



Parliamentary Service Amendment Bill 2005

Jane Grace and Moira Coombs
Law and Bills Digest Section

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Parliamentary Service Amendment Bill 2005

Date Introduced: 9 March 2005

House: Senate

Commencement: Royal Assent

Conflict of interest

The Bill concerns the future structural arrangement of the parliamentary information and research service under the auspices of a Parliamentary Librarian. As employees of the Information and Research Services Group of the Parliamentary Library, the preparation of this Bills Digest raises a conflict of interest. Every effort has been made to canvas the range of issues generated by the Bill and we have referred to the approach taken by other jurisdictions. We are grateful to the three external readers who have provided an additional perspective. We appreciate the generous gesture of Professor George Williams, Director, Gilbert + Tobin Centre of Public Law, Faculty of Law, University of New South Wales, Professor John McMillan, Commonwealth Ombudsman and Ms. Lorraine Weinman, Legal Library Adviser and former Principal Librarian, Commonwealth Attorney-General's Department in providing critical comment on this publication.¹

Purpose

The purpose of the Bill is to create a statutory position of Parliamentary Librarian and to set out the functions, resourcing and reporting obligations of the position.

Background

The Bill was previously introduced on 21 June 2004. However, with the prorogation of the 40th Parliament, the Bill lapsed. A Bills Digest was prepared on the previous version of the Bill, the Parliamentary Service Amendment Bill 2004.²

The President of the Senate reintroduced the Bill on 9 March 2005. The Bill was unchanged from the previously introduced version. However, several amendments to the Bill were moved by the Leader of the Opposition in the Senate, Senator Chris Evans on 10 March 2005. The amendments broadened the range of professional qualifications and experience considered relevant for applicants for the position of Parliamentary Librarian, specifically referred to the Parliamentary Library as an entity assisting the Parliamentary Librarian and give statutory backing to the Security Management Board,

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which provides advice on security matters within the parliamentary precinct to the Presiding Officers.

The Australian Parliamentary Library

The Parliamentary Library was established in June 1901. The Joint Library Committee was appointed in June 1901 to supervise the Library of the Commonwealth Parliament. The *Public Service Act 1901* recognised the Library as a separate Department of State under its own Permanent Head, the Parliamentary Librarian. Like the Joint House Department, it was jointly controlled by the Senate's President and the House of Representative's Speaker respectively.

The Podger report

The Bill is the response to the recommendations of the *Review by the Parliamentary Service Commissioner of aspects of the administration of the Parliament*, (more popularly known as the 'Podger report') in respect of the creation of the role of Parliamentary Librarian.³ The Podger report stated that the amalgamation of the three service provision departments (the Department of the Parliamentary Reporting Services, the Department of the Parliamentary Library and the Joint House Department) would deliver cost efficiencies, while not impinging on the independence of the chamber departments or adversely affecting the services provided to senators and members.⁴ In his report, Podger detailed the history of the amalgamation proposals.⁵ The report emphasised that 'the [amalgamation] option would need to be implemented in a way that would protect the independence of the Librarian'.⁶

The Podger report noted that:

The Parliamentary Librarian could act as the executive manager of the library function, with independence from the Departmental Secretary in respect of the Library's confidential and impartial client service functions.⁷

The Podger report made four recommendations in relation to the structure of the parliamentary departments and the role of the Parliamentary Library within an amalgamated structure. Those recommendations were:

Recommendation 5.1: The position of Parliamentary Librarian be established at a senior level within the amalgamated service provision Department.

Recommendation 5.2: The independence of the Parliamentary Library be granted by Charter from the Presiding Officers.

Recommendation 5.3: The independence of the Parliamentary Library be reinforced by strengthening the current terms of reference for the joint Library Committee.

