

## Procedural Information Bulletin No. 76

*For the 4 sitting weeks 4 to 27 May 1993*

### PROROGATION

For the purpose of the election on 13 March 1993 for the House of Representatives and for the places in the Senate falling vacant on 30 June 1993, the government restored the practice, not followed since the 1920s, of proroguing the Parliament before dissolving the House. The failure to follow this practice had resulted in confusion in the Governor-General's proclamations, which had a bearing on the question of whether the Senate may meet after a dissolution of the House or after a prorogation. This matter is more fully set out on *Papers on Parliament*, No. 2, July 1988, and in correspondence between the Clerk and the Official Secretary to the Governor-General which was tabled in the Senate on 14 August 1991. The restoration of the practice of proroguing the Parliament before dissolving the House has at least clarified the questions involved.

The prorogation did not affect Senate committees, which are authorised by the Senate to transact their business notwithstanding a prorogation; several committees were active during the period of prorogation, and there were many public hearings.

### OPENING OF PARLIAMENT

Before the Houses met again on 4 May, the Prime Minister announced that the government intended to alter the opening ceremony, so that the two Houses would meet with the Governor-General in the Great Hall to hear the opening speech. Proposals of this kind have been mooted for several years, but, as with the 1990 election, nothing was done to put them into effect in time for the opening. The change did not occur, notwithstanding that procedures for the modified opening were devised, and the opening was held in accordance with the old procedures.

The reason for this was that the opening procedures are contained in the standing orders of each House, and it would have been necessary for each House to suspend its standing orders and agree to the modified procedures after it first met in the morning, and after the members of the House and the territory Senators and one

Senator filling a casual vacancy had been sworn in. This could easily have been brought about in the House of Representatives by the government's control of that House, but the government could not be sure of carrying the necessary motion in the Senate, or of carrying it in time for the meeting with the Governor-General in the afternoon. The proposal to modify the procedures was therefore abandoned.

It is expected that proposals for changing the procedures will be put forward and considered before the next opening of Parliament.

## PRIVILEGE: INTERFERENCE WITH WITNESSES

Cases relating mainly to alleged interferences with witnesses continue to arise and to impose a heavy workload on the Privileges Committee.

On 5 May the Committee received two references on the motions of Senator Reynolds, the Chair of the Select Committee on Community Standards Relevant to the Supply of Services Utilising Telecommunications Technologies, and Senator Walters, concerning actions by persons associated with an organisation which had given evidence before that committee. Those actions could be regarded as threats to the committee, to its members and to Senators generally.

On 20 May the Privileges Committee received a reference arising from the proceedings of the Joint Committee of Public Accounts and submissions which were made to the Senate by Mr John Richardson last year. The references raise the questions of whether Mr Richardson was subjected to improper treatment in respect of his evidence before that committee, and whether, as he claims, false or misleading answers were given to the Senate or a Senate committee.

On 27 May the Privileges Committee presented its 42nd Report on the matter of charges laid by the Australian Securities Commission against an officer of the Commission. The Committee found that contempts had been committed by the laying of a charge against that officer, the charge being that he had given evidence to the Joint Committee on Corporations and Securities which was contrary to the views of the Commission. In laying the charges the Commission was advised by the Australian Government Solicitor's Office. The Privileges Committee did not recommend a penalty in respect of the contempts, in view of the withdrawal of the charge and the apology by the Commission. The Committee drew attention, however, to the number of cases of interference with witnesses arising from the activities of public bodies, and recommended that senior public servants and officers of statutory authorities be given training in parliamentary matters to overcome a lack of understanding of those matters.

## PAY TELEVISION: ORDER FOR PRODUCTION OF DOCUMENTS

After a considerable amount of time had been devoted to the matter of the tendering process for pay television licences, an order was passed on 19 May requiring the Minister for Transport and Communications to table by noon on the following day documents relating to the process. On the following day the minister stated that he was unable to comply with the order due to the voluminous nature of the documents, but that he intended to table documents as soon as possible. He also produced a report by a commission of inquiry into the matter. His statement and the report were debated later in the day.

