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LEGISLATION

Committees continued to have a significant impact on legislation considered by the Senate. A package of bills which was the subject of extensive comment by both the Scrutiny of Bills Committee and the Education, Employment and Workplace Relations Legislation Committee was not, however, the subject of amendment. The bills were the result of a referral of powers from NSW, and the Government argued that they could not be amended because the referral of powers was based on the specific text of the bill and any alteration of that text would result in the failure of the agreement to establish the Vocational Education and Training Regulator, an office for which there was widespread support. The Scrutiny of Bills Committee commented on numerous deficiencies in the bills and the legislation committee recommended numerous changes to the explanatory memoranda. It also supported the preparation of exposure drafts in future to enable examination of proposals by parliamentary committees before they were locked into the terms of intergovernmental agreements. During debate on the bills, several senators commented on the hijacking of normal parliamentary processes by bills such as these which are presented to the Parliament as a *fait accompli*. Although they were supportive of the aims of the legislation, they were concerned by the usurpation of parliamentary scrutiny which is an inevitable by-product of uniform national legislative schemes and legislation giving effect to intergovernmental agreements. Tellingly, the EEWR Legislation Committee recommended that certain provisions of the legislation be amended once they had been enacted (and the text-based referral of powers had been effected).

Following a report of the Environment and Communications Legislation Committee on the bills, the Government agreed to move amendments to the National Broadband Network Companies Bill 2010; and Telecommunications Legislation Amendment (National Broadband Network Measures – Access Arrangements) Bill 2011 to clarify arrangements intended to provide a level playing field in the industry. These bills, however, were the subject of somewhat protracted proceedings in committee of the whole and the Senate extended its sitting on Thursday 24 March to the following day to deal with them. The bills

were passed with amendments that had been moved by the Government, the Australian Greens and Senator Xenophon.

The Civil Dispute Resolution Bill 2010 was also amended on the recommendation of the Legal and Constitutional Affairs Legislation Committee with the minister recognising the committee's work on numerous occasions during the debate. However, Opposition amendments were not supported. Government amendments to the Australian Civilian Corps Bill 2010 were prompted by reports of the Foreign Affairs, Defence and Trade Legislation Committee and the Scrutiny of Bills Committee. Unusually, a government response to the former report was tabled after the bill had been passed on 22 March. Government responses are not usually provided in respect of reports on bills because they are given in the context of the further consideration of the bill in the chamber. In this case, amendments were moved and a supplementary explanatory memorandum was tabled (which acknowledged the work of both committees) but as there was no debate on the amendments, this connection was not apparent at the time the bill was considered in committee of the whole.

Just before the conclusion of the second reading debate on the flood levy bills on 21 March (Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 and Income Tax Rates Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011), the Government tabled the draft of revised Natural Disaster Relief and Recovery Arrangements giving effect to an agreement with Senator Xenophon to tighten the requirements for States to take out insurance of their infrastructure assets in order to qualify in future for relief payments under the program. Although no amendments had been circulated, Senator Xenophon used his right under standing order 115(1) to require a committee stage to enable him to ask question of the minister about the draft determination. This is an absolute right to ensure that senators have access to an opportunity to scrutinise bills in detail in the committee stage (a stage which may otherwise be omitted if it is not required). The bills were passed on 22 March, several Opposition senators having also taken the opportunity to ask questions during the committee stage.

The first private member's bill to become law under the "new paradigm" is the Evidence Amendment (Journalists' Privilege) Bill 2010 which was introduced by Mr Wilkie MP. A message from the House of Representatives agreeing to amendments made by the Senate was reported on 22 March and the bill will now proceed to assent.

Private senators' bills were again debated on 24 March under the temporary order providing additional time for their consideration. Two bills introduced by Opposition senators were debated and both were referred to committees by way of second reading amendments (which were themselves subject to further amendment). The Wild Rivers (Environmental Management) Bill 2011 was again referred to the Legal and Constitutional Affairs Legislation Committee but the committee was instructed to consider only those provisions that it had not previously examined. The Defence Force Retirement and Death Benefits Amendment (Fair Indexation) Bill 2010 was the subject of heated debate. Like the Social

Security Amendment (Income Support for Regional Students) Bill 2010, introduced by Senator Nash, the bill amends an Act containing a standing appropriation but does not itself make any appropriation of money, despite having significant financial implications. Like Senator Nash's bill, this bill was also subjected to claims that it is unconstitutional because it is argued that it ***is*** a bill appropriating money. Amendments moved to the second reading motion proposed alternative sources of offsetting savings to finance the proposed measures (including efficiencies within the Defence Department and proceeds from a reconfigured minerals resource rent tax). The bill, together with proposed amendments and proposed mechanisms for funding the measures contained in it, was referred to the Finance and Public Administration Legislation Committee for report in the next sitting week in May.

