

# ODGERS' AUSTRALIAN SENATE PRACTICE

FOURTH SUPPLEMENT TO THE THIRTEENTH EDITION

Updates to 31 December 2015

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## **Introduction**

This supplement updates to 31 December 2015 material in the 13th edition of *Odgers' Australian Senate Practice* which reflected developments to 31 December 2015.

The supplement is issued in printed and electronic form, and updated annually until the next edition is published. Amendments to the text are incorporated into the ebook version, 13.4, which can be downloaded free of charge from the Senate website.

Users of the book should refer to the material in the supplement by the page and paragraph number of the text in the book (or pdf version online). New text is shown in blue font.

Rosemary Laing  
Clerk of the Senate  
January 2016



## Chapter 1 – The Senate and its constitutional role

*Table 1: Votes and seats in elections, 1949-2014*

page 14, table, add

Election	Party	Senate			House of Representatives		
		% of vote	Seats	% of seats	% of vote	Seats	% of seats
2013/14	ALP	29.63	12	30.0	33.38	55	36.66
	LP	28.27	13	32.5	32.02	58	38.66
	NP				4.29	9	6
	LNP	8.10	3	7.5	8.92	22	14.66
	CLP	0.32	1	2.5	0.32	1	0.66
	Greens	9.23	4	10	8.65	1	0.66
	PUP	5.61	3	7.5	5.49	1	0.66
	NX Gp	1.93	1	2.5	-	-	-
	FF	1.12	1	2.5	-	-	-
	LDP	3.75	1	2.5	-	-	-
	AME	0.48	1	2.5	-	-	-
	Others	11.56	-	-	6.93	3	2

\* The results for the Senate are based on the final declaration by the Australian Electoral Commission in November 2013 and, for Western Australia, the outcome of the re-election in April 2014.

Abbreviations, add

AME	Australian Motoring Enthusiast Party
CLP	Country Liberals (Northern Territory) Party
DLP	Democratic Labour Party
LDP	Liberal Democratic Party
NX Gp	Nick Xenophon Group
PUP	Palmer United Party

**Table 2: Party affiliations in the Senate 1901-2014\***

Page 19, table, add

Year of election	Total number of seats	Government	Non-government	Government majority	Govt minority	Party	Number of seats
2013-14	76	33	43	-	-10	Liberal ◇	27
						Labor	25
						Greens	10
						The Nationals ◇	6
						Palmer United Party‡	3
						Nick Xenophon Group	1
						Democratic Labour**	1
						Liberal Democratic	1
						Family First	1
						Australian Motoring Enthusiast	1

◇ Government party/parties

\* The results for the Senate are based on the final declaration by the Australian Electoral Commission in November 2013 and, for Western Australia, the outcome of the re-election in April 2014.

\*\* Senator Madigan was elected as a member of the Democratic Labour Party but became an independent senator on 4 September 2014.

‡ Senators Lambie and Lazarus were elected as members of the Palmer United Party but became independent senators on 24 November 2014 and 16 March 2015, respectively.

## **Chapter 2 – Parliamentary Privilege: immunities and powers of the Senate**

### ***Subpoenas, search warrants and members***

Page 60, paragraph 2

add, In two cases in 2012 in which a Senate estimates brief prepared by a department had been tendered in evidence, the Full Federal Court ordered that no regard be had to the brief and that a later affidavit containing the same data be accepted as evidence in its place. [add footnote, *Nojin v Commonwealth* (VID1110/11), *Prior v Commonwealth* (VID1111/11),

unreported, Federal Court of Australia, 5 December 2012.]

### ***Matters constituting contempts***

Page 85, last paragraph      add, While not finding a contempt in the unauthorised use of the closed circuit television system in Parliament House by officers of the Department of Parliamentary Services, the committee was critical of the disregard shown by those officers for the powers, privileges and immunities of the parliament and recommended that they undertake structured training to address this deficiency. [add footnote, *160th Report on the use of CCTV material in Parliament House*, PP 429/2014.]

### ***Should the power to deal with contempts be transferred to the courts?***

Page 90, paragraph 4, end      add, reaffirmed by the 2013 Report of the UK Joint Committee on Parliamentary Privilege. [add footnote, HL Paper 30, HC 100. In contrast, the 1999 Report of the UK Joint Committee on Parliamentary Privilege recommended the transfer of the Houses' penal jurisdiction in respect of non-members to the High Court, a recommendation not acted on (HL Paper 34-1, HC 214-1).]

### ***Parliamentary precincts***

Page 98, after paragraph 3      add footnote, For useful clarification of the status of administrative actions taken under the Precincts Act, see Committee of Privileges, *160th Report (The use of CCTV material in Parliament House)*, PP 429/2014, paragraphs 3.12 to 3.16.

## **Chapter 3 – Publication of Senate proceedings**

### ***Broadcasting of proceedings***

Page 101, paragraph 6, end     add, and on the internet.

Page 101, penultimate paragraph

replace last sentence, All of the foregoing provisions were consolidated into a set of broadcasting orders first passed on 13 February 1997, and again on 11 December 2013 to incorporate the broadcasting of proceedings on the internet and use of archived audio visual material accessible through the Parliament of Australia website.

Page 102, paragraph 1     first sentence, after “system”, insert “and on the internet”.

Delete third sentence.

Page 104, paragraph 3, end     add, The republication of extracts of Hansard, including by electronic link, is covered by qualified privilege. In 2013, the Procedure Committee considered a proposal to provide additional protection to the republication of Hansard extracts. The committee concluded that this would involve a significant change to the law which should not be undertaken without further analysis. [add footnote, Procedure Committee, Second report of 2013, PP 474/2013]

## **Chapter 4 – Elections for the Senate**

### ***Counting the vote***

Page 124, paragraph 4     delete, “and also the National Tally Room in Canberra”



delete, “Proposals to discontinue the National Tally Room have not yet eventuated.”

Page 124, after paragraph 5 insert, After the 2013 election, during the course of a recount of the Western Australian Senate vote, it was discovered that 1370 ballot papers had been lost. An official inquiry failed to locate the papers or identify the circumstances of the loss. Given the closeness of the results and the different outcome from the recount, the AEC itself lodged a petition with the High Court sitting as the Court of Disputed Returns asking for the election result to be declared void. Two other parties lodged similar petitions. The Court declared the election void, holding that it was precluded by the *Commonwealth Electoral Act 1918* from reconstructing the result from earlier records of the lost ballot papers, the loss of which, combined with the closeness of the count inevitably affected the result. The election was held again on 5 April 2014, with a date for the return of the writs that allowed all elected or re-elected senators to begin their terms on 1 July 2014. [add footnote, *Australian Electoral Commission v Johnston & Ors, Mead v Johnston & Ors, Wang v Johnston & Ors* [2014] HCA 5.]

### ***Recounts***

Page 127, paragraph 4, end add, A recount last occurred in 2013 after the result of the count in Western Australia was so close as to raise questions about the safety of the original result. The election was ultimately declared void.

### ***Casual vacancies***

Page 131, paragraph (f) after “facsimile”, insert “or other electronic means”.

Page 131, last paragraph, sentence beginning “Had he resigned” to end of paragraph (p132).

replace, The interesting questions that would have arisen had he resigned before the end of his term were deferred till 2013 when Senator Bob Carr resigned, having just been elected to a new term starting on 1 July 2014. He submitted what was in effect a “double resignation”, resigning both from his place in respect of his term ending on 30 June and also in respect of his new term commencing on 1 July. Notification of both vacancies was provided to the Governor of NSW by the President of the Senate pursuant to section 21 of the Constitution.

### *Method of filling casual vacancies*

Page 134, after paragraph 1 insert, The “double resignation” of Senator Bob Carr in 2013 created interesting questions for the Parliament of New South Wales in choosing a replacement. Senator Carr’s party nominated one person to fill both the remainder of his current term and the new term to which he had been elected, but the Parliament, after considering advice from the Crown Solicitor, determined that it could fill the current vacancy only and could not act prospectively to fill a future vacancy. The advice was tabled in the New South Wales Legislative Council on 12 November 2013.

With the NSW Houses not scheduled to sit between 17 June and 12 August 2014, further advice was sought from the NSW Crown Solicitor about whether an appointment could be made by the Governor and whether a resolution of the Senate encouraging the NSW Parliament to fill the vacancy could somehow act as a “trigger” for the Houses to meet and fill the vacancy. Not surprisingly (NSW having always taken a strict

view of when a governor's appointment could be made) the advice on both questions was negative. In any case, the Senate did not contemplate such a resolution. However, the NSW Houses resolved to meet on 2 July 2014 and again chose Senator O'Neill to fill the second vacancy created by the resignation of Senator Bob Carr. For the avoidance of doubt, the President, on 1 July 2014, reminded the NSW Governor of his earlier notification of the vacancy existing from that date.

### *Delay in filling casual vacancies*

Page 136, footnote, 56      add, For a vacancy filled by a state governor, see the case of Senator Tierney (NSW) 1991. For earlier precedents, see ASP, 6th edition, pp. 149-50.

Page 136, paragraph 3, end

add, In 2015, a resolution agreed to on 26 March reaffirmed earlier resolutions and called on New South Wales to take all necessary steps to fill the vacancy caused by the resignation of Senator Faulkner. Despite the 1991 precedent, a governor's appointment was not made and the vacancy remained unfilled until after the New South Wales Houses met following the state election. [add footnote, 26/3/2015, J.2465; 11/5/2015, J.2514.]

Page 136, penultimate paragraph, end

add a footnote, after "principle": For particularly expeditious filling of casual vacancies, see the cases of Senators Smith (WA), Thorp and Whish-Wilson (Tas) in 2012.

