

Procedural Information Bulletin No. 26

For the sitting period 6 to 9 October 1987

AUSTRALIA CARD BILL

In order for the proceedings on the Australia Card Bill to be terminated, in accordance with the decision of the Government not to proceed further with the bill, some steps had to be taken to reverse the reference of the bill to the Legal and Constitutional Affairs Committee and to ensure that the committee did not proceed with its inquiry into the bill and the related matters which were referred to it on 23 September. It is a basic and important principle of legislative proceedings that a bill can be in only one place at a time. The bill was before the committee and not in the Senate. It was therefore necessary for the Senate to get the bill back from the committee in order to dispose of it.

The motion to achieve this, moved by the Special Minister of State, Senator Ryan, contained two provisions. The first was an order to the committee to report the bill without further considering it or the related matters. The second provision was to the effect that when the bill was reported by the committee it would be automatically laid aside (i.e. disposed of) without any further question being put.

It would have been possible, instead of directing the committee to report the bill, to rescind the Senate's resolution referring the bill and related matters to the committee, as was done on 24 September with the reference of the matter of coastal surveillance to the Standing Committee on Finance and Public Administration. It was thought undesirable to do this, however, because of the potential constitutional importance of proceedings on the bill. It is just possible that those proceedings may yet become the subject of interpretation by the High Court, for example, if the Government, perhaps after attempting some alternative to the Australia Card, decided to proceed with the bill by way of a joint sitting. A rescission motion has the connotation of quashing the original proceedings as if they had never happened, and some unexpected significance might be attached to this in subsequent legal proceedings. It was therefore thought best to proceed by way of a direction to the committee to report the bill.

In expectation of the Government's motion, two unusual contingent notices were given by the Opposition. The first was a contingent notice of amendment indicating that, in the event of a motion to lay the bill aside, an amendment would be moved to

refer other matters relating to a national identity system to the Legal and Constitutional Affairs Committee. The second notice indicated that in the event of any administrative action or legislation in substitution for the Australia Card, an amendment or a motion would be moved to refer that action or legislation to a committee.

Neither of these notices is procedurally necessary, in the sense that they do not allow anything to be moved otherwise than in accordance with the normal procedures, and notice is not necessary for an amendment. They served simply as indications of intention.

The Government's motion on the bill was passed on 8 October and the Opposition amendment referring the other matters to the committee was also agreed to. The committee met and resolved, in accordance with the Senate's order, to report the bill back to the Senate, a report was duly made on 9 October and at that time the bill was thereby laid aside. The Deputy President then made an announcement to that effect. It was also thought necessary for the committee to carefully follow these steps because of the possible constitutional significance of the legislative history of the bill.

On 7 October the Senate passed a motion of urgency which referred to the need for the Government to deal with tax avoidance and welfare fraud otherwise than by the Australia Card and which claimed that the Government was conducting a campaign of misrepresentation against opponents of the Card.

LOANS BILL 1987

In 1985 and 1986 the Government presented the Loans Bill, which normally authorises the Government to borrow money during the current financial year, in a form which would have made the parliamentary authority to borrow permanent, so that it would not have been necessary to seek parliamentary approval for borrowings in the future. On each occasion the Senate amended the bill to restrict the authority to borrow to the current financial year.

The Loans Bill 1987 would have extended the annual authority to borrow into the supply period, that is, the period for which money is appropriated by the annual supply bills, approximately the first five months of the financial year. The Senate again amended the bill to restrict the authority to borrow to the financial year, the non-government parties taking the view that it would not be proper to give the authority to borrow in respect of a year for which the budget had not been announced and the budget deficit was not known.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 1987

On 7 October the Senate adopted a procedure whereby some parts of a bill were, in effect, referred to committees while the remainder of the bill was allowed to pass.

The view was taken by senators that certain amendments of the Acts Interpretation Act relating to regulations and certain amendments of the Audit Act should be examined by the Regulations and Ordinances Committee and the Finance and Public Administration Committee, respectively. The bill was amended in committee of the whole to leave out the provisions concerned, and the bill as amended was passed. A motion was then moved by leave to refer the omitted provisions to the committees.

The bill being a Senate bill, it was suggested that, should the committees report in favour of the omitted provisions, those provisions could be reinserted in the bill in the House of Representatives before the bill is finally passed.

RETURN TO ORDER

Some of the answers to questions asked in Estimates Committee E, which were ordered to be tabled by the order for the production of the documents of 16 September, were presented by the Minister for Home Affairs on 7 October. It was indicated that the remaining answers would be presented later.

NEW PARLIAMENT HOUSE

A lively debate on the financial management of the new Parliament House project occurred on 9 October after a ministerial statement and tabling of papers on the subject.