

## Procedural Information Bulletin No. 9

*For the sitting period 5 to 14 November 1985*

### PARLIAMENTARY PRIVILEGE

During debate on 11 September 1985 on Mr President's statement on the use of parliamentary committee evidence in court proceedings and the judgment of Mr Justice Cantor, Mr President was urged to seek every opportunity to have that judgment overturned in the courts.

On 5 November the Supreme Court of New South Wales began hearing the appeal by Mr Justice Murphy against his conviction and submissions relating to the reserved questions of law remitted by the High Court. At that time it was made known that the defence had decided not to pursue the question of whether the law of parliamentary privilege prevented the defendant's parliamentary committee evidence being used against him at his trial, and consequently the court would not be considering that question. Counsel for Mr President appeared briefly to indicate to the court that Mr President would wish to be heard if it happened that the court did consider the question.

It now appears that there will be no further opportunity to question the Cantor judgment in the court proceedings relating to Mr Justice Murphy. The Parliament must now wait for the question to arise in some future court proceedings, or legislate on the matter

### DETENTION OF A SENATOR

On 13 November, on the motion of Senator Reynolds, the Senate referred to the Privileges Committee two matters relating to the detention of Senator Georges by the Queensland police on 11 November. The reference refers to the apparent delay in granting bail to Senator Georges because of his refusal to have his fingerprints taken, and the apparent failure of Queensland authorities to notify the President of his detention.

Later on 13 November Mr President reported that he had learned that the Queensland police had made attempts to inform him of Senator Georges' detention,

but the attempts had not been successful. The reference to the Committee was not altered.

Matters relating to the imprisonment of a senator were considered by the Privileges Committee in its Fifth Report in 1979. The Committee concluded that the cause of the detention of the senator on that occasion was a criminal and not a civil cause, and that therefore the immunity of senators from arrest did not arise. The Committee recommended that the Senate assert its right to be formally notified of the detention of its members, and accordingly the Senate in 1980 passed resolutions requiring a court to inform the President whenever a senator is detained pursuant to the order or judgment of the court.

## REFERENCE OF BILLS TO COMMITTEES

A previous bulletin drew attention to a notice of motion given by Senator Chaney to provide a procedure for referring Bills to standing committees at any stage of their consideration following report by a selection committee as to which Bills should be referred. That motion has not yet been moved.

Senator Hamer on 5 November gave a contingent notice of motion which would enable him to seek the suspension of standing orders to refer a Bill to a standing committee immediately after its introduction into the Senate. (A contingent notice of motion enables the suspension of standing orders without an absolute majority.)

## PLANS FOR BILLS

The previous bulletin reported the attempt by Senator Siddons to adopt a new procedure for initiating legislative proposals. Senator Siddons attempted to present a plan for a Bill and to move a motion that a Bill be brought in in accordance with the plan.

The Standing Orders Committee on 14 November reported on this proposed procedure and suggested that it not be permitted. The Committee believes that it would not be wise for the Senate to extend to the presentation of plans for Bills the same indulgence which is invariably granted for the introduction of private senators' Bills. The Committee points out that there are existing procedures which could be used without altering the regular conduct of business, including giving notice of motion for an order that a Bill be brought in and referring to a standing committee a proposal for a Bill.

## URGENCY MOTION

On 6 November an urgency motion relating to the ANZUS Treaty was moved by Senator Durack and debate continued until the time allowed for discussion of the motion had expired. Senator Durack then moved for the suspension of standing orders to enable the question on the motion to be put, but while that motion was supported by a simple majority, there was not the absolute majority required by the standing orders. On the following day Senator Durack gave a contingent notice of motion to enable him to seek the suspension of standing orders without an absolute majority to move for the question on the urgency motion to be put.

Accordingly, on 8 November the standing orders were suspended and the question on the motion put. The Opposition and the Democrats also gave contingent notices which would enable them to have the standing orders suspended without an absolute majority to provide for the question to be put on any urgency motion.

## TWO PROPOSALS UNDER STANDING ORDER 64

On 13 November Mr President received simultaneously, at 8.30 a.m., two letters from senators under standing order 64 proposing matters for discussion. The matter to be reported to the Senate was selected by lot.

