

DEPARTMENT OF THE SENATE PROCEDURAL INFORMATION BULLETIN

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LEGISLATION: STRANGE EVENTS

As is usual with the last two sitting weeks of a year, the Senate spent most of its time during this period on government legislation, and there were some strange occurrences accompanying the proceedings. A great number of amendments were made to numerous bills, and the final outcomes displayed the usual mixture of disagreements with the government over some amendments, some compromises, some non-insistence on amendments by the Senate, some insistence and one bill rejected.

Much time was spent on the legislation to remove discrimination against same-sex couples, and over 100 amendments were made to one of the bills, many arising from scrutiny by the Legal and Constitutional Affairs Committee. These amendments were eventually the subject of compromise with the government. Similarly, government amendments to the National Rental Affordability legislation arose from committee scrutiny.

Another bill occupying much time was the Water Amendment Bill 2008, which was passed by the Senate with amendments contributed by the Opposition, the Greens and Senator Xenophon. Some of the amendments were designed to stop the Victorian project for a pipeline to take water from the Murray Basin for Melbourne. Eventually the amendments were not insisted on, but amendments to the motion for the adoption of the report of the committee of the whole were carried to indicate the Senate's views. The government adjourned debate on that motion after it had been amended. This was said to be because the legislation could not pass until the Victorian Parliament had passed complementary legislation. As the Commonwealth legislation would not be finally passed until the Governor-General had assented to it, it was not clear why the bill had to be kept in the Senate,

and no explanation was given. The adjourned amended motion was eventually adopted on 4 December.

A bill that really deserved the description of a blank cheque was the Guarantee Scheme for Large Deposits and Wholesale Funding Appropriation Bill 2008, which appropriated an unlimited amount of money and authorised unlimited borrowing to fund the government's guarantee of banks' large deposits and overseas loans. The government at first said that legislation would not be passed unless and until the money was needed, but changed its mind when advised that overseas financial institutions had to be convinced that the guarantee was real. The Greens resisted the legislation and attempted to limit its operation by amendment.

The spectacle of the government voting against the third reading of its own bill was provided by the bill to consolidate the Northern Territory emergency response. It was extensively amended, and the amendments were unacceptable to the government. The bill was passed by the votes of the non-government parties, and remains unresolved.

As with the Water Amendment Bill, there were major bills that the Opposition was unwilling to hold up by insisting on Senate amendments. The Schools Assistance Bill fell into this category, as did the Nation-building Funds Bill and an associated bill, which produced the most unusual voting pattern perhaps ever seen in the Senate. The Opposition executive having decided not to insist on amendments, the Nationals dissented from this decision and voted to insist upon them, joined by the Greens, Senators Fielding and Xenophon and two Liberal senators, while several Liberal senators voted with the government and the majority of Liberals absented themselves from the chamber.

The non-government parties, however, felt safe to insist on their amendments to two bills. The amendments to the Broadcasting Legislation Amendment (Digital Television Switch-over) Bill were insisted on, and then further insisted on when the government further disagreed. As the bill was initiated in the Senate, the government had to reverse the Senate amendments in the House, and technically the Senate was disagreeing to the House amendments. The Senate's amendments were eventually accepted by the government at the very end of the sittings. Amendments to the Safe Work Australia Bill were also insisted on and further insisted on, but this bill was laid aside in the House.

The Social Security Legislation Amendment (Employment Services Reform) Bill was rejected at the second reading on an equally divided vote. Senator Xenophon indicated that he was not opposed to the bill but needed more time to consider it.

SENATE AND FINANCE BILLS

The Senate passed on 26 November a package of appropriation bills for the government's Economic Security Strategy, one of which was said to be for the ordinary annual services of the government. While this may be correct, in that existing programs have been expanded as part of the expenditure to support the economy, probably some of the expenditure was not for the ordinary annual services at all, since there has yet been no resolution between the Senate and the government of the issue (see Bulletin No. 219, p. 4). There was no time, however, to check the bills in detail.

That the government and its advisers are confused about the interpretation of section 53 of the Constitution (see Bulletin No. 224, pp 4-5 and No. 226, p.2) was further indicated by government amendments to the road transport charge package of bills being circulated as amendments, although, as the Chair pointed out, they were bills imposing taxation and therefore all amendments had to be moved as requests.

DELEGATED LEGISLATION

The Greens, Nationals, and Independent senators spent a good deal of time attempting to overturn the scheme for tax deductibility of the planting of trees for "carbon sinks" (see Bulletin No. 222, pp 1-2). They first attempted to do so by disallowing guidelines under the legislation. It appeared fairly clear on the face of the legislation that the scheme could not operate unless there were guidelines in force, and the disallowance of the guidelines would prevent the scheme operating. This conclusion appeared to be disputed, but there was no real discussion of the issue. Those senators subsequently attempted to sink the scheme by way of an amendment to a taxation bill. Both attempts were unsuccessful.

ORDERS FOR DOCUMENTS

Orders for the production of documents may be restored to their former power.

Senator Milne was able to withdraw a notice of motion for an order for documents when the documents in question were produced in advance of her motion on 2 December. The motion related to feed-in electricity tariffs.

The government also produced a statement about executive salaries on 4 December, even though the relevant motion merely called for the statement and was not a formal order for documents. Senator Bob Brown had indicated that he might move further motions if the statement did not appear.

An order passed on 3 December required the production of information relating to water supply in the Murray Darling Basin, and was related to the consideration of the Water Amendment Bill (see above).

ADDITIONAL ESTIMATES HEARINGS

The government produced the additional appropriation bills on 4 December, much earlier than usual, and the associated documents were referred to the legislative and general purpose standing committees for the estimates hearings, which will occur in February 2009. The committees will have plenty of time to analyse the documents, but it will be interesting to see whether some departments need further appropriations before the financial year is out.

QUESTION TIME TRIAL

The trial of the new procedures for question time (see Bulletin No. 226, p. 4) proceeded during the week, with minor difficulties mainly related to the requirement for answers to be “directly relevant” to the questions. A motion was passed on 4 December to continue the trial for 2009, but the Deputy President and Chair of the Procedure Committee, Senator Ferguson, indicated that the committee would assess the procedures early in the new year.

COMMITTEE MEMBERSHIP

The Greens gave notice of a motion to alter the membership formulae for the legislative and general purpose standing committees, apparently to provide a closer reflection of the balance of numbers in the Senate. The motion was altered to a reference of the proposal to the Procedure Committee and passed in that form on the last day.

TEMPORARY ORDERS

The temporary orders relating to the adjournment debate on Tuesdays, divisions on Thursdays and substitute members of committees were renewed for 2009 on 3 December. The Procedure Committee may also determine whether these orders should become permanent.

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

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