

Procedural Information Bulletin No. 81

For the sitting period 6 to 21 December 1993

RECORD PROCEEDINGS ON BILLS

The Senate exempted two bills from the deadline for receipt of bills from the House of Representatives (see *Bulletin No. 77, pp. 1-2*). The two bills, however, were major new pieces of legislation: the Industrial Relations Reform Bill 1993 and the Native Title Bill 1993 (the "Mabo Bill"). Dealing with these bills led to a significant extension of the sitting period. The Senate again resorted to the device of suspending a sitting over several calendar days, the sitting of 16 December being suspended over five days in this case. As on the last occasion, this could be justified on the basis that no further sitting days were scheduled after the day of the suspended sitting, and therefore no normal business or scheduled sitting days were lost. Departments were again advised to treat the five days as separate sitting days for the purpose of tabling delegated legislation (see *Bulletin No. 74, pp. 5-6*). The same interpretation is to be applied to sitting days remaining for resolving notices of motion for disallowance.

The Industrial Relations Reform Bill was the subject of protracted proceedings and 42 amendments. The Bill was also the subject of examination and report by the Standing Committee on Employment, Education and Training.

It was the Native Title Bill, however, which occupied most of the Senate's time during the extended sittings. The Bill was considered for about 52 hours, surpassing the previous records set by bills such as the Communist Party Dissolution Bill 1950 and the Aboriginal and Torres Strait Islander Commission Bill 1989. Amendments made to the Bill totalled 119, and 29 were moved but not agreed to. The Bill was also the subject of examination and report by the Legal and Constitutional Affairs Committee, which reported on 9 December recommending amendments to the Bill. An Opposition motion to refer the Bill to a select committee was not accepted on the same day.

All of the amendments made by the Senate to these bills were agreed to by the House of Representatives, the House returning at the end of the sittings for that purpose.

BILLS REJECTED, AMENDED

Two bills were rejected outright by the Senate on 16 December, the first bills so treated in this Parliament. The bills, the Diesel Fuel (Excise Duty Rebate) Administration Charge Bill 1993 and the Diesel Fuel (Customs Duty Rebate) Administration Charge Bill 1993, related to the scheme announced by the government in the budget to impose a charge on diesel fuel rebates, and were rejected at the third reading. Related bills in a package were amended.

Other bills were substantially amended during the period, and clauses of bills were negatived. At the end of the sittings the Senate resolved to insist upon amendments to which the House of Representatives had disagreed in relation to two bills, the Veterans' Affairs Legislation Amendment Bill (No. 2) 1993 and the States Grants (Primary and Secondary Education Assistance) Amendment Bill 1993. The House of Representatives had not dealt with the Senate's messages insisting on the amendments at the end of the sittings.

ORDER FOR PRODUCTION OF DOCUMENT

Previous Bulletins have referred to the increasing use by the Senate of orders for the production of documents. In most cases the government has complied with the orders, but an instance of refusal occurred on 16 December. The Leader of the Government in the Senate, Senator Evans, was ordered on the motion of Senator Chamarette to produce a letter by the Minister for the Environment, Sports and Territories (Mrs Kelly) relating to woodchip export licences. Senator Evans declined to produce the letter on grounds of confidentiality, and later on the same day was censured for this refusal. The Senate did not take any further action against the minister at that stage, but again called upon him to table the document.

PRIVILEGE

The Privileges Committee presented its 43rd and 44th Reports on 15 December. The 43rd Report dealt with the Eros Foundation case, in which actions by principals of that organisation could have been interpreted as threats directed against Senators generally and against the Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies or its members. The Privileges Committee found that the persons concerned did not intend to utter a threat against the committee or its members, and their statements did not have the effect or tendency of substantially obstructing Senators in the performance of their functions, and therefore did not find that a contempt had been committed. The 44th Report dealt with an advertisement placed by the Watchdog Association Incorporated which could have been regarded as an interference with the proceedings of the Standing Committee on Legal and Constitutional Affairs and a false or misleading report of the proceedings of that committee. The Privileges Committee found that the Association and its officers did not have any intention to interfere with or misrepresent the proceedings of the committee, and therefore did not find that a contempt was committed.

On 17 December the Privileges Committee received another reference relating to possible interference with witnesses, after the Select Committee on Superannuation presented a report indicating that its witnesses may have been subjected to penalty or injury in respect of their evidence. The reference again underlines the fact that protection of witnesses has been the concern of most privilege cases in recent times.