## DISALLOWANCE MOTIONS

On 13 November the Senate, on the motion of Senator Missen, disallowed regulations made under the Freedom of Information Act which increased charges under the Act. It was stated in debate that the new charges imposed by the regulations were excessive and designed to discourage requests for information under the Act.

On 14 November Senator Harradine was unsuccessful in moving to disallow a determination of the Remuneration Tribunal relating to entitlements of members and senators. Senator Harradine wished to disallow only a definition, relating to nominees of members and senators, contained in the determination, but was forced by the terms of the Act to move the disallowance of the whole determination. A request to the Tribunal to put the contentious matter in a separate determination had not been heeded.

## NEW PARLIAMENT HOUSE

For some time there has been a good deal of behind-the-scenes discussion on the chambers in the new Parliament House. It is proposed that the walls of the chambers be finished with fabric of various colours, and a number of senators are opposed to this. The matter came into the open on 14 November with the presentation by Mr

President of a report on the chambers, and the giving of a notice of motion by Senator Crichton-Browne for the rejection of the proposal in favour of wood panelling.

#### NEW JOINT COMMITTEE

On 14 November the Senate received the message from the House of Representatives relating to the appointment of a joint select committee on the proposed Australia card. The Senate has not yet considered the message.

#### ELECTION OF ACTING PRESIDENT

On 8 November it was necessary for the Senate to elect a senator to act as President because of the unavoidable absence of the President and the Deputy-President. Senator Colston was elected, but acted for only a short period because the Deputy-President returned later in the morning.

#### QUESTION TO PRIVATE SENATOR

On 7 November a question was directed to Senator Macklin, under standing order 98, concerning his Constitution Alteration (Democratic Elections) Bill. Senator Macklin answered the question with an exposition of the merits of his Bill. On 11 November Senator Puplick directed a question to Senator Lewis concerning a Bill which Senator Lewis had introduced to provide for the continuance of postal services at times of disruption of Australia Post services (see below). The question allowed Senator Lewis to refer to one aspect of the Bill.

Later that day Mr President drew the attention of senators to the rule against anticipation of discussion of matters on the Notice Paper. There is some apprehension about such questions in the future because of the large number of private senators' bills now on the Notice Paper.

#### PRIVATE SENATORS' BILLS

On 13 November Senator Mason used a contingent notice of motion to move for the suspension of standing orders to give precedence over all other business to his Bill for the establishment of a commission of inquiry into the conviction of the Chamberlains. His motion was not successful, but brought forth significant expressions of opinion from the major parties which were no doubt welcome to him.

On 14 November the Opposition brought on for debate a Bill introduced by Senator Lewis which would have allowed private carriers to deliver mail when Australia Post is not able to do so. The second reading of the Bill was negatived.

On the same day the Senate also negatived a Democrat Bill to prohibit nuclear weapons in Australia.

## PROCEEDINGS ON GOVERNMENT BILLS

Somewhat protracted debate on the interstate road transport Bills concluded on 8 November when the main Bill was passed with amendments and the charge Bill was subjected to requests for amendments (the charge was in the nature of a tax and the Senate therefore could not amend the charge Bill). The amendments and requests were moved by the Australian Democrats and were agreed to by the Government. The House of Representatives accepted the amendments and made the requested amendments. After the second reading of the Bills an Opposition motion to refer them to a standing committee under standing order 196A was unsuccessful.

On 12 November the Senate passed a Bill which it had previously rejected relating to cash bidding for off-shore petroleum licences. The Democrats inserted a 2 year "sunset clause" into the Bill.

## COMMITTEE REPORTS

On 5 November the Constitutional and Legal Affairs Committee presented an "exposure" report on its reference relating to a bill of rights for Australia. The report is in the nature of a discussion paper, and there was some difficulty when the press mistook the raising of issues in the report for final conclusions and recommendations. No doubt this difficulty will occur again if other committees adopt the practice of publishing discussion or issues reports.

On 6 November the Finance and Government Operations Committee presented a further report on the list of statutory authorities.