



Procedural Information Bulletin

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Budget Estimates – 22 May to 2 June 2017

Accountability

The 2017 Budget estimates round proceeded in a generally business-like fashion and again provided an opportunity for senators to examine ministers and officials about the detail of a wide range of government programs.

Portfolio agencies are [allocated](#) by the Senate to the legislation committees that examine estimates, and the usual wide range of departments and agencies were called to answer questions about their expenditure, operations and administration. Most witnesses are officials from Commonwealth departments of state and other agencies established by federal legislation and funded by the national Parliament. However, government-sponsored activity is carried out through a diverse range of bodies, so a number of agencies with other funding arrangements also appear. During this round these included the Snowy Hydro Corporation, in which the Commonwealth has a 13% stake (E&C, 23/5); and Dairy Australia Ltd (RRAT on 24 May), whose funding sources include a levy paid by milk producers, as well as Commonwealth and state governments, universities and research organisations. ([Bulletin 263](#) also explored this matter.)

A new inclusion on the witness list was the soon-to-be Independent Parliamentary Expenses Authority which, the Special Minister of State explained, has initially been established as an executive agency under the *Public Service Act 1999* before it becomes an independent statutory authority on 1 July (F&PA, 25/5).

The Senate has resolved that officers, including agency heads, are expected to appear before committees in fulfillment of their accountability obligations. This round of Budget hearings saw a good turnout of senior officials and most agency heads including the Tax Commissioner who answered questions about the so-called Plutus scandal, an alleged conspiracy to defraud the ATO (Economics, 30/5). The supposed convention that the Secretary of the Department of the Prime Minister and Cabinet does not attend estimates hearings got an airing; but it is noteworthy here that the service chiefs of the Defence Force, the head of ASIO, the Inspector-General of Intelligence and most other heads routinely appear. There was criticism that some witnesses travelled from interstate to find that the senators who had called them were not available, or there was no time to examine them in crowded committee programs. In some cases, committees placed questions on notice about the costs of officials travelling to attend the hearings (Economics, 31/5 and E&E, 30/5).

In another example of accountability, the Auditor General, who is an officer of the Parliament, made a routine appearance to give evidence about the estimates for the ANAO (F&PA, 22/5). He then appeared again before RRAT on 23 May to assist that committee with questions about ANAO Report No. 46 of 2016–17, *Conduct of the OneSKY Tender*. Immediately following the appearance of officers of the ANAO,

Airservices Australia appeared before the committee. The committee then called the ANAO back to clarify evidence, before returning to Airservices Australia. The audit of the OneSKY program had commenced following correspondence from the RRAT Committee in the 44th Parliament which raised concerns about the performance of Airservices Australia.

The cross-portfolio hearing on Indigenous matters – now regularly conducted by the Finance and Public Administration Committee – took place on 26 May. Following an order of the Senate of 29 March this year, a second cross-portfolio hearing – by RRAT on Murray-Darling Basin Plan matters – was conducted on the same day.

The Manchester bombing and the release of the coroner's report on the Lindt Café Siege occurred during this round, and the Attorney-General made statements to update the Legal and Constitutional Affairs Committee about these matters and took questions from senators (L&C, 24/5).

Procedural matters

There were few claims of public interest immunity at this round of hearings. However, some officials tried to suggest that they would not answer questions because the matter was advice to government or subject to legal professional privilege; grounds the Senate has declared do not of themselves meet the requirements of the [public interest immunity](#) process (L&C, 22/5). The Registrar of the Australian Administrative Tribunal (AAT) sought to resist a request to produce an email attachment to her briefing notes. While the Registrar of the AAT is a statutory office-holder, the Attorney-General advised the committee that it was for him to make a claim of public interest immunity and that on this occasion he would not make one. On this basis the attachment was provided to the committee.

A request for legal advice obtained by an MP about his constitutional eligibility to sit in the House of Representatives was declined on the basis that no public funds had been spent. The MP commissioned the advice in a private capacity. The issue of a Senate committee inquiring into the eligibility of a member of the House of Representatives – what is known as the comity between the Houses – was not explored (F&PA, 23/5).

An exchange in the Legal and Constitutional Affairs Committee raised questions about the extent of a chair's power to deal with disorder. In the Senate, the power to 'name' and suspend a senator rests not with the President, but with the Senate itself ([standing order 203](#)). The question whether a senator may be removed by resolution of a committee is a complex one, for which there are no precedents. Were such a resolution made, but resisted, *Odgers'* – 14th edition (under [Role of chair in maintaining order](#)) suggests a committee would have no option but to adjourn. In an estimates setting this would bring a committee into conflict with the 2014 orders hearings to continue while senators have further matters to raise. In any event, the committee resolved the matter in a private meeting.

Committee workload has been of interest to the F&PA Committee for some years, and the Senate department provided its [regular update](#), which shows committee activity continues apace, stretching the department's resources (F&PA, 22/5). In a related reflection, at one hearing a departmental head used his opening statement to draw the committee's attention to the number of parliamentary inquiries that the department has been engaged in and the impact on resourcing (E&C, 23/5).

Qualification of senators

The matter of former senators Day and Culleton was discussed. Evidence to the F&PA Committee from the Clerk of the Senate (22/5) and the Special Minister of State (25/5) confirmed that each former senator had incurred a debt to the Commonwealth for salary and allowances paid to them (see [Bulletin 312](#)). Under current legislation, payments made without proper authority automatically become debts (see, for example, [section 16A](#) of the *Remuneration Tribunal Act 1973*), giving rise to the question whether it is economical for agencies to pursue them. In earlier cases, the government has made good payments made in similar circumstances. On 25 May, the Special Minister of State advised the committee that he had considered and approved Mr Day's request that the debt be waived, but had received no such request from Mr Culleton.

Lighter moments

Of course, senators, ministers and officials are human, and despite the long hours and rigorous questioning, there were still examples of lighter moments at this round. The Parliamentary Librarian was asked about her involvement in a product sold at the Parliament House Gift shop, the so-called 'Parliamentary Librarian's Gin'. The Librarian conceded that while she was not personally involved in distilling the liquor, she had suggested that the shop stock it and the Chair advised the committee "personally I am a fan" (F&PA, 22/5).

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