PROCEDURE COMMITTEE

The Procedure Committee presented its Third Report for 1993 on 15 December. The committee:

- recommended that petitions which do not conform with the rules contained in the standing orders not be presented by leave except in exceptional circumstances
- upheld advice that where there are substitute members appointed to a committee, that is, members appointed for the purpose of particular inquiries, those members should have voting rights only in relation to matters which are wholly part of such particular inquiries
- recommended against a suggestion of Estimates Committee F that notice of matters to be raised at supplementary hearings of estimates committees be

allowed within three days of the actual hearings where those matters arise, on the grounds of the simplicity and clarity of the existing rule.

SUSPENSION OF STANDING ORDERS: PRESIDENT'S RULINGS

The President had occasion on 20 December to reiterate the rulings concerning repeated motions pursuant to contingent notices to suspend standing orders. He pointed out that the rulings had been unanimously upheld by the Procedure Committee. (See *Bulletins No. 74, pp. 3-4; No. 78, p. 4*)

DELEGATED LEGISLATION

The Regulations and Ordinances Committee presented on 15 December its 97th Report, which is a case study of failures by a department to observe the procedures for making and tabling delegated legislation set out in the Acts Interpretation Act. The committee drew attention to the importance of those procedures in ensuring proper parliamentary control of delegated legislation.

ESTIMATES COMMITTEES: REPORT ON SUPPLEMENTARY HEARINGS

On 6 December Estimates Committee D presented an extensive report on its supplementary hearing. Estimates committees are not obliged by the relevant order of the Senate to present reports after supplementary hearings, but the committees may do so if they think it is necessary to draw the attention of the Senate to matters arising at the supplementary hearings.

NEW COMMITTEES

The Senate established another select committee on 9 December on the motion of the Opposition. The Select Committee on Certain Aspects of Foreign Ownership Decisions in Relation to the Print Media is required to inquire into the making of certain government decisions about the permissible percentage of foreign ownership of newspapers.

A new joint committee is established by the Native Title Bill (see above).

COMMITTEE REPORTS

Committees were extremely active during the period, and many reports were presented towards the end of the sittings, as shown by the following list:

Date tabled	Committee	Title
06.12.93	Estimates Committee D	Supplementary Meeting
07.12.93	Rural and Regional Affairs	<i>Domestic Meat Premises Charge Bill 1993 and Export Inspection Charges Laws Amendment Bill 1993</i>
07.12.93	Community Standards Relevant to the Supply of Services Utilising Electronic Technologies	0055 Reverse Phone Directory Service
08.12.93	Scrutiny of Bills	8th Report of 1993
09.12.93	Employment, Education and Training	<i>Overseas Students Tuition Assurance Levy Bill 1993 and Education Services for Overseas Students (Registration of Providers and Financial Regulation) Amendment Bill 1993</i>
09.12.93	Legal and Constitutional Affairs	<i>Native Title Bill 1993</i>
09.12.93	Community Affairs	<i>Social Security (Budget and Other Measures) Legislation Amendment Bill 1993</i>
14.12.93	Australian Loan Council	Functions, Powers and Operation of the Australian Loan Council - Select Committee - Third report
15.12.93	Procedure	Third Report of 1993
15.12.93	Privileges	Possible threats to Senate Select Committee or Senators (43rd Report)
15.12.93	Privileges	Possible improper interference with or misleading reports of proceedings of

Date tabled	Committee	Title
		Senate Legal and Constitutional Affairs Committee (44th Report)
15.12.93	Regulations and Ordinances	97th Report - Delegated Legislation and the <i>Acts Interpretation Act 1901</i> : A case study
15.12.93	Scrutiny of Bills	9th Report of 1993
16.12.93	Superannuation	Tenth Report - Super Complaints Tribunal
16.12.93	Pay Television Tendering Processes	Second Report on terms of reference (1)(b)
16.12.93	Rural and Regional Affairs	Report on the examination of annual reports - No. 2 of 1993
16.12.93	Industry, Science, Technology, Transport, Communications and Infrastructure	Report on the examination of annual reports - No. 2 of 1993
16.12.93	Industry, Science, Technology, Transport, Communications and Infrastructure	Fisheries Reviewed
16.12.93	Environment, Recreation and the Arts	Water resources - Toxic algae
16.12.93	Superannuation	Eleventh Report - Privilege Matter Involving Mr Kevin Lindeberg and Mr Des O'Neill
22.12.93	Finance and Public Administration	Performance Pay (presented to the President on 22 December 1993)