ORDER AND DISORDER

The standing orders of the Senate apply to committee proceedings but, as they are subsidiary bodies, committees have no disciplinary powers of their own. Just as committees must report to the Senate any recalcitrance by witnesses or any suspected contempts, any disorder in committees is also a matter for the Senate to deal with, should it arise. Standing orders 145 and 146 confirm this principle in respect of proceedings in committee of the whole, which is also a subsidiary body. Disorder in committees (in the technical sense) is very rare because committees operate as fact-finding bodies tasked with inquiring into particular subjects for the benefit of the Senate as a whole. Crucially, in their interaction with witnesses, committees represent the Senate on display. The willingness of witnesses to cooperate with committees is essential to the effective functioning of the committee system and this, in turn, relies on committees treating witnesses with respect and courtesy (as well as with fairness, as required by Privilege Resolution 1).

Following an episode of disorder in the Legal and Constitutional Affairs Legislation Committee during a hearing into the Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010 when a member refused to withdraw a personal reflection on the Speaker of the ACT Legislative Assembly who had earlier appeared as a witness, the chair suspended the hearing and called a private meeting. The committee resolved to seek the President's views on the matter and a letter from the President confirming the chair's ruling was incorporated in Hansard at a subsequent hearing. Matters were brought to a head when Senator Bob Brown gave notice of a motion in the Senate on 22 March requiring the senator concerned to withdraw the remarks within 24 hours. The senator pre-empted the motion (subsequently withdrawn) by withdrawing the offending remarks, but in doing so, misconstrued the basis of the President's response. To clarify issues, the President tabled the correspondence later that day and reaffirmed the basis on which the ruling had been made. In relation to a personal reflection on a person protected under standing order 193(3), the meaning of individual words (and whether or not they are "unparliamentary") is not the issue. It is the combination and context of words (which may in themselves be innocuous) which determines whether remarks constitute a personal reflection.

PROCEDURE COMMITTEE REPORT

On 23 March, the Procedure Committee presented its *First report of 2011* recommending the extension of the modified arrangements for question time until August 2011. The report was adopted the following day.

The Procedure Committee also received a reference on the operation of standing order 55(2) – (5) (the provisions which allow an absolute majority of senators to require a meeting of the Senate). This was the subject of a notice of motion by Senator Bob Brown, withdrawn on 22 March (and see Bulletin No. 248).

PRIVILEGES COMMITTEE REFERENCE

Towards the end of the last Parliament, the Privileges Committee received a reference, arising out of a report of the Foreign Affairs, Defence and Trade References Committee on the adequacy of guidance provided in the "Government Guidelines for Official Witnesses appearing before Parliamentary Committees". A new reference, incorporating the terms of reference of the earlier inquiry but also including additional terms of reference, was agreed to on 21 March. The inquiry will include consideration of procedural and legal protections available to officers providing evidence to committees or information to the Senate and senators, and awareness among agencies and officers of the extent of the Senate's information-gathering powers.

PARLIAMENTARY BUDGET OFFICE

The Joint Select Committee on the Parliamentary Budget Office presented its report on 23 March, recommending that a Parliamentary Budget Office be established as an independent entity outside the current parliamentary departmental structure, along the lines of the Australian National Audit Office and, like the ANAO, under the supervision of the Joint Committee of Public Accounts and Audit. The recommended budget is approximately $6 million per year. The committee was established in response to undertakings in the agreements on parliamentary reform made after the last election.

NEW SELECT COMMITTEE

The completion of its work by the Joint Select Committee on the Parliamentary Budget Office brought the number of committees on which senators serve back down to 49. Within 24 hours, the Senate had agreed to establish a new select committee, on Australia's food processing sector, to report by 30 June 2012, thereby taking the number of committees back to a record 50. The establishment of the committee was opposed by the Government and the Australian Greens.