On the following sitting day, 24 May, the minister tabled a large collection of documents in response to the order of the Senate.

After further consideration of the matter, on 27 May the Senate appointed a select committee to inquire into the pay television tendering process. The terms of reference of the select committee include "the extent to which the Minister for Transport and Communications discharged his ministerial responsibilities".

The treatment of this matter has again demonstrated that orders for production of documents and the appointment of committees of inquiry are the most significant procedures available to the Senate to deal with matters of public interest giving rise to questions of ministerial accountability.

## AUDITOR-GENERAL: RETURN TO ORDER AND PRESENTATION OF REPORTS

On the first day of the sittings, as required, the Auditor-General tabled a report on Australia Post's registered publications service, in response to the order of the Senate of 16 December 1992. This is the first occasion on which the Auditor-General has been required to present a special report to the Senate.

On 27 May the order of the Senate relating to the presentation of documents to the President when the Senate is not sitting was amended so that Auditor-General's reports can be presented under that order. This will mean that during long adjournments the reports of the Auditor-General can be presented to the President and published on their presentation, as with Senate committee reports and documents presented by ministers.

## PROCEDURAL CHANGES

Considerable time was devoted early in the sittings to a number of proposals to change Senate procedures, some of them arising from the reports of the Procedure Committee and some from the need to renew procedures which were in effect as sessional orders.

The principle measures taken were:

- the procedures for the reference of bills to committees, first adopted in 1989, were renewed as sessional orders
- the new procedures for estimates committees and appropriation bills, recommended by the Procedure Committee, were adopted with effect in the August sittings (these procedures were adopted by way of continuing orders)
- amendments of standing orders relating to the terms of office of the President and Deputy President were made, as recommended by the Procedure Committee
- the time limits on questions and answers at question time and on motions to take note of answers after question time were renewed as sessional orders (the latter with an Opposition amendment)
- a 20 minute speaking time limit was provided by way of a sessional order for second reading speeches on bills, with an Opposition amendment to ensure that time taken by points of order and quorum calls does not come out of a speaker's time
- the sessional order giving parliamentary secretaries the powers of ministers was readopted, with a further exception, made by way of an Opposition amendment, to the effect that parliamentary secretaries may not represent ministers before estimates committees
- various other sessional orders were adopted.

#### PRIVATE SENATOR'S BILLS TURNED TO AMENDMENTS

On 6 May both the Opposition and the Australian Democrats presented bills to amend the Social Security Act in relation to the treatment of unrealised capital gains and losses on listed securities as income for the purposes of that Act. The Opposition subsequently presented a companion bill to make similar amendments to the Veterans' Entitlements Act. They claimed that the existing provisions in the Acts were anomalous and were causing difficulties to beneficiaries holding shares. The Opposition bill was passed and forwarded to the House of Representatives.

Subsequently, on 18 May, amendments for the same purpose were made to two government bills to amend the Social Security and Veterans' Affairs Acts. The government resisted both the private Senators' bills and the amendments. When the bills were returned from the House of Representatives on the last day of sitting with the amendments disagreed to, the amendments were not insisted upon, but

questions arising from the matter were referred to the Community Affairs Committee for inquiry and report by the budget sittings. This was done by an unusual amendment in committee of the whole to the motion that the amendments to the bills not be insisted upon.

#### OTHER LEGISLATION AMENDED

A package of two broadcasting bills was extensively amended on 13 May. One of the amendments, moved by Senator Harradine, requires approval by resolution of each House of certain matters formerly subject to approval only by the Australian Broadcasting Authority. Various amendments were made to the Australian Broadcasting Corporation Amendment Bill on 18 May, including the excision of two clauses which were opposed.

The Aboriginal and Torres Strait Islander Commission Amendment Bill was substantially amended on 19 May, particularly in relation to the composition of the Commission.

