

Procedural Information Bulletin No. 90

For the sitting period 10 to 20 October 1994

ORDERS FOR PRODUCTION OF DOCUMENTS

The most notable procedural feature of these sittings was the continuing use by the Senate of orders for the production of documents as means of obtaining information on matters of contention.

In accordance with the recommendations of the Standing Committee on Finance and Public Administration on the order for the production of indexed lists of departmental files (see Bulletin No. 89, p 2), the government moved a motion on 10 October to revoke the order in favour of an experimental production of lists as recommended by the Committee. On an amendment moved by Senator Harradine, however, the Senate virtually confirmed the original order and required the tabling of the first set of lists by 10 November.

The financial position of the Australian National Line was again the subject of considerable activity. Documents were produced on 11 October in response to the order of the Senate of 21 September for further documents, and a further order was made on 12 October for more documents. The Minister representing the Minister for Transport, Senator Collins, made a statement on 17 October on the difficulty of producing the documents, which were eventually produced on the last day of sitting, 20 October.

The Casselden Place matter also led to further activities. The report of the Auditor-General in response to the resolution of the Senate of 22 June (see Bulletin No. 87, p 1) was regarded by Opposition senators as vindicating their concern about leases in the Casselden Place building, and they took the unusual step of tabling the Auditor-General's report by leave before it was due to be tabled by the President on 20 October. A further order for documents was made on the same day, and documents were produced in response to the order later in the day. The Senate also passed, on the motion of the Democrats, a further order requiring the Auditor-General to report on the management of other government property leases. As with the previous order, the Auditor-General is required to report as soon as practicable. The Privileges Committee is required to report on the Casselden Place matter as part of its examination of Senator Kernot's bill on public interest immunity (see Bulletin No. 89, p 1).

Two orders for the production of documents were passed by way of amendments to the motions for the second readings of bills. An amendment to the motion for the second reading of the Migration Legislation Amendment Bill (No. 4) 1994 on 18 October requires the government to make a report on approaches to the United Nations High Commissioner for Refugees, such approaches also being called for by the amendment. An amendment to the motion for the second reading of the Student Assistance (Budget Matters) Amendment Bill 1994 on 19 October requires the tabling of a report on rent assistance to students.

A resolution passed by the Senate on 22 September called for the release of documents relating to the Hinchinbrook Island development. Although this resolution was not a formal order for the production of documents, the government produced the required documents on 12 October.

DELEGATED LEGISLATION

A motion for the disallowance of certain regulations relating to the Australian Nuclear Science and Technology Organisation, moved on 11 October by the Greens WA, was adjourned and questions relating to the regulations were referred to the Legal and Constitutional Legislation Committee for report by 7 November. This will enable the Senate to consider the report and the regulations before the time runs out for the disallowance motion to be dealt with.

Section 49 of the Acts Interpretation Act allows the Senate, after it has disallowed regulations, to rescind its disallowance resolution so as to permit the making of new regulations the same in substance as the disallowed regulations. In the absence of such a rescission, regulations the same in substance as the disallowed regulations cannot be made within six months. Such a rescission motion was passed on 17 October in relation to the superannuation regulations disallowed by the Senate on 29 August (see Bulletin No. 88, pp 2-3). The rescission resolution is expressed to allow the making of regulations the same in substance as the disallowed regulations, but with a "sunset" clause terminating the new regulations after 6 months, so as to provide for a transitional period. It is not clear whether this proviso in the resolution has any legal force, in other words, whether a new regulation without the sunset clause would be valid, but it is an indication of the Senate's purpose in granting permission for the new regulations to be made.

The Regulations and Ordinances Committee presented on 17 October its report on the Legislative Instruments Bill, which is intended to carry out most of the recommendations of the Administrative Review Council for the overhaul of the system of making delegated legislation. The Committee, which held public hearings on the bill, drew attention to a number of problems with it which will probably require amendment before the bill is passed.

LEGISLATION AMENDED

Several bills were substantially amended during the period. In proceedings on the Taxation Laws Amendment Bill (No. 3) 1994, a government amendment was negated, the Senate substituting an Opposition amendment to deal with the same problem in the bill. Other bills significantly amended included the Migration Legislation Amendment Bill (No. 4) 1994, the Australian Postal Corporation Amendment Bill 1994, the Crimes and other Legislation Amendment Bill 1994 and the Complaints (Australian Federal Police) Amendment Bill 1994. The Senate made a start on 20 October on the committee of the whole proceedings on the ATSIC Amendment (Indigenous Land Corporation and Land Fund) Bill 1994, which are expected to be very lengthy and to result in many amendments. Several significant amendments have already been agreed to.

When the Senate passed the *Carriage of Goods by Sea Act 1991*, an unusual provision was inserted in the bill by way of amendment to provide for the commencement of a part of the bill relating to an international agreement, and for the extension of the time for the commencement of the part by resolution of both Houses. A resolution was passed on 19 October to extend the time for commencement in accordance with this provision.

PRIVILEGE

The Privileges Committee received yet another reference on 19 October relating to statements in debate by Senator Woodley that threats had been made to him in response to inquiries he had made about the Port Hinchinbrook development. The alleged threats were raised as a matter of privilege not by Senator Woodley but by Senator Parer.

MINISTER CENSURED

Immediately after a matter of public importance debate on the matter of air safety on 12 October, the Senate passed a motion, moved by leave by Senator Coulter, to censure the Minister for Transport, Mr Brereton, for his negligent administration of air safety. This action followed intense controversy about light aircraft accidents and alleged safety breaches, matters originally raised in Senate Estimates Committees.

COMMITTEES

The Select Committee on the Australian Broadcasting Corporation appointed on 21 September (see Bulletin No. 89, p 2) had its terms of reference altered by a motion moved by the Opposition on 13 October. The motion apparently represents a revision by the Committee of its terms of reference.

The following committee reports were presented during the period:

Date tabled	Committee	Title
10.10.94	Legal and Constitutional Affairs	First Report into the Rights and Obligations of the Media
10.10.94	Legal and Constitutional Affairs	Report on the Law and Justice Legislation Amendment Bill (No. 2) 1994
10.10.94	Legal and Constitutional Affairs	Report on the Migration Legislation Amendment Bill (No. 4) 1994
10.10.94	Finance and Public Administration	Report on Aboriginal Councils and Associations Legislation Amendment Bill 1994 and the ATSIC Amendment (Indigenous Land Corporation and Land Fund) Bill 1994
10.10.94	Joint Committee on Foreign Affairs, Defence and Trade	Report on the Implications of Australian Defence Exports
10.10.94	National Crime Authority	Report Investigating Complaints Made Against the National Crime Authority
12.10.94	Scrutiny of Bills	14th Report and Alert Digest No. 15 of 1994
17.10.94	Regulations and Ordinances	99th Report, Legislative Instruments Bill 1994
19.10.94	Scrutiny of Bills	15th Report and Alert Digest No. 16 of 1994
20.10.94	Native Title	First Report, Consultations During August 1994
20.10.94	Publications	Fourteenth Report