

The Senate

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Finance and Public Administration  
Legislation Committee

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Additional estimates 2005-06

March 2006

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## Membership of the Committee

### Members

Senator Brett Mason (Chair)	LP, QLD
Senator Andrew Murray (Deputy Chair)	AD, WA
Senator George Brandis	LP, QLD
Senator Carol Brown	ALP, TAS
Senator Mitch Fifield	LP, VIC
Senator Michael Forshaw	ALP, NSW

### Participating members

Senators Abetz, Bartlett, Bob Brown, Carr, Chapman, Colbeck, Conroy, Coonan, Crossin, Eggleston, Evans, Faulkner, Ferguson, Ferris, Fifield, Fierravanti-Wells, Hogg, Joyce, Ludwig, Lundy, Ian Macdonald, Marshall, McGauran, Milne, Moore, O'Brien, Parry, Payne, Ray, Sherry, Siewert, Stephens, Trood, Watson and Webber.

NOTE: all senators may attend a meeting of a legislation committee in relation to estimates, question witnesses and participate in the deliberation of the committee at such a meeting (see Standing Order 26(8)).

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# **Additional Estimates 2005-06**

## **Introduction**

1.1 On 8 February 2006, the Senate referred to the Committee for examination and report the following documents:

- Particulars of proposed additional expenditure in respect of the year ending on 30 June 2006;
- Particulars of certain proposed additional expenditure in respect of the year ending on 30 June 2006;
- Statement of savings expected in annual appropriations made by Act numbers 72 and 73 of 2005;
- Final Budget Outcome 2004-05; and
- Advance to the Finance Minister as a Final Charge for the year ended on 30 June 2005.

1.2 The Senate also referred the following:

- Mid-year economic and fiscal outlook 2005-06;
- Consolidated financial statements for the year ended 30 June 2005; and
- The 2005 Tax Expenditures Statement.

### **Portfolio coverage**

1.3 The Committee has responsibility for examining the expenditure and outcomes of the following:

- Parliamentary departments;<sup>1</sup>
- Prime Minister and Cabinet portfolio; and
- Finance and Administration portfolio.

Appendix 1 lists the departments and agencies under the portfolios mentioned above.

### **Hearings**

1.4 The Committee held public hearings on Monday, 13 and Tuesday, 14 February 2006. Copies of the Committee's transcript of evidence are tabled in two

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1 As a matter of comity between the Houses, it is traditional that neither House inquires into the operations of the other House. For this reason, neither the annual report of, nor the proposed expenditure for, the Department of the House of Representatives is referred to a Senate committee for review.

volumes of *Hansard* for the information of the Senate. Copies of *Hansard* are available on the internet at the following address: <http://aph.gov.au/hansard>.

1.5 Further written explanations furnished by departments and agencies will be tabled, when received, in volumes entitled Additional Information. That information is also available on the Committee's internet page, found at the following address: [http://www.aph.gov.au/Senate/committee/fapa\\_ctte/estimates/index.htm](http://www.aph.gov.au/Senate/committee/fapa_ctte/estimates/index.htm)

1.6 As a matter of Parliamentary Privilege, all information is 'tabled' on receipt.

1.7 Over the course of the two days' hearings—totalling 22 hours—the Committee took evidence from the President of the Senate, Senator the Honourable Paul Calvert; the Minister for Finance and Administration, Senator the Honourable Nick Minchin, representing the Prime Minister; the Special Minister of State, Senator the Honourable Eric Abetz, representing the Minister for Finance and Administration; the Minister for Ageing, Senator Santo Santoro, representing the Minister for Finance and Administration; and Parliamentary Secretary, Senator the Honourable Richard Colbeck, representing the Minister for Finance and Administration, together with officers of the departments and agencies concerned.

1.8 The following agencies were released from the hearings without examination: the Australian Public Service Commission; the National Water Commission; the Office of the Inspector-General of Intelligence and Security; the Office of the Official Secretary to the Governor-General; the Commonwealth Grants Commission; and Australian Hearing.

### **Examination of departments and agencies**

1.9 The most notable feature of this round of additional estimates was the government directive to officials appearing before all committees not to answer questions relating to matters before the commission of inquiry into certain Australian companies in relation to the UN Oil-For-Food Programme (the Cole commission).<sup>2</sup> The directive was a major subject of debate during the Committee's examination of the Department of Prime Minister and Cabinet and, to a lesser degree, the Office of National Assessments. Procedural issues relating to Parliamentary inquiries on matters before other proceedings such as royal commissions were also discussed during the examination of the Department of the Senate. Sections of the report dealing with those departments include some discussion of the directive and the issues it raised.

1.10 The sections of the report that follow list the other issues considered by the Committee and discuss some of these in detail. The order is not based on hierarchy but rather the order in which those issues arose during the hearings.

