

No. 107

for the sitting period 9-19 September 1996

23 September 1996

Most of the second week of this period was taken up by committee hearings on the annual estimates, which by the end of the period were promising to be lengthy.

ORDERS FOR PRODUCTION OF DOCUMENTS

An unusual order for production of documents was passed on 11 September, requiring the relevant minister to table a report of an investigation by the Australian Securities Commission, compiled in accordance with a direction given by the minister, into transactions relating to a corporation called King Island Dairy Products Pty Ltd and the state government of Tasmania. The report apparently does not yet exist; the purpose of the order is to bring it about. Under the statute establishing the Commission, the minister has the power to direct the Commission to undertake an inquiry into a particular matter. The order requires the report to be tabled by 3 December. The government tabled a letter from the Commission setting out facts relating to the case, and did not support the order, but it is not known whether the government will resist the production of the report.

On 11 September the Leader of the Government in the Senate and Minister for the Environment, Senator Hill, tabled a large volume of documents in anticipation of an order for documents which had not at that stage been passed, relating to the matter of the Port Hinchinbrook development. Notwithstanding the tabling of the documents, the anticipated order was passed on the following day, with the time for production extended to 19 September at the request of the government. On that day, however, the minister made a statement indicating that he was not able to comply with the order by the deadline, which led to some acrimonious debate.

An order was passed on 10 September requiring the production of a document known as the Brew report relating to Australian National Railways. The order required the report to be produced on the same day, but the government indicated that more time would be required. On 11 September the government tabled a summary of the report and indicated that the remainder of the document would not be disclosed until parties who had contributed to it were consulted about its disclosure. This matter also was therefore not concluded at the end of the sitting period.

A motion was passed on 10 September "calling for" documents not produced earlier in response to an order relating to the National Commission of Audit (see Bulletin No. 106, p 2). The government accepted this motion as if it were a further order for documents, but indicated that cabinet documents would not be produced. Further documents were produced on 16 September, the opposition expressing scepticism about documents which were said to have been discovered since the earlier return.

DELEGATED LEGISLATION

A notice of motion for the disallowance of certain Austudy regulations given by the Regulations and Ordinances Committee was taken over by Senator Harradine (Independent, Tasmania), in accordance with standing order 78, on 10 September. The committee had determined that its concerns about the regulations were satisfied and given notice of intention to withdraw the notice, but Senator Harradine wished to pursue the disallowance of the regulations. The disallowance motion was duly moved and passed, Senator Harradine claiming that the regulations made changes in entitlements which were retrospective in effect if not in law.

Some migration regulations were disallowed on 11 September, the opposition claiming that they removed matters from prescription by regulation and made them dependent on ministerial discretion.

LEGISLATION: TRIGGER FADES

The Aboriginal and Torres Strait Islander Commission Amendment Bill 1996, which replaced an earlier bill amended by the Senate and which was mooted as a double dissolution "trigger" (see Bulletin No. 105, p 4), was extensively amended in the course of its passage on 11 September. The amendments appeared to represent a compromise between the parties on the legislation, and, the amendments having been accepted by the government, the bill will not feature as a "trigger".

The Airports Bill was the subject of further extensive amendments on 9, 11 and 12 September. On 9 September a vote on the bill was taken again by leave after a senator missed a division, in accordance with the well-established principle that decisions should not be made by misadventure. Further government amendments were passed on 12 September after it was thought that consideration of the bill had concluded but when it was still before the committee of the whole.

The most controversial bill before the Senate, the Telstra (Dilution of Public Ownership) Bill 1996, was the subject of a committee report presented on 9 September. Not surprisingly, the report, which was immediately debated, disclosed disagreement about the merits of the bill. The bill, which, together with the Workplace Relations Bill, will probably dominate proceedings in the Senate this year, remains on the Notice Paper for consideration.

QUALIFICATION OF SENATOR

Notice of a motion was given to refer the matter of Senator Ferris' qualification to the Court of Disputed Returns (see Bulletins Nos. 104, pp 1-2; 106, p 1), but the notice was withdrawn on 12 September, apparently for lack of support. It has been pointed out that it is still arguable whether Senator Ferris is disqualified, and an action to test the matter may be brought by any person under section 46 of the Constitution.

"INEFFECTIVE" REPORT TABLED

The usefulness to government of the ability of a minister to table a document at any time was demonstrated on 17 September when the Minister for Aboriginal Affairs, Senator Herron, tabled the report by Justice Mathews on the Hindmarsh Island bridge affair, notwithstanding the judgment by the High Court on 6 September that the appointment of Justice Mathews to compile the report was ineffective because the function of reporting was incompatible with a judicial office. The government obviously wished to disclose the report in a privileged forum in spite of the Court's finding.

VACANCIES

The New South Wales Parliament acted speedily to fill a vacancy created by the resignation of Senator Baume on 9 September, so that the appointee, Senator Heffernan, was sworn in on 19 September.

The vacancy left by Senator Coates was filled by the appointment of Senator O'Brien, who was sworn in on 9 September.

COMMITTEES

The new committee on treaties presented its first report on 9 September, a significant occasion which was marked in debate on the report with references to the milestone report by the Legal and Constitutional Affairs Committee on enhancing the parliamentary scrutiny of treaties.

The following committee reports were presented during the period:

Date tabled	Committee	Title
9.9	Environment, Recreation, Communications and the Arts References	Telstra (Dilution of Public Ownership) Bill 1996
"	Legal and Constitutional Legislation	Bankruptcy Legislation Amendment Bill 1996
"	Treaties Joint	First Report
10.9	Legal and Constitutional Legislation	Social Security Legislation Amendment (Newly Arrived Resident's Waiting Periods and Other Measures) Bill 1996
11.9	Scrutiny of Bills	5th Report and Alert Digest No. 5 of 1996
17.9	Environment, Recreation, Communications and the Arts Legislation	Report on Annual Reports
18.9	Legal and Constitutional Legislation	Report on Annual Reports
"	Finance and Public Administration Legislation	Report on Annual Reports
"	Economics Legislation	Report on Annual Reports
19.9	Foreign Affairs, Defence and Trade Legislation	Report on Annual Reports
19.9	Community Affairs Legislation	The Review of the Health Legislation (Private Health Insurance Reform) Amendment Act 1995

Date tabled	Committee	Title
"	Employment, Education and Training Legislation	Employment, Education and Training Amendment Bill 1996