

Procedural Information Bulletin No. 6

For the sitting period 20 to 23 August 1985

WHEAT COMPROMISE

On Wednesday 21 August the Senate received, and on Thursday 22 August agreed to, amendments made by the House of Representatives to the Wheat Marketing Amendment Bill 1985 in place of House amendments to which the Senate had disagreed.

This Bill was first introduced in the Senate and amended in a manner unacceptable to the Government. The House of Representatives amended the Bill to restore it to its introduced form, but the Senate would not agree to the amendments.

The new House of Representatives amendments represented a compromise on the question of grower representation in the membership of the Australian Wheat Board.

PRESSED REQUEST

On Tuesday 20 August the House of Representatives passed a resolution declining to consider the message of the Senate in which the Senate pressed its request for an amendment of the Dairy Industry Stabilisation Levy Amendment Bill 1985. (This being a Bill to impose taxation, it could not be amended by the Senate under section 53 of the Constitution.) The Speaker made the usual statement questioning the power of the Senate to press a request.

The disagreement between the two Houses about the power of the Senate to press a request has been carried on since the early days of federation, and the arguments in the matter are set out at pages 406-10 of the 5th edition of Australian Senate Practice. Whenever the House of Representatives agrees to a pressed request, it passes a resolution denying the Senate's power to press requests. The Constitution does not explicitly prohibit the repetition of a request, and the restriction supposed to be inherent in the difference between a request and an amendment is one which, even if it existed, could easily be circumvented by the Senate treating the Bill in some other way. It is to be noted that senators of all major parties have voted to press

requests, while Members of the House of Representatives of all major parties have voted to deny the power to do so.

The proceedings in relation to this Bill and the Wheat Marketing Amendment Bill once again demonstrate that where agreement is reached between the Houses the Bill will pass, but where there is lack of agreement and a determination of each House to adhere to its position the Bill cannot proceed.

PARLIAMENTARY PRIVILEGE

On Thursday 22 August Senator Macklin introduced his Parliamentary Powers, Privileges and Immunities Bill, which is designed to put into effect the recommendations of the Joint Select Committee on Parliamentary Privilege, together with some innovations of Senator Macklin's own devising.

Among the latter is a provision to reverse the recent judgment of Mr Justice Cantor in relation to the use which may be made of parliamentary committee evidence and to prevent courts subpoenaing or admitting evidence taken by committees in camera. (This matter was referred to in Bulletins Nos 3, 4 and 5 earlier this year). The Bill is interesting also because it has been written with the intention of avoiding lawyers' gobbledegook in favour of plain English. The Bill and the explanatory memorandum ought to be perused by Senate staff because of the importance of the matters with which it deals.

BROADCASTING OF EXCERPTS

On Tuesday 20 August the President presented the conditions, determined by the Joint Committee on Broadcasting of Parliamentary Proceedings, for granting access to proceedings of the Senate and the House of Representatives for the purpose of recording and broadcasting excerpts. The Senate authorised the use by the electronic media of recorded excerpts of its proceedings on 27 May 1985, and the Committee has now determined the conditions governing the use of the excerpts.

In debate on the President's statement, the attention of senators focussed on one of the conditions which stated that qualified privilege only shall apply to broadcasters making use of excerpts. This is not really a condition but a statement by the Committee of its belief as to the state of the law. Broadcasts by the ABC attract absolute privilege under the Parliamentary Proceedings Broadcasting Act, but the Committee believes that the broadcasting of excerpts by other broadcasters would attract only qualified privilege and considers that this is appropriate.

It was pointed out in debate that the law relating to qualified privilege varies from State to State, there being no uniform defamation law. One of the provisions

contained in Senator Macklin's Bill would provide a uniform qualified privilege for all reports of federal parliamentary proceedings throughout Australia.

COMMITTEE REPORTS

The following Committee reports were presented to the President during the winter long adjournment in accordance with authorising resolutions:

Education and the Arts Committee: Annual Reports of Departments

Industry and Trade Committee: Closer Economic Relations between Australia and New Zealand

Animal Welfare Committee: Live Sheep Exports.

The following committee reports were presented during the week of sittings:

Private Hospitals and Nursing Homes Committee: Private Nursing Homes

Finance and Government Operations Committee: Superannuation Fund Investment Trust

Science, Technology and Environment Committee: Annual Reports of Departments

Social Welfare Committee: Children in Care

Education and the Arts Committee: Annual Reports of Departments.

The Finance and Government Operations and Animal Welfare reports attracted considerable publicity, the first because of the element of exposure of maladministration and the second largely because of certain statements by the Chairman. The Social Welfare Committee Report was debated at some length upon its presentation.

It is encouraging to see committees making use of inquiries into annual reports, which provide a vehicle for valuable committee work.

Committee staff have been reminded recently that the presentation of a report to Mr President during a long adjournment requires that some procedures be followed to conform with the authorising resolution. In particular, the President must sign a document directing the printing and distribution of the report.