ORDERS FOR PRODUCTION OF DOCUMENTS

The order of the Senate of 3 March for production of documents relating to the appointment of a disabilities ambassador for the International Day of People with Disability was fully complied with on 25 March when the documents were tabled just before the Senate completed its extended sittings.

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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OCCASIONAL NOTE

RECENT APPLICATIONS OF THE POWER TO ORDER THE PRODUCTION OF DOCUMENTS INVOLVING STATUTORY AUTHORITIES OR OFFICERS

The last occasional note looked at the origin of the power to order the production of documents. This note examines some recent applications of the power to order the production of documents from statutory authorities or officers.

Although the power to order documents was frequently used in the Senate's early days, it had fallen out of fashion by the second decade of the 20th century and had little or no use until the 1960s when it was revived to deal with the VIP flights scandal of 1967-68. The Opposition ordered the production of flight manifests and other documents to show who was actually travelling on RAAF VIP flights (claims having been made that the documents did not exist). The documents were eventually produced in recognition of the obligation of governments to respond to orders of the Houses. Use of the procedure has increased since that time and is now common. Orders are not infrequently contested by ministers, and the Senate's procedures require ministers to state public interest grounds for seeking not to comply in part or in full with such orders. Disputes are invariably resolved by political means (see chapter 19 of *Odgers' Australian Senate Practice*, 12th edition, under 'Claims by the executive of public interest immunity').

Most orders are directed to ministers but they may also be directed to any other person that the Senate believes may have (or can assemble) information to assist it. One such class of persons are statutory officers or statutory authorities, including the Auditor-General, the Australian Securities Commission, the Australian Competition and Consumer Commission and the Human Rights and Equal Opportunity Commission. The question has arisen whether such bodies respond to Senate orders only because they have a specified function to do so under their enabling legislation or because they do so in recognition of the information gathering powers possessed by the Houses of the Commonwealth Parliament by virtue of section 49 of the Constitution. Practice and precedent clearly favour the latter view.

— *Requests and orders to the Auditor-General*

Before its replacement in 1997 by new legislation providing for the functions and powers of the Auditor-General, the *Audit Act 1901* included, by virtue of 1979 amendments allowing the Auditor-General to conduct efficiency audits, the capacity for a minister or the Parliament, by resolution of both Houses, to request the Auditor-General to carry out efficiency audits of all or specified operations of an eligible incorporated company (subsection 48C(2)). This was the extent to which the Act referred to requests by the Parliament.

In 1980, the Senate adopted a resolution from the committee of the whole considering Appropriation Bill (No. 1) 1980–81, recommending that the Auditor-General be requested to

investigate the estimating and administrative practices of the Department of Industrial Relations and the Industrial Relations Bureau (*Journals*, 18 September 1980, p. 1563). A response from the Auditor-General was tabled on 4 December 1980 and a minister sought the Senate's concurrence to the course of action proposed by the Auditor-General. The Auditor-General referred to the Senate's request as "unusual" (as indeed it was at that time) and to the absence of provision in the Audit Act (with the limited exception of subsection 48C(2)) for the Auditor-General to carry out investigations or audits at the request of the Parliament. Nonetheless, the Auditor-General suggested that part of the task be carried out by the Department of Finance which had the expertise in that area and that the remaining part of the task would be done in the normal course of audits of the department and bureau in question. The Senate agreed to the proposal (*Journals*, 4 December 1980, p. 65) and a report from the Department of Finance was tabled on 17 September 1981 together with a ministerial statement summarising the report's findings (*Journals*, p. 505-6).

Orders for production of documents remained uncommon during the 1980s but became increasingly common in the 1990s. The pattern for future responses by the Auditor-General was set by the next Senate order that was directed to that office, an order requiring the Auditor-General to produce a statement on several matters relating to the pricing and accounting policies of Australia Post and the extent to which contracts entered into by that body contributed to losses in particular programs (*Journals*, 16 December 1992, p. 3382-3). The report was tabled on 4 May 1993 on the first sitting day of the next Parliament (*Journals*, p. 30-1; Audit Report No. 27 1992-93). The report was expressed as being in response to the order of the Senate and described the processes carried out to produce it, including reviews of Australia Post's systems, interviews with Australia Post staff and reviews of reports prepared by consultants. In other words, in response to the order of the Senate, the Auditor-General carried out an inquiry and presented a report.

