

## Procedural Information Bulletin No. 39

*For the sitting period 28 February to 9 March 1989*

### PRIVILEGE

Matters relating to privilege have continued to be a feature of Senate proceedings. On 28 February the Chair of the Committee of Privileges (Senator Giles) presented a report to the Senate on possible false or misleading evidence given to a Senate Estimates Committee, relating to the travel of certain Aboriginal committee representatives to Canberra and their subsequent appearance before the Select Committee on the Administration of Aboriginal Affairs. The Privileges Committee concluded that, on the evidence available to it, no contempt of the Senate had been committed. Debate was adjourned following the Chair's speech on the motion to take note of the Report.

On 6 March, the Chair presented another report relating to estimates committees, this time on whether misleading evidence had been given in relation to a defence matter. The committee again concluded that no contempt of the Senate had been committed, but made the point that if the officer concerned had been as helpful to the estimates committee as he had been to the Privileges Committee the whole exercise would have been avoided.

The Chair and a member of the Committee spoke in debate when the report was tabled, and debate resumed on 8 March. Debate is likely to continue during the next sittings of the Senate.

On 9 March the President made a statement to the Senate advising that Senator Peter Baume had raised with him a matter of privilege relating to the treatment of a Senate committee witness by the Aboriginal Development Commission. The President determined that the matter should have precedence in accordance with the Privilege Resolutions.

As the matter had been brought before the Senate on the last sitting day before the Senate rose for more than one week, a motion to refer the matter to the Privileges Committee was moved without the requirement for notice to be given. The matter was referred to the Committee after debate.

## MR JUSTICE STAPLES

On 1 November (see Bulletin No. 37, pages 16-17), the President tabled in the Senate a letter from Mr Justice Staples, concerning his possible non-appointment to the new Industrial Relations Commission, which, by virtue of the passage of Industrial Relations legislation, superseded the Australian Conciliation and Arbitration Commission.

During the summer recess, Mr Justice Staples again wrote to the President, who drew his comments to the attention of senators. When the Senate resumed on 28 February, the President tabled the correspondence. On the same day, Senator Hill gave notice of a proposed joint select committee, to examine the principles that should govern the tenure of office of quasi-judicial and other appointees to Commonwealth tribunals. The Leader of the Australian Democrats (Senator Haines) also gave a notice of motion, to refer the question of removal of judges from office, with particular reference to the question arising from Mr Justice Staples' position, to the Senate Legal and Constitutional Affairs Committee.

Each motion was moved, by leave, the same evening. Senator Haines' motion was lost after a division, while Senator Hill's motion was agreed to. Senator Hill thereupon moved that a message be sent to the House of Representatives, seeking its concurrence in the resolution. The House of Representatives agreed to the motion on 2 March, and the Senate membership of the committee was appointed on 9 March.

## BILLS

### Government Bills

#### ***Ozone Protection Legislation***

When the Senate resumed for the autumn sittings, a number of 1988 bills remained on the Notice Paper for consideration. The Ozone Protection legislation had completed its second reading stage in December. When the bills were considered in Committee, two Opposition amendments and three Government amendments were agreed to in relation to the Ozone Protection Bill, while an Opposition request for amendment, to remedy a drafting error, was agreed to in respect of each of the two related bills. The House of Representatives agreed to the Senate amendments to the Ozone Protection Bill, and made the requested amendments to the other two bills, on 6 March. The two request bills were read a third time after the House of Representatives agreement was reported to the Senate.

### ***Taxation Laws Amendment Bill (No. 3) 1988***

In Bulletin No. 37 (page 6) it was reported that two amendments, moved by the Democrats, had been agreed to in Committee, and that a third amendment would be the subject of further discussions.

When debate on the amendment resumed on 2 March, the amendment was agreed to, after division. A further amendment, moved by the Opposition, was also agreed to.

The House of Representatives agreed to all amendments on 6 March.

