

DEPARTMENT OF THE SENATE PROCEDURAL INFORMATION BULLETIN

hc/pro/prob/14001

No. 172

for the sitting period 16 — 26 June 2003

30 June 2003

LEGISLATION: REJECTIONS, DISAGREEMENTS, COMPROMISES

Three government bills were rejected outright during the period: the Migration Legislation Amendment (Further Border Protection Measures) Bill on 16 June, the Family and Community Services Legislation Amendment (Disability Reform) Bill and the Superannuation (Surcharge Rate Reduction) Amendment Bill, both on 24 June. The last two bills were also rejected last year, and thus become “triggers” under section 57 of the Constitution.

After extensive consideration and amendment, the Broadcasting Services Amendment (Media Ownership) Bill remained in disagreement between the Senate and the government at the end of the period, with the Senate insisting on some amendments and the government abandoning the bill on 26 June.

Another major bill, however, the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill, was finally passed on the last day of the sittings when the government compromised on provisions relating to the detention and interrogation of persons believed to have information about terrorism. The expected passage of the bill on 23 June was interrupted when it was pointed out that the bill as then amended would still allow successive warrants for the detention of persons, and the government was compelled to produce further amendments to overcome this problem.

A willingness to compromise also resulted in the passage of the Taxation Laws Amendment Bills (Nos. 2, 4 and 6) when amendments made in the Senate were accepted by the government on 17 and 26 June. The government also accepted amendments to the Wheat Marketing Amendment Bill on the last day.

Similarly, the Energy Grants (Credits) Scheme Bill was able to pass when the government accepted amendments moved by Senator Lees on 24 June.

The Senate was also willing to compromise: amendments to the Terrorism Insurance Bill were not insisted on on 16 June.

Two other government bills dealing with terrorism, Criminal Code Amendment Bills, were separated on 16 June in consequence of continuing debate on whether the government should be able to proscribe alleged terrorist organisations. One bill, for proscribing the Hizballah organisation, was passed, while the other, conferring general proscription powers, was adjourned.

In passing a pair of customs bills on 26 June, the Senate noted the problem of bills based on international agreements being rushed through without time for adequate scrutiny of the agreements.

Since the procedure was adopted on 20 June 2002 of not considering bills in committee of the whole unless any senator circulates amendments or requires a committee stage, 43 per cent of bills have not had a committee stage. Most bills, therefore, are still considered in committee.

ORDERS FOR DOCUMENTS

On 16 June three collections of documents were presented in response to Senate orders for documents, relating to a sale of Defence land, the Pharmaceutical Benefits Scheme and tobacco advertising. The production of the documents did not prevent, however, an immediate debate in which the government was again criticised for tardy responses and refusing to produce documents for inadequate reasons. Similarly, on the following day, the production of documents referring to nuclear waste produced a further debate on the withholding of some documents and the number of orders not met.

On 19 June an order for the production of draft regulations relating to the Energy Grants (Credits) Scheme (see also above, under Legislation), which had a deadline of the same day, was met with a refusal on the basis that draft regulations are normally not released.

On 26 June the government responded to an order made on 22 November last year for documents relating to the Insurance and Superannuation Commission. The government claimed that the documents were too old, involved too many files and would require too great a use of resources to produce, but offered to allow the senator who moved the motion to inspect the files.

A document relating to the new Lucas Heights nuclear reactor was produced, however, on 24 June, in response to an order made on 25 June 2002.

An order of 25 June relating to biotechnology has a deadline in the next sittings.

ORDER FOR CONTRACTS

The Senate's permanent order for the production of lists of government contracts on the Internet was further clarified on 18 June on the recommendation of the Finance and Public Administration References Committee after the committee considered submissions from departments and agencies about the operation of the order. Although the committee initially considered that bodies constituted under the Commonwealth Authorities and Companies Act should be subject to the order, the committee was persuaded not to include them because of the difficulty of subjecting them to requirements not imposed on their competitors.

The government presented a response to the committee on 19 August, stating that the government now accepted that the order has an "important role" in accountability, a change from the initial resistance to the order.

DEFENCE ACQUISITIONS ORDER

The Auditor-General responded on 17 June to the order of 14 May arising from the report of the Foreign Affairs, Defence and Trade References Committee on measures to achieve greater accountability in defence acquisition. The Auditor-General referred to the amount of work required to meet the requests made of the Audit Office by the Senate's order, and promised to undertake a preliminary examination of the proposed audit.

