

DEPARTMENT OF THE SENATE PROCEDURAL INFORMATION BULLETIN

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BILLS REVIVED

Two bills provided demonstrations of the principle that a bill which has been rejected by the Senate may be revived regardless of how long it has been “dead”.

The Workplace Relations Amendment (Codifying Contempt Offences) Bill had been negatived at the third reading in March 2004 when amendments moved by the Democrats were not accepted. On 21 June the bill was revived as previously amended in committee, but returned to the committee stage to allow further amendments. Extensive amendments moved by the Democrats and the government were then adopted and the bill finally passed on 25 June after vigorous resistance by the Opposition. Included amongst the amendments was a provision that guidelines to be made under the bill for it to operate are to be subject to disallowance and are not to commence until the disallowance period has passed, giving the Senate virtual control of the future operation of the legislation. Other safeguards were included in the amendments.

The National Health Amendment (Pharmaceutical Benefits—Budget Measures) Bill, which had been negatived at the third reading in March 2003, and which, having already been rejected twice, was a “trigger” for a double dissolution under section 57 of the Constitution, was revived and passed on the last day as a result of the Opposition deciding to support it.

OTHER LEGISLATION

A large amount of time was devoted to the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill over several days. It was massively amended, with amendments from all parties. The government disagreed to some amendments, and the Senate did not insist on some, but further amendments were made in the Senate, which were ultimately accepted by the government, allowing the bill to pass on 25 June.

Intense consideration was devoted to the Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Bill, which was regarded by the non-government parties as an attempt by the government to put provisions favourable to its re-election in place before the imminent general election. The bill was extensively amended to remove the provisions objected to, and these amendments were accepted by the government on the last day.

The Superannuation Budget Measures Bill received a fame it would not have otherwise acquired when the government accepted amendments moved by Senator Murphy but subsequently discovered that the amendments had the unintended effect of abolishing the superannuation surcharge in future years, at great potential cost to revenue. The bill was brought back on the last day and a corrected version of Senator Murphy's amendments made.

The Sex Discrimination Amendment (Teaching Profession) Bill, the government's attempt to override sex discrimination provisions to achieve more male teachers, was negated at the second reading on 25 June. The Marriage Amendment Bill, to prohibit same-sex marriages, did not get that far; on the same day it was negated at the first reading, a most unusual step, but avoiding a lengthy debate on the last day of the sittings on exempting the bill from the standing order 111 deadline and on the second reading. In effect, the Senate decided not to put the bill on its agenda, demonstrating the importance of retaining votes on the preliminary stages of bills, even if they are seldom used.

Also unusual was an amendment made to one of the annual appropriation bills. This was a further step by the non-government parties to highlight their allegation that the government is using taxpayers' funds for its election campaign in advertisements of government programs before the coming election. The government had refused to comply with the Senate's order of 29 October 2003 for listing of advertising projects, claiming that the information could be obtained by other means. The details of particular projects were pursued in the estimates hearings. The amendment would have prohibited spending on projects costing \$100,000 or more unless details were presented to the Senate. As fully expected, the Senate had to allow the appropriation bill to pass when the government rejected the amendment in the House of Representatives.

The never-ending parade of terrorism precautions returned in the shape of the Anti-terrorism Bill, which was extensively amended on 17 June, including by government amendments arising from a report by the Legal and Constitutional Legislation Committee. One Senate amendment resisted by the government was not insisted on. The Customs Legislation Amendment (Airport, Port and Cargo Security) Bill was the occasion for some Democrat amendments relating to the detention of suspects by Customs officers, and those amendments were accepted by the government. The Anti-terrorism (No. 2) Bill was referred to the Legal and Constitutional Legislation Committee.

The Superannuation Legislation Amendment (Choice of Superannuation Funds) Bill, the subject of much controversy over many years, was extensively amended and passed as a result of an agreement between the Democrats and the government.

In several bills Senate amendments were not insisted on, sometimes with the acceptance of substitute amendments, to avoid the loss of beneficial provisions in the bills. In two instances, however, the Senate successfully insisted on amendments. In the case of Taxation Laws Amendment Bill (No. 7) the Senate not only insisted on its amendments disagreed to by the government but made a further amendment, although the latter was not insisted on when the government disagreed to it. In the case of the Superannuation Laws Amendment (2004 Measures No. 2) Bill, compromise amendments were made in relation to the superannuation surcharge after the Senate had insisted on its original amendments.

