

**No. 135**

**for the sitting period 23 August—2 September 1999**

**6 September 1999**

**ORDERS FOR PRODUCTION OF DOCUMENTS**

Orders for production of documents were attended with some success during this period.

In response to the order of 12 August for documents relating to an appointment to the Civil Aviation Safety Authority, documents were produced on 23 August, including minutes of the Board of the Authority, but a report which had been referred to by the government was said not to exist. Further interest in the matter was foreshadowed.

A motion passed on 30 August referred to the failure to produce answers to questions taken on notice at the estimates hearings of the Environment, Communications, Information Technology and the Arts Legislation Committee on 7 June, and required that the answers be produced within two days. The answers were produced on the following day, which suggests that they had been prepared by the Environment and Heritage Department but had not cleared some other blockage.

Notice of a motion for the production of documents relating to impurities in food was withdrawn on 1 September when the government provided the documents in advance of the passage of the motion.

**DELEGATED LEGISLATION DISALLOWED**

A set of civil aviation regulations was disallowed on 23 August on the basis of complaints made in the industry and alleged lack of consultation. Both the mover of the motion and the minister responding indicated that they did not understand all the technicalities of the regulations. This provides an example of the way in which the recipients of government regulations are apt to make representations to the Senate about alleged defects in regulations.

More significant was the disallowance on 31 August of instruments made under the *Native Title Act 1993*. Under the amendments of the Act negotiated through the Senate by the government in 1998, provisions made by the states and territories in relation to negotiations over native title may replace the provisions in the Act if the federal government makes a determination to that effect. Such a determination is subject to disallowance by the Senate, but, as was discovered on this occasion, once the time for disallowance has passed the relevant state or territory provisions can be amended without the Senate having any control over the amendments. It was partly on this basis that a determination giving effect to provisions of the Northern Territory was disallowed, with suggestions that the gap in the disallowance provisions should be corrected.

#### **PARLIAMENTARY PRIVILEGE**

The Privileges Committee presented a report on 1 September on a complex case in which the Department of Health and Community Services was alleged to have misused a document prepared in response to a recommendation of the Community Affairs References Committee in the latter's report on CJD compensation. The Privileges Committee found that departmental officers had acted in ignorance of parliamentary rules, and again referred to the measures pursued by the Senate and by departments to rectify this general ignorance in the Public Service.

The committee received another reference on 2 September relating to alleged unauthorised dealings with a draft report of the Community Affairs References Committee. Material provided by the latter committee and referred to in the President's determination on the matter indicated that the report may have been disclosed by inadvertence, but the committee indicated that it was concerned about the subsequent dealings with the draft report in a minister's office and a department.

#### **LEGISLATION**

The Senate disposed on 23 August of the last matters outstanding from the consideration of the government's New Tax System legislation. One of the bills was returned from the House of Representatives with a message indicating that amendments requested by the Senate had been made. The bill was also amended by the Senate. In this circumstance the Senate's amendments are not finally dealt with until its requests have been resolved. When requested amendments have been made, the Senate normally gives the bill a third reading and returns it to the House for consideration of the Senate's amendments. On this occasion the House had made further amendments to the bill. The Senate therefore agreed to the House's amendments before giving the bill a third reading. The House then agreed to the Senate's amendments, allowing the bill finally to pass. Another bill was returned with a Senate amendment not

made but a substitute amendment made in the House. The Senate did not insist on its amendment, agreed to the substitute amendment, and agreed to further amendments made by the House. Both bills related to Commonwealth-State financial arrangements arising from the tax legislation.

Most time was spent during the period on the Regional Forest Agreements Bill 1998. The bill was finally passed at a late hour on the last day of the sittings after extensive debate and with many amendments, the most significant being those relating to parliamentary disallowance of future regional forest agreements between the Commonwealth and the states. On current indications the government is unlikely to accept the amendments in the House.

The other controversial bill, also finally passed on the last day, was the Workplace Relations Legislation Amendment (Youth Employment) Bill 1999, relating to youth wage rates. The bill as passed represented an agreement between the government and the opposition, and extensive amendments moved by the Democrats were unsuccessful.

The Commonwealth Grants Commission Amendment Bill, a non-controversial bill passed during the time for such bills on Thursday, was amended on 2 September on the motion of Senator Brown in relation to works and financial assistance in respect of Indigenous persons, thereby indicating that Senator Brown's position as the only Green does not preclude him having some influence.

