

Procedural Information Bulletin No. 37

For the sitting period 1 to 10 November 1988

MATTERS OF PRIVILEGE

Administration of Aboriginal Affairs

Considerable attention during the fortnight's sitting was given to matters of privilege in relation to the Aboriginal Development Commission and to the administration of Aboriginal affairs generally.

When the Senate resumed, after a week's break, on 1 November, the President made a statement advising the Senate that before giving his determination on matters raised with him by Senator Chaney (*see* Bulletin No. 36, pp. 1 and 2) he would await the outcome of the deliberations of the Senate Select Committee on the Administration of Aboriginal Affairs on the question. The Committee reported to the Senate on 2 November, recommending that certain questions arising from the appearance of witnesses before that Committee be referred to the Committee of Privileges. Before the Senate adjourned on 2 November, the President, having considered the report, advised the Senate that he had determined that a notice of motion arising from the matters raised by Senator Chaney should be given precedence of all other business on the day for which it was given.

Senator Chaney thereupon gave the notice, for the next day of sitting, and consequently the matter was given precedence on 3 November. The matters were referred to the Committee of Privileges as a formal motion, that is, without debate, and related to whether there had been improper interference with witnesses before the select committee.

On 7 November, the Chair of the Committee (Senator Patricia Giles) advised the Senate that the Committee had sought certain documents from the Aboriginal Development Commission, and had invited all members of the Commission at the time to which the reference related, and an officer of the Commission, Mr M O'Brien, to make written submissions to the Committee. Senator Giles also indicated that the Committee would receive written submissions on the matters from any other persons, should they wish to make them.

On 4 November, following an answer given by the Minister for Justice (Senator Tate), representing the Minister for Aboriginal Affairs, at question time, Senator Tate made a statement indicating that he did not wish it to be thought that he had given misleading evidence to Estimates Committee E. Senator Chaney also made a statement relating to the same matter, and the President intervened to advise the Senate that Senator Chaney had raised a matter of privilege with him on the question, to which he was giving consideration.

On 7 November, before question time, the President made a statement advising that the matters raised by Senator Chaney met the required criteria, and he therefore made a determination that a notice should have precedence for the day on which it was given.

Senator Chaney immediately gave a notice for the next day of sitting on this matter of privilege, which therefore had precedence of all other matters on the next day of sitting. On 8 November, the matters were referred to the Committee of Privileges on Senator Chaney's motion, which was declared formal. Senators Chaney, Tate and Coulter made statements, by leave, in relation to the matters, which ask the Committee to consider whether false evidence was given to an Estimates Committee and whether there was any attempted manipulation of evidence given before the Select Committee.

Freedom of speech and protection of citizens' rights

After question time on 10 November, Senator Chaney raised a question relating to resolution 9 of the Privilege Resolutions of 25 February. The Leader of the Government in the Senate (Senator Button) also made a statement on the matter.

The President advised that he would consider the matters raised by Senator Chaney, and also drew attention to resolution 5 of the Privileges resolutions, relating to the protection of persons referred to in the Senate.

CONSIDERATION OF LEGISLATION

Agricultural and Veterinary Chemicals Bill

On 1 November, debate on the bill and the proposed select committee, which was being considered concurrently with the bill (*see* Bulletin No. 36, pp. 3 and 4), was resumed. The question that the bill be read a second time was put and passed

without dissent. The motion for the establishment of the select committee, which had been opposed by the Opposition, was agreed to after division.

In the committee, a number of amendments moved by both the Government and the Australian Democrats were agreed to, and certain Opposition amendments were negatived. In relation to one of the Government's amendments, however, Senator Lewis moved a further amendment which was agreed to after debate. The House of Representatives agreed to all amendments on 7 November.

Members to serve on the Select Committee on Agricultural and Veterinary Chemicals in Australia were appointed by the Senate on 3 November.

