

The Senate

Finance and Public Administration
Legislation Committee

Additional estimates 2003-04

March 2004

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Senator George Brandis LP, QLD

Senator the Hon John Faulkner ALP, NSW

Senator Michael Forshaw ALP, NSW

Senator the Hon Bill Heffernan LP, NSW

Participating members

Senators Carr, Chapman, Conroy, Eggleston, Evans, Ferguson, Ferris, Harradine, Harris, Knowles, Lees, McGauran, Mackay, Marshall, Murphy, Payne, Ray, Ridgeway, Sherry, Tchen, Tierney and Watson.

Other senators in attendance

Senators Abetz, Allison, Bartlett, Collins, Crossin, Hill, Hogg, McLucas, Minchin and Nettle.

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ADDITIONAL ESTIMATES 2003-2004

Introduction

1.1 On 11 February 2004, 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 2004 [Appropriation Bill (No. 3) 2003-2004];
- Particulars of certain proposed additional expenditure in respect of the year ending on 30 June 2004 [Appropriation Bill (No. 4) 2003-2004];
- Particulars of proposed additional expenditure in relation to the parliamentary departments in respect of the year ending on 30 June 2004 [Appropriation (Parliamentary Departments) Bill (No. 2) 2003-2004];
- Statement of savings expected in annual appropriations made by Act No. 55 of 2003 (Appropriation Act (No. 1) 2003-2004) and Act No. 56 of 2003 (Appropriation Act (No. 2) 2003-2004);

1.2 The Senate also referred the following:

- Final budget outcome 2002-2003; and
- Issues from the Advance to the Finance Minister as a final charge for the year ended 30 June 2003.

1.3 The Committee considered these documents in so far as they related to the portfolios allocated to the Committee by the Senate on 13 February 2002.

1.4 The Committee is required to report to the Senate on or before 24 March 2004.

Portfolio coverage

1.5 The Committee has responsibility for examining the additional expenditure and outcomes of the following portfolios:

- Parliamentary departments;¹

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.

- Prime Minister and Cabinet Portfolio; and
- Finance and Administration Portfolio.

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

Hearings

1.7 The Committee held public hearings on Monday, 16 and Tuesday, 17 February 2004. Copies of the Committee's transcript of evidence are tabled in two 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>

1.8 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

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

1.10 Over the course of the two days' hearings—totalling 21 hours and 27 minutes—the Committee took evidence from the President of the Senate, Senator the Honourable Paul Calvert; the Minister for Defence, representing the Prime Minister, Senator the Honourable Robert Hill; the Minister for Finance and Administration, Senator the Honourable Nick Minchin; and the Special Minister of State, Senator the Honourable Eric Abetz, together with officers of the departments and agencies concerned.

Questions on notice

1.11 Once again, the Committee is concerned about the late submission of some answers to questions on notice.

1.12 The due date for submitting responses to questions on notice arising from the supplementary budget estimates hearings of November 2003 was 16 January 2004. The Committee is particularly concerned with the time it took to receive one response from the Department of the Prime Minister and Cabinet (PM&C), considering that the information sought became publicly available on 10 December 2003, soon after the supplementary hearings, but was not provided to the Committee until 5 February 2004, well after the due date of 16 January. PM&C's explanation as to why this happened—'the question' was part of a group of questions being cleared together²—is not acceptable.

2 Finance and Public Administration Legislation Committee, *Committee Hansard: Consideration of the Additional Budget Estimates* (Hereafter *Committee Hansard*), 16 February 2004, pp.27-28

1.13 Overall, however, the Committee appreciates the work of departments and agencies in adhering to the deadline, especially considering that the Christmas period intervened.

1.14 At the hearings in November 2003, the Committee advised witnesses—through the Chair's opening statement—that responses to questions on notice should be provided in both hardcopy and electronic format. The Committee is pleased to report that departments and agencies have complied with this request.

1.15 The Committee notes an initiative of the Department of Finance and Administration (DoFA) whereby answers to questions on notice have been subjected to a transparent measure of 'quality assurance'. Footnotes to all answers contain information relating to internal accountability mechanisms such as the name of the senior officer clearing the answer, the date it was submitted to that officer and details of a contact officer from the output from where the response came. The Committee commends DoFA for these enhancements to accountability and transparency.

1.16 The Committee has set 31 March 2004 as the deadline for submitting answers to questions on notice arising from this estimates round.

Parliamentary departments

1.17 The Committee took evidence from the parliamentary departments on Monday, 16 February 2004. The main matters covered were the amalgamation of the service departments and the related proposed funding of the enhancement of security measures for Parliament House, appointment of a Parliamentary Librarian, and computer failure.

Department of the Senate

1.18 Issues raised by members and other senators in attendance included:

- Impact on the funding of the Department of the Senate of the amalgamation of the joint departments;
- Progress on the biographical dictionary;
- Provenance of two 'black rods' purchased for Old Parliament House by the Department of Communications, Information Technology and the Arts; and
- Procedures for senators' remote access to the Parliament House computer network.

