

Procedural Information Bulletin No. 48

For the sitting period 4 December to 22 December 1989

LEGISLATION: BILLS AMENDED

The House of Representatives having risen on 30 November, the Senate continued to sit for the following 4 weeks, to consider a significant amount of legislation which was forwarded to it from the House, and a number of bills which had been introduced into the Senate.

Most bills had been introduced in accordance with the Senate's deadline of 24 November; certain bills which did not meet the deadline were, in accordance with the order of the Senate of 6 September, automatically made an order of the day for the first sitting day in 1990. One bill, the Excise Tariff Amendment Bill (No.2) 1989, for which exemption from the order had not been sought when it was introduced into the Senate, subsequently, on 12 December, was exempted from the order and was debated together with customs legislation. Two Senate bills, which were introduced as a matter of urgency — the Migration Legislation Amendment Bill (No.2) 1989 and the Foreign Corporations (Application and Laws) Bill 1989 — were also exempted from the cut-off motion, and passed both Houses before the Senate rose for the summer adjournment.

The Senate amended the following bills:

- Industry Commission Bill 1989
Democrat amendments agreed to 5 December.
- Taxation Laws Amendment Bill (No.5) 1989
Democrat amendments agreed to 7 December.
- Sales Tax (Exemptions and Classifications) Amendment Bill (No.2) 1989
Government and Democrat amendments agreed to 11 December.
- Sales Tax (Computer Programs) Amendment Bill 1989
Government amendments agreed to 11 December.
- Community Services and Health Legislation Amendment Bill (No.2) 1989
Opposition amendments agreed to 12 December.
- Therapeutic Goods Bill 1989
Government, Opposition and Democrat amendments agreed to
12 December.

- Therapeutic Goods (Charges) Bill 1989
Democrat amendment agreed to 12 December.
- Customs and Excise Legislation Amendment Bill (No.4) 1989
Opposition amendments agreed to 14 December.

Certain clauses were omitted from the bill following their recommittal, by leave, after some Opposition senators accidentally missed a division.

- Aboriginal Land Rights (Northern Territory) Amendment Bill 1989
Government amendments agreed to 18 December.
- Hazardous Waste (Regulation of Exports and Imports) Bill 1989
Government and Democrat amendments agreed to 19 December.
- Law and Justice Legislation Amendment Bill 1989
Government amendments, including one as amended by an Opposition amendment, and a further Opposition amendment agreed to 19 December.
- Primary Industries and Energy Research and Development Bill 1989
Government and Opposition amendments, including two Opposition amendments as amended by government amendments, and Democrat amendments agreed to 20 December.
- Electoral and Referendum Amendment Bill 1988
Government amendments agreed to 20 December.

Certain clauses were left out of the bill by agreement and certain Government and Democrat amendments were withdrawn.

The House of Representatives returned on 21 and 22 December to consider the Senate's amendments. It agreed to all the amendments made by the Senate to all of the bills, with the exception of the Sales Tax (Exemptions and Classifications) Amendment Bill (No.2), the Sales Tax (Computer Programs) Amendment Bill and the Community Services and Health Legislation Amendment Bill (No.2), for which the House substituted other amendments for certain amendments made by the Senate. In each case, the Senate accepted the substituted amendments.

A feature of amendments made by the Senate to the Community Services and Therapeutic Goods Bills is that certain subordinate legislation provided for under the bills will not take effect until it is approved, in the same form, by each House of the Parliament. These amendments provide an example of what is in effect the affirmative resolution procedure, which is common to many legislatures in their examination of subordinate legislation, but which has not been a feature of Australian federal legislation. The House of Representatives, in agreeing to the amendments, with some modifications in relation to the Community Services Legislation, has accepted the principle of parliamentary control, by a requirement for affirmation by each House, over complex and often far-reaching subordinate legislation.

In addition to considering for the first time, and amending, government legislation, the Senate also considered House of Representatives messages in relation to the National Health Amendment Bill 1989 and the Income Tax Assessment Amendment Bill 1989, in relation to both of which the House of Representatives insisted on disagreeing to amendments insisted on by the Senate. On 11 December, the Senate again insisted on the amendments in both cases. When the messages were reported to the House of Representatives on 21 December, that House resolved that the consideration of the Senate messages in committee of the whole be an order of the day for the next day of sitting. When the House of Representatives rose on 22 December, the messages had not been considered and thus the passage of the bills was not effected during 1989.

