

No. 115

for the sitting period 26-30 May 1997

3 June 1997

ORDERS FOR PRODUCTION OF DOCUMENTS

An unusual set of twin orders for production of documents was passed on 29 May; they required the production of documents of the same type and on the same subject but by two different ministers. This reflects a recent practice of directing orders for documents to a particular minister so that responsibility for any default can be clearly ascribed. There is nothing to prevent an order being directed to the government generally, but it is felt that directing orders to a particular minister leaves less room for excuse for failure to comply. The orders related to the controversial matter of the continuation of Radio Australia and Australia Television, and were designed to elicit evidence of the value of those services from communications with the government, and to test ministerial suggestions that there was little concern about proposals to abandon the services. Both orders were complied with on the same day by the production of a large volume of documents.

An order passed on 26 May illustrated the wisdom of directing orders to a particular minister. The order, relating to export licences for woodchips from native forests in Western Australia, had not been complied with by 30 May, the Leader of the Government in the Senate and Minister for the Environment, Senator Hill, indicating that some of the documents belonged to a House of Representatives minister who needed to clear their production. The documents were produced later that day after the threat of a censure motion which consumed some of the time for government business in the morning.

THE PARLIAMENT AND THE COMMONWEALTH

One of the consequences of strict executive government control over the House of Representatives is that the House never takes any action on behalf of Australia without the

government initiating or at least approving that action, so that there is no possibility of the House speaking for the country separately from the government.

The Senate, however, not being under government control, quite frequently takes action on behalf of Australia and speaks for the country in a manner contrary to the wishes of the executive government. An example of this occurred in relation to the report of the Human Rights and Equal Opportunity Commission on the separation of Aboriginal and Torres Strait Islander children from their families, the "stolen children" report. The government rejected the recommendation of the Commission that an apology be offered on behalf of the nation for the past policies examined in the report, and therefore no resolution of apology was passed by the House of Representatives. The Senate, however, by way of an amendment to a motion to take note of the report on 29 May, offered such an apology "on behalf of the nation".

Other examples are provided by resolutions of the Senate relating to foreign affairs, which are conveyed to foreign governments. These resolutions are frequently resisted by the government on the basis that the Senate should not enunciate its own foreign policy. An instance occurred on 29 May, when the Senate passed a resolution concerning the treatment of the Ogoni people, which, amongst other things, calls for the Nigerian government to be put on notice that its membership of Commonwealth bodies may depend on its human rights record, and requires the President to write to the British Secretary of State for Foreign and Commonwealth Affairs expressing the Senate's grave concern about the matter. No doubt the British Secretary of State will not be surprised to receive this communication, being accustomed to other legislative bodies not under executive government control, but other foreign governments appear not to appreciate the legislature taking a different view from the executive government. Resolutions of the Senate relating to Tibet, for example, are responded to in that spirit by the Chinese Ambassador to Australia and the responses are tabled in the Senate.

Returning to Aboriginal affairs, the resolution relating to the 30th anniversary of the 1967 referendum was also amended on 27 May to express the Senate's, as distinct from the government's, view on the matter.

LEGISLATION

The AIDC Sale Bill was significantly amended on 26 May in relation to ownership of shares in the Australian Submarine Corporation.

The hearing services package of bills was amended on the same day by striking out an item, an amendment of the kind which can be made at any time by an equally divided vote, but which in this instance was carried by a majority.

The Customs and Excise Legislation Amendment Bill (No. 2) 1996, considered on 28 and 29 May, again raised the contentious matter of the diesel fuel rebate scheme, and was substantially amended after consideration of some length.

It is unusual for the non-controversial bills considered at lunch times on Thursdays to be amended, but the Fisheries Legislation Amendment Bill 1996 was substantially amended on the motion of the Democrats at that time in relation to fisheries management.

On the last day of the period the Senate commenced its consideration of a controversial package of bills to introduce competition into employment services. The government made a threat to abandon the bills and to introduce the scheme by way of administrative action if the bills were unacceptably amended. One amendment opposed by the government was carried on that day with the consideration of the bill continuing and no sign of the threat being carried out.

PARLIAMENTARY PRIVILEGE

The Senate adopted on 29 May two reports of the Privileges Committee dealing with allegations of false or misleading evidence, the evidence in question having been given by the Queensland Criminal Justice Commission and by officers of Telstra. The committee found that contempts had not been committed, but recommended that the Senate again reiterate the principle that statutory bodies are accountable to Parliament for their operations. The adoption of the reports was accompanied by significant debate on the protection of whistleblowers and the principles of accountability.

DELEGATED LEGISLATION

The significance of some delegated legislation was illustrated by debates on unsuccessful disallowance motions on 29 May. Controls on the export of certain minerals had been maintained in place against the wishes of the government by the refusal of the majority of the Senate to allow regulations removing those controls. On that day, however, the government was finally successful in having the Senate approve of the relevant regulations. Similarly, the government, in effect, obtained approval of regulations relating to the regional forest agreements. The treatment of the latter regulations was unusual in that two motions for the

disallowance of the regulations were moved together, the motions being identical except that one included some words concerning relevant government policy.

COMMUNICATION OF SENATE RESOLUTIONS

Standing order 154 allows a motion to be moved at any time to communicate to the House of Representatives a resolution of the Senate. This provision has been used in recent times to draw the government's attention to resolutions of the Senate relating to particular matters of controversy and to provide a particular vehicle for debate in the House of Representatives which the government might not wish to allow.

On 29 May a motion was passed to send a message to the House containing a resolution of the Senate about the difficult question of tariffs and the future of the automobile industry, the resolution having been passed in the form of an urgency motion under standing order 75. No action having been taken in the House on this message, a motion was passed on the following day again sending the resolution to the House with a request for concurrence with the terms of the resolution.

COMMITTEES

The following committee reports were presented during the period:

Date tabled	Committee	Title
27.5	Rural and Regional Affairs and Transport References	Interim Report—Commercial Utilisation of Australian Native Wildlife
"	Finance and Public Administration Legislation	Additional Information—Budget and Additional Estimates 1996-97
"	Economics Legislation	Report—Industrial Relations Legislation Amendment Bill 1996
29.5	Scrutiny of Bills	7th Report and Alert Digest No. 7 of 1997
"	Economics Legislation	Report—Taxation Laws Amendment (Infrastructure Borrowings) Bill 1997
"	Rural and Regional Affairs and Transport Legislation	Additional Information-Additional Estimates 1996-97
"	Economics Legislation	Report—Taxation Laws Amendment Bill (No. 2) 1997
"	Privileges	66th Report—person referred to in the Senate

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