

## CHAPTER 5

### Officers of the Senate: parliamentary administration

Before proceeding to any other business, the Senate chooses a senator to be the President of the Senate.<sup>1</sup> The President and other officers of the Senate perform functions to enable the orderly and regular conduct of its proceedings.

#### The President of the Senate

The President is the presiding officer of the Senate, responsible for the proper conduct of proceedings of the Senate and the interpretation and application of the rules of the Senate.

In relation to proceedings in the Senate, the President calls senators to speak in debate, gives rulings on any questions of order which may be raised and maintains order. The authority of the President to maintain order in the Senate chamber is in force at all times, and not only when the Senate is sitting.<sup>2</sup>

The President is the spokesperson and representative of the Senate in dealings with the Governor-General, the executive government, the House of Representatives and persons outside the Parliament.

Although the President, once elected, may continue to be an active member of a party, the duties of the office, both inside and outside the chamber, must be carried out in an impartial manner. Thus, to some extent, the President is distanced from day-to-day party political activity.

The President has the right of any senator to participate in debate, and did so regularly in the early years of the Senate. Presidents now rarely participate in debate unless on a matter concerning the Senate or the Parliament. One such instance occurred in 1986, when President McClelland took the unprecedented step of introducing a bill, the Parliamentary Privileges Bill 1986. In tabling a draft of the bill for senators to examine before formally introducing the bill, the President said he was taking this step because of the fundamental importance to both Houses of the matters dealt with

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1 Constitution, s. 17.

2 Ruling of President Kingsmill, SD, 5/12/1930, p.1027.

by the bill, which included maintaining the absolute right of freedom of speech in Parliament.<sup>3</sup> The President also participates in committee hearings on the bi-annual Appropriation (Parliamentary Departments) Bills and (where applicable) in committee of the whole proceedings on those bills.<sup>4</sup>

The President also has the right to exercise a deliberative vote on all matters in the Senate or in committee of the whole, but when in the chair of the Senate is not compelled to do so.<sup>5</sup> When the votes in the Senate are equally divided the question passes in the negative.<sup>6</sup> This provision of a presiding officer having a deliberative and not a casting or deciding vote was enshrined in the Constitution to ensure that the states should have equal voting strength.<sup>7</sup> In the course of attempts to form a minority government in the House of Representatives after the 2010 election, there was much debate about the Speaker's role. Unlike the President, the Speaker exercises a casting vote only. Advice on the matter by Senator Brandis SC was tabled in the Senate.<sup>8</sup>

The ceremonial duties of the President include participation in the opening of Parliament and visits by foreign Heads of State. The President also represents the Senate at international conferences, leads some parliamentary delegations to other nations and receives parliamentary delegations visiting Australia.

The President is the parliamentary head of the Department of the Senate, and is responsible to the Senate for its operations. The President's role is similar to that of a minister of an executive department. In addition to ministerial-type functions, the President's duties include chairing the Standing Committee on Appropriations and Staffing, which determines the budget and oversees the organisational structure of the department. The President is also concerned with the seating arrangements in the chamber, senators' room allocations and entitlements of senators.

The President has joint administrative responsibility with the Speaker of the House of Representatives for the joint department supplying services to senators and members of the House of Representatives, and also has joint control of the parliamentary precincts.<sup>9</sup> The President and the Speaker are also jointly responsible for security, parliamentary education and relations with other parliaments.

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3 SD, 4/6/1986, p. 3308; see Chapter 2, Parliamentary Privilege.

4 See Chapter 13, Financial Legislation.

5 Constitution, s. 23; SO 99.

6 Constitution, s. 23.

7 See also Voting by President and Deputy President, below.

8 26/10/2010, J.216.

9 *Parliamentary Precincts Act 1988*.

## Election and vacation of office of President

Section 17 of the Constitution provides that the office of President must be filled whenever it becomes vacant; the Senate cannot function without a President.

The office of President becomes vacant if the President dies, ceases to be a senator, resigns from office, or is removed by a vote of the Senate. The office also becomes vacant on the day before a sitting of the Senate after 30 June following a periodical Senate election (that is, following a turnover of the state senators), and on a proclamation of dissolution of the Senate and House of Representatives under section 57 of the Constitution. If a territory senator is the President and is re-elected at a general election, the office of President does not become vacant because there is no break in such a senator's term of office as a senator; he or she remains in the Chair as President but takes the oath or affirmation as a senator at a subsequent sitting of the Senate.<sup>10</sup>

The President may resign as President or as a senator by writing addressed to the Governor-General.<sup>11</sup>

