

Procedural Information Bulletin No. 100

For the sitting period 18 to 28 September 1995

ROYAL COMMISSIONS AND PARLIAMENTARY DEBATE

The Western Australian royal commission on the matter of the Easton petition (see also Bulletin No. 99, p.1) was the subject of debate and comment during this period, as in the previous two weeks of sittings, with some canvassing of the issues under inquiry by the commission. There was no suggestion that such debate was out of order or otherwise inappropriate. It now appears to be accepted in the Senate that the convention which may restrain debate on issues before courts has no application to royal commissions or other executive-appointed commissions of inquiry. This is in accordance with the purpose of that convention, known as the sub judice principle, which is to prevent potential miscarriages of justice in trials before courts by debate which might influence juries or witnesses and cause trials to be determined other than on the evidence before the courts, or at least to create uncertainty as to whether such influence has occurred. As the principle applies by definition to courts which exercise judicial power by trying cases, and as parliamentary debate should not be restricted except for the most serious of reasons, there should really be no suggestion of its application to executive-appointed inquisitorial bodies (see *Odgers' Australian Senate Practice*, 7th ed, p. 229).

LEGISLATION CONSIDERED

The Aboriginal Land Grant and Management (Jervis Bay Territory) Legislation Amendment Bill 1995 was extensively amended on 18 September, particularly by amendments, moved by the Australian Democrats, having to do with delegated legislation to be made by the Aboriginal Community Council under the bill.

Amendments moved by the Democrats also featured prominently in the amendments made to the Wildlife Protection (Regulation of Exports and Imports) Amendment Bill 1995 on 19 September. Several items in the bill were negatived.

A relatively unusual second reading amendment was used on 20 September to defer consideration of the Child Care Legislation Amendment Bill 1995 until 20 November 1995. The amendment omitted the motion for the second reading, substituted the deferral, gave reasons for the deferral

and provided that senators could speak again to the motion for the second reading when consideration of the bill is resumed. The latter provision was probably not strictly necessary, as the effect of the amendment is to require the second reading to be moved again in any case, but is an "avoidance of doubt" provision. It was stated in debate that the government's proposed restrictions on child care created too many uncertainties for the bill to proceed until further information is available.

The amendments made to the Electoral and Referendum Amendment Bill 1995 on 20 September included a "truth in electoral advertising" provision of the kind which has been advocated by the Australian Democrats for some years.

The Customs and Excise Legislation Amendment Bill (No. 2) 1995 was introduced to overcome unforeseen problems, particularly relating to the diesel fuel rebate, created by the bill which was extensively amended earlier in the year (see Bulletin No. 98, p. 3). The suggestion that there were further problems with the rebate led to the reference of the bill on 21 September to the Economics Legislation Committee after the second reading. The Committee was enjoined in the reference to conduct not more than one day of public hearings on the bill.

An extensive debate occurred on the Student and Youth Assistance Amendment (Youth Training Allowance) Bill 1995, mainly relating to the effect of the assets test for Austudy on rural students. The bill was finally passed on 26 September with a request for an amendment moved by the Opposition and with several amendments. (The request was necessary because, in extending concessions relating to the assets test, it would increase expenditure under the principal act.) The bill was returned on the last day of the sitting period, the government having rejected the request in the House of Representatives, and the bill remained unresolved.

The First Corporate Law Simplification Bill 1995 was also the subject of extensive debate, mainly relating to the reporting requirements for, and the distinction between, small and large corporations. The bill, having been referred to the Corporations and Securities Committee, was passed on 28 September with amendments designed to overcome some of the concerns about that matter.

The Health and Other Services (Compensation) Bill 1994 and related bills are designed to impose charges for health and related services on persons in receipt of compensation. One of the bills, to impose an administration fee, was rejected by the Senate on 28 September at the second reading. Several amendments were made to one of the other bills, but the package remained unresolved at the end of the period. The issues raised by the bills were the subject of examination by the Community Affairs Legislation Committee.

PROCEDURAL CHANGES

The Procedure Committee reported on 19 September proposing two changes to committee procedures: a requirement that each subcommittee of any committee have at least one government senator and one opposition senator, and abolition of the system of participating membership so far as estimates hearings are concerned and a return to the scheme of authorised participation by any senator in relation to those hearings. The committee also made observations about various other matters raised in relation to estimates hearings and the disclosure of minority reports to other members of a committee. The report has yet to be considered.

On 28 September the Senate restored the provision, which operated on a trial basis when the current routine of business and times of sitting were adopted in February 1994, for an adjournment debate of unlimited duration on Mondays.

COMMITTEE REPORTS

The following committee reports were presented during the period:

Date tabled	Committee	Title
18.09.95	Economics Legislation	Report on the Examination of Annual Reports: No. 2 of 1995
18.09.95	Community Standards	Regulation of Computer On-line Services Part 1
19.09.95	Procedure	First report of 1995
20.09.95	Scrutiny of Bills	14th Report and Alert Digest No 13 of 1995
20.09.95	Environment, Recreation, Communications & and the Arts Legislation	Report on the Review of Annual Reports 1993-94 Annual Reports tabled in the Senate November 1994 to June 1995
20.09.95	Foreign Affairs, Defence and Trade Legislation	Report on the Review of Annual Reports
20.09.95	Legal and Constitutional Legislation	Scrutiny of Annual Reports: No. 2 of 1995
21.09.95	Legal and Constitutional Legislation	Sex Discrimination Amendment Bill 1995
27.09.95	Legal and Constitutional Legislation	Crimes Amendment (Controlled Operations) Bill 1995
27.09.95	Appropriations and Staffing	23rd Report
27.09.95	Scrutiny of Bills	15th Report and Alert Digest No 14 of 1995
28.09.95	Rural and Regional Affairs and Transport References	Impact of Assets Tests on Farming Families' Access to Social Security and Austudy - Second report
28.09.95	Economics References	Taxation of Financial Arrangements
28.09.95	Legal and Constitutional Legislation	Administrative Decisions (Effect of International Instruments) Bill 1995
28.09.95	Legal and Constitutional Legislation	Bankruptcy Legislation Amendment Bill 1995

28.09.95	Legal and Constitutional References	Payment of a Minister's Legal Costs
----------	-------------------------------------	-------------------------------------