

**No. 120**

**for the sitting period 10-19 November 1997**

**20 November 1997**

**ORDERS FOR PRODUCTION OF DOCUMENTS**

The matter of the consultancy on waterfront reform (see Bulletin No. 119, p 2) was revisited on 19 November with a further order for production of documents. The order again required the production of the report arising from the consultancy and documents relating to consultancies involving named persons and organisations.

The order for documents relating to chicken meat imports (see Bulletin No. 119, p 2) was answered by the tabling of a large volume of documents on 10 November.

An order on 11 November relating to an environmentally significant road was answered on the same day by the tabling of documents, but a minister stated that two legal advices would not be produced on the basis of legal professional privilege. This appears to be a misconception; legal professional privilege as such has not been regarded as providing a basis for not tabling documents. What was probably meant was that the disclosure of advice to the government might prejudice its position in future proceedings. This is the ground usually claimed in relation to legal advices to government.

An order on 18 November, which required the production of documents relating to recent resignations of ministers and ministerial staff, and which was answered by the production of documents on the same day, was part of a larger issue involving not only travelling allowance matters but the government's treatment of officers of the former Department of Administrative Services.

## **SENATORS - PROXY PROPOSAL**

A proposal by Senator Brown to have his second reading speech on the Native Title Amendment Bill delivered on his behalf by a representative of Aboriginal peoples was overwhelmingly rejected on 19 November.

If the motion had been passed, it would have raised difficult issues about the use of proxies by senators. There is no provision in Senate procedures for the appointment of proxies, from either within or outside the Senate. The Constitution does not authorise the appointment of proxies and any such procedure would arguably be unconstitutional. As Senator Brown's motion did not purport to authorise his proposed proxy to vote on his behalf, it may not have been justiciable if it had been passed, as it could be seen simply as a way of the Senate inviting someone to address it, but the possibility of a successful legal challenge cannot be ruled out.

## **PRIVILEGE**

The President gave precedence on 19 November to a motion to refer to the Privileges Committee yet another case of alleged unauthorised disclosure of committee documents, this time involving the National Crime Authority Committee. It was alleged that a senator quoted in debate in the Senate a committee document not released by the committee.

## **LEGISLATION**

The Productivity Commission Bill, which was negatived at the third reading (see Bulletin No. 117, p 2), having been revived on 30 October, was not reached during the period, but remains on the notice paper for further consideration in committee of the whole.

The Senate did not insist on its amendments to the Excise Tariff Amendment Bill (see Bulletin No. 117, p 3) when the bill was reconsidered on 10 November, non-government senators lamenting that the government had not accepted an attempt to preserve government revenue.

A major bill, the Childcare Payments Bill, designed to provide new and comprehensive legislation on the subject, was extensively amended, and the amendments accepted by the government. In conjunction with the consideration of the bill, a list of matters relating to child care was referred to the Community Affairs References Committee on 11 November.

The package of bills designed to recast the public service, and incidentally to provide separate legislative provision for the parliamentary service, was extensively amended before being finally passed on 19 November. The amendments to the Parliamentary Service Bill largely reflected similar amendments made to the Public Service Bill to provide greater security for public sector employees, but significant issues in relation to the parliamentary service were also considered, including the appointment of the Clerks of the two Houses (a 10 year non-renewable term was accepted after some debate and proposed amendment) and mobility between the parliamentary service and the public service.

The Charter of Budget Honesty Bill provided a second potential double dissolution "trigger" (see Bulletin No. 119, pp 2-3) when the Senate insisted on its amendments which the government had rejected in the House of Representatives, and the government again rejected the amendments and laid the bill aside.

## COMMITTEES

Among the significant committee reports presented during the period were that of the Legal and Constitutional Legislation Committee on the Native Title Amendment Bill (10 November), which is expected to occupy a great deal of the Senate's time during the remainder of this year's sittings, and the report of the Finance and Public Administration References Committee on accountability of public services provided by government contractors (on the same date), the significance of the latter subject being indicated by the debate on the presentation of the report. The Scrutiny of Bills Committee has a reference on penalty provisions contained in the Productivity Commission Bill, and the terms of reference were expanded and the time for reporting extended on 19 November. It was stated that the committee's extended inquiry would not affect the passage of the bill (see above, under Legislation).

The Senate was obliged on 17 November to appoint an extra day for estimates hearings and to cancel a sitting day, the time originally allocated having proved inadequate.

The following committee reports were presented during the period:

Date tabled	Committee	Title
10.11	Superannuation	27th Report—Superannuation Contributions Tax Amendment Bills

<b>Date tabled</b>	<b>Committee</b>	<b>Title</b>
"	Environment, Recreation, Communications and the Arts Legislation	Additional Information—Estimates 1997-98
"	Legal and Constitutional Legislation	Report—Native Title Amendment Bill 1997
"	Community Affairs Legislation	Report—Social Security Legislation Amendment (Youth Allowance) Bill 1997
"	Finance and Public Administration References	Report—Public Accountability of All Government Services Provided by Government Contractors—1st Report
11.11	Rural and Regional Affairs and Transport Legislation	Report—Farm Household Support Amendment (Restart and Exceptional Circumstances) Bill 1997
"	Economics Legislation	Additional Information—Estimates 1997-98
17.11	Scrutiny of Bills	16th Report and Alert Digest No. 16 of 1997
"	National Crime Authority	Report—Security at the Adelaide Office of the National Crime Authority
"	Community Affairs Legislation	Report—Social Security Legislation Amendment (Parenting and Other Measures) Bill 1997
"	Rural and Regional Affairs and Transport Legislation	Report—Customs Tariff Amendment Bill (No. 2) 1997 (No. 3)
18.11	Legal and Constitutional Legislation	Report—Migration Agents Bills
19.11	Scrutiny of Bills	17th Report

Inquiries: Clerk's Office

☎ (02) 6277 3364