

Procedural Information Bulletin No. 45

For sitting period 26 September to 6 October 1989

CENSURE MOTIONS

During the fortnight's sitting, three censure motions were debated in the Senate. The first was moved on 26 September by the Leader of the Opposition in the Senate (Senator Chaney) after standing orders were suspended, pursuant to contingent notice, to enable him so to do. The censure concerned the government's mismanagement of the airline dispute, and was agreed to, after debate, without a division.

The second censure proposal arose as a result of actions taken in the Senate on 3 October. On that day, the Senate was scheduled to adjourn soon after question time, to enable Estimates Committees to meet. Pursuant to standing order 64, however, Senator Jenkins (Australian Democrats) proposed a discussion of a matter of public importance. The proposal was supported, and Senator Jenkins began her speech.

In the course of her speech, notice was twice taken of the absence of a quorum. On the first occasion, a quorum was formed. On the second occasion, after the bells were rung for four minutes, a quorum was not present. The Acting Deputy-President (Senator Colston) adjourned the Senate, and the names of those senators present at the time of the count out were recorded in the *Journals of the Senate*.

On 4 October the Leader of the Australian Democrats (Senator Haines) gave notice that on the next day of sitting she would move that the Senate, noting the absence of a quorum and the subject of the matter of public importance, censure Senator McKiernan, as Deputy Whip, for his actions in discouraging or preventing the formation of a quorum. At Placing of Business on the same day, Senator Haines, pursuant to contingent notice, moved a motion to suspend standing orders to enable her to give precedence to the notice of motion. The suspension of standing orders was passed. Senator Haines then moved that the motion of which she had given notice be called on forthwith and have precedence over all other business on that day till determined. This motion was also agreed to without debate. Senator Haines then moved the censure motion.

During the debate Senator Puplick moved an amendment to the motion, to note that it was the clear responsibility of "the government and its whips" to maintain the quorum in the Senate and to censure the government and its whips for their failure to do so. Senator Macklin moved an amendment to Senator Puplick's amendment, to leave out "the government and its whips" first occurring and to insert "all senators", thereby asserting that all senators have the responsibility of keeping the quorum.

Senator Macklin's amendment to Senator Puplick's amendment was agreed to, after division; Senator Puplick's amendment, as amended, was agreed to, also after division; and Senator Haines' motion, as amended, was agreed to without division. Had Senator Macklin's amendment not been passed, the Senate would have asserted that it is the responsibility of the government to keep a quorum, a proposition often stated but with no procedural foundation and never given any credence by the Senate.

On 6 October Senator McLean gave a notice of motion to provide that, when the attention of the Chair is drawn to the absence of a quorum while a senator is speaking, the time taken for the formation of a quorum is not to be deducted from the time available for the senator to speak. This motion has yet to be moved.

On 5 October the Leader of the Opposition in the Senate (Senator Chaney), pursuant to contingent notice, moved the suspension of standing orders to enable him to move a censure motion relating to the Leader of the Government in the Senate (Senator Button). The question was put and passed after debate. Senator Chaney then moved that the Senate censure the Leader of the Government in relation to concerns about air safety arising from the pilots' dispute. The motion was negatived after a division.

SUB JUDICE RULING

On 27 September, during the adjournment debate, Senator Dunn commenced a speech relating to the Hilton Bombing. The Minister for Foreign Affairs and Trade (Senator Evans) raised a point of order to the effect that Senator Dunn's speech appeared to be canvassing matters at issue in a criminal trial and therefore involved a substantial danger of prejudice to that trial. The point of order was upheld by the Acting Deputy-President (Senator Colston) who ruled that Senator Dunn should not continue her remarks. He suggested that Senator Dunn consider reframing her speech so as to avoid that danger. Senator Dunn has not further spoken on the matter.

PRIVILEGE

Bulletin No. 42 reported (p.3) that the Chair of the Committee of Privileges (Senator Giles) had tabled two reports on references before the Committee. The first related to the Drugs in Sport Inquiry, while the second related to possible interference with witnesses before a Select Committee on Aboriginal Affairs. When tabling the reports, Senator Giles moved a motion in relating to each that the Senate endorse the findings set out in specified paragraphs of the reports. The findings were endorsed by the Senate on 4 October.