1.19 The Committee again addressed the matter of notional savings that are supposed to arise from the amalgamation of the joint departments. The Clerk of the Senate pointed out that the amalgamation should not affect the funding of the department because the amalgamation involved only the three joint departments and that the

savings would come out of the areas of responsibility of those departments. He observed, however, that the Commonwealth Budget had not yet been presented.³

Department of Parliamentary Services (DPS)

1.20 Issues raised by members and other senators in attendances included:

- Appointment of a Parliamentary Librarian;
- Performance of a choir in Parliament House;
- Replacement of temporary security barriers; and
- Computer failure both in Parliament House and electorate offices.

Parliamentary Librarian

1.21 The Committee sought information about the appointment of a person to the statutory position of Parliamentary Librarian in the new Department of Parliamentary Services. The newly appointed Secretary, Ms H Penfold QC, informed the Committee that a number of matters had to be thought through before an appointment could be made. According to Ms Penfold these included the need to adopt a resources agreement for the library and a charter for the librarian, the terms of reference for the Library Committee, the librarian's level and how the position would fit into the departmental structure. There would also be a need to amend the Parliamentary Service Act. Ms Penfold stated that within a month she expected to have a much clearer idea of where the process was going.⁴

1.22 The Committee accepts that some rather complicated issues need to be resolved before the important position of Parliamentary Librarian can be filled, but draws attention to the urgency of making that appointment.

Performances at Parliament House

1.23 The Committee explored with the witnesses from the Parliamentary Services Department an incident in which two songs that were to have been performed by a choir were censored by the former Joint House Department (Joint House). The Committee was able to establish that:

- On 28 November 2003, a member of A Chorus of Women sought permission to perform in Parliament House on 6 February 2004;

3 *Committee Hansard*, 16 February 2004, pp.2-3

4 *Committee Hansard*, 16 February 2004, p.6

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- On 15 December, the Facilities Management Branch of Joint House gave permission for the performance on the condition that two songs not be performed;
 - Facilities Management had become aware of the lyrics of the songs when a choir member volunteered them in an email message and a decision was taken that they transgressed the guidelines for determining whether performances and functions are appropriate for Parliament House; and
 - The choir performed on 6 February, but the words of the songs were not sung at the performance.

1.24 Ms Penfold informed the Committee that a mistake had occurred and that, in her words:

I cannot personally see how the guidelines in the manual could properly have been applied to require the two named songs not to be sung. Perhaps even more significantly, I cannot see how the criteria set out in the guidelines could be interpreted as meaning: 'No songs relating to personal and political freedom'.⁵

1.25 Ms Penfold told the Committee that, in order to prevent a recurrence, in the short term she would look at any decision to refuse or perhaps give conditional refusal for performances. In the longer term, the department will rewrite the relevant guidelines.⁶

Security barriers around Parliament House

1.26 The Committee also discussed with the Department of Parliamentary Services the matter of replacing temporary white plastic vehicle security barriers at Parliament House with permanent barriers more in keeping with the design of the building. The department informed the Committee that the proposal to replace the temporary barriers with bollards and chains was a concept developed in-house and that \$100 000 had been allowed to contract architects to get the project from concept stage to the preliminary sketch plan stage. Ms Penfold explained that the contract was needed to obtain the necessary approvals because the National Capital Authority requires properly designed proposals before it will approve a project. The Department of Finance and Administration also needs a 'sensible idea' of the cost of the project.⁷

1.27 The Committee reported on some other aspects of this matter in its report on Annual Reports (No. 1 of 2004) presented to the Senate on 10 March 2004.

5 *Committee Hansard*, 16 February 2004, p.11

6 *Committee Hansard*, 16 February 2004, pp.11-12

7 *Committee Hansard*, 16 February 2004, pp.14-15

Prime Minister and Cabinet Portfolio

1.28 The Committee took evidence from the Department and agencies of the Prime Minister and Cabinet Portfolio on Monday, 16 February 2004. The Office of the Official Secretary to the Governor-General gave evidence on the evening of Tuesday, 17 February.

Department of the Prime Minister and Cabinet (PM&C)

1.29 Issues raised by members and other senators in attendance included:

- An apparent unauthorised disclosure of intelligence information;
- Departmental advice to the Government on the Senate order for the production of details on government advertising;
- Activities of the consultative group for resolving deadlocks;
- Upkeep of the grounds of the Prime Minister's official residences;
- Anti-domestic violence campaign;
- Work and family interdepartmental taskforce;
- Treatment of a confidential report of the of the Joint Statutory Committee on ASIO, ASIS and DSD;
- Australia Day honours nominations;
- Government advertising campaigns;
- Commonwealth donations to charitable causes;
- Entertainment at Kirribilli House;
- Refurbishment at the Lodge; and
- Provision of an office for a former Governor-General, Dr Hollingworth.

