

DEPARTMENT OF THE SENATE PROCEDURAL INFORMATION BULLETIN

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16 May 2003

GOVERNOR-GENERAL

The Senate debated and passed a motion calling on the Governor-General to resign, or, in the event that he does not, for the Prime Minister to advise the termination of his commission. This unprecedented motion was moved by leave on 13 May and passed without a division on 15 May, although the government opposed the motion.

Standing order 193 prohibits disrespectful references to the Queen or her vice-regal representatives. This is more restrictive than the prohibition on offensive words applying to other protected office-holders, such as members of parliament and judges, under the standing order. However, by granting leave to move the motion the Senate indicated that it was prepared to accept debate on the motion. There is also the general rule that a motion to impeach directly the conduct of protected office-holders suspends the limitation on debate to the extent required by the motion (see *Odgers' Australian Senate Practice*, 10th ed, 2001, p. 233). Not only this motion was debated: there was also a debate on the Governor-General by way of motion to take note of answers to questions on 13 May, without any points of order being taken on the questions or the debate. It was probably felt that the circumstances surrounding the Governor-General in themselves made the standing order inapplicable.

The resolution of the Senate was forwarded to the House of Representatives by message, but the government suppressed debate on the matter there. Neither House has the power to remove the Governor-General, who is appointed by the Queen on the recommendation of the Prime Minister.

ACCOUNTABILITY: DEFENCE EQUIPMENT ACQUISITION

The Senate adopted on 14 May some of the recommendations of the Foreign Affairs, Defence and Trade References Committee in its report on defence equipment acquisition.

The consequent resolution requests the Auditor-General to report on a range of aspects of the subject, including by way of regular reports, and contains an order for a particular defence report and refers this document on its production to the committee.

This resolution represents an attempt by the committee and the Senate to impose greater parliamentary accountability on the notoriously costly and controversial area of defence acquisition.

ORDERS FOR DOCUMENTS: GOVERNMENT RESPONSES

Six orders for documents were passed on 14 May, four on the motion of Senator Allison, relating to nuclear waste, a particular land sale, tobacco advertising, immunisation and Basslink. All of the orders had deadlines of the following day, except one relating to nuclear waste.

Senator Allison also tabled a letter which she wrote in early April to the Leader of the Government in the Senate, Senator Hill, calling on him to exercise his responsibility in relation to government responses to Senate orders for documents. The letter referred to the government's poor and worsening record in responding to such orders (more than half in this parliament not having been complied with), and the seemingly random and ad hoc approach of ministers. Senator Allison expressed the suspicion that responses depended on individual ministers, with House of Representatives ministers being routinely uncooperative by comparison to Senate ministers.

On the following day the government responded to all of the orders returnable on that day. All were met with the tabling of relevant documents or promises to consider relevant documents and respond in the near future, except for one relating to nuclear waste, where the required document was claimed to be "internal advice" and therefore not to be produced. This claim led to immediate debate.

PROCEDURAL CHANGES

The Senate adopted on 13 and 14 May various changes to procedures recommended by a Procedure Committee report presented to the President during the non-sitting period. The changes are as follows:

- the time of meeting and routine of business on Tuesdays is changed so that the Senate will meet at 12.30pm and an extra 90 minutes will be exclusively devoted to government business (standing orders 55 and 57)
- the procedure for the presentation of the budget is changed so as to dispense with the reading of the budget speech in the Senate, and simply to have the budget documents tabled and the relevant documents referred to the legislation committees for the

estimates hearings (this change is a matter of practice and ad hoc alteration of sitting times)

- the restrictions on committee meetings during the sittings of the Senate are modified to allow committees to meet freely after the adjournment is proposed in the Senate (standing order 33)
- the deadline for receipt of bills from the House of Representatives is altered so that the restrictions do not apply to bills received for a second time in the circumstances described in section 57 of the Constitution (standing order 111)
- the rule against persons other than senators or officers attending the Senate entering the chamber during the sittings is altered so as not to apply to a senator breastfeeding an infant (standing order 175).

All of the changes have immediate effect, and the changed procedure for the budget was followed that evening.

NEW SELECT COMMITTEE

A new select committee, on Medicare, was appointed on 15 May, on the motion of Senator Allison. It was necessary to hold a membership ballot later in the day to appoint the members of the committee, because there were two nominations, from Senator Nettle and Senator Lees, for one position on the committee. Senator Lees was elected to the position in the secret ballot. A motion by Senator Nettle to allow her to substitute for Senator Lees in the latter's absence (a special arrangement which would have been similar to the substitute membership provisions applying to the standing committees) was not agreed to.

LEGISLATION

The extended debate on the motion relating to the Governor-General did not prevent several bills being passed, one, the Terrorism Insurance Bill 2003, with extensive amendments moved by the Opposition on 15 May.

CONSTITUTION ALTERATION BILL

A bill to change section 44 of the Constitution in relation to the qualifications of members of Parliament, introduced by Senator Brown, was dealt with on 15 May, but did not achieve the required absolute majority when the government unexpectedly voted against the bill (a move which was not clearly signalled during the debate). The failure of the bill to pass would not prevent its revival in the future.

This bill was restored to the Notice Paper at the second reading stage from a previous parliament; in that circumstance senators who spoke to the original second reading motion, including the mover, may speak again.

ESTIMATES HEARINGS

The next two sitting weeks, from 26 May to 6 June, will be exclusively devoted to estimates hearings by the legislation committees, and the Senate will not meet at all during that period.

IRAQ DEBATE

Any thought that debate on the war in Iraq had ended was dispelled by a ministerial statement on the subject and an immediate debate on 14 May.

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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