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Recommendation 5.4: The resources and services to the Library in the amalgamated department be specified in an annual agreement between the Departmental Secretary and the Parliamentary Librarian, approved by the Presiding Officers following consideration by the joint Library Committee.⁸

Recommendations 5.1 and 5.4 are matters which have been addressed in the Bill. Recommendations 5.2 and 5.3 are matters to be pursued by the Presiding Officers and the Library Committee.⁹

The Parliamentary Library

The Podger report noted that the provision of non-partisan advice and services is:

a requirement of the Parliamentary Service Values, which is reinforced by the core Library personal values of professionalism, confidentiality, impartiality and integrity.¹⁰

The Podger report considered whether the independence of the Library *itself* should be protected.¹¹ The report flagged, and then put to one side, the question of statutory recognition of the independence of the Library.¹² The Podger report *did not* make any recommendations for legislative amendments in respect of the role or independence of the Parliamentary Library.

The role of the Parliamentary Librarian

The Podger report acknowledged the need to safeguard the independence of the role of the Parliamentary Librarian. The Podger report canvassed the option of creating a statutory position of Parliamentary Librarian - however, it stopped short of recommending the creation of such a position.¹³

Parliamentary resolutions

In response to the Podger report's recommendations, the President of the Senate and the Speaker of the House of Representatives tabled resolutions establishing the Department of Parliamentary Services (August resolutions).¹⁴ The resolutions emphasised the importance of protecting the independence of the Parliamentary Library and specified a range of protective mechanisms to that end.

The steps leading to the creation of the role of Parliamentary Librarian were summarised in the second reading speech tabled by Senate President Paul Calvert on 18 August 2003.¹⁵ Both Houses of Parliament resolved to abolish the three joint parliamentary departments, to replace them with a new Department of Parliamentary Services and to create a statutory office of the Parliamentary Librarian within the new department.

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In relation to the other matters covered by the Podger report, Parliament explicitly supported strengthening the role of the Library Committee, provided for direct reporting by the Parliamentary Librarian to the Library Committee and called for the development of a resource agreement between the Parliamentary Librarian and the Secretary of the joint Department.¹⁶

On 24 March 2004, the Presiding Officers announced in Parliament the terms of the package of proposals that would implement the Podger report and August resolutions.¹⁷ They included matters agreed in the August resolutions, but added:

Another element of protecting the library's independence is that the bill will require the Parliamentary Librarian to have professional qualifications in librarianship or information management and/or professional membership of a recognised professional association in such a discipline.

Security Management Board

Senator Evans proposed the insertion **proposed section 65A** which establishes a Security Management Board. **Proposed section 65A** of the Bill provides a statutory base for the Security Management Board comprises representatives from the Senate, House of Representatives and the Department of Parliamentary Services to provide management and policy advice on security matters. The proposed amendment reflects a recommendation set out in the Senate Standing Committee on Appropriations and Staffing *Senate Department Budget 2004-05 Report*.¹⁸ The President of the Senate, Senator Calvert was supportive of the proposed amendment, noting that it will entrench the Security Management Board as the entity which will provide advice to the Presiding Officers on security matters in the parliamentary precinct.¹⁹

Main Provisions

The Bill has two schedules: the first establishes and provides for the office of the Parliamentary Librarian and is explained in detail below; the second makes minor related amendments to the *Long Service Leave (Commonwealth Employees) Act 1976* and the *Remuneration Tribunal Act 1973*.²⁰ This Bills Digest will focus on the amendments set out in Schedule 1.

Establishment of the office of Parliamentary Librarian

The Bill establishes and provides for the office of the Parliamentary Librarian by inserting a new Division 3 into Part 4 of the *Parliamentary Service Act 1999* (**item 8 of schedule 1**). Currently, Division 1 provides for the employment of Parliamentary Service employees and Division 2 establishes the Senior Executive Service. Proposed Division 3 would deal with the Parliamentary Librarian.

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Proposed section 38A establishes the office of the Parliamentary Librarian.

The office will be established within the Department of Parliamentary Services (or such other ‘joint department’ as the presiding officers designate) (**item 2 and item 10 of Schedule 1**). **Amended proposed subsection 38A(2)** provides that the Parliamentary Librarian and employees of the joint department assisting the Parliamentary Librarian may be known as the ‘Parliamentary Library’.