Misuse of a confidential committee report

1.30 A particular matter of concern to the Committee, as a committee of the Parliament, was the department's treatment of a confidential report of the Joint Statutory Committee on ASIO, ASIS and DSD (joint intelligence committee).

1.31 The joint intelligence committee is required by statute to provide a copy of its reports to ministers with responsibility for the relevant security agencies before the reports are due to be tabled so that the agencies may check that there is nothing in the reports that may be contrary to certain provisions of the act. In January 2004 the committee provided a copy of its report on intelligence on Iraq's weapons of mass

destruction to the Prime Minister to be passed on to the Office of National Assessments (ONA). There was no statutory requirement to do so, but the Committee understands that this was done because ONA had given evidence at the inquiry.

1.32 The Prime Minister's Office passed a copy on to ONA but it also provided a copy to the department, where apparently two copies were made.⁸ It seems that four employees had access to the report and read it, at least in part.⁹ The department prepared a briefing on the major conclusions of the inquiry and provided it to the Prime Minister.¹⁰

1.33 Senator Ray drew attention to the contents of the joint committee's letter that accompanied the report that was provided to the ministers, including the Prime Minister. The letter included the following:

The Committee requests that the draft be passed to the responsible agencies for assessment as required under the statute, but that, in the spirit of usual parliamentary procedures, it not be distributed to ministerial offices or more broadly than necessary in departments.¹¹

1.34 The senator stated that the report was not provided for the department 'to do a preview of'.¹² Senator Ray also reminded the minister in attendance (Senator Hill) that the Committee of Privileges had drawn departments' attention to their responsibilities in dealing with the reports of parliamentary committees. He stated that:

On two or three occasions reports have been given to departments and breach of privilege has been found. We [the Committee of Privileges] have never gone on to a contempt finding, because most of it was innocent. As you know, DLOs [Departmental Liaison Officers] pass it on thinking they are doing the right thing. We then go through the whole exercise again of writing to departments, trying to educate them.¹³

1.35 The report should not have been provided to the department by the Prime Minister's Office and departmental employees should not have processed it in any way. The Committee is most concerned that senior departmental employees who should have known better have been remiss in this matter.

8 *Committee Hansard*, 16 February 2004, p.89

9 *Committee Hansard*, 16 February 2004, p.89

10 *Committee Hansard*, 16 February 2004, p.75

11 *Committee Hansard*, 16 February 2004, p.74

12 *Committee Hansard*, 16 February 2004, p.74

13 *Committee Hansard*, 16 February 2004, p.75

1.36 The Committee recalls that in its most recent report, on the Budget estimates 2003-04, it drew attention to concerns expressed by the Public Service Commissioner about the low level of attendance of SES employees at the Commission's training courses on officials appearing before parliamentary committees.¹⁴ The Committee also notes that the Department of the Senate conducts seminars for SES officers on *Parliament, Privilege and Accountability* that specifically address the law and practice of parliamentary privilege, particularly as it relates to the operation of Senate committees. There can be no excuse for the apparent ignorance of these matters that were in evidence in the treatment of the joint intelligence committee's report.

Senate order for the production of details of government advertising

1.37 The Committee has similar concerns about the stance PM&C adopted in its advice to the Government that contributed to the Government announcing on 12 February 2004 that it will not comply with the Senate order for the production of details of government advertising costing more than \$100 000. One of the grounds cited by the Government for not complying with the order was that the order required a judgement to be made whether advertising campaigns comply with guidelines to government advertising recommended by the Joint Committee on Public Accounts and Audit in a 2000 report, but that those guidelines were subject to 'dissent' within the committee.¹⁵ It emerged during questioning that senior PM&C officials gave greater credence to reservations expressed by two members of the committee about elements of the guidelines than to a recommendation that represented the majority view of the committee in a unanimous report.¹⁶

1.38 The Committee finds it disturbing that departmental officials chose to downplay the majority view of a parliamentary committee and magnify the technical qualifications of a minority. It is also surprised that the officials appeared to overlook the point that the recommendation, coming from a unanimous committee report, reflected a cross-party opinion of a major parliamentary committee.

Consultative group for resolving deadlocks

1.39 The Committee pursued with the department the activities of the consultative group for resolving deadlocks between the Houses of parliament. The department reported that the group had completed its public program and was close to completing its report and presenting it to the Prime Minister.¹⁷ The public program included eight meetings in the State and Territory capital cities, which 237 members of the public attended. The department reported that the total cost of the public program was \$117

14 Finance and Public Administration Legislation Committee, *Budget estimates 2003-04*, pp.18-19

15 Senate *Hansard*, 12 February 2004, p.19965

16 *Committee Hansard*, 16 February 2004, p.58

17 *Committee Hansard*, 16 February 2004, p.32

000, which was for sitting fees, departmental costs, advertising and publicity. The department has estimated that the total cost of the consultative group will be approximately \$201 000.