TERRORISM AND IRAQ

Two committee inquiries initiated by the Senate indicated that the subjects of terrorism intelligence and the war in Iraq have not been forgotten.

The Foreign Affairs, Defence and Trade References Committee began hearings on a reference adopted by the Senate on 24 March on security warnings in South East Asia, with reference to the Bali bombing. The hearings resulted in several revelations about intelligence warnings.

On 18 June the Senate referred to the joint committee on the intelligence agencies the question of pre-war intelligence on Iraq, with reference to the missing weapons of mass destruction. Some senators indicated that they would have preferred a Senate committee to conduct this inquiry, because the joint committee, like all joint committees, is controlled by the government, and the government could use that control to suppress or limit the inquiry. It was pointed out, however, that, because the joint committee is subject to statutory secrecy restrictions on its operations, the government would have less excuse for not cooperating with the inquiry, and that a Senate inquiry could be kept in reserve.

OTHER COMMITTEE INQUIRIES

Two other committee inquiries on matters of great controversy were initiated over the objections of the government on 26 June: the Employment, Workplace Relations and Education References Committee was given a reference on higher education funding, and the Environment, Communications, Information Technology and the Arts Reference Committee was given a reference on broadband services.

On 26 June the Finance and Public Administration References Committee presented a report on irregularities in the Dairy Regional Assistance Program. This inquiry came about largely because of the dogged pursuit of the matter by one senator.

SELECT COMMITTEES: MEDICARE, IMMIGRATION

Having established the select committee on Medicare in the last sitting period, the Senate referred a relevant bill, the Health Legislation Amendment (Medicare and Private Health Insurance) Bill to the committee on 19 June.

Another new select committee was established on 19 June, the Select Committee on Ministerial Discretion in Migration Matters. The committee is to examine the exercise of ministerial powers under the Migration Act, but its establishment is not unrelated to revelations that the minister granted visas to persons who had made large donations to the Liberal Party.

ESTIMATES REPORTS

The reports on the estimates hearings were presented, six on 19 June and two later. The reports revealed the large range of matters examined by the committees. The Rural and Regional Affairs and Transport committee declared questions to be relevant which were claimed by the minister, Senator Ian Macdonald, not to be relevant to estimates.

The annual appropriation bills were not received until the last week of the sittings, and were not passed until the last day, demonstrating the value and necessity of the Senate's procedures for the scrutiny of the estimates in advance of the bills being received.

APPROPRIATIONS AND STAFFING REPORT

The Appropriations and Staffing Committee presented a report on 23 June on the so-called Podger consultancy proposing the amalgamation of the three joint parliamentary departments. The report referred to the change in the "dynamics" of the consideration of the consultancy, in that it was proposed that money to be saved by the amalgamation would be reinvested in

services to the two Houses and their members, but the government subsequently declared that the budgets of the departments would be cut in future years to pay for additional security measures required by the government. This matter was less delicately referred to in debate on the committee report as “blackmail” by the Department of Finance to force the adoption of the Podger proposals by making the departments pay for those measures, unlike all other departments required to adopt additional security measures. The report will not be considered until the Spring sittings.

PRIVILEGES COMMITTEE REPORT

The Privileges Committee presented on 25 June a report consisting of its correspondence with the Press Council over the committee’s examination of cases of unauthorised disclosure of Senate committee documents. The committee considers that, as the press demands recognition of its code of ethics, particularly relating to non-disclosure of sources, the press ought to recognise the requirement for Senate committees to retain confidentiality of some documents. The Press Council, however, appears to consider that its charter to defend freedom of the press extends to defending the right of journalists to publish “leaks”.

PRIME MINISTER’S SENATE PLAN

The Prime Minister’s scheme, announced at a Liberal Party conference, to amend the Constitution to ensure the passage of all government legislation by allowing a joint sitting of the two Houses to pass bills in disagreement between the Senate and the government, was the subject of a short debate on 16 June. It has been pointed out that, if the electors were persuaded to adopt this measure in a referendum, both Houses of the Parliament would be rubber stamps for government legislation, given the usual rigid government control of the House of Representatives. It was also pointed out that the government, if given this power, would soon turn its attention to legislation to perpetuate itself in office, for example, tampering with the electoral law and dismantling accountability mechanisms.

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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