

## Procedural Information Bulletin No. 34

*For the sitting period 22 August to 1 September 1988*

### INAUGURAL SITTING OF THE HOUSES

On Monday, 22 August, special sittings of the Senate and the House of Representatives were held, the first sittings of the Houses in the new Parliament House. The brief sittings, which were attended by invited guests including a number of Presiding Officers from overseas Parliaments which had donated gifts to the Australian Parliament, were preceded by an inaugural address by His Excellency the Governor-General.

As the first day's sittings in the new building did not constitute an opening of Parliament, the formal ceremonial which attends the opening did not apply to the proceedings. For example, the Governor-General's address was given in the Great Hall, rather than in the Senate Chamber which would be the normal place for an opening. Nor were the Clerks of the two Houses robed for the inaugural address.

### ORDERS OF THE COURT OF DISPUTED RETURNS AND SWEARING IN OF NEW SENATOR

The first item of business in the Senate, following prayers, was a statement by the President, advising the Senate that, following the reference by the Senate to the Court of Disputed Returns on 16 February 1988 of certain questions relating to the place in the Senate representing New South Wales to which William Robert Wood was returned in the 1987 elections, and that Court's finding on 12 May that the place in the Senate was vacant, the Court had made two further orders in relation to the matter.

On 7 June 1988 the Court ordered that the Australian Electoral Officer for New South Wales undertake a further counting and recounting of the ballot papers cast for candidates in the election in that State, for the purpose of determining the candidate entitled to be elected to the vacant place, and that the Australian Electoral Officer for the State report that result to the Court. On 21 July 1988, having received the report, the Court ordered that Irina Patsi Dunn be declared elected as a senator for New South Wales in the vacant place in the Senate. The President tabled the orders of the Court, together with the reasons relating to the order of 7 June.

Senator Dunn was thereupon sworn in by the President, and thus became the first member of either House to take her place for the first time in the new Parliament House. Senator Dunn made her first speech on Wednesday, 31 August 1988.

## ESTIMATES COMMITTEES AND EXPLANATORY NOTES

Following presentation of the Budget statement on Tuesday, 23 August, the Minister for Finance made a statement on behalf of the Leader of the Government in the Senate concerning explanatory notes for consideration by Estimates Committees. The Minister advised the Senate of consultations which had been held with senators and parliamentary staff, to improve the quality of the information provided to the Senate to assist it to carry out more effectively its role of scrutinising public expenditure. The statement drew particular attention to the adoption of program management and budgeting as a method of achieving proper examination of the underlying objectives of programs, the totality of their public funding and the results which will be achieved as a result of those expenditures. The Minister pointed out, however, that there had been some degree of inconsistency between the explanatory notes and other budget documentation, and therefore advised that the deadline for the production of explanatory notes had been put back from the day after the budget (ie, Wednesday 24 August), to the following Monday.

Most explanatory notes were tabled on Tuesday, 30 August. However, despite the extended deadline, some departmental notes did not arrive by the prescribed date. Further explanatory notes were tabled on 1 September and at least one set has not yet been received.

With the announcement of the revised Ministerial arrangements, to take effect from 2 September, some changes in the Departmental allocation to Estimates Committees was required. A motion to refer the proposed expenditure for various Departments, under the new groupings, was moved and agreed to on 1 September. The sittings of Estimates Committees will begin on Monday, 10 October.

## REFERENDUM

Not surprisingly, with the referendum due to be held on 3 September, discussions on the questions to be put to the people dominated proceedings in the Senate during the past fortnight. On each sitting day from Tuesday, 23 August, the Opposition raised as matters of public importance a series of topics relating to the questions to be asked and the conduct of the referendum campaign. Much of question time was also devoted to the subject.

In addition, on 23 August the Minister for Home Affairs introduced, by leave, the Referendum (Machinery Provisions) Amendment Bill (No. 2) 1988, which provided that scrutineers be able to supervise the counting of the referendum ballots. Earlier on that day, Senator Short gave notice of two bills to amend the same Act, the first relating to informal ballot-papers and the second to provide that the questions to be put to the electorate should be determined by the Electoral Commission, rather than the Parliament, with a right of appeal to the Administrative Appeals Tribunal.

