

DEPARTMENT OF THE SENATE PROCEDURAL INFORMATION BULLETIN

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“STREAMLINING” THE COMMITTEE SYSTEM

The government announced on 21 June a proposal to restructure the Senate committee system. It had been expected since the government gained its one-seat majority in the Senate, with effect on 1 July 2005, that it would seek to change the committee system to give itself the majorities and chairs of all committees. The proposal basically involves the abolition of the references committees and the transfer of their function of inquiring into matters referred by the Senate to the legislation committees, which are proposed to be increased from eight to ten. A great many other details will need to be worked out. The proposal will be put into effect in the next sittings in August. It triggered off an extensive debate in the Senate and elsewhere. An Opposition motion to refer the proposal to the Procedure Committee was passed on 22 June after extensive debate. It was pointed out by several contributors that when the proposal is implemented the survival of the committee system will depend on the degree to which government party members and chairs of committees are able to act independently of ministerial direction. A government amendment to the motion shortened the time for report to the first sitting week in August. As a procedural footnote, it was necessary to pass a motion to give the Procedure Committee power to “move from place to place”, to allow it to meet in Sydney during the winter adjournment.

COMMITTEE REPORTS

Committees were able to have some influence on legislation during the period.

The Legal and Constitutional Affairs Legislation Committee presented a report on 13 June on the government’s controversial immigration legislation relating to processing of asylum seekers. The committee’s report was highly unfavourable to the legislation, which is the subject of the “backbench rebellion” that has received much publicity. The legislation did not proceed during these sittings.

Similarly, the Economics Legislation Committee, in a report on fuel tax legislation on 15 June, suggested that “there are a number of issues that require resolution” before the bills proceeded. The bills were passed without amendment on 22 June. Some undertakings were given by the government to review the legislation, but it is not clear whether all of the issues were resolved. Senator Joyce supported some Democrat amendments, but the Opposition did not, and there was no division on them.

The Legal and Constitutional Affairs Legislation Committee, in a report in May, recommended changes to a substantial package of bills relating to the establishment of a Law Enforcement Integrity Commission and professional standards for the Australian Federal Police. The government accepted some amendments, but chose to make them in the House of Representatives before the bills came to the Senate. This illustrates the point that the Senate practice of allowing its committees to consider the provisions of bills before they come to the Senate is advantageous to the government. The legislation establishes yet another joint committee, leading to an apprehension that the committee system will be overburdened with these bodies. The Opposition attempted unsuccessfully to have the committee combined with the existing Joint Committee on the Australian Crime Commission.

COMMITTEE REFERENCES

Attempts to refer matters to the references committees had mixed success during the period.

A Democrat motion to refer matters relating to unpaid wages of indigenous people to the Legal and Constitutional Affairs References Committee was passed on 13 June.

A committee-generated motion to have the Finance and Public Administration References Committee inquire into the effect of the current financial management system on parliamentary accountability was passed on 20 June. This was surprising, given the government’s defence of the system in the context of the committee’s inquiry last year into government advertising expenditure.

The Opposition succeeded on 22 June in referring to the Economics Legislation Committee the highly contentious matter of petrol prices. This is a reference which normally would have gone to the references committee, but there appears to have been agreement that it should go to the legislation committee.

On the contrary, a motion to refer matters relating to energy supplies to the Environment, Communications, Information Technology and the Arts References Committee was negatived on 20 June, supported only by the Democrats and the Greens.

A motion to refer the practical operation of the regulations under the welfare to work legislation to the Community Affairs References Committee was negated on 22 June, after debate but with no government speaker on the motion, leading to renewed charges of government contempt for the committee system.

GOVERNMENT RESPONSES TO COMMITTEE REPORTS

The same charge was made by Senator Bartlett in speaking to the President's regular report on outstanding government responses to committee reports on 22 June. The report reflects the usual situation of many responses either not made or not made within the three month period.