Proposed section 38A implements the parliamentary resolution ‘to provide for a statutory position of Parliamentary Librarian within the new joint service department’.²¹ As mentioned above, by making the Parliamentary Librarian a statutory office, the Bill goes beyond the Podger report recommendation that ‘the position of Parliamentary Librarian be established at a senior level within the amalgamated service provision Department’.²²

Function and responsibilities of the Parliamentary Librarian

The Parliamentary Librarian’s function will be ‘*to provide high quality information, analysis and advice to Senators and Members of the House of Representatives in support of their parliamentary and representational roles*’ (**proposed paragraph 38B(1)(a)**).

In addition, the Secretary may confer on the Parliamentary Librarian other responsibilities within the Department of Parliamentary Services, provided that those responsibilities are:

- consistent with the first mentioned function
- conferred in writing, and
- have the approval of the President and Speaker (**proposed paragraph 38B(1)(b)**).

This provision gives the Secretary of the Department of Parliamentary Services the flexibility to broaden the responsibilities of the Parliamentary Librarian provided there is no detrimental impact on the fulfilment of the statutory function of providing high quality information, analysis and advice.

Conditions on the manner in which information, analysis and advice must be provided are imposed by **proposed subsection 38B(2)**. The information, analysis and advice must:

- be timely, impartial and confidential
- maintain the highest standards of scholarship and integrity
- be on the basis of equal access for all senators, members, parliamentary committees and staff of the same, and
- have regard to the independence of Parliament from the Executive.

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Library Committee

The Bill defines for the first time in legislation the term ‘Library Committee’. The ‘Library Committee’ is ‘the committee or committees of the Houses of Parliament that advise the Presiding Officers in respect of the functions of the Parliamentary Librarian’ (**Item 3 of Schedule 1**).

Role of the Library Committee

The Senate and the House of Representatives elect their own Library Committees, which then meet together as a joint Library Committee.²³ The chair rotates between the President and the Speaker, both of whom serve on their respective Committee. The Committees have no powers of inquiry or report and function as advisory bodies to the Presiding Officers in relation to the operations and administration of the parliamentary library.²⁴

Reporting to the Library Committees and the Presiding Officers

The Parliamentary Librarian must report on the performance of his or her function to the Presiding Officers annually (**proposed subsection 65(3) in item 12**).²⁵ Requiring a report to the Library Committee is consistent with the Podger report’s recognition of the important role of the Library Committees. The Parliamentary Librarian must also report on the performance of his or her functions on request, and at a minimum once every financial year, to the Library Committee (**proposed section 38H**).²⁶

This provision can be interpreted in a number of ways. It could be interpreted that the Parliamentary Librarian has a purely formal reporting obligation to the Library Committee. Alternatively, it may authorise the Parliamentary Librarian to develop an ongoing presence at regular meetings of the Library Committee.

A narrow reading of the Parliamentary Librarian’s role and engagement with the Library Committee could limit the opportunities for the free flow of ideas and expectations between senators and members and would reverse the past practice of the Parliamentary Librarian attending Library Committee meetings.

Appointment and termination of the Parliamentary Librarian

The Parliamentary Librarian will be appointed for a fixed-term appointment of five years (**proposed subsection 38C(1)**), and the appointment is subject to termination by notice in writing from the Presiding Officers at any time (**proposed subsection 38D(1)**). The Bill is silent on the issue of whether the Parliamentary Librarian can be re-appointed for additional terms of office. As re-appointment has not been specifically excluded under the Act, it is open to read the Act as allowing for the re-appointment of the Parliamentary Librarian.

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The Presiding Officers will determine appointment and termination, but the Bill guarantees other input into these decisions. In the case of appointment, the Presiding Officers' decision is subject to receiving a report from the Secretary of the Department of Parliamentary Services regarding the vacancy (**proposed subsection 38C(2)**). This is a sensible approach given the close working relationship between the Secretary and the Parliamentary Librarian.