This process was repeated in response to the following orders of the Senate for production of reports:

- order of 22 June 1994 (*Journals*, p.1830-1) for a report relating to leases in the Casselden Place building in Melbourne (Audit Report No. 4 1994-95, tabled 20/10/1994, *Journals*, p.2350, described as a special investigation resulting from an order of the Senate);

- order of 22 September 1994 (*Journals*, p. 2214-5) for a report relating to the sale of the Australian National Line (Audit Report No. 11 of 1994-95, tabled 5/12/94, *Journals*, p. 2675, in which the Auditor-General reported that he was unable to complete the task required by the Senate because of his inability to access information held by government companies, his powers not extending to such bodies);

- order of 8 December 1994 (*Journals*, p. 2770-1) revising the terms of the order of 22 September 1994 (Audit Report No. 2 of 1995-96, tabled 22/8/95, *Journals*, p. 3650,

- order of 20 October 1994 (*Journals*, p. 2349) for a report relating to the management of property leases under the control of Australian Estate Management (Audit Report No. 29 1995-96, tabled 19/6/1996, *Journals*, p. 339, in response to the order).

In 1997, the *Audit Act 1901* was replaced by the *Auditor-General Act 1997* which had undergone significant parliamentary scrutiny, including by the former Public Accounts Committee which, under related legislation, became the Joint Committee of Public Accounts and Audit with enhanced responsibilities in relation to the Auditor-General and the Australian National Audit Office. On the recommendation of the Public Accounts Committee, the Auditor-General's independence was guaranteed by provisions protecting him from direction from anyone (subsection 8(4)) and limiting the powers of the Parliament to act in relation to the Auditor-General to those specified or applying in the Act or other legislation (subsection 8(3)). The explanatory memorandum clarified this provision as a declaration for the purposes of section 49 of the Constitution, limiting the power of the Parliament in this regard.

After the enactment of the *Auditor-General Act 1997*, the Senate changed its approach and, rather than ordering the officer to produce documents, resolved to ***request*** him to do so. The Auditor-General did not change his approach to the Senate and continued to respond positively to all requests made of him by the Senate for reports. These included:

- a review of matters relating to parliamentarians' entitlements (resolution of the Senate, dated 2 November 2000, *Journals*, p. 3474; Report No. 5 of 2001-2002 tabled 7 August 2001, *Journals*, p. 4595);

- regular reviews of the Senate continuing order relating to confidentiality provisions in departmental and agency contracts (initiated by a request made on 20 June 2001, *Journals*, p. 4358; initial letter from the Auditor-General indicating that he intended to evaluate a sample of the contracts listed on departmental websites and report to the Parliament, 6 August 2001, *Journals*, p. 4554);

- a review of the Australian Radiation Protection and Nuclear Safety Agency (29 August 2002, *Journals*, p. 705; Audit Report No. 30 of 2004-2005 tabled 7 March 2005, *Journals*, p. 398)

- annual reviews of major defence materiel acquisitions (recommended in a report of the Foreign Affairs, Defence and Trade References Committee, adopted 14 May 2003, *Journals*, p. 1799; initial response from the Auditor-General advising a proposal to consider frameworks for conducting the reviews, tabled 17 June 2003, *Journals*, p. 1865; further response indicating deferral of audits pending additional funding, tabled 15 June 2004, *Journals*, p. 3442; subsequent tabling of numerous

audit reports on major defence materiel acquisitions including, for example, Audit Report No. 48 of 2008-2009, *Planning and Approval of Defence Major Capital Equipment Projects* which makes specific reference to the Senate committee's concerns; also see Major Projects Reports: Defence Materiel Organisation, Audit Report No. 17 of 2010-11, Audit Report No. 17 of 2009-10 and Audit Report No. 9 of 2008-09 indicating that such reviews are now part of the annual work plan, as approved by the JCPAA).

