

No. 134

for the sitting period 9-12 August 1999

16 August 1999

NEW TERM

When the senators elected for a term beginning on 1 July were sworn in on 9 August, they included Senator Len Harris, who was declared by the Court of Disputed Returns to be the person elected, following a recount of ballot papers, in place of Senator elect Heather Hill, who was found to be disqualified because of her allegiance to a foreign country, namely the United Kingdom. As expected, the recount ordered by the Court resulted in the return of the second One Nation candidate.

The President and the Deputy President were re-elected unopposed, which augurs well for the continuation of the convention relating to the filling of those offices.

REPUBLIC LEGISLATION

The main focus of the period was the legislation to bring about a referendum on a republic.

Consideration of the legislation began with an unsuccessful move by Senator Murray to have his bill for a simultaneous consultative referendum on an elected president considered at the same time as the government bill. During an extensive debate on the latter, attempts were made to remedy what were seen as the major defects of the scheme proposed by the bill, including amendments to ensure that a president could be dismissed only by parliamentary decision on stated grounds (which were unsuccessful) and to prevent the indefinite extension of a presidential term (one of which was successful). Apart from some minor amendments moved by the government, the bill was passed by the Senate with two amendments, one relating to the presidential term and one relating to the title which forms the question put to the electors. These two amendments were rejected by the government in the House of Representatives and the bill returned to the Senate.

A significant ruling was made by the President on this occasion. Section 128 of the Constitution provides that a Constitution alteration bill must be passed by an absolute majority in each House before it is put to a referendum (subject to a provision relating to disagreements between the Houses). The standing orders of the Senate require an absolute majority to carry the third reading of such a bill. In 1906 President Baker ruled that an absolute majority is also required for agreement by the Senate to amendments made by the House of Representatives to a bill initiated in the Senate, the rationale being that otherwise all of the bill as finally passed would not have been endorsed by an absolute majority of the Senate. The new ruling on 12 August applied this principle to a motion that the Senate not insist on its amendments disagreed to by the House. The President ruled that, if this condition were not met, the bill without the amendments could not be said to have been passed by an absolute majority in the Senate. The motion not to insist on the amendments was agreed to by an absolute majority, allowing the bill to proceed.

A companion bill to insert a preamble into the Constitution was passed without amendment, the preamble having been negotiated between the government and the Australian Democrats.

The Referendum (Machinery Provisions) Act provides for printed “yes” and “no” cases, circulated by the Electoral Commission, to be authorised by a majority for those voting for and against Constitution alteration bills. In relation to the main bill, eight members of the House of Representatives and twelve senators, including six of the Australian Democrats, voted against the bill. On the preamble bill, only the Labor Party and the one independent in the House voted against it.

PRIVILEGE: WITNESS

The Employment, Workplace Relations, Small Business and Education References Committee raised a matter of privilege relating to alleged penalisation of a witness. The committee provided correspondence indicating that a witness in its indigenous education inquiry, who was an employee of a local government council, had received letters from the council indicating that action had been taken against him in direct consequence of his evidence. The President determined on 11 August that the matter should have precedence, and it was referred to the Privileges Committee on the following day.

ORDER FOR PRODUCTION OF DOCUMENTS

The Senate passed an order on 12 August for documents relating to the appointment of an officer of the Civil Aviation Safety Authority, a matter of intense controversy. The government, which opposed the motion, has until the beginning of the next sitting week to produce the documents.

UNANSWERED QUESTION: ORDER FOR ANSWER

On 12 August Senator Allison asked for an explanation of an answer not being provided to a question on notice, but the responsible Senate minister was absent and an explanation was not forthcoming. Senator Allison then, in accordance with recent practice, moved a motion for an order for the production of the answer, with a deadline of 5 pm on the same day. The government, caught unawares, promised that an answer would be forthcoming by that time, but Senator Allison persisted with her motion, which was duly passed, and the answer was produced within about 45 minutes.

COMMITTEES

The following committee reports were presented during the period:

Date tabled	Committee	Title
10.8	Environment, Communications, Information Technology and the Arts Legislation	Additional Information—Additional Estimates 1998-99
“	Environment, Communications, Information Technology and the Arts Legislation	Report—Environment and Heritage Legislation Amendment Bill 1999
11.8	Community Affairs Legislation	Report—Australia New Zealand Food Authority Amendment Bill 1999
“	Legal and Constitutional Legislation	Report—Copyright Amendment (Importation of Sound Recordings) Bill 1999
12.8	National Competition Policy Select	Interim Report
“	Finance and Public Administration Legislation	Report—Aboriginal Land Rights (Northern Territory) Amendment Bill (No. 2) 1999
“	Employment, Workplace Relations, Small Business and Education Legislation	Report—Tradesmen’s Rights Regulation Repeal Bill 1999
“	Employment, Workplace Relations, Small Business and Education Legislation	Report—Navigation Amendment (Employment of Seafarers) Bill 1998
“	Economics Legislation	Report—Customs Amendment (Warehouses) Bill 1999 and Import Processing Charges Amendment (Warehouses) Bill 1999

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