## **Chapter 5 – Officers of the Senate: parliamentary administration**

### ***The President of the Senate***

Page 140, paragraph 1, end      add, Since 1986, Presidents have introduced other bills of an administrative character (see Appendix 5).

Page 140, paragraph 5, end      add, and the Parliamentary Budget Office established in 2012.

### ***Senate's appropriations and staffing***

Page 150, paragraph 2,

replace, The standing committee, known since 2015 as the Standing Committee on Appropriations, Staffing and Security, is established by standing order 19, which provides:

(2) The committee shall inquire into:

- (a) proposals for the annual estimates and the additional estimates for the Senate;
- (b) proposals to vary the staff structure of the Senate, and staffing and recruitment policies; and
- (c) such other matters as are referred to it by the Senate.

(3) The committee shall:

- (a) in relation to the estimates—
  - (i) determine the amounts for inclusion in the parliamentary appropriation bills for the annual and the additional appropriations, and

- (ii) report to the Senate upon its determinations prior to the consideration by the Senate of the relevant parliamentary appropriation bill;
- (b) in relation to staffing—
  - (i) make recommendations to the President, and
  - (ii) report to the Senate on any matter;
- (c) make an annual report to the Senate on the operations of the Senate’s appropriations and staffing, and related matters;
- (d) consider the administration, operation and funding of security measures affecting the Senate and advise the President and the Senate as appropriate; and
- (e) when conferring with a similar committee of the House of Representatives, consider the administration and funding of information and communications technology services for the Parliament, and advise the President and the Senate as appropriate.

[add footnote, The committee’s terms of reference were amended on 16/6/2004 to add oversight of security funding and administration (J.3480); 27/11/2012 to add paragraph (3) (e) (J.3418); and 25/3/2015 to include the Deputy President as an ex officio member, strengthen security oversight and include “Security” in the committee’s name (J.2412).]

Page 154, penultimate paragraph, end

add, The committee persisted and the remaining new policy proposals were agreed to for the 2013-14 budget, together with additional funding for a new joint select committee to be supported by the Senate Department. At the same time, the President and the Minister for Finance agreed on a process for consultation on the budget and for the minister to have carriage of the department's budget through the Cabinet approval process on behalf of the President. [add footnote, 55th report, Estimates for the Department of the Senate 2013-14, Transfer of information and communication technology services, Budgetary milestones, PP 116/2013].

Page 155, paragraph 1, end

add, “further strengthening its oversight of security matters in 2015”.

Page 155, after paragraph 4

insert, In 2012, after an external review of information and communication technology services to the Parliament, these services were consolidated in the joint department under a governance structure that included the Appropriations and Staffing committee and the equivalent committee of the House of Representatives meeting jointly in an oversight role. On the recommendation of the committee in its 54th report, standing order 19 was amended to authorise the committee to consider the administration and funding of ICT services for the Parliament and to meet jointly with a similar committee of the House for that purpose. [add footnote, 54th report, A governance structure for Parliamentary ICT services, PP 446/2012; adopted 27/11/2012, J.3418-9.]

Page 155, footnote 71

add, Procedure Committee, *First report of 2015*, PP 73/2015, adopted 25/3/2015, J.2412

## ***Other Departments***

Page 156, second dot point under DPS

omit “information systems support,” substitute “information and communication technology services”.

## **Chapter 6 - Senators**

### ***Distinguished visitors***

Page 175, last sentence after “Prime Ministers” insert, “or Presidents”; add, India.

Page 175, footnote 75, end add, ; 29/10/2014, J.1680.

Page 175 at end of chapter, add new paragraph.

Seats for visiting members of the House of Representatives are made available behind the bar of the Senate. [add footnote, 18/5/1993, J.164; 24/9/2014, J.1492.] It is not in order for visitors to approach members in their seats. [add footnote, 18/6/2014, J.900.]

## **Chapter 7 – Meetings of the Senate**

### ***Sittings and adjournment of the Senate***

Page 187, paragraph 2, last sentence

add, except in the open-ended adjournment debate on Tuesday when senators may speak for 5, 10 or 20 minutes.

Page 187, footnote 24

replace, For the history of variations to arrangements for the adjournment debate see reports of the Procedure Committee.

## ***Times of meeting***

Page 191, paragraph 4, last sentence

omit “12.30 pm on Mondays and Tuesdays”, substitute “10 am on Mondays, 12.30 pm on Tuesdays”.

## **Chapter 8 – Conduct of proceedings**

### ***Routine of business***

Pages 198-200

replace, The routine of business is as follows:

#### **Monday**

- (i) Government business only
- (ii) At 2 pm, questions
- (iii) Motions to take note of answers
- (iv) Petitions
- (v) Notices of motion
- (vi) Postponement and rearrangement of business
- (vii) Formal motions – discovery of formal business
- (viii) Any proposal to debate a matter of public importance or urgency
- (ix) Consideration of documents under standing order 61 for up to 30 minutes
- (x) Government business
- (xi) At 9.50 pm, adjournment proposed
- (xii) At 10.30 pm, adjournment.

#### **Tuesday**

- (i) Government business only
- (ii) At 2 pm, questions
- (iii) Motions to take note of answers



- (iv) Petitions
- (v) Notices of motion
- (vi) Postponement and rearrangement of business
- (vii) Formal motions – discovery of formal business
- (viii) Any proposal to debate a matter of public importance or urgency
- (ix) Consideration of documents under standing order 61 for up to 30 minutes
- (x) Consideration of committee reports under standing order 62(4) for up to 60 minutes
- (xi) Government business
- (xii) At 7.20 pm, adjournment proposed
- (xiii) Adjournment.

### **Wednesday**

- (i) Government business only
- (ii) At 12.45 pm, senators' statements
- (iii) At 2 pm, questions
- (iv) Motions to take note of answers
- (v) Petitions
- (vi) Notices of motion
- (vii) Postponement and rearrangement of business
- (viii) Formal motions – discovery of formal business
- (ix) Any proposal to debate a matter of public importance or urgency
- (x) Consideration of documents under standing order 61 for up to 30 minutes
- (xi) Consideration of committee reports under standing order 62(4) for up to 60 minutes
- (xii) Government business
- (xiii) At 7.20 pm, adjournment proposed
- (xiv) At 8 pm, adjournment.

### **Thursday**

- (i) General business orders of the day for consideration of bills only for up to 2 hours

- 20 minutes
- (ii) Petitions
  - (iii) Notices of motion
  - (iv) Postponement and rearrangement of business
  - (v) Formal motions – discovery of formal business
  - (vi) Government business
  - (vii) At 12.45 pm, non-controversial government business only
  - (viii) At 2 pm, questions
  - (ix) Motions to take note of answers
  - (x) Consideration of committee reports under standing order 62(4) for up to 60 minutes
  - (xi) Not later than 4.30 pm, general business
  - (xii) Not later than 6 pm, consideration of documents under general business
  - (xiii) Not later than 7 pm, consideration of committee reports and government responses under standing order 62(1)
  - (xiv) At 8 pm, adjournment proposed
  - (xv) At 8.40 pm, adjournment.

### ***Government and general business***

Page 201, last paragraph to page 202, first paragraph

replace, Government business (business initiated by ministers) takes precedence over general business (business initiated by other senators) at all times except for periods on Thursday at the stage indicated in the routine of business. [add footnote, SO 59.] The first period of two hours and 20 minutes is reserved for general business orders of the day for the consideration of bills. This arrangement has its origin in agreements reached after the 2010 election between the minority government and independent and minor party members for greater opportunities

for the consideration of private members' and senators' bills. It was re-adopted after the 2013 election notwithstanding a change of government. [add footnote, 14/11/2013, J.128; 24/6/2014, J.975.]

Page 202, paragraph 2

omit "three"; omit "12.30 pm to 2 pm on Mondays and Tuesdays and 9.30 am to 12.45 pm on Wednesdays".

add, On Thursdays at 12.45 pm the government business that may be transacted is specified as non-controversial government business only. This, according to the Procedure Committee, "is business that senators agree may be dealt with without divisions. It does not preclude debate and amendment of bills but it involves an understanding that divisions will not be called during the period 12.45 to 2 pm." The committee also indicated that the requirement to proceed to non-controversial business at 12.45 pm did not preclude other business being conducted after such bills have been dealt with, subject to the usual consultations amongst senators and necessary motions to rearrange business. [add footnote, Procedure Committee, *First report of 2012*, PP 144/2012, p.2.]

Page 202, footnote 23

omit, "with no divisions before 12.30pm".

Page 202, paragraph 6

add, Business of the Senate takes precedence until determined or until the time during which general business would otherwise take precedence over government business has expired.

Page 202, end

insert, ***Treatment of routine committee business***

The expansion of committee workloads led the Procedure Committee, in 2014, to propose a trial of a different method to authorise committees to meet while the Senate is sitting and

to encourage committees to use the existing mechanism under standing order 67 to seek extensions of time by postponing orders of the day for the presentation of committee reports. [add footnote, Procedure Committee, *Second report of 2014*, PP 142/2014; *Third report of 2014*, PP 176/2014.] In relation to committees seeking to meet contrary to standing order 33, the chair provides notification of the committee's decision to the Clerk who reads a list of all such proposals immediately after prayers on any day. The proposals are taken to be approved unless any senator requires the question to be put to the Senate for determination, which is done without amendment or debate. [add footnote, For precedent, see 19/11/2014, J.1796; 24/11/2014, J.1814-5; 26/3/2015, J.2431, 2432; 17/6/2015, J.2678; 15/10/2015, J.3257, 3261. For precedent for a proposed extension of time for a committee to report being put to the Senate for determination, see 12/10/2015, J.3196.] Having demonstrated that they provided advantages in streamlining routine business without diminishing the rights of senators, the new procedures were adopted as permanent measures on 24 June 2015, with effect from the first sitting day in August 2015. [add footnote, J.2811.]