1.40 The report will be produced in Braille and audio versions after Blind Citizens Australia complained and the complaint was dealt with by the Human Rights and Equal Opportunity Commission. The department expended \$5,826 on legal fees in relation to the complaint.¹⁸

Government anti-domestic violence advertising campaign

1.41 The Committee asked for information about a Government anti-domestic violence advertising campaign that had been the subject of an article in *The Australian* newspaper on 16 January 2004. Departmental witnesses stated that the advertising campaign is part of a \$50 million anti-domestic violence campaign and a \$16.5 million anti-sexual assault campaign that has been running for some time in partnership with some of the states and territories – the Partnerships against Domestic Violence and the National Initiative to Combat Sexual Assault.¹⁹ It had been planned that the advertisements would go to air at Christmas 2003 because, in the words of one witness:

The target audience at that stage was mainly young people. It was felt that it was a good time to launch a campaign that was mainly aimed at young people. ... since then we have consulted with government and we are further refining the messages as well as the target audience and whether we had the target audience right or not.²⁰

1.42 According to the witnesses, the Ministerial Council on Government Communications considered that the advertisements were 'not quite ready or actually delivering the message that was intended by government'.²¹ It is now intended that the advertisements will be shown in 2004, but perhaps to a different target group.

1.43 The cost of the contract was \$900 000, some of which had been paid to the contractor at the time of the hearings. The Committee established that the contracting advertising agency had produced what was required by the department, but that the requirement had now changed. The department was not able to indicate the extent of the change, or the additional cost that would arise from the change.

18 *Committee Hansard*, 16 February 2004, p.36

19 *Committee Hansard*, 16 February 2004, p.50

20 *Committee Hansard*, 16 February 2004, p.51

21 *Committee Hansard*, 16 February 2004, p.50

Office of National Assessments (ONA)

1.44 Issues raised by members and other senators in attendance included:

- Possible unauthorised disclosure of a top-secret AUSTEO document; and
- Distribution and use made of a draft report of the Joint Parliamentary Committee on ASIO, ASIS and DSD.

1.45 ONA was asked whether the Australian Federal Police (AFP) had completed their investigation into the unauthorised disclosure of a top-secret document that appeared to be the basis of an article that appeared in the *Herald Sun* in June 2003. In response, ONA stated that the AFP had not concluded that investigation, but had concluded their investigation into a separate, but related matter. That matter related to whether there had been any breach of confidential information during a parliamentary committee hearing at which a former intelligence officer, Mr Wilke, was questioned by Senator Sandy Macdonald.²²

1.46 Senator Ray observed that the Committee could have told ONA before the matter was referred that the AFP would conclude that there was no evidence of any criminal offence having been committed because the referral was based on a proceeding of the parliament.²³ As the senator stated:

A simple understanding of parliamentary privilege would mean that nothing could be led against Senator Macdonald that was within the ambit of the proceedings of parliament. You are not aware of the various precedents where the AFP has started but then aborted inquiries when the only basis for them was the proceedings of parliament?²⁴

1.47 As discussed earlier, the Committee is most concerned that senior government employees are apparently ignorant of the law of parliamentary privilege. It reiterates that, given the opportunities that are provided by the parliament and the PSC for government employees to inform themselves, there can be no excuse for such ignorance.

1.48 In relation to the investigation of the possible unauthorised disclosure of a top-secret document, ONA was asked whether any copies of the document were circulated to anyone, requested by anyone or delivered to anyone in the week before the article appeared in the press.²⁵ The Director-General responded that ONA's records indicated that a document was circulated in June 2003. Following the hearing, in a letter dated

22 *Committee Hansard*, 16 February 2004, p.127

23 *Committee Hansard*, 16 February 2004, pp.127-128

24 *Committee Hansard*, 16 February 2004, p.127

25 *Committee Hansard*, 16 February 2004, p.129

18 February 2004, ONA stated that a copy of the report had been provided to an authorised recipient on 20 June 2003.

1.49 ONA was also asked and took on notice the question of whether it is potentially a criminal offence for an unauthorised person to receive a top-secret document and, specifically, if a journalist received a top-secret AUSTEO code-worded document could it be read as a breach of the law.²⁶ Following the hearing ONA informed the Committee that it had been advised that the official secrets provisions of the Crimes Act could apply, specifically, section 79(5) or (6).²⁷

Australian National Audit Office (ANAO)

1.50 At the May 2003 hearings on the Budget estimates for 2003-2004 Senator Brandis suggested to the ANAO officers who appeared that, given the discrepancy between the rent paid by ANAO for Centenary House and the market value of the property, it would be appropriate for ANAO to commission a valuation of the building. The officers took the suggestion on notice and subsequently provided the Committee with a letter of advice from a law firm explaining why it was not appropriate to obtain a valuation. In the light of that advice ANAO did not obtain a valuation.²⁸

1.51 At the hearing on 16 February 2004 Senator Brandis asked why the ANAO had sought legal advice on a matter that did not involve legal issues. The senator drew attention to a part of the legal advice that concluded that 'the valuation would be of academic interest only to the ANAO'.²⁹ He asked why that particular advice was germane to a question that had been canvassed in the Committee for years.

