

**No. 118**

**for the sitting period 22 September-2 October 1997**

**7 October 1997**

**PARLIAMENTARY PRIVILEGE**

By adopting the 67th report of the Privileges Committee (see Bulletin No. 117, p 1) on 22 September, the Senate endorsed the conclusion of the committee that a contempt was committed by the taking of legal action against a person in consequence of their communication of information to a senator in relation to matters raised in the Senate. No action was taken to impede the legal proceedings, which, as they appear to rely entirely on proceedings in the Senate, should not succeed.

The Privileges Committee received a reference on 2 October on the question of whether the Attorney-General interfered with a witness in his dealings with the Australian Law Reform Commission in respect of its proposed submission to the Joint Committee on Native Title. The Commission declined an invitation, which had earlier been accepted, to make a submission to the committee after a communication from the Attorney-General. The reference was resisted by the government on the basis that the Attorney-General had merely sought to confine the Commission to its statutory charter, and has a power to direct the Commission. In granting the matter precedence, the President pointed out that the Privileges Committee and the Senate had endorsed in the past the principle that an otherwise lawful act can constitute a contempt if it interferes with a witness in respect of the witness's evidence. (See also under Orders for production of documents, below.)

**ORDERS FOR PRODUCTION OF DOCUMENTS**

Orders for production of documents again provided an index of matters of controversy.

An order was made on 23 September for documents relating to the Pacific Cruise Lines matter, which involved the loss of a considerable sum of money in an employment training contract. Documents relating to the matter were produced in batches in response to the order on 29 and 30 September.

An order made on 29 September related to the government's greenhouse gas emission reduction policy, particularly the government's claims as to the effects of binding emission reduction targets. Documents in relation to this order were produced on 30 September.

The matter of the Attorney-General and the Australian Law Reform Commission (see above, under Parliamentary privilege) was the subject of an order for documents on 1 October, with a very short time for production. The documents produced on the following day included the draft submission of the Commission to the Native Title Committee.

## **LEGISLATION AMENDED**

The Legislative Instruments Bill, which is designed to reform the provisions governing the making and parliamentary control of delegated legislation, was finally passed on 25 September with extensive amendments, principally relating to the strengthening of parliamentary control. A significant amendment removed the exclusive power of the Attorney-General to determine whether an instrument is of a legislative character.

The audit package of bills, to replace the existing audit legislation and to reconstitute the office of the Auditor-General, was also finally passed. One of the Senate's amendments was designed to prevent the Attorney-General issuing a certificate restraining the Auditor-General from disclosing certain information where the information is required by a House of the Parliament or a parliamentary committee. The government rejected this amendment in the House of Representatives on the grounds that Attorney-General's certificates would be made known to the Parliament and a similar power had not been extensively used in the past. The Senate did not insist on this amendment on 2 October to allow the legislation to pass.

The Senate also did not insist on one of its amendments to the Taxation Laws Amendment Bill (No. 3) 1997 (see Bulletin No. 117, p 3). The amendment was finally lost by equally divided votes, a situation on which the Chair of Committees has made a number of statements in recent times but which had not occurred until this instance (see *Odgers' Australian Senate Practice*, 8th ed, p 262).

The Telecommunications (Interception) and Listening Device Amendment Bill 1997 was amended on 24 and 25 September after lengthy discussion of the vexed question of whether warrants for telephone tapping should be issued only by judicial officers.

The Social Security and Veterans' Affairs Legislation Amendment (Family and Other Measures) Bill 1997 was the subject of significant amendments on 25 September. Some of the amendments made by the Senate to the Social Security and Veterans' Affairs Legislation Amendment (Male Total Average Weekly Earnings Benchmark) Bill 1997 were made in the form of requests as they increased entitlements under the bill and therefore expenditure from the standing appropriation of the principal act.

The Trans-Tasman Mutual Recognition Bill 1996 was amended on 22 September in relation to Australian consumer protection law applying to trans-Tasman trade.

### **REPORT RECONSIDERED**

The question for the adoption of the 27th report of the Appropriations and Staffing Committee was considered and put again by leave on 25 September after some senators complained that the motion had been adopted in haste on the earlier presentation of the report. The report recommended that responsibility for all payment of travelling allowance for senators be centralised in the Department of Administrative Services on the basis that it would be easier to enforce accountability with such centralisation, a claim from which some senators dissented. The report was adopted again.

### **VACANCIES**

Two vacancies which occurred while the Senate was not sitting were speedily filled and the replacing senators sworn in on the first day of the sitting period. Senator Childs was replaced by Senator George Campbell by the Parliament of New South Wales and Senator Foreman by Senator Quirke by the Governor of South Australia (the Parliament of South Australia having been prorogued for the state general election).

The place occupied by Senator Colston is effectively vacant until the end of the year, as he was granted leave of absence due to illness on 22 September. This alters and simplifies the balance of numbers in the Senate: all non-government senators must now vote together to form a clear majority.

## COMMITTEES

The following committee reports were presented during the period:

<b>Date tabled</b>	<b>Committee</b>	<b>Title</b>
22.9	Foreign Affairs Defence and Trade Legislation	Report—Annual Reports
23.9	Economics Legislation	Report—Annual Reports
"	Finance and Public Administration Legislation	Report—Annual Reports
"	Legal and Constitutional Legislation	Report—Annual Reports
"	Privileges	68th Report—Persons referred to in the Senate (Mr Ray Platt, Mr Peter Mulheron)
"	Superannuation	26th Report—Small Superannuation Accounts
"	Finance and Public Administration Legislation	Additional Information—Estimates 1996-97
"	Finance and Public Administration Legislation	Additional Information—Additional Estimates 1996-97
"	Finance and Public Administration Legislation	Additional Information—Estimates 1997-98
"	Legal and Constitutional Legislation	Additional Information—Additional Estimates 1996-97
"	Legal and Constitutional Legislation	Additional Information—Estimates 1997-98
24.9	Foreign Affairs, Defence and Trade Legislation	Additional Information—Estimates 1997-98
"	Scrutiny of Bills	12th Report and Alert Digest No. 12 of 1997
25.9	Community Affairs Legislation	Report—Health Insurance Commission (Reform and Separation of Functions) Bill 1997
29.9	Environment, Recreation, Communications and the Arts Legislation	Report—Annual Reports
1.10	Scrutiny of Bills	13th Report and Alert Digest No. 13 of 1997
"	Community Affairs References	Report—Australian Human Pituitary Hormone Program Settlement Offer
"	Economics Legislation	Report—Customs Legislation (Anti-Dumping) Amendment Bill 1997 and Customs Tariff (Anti-Dumping) Amendment Bill 1997
2.10	Rural and Regional Affairs and Transport Legislation	Reports—Annual Reports

Date tabled	Committee	Title
"	Finance and Public Administration Legislation	Report—Snowy Hydro Corporatisation Bill 1997 and Snowy Hydro Corporatisation (Consequential Amendments) Bill 1997
"	Finance and Public Administration Legislation	Report—Public Service Bill 1997 and the Public Employment (Consequential and Transitional) Amendment Bill 1997

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