In all of these cases, the Auditor-General undertook extensive inquiries at the behest of the Senate, initially pursuant to order and, after changes to the legislation in 1997, at the Senate's request. At no time before 1997 did the Auditor-General attempt to dispute the powers of the Senate, even in the first, rather tentative response to an order in 1980.

— *Orders to the Australian Securities Commission/ Australian Securities and Investment Commission*

During consideration of the First Corporate Law Simplification Bill 1995, an order was agreed to requiring the tabling of a report by the then Australian Securities Commission on the first two years of operation of certain amendments to the bill concerning reporting by large proprietary companies. It was not a legislative amendment but a resolution of the Senate moved as an amendment to the motion that the report of the committee of the whole be adopted (*Journals*, 28 September 1995, p. 3887). Under the *Australian Securities Commission Act 1989* as it stood at the time, the ASC had the powers and functions conferred on it by that Act, the *Corporations Act 1989* and the Corporations Law of the Australian Capital Territory. The ASC had power "to do whatever is necessary for or in connection with, or reasonably incidental to, the performance of its functions" (subsection 11(4)). There was no mention of responding to requests by the Parliament or either House or their committees, although there was in operation a Parliamentary Joint Committee on Corporations and Securities which had an oversight role in relation to the commission and its work.

On 22 June 1998, a report by the ASC was tabled, complying fully with the order of the Senate of 28 September 1995 (*First Corporate Law Simplification Act 1995*—Review of the first two years of operation of certain amendments to the Corporations Law by the *First Corporate Law Simplification Act 1995*, dated 5 June 1998, *Journals*, p. 3969-70).

Changes to the Corporations Law saw the ASC succeeded by the Australian Securities and Investment Commission. On 26 October 2009, the Senate agreed to an order for production of reports by ASIC and the Future Fund Board of Guardians relating to the disposal by the Future Fund of shares in Telstra (*Journals*, p. 2572). A letter from the Chairman of ASIC to the responsible minister in response to the order was tabled on 16 November 2009 (*Journals*, p. 2719). The letter explained why the disposal of Telstra shares by the Future Fund did not come within ASIC's jurisdiction but detailed inquiries that ASIC had made of the Future Fund nonetheless and provided information that ASIC had received from the Future Fund on

a voluntary basis. The Future Fund also provided a report to the Senate on its disposal of Telstra shares.

Again, there was no attempt to dispute the Senate's power to make such orders, presumably because there was no basis on which to make such a challenge.

— *Request to the Human Rights and Equal Opportunity Commission*

A resolution of the Senate of 13 April 2000 asked HREOC to carry out particular inquiries and report to the Senate (*Journals*, p. 2631). It was not an order for production of documents in the strict sense and therefore involved no formal exercise of powers. HREOC responded nonetheless in a letter dated 3 May 2000 which included numerous attachments detailing relevant inquiries (*Journals*, 11 May 2000, p. 2706).

At the time the resolution was agreed to, the Manager of Government Business in the Senate informed the Senate as follows:

> In any case, for the Senate's information, the Government notes that the Commission is an independent statutory body with powers of inquiry. As such, the Senate cannot bind or direct the Commission to exercise those powers. It is a matter for the Commission to determine how it would respond to such a request by the Senate. The Government is confident that the Commission would give any request by the Senate appropriate consideration. However, the Government would not be surprised if the Commission responded to the Senate by pointing out that the Commission's resources might better be directed to issues where it has not already formed and expressed its views on the issue before commencing any inquiry.
>
> The Government also notes that while the Commission could conduct an inquiry on its own motion, under the *Human Rights and Equal Opportunity Commission Act 1986* the results of any such inquiry must be reported to the Attorney-General and not directly to Parliament.

While this was so of ***inquiries*** conducted pursuant to the Act, none of these considerations would have applied had the Commission been ordered to produce a document (which it was not).

— *Orders to the Australian Competition and Consumer Commission*

Numerous orders have been directed to the ACCC, established under the *Trade Practices Act 1974* (now the *Competition and Consumer Act 2010*). Interestingly, the Trade Practices Act included a provision requiring the Commission to comply with directions of the Minister and requirements of the Parliament. In respect of the Parliament, subsection 29(3) provides:

> If either House of the Parliament or a Committee of either House, or of both Houses, of the Parliament requires the Commission to furnish to that House or Committee any information concerning the performance of the functions of the Commission under this Act, the Commission shall comply with the requirement.

