

No. 125

for the sitting period 25-29 May 1998

3 June 1998

UNANSWERED QUESTIONS ON NOTICE

The procedure under standing order 74(5) relating to unanswered questions on notice has undergone something of a revival in recent times. Under that provision, a senator can ask after question time for an explanation of the government's failure to answer a question which has been on notice for more than 30 days. If an explanation is given the senator can move a motion to take note of the explanation and debate it, and if no explanation is given the senator can move any motion relating to the failure to answer the question. Very often the motion moved in the latter circumstance is a motion for an order that the answer to the question be tabled.

On 27 May Senator O'Brien sought an explanation of failure to answer questions on notice relating to the waterfront. He was given the usual response, that answers were being prepared and would be forthcoming. He then moved a motion for an order that the answers be tabled. Points of order were taken to the effect that the minister had provided an explanation, and therefore such a motion was not in order. The President ruled that a statement by a minister that an answer is being prepared is not regarded as an explanation of failure to answer a question, and that therefore a senator is entitled to move any relevant motion after such a statement by a minister. This ruling, based on several precedents, was confirmed in a considered statement on 28 May. Senator O'Brien's motion was successful, and an order was passed for the answers to be tabled.

This did not, however, result in Senator O'Brien obtaining substantive answers to the questions: when the answers were tabled on the following day, they consisted of repetitions of a statement by the Minister for Communications, the Information Economy and the Arts, Senator Alston, that the government was not going to table the waterfront documents because of proceedings in the Federal Court (see below, under Orders for production of documents).

ORDERS FOR PRODUCTION OF DOCUMENTS

In response to the Senate's order of 13 May for documents relating to the waterfront dispute, the government made a statement on 25 May indicating that the deadline for production of the documents would not be met and that the matter was under consideration. On 28 May a ministerial statement was made refusing the documents on the basis that proceedings are under way in the Federal Court. This statement was subsequently discussed in estimates hearings, and an advice by the Clerk on the minister's statement was incorporated in the Hansard of the Economics Legislation Committee on 2 June 1998. The advice suggests that the statement's invocation of the sub judice convention is not well based and that the statement does not make clear why the proceedings in the Federal Court should prevent the production of the documents to the Senate.

Other orders for production of documents during the period fared much better.

An order for documents relating to the Jabiluka uranium mine on 26 May was answered by the production of documents later on the same day. Also on 26 May two orders relating to Telstra and another order relating to the gun laws were passed, and documents in response to those orders were produced on the following day. Another order was passed on 28 May relating to film and video classification.

LEGISLATION

A further example occurred on 27 May of amendment of the recommendation of the Selection of Bills Committee. The committee was unable to agree on a reporting date in relation to the Electoral and Referendum Amendment Bill (No. 2) 1998, and the date had to be settled by amendment and debate in the Senate.

The Social Security Legislation Amendment (Youth Allowance Consequential and Related Measures) Bill 1998 was further amended and finally passed on 25 May. The government accepted all of the amendments in the House of Representatives.

The government was forced to abandon part of the Taxation Laws Amendment Bill (No. 3) 1998 when it became clear that debate on that part of the bill was going to prolong the proceedings. The government therefore allowed the relevant schedule of the bill, relating to choice of superannuation fund, to be negatived and proceeded with the other parts of the bill.

Another difficult social security bill, the Social Security and Veterans' Affairs Legislation Amendment (Budget and Other Measures) Bill 1997 was started on the last day of the sitting period and was significantly amended but was not completed.

The Senate then turned its attention on the last day to the Prudential Regulation Authority package of bills, some of which were substantially amended, and the package was then completed.

At lunch time on Thursdays the Senate deals with non-controversial bills, which are usually passed fairly speedily. It cannot be assumed, however, that such bills are not amended: if there is agreement on amendments, bills subject to amendment may also be dealt with at that time. An example occurred on 28 May, when a Democrat amendment to the Fisheries Legislation Amendment Bill (No. 1) 1998 was agreed to, the amendment having been adjusted at the suggestion of the minister.

PRIVILEGE

The Privileges Committee presented on 26 May its 71st Report, which dealt with another allegation that the Criminal Justice Commission of Queensland had presented misleading evidence to a Senate committee. The Privileges Committee dismissed this allegation, again found that it was part of disputes in Queensland involving the role of the Commission, and again suggested that such disputes should be resolved in state bodies. The committee's finding was adopted on 28 May.

COMMITTEES

The following committee reports were presented during the period:

Date tabled	Committee	Title
25.5	Appropriations and Staffing	29 th Report: Senate Department Estimates
“	Rural and Regional Affairs and Transport Legislation	Additional Information—Additional Estimates 1997-98
“	Environment, Recreation, Communications and the Arts Legislation	Additional Information—Additional Estimates 1997-98
26.5	Privileges	71 st Report—Further possible false or misleading evidence before Select Committee on Unresolved Whistleblower Cases

Date tabled	Committee	Title
26.5	Legal and Constitutional Legislation	Additional Information—Additional Estimates 1997-98
“	Superannuation	30 th Report—Workplace Relations Amendment (Superannuation) Bill 1997
27.5	Scrutiny of Bills	6 th Report and Alert Digest No. 7 of 1998
28.5	Community Affairs Legislation	Report—Social Security and Veterans’ Affairs Legislation Amendment (Retirement Assistance for Farmers) Bill 1998
“	Community Affairs Legislation	Report—Social Security and Veterans’ Affairs Legislation Amendment (Pension Bonus Scheme) Bill 1998
“	Environment, Recreation, Communications and the Arts Legislation	Report—Telstra (Transition to Full Private Ownership) Bill 1998
“	Environment, Recreation, Communications and the Arts Legislation	Report—Telstra (Transition to Full Private Ownership) Bill 1998—Corrigendum
“	Community Affairs References	Report—Public Dental Services
“	Employment, Education and Training Legislation	Additional Information—Additional Estimates 1997-98
29.5	Community Affairs Legislation	Report—Health Legislation Amendment (Health Care Agreements) Bill 1998

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