When the Senate adjourned, also on 22 December, it had completed the second reading stage of the Privacy Amendment Bill 1989. This bill had been introduced in June 1989, and when it was called on for debate on 2 November the Minister responsible for the legislation (Senator Bolkus) tabled substantial amendments on behalf of the government. The Opposition moved a second reading amendment at that time, the effect of which, had the motion been successful, would have been to negative the bill at second reading stage. When debate concluded on 22 December, however, the amendment was defeated, and the motion for the second reading was agreed to. Following the second reading of the bill, Senator Hill, on behalf of the Opposition, proposed that it be referred to the Standing Committee on Legal and Constitutional Affairs. This motion was also defeated. The Minister thereupon moved that consideration of the bill in committee of the whole be an order of the day for the next day of sitting.

Special orders to allow bills introduced separately to be taken together were made on 5, 11, 12, 14, 18 and 21 December in relation to various bills. Bills taken together with other bills were reported separately from committee on 13 December.

On 7 December the Manager of Government Business in the Senate (Senator Ray) introduced the Senate (Quorum) Bill 1989. This bill proposes to reduce the quorum of the Senate from one-third to one-quarter, and follows debate on the Legislation Procedures Report discussed below. Debate on the bill was automatically adjourned until the first sitting day in 1990.

PRIVATE SENATORS' BILLS

On 7 December the Senate debated the Smoking and Tobacco Products Advertisements (Prohibition) Bill 1989, introduced by Senator Powell. The bill was agreed to, following passage of a substantial number of government amendments, on that day. The House of Representatives agreed to the bill without amendment on

22 December. This bill is thus one of a select group of private members' bills, only 12 since federation, which has secured passage through both Houses.

The following private senators' bills were introduced during the period:

- Federal Court (Grouped Proceedings) Bill 1989 (Senator Haines) — introduced 11 December
- Industrial Relations (Right to Strike) Amendment Bill 1989 (Senator McLean) — introduced 14 December.

In addition, two private senators gave notice that they proposed to introduce the following bills:

- Commonwealth Electoral Amendment Bill 1989 (Senator Dunn) — notice of motion given 14 December.
- Motor Vehicle Standards Emission Quotas Amendment Bill 1990 (Senator Coulter) — notice of motion given 22 December.

COMMITTEES: REFERENCE OF BILLS

Committee activity continued to occupy the time of senators and the Senate during the 4 week period.

The most significant development relating to committee work, with the potential to enhance the operations of all Senate committees, occurred on 4 and 5 December, when the recommendations of the Select Committee on Legislation Procedures were debated. Debate on the recommendations occurred on Monday evening, by agreement between all parties in the Senate, and the vote on each recommendation, and amendments moved by a number of senators, was taken on Tuesday, 5 December.

The major effect of the recommendations is to facilitate more frequent reference of bills to standing committees and, as a result of an amendment moved by Senator Watson, select committees if required.

Also included in the recommendations are new procedures relating to the consideration of appropriation bills in committee of the whole, powers of estimates committees and limitation of debate in relation to motions for the suspension of standing orders. The procedures also establish that Wednesdays of sitting weeks will be reserved for committee meetings.

A Selection of Bills Committee has been appointed, in accordance with the recommendations, and members were appointed to the Committee on 18 December. Their term of appointment was expressed to come into effect on the first sitting day

in 1990, when the new procedures adopted by the Senate will also come into effect. As a result of an amendment moved by Senator Ray, by leave, the new procedures will operate till the end of the current session of Parliament.

Debate on two Procedure Committee reports was postponed till the first sitting day in 1990, while a further order of the day, for the consideration of the second report of the Procedure Committee relating to time limits on debate on the suspension of standing orders, was discharged from the notice paper because that recommendation was adopted during consideration of the Legislation Procedures Committee report.

Another recommendation of the Select Committee, that the quorum of the Senate be reduced from one-third to one-quarter, was supported in principle by the Senate, and led to the introduction of the Senate (Quorum) Bill, referred to under LEGISLATION above.

COMMITTEE REPORTS PRESENTED (and see PRIVILEGE)

The Finance and Public Administration Committee presented its report on the Annual Report of the Aboriginal Development Commission on 13 December.

