

DEPARTMENT OF THE SENATE PROCEDURAL INFORMATION BULLETIN

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ESTIMATES HEARINGS

The motion moved by the government on 11 May specifying days for the budget estimates hearings later in May had the effect of stripping two days from the hearings program. Normally the motion provides for committees to meet on Friday of each of the two hearings weeks if they do not complete their hearings on the other days, and those Fridays have come to be known as “spillover days”, which have frequently been used by the committees. The specification of the days and times when the committees are to meet does not prevent the committees deciding to meet at additional times to complete their hearings, and some committees have done so in the past. The assumption is now made, however, that the committees will in effect be restricted to the times specified.

The motion was bitterly attacked by non-government parties as a restriction of the estimates hearings. The government in response claimed that times for hearings had not been reduced because the supplementary hearings in November had been extended, but this only compensated for the abolition of the supplementary hearings on the additional estimates in 2001. The government’s motion reduces the total number of estimates days per year from 19 to 17.

In debate on the motion, and in answer to an Opposition question on the same day, the government gave hints of a further attempt to restrict the scope of questions in estimates hearings. The Manager of Government Business, Senator Ellison, in the debate, stated that “estimates are for questions on expenditure. Over time that has become a rule more honoured in the breach than in the observance”, and the Leader of the Government in the Senate, Senator Minchin, answering the question, stated “There has been a tolerated flagrant disregard for standing order 26 in the operation of the estimates committees”. These remarks ignore the resolution of the Senate in 1999, in adopting a report of the Procedure Committee, which confirmed the long-standing practice that any questions going to the operations or financial positions of departments and agencies are relevant questions in estimates hearings.

This resolution was included in a document setting out the rules of the Senate relating to committee hearings which was circulated by the President to all committees in February this year. Ministers and chairs of committees have frequently been reminded of that resolution, and advised that, if they wish to restrict the scope of questions in estimates hearings, they should move a motion in the Senate to repeal the resolution.

Senator Minchin's answer to the question also indicated that the government's refusal to allow answers to any questions about the AWB affair would continue in the forthcoming hearings.

REGULATIONS SUSPENDING LEGISLATION

Legislation to deregulate petroleum retailing, the Petroleum Retail Legislation Repeal Bill 2005, is before the Parliament and was the subject of two reports by the Economics Legislation Committee. Similar legislation was abandoned in 1998 when the Rural and Regional Affairs and Transport Legislation Committee insisted on seeing in regulations the oil industry code under the Trade Practices Act which was to replace the existing legislation. The Economics Legislation Committee was provided with the draft code in the course of its inquiry into the current legislation.

Regulations have been made under the existing legislation, however, which have the effect of suspending its operation. It was explained to the committee that this was done so that oil companies would not be in breach of the old legislation pending the passage of the repealing bill. This suspension by regulation of legislation has caused disquiet on the part of senators. A government senator, Senator Joyce, gave notice on 11 May of a motion to disallow the regulations.

PROPOSED ORDER FOR DOCUMENTS

A motion for an order for documents relating to a report on border protection prepared in 1998 was rejected by the government on 10 May. As with other recent occasions of rejection of such motions, no reasons were given for not producing the document.

COMMITTEE REFERENCES

Two motions for references to the Community Affairs Committee were passed on 11 May. Presumably the references, unlike others moved in recent times, are acceptable to the Government. One of them, however, had been previously rejected on two occasions.

Two special references of bills to committees were made on the same day, one by Senator Murray and one by the government. The government motion related to the legislation on the Do Not Call Register, and the committee is required to report before the Senate next meets. Senator Murray had to restrict the terms of his reference to gain government acceptance.

STATUTORY APPOINTMENTS

Senator Murray persisted in moving his amendments to endorse the principle of statutory appointments on merit in relation to three bills on 10 May, the contentious Australian Broadcasting Corporation Amendment Bill 2006, which abolishes the staff position on the ABC Board, and bills relating to superannuation and the National Health and Medical Research Council. The amendments were again rejected.

SCRUTINY OF DRAFT BILL

The Legal and Constitutional Affairs Legislation Committee presented on 9 May its report on an exposure draft of a bill, the Anti-Money Laundering and Counter-Terrorism Financing Bill 2005. This was an unusual instance of draft legislation being exposed to scrutiny, a procedure which has been repeatedly recommended over many years but seldom used.

AUDIT REPORTS

Further reports by the Auditor-General on the disordered state of the Defence Force's finances and procurement were presented and debated on 9 May. The procedure allowing for extended debate on audit reports on Thursdays has been used in recent times to draw attention to these significant reports.

SENATORS' INTERESTS

The Senators' Interests Committee reported on 9 May, recommending an extension of the time for senators to enter share transactions in the interests register. Consideration of this proposal was adjourned.

VACANCY FILLED

Having been appointed by the Parliament of South Australia, Senator Cory Bernardi was sworn in on 9 May, filling the vacancy created by the departure of Senator Hill.

STATE OF ACCOUNTABILITY REPORT

The combination of the limitation of the time for the estimates hearings and the remarks by ministers about the scope of estimates questions may presage an attempt to wind back the estimates hearings.

The rejection of motions for documents without any reasons being given circumvents resolutions of the Senate which sought to ensure that ministers would raise proper claims of public interest immunity when refusing information.

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

Inquiries: Clerk's Office
(02) 6277 3364