Included in the Trade Practices Act as originally enacted, the provision appears to be connected with the Commission's function to disseminate information relating to the interests of consumers and other matters as enumerated in section 28. The original explanatory memorandum cast no further light on the rationale for the provision:

> The Commission will also be required to comply with any request by the Parliament for information about the performance by the Commission of its functions. (Explanatory Memorandum, p. 5)

The provision is no more than a statement of the obvious, of the existing power of the Houses under section 49 of the Constitution to require the production of information. It is interesting to place it in some context. At the time the legislation was enacted in 1974, the power had been little used since the Senate's first decade. For some time before 1974, the Senate had been looking at models for committee operations to develop its investigative role and at the exercise of information-gathering powers. Relevant developments include the following:

- the study tour made to Washington in 1955 by the then Clerk Assistant, J.R. Odgers, to examine the US congressional committee process, the report of which was debated in June 1956 (report tabled 15 May 1956, *Journals*, p. 61, debated 22 June 1956 a.m., *Senate Debates*, p. 1843-4);

- the interest of then Opposition Leader in the Senate, Senator Lionel Murphy, in the operations of the US congressional committees in exposing the dissembling of the Administration about the conduct of the war in Vietnam (see Harry Evans, 'Time, Chance and Parliament: Lessons from Forty Years' in *Papers on Parliament* No. 53, Department of the Senate, June 2010, p. 3);

- the establishment of a standing committee system in the Senate in 1970, in some significant part as an attempt to emulate the functions of the US congressional committees;

- the revival of the power to order the production of documents in relation to the VIP flights affair of 1967-68.

It is tempting to speculate that Murphy, as Attorney-General and responsible for the introduction of the Trade Practices Bill, remembering his days as Opposition Leader, sought to remind people of the rights of parliament with a provision such as this, unnecessary as it was given that it merely restated in a limited way an existing power.

Whatever the case, the Houses did not rush to make demands on the Trade Practices Commission, later the Australian Competition and Consumer Commission. Since the late 1990s, however, the ACCC has undertaken a series of inquiries in response to Senate orders, inquiries that may be regarded as going significantly further than requests for "information about the performance of the Commission's functions". Reports have been produced on the following matters:

- anti-competitive practices of health funds or providers (in response to an order of the Senate of 25 March 1999 requiring such a report to be tabled every 6 months, amended in 2002 to every 12 months, *Journals*, 25 March 1999, p. 626, *Journals*, 18 September 2002, p. 748-9); reports tabled accordingly

- practices in the Australian grocery retailing industry (in response to an order of the Senate of 8 February 2001, *Journals*, p. 3911-2); report tabled 15 October 2002, *Journals*, p. 874

- tobacco and health-related issues (in response to an order of the Senate of 24 September 2001, *Journals*, p. 4925-6); report presented out of sitting on 30 April 2002 and tabled on 14 May 2002, *Journals*, p. 322

- tobacco companies (in response to an order of the Senate of 27 June 2002, *Journals*, p. 527 and a further order requiring a progress report, 12 November 2002, *Journals*, p. 1025); progress report and further reports tabled on 9 December 2002, *Journals*, p. 1261, 24 November 2003, *Journals*, p. 2689, 14 June 2005, *Journals*, p. 655, and 30 November 2005, *Journals*, p. 1461

- a competition notice issued to Telstra (in response to an order of the Senate of 10 March 2005, *Journals*, p. 463); report tabled 11 May 2005, *Journals*, p. 621 (the only example strictly relating to the performance of the Commission's function).

— *Conclusion*

These cases demonstrate that there is a well–established practice of statutory authorities and agencies responding positively to orders of the Senate regardless of whether their enabling statutes include responding to parliamentary requests as a specific function. This is attributable to the overarching powers of the Houses under the Constitution. Until the Information Commissioner sought to question the Senate's powers, no statutory officer or authority had declined to comply with an order of the Senate. At the very least, where they did not have the capacity to provide a response, they proposed and/or provided alternative solutions, as the Auditor-General did in 1980 and as ASIC did in relation to the order on the Future Fund's divestiture of Telstra shares.

Clerk's Office
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