Before the election of the President, the Clerk of the Senate acts as chair of the Senate, and has the powers of the President under the standing orders while so acting.<sup>12</sup>

A senator, addressing the Clerk, proposes to the Senate as President some senator then present, and moves that that senator take the chair of the Senate as President. When only one senator is proposed, the senator is called by the Senate to the chair without any question being put, and the senator then expresses a sense of the honour proposed to be conferred, and is conducted to the chair by the senator or senators who proposed the motion.<sup>13</sup>

When two or more senators are proposed as President, a motion is made regarding each senator — “That Senator            take the chair as President”. Each senator so proposed may address the Senate; in practice this is usually no more than a short statement, “I submit myself to the will of the Senate”. The senator proposing the motion for the election of a President, and any senator speaking to it, may speak for not longer than 15 minutes.<sup>14</sup> This means that debate cannot occur until all nominations have been received, so that any senator speaking is able to refer to all nominations. The candidates address the Senate before other senators speak.<sup>15</sup> There is no provision in the standing orders for a reply by the movers of motions proposing senators as President.

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10 Constitution, s. 17; SO 5(1); *Parliamentary Presiding Officers Act 1965*; Procedure Committee, Third Report of 1992, PP 510/1992, pp. 7-11; case of President Reid, 10/11/1998, J.4-6; 12/2/2002, J.5-6.

11 Constitution, s. 17. For precedent, see case of President Calvert, 14/8/2007, J.4185.

12 SO 6(1).

13 SO 6(3).

14 SO 6(2).

15 SD, 14/8/2007, p. 1.

When there are two or more candidates for President, an election is conducted by secret ballot. This practice was established at the first meeting of the Senate in 1901, senators regarding it as the best way of ascertaining the choice of the majority. Each senator is provided by the Clerks with a ballot paper upon which to write the name of the candidate for whom the senator votes.

In the case of two candidates the votes are collected and counted by the Clerks, under the supervision of senators, usually whips from the party or parties sponsoring the candidates, and the candidate who has the greater number of votes is declared by the Clerk to be elected President. The successful candidate is then conducted to the chair.<sup>16</sup>

When there are more than two candidates, the votes are taken in the same way, and the senator who has the greatest number of votes is declared the President, provided that there is also a majority of the votes of the senators present.<sup>17</sup> If no candidate has such a majority the name of the candidate having the smallest number of votes is withdrawn, and a fresh ballot is taken. This is done as often as necessary, until one candidate is declared elected as President by majority, and that senator is conducted to the chair.<sup>18</sup> There have been more than two candidates twice. On 9 May 1901, three candidates contested the first election for President, which was won by an absolute majority on the first ballot by Senator Richard Baker.<sup>19</sup> On 17 February 1987, three candidates stood for election, and on this occasion two ballots were required to elect Senator Kerry Sibraa as President.<sup>20</sup>

If the votes are equally divided, the Clerk declares accordingly, and the votes are again taken. If again the votes are equally divided, the Clerk determines, by lot, which candidate should be withdrawn.<sup>21</sup> This has happened only once in the history of the Senate, on 1 July 1941.<sup>22</sup> The constitutionality of standing order 7(4) providing for the drawing of lots was raised in the Senate on 25 November 1908, in connection with the election of a Chair of Committees.<sup>23</sup> Senator Neild pointed out that section 23 of the Constitution provided that where the votes of the Senate are equally divided the question shall pass in the negative, and contended that the standing order providing for the drawing of lots was in derogation of the Constitution. President Gould held that section 23 of the Constitution related to ordinary questions submitted to the Senate, and stated that he was obliged to follow the standing order.

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16 SO 7(1).

17 SO 7(2).

18 SO 7(3).

19 J.3-4.

20 J.1591-2.

21 SO 7(4).

22 J.83.

23 SD, p. 2158.

No subsequent examination of any ballot papers of a secret ballot of the Senate is permitted.<sup>24</sup> This ruling was given in response to a suggestion by a senator that ballot papers be examined to refute a press claim about his vote. It would not prevent a formal inquiry by the Senate into an election if such proved necessary.

Having been conducted to the chair, the senator elected acknowledges to the Senate the honour conferred and assumes the chair. The President then receives the congratulations of the Senate, and a minister informs the Senate of the time for presentation of the President to the Governor-General. Before the Senate proceeds to any business, the President, accompanied by senators, is presented to the Governor-General.<sup>25</sup> This presentation is a custom of courtesy only and does not affect the President's tenure of office or powers.

### **Title and precedence of President**

While in office the President is entitled to the title "Honourable". When the President leaves office, the practice is that the title may be retained only if authorised by the monarch.

