

# DEPARTMENT OF THE SENATE PROCEDURAL INFORMATION BULLETIN

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**for the sitting period 12—21 June 2007**

**22 June 2007**

## **ESTIMATES REPORTS**

The standing committee reports on the estimates hearings were presented on 19 June, all containing substantive commentary on matters examined in the committees' hearings. There were further complaints about late answers to questions on notice and departments "dumping" answers on committees just before the hearings, denying senators the opportunity to properly consider them before the hearings. The Department of Employment and Workplace Relations was singled out as the main offender. Opposition senators claimed that the department "dumped" most of its answers after it was roundly criticised in the press as "the most secretive government portfolio in Australia". It sent about 350 answers in a week and 200 in one day.

The committees also made comment on the difficulty of tracking expenditure through the departments' Portfolio Budget Statements.

The Legal and Constitutional Affairs Committee received, in answer to questions, departmental submissions which had been made to a House of Representatives committee but not published by that committee. In the interests of comity between the Houses, the Senate committee declined to receive the submissions, but sought the information in another form.

## **OTHER COMMITTEE REPORTS**

The Employment, Workplace Relations and Education Committee presented on 14 June its report on the government's reframing of its workplace relations legislation, with complaints by non-government senators about the rushed inquiry. The minority report of the Australian Democrats, referring to the original 2005 legislation, claimed that government party senators did the government a disservice, as well as the Senate and the country, by not providing a

“steadying influence” on the government. The notion of government backbenchers as a “steadying influence” harks back to what is now an old fashioned view of bicameralism.

The Foreign Affairs, Defence and Trade Committee presented before the sittings a report on a private senators’ bill to prohibit the use of cluster munitions by the Australian Defence Force, leading to a spirited debate on the morality of these weapons.

The Community Affairs report on aged care legislation, presented before the sittings, recommended substantive amendments.

### **REFERENCE OF BILLS TO COMMITTEES**

A total of 23 bills were referred to committees for inquiries over the winter long adjournment, most on the initiative of the government through the Selection of Bills Committee immediately after the introduction of the bills. An attempt by the Opposition to refer the highly controversial wheat marketing legislation was negated on 20 June (see below, under Legislation).

### **SCRUTINY OF BILLS COMMITTEE**

The Scrutiny of Bills Committee continued its practice of drawing particular attention to some problems detected in bills. In two reports on 13 and 20 June, the Chair made statements about strict liability and delegation of powers. At least one bill was amended in response to the committee’s comments (see below, under Legislation).

### **COMMITTEE REFERENCES**

A non-government initiative for a committee reference, relating to the cost of living for the aged, was successful on 14 June.

Other non-government proposed references did not fare so well: a proposed reference on the wheat marketing legislation was negated on 20 June (see below, under Legislation) and an attempt to have the Economics Committee inquire into feed-in tariffs in electricity grids was unsuccessful on 21 June. Other proposed referrals were postponed to the next period of sittings.

### **LEGISLATION**

Having been reported on by the Employment, Workplace Relations and Education Committee, the government’s amendments of its workplace relations legislation was the subject of voluminous government amendments on 19 June, leading to claims that the

revision of the legislation was hasty and not well thought out. The government accepted some amendments proposed by Senator Fielding of Family First.

Food standards legislation was amended on 14 June in relation to delegation of powers following comments by the Scrutiny of Bills Committee.

Higher education legislation relating to the highly controversial matter of full-fee places in universities was passed on 15 June, only after undertakings about agreements with universities which satisfied Senator Joyce.

Legislation relating to the Pharmaceutical Benefits Scheme, passed on 20 June, resulted in one Opposition amendment and a government amendment in response to an Opposition amendment. Some of the amendments arose out of committee scrutiny. Although the government said nothing in the Senate about one of its amendments having to be moved as a request in accordance with section 53 of the Constitution, the bill came back from the House of Representatives with the amendment disagreed to on that basis, so that, in effect, the government disagreed with its own amendment. This resulted in a terse statement by the Chairman of Committees, pointing out that the issue involved, that an amendment conferring a power on a minister to make a determination which would increase expenditure under the bill should not be a request, was resolved by the Senate in 1981 (see Odgers 11<sup>th</sup> ed., p. 290). An amendment made in the House identical to the original amendment was then agreed to.

Having failed to refer the wheat marketing legislation to a committee, the Opposition attempted to divide the bill on 21 June, drawing attention to the fact that only one part of it was urgent and the remainder, relating to the system for wheat marketing, was the subject of great disagreement in the Coalition parties. No government senators were enticed to “cross the floor”, however.

When the annual appropriation bills were dealt with on 21 June, the Opposition and the Democrats moved amendments which would have prevented any expenditure on government advertising except under certain conditions, or on party political fundraising in the Prime Minister’s “official residences”, reflecting matters of recent controversy. Such amendments, to prevent expenditure on particular matters, were made by the Senate in 1995 and 2004; the latter amendment also related to government advertising.

The legislative proposal which has attracted the most debate and scrutiny of any bill before its introduction, the Access Card, has been put off indefinitely and the government will issue an exposure draft.

## **DELEGATED LEGISLATION**

The Regulations and Ordinances Committee presented a report on 21 June drawing attention to the failure of departments and agencies properly to observe the consultation provisions in the Legislative Instruments Act, which require consultation before making some legislative instruments. In debate on the report, Senator Bartlett pointed out that the problem would not have arisen if the Senate had insisted on amendments to the legislation to provide remedies or penalties for failure to observe the consultation process.

## **CHAIRS' COMMITTEE REPORT**

The Chairs' Committee, established under standing order 25(10), presented on 21 June a response to the recommendations of the Finance and Public Administration Committee in its report on *Transparency and accountability of Commonwealth public funding and expenditure*. The Chairs' Committee referred to steps taken by the standing committees to improve the scrutiny of expenditure, as recommended by the Finance and Public Administration Committee.

## **GOVERNMENT RESPONSES TO COMMITTEE REPORTS**

The President presented on 21 June the regular report on outstanding government responses to committee reports, and the government response to the President's previous report was also presented. The usual situation was revealed: most reports are not responded to in time, and there are many overdue final responses, while the government response makes much use of the phrase "the government response will be presented in due course".

## **WESTRALIA MATTER**

Opposition senators appear to be convinced, partly as a result of estimates hearings, that the full facts about the fatal fire on the Navy vessel *Westralia* are yet to be revealed. A proposed order for documents on the subject was negated on 19 June and a proposed committee reference was postponed on 21 June. The government is resisting further inquiry on the basis that relevant matters have been referred to the Ombudsman.

Another proposed order for documents, relating to the Anvil Hill Coal Mine, was negated on 20 June.

## **VACANCIES FILLED**

Senator Fisher was sworn in to replace Senator Vanstone on 12 June, and Senator Cormann to replace Senator Ian Campbell on 20 June, both immediately after the receipt of facsimiles

of the certificates of appointment from the state governors, bringing the Senate to its full complement.

#### **ACCOUNTABILITY REPORT**

As indicated by the contents of these bulletins, the Senate's committees are now the scene of whatever accountability advances are made, with the committees "dripping on a stone" in their scrutiny of legislation and other matters.

#### **RELATED RESOURCES**

The *Dynamic Red* records proceedings in the Senate as they happen each day.

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, these documents may be reached through the Senate home page at [www.aph.gov.au/senate](http://www.aph.gov.au/senate)

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