

No. 122

for the sitting period 2-12 March 1998

17 March 1998

CENSURE OF A SENATOR

In the past it seems to have been accepted in the Senate that it would be appropriate for the Senate to censure a senator who is not a minister in circumstances of proved misconduct. Although there have been several attempts to do so the motions have not been passed in the form of censure motions (on one occasion a censure motion was amended to deplore the senator's conduct). The first such successful censure motion was passed on 10 March in respect of Senator Bolkus' unauthorised disclosure of a federal court affidavit relating to the legal proceedings to recover the assets of Christopher Skase.

The government made the first attempt to have the motion dealt with on 5 March. As no notice had been given, it was necessary to suspend standing orders to allow a motion to be moved. This procedure requires three stages: the motion to suspend standing orders, the procedural motion to authorise the moving of the substantive motion, and the substantive motion itself. The motion to suspend standing orders is subject to time limits of 30 minutes and 5 minutes per speaker. The procedural motion which follows, however, is not subject to a total time limit and has the normal speaking time limit of 20 minutes. Normally this motion is not debated; once the suspension motion is carried it is normally accepted that the substantive matter will follow. On this occasion, however, opposition senators had no scruples about debating the procedural motion, on the basis that, if the substantive motion were moved, it would take up the time normally devoted to non-government business on a Thursday. The procedural motion was therefore "talked out" until general business was called on. The government then had to give notice of the censure motion on the following Monday and move it on the following Tuesday, when it was eventually carried, with an amendment moved by Senator Harradine.

In the Senate there are rulings which establish that it is not appropriate for the Senate to seek to censure a member of the House of Representatives other than a minister acting in that capacity, on the basis that only the House can examine the conduct of its members other than ministers. This rule of comity, however, is not followed in the House of Representatives, where a censure motion in respect of Senator Bolkus was carried on 5 March.

ORDERS FOR PRODUCTION OF DOCUMENTS

An order was passed on 11 March for the production of the government's advice on the question of whether the Native Title Amendment Bill had qualified for the first stage of a double dissolution "trigger" (see Bulletin No. 121, p 1). The government declined to table the actual advice it says it has received, but tabled on 12 March a letter from the Attorney-General indicating the government's view that the bill has met the conditions for the first stage of a "trigger". It was pointed out by Senator Woodley, who moved the motion for the order, that the government is taking an expensive wager that its advice is correct. Copies of the advices given on this subject are available from the Clerk's Office.

An order for documents was passed on 9 March for information relating to the Multilateral Agreement on Investment, which is the subject of increasing disquiet amongst non-government senators. The order calls for documents to be tabled by 9 May.

LEGISLATION

Virtually all of the time available for consideration of legislation during the period was devoted to the Social Security Legislation Amendment (Youth Allowance) Bill 1997, which was finally passed on 12 March with both amendments and requests for amendments (the requests relating to amendments which expand entitlements under the legislation and therefore increase expenditure from the standing appropriation).

The Native Title Amendment Bill, surrounded by speculation that it will be the "trigger" for a double dissolution, was nonetheless exempted from the deadline for the receipt of bills from the House of Representatives, so that it will be available to be considered during the current period of sittings.

DELEGATED LEGISLATION

The Regulations and Ordinances Committee made a statement on 12 March again drawing attention to the problems created by national uniform legislation drawn up by agreement between Commonwealth and state governments and then presented as unalterable to federal and state parliaments. The statement recounted the committee's successful scrutiny of a

particular piece of delegated legislation, indicating that its efforts in this area have not been in vain.

PRIVILEGE

The Privileges Committee received on 12 March a reference relating to the unauthorised disclosure of a draft committee report. In this case the committee concerned, the Economics References Committee, followed the procedures set down in the Senate's order of 20 June 1996. This order, passed on the recommendation of the Privileges Committee, provides for processes to be followed by committees in cases of unauthorised disclosure before such cases are referred to the Privileges Committee. This is intended to be a "filter" so that the Privileges Committee is not occupied with every case of unauthorised disclosure.

COMMITTEE REPORTS

The following committee reports were presented during the period:

Date tabled	Committee	Title
2.3	Community Affairs References	Report—Housing Assistance
"	Economics Legislation	Report—Trust Loss and Family Trust Bills—Errata
"	Community Affairs Legislation	Additional Information—Additional Estimates 1997-98
"	Environment, Recreation, Communications and the Arts Legislation	Additional Information—Estimates 1997-98
"	Foreign Affairs, Defence and Trade Legislation	Additional Information—Additional Estimates 1997-98
"	Rural and Regional Affairs and Transport Legislation	Additional Information—Estimates 1997-98
"	Legal and Constitutional Legislation	Additional Information—Additional Estimates 1997-98
4.3	Scrutiny of Bills	1st Report and Alert Digest No. 1 of 1998
"	Superannuation	Information Paper—Taxation of Superannuation
9.3	National Crime Authority	Report—National Crime Authority Annual Report
10.3	Economics References	Report—Unauthorised Disclosure of Committee Report
11.3	Scrutiny of Bills	2nd Report and Alert Digest No. 2 of 1998

Date tabled	Committee	Title
12.3	Environment, Recreation, Communications and the Arts Legislation	Additional Information—Additional Estimates 1997-98
"	Finance and Public Administration Legislation	Additional Information—Estimates 1997-98
"	Regulations and Ordinances	National Uniform Legislative Schemes—Document
"	Senators' Interests	Annual Report 1997
"	Senators' Interests	Declaration and Preservation of Gifts—Document
"	Environment, Recreation, Communications and the Arts Legislation	National Transmission Network Sale Bills—Report
"	Environment, Recreation, Communications and the Arts Legislation	National Environment Protection Measures (Implementation) Bill 1997

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