States Grants (General Revenue) Bill 1988

During debate in committee on 2 November 1988, certain matters were raised by Senator Watson, supported by Senator Stone, about the equity of conditions laid down for the distribution of revenue for the States. Progress was reported to enable the Minister for Finance (Senator Walsh) to take further advice on the question. When debate was resumed later that day, the Minister gave the advice sought, which in turn gave rise to other questions. Progress was again reported and, when debate resumed on 8 November, the Minister (Senator Walsh), on behalf of the Government, moved an amendment to meet the concerns expressed in the Senate. The amendment was agreed to by the Senate, and concurred in by the House of Representatives on 9 November.

Taxation legislation

During the present period of sittings, a considerable amount of time was devoted to debating taxation legislation. On 7 November, Senator Messner moved separate second reading amendments in respect of two bills - the Taxation Laws Amendment Bill (No. 4) 1988 and the Medicare Levy Amendment Bill - of a package of three bills. When debate resumed on the three bills on 8 November, Senator Hill moved, by leave, two amendments to Senator Messner's proposed amendment to the second reading of the Taxation Laws Bill. The purpose of Senator Hill's amendments was to notify the Senate's intention that it would place a time limit on the retrospective application of taxation legislation introduced following a press release advising of the Government's intention to introduce bills to amend such laws.

Senator Hill's amendments to Senator Messner's amendment were agreed to, the Australian Democrats indicating their support. However, when Senator Messner's amendment, as amended, was put to the vote the Democrats signified that they could not support the motion and it was therefore lost. The motion for the second reading of the bill was thereupon put and passed, without amendment. Senator Messner's

amendment to the Medicare Levy Amendment Bill was also put and negatived, and all three bills were read a second time.

In the committee, the Taxation Laws Amendment Bill was taken separately. Following negotiations which had proceeded between Government and Opposition, the Minister for Finance (Senator Walsh), on behalf of the Government, moved a number of amendments which were agreed to. Senator Messner moved further amendments, which gave effect to the principles expressed in Senator Hill's amendment. These were resisted by the Government, but were supported by the Australian Democrats. The effect of the amendments was to remove the retrospective effect of the legislation from the day (4 February 1985) on which a press release announcing the changes to the law had been made, and to substitute 31 August 1988 as the date of the operation of the legislation. All the amendments made by the Senate were agreed to by the House of Representatives on 9 November. The two other bills of the package were agreed to by the Senate without requests.

When proceedings on these bills were completed, the Taxation Laws Amendment Bill (No. 3) 1988 (the general principles of which had been discussed cognately with the three earlier bills) was called on for debate. The Leader of the Australian Democrats (Senator Haines) moved a second reading amendment, which, with slight variations, gave effect to the intent of Senator Hill's amendment. While the Government indicated that it would not support the amendment, it was agreed to without division. The resolution is listed on the notice paper as an Order of the Senate.

When this bill was considered in committee, Senator Haines successfully moved two amendments. After discussion on a third amendment, to which the Opposition had indicated its support, progress was reported to enable further discussions to take place. It is expected that the matters raised will be further considered when the Senate resumes on 22 November.

Tax File Numbers and Privacy Bills

Debate is at present under way on the Tax File Numbers and Privacy Bills. A Democrat amendment to the second reading of the Tax File Numbers Bill was negatived, after division, and 7 amendments proposed by the Democrats in committee of the whole were also negatived.

Debate in committee on the Privacy Bill has proceeded, with three amendments, moved by the Opposition, so far agreed to. This bill was introduced into the House of Representatives together with the Tax File Numbers Bill. A notice of motion given by Senator Tate to introduce the Privacy Bill into the Senate was withdrawn by the Minister for Consumer Affairs (Senator Bolkus) on 1 November, at Senator Tate's request.

Private senators' bills

At General Business time on Thursdays, debate on two private senators' bills proceeded.

On 3 November, debate ensued on Senator Coulter's Ozone Depleting Substance Bill 1988 (No. 2), while on 10 November brief debate proceeded on the Census and Statistics Amendment (Voluntary Provision of Survey Information) Bill 1988 introduced by Senator Sheil. A vote was not taken on either bill, as time for consideration of General Business expired on 3 November, while the adjournment intervened on 10 November.