LEGISLATION

The ASIO Legislation Amendment Bill 2006, passed on 13 June, was the subject of some acrimony because the government rejected most of the recommendations of the Joint Committee on Intelligence and Security which had reviewed the anti-terrorism legislation. In particular, the committee's recommendation that the ten-year sunset clause should be reduced was not adopted.

The legislation occupying the most time was the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2006, which, amongst other things, shortens the time for enrolment and increases the threshold of non-declarable donations to political parties. The non-government parties opposed the bill as the first instalment of a government plan to recast the electoral legislation to favour itself. It was finally passed on 21 June.

The annual appropriation bills, which as usual were dealt with at the very end of the last day of the sittings, were the subject of unsuccessful joint Democrat and Opposition amendments to prevent the expenditure of money on large-scale government advertising campaigns unless the Auditor-General certified that the expenditure was in accordance with guidelines recommended by the Audit Office and the Joint Committee of Public Accounts and Audit.

PROPOSED ORDER FOR DOCUMENTS

Only one motion for the production of documents was moved, on 15 June in relation to the government's smart-card proposal, and was rejected by the government without any reasons given, confirming that this procedure for obtaining information is effectively closed.

ACT LAW: GOVERNOR-GENERAL'S INSTRUMENT

Under the ACT Self-Government Act, the Governor-General has the power to disallow any law passed by the ACT Legislative Assembly, but the Governor-General's instrument is itself subject to disallowance by either House. A Governor-General's instrument disallowing the ACT civil union law was the subject of an unsuccessful motion for disallowance by the Senate on 15 June. The Liberal senator for the ACT, Senator Humphries, "crossed the floor" on the motion.

DELEGATED LEGISLATION

Senator Joyce also "crossed the floor" on a motion he initiated to disallow petroleum retailing regulations which he said were unfavourable to small business. The regulations are unusual in that they virtually put into effect legislation not yet in the Senate (see Bulletin No. 201, p. 2). The motion was negated on 15 June on equally divided votes. The same vote would be sufficient to reject the legislation. (Two government senators must vote with all the non-government senators to form a non-government majority, but one doing so deprives the government of its majority. The vote was taken again by leave when two Opposition senators missed the first division.)

PRIVILEGES COMMITTEE: RIGHT OF REPLY

The Privileges Committee tabled on 21 June a report recommending that a right of reply be granted to a group referred to in the Senate. The reply was duly published by the Senate. It involved a number of unusual aspects: the adverse references in the Senate to which the response referred were not made in debate, but in a notice of motion which had not been moved; no individual was referred to in the notice of motion, which referred to a religious group called the Brethren, but three persons claiming to speak on behalf of the group were allowed to make the response. In debate on the publication of the response, Senator Ray drew attention to the readiness with which the Senate grants rights of reply, contrasted with the House of Representatives, which is extremely reluctant to accept replies.

ESTIMATES REPORTS

All of the legislation committees presented their reports on the annual estimates on 20 June. Most of the committee reports refer to substantial matters raised during the estimates hearings, including some procedural issues (see Bulletin No. 202).

AUDIT REPORT

An Auditor-General's report on community grants issued by the Department of Family and Community Services and Indigenous Affairs was tabled on 21 June, drawing attention to inadequate financial controls and failure to address fraud risks in the expenditure of some \$1 billion for those grants. The report confirms that there are always problems with schemes whereby grants are made to persons and organisations for vaguely defined purposes, as was previously indicated by the report of the Finance and Public Administration References Committee on the regional partnerships and sustainable regions programs in October 2005.

ACCOUNTABILITY REPORT

Previous issues of this bulletin have referred to the constriction of accountability options in the Senate with the government majority. It remains to be seen how the government's restructuring of the committee system will affect the future ability of committees to pursue accountability measures.

RELATED RESOURCES

The *Dynamic Red* records proceedings in the Senate as they happen each day.

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, these documents may be reached through the Senate home page at www.aph.gov.au/senate

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