FINANCE AND PUBLIC ADMINISTRATION COMMITTEE

On 26 September the Chairman of the Finance and Public Administration Committee (Senator Coates) gave a notice of motion seeking a further extension of time for the Committee to report on its reference on the Annual Report 1987-88 of the Aboriginal Development Commission (see Bulletin No. 43, p. 4). The notice of motion specified 11 October as the date on or before which the report might be presented. As 11 October was not proposed as a sitting day of the Senate, the notice of motion also included provision for the report's presentation to the President of the Senate or, in his absence, the Deputy-President.

Before the motion was moved, it was realised that both the President and Deputy-President would be absent overseas on parliamentary business. The notice of motion was therefore amended, pursuant to standing order 109, to provide for the report's presentation to any one of the temporary chairmen of committees. The amended motion was agreed to on 27 September.

On 5 October Senator Coates gave a further notice of motion, to extend the time for presentation to 2 November. The motion was agreed to as a formal motion on 6 October.

On 27 September Senator Coates made a statement to the Senate, explaining why the Committee had agreed that a reference relating to the Australian Dairy Corporation and P.T. Indomilk, which it had initiated in 1982 under its general terms of reference relating to statutory authorities, should not be further proceeded with. On 4 October a report of the Committee, which included as an appendix the Chairman's statement, was tabled in the Senate. The reference has been removed from the notice paper.

ANIMAL WELFARE COMMITTEE

On 4 October the Chairman of the Committee (Senator Devlin) tabled a report on Sheep Husbandry. The report was the subject of debate on tabling, and further consideration has been adjourned until consideration of committee reports.

PROPOSED SELECT COMMITTEE ON AIR SAFETY ISSUES ARISING OUT OF THE PILOTS DISPUTE

At the conclusion of question time on 3 October the Leader of the Opposition in the Senate (Senator Chaney) gave a notice of motion, by leave, for the establishment of a select committee. On 4 October Senator Chaney and the Manager of Government Business in the Senate (Senator Ray) made statements indicating that negotiations were being undertaken in relation to the establishment of the select committee. On 6 October Senator Ray, when moving a motion, by leave, to change the membership of Estimates Committee B, indicated that it had been agreed that the matters which would have been the subject of the Select Committee's inquiry were to be considered by the Estimates Committee, which had agreed to reconvene for this purpose. The Committee is to meet to consider the matters on 11 October.

ESTIMATES COMMITTEES

Estimates Committees have met during the past sitting fortnight, and propose to meet on 9, 10, 18 and 23 October, in addition to the special meeting of Estimates Committee B on 11 October (see Proposed Select Committee on Air Safety Issues arising out of the Pilots' Dispute, above). As at 9 October only one of the six Committees had completed its hearings. Other committees have met extensively, one committee having completed its consideration of the estimates of its first department at 3.30 a.m. on 6 October.

Estimates Committee A examined extensively the proposed estimates for the four parliamentary departments which it is required to examine. An exchange of correspondence between the President of the Senate, the Leader of the Government in the Senate (Senator Button) and the Minister for Finance (Senator Walsh) relating to appropriations for the Senate was, as has become customary, incorporated in the *Hansard* of Estimates Committee A. The correspondence reveals that there has again been a dispute between the President and the Minister for Finance over the latter's non-compliance with procedures laid down by the Senate for the determination of the Senate's appropriations.

ADVANCE TO THE PRESIDENT OF THE SENATE 1988-89

On 26 September the President tabled a statement relating to moneys made available under the Advance to the President 1988-89 in supplementation of existing appropriations for the Senate. The President also tabled a letter from the Clerk of the Senate relating to the tabling of the statement. This document is comparable to the document known as Expenditure under the Advance to the Minister for Finance, which is tabled annually and which is referred to Estimates Committees (see Bulletin No. 44, p. 11).

AUDITOR-GENERAL

Bulletin No. 44 (p. 7) drew attention to a question asked by Senator Peter Baume on 7 September concerning correspondence from the Auditor-General relating to the Explanatory Notes of the Aboriginal Development Commission. The President tabled the relevant correspondence, from the First Assistant Auditor-General, on that day.

On 26 September the President tabled a letter from the Auditor-General, advising that the Explanatory Notes of the Aboriginal Development Commission had been revised, to the satisfaction of the Auditor-General's Office. The Manager of Government Business in the Senate tabled the explanatory notes, including the revision, after the President had reported the correspondence.

The Auditor-General's final report on the special audit of the ADC and the Department of Aboriginal Affairs was tabled on 5 October.