1.52 Senator Brandis also asked what professional fee was charged by the firm for its advice. The question was taken on notice, and the Committee was informed by letter dated 18 February 2004 that the cost was \$1000.³⁰

1.53 In another letter, dated 23 February 2004, the Auditor-General wrote as follows:

... we understood that the suggestion made by Senator Brandis at the Committee hearing of 29 May 2003 was intended as a possible 'new argument' to use in seeking reconsideration of the rental arrangements in

26 *Committee Hansard*, 16 February 2004, p.129

27 Additional information, Office of National Assessments, *Correspondence*, 18 February 2004

28 *Committee Hansard*, 16 February 2004, p.145

29 *Committee Hansard*, 16 February 2004, p.145

30 Additional information, *Correspondence*, Australian National Audit Office, 18 February, 2004. (Additional information is published on the Committee's internet page and in volumes entitled Additional Information Received. Copies are available from the committee secretariat.)

relation to our tenancy of Centenary House. We did not interpret the suggestion as a request for the Office to incur a cost to obtain a separate 'independent' valuation of the building per se.

Nevertheless, given the latest interest in having a valuation, we have now obtained a copy of the financial statements and reports relating to John Curtin House Limited from the Australian Securities and Investments Commission which shows an independent real estate valuation of Centenary House at a current market value of \$31,194,188 as at 30 June 2003.³¹

1.54 Senator Brandis also pursued with the ANAO several matters related to the rent paid to the landlord, John Curtin House Ltd, its attempts to renegotiate the terms of the lease and issues arising from the report of the royal commission appointed to review the terms of the lease.

Office of the Official Secretary to the Governor-General

1.55 Issues raised by members and other senators in attendance included:

- Lack of public recognition of the holder of the Office of Governor-General and lack of public awareness of the Office and duties of the Governor-General;
- Contract for the provision of communications advice; and
- The Governor-General's audience with the Queen.

1.56 A member of the Committee, Senator Faulkner, referred to an article in the press that had reported a Newspoll finding that 2 percent of Australians could name the Governor-General and that 5 percent had a vague recollection of his surname. The senator asked the Official Secretary whether his office had identified whether this lack of recognition was a problem.³² In response, the Official Secretary stated that the Governor-General was not interested in publicity for his sake, but that he was interested in making sure that the role of the Office is better understood and properly understood. In that regard, he stated that his office had endeavoured to ensure that the media have information about the Governor-General's activities, but that:

Regrettably, most of the national dailies do not publish the vice-regal notes, so the public cannot see through their newspapers what is going on.³³

31 Additional information, *Correspondence*, Australian National Audit Office, 23 February 2004

32 *Committee Hansard*, 17 February 2004, p.105

33 *Committee Hansard*, 17 February 2004, p.105

1.57 The Official Secretary also stated that the Governor-General and his office were looking for ways that would increase the public's understanding of the constitutional, ceremonial and community roles of the office of Governor-General.³⁴

1.58 The Official Secretary was also questioned about a contract that had been notified in the *Commonwealth Gazette* on 16 January 2004 for 'market research and public opinion polling services'.³⁵ The Official Secretary informed the Committee that the contract had been incorrectly described, that it had been awarded for the provision of communications advice to the secretary and that it did not include the provision of market research of opinion polling services.³⁶

1.59 It is unfortunate that this error was not corrected until exposed by a senator's questions. Agencies should take the earliest opportunity to correct errors of which they are aware, even if the record is corrected in the agency's opening statement at the hearing.

Finance and Administration Portfolio

1.60 The Committee took evidence from the Department and agencies of the Finance and Administration Portfolio on Tuesday, 17 February 2004.

Department of Finance and Administration (DoFA)

1.61 Issues raised by members of the Committee and other senators in attendance included:

- Legal advice provided to ministers;
- Parliamentarians' travel allowances;
- MOPS staffing numbers and allocations;
- The Government Members Secretariat;
- The Uhrig review of corporate governance practices in commonwealth agencies;
- Comcovers's reinsurance provider;
- Advice prepared for the Prime Minister and Government on the issue of parliamentarians' superannuation;

34 *Committee Hansard*, 17 February 2004, pp.105,107

35 *Committee Hansard*, 17 February 2004, pp.105-106

36 *Committee Hansard*, 17 February 2004, p.106

- The sale of ComLand at Maribyrnong and St Marys;
- DoFA's involvement in the Work and Family Task Force, costing and modelling relating to paid maternity leave, the baby bonus and in-home child care;
- Goods and services tax and other revenues allocated to the states;
- Foreign exchange transactions and exemptions with regard to hedging—in particular, exemptions relating to the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Authority (SBS);
- Transparency, accuracy and disclosure of special accounts;
- Public sector superannuation issues: defined benefit funds, military benefit funds, CSS and PSS rates of return; and
- The sale of Sydney basin airports.

