

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
FEDERAL COURT OF AUSTRALIA

Question No. 6

Senator Brandis asked the following questions at the hearing on 25 May 2011:

Senator BRANDIS: There were in 2007-08 not fewer than 15 judges based at the Victoria registry of the court. In 2011-12 there will be 11, and I am advised by practitioners in Melbourne that the case load and the level of work of the court at its Victorian registry certainly has not diminished in the intervening period. So, why has the number of judges shrunk by more than one quarter in the second-biggest city in the country when the work load has not diminished?

Mr Soden: I do not have details here or at the forefront of my mind of what it was a couple of years ago compared to what it is now, and I am not sure whether that number 15 included or excluded the Chief Justice, who was, as you know, Melbourne based at that time.

Senator BRANDIS: I believe it did.

Mr Soden: I think 15 was the number some years ago, and I think it is 11 now. I would have to take that on notice.

....

Senator BRANDIS: How many judges are there sitting on the court at the minute?

Mr Soden: If you include all the judges appointed to the Federal Court, 47—but that includes people like Chief Justice Higgins—

Senator BRANDIS: I want to know the number of judges who are actually at work rather than on leave for whatever reason or on secondment or have double commissions and sit on a territory supreme court, for example.

Mr Soden: Would you include in that number those who are on long leave? I would have to take that on notice.

Senator BRANDIS: Would you take it on notice.

Mr Soden: I am happy to take it on notice.

Mr Wilkins: We can help with that number, if you want.

Senator BRANDIS: Yes, please. My approach to these estimates is that anybody who knows the answer is welcome to offer it.

Mr Wilkins: We have just been keeping an eye on the timing, Senator.

Ms Kelly: We believe the number to be 43.

Mr Soden: I am not sure whether or not that includes people on long leave.

Ms Kelly: I have taken out the three judges who are appointed to other offices, but I do not have the long leave details.

Senator BRANDIS: So it includes the long leave judges. Comparing like with like, how does that compare with 12 months previously?

Ms Kelly: I do not have that figure.

Senator BRANDIS: You can take that on notice. Thank you.

The answers to the honourable senator's questions are as follows:

1. Each time a judicial retirement or resignation occurs it gives rise to an opportunity to make an appointment. The Government considers whether a replacement appointment is needed and, given the respective workloads of registries across the nation, where that appointment might be made. The Government also considers whether a judge should be replaced or a federal magistrate appointed.

As at 25 May 2011, there were 12 judges in the Melbourne Registry. Judicial resources available and applications lodged in previous years are as follows:

Judicial resources as at 30 June	2007-08	2008-09	2009-10	As at 25 May 2011
Federal Court Total	48	45	49	46
Judges whose time is spent predominantly on work of other courts or tribunals	4	3	3	3
Judges in the Melbourne Registry*	14	13	14	12

* The 2007-08 and 2008-09 figures include Chief Justice Black. Chief Justice Keane is located in Brisbane.
 Figures for all years exclude Justice Giudice, the President of Fair Work Australia.
 The 2007-08 figure excludes Justice Goldberg who was the full-time President of the Competition Tribunal. From 2008-09 Justice Finkelstein was appointed as Part-time President of the Competition Tribunal and is included in the above figures.

Two other events have subsequently affected the resourcing of the Melbourne registry. Justice Ryan retired with effect from 2 June 2011 and was replaced by Justice Murphy on 13 June 2011. Justice Finkelstein resigned with effect from 30 June 2011. The Government is considering what action it will take in relation to this vacancy.

2. As at 25 May 2011, there were 46 Judges appointed to the Court. Four of these Judges were on long leave, one from New South Wales, one from Victoria, one from South Australia and one from Western Australia. In addition, three Judges' work as members of other Courts or Tribunals occupied all, or most, of their time (Higgins, Giudice and Downes JJ). As a result, there were 39 judges available to hear cases.
3. As at 25 May 2010, there were 49 Judges appointed to the Court. Two of these Judges were on long leave, one from New South Wales and one from Victoria. In addition, three Judges' work as members of other courts or tribunals occupied all, or most, of their time (Higgins, Giudice and Downes JJ). As a result, there were 44 judges available to hear cases.