

DEPARTMENT OF THE SENATE PROCEDURAL INFORMATION BULLETIN

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PARLIAMENTARY CONTROL OF FINANCE

Two occurrences during the period provided an indication of the extent to which public finance has slipped from parliamentary control since the new financial arrangements began nearly ten years ago.

During the consideration of the Financial Framework Legislation Amendment Bill (No. 2) 2005, Senators Murray and Sherry jointly moved amendments to provide for consolidated registers of special or standing appropriations and of special accounts, and to “sunset” special appropriations. Special or standing appropriations and special accounts provide departments and agencies with large and indefinite sums of money to spend without effective parliamentary approval. They, and the system of allowing revenues to be retained without separate appropriation, have been the subject of reports by the Auditor-General disclosing widespread illegalities and lack of proper management, including the expenditure of millions of dollars without legal authority. Debate on the bill was not concluded, but it is clear that the government will not accept the amendments.

A report by the Auditor-General on the Roads to Recovery program was presented on 1 March. Apart from identifying some of the troubles with that program which have been the subject of political controversy, the report demonstrates that the outcomes system of appropriations has effectively removed parliamentary control of the purposes of expenditure. The Department of Transport and Regional Services has two outcomes: “a better transport system for Australia”, and “greater recognition and development opportunities for local, regional and territory communities”. Having previously charged expenditure on the Roads to Recovery program to the first outcome, the department earlier this year decided that the program could just as well be charged to the second outcome, and in this it had the support of a legal opinion. This confirms that, apart from having indefinite amounts of money not appropriated by the Parliament at their disposal, departments and agencies are able to spend that money on whatever they choose. (See the submissions on this subject to the Finance and

Public Administration References Committee, included in its report on government advertising, presented in December 2005.)

COMMITTEE REPORTS

During the debates on the most recent scandals in the aged care industry, it was pointed out that the government has not responded to the report of the Community Affairs References Committee on aged care, presented in June 2005, which referred to many of the problems in the sector.

In tabling some additional information on 1 March, the chair of the Finance and Public Administration References Committee, Senator Forshaw, referred to the apparent tactic of departments of taking questions on notice and not providing the answers until after a committee has reported. This may be compared with the similar practice of presenting answers to estimates questions on notice on the day before the next round of hearings.

COMMITTEE REFERENCES

Three proposed references to the references committees, on the aviation safety regime, refugees and visa-holders and the funding of the Commonwealth/State/Territory Disability Agreement, were all rejected by the government on 2 March, with all government senators voting against the references, in spite of some having expressed disquiet, particularly about the aviation safety issue. No ministers or government senators spoke to the first two motions and only the chair of the relevant legislation committee to the last, leading to charges of contempt for the committee system.

Since the government majority took effect on 1 July 2005, 22 references to references committees have been proposed and only 7 passed. This pattern supports what has often been said, that the government will not allow the committees to inquire into any subjects which might be inconvenient to the government.

Another proposed reference on 27 February lapsed when called on and not moved, an unusual occurrence.

ESTIMATES HEARINGS: THE GREAT WHEAT “GAG”

The legislation committees are not due to present their reports on their additional estimates hearings until the next period of sittings in late March, but the tabling on 28 February of

additional information from the supplementary budget hearings provided an opportunity for a debate on the government's instruction that questions not be answered on the Iraq wheat bribery matter (see Bulletin No. 198, pp 3-5).

LEGISLATION

The offshore petroleum package of bills dealt with on 1 March included a huge bill of more than 600 pages. Although the bill largely re-enacted existing provisions, in past times it would have been the subject of a great deal of detailed consideration. No amendments to the bill, however, were accepted by the government.

ORDER FOR DOCUMENTS

Further documents were tabled in response to the order relating to genetically modified foods (see Bulletin No. 198, p 1).

Responses to the continuing order for details of contracts duly flowed in, so that accountability mechanism is functioning.

ADDRESSES BY FOREIGN DIGNATORIES

A message was reported from the House of Representatives on 2 March inviting senators to attend a special meeting of the House of Representatives on 28 March for an address by British Prime Minister Blair.

This invitation reflects a change to a procedure first adopted by the government in 1992, which was the subject of adverse consideration by two Senate committees in 2003. On four occasions simultaneous meetings of the Senate and the House of Representatives in the House of Representatives chamber were held to hear such addresses. This procedure was first adopted for visiting US Presidents on the basis that a similar honour had been extended to an Australian prime minister in Washington in accordance with the custom of the US Congress. In 2003 it was extended to successive appearances by President George W. Bush and the Chinese President, Hu Jintao. On the first of these occasions, the Speaker purported to eject the two Greens senators for interjecting, in response to a purported motion that they be "suspended from the service of the House", thereby creating an anomalous situation of senators being excluded from what was technically a meeting of the Senate by decision of the Speaker. The two senators were then purportedly excluded from the meeting on the following day, although it was technically a separate meeting. This drew attention to the

constitutionally anomalous and irregular character of the simultaneous meetings, and both the Procedure Committee and the Privileges Committee recommended that they not be employed in the future, and that, if the government wished to continue with these kinds of addresses, they be received at meetings of the House of Representatives only.

DIVISIONS

Two divisions had to be taken again by leave on 2 March, one because Opposition senators voted the wrong way on the first occasion, and one because insufficient government senators attended to defeat a motion which the government intended to reject.

The temporary order providing that no divisions take place after 4.30 pm on a Thursday was renewed on 27 February, with some debate and reminders of the incident of the government moving a motion after that time which could not be voted on (see Bulletin No. 195, p 3).

ACCOUNTABILITY REPORT

It may be doubted whether the references committees will be able to continue to function, given the record of proposed references to them. Three of the eight committees have no references, which is unusual.

It may be a long time before anything can be done to reassert parliamentary control over the amount of money available to departments and agencies and the purposes on which they can expend it.

SENATE DAILY SUMMARY

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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