### ***Consideration of committee reports and Auditor-General's reports***

Page 203, paragraph 1, first sentence and footnote 27

replace, Under standing order 62(4), there is a period of one hour on Tuesday, Wednesday and Thursday for debate on committee reports and government responses then presented, with a speaking time limit of 10 minutes for each senator speaking to a report. [footnote 27, Adopted initially as a temporary order on 24/9/2014, J.1489-90, and permanently

on 24/6/2015, J.2811. Certain reports presented out of sitting may be considered at the first available opportunity under this standing order (SO 38(7)(e).]

Page 203, paragraph 1, end add, but is not used for reports presented pursuant to Selection of Bills Committee recommendations. [add footnote, This is in accordance with guidance provided by the Procedure Committee: *Second report of 2014*, PP 142/2014, p.3; if a report is presented on Monday, SO 169(1)(a) provides for a motion to be moved without notice for its consideration.]

### ***Consideration of documents***

Page 203, paragraph 5 replace, A special time is provided on Monday, Tuesday and Wednesday for the consideration of any documents presented by the President of the Senate, the Auditor-General or ministers. Under standing order 61, 30 minutes are set aside for senators to move motions to take note of one or more of such documents, and each senator may speak for not more than five minutes to such a motion.

Page 203, paragraph 6 replace, Although it is now rare for documents to be presented at other times, any that are so presented are automatically placed on the Notice Paper for future consideration. [add footnote, Streamlining of these procedures, adopted on a trial basis on 24/9/2014 (J.1488) and permanently on 24/6/2015 (J.2811), consolidated the multiple opportunities for presenting documents and simplified their consideration. See Procedure Committee, *Second report of 2014*, PP 142/2014, *Second report of 2015*, PP 188/2015.]

### ***Curtailment of non-government business***

Page 204, last paragraph      delete

### ***Presentation of other documents***

Page 205, paragraph 3      replace, Documents required by statute to be tabled may be presented when there is no other business before the chair. [footnote, SO 166 refers to documents tabled by ministers and pursuant to statute.] In practice, such documents are presented before business is commenced on any day. If reports from committees and other documents ordered by the Senate to be produced are tabled in accordance with standing order 63, they may be debated only on motions moved by leave. Such motions are subject to special time limits. [add footnote, SO 169(2).]

### ***Matters of public interest***

Page 205, footnote 35      add, Under changes agreed to in 2014-15, this has been renamed senators' statements and the individual speaking time reduced to 10 minutes.

### ***Suspension of standing orders***

Page 213, footnote 54      add, 3/12/2015, J.3606.

## **Chapter 9 – Motions and amendments**

### ***Notice of motion***

Page 220, list of motions not requiring notice

add, (a) to determine authority for a committee to meet otherwise than in accordance with SO 33 in respect of which a notification has been lodged.

Page 220, item (c) of list after “senator”, insert “or committee chair”.

Page 221, item (j) of list omit “by a minister”.

Page 221, item (k) of list before “Wednesday”, insert “Tuesday”.

### ***Recission of resolutions and orders***

Page 230, footnote 42 add, 27/11/14, J.1893.

### ***Amendments***

Page 232, list of motions not open to amendment

add, (a) to determine authority for a committee to meet otherwise than in accordance with SO 33 in respect of which a notification has been lodged.

Page 232, item (c) of list after “senator”, insert “or committee chair”.

Page 233, footnote 53 add, 18/3/2009, J.1768-9; 23/6/2011, J.1095; 4/7/2011, J.1136.

## **Chapter 10 – Debate**

### ***Motions debatable***

Page 239, list of motions not debatable

add, (a) to determine authority for a committee to meet otherwise than in accordance with SO 33 in respect of which a notification has been lodged.

Page 240, paragraph 1, last sentence

omit, “and committee reports are also frequently debated by motions moved by leave”.

### ***Time limits on debates and speeches***

Page 243, paragraphs (d) and (e)

replace,

(d) senators' statements at 12.45 pm on Wednesdays under standing order 57(2):

each senator: 10 minutes

total limit: till 2 pm

(e) documents under SO 61:

on Mondays, Tuesdays and Wednesdays:

each senator: 5 minutes

total limit: 30 minutes

at general business on Thursdays:

each senator: 5 minutes



total limit: 1 hour

Page 243, footnote 16, second sentence

replace, Senators may speak for 10 minutes after any senator who wishes to speak for 5 minutes has spoken, or for 20 minutes at the end of the debate.

Page 244, paragraph (l)

replace,

(l) motions by leave to take note of documents or committee reports under SO 169(2):

documents:

each senator: 5 minutes

total limit: 15 minutes per motion, 30 minutes for all consecutive motions

committee reports:

each senator: 10 minutes

total limit: 30 minutes per motion, 60 minutes for all consecutive motions

Page 244, after the list

insert, In addition to these special time limits, a temporary order agreed to on 11 November 2015 allows senators to move motions without notice to take note of ministerial statements (10 minutes per speaker; total limit of 30 minutes per motion and 60 minutes for all consecutive motions).

### ***Quotation of documents***

Page 247, paragraph 2, end add footnote, For precedent, see 10/7/2014, J.1136-7.

### ***Sub judice convention***

Page 257, paragraph 1, end      add, These practices have been consistently followed in relation to more recent royal commissions.

### ***Rules of debate***

Page 260, footnote, 81      add, For confirmation of this principle, see the report of the Legal and Constitutional Affairs Legislation Committee on the Courts Legislation Amendment (Judicial Complaints) Bill 2012 and Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Bill, tabled 14 August 2012, PP 470/2012, p.29.

### ***Interruption of speaker***

Page 264, paragraph 4      after “senator speaking.”, insert footnote, See 22/11/2011, J.1894 for a point of privilege.

### ***Objection to ruling of the President***

Page 268, footnote 137      add, 10/8/2015, J.2886.

### ***Disorder***

Page 269, footnote 142      add, 12/11/2015, J.3385.

Page 270, paragraph 7, end      In 2015, the Procedure Committee considered a proposal for the President to be empowered to remove senators from the chamber for short periods as a means of checking disorderly conduct. The committee reported that, in the absence of consensus, the current procedures should not be altered. Persistently unruly behaviour reflected on the Senate as a whole and was the responsibility of the whole Senate. [add footnote, Procedure Committee, *First report of 2015*, PP 73/2015, p.2.]

## *Dividing the question*

Page 275, footnote, 181 add ; SD, 19/6/2013, pp. 3349-51 (request declined on stated principle and after agreement to the closure).

## *Debating Opportunities and Time Limits*

Pages 275-6, table replace

### **Bills**

1st reading of non-amendable bill	15 mins	SO 112(2)
2nd reading	20 mins	SO 189(1)
In committee	15 mins	SO 189(3)
	(+ possible extension of 15 minutes)	
3rd reading	20 mins	SO 189(1)
Selection of Bills Committee-adoption of report	5 mins	SO 24A(7)
	<b>(limit for debate: 30 mins)</b>	
Reference of a bill to committee	5 mins	SO 115(6)
	<b>(limit for debate: 30 mins)</b>	

### **Committee reports and government responses**

Motions moved by leave	10 mins	SO 169(2)
	<b>(limit for debate: 30 mins per motion, 1 hr for all motions)</b>	
Motions relating to report (Tuesday, Wednesday or Thursday)	10 mins	SO 62(4)
	<b>(limit for debate: 1 hr)</b>	
Resumption (Thursday)	10 mins	SO 62(1)
	<b>(limit for debate: 1 hr)</b>	

### **Debate**

General	20 mins	SO 189(1)
Extension of time (possible)	10 mins	SO 189(1)
In committee	15 mins	SO 189(3)
In reply	20 mins	SO 189(2)

### **Documents (General)**

Motions moved by leave	5 mins	SO 169(2)
	<b>(limit for debate: 15 mins per motion, 30 mins for all motions)</b>	

### **Documents—Consideration**

Motion to take note (Monday, Tuesday and Wednesday)	5 mins <b>(limit for debate: 30 mins)</b>	SO 61(3)
Resumption (Thursday)	5 mins <b>(limit for debate: 1 hr)</b>	SO 61(3)

### **Matters of Public Importance/Urgency**

All speakers	10 mins <b>(limit for debate: 1 hr, or 90 mins if no motions are moved after question time to take note of answers)</b>	SO 61(3)
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### **Senators' statements**

10 mins SO 57(2)

### **Ministerial statements\***

Motion to take note	10 mins <b>(limit for debate: 30 mins per motion, 1 hr for all motions)</b>	SO 169(3)
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### **Questions**

Without notice

asking question	1 min	SO 72(3)
answering question	2 mins	SO 72(3)
supplementary question	30 secs	SO 72(3)
answering supplementary question	1 min	SO 72(3)
Debate on motions relating to answers	5 mins <b>(limit for debate: 30 mins)</b>	SO 72(4)

### **Suspension of standing orders**

5 mins  
**(limit for debate: 30 mins)** SO 209(4)

### **Debate for the election of the President of the Senate**

15 mins SO 6(2)

### **Adjournment of the Senate**

10 mins SO 54(2)  
(except for Tuesday when 5, 10 and 20 min times apply)  
**(limit for debate: 40 mins, except for Tuesday which has no limit on debate)**

\*subject to temporary order

## Chapter 11 – Voting and divisions

### *Voting by voices*

Page 279, footnote 10            add, 4/12/2014, J.1982.

Page 281, footnote 24            add, On this principle, see statement by Deputy President Marshall, 4/12/2014, J.1983.

Page 282, last paragraph,  
4th sentence and footnote 36    Delete.

### *Free votes*

Page 286, paragraph 1, list      add, Marriage Amendment Bill (No. 2) 2012 (government senators only); Marriage Act Amendment (Recognition of Foreign Marriages for Same-Sex Couples) Bill 2013 (government senators only; one Opposition senator crossed the floor).