### ***International Bank for Reconstruction and Development (General Capital Increase) Bill 1988***

After considerable second reading debate, during which two second reading amendments were moved, unsuccessfully, to the Bill, consideration in Committee of the Whole resulted in three related Democrat amendments, with the third of these amended on the motion of the Opposition, agreed to.

The amendments were agreed to by the House of Representatives on 7 March.

### ***States Grants (Technical and Further Education Assistance) Bill (No. 2) 1988***

Bulletin No. 38 (pages 11-14) described the proceedings relating to the education package of bills. As indicated in relation to the Technical and Further Education Assistance Bill (page 13), the House of Representatives had insisted on disagreeing to two of the amendments made by the Senate in the Bill.

When debate on the message resumed on 6 March, the Minister representing the Minister for Employment, Education and Training (Senator Walsh) moved in the Committee of the Whole that the Senate not insist on the amendments to which the House of Representatives had insisted on disagreeing. In the course of the debate, it was indicated that a compromise had been reached which enabled eligible persons studying at non-Government business colleges to receive Austudy payments for their courses.

In the course of the debate on the education package as a whole, the question of amendments and requests had been canvassed. The Clerk of the Senate made available a paper on the question, which was tabled in Committee of the Whole, by leave, by Senator Teague.

The Clerk's paper is available from the Table Office.

### Private Senators' Bills

Two private senators' bills were introduced to the Senate on successive days, by the Leader of the Australian Democrats (Senator Haines). On 1 March, she introduced the Income Tax Assessment (Savings Accounts Interest) Amendment Bill, while on 2 March she introduced the Income Tax Assessment (Housing Loan Interest) Bill. Debate on the Bills was adjourned.

In Bulletin No. 38 (page 15-16) details were given of proceedings relating to the Regulation of Video Material Bill 1988. Second reading debate on the Bill resumed on 2 March. The Bill was again listed for debate on 9 March, but the Senate adjourned before general business could be considered on that day.

COMMITTEES (and see Privilege and Mr Justice Staples)

### Senate Committees

#### ***Agricultural and Veterinary Chemicals***

On 28 February, in accordance with the order of the Senate, the Chairman of the Select Committee (Senator Colston) tabled the Committee's progress report. The Committee is required to submit its final report by the end of 1989.

#### ***Administration of Aboriginal Affairs***

On 28 February, the Chairman of the Committee (Senator McMullan), also pursuant to Order of the Senate, presented the long awaited Report of the Select Committee. The Report, including two dissenting reports, was the subject of substantial debate on that day.

#### ***Community Affairs***

On 1 March, debate on the Report of the Committee on income support for the retired and the aged was called on during the time set aside for consideration for committee reports. The question that the Senate take note of the Report was put and passed.

On 7 March, Senator Crowley moved, by leave, a fresh motion to take note of the Report. Debate was immediately adjourned, and it is expected that the Report will be further considered when next consideration of committee reports is called on.

### ***Employment, Education and Training***

On 8 March, the Chairman of the Committee (Senator Aulich) tabled its Report entitled Education for Active Citizenship. The Report was debated later that day, and debate has been adjourned to enable other senators to participate. The Report was the subject of extensive media coverage.

### ***Legal and Constitutional Affairs***

On 1 March, the Chairman of the Committee (Senator Cooney) tabled the Committee's Report on Annual Reports of the Commonwealth Ombudsman and the Defence Forces Ombudsman. On 8 March, Senator Cooney tabled the Report on matters relating to the Defence Services Homes Amendment Bill 1988 (see Bulletin No. 38, page 21).

On 2 March, Senator McLean gave notice that four sitting days after that day he proposed to move that the fiduciary duty of banker to client be referred to the Committee. Senator McLean has made a number of statements, and has tabled substantial documentary material, during matters of public interest discussion. On 9 March, he indicated to the Senate that he had postponed the notice of motion till the next period of sittings, to enable all parties to discuss the proposed reference.

