

DEPARTMENT OF THE SENATE PROCEDURAL INFORMATION BULLETIN

hc/pro/prob/13644

No. 160

for the sitting period 14—16 May 2002

20 May 2002

ANTI-TERRORISM LEGISLATION: COMMITTEE REPORT

Among the many committee reports presented on the first day of the sittings, and among many reports from the heavily-burdened Legal and Constitutional Committee, was a report on the government's package of anti-terrorism legislation. The report is highly critical of the legislation, which has been passed by the House of Representatives but has been attacked by many witnesses before the committee as draconian and highly dangerous. The committee's report, which was unanimous apart from a dissent by the Australian Democrat member, makes it certain that the legislation will be significantly amended before its passage.

PRIVILEGE: ALLEGED INTERFERENCE WITH WITNESS

The Privileges Committee received on 16 May a reference on an alleged interference with a witness before the Select Committee on a Certain Maritime Incident. The select committee discovered that a witness, a naval officer, had been summoned to a meeting by officers of the Department of Prime Minister and Cabinet apparently to check on the evidence he would be giving to the committee. The select committee indicated that, as required by Privilege Resolution 1(18), it had conducted a preliminary investigation into the matter before asking that it be referred to the Privileges Committee.

The select committee on 15 May received an extension of its time to report from 16 May to 26 June.

ELECTORAL REGULATIONS DISALLOWED

The Senate disallowed a set of regulations under the Commonwealth Electoral Act on 15 May. The regulations were designed to put into effect the government's controversial policy of more stringent requirements for polling identification.

ORDERS FOR PRODUCTION OF DOCUMENTS

An order passed on 16 May requires the production of a report to the Australian Prudential Regulation Authority by its Inspector on the dealings of a particular cash management trust. The order is not directed to a minister because the report is not a government document.

Another response by the Australian Competition and Consumer Commission (ACCC) was tabled on 14 May, this one on the tobacco industry. Orders for reports by the ACCC are becoming a regular feature of Senate proceedings.

Responses continue to flow in to the order of 20 June 2001, as amended on 27 September 2001, for the publication of lists of government contracts on the Internet.

ESTIMATES HEARINGS

The introduction of the annual appropriation bills and the presentation of the budget documents on 14 May set in train the annual estimates hearings. At least two weeks, from 27 May to 6 June, will be taken up with estimates hearings, leaving only two weeks of sitting before the senators elected at the general election start their terms on 1 July.

QUALIFICATION OF A SENATOR

A letter from Senator Scullion was tabled on 14 May setting out matters relating to his business contracts with government departments and agencies, and indicating that he might be in breach of section 44(v) of the Constitution. This provision disqualifies from the Senate anyone with a pecuniary interest in an agreement with the public service of the Commonwealth otherwise than as a member of a corporation of more than 25 persons. The interpretation of this provision is not entirely certain following a reading down of it by the High Court in 1975 (see *Odgers' Australian Senate Practice*, 10th ed, p. 157, and the report of the Senate committee referred to there).

The Leader of the Opposition in the Senate, Senator Faulkner, speaking to the letter, tabled an advice from the Clerk on the Senate's options and indicated that party leaders and independent senators would need to consider the matter carefully. No further action was taken before the Senate rose at the end of the week.

BILLS IN COMMITTEE PROPOSAL

The government gave notice of a motion for a sessional order, recommended by the Procedure Committee, whereby the committee of the whole stage on bills would be passed over unless any senator circulates amendments or requires that the committee stage occur.

Although this proposal contains seemingly foolproof safeguards to ensure that any senator can require that the committee stage occur, the motion was refused formality on 16 May and postponed to the next sittings.

DISPENSING WITH QUESTION TIME

Before the sittings began the government announced that it would dispense with question time in the House of Representatives on the first day of the sittings because of the condolence motion for the Queen Mother (the government later relented on this decision).

Question time in the Senate, like any other item in the routine of business, cannot be dispensed with except by a deliberate decision of the Senate, either by a resolution explicitly to that effect or one which substitutes a different routine of business. The government cannot dispense with question time in the Senate by fiat.

SENATE DAILY SUMMARY

This bulletin provides Senate staff and others with a summary of procedurally significant occurrences in the Senate. The *Senate Daily Summary* provides more detailed information on Senate proceedings, including progress of legislation, committee reports and other documents tabled and major actions by the Senate. Like this bulletin, *Senate Daily Summary* may be reached through the Senate home page at www.aph.gov.au/senate

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