



DEPARTMENT OF THE SENATE

PROCEDURAL INFORMATION BULLETIN

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PROPOSED CENSURE

A sitting week for the Senate alone is now a relatively unusual phenomenon and may have been a reason for the Opposition moving a motion censuring the Government for its handling of the mining tax. The motion was moved after the fourth question had been asked during question time on 25 February, a strategem more commonly seen on the other side of the building during the current Parliament. No suspension of standing orders was necessary because leave was granted for the motion to be moved. It was expressed in terms of the Senate having no confidence in the Government's handling of the mining tax but it was not a motion of 'no confidence' in the traditional sense.

Such a motion can only have legal or constitutional consequences if moved in the House of Representatives where governments are formed on the basis that they can command a majority of votes in the House. Failure to command a majority on questions of supply and confidence leads to particular consequences. Motions expressing want of confidence in the government have not been moved in the Senate and motions expressing want of confidence in particular ministers have not been moved in the Senate since 1979. Such motions are generally expressed as censuring the government or a particular minister or ministers.

An amendment to the motion, moved by the Leader of the Australian Greens, was equally critical of the Government's handling of the mining tax but was expressed in terms of condemnation rather than 'no confidence'. Neither the amendment nor the substantive question was agreed to. Once the questions were determined, question time was officially brought to a close by the Leader of the Government asking that further questions be placed on notice, two hours after the usual time.

PROPOSED SUSPENSION OF STANDING ORDERS

Because leave is granted in many circumstances to take action that would otherwise be contrary to the standing orders, attempts to suspend standing orders are probably less common than at some other times in the past. On 28 February, Senator Hanson-Young was refused leave to move a motion in response to reported remarks of an Opposition member regarding the settlement of people on bridging visas. When leave was denied, she used a contingent notice standing in the name of the Leader of the Australian Greens, Senator Milne, in order to begin a series of procedures that would have allowed an item of unscheduled business to be considered. Although the suspension motion was lost, the 30 minute debate provided some opportunity to air the substantive issues as well as putting the arguments for and

against the proposal before the chair. As the Deputy President pointed out in ruling on a point of order, such latitude has previously been allowed.

LEGISLATION

Several bills were passed during the week, with debate to continue on the Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012.

The Electoral and Referendum Amendment (Improving Electoral Procedure) Bill 2012 proposed, among other things, to increase the nomination fees for candidates standing for election to the Senate and House of Representatives. Amendments moved by Senator Madigan would have modified the 100% increase in fees by phasing in the increase over four financial years and providing for indexation thereafter. The amendments were unsuccessful, as were amendments moved by Senator Xenophon to require disclosure of multiple donations from single sources which, in total, exceeded \$10,000 in a financial year.

Amendments moved by the Opposition and Senator Madigan to the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012 were also extensively canvassed during the committee stage of that bill, but were ultimately unsuccessful.

Private senators' bills were considered at both general business opportunities on 28 February. The Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012, introduced by Senators Madigan and Xenophon, was defeated at second reading, while debate was interrupted on both the Foreign Acquisitions Amendment (Agricultural Land) Bill 2010, introduced by Senators Xenophon and Milne, and the Minerals Resource Rent Tax Amendment (Protecting Revenue) Bill 2012, introduced by Senator Milne alone. The latter bill was the subject of a [report](#) by the Economics Legislation Committee on 27 February, recommending that the bill not be passed. A dissenting report from the Australian Greens made the opposite recommendation while the Opposition's dissenting report expressed the view that the MRRT legislation should be repealed. The design of the MRRT was the subject of a new reference to the Economics References Committee, agreed to on 26 February, also on the motion of Senator Milne. Each bill provided an opportunity for alternative policy solutions to be examined in legislative form.