Staff employed under the Members of Parliament (Staff) (MOPS) Act 1984

1.62 Committee members and other senators who attended the hearings questioned the minister and DoFA witnesses about the staffing of ministerial and other government offices. DoFA submitted tabulations of the numbers, classifications and distribution of the personal staff employed under the *Members of Parliament (Staff) Act 1984* (the MOPS Act). These tables showed that as at 1 February 2004 personal staff positions in minister's and other government offices numbered 385.4. There were 80 Opposition and 15 Australian Democrats personal staff. Independent members and senators employed a further 10, and 12 were employed by former Prime Ministers.

1.63 DoFA also submitted a table that showed changes in the numbers of personal staff employed by ministers from 1 February 2003 to 1 February 2004. The figures indicate that there were 15.8 more positions at the end of the period than at the beginning. Following the hearing, the department also submitted details of the salary bands for senior staff employed under the MOPS Act.

1.64 The allocation of nine staff employed under the MOPS Act to the Government Members Secretariat was again the subject of some interest at the hearing.

Government Members Secretariat

1.65 In its report on the Budget estimates 2003-2004, the Committee stated that Senator Ray had sought to establish which minister had responsibility for the Government Members Secretariat (GMS). The Committee also reported that the senator had foreshadowed that he would seek to have staff from the GMS appear

before the relevant committee during the hearings on the supplementary estimates in November 2003.³⁷

1.66 The matter was not pursued at those hearings, but at the hearing on 17 February, Senator Ray again asked which minister has responsibility for GMS. The Special Minister of State, Senator Abetz, informed the Committee that the Chief Government Whip in the House of Representatives is responsible for the operations of GMS. Senator Ray observed that as there is no minister responsible for the secretariat there is nothing to stop him calling them to give evidence before the Committee. Senator Abetz responded that he didn't think it was desirable to call them, but that it was a matter for the Committee. Senator Ray then stated that:

... what I want is a minister to take responsibility for Part III employees [persons employed under Part III of the MOPS Act] employed within the government allocation, deliberately moved out of ministerial responsibility, over to the Chief Government Whip, knowing that comity between the Houses³⁸ den[ies] us the opportunity to examine what their activities have been.³⁹

1.67 Senators asked a number of questions related to the salaries and administrative costs of GMS and the identity of the head of GMS which were taken on notice.

Parliamentary superannuation scheme

1.68 In the week prior to 16 February 2004, the Government announced major changes to the parliamentary superannuation scheme. The Committee questioned both PM&C and DoFA on this issue, to ascertain whether either department was involved in preparing advice for the Prime Minister or other ministers. The Secretary of DoFA, Dr Watt, stated that:

On Tuesday, 10 February, the department received a request from the office of the Minister for Finance and Administration for a briefing on the parliamentary superannuation scheme. The department provided factual information to the office on 10 February and a brief was prepared for the minister, which was delivered to the minister's office on the morning of Thursday, 12 February.⁴⁰

37 Finance and Public Administration Legislation Committee, *Budget estimates 2003-2004*, June 2003, p.25

38 Because of comity between the Houses, neither House inquires into the operations of the other.

39 *Committee Hansard*, 17 February 2004, p.56

40 *Committee Hansard*, 17 February 2004, p.67

Sale of ComLand

1.69 Senator Conroy inquired why an open tender process was not entered into for the sale of ComLand, in particular, for the sales at Maribyrnong and St Marys. Mr Lewis (General Manager, Asset Management Group) explained that when the Government decided on a sale process it wanted to 'maximise competitive tension while minimising the probity issues that would arise from Lend Lease, as ComLand's existing joint venture partner, competing with other bidders'.⁴¹

1.70 Mr Lewis stated that, based on advice from the scoping study's business and legal advisers:

... the sale team ran essentially a two-stage tender process in which the first stage of the process was restricted to ComLand's joint venture partner, Lend Lease. Lend Lease was offered the opportunity to bid for ComLand in the full knowledge that, if its tender was not acceptable against an independently set benchmark valuation, the Australian government would proceed to an open tender process in which Lend Lease would be not able to compete.⁴²

1.71 Mr Lewis added that it was common practice where there are joint ventures and one party wants to exit that the other partner has first opportunity to bid. Dr Watt stated:

It was not just a matter of Lend Lease giving us the best bid; the Commonwealth also separately set a range of what it considered fair value. If Lend Lease had not fallen within that range, that would have been an issue for us. But they did, and well within it.⁴³

1.72 Overall, officials indicated that it was 'a very good outcome for taxpayers'.⁴⁴ Asked whether a copy of the scoping study could be provided to the Committee, officials stated that it contained 'commercially sensitive information' and as such, it would not be disclosed in the public domain.