Since 1975, the Presiding Officers of the two Houses have ranked in precedence after the Prime Minister, and the relative precedence of the President and the Speaker is determined by date of appointment. If the President and Speaker are appointed on the same day, the President takes precedence.<sup>26</sup>

### **Deputy President and Chair of Committees**

The Deputy President and Chair of Committees is the President's deputy and may take the chair in the Senate when requested by the President to do so, and is also the presiding officer in committee of the whole, presiding over committee proceedings in the chamber whenever a committee of the whole Senate is constituted.<sup>27</sup> Such a committee is formed for several purposes, but particularly for the detailed examination of legislation.<sup>28</sup> When the committee is formed, the President leaves the President's chair, and the Chair of Committees takes the chair at the table below, between the Clerk and the Deputy Clerk. The composition of the committee is the same as that of the Senate.

The Deputy President is also deemed to be the President for the purpose of the statutory functions

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24 Ruling of President O'Byrne, SD, 11/7/1974, pp. 81-3, 101.

25 SO 8; for a suspension of this standing order, see 1/2/1994, J.1143. For early confusion about the purpose of the presentation, see *Annotated Standing Orders of the Australian Senate*, under SO 8.

26 The history of the question of precedence is in *ASP*, 6th ed., at pp. 187-9.

27 SO 11.

28 SO 115(1).

of the President in the event of the President's death, absence or incapacity.<sup>29</sup>

The Deputy President and Chair of Committees exercises the same authority when presiding in the Senate or in committee as the President, but any disorder in committee may be dealt with only by the Senate, on receiving a report from the Chair.<sup>30</sup>

The Deputy President takes the chair of the Senate whenever requested to do so by the President during a sitting of the Senate, without any formal communication to the Senate.<sup>31</sup> The Deputy President must not remain in the chair of the Senate after the President enters the chamber.<sup>32</sup> When the President is in the chamber the President must be in the chair, and cannot, in order to take part in debate in the Senate, put the Deputy President in the chair.<sup>33</sup> Similarly, the Deputy President and Chair of Committees must be in the chair when in the chamber in committee of the whole.

The term of service and method of appointment of the Deputy President and Chair of Committees are the same as for the President.<sup>34</sup>

Since 1981 there has been a practice, usually followed, whereby, if the President is a senator from the party supporting the government (which has invariably been the case since 1974), the Deputy President is chosen from the largest party not supporting the government.<sup>35</sup>

The standing orders make no provision for the resignation of the Deputy President and Chair of Committees. Resignations in writing have been directed to the President.<sup>36</sup> There is no reason for a resignation not being made orally in the Senate, but in some past cases the senators concerned have been appointed as ministers and it is obviously undesirable that a Deputy President should also hold ministerial office for a period until the Senate next meets.

## **Temporary Chairs**

At the commencement of every Parliament the President nominates a panel of not less than two senators who may act as Temporary Chairs of Committees when requested so to do by the Chair

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29 *Parliamentary Presiding Officers Act 1965*, ss. 5-7.

30 SO 144(7).

31 SO 15(1).

32 Ruling of President Givens, SD, 24/6/1915, p. 4312.

33 Ruling of President Givens, SD, 18/4/1918, p. 4021.

34 SOs 9 and 10.

35 For a list of Presidents and Deputy Presidents and Chairmen of Committees, see *Annotated Standing Orders of the Australian Senate*, Appendices 2 and 3.

36 16/3/1965, J.222; 19/2/1980, J.1129; 9/5/1995, J.3235; 6/5/1997, J.1829.

of Committees, or when the Chair of Committees is absent.<sup>37</sup>

The warrant nominating the panel of Temporary Chairs is read to the Senate by the President and laid upon the Table. It is usual for the President to nominate up to 16 senators as Temporary Chairs. Separate appointments of additional Temporary Chairs may be made.

The nomination of Temporary Chairs is the President's prerogative, but in practice the parties indicate their nominees for appointment.

During the absence of the Deputy President, the President may call on any one of the Temporary Chairs of Committees to relieve temporarily in the chair, without any formal communication to the Senate.<sup>38</sup> The Temporary Chairs are placed on a roster organised by the Deputy President, and all Temporary Chairs on the panel may expect to serve regularly in the President's chair or in the chair of committee of the whole. The Temporary Chairs exercise the full authority of the President or Chair of Committees when presiding in the Senate or committee of the whole.

