

No. 123

for the sitting period 23 March-8 April 1998

14 April 1998

LEGISLATION

The rejection by the Senate for the second time of the Workplace Relations Amendment Bill 1997, on 25 March, provided the government with its first “trigger” for a double dissolution. As the bill was again rejected at the second reading, it provides an unambiguous “trigger” not subject to the difficulties attending the Native Title Bill and the public service package of bills (see below and Bulletins Nos. 121, p.1, 122, p.2).

The Productivity Commission Bills, having earlier been revived after their initial rejection at the third reading (see Bulletin No. 120, p.2), were further amended and passed on 30 March, the passage of the bills representing a compromise between the government and the Australian Democrats.

The public service package of bills was again amended on 1 April, the amendments generally reflecting those made to the bills in 1997. The amendments were again rejected by the government in the House of Representatives and the bills laid aside.

The Opposition succeeded in having the provisions of the bill for the sale of the remainder of Telstra referred to a standing committee on 1 April, before the introduction of the bill, but not without government amendments to ensure that the bill goes to the relevant legislation committee rather than the references committee and to shorten the reporting time.

The Senate significantly amended on 3 April the Health Legislation Amendment Bill (No. 2) 1997 by striking out a whole schedule applying to nursing home patients. This amendment was accepted by the government in the House.

The sitting period was largely taken up by extensive consideration and amendment of the Native Title Amendment Bill 1997 in its second consideration by the Senate. When consideration of the bill in committee commenced, a move by the Democrats to remake the amendments made to it by the Senate on the last occasion and not accepted by the government, and thereby begin consideration of the bill as passed by the Senate last year, was rejected. Extensive and different amendments were then made to it over several days' consideration. The bill was finally passed at the sitting of 8 April, extending into the morning of 9 April, and the government recalled the House of Representatives to accept some Senate amendments, reject others and again lay the bill aside, thereby, according to the government's interpretation of the constitutional provisions, providing a "trigger" in respect of the bill.

DELEGATED LEGISLATION

The Regulations and Ordinances Committee presented a report on 7 April drawing attention to the unsatisfactory practice of government instrumentalities, having been provided with delegated legislation-making powers by the Parliament, then choosing to deal with relevant matters by administrative arrangements rather than delegated legislation. Significantly, one of the "offenders" was the Federal Court, which did not have rules of court for native title matters for a period of almost four months. The committee accepted an assurance of the Chief Justice that this gap did not affect cases.

The period was fruitful of disallowance motions. Two sets of regulations, relating to workplace relations and the Energy Research and Development Corporation, were disallowed on 25 March, and others, relating to therapeutic goods, were disallowed on 31 March.

MATTERS SUB JUDICE

In relation to the charges laid against him of fraudulent claims for travelling allowance, Senator Colston sought to publish through the proceedings of the Senate allegations that office-holders connected with the investigation and prosecution, and some not so connected, had engaged in some kind of improper and/or illegal activities in relation to the prosecution. The President ruled on 6 April that he could not publish this material through the Senate because it would violate the sub judice convention in that it could prejudice the trial of the charges laid against him. Because the Clerk of the Senate was one of those accused by Senator Colston, the President obtained external advice to the effect that the material he sought to publish could cause prejudice to his trial, and this advice, omitting the substance of the matters he sought to publish, was tabled on the following day.

SENATORS' INTERESTS

The orders of the Senate of 1994 relating to the registration and declaration of senators' interests declare that it is a serious contempt for a senator knowingly to fail to register relevant interests. On 25 March the President gave precedence to a motion to refer to the Privileges Committee the question whether Senator Parer, the Minister for Resources and Energy, had failed to register relevant interests. This motion followed intense controversy about the minister's family trust holding shares in mining companies. The motion to refer it to the Privileges Committee was rejected on the following day. Senator Parer corrected his entry in the register of interests, but debate about his situation continued.

PRIVILEGE

The Privileges Committee presented its 70th report on 6 April, relating to a hearing of the Joint Committee on the National Crime Authority at which Mr John Elliott gave evidence about the Authority's investigation of him and at which an opposition senator was prevented from putting some questions to him. The Privileges Committee concluded that the entire hearing was contrary to the statute under which the joint committee is established, again drew attention to the extremely restrictive terms of those provisions and suggested that they should be reviewed.