In the case where the termination of the Parliamentary Librarian is being considered, the Presiding Officers must first receive a report from the Parliamentary Service Commissioner (**proposed subsection 38D(2)**). This guaranteed consultation with the Commissioner is consistent with the Commissioner's functions and provides an element of protection for the Parliamentary Librarian.²⁷ The Presiding Officers may appoint an acting Parliamentary Librarian, but the appointee in those circumstances must meet the same professional requirements as stipulated for the Parliamentary Librarian (**proposed section 38F**).

Ms Weinman, former Principal Librarian, Commonwealth Attorney-General's Department, argued that a Deputy Parliamentary Librarian should be appointed to assist the Parliamentary Librarian in carrying out his or her functions. According to Ms Weinman, as the requirements for an 'acting' Parliamentary Librarian mirror the requirements for the principal position, and are specific, there is a need to create a deputy position in order to smoothly deal with absences of the Parliamentary Librarian and to enhance succession planning (**proposed subsection 38F(2)**).

Professional qualifications for appointment as the Parliamentary Librarian

Amended proposed subsection 38C(3) requires the appointee to have the following relevant qualifications and/or experience:

- professional qualifications in librarianship or information management
- professional membership of a recognised professional association in the discipline of librarianship or information management, or
- the Presiding Officers are satisfied that, 'by reason of the person's qualifications in another relevant discipline, or the person's professional experience, the person has suitable skills to perform the functions of the Parliamentary Librarian.

Amended proposed subsection 38C(3) acknowledges the value of professional librarianship or information management qualifications and experience for applicants for the position of the Parliamentary Librarian, however, **amended proposed paragraph 38C(3)(b)** allows the Presiding Officers scope to appoint a Parliamentary Librarian who possesses *other* relevant professional qualifications and/or professional experience. The drafting of **amended proposed subsection 38C(3)** is consistent with the Podger report's recommendation. The report notes that:

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The Library provides an integrated library and research service and it would be important that the Librarian had strong relevant professional qualifications.²⁸

The wording of the report's recommendation would certainly include applicants with librarianship and information management qualifications. Formal training in the acquisition, management and dissemination of the multitude of public information now available – especially how to evaluate, organise and distribute this in a directed and efficient manner – could be viewed as significant to the Australian Parliamentary Library's role as an information and research service for the Parliament. Information-management skills are likely to be highly relevant to the position.

Amended proposed subsection 38C(3)(b) reflects a view that an applicant with other relevant professional qualifications or experience could also be a strong candidate for the position. Exceptional leadership, management, communication and organisation skills may be found in a range of professional areas and it would be prudent to select from a broad pool of potential applicants with relevant credentials and experience for the position of Parliamentary Librarian.

Remuneration and other conditions

The Presiding Officers will set the remuneration and other conditions of employment of the Parliamentary Librarian (**proposed subsection 38E(1)**). However, they must seek, and take account of, advice from the Remuneration Tribunal (**proposed subsection 38E(2)**). Determinations are to be made public by publication in the *Gazette* and tabling in both chambers of the Parliament (**proposed subsection 38E(3)**).

Resources and services for the Parliamentary Librarian

The Secretary of the Department of Parliamentary Services is to provide the resources for the Parliamentary Librarian pursuant to an annual agreement between them that is approved by the Presiding Officers after taking the advice of the Library Committee (**proposed subsection 38G(1) and 38G(2)**). The Podger report noted that 'it is important to ensure that the Library receives adequate resources and services from the service-provision department'.²⁹ The wording of **proposed section 38G(1)** refers only to the provision of 'resources' rather than 'resources and services' as specified in the Podger report.³⁰ It is unclear whether there would be any significant effect caused by this wording of the Bill.

Copyright privileges

Sections 48A and 104A of the *Copyright Act 1968* make special provision in relation to libraries that provide library services for members of Parliament. **Proposed section 38I** ensures that the copyright exemption provisions continue to operate in respect of the information and research work performed for clients by the Parliamentary Library.