## Chapter 12 – Legislation

### *Initiation*

Page 294, footnote 12            add, ; carbon pollution reduction scheme repeal bills 7/7/2014, J.1051-2; subsequently altered, J.1070-73.

Page 294, footnote 13            add, ; eleven bills to repeal the carbon pollution reduction scheme 2/12/2013, J.172, each bill then dealt with separately, J.172-4; nine bills to repeal the carbon pollution reduction scheme 7/7/2014, J.1051-52, each bill then dealt with separately, J.1053-4; subsequently altered, J.1070-73.

Page 299, table

add:

<b>Sittings</b>	<b>Bills passed</b>	<b>Length of sittings in weeks</b>	<b>Bills passed during last 4 sitting weeks (% of bills passed)</b>	<b>Bills passed during last 2 sitting weeks (% of bills passed)</b>
Jan—June 2012	112	7	95 (84.8)	60 (53.6)
July—Dec 2012	95	8	63 (66.3)	48 (50.5)
Jan—June 2013	135	7	114 (84.4)	80 (59.3)
July—Dec 2013	14	3	14 (100)	13 (92.9)
Jan—June 2014	81	7	62 (76.5)	47 (58)
July—Dec 2014	58	10	22 (37.9)	13 (22.4)
Jan—June 2015	114	7	78 (68.4)	48 (42.1)
July—Dec 2015	67	8	42 (62.7)	19 (28.3)

### ***Reference to standing or select committee***

Page 303, after heading

insert, Most bills are now referred to committees on the recommendation of the Selection of Bills Committee (see next section) but the standing orders also retain traditional methods for the reference of bills to committees during the legislative process.

Page 303, after paragraph 3

insert, For some years the Senate has agreed to an order for the automatic referral to legislation committees of bills with substantive provisions required to commence on or before 1 July, and introduced in the House of Representatives during the two weeks when the Senate does not meet because of budget estimates hearings. The order authorises committees to report, by unanimous decision, that there are no substantive matters requiring examination. This is a practical response to maximise the time available for committees to consider time-critical bills that will require urgent consideration. [add footnote, 13/5/2010, J.3485, 12/5/2011, J.911, 9/5/2012, J.2407; 15/5/2013, J.3929; 15/5/2014, J.821; 13/5/2015, J.2585]

- Page 304, paragraph 8           omit first sentence.
- Page 304, footnote 59           add, ; illegal logging prohibition bill, 23/3/2011, J.752; human rights and anti-discrimination bill, 21/11/2012, J.3344; Australian jobs bill, 21/3/2013, J.3857. For an exposure draft of a private senator's bill referred to a committee, see Medical Services (Dying with Dignity) Bill 2014, 24/6/2014, J.976.
- Page 304, footnote 62           add, This is now little used except where it may provide a tactical option; see proceedings on the Minerals Resource Rent Tax Repeal and Other Measures Bill 2013 [No. 2], 2/9/14, J.1375-6, PIB 285.
- Page 306, paragraph 3 (mid-paragraph)
- insert footnote, after "received." For examples of the Senate explicitly providing otherwise, see reference of the Building and Construction Industry (Improving Productivity) Bill 2013 and related bills, 4/12/2013, J.233 and the Fair Work (Registered Organisations) Amendment Bill 2013, 9/12/2013, J.288-9, all referred to the references committee.
- Page 307, footnote 75           add, ; carbon pollution reduction scheme repeal bills 7/7/2014, J.1070-73. For suspension of SO 115(3) to allow the second reading debate to proceed on a private senator's bill not yet reported by a committee, see Defence Legislation Amendment (Woomera Prohibited Area) Bill 2013, 11/2/2014, J.412.

### ***Relevance of amendments***

- Page 316, paragraph 2, end    An omnibus or statute revision bill dealing with multiple subjects and pieces of primary legislation provides substantive leeway for senators to move amendments. [add footnote, See

proceedings on the Omnibus Repeal Day (Spring 2014) Bill 2014, 1-2/12/2014.]

### ***Disagreement of House with Senate amendments***

Page 328, footnote, 186      add, For an example of the Senate not insisting on its original amendment and proposing new amendments as an alternative, one of which, for constitutional reasons had to take the form of a request, see proceedings on the Commonwealth Inscribed Stock Amendment Bill 2013, 9/12/2013, J.271-5.

### ***Control of bills***

Page 335, after paragraph 3      insert, Similarly, after the motion to take together a package of eleven bills to repeal the carbon pollution reduction scheme had been negated on 2 December 2013, the non-government parties then gave precedence to two of the bills ahead of the remaining bills in the group [add footnote, 2/12/2013, J.172.]

Page 335, footnote 214      add, ; 1/12/2014, J.1923-24.

### ***Limitation of debate – urgent bills***

Page 338, footnote, 237      add, For examples of amendments being withdrawn by leave, see proceedings on the Low Aromatic Fuel Bill 2012, 27/11/2012, J.3432; proceedings on the carbon tax repeal bills, 10/7/2014, J.1129.

Page 339, footnote, 240      add, ; 27/11/2012, J.3409-10.

Page 339, paragraph 3      replace first sentence, In recent times such orders have been used in preference to the procedures under standing order 142, possibly because fewer steps are required to put them in place



(but this has an impact on the rights of senators to resist the procedure). Such orders are drafted to apply as if they were limitations of debate under standing order 142. When the allotted time expires, the questions necessary to determine the matter, including on any circulated amendments, are put in accordance with the standing order.

## Chapter 13 – Financial legislation

### *Bills appropriating money*

Page 367, paragraph 3, end add, There have also been occasions on which this bill has included other matters as well. Amendments to the *Commonwealth Inscribed Stock Act 1911* to raise the government’s borrowing limits were included in Appropriation Bill (No. 2) for both the 2011-2012 and 2012-2013 financial years and were therefore subject to amendment by the Senate. An Opposition amendment to the 2012-2013 bill to remove the provisions raising the borrowing limit was unsuccessful. [add footnote, 25/6/2012, J.2631.]

Page 368, after paragraph 3 insert, Jurisprudence on this point was developed further in two cases brought by Queensland father, Ron Williams, against Commonwealth expenditure on the schools chaplains program. In 2012, in the case of *Williams v Commonwealth* [2012] HCA 23, the High Court held that the power of the Commonwealth government to enter into contracts (in this case for the supply of school chaplaincy services to a school in Queensland) was limited to the ordinary and well-recognised functions of government. By itself, the authority conferred by an appropriation by the Parliament under section 83 of the Constitution was insufficient, and specific parliamentary

approval was required where governments wished to venture into new fields such as this. The purpose for which appropriations could be made was therefore limited by the Constitution, having particular regard to the federal character of the Constitution and the role of the Senate in preserving it. In the second case brought by Mr Williams ([2014] HCA 23), the High Court again invalidated legislation authorising payment of funds for the program finding that it was not supported by any specific head of power in the Constitution, including the corporations power, the social services power or the executive power.

### ***Meaning of ordinary annual services of the government***

Page 373, paragraph 2, end      add, but no progress was achieved before the subsequent election and change of government in 2013.

Page 373, end of section      add, The matter has been considerably complicated by the legislative response to the High Court's decision in *Williams v Commonwealth* [2012] HCA 23. The *Financial Framework Legislation Amendment Act (No. 3) 2012*, introduced and passed within a week of the High Court's decision, validated the funding for the school chaplaincy program along with funding for other programs possibly affected by the decision. It also created a mechanism to authorise expenditure of a similar nature in future by regulation, thus delegating to the executive the fundamental parliamentary function of approval of appropriations. Whether this mechanism is to be regarded as satisfying paragraph (2)(a) of the consolidated resolution and thus including in the scope of ordinary annual services of the government a great variety of expenditure that would otherwise not meet that test (and so indicating it should be included in

the amendable bill) has not been considered by the Senate. However, in response to a request from the Appropriations and Staffing Committee, the Regulations and Ordinances Committee monitors regulations made under the legislation, including regulations authorising expenditure of dubious constitutional validity, and reports regularly to the Senate. [add footnote, See, for example, an account of the Committee’s concerns with the Financial Management and Accountability Amendment (2014 Measures No. 6) Regulation 2014 in *Delegated Legislation Monitor* No. 15 of 2014.]

**◇ loan bills**

Page 377, paragraph 4, end add, Borrowing limits were subsequently removed by the *Commonwealth Inscribed Stock Amendment Act 2013*.

***Parliamentary appropriations***

Page 403, last paragraph

after “Appropriations and Staffing Committee” (first occurring), insert “(known since 2015 as the Appropriations, Staffing and Security Committee)”.

**Chapter 15 – Delegated legislation and disallowance**

Page 416, table add

<b>Year</b>	<b>Disallowable Instruments</b>	<b>Year</b>	<b>Disallowable Instruments</b>
2011 – 2012	1850	2012 – 2013	1986
2013 – 2014	1614	2014 – 2015	1656

Page 436, footnote, 89 add, This tactic was also employed in 2013 but without condemnatory motions.