The Veterans' Entitlements (Clarke Review) Bill provided an example of extensive government amendments to deal with problems raised by critics of the bill.

ESTIMATES HEARINGS EXTENDED

The estimates hearings of the Foreign Affairs, Defence and Trade Legislation Committee were extended on 16 June, to allow further hearings on the following day devoted to the Department of Foreign Affairs, Defence and Trade and the government knowledge of the Iraqi prisoner abuse matter (see also below, under Orders for Documents and Iraq).

SELECTION OF BILLS COMMITTEE: REPORT AMENDED

The report of the Selection of Bills Committee was the subject of amendments and an amendment to an amendment on 23 June to refer bills to committees not recommended for referral. One of the amendments referred the Marriage Legislation Amendment Bill, which includes the content of the bill referred to above, under Other Legislation.

SCRUTINY OF BILLS COMMITTEE

The Scrutiny of Bills Committee was authorised on 22 June to hold public hearings on its continuing inquiry into entry, search and seizure provisions (the committee is required by its standing order to meet in private session, and therefore needs the permission of the Senate to hold public hearings).

The government response on 17 June to the committee's report on strict liability provisions partly accepted the committee's recommendations.

ORDERS FOR PRODUCTION OF DOCUMENTS

Orders for production of documents achieved some success during the period, but not in relation to two matters of political controversy.

An order relating to detention centres dating back to 13 October 2003 was complied with on 15 June, but only because the Administrative Appeals Tribunal had overruled the government's action in withholding the document under the Freedom of Information Act. Orders relating to the Cooperative Research Centre Program, a report by the Australian government to the United Nations Committee on Human Rights, gene technology and lands acquisition regulations all resulted in the production of documents. The last order related to steps taken by government in anticipation of legislation to abolish the Aboriginal and Torres Strait Islander Commission, but an attempt to disallow related regulations on 24 June was not successful (see also below, under New Select Committee).

In relation to two orders, concerning the sale of Commonwealth land and something called synthetic aperture radar, the government on the last day indicated that more time was needed to produce the required documents.

The two conspicuous refusals by the government both related to Iraq. An order was made on 22 June for a large document which had been assembled for the purposes of the ministerial statement on Iraq, but the document was refused. Similarly, an order on 23 June for the log showing the destinations of copies of an Office of National Assessment document was refused, the non-government parties claiming that the leak of the document to a government-supporting journalist was the work of a minister's office. In both cases senators promised future pursuit of the matters (see also above, under Estimates Hearings Extended, and below, under Iraq).

A new order made on 24 June and relating to videophones in a particular area remains outstanding.

NEW SELECT COMMITTEE

A select committee on the administration of indigenous affairs was appointed on 16 June as a result of concerns about what is to replace the Aboriginal and Torres Strait Islander Commission on its abolition. As the Opposition had already called for the abolition of the Commission, it is expected that the legislation for its abolition will pass the Senate, but the select committee is to keep watch over the process.

IRAQ: MINISTER CENSURED

The Iraq war returned again with a ministerial statement on 16 June and the tabling of documents in further explanation of the prisoner abuse matter. The outcome of this new information, however, was that the Minister for Defence, Senator Hill, was censured for failing to take seriously the government's responsibility and to correct serious communications problems within his office and the Defence Department, contrary to assurances which were given after the "children overboard" affair of 2001-2 (see also above, under Estimates Hearings Extended and Orders for Documents).

PARLIAMENTARY FUNDING

The Appropriations and Staffing Committee report recommending a rearrangement of parliamentary funding (see Bulletin No. 182, p. 1) was adopted by the Senate on 12 June.

The President introduced on 21 June an amendment of the Parliamentary Service Act to establish the office of Parliamentary Librarian as an independent statutory office. This step was promised as part of the amalgamation of the joint parliamentary departments.

PRIVILEGES REFERENCE

The Privileges Committee received on 24 June another reference on unauthorised disclosure of a draft report of the Community Affairs References Committee, this time in relation to its report on hepatitis C and the blood supply. The Community Affairs Committee indicated that it had carried out the preliminary investigation required in such cases by the Senate's resolution of 20 June 1996.

EXTENDED SITTING

The sitting on Thursday, 24 June was extended over Friday, 25 June by means of a suspension of the one sitting. As on previous such occasions, the two days will be taken to be separate sitting days for the purposes of the tabling and disallowance of delegated legislation.

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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