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Other minor amendments

Schedule 1 of the Bill also makes the following minor changes consequent on the establishment of the office of the Parliamentary Librarian. It:

- augments the objects of the Parliamentary Service Act to include the definition of the powers and responsibilities of the Parliamentary Librarian (**item 1**)
- constitutes the Parliamentary Librarian within the Australian Parliamentary Service (**item 5**)
- renames the title of Part 4 of the Act to include reference to the Parliamentary Librarian (**item 7**)
- ensures that the Presiding Officers may determine that judgment debts may be deducted, where necessary, from the salary of any Parliamentary Librarian as well as from the salary of the Secretary or a Parliamentary Service employee (**item 13**), and
- ensures the effective operation of the Department of Parliamentary Services by authorising the Secretary to delegate powers or functions to the Parliamentary Librarian, who can then further delegate such powers or functions (**items 14 to 17**).

Comparative Approaches

It is instructive to consider the approaches to the notion of impartiality in the provision of information to elected representatives and accountability of ‘parliamentary’ libraries in other jurisdictions. In other jurisdictions there has been an explicit recognition of the separation of role and function between the manager of the library and the library itself. The foundation of major parliamentary libraries, such as the House of Commons Library (United Kingdom), the Library of Congress (United States) and the Library of Parliament (Canada) owed a philosophic debt to the ideals of democracy and government proposed during the 18th century ‘Age of Enlightenment’.³¹

We will now undertake a potted history of the major parliamentary libraries in the United Kingdom, the United States and Canada. The independence of these institutions is variously protected by legislation or a convention of regard for the important role of information in supporting the operation of democratic governments.

House of Commons Library, United Kingdom

The House of Commons Library had its beginnings in 1547 when the Clerk of the Commons compiled the first manuscript journal of the proceedings of the Commons.³² In 1742 the House of Commons printed the journals, which later became the ‘ordered and authoritative record of parliament’.³³ The House of Commons Library was made an independent Department of the House in 1967. This independence was enshrined in

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legislation as part of the House of Commons (Administration) Act 1978 [UK]. However, the Act does not specifically mention the independence of the service provided to members.

In 1835, Librarian of the Commons Thomas Vardon summarised the services of the library when he said that the ‘essential purpose of the Library is to supply Members with information rapidly on any of the multifarious matters which come before the House, or to which their attentions are drawn by their parliamentary duties’.³⁴

Congressional Research Service, United States of America

The Library of Congress was created in 1800. Its purpose was to acquire ‘such materials as will enable statesmen to be correct in their investigation and, by a becoming display of erudition and research, give a higher dignity and a brighter luster to truth’.³⁵ By 1914, the library had become a national library and a discrete unit was formed to serve members exclusively. In 1946, this service was made a separate library department called the Legislative Reference Service. The requirements of the service are set out in the Legislative Reorganization Act 1946 [US]. The Act also provided for senior subject specialists to be employed in particular areas of interest to the Congress. The service was examined again in the 1960s and in 1970 the Legislative Reorganization Act 1970 [US] changed its name to the Congressional Research Service. As a consequence of the amendments, the Congressional Research Service acquired responsibility for servicing congressional committees.

The obligations of the Congressional Research Service to Congress are set out in the United States Code Annotated.³⁶ The Librarian of Congress is required to grant the Congressional Research Service ‘complete research independence and the maximum practicable administrative independence consistent with the functions and objectives’ of the Congressional Research Service as set out in the Code.³⁷

Library of Parliament, Canada

The Library of Parliament in Canada can trace its origins to 1791. Like the Library of Congress, and the Australian Parliamentary Library, it developed as a national library and served this function until the National Library in Canada was created in 1952. (The National Library of Australia was constituted as a separate entity from the Australian Parliamentary Library in 1960.)

