

Procedural Information Bulletin No. 21

For the sitting 17 to 26 February 1987

ELECTION OF THE PRESIDENT

Senator Douglas McClelland having resigned as President and as a senator during the summer adjournment, the Governor-General attended in the Senate on the first sitting day to report the resignation and the appointment by the Parliament of New South Wales of Senator West to fill the vacant place in the Senate. The new senator then made an affirmation before the Governor-General and took her seat.

The subsequent election of the President was unusual in that there were three candidates nominated, and a second ballot was necessary to determine the result because no candidate gained a majority of votes on the first ballot. The declared intention of Senator Georges to stand for the presidency gave rise to a number of questions of interpretation of the relevant standing orders. If these questions had arisen during the proceedings it would have been necessary for the Clerk to rule on them, as the Clerk acts as Chairman of the Senate during the election. The necessity for any such rulings to be given did not arise, the election proceeded in accordance with the usual practices, and Senator Sibraa was duly elected.

REFERENCE OF ADDITIONAL MATTERS TO A SELECT COMMITTEE

An unusual notice of motion was given by Senator Haines on 18 February to refer certain matters to the Select Committee on Television Equalisation. Although a select committee is appointed to inquire into particular matters, there is nothing to prevent the appointing House from giving a committee additional tasks and extending its terms of reference and its life.

By a motion to suspend standing orders Senator Haines unsuccessfully attempted on 25 February to bring on her motion, which, relating as it did to a select committee, was listed as General Business.

DEFENCE STATEMENT DEBATE

On 23 February Senator Evans moved to adjourn debate on a ministerial statement on defence initiatives in the South Pacific, and the motion for the adjournment was passed by division. The Opposition, however, wanted the debate to continue, and Senator Durack moved an amendment to Senator Evans' motion for the resumption of the debate. On that amendment a protracted debate ensued, the Opposition complaining of the Government's unwillingness to extend the debate on the statement, and was carried on until the adjournment of the Senate.

On the following day Senator Evans rearranged Government Business to continue the debate on the statement, thereby demonstrating the capacity of an Opposition, even when in a minority, to press the Government to provide time for debate on a matter of interest to the Opposition, although the Government's decision was no doubt influenced by the ability of the Opposition to take up a great deal of time by a motion to suspend standing orders to bring on the debate on the statement.

STANDING ORDERS COMMITTEE REPORTS

There are a number of recommendations by the Standing Orders Committee for changes to procedures yet to be dealt with by the Senate. In a report presented in November 1985 the Committee recommended that its recommendations for changes to procedures or other action by the Senate should be made Business of the Senate, in order to avoid the long delays in dealing with reports consequent on their being listed as Government Business. That recommendation is also outstanding. In its report in November 1986 the Committee indicated that the Government had undertaken to make time available for debate on its reports, and the promised time arrived on 24 February. The time available for debate was entirely spent on a proposal, not actually recommended by the Committee, to change speaking time limits, and it is not clear whether the Senate will further consider the various recommendations.

TABLING OF DOCUMENTS

On 25 February Senator Ryan, in response to a request from the Leader of the Opposition, tabled a document which she had quoted in answering a question. The document was revealed to be a confidential briefing note on housing loan interest rates, and caused a great deal of controversy.

Standing order 363 provides that a document relating to public affairs quoted by a Minister, unless stated (by the Minister) to be of a confidential nature, or such as

should more properly be obtained by address (that is, address to the Governor-General) may be "called for" and made public. The expression "called for" means called for by a motion, moved without notice at the conclusion of a Minister's speech or answer. If a Minister stated that a document was confidential, the Chair would not accept such a motion, but it would then be open to the requesting senator to give notice of a motion for an order that the document be tabled.

(The reference to documents which should be obtained by address relates to documents in the control of the Governor-General, such as correspondence between the Governor-General and the Prime Minister on a request for a dissolution.) Usually a motion for the tabling of a document quoted by a Minister is not moved; instead, a senator asks a Minister to table a document and the Minister usually complies, and this is what happened in the instant case. It would have been open to the Minister to state that the document was of a confidential nature and to decline to table it.

The interpretation of the standing order was the subject of a recent report by the Standing Orders Committee, but the report was directed to the point that the standing order should not be interpreted as referring to a Minister's speech notes. The standing order provides an interesting example of a written codification of an unwritten practice of the British House of Commons, as was explained in the Standing Orders Committee report.

On the following day Senator Chaney gave notice of a motion to refer the document to the Standing Committee on Finance and Government Operations, and later in the day moved for the suspension of standing orders to bring on the notice of motion forthwith. That attempt was unsuccessful, but provided an opportunity to debate the significance of the document, and the notice of motion will be listed as Business of the Senate on the notice paper for the next day of sitting.

PROCEEDINGS ON BILLS

A number of Government amendments were moved to the Australian Nuclear Science and Technology Organisation Bill on 17 February, and some of the amendments were designed to take up points originally raised in amendments circulated by the Australian Democrats. This provides a further illustration of the fact that Government amendments to Bills in the Senate often actually represent non-government initiatives.

The Nuclear Non-Proliferation (Safeguards) Bill was amended on the motion of the Australian Democrats on 19 February in relation to matter to be included in reports.

Proceedings on the Plant Variety Rights Bill were lengthy, with many amendments being moved by the Australian Democrats. No amendments were made, and the Bill

was finally passed on 25 February, resolving many years of deliberation, including a report by a Senate Standing Committee, on the subject of plant variety rights.

OTHER COMMITTEE MATTERS

The Chairman of the Standing Committee on Science, Technology and the Environment made a statement on 19 February informing the Senate that the Committee had discontinued an inquiry, and moved a motion for a further reference to the Committee by leave. An extension of time for the Finance and Government Operations Committee to report was also moved by leave on the same day. Normally, such motions would be moved on notice, thereby giving opportunity for consideration of them. An extension of time for the Select Committee on Television Equalisation was moved in this way on 26 February.

An unusual report by the Standing Committee on Education and the Arts was presented on 24 February, and debate on a motion to adopt it was adjourned. The report asks for the Senate's endorsement of the Committee's interpretation of the reference which it was given relating to the Government's proposal to merge the ABC and the SBS.

The Finance and Government Operations Committee tabled a submission it had received from the Department of Finance relating to changes in presentation of appropriations and departmental explanatory notes. Under standing order 36AA standing committees are expressly given the right to present any of their documents at any time to the Senate.

The Joint Select Committee on Electoral Reform presented during the summer adjournment its report on the 1983-84 changes to the Electoral Act and their operation in the 1984 elections.