

DEPARTMENT OF THE SENATE PROCEDURAL INFORMATION BULLETIN

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PARLIAMENTARY CONTROL AND ACCOUNTABILITY OF PUBLIC FINANCE

Two highly significant reports of the Finance and Public Administration Committee, relating to parliamentary control and accountability of public finance, were presented.

The first report, presented on 27 February, related to the Senate's continuing order for the publication on the Internet of lists of departmental and agency contracts. The Department of Finance and Administration had suggested that the order be revoked on the basis that contracts would be listed in a new database called the AusTender system. This listing, however, would cover only procurement contracts. The committee did not agree with this suggestion, but recommended that the Senate's order be strengthened to take account of AusTender and to improve the transparency of contracting. Two recommendations of the committee were adopted by the Senate on 1 March, one to give the committee continuing oversight of the operation of the order, and the other to request the Department of the House of Representatives, the only department which does not comply with the order, to voluntarily list its contracts. Another recommendation, that the order be amended to cover bodies established under the Commonwealth Authorities and Companies Act, was left over. The government in the past has resisted this step.

The second report, presented on 1 March, followed the reference to the committee on the transparency and accountability of public finance. The report analyses the situation which has been allowed to develop whereby government has multiple sources of large amounts of funds not subject to regular parliamentary approval and can spend the available money on virtually anything without the vaguest parliamentary approval in advance. The report makes a series of radical recommendations to claw back parliamentary control and oversight of appropriations. Implementation of the recommendations will require the cooperation of government, and as

the current system gives governments maximum flexibility in spending money without parliamentary approval, this will be difficult.

COMMITTEE SCRUTINY OF BILLS

The Australian Citizenship Bill 2006, considered in the Senate on 26 February, was subject to a large number of government amendments mostly arising from scrutiny by the Legal and Constitutional Affairs Committee last year. As with other bills in recent times, many of the amendments were made in the House of Representatives before the bill was received in the Senate, and only a few amendments were added in the Senate.

Many committee reports on bills were presented during the period. Almost half of the committee reports on bills presented since the last sittings recommend amendments of the bills, taking account only of majority recommendations.

Recent criticism of the tight deadlines set for committees to report on bills may be having some effect. Committees now seek extensions of times to report on bills; two such extensions were granted to the Rural and Regional Affairs and Transport Committee on 26 February.

A bill introduced by Senator Fielding to stop Qantas “exporting” jobs overseas in the event of its takeover was referred to the Economics Committee through the report of the Selection of Bills Committee on 1 March.

Although the procedures under standing order 115 for the consideration of bills by committees require that debate on the committees’ reports on bills be deferred until the bills are considered, reports on bills presented during the hour allowed for debate on Wednesdays and Thursdays under standing order 62 may be debated during that time. The standing order 62 provision is regarded as a special exception to the general prohibition on debate without notice, which in any event applies to all committee reports under standing order 39.

Documents other than reports presented by committees are generally treated as reports under the standing orders. This applied, for example, to a transcript of evidence presented by the Economics Committee on 28 February.

OTHER COMMITTEE REFERENCES

The government continues to reject, however, other references to committees except those of which it approves. Thus the Rural and Regional Affairs and Transport Committee received a reference on 26 February on water in south east Queensland. Proposed references from the Greens on climate change and agriculture and from the Democrats on exemptions of religious

organisations were rejected on 1 March (the latter reference was intended to be a more acceptable substitute for the Greens' proposal for an inquiry into the activities of the Exclusive Brethren, which remains on the Notice Paper).

DELEGATED LEGISLATION

The Regulations and Ordinances Committee tabled on 1 March a very large volume of correspondence with ministers, illustrating how the committee requires ministers to further explain and justify many of the thousands of legislative instruments which are made by government each year.

GOVERNMENT RESPONSES TO COMMITTEE REPORTS

Several government responses to committee reports were presented. In debate on the response to the report of the Community Affairs Committee on gynaecological cancer senators expressed their astonishment, with some tones of irony, that the response had been presented on time and that all 34 recommendations of the committee were accepted.

ORDERS FOR DOCUMENTS

The first use of the amended provisions under standing order 164, whereby a senator can ask for an explanation of the failure to respond to an order for documents and then initiate a debate on the explanation, occurred on 28 February. Senator Bob Brown's request for an explanation in relation to long-outstanding orders, however, did not bear fruit: the government response, not given until 1 March, was simply that the government would not comply with the orders. The documents in question related to a proposed pulp mill in Tasmania and the deductible gift recipient status of environment groups.

Another proposed order, relating to a mining project, was rejected on 27 February.

Attached to this bulletin is an updated list of all of the documents which the government has refused to produce since it gained its majority of one in the Senate.

UNPARLIAMENTARY LANGUAGE

The President was obliged on 28 February to reiterate the principle that offensive words under standing order 193 are no less offensive when applied to groups of protected office holders as distinct from individuals. As this principle still appears to meet with some

resistance on the part of some senators, a select but completely persuasive list of rulings of Presidents since 1901 establishing the principle is being prepared.