On 8 November, Senator Jenkins introduced the following three bills together: Australian Capital Territory (Open Government, Probitry and Citizens' Rights) Bill 1988; Australian Capital Territory (Protection of the National Interest) Bill 1988; and Australian Capital Territory (Establishment and Amendment of New Constitution) Bill 1988.

On the same day, Senator Jenkins gave a notice of motion, contingent on the Order of the Day for the resumption of debate on the second reading of any of the Australian Capital Territory bills introduced by the government, for the suspension of standing orders to enable her three bills to be considered together with the government bill or bills. Debate on the Australian Capital Territory Legislation has not yet begun in the Senate.

COMMITTEES

Public Accounts Committee

On 1 November, the President made a statement concerning correspondence between him and the Chairman of the Joint Committee of Public Accounts (Mr Tickner) about public meetings of the Committee during sittings of the Senate. In his statement, the President drew attention to standing order 300A, at present operating as a sessional order, which forbids any public hearings of any Senate or joint committee during the sittings of the Senate. The Chairman advised the President that, notwithstanding the sessional order, the Committee considers that the Public Accounts Committee Act gives it authority to sit during sittings of the Senate.

This question has been the subject of consideration by the Standing Orders Committee (now Procedure Committee) which has reported twice to the Senate on the question. The President tabled extracts from the Committee's reports when making his statement.

Consideration of the President's statement was made an order of the day for the next day of sitting, to enable the Senate to consider the matters raised.

Debate on Committee reports

On Wednesday, 2 November 1988, debate on the motion to take note of the Privileges Committee report on the circulation of petitions was concluded. On 9 November 1988, the question relating to the special report of the Select Committee on the Administration of the Aboriginal Affairs (*see Matters of Privilege, above*) was put and passed without debate, as was the question on the report of the Legal and Constitutional Affairs Committee on the National I.D. Scheme and Tax File Numbers. Debate on the Procedure Committee Report on a proposed new sessional order was adjourned on both 2 and 9 November.

Statements by Chairmen relating to newspaper reports of committee proceedings

On two occasions in the past fortnight, the Chairmen of two committees have had cause to set the record straight in relation to newspaper reports of committee proceedings. On 3 November, the Chairman of the Select Committee on the Administration of Aboriginal Affairs corrected an inaccurate report in the *Sydney Morning Herald* to the effect that Government members of the Committee had resisted the reference of two matters to the Privileges Committee (*see Matters of Privilege, above*). As the Chairman pointed out, the Committee Report was unanimous.

On 7 November, the Chairman of Estimates Committee E (Senator Aulich) advised the Senate that the *Melbourne Sun* had given an account of the content of reservations by certain members of Estimates Committee E, implying that the comments made in the reservation had been made by the Committee as a whole. He pointed out that the views expressed had been limited to the senators in a minority on the Committee, and did not reflect the view of the majority of the Committee.

References to committees

On 10 November, the Chairman of the Standing Committee on Community Affairs (Senator Zakharov) moved that a matter be referred to the Committee in

substitution for the matter referred on 24 August 1988, that is: "The employment of disabled persons with particular reference to:

- a) current and future employment prospects of disabled persons with particular reference to training, placement, support (including sales tax exemptions), working conditions and rates of pay; and
- b) the impact of Federal, State and Local Government and private sector programs on the employment of disabled persons."

A significant feature of the new terms of reference is that the specification of sales tax exemptions in paragraph (a) derived from debate on the Sales Tax (Exemptions and Classifications) Bill 1988. In the committee stages of the debate, Senators Macklin and Haines moved amendments, concerning matters they wished exempted from sales tax. Senator Macklin's amendment related to certain computer equipment for use by the disabled.

While not agreeing to the amendments at the time, senators during debate indicated that an examination of these matters would be appropriate. The Community Services Committee already had before it the question of employment of disabled persons, and the substitute reference enables, *inter alia*, the questions raised by Senator Macklin to be considered by the Committee.

Also on 10 November, the Chairman of the Standing Committee on Industry, Science and Technology (Senator Childs) moved, by leave, that the following matter be referred to committee: Current Australian experience with new management techniques in manufacturing industry. The motion was agreed to without debate.

