

Procedural Information Bulletin No. 52

For the sitting period 9 to 18 October 1990

REFERENCE OF BILLS TO COMMITTEES

There were some negative and some positive developments in relation to the new procedures for the reference of bills to committees during the period.

The procedures and the government's attitude to them were again the subject of debate on 9, 10 and 11 October. The debate started with a statement by Senator Hill referring to what he called the failure of the government to organise its program. He referred to the lack of available government business and to suggestions that there were a large number of government bills which would not appear until late in the period of sittings. Fortuitously, on 10 October a statement by the President, to the effect that the printing of *Hansard* had been delayed by the numbers of government bills required to be printed by the Government Printer, reinforced Senator Hill's point. Senator Richardson, who was acting Manager of Government Business during the first week of the period, referred to difficulties created by the new procedures, but non-government Senators disputed this connection between the two matters. Reference was made to a document which has been circulated among Senators and which attempts to categorise bills according to the intensity of the treatment they should receive in standing committees. This document has been under discussion for some time without any conclusion being reached in relation to it. Senator Coulter, speaking for the Australian Democrats, made the following statement:

"I simply say to the Government that if it is not going to be fair in relation to the new system, if it is going to try to use its numbers in small committees to prevent the new system from working, as it was designed to work and as we understood it had been agreed it should work, I believe that we will simply come back into this chamber and we will send the Bills off to a committee. It will hold the old style committee hearings; there will be a calling for written submissions; the whole process will take months and the Government certainly will not get its legislation.

"I put that on notice and I suggest that the Government start to consider this

new process a little more considerately, particularly as it is not the fault of either the Democrats or the Opposition that we are running out of legislation. The Government controls legislation and it is the Government which has failed to bring legislation forward in adequate time."

On 9 and 10 October a number of motions were moved to take bills back from committees when agreement was reached that they need not be the subject of standing committee consideration.

There were, however, more positive developments. On 10 October the Privacy Amendment Bill, a major and contentious piece of legislation, was referred to the Standing Committee on Legal and Constitutional Affairs by way of the adoption of a Selection of Bills Committee report. An extension of time for the standing committee to report was granted on 15 October. The hearings of the committee were held at the end of the second week and proceeded very smoothly, with the committee adopting a number of government, Opposition and Democrat amendments to the bill.

The motion for the adoption of the Selection of Bills Committee report was amended in accordance with the new procedures on 11 and 17 October. The first amendment involved referring parts of a bill to two committees. On this Senator Harradine took a point of order to the effect that the procedures refer to reference of a bill to "a committee", but the President ruled that it is in order to refer a bill to more than one committee. The second amendment was to refer to a standing committee part of a bill which the Selection of Bills Committee had not recommended for referral.

Another significant development was the referral on 18 October, on the motion of the Manager of Government Business, of the provisions of a bill not then received by the Senate.

The Standing Committee on Community Affairs expedited its proceedings on the Social Welfare Legislation (Pharmaceutical Benefits) Amendment Bill, which the government wished to pass before the end of the two-week period because of commencement provisions in the bill. The report was presented on 18 October and the bill separated from a related bill and passed later on that day.

The Community Affairs Committee was granted an extension of time to report on the Community Services and Health Legislation Amendment Bill when that bill was referred to the committee after the second reading on 18 October, and the Standing Committee on Transport, Communications and Infrastructure was given an extension of time on 17 October to report on the broadcasting package of bills. Senator Alston, the Opposition shadow minister responsible for those bills, had previously referred to the importance the opposition attached to committee examination of them.

PRIVILEGE

The Committee of Privileges received another reference on 18 October relating to an alleged interference with a witness before a Senate committee. The Standing Committee on Environment, Recreation and the Arts reported on 17 October that one of its witnesses had been harassed in relation to his evidence. The President, having been given an advance copy of the report, was able to determine immediately that a motion relating to the matter should have precedence of other business, and the chairman of the committee, Senator Crowley, then moved to refer the matter to the Committee of Privileges.

The Committee of Privileges presented on 17 October another report recommending the publication of a response by a person referred to in debate in the Senate. The report was adopted without debate. This is the 7th such report adopted.

BILLS AMENDED

The Administrative Services Legislation Amendment Bill was amended on the motion of the Opposition on 9 October to limit the parliamentary office-holders who are to be paid their allowances in respect of their parliamentary offices during a dissolution period. It had been discovered during the double dissolution of 1987 that there was no statutory basis for paying any of these allowances, except those of the Presiding Officers and their deputies, after a dissolution of the relevant House. The Opposition put the view that not all parliamentary offices should continue to attract allowances of office after a dissolution.

The Australian Maritime Safety Authority Bill was amended on the motion of the Australian Democrats on 10 October to limit the scope of the Authority's power to delegate its powers to other persons. Unlimited powers of delegation have been the subject of adverse attention by the Regulations and Ordinances Committee and the Scrutiny of Bills Committee over many years.