On 20 December, the Chairman of the Committee (Senator Coates) tabled correspondence between himself and others relating to the Committee's report, tabled on 4 October, on the proposed sale of the Australian Dairy Corporation shareholding in PT Indomilk.

The Transport, Communications and Infrastructure Committee presented its report on the Federal Airports Corporation and the Civil Aviation Authority on 13 December. The Committee membership had been augmented for the purpose of this inquiry, and Senator MacGibbon, one of those members appointed for the inquiry, included a dissenting report on certain aspects of the inquiry.

The annual report 1987-88 of the Scrutiny of Bills Committee was tabled on 14 December.

The Environment, Recreation and the Arts Committee report on environmental impact of development assistance was tabled on 22 December.

The New Parliament House Committee presented a report on a proposed Child Care Centre, recommending that it be built in the House of Representatives gardens of the Provisional Parliament House, on 21 December. The report included a dissenting report, and was the subject of vigorous debate upon tabling.

The Select Committee on Certain Aspects of the Airline Pilots' Dispute presented an interim report on 21 December. This report also included a dissenting report.

Also on 21 December, the Joint Standing Committee on Electoral Matters presented its report on the ACT Election and Electoral System.

EXTENSIONS OF TIME TO REPORT

Extensions of time to report were granted by the Senate to the following committees:

- Health Legislation and Health Insurance — to 31 May 1990
- Legal and Constitutional Affairs — report on debt recovery — to last sitting day in March 1990.
- Agricultural and Veterinary Chemicals in Australia — to 30 March 1990.
- Certain Aspects of the Airline Pilots' Dispute — to 28 February 1990 (interim report presented 21 December)

AUTHORITY TO PRESENT REPORTS WHEN SENATE NOT SITTING

The following committees were granted authority to report when the Senate is not sitting:

- Community Affairs — report on accommodation for people with disabilities
- Industry, Science and Technology — report on current Australian experience with new management techniques in manufacturing industry
- Environment, Recreation and the Arts — report unspecified (and see PRIVILEGE)

LEAVE TO MEET DURING SITTINGS OF THE SENATE

Previous bulletins have mentioned the reluctance of the Senate to grant permission for committees to meet while it is sitting, and in principle it agrees only under specified and limited circumstances. The Senate granted such permission to the Joint Committee on Foreign Affairs, Defence and Trade, to enable that committee to sit on 11 December, and to the Joint Select Committee on Migration Regulations to meet on 7 December from 3 to 4 p.m. Leave to move a motion relating to the latter committee was refused on 6 December and the proposed motion was modified.

OTHER COMMITTEE MATTERS

On 22 December the Senate authorised the publication of certain submissions received by the Select Committee on Private Hospitals and Nursing Homes. The permission of the Senate was required because the Committee is no longer in existence, the Committee itself had not, during the course of its inquiry, authorised such release, and the submissions were less than 10 years old and were therefore not covered by the Senate's order of 6 September 1984.

The Acting Deputy-President (Senator Colston), on behalf of the President, tabled the President's report to the Senate on government responses outstanding to committee reports as at 22 December.

Additional information received by Estimates Committee A was tabled on 4 December, and by Estimates Committee F on 21 December.

ANNUAL REPORTS — CONSIDERATION

On 14 December the Deputy-President (Senator Hamer) successfully moved a motion, which was not objected to as a formal motion, relating to the consideration of all annual reports presented to the Senate. The motion, acknowledging the President's acceptance of a recommendation of the report of the Standing Committee on Finance and Public Administration on the timeliness and quality of annual reports, lays down a procedure whereby the President will present a list of such annual reports showing the date required for presentation and the actual date of presentation, and any statement of reasons provided to the Senate for the late presentation of reports. The motion also provides for the reference of all reports to standing committees, as at present, but requires each committee to examine each report and report to the Senate whether the report is apparently satisfactory and also requires each committee to consider in more detail and report to the Senate on any annual report which is not apparently satisfactory. The committees are also required to investigate and report to the Senate on any lateness of presentation of reports.

PRIVILEGE

Bulletin No. 46, p 6, drew attention to a question asked by Senator Peter Baume of the Chairman of the Senate Select Committee on Health Legislation and Health Insurance (Senator Crowley). The question related to an alleged unauthorised disclosure to an officer of a department of a submission to that committee.