Special accounts

1.73 The Committee spent a considerable amount of time discussing issues related to disclosure and transparency of special accounts, with particular reference to the ANAO's audit report No. 24 – 2003/04, *Agency Management of Special Accounts*. The audit report found that the disclosure of special accounts had deteriorated over

41 *Committee Hansard*, 17 February 2004, p.62

42 *Committee Hansard*, 17 February 2004, p.62

43 *Committee Hansard*, 17 February 2004, p.63

44 *Committee Hansard*, 17 February 2004, p.63

recent years. Between 2001 and 2002, only 59 per cent of existing special accounts were disclosed.⁴⁵

1.74 DoFA was asked when it thought that 100 per cent of special accounts would be disclosed. It responded that it was aiming for complete disclosure by the end of the 2003-04 financial year. Mr McPhee (General Manager, Financial Management Group) said that Finance would be 'very close' to capturing all accounts, given that the audit report, the new Finance Minister's Orders guidelines and chief financial officer forums hosted by Finance has put all agencies on notice.⁴⁶

1.75 Senator Conroy asked why DoFA had removed the list of special accounts from its website, given that DoFA is now in a position to post a more accurate list. Officials told the Committee that the accuracy of information on the website was not guaranteed and that special accounts were now included in the consolidated financial statements (CFS), which are subject to audit, thus providing greater assurance of disclosure.

1.76 The Committee notes that this means that information on special accounts would only be disclosed every 12 months. It also notes that reporting special accounts as part of the CFS would reduce the level of the detail disclosed in them compared to that previously published on DoFA's website.⁴⁷

1.77 Senator Murray asked DoFA if it is addressing the following two issues: First, the process of opening an account was relatively tough but the process of maintaining that account when it was no longer required was weak, as there is no automatic review to ensure that accounts are justified. Second, special accounts are not transparent on agency balance sheets and therefore reduce the parliament's ability to scrutinise them.

1.78 Addressing the first issue, Mr McPhee said that the department had a review process and that this now had a higher priority than in past years. He also stated that 29 special accounts were closed in the past financial year, as they were no longer required. On the second issue, he stated that there is now increased disclosure and transparency because agencies are required to publish receipts and expenditure in portfolio budget statements.⁴⁸

1.79 Senator Murray asked how a review process to assess the validity of special accounts might be formalised. While agreeing with the need, Mr McPhee said that nothing had been formalised. Nonetheless, he indicated that DoFA would consider what the most appropriate mechanism might be.

45 *Committee Hansard*, 17 February 2004, p.77

46 *Committee Hansard*, 17 February 2004, p.78

47 *Committee Hansard*, 17 February 2004, pp.76-77

48 *Committee Hansard*, 17 February 2004, p.81

Australian Electoral Commission (AEC)

1.80 Issues raised by members of the Committee and other senators in attendance included:

- Funding and disclosure of political donations;
- Indigenous enrolments;
- Community education regarding electoral matters (particularly Indigenous education) and school visits;
- The election conducted for the Queensland branch of the Australian Education Union;
- Queensland State Election and the Greens how-to-vote cards;
- Electoral enrolment of prisoners;
- Amalgamation and co-located divisional offices; and
- Electoral redistributions (in particular, ABS data used to calculate boundaries).

1.81 Members of the Committee inquired into the status of six investigations relating to disclosure of donations, including disclosure by Australians for Honest Politics and the Fair Go Alliance, that had been dealt with in detail at the Committee's hearings in November 2003. Mr Dacey (Deputy Electoral Commissioner) told the Committee those investigations had not been finalised and that often, during the course of investigations, other issues arose that required further examination.⁴⁹

1.82 Mr Dacey and Ms Mitchell (Director, Funding and Disclosure) informed the Committee of a website that is currently being developed that would provide information on particular issues under investigation. The site would also publish the AEC's reasons for making a decision on particular issues.⁵⁰

1.83 The Committee was told that the AEC was also in the 'information gathering' stages of an investigation as to whether several donors to the New South Wales branch of the Nationals should be considered associated entities. Senator Faulkner asked whether the matter had come to the AEC's attention via media reports or if it had been formally placed before it. In response, Ms Mitchell said that the Greens had formally

49 *Committee Hansard*, 17 February 2004, p.3

50 *Committee Hansard*, 17 February 2004, p.3

placed the matter before the AEC, but that the AEC was already looking at the issue before then, as it had arisen as part of its compliance review activities.⁵¹