REPORTS PRESENTED

(see also report on the Protection of Witnesses by the Select Committee on the Administration of Aboriginal Affairs under Matters of Privilege, above, and Estimates Committees, below)

Transport, Communications and Infrastructure

On 10 November, the Chairman of the Standing Committee on Transport, Communications and Infrastructure (Senator Foreman) tabled the second report on proposals for variation of the plan for the layout of the city of Canberra and its environs. For previous comment on the Committee's consideration of these matters see Bulletin No. 34, p 10.

Environment, Recreation and the Arts Committee

On 10 November, the Chairman of the Committee (Senator Black) tabled the Committee's report on the potential of the Kakadu National Park region. The report also includes a dissenting report.

During the debate which immediately followed, the question was raised about the quoting of *in camera* evidence in the dissenting report. While, as the debate indicated, there was some dispute as to whether the evidence in question was intended to be *in camera*, the difficulties involved in the quotation of *in camera* evidence were canvassed. In making her speech on the question, Senator Zakharov incorporated in *Hansard* advice from the Clerk on the matter.

Senate Committee on Foreign Affairs, Defence and Trade

On 3 November, the Committee reported to the Senate that it did not intend to proceed with a reference, originally given to the Committee on 26 March 1985, on the Australian Army's rapid deployment capability. The reference has therefore been removed from the notice paper.

Joint Committee on Foreign Affairs, Defence and Trade

Senator Maguire, on behalf of the Committee, presented a report on Defence personnel wastage. This report was the subject of considerable debate and significant media coverage.

ESTIMATES COMMITTEES

After very extensive hearings (*see* also Bulletin No. 36, pp 6-7) all estimates committee reported in the first week of November. Because of the lateness of some committees' completion of their hearings (Estimates Committee A concluded at 2.15 a.m. on 1 November!), only two committees were able to report when the Order of the Day for presentation of estimates committee reports was called on. Three committees were given one day's extension of time; the presentation of the report of Estimates Committee C was postponed until a later hour on 2 November; and, when the Order of the Day for presentation of the three outstanding reports was read, the presentation of the report of Estimates Committee E was again postponed, to a later hour of the day.

Comment was made in most of the reports concerning difficulties experienced with program budgeting. Other matters canvassed included the unavailability, or late production, of departmental annual reports. All committees also raised matters specific to the departments and authorities which they had examined. Reservations were added by senators in a minority on two committees pursuant to standing order 36AB(17).

On 10 November, 5 of the 6 estimates committees tabled information received since the committees completed their hearings. After the information was tabled, Senator Michael Baume expressed concern that not all answers had been received and raised the question whether this would present difficulties in the consideration of appropriations in committee of the whole. The President explained that it was unlikely that the appropriation bills would be debated on 10 November (the last sitting day of the fortnight) and that additional information would continue to be compiled and tabled as outstanding answers were received.

DISALLOWANCE

Motions of disallowance moved in the Senate have also been a feature the fortnight's sitting.

Pathology Services Table determination

On 1 November, Senator Puplick gave a notice of motion of disallowance of a determination of a Pathology Services Table. Senator Puplick moved the motion on the next day of sitting and, after some debate, the debate was adjourned to a later hour of the day. The Minister for Resources (Senator Cook) representing the Minister for Health moved, later that day, that the matter be postponed until 4 sitting days hence. In moving the motion, he indicated that further consideration was being given to the question. On 8 November, when debate was again called on, Senator Puplick as the mover of the motion of disallowance moved its postponement till 4 sitting days after that day. In so moving, he explained that the postponement was at the request of the government, to enable certain matters to be decided by the Federal Court, where the validity of the determination is under question.

Trade Practices (Telecommunications Exemptions) Regulations

On 3 November, the last sitting day remaining for resolution, Senator Lewis moved the disallowance of the Trade Practices (Telecommunications Exemptions) Regulations. Senator Lewis had added his name to the notice of motion previously given by Senator Messner (*see* Bulletin No. 36, p 8). After debate, the motion was lost on division, and therefore the regulations stand.

