

Procedural Information Bulletin No. 56

For the sitting period from 5 to 14 March 1991

PRIVILEGE

The Committee of Privileges presented a report on 6 March on a case of alleged improper interference with a witness. This is a very interesting case because the activity which was the subject of the report consisted of an apparent threat by a person to circulate a document containing an allegation that another person had given false evidence to a Senate committee, in an apparent attempt to influence that other person in relation to a contested position in a private association. This raised the question of whether such an action could be regarded as interference with a witness, as the action was apparently not taken in consequence of a witness's evidence and was not taken with any purpose of influencing a person in relation to evidence. The Committee indicated that it did not find it necessary to resolve this question because, in the circumstances of the case, even if the relevant action were held to be a contempt the Committee would not have recommended that the Senate exercise its power in relation to the matter. The Committee also found that there was not sufficient evidence of an intention to interfere with a witness to find that a contempt had been committed. The Committee's report was adopted by the Senate on 7 March.

As a result of a report by the Committee another response by a person aggrieved by remarks made in the Senate was published on 11 March. In this case it was a second response by a person who had earlier had a response published and was aggrieved by remarks which were made in debate following the first response.

WESTPAC DOCUMENTS: SUB JUDICE PRINCIPLE

Senator McLean asked the President on 5 March whether he would review his ruling relating to the disclosure of the Westpac documents (see Bulletin No. 55, pp 2-4). This request was prompted by a judgment of the New South Wales Supreme Court, which dismissed an application to remove the injunctions against publication of the documents. The President stated that he would not alter his ruling while that

judgment was subject to appeal in the New South Wales Court of Appeal, but also indicated that he might review his ruling when the judgment of the Court of Appeal was known.

On 7 March the President informed the Senate that the documents in question had been ordered to be published by the House of Representatives Standing Committee on Finance and Public Administration, that the Managing Director of Westpac Banking Corporation had indicated to that committee that the bank would not contest the action to have the injunctions removed, and that in view of these developments the ruling of 12 February 1991 was no longer operative. Senator McLean then tabled the documents by leave.

A motion relating to the documents and banking practices, moved by Senator McLean on 13 March, was extensively debated. An amendment to the motion moved by a minister was carried, the effect of the amendment being to note with concern the contents of the documents and to note that questions relating to banking would be before the courts and the House of Representatives committee.

UNANSWERED QUESTIONS ON NOTICE

The procedure for extracting answers to questions on notice unanswered for 30 days continues to be frequently used. The established practice now is that if an explanation of failure to answer questions within 30 days is not forthcoming when requested at the end of question time, a motion for an order for the answers and explanations to be tabled is moved. This was done again on 14 March. Answers and explanations tabled on 5 March pursuant to an earlier order were the subject of debate.

It is sometimes difficult to ascertain whether a response by a minister to a request for an explanation in fact amounts to an explanation; this is important because if no explanation is forthcoming a motion other than a motion to take note of the explanation may be moved. On 6 March Senator Watson accepted as an explanation comments of a sort not previously accepted as explanations.

REFERENCE OF BILLS TO COMMITTEES

Bills previously referred to committees by the adoption of reports of the Selection of Bills Committee were taken to the second reading stage during the period, but extensions of time for the committees to report were then moved by leave. This occurred with three bills on 6 and 7 March. The Standing Committee on Legal and Constitutional Affairs Committee continues to receive a larger number of bills than any other committee; two were referred on 7 March as a result of a Selection of Bills Committee report.

LOAN BILL

For the first time for a number of years a loan bill was introduced by the government; because the budget has been surplus in recent years it has not been necessary for the government to seek parliamentary authorisation to borrow money to cover the deficit. The bill debated on 13 March applies to the current financial year only; the government has not attempted to extend the authorisation to borrow into future years. Such attempts have previously been rejected by the Senate.

LEGISLATION AMENDED

An interesting amendment was made to the Employment, Education and Training Amendment Bill 1991 on 12 March. The amendment was designed to shorten the period within which the minister must present to the Parliament the reports of the National Board of Employment, Education and Training. The Opposition alleged that there had been lateness in presenting these reports in the past. The government resisted the amendment.

INTRODUCTION OF BILLS TOGETHER

In relation to three bills introduced together on 12 March the Opposition had the introductory questions separated for the purpose of adjourning two bills at the first reading stage while allowing the third bill to have a first reading and proceed to the second reading stage. This step was regarded as automatically requiring that the bills be listed as separate orders of the day, and it was not necessary for the minister to move the usual motion to separate the bills.

CONDUCT OF SENATORS

On 7 March Senator Baume withdrew a notice of motion which he had given concerning the conduct of Senator Vallentine, who had interjected from the senators' gallery in the House of Representatives during the debate on the Gulf War on 21 January. Senator Baume indicated that he would not be proceeding with the motion because of an apology which had been tendered to the Speaker by Senator Vallentine.

PETITION FROM FOREIGNERS

The President referred on 6 March to a petition presented on the previous day, the propriety of which had been questioned by some senators. The petition had been presented by leave because it was not in the proper form, but the cause of the senators' concern was that it was signed by foreign nationals resident outside Australia. The President pointed out that there is nothing to prevent the presentation of a petition from foreigners not resident in Australia. One can think of many circumstances in which such a petition is quite appropriate in the context of the traditional function of a petition of seeking redress of grievances.

ANOTHER JOINT COMMITTEE

Senator Brownhill succeeded on 12 March in his campaign to have a joint select committee established to review the operation of the Family Law Act. The House of Representatives agreed to the establishment of the joint committee on 14 March.

COMMITTEE REPORTS

The Standing Committee on Transport, Communications and Infrastructure presented its report on 13 March on the very fast train proposal, and there was an immediate debate on the report.

The Standing Committee on Employment, Education and Training presented on 14 March a report entitled Active Citizenship Revisited. The committee presented an earlier report on education for citizenship, and the new report makes further recommendations on that subject, which is regarded by senators and members generally as having a high priority.

ESTIMATES COMMITTEES

The additional estimates contained in the additional appropriation bills were referred to the Estimates Committees on 14 March. The reference to the committees also covers the special additional appropriation bill which was passed earlier in the year in consequence of the Gulf War. This will allow the Estimates Committees to examine the expenditure authorised by that bill.