### ***Legislation Procedures***

As indicated in Bulletin No. 38 (page 18) the select committee in its unanimous report recommended a number of changes to procedure for the consideration of legislation. The motion agreed to when the Committee reported was that consideration of the changes be set down for early in the autumn sittings. Following inter-party discussions, the Manager of Government Business in the Senate (Senator Ray) moved on 28 February for the postponement of consideration of the Report until the first sitting day in April. The motion was agreed to.

When the Senate comes to consider the Report, the consideration will have precedence until the matters are decided.

### ***Procedure***

On 2 March, Senator Zakharov gave notice of a motion, for the next day of sitting, to refer the question of referring to in camera evidence in dissenting reports to the Procedure Committee (see Bulletin No. 37, page 11). The day for consideration was subsequently changed three times, by means of Senator Zakharov's writing to the Clerk of the Senate indicating that the change was sought. Finally, following negotiations with non-Government parties, Senator Zakharov amended the notice of motion, by means of a letter, to accommodate the requests of non-Government senators and moved an amended motion, as a formal motion (that is, without debate), on 9 March. The motion was agreed to, and the Committee is required to report to the Senate on or before 1 May.

Joint Committees

### ***Corporations Legislation***

This Committee was required to report to both Houses on the massive Corporations Legislation on 28 February. Owing to the nature of the material before it, however, on 28 February Senator Short, on behalf of the Committee, moved that the Committee be given an extension of time to report, to 13 April. The motion was agreed to by the Senate, and a message was sent to the House of Representatives on that day, seeking concurrence to the extension. The House of Representatives agreed to the extension, also on 28 February.

The Committee, as with all Joint Committees, operates under the Standing Orders of the Senate. Given its tight timetable, the Committee sought, and was granted on 1 March, permission of the Senate to holding a public hearing during the sittings of the Senate.

### ***Foreign Affairs, Defence and Trade***

On 9 March, Senator Shacht, on behalf of the Committee, tabled a report on the Australian International Development Assistance Bureau and Australia's Overseas Aid Program. Debate on the Report was adjourned.

### ***New Parliament House***

On 2 March, the House of Representatives referred a matter to the New Parliament House Committee, and so advised the Senate. On 9 March, the Committee reported on that matter, and also reported on the question of the construction of a community based childcare centre in the parliamentary zone. This second report included a minority report.

Senator Reid, by leave, moved that the Senate endorse the minority report, which opposed any decision to construct a childcare centre adjacent to the old Parliament House until the Government advised the Senate of its plans for the old Parliament House. After debate, the motion was lost following a division.

### ***Public Accounts***

In Bulletins No. 37 (page 8) and No. 38 (page 20), reference was made to the difference of opinion between the Public Accounts Committee and the Senate concerning the Committee's powers to sit in public during the sittings of the Senate.

On 28 February the President tabled correspondence between the Clerk of the Senate and the Secretary to the Attorney-General's Department on this question. Debate on the motion to take note of the papers was adjourned.

On 8 March a message from the House of Representatives was reported to the Senate, advising that the House of Representatives, pursuant to resolutions agreed to by both Houses in 1985, had rescinded a motion referring certain matters relating to computers to the Committee.

### ***Estimates Committees***

On 28 February additional information provided to Estimates Committee F in connection with the annual appropriations bills was tabled in the Senate (and see comments in Bulletins No. 37, page 13, and No. 38, page 20).

On 9 March, proposed additional expenditure by departments and authorities for 1988-89 was referred to the Committees, which are to report to the Senate on or

before 4 May 1989. The motion included a timetable for the sittings of the Committees. Following debate, the Manager of Government Business in the Senate (Senator Ray) amended the motion, to accommodate objections raised by non-government senators.

Senator Ray then tabled most of the departmental explanatory notes for the committees consideration; further explanatory notes were tabled later the same day.