A package of taxation bills was extensively amended on 26 May, and the amendments included one to deal with a technical problem raised by the indefatigable Senator Watson.

#### PUBLICATION OF *HANSARD*

A resolution authorising the publication of *Hansard* was passed on 12 May. The purpose of this resolution is to give parliamentary privilege to the publication of *Hansard* other than by the Government Printer and in any form. Authorisation for the publication of *Hansard* by the Government Printer has hitherto depended on the Parliamentary Papers Act. The resolution, which attracts section 16(2)(d) of the Parliamentary Privileges Act, extends to any publication of *Hansard*, including a proposed publication in the form of a database.

#### GOVERNMENT INQUIRIES

Documents were tabled by the President on 4 May concerning the inquiry by a person appointed by the Attorney-General into the matter of the compensation payment to the Speaker of the House of Representatives. The documents contain some material on the question of the legality and propriety of an executive

government inquiry into matters which are the responsibility of a parliamentary department.

## COMMITTEES

Senate committees were extremely active during the election recess and during the four weeks of sitting. Attached as appendixes A, B and C to this *Bulletin* are lists of committee reports presented to the President during the recess, committee reports presented during the sittings, and references to committees made during the sittings.

A proposed change to standing order 25 to reduce the number of legislative and general purpose standing committees from nine to seven by amalgamations of committees, which was put forward by the government, was not agreed to. Instead the Senate agreed to amalgamate two of the committees and to vary the numbers of their members. Consideration of this matter considerably delayed the appointment of members to the committees, but all of the committees were reconstituted before the Senate rose. The change also affected the allocation of government departments to the committees.

Three select committees were reappointed and one new select committee was established. The Select Committee on Community Standards Relevant to the Supply of Services Utilising Telecommunications Technologies was reappointed and subsequently had its term of appointment and its terms of reference extended, and its name changed. The Select Committee on the Australian Loan Council was reappointed with a reporting date in September but no other variations. The Select Committee on Superannuation, having been reappointed on 13 May, had its terms of reference and its life extended to the end of Parliament by a further resolution on 19 May. The reappointment of the Committee was unusual in that the Senators who had previously served on the Committee were reappointed by name, and the holder of the chair of the Committee after 30 June was to be determined by agreement between the parties. A further resolution on 26 May provided that Senator Watson would be the chair in the absence of agreement, and also provided for members to resign from the Committee and for party leaders to fill any vacancies during the winter adjournment (normally Senators can be discharged and replacements appointed only by resolution of the Senate). The Select Committee on Matters Arising from Pay Television Tendering Processes was referred to above, under Pay Television: Order for Production of Documents.

The estimates committees operated under the old procedures and presented their reports on 20 May, and the additional appropriation bills were also dealt with under the old procedures, all within the shortened period of sittings. The estimates committees sat long hours to complete their work in the short time available. Under

the new procedures adopted with effect in August (see above, under Procedural Changes), the committees will be able to hold supplementary hearings after their main round of hearings in substitution for the committee of the whole on the appropriation bills.

Documents tabled on 4 May indicated that the Department of Finance has acted upon the resolution of the Senate concerning the transfer of functions and program performance statements which was passed last year after difficulties relating to the transfer of a function (see *Bulletin* No. 71, p. 1).

The Opposition had a proposal to share the chairs of committees among the parties represented in the Senate in accordance with a formula, and attempts to have this proposal adopted also delayed the reappointment of some of the committees. The proposal was not put into effect, except in relation to the Select Committee on Superannuation.

The Senate again adopted the procedure of making changes to committee memberships with effect from 1 July, so that Senators whose terms end on 30 June will be replaced on committees, in some cases by Senators-elect whose terms begin on 1 July.