1.84 Senator Nettle noted that the AEC's annual report stated that:

The number of compliance investigations conducted during 2002–03 was fewer than anticipated, due to a lack of appropriate staffing resources.⁵²

1.85 The senator asked whether this lack of staffing resources was impacting on the AEC's ability to answer questions raised by her office some 18 months earlier. Ms Mitchell indicated that staffing resources contributed somewhat, but it was also due to 'complexities in the legislation and the way in which organisations are set up that sometimes can take a while to work through to gather the necessary information'.⁵³ Elaborating on this, Ms Mitchell stated that:

It is not so much a problem in locating the money trails because, if we need to, we can access financial records of an organisation. It is the way in which organisations are set up that does not necessarily make it clear. When you look at the definition of an associated entity in the legislation, whilst it is easy to do the first part of that definition and work out whether or not they were established by a registered political party, the second half of the definition and working out whether they operate to the benefit of a party to a significant extent can require quite a detailed examination, especially when you are looking at a range of potential organisations.⁵⁴

1.86 Senator Murray asked if it was possible for the AEC to release information on particular elements of the investigations that had been concluded. Ms Mitchell said that once the AEC had determined whether an organisation was an associated entity it could perhaps release some findings. Ms Mitchell indicated, however, that the investigations had not yet determined whether any organisations were associated entities and stated that:

It is not appropriate for [the AEC] to disclose any other information until [it has] actually determined whether the organisation is an associated entity.⁵⁵

51 *Committee Hansard*, 17 February 2004, p.5

52 *Committee Hansard*, 17 February 2004, p.5

53 *Committee Hansard*, 17 February 2004, p.5

54 *Committee Hansard*, 17 February 2004, p.5

55 *Committee Hansard*, 17 February 2004, p.24

Acknowledgements

1.87 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.

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

Next hearings—Budget estimates 2004-05

1.89 By resolution of the Senate,⁵⁶ the Committee is scheduled to consider the Budget estimates for the 2004-05 financial year from Monday, 24 May to Thursday, 27 May 2004. The Committee has also available to it Friday, 28 May as a spill over day.

1.90 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 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;
- 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;
- Australian Electoral Commission;
- Commonwealth Grants Commission;
- Commonwealth Superannuation Administration (Comsuper);
- Commonwealth Superannuation Scheme Board; and
- Public Sector Superannuation Scheme Board.

Appendix 2

Correspondence from the Department of Parliamentary Services relating to its Portfolio Additional Estimates Statement.

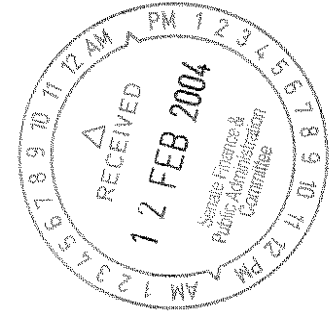


Parliament of Australia
Department of Parliamentary Services

DPS ref: 03/256R

11 February 2004

Senator Brett Mason
Chair
Finance and Public Administration Legislation Committee



Dear Senator Mason

PORTFOLIO ADDITIONAL ESTIMATES STATEMENT (PAES) 2003-04
DEPARTMENT OF PARLIAMENTARY SERVICES

1 Additional Estimates (AEs) bids were originally sought for the three former joint parliamentary departments. The Department of Parliamentary Services (DPS) was established on 1 February 2004 to fulfill all the functions of the former departments.

2 Due to the deferred introduction of the AEs Bills, the amounts that would have been appropriated to the three former departments will now be appropriated to DPS.

3 Given the timing of the changed arrangements, it was not possible to produce a PAES for DPS in the format recommended by the Department of Finance and Administration. The purpose of any PAES is to explain the amounts appropriated in the Appropriation Bills. An explanation of the amounts appropriated to DPS is at *Attachment A*.

4 Of the total of \$275,000 being sought, \$225,000 is supplementation for the Comcover premium and \$50,000 is required to repay the Joint Advance to the Presiding Officers, as it was used to fund compensation payments in the former Joint House Department.

Yours sincerely

Hilary Penfold QC
Secretary

CC Alistair Sands (Committee Secretary)

Attachment A

Budget Measures—Department of Parliamentary Services—Summary

Table 1.1 Summary of Measures disclosed in the Appropriation (Parliamentary Departments) Bill (No. 2) 2003-04.

Outcome	Measure	Additional Appropriations 2003-04 (\$'000)		
		Dept Outputs	Admin Expenses	Total
Parliament functions effectively and its work and building are accessible to the Australian community	Supplementation for increased Comcover Premiums per PM's agreement dated 24/08/2003	225	Nil	225
	Advance from the Joint Advance to the Presiding Officers to fund compensation payments	50	Nil	50
Total: Department of Parliamentary Services		275	Nil	275

Appendix 3

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