On 27 September the President tabled further correspondence from the Auditor-General, this time relating to his proposals (see Bulletin No. 44, p. 6) to report on departments and authorities individually.

BILLS AMENDED

As reported in Bulletins Nos. 43 and 44 (pp. 7 to 8, and 2 to 3), a significant amount of time has been taken up by Senate consideration of Aboriginal affairs legislation. Debate in committee of the whole on the Aboriginal and Torres Strait Islander Commission Bill continued on most days of the past fortnight when Estimates Committees were not sitting. The Bill has been further, substantially amended and, as indicated under Notices of Motion below, the Senate will meet again during the week beginning 16 October to complete its consideration of the legislative package.

Debate on the Aboriginal Affairs package was, however, interrupted to consider two other government bills.

On 27 September, the Senate debated the National Health Amendment Bill 1989 and, during consideration in committee of the whole, made two amendments to the bill. The amendments were to quash a controversial determination of the Pharmaceutical Benefits Tribunal. These amendments were considered by the House of Representatives on 4 October. The House of Representatives disagreed to the first amendment, but substituted another amendment, and disagreed to the second amendment made by the Senate. The House of Representatives Message will be considered by the Senate in committee of the whole.

The Superannuation and Other Benefits Legislation Bill 1989 was agreed to by the Senate on 6 October without amendment.

NOTICES OF MOTION

During the fortnight's sitting period, unusual notices of motion were a feature of proceedings. As indicated in relation to censure motions above, on 4 October Senator Haines gave a notice of motion which was dealt with on that day.

In addition, on 3 October Senator McLean gave a notice of motion, in general terms pursuant to standing order 110, relating to A.C.T. Fire Brigade officers. On 6 October Senator McLean gave a contingent notice of motion which provides that, if the Minister responsible for the Australian Capital Territory (Senator Richardson) does not table in the Senate, at or before the placing of business on 1 November, a detailed statement relating to the A.C.T. Fire Brigade officers, Senator McLean will move for the suspension of standing orders to enable him to move a motion criticising the Minister for his failure to address serious issues concerning the rights of A.C.T. and New South Wales firefighters and to appoint a Senate Select Committee to report upon the issues. Senator McLean thereupon withdrew the notice given in general terms.

Bulletin No. 44 (p. 12) drew attention to the possibility that the Senate might be required to sit during the week beginning 16 October. On 26 September the Manager of Government Business in the Senate (Senator Ray) gave notice that he would move 7 sitting days after that day a motion relating to the days and hours of meeting on that week, and the routine of business. The primary purpose of the motion was to enable further consideration of the ATSIC legislation. The routine of business therefore provided that with the exception of questions, and, on Tuesday 17 October only, any proposal pursuant to standing order 64, the Senate would meet to consider government business only.

When the notice of motion came on for debate on 6 October the Minister, by leave, amended the notice to add to the routine of business matters such as notices of motion and discovery of formal business and, further, to provide for the discussion of

any proposal pursuant to standing order 64 on Tuesday, Wednesday and Thursday of that week. The motion was agreed to after debate.

The Manager has indicated that, if the ATSIIC legislation is completed earlier than Friday, 20 October, the Senate will adjourn till the following week.

On 3 October, Senator Puplick gave a notice of motion on his own behalf, and on behalf of Senators Teague and Patterson, relating to the death of Archbishop Penman. The motion was agreed to as a formal motion on 4 October.

SUSPENSION OF SITTING OF THE SENATE ON MOTION

As discussed under Censure Motions above, three motions were moved to censure the government during the fortnightly period. The second motion moved by Senator Chaney was moved on 5 October, a day on which the Senate proposed to adjourn to enable Estimates Committees to meet. As the debate on the motion did not conclude until nearly 1.00 p.m. on that day, other business, such as questions, had not been reached, but there was no provision for the suspension of the sittings of the Senate. Accordingly, when the debate on the censure motion had concluded, the Senate agreed on the motion of the Manager of Government Business in the Senate (Senator Ray) to suspend sitting till 2.00 p.m. The Senate adjourned at 4.04 p.m., and sittings of Estimates Committees commenced soon after.

SUSPENSION OF SENATOR

The suspension of a senator for disorderly conduct is nowadays a rare occurrence, but on 4 October Senator Vallentine was suspended for disregarding the authority of the Chair by continuing to speak when called to order.