### **Rulings of the Chair**

The President, Deputy President or senator in the chair may give a ruling on any question of order, whether or not a point of order is raised by a senator. A ruling may be an interpretation or application of a standing order or may be made in the absence of provision in the standing orders. The early decision of the Senate not to adopt a standing order providing for the usages of the House of Commons to be observed in the absence of other provision, but rather to build up its own rules, forms, and practices, has necessarily resulted in many President's rulings.<sup>39</sup> It is established Senate practice that, where there may be doubt with respect to the interpretation of a rule or order, the chair leans towards a ruling which preserves or strengthens the powers of the Senate and the rights of senators rather than one which may weaken or lessen those powers and rights.

A President's ruling which has not been dissented from is equivalent to a resolution of the Senate and must be complied with.<sup>40</sup>

It is the chair's duty to see that the powers and immunities of the Senate, as provided by the Constitution, are observed, but unless the conduct of the business of the Senate is at issue the chair

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37 SO 12.

38 SO 15(2).

39 See Chapter 1, under Rules and Orders.

40 Ruling of President Baker, SD, 4/10/1906, pp. 6089-90; rulings of President Gould, SD, 9/8/1907, pp. 1690-1; 18/10/1907, p. 4909.

ought not to be called upon to decide a question involving the interpretation of the Constitution.<sup>41</sup>

It is not the duty of the chair to determine the constitutionality of a standing order, but to carry it out.<sup>42</sup> Nor is it the chair's duty to adjudicate upon points of law;<sup>43</sup> to decide technical legalities of interpretation in any bill; to compel the government to table regulations; or to decide whether a regulation is null and void; to judge the correctness or otherwise of statements made by senators;<sup>44</sup> or to interpret the standing orders of, or the procedure on a bill in, the House of Representatives.<sup>45</sup>

See also Chapter 10, Debate, under Questions of order. For objection to a ruling of the President, see Chapter 10, Debate, under that heading.

## **Questions to the President**

The practice whereby questions could be addressed to the President was put into standing order 72 in 2009.<sup>46</sup>

The President also appears before the relevant committee, accompanied by parliamentary officers, to answer questions on the estimates for the Senate Department and the joint parliamentary department, and may be required to answer further questions in committee of the whole on those estimates, if relevant amendments or requests for amendments are circulated to the parliamentary departments appropriation bill.

## **Absence of President and Deputy President**

If the President is absent at the commencement of a sitting of the Senate, the Clerk informs the Senate, and the Deputy President takes the chair. The Deputy President then performs the duties and exercises the authority of President in relation to all proceedings of the Senate until the next meeting of the Senate, provided that, if the Senate adjourns for more than 24 hours, the Deputy President acts for the President for 24 hours only after the adjournment, unless the Senate otherwise provides.<sup>47</sup>

When it is known that the President will be absent from the sittings of the Senate for longer than

41 Rulings of President Baker, SD, 1/8/1901, p. 3375; 1/7/1903, p. 1595; 11/8/1904, p. 4127; 15/12/1904, p. 8571; ruling of President Mattner, SD, 11/9/1952, p. 1265.

42 Ruling of President Gould, SD, 25/11/1908, p. 2158.

43 Rulings of President Kingsmill, SD, 26/3/1931, p. 630; 28/10/1931, p. 1258, 1273.

44 Rulings of President Givens, SD, 22/7/1915, p. 5230; 6/12/1916, p. 9390; 25/7/1917, p. 415.

45 Ruling of President Baker, SD, 8/12/1905, pp. 6538-42.

46 Adopted 10/3/2009, J.1657-8.

47 SO 13.

one sitting, it is the practice to empower the Deputy President by motion to perform the duties and exercise the authority of President during such an absence. Where appropriate the President announces a forthcoming absence in advance and a motion is then moved to empower the Deputy President to act. This procedure obviates the necessity for the daily announcement by the Clerk of the President's absence.

If both the President and the Deputy President are absent, the senators present, if a quorum, must elect a senator present to act as President for that day only, the question being put to the Senate by the Clerk.<sup>48</sup> The Senate may also appoint a senator to act as President by a special order in circumstances not covered by the standing order.<sup>49</sup>

On 21 December 1990, as a courtesy to a long-serving senator who was retiring on that day, the senator took the chair by leave of the Senate granted on 20 December.<sup>50</sup>

In 1965 the Parliamentary Presiding Officers Act was passed to provide a legal basis for the performance of certain statutory powers of the President of the Senate and the Speaker of the House of Representatives when their offices are vacant. Provision was also made in the Act for the presiding officers' statutory functions to be performed by the deputy presiding officers when required.