On 5 December the President reported to the Senate that he had received a letter from the chairman of the Select Committee, Senator Crowley, raising a matter of

privilege in relation to the question, and had determined under the Privilege Resolutions that a notice of motion should have precedence. Senator Crowley thereupon gave the notice of motion, and the matter was referred to the Committee of Privileges without debate on 6 December.

The Committee of Privileges presented two reports relating to matters previously referred to it, on 21 and 22 December, respectively. The 20th Report, tabled on 21 December, concerned possible unauthorised disclosure of a Senate committee report. The Committee found that unauthorised disclosure had occurred but recommended that the Senate take no action in the matter. The report also made a number of recommendations concerning procedures relating to the tabling of reports.

The Committee's 21st Report, tabled on 22 December, concerned the possible adverse treatment of a witness before the Select Committee on the Administration of Aboriginal Affairs. The Committee found in this case that a contempt had been committed, although not a serious contempt. Under the provisions of the Privilege Resolutions, if the Committee determines a finding which it proposes to include in its report to the Senate, any person adversely affected by such a finding must be acquainted and afforded all reasonable opportunity to make submissions to the Committee. The Committee is required to take such submissions into account before making its report to the Senate. The Committee, having determined that a contempt had been committed, notified the persons affected. To enable the persons to respond within a reasonable time, the Chair of the Committee (Senator Giles) sought and received from the Senate authority to present the report when the Senate was not sitting. In the event, submissions were made to the Committee in time for it to make its report to the Senate before the Senate rose.

The Privilege Resolutions further provide that any motion in the Senate to determine that a person has committed a contempt or to impose a penalty upon a person for a contempt may not be moved unless notice of the motion has been given not less than 7 days before moving the motion. Accordingly, when tabling the report, Senator Giles gave a notice of motion, by leave, which provided that the motion could not be moved until 7 sitting days after the day on which the notice was given. So far as penalty is concerned, the Committee has recommended that no further action should be taken in relation to the matter.

DELEGATED LEGISLATION

In addition to the normal procedures undertaken by the Regulations and Ordinances Committee, including giving notices of motion for disallowance of certain delegated legislation, and notices of intention to withdraw disallowance notices on receipt of explanations satisfactory to the Committee under its principles, or agreement by ministers to amend delegated legislation to satisfy the Committee's requirements, two further matters of procedural interest occurred in the Senate.

During question time on 14 December Senator Patterson asked the Minister representing the Minister for Community Services and Health (Senator Cook) why certain National Health (Pharmaceutical Benefits) Regulations had not been tabled, and tabled the regulations with the leave of the Senate. Normally, regulations are forwarded to the Clerk for tabling soon after they are made. The effect of Senator Patterson's tabling was the same as if the Clerk had tabled the regulations, that is, the 15 sitting days in which notice of motion of disallowance must be given began to run on the day after the regulations were tabled by leave. On 21 December Senator Puplick gave a notice of motion for the next day of sitting for the disallowance of the regulations. The motion was moved and agreed to on 22 December.

In relation to other National Health Regulations, on 18 December the Chairman of the Regulations and Ordinances Committee (Senator Collins) gave notice of his intention to withdraw a notice of disallowance. Pursuant to standing order 109A, Senator Vanstone indicated to the Senate her wish that the notice not be withdrawn, and her name was thereupon put on the notice of motion. On 21 December Senator Vanstone in turn gave notice of her intention to withdraw the notice, and on 22 December Senator Puplick on her behalf withdrew the notice.

As is customary each year, the Chairman of the Regulations and Ordinances Committee (Senator Collins) made a statement to the Senate on 21 December relating to the operations of the Committee during 1989.

On 7 December the Deputy-Chairman of the Regulations and Ordinances Committee and Leader of the Australian Delegation to the Third Commonwealth Conference on Delegated Legislation, Senator Bishop, made a preliminary statement to the Senate about the Commonwealth Conference, indicating that a full report would be presented to the Senate when the proceedings became available. All members of the delegation participated in debate on the statement.

ORDER FOR RETURN

On 7 December Senator Tambling gave a notice of a motion ordering that a paper relating to Aboriginal Affairs be tabled in the Senate on or before 14 December. The motion, moved by Senator Reid on Senator Tambling's behalf on 11 December, was agreed to as a formal motion on that day. The Minister representing the Minister for Aboriginal Affairs (Senator Tate) tabled the return to order on 13 December.

