

Procedural Information Bulletin No. 62

For the sitting period 3 to 12 September 1991

NEW SENATOR

Although the Senate had adjourned for only a week, in that time a Senator, Senator Paul McLean, Australian Democrat, of New South Wales, resigned, and the New South Wales Parliament speedily appointed a replacement, Senator Karin Sowada, who was sworn in on 3 September.

NEW STANDING COMMITTEE

The number of legislative and general purpose standing committees established under standing order 25 was increased to nine on 4 September, with the amendment of the standing order to establish the Standing Committee on Rural and Regional Affairs. This committee is designed partly as a replacement for the Select Committee on Animal Welfare, which presented its three final reports on 3 September. The new standing committee has been allocated the Department of Primary Industries and Energy.

ORDER FOR RETURN: CENSURE MOTION

On 10 September the Senate agreed to an order requiring the government to table a tape recording of conversations between the Minister for Arts, Sport, the Environment, Tourism and Territories and representatives of conservation groups. This discussion had become the subject of conflicting reports and disputation.

Under the standing orders, "documents" includes any item recording information, and covers sound and video recordings, specimens of which have been tabled previously.

On 12 September a letter from the Leader of the Government was tabled, indicating that the government would not table the tape recording, but attaching an extract from the transcript of the tape recording. A motion to censure the government for its failure to table the tape recording was then carried. It was pointed out in the motion that, unlike previous refusals to provide documents in response to orders of the Senate, this refusal was not based upon any claim of executive privilege.

A motion was then moved by Senator Coulter to require the tabling of an intergovernmental report connected with the matter, and debate on that motion was adjourned.

Orders for returns have been relatively common in recent years, but refusals by the government to comply with them have been rare. The last occasion of such a refusal occurred in 1982, when the then government declined to table certain documents relating to tax avoidance, on the ground that disclosure of the documents might prejudice legal proceedings.

AMENDMENTS AND REQUESTS

The Social Security (Disability and Sickness Support) Amendment Bill 1991 was the subject of an unusually large number of amendments moved by the government on 9 September. A total of 111 amendments and five requests for amendments were made to the bill. The requests were necessary because the requested amendments had the effect of directly increasing expenditure under the bill. The bill was the subject of hearings and report by the Standing Committee on Community Affairs, and the amendments and requests were designed to respond to matters which had been raised in relation to the bill.

When the Senate makes amendments and requests to a bill, the bill is not read a third time (ie. finally passed), but is sent to the House of Representatives for its consideration of the requests. The Senate's message at that stage also informs the House of the amendments which the Senate has made to the bill, but the House does not consider the amendments at that stage. If the bill is returned to the Senate with the requested amendments made by the House, the bill is then read a third time and is returned to the House for its consideration of the amendments. These procedures occurred on 12 September.

PARLIAMENTARY PRIVILEGE: SECRECY PROVISIONS

In the previous bulletin (No. 61, p.1), reference was made to an opinion of the Solicitor-General which, contrary to an earlier opinion of the Attorney-General's Department, but in accordance with advice given by the Clerk, concludes that

statutory secrecy provisions of general application do not apply to the provision of evidence to a parliamentary committee.

The opinion did not satisfy Senator Crichton-Browne, however. As was pointed out in the previous bulletin, the opinion concludes that a statutory provision may alter the law of parliamentary privilege not only by express words but by "necessary implication". On 9 September Senator Crichton-Browne introduced a bill which would amend the Parliamentary Privileges Act to make it clear that the law of parliamentary privilege is not altered by another statutory provision except by express words.

SENATE QUORUM BILL

It was reported on 12 September that the House of Representatives had agreed to the bill to lower the Senate quorum from one-third to one-quarter of the Senators. The bill has gone forward for Royal Assent, and the quorum of the Senate will then be 19 Senators instead of 26.

PARLIAMENTARY SECRETARIES

On 3 September the Senate agreed to a special order, on the recommendation of the Procedure Committee, which empowers parliamentary secretaries to do all things which a minister may do, except answer questions at question time. The order covers the appearance of parliamentary secretaries before estimates committees on behalf of ministers.

ESTIMATES COMMITTEE MEETINGS

The two weeks of sittings were taken up largely by the sittings of the estimates committees. The committees heard evidence for a total of approximately 133 hours. Two committees, A and E, have not concluded their examination of the estimates and will need to hold further hearings.

COMMITTEE REPORTS

Another report by the Privileges Committee recommending the publication of a response by a person to matters said about him in the Senate was adopted on 3 September.

The Transport, Communications and Infrastructure Committee presented its report on the Carriage of Goods by Sea Bill on 3 September.

The Employment, Education and Training Committee and the Community Affairs Committee presented substantial reports on departmental annual reports on 5 and 12 September, respectively.

The Legal and Constitutional Affairs Committee presented on 9 September another discussion paper on its inquiry into the cost of justice.

The Procedure Committee presented a report on 12 September recommending, amongst other things, a new procedure for debate of committee reports on their presentation, and an amendment to standing order 62 to provide that government responses to committee reports, as well as committee reports themselves, may be debated under the provisions of that standing order.

The Joint Select Committee on the Family Law Act presented a report on 12 September, which is of interest in that it deals with the retirement age of judges of the Family Court.

Responses by the President to the report of the Finance and Public Administration Committee on estimates documentation and procedures and the report of the Employment, Education and Training Committee on active citizenship were presented on 3 September.

COMMITTEE REFERENCES

The Industry, Science and Technology Committee was given on 3 September a further extension of time to report on the fisheries package of bills.

On 5 September the Senate did not insist on its amendment to the resolution of appointment of the Joint Standing Committee on Migration Regulations.

The select committee which is famous for, amongst other things, having the longest title, the Select Committee on Community Standards Relevant to the Supply of Services Utilising Telecommunications Technologies, persuaded the Senate on 10 September to make a technical amendment to its terms of reference.

The Legal and Constitutional Affairs Committee was given on 11 September an extension of time to report on mergers, monopolies and acquisitions under the Trade Practices Act.