Canada’s Library of Parliament serves a wide range of clients, including senators, members, their staff, officers of the two houses, justices of the Supreme Court, the Federal Court, the Governor-General, Members of the Privy Council and the Parliamentary Press gallery. However, the services of the research branch are restricted to parliamentarians only.³⁸ The Library of Parliament is a separate unit within Parliament and its authority is derived from Part V of the Parliament of Canada Act

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[Canada].³⁹ The Parliamentary Librarian reports directly to the Speakers of the two Houses of Parliament, who are responsible for the direction and control of the Library.⁴⁰

The Library of Parliament's Research Branch offers non-partisan research services to all members of Parliament, across a broad range of subject areas.⁴¹ Charles Caccia, a member of the Canadian parliament notes that:

If knowledge is a form of power, one has to recognize that access to knowledge of good quality is already available to the average MP [in Canada].⁴²

Concluding Comments

No one more sincerely wishes the spread of information among mankind than I do, and none has greater confidence in its effect towards supporting free and good government.

Thomas Jefferson to Hugh L. White, 1810.⁴³

The scope of independence and the Parliamentary Librarian

Amended proposed section 38A specifically refers to the Parliamentary Library as an entity within the Department of Parliamentary Services. This amendment acknowledges the inherent tension between ensuring independence for the Parliamentary Librarian but not acknowledging the Library or information and research service managed by the Parliamentary Librarian. For example, in the United States, the Librarian of Congress is required to grant the Congressional Research Service 'complete research independence and the maximum practicable administrative independence' [as consistent with section 166(b)(2) Title 2 of the United States Code]. As noted above, in other jurisdictions there has been an explicit recognition of the separation of role and function between the manager of the library and the library itself.

The Podger report envisaged that the Parliamentary Library's independence would be sufficiently protected through:

- the creation of a *senior position of Parliamentary Librarian* within the joint Department with *independence granted by charter* from the Presiding Officers in respect of the library's confidential and impartial client service functions
- the *strengthening of the terms of reference* of the Library Committees that advise the Presiding Officers on matters affecting the library to charge them with considering any matter relating to the independence of the Parliamentary Librarian
- granting the Parliamentary Librarian *direct reporting* to the Library Committees and the Presiding Officers⁴⁴

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- a *resources and services agreement* to be negotiated annually between the Secretary of the Department of Parliamentary Services and the Parliamentary Librarian, approved by the Presiding Officers after consultation with the joint Library Committee
- the Parliamentary Librarian having strong *relevant professional qualifications*, and
- the *core values* of the staff of the Parliamentary Library, including professionalism, confidentiality, impartiality and integrity reinforced by the values in the *Parliamentary Service Act 1999*.⁴⁵

The amended Bill corresponds with the specifications set out in the Podger report. The Presiding Officers' parliamentary resolutions aimed at protecting the independence of the Parliamentary Library went one step further than the Podger report and required the creation of a statutory position of Parliamentary Librarian and a direct reporting mechanism between the Parliamentary Librarian, the Presiding Officers and the Library Committees of both Houses of Parliament.⁴⁶ However, even the amended Bill does not recognise that 'independence' should attach to the Parliamentary Library itself.

The statutory functions of the Parliamentary Librarian are set out in **proposed subsection 38B(1)** of the Bill.⁴⁷ The functions of the Parliamentary Librarian will need to be appropriately funded through the resources and services agreement negotiated with the Secretary of the Department of Parliamentary Services.

A review of the approach taken by other parliamentary research services is instructive in any consideration of the role and function of the Parliamentary Librarian under this Bill. Other parliamentary libraries have, either legislatively or by convention, been conscientious in preserving the independence of information and research services provided to elected representatives.

It may be that the continued independence of the research and information services provided to the Australian Parliament will be sufficiently protected by the creation of the statutory office of Parliamentary Librarian and the implementation of the safeguards the Presiding Officers set out in the August resolutions. However, the question of whether there should be a legislative safeguard for the independence of the information and research services provided to the Parliament are matters worthy of careful consideration.