ACCOUNTABILITY REPORT

The record of committees in bringing about amendments of bills and the reports of committees on other references, particularly the two Finance and Public Administration Committee reports mentioned, indicate that committees are still capable of making a valuable contribution to legislative work when they are allowed to do so. This only makes more unfortunate the routine rejection of all references emanating from non-government senators.

The list of documents refused to the Senate since the government majority illustrates a significant weakening of accountability.

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

Inquiries: Clerk's Office
(02) 6277 3364

DOCUMENTS REFUSED TO THE SENATE

SINCE 1 JULY 2005

COMMUNICATIONS—TELSTRA—Documents held by Telstra Corporation relating to shareholder attitude surveys conducted by Crosby/Textor.

DEFENCE—IRAQ—DEPLETED URANIUM—Report of the Australian Defence Force on the presence of depleted uranium in the Australian area of operations in Al Muthanna province in southern Iraq.

EDUCATION—VOLUNTARY STUDENT UNIONISM—Documents relating to options for voluntary student unionism.

EMPLOYMENT—COMMUNITY PARTNERS PROGRAM—The review of the Community Partners program, as commissioned by the Office of the Employment Advocate and conducted by Deloitte Touche Tomatsu.

ENVIRONMENT—HOPE DOWNS IRON ORE PROJECT—Briefing packages produced by the former Department of the Environment and Heritage for the Minister's consideration of the Hope Downs Iron Ore Project proposed by Hope Downs Management Services Pty Ltd.

ENVIRONMENT—NORTHERN TERRITORY—URANIUM MINES—Documents relating to the Commonwealth Government's authority to unilaterally approve uranium mines in the Northern Territory.

ENVIRONMENT—REVIEW OF MATTERS OF NATIONAL ENVIRONMENTAL SIGNIFICANCE—Report on the review of matters national environmental significance made under section 28A of the *Environment Protection and Biodiversity Conservation Act 1999*.

ENVIRONMENT—TASMANIA—STYX AND FLORENTINE VALLEYS—Documents relating to the implementation of the 2004 election commitment to protect 18 700 hectares of old-growth forest in the Styx and Florentine valleys.

FAMILY AND COMMUNITY SERVICES—NATIONAL DISABILITIES ADVOCACY PROGRAM REVIEW—The National Disabilities Advocacy Program Review 2006, carried out by Social Options Australia.

FAMILY AND COMMUNITY SERVICES—SMARTCARD PROPOSAL—Documents relating to the smartcard proposal.

FINANCE—BOARD OF THE RESERVE BANK OF AUSTRALIA—APPOINTMENT—Documents relating to the nomination and appointment of Mr Robert Gerard to the Board of the Reserve Bank of Australia.

FOREIGN AFFAIRS—UNITED STATES OF AMERICA—MILITARY COMMISSIONS ACT—Legal advice received by the Government relating to the legality of the United States of America's Military Commissions Act (2006).

HEALTH—BETTER OUTCOMES IN MENTAL HEALTH INITIATIVE—Report from the review of the Better Outcomes in Mental Health Initiative.

HEALTH—REGULATION OF NON-PRESCRIPTION MEDICINAL PRODUCTS—Report provided by Deloitte Touche Tohmatsu relating to the regulation of non-prescription medicinal products.

IMMIGRATION—457 VISA PROGRAM—Report prepared by the Department of Immigration and Multicultural Affairs relating to T&R Pastoral and its employment of workers on subclass 457 visas.

IMMIGRATION—SIEV X—Documents detailing passengers purported to have boarded the vessel known as SIEV X.

LAW AND JUSTICE—AUSTRALIAN WHEAT BOARD—The Organisation for Economic Co-operation and Development foreign bribery survey response by AWB Limited.

LAW AND JUSTICE—BORDER RATIONALISATION TASKFORCE—Report of the Border Rationalisation Taskforce prepared in 1998.

SCIENCE AND TECHNOLOGY—COMMONWEALTH SCIENTIFIC AND INDUSTRIAL RESEARCH ORGANISATION—Documents relating to the research and development work to be undertaken by the CSIRO.

SCIENCE AND TECHNOLOGY—COMMONWEALTH SCIENTIFIC AND INDUSTRIAL RESEARCH ORGANISATION—SHEEP STUDY—Documents relating to a sheep study conducted by the CSIRO on the effect of transgenic peas on the immune response of sheep.

TAXATION—INFRASTRUCTURE BORROWINGS TAX OFFSET SCHEME—Documents held by the Department of Transport and Regional Services relating to taxation deductions under the Infrastructure Borrowings Tax Offset Scheme.

TRANSPORT—CIVIL AVIATION SAFETY AUTHORITY—TRANSAIR—Documents relating to Lessbrook Pty Ltd trading as Transair.