

DEPARTMENT OF THE SENATE PROCEDURAL INFORMATION BULLETIN

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LEGISLATION: IMPACT OF COMMITTEES

A notable feature of the period was the number of successes scored by Senate committees in bringing about the abandonment or amendment of legislation as a result of their inquiries.

The most signal success was the temporary abandonment by the government of the Access Card legislation as a result of the report of the Finance and Public Administration Committee presented on 15 March 2007. The committee recommended that the legislation establishing the Access Card not be proceeded with until accompanying legislation containing safeguards could be considered simultaneously.

During proceedings on a package of tax bills on 28 March the government agreed to strike out a schedule of a bill on the recommendation of *Opposition* members of the Economics Committee, the provisions having been criticised in evidence before the committee.

Government amendments arising from committee inquiries were made to:

- The Private Health Insurance package (23 March): 104 government amendments were made to one bill; there were two amendments from the Chair of the Community Affairs Committee, Senator Humphries, and one *Opposition* amendment was passed; there were two amendments in the form of requests because the relevant bill was a bill imposing taxation within the meaning of section 53 of the Constitution.
- The Native Title Amendment Bill: one *Opposition* and one Democrat amendment were accepted (24 March) in addition to government amendments.
- The Safety, Rehabilitation and Compensation Bill (27 March).

- The AusCheck Bill (considered on the same day).
- The Airports Amendment Bill (28 March).

The reasons for this apparent sudden outbreak of reasonableness are not entirely clear. There were, however, some setbacks:

- On the Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill on 22 March amendments moved on the recommendations of the Legal and Constitutional Affairs Committee, which examined earlier versions of the bill, including a long-standing recommendation for the removal of a “Henry VIII clause”, were rejected. The government had redrafted the bill to meet some of the concerns of the Legal and Constitutional Affairs Committee and the Scrutiny of Bills Committee.
- A seemingly unarguable second reading amendment on the additional appropriation bills was rejected on 29 March. The amendment noted that over \$71 million in the bills is said to be for preparations for the Access Card project, legislation for which has not been passed, and called upon the government to account for the disposition of the money if the project does not go ahead. This amendment would seem to have necessarily arisen from the report of the Finance and Public Administration Committee on accountability of public finance (see Bulletin No. 210, p. 1). It appears that the last-minute rush of uncontested bills prevented proper consideration of the amendment.

Committees received several references on bills during the period. As a result of the Selection of Bills Committee reports on 29 March, the committees will have batches of bills to examine over the Easter adjournment.

OTHER COMMITTEE INQUIRIES

The Community Affairs Committee has a significant burden: in addition to receiving some bills it was given two significant references on 28 March, one relating to mental health moved by the Democrats and one relating to patient assisted travel schemes.

The Economics Committee received a reference on the highly contentious matter of the impact of private equity schemes on capital markets on the motion of the Australian Democrats on 29 March.

The Foreign Affairs, Defence and Trade Committee continued its supervision of reforms of the military justice system with a progress report on 29 March.

The committees presented their reports on the additional estimates on 21 March and on departmental annual reports on 22 March. They included some significant analysis of issues arising from the estimates and the annual reports.

SCRUTINY OF BILLS COMMITTEE

The Scrutiny of Bills Committee presented a report on 21 March again drawing attention to unsatisfactory features of explanatory memoranda accompanying bills. A further report on 28 March indicated that ministers have undertaken to amend explanatory memoranda to make them more useful. The government responded on 29 March to the committee's 2004 report on explanatory memoranda, largely accepting the points made by the committee.

PRIVATE SENATORS' BILLS

A Guide for Senators preparing private senators' bills and related documents, prepared by the Senate Department, was tabled on 29 March. This document had been prepared and circulated in October 2004 in response to the recommendation of the Scrutiny of Bills Committee.

DELEGATED LEGISLATION

The Joint Committee on the National Capital and External Territories presented a report on 22 March recommending the withdrawal of controversial amendments of the National Capital Plan, but it was indicated that the members of the committee would not move for the disallowance of the amendments, although there would presumably be a majority in favour of striking them down. It is not clear why this self-imposed powerlessness occurred.

Amendments of the National Capital Plan are one of those kinds of instruments in respect of which the combined effect of the original statute under which they are made and the Legislative Instruments Act 2003 is not entirely clear. Senator Bob Brown subsequently gave a notice of motion to disallow the amendments, based on the assumption that the provisions of the Legislative Instruments Act and not the original statute apply.

The Regulations and Ordinances Committee has previously asked that ambiguous provisions of this kind be clarified.

SENATORS' INTERESTS

The resolutions of the Senate requiring the registration of senators' interests assumed an unusual prominence in the context of several disputes about interests. Senator Santoro resigned as minister, and indicated that he would resign as a senator, after it was discovered that he had failed to register significant interests over a relatively long period.

The Senators' Interests Committee tabled on 21 March revised explanatory notes clarifying the requirement to register gifts received by individual senators.

FORMAL MOTIONS

The constant stream of Greens and Democrat motions about David Hicks finally achieved a minor success on 21 March with Senator Joyce "crossing the floor" to support a Democrat motion, but as Senator Fielding voted with the government this was of no consequence.

QUESTION TIME

The President made a statement on 26 March drawing attention to the rather fine distinction drawn by the Chair in the past between questions to ministers which directly ask for comment on the policies of other parties, which are not in order, and questions which ask whether the government will adopt "alternative policies", which have been allowed. There has been a tendency in recent times for the distinction to be ignored.

ACCOUNTABILITY REPORT

The effect of committee inquiries on bills is still a mixed picture, but the success rate of the committees appears to be rising. The quota of successful non-government amendments to bills has almost doubled.

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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