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Endnotes

- 1 We would like to thank Libby Bunyan, Patrick O'Neill, Catherine Lorimer and Sarah Miskin for their contribution to the development of the Bills Digest. We are very appreciative of the research work undertaken by Patrick O'Neill in relation to the history of the office of 'Parliamentary Librarian'.
- 2 See [Bills Digest No. 31 of 2004-05](#), Parliamentary Service Amendment Bill 2004.
- 3 A. Podger, *Review by the Parliamentary Service Commissioner of Aspects of the Administration of the Parliament*, Final Report, September 2002.
- 4 *ibid.*, p. 45.
- 5 The amalgamation of the Departments of the Senate, the House of Representatives and the three service departments into a single department was proposed in 1910, 1933, 1953, 1996, and into two departments in 1997. An attempt to amalgamate the former Department of the Parliamentary Reporting Staff and the Department of the Parliamentary Library was made in 1993. Finally, there were four earlier attempts to amalgamate the three service departments, in 1977, 1980, 1988 and 1996. See the Podger report, *op. cit.*, pp. 41–44.
- 6 *ibid.*, p. 46.
- 7 Podger report, *op. cit.*, p. 47.
- 8 *ibid.*, p. 49.
- 9 Section 2 of the *Parliamentary Presiding Officers Act 1965* specifies that 'Presiding Officer' means:
 - (a) in relation to the Senate—the President of the Senate;
 - (b) in relation to the House of Representatives—the Speaker of the House of Representatives.
- 10 *ibid.*, p. 47.
- 11 *ibid.*, p. 48.
- 12 *ibid.*, p. 47.
- 13 *ibid.*, p. 47. Previously, the Secretary of the Department of the Parliamentary Library was effectively the Parliamentary Librarian. All the Secretaries report to the Presiding Officers, with oversight from the Library Committee, and that has been constant since 1901.
- 14 'Parliamentary departments: proposed Department of Parliamentary Services', House of Representatives, *Debates*, 14 August 2003, p. 18509; 'Parliamentary departments: proposed Department of Parliamentary Services', Senate, *Debates*, 18 August 2003, p. 13780.
- 15 Senator Paul Calvert, 'Parliamentary departments: proposed department of Parliamentary Services', Senate, *Debates*, 18 August 2003, p. 13498.

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- 16 ‘Parliamentary departments: proposed Department of Parliamentary Services’, House of Representatives, *Debates*, 14 August 2003, p. 18509; ‘Parliamentary departments: proposed Department of Parliamentary Services’, Senate, *Debates*, 18 August 2003, p. 13780.
- 17 ‘Parliamentary Library matters’, House of Representatives, *Debates*, 24 March 2004, p. 7003; ‘Parliamentary Library’, Senate, *Debates*, 24 March 2004, p. 21755.
- 18 Senate, Standing Committee on Appropriations and Staffing, *Senate Department Budget 2004-05*, 40th report, May 2004 at p. 3.
- 19 President of the Senate, Senator Calvert, ‘Parliamentary Service Amendment Bill 2005’, *Senate Debates*, 10 March 2005, p. 35.
- 20 The President and the Speaker may delegate their powers under the *Long Service Leave Act (Commonwealth Employees) Act 1976* to the Secretary and officers in the Department of Parliamentary Services (subsections 9B(1) and (4)). **Item 1 of Schedule 2** allows the President and Speaker also to delegate to the Parliamentary Librarian.

The Remuneration Tribunal provides advice in relation to terms and conditions, including remuneration and allowances, for the office of Secretaries to Parliamentary Departments (subsection 5(2D)). **Item 2 of Schedule 2** enables it also to provide that advice for the office of the Parliamentary Librarian.