CONSIDERATION OF GOVERNMENT PAPERS

As the period of sittings drew to a close, many government papers were tabled daily. It was obvious that, with some 20 papers being tabled daily and the normal

Thursday General Business consideration unavailable for papers not reached each day, many papers would not be considered without special arrangements. Accordingly, on 7 December the Minister for Justice (Senator Tate) moved, by leave, a motion to enable government papers presented on one day to be considered on each of the following days until determined. This motion was agreed to. While this procedure provided some opportunity, at least, for papers to be considered, by Friday 22 December almost 100 papers remained on the notice paper for consideration.

On 13 December arrangements were made to extend the time for consideration of government papers by 30 minutes, to enable consideration of papers relating to the pulp and paper industry. The time available to speakers on the papers was also extended.

On 14 December, the government response to the report of the Senate Foreign Affairs, Defence and Trade Committee report on visits to Australia by nuclear-powered or armed vessels not having been reached, Senator Dunn sought leave to move that the Senate take note of the response. Leave was refused. Senator Dunn thereupon, pursuant to contingent notice, moved a motion for the suspension of standing orders to enable her to move a motion to provide for consideration of the response. After debate, this motion was lost following a division. Subsequently, on 19 December, Senator Vallentine gave a notice of motion relating to the response. This notice has not as yet been debated.

COUNT OUT

On 18 December, during the adjournment debate, the Senate was adjourned for want of a quorum. On 19 December Senator Vallentine gave a notice of motion concerning the count out, drawing particular attention to the importance of the adjournment debate to independent senators. This motion has not yet been debated.

PROPOSAL FOR ELECTRONIC VOTING

On 19 December Senator Macklin gave a notice of motion calling on the President to examine the effectiveness of electronic voting systems in other parliaments and report to the Senate on the first sitting day in 1990 about the applicability of electronic voting in the Senate. On 20 December Senator Macklin moved a successful motion to postpone the notice. On 21 December he gave a fresh notice of motion on the same subject and this motion was agreed to as a formal motion on 22 December.

OTHER NOTICES OF MOTION

On 18 December Senator Crichton-Browne gave a notice of motion concerning the representation of Australian Athletes at the Commonwealth Games in New Zealand.

On 19 December, after objection was raised to this notice of motion being taken as a formal motion, Senator Crichton-Browne moved for the suspension of standing orders to enable him to move the motion. The motion for suspension of standing orders was agreed to. Senator Crichton-Browne thereupon moved the motion relating to the Commonwealth Games and, after some debate, Senator Jenkins moved that the debate be adjourned to a later hour. This motion was agreed to, after division. Later that day the Minister for Justice (Senator Tate) moved that intervening business be postponed until after further consideration of Senator Crichton-Browne's motion. This motion having been agreed to, the order of the day was called on and Senator Crichton-Browne's motion was agreed to after debate and division.

On 20 December Senator Giles sought to have a motion on Apartheid declared formal. Objection being raised, leave was refused. Later on that day, however, following negotiations, Senator Giles moved the motion, by leave. The motion was agreed to.

Also on 20 December Senator Hill gave a notice of motion relating to Romania. This motion, too, was moved by leave later on that day. Leave in this case was required because a notice of motion does not have effect on the day on which it is given.

PARLIAMENT HOUSE ADVISORY PANEL

On 4 December the President reported a message from the House of Representatives seeking the concurrence of the Senate in the appointment of a Parliament House Advisory Panel to advise the Presiding Officers on proposals for alterations to Parliament House. The President made a statement on the matter, explaining that the terms of the proposal had been discussed between the Minister for Administrative Services and the Presiding Officers. Consideration of the message in committee of the whole was made an order of the day for the next day of sitting, but the Senate did not consider the matter further before it rose on 22 December.

REPORT OF PARLIAMENTARY DELEGATION

On 21 December Senator Hamer, as Deputy Leader of the Parliamentary Delegation to the European Parliamentary Institutions, the North Atlantic Assembly, Cyprus and Portugal, tabled the delegation's report by leave and moved that the Senate take note of the report. Senator Hamer then also by leave moved that further consideration of the report be made an order of the day under consideration of

committee reports, rather than under general business. This procedure should ensure that the report comes on for debate early in the 1990 sittings.