

No. 169

for the sitting period 18—27 March 2003

28 March 2003

IRAQ RESOLUTION

The first two days of the sittings were largely taken up with debate on the government's decision to participate in the war in Iraq. The government moved motions in both Houses to retrospectively endorse the decision. In the Senate this motion was replaced by one expressing disapproval. It was pointed out that, if the government relied on prior authorisation by both houses of the legislature, like the United States administration, the authorisation would not have been forthcoming. The Democrats reintroduced a bill dating back to 1985 to make such a provision, but the Greens were unsuccessful in a motion for a committee reference on the legality of the war.

ORDERS FOR PRODUCTION OF DOCUMENTS

The Iraq debate led to an order on 19 March for advices to the government on the legality of the military action. The government had already tabled advices in the course of the debate, but the order had a wider scope. The government responded on the following day to the effect that it had already produced its advices and was not able to provide those given to the United Nations.

An order on 25 March for the production of an agreement with the government of Iran, relating, amongst other things, to the return of refugees, perhaps unsurprisingly produced a refusal on the following day on the basis that agreements with foreign governments would not be disclosed. Senator Bartlett, promising to pursue the matter, said that it was ironic that an agreement had been made with one of the "axis of evil" countries to return refugees to that country when mistreatment of its subjects by the regime in Iraq was one of the arguments for the military action.

The matter of the documents relating to ethanol (see Bulletin No. 168, p. 1), was still not resolved. Another motion calling for the documents was passed on 26 March, again drawing attention to the repeated government promises to produce the documents, but the documents have still not been produced. It now appears that the responsible House of Representatives minister may have decided not to produce the documents, but is unwilling to say so.

Later on the same day, on a debate on a motion to extend the hours of sitting to deal with government legislation, Senators Bartlett and Ludwig pointed to the irony of the government relying on co-operation to secure its legislation while refusing to produce information without reason. They again warned of future trouble if the government continues to fail to respond to orders for documents.

There was one example of co-operation in this area: an order of 19 March for a ministerial letter relating to tobacco sponsorship resulted in the production of the letter on the following day, although it might have been thought that the government would refuse to produce ministerial correspondence.

It is significant that in this case the minister is a senator. It has been observed in the past that Senate ministers, accustomed to a higher level of parliamentary accountability, tend to produce documents in response to orders, while House of Representatives ministers, accustomed to virtually no parliamentary accountability, are more likely to refuse information.

LEGISLATION: TRIGGERS AND NON-TRIGGERS

The government continued to build up its storehouse of double dissolution “triggers”.

On 24 March the Senate again insisted on its amendments disagreed to by the government to the Workplace Relations Amendment (Fair Dismissal) Bill 2002 (see Bulletin No. 168, p. 2), definitely establishing this bill as a “trigger”.

Similarly, on the same day, the Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2002 was negatived at the third reading.

Some bills, however, which were regarded as potential “triggers”, were passed as a result of agreements on amendments.

The long saga of the Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures) Bill 2002 came to an end on 27 March when the government offered further amendments to the bill, which finally secured a majority with the agreement of the Democrats.

On 26 March the Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002 also secured a majority when the government agreed to one of the Senate’s amendments.

The sittings concluded with agreement on other legislation, generally speaking.

FORMAL MOTIONS

An attempt to pass a motion on Palestine as a formal motion, and several other contentious motions, led to a debate on 27 March on the formal motions procedure under standing order 66. Senators are now reluctant to refuse leave for a motion to be taken as formal, which means that it is put to a vote without amendment or debate. Even if some senators do not wish to vote for or against a motion, they grant formality lest refusal leads to a motion to suspend standing orders to have a debate on the motion and consequent expenditure of precious time. In effect, senators are forced to vote on motions which they do not wish to vote for or against. It was suggested that this was a misuse, or overuse, of the procedure. It is expected that the Procedure Committee will consider the matter following the debate.

COMMITTEE REPORTS

The legislation committees presented their reports on the additional estimates on 19 March, a common theme of the reports being the tardiness of departments in answering questions on notice arising from the estimates process. The additional appropriation bills were passed on 27 March.

Among several notable committee reports presented during the period was a report by the Foreign Affairs, Defence and Trade References Committee on the enormously expensive and disaster-prone area of defence equipment acquisition. The committee recommended significant new accountability measures, including regular reports by the Auditor-General on defence acquisition programs.

SENATE DAILY SUMMARY

This bulletin provides Senate staff and others with a summary of procedurally significant occurrences in the Senate. 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, *Senate Daily Summary* may be reached through the Senate home page at www.aph.gov.au/senate

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