

**No. 127**

**for the sitting period 10 November-10 December 1998**

**14 December 1998**

**OFFICE OF THE PRESIDENT**

When the session was opened following the general election, the President, Senator Reid, remained in office, as the presidency falls vacant only after senators elected at a periodical election begin their terms. The President being a territory senator, however, she had to be sworn in for her new term. (Some years ago the Procedure Committee considered the possibility of a territory senator holding the office of President but considered that the office should not become vacant when such a territory senator is re-elected. There is no break in the service of a re-elected territory senator, as a term ends and begins on polling day.) Although the President has a continuing commission to swear in senators, the Governor-General's deputy attended not only to open the session but to swear in the President, who then administered the oath or affirmation to other senators beginning new terms.

The latter included not only the other territory senators, but Senator Hutchins, appointed by the Parliament of New South Wales to fill the vacancy left by Senator Neal, who resigned to contest a House of Representatives electorate.

**TAXATION INQUIRY**

It soon became evident that the government's proposed new taxation system would be the subject of an extensive inquiry by the Senate. A consensus also developed to begin the inquiry before the introduction of the necessary legislation into the House of Representatives. A great deal of negotiation went on, however, in relation to the form of the inquiry. This was finally settled on 25 November, with the appointment of a select committee to consider the proposed new system generally and references to three standing committees for inquiries into particular aspects of the scheme. The inquiries are due to be completed by 19 April 1999.

It is now quite common for the Senate to begin an inquiry into legislation before the Senate receives the legislation, or even before it is introduced into either House. This is done by referring the provisions of bills or the subject matter to a committee. There are also precedents for referring different parts or aspects of legislation to different committees.

#### **HEALTH INSURANCE LEGISLATION**

The other major piece of legislation of the sittings was the bill to provide a rebate in respect of private health insurance. Debate on this matter occurred over the period, whether or not the bill was actually before the Senate (the rule against anticipating discussion of a matter on the Notice Paper was referred to on several occasions but not actually invoked to prevent discussion before the bill was considered). The matter was finally resolved on the last day of the sittings, with the passage of the bill with a set of amendments moved by Senator Harradine mainly relating to “gap” insurance, and with undertakings by the government to develop other proposals.

#### **OTHER LEGISLATION**

After a general election all bills are new bills and therefore the Senate’s requirement that bills be introduced in one period of sittings but not considered until the next does not apply. Instead, bills must be received in the first two-thirds of the sittings and cannot be proceeded with unless 14 days have elapsed after first introduction in either House (standing order 111). This requirement, however, was suspended in relation to a considerable number of bills during this period of sittings.

The Child Support Legislation Amendment Bill 1998 was significantly amended, with extensive amendments moved by the opposition and the government being agreed to on 23 and 30 November. The bill was returned on 7 December with one of the amendments disagreed to on the basis that it should be a request, but the Chair of Committees, Senator West, pointed out that, as the amendment clearly did not have the effect of increasing expenditure under an appropriation, this claim was not correct. She pointed out that the problem arose from the government drafters having regard to the notional or bookkeeping effects of amendments rather than their actual effects.

The Space Activities Bill 1998, designed to regulate participation in the space industry, was amended by opposition, Democrat and Greens amendments on 26 and 30 November.

The National Environment Protection Measures (Implementation) Bill 1998, another new piece of legislation, was also extensively amended by amendments moved by the opposition and the Democrats on 2, 3 and 7 December.

The government amendments made on 7 December to the Payment Processing Legislation Amendment (Social Security and Veterans' Entitlements) Bill 1998, which was designed to alter the system for paying social security benefits, represented concessions by the government in relation to the treatment of beneficiaries under the legislation.

As might be expected, the Australian Radiation Protection and Nuclear Safety Bill 1998, concerning nuclear installations, attracted a great deal of debate, and an amendment moved by the Greens (WA) was agreed to as well as one moved by the opposition when the bill was passed on the last day of the sittings.

#### **PRIVILEGES COMMITTEE**

The Senate adopted on 1 December the 72<sup>nd</sup> and 73<sup>rd</sup> reports of the Privileges Committee. This had the effect, in relation to the 72<sup>nd</sup> report, of:

- finding that the University of Queensland committed a contempt of the Senate in taking disciplinary action against a staff member in consequence of his communication with a senator
- taking no further action in relation to that matter in view of the University's reinstatement of the person concerned;

and, in respect of the 73<sup>rd</sup> report, of:

- finding that the Attorney-General and officers of his department did not commit a contempt by attempting improperly to influence the Australian Law Reform Commission in respect of its parliamentary evidence, largely because they acted in ignorance
- referring ambiguities in the powers and functions of the Law Reform Commission to the Legal and Constitutional Legislation Committee
- reaffirming earlier resolutions of the Senate, based on the recommendation of the Privileges Committee, that heads of departments and other agencies and senior executive officers of the Public Service should undertake study of parliamentary principles, to avoid committing offences through ignorance
- requiring the tabling, by 1 December 1999, of reports by departments on how they have complied with the resolution.

On 9 December the committee tabled its 74<sup>th</sup> report, in which the committee reported on several cases of unauthorised disclosure of committee documents, and made further suggestions about how such cases should be dealt with. In relation to the particular cases, the Senate found that contempts had been committed, including by a senator and some unidentified officers of a department, in relation to unauthorised disclosures, but recommended that no penalties should be imposed.