On 24 August, Senator Short introduced both bills. The informal ballot-papers bill, by means of a motion which provided that the bill should be considered together at all stages with the Government referendum bill, was considered simultaneously with the Government's bill. Separate questions were put on each bill at each stage during their passage through the Senate. The Government bill was amended as a result of amendments proposed by the Opposition. In the course of the committee debate, Senator Harradine raised questions, and moved amendments, to accommodate within the legislation the rights of senators who did not belong to a political party. While his amendments were unsuccessful, the questions he raised will be considered by the Joint Committee on Electoral Matters.

The bills were transmitted to the House of Representatives, and while the Government bill passed the House on 25 August, Senator Short's bill remains on the House of Representatives Notice Paper.

Senator Short's second bill, the Referendum (Machinery Provisions) (Fair Questions) Amendment Bill 1988, was debated in the Senate on 25 August, but was negatived at the second reading stage.

## DISALLOWANCE OF REGULATIONS ETC

### Timely Tabling of Instruments

On Tuesday, 23 August, Senator Puplick gave notice of a motion for the disallowance of a pharmaceutical benefits declaration which specified certain drugs which would not automatically be available under the Pharmaceutical Benefits Scheme. On 25 August, Senator Puplick withdrew the notice. In doing so, he commented that it had been drawn to his attention that the declaration which he was seeking to disallow had not yet been tabled in the Senate, despite the fact that it had been made on 20 July. He pointed out that there is room for doubt about the validity of a notice given before the tabling of the instrument. As he indicated, while there is a fifteen sitting day period for the tabling of delegated legislation subject to disallowance by the Senate, it has been a long standing practice for these instruments to be laid before both Houses as soon as practicable after they are made. This proper custom is, of course, designed to ensure that, if the delegated law requires parliamentary attention and, perhaps, is found to be faulty or undesirable, the law should not remain in existence for any longer than is necessary for the parliamentary process to operate. He indicated that, if the instrument which was of concern to him was not tabled promptly, he would give consideration to tabling it himself, a course for which there is good authority.

The declaration was tabled on that day, and on Monday, 29 August, the first sitting day after the tabling, Senator Puplick gave a fresh notice of motion for disallowance of the instrument. It is expected the motion will be debated on Wednesday, 28 September.

### Regulations and Ordinances Committee

The Regulations and Ordinances Committee continued its vigilant watch over other delegated legislation. The Chairman was able to report to the Senate, on a number of occasions during the first two weeks of sittings, satisfactory resolutions of issues raised by the Committee with Ministers. The Chairman also gave some further protective notices of disallowance to enable the Committee to pursue its inquiries.

The Chairman also tabled the Committee's 84th Report, appropriately the first committee report tabled in the new Parliament House. The Report is a comprehensive account of the Committee's consideration, and subsequent motion of disallowance, of Freedom of Information Regulations. As the Report indicates, the Freedom of Information Regulations were the first regulations to be disallowed by the Senate on motion by the Chairman of the Committee since 1971. Uniquely in the history of the Committee, the disallowance was agreed to by the Senate as a formal motion, that is, without debate.

## Fisheries Instruments

On Tuesday and Wednesday, 23 and 24 August, two notices of disallowance were given by Senator Lewis, of a fisheries plan of management and a notice. When giving the first notice, Senator Lewis indicated that the notices were protective in nature, to enable further consideration of their content, possibly by a Senate Standing Committee.

On 25 August, the Chairman of the Standing Committee on Industry Science and Technology moved, by leave, that the instruments be referred to that Committee. The motion was agreed to without debate.

## SELECT COMMITTEE ON LEGISLATION PROCEDURES

On 24 August, the Minister for Home Affairs, Senator Ray, gave notice of a motion to establish a Select Committee on Legislation Procedures, to report by 1 December 1988 on:

- a) the referral of bills introduced into the Senate to committees for examination of the provisions of the bills;
- b) the allocation of one day each sitting week for meetings of committees to consider bills; and
- c) any changes to:
  - i. procedures of the Senate;
  - ii. the structure of committees of the Senate; and
  - iii. procedures of committees, to facilitate the referral of bills to committees, the consideration of bills by committees and the consequent expediting of Senate consideration of bills.

