

Procedural Information Bulletin No. 20

For the sitting period 25 November to 10 December 1986

INTRODUCTION

The sittings of the Senate were extended beyond the expected rising day of 5 December in order to deal with the Australia Card Bill, which was the only item of business that the Government wished to dispose of before the long adjournment and which remained on the Notice Paper at the end of that day, with a list of over 30 senators wishing to speak on it (the proceedings on the Bill are referred to below).

UNUSUAL PROCEEDINGS ON BILLS

The last days of the sittings saw a number of instances of unusual proceedings in relation to Government Bills.

Australian Bill of Rights Bill. The Government's decision not to proceed with the Australian Bill of Rights Bill 1985 and to have amended and passed the Human Rights and Equal Opportunity Commission Bill 1985 required some special procedures. All of the Bills were being considered together in Committee of the Whole, and the Committee had amended and completed its consideration of the Human Rights and Equal Opportunity Commission Bill and was part of the way through the Australian Bill of Rights Bill.

It was necessary for further consideration of that Bill to be postponed, for the Human Rights and Equal Opportunity Commission Bill to be reconsidered, and for Standing Orders to be suspended to allow amendments to be moved to the latter Bill. Some of the new amendments reversed the amendments which the Committee had already made to the Bill. These steps were agreed to by the Senate, and the Human Rights and Equal Opportunity Commission Bill was then extensively amended, by Government and Democrat amendments, reported out of Committee, and passed on 28 November, with an associated Bill. On the motion of the Government, and in accordance with an undertaking which had been given, the Australian Bill of Rights Bill and an associated Bill were then discharged from the Notice Paper.

ABC/SBS Amalgamation Bill. An unusual contingent notice of motion was given by Senator Vigor on 2 December in relation to this Bill. The contingent notice was

for Senator Vigor, when the Order of the Day relating to the Bill was called on, to move to suspend Standing Orders to enable the Bill which he had introduced to entrench the independence of the SBS to be considered with the Government Bill but to be voted on separately. Senator Vigor did not avail himself of this contingent notice, but unsuccessfully sought leave, when the Government Bill was being considered, for this procedure to be followed.

An unusual second reading amendment, moved by the Opposition, was used to dispose of the Bill on 5 December. It provided that the Bill was not to be read a second time, that the merger of the ABC and SBS should not proceed without legislative authority, and that the Standing Committee on Education and the Arts report on the Government's reasons for proposing to amalgamate the ABC and the SBS. The first part of the amendment was not regarded as a direct negative of the motion because it was unlimited in time and only a part of the whole amendment, the second part amounted to an expression of opinion by the Senate, while the third paragraph was, in effect, a reference to the Standing Committee, but not of the Bill itself.

South Pacific Nuclear Free Zone Treaty Bill. The Australian Democrats unsuccessfully sought to have a Bill which they had introduced, to prohibit the export of uranium to France, debated immediately after the consideration of this Government Bill on 2 December. In Committee of the Whole, they moved amendments which were designed to have the Government Bill come into operation when their Bill commenced, and to insert references to the prohibition of the export of uranium to France. The amendments, which were drafted in such a way as to overcome any problem of relevance to the Bill, were also unsuccessful, but allowed the Democrats to raise the matter of uranium exports.

Broadcasting Amendment Bill and Television Licence Fees Amendment Bill. These Bills were not considered until 4 December, which was expected to be the second last day of the sittings, and the Opposition and the Australian Democrats wished to refer them to a select committee. Senator Lewis gave notice of a motion to establish the committee at the beginning of that day, before the Bills were considered, in case he should not be able to provide for the composition and powers of the committee by leave or by suspension of Standing Orders after the Bill had been dealt with. His second reading amendment to refer the Bills to a select committee was agreed to, and he then moved by leave a motion to provide for the composition and powers of the committee. This left only what was expected to be the last day of the sittings for the appointment of members. The appointments were duly made on 5 December.

Sales Tax (Exemptions and Classifications) Amendment Bill (No. 2). This Bill was being considered together with a number of other Bills. By an unusual second reading amendment, moved by the Australian Democrats, it was extracted from the package of Bills and referred to the Standing Committee on Finance and

Government Operations for report by the fourth day of sitting in 1987, and the other Bills in the group were then passed.