## **Chapter 16 – Committees**

### ***Committee of Privileges***

- Page 448, paragraph 3      replace with, The Committee of Privileges is established by standing order 18, which provides:
- (1) A Committee of Privileges, consisting of 8 senators, shall be appointed at the commencement of each Parliament to inquire into and report upon matters of privilege referred to it by the Senate.
  - (2) The Committee shall have power to send for persons and documents, to move from place to place and to sit during recess.
  - (3) The Committee shall consists of 8 senators, 4 nominated by the Leader of the government in the Senate, 3 nominated by the Leader of the Opposition in the Senate and 1 nominated by minority party and independent senators.
  - (4) The Committee shall elect as its chair a member nominated by the Leader of the Opposition in the Senate.
- Page 449, before paragraph 1      insert, Before 2013, the membership of the committee was seven. It had been increased occasionally, either for the purpose of a specific inquiry [add footnote, See 49th report] or for a period of time. A temporary order agreed to in 2011, increasing membership to eight by the addition of a member nominated by minority party or independent senators was adopted as a permanent change on 2 December 2013 [add footnote, 11/10/2011, J.1581; 2/12/2013, J.161-2]

### ***Appropriations, Staffing and Security Committee***

Page 449, last paragraph      replace, Standing order 19 provides for the appointment of a Standing Committee on Appropriations, Staffing and Security whose role is to inquire into:

Page 450, paragraph 2, last sentence

replace, The committee also oversees the administration, operation and funding of security measures affecting the Senate and, when conferring with a similar committee of the House of Representatives, may consider the administration and funding of information and communications technology services for the Parliament.

Page 450, paragraph 2, first sentence

after “The President,” insert “the Deputy President,”.

Page 450, paragraph 2, end      add, “and ten when the committee was renamed in 2015”.

Page 450, paragraph 5      omit “Appropriations and Staffing Committee”, substitute “Appropriations, Staffing and Security Committee”.

Page 450, footnote 22      add, 25/3/2015, J.2412.

### ***Senators’ Interests Committee***

Page 454, paragraph 2      add footnote, at end of first sentence, The committee was authorised by the Senate to confer with the Committee of Privileges on a reference concerning a draft code of conduct for senators; 12/9/2011, J.1413.

### ***Selection of Bills Committee***

Page 456, footnote, 51      add; 17/6/2013, J.3999, 4001, 4002.

### ***Legislative and general purpose standing committees***

Page 461, paragraph 2, end      add, The allocation of departments and agencies to committees is achieved by a resolution of the Senate which is renewed at the commencement of each Parliament and varied as required.

### ***Estimates committees***

Page 468, paragraph 3, 5th sentence to end

replace, Under an order of the Senate of 2004, amended in 2006, the annual Tax Expenditures Statement stands referred to committees considering estimates. [add footnote, 11/5/2004, J.3377; amended 14/8/2006 with effect from 11/9/2006, J.2481.] Annual reports of agencies, required to be tabled by 31 October each year, are available for consideration in the context of an agency's performance over the previous financial year. Since the enactment of the *Charter of Budget Honesty Act 1998*, information required by that Act to be produced is also available to committees, along with other information contained in Budget papers. This includes the mid-year economic and fiscal outlook report (MYEFO) and the final budget outcome report. Statements of expenditure from the Advance to the Finance Minister under the Appropriation Acts, once a significant accountability vehicle in the absence of other such information, have diminished in importance, including because the Appropriation Acts now represent a relatively small proportion of total Commonwealth expenditure.

Page 469, paragraph 1, end      add, In successive reviews, governments have recognised the

need to align appropriations, Portfolio Budget Statements and the information contained in annual reports to allow comparison of planned and actual performance. [add footnote, For example, the Commonwealth Financial Accountability Review which reported in November 2012 and led to the development of the *Public Governance, Performance and Accountability Act 2013* to replace older financial management legislation.]

Page 469, paragraph 4, first sentence, end

add, but orders of the Senate agreed to on 25 June 2014 bolstered the rights of the non-government minority on legislation committees to insist that additional hearings be scheduled where needed. [add footnote, J.1003-7.]

Page 469, paragraph 5, end

add, although changes in administrative arrangements in 2013 led to the cross-portfolio hearings being conducted by the Finance and Public Administration Legislation Committee.

Page 470, footnote 98

add, An amendment to SO 26(4) agreed to in 2014 provided that items of expenditure not be closed for examination if senators had questions remaining, unless the senators agreed to put the questions on notice or the committee agreed to hold supplementary hearings to finish the items. 25/6/2014, J.1006.

### ***Questions taken on notice at estimates hearings***

Page 471, paragraph 4

omit “within 30 days after”, substitute “by”.

Page 471, footnote 100

add, and 25 June 2014.

### ***Supplementary estimates hearings***

Page 473, footnote, 104      insert at the beginning, This rule was varied for the 2013 supplementary budget estimates hearings for one group of committees because of the timing of the opening of Parliament that year, 13/11/2013, J.90.

### ***Joint committees***

Page 476, list of joint standing committees

delete National Broadband Network.

add, National Disability Insurance Scheme.

### ***Chairs and deputy chairs of committees***

Page 477, footnote, 112      add, ; 2/11/2011, J.1708-10.

### ***Substitute and participating membership***

Page 480, footnote, 125      add, This arrangement continued in the following Parliament for the Joint Select Committee on Northern Australia, 2/12/2013, J.195, 4/12/2013, J.224, and, for a particular inquiry only, the Joint Standing Committee on Electoral Matters, 4/12/2013, J.232.

### ***Power to call for persons and documents***

Page 485      After last sentence, add: “The Senate may also order documents to be produced to committees.” 5/11/1992, J.2973; 9/11/1992, J.2996-7; 6/2/2013, J.3575.



### ***Access to other committees' documents***

- Page 488, footnote, 152      add, In 2012, the reference of a private senator's bill relating to wind farm noise was accompanied by a proposal for the committee concerned to have access to the evidence of another legislative and general purpose standing committee which had previously conducted an inquiry into the health effects of wind farms (including in camera evidence, subject to certain safeguards). The proposal was defeated on 19/11/2012, J.3286-7.
- Page 489, paragraph 4, end      add, In 2012, in connection with a reference to inquire into the unauthorised disclosure of the draft final report of the Select Committee on Electricity Prices, the Committee of Privileges was given power to access relevant minutes and records of that committee which had ceased to exist. [add footnote, 21/11/2012, J.3343-4. For another example, see 24/11/2015, J.3450.]

### ***Legislation***

- Page 493, paragraph 3      omit "2011", substitute "subsequent years".

### ***Broadcasting of committee proceedings***

- Page 502, broadcasting order and footnote, 200

replace with:

The following conditions apply to the broadcasting of committee proceedings:

- (1) Recording and broadcasting of proceedings of a committee may occur only in accordance with the authorisation of the

committee by a deliberate decision of the committee.

(2) A committee may authorise the broadcasting of only its public proceedings.

(3) Recording and broadcasting of a committee is not permitted during suspensions of proceedings, or following an adjournment of proceedings.

(4) A committee may determine conditions, not inconsistent with this order, for the recording and broadcasting of its proceedings, may order that any part of its proceedings not be recorded or broadcast, and may give instructions for the observance of conditions so determined and orders so made. A committee shall report to the Senate any wilful breach of such conditions, orders or instructions.

(5) Recording and broadcasting of proceedings of a committee shall not interfere with the conduct of those proceedings, shall not encroach into the committee's work area, or capture documents (either in hard copy or electronic form) in the possession of committee members, witnesses or committee staff.

(6) Broadcasts of proceedings of a committee, including excerpts of committee proceedings, shall be for the purpose only of making fair and accurate reports of those proceedings, and shall not be used for:

- (a) political party advertising or election campaigns; or
- (b) commercial sponsorship or commercial advertising.

(7) Where a committee intends to permit the broadcasting of its proceedings, a witness who is to appear in those proceedings shall be given reasonable opportunity, before appearing in the proceedings, to object to the broadcasting of the proceedings and to state the ground of the objection. The committee shall consider any such objection, having regard to the proper protection of the witness and the public interest in the proceedings, and if the committee decides to permit broadcasting of the proceedings notwithstanding the witness' objection, the witness shall be so informed before appearing in the proceedings.

[add footnote, 11/12/2013, J.337-8. This resolution replaced an earlier one, 23/8/1990, J.237; incorporated into a consolidated order 13/2/1997, J.1447.]

Page 503, paragraph 3 (quote) and footnote, 203

Replace with:

The public proceedings of legislative and general purpose standing committees when considering estimates may be broadcast through the House Monitoring System and through the Parliament of Australia website in accordance with this order, and in accordance with any further conditions, not inconsistent with this order, determined by a committee in relation to the proceedings of that committee.

[add footnote, 11/12/2013, J.338.]

### ***Uncompleted inquiries and a new Parliament***

Page 506, footnote, 216      add, For reports presented and adopted at the commencement of the 44th Parliament, see 14/11/2013, J.140-1, 2/12/2013, J.164.

### ***Meeting with House committees***

Page 527, after paragraph 2,      insert, In 2012, the Senate agreed to expand the terms of reference of the Appropriations and Staffing Committee to include the administration and funding of information and communication technology services to the Parliament when meeting jointly with a similar committee of the House of Representatives. Authority for such meetings to occur was also added. [add footnote, 27/11/2012, J.3418-9.]

## **Chapter 17 – Witnesses**

### ***Inquiries and witnesses***

Page 530, paragraph 4, last sentence

replace, After several unsuccessful attempts to relax the order, the Senate agreed to a resolution in 2013 expressing an expectation that the President would appear when requested by the committee.

Page 530, footnote, 7

replace, 13/11/2013, J.100. For unsuccessful attempts, see 23/6/2010, J.3684-5; 4/7/2011, J.1135; 23/8/2011, J.1358; 25/8/2011, J.1399-1400.

### ***Witness expenses***

Page 541

add, Under Privilege Resolution 2(11), the President may agree to the reimbursement of a witness's legal costs, on the recommendation of the Privileges Committee, in cases where liability to pay those costs would cause substantial hardship. [add footnote, See correspondence and advice on this issue, published by the committee in connection with its 150th Report, PP69/2012.]

### ***Members or officers of other Houses***

Page 544, paragraph 1, end

add, The Minister for Immigration and Border Protection appeared before the Legal and Constitutional Affairs References Committee in 2014 for its inquiry into a claim of public interest immunity relating to information about border protection activities.

