

No. 140

for the sitting period 6—16 March 2000

21 March 2000

LEGISLATION: PRIVATE SENATOR'S BILL GIVEN PRECEDENCE

Last year the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill was introduced by an Opposition, a Democrat and the Greens senator to override the mandatory sentencing laws of the Northern Territory and Western Australia to the extent that they require the imprisonment of juveniles for certain offences. The bill was referred to the Legal and Constitutional References Committee. The controversy over the laws in question was heightened during the non-sitting period by the suicide of an Aboriginal youth sentenced under the laws in the Northern Territory, and when the committee reported on 13 March there was a determination to proceed with the bill. By means of a contingent notice of motion to suspend standing orders, the bill on the same day was given precedence over all other government and general (non-government) business (but not over business of the Senate, such as disallowance motions), and was extensively debated. The bill was finally passed on 15 March. In the House of Representatives the government used its majority to defer consideration of the bill indefinitely, in spite of claims that some government members would support it. It is not unusual for private senators' bills to be put off by the government in the House in this way. At the end of the period further action in the Senate was mooted to press the government to allow the bill to be considered. Senator Brown, who took the bill through the Senate on behalf of its co-sponsors, gave notice of a motion on 16 March to have a message sent to the House of Representatives to press the government to allow the bill to be debated.

LEGISLATION: BILLS REJECTED

Three government bills were rejected outright in the Senate, an unusual event in recent times. They were: the Aboriginal Land Rights (Northern Territory) Amendment Bill (No. 2) 1999, which invalidated a grant to an Aboriginal land trust, on 8 March; the Classification (Publications, Films and Computer Games) Charges Bill 1998, which would have levied

charges for classification services, on 9 March (a related bill was amended and passed); and the Norfolk Island Amendment Bill, which affected the electoral law of Norfolk Island, also on 9 March.

Bills significantly amended during the period included the Environment and Heritage Legislation Amendment Bill 1999, mainly in relation to materials harmful to the environment, on 6 March; two customs bills, relating to warehouses, on 7 March; the Navigation Amendment (Employment of Seafarers) Bill 1998, which had large portions of it struck out, on 8 March; the Youth Allowance Consolidation Bill 1999, which has been subjected to amendments and requests for amendments, and on which proceedings were not completed; and the Financial Sector Reform (Amendments and Transitional Provisions) Bill (No. 2) 1999, mainly to subject instruments to parliamentary disallowance, on 13 March.

ORDERS FOR PRODUCTION OF DOCUMENTS

In response to the Senate's order of 17 February (see Bulletin No. 139, p.1) in relation to climate change negotiations, documents were produced on 6 March, but reasons were given for withholding some documents.

An order was passed on 7 March for a report relating to tree clearing in Queensland, with a requirement that the report be tabled on the following day. The responsible minister, Senator Hill, made a statement on 9 March indicating that the government was considering whether the report could be disclosed. Finally, on 16 March, the minister made an explicit claim of public interest immunity in relation to the document, on the ground that it related to incomplete negotiations between governments. Statements by interested senators indicated that the matter would be pursued in the next period of sittings.

An order of 15 March required documents relating to the work for the dole scheme to be tabled on the following day. The documents were not tabled, so it is expected that that matter will also be pursued next sittings.

PARLIAMENTARY PRIVILEGE: CASES

The Privileges Committee presented four reports during the period.

The 84th report dealt with a case of unauthorised disclosure of a draft committee report. The Privileges Committee rejected explanations of unwitting handling of the draft, and concluded that a minister's office and the minister's department were guilty of contempt because of culpable negligence in dealing with the draft report. The committee did not recommend a

penalty, but recommended that ministerial and shadow ministerial staff be required to attend seminars on parliamentary processes conducted by the Department of the Senate, and that committees adopt precautions in handling draft reports.

In its 85th report, the committee concluded that an officer of a local government body was guilty of a contempt in taking disciplinary action against an employee as a consequence of the employee's participation in proceedings of a committee. Again the committee recommended no penalty, following an apology by the offender for an unintended breach.

These two reports were adopted by the Senate on 15 March.

In its 86th report the committee examined an allegation of threats to a witness in consequence of the witness' evidence, but found no contempt on the basis of an explanation of the incident. This report was endorsed on 16 March.

The 87th report of the committee recommended the publication of a response by a person adversely referred to in the Senate. The response related to a dispute between the person concerned and a senator. On the adoption of the committee's report on 13 March, the senator made further statements about the individual concerned which could well lead to a further response.

PRIVILEGE: SEARCH WARRANTS

A judgment of the Federal Court was tabled on 13 March in the action brought by Senator Crane to defeat Federal Police search warrants which were executed in his offices in 1998. The police were investigating alleged travel entitlement irregularities. One basis of Senator Crane's legal attack on the execution of the warrants was that some of the material seized is protected from disclosure by parliamentary privilege. On this point, the Federal Court found that, while the documents in question are probably not protected by parliamentary privilege, it is not a matter for the Court to determine because the execution of search warrants is an action of the executive, and any alleged infringement of parliamentary privilege should be determined by the House concerned. A submission made to the Court on behalf of the Senate, at the invitation of the Court, suggested that the seizure of material under search warrant would be subject to the same principles applying to the disclosure of documents by subpoena and orders for discovery. On the basis of its finding, the Court ordered that the documents in question be provided to the Senate for disposal. This did not happen, however, as Senator Crane has appealed to the Full Court against the judgment.

FOREIGN POLICY RESOLUTIONS

Attention has been drawn in the past to the significance of the Senate passing resolutions expressing its own opinions on matters of foreign policy, which may differ from the opinions of the government, and communicating those opinions to foreign governments. A significant instance occurred on 9 March when the majority of the Senate, against the wishes of the government, passed a resolution expressing views on the forthcoming Nuclear Non-Proliferation Treaty Review Conference. The resolution requires that its terms be communicated to office-holders in named nuclear states and signatories of the treaty.

COMMITTEES

The following committee reports were presented during the period:

Date tabled	Committee	Title
6.3	Community Affairs Legislation	Additional Information—Estimates 1999-2000
“	Employment, Workplace Relations, Small Business and Education Legislation	Additional Information—Estimates 1999-2000 and Additional Estimates 1999-2000
7.3	Privileges	84 th Report — Possible unauthorised disclosure of draft parliamentary committee report 85 th Report — Possible intimidation of a witness
8.3	Rural and Regional Affairs and Transport Legislation	Report—Northern Prawn Fishery Amendment Management Plan 1999
9.3	Community Affairs Legislation	Report—Annual Reports
“	Foreign Affairs, Defence and Trade Legislation	Additional Information—Estimates 1999-2000
“	Legislation Committees	Reports—Additional Estimates 1999-2000
13.3	Economics References	Report—Australian Taxation Office
“	Privileges	86 th Report—Alleged threats to a witness
“	Privileges	87 th Report—Person referred to in the Senate
“	Legal and Constitutional References	Report—Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999
15.3	Scrutiny of Bills	2 nd Report and Alert Digest No. 3 of 2000
“	Rural and Regional Affairs and Transport Legislation	Report—Class G Airspace Trial

Date tabled	Committee	Title
15.3	Legislation Committees	Reports — Annual reports
“	Rural and Regional Affairs and Transport Legislation	Report—Dairy Industry Adjustment Bills
16.3	Information Technologies	Report—Online gambling
“	Employment, Workplace Relations, Small Business and Education References	Report—Education and Training Programs for Indigenous Australians
“	Superannuation and Financial Services	Report—Roundtable on Choice of Superannuation Funds

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