#### **MINISTER CENSURED**

In a period largely occupied with debate on regional forest agreements, the Senate passed a motion censuring the Minister for Forestry and Conservation, Mr Tuckey, for inflaming conflict over a regional forest agreement in Western Australia.

The motion was proceeded with on the basis that it related to Mr Tuckey's conduct in his capacity as a minister. It is a long-established principle that the Senate cannot pass judgment on the conduct of members of the House of Representatives except in a ministerial capacity.

#### **QUALIFICATION OF SENATORS**

Senator Harris was unsuccessful on 23 August in moving a motion for an order of the Senate that each senator be required to produce proof of his or her qualification to serve in the Senate under section 44 of the Constitution. All other parties opposed the motion, and it was pointed out that any allegation that a particular senator is not qualified could be pursued by way of a motion in the Senate to refer the matter to the High Court sitting as the Court of Disputed Returns, or by an action in the courts under section 46 of the Constitution.

## RECONCILIATION MOTION

At the instigation of the government, and apparently following negotiations by the new Democrat senator, Senator Ridgeway, a motion on Aboriginal reconciliation was passed on 26 August, expressing regret in relation to past mistreatment of Indigenous people. It was pointed out that the Senate had passed such a motion of its own in May 1997 when the government had resisted such a resolution.

## SENATE PROCEEDINGS: PUBLICATION ON THE INTERNET

A resolution was passed on 31 August authorising the publication of Senate proceedings, in sound and visual images, on the Internet. It is intended that proceedings of the two Houses and selected committees will soon be available on the Internet as they happen. Previous orders of the Senate cover only radio and television broadcasting.

## COMMITTEES

Some significant references to committees were made during the period, including references relating to the development of Brisbane airport (Rural and Regional Affairs and Transport References Committee, 23 August), the sale of Australian Defence Industries (Foreign Affairs, Defence and Trade References Committee, 25 August), the protection of Gulf St Vincent (Environment, Communications, Information Technology and the Arts References Committee, 26 August), and mandatory sentencing (Legal and Constitutional References Committee, 1 September, in a combined Green, Opposition and Democrat motion).

It was necessary to hold on 24 August a ballot for membership of the Select Committee on the Socio-Economic Consequences of the National Competition Policy to determine nominations from Senators Brown and Harris for a position on the committee. The ballot resulted in the election of Senator Brown.

The following committee reports were presented during the period:

<b>Date tabled</b>	<b>Committee</b>	<b>Title</b>
23.8	Foreign Affairs, Defence and Trade Legislation	Additional Information—Budget Estimates 1999-2000
“	Community Affairs Legislation	Report—Social Security Administration Bills
“	Legal and Constitutional Legislation	Report—Norfolk Island Amendment Bill 1999

<b>Date tabled</b>	<b>Committee</b>	<b>Title</b>
24.8	Finance and Public Administration Legislation	Additional Information—Budget Estimates 1999-2000
25.8	Scrutiny of Bills	Alert Digest No. 12 of 1999
“	Community Affairs Legislation	Report —National Health Amendment (Lifetime Health Cover) Bill 1996
26.8	Community Affairs Legislation	Additional Information—Compensation for Non-economic Loss (Social Security and Veterans’ Entitlements Legislation Amendment) Bill 1999
30.8	Retailing Sector	Report—Review of Australia’s Retailing Sector
“	Finance and Public Administration Legislation	Report—Annual Reports
“	Foreign Affairs, Defence and Trade Legislation	Report—Annual Reports
31.8	Economics Legislation	Examination of annual reports: No. 2 of 1999
“	Environment, Communications, Information Technology and the Arts Legislation	Review of annual reports: No. 2 of 1999
“	Legal and Constitutional Legislation	Examination of annual reports: No. 2 of 1999
“	Rural and Regional Affairs and Transport Legislation	Examination of annual reports: No. 1 of 1999
1.9	Privileges	78 <sup>th</sup> Report
“	Scrutiny of Bills	13 <sup>th</sup> Report and Alert Digest No. 13 of 1999
“	Economics References	Report—Nuclear Reactor at Lucas Heights
“	Native Title and the Aboriginal and Torres Strait Islander Land Fund	14 <sup>th</sup> Report—Annual Reports
2.9	Employment, Workplace Relations, Small Business and Education Legislation	Report—Annual Reports
“	Community Affairs Legislation	Report—Social Security Administration Bills

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