### ***Public servants as witnesses***

Page 550, paragraph 2

A revised draft of the guidelines was provided to and published by the committee, which made extensive comments on the revised guidelines in its report. [add footnote, 153rd Report, *Guidance for officers giving evidence and providing information*, PP 204/2013.] The revised guidelines adopting suggestions made by the committee, were finalised in February 2015. [add footnote, 2/3/2015, J.2189.]

## Chapter 18 – Documents tabled in the Senate

### *Orders for production of documents*

Page 561, table                      add

Parliament	Orders	No. of orders complied with
2010-2013	53	19
2013-2015*	90	13

\*to date

Page 565, paragraph 2, end      add, In 2013, the Commissioner of Taxation was ordered to produce to the Economics References Committee data on revenue collected from the minerals resource rent tax. The order followed an explanation from the responsible minister that the information could not be provided to the minister for tabling in the Senate because of confidentiality provisions in the *Taxation Administration Act 1953* which explicitly modified parliamentary privilege for this purpose. [add footnote, See Chapter 2, under Parliamentary privilege and statutory secrecy provisions.] There was no restriction on the provision of information to a committee and the Commissioner of Taxation was duly ordered to provide the information to the committee which then published it. [add footnote, 6/2/2013, J.3575.]

### *Resistance by government to orders*

Page 567, third paragraph, last sentence

omit “The motion was passed and”, substitute “Although the motion was negatived,”.

Page 567, footnote, 62              replace, 16/5/1991, J.1049-51; 28/5/1991, J.1053.



for his dealings with the President of the Australian Human Rights Commission, Professor Triggs. [add footnote, 2/3/2015, J.2192.]

Page 595, footnote, 95      add, 25/2/2013, J.3625-6.

### ***Claims by the executive of public interest immunity***

Page 597, paragraph 2, end      add, It was also canvassed during an inquiry by the Legal and Constitutional Affairs References Committee in 2014 into a claim of public interest immunity raised over documents relating to the Government's border protection activities. [add footnote, see advice and evidence to the committee by the Clerk of the Senate, and evidence by the Clerk of the NSW Legislative Council.]

### ***Later cases in the Senate***

Page 622, footnote, 181 (advice voluntarily disclosed when it suits a government's position)

replace, For example, 28/2/1984, J.651; 31/8/1988, J.908; 6/12/1988, J.1249; 15/12/1988, J.1326; 16/12/1988, J.1331; 23/5/1989, J.1682; 15/8/89, J.1930; 28/5/1991, J.1053; 20/8/1991, J.1395; 18/5/1993, J.178; 31/8/1993, J.412; 6/9/1993, J.459; 23/3/1994, J.1472; 8/2/1995, J.2909; 29/6/1995, J.3585; 23/8/1995, J.3668; 6/2/1997, J.1374; 1/9/1997, J.2381; 25/9/1997, J.2517; 2/9/1999, J.1654; 17/2/2000, J.2334; 18/3/2003, J.1577; 4/9/2006, J.2553.

Page 623, footnote, 188      replace, 15/6/2010, J.3535.

Page 623, after paragraph 3      insert, A major focus of the 2010-13 Parliament was on the proposed mining tax, both in its original form as a resources



super profits tax and its modified, narrower form as a minerals resource rent tax. Details of revenue estimates and their underlying assumptions were not provided, initially on the basis of commercial confidentiality and potential prejudice to negotiations between private companies. [add footnote, 30/9/2010, J.116, 117, 118, 156.] A select committee was established on the scrutiny of new taxes and further similar orders were agreed to in relation to the proposed tax, also refused on commercial confidentiality grounds. [add footnote, 30/9/2010, J.119-20, 156; 26/10/2010, J.206, 207,208; 28/10/2010, J.253.]

An order for documents on the fiscal impact of the tax was met with a response indicating that the government, as a matter of course, did not assess or publish medium term forecasts for individual revenue measures given the considerable uncertainty attached to such estimates. [add footnote, 21/6/2011, J.1058; 23/6/2011, J.1113.] An attempt to delay consideration of the legislation (after another order on 1 November 2011, relating to the mining tax and measures linked to it, met with no response) was unsuccessful on 9 February 2012 but a partial response to the order was produced later that day. [add footnote, 1/11/2011, J.1698. The select committee report was tabled on the same day, J.1699. 9/2/2012, J.2076-7, 2092.] Once the mining tax legislation took effect, orders were passed for details of revenue collected on a monthly basis (of continuing effect) and the cost to the budget of state royalty increases (creditable against the mining tax liability) and other tax deductions. [add footnote, 11/9/2012, J.2937; 17/9/2012, J.2995-6.] The latter information was claimed to be commercial in confidence but updated information was

foreshadowed in the Mid Year Economic and Fiscal Outlook. [add footnote, 19/9/2012, J.3032.] In relation to the former order, the government reiterated its intention to release monthly updates on the revenue when the data became available. [add footnote, 9/10/2012, J.3077.] However, before the Senate resumed in 2013, the Finance Minister announced that it would not be possible to provide monthly revenue figures because of the confidentiality provisions in the *Taxation Administration Act 1953* which prevented tax officers providing information about individual taxpayers to the minister, even if it were for the purposes of proceedings in parliament. A subsequent order required the Commissioner of Taxation to produce the information to a committee which he duly did. [add footnote, See Chapter 18, under Orders for production of documents and Chapter 2, under Parliamentary privilege and statutory secrecy provisions.]

A matter of similar controversy in the following Parliament concerned refusals to provide information about the government's border protection activities on grounds of prejudice to national security, defence, international relations and law enforcement operations. The Senate referred the claims of public interest immunity to the Legal and Constitutional Affairs References Committee late in 2013. That committee recommended that the Procedure Committee re-examine the use of independent arbitration to resolve disputed claims to documents and, in particular, whether the mechanism used by the NSW Legislative Council could be adapted for the Senate. [add footnote, Recommendation adopted, 6/3/2014, J.587.] The Procedure Committee reported that it had considered the NSW procedures but had concluded, for a number of reasons,

that they were not readily adapted to the Senate and that the Senate's current procedures which involved a range of solutions were preferable. The committee did not reject the possibility of third party arbitration or assessment in the right circumstances, but considered that such a procedure should not be a remedy of first resort. The committee issued some guidance for ministers in responding to orders for production of documents, and proposed to monitor responses to them. [add footnote, Procedure Committee, *Second report of 2015*, PP 188/2015.]

### ***Statutory authorities and public interest immunity***

Page 623, paragraph 4, end      add, The resolution of the Senate of 13 May 2009 envisages that claims of public interest immunity will be made by ministers. The exception to this practice concerns statutory authorities and office-holders who are not subject to direction and control by the executive government in their day to day operations, but who are nonetheless accountable to the Senate for their expenditure of public funds. Since the passage of the 2009 resolution, there has been a degree of acceptance that it is appropriate for such officers to make public interest immunity claims directly, where it would not be appropriate for a minister to do so because of the relationship (or lack thereof) between the authority and the minister.

Page 623, after paragraph 6      insert, In 2012, the question arose whether it was appropriate for the Official Secretary to the Governor-General (a statutory office-holder under the Governor-General Act 1974) to make a claim of public interest immunity, rather than a minister. Advice was given that it would be more consistent with Senate practice and constitutional principle for the Official Secretary to offer any claim directly to the committee, rather than a minister of state making the claim on his behalf. The advice was consistent

with a position tacitly adopted by the Procedure Committee in its Fourth Report of 2009. In the event, no such claim was made. [add footnote, Finance and Public Administration Legislation Committee, supplementary budget estimates hearing, 15/10/2012, p. FPA61; answers to questions taken on notice, including correspondence from the Leader of the Government in the Senate to the chair of the committee, dated 27 November 2012. Procedure Committee, Fourth report of 2009, PP 320/2009, p. 2.]

### ***Other jurisdictions***

Page 626, paragraph 1, end add, After a preliminary hearing the matter did not proceed.

Page 626, footnote, 199 add, and to the Legal and Constitutional Affairs References Committee in its inquiry into a claim of public interest immunity relating to border protection activities.

### ***Questions without notice: question time***

Page 627, paragraph 3, replace

Time limits are imposed on questions and answers at question time. Standing order 72(3) provides that:

- (a) The asking of each primary question shall not exceed one minute and answers to them shall not exceed two minutes.
- (b) Two supplementary questions shall be allowed to each questioner, each supplementary question shall be limited to thirty seconds and the answers to them shall be limited to one minute each.

(c) Answers shall be directly relevant to each question.

The current procedures were first adopted as temporary orders in November 2008, as subsequently modified, and re-adopted on several occasions before becoming permanent in 2014. [add footnote, 24/6/2014, J.974.]

### ***Effect of prorogation and of the dissolution of the House of Representatives on the Senate***

Page 646, paragraph 2                      add, (as was the case until 1991 in the Icelandic parliament and in the Norwegian parliament until 2009)

## **Chapter 20 – Relations with the judiciary**

### ***Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Act 2012***

Page 683, paragraph 3                      replace:

*The Parliamentary Commission of Inquiry Act 1986*, as this chapter has suggested, had serious defects. Apart from the question of its constitutionality, the Commission had features that should not be followed in the future, particularly the provision for hearing evidence in private and for withholding evidence from the Houses. Over the years, several private members' and senators' bills were introduced proposing the establishment of a standing body to assess the conduct of judges and report to both Houses. In 2012, a bill to provide for the appointment of parliamentary commissions to inquire into allegations of judicial misbehaviour or incapacity and provide information to the Houses was introduced by the government and passed following an inquiry by the Legal and Constitutional Affairs Legislation Committee which led to several amendments.

The Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Act 2012 has the following features:

- it provides a standard mechanism for the investigation of allegations of misbehaviour or incapacity concerning federal judicial officers by providing for the establishment of parliamentary commissions to investigate specified allegations and gather information and evidence to inform the Houses in the performance of their constitutional role under section 72;
- it provides for commissions to be established by resolution of each House to investigate specified allegations when they arise;
- commissions do not determine whether facts are proved and do not make recommendations about the removal of judges;
- threshold questions such as the meaning of “misbehaviour” and the standard of proof to be applied are left to the Houses to determine;
- serving Commonwealth, State or Territory judicial officers are not eligible to be appointed as members of a commission but at least one member of a commission must be a former such officer;
- members of commissions, including the presiding member, are appointed by resolution of each House, but only after being nominated by the Prime Minister who is to consult the Leader of the Opposition in the House of Representatives;
- commissions are required to conduct investigations in an inquisitorial rather than adversarial manner and in accordance with the rules of natural justice;
- hearings are to be held in public but may be held in private at the commission’s discretion;

- other inquiry powers of commissions include the power to require witnesses to appear at hearings, take evidence on oath, require production of documents or things, and issue search warrants;
- current and former Commonwealth judicial officers are exempt from the application of a commission's coercive powers;
- reasonable costs of the Commonwealth judicial officer who is the subject of the investigation are to be covered by the Commonwealth;
- commissions are to report to each House and may provide the Presiding Officers with sensitive reports which are not to be tabled, but which are to be available for inspection by members and senators and the Commonwealth judicial officer who is the subject of the investigation.

While the 2012 law made some attempt to address the flaws of the 1986 law, it nonetheless introduced some further difficulties, all of which were alluded to in evidence given to the Legal and Constitutional Legislation Committee's inquiry into the bill and most of which had been encountered during previous consideration of these matters. The non-compellability of Commonwealth judicial officers was seen as limiting the effectiveness of commissions, on the one hand, but essential to the independence of judges appointed under Chapter III, on the other. The potential abridgement of the rights of a judge under investigation by the use of a joint investigatory mechanism, and the avoidance of such vexed questions as the meaning of "misbehaviour" or the appropriate standard of proof, led some to conclude that the mechanism would be feasible only in the most uncontentious circumstances. From the point of view of the rights of the Senate, the domination by the executive, and

alternative executive, in the House of Representatives of the process for nominating members of a commission detracts from the characterisation of commissions as parliamentary bodies.

The Houses are not bound to follow the mechanism established by the Act. Its utility will become apparent only when it is tested.



## Appendices

### Appendix 3 - Committee of Privileges Reports 1966-2015

Report, date tabled	Reference	Findings, recommendations, action by Senate
151st Report: <i>Possible imposition of a penalty on, or interference with, a witness before the Rural Affairs and Transport References Committee</i> , PP 95/2012  Tabled 22/3/2012, J.2370	<b>Referred by Senate:</b> President determined precedence 16/8/2011; motion moved by Senator Kroger on behalf of Senator Heffernan and agreed to 17/8/2011, J.1257	<b>Findings</b> <ul style="list-style-type: none"> <li>no contempt should be found</li> </ul> <b>Action by Senate</b> <ul style="list-style-type: none"> <li>adopted by 23/8/2012, J.2887</li> </ul>
152nd Report: <i>Possible unauthorised disclosure of the draft report of the Select Committee on Electricity Prices</i> , PP 111/2013  Tabled 14/05/2013, J.3894-5	<b>Referred by Senate:</b> President determined precedence 20/11/2012, J.3312 Motion moved by Senator Thistlethwaite and agreed to 21/11/2012, J.3343-4	<b>Recommendations:</b> that no contempt be found in respect of the matter referred  <b>Action by Senate</b> <ul style="list-style-type: none"> <li>report adopted 4/3/2014, J.530</li> </ul>
153rd Report: <i>Guidance for Officers giving evidence and providing information</i> , PP 204/2013  Tabled 24/6/2013, J.4150	<b>Referred by Senate:</b> Advisory report; motion moved by Senator Parry at the request of the Chair of the Privileges Committee and agreed to 21/3/2011, J.700	<b>Action by Senate</b> <ul style="list-style-type: none"> <li>motion to note report lapsed at the end of the 43rd Parliament</li> </ul>
154th Report: <i>Persons referred to in the Senate: Ms Deborah Hegarty and Mr Peter Ross Hegarty</i> , PP 205/2013  Tabled 24/6/2013, J.4150	<b>Referred by President:</b> 20/6/2013	<b>Recommendation</b> <ul style="list-style-type: none"> <li>that response be incorporated in Hansard</li> </ul> <b>Action by Senate</b> <ul style="list-style-type: none"> <li>report adopted 24/6/2013, J.4150</li> </ul>

<b>Report, date tabled</b>	<b>Reference</b>	<b>Findings, recommendations, action by Senate</b>
<p>155th Report: <i>Person referred to in the Senate: Father Frank Brennan SJ AO</i>, PP 473/2013</p> <p>Tabled 12/12/2013, J.390</p>	<p><b>Referred by President:</b> 10/12/2013</p>	<p><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• that response be incorporated in Hansard</li> </ul> <p><b>Action by Senate</b></p> <ul style="list-style-type: none"> <li>• report adopted 12/12/2013, J.390</li> </ul>
<p>156th Report: <i>Person referred to in the Senate: Mr Bernard Collaery</i>, PP 123/2014</p> <p>Tabled 15/5/2014, J.831</p>	<p><b>Referred by President:</b> 15/4/2014</p>	<p><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• that response be incorporated in Hansard</li> </ul> <p><b>Action by Senate</b></p> <ul style="list-style-type: none"> <li>• report adopted 15/5/2014, J.831</li> </ul>
<p>157th Report: <i>Person referred to in the Senate: Professor Simon Chapman AO</i>, PP 140/2014</p> <p>Tabled 14/7/2014, J.1156</p>	<p><b>Referred by President:</b> 24/6/2014</p>	<p><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• that response be incorporated in Hansard</li> </ul> <p><b>Action by Senate</b></p> <ul style="list-style-type: none"> <li>• report adopted 14/7/2014, J.1156</li> </ul>
<p>158th Report: <i>Person referred to in the Senate: Ms Heather Sculthorpe</i>, Tasmanian Aboriginal Centre Inc, PP 192/2014</p> <p>Tabled 2/10/2014, J.1596</p>	<p><b>Referred by President:</b> 1/10/2014</p>	<p><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• that response be incorporated in Hansard</li> </ul> <p><b>Action by Senate</b></p> <ul style="list-style-type: none"> <li>• report adopted 2/10/2014, J.1596</li> </ul>
<p>159th Report: <i>Persons referred to in the Senate: Mr Alan Manly and Ms Jennifer McCarthy</i>, Group Colleges Australia, PP 424/2014</p> <p>Tabled 2/12/2014, J.1947</p>	<p><b>Referred by President:</b> 14/11/2014</p>	<p><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• that response be incorporated in Hansard</li> </ul> <p><b>Action by Senate</b></p> <ul style="list-style-type: none"> <li>• report adopted 2/12/2014, J.1947</li> </ul>

Report, date tabled	Reference	Findings, recommendations, action by Senate
<p>160th Report: <i>The use of CCTV material in Parliament House</i>, PP 429/2014</p> <p>Tabled 5/12/2014, J.2019</p>	<p><b>Senate:</b> President determined precedence 17/6/2014, J.882 Joint motion moved by the Chair of the Finance and Public Administration Legislation Committee (Senator Bernardi) and Senator Faulkner and agreed to 18 June 2014</p>	<p><b>Recommendations:</b></p> <ul style="list-style-type: none"> <li>• No contempt should be found.</li> <li>• The Presiding Officers should develop a new CCTV Code of Practice emphasising accountability and appropriate regard for the powers and immunities of the Houses and their members.</li> <li>• That the administrators of the CCTV system and similar systems acquaint themselves with the principles of privilege.</li> <li>• That misleading evidence by the Secretary, DPS be drawn to the attention of the Finance and Public Administration Legislation Committee.</li> </ul> <p><b>Action by Senate:</b></p> <ul style="list-style-type: none"> <li>• adopted 12/2/2015, J.2183</li> </ul>
<p>161st Report: <i>Possible imposition of a penalty on a witness before the Rural and Regional Affairs and Transport References Committee</i>, PP 219/2015</p> <p>Tabled 12/8/2015, J.2925</p>	<p><b>Senate:</b> President determined precedence 16/7/2014, J.1197; joint motion moved by the chairs of the Rural and Regional Affairs and Transport References Committee (Senator Sterle) and ~ Legislation Committee (Senator Heffernan) and agreed, 17/7/2104, J.1238. Reference subsumed earlier matter, in which President determined precedence 10/7/2014, J.1117; motion moved by Senator Xenophon and agreed to 14/7/2014, J.1156.</p>	<p><b>Recommendation:</b></p> <ul style="list-style-type: none"> <li>• no contempt should be found</li> </ul> <p><b>Action by Senate:</b></p> <ul style="list-style-type: none"> <li>• adopted 13/8/2105, J.2949</li> </ul>

## **Appendix 4 – Matters of Privilege raised and rulings of the President**

<b>Date, Journal reference</b>	<b>Senator</b>	<b>Subject</b>	<b>Ruling regarding determination of precedence</b>
21/11/2012, J.3343	Thistlethwaite, Former Chair of the Select Committee on Electricity Prices	Whether there was any unauthorised disclosure of the draft report of the Select Committee on Electricity Prices	Given
17/6/2014, J.882	Bernardi, Chair of the Finance and Public Administration Legislation Committee, and Faulkner	Whether the use of CCTV images might improperly interfere with the free performance of any senators' duties; and, whether disciplinary action was taken against a person for providing information to a senator	Given
10/7/2014, J.1117	Xenophon	Whether there was any imposition of a penalty on a witness before the Rural and Regional Affairs and Transport References Committee or of a person providing information to the committee	Given
16/7/2014, J.1197	Heffernan, Chair of the Rural and Regional Affairs and Transport Legislation Committee, and Sterle, Chair of the Rural and Regional Affairs and Transport References Committee	Whether there was any imposition of a penalty on a witness before the Rural and Regional Affairs and Transport Legislation or References Committees or on a person providing information to the committees	Given

12/10/2015, J.3189	McKenzie, Siewert and Peris, members of the former Joint Select Committee on the Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples	Whether there was any unauthorised disclosure of a draft report of the committee	Not given
12/10/2015, J.3189	Edwards	Whether there was any unauthorised disclosure of a draft report of the Economics References Committee	Not given
9/11/2105, J.3302	Senator Di Natale	Whether any false or misleading evidence was given to the former Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru	Given
9/11/2105, J.3302	Senator Gallacher	Whether any false or misleading evidence was given to the former Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru	Given

## **Appendix 5**

### ***Private senators' bills passed since 1901***

**Territories Self-Government Legislation Amendment (Disallowance and Amendment of Laws) Bill 2011** [previously Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010]

*Purpose:* To amend the *Australian Capital Territory (Self-Government) Act 1988* and *Northern Territory (Self-Government) Act 1978* to remove the Governor-General's power to disallow or recommend amendments of any laws made by the legislative assemblies of those territories.