An unusual reference was made to the Finance and Public Administration Committee on 20 May. The Committee was authorised to hold a hearing to allow certain technical questions on the application and operation of tax laws to be put to relevant officers of the Australian Taxation Office. The purpose of this reference was to allow those questions to be answered without requiring the Committee to report on the matter. Subsequently, on 27 ~~May~~, the Committee tabled the transcript of the hearing.

The Standing Committee on Finance and Public Administration also performed the feat of receiving and reporting on a bill on the same day. A taxation bill was referred to the Committee after the second reading on 26 May and was reported by the Committee later in the day.

## REPORTS PRESENTED TO THE PRESIDENT DURING THE RECESS

Committee	Subject	Date Presented to the President	Date Tabled
Foreign Affairs, Defence and Trade	Report on the examination of annual reports - No. 2 of 1992, dated December 1992	21 December 1992	4 May 1993
Rural and Regional Affairs	Report on the examination of annual reports - No. 2 of 1992, dated December 1992	18 December 1992	4 May 1993
Legal and Constitutional Affairs	Scrutiny of annual reports - No. 2 of 1992, dated December 1992	18 December 1992	4 May 1993
Legal and Constitutional Affairs	Doctrine of the Shield of the Crown, dated December 1992	18 December 1992	4 May 1993
Legal and Constitutional Affairs	Proposed amendments to Part VA of the Trade Practices Act 1974 - Product liability - Where should the loss fall, dated December 1992, and transcript of evidence (4 vols).	18 December 1992	4 May 1993
Legal and Constitutional Affairs	The cost of justice - Foundations for Reform, dated February 1993	5 February 1993	4 May 1993
Corporations and Securities (Joint Statutory)	Close Corporations Act 1989, dated December 1992	21 December 1992	4 May 1993
Corporations and Securities (Joint Statutory)	Corporations and Securities - Joint Statutory Committee - Issues paper - Audit committees, dated December 1992	21 December 1992	4 May 1993



Committee	Subject	Date Presented to the President	Date Tabled
Functions, Powers and Operation of the Australian Loan Council (Select)	Functions, Powers and Operation of the Australian Loan Council - Select Committee - Interim report, dated March 1993	1 March 1993	4 May 1993
Environment, Recreation and the Arts	Environment, Recreation and the Arts - Standing Committee - Discussion paper - Water resources - Toxic algae, dated December 1992	21 December 1992	4 May 1993
Community Standards Relevant to the Supply of Services Utilising Telecommunications Technologies (Select)	Select Committee on Community Standards Relevant to the Supply of Services Utilising Telecommunications Technologies - Select Committee - Report, May 1993 and transcript of evidence (16 vols).	3 May 1993	4 May 1993
Public Accounts (Joint Statutory Committee)	321st Report - Finance Minutes, dated December 1992 322nd Report - Report of Activities 1991-92 323rd Report - Managing people in the Australian Public Service: Dilemmas of devolution and diversity 324th Report - Commonwealth support for private sector investment in research and development - Volume 2 of a report on research and development 325th Report - The Midford Paramount case and related matters: customs and Midford Shirts - The	21 December 1992	4 May 1993

Committee	Subject	Date Presented to the President	Date Tabled
	Paramount case of a failure of customs, dated December 1992		
Foreign Affairs and Trade (Joint Standing Committee)	Stockholding and Sustainability in the Australian Defence Force, dated December 1992, transcript of evidence (4 vols) and 2 submissions (2 vols).	21 December 1992	4 May 1993
Electoral Matters (Joint Standing Committee)	Conduct of the 1990 Federal election, Part II and preparations for the next Federal election - Ready or not - Refining the process for election '93, dated December 1992, and transcript of evidence (2 vols).	21 December 1992	4 May 1993
Migration Regulations (Joint Standing Committee)	Conditional migrant entry: the health rules, dated December 1992, transcript of evidence (4 vols), minutes of proceedings (38 vols) and submissions (3 vols).	12 January 1993	4 May 1993

