

Parliament of the Commonwealth of Australia

**SENATE ECONOMICS LEGISLATION COMMITTEE**

**REPORT ON THE COMMITTEE'S EXAMINATION OF THE  
BUDGET ESTIMATES 2002-2003**

June 2002

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Senator Jacinta Collins, Deputy Chair	(Victoria, ALP)
Senator Grant Chapman	(South Australia, LP)
Senator Andrew Murray	(Western Australia, AD)
Senator the Hon Chris Schacht	(South Australia, ALP)
Senator John Watson	(Tasmania, LP)

### Substitute Members

Senator Allison, as a substitute member to replace Senator Murray for matters relating to Resources portfolio.

Senator Heffernan, as a substitute member for Senator Chapman, from 3 to 5 June 2002, inclusive, and 7 June 2002 (if required).

Senator Calvert, as a substitute member for Senator Chapman, on 6 June 2002.

### Participating Members

Senator the Hon Eric Abetz	(Tasmania, LP)
Senator the Hon Ronald Boswell	(Queensland, NPA)
Senator Paul Calvert	(Tasmania, LP)
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# **REPORT ON THE COMMITTEE'S EXAMINATION OF THE BUDGET ESTIMATES 2002–2003**

## **Introduction**

1.1 On 14 May 2002, the Senate referred to the Committee for examination the *Particulars of Proposed Expenditure in Respect of the Year Ending on 30 June 2003* and *Particulars of Certain Proposed Expenditure in Respect of the Year Ending on 30 June 2003* relating to the following portfolios:

- Treasury; and
- Industry, Tourism and Resources.<sup>1</sup>

1.2 The Committee considered the relevant Portfolio Budget Statements for 2002/2003. The Committee received evidence from Senator the Honourable Eric Abetz, Senator the Honourable Ian Campbell and Senator the Honourable Nick Minchin and officers of the departments and agencies concerned. The Committee thanks the ministers and officers who attended the hearings for their assistance.

## **General Comments**

1.3 The Committee conducted hearings in the week beginning 3 June 2002. The Treasury portfolio occupied three of the four days of hearings, on 4, 5 and 6 June. The Committee did not require a spill over day to complete the examination of the allocated portfolios. In total, the Committee met for 43 hours and 38 minutes (excluding suspensions) over four days.

## **Record of Proceedings**

1.4 Copies of the Hansard transcript are tabled for the information of the Senate. They are also available through the internet at <http://www.aph.gov.au/hansard>

## **Questions on notice and supplementary hearings**

1.5 The Committee has resolved that written answers and additional information should be submitted by close of business on Friday, 19 July 2002. The Committee notes that Thursday, 20 November and Friday, 21 November 2002 have been scheduled for supplementary hearings.

1.6 Written material provided by the departments and agencies in response to requests by senators will be published in volumes entitled Additional Information.

## **The Industry, Tourism and Resources Portfolio**

1.7 The Committee examined the Department of Industry, Tourism and Resources and also GeoScience Australia and the Australian Tourist Commission.

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<sup>1</sup> *Journals of the Senate*, No. 11, 14 May 2002, p. 333.

## The Treasury Portfolio

### *Introduction*

1.8 Senator Minchin conveyed Senator Coonan's apologies for being unable to attend the hearing on the occasion of her father's bereavement.

### *Questions taken on notice*

1.9 Senator Conroy drew attention to a discussion from the last round of estimates hearings about the late return of answers to questions on notice. He noted that again the Committee had experienced delay in receiving answers by the date set by the Committee for their return.

1.10 The Chairman informed the Committee that on Senator Conroy's request he had written to Senator Coonan, the Minister for Revenue and Assistant Treasurer, regarding overdue answers to questions taken on notice at the estimates hearings held last February. The Committee heard that both the Australian Taxation Office and Treasury had completed their answers and had referred them to the minister's office within the time allocated for the return of answers.

1.11 Senator Minchin undertook to pursue the matter of late answers with the minister.

### *Examination of estimates*

1.12 The Committee took evidence from the Australian Taxation Office, the Treasury, the Australian Prudential Regulation Authority, the Financial Reporting Council, the Australian Accounting Standards Board, the Australian Bureau of Statistics, the Productivity Commission, the Australian Office of Financial Management, the Australian Securities and Investments Commission and the Australian Competition and Consumer Commission.