*Senate:* Introduced by Senator Bob Brown 29/9/10; passed with amendments and read a third time 18/8/11.

*HoR:* Introduced 22/8/11; read a third time 1/11/11.

*Assent:* 4/12/11; Act no. 166 of 2011.

### **Low Aromatic Fuel Bill 2012**

*Purpose:* To mitigate the negative impacts of petrol sniffing in areas designated as low aromatic fuel areas and fuel control areas.

*Senate:* Introduced by Senator Siewert 1/3/12; passed with amendments and read a third time 27/11/12.

*HoR:* Introduced 28/11/12; read a third time 6/2/13.

*Assent:* 14/2/13; Act no. 1 of 2013 (Act cited as *Low Aromatic Fuel Act 2013*).

**Parliamentary Service Amendment Bill 2013** [previously Parliamentary Service Amendment Bill 2012]

*Purpose:* To amend the Principal Act to make certain changes to the framework of the Parliamentary Service.

*Senate:* Introduced by Senator Hogg 28/11/12; read a third time 7/2/13.

*HoR:* Introduced 11/2/13; read a third time 13/2/13.

*Assent:* 1/3/13; Act no. 4 of 2013.

## ***Private senators' bills which have passed the Senate since 1901***

### **Low Aromatic Fuel Bill 2012**

*Introduced by:* Senator Siewert

*Date passed by Senate:* 27 November 2012

Remove last entry relating to Territories Self-Government Legislation Amendment (Disallowance and Amendment of Laws) Bill 2011

### **Marine Engineers Qualifications Bill 2013 (No. 2)**

*Introduced by:* Senator Williams

*Date passed by Senate:* 27 June 2013

### **Defence Amendment (Fair Pay for Members of the ADF) Bill 2014**

*Introduced by:* Senator Lambie

*Date passed by Senate:* 19 March 2015

### **Social Security (Administration) Amendment (Consumer Lease Exclusion) Bill 2015**

*Introduced by:* Senator Cameron

*Date passed by Senate:* 10 September 2015

## **Appendix 6 – List of bills in which the Senate has made requests for amendments and results of such requests, 1901-2015**

<b>HRD page(s) on which Senate requests appear</b>	<b>Date</b>	<b>Title of Bill and Nature of Request</b>	<b>How Disposed Of</b>
1960	9/12/13	<b>Commonwealth Inscribed Stock Amendment Bill 2013</b> — House of Representatives disagreed to an earlier amendment/ One requested amendment to remove the limit on stock and securities on issue under the Treasurer's standing borrowing authority made in place of the earlier amendment (both a request and further amendments were made to this bill)	Requested amendment made
-	24/11/14	<b>Business Services Wage Assessment Tool Payment Scheme Bill 2014</b> — One requested amendment to provide payments for certain actions and activities relating to the administration of the Business Services Wage Assessment Tool payment scheme from the Consolidated Revenue Fund; and two consequential requested amendments (both requests and amendments were made to this bill)	Bill, as amended, subject to requests, negatived in committee of the whole
6297	16/6/15	<b>Business Services Wage Assessment Tool Payment Scheme Bill 2014</b> — One requested amendment to provide payments for certain actions and activities relating to the administration of the Business Services Wage Assessment Tool payment scheme from the Consolidated Revenue Fund; and two consequential requested amendments (both requests and amendments were made to this bill)	Senate recommitted bill, as previously amended. Requested amendments made
101	2/12/15	<b>Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015</b> — One requested amendment to allow a student's VET FEE-HELP assistance to be re-credited in certain circumstances (both a request and amendments were made to this bill)	Requested amendment made



## Appendix 7 – Casual vacancies in the Senate

VACANCY			APPOINTMENT		
Senator	Reason for Vacancy	Date	Senator	How Appointed	Date
Sherry, N	Resignation	01/06/12	Thorp, L E	Tas Parliament	20/6/12
Brown, R J	“	15/06/12	Whish-Wilson, P S	Tas Parliament	20/6/12
Fisher, MJ	“	14/8/12	Ruston, A S	SA Parliament	5/9/12
Evans, CV	“	12/4/13	Lines, S	WA Parliament	15/5/13
Joyce, BT	“	8/8/13	O'Sullivan, BJ	Qld Parliament	11/2/14
Thistlethwaite, MJ	“	9/8/13	Dastyari, S	NSW Parliament	21/8/13
Feeney, DI	“	12/8/13	Tillem, M	Vic Parliament	21/8/13
Carr, RJ	“	24/10/13	O'Neill, D O'Neill, D	NSW Parliament NSW Parliament	13/11/13 2/7/14
Faulkner, JP	“	6/2/15	McAllister, J	NSW Parliament	6/5/15
*Lundy, KA	“	24/3/15	Gallagher, K	ACT Legislative Assembly	25/3/15
Mason, BJ	“	15/4/15	Lindgren, JM	Qld Parliament	21/5/15
Milne, C	“	10/8/15	McKim, NJ	Tas Parliament	19/8/15
Wright, P	“	10/9/15	Simms, RA	SA Parliament	22/9/15

[add to note, RJ Carr resigned from current term and also in respect of term commencing on 1 July 2014 to which he had been elected. D. O'Neill chosen to fill both vacancies.]

## Appendix 8 – Committees on which senators served 1970-2013

Year	Domestic	Estimates	Legislative Scrutiny	Legislative and General Purpose	Select	Joint	Total
2013	8	0	2	16	4	23	53
2014	8	0	2	16	6	19	51
2015	8	0	2	16	8	18	52

## **Appendix 9 – Select Committees**

### **Senate Select Committees:**

Australia's Food Processing Sector (Report — PP 208/2012)

Electricity Prices (Report — PP 407/2012)

Cyber Safety (Report — PP 271/2013)

Abbott Government's Commission of Audit (Reports — PP 27/2014, 113/2014 and 131/2014)

Abbott Government's Budget Cuts [renamed as Scrutiny of Government Budget Measures] (Report — PP 46/2015)

Abbott Government's Commission of Audit (Reports — PP 27/2014, 113/2014 and 131/2014)

Certain Aspects of Queensland Government Administration related to Commonwealth Government Affairs (Report — PP 108/2015)

Health (Reports — PP 426/2014, 197/2015, 247/2015 and 266/2015)

National Broadband Network (Reports — PP 50/2014 and 66/2015)

School Funding (Report — PP 139/2014)

Murray-Darling Basin Plan

Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru (Report — PP 237/2015)

Unconventional Gas Mining

Wind Turbines (Reports — PP 186/2015 and 218/2015)

### **Joint Select Committees:**

Australia's Immigration Detention Network (Reports — PP 265/2011 and 122/2012)

Gambling Reform (Reports — PP 85/2011, 214/2011, 215/2011, 4/2012, 261/2012, 445/2012,

198/2013 and 206/2013)

Constitutional Recognition of Local Government (Reports — PP 18/2013 and 65/2013)

Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples (Reports — PP 26/2013, 218/2013, 149/2014 and 133/2015)

Broadcasting Legislation (Report — PP 193/2013)

Cyber Safety (Report — PP 244/2013)

DisabilityCare Australia\*

Northern Australia (Reports — PP 92/2014 and 194/2014)

Australia Fund Establishment (Report — PP 201/2015)

Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples (Reports — PP 149/2014, 220/2014 and 133/2015)

National Disability Insurance Scheme (Report — PP 161/2014)

Northern Australia (Reports — PP 92/2014 and 194/2014)

Trade and Investment Growth (Report — PP 280/2015)

\* A Joint Standing Committee on the National Disability Insurance Scheme was appointed in the 44th Parliament with the power to consider and make use of the evidence and records of the former Joint Select Committee on DisabilityCare Australia.

## Appendix 10 – A chronology of the Senate

Date	Event
25 November 2009	Modified rules for questions without notice adopted on a temporary basis. Answers required to be 'directly relevant' to the question.
27 November 2012	Terms of reference of Appropriations and Staffing Committee amended to allow joint meetings with a similar committee of the House of Representatives for oversight of administration and funding of parliamentary ICT.
13 May 2009	An order of the Senate sets out the process to be followed, and criteria to be taken into account, in the making of public interest immunity claims

March 2012	Parliamentary Joint Committee on Human Rights established following passage of <i>Human Rights (Parliamentary Scrutiny) Act 2011</i>
20 June 2012	High Court's decision in <i>