

DEPARTMENT OF THE SENATE PROCEDURAL INFORMATION BULLETIN

hc/pro/prob/13197

No. 152

for the sitting period 26 March—5 April 2001

6 April 2001

ORDER FOR DOCUMENTS TO COMMITTEE

The Senate passed on 26 March an order that documents be produced to a committee. The order, initiated by the Finance and Public Administration References Committee, required that specified documents be produced to the committee in relation to information technology outsourcing. This was done because the committee had experienced difficulty in having the Office of Asset Sales and IT Outsourcing (OASITO) produce the required documents; OASITO had advanced various reasons for not producing the documents, principally commercial confidentiality. The order required that the documents be produced on the same day, but later in the day a statement was made on behalf of the government indicating that the deadline would not be met.

On 3 April, the documents having not been produced, a further order was made requiring that the documents be produced by the following day. On 5 April, at the very end of the sittings, the committee presented a report indicating that it had been provided with some documents. The report set out the background to the whole matter with some observations about accountability, and stated that the committee would pursue its inquiry.

There are earlier precedents for orders of the Senate requiring that documents be produced to committees.

There were further developments in relation to other orders for documents. In relation to the textile, clothing and footwear industry, the list of firms required by the Senate's order of 1 March was produced on 26 March. A ministerial statement was made on 27 March that the deadline for the production of documents relating to the Pharmaceutical Benefits Advisory Committee, in accordance with the order of 26 February, would not be met, but that the documents were being sought and other parties to the documents consulted. Documents in response to the order were produced on 28 and 29 March.

BILL REJECTED

The Workplace Relations Amendment (Unfair Dismissals) Bill 1998 was rejected at the second reading on 26 March. The issue dealt with in the bill, removal of the application of the unfair dismissal laws to small businesses, has been before the Senate on numerous occasions. This particular bill has now been rejected twice, thereby providing the government with a “trigger” for a simultaneous dissolution of both Houses of the Parliament under section 57 of the Constitution. The dissolution would have to occur by 9 May, as it cannot happen within six months of the expiration of the House of Representatives. By coincidence, 9 May is the next day of sitting of the Senate, when the federation commemoration sittings will take place in Melbourne.

CUSTOMS AND EXCISE BILLS: REQUESTS FOR AMENDMENTS

The most significant legislation dealt with during the period consisted of the Customs Tariff Amendment Bill (No. 2) 2001 and the Excise Tariff Amendment Bill (No. 1) 2001, which contained various changes to customs and excise duties relating to the GST, including reductions in duties on petrol arising from recent undertakings by the government and increases in duties on alcoholic beverages.

The government was accused of breaking a promise that the price of beer would not rise by more than a specified amount, and of attempting a “trick” by combining the two measures in one bill so that the Senate would be forced to accept the increase in duties on beer in order to obtain the reduction in duties on petrol.

Section 55 of the Constitution allows bills for imposing customs duties and bills for imposing excise duties to deal with different goods. This is in distinction to other bills imposing taxation, which must deal with only one subject of taxation. It is common for customs and excise bills to combine increases and decreases in duties.

Where a customs or excise bill increases any duties, it is regarded as a bill imposing taxation within the meaning of the second paragraph of section 53 of the Constitution. The Senate may therefore not directly amend such a bill but may request amendments.

The Opposition circulated requests for the bills to be divided, to be moved at the second reading stage. As the division of a bill is a form of amendment, the Senate may not divide a bill which it cannot amend but may request the division of the bill. The moving of a request at the second reading stage is unusual but permissible, as section 53 of the Constitution allows requests to be moved at any stage.

The Opposition did not proceed with its requests, however, when the government agreed to amend the bills to lower the beer duties with effect from 4 April and to devote the extra revenue collected up to that date to a foundation for alcohol education. Government requests to amend the bills were therefore moved and passed, and the bills agreed to on that basis. Because bills which are the subject of requests are not finally passed by the Senate until the requests have been dealt with, the bills had to come back from the House of Representatives and were finally passed on 5 April.

OTHER BILLS AMENDED

An amendment made to the Pig Industry Bill on 26 March followed a recent pattern of improving parliamentary accountability by providing for declarations made under the act to be laid before each House and to be circulated to the members if the Houses are not sitting.

An amendment of the Electoral and Referendum Amendment Bill (No. 1) 2001 on 3 April consisted of striking out an item in the bill. This step was initiated by the Democrats, who contended that the provision did not accurately reflect the recommendation of the Electoral Matters Committee it was intended to carry out.

An amendment to the Social Security Legislation Amendment (Concession Cards) Bill 2000, also moved by the Democrats, related to children in foster care, whose interests were said not to be adequately considered by the bill.

The Family and Community Services and Veterans' Affairs Legislation Amendment (Debt Recovery) Bill 2000 was resolved on 4 April, with the Senate not insisting on various amendments disagreed to by the government in the House of Representatives and accepting substitute amendments.

The unusual step was taken on 28 March of moving an amendment to the motion for the adoption of the report of the committee of the whole after consideration in committee of a message conveying an amendment made in the House to the bill. The House amendment related to the vexed issue of multi-channelling, and the amendment to the motion for the adoption of the report called on the government to take various steps in relation to the legislation.

DEADLINE FOR RECEIPT OF BILLS

The deadline for the receipt of government bills contained in standing order 111 was the subject of some debate on 5 April. On a motion to exempt various bills from the operation of the deadline so that they could be dealt with in this period of sittings, Senator Brown warned

that exempting bills was becoming routine and was undermining the salutary safeguard of the deadline. In response, the Manager of Government Business in the Senate, Senator Ian Campbell, supported the deadline procedure and indicated that the bills were classified as non-controversial and had achieved that status only with the agreement of all senators, in accordance with the practice of dealing with non-controversial legislation on Thursdays.

MOTIONS TAKEN TOGETHER: REPLY

Another example occurred on 27 March of separate disallowance motions being moved and considered together, but voted on separately, in accordance with a special order. In this circumstance all of the movers of the motions have the right to speak in reply, and that right was exercised on this occasion.

COMMITTEE REFERENCE ARISING FROM A BILL

The Select Committee on Superannuation and Financial Services received on 27 March a reference relating to issues arising from a bill. Although those issues could have been regarded as falling within the committee's general terms of reference, because the committee had already considered the bill on a separate reference and reported on it, it was considered that a further reference was necessary to enable it to pursue the issues arising from the bill.

SENATE DAILY SUMMARY

This bulletin provides Senate staff and others with a summary of procedurally significant occurrences in the Senate. The *Senate Daily Summary* provides more detailed information on Senate proceedings, including progress of legislation, committee reports and other documents tabled and major actions by the Senate. Like this bulletin, *Senate Daily Summary* may be reached through the Senate home page at www.aph.gov.au/senate

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