Following further consideration and negotiation, on 25 August the motion was amended to include the following paragraph:

- c) the avoidance of an excessive concentration of bills to be dealt with towards the end of a session.

The membership of the Committee was established on 30 August, and at its first meeting the Committee elected Senator Colston as Chairman. The Clerk of the Senate is Secretary to the Committee.

## OTHER COMMITTEE MATTERS

### Appropriations and Staffing

On 1 September, the President tabled the 11th Report of the Standing Committee on Appropriations and Staffing, entitled *Reductions in Appropriations for the Senate*. The report outlines the difficulties encountered recently in determining appropriations for the Parliamentary Departments, and recommends as follows:

That the Senate

- a) reaffirms its resolution of 2 December 1985 concerning the determination of the estimates of expenditure for the Senate to be included in the Appropriation (Parliamentary Departments) Bill;
- b) requires the Minister for Finance to process the Senate Department's estimates as early as practicable to enable any differences between the Minister and the Committee to be resolved in accordance with the resolution; and
- c) expects that the resolution will be adhered to in determining those estimates in the future.

The motion that the report of the Committee be adopted was moved by Senator Crichton-Browne, and it is expected that it will be further considered when the Senate resumes in September.

### Australian Security Intelligence Organisation

After a considerable delay, the membership of the Committee has finally been appointed. The Senate is represented by three senators, all of whom, uniquely, are nominated by the Leader of the Government in the Senate. This accords with the provisions of the Act under which the Committee was established.

### Community Affairs

On 24 August, the following matter was referred, on the motion of the Leader of the Opposition in the Senate, without debate, to the Committee: The employment of disabled persons.

## Finance and Public Administration

On 24 August, the Government tabled its response to a second report by the Committee on non-statutory bodies, which was made after the Government had refused to accept a major recommendation, contained in the Committee's first report, that a central register of non-statutory bodies be established. The second report had pressed the Committee's view that such a register was required. The Government has still refused to implement the recommendation.

In responding to the Government the Chairman and a member of the Committee trenchantly criticised the Government's attitude, both senators making the point that a central register of the bodies would make more readily available information which should already exist.

## Employment, Education and Training

On 31 August, the Chairman of the Committee presented to the Senate a discussion paper entitled Education for Active Citizenship. The Chairman, in tabling the paper, indicated its purpose as being to inform the Senate of the concerns already expressed during its current inquiry about the lack of citizenship education within the school system, and to generate public discussion on the question. The Committee plans to table a full report, containing specific recommendations to combat the problems the Committee has identified, before the end of the current sittings.

## Legal and Constitutional Affairs

On 30 August, the Chairman of the Committee, speaking on behalf of all members, made a statement concerning media reports of the Committee's activities. The Committee was concerned that certain statements by members of the Committee had been interpreted as reflecting the Committee's conclusions in relation to inquiries it is currently undertaking, into the feasibility of a national ID scheme and proposed tax file numbering scheme, and the social and fiduciary duties and responsibilities of company directors. The Chairman made the point that it is important that members of committees do not afford the media the opportunity of attributing views held by individual members to committees themselves, when the committees have not endorsed them.

## Transport, Communications and Infrastructure

On 1 September, the Chairman of the Committee tabled its first report relating to variations to the plans of layout of Canberra. A sub-committee of the Committee working with a similar sub-committee of the House of Representatives Standing

Committee is required to examine such variations, since the abolition of the Joint Committee on the Australian Capital Territory. The Chairman, on behalf of the Committee, expressed reservations about the cumbersome process involved in this Committee's activity in relation to the Australian Capital Territory.

#### PARLIAMENTARY PRIVILEGE

On 29 August, the Acting Deputy President, on behalf of the President, tabled a judgment of the Federal Court of Australia concerning the validity and effect of the Parliamentary Privileges Act 1987. The judgment upholds the validity of the Act and interprets it in accordance with its intended effect. Copies of the judgment are available from the Clerk.

#### CONSIDERATION OF LEGISLATION

On 1 September, Senator Macklin's motion, which has now become almost standard in the Senate, relating to the cut-off point for consideration of legislation, was agreed to as a formal motion. The date specified in the motion for the current period of sittings is 25 November.