## Voting by President and Deputy President

The President and Deputy President are in all cases entitled to a vote. When in the chair they may vote by stating to the tellers whether they vote with the "Ayes" or with the "Noes".<sup>51</sup>

Voting by the President, or the Deputy President as Chair of Committees, when in the chair, is optional.<sup>52</sup> In practice this rule is extended to any senator occupying the chair. The reason for the rule is that a senator in the chair cannot avoid voting by leaving the chamber when a division is called for, as can other senators. In practice, however, the senator in the chair normally votes in a division.

When the President is present in committee of the whole during a division the President must vote. Similarly, if the Deputy President is present in the Senate when a division is presided over by the President, the Deputy President must vote.

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48 SO 14; 6-8/11/1962, J.165, 167, 169.

49 5/10/1993, J.562-3.

50 20-1/12/1990, J.663, 675.

51 Constitution, s. 23; SO 99.

52 SO 101(5).

As with the President, a senator in the chair has a deliberative vote and not a casting or deciding vote.

## **The Clerk of the Senate**

The Clerk of the Senate is the principal adviser in relation to proceedings of the Senate to the President, the Deputy President and Chair of Committees, and senators generally. The Clerk's advice is given both in the Senate chamber when the Senate is sitting and at other times, and may be in oral or written form. Each senator has access to the advice on the basis of equality and confidentiality. Frequently, however, written advice is made public by the senator who sought it.

In addition, the Clerk is the departmental head of the Department of the Senate, exercising in accordance with the *Parliamentary Service Act 1999* the powers of a secretary of a department, and is responsible to the President and to the Senate for the budget, staffing and operations of the department.

The Clerk is appointed by the President of the Senate after consultation with senators for a non-renewable term of 10 years.

In the chamber, the Clerk sits at the table on the floor of the Senate, on the President's right. All proceedings are noted by the Clerk, who is responsible for the preparation and publication of the Journals of the Senate.<sup>53</sup> The Clerk has the custody of the Journals, records and all documents laid before the Senate, and they must not be taken from the chamber or Senate offices without the permission of the Senate.<sup>54</sup>

Whenever the office of President becomes vacant, the Clerk acts as chair of the Senate prior to the election of the President, and has the powers of the President under the standing orders while so acting.<sup>55</sup>

Before a bill is sent or returned to the House of Representatives, the Clerk certifies at the top of the first page the manner in which the Senate has dealt with the Bill.<sup>56</sup> When a bill which originated in the Senate has finally passed both Houses, the Clerk must, before the bill is presented to the Governor-General for assent, certify on the last page of the bill that it originated in the Senate and has finally passed both Houses.<sup>57</sup>

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53 SO 43.

54 SO 44; a resolution of 6 October 2005, on the recommendation of the Procedure Committee, authorises the storage of original tabled documents outside Parliament House, 6/10/2005, J.1200.

55 SO 6(1).

56 SO 125.

57 SO 137.

The Clerk also acts as secretary and adviser to the Procedure Committee, which is appointed at the commencement of each Parliament. The committee, which was called the Standing Orders Committee before 1987, consists of the President, the Deputy President as chair and leaders and senior members of all parties represented in the Senate. It examines procedural matters referred to it by the Senate or the President, and evaluates, and recommends changes to, the rules of the Senate to facilitate full and fair debate and the proper conduct of the business of the Senate and its committees.

## **The Department of the Senate**

The Department of the Senate has existed since 1901 but is now established under the *Parliamentary Service Act 1999*, and provides the Senate, its committees, the President of the Senate and senators with a broad range of advisory and support services, to enable the performance of the constitutional role of the Senate. These services include procedural advice, legislative drafting, secretariats for committees, programming and documentation support for the chamber, the processing of legislation and other documents, research and education, and administrative support.

Staff of the department are employed under the Parliamentary Service Act. The department and its officers serve equally senators from all political parties and independent senators. Many staff have a high level of individual and direct responsibility to senators.

The Department is administered by a senior executive consisting of the Deputy Clerk, three Clerks Assistant and the Usher of the Black Rod. The Deputy Clerk supports and deputises for the Clerk, has various corporate governance responsibilities and is responsible for information management and inter-parliamentary relations on behalf of the department. Each Clerk Assistant and the Usher of the Black Rod is responsible for the efficient management of an office of the department.

The Senate Department receives its funding through the Appropriation (Parliamentary Departments) Acts, is accountable to the Senate through the President of the Senate, and is subject to scrutiny by the Senate Standing Committee on Appropriations and Staffing (see below) and the Finance and Public Administration Committee which also considers its estimates. It is also subject to examination annually by the Auditor-General, and continuously throughout the year by a contract internal auditor. Apart from legislation which establishes the special nature of the parliamentary service, such as the Parliamentary Service Act and the Appropriation (Parliamentary Departments) Act, the department operates within the same legislative framework as executive departments.