#### **STANDING ORDERS AMENDMENTS**

Three sets of amendments to the standing orders were made on 3 and 7 December on the recommendation of the Procedure Committee. The amendments:

- reduce from 8 to 6 the membership of the legislative and general purpose references committees, so that they now have the same numbers as the legislation committees
- restore the unlimited adjournment debate on Monday evenings (that is, unlimited as to total time)
- provide for the presentation of documents by the President when the Senate is not sitting as well as by ministers and the Auditor-General.

#### **DELEGATED LEGISLATION**

The Regulations and Ordinances Committee reported on 3 and 9 December, indicating that, although the Spring sittings have been relatively short, the committee has already investigated a very large number of difficulties with particular pieces of delegated legislation.

#### **COMMITTEES**

Many committees presented reports during the general election period, under the provisions which allow them to continue their work during a prorogation and to have reports presented when the Senate is not sitting.

On 26 November the Senate dispensed with supplementary estimates hearings arising from the budget estimates, and set the schedule for estimates hearings in 1999, including additional and main estimates.

Changes were made on 11 November to the responsibilities of the legislative and general purpose standing committees, consequent on administrative reorganisation since the general election.

A new joint committee on the retailing sector industry, initiated by the government, was agreed to on 9 December, notwithstanding the constant growth in the numbers of joint committees in recent years and suggestions that their numbers should be reduced. The select committee is a response to concerns in recent times about concentration of ownership and the elimination of small traders in the retailing industry.

Because of a lack of agreement among the minor parties and independents about nominations to the Joint Foreign Affairs, Defence and Trade Committee, a ballot had to be held on 9 December to select two appointees from three nominations. This was the first such ballot since 1992, and they were very rare before that date.

The following committee reports were presented during the period:

<b>Date tabled</b>	<b>Committee</b>	<b>Title</b>
10.11	Economics References	Report—Promoting Australian Industry
“	Community Affairs Legislation	Interim Report—Social Security and Veterans’ Affairs Legislation Amendment (Payment Processing) Bill 1998
“	Community Affairs Legislation	Interim Report—Australian Hearing Services Reform Bill 1998
“	Legal and Constitutional Legislation	Interim Report—Genetic Privacy and Non-discrimination Bill 1998
“	Legal and Constitutional Legislation	Interim Report—Human Rights Legislation Amendment Bill (No. 2) 1998
“	Environment, Recreation, Communications and the Arts Legislation	Interim Report—Film Licensed Investment Company Bill 1998 and the Taxation Laws Amendment (Film Licensed Investment Company) Bill 1998
“	Economics Legislation	Interim Report—Taxation Laws Amendment Bill (No. 4) 1998
“	Legal and Constitutional References	Interim Report—Privacy Amendment Bill 1998
“	Employment, Education and Training Legislation	Report—Education Services for Overseas Students (Registration of Providers and Financial Regulation) Amendment Bill 1998

<b>Date tabled</b>	<b>Committee</b>	<b>Title</b>
10.11	Economics References	Interim Report—Australian Taxation Office
“	Employment, Education and Training References	Report—Education and Training Programs for Indigenous Australians
“	Community Affairs References	Interim Report—Child Care Funding
“	Rural and Regional Affairs and Transport References	Interim Report—Australian Quarantine and Inspection Service and Integrity Rural Products
“	Rural and Regional Affairs and Transport References	Interim Report—Pricing and Slot Management Arrangements at Kingsford Smith Airport
“	Information Technologies	Report
26.11	Community Affairs Legislation	Report—Social Security and Veterans’ Affairs Legislation Amendment (Payment Processing) Bill 1998
30.11	Environment, Communications, Information Technology and the Arts Legislation	Report—Film Licensed Investment Company Bill 1998 and Taxation Laws Amendment (Film Licensed Investment Company ) Bill 1998
2.12	Community Affairs Legislation	Scrutiny of annual reports No. 2 of 1998
“	Economics Legislation	Examination of annual reports No. 2 of 1998
“	Employment, Workplace Relations, Small Business and Education Legislation	Examination of annual reports No. 2 of 1998
“	Environment, Communications, Information Technology and the Arts Legislation	Review of annual reports 1996-97
“	Finance and Public Administration Legislation	Annual reports tabled November 1997-June 1998
“	Foreign Affairs, Defence and Trade Legislation	Scrutiny of annual reports No. 2 of 1998
“	Rural and Regional Affairs and Transport Legislation	Examination of annual reports No. 1 of 1998
“	Legal and Constitutional Legislation	Report—Annual Reports
“	Community Affairs Legislation	Report—Australian Radiation Protection and Nuclear Safety Bills
“	Rural and Regional Affairs and Transport Legislation	Report—Wool International Amendment Bill 1998
3.12	Community Affairs Legislation	Report—Australian Hearing Services Reform Bill 1998
8.12	Environment, Communications, Information Technology and the Arts Legislation	Report—Broadcasting Services Amendment Bill 1998

<b>Date tabled</b>	<b>Committee</b>	<b>Title</b>
8.12	Community Affairs Legislation	Report—Private Health Insurance Incentive Bills
9.12	Privileges	74 <sup>th</sup> Report—Possible unauthorised disclosure of parliamentary committee proceedings
“	Regulations and Ordinances	Spring sittings 1998
“	Scrutiny of Bills	11 <sup>th</sup> Report
“	Community Affairs References	Report—Child Care Funding

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