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For the sitting period 11 to 20 September 1990

CONSIDERATION OF BILLS BY COMMITTEES

The new procedures for the consideration of bills by committees, agreed to by the Senate on 5 December 1989, at last began to operate, and there were some difficulties, largely caused by misunderstandings.

On the first day of the sittings, 11 September, Senator Hill made a statement by leave immediately after question time indicating that the Opposition was concerned about an apparent attempt to restrict the standing committees to committee of the whole procedures when dealing with bills. The committee chairmen, and apparently the government, had made a decision that each standing committee would adopt procedures for dealing with bills which would basically have them follow committee of the whole procedures. Senator Hill indicated the Opposition's belief that it was not intended that the committees be restricted in that way. The result of the debate which followed was that consultations were to take place between senators on the procedures to be followed by the standing committees.

The report of the Select Committee on Legislation Procedures, which recommended the new system, made it clear that each standing committee would be free to adopt whatever method of proceeding it judged appropriate for each bill before it.

During the debate Senator Ray, the Manager of Government Business in the Senate, stated that if he had known that it was intended that the committees hold public hearings of evidence he would not have agreed to the new procedures, although the select committee report makes it clear that the hearing of evidence was to be an option open to committees.

The result of the further consultations is not yet known, but it appears from the debate that the non-government senators at least will insist that the committees be able to hear evidence on bills if they think it appropriate.

Standing committee reports on 3 bills were presented on 13 September, and the first report immediately led to disputation. When the Standing Committee on Transport,

Communications and Infrastructure reported the Airlines Agreement (Termination) Bill 1990, Senator Reid sought leave to move a motion that the report not be received, indicating that, in the view of the Opposition, the committee had not properly considered the bill because it had met at a time when some members were not available. The Deputy-President ruled that the proposed motion would not be in order because the report had already been tabled and, therefore, received. Senator Ray then moved for the suspension of standing orders to allow Senator Reid's motion to be moved, although, even with the standing orders suspended, the motion was meaningless. On the motion of Senator Ray the motion was then amended to refer the bill back to the committee for further consideration.

By 18 September agreement had been reached that there was no need for the committee to consider the bill further, and an unusual motion was moved after notice by Senator Evans, acting on behalf of Senator Ray, to provide that the bill be taken to have been reported from the standing committee and that consideration of the bill be resumed in the Senate. The bill was eventually passed on 19 September after debate but with no amendments moved.

Consideration of the Australian National Maritime Museum Bill, which was also reported from a committee on 13 September, was resumed on 17 September, and confusion again ensued. Senator Richardson moved a motion that the report of the standing committee be adopted, which motion, under the new procedures, would have the effect of agreeing to the amendments to the bill recommended by the standing committee. Senator Chapman then indicated that the Opposition wished to move amendments which had been discussed in the standing committee but which had not been recommended by the committee, but these amendments had not been circulated. The new procedures provide that if a senator wishes to move amendments not recommended by a standing committee the senator is to circulate those amendments, and the circulation of the amendments prevents the moving of a motion for the adoption of the standing committee report, so that the bill is dealt with in committee of the whole in the normal way. The Opposition senators had not adverted to this aspect of the procedures. The Chair suggested that Senator Richardson's motion be passed, there being no opposition to the amendments recommended by the standing committee, and that Senator Chapman then move his amendments by leave. This course of action was not agreed to, largely because the effect of it was not understood, and progress was reported on the bill.

When consideration of the bill was resumed on 19 September Senator Richardson withdrew his motion for the adoption of the standing committee report, and the bill then proceeded as it would if Senator Chapman had circulated his amendments. The latter were moved and negatived and the amendments recommended by the standing committee were moved and carried, and the bill as amended passed.

Proceedings on one of the 3 bills reported by committees were conducted without confusion. The Patents Bill had been reported with amendments recommended by

the standing committee. Senator Coulter, for the Australian Democrats, circulated amendments which were in part similar to amendments which he had moved in the standing committee. The bill was therefore dealt with in the normal way in committee of the whole; Senator Coulter's amendments were moved and negatived, amendments proposed by Senator Harradine which had been recommended by the committee were agreed to, and other amendments recommended by the committee were agreed to. The bill as amended was then passed on 20 September.

The Selection of Bills Committee reported on 14 September on the Industrial Relations Bill and recommended that the bill not be referred to a standing committee. It is likely that the bill will be the subject of extensive consideration in committee of the whole. The recommendation of the Selection of Bills Committee apparently represents agreement as to how the bill should be dealt with.

The Customs (Detention and Search) Bill 1990 was read a second time on 19 September, and the Standing Committee on Industry, Science and Technology was given an extension of time to report on the bill, which had been the subject of an earlier recommendation by the Selection of Bills Committee adopted on 24 August.