## **Senate's appropriations and staffing**

Appropriations for the Department of the Senate are determined in the first instance by the Standing Committee on Appropriations and Staffing, which also advises the President on staffing matters.

The committee was established following the adoption of recommendations in the report of the Select Committee on Parliament's Appropriations and Staffing tabled in the Senate on 18 August 1981. The select committee referred to the unsatisfactory situation then prevailing whereby the appropriations for the parliamentary departments were included in the appropriation bills for the ordinary annual services of government, thus making Parliament dependent on the executive for funds and contradicting the principles of separation of powers and parliamentary independence. The history of the issue is covered in Chapter 2 of the select committee's report.<sup>58</sup> The select committee recommended a separate appropriation bill for the Parliament, the creation of a mechanism for considering staffing proposals and determining the appropriations for the Department of the Senate, independently of, but in consultation with, the government, and amendment of the then relevant legislation to give the Presiding Officers greater autonomy over staffing matters. The recommendations were supported by all parties in the Senate and were accepted by the government, subject to the proviso that the government insisted on maintaining ultimate control over the total amount of funds available to the Parliament because of its responsibility in relation to public expenditure. A separate appropriation bill for the Parliament was introduced for 1982-83 and thereafter. The Appropriations and Staffing Committee was first appointed in 1982.<sup>59</sup> The select committee recommended the establishment of a similar standing committee in the House of Representatives to consider staffing and appropriations matters relating to that House, and to meet with the Senate committee in relation to joint services. In 2010, under pressure from independent and minor party members, the minority government agreed to the establishment of an equivalent committee in the House.

The standing committee is established by standing order 19, which provides:

The Committee shall inquire into:

- (a) proposals for the annual estimates and the additional estimates for the Senate;
- (b) proposals to vary the staff structure of the Senate, and staffing and recruitment policies; and
- (c) such other matters as are referred to it by the Senate.

The Committee shall:

- (a) in relation to the estimates —
  - (i) determine the amounts for inclusion in the parliamentary appropriation bills for the annual and the additional appropriations, and

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58 PP 151/1981.

59 25/3/1982, J.834.

- (ii) report to the Senate upon its determinations prior to the consideration by the Senate of the relevant parliamentary appropriation bill;
- (b) in relation to staffing —
  - (i) make recommendations to the President, and
  - (ii) report to the Senate on any matter;
- (c) make an annual report to the Senate on the operations of the Senate's appropriations and staffing, and related matters; and
- (d) consider the administration and funding of security measures affecting the Senate and advise the President and the Senate as appropriate.

The standing committee's method of operation is largely as envisaged by the select committee chair, Senator Jessop, who, in responding to queries from Senator Peter Rae, gave the following description of its intended procedures:

In relation to the estimates, both Budget and Additional, the proposals of the Clerk of the Senate for the Senate and its Committees would be submitted to the proposed Committee through the President as Chairman.

A programme of deliberative meetings of the Committee would then follow, open to all interested Senators, during which the Clerk's estimates would be examined, added to, deleted or reduced, as thought necessary. In addition, other proposals from Senators or groups of Senators could be considered for inclusion in the Estimates of the Senate.

The Estimates, as finally agreed upon by the Committee would then be submitted by the President to the Minister or Finance for inclusion, without modification, in a separate Parliamentary Appropriation Bill.

The Committee would then prepare a report covering its deliberations concerning the Estimates for use by the Senate when considering the Parliamentary Appropriation Bill, after its receipt from the House of Representatives.<sup>60</sup>

In the period from 1985 to 1995, the then Minister for Finance occasionally unilaterally modified the amounts determined by the committee for inclusion in the Appropriation (Parliamentary Departments) Bill and this was a source of dispute between the committee and the government. The matter was extensively discussed before Estimates Committee A during the 1985 Budget sittings, followed by a lengthy debate on the Appropriation (Parliamentary Departments) Bill

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60 SD, 19/11/1981, p. 2411.