#### Other Committee Matters

On 1 March, the Senate debated at length a motion, moved by the Leader of the Opposition in the Senate (Senator Chaney) pursuant to a suspension of standing orders, criticising the Minister for Aboriginal Affairs for his comments about the procedures of Senate committees and affirming the value of the role and functions committees perform. The motion was agreed to, after division.

#### OTHER MATTERS

##### Vacancy in the Representation of New South Wales

Immediately after prayers on 28 February the President advised the Senate of the resignation of a joint "Father of the Senate", Senator Gietzelt, on 27 February. He advised the Senate that he had notified the Governor of New South Wales of the consequent vacancy.

##### Disallowance of Export Control Orders

Bulletin No. 38 (page 5-6) reported the statement made by the President, and the tabling of papers, relating to the validity of resolutions of disallowance of export control orders. On 28 February the President tabled in the Senate an interlocutory judgement of the Federal Court relating to the disallowance. Copies of the judgement may be obtained from the Table Office.

##### Parliamentary Precincts

On 28 February, the President tabled instruments made under the *Parliamentary Precincts Act 1988*, in accordance with undertakings given during the passage of the Act.



On 3 March, the President made a statement to the Senate, and tabled guidelines, relating to the conduct of public demonstrations in the precincts.

#### Proposed Order for a Return

In Bulletin No. 38 (page 29), reference was made to the increasing use of the procedure for requiring the return of documents by order of the Senate. On 2 March, Senator Jenkins moved, as a formal motion, that information and correspondence relating to the Australian Capital Territory Electoral Bill 1988 be laid before the Senate. Her motion was unsuccessful, following a division.

#### Auditor-General's Special Audit Report on the Aboriginal Development Commission and the Department of Aboriginal Affairs

On 9 March, the Deputy-President (Senator Hamer) tabled this report on behalf of the President. Extensive debate ensued on the motion that the Senate take note of the report. Debate was adjourned till the next day of sitting.

#### Motions relating to Domestic Violence and International Women's Day

On 28 February, Senator Crowley gave a notice of motion criticising an Opposition senator for reported comments that he regarded domestic violence as "a soft issue". Following determination of the motions relating to the reference to committees of matters relating to tenure of appointments to Commonwealth tribunals (see MR JUSTICE STAPLES, above), Senator Hill, pursuant to contingent notice, moved that Senator Crowley's notice of motion be immediately considered. This motion was agreed to. Senator Crowley's motion having been taken to be moved, it was withdrawn, by leave of the Senate, after debate.

The Minister for Local Government (Senator Reynolds) thereupon moved, also by leave, that the Senate condemn widespread domestic violence in the community. The question was immediately put and passed.

On 8 March, Senator Hill moved, by leave, a general business notice of motion, which he had given the previous day, relating to International Women's Day. The motion was agreed to, again after substantial debate, before the Senate rose that evening.

## **Questions on Notice — Explanation Pursuant to Order**

Bulletin No. 38 (pages 2-3) described the first use of an order of the Senate of 28 September 1988, concerning answers to questions on notice. On 8 March, Senator Crichton-Browne, pursuant to that order, asked the Minister representing the Minister for Aboriginal Affairs (Senator Tate) for an explanation of why answers had not been provided to two questions placed on notice on 21 December.

Senator Tate having given an explanation, Senator Crichton-Browne moved that the Senate take note of the explanation. In doing so, he expressed dissatisfaction at the explanation and indicated that, if satisfactory answers to the questions he had asked were not forthcoming, he would take further action on the matter.

### "Ring the Bells"

Attention is drawn to a program broadcast on Radio National, at 10.40pm on Fridays, with a repeat at 8.30am on Saturdays. The focus of the program is on parliamentary procedures and events. The first three programs have included interviews with the Speaker of the House of Representatives, a number of senators and Members, the Clerk of the Senate and the Usher of the Black Rod.