On 17 October bills in a taxation package were amended on the motion of the Australian Democrats in relation to rates of provisional tax and to make permanent, until altered by the Parliament, the rates of income tax and medicare levy imposed by the legislation. This was a reversal on the part of the Democrats of a 1987 decision by the non-government parties that the rates of taxation should continue to be set annually. The Opposition opposed the amendments.

UNANSWERED QUESTIONS ON NOTICE

The procedure whereby a senator may ask for an explanation of the failure to answer a question on notice which has remained unanswered for more than 30 days was

used on 18 October. The minister having given an explanation, Senator Macdonald, in accordance with the procedures, moved a motion to take note of the explanation, and debate ensued on the failure to answer the questions concerned and their significance.

TELEVISION

The authorisation for the Australian Broadcasting Corporation to televise live question time in the Senate, which was given on 31 May on a trial basis, was made permanent on 18 October on the motion of Senator Vanstone. The authorisation for television channels to broadcast excerpts of the Senate's proceedings was originally given as a permanent authorisation.

DELEGATED LEGISLATION

On 9 October Senator Harradine withdrew a notice of motion to disallow regulations relating to the Human Rights and Equal Opportunity Commission. In his explanatory statement he indicated, in effect, that he was not able to disentangle the provisions he wished to disallow from those he wished to retain, notwithstanding the recent Federal Court judgment which indicates that the Senate may disallow any reasonably self-contained provision. Senator Harradine stated that he intended to introduce a private Senator's bill relating to the power to disallow part of delegated legislation.

NOTICES OF MOTION

On 23 August 1990 the Senate adopted the following new paragraphs of standing order 73 relating to notices of motion:

7. A notice shall consist of a clear and succinct proposed resolution or order of the Senate relating to matters within the competence of the Senate, and shall not contain statements, quotations or other matter not strictly necessary to make the proposed resolution or order intelligible.
8. The President may delete extraneous matter from notices and may require a Senator giving a notice contrary to the standing orders to reframe the notice.

Several notices have now been amended to delete extraneous matter, and on 17 October a notice of motion by Senator Bell relating to a sporting event was ruled out of order on the basis that it did not relate to a matter "within the competence of the Senate". The Procedure Committee, in recommending the amendment of the

standing orders, indicated that it wished to exclude "notices referring to matters which have no connection with the legislative activities of the Senate or with public affairs".

COMMITTEE REPORTS AND REFERENCES

The Standing Committee on Environment, Recreation and the Arts made a report on 11 October indicating that its last report on the matter of the use of drugs in sport would be the final report on that subject, and that the committee did not intend to pursue the reference. A statement by Senator Crichton-Browne, a member of the committee, indicated that that decision was not adopted without dissent.

On 17 October the deputy-chairman of the Joint Committee on the National Crime Authority, Senator Vanstone, presented a report of the committee attached to which was a dissenting report (called a "Qualifying Statement") which referred to in camera evidence not disclosed by the majority report. The matter of the disclosure of in camera evidence in a dissenting report was the subject of a report by the Procedure Committee and debate in the Senate on 23 August 1990, the consequence of which was that the matter is still before the Procedure Committee and the Senate has not adopted any prohibition on the reference to in camera evidence in a dissent. The propriety of the disclosure of in camera evidence in a dissent was the subject of debate on the adjournment on 18 October.

The Finance and Public Administration Committee presented its full report on the senior executive service of the public service on 18 October (see the reference to the report on performance pay under government responses, below).

All of the Estimates Committees, except Committee A, which was granted an extension of time to report, presented their reports on 18 October. The reports and the reservations attached to the reports refer to a number of matters which may be debated during the committee of the whole stage on the appropriation bills.

The Employment, Education and Training Committee received a reference, on the motion of its chairman, on 17 October, on education for citizenship and the work of the Parliamentary Education Office.

The Select Committee on Health Legislation and Health Insurance was granted an extension of time on 16 October to present its report, as was the Select Committee on Animal Welfare, on 17 October, in relation to its report on the racing industry.

GOVERNMENT RESPONSES TO COMMITTEE REPORTS

The following government responses to committee reports were presented during the

period, and all were the subject of debate.

- Select Committee on Animal Welfare, report on animal experimentation, 9 October.
- Joint Standing Committee on Migration Regulations, report on illegal entrants, 16 October.
- Standing Committee on Community Affairs: report on accommodation for persons with disabilities, 17 October.
- Standing Committee on Finance and Public Administration, report on performance pay in the senior executive service, 17 October.
- Joint Select Committee on the Tenure of Appointees to Commonwealth Tribunals, 18 October.

The chairman of the Finance and Public Administration Committee, Senator Coates, expressed his disappointment that the government had basically rejected the recommendations of that committee on performance pay. The committee had expressed scepticism about the efficacy of performance pay, but the government has indicated its intention to proceed with the performance pay scheme.

Senator Durack, on behalf of the Select Committee on the Tenure of Appointees to Commonwealth Tribunals, expressed appreciation that the government had basically adopted the recommendations of that committee.