1985-86, during which the Chair of Estimates Committee A, Senator Richardson, moved the following motion in committee of the whole:

That the committee, having considered the report of Estimates Committee A, recommends:

That —

- (a) the provisions of the Resolution of the Senate dated 25 March 1982, relating to the responsibilities of the Standing Committee on Appropriations and Staffing with respect to the Estimates for the Senate, are reaffirmed;
- (b) the estimates of expenditure for the Senate to be included in the Appropriation (Parliamentary Departments) Bill shall continue to be those determined by the Standing Committee on Appropriations and Staffing;
- (c) if before the introduction of the Bill the Minister for Finance should, for any reason, wish to vary the details of the estimates determined by the Committee he should consult with the President of the Senate with a view to obtaining the agreement of the Committee to any variation;
- (d) in the event of agreement not being reached between the President and the Minister, then the Leader of the Government in the Senate, as a member of the Appropriations and Staffing Committee, be consulted;
- (e) the Senate acknowledges that in considering any request from the Minister for Finance the Committee and the Senate would take into consideration the relevant expenditure and staffing policies of the Government of the day; and
- (f) in turn the Senate expects the Government of the day to take into consideration the role and responsibilities of the Senate which are not of the Executive Government and which may at times involve conflict with the Executive Government.<sup>61</sup>

The resolution was agreed to and provided some basis for resolving disputes between the committee and the Minister for Finance. It soon became apparent, however, that the intent of the resolution could be circumvented by delay on the part of the Minister for Finance, leaving insufficient time for consultation with the President and the committee on any modified figure to be included in the bill. This matter was canvassed in the Eleventh Report of the committee presented on 1 September 1988.<sup>62</sup> During debate in committee of the whole on the Appropriation (Parliamentary Departments) Bill 1988-89 in November 1988, the following resolution, recommended by the committee and moved by Senator Michael Baume, was agreed to:

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61 2/12/1985, J.676.

62 PP 383/1988.

That the committee, having considered the Eleventh Report of the Standing Committee on Appropriations and Staffing —

- (a) reaffirms the Resolution of 2 December 1985 concerning the determination of the estimates of expenditure for the Senate to be included in the Appropriation (Parliamentary Departments) Bill;
- (b) requires the Minister for Finance to process the Senate Department's estimates as early as practicable to enable any differences between the Minister and the Committee to be resolved in accordance with the Resolution; and
- (c) expects that the Resolution will be adhered to in determining those estimates in the future.<sup>63</sup>

The same resolution had also been agreed to on 28 September 1988 by the adoption of the committee's Eleventh Report.<sup>64</sup>

The committee's Twelfth Report, presented on 24 October 1989, quoted from the opening statement made by the President to Estimates Committee A on 26 September 1989 in which he noted correspondence with the Leader of the Government in the Senate pointing out the desirability of having a well-briefed minister at committee meetings to represent the government's view and to participate in the process of determining the appropriations.<sup>65</sup> The Twelfth Report also noted the introduction of the running costs system under which continuing levels of expenditure for normal operations would proceed on an agreed basis, with funding for new policy or unforeseen matters to be determined in the usual way. Following the establishment of a base level of funding, the Senate Department would be responsible for management of its own resources and determination of priorities within the net funding level provided. The committee agreed that this system should be tried but did not accept that the 1989-90 appropriations represented an adequate base. It was apparent that satisfactory negotiations on the amounts for new policy would depend on the Minister for Finance's compliance with the relevant resolutions.

In May 1994, after the committee had formally agreed to the adoption of the running costs system for the Department of the Senate in March 1992, the shortcomings of the procedure remained apparent when the Minister for Finance declined to vary his modification of the Committee's determination. Discussions in Estimates Committee F reiterated as a possible solution the earlier involvement of the government in the process of determining the Department's estimates:

... the way to make it work as it was intended to work is for the minister representing the

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63 30/11/1988, J.1214.

64 J.954.

65 PP 460/1989; Report, p. 2.

Leader of the Government on the appropriations and staffing committee to be briefed and prepared at the stage of the committee's determination to put the government's view and to influence the committee's determination at that stage.

Now as the Senate resolution recognises, there may still be difficulties after that if the government still has a particular difficulty with the determination of the committee. That is when that set of negotiations can come into play in accordance with the resolution. But with that situation the negotiations should be able to proceed immediately. There should be no long delay between the determination of the committee and the response of the Minister for Finance.<sup>66</sup>

In its 22nd report, on the appropriations for the Senate for 1995-96 in May 1995, the committee revealed that the appropriations for the Department of the Senate determined by the committee had again been reduced by the Minister for Finance before inclusion in the appropriation bill as introduced into the House of Representatives, without the consultation required by successive resolutions of the Senate.<sup>67</sup> On this occasion, however, the reductions in the amounts were not minor as in the past but significant, as part of the government's efforts to reduce public expenditure. The committee reported that it would be pursuing the matter of appropriate funding for Senate committees, which were to receive most of the funds left out of the bill by the minister.