Australian Capital Territory Casino Control Ordinance

On the same day, debate resumed on the motion of Senator Jenkins for the disallowance of the Australian Capital Territory Casino Control Ordinance. This motion too was lost and the Ordinance therefore remains.

On 4 November the Chairman of the Regulations and Ordinances Committee (Senator Collins) gave fresh notice of disallowance on behalf of that committee. In giving notice, Senator Collins explained that matters of concern to the Committee were being discussed with the Minister. Later in the day, Senator Collins, by leave, gave a notice of intention to withdraw the notice, pursuant to standing order 109A, after satisfactory undertakings had been given to meet the committee's concerns. The notice was withdrawn on Monday, 7 November.

Regulations and Ordinances Committee

(see also Australian Capital Territory Casino Control Ordinance, above)

As is customary, the Regulations and Ordinances Committee continued its activities on behalf of the Senate. On 6 of the 8 sitting days, the Chairman, or other senators on his behalf, gave notices of motion of disallowance, notices of intention to withdraw as a result of satisfactory explanations or undertakings by Ministers, or withdrew notices pursuant to notices of intention. The activities of the Committee are frequently unheralded, but the consistency of the Committee's Chamber activities gives some indication of the significance of its workload, and its vigilance in scrutiny of delegated legislation for the protection of civil liberties.

OTHER MATTERS

Notices of Motion

On 4 November the Manager of Government Business in the Senate (Senator Ray), at the request of senators, withdrew a number of notices of motion from the notice paper.

On 1 November, Senators Tambling and Stone, pursuant to standing order 109, amended notices of motion they had previously given relating to the administration of Aboriginal Affairs (usually this is done by writing delivered to the Clerk.

Consideration of government papers

The opportunity to debate government papers on Thursdays at General Business had, in the preceding weeks, been circumscribed by the Senate's rising to enable estimates committees to meet. As a consequence, the list of papers which had not been debated was lengthy. With the concurrence of senators, the Temporary Chairman of Committees (Senator Giles) called on the papers in groups of 5. Those which were called on and not debated were deemed to have been discharged from the notice paper.

On 4 November, Senator Hamer moved, by leave, to take note of a paper which had been discharged by concurrence. His motion had the effect of restoring it to the notice paper for the next General Business Thursday.

Urgency Motion

On 9 November, Senator Hill moved an urgency motion relating to X-rated video classification. The time having expired before the motion could be voted on in accordance with standing order 64, Senator Knowles, at the request of Senator Chaney and pursuant to contingent notice, moved for the suspension of standing and sessional orders to enable the question to be put. This motion was agreed to without division or debate. The question that the motion of urgency be agreed to was thereupon put, and was defeated after division.

President's statements and papers

In addition to the President's statements relating to matters of privilege and the Public Accounts Committee, he also made statements and tabled papers in relation to the following matters:

- a) on 1 November, Mr President tabled a letter from Mr Justice Staples, addressed to Mr President and Madam Speaker, concerning the judge's position on the Australian Conciliation and Arbitration Commission.

A motion was moved to take note of the statement. Subsequently, Senator Dunn gave a notice of motion in relation to the matter, and Senator Haines asked a question of the responsible Minister about the matter.

- b) On 3 November, Mr President tabled correspondence between him and the Minister for Finance (Senator Walsh), concerning the matters to be included in the Appropriation Bills and the interpretation of the provisions of section 53 of the Constitution relating to ordinary annual services of the government.

- c) On 10 November, Mr President made a statement relating to the deliberations of the Joint Committee on the Broadcasting of Parliamentary Proceedings, and advised the Senate that the Committee had resolved to support the temporary transfer of the broadcast of parliamentary proceedings to the Australian Broadcasting Corporation's standby transmitter network. He also informed the Senate that the Committee had sought advice on the possibility of broadcasting question time and the adjournment debate live on Radio National and also the day's proceedings at 7 p.m.
- d) Before the Senate adjourned on 10 November, the President made a statement arising from a question asked of him by Senator Vanstone earlier that day, relating to the printing of a press release. He reported that certain material had breached guidelines which had been adopted for the elimination of offensive material from the work place.

Debate on the general questions raised by the President's statement proceeded during the adjournment.