Bills received from the House and reported on 25 February included the additional appropriation bills, the provisions of which were considered at the additional estimates hearings held in the week beginning 11 February (see [Bulletin No. 270](#)), and the long-awaited Completion of Kakadu National Park (Koongarra Project Area Repeal) Bill 2013. Anyone who has followed the Senate's scrutiny of unproclaimed legislation over the years (see, for example, Bulletin Nos. [265](#) and [254](#)) would be aware that the oldest of the unproclaimed provisions (section 3 of the *Koongarra Project Area Act 1981*) dates back to 1981 and concerns the adjustment of the boundaries of Koongarra Project Area by the excision of part of Kakadu National Park (with a view to allowing uranium mining leases

in the Area). Proclamation was dependent on consent being granted by the Northern Land Council and the relevant Commonwealth minister. Such consent was never forthcoming and so the provision remained unproclaimed.

No applications for mining leases have been granted and, in 2011, Koongarra was included by the UNESCO World Heritage Committee in the Kakadu World Heritage Area. With the Traditional Owner having indicated a wish for the Area to be included in the national park and having waived his interest in it as a mining lease, the 1981 Act can now be repealed (which is the purpose of the bill) and action taken to include Koongarra in Kakadu National Park (to be achieved by executive proclamation). For further background to this interesting case, see the [Bills Digest](#) and the minister's [second reading speech](#).

ORDERS FOR PRODUCTION OF DOCUMENTS

The [report](#) of the Economics References Committee on the Senate's order to the Commissioner of Taxation for production of MRRT revenue figures (see [Bulletin No. 270](#)) was formally tabled in the Senate on 25 February.

An order for the production of the report of the Board of Taxation's review of tax arrangements applying to Collective Investment Vehicles, provided to the Assistant Treasurer in December 2011, was agreed to on 6 February. The order was not complied with by the due date of 25 February and no public interest ground was cited for non-production of the report. The Assistant Treasurer noted in correspondence to the Minister for Finance and Deregulation, tabled on 26 February, that it was the general practice of the government of the day to release Board of Taxation reviews together with the Government's response. The review and response would be released in due course.

In contrast, an order agreed to on 7 February for production of results and findings of a 2011 departmental review of the 2010 increases in court filing fees, together with a list of people consulted, was complied with on 27 February with a detailed response from the Attorney-General. A reference to the Legal and Constitutional Affairs References Committee on the impact of increased court filing fees was agreed to on the same day.

PROCEDURE COMMITTEE REPORT

The Procedure Committee presented its [First report of 2013](#) on 28 February which included recommendations on the adoption of an interpretation of standing order 70 in relation to electronic petitions, the incorporation into standing orders of the consideration of non-controversial legislation at a definite time each Thursday, and a trial of new speaking arrangements for the open-ended adjournment debate on Tuesdays. The committee expressed in-principle support for e-petitions and indicated that it was considering further matters under its general reference to inquire into the routine of business. Notice of a motion to adopt the recommendations was given for the next day of sitting.

OTHER COMMITTEE BUSINESS

Having tabled numerous reports during the week, on both references and bills, Senate committees received several new references. In addition to those mentioned earlier on the design of the MRRT and court filing fees, new inquiries included the safety of beef imports in light of the impending expiry of the 10-year ban on imports from BSE-affected countries and the recent horsemeat substitution scandals, the feasibility of prohibiting fees charged for silent telephone numbers, care of Australians living with dementia and behavioural and psychiatric symptoms of dementia, and the citrus industry in Australia, all representing significant effort by the committees concerned.

UNANSWERED QUESTIONS ON NOTICE

The procedure under standing order 74(5) to pursue unanswered questions on notice has been much used. A minister who provided an explanation on 26 February returned to the Senate the following day to correct the explanation previously provided after further investigations revealed the need for some clarification. Keeping track of questions and answers has been made easier by the recently launched [questions on notice database](#).

DECLARATION OF INTERESTS

A senator used the adjournment debate on 28 February to respond to allegations about his involvement in a company with alleged links to the affairs of former NSW Legislative Council member, Mr Eddie Obeid and to explain and apologise for some technical omissions from, and corrections to, his statement of interests.

CONDOLENCE MOTIONS

Unusually, there were three condolence motions during the week, including for former Speaker of the House of Representatives and the first woman to occupy that office, the Hon. Joan Child.

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 <http://www.aph.gov.au/About/Parliament/Senate>.

Inquiries: Clerk's Office
(02) 6277 3364