In 1996 the Appropriations and Staffing Committee reported that, in determining the Senate's appropriations for 1996-97, it had accepted requests by the government to make general reductions in expenditure, but had not accepted a repudiation by the Department of Finance of an agreement which had been arrived at in the previous year concerning committee funding. The committee reported that, after further negotiations between the committee and the Minister for Finance, an agreement had been reached whereby further funds were provided for the purposes of Senate committees.<sup>68</sup>

Agreement between the committee and the Minister for Finance on a method for calculating funding for select committees, and changes in government budgeting methods generally, have usually avoided disagreements in recent years but the old problems resurfaced in 2011 when the government agreed to only one of three new policy proposals endorsed by the committee but provided no response to the President or the committee.<sup>69</sup>

In its 40th report in May 2004 the committee reported that the government had attempted to cut the funding of the Senate Department to pay for increased security expenditure, although it

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66 Clerk of the Senate, Evidence, Estimates Committee F, 27/5/1994, p. F99.

67 PP 490/1995.

68 Annual Report of the committee, 1995-96, PP 427/1996.

69 52nd report, Estimates for the Department of the Senate 2011-12, PP 128/2011.

had previously claimed that that expenditure would be covered by savings from amalgamation of other departments.<sup>70</sup> The committee recommended a rearrangement of funding, subsequently adopted by the Senate, so that the cuts would fall on the other departments. This also had the effect of saving the House of Representatives Department from the cuts. The committee also recommended measures to ensure oversight by the Senate of the security system. The Senate adopted these proposals.<sup>71</sup>

The committee has a mandate to inquire into proposals to vary the staffing structure of the Senate as well as “such other matters as are referred to it by the Senate”. In 1987, a review of the administration of Parliament was undertaken in preparation for the move to the new and permanent Parliament House in 1988. In this context, Senator Georges moved the following motion, agreed to by the Senate on 3 June 1987:

That the Senate declares that no changes in the structure or responsibilities of the Parliamentary Departments should be made until —

- (a) particulars of proposed changes have been provided to all Senators;
- (b) the Standing Committee on Appropriations and Staffing has examined the proposed changes and reported to the Senate; and
- (c) the Senate has approved of the changes.<sup>72</sup>

Upon his re-election to the Presidency on 14 September 1987, Senator Sibraa affirmed his commitment to this course of action.<sup>73</sup>

The committee also oversees the funding and administration of security arrangements affecting the Senate, under an amendment of the standing order in 2004.<sup>74</sup>

## Other Departments

There are three other parliamentary departments:

- **Department of the House of Representatives**, which provides procedural, information and advisory services for members of the House of Representatives.

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70 PP 125/2004.

71 16/6/2004, J.3480; See also the 41st report of the committee, PP 360/2004; 8/12/2004, J.273.

72 J.1951.

73 SD, 14/9/1987, p. 5; for resolutions of the Senate approving changes under this procedure, see 4/9/1997, J.2429; 25/9/1997, J.2517; 18/11/2002, J.1120.

74 For further information on parliamentary appropriations, see Chapter 13, Financial Legislation, under that heading. See also Chapter 16, Committees, under Appropriations and Staffing Committee.

- **Department of Parliamentary Services**, a joint department which provides services used in common by members of both Houses:
  - library, reference and research services to senators and members
  - transcripts of proceedings of both Houses and their committees, information systems support to senators, members and the parliamentary departments, and audio and video monitoring of the proceedings of both Houses and their committees
  - building management, maintenance and catering functions associated with Parliament House.
- **Department of the Parliamentary Budget Office** (known as the Parliamentary Budget Office), a joint service established by the *Parliamentary Service Amendment (Parliamentary Budget Officer) Act 2011*, headed by the Parliamentary Budget Officer who is responsible for delivering a range of economic analysis, including costing of policies, to members of parliament.

An independent position of Parliamentary Librarian is established within the Department of Parliamentary Services.

The Department of the House of Representatives is administered by the Speaker of that House. The joint department is administered by the President and the Speaker jointly, as is the Parliamentary Budget Office.

For the amalgamation of three joint departments into one in 2003, see the 39th and 40th reports of the Appropriations and Staffing Committee.<sup>75</sup>

For control of Parliament House and the parliamentary precincts, see Chapter 2, Parliamentary Privilege, under Parliamentary precincts.

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75 PP 125/2003, 125/2004, and SD, 23/6/2003, pp.12164-8; 18/8/2003, pp. 13780-802; Finance and Public Administration Legislation Committee estimates hearing transcript, 24/5/2004, pp. 2-6, 20-1.