

Procedural Information Bulletin No. 88

For the sitting period 23 August to 1 September 1994

COMMITTEE SYSTEM

The Senate adopted on 24 August the recommendations of the Procedure Committee for radical changes to the committee system (see Bulletin No. 87, p. 2). Changes were made to standing and other orders to bring about the new system, and 10 October 1994 was set as the date for the changes to take effect.

Two amendments were made to the motions to amend the standing and other orders. An amendment moved by Senator Bourne deleted a provision whereby the Legislation Committees, when considering estimates, would not have the power to require the attendance of witnesses and the production of documents. This power is not possessed by the estimates committees, and the amendment means that, in considering estimates, the Legislation Committees will have the normal powers of standing committees. An amendment moved by Senator Hill gives effect to a suggestion by the Procedure Committee that the government respond to any minority or dissenting report in a committee report and any matter added to the report by any member or participating member of the committee.

It is expected that membership of the new committees will be appointed in the next sitting week in time for the commencement date.

ORDERS FOR PRODUCTION OF DOCUMENTS

Orders for the production of documents again were a common feature of the sitting period. Orders for documents were passed in relation to the following matters:

- appointments to the board of the Australian Broadcasting Corporation (23 August 1994 for tabling 24 August, documents tabled 25 August)
- legal advice relating to the powers of Parliament and parliamentary committees to order the production of documents (23 August 1994 for tabling 25 August, documents tabled 25 August)

- bills proposed for urgent passage by the Senate in the 1994 Spring sittings (25 August 1994 for tabling 1 September, document tabled 31 August)
- details of documents provided to the Federal Court in relation to an Independent Newspaper claim against the Fairfax group (31 August 1994 for tabling 1 September, document tabled 1 September)
- list of documents relating to the administration of the Australian National Line (31 August 1994 for tabling 1 September, documents not yet provided)

The orders relating to advice on parliamentary powers and documents provided to the Federal Court arose from the inquiry of the Select Committee on Foreign Ownership Decisions in relation to the Print Media. The first of these motions referred to a refusal by the government to make available advice on the requests by that Committee for documents; when tabled the documents contained an hitherto undisclosed advice. The second of the motions referred to evidence given by the Leader of the Government in the Senate, Senator Gareth Evans, to the Privileges Committee in the course of its inquiry into Senator Kernot's Parliamentary Privileges Amendment (Enforcement of Lawful Orders) Bill 1994 (see Bulletin No. 85, p. 1). Senator Evans, in giving evidence to the Committee opposing the bill, indicated that the government conceded that the Senate had the power to order the production of documents and enforce its orders.

The order concerning bills proposed for urgent passage required a statement of reasons for the government proposing a number of bills for introduction and passage during this period of sittings, in the light of the undertaking given to the Senate that bills would ordinarily be introduced in one period of sittings for passage in the next (the undertaking was given on 18 August 1993 in the debate on Senator Chamarette's cut-off motion: see Bulletin No. 77, pp 1-2).

DELEGATED LEGISLATION

The Senate disallowed on 29 August regulations made under the Superannuation (Resolution of Complaints) Act which were the subject of a report of the Select Committee on Superannuation earlier in the day. The disallowance motion was based on the committee's report. The Senate removed from the regulations a provision which excluded the evaluation of medical evidence from the examination of complaints by the Superannuation Complaints Tribunal. The disallowance motion was passed notwithstanding an undertaking by the government to amend the provision so that it would not have effect after six months. This undertaking also arose from the report of the Committee, which recommended that the government re-examine the exclusion of medical evidence.

The Senate is accustomed to the Regulations and Ordinances Committee withdrawing motions for the disallowance of instruments when undertakings to

amend the instruments are given by ministers. This practice has also developed in relation to disallowance motions of which notice is given by other senators.

On 23 August Senators Reid and Bell withdrew disallowance motions on the basis of undertakings given by the responsible ministers. Senator Bell's notice related to regulations under the *Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991*. Senator Bell indicated that amendments to the regulations had cured the problem he saw in them. In making a statement on the withdrawal of the notice, the Leader of the Opposition in the Senate, Senator Hill, indicated that the matter demonstrated the value of Senate committee inquiries, as relevant education institutions had been able to demonstrate in evidence before the Standing Committee on Employment, Education and Training that the regulations were unsatisfactory.

PARLIAMENTARY PRIVILEGE: COURT JUDGMENT

The President tabled on 23 August a judgment of the Judicial Committee of the Privy Council in a New Zealand case, *Prebble v Television New Zealand Ltd*, relating to parliamentary privilege. In the course of its judgment the Privy Council referred to the Australian *Parliamentary Privileges Act 1987*, observing that it was a correct codification of the interpretation of article 9 of the Bill of Rights 1689 previously prevailing in all common law jurisdictions which have the article as part of their law.

LEGISLATION AMENDED

Among the bills significantly amended during the period was the Witness Protection Bill 1994, which had been examined by the Legal and Constitutional Affairs Committee. An amendment proposed by the Australian Democrats, and amended by the Opposition, requires the tabling of an annual report on the witness protection scheme.

COMMITTEES

The following committee reports were presented during the period:

Date tabled	Committee	Title
24.08.94	Scrutiny of Bills	11th Report and Alert Digest No. 12 of 1994

25.08.94	Foreign Affairs, Defence and Trade	Report on Sexual Harassment in the Australian Defence Force
25.08.94	Selection of Bills	Report No. 12 of 1994
29.08.94	Superannuation	Thirteenth Report, Report on Super Regs I: Superannuation (Resolution of Complaints) Regulations, Statutory Rules 1994 No. 56, dated August 1994
29.08.94	Legal and Constitutional Affairs	Report on the Migration Legislation Amendment Bill (No. 2) 1994
31.08.94	Public Interest Whistleblowing	In the Public Interest
31.08.94	Appropriations and Staffing	Annual Report 1993-94
31.08.94	Scrutiny of Bills	12th Report and Alert Digest No. 13 of 1994
01.09.94	Finance and Public Administration	Report on Public Service Reform Vol 1, Conference papers Vol 2, Conference proceedings
01.09.94	Selection of Bills	Report No. 13 of 1994
01.09.94	Legal and Constitutional Affairs	Report on the Trade Practices Amendment (Origin Labelling) Bill 1994