ORDERS FOR PRODUCTION OF DOCUMENTS

In response to the order passed on 9 March, the government produced on 31 March a copy of the Multilateral Agreement on Investment and draft reservations by Australia to the agreement. The agreement, a significant step in economic globalisation, is regarded with considerable suspicion by some senators.

An order passed on 31 March for the production of an audit report on the costs to the Australian Broadcasting Corporation of transition to digital transmission was met on 2 April by an unusual flat refusal by the government to produce the document. The basis of the refusal was that it is a cabinet document to be considered by cabinet as part of its budget deliberations. Senator Bourne indicated that the refusal increased her interest in the document and that further attempts to obtain it would be pursued.

VACANCY

Senator Bob Collins' resignation was reported on 30 March. A vacancy for the Northern Territory is filled by the Legislative Assembly of the Territory.

COMMITTEE REPORTS

The following committee reports were presented during the period:

| Date tabled | Committee | Title |
|--------------------|--|--|
| 23.3 | Community Affairs Legislation | Report—Annual Reports |
| “ | Legal and Constitutional Legislation | Report—Migration Legislation Amendment (Strengthening of Provisions relating to Character and Conduct) Bill 1997 |
| 24.3 | Economics Legislation | Report—Annual Reports |
| “ | Employment, Education and Training Legislation | Report—Annual Reports |
| “ | Finance and Public Administration Legislation | Report—Annual Reports |
| “ | Legal and Constitutional Legislation | Report—Annual Reports |
| “ | Rural and Regional Affairs and Transport Legislation | Report—Annual Reports |
| 25.3 | Scrutiny of Bills | 3rd Report and Alert Digest No. 3 of 1998 |
| 26.3 | Environment, Recreation, Communications and the Arts Legislation | Report—Annual Reports |
| “ | Superannuation | 28th Report—Choice of Superannuation Fund |
| 31.3 | Employment, Education and Training References | Report—Status of Teachers and Development of the Teaching Profession |
| 1.4 | Scrutiny of Bills | 4th Report and Alert Digest No. 4 of 1998 |
| “ | Corporations and Securities | Reports—Company Law Review Bill 1997 and Managed Investments Bill 1997 |
| “ | Legal and Constitutional | Report—Copyright Amendment Bill (No. 2) 1997 |
| “ | Superannuation | 29th Report—Superannuation Arrangements for Commonwealth Employees—Bills |
| 2.4 | Legal and Constitutional Legislation | Report—Special Benefit Provisions—Newly Arrived Resident’s Waiting Period |
| “ | Native Title and the Aboriginal and Torres Strait Islander Land Fund | 11th Report— <i>Aboriginal and Torres Strait Islander Heritage Protection Act 1984</i> |

| Date tabled | Committee | Title |
|--------------------|--|---|
| 6.4 | Community Affairs Legislation | Additional Information—Additional Estimates 1997-98 |
| “ | Privileges | 70th Report—Questions arising from proceedings of the Parliamentary Joint Committee on the National Crime Authority |
| “ | Community Affairs Legislation | Report—Aged Care Amendment Bill 1998 |
| “ | Employment, Education and Training Legislation | Additional Information—Budget Supplementary Estimates 1997-98 and Additional Estimates 1997-98 |
| “ | National Crime Authority | Report—Third Evaluation of the National Crime Authority |
| “ | Foreign Affairs, Defence and Trade Legislation | Report—Annual Reports |
| “ | Economics Legislation | Report—Taxation Laws Amendment Bill (No. 7) 1997 |
| 7.4 | Regulations and Ordinances | Disallowable Instruments and Parliamentary Propriety—Document |
| 8.4 | Scrutiny of Bills | Alert Digest No. 5 of 1998 |
| “ | Finance and Public Administration Legislation | Additional Information—Additional Estimates 1996-97 and 1997-98 |
| “ | Legal and Constitutional Legislation | Additional Information—Estimates 1997-98 |
| “ | Rural and Regional Affairs and Transport Legislation | Report—Australian Capital Territory (Planning and Land Management) Amendment Bill 1997 |

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