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2 For an overview, see *Procedural Information Bulletin*, No. 189, pp 2-4.



## Parliamentary Departments

2.1 The Committee took evidence from the parliamentary departments on Monday, 13 February 2006.

### Department of the Senate

2.2 During a relatively brief examination of the department, members of the Committee and other senators in attendance raised the following issues:

- Senate inquiries and courts, royal commissions and other commissions of inquiry;
- The cost of reconvening the Senate;
- Party status in the Senate; and
- A recent ban of a photographer from the chamber.

2.3 The Clerk was asked whether any inhibitions existed on inquiries into matters that are before other proceedings such as courts and royal commissions. The Clerk, Mr Harry Evans, indicated that while the Senate and its committees have observed a sub judice convention in respect of matters before courts, no such similar measure operates in relation to royal commissions. Mr Evans stated that:

In relation to courts, there is the sub judice convention of the Senate, which provides that an inquiry should not be entered into if is going to cause prejudice to proceedings before the courts. The committee concerned has to weigh the danger of prejudice, particularly having regard to whether there are jurors involved who might be influenced by the inquiry or publicity arising from it and so on. In relation to royal commissions and other commissions of inquiry, the practice which has been followed in the Senate for many decades now is that there is no inhibition on inquiry into or debate on matters before such commissions, because they are not courts and are not trying cases.<sup>1</sup>

2.4 As noted in the introduction, this matter is touched upon in the next chapter on the Department of Prime Minister and Cabinet.

### Department of Parliamentary Services

2.5 The examination of DPS was notable for the appearance of the recently appointed Parliamentary Librarian, Ms Roxanne Missingham. The President observed that this represented the first time a permanent Parliamentary Librarian had appeared before the committee in 16 years.

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1 *Committee Hansard*, 13 February 2006, F&PA 3.

2.6 The Committee's examination concentrated on ongoing concerns related to security work around Parliament House, particularly problems with the security bollards and the safety implications for staff resulting changes to traffic access to the building. The Committee also examined recent refurbishments to the Cabinet Office and Prime Minister's Office.

## Prime Minister and Cabinet Portfolio

3.1 The Committee took evidence from the department and agencies of the Prime Minister and Cabinet portfolio on Monday, 14 February 2005.

### Department of the Prime Minister and Cabinet

3.2 As noted earlier in the report, the government's directive prohibiting answers relating to matters before the Cole commission dominated the examination of PM&C. At the start the minister representing the Prime Minister, Senator Minchin, declared:

I should inform the committee that the government has directed that officials appearing before Senate legislation committees should not answer questions directed to them on matters before the commission of inquiry being conducted by the Hon. Terrence Cole into certain Australian companies in relation to the oil for food program.<sup>1</sup>

3.3 The minister went on to indicate that the prohibition might be lifted when the commission was finished. The rationale for the prohibition appeared to be a government view that 'parallel public questioning' of officials by committees would be unhelpful for the commission's examination of the matters before it. The minister stated:

While examination of officials by the committees might be appropriate in the future, the government considers that Mr Cole should be able to proceed with his inquiry and present his findings without parallel public questioning that would not assist consideration of complex issues.<sup>2</sup>

3.4 The directive was the subject of lengthy and at times robust debate between the minister and Committee members.

3.5 The minister did permit officials to answer a number of questions to do with departmental and interdepartmental 'processes' relating to the commission. These 'process questions' concerned matters such as staff monitoring the commission's proceedings, internal file searches, the provision of documents on request to the commission, contact between PM&C and other department's on these issues and so on.

3.6 Discussion on the directive dominated proceedings to the extent that it left little time to examine other issues. Issues that members of the Committee and other senators in attendance raised included:

- PM&C's role on the Iraq Task Force;

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1 *Committee Hansard*, 13 February 2006, F&PA 24.

2 *Committee Hansard*, 13 February 2006, F&PA 24.

- Whether new or revised Freedom of Information guidelines had been issued recently within the department; and
- Indigenous policy and the monitoring of trials done under the Council of Australian Governments

3.7 The Committee was concerned that departmental officers were not in a position to answer straightforward questions relating to the Iraq Task Force. As this matter has been a recurring theme at the Committee's estimates hearings since Australia deployed combat forces to Iraq in 2003, it was reasonable for the Committee to expect officials to be prepared to answer questions on the department's involvement with the task force.

3.8 The Committee's concern about this oversight was heightened when officers indicated that high staff turnover in the relevant division had left the department with limited corporate knowledge of the Task Force. The impact of high turnover rates on the department's general corporate knowledge maybe an issue the Committee returns to in future estimates rounds.

### **Office of National Assessments**

3.9 The Committee examination of ONA resumed its ongoing scrutiny of the agency's growth as recommended by the 2004 Flood report into Australia's intelligence agencies, as well as measures to promote contestability in its intelligence assessments process. The Committee also returned to issues relating to ONA's work on the conflict in Iraq.

3.10 Other issues examined included whether ONA provides advice to the government. Mr Varghese made it clear that ONA, since its inception and like comparable foreign intelligence bureaux, produces analytical assessments and 'would not get into the business of policy advising'. In Mr Varghese's words, 'ONA does not cross the line between assessment and policy advice'.<sup>3</sup>

3.11 As with the Committee's examination of PM&C, the minister permitted answers to 'process' questions but not to questions on matters of substance in relation to the Cole commission. It emerged that ONA had not been asked to check its files as part of the government's response to the commission's subpoena for all relevant government documents. Mr Varghese informed the Committee that he had of his own accord initiated an internal check of ONA's records. Mr Varghese indicated that ONA had collated a number of documents but none had yet been provided to any external body.

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3 *Committee Hansard*, 13 February 2006, F&PA 120.

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## **Office of the Commonwealth Ombudsman**

3.12 Examination of the Ombudsman's office concentrated on its reporting relating to immigration detention centres. The Ombudsman, Professor McMillan, told the Committee that about 10 per cent of all complaints the office receives relate to immigration matters but that these represent close to 25 per cent of the office's work. He also referred to the expanded oversight role that the office now has for matters to do with detention centres and immigration compliance.

3.13 Professor McMillan took on notice a request to provide the Committee with the office's quarterly reports to the department on issues that have arisen during Ombudsman investigations.

3.14 Professor McMillan was also asked about the Freedom of Information Act. He said that a report on FOI administration and processes would be released shortly. He noted that the report did not address the question of departmental claims for exemption under the act.

## **Australian National Audit Office**

3.15 The examination of the ANAO followed the Committee's usual practice with members raising issues related to reports of the ANAO or parliamentary committees. On this occasion the issues included:

- Audits of the Defence Materiel Organisation and major defence capital acquisition projects;
- Continuing ANAO qualified audits of Department of Defence financial statements and remediation programs to address weaknesses in Defence's financial management and reporting;
- ANAO report No. 28 of 2005-06 on management of net appropriation agreements;
- Pressure from the heavy Defence audit load on the ANAO's budget and resources; and
- ANAO report No. 25 of 2005-06 on ASIC's implementation of financial services licences.



## Finance and Administration Portfolio

4.1 The Committee took evidence from the Department of Finance and Administration, Department of Human Services and agencies of the Finance and Administration portfolio on Tuesday, 14 February 2006.

### Department of Finance and Administration

4.2 The Committee's examination of the department devoted a significant amount of time to scrutinising the complex arrangements for the establishment and operation of the Future Fund. Questioning focused on the vetting of proposed members of the board, public statements of the designated chair of the fund, the proceeds of the Telstra 3 sale that will go to the fund and the effect of the fund on the Commonwealth's other superannuation liabilities.

4.3 Other issues raised by the Committee and other senators included:

- Forward estimated expenses and final outcomes for DOFA;
- The source of the title, and duties of, 'guardians' under the *Commonwealth Authorities and Companies Act 1997*;
- The department's performance pay system;
- ANAO report No. 28 of 2005-06 on management of net appropriation agreements and the scope for improving enforcement to prevent future breaches;
- Departmental resources during the federal election caretaker period for costings of government and opposition policy announcements;
- Staff turnover, particularly in the budget group;
- Impact of the full sale of Telstra on staff with Commonwealth superannuation;
- Treatment of same-sex couples under the Public Sector Superannuation (PSS) and Commonwealth Sector Superannuation (CSS) schemes;
- Prosecution of people attempting to defraud the CSS;
- The reallocation of the Office of Evaluation and Audit to the department and its role in relation to the Aboriginal and Torres Strait Islander Land Fund;
- Arrangements with banks for the sale of Telstra;
- The proposed sale of the Snowy Mountains Corporation;
- Allocation of MOPS staff;
- The role of the Government Members Secretariat in relation to Opposition members
- Allocation of laptop computers to MOPS staff during the 2004 federal election; and

- Engagement of a consultant to brief MOPS staff of the impact of the Workchoices Act.

4.4 With respect to the Future Fund, there was some interest in seeking the appearance of its designated chair before the Committee during the examination of DOFA. The department advised that while not yet officially appointed as chair Mr Murray was engaged as a consultant to the department. Standing order 26 provides for questions at estimates hearings to be put to 'ministers and officers'. While there have been cases where departmental contractors or consultants have been deemed to be in effect 'officers', in this instance the Committee understood that Mr Murray's current status did not qualify him to appear in that capacity.

### **Australian Electoral Commission**

4.5 The Committee questioned the commission on a number of issues related to the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005. (The bill was referred prior to the additional estimates round to the Committee for inquiry and report.)

4.6 As usual, the Committee also pursued with the commission its interest in matters under investigation. This included disciplinary proceedings against two AEC officers for breaches of the Public Service Act code of conduct during the 2004 federal election.

4.7 Other issues raised by the Committee and other senators included:

- Recent deregistration of certain party branches;
- Whether the recently established Independent Candidate Advisory Network was a political party or associated entity under the Electoral Act; and
- Measures to address issues relating to some of the how-to-vote cards used in the Richmond division during the 2004 federal election.

### **Department of Human Services and agencies**

4.8 The Committee examined the department together with the Child Support Agency, CRS Australia, Centrelink and Medicare Australia.

4.9 Concerns relating to the department's answers to questions on notice surfaced on several occasions during the hearing, as they have done during previous hearings with the department. The Committee and the department discussed options for improving the way questions on notice are handled. The Secretary of the department, Ms Patricia Scott, indicated that an arrangement to enable early warning from the department of questions that were posing difficulties in answering (because the data was not available, for instance, or collating it would incur inordinate expense) would help matters. Ms Scott suggested that questions of this nature could be drawn to the relevant senator's attention, with a view to refining the question if possible.



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4.10 The Committee considers there is some merit in this approach, although it would see it as operating only rarely under exceptional circumstances. The Committee would be alarmed if the department were to raise concerns about questions on notice regularly.

4.11 The department's approach of referring senators to its annual report as a way of answering questions on notice also drew concern. Ms Scott said that the department felt that this was an economical use of public resources. However, the Committee's view is that due to their brevity annual reports are often of limited use in exploring issues in detail. The department should make the effort, in all instances, to answer questions as fully as possible. As the Committee observed in its recent assessment of the DHS annual report, if the department is going to rely on the annual report to answer questions on notice then the department needs to make the commensurate effort to ensure its annual report meets the Parliament's accountability and transparency requirements.<sup>1</sup>

4.12 Other issues raised by members of the Committee and other senators in attendance included:

- Delays in implementing the Parkinson report's recommendations on child support;
- Centrelink's administration of the job seeker classification index;
- Additional funding for comprehensive work capacity assessments;
- Disability access measures incorporated in the request for tender process with service providers;
- Fee structure for service providers under the request for tender process;
- Staff recruitment;
- Expenditure on e-health and development of the Medicare smart card;
- Applications for carers allowance;
- Trends with people with autism and Asberger's syndrome receiving the disability support pension;
- Rent assistance for tenants of the Aboriginal Housing Service;
- Childcare data sharing between Centrelink and the Australian Taxation Office;
- Management of the compliance regime and Centrelink discussions with non government organisations on tendering out elements of the service;
- Centrelink's implementation of ANAO recommendations related to customer feedback; and

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1 Senate Finance and Public Administration Legislation Committee, *Annual reports (No.1 of 2006)*, March 2006, p. 8.

- Data gaps on Aboriginal client appeals to Centrelink.

### **Acknowledgements**

4.13 The Committee expresses its appreciation of the service provided by the secretariat, broadcasting and transcription services provided by the Department of Parliamentary Services and the service provided by the Black Rod's Office and Committee Room attendants in preparing the rooms and providing refreshments for members and witnesses during the hearing.

4.14 The Committee also wishes to thank all ministers and departmental and agency officers for their assistance.

### **Next hearings—Budget estimates 2005-06**

4.15 By resolution of the Senate, the Committee is scheduled to consider the budget estimates for the 2005-06 financial year from Monday 23 May through Friday 27 May 2005.

4.16 While the Committee endeavours to follow the usual convention relating to the order of appearance of witnesses, it reminds ministers, departments and agencies that they need to be prepared to be available on the above days.

**Senator Brett Mason**

**Chair**

## **Appendix 1**

### **Departments and agencies under the three portfolios for which the Committee has oversight**

#### **Parliamentary departments**

- Department of the Senate; and
- Department of Parliamentary Services.

#### **Prime Minister and Cabinet Portfolio**

- Department of the Prime Minister and Cabinet;
- Australian National Audit Office;
- Australian Public Service Commission;
- National Water Commission;
- Office of National Assessments;
- Office of the Commonwealth Ombudsman;
- Office of the Inspector-General of Intelligence and Security; and
- Office of the Official Secretary to the Governor-General.

#### **Finance and Administration Portfolio**

- Department of Finance and Administration;
- Department of Human Services
- Australian Electoral Commission;
- Commonwealth Grants Commission;
- Commonwealth Superannuation Administration (Comsuper);
- Commonwealth Superannuation Scheme Board;
- Public Sector Superannuation Scheme Board;
- Centrelink;
- Medicare Australia;
- Australian Hearing; and
- Health Services Australia.



## Appendix 2

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<sup>1</sup> Page numbers correspond to the proof *Hansards*. Sometimes there are slight variations with the final version