The Australian Maritime Safety Authority Bill was read a second time on 19 September, and consideration of the bill made an order of the day for the day on which the Selection of Bills Committee reports on it.

PRIVATE SENATOR'S BILL PASSED AGAIN

On 23 August 1990, pursuant to a suspension of standing orders, the Senate forwarded a message to the House of Representatives asking the House to resume consideration of the End of War List Bill which the Senate had passed in the previous Parliament. The bill makes provision for the recognition of acts of valour committed during the Vietnam War, and is regarded as being of some significance by veterans and others.

On 13 September a message was received from the House of Representatives indicating that the House declined to consider the bill on the basis that the standing orders of the House prohibit the resumption of a bill passed in a previous Parliament. In a statement Senator Boswell explained that the House of Representatives standing order, and its Senate equivalent which the Senate had suspended in making its request to the House of Representatives, was intended to safeguard the principle that a bill not be forwarded for royal assent unless the two Houses as currently constituted had agreed to it. Senator Boswell had waited until the newly-elected senators had taken their seats before moving the motion for resumption of consideration of the bill, thereby ensuring that, if the House of Representatives passed the bill, the two Houses as currently constituted would have agreed that it

should pass. Senator Boswell stated that the House of Representatives had mistaken the standing order for the principle it was meant to safeguard.

Senator Boswell reintroduced the bill on 18 September, and it was immediately passed through all stages. This is believed to be the shortest time ever taken by the Senate to pass a bill. The bill has therefore again been sent to the House of Representatives.

LEGISLATION BY GUIDELINES

In recent times there have been expressions of concern, emanating from the Standing Committee on Regulations and Ordinances and persons interested in the scrutiny of delegated legislation, about the increasing use of "quasi-legislation", mainly under the name of guidelines, by departments and agencies. On 20 September Senator Bishop, Deputy Chairman of the Regulations and Ordinances Committee, tabled "procedures advice" relating to immigration matters, consisting of 195 booklets. This material provides a pertinent illustration of the increasing volume of quasi-legislation.

ESTIMATES COMMITTEES

At the end of the 2-week period most of the estimates committees had not completed their hearings on the annual estimates, and on 19 September a motion was moved to authorise 4 committees to meet simultaneously on Thursday and Friday 20 and 21 September. Two committees will extend their hearings into the non-sitting weeks, and all of the committees are required to report by 19 October.

PRIVILEGE

The Privileges Committee presented its 24th Report on 19 September, recommending the incorporation in Hansard of a response by a person aggrieved by statements made about him in the Senate. The recommendation was adopted without debate. This is the 6th such report presented and adopted.

TABLING OF HANSARD

On 13 September the Deputy-President made a statement concerning industrial action at the Australian Government Publishing Service which prevented the publication of the Journals, the Notice Paper and the Hansard transcripts of the proceedings of the Senate and its committees.

The Journals and Notice Paper were produced by the Senate's publishing facilities while the industrial action continued, and in-house Hansard transcripts were also produced.

The publication of a document attracts the absolute privilege of a proceeding in Parliament only if it occurs by or pursuant to an order of a House or a committee (*Parliamentary Privileges Act 1987*, s. 16). The publication of the Journals and the Notice Paper is provided by the standing orders. The publication of Hansard transcripts, however, is the subject of another statutory provision, s. 3 of the *Parliamentary Papers Act 1908*, which provides that each House is to be taken to have authorised the Government Printer to publish reports of its debates. In order to avoid any possible doubt about the privilege attaching to the publication of Hansard other than by the Government Printer, the Hansard transcripts were tabled, thereby attracting standing order 167, which authorises the publication of every tabled document.

OTHER COMMITTEE MATTERS

A number of significant committee reports and government responses to committee reports were presented during the period.

The Joint Standing Committee on Migration Regulations presented its report on illegal immigrants on 14 September. The report includes dissenting reports and was the subject of considerable debate.

On the same day the government presented its response to reports of the Standing Committee on Environment, Recreation and the Arts on the Kakadu National Park, and the response was immediately debated.

Two government responses to reports of the Joint Committee on the National Crime Authority were presented on 17 September, and that relating to the report on drugs, crime and society was immediately debated.

Also debated on that day was the government's response to the report of the Joint Standing Committee on Electoral Matters on the contentious matter of the Australian Capital Territory electoral system.

On 19 September the Chairman of the Standing Committee on Legal and Constitutional Affairs, Senator Cooney, made a statement to correct a matter in a report by the committee on annual reports.

The Standing Committee on Foreign Affairs, Defence and Trade received a reference on UN peace keeping forces on the motion of its Chairman on 20 September.