## Matters of interest

1.13 A number of procedural matters arose during the estimates hearings. They included in-camera evidence and the requirement for a quorum.

### *The estimates process and in camera evidence*

1.14 Standing order 26(2) states that the committee shall hear evidence on the estimates in public session. During the hearing, a witness offered to provide the Committee with confidential material but was informed of the requirement for such information to be received as a public document.<sup>2</sup>

1.15 Informal arrangements were made outside the estimates process for the information to be made available to the senator interested in the matter.

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2 For reference to this matter see Economics Legislation Committee *Hansard*, p. E70.



*Quorum*

1.16 During the examination of officers of the Australian Securities and Investment Commission, a question arose as to whether the Committee was quorate, because the opposition senator present was not a member of the Committee. After a brief adjournment, one of the opposition members of the Committee, Senator Schacht, attended for the duration of the hearing. At Senator Schacht's request, the Chairman referred the question to the President of the Senate, in terms of the letter set out in annexure 1.

SENATOR GEORGE BRANDIS  
Chairman



# ANNEXURE 1

17 June 2002

Senator the Honourable Margaret Reid  
President of the Senate  
Parliament House  
CANBERRA, A.C.T., 2600

Dear Senator Reid

## *Senate Estimates Hearing 6 June 2002*

At the request of Senator the Hon. Chris Schacht, I draw to your attention a matter which arose during the hearings of the Senate Economics Legislation Committee on 6 June 2002 during the examination of officers of the Australian Securities and Investments Commission. The relevant portions of the evidence can be found at pp. E445-457 of the Committee Hansard.

During the course of the examination of the ASIC officers, Senator Watson informally drew to my attention the fact that the Committee was not quorate, since the only Opposition Senator then present, Senator Conroy, was not a full member of the Committee. At the time, Senator Conroy was pursuing a line of questioning concerning named individuals which, were the proceedings not protected by Parliamentary privilege, might arguably have exposed both the questioner, and officers who responded to those questions, to liability for defamation. In order to protect both Senator Conroy and the officers, I adjourned the meeting briefly, informally apprised Senator Conroy of the difficulty, and arranged for Senator Schacht (a full member of the Committee) to attend.

When the Committee resumed, I explained the reason for the brief adjournment (Hansard p. E455) and drew attention to the existence of a possible inconsistency between the rules and procedure of the Chamber, which (as I understand the position) deems the Chamber to continue to be quorate so long as it was quorate at the commencement of the day's proceedings, or until such time as a quorum is officially called; and Standing Order 29(2), which arguably prescribes a different, stricter, rule for Committees. Senator Schacht also addressed the point (as he also did in the Chamber earlier today). The Chairman of ASIC, Mr. Knott, also recorded his serious concern (Hansard p. E456).

On 7 June, I received written advice from the Clerk (which I had not formally sought), commenting on the matter.

I therefore draw this matter to your attention. There would appear, at least arguably, to be an inconsistency between Standing Orders 29 and 51. In any event, the matter having been addressed publicly during an estimates hearing, it is important that the question be clarified for the protection of witnesses and Senators.

I therefore ask you to refer to the Senate Procedures Committee the following questions:

1. Where a Senate Committee is quorate at the commencement of its meeting or hearing on a particular day, is it deemed to continue to be quorate for the remainder of that day (notwithstanding the departure of members of the Committee) for so long as no Senator formally draws attention to the absence of a quorum?
2. If the answer to question 1 is “no”, are Senators and witnesses protected by Parliamentary privilege where the Committee proceeds in inquorate fashion?
3. Should there be any amendment to the Senate Standing Orders, and in particular Standing Order 29, to bring the Standing Orders into conformity with the rules and practice of the Chamber, particularly having regard to the terms of Standing Order 51? What should the terms of that amendment be?

Yours faithfully,

GEORGE BRANDIS  
Chairman

cc. Senator the Hon. Chris Schacht  
Dr. Kathleen Dermody