

## Procedural Information Bulletin No. 82

*For the sitting period 1 to 10 February 1994*

### NEW PRESIDENT

Senator Sibraa resigned as President on 31 January and as a senator on the following day, and Senator Michael Beahan was elected unopposed as President on the first day of the sittings. This is the fourth successive occasion on which the President has been elected unopposed, and uncontested elections for President and Deputy President may be evolving as a convention.

Another vacancy in the Senate was created by the resignation of Senator Archer on 31 January.

### NEW SITTING TIMES

The radical changes to sitting times and routine of business, proposed by the Procedure Committee in its Second Report of 1993, were adopted, with some changes, on 2 February.

The major features of the new system are:

- the Senate sits from 2.00 pm to 8.00 pm on Mondays and Tuesdays and from 9.30 am to 8.00 pm on Wednesdays and Thursdays, with no lunch or dinner breaks
- the adjournment debate commences no later than 7.20 pm and the Senate adjourns no later than 8.00 pm every day; an amendment moved by Senator Chamarette provides for an unlimited adjournment debate on Mondays for a trial period until 3 May
- government documents are considered only on Tuesdays and Wednesdays at the end of the day's proceedings, and if debate on government documents finishes early the adjournment may be proposed before 7.20 pm
- a period of an hour with a speaking time limit of 10 minutes is provided for debate on committee reports on Wednesdays and Thursdays, but committee reports may still be presented and debated by leave at other times

- debate on urgency motions and matters of public importance is limited to an hour, or 90 minutes if there are no motions to take note of answers at question time.

Amendments made on the motion of Senator Hill provided for:

- motions to take note of answers after question time to be moved as of right rather than by leave, subject to the time limits already applying
- a guaranteed starting time of 4.30 pm for general business (non-government business) on Thursdays.

The main purpose of the new regime is to put an end to late-night sittings. The question for the adjournment cannot be negatived at 8.00 pm, so that in order to sit beyond 8.00 pm a special motion passed in advance would be necessary.

## LEGISLATION AMENDED

There were two examples during the period of amendments to bills which were not circulated in advance but which were moved as a result of debate on the bills in the committee stage. An amendment made to the Foreign Evidence Bill 1993 on the motion of Senator Ellison on 9 February was designed to ensure that the procedures for taking evidence in foreign countries do not prejudice a defendant in a criminal matter. An amendment made to the Corporate Law Reform Bill 1993 on the motion of Senator Vanstone on 10 February clarified provisions in the bill relating to the Australian Securities Commission's data base.

Other amendments made to bills included the insertion of a lengthy preamble into the Wet Tropics of Queensland World Heritage Area Conservation Bill 1993 on the motion of Senator Coulter, and the negativing of a set of clauses in the Veterans' Affairs Legislation Amendment Bill (No. 3) 1993.

The Health Legislation (Professional Services Review) Amendment Bill 1993 and the Industry, Technology and Regional Development Legislation Amendment Bill 1993 were also significantly amended.

## ORDERS FOR PRODUCTION OF DOCUMENTS

The Senate continues its frequent use of orders for the production of documents as the means of obtaining information from government concerning matters of public interest.

An order agreed to on 3 February required the Minister for Immigration and Ethnic Affairs to table a copy of the Australian Federal Police report on an investigation into allegations of misconduct in the Minister's department, with the names of individuals deleted from the report before tabling. The Minister complied with this order later on the same day.

Also on 3 February an order was passed requiring the Leader of the Government in the Senate to table information concerning the lease of premises to the Australian National Audit Office. That information was tabled by the deadline on 10 February.

### SAME QUESTION RULE

On 3 February, pursuant to notice, Senator Troeth moved a motion to disallow an instrument of delegated legislation (guidelines for eligible child care centres), identical in terms to a motion to disallow the same instrument which was negatived on 8 December 1993. No point of order was taken to the effect that this was contrary to the same question rule.

A motion may not be moved if it is the same in substance as a motion which has been determined during the same session, unless the latter was determined more than six months previously (SO 86).

This rule, known as the same question rule, is seldom applied, because it seldom occurs that a motion is exactly the same as a motion moved previously. Even if the terms of a motion are the same as one previously determined, the motion almost invariably has a different effect because of changed circumstances and therefore is not the same motion. There may also be different grounds for moving the same motion again.

This consideration arises particularly in relation to delegated legislation. A senator may move to disallow an instrument of delegated legislation on policy grounds, and the Regulations and Ordinances Committee may give notice of a motion to disallow the same instrument on grounds related to the Committee's criteria of scrutiny; the two motions are regarded as entirely separate, and the determination of one does not affect the other. Moreover, it could be argued that the same question rule could not prevent the operation of the relevant statutory provisions, which provide for disallowance subject only to the statutory time limit. Therefore any disallowance motion may operate (and operate automatically if not withdrawn or determined) provided only that notice of it is given within the statutory time.

## COMMITTEE REPORTS

The following committee reports were presented during the period.

Date tabled	Committee	Title
01.02.94	Finance and Public Administration	Performance Pay (presented to the President on 22 December 1993)
07.02.94	Privileges	45th Report — Person referred to in the Senate (Mr T T Vajda)