televising a portion of the proceedings of the Assembly or a committee if such broadcast, re-broadcast or televising has been duly authorised by the Assembly, or a committee or the Speaker if empowered by the Assembly to make such an authorisation.

24. PROSECUTION FOR OFFENCE AGAINST ACT

(1) Where the Speaker has ordered that a prosecution for an offence against this Act shall be commenced, the prosecution shall be commenced on complaint in the name of the Clerk and the complaint shall recite that the prosecution has been commenced by order of the Speaker.

(2) In the absence of evidence to the contrary, a prosecution instituted in the name of the Clerk shall, if the complaint contains a recital that the proceedings have been commenced by order of the Speaker, be presumed to have been duly commenced.

25. ADMISSION OF DOCUMENTS IN EVIDENCE

For the purposes of this Act, a certificate purporting to be signed by the Speaker, the Clerk or a chairman of a committee stating that -

- (a) a particular document was prepared for the purpose of submission, and submitted to the Assembly or a committee;
- (b) a particular document was directed by the Assembly or a committee to be treated as evidence taken in camera;
- (c) certain oral evidence was taken by a committee in camera;

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- (d) a document was not published or authorised to be published by the Assembly or a committee;
- (e) a person is or was an officer of the Assembly;
- (f) an officer is or was required to attend on the Assembly or a committee on a day;
- (g) a person is or was required to attend before the Assembly or a committee on a day;
- (h) a day is a day on which the Assembly or a committee met or will meet; or
- (j) a specified fine was imposed on a specified person by the Assembly,

is prima facie evidence of the matters contained in the certificate.

26. PROSECUTIONS

(1) The Assembly may impose on a person a penalty of imprisonment for a period not exceeding 6 months for an offence against the Assembly determined by the Assembly to have been committed by that person.

(2) A penalty of imprisonment imposed in accordance with this section is not affected by the prorogation, dissolution or expiration of the Assembly.

(3) The Assembly does not have power to order the imprisonment of a person for an offence against the Assembly otherwise than in accordance with this section.

(4) A resolution of the Assembly ordering the imprisonment of a person in accordance with this section may provide that the Speaker is to have power, either generally or in specified circumstances, to order the discharge of the person from imprisonment and, where a resolution so provides, the Speaker has, by force of this Act, power to discharge the person accordingly.

(5) The Assembly may impose on a person a fine -

- (a) not exceeding \$5,000, in the case of a natural person; or
- (b) not exceeding \$25,000, in the case of a corporation,

for an offence against the Assembly determined by the Assembly to have been committed by the person.

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(6) A fine imposed under subsection (5) is a debt due and payable to the Territory and may be recovered on behalf of the Territory in a court of competent jurisdiction by any person appointed by the Assembly for that purpose.

(7) A fine shall not be imposed on a person under subsection (5) for an offence for which a penalty of imprisonment is imposed on that person.

(8) The Assembly may give such directions and authorise the issue of such warrants as are necessary or convenient for carrying this section into effect.

27. RESOLUTIONS AND WARRANTS FOR COMMITTAL

(1) Where the Assembly imposes on a person a penalty of imprisonment for an offence against the Assembly, the resolution of the Assembly imposing the penalty and the warrant committing the person to custody shall set out particulars of the matters determined by the Assembly to constitute that offence.

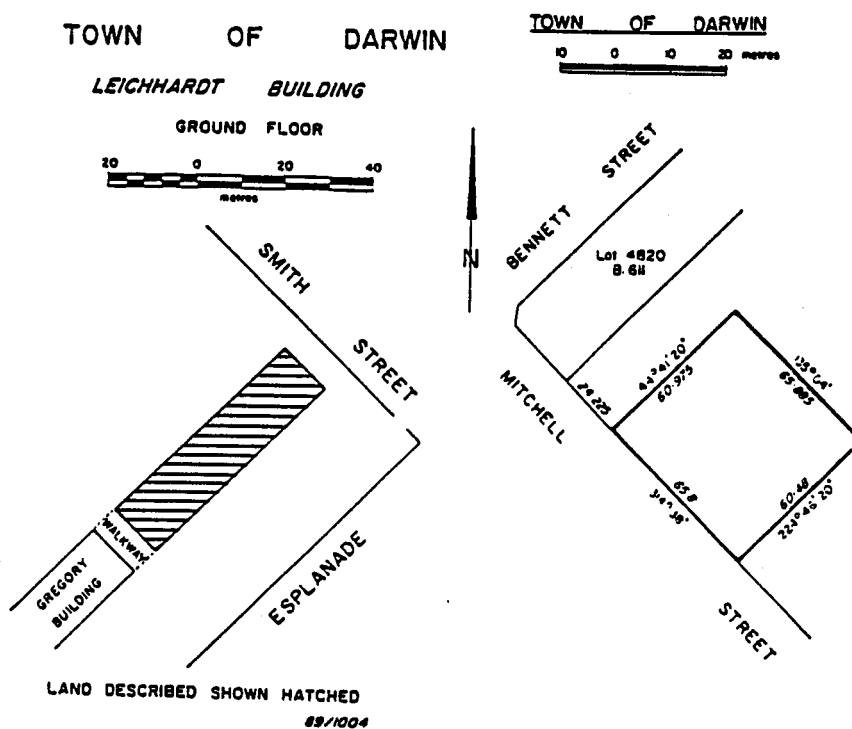
(2) A person convicted of an offence to which subsection (1) refers may apply to the Full Court of the Supreme Court for a declaration that the matters determined by the Assembly to constitute an offence, as stated in the resolution and warrant, were not capable of constituting a breach of privilege or a contempt, and the Full Court has jurisdiction to hear and determine such an application.

