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SUSPENSIONS OF STANDING ORDERS: PRESIDENT'S RULING

During the heated proceedings on the Telstra sale bills (see below, under Legislation) on 14 September, the President refused to accept a motion for the suspension of standing orders moved by Senator Bob Brown to allow him to make a statement for which he had been refused leave. This decision was based on the rulings of 1991-1993 by President Sibraa (see *Odgers*, 11th ed., p. 169). Earlier motions to suspend standing orders had been rejected, and the bills had been declared to be urgent bills under the provisions of standing order 142. Senator Brown then moved a motion to dissent from the ruling, which was put off until the following day by the rejection of a motion that it required immediate determination under standing order 198. On the following day the motion of dissent was rejected, but an Opposition amendment was carried to refer the ruling to the Procedure Committee, particularly for consideration of whether the President should exercise a discretion in applying the ruling to ensure that adequate opportunity is given to non-government senators to state a case for a suspension of standing orders. Such a discretion was in fact exercised by President Sibraa in one of his rulings in 1993.

LEGISLATION: TELSTRA SALE BILLS

The legislative time of the period was almost entirely occupied by the government's determination to push through the bills for the sale of Telstra and to put in place the financial arrangements designed to placate the rural population and the National Party.

Two of the bills were initiated in the Senate and three others, which involved appropriations or an imposition of taxation, and therefore could not be initiated in the Senate, were brought into the House of Representatives. It is not clear why this tactic was adopted; it must have been thought that it would facilitate pushing the bills through.

An Opposition motion on 6 September to refer the bills in advance of their introduction to the Environment, Communications, Information Technology and the Arts Legislation Committee for inquiry and report in October was replaced by a government amendment for a one-day committee inquiry and report by the following Monday. The committee duly conducted the attenuated hearing and reported on 12 September.

The bills initiated in the Senate were exempted from the deadline under standing order 111 on 7 September in a combined motion also providing for their introduction. Debate on this motion was not completed until the end of the day, so the bills were not actually presented until the following day, delaying the start of the actual debate on them. An Opposition attempt to defer consideration of the bills on the following Monday, 12 September, was unsuccessful, providing the first indication that no dissident government senator would vote against the bills' passage that week or, as it turned out, against the bills themselves.

Another unusual government motion on 12 September combined an exemption of the bills initiated in the House from standing order 111 and the "bundling" of those bills with the other two bills on their receipt. The three House bills were not received until the following day.

On 14 September a "guillotine" was imposed on the bills under standing order 142, giving rise to protracted debate, motions to suspend standing orders and many divisions, as well as the President's ruling and the dissent motion (see above). The bills were finally passed on that day with some government amendments.

When the time allotted to the bills expired, circulated amendments had to be put in accordance with standing order 142. The chair declined to allow the withdrawal of some of the amendments at that stage; to do so could deprive senators who wished to vote for such amendments of that opportunity.

At the commencement of the committee stage of the bills, the Deputy President and Chair of Committees, Senator Hogg, made a statement about some peculiar appropriations provisions in the bills. These were thought to have no consequence for Senate processes, but raised again the practice of the government of putting new activities into ordinary annual services bills (see the submission dated 5 August 2005 to the Finance and Public Administration Committee entitled Government Advertising — Funding and the Financial System, on the website of that committee).

The only other legislation of great controversy was the package of bills relating to the building and construction industry, dealt with on 5 September. Senator Murray again moved his amendment to require the production of information about any money spent on government advertising campaigns, which was again rejected by the government (see Bulletin No. 193, pp 2-3).

PARLIAMENTARY PRIVILEGE

The President made a determination under standing order 81 on 5 September according precedence to a motion to refer to the Privileges Committee a matter raised by the Finance and Public Administration References Committee. The matter involved evidence given by a mayor in the course of the committee's inquiry into regional partnership program grants. The committee had evidence suggesting that the mayor's statements were untrue, and the committee was not satisfied with an explanation which he subsequently provided. Normally, motions to refer matters to the Privileges Committee are passed without debate following the President's determination. It was the intention of the procedures for dealing with privilege matters adopted in 1988 to take them out of partisan controversy. The person concerned in this matter, however, is a member of the Liberal Party, and the government apparently decided to use its majority to reject the motion to refer the matter to the Privileges Committee. The chair of that committee, Senator Faulkner, stated that this was a "degrading" of the non-partisan method for dealing with privilege matters. A government senator stated in debate that there ought to be a prima facie case before the reference was made, but the procedures of 1988 were deliberately designed to avoid any judgment about a prima facie case.

COMMITTEE REPORTS

Among the most notable committee reports were two by the Foreign Affairs, Defence and Trade References Committee. Its report on 12 September dealt with the attempt by the former Chinese Embassy official, Mr Chen Yonglin, to gain political asylum. The majority (non-government) report was critical of the government's handling of the matter, particularly the alerting of the Chinese Embassy to his attempt to defect. A minority report by government senators defended the government's actions.

An interim report by the committee on 15 September on the Vivian Solon case, however, was unanimous and highly critical of the Immigration Department's action in mistakenly deporting this Australian citizen.

It has been repeatedly pointed out that in the future the government will be able to use its majority to prevent matters such as these being referred to committees.

AUDIT REPORT

Yet another audit report was presented on 5 September on what was described as another financial disaster in the Defence Department, on this occasion relating to a personnel management system, adding to the long line of reports on such matters in that department. The report was debated then and subsequently under the procedures in standing order 62 for debate on committee reports and Auditor-Generals' reports. These procedures have been well

used by senators in recent times, allowing them important opportunities to draw attention to such reports.

ORDERS FOR PRODUCTION OF DOCUMENTS

Documents were presented on 12 September in response to an order of 15 June relating to pregnancy counselling services. Apart from the continuing orders for the production of documents, such as that relating to government contracts, this could be the last occasion in this parliament for the presentation of documents in response to an order, given the refusal of the government so far to accept such orders (see Bulletin No. 193, p. 2).

RELEASE OF COMMITTEE DOCUMENTS

It was reported on 5 September that the Presiding Officers had released old documents of two joint committees under the provisions of standing order 37(3) as applied to joint committees by a resolution of 1984. The Senate view is that these authorisations are unnecessary, as committees with continuing functions have an inherent power to publish any of their past documents, unlike the legislative and general purpose standing committees which must put documents in the custody of the Senate when an inquiry is completed under standing order 25(16) (see *Odgers*, 11th ed., pp 380-1).

VACANCY FILLED

The vacancy left by the resignation of Senator Sue Mackay was filled by the Tasmanian Parliament and Senator Carol Brown was sworn in on 5 September.

ACCOUNTABILITY REPORT

The failure to refer the privilege matter to the Privileges Committee was unfortunate from an accountability view. It may send a message that committees may safely be trifled with if the trifler is of the right stripe.

The rushed passage of the Telstra bills was an accountability negative given the complexity of the provisions in the bills. Although "guillotines" have often been necessary in the past to overcome minority obstruction, the time allowed for consideration of these bills was particularly short.

The response to the order for documents was a reminder that this avenue for extracting information from government may be closed in this parliament.

SENATE DAILY SUMMARY

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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