Sex Discrimination (Consequential Amendments) Bill. This Bill amended a number of Acts consequential upon the enactment of the *Sex Discrimination Act 1984*. Senator Harradine wished to move amendments to that Act, but such amendments would not be relevant to the Bill. He therefore gave a contingent notice to allow him to move for the suspension of Standing Orders after the second reading of the Bill to enable him to move the amendments in Committee. His amendments were set out in his notice. His motion was unsuccessful when the Bill was considered on 4 December, but enabled him to place his amendments on record. In Committee, Senator Walters obtained leave to move another amendment to the Sex Discrimination Act.

Australia Card Bill. The Opposition and the Democrats circulated different second reading amendments to this Bill designed to deny the Bill a second reading and to substitute for the second reading motion words expressing alternative policies. The Opposition amendment was moved first, and the Democrats' amendment was then moved as an amendment to the Opposition amendment. When proceedings on the Bill concluded on 10 December, the first part of the Opposition amendment, leaving out words from the second reading motion, was passed, the Democrats' amendment to the Opposition amendment was negatived, and the second part of the Opposition amendment, to insert words in the motion, was also negatived. This left only the word "That" remaining of the motion, and this could not be put by the Chair.

This situation has arisen on a number of occasions in the Senate. It arises when the majority vote to leave out words in the original motion but cannot agree on the words which are to be inserted.

On this occasion the matter was not left there. The principal Opposition speaker on the Bill, Senator Peter Baume, invited the Minister to move again by leave the motion for the second reading of the Bill. That motion was moved accordingly, put to a vote, and negatived. This step was not strictly necessary, as the effect of the previous votes of the Senate was to defeat the Bill, but it allowed the combined non-government parties to make perfectly clear their intention to do so.

OTHER BILLS AMENDED

The Bounty (Books) Bill was amended on 28 November, on the motion of the Opposition, to take up a point raised by the Scrutiny of Bills Committee.

The Cheques Bill 1985 was extensively amended on the same day to make provision in relation to non-bank financial institutions. The Bill had been delayed partly

because the Opposition took up the representations of the non-bank financial institutions, and indicated an intention to try to amend the Bill accordingly. This Bill, therefore, provides another example of Government amendments which have come about as a result of influence by non-government members.

SENATORS AS WITNESSES

The Senate received on 1 December a message from the House of Representatives requesting that the Senate give leave for certain senators to give evidence before the House of Representatives Privileges Committee, which is inquiring into a case of premature publication of the report of the Joint Select Committee on Telecommunications Interceptions. The message was acceded to on 5 December.

The Standing Orders of each House provide for messages to be sent to the other House for permission to be granted for a member of the other House to give evidence before the requesting House or one of its committees. There have been cases of members giving evidence before committees of the other House on the initiative of the members or in response to a general invitation, but where a committee requests members of the other House to give evidence, constitutional propriety requires the permission of the other House. The permission when granted does not compel a member to give evidence; the member's evidence is given voluntarily, and the member could not be compelled to answer any particular questions or produce documents. It would be possible for a House to order one of its own members to give evidence before the other House or its committee, but this is not contemplated by the Standing Orders.

MONTHLY FINANCIAL STATEMENT

The Senate on 5 December approved amendments to the form of the Statement of Financial Transactions of the Commonwealth under sub-section 49(2) of the Audit Act. That sub-section provides that monthly statements of financial transactions are to be published in a form provided by the Act or in that form as amended with the prior approval of both Houses of the Parliament. This is one of the few instances of an affirmative resolution procedure on the statute books.

COMMITTEE MATTERS

Senator Hamer on 5 December again attempted to have some Bills which were to remain on the Notice Paper over the long adjournment referred to Standing Committees. His motion was negatived by equal votes.

The President presented his report on outstanding Government responses to committee reports on 3 December, and the Government responded to that document on 5 December. A number of Government responses to committee reports were presented in the last days of the sittings.

The following committee reports were presented during the period under review:

Date tabled	Committee	Title
28.11.86	New parliament House	Development Design Certain Aspects of the New Building (2 reports)
03.12.86	Finance and Government Operations	ABC Employment Contracts
05.12.86	Finance and Government Operations	Superannuation of Statutory Authorities
04.12.86	Constitutional and Legal Affairs	High Court Annual Report
04.12.86	Constitutional and Legal Affairs	Ombudsman's Special Report
04.12.86	Regulations and Ordinances	81st Report, Principle (d) and ACT Ordinances
04.12.86	Science, Technology and Environment	Shelburne Bay
05.12.86	Privileges	Detention of a Senator (the case of Senator Georges)
05.12.86	National Resources	Resources of Antarctica

As has already been noted, the Senate appointed a new select committee on two bills during the period, and two bills have, in effect, been referred to committees.