(3) If the Full Court makes the declaration sought by the application, the resolution referred to in subsection (1) shall forthwith have no effect, the warrant of commitment is discharged and the person, unless otherwise confined according to law, shall immediately be released from custody.

SCHEDULE 1

Section 14(1)

ALL THAT parcel of land in Mitchell Street near Bennett Street in the Town of Darwin in the Northern Territory of Australia containing an area of 3990 square metres more or less commencing at a point on the northeastern side of Mitchell Street 24.225 metres southeasterly from the southernmost corner of Lot 4820 Town of Darwin; thence bounded by lines bearing 44 degrees 41 minutes 20 seconds for 60.975 metres, 135 degrees 4 minutes for 65.885 metres, 224 degrees 46 minutes 20 seconds for 60.48 metres, 314 degrees 38 minutes for 65.8 metres to the point of commencement; together with ALL THAT parcel of land in Smith Street near The Esplanade in the Town of Darwin in the Northern Territory of Australia containing an area of 689 square metres more or less being the Ground Floor of the Leichhardt Building and being more particularly delineated as that area shown hatched on the following plan:



SCHEDULE 2

Section 14(2)

ALL THAT parcel of land in the Town of Darwin, Northern Territory of Australia containing an area of 2.41 hectares more or less and bounded by lines described as follows: Commencing at the westernmost corner of lot 5949 Town of Darwin; thence by a line bearing 134 degrees 38 minutes 20 seconds for 103.5 metres; a convex curve of arc 166.75 metres, radius 126.4 metres and chord bearing 276 degrees 56 minutes 20 seconds; a line bearing 314 degrees 44 minutes for 102.15 metres; a concave curve of arc 53.905 metres, radius 84 metres and chord bearing 296 degrees 20 minutes 50 seconds; a convex curve of arc 29.175 metres, radius 153 metres and chord bearing 283 degrees 25 minutes 30 seconds; a line bearing 288 degrees 53 minutes for 7 metres; a convex curve of arc 5.975 metres, radius 13.5 metres and chord bearing 301 degrees 34 minutes; a convex curve of arc 9.015 metres, radius 7 metres and chord bearing 351 degrees 8 minutes 40 seconds; a convex curve of arc 14.765 metres, radius 51 metres and chord bearing 36 degrees 20 minutes 20 seconds; a line bearing 44 degrees 38 minutes for 29.7 metres; a convex curve of arc 10.995 metres, radius 7 metres and chord bearing 89 degrees 38 minutes; a line bearing 134 degrees 38 minutes for 21 metres; a line bearing 44 degrees 38 minutes for 10.8 metres; a line bearing 134 degrees 38 minutes for 76.74 metres; a line bearing 44 degrees 38 minutes for 81.1 metres; a line bearing 134 degrees 38 minutes for 18.46 metres; a line bearing 44 degrees 38 minutes for 6.4 metres; a line bearing 134 degrees 34 minutes for 47.17 metres; a line bearing 224 degrees 23 minutes 20 seconds for 6.355 metres; a line bearing 134 degrees 38 minutes for 16.7 metres; a line bearing 224 degrees 38 minutes for 3.195 metres; a line bearing 134 degrees 38 minutes for 30.305 metres; a line bearing 224 degrees 37 minutes 10 seconds for 14.405 metres to the point of commencement.

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SCHEDULE 3

Section 18

Form 1

NORTHERN TERRITORY OF AUSTRALIA

The Legislative Assembly

TO: (here insert name, description, and address of witness)

The Legislative Assembly, on (here insert day and date), passed a resolution, a copy of which is attached.

Pursuant to that resolution and in accordance with the Legislative Assembly (Powers and Privileges) Act and the Standing Orders of the Legislative Assembly, you are hereby summoned to attend at (here insert place), at (here insert day and date), at (here insert time), and you are required to continue in attendance as directed by the Speaker until your attendance is no longer required, to answer questions upon the matters contained in the resolution and matters relevant to the resolution and to produce (here insert the documents required).

Dated

19 .

Clerk of the Legislative Assembly

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Form 2

NORTHERN TERRITORY OF AUSTRALIA

The Legislative Assembly

TO: (Here insert name, description, and address of witness)

I am directed by the (here insert name of committee) to summon you to attend at (here insert place), on (here insert day and date), at (here insert time), then and there to give evidence upon (here insert subject matter of enquiry) and then and there to produce (here insert documents required), and you are required to continue in attendance as directed by the said Committee or the Chairman thereof, until your attendance is no longer required.

A copy of the Committee's order of reference is attached hereto.

Dated

19 .

Clerk of the Legislative Assembly
or
Clerk of the Committee

