

DEPARTMENT OF THE SENATE PROCEDURAL INFORMATION BULLETIN

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LEGISLATION: COMPROMISES AND REJECTIONS

A claim that a bill is urgent and must be passed immediately is often the least likely way to achieve its passage. The government attempted on 10 March to rush through contentious bills relating to the Timor Gap Agreement, but, as a result of a report of the Selection of Bills Committee, the bills were referred to the Economics Legislation Committee for inquiry and report in the next sitting week. In its attempt to bring on the bills, the government succeeded in adjourning the debate on some other bills, but then became mired in a debate on the motion to make the resumption of the debate an order of the day for a later hour. The latter motion, unlike that to adjourn the debate, is debatable. That debate was itself interrupted by the period for discussion of matters of public interest, but by the time it was resumed the reference of the bills to the committee had occurred, and so the procedural motion passed without further debate.

It is never too late for agreement to be reached in the Senate to allow the passage of legislation. This was demonstrated by the Workplace Relations Amendment (Transmission of Business) Bill 2002, which was passed on 1 March after an agreement between the Democrats and the government. Senate amendments which had been disagreed to by the government in August 2003 were not insisted on and substitute amendments were made, allowing the bill to pass.

Similarly, the Workplace Relations Amendment (Improved Remedies for Unprotected Action) Bill 2002 was passed on 2 March as a result of agreement between the Democrats and the government on amendment of the bill.

No such agreement was possible, however, in relation to the Workplace Relations Amendment (Codifying Contempt Offences) Bill 2003, which was negatived at the third reading on 3 March after some amendments were rejected in committee. The Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003 was also negatived at the third reading on 8 March; there were no amendments moved to the bill, but it was apparently allowed to go to the third reading in case any senator wished to move amendments.

Such latitude was not extended in relation to the Migration Amendment (Duration of Detention) Bill 2004, which was negatived at the second reading, also on 8 March, being apparently too evil in the view of the majority to allow it to reach any later stage.

The most contentious piece of legislation, however, the government's package of changes to Medicare, passed on the last day of the sittings as a result of an agreement, apparently exhaustively negotiated, between the government and the four independent senators on amendments to the bill. Support of the four independents allows the government to achieve a majority of one. The other parties could easily have delayed the bill until the next sitting week, but chose not to do so.

Agreement with the minor parties is not the only option open to the government: the Criminal Code Amendment (Terrorist Organisations) Bill 2003, relating to the contentious power to proscribe terrorist organisations, was finally passed on 4 March after agreement between the Opposition and the government on amendments which were said to strengthen parliamentary control of the power.

Two bills were the subject of significant amendment and were not resolved at the end of the sittings: the Agriculture, Fisheries and Forestry Legislation Amendment Bill (No. 2) 2003 and the Superannuation Safety Amendment Bill 2003, the latter raising the controversial issue of security of superannuation funds.

ORDERS FOR PRODUCTION OF DOCUMENTS

The Senate's order for the publication of lists of contracts on the Internet was the subject of a report by the Audit Office presented on 1 March, surveying compliance with the order in 2002-2003. The report found continuing problems with the accuracy of listings of confidentiality provisions of contracts.

No action was taken in relation to the government's refusal to comply with the order relating to advertising contracts (see Bulletin No. 178, pp 1-2), other than the questions asked about such contracts at the estimates hearings, but it is expected that the matter will be revisited in the future.

An order going back to October 2003, relating to immunisation, was responded to with a document presented on 1 March.

COMMITTEES

It was necessary to hold a ballot on 1 March for membership of the Select Committee on the Australia-United States Free Trade Agreement when there were two nominations for the position on the committee for the Greens and independents.

The report by the joint committee on the intelligence agencies presented on 1 March indicated by its unanimity the continuing problem for the government over the intelligence relating to alleged weapons of mass destruction in Iraq. The inquiry by the committee was the result of a reference by the Senate, and it would not have occurred but for the ability of the non-government parties in the Senate to bring about such an inquiry.

A report by the Economics Legislation Committee on 1 March on the protection afforded by the Trade Practices Act to small business contained significant multiparty criticisms of the Act.

PARLIAMENTARY PRIVILEGE: WITNESSES

The Privileges Committee presented on 2 March a report on a case of possible interference with a witness. A conversation between two witnesses, in relation to the inquiry by the Rural and Regional Affairs and Transport Legislation Committee into Australian Wool Innovation Limited, could have been interpreted as intimidatory. The committee, while recommending that a contempt should not be found, issued a warning against confronting witnesses about their evidence instead of using the right-of-reply procedures of committees to respond to evidence given by witnesses. The report also urged committees to ensure adherence to those procedures. The report's findings were endorsed on 4 March.

DELEGATED LEGISLATION

The Regulations and Ordinances Committee presented on 4 March its *Delegated Legislation Monitor* for 2003 as an indication of the enormous volume of statutory instruments scrutinised by the committee.

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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