

No. 111

for the sitting period 4-13 February 1997

17 February 1997

VACANCIES AND VOTING

The sudden and lamentable death of Senator Panizza created a vacancy at the very beginning of the 1997 sittings which will not soon be filled. The Western Australian Parliament does not meet until 6 March. The state government adheres to the strict construction of section 15 of the Constitution and does not advise appointments to vacancies by the Governor unless the Western Australian parliament is prorogued; although this is the situation at present it is not clear that a Governor's appointment will be made (see *Odgers' Australian Senate Practice*, 7th ed, electronic version, pp 130-1). The announced and impending resignation of Senator Woods appears to have been delayed because the Parliament of New South Wales, also a strict constructionist state in relation to section 15, does not meet again until early April, but the Houses are only adjourned. Contrary to some press speculations, however, vacancies involving members of the major parties do not affect voting in the Senate because of the practice of pairing vacancies, a practice which was recently confirmed by the Leader of the Opposition in the Senate, Senator Faulkner.

ORDERS FOR PRODUCTION OF DOCUMENTS

The Finance and Public Administration References Committee presented on 5 February its report on the Senate's permanent order for the production of indexed lists of government department files. The committee recommended a modification of the order in relation to classified files and a trial publication of the lists on the internet.

An order was passed on 11 February for the production of documents in connection with a defence exercise to be conducted near the Barrier Reef. Documents in response to this order were produced on 13 February, as were documents in response to a motion passed earlier on the same day requesting information concerning the transportation of nuclear waste.

LEGISLATION AMENDED, REJECTED

The disagreement between the Senate and the government over Senate amendments to the Social Security Legislation Amendment (Newly Arrived Resident's [sic] Waiting Periods and Other Measures) Bill 1996 (see Bulletin No. 110 pp 1-2) was settled on 12 February. The Senate insisted on some of its amendments, did not insist on others and agreed to several further amendments to the bill. The result was then accepted by the government as part of a compromise agreement.

In connection with that bill, the Chairman of Committees, Senator Colston, made a statement on the effects of equally divided votes on the questions to determine whether the Senate would insist on its amendments, referring to the 1993 ruling on this subject (see *Odgers' Australian Senate Practice*, 7th ed, electronic copy, p 264). In the event, however, there were no equally divided votes on any of the questions.

The Hindmarsh Island Bridge Bill 1996 was rejected by the Senate at the third reading on 10 February. This followed considerable debate on the bill, during which complex issues were explored, including the nature and extent of the Aboriginal affairs power in the Constitution and the relationship of the bill with the Racial Discrimination Act and the Heritage Protection Act. It was said that the bill would not affect the proposed building of the bridge one way or the other. To the delight of various commentators, there is now a definite first stage of a double dissolution "trigger" in place.

The Chairman of Committees also made statements on 10 and 12 February in relation to government amendments to the Customs Amendment Bill (No. 2) 1996 and the Veterans' Affairs Legislation Amendment (1996-97 Budget Measures) Bill 1996. The amendments were presented as requests when they clearly should have been amendments. In relation to the first bill, it was not classified as a bill imposing taxation but the amendments were presented as requests because it was apparently thought that they would increase the tax, although this was clearly not the case. In relation to the second bill, the explanatory memorandum accompanying the amendments made the remarkable statement that "The requests do not have any financial impact." How it was thought that amendments with no financial impact could be requests remains a mystery. The amendments were moved as amendments at the direction of the Chairman and accepted as such by the government in the House of Representatives.

STANDING ORDERS AMENDMENTS

The Senate adopted on 13 February extensive amendments recommended by the Procedure Committee to incorporate into the standing orders many continuing and sessional orders. Some modifications were made to the procedures incorporated to reflect agreements in relation to sitting times and the routine of business. A statement was made by the President indicating that agreement had also been reached on the allocation of questions at question time, a matter which had delayed action on the standing orders changes. The allocation of questions is to remain in accordance with recent practice.

COMMITTEES

The additional estimates documents were referred to the references committees on 6 February to begin the additional estimates scrutiny. The committees are to meet later in February and in early May for their supplementary hearings.

The following committee reports were presented during the period:

Date tabled	Committee	Title
5.2	Finance and Public Administration References	Report—Review of the Operation of the Order for the Production of Indexed Lists of Departmental Files
"	Scrutiny of Bills	1st Report and Alert Digest No. 1 of 1997
6.2	Employment, Education and Training Legislation	Additional Information—Estimates 1996-97
13.2	Community Standards Relevant to the Supply of Services Utilising Electronic Technologies Select	Report—Portrayal of Violence in the Electronic Media
"	Finance and Public Administration Legislation	Report—Ombudsman Amendment Bill 1996

Inquiries: Clerk's Office
 ☎ (06) 277 3364