

**No. 113**

**for the sitting period 17-26 March 1997**

**1 April 1997**

**LEGISLATION: REVIVAL OF "DEAD" BILLS**

It is well known that the rejection of a bill by the Senate at the second reading does not necessarily finally kill the bill, and that it can be revived and consideration of it resumed if the Senate so decides. In the past, a bill which has been rejected at the third reading, that is, after the committee stage in which there has been opportunity to make amendments to it, has been regarded as well and truly dead.

There is nothing to prevent the Senate, however, reviving a bill which has been rejected at the third reading, resuming consideration of it and passing it. This occurred with the Hindmarsh Island Bridge bill, which was rejected at the third reading (see Bulletin No. 111, p. 2). Not only was the bill revived, but it was recommitted to the committee of the whole so that amendments could again be moved to it. It was passed with amendment on 26 March.

It appears that consideration is being given to reviving similarly the retirement savings accounts package of bills, which is designed to regulate the provision of retirement savings accounts by banks, and which was rejected at the third reading on 25 March. As the stated cause of its rejection was the failure to carry some amendments, presumably if this package is revived it will also be recommitted.

Much of the time available for legislation during the period was devoted to the package of bills designed to restructure the telecommunications industry. The bills were finally passed with extensive amendments on 24 March, having been considered for some 22 hours. This time puts the package well behind other record-setting bills as regards time spent, but the number of amendments agreed to, 342, puts it ahead of such other bills.

A great deal of time was spent on the Euthanasia Laws Bill, which finally passed on 24 March. Although technically a private member's bill, this bill was in fact promoted by the government and would not otherwise have been dealt with.

The package of private health insurance incentives bills (Bulletin No. 112, p. 2) was returned with the Senate amendments disagreed to by the government. The Senate did not insist on its amendments but agreed on 26 March to a substitute package of amendments representing a compromise on the legislation.

The consideration of a plain-English rewrite of the Income Tax Assessment Act led to considerable debate on 17 March on whether the process of rewriting altered the liabilities and rights of taxpayers. It was pointed out that inadvertent alteration of liabilities and rights is always a danger with the rewriting of complex legislation.

Other bills significantly amended during the period included the Commonwealth Services Delivery Agency Bill and an associated bill and the Aviation Legislation Amendment Bill (No. 1) 1997, both on 26 March.

At the end of the period the Senate had commenced the committee stage of the superannuation surcharge package of bills, which, on the number of amendments already circulated, promises to be another record-breaker.

## **ORDERS FOR PRODUCTION OF DOCUMENTS**

The documents relating to travelling allowance payments to senators were duly produced on 18 March (see Bulletin No. 112, pp 1-2), but a statement by the President pointing out that she did not have access to records in the possession of the Department of Administrative Services led to the immediate passage of a further order requiring that department to produce records in its possession. Those records were duly produced on 24 March.

It was also pointed out that no records of travelling allowance payments to members of the House of Representatives have yet been made public, notwithstanding the publication of such records since 1990 by decisions of successive presidents and orders of the Senate. An unusual resolution was therefore passed, asking that such records in relation to members of the House be made public, and this resolution was forwarded to the House by message. It is not known whether the government will accede to this request.

An order was passed on 18 March for the production of documents relating to the government's decision to reduce funding to the Franchising Code Council. The documents were duly produced on 26 March. Another order was passed on 26 March for the production of documents relating to government decisions concerning environmental matters in East Gippsland.

The opposition were unsuccessful in moving orders for production of further documents relating to investigations of the matter of Senator Colston's travelling allowance on 26 March.

## **PARLIAMENTARY PRIVILEGE**

In its 64th report, tabled on 19 March, the Privileges Committee dealt with a case of alleged misleading evidence. The committee found that the effect of certain evidence was to mislead a Senate committee, but that there was no deliberate intention to mislead the committee on the part of the witness, and that therefore no contempt of the Senate should be found.

The report illustrates the way in which the committee regards a culpable intention on the part of the person concerned as essential for the establishment of a contempt. This is in stark contrast to contempt of court: certain contempts of court can be proved and punished without there being any culpable intention on the part of the perpetrator. Parliament, represented by the Senate, therefore, deals with alleged contempts of Parliament far more gently than the courts deal with contempts of court.

The report reemphasised the principle of accountability of statutory authorities, and again drew attention to the need to educate public servants about parliamentary processes.

The committee also presented a report on 25 March recommending the publication of a response by a person referred to in the Senate, and the response was published accordingly. Significantly, the person concerned was not an Australian resident; the protection of the relevant Senate procedures is not confined to citizens or residents.

## COMMITTEES

An unusual report was presented on 26 March by the Rural and Regional Affairs and Transport References Committee, relating to the purchase of an air-sea rescue system known as the Precision Aerial Delivery System or PADS. The unanimous report found that there had been carelessness verging on negligence in the decision to purchase the system, which has been a matter for considerable controversy in recent times.

The Appropriations and Staffing Committee received on 26 March a reference relating to the proposals for amalgamation of the parliamentary departments. The committee would have been obliged to consider those proposals in any event, but the reference requires it to hold public hearings and to report by 26 June.

The following committee reports were presented during the period:

<b>Date tabled</b>	<b>Committee</b>	<b>Title</b>
18.3	Community Affairs Legislation	Report—Commonwealth Services Delivery Agency Bill 1996, Reform of Employment Services Bill 1996, Reform of Employment Services (Consequential Provisions) Bill 1996
"	Economics Legislation	Report—Customs and Excise Legislation Amendment Bill (No. 2) 1996 (No. 2)
19.3	Scrutiny of Bills	4th Report and Alert Digest No. 4 of 1997
"	Privileges	64th Report
20.3	Employment, Education and Training Legislation	Additional—Estimates 1996-97
"	Environment, Recreation, Communications and the Arts Legislation	Additional Information—Estimates 1996-97
"	Finance and Public Administration Legislation	Report—AIDC Sale Bill 1997
"	Superannuation Select	23rd Report—Superannuation Surcharge Legislation
"	Foreign Affairs, Defence and Trade Legislation	Report—Export Market Development Grants Bill 1997 and Export Market Development Grants (Repeal and Consequential Provisions) Bill 1997
24.3	Economics Legislation	Report—Productivity Commission Bill 1996 and Productivity Commission (Repeals, Transitional and Consequential Amendments) Bill 1996

<b>Date tabled</b>	<b>Committee</b>	<b>Title</b>
"	Community Affairs Legislation	Report—Hearing Services Administration Bill 1997 and Hearing Services and AGHS Reform Bill 1997
25.3	Privileges	65th Report
"	National Crime Authority	Report—National Crime Authority Annual Report
"	Corporations and Securities	Report—Annual Reports
26.3	Economics Legislation	Report—Public Equity in Telstra Corporation Ltd
26.3	Scrutiny of Bills	5th Report and Alert Digest No. 5 of 1997
"	Legal and Constitutional References	Australian Legal Aid System—First Report
"	Rural and Regional Affairs and Transport References	Report—Precision Aerial Delivery System (PADS)

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