- 21 ‘Parliamentary departments: proposed Department of Parliamentary Services’, House of Representatives, *Debates*, 14 August 2003, p. 18509; ‘Parliamentary departments: proposed Department of Parliamentary Services’, Senate, *Debates*, 18 August 2003, p. 13780.
- 22 Podger report, op. cit., recommendation 5.1, p. 49.
- 23 House of Representatives Standing Order 326; Senate Standing Order 20.
- 24 In 1981, in the context of the appointment of a new Parliamentary Librarian and an earlier proposal to merge the three joint parliamentary departments, there was an unsuccessful attempt by Opposition Senators to give the Senate Library Committee power to pass substantive resolutions, with the aim of influencing the proposal. Odger records that:

dissatisfaction with the committee’s inability to influence this process led to the resignations of the Opposition senators on the committee. After debate over two days, the following, amended resolution was agreed to:

(1) That the Senate is of the opinion that the Joint Parliamentary Library Committee should be given specific terms of reference, including the power to pass resolutions.

(2) That the President be requested to ensure that in the appointment of a new Parliamentary Librarian, the Parliamentary Library Committee be kept informed of the procedures to be adopted in the appointment of such Librarian, and given an opportunity to express its views. (26/11/1981, J.705; SD, 24/11/1981, pp 2483–8 and 26/11/1981, pp 2666–72).

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- The matter of specific terms of reference has not been pursued. H. Evans (ed.) Odgers' *Australian Senate practice*, Department of the Senate, Canberra, 2001, pp. 371–372.
- 25 **Item 12** of the Bill states that this report must be part of the Department of Parliamentary Services' annual report.
- 26 The term 'Library Committee' is defined in the Bill.
- 27 The Parliamentary Services Commissioner's functions include 'to give advice to the Presiding Officers on the management policies and practices of the Parliamentary Service'. See: generally *Parliamentary Service Act 1999*, s. 40.
- 28 Podger report, op. cit., p. 47.
- 29 *ibid.*, p. 49, See Recommendation 5.4.
- 30 *ibid.*, p. 49.
- 31 'Enlightenment', a term generally used to describe the philosophic, scientific, and rational spirit, the freedom from superstition, the scepticism and faith in religious tolerance of much of 18th century Europe. See 'Enlightenment', M. Drabble and J. Stringer (eds.), *The Concise Oxford Companion to English Literature*, Oxford University Press, 1996. For example one exponent was T. Paine, *The Rights of Man: being an answer to Mr. Burke's attack on the French revolution* (introd. by E. Foner), Harmondsworth, Middlesex, England, Penguin Books, 1984.
- 32 House of Commons Library, *Information Factsheet G18*, p. 3.
- 33 *ibid.*
- 34 *ibid.*, p. 6.
- 35 Chairman of the First Joint Committee on the Library, Senator Samuel Latham Mitchell, in Joseph Ross and Hugh Finstein, *Research Services in Congress and Parliament*, *Canadian Parliamentary Review*, vol.11, no. 4, Winter 1988-89 at: p. 10.
- 36 USCA 2 s.166 (b) (2). The legislation deals with the functions and objectives of the Service, the appointment and conditions of service relating to the Director, Deputy Director and other necessary personnel, duties of service as well as procedures on the joint Committee on the Library.
- 37 *ibid.*
- 38 Ross and Finstein, op. cit., at p. 11.
- 39 Part V of the Parliament of Canada Act (RSC 1985, c.P-1).
- 40 Ross and Finstein, op. cit., p. 11.
- 41 C. Caccia, 'Democratic Deficit? What Democratic Deficit?', *Policy Options*, vol. 25, no. 2, May 2004, pp. 48–51, p. 48.
- 42 *ibid.*
- 43 T. Jefferson, *The Writings of Thomas Jefferson* (Memorial Edition), Lipscomb and Bergh, (eds.), Washington D. C., vol. 12, 1903-4, p. 387.

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- 44 Podger report, op. cit., p. 46.
- 45 *ibid.*, pp. 47–49.
- 46 ‘Parliamentary departments: proposed Department of Parliamentary Services’, Senate *Debates*, 18 August 2003, p. 13498, ‘Parliamentary departments: proposed Department of Parliamentary Services’, House of Representatives, *Debates*, Hansard, 14 August 2003, p. 18509.
- 47 **Schedule 1, item 8** of the Parliamentary Service Amendment Bill 2005 at clause 38B lists the functions of the Parliamentary Librarian.

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