## APPENDIX B - COMMITTEE REPORTS TABLED 4 – 27 May 1993

### **Community Affairs**

*The Manner in which Commonwealth Pharmaceutical Restructuring Measures are being Implemented in the Anna Bay Area of New South Wales (27 May 1993)*

### **Community Standards**

*Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies – Report (27 May 1993)*

### **Employment, Education and Training Committee**

*Report on the Examination of Annual Reports No. 1 of 1993 (27 May 1993)*

### **Environment, Recreation and the Arts**

*Report on the Examination of Annual Reports No. 1 of 1993 (27 May 1993)*

### **Finance and Public Administration**

*Taxation Laws Amendment Bill 1993 and  
Taxation Laws Amendment Bill (No. 2) 1993 (24 May 1993)*

*Report on the Insolvency (Tax Priorities) Legislation Amendment Bill 1993 (26 May 1993)*

*Bodies Not Presenting Annual Reports to the Senate (27 May 1993)*

## **Industry, Science, Technology, Transport, Communications and Infrastructure**

*Report on the Examination of Annual Reports No. 1 of 1993 (27 May 1993)*

*Progress Report on Work of the Industry, Science, Technology, Transport, Communications and Infrastructure Committee (27 May 1993)*

## **Legal and Constitutional Affairs**

*Report on the Examination of Annual Reports No. 1 of 1993 (27 May 1993)*

## **Rural and Regional Affairs**

*Report on the Examination of Annual Reports No. 1 of 1993 (27 May 1993)*

## **Superannuation**

*Super Supervisory Levy (26 May 1993)*

*Autumnal Report (26 May 1993)*

## **Regulations and Ordinances**

*94th Report — Annual Report 1991-92 (26 May 1993)*

*95th Report — Scrutiny of by the Committee of instruments administered through the portfolio of Primary Industries and Energy (27 May 1993)*

## **Scrutiny of Bills**

*No. 1 of 1993 (26 May 1993)*

## APPENDIX C - NEW COMMITTEE REFERENCES 4 – 27 May 1993

(NOTE: does not include references  
continued from previous Parliament)

### **Community Affairs**

The manner in which Commonwealth Pharmaceutical Restructuring Measures are being implemented in the Anna Bay area of New South Wales (*referred 20 May 1993*)

Breast cancer screening and treatment in Australia etc. (*referred 27 May 1993*)

All aspects of the proposed treatment of unrealised capital gains and losses on listed securities as income under the *Social Security Act 1991* and the Veterans' Entitlements Act 1986 (*referred 27 May 1993*)

### **Employment, Education and Training**

The efficacy of the *Education Services for Overseas Students Act 1991* in the light of the collapse of the Australian Business College in January 1993 (*referred 24 May 1993*)

Funding of research in the higher education sector (*referred 27 May 1993*)

### **Finance and Public Administration**

A review of the management Advisory Board document, *A Decade of Reform* (*referred 27 May 1993*)

A review of the implementation of performance based pay (*referred 27 May 1993*)

### **Foreign Affairs, Defence and Trade**

Australia's relations with the People's Republic of China (*referred 26 May 1993*)

## **Legal and Constitutional Affairs**

Australian Citizenship Amendment bill 1993 (*referred 19 May 1993*)

The rights and obligations of the media (*referred 25 May 1993*)

Gender issues and judiciary (*referred 26 May 1993*)

The exercise of the powers of officers of the Australian Securities commission (ASC) to interview witnesses (*referred 27 May 1993*)

## **Joint Committee on Migration**

Policy of detaining in custody unauthorised boat arrivals (*referred 27 May 1993*)

## **RE-ESTABLISHMENT OF SELECT COMMITTEES**

Senate Select Committee on the Functions, Powers and Operation of the Australian Loan Council – 12 May 1993

Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies – 13 May 1993

Senate Select Committee on Superannuation – 13 May 1993

## **NEW SELECT COMMITTEES**

Senate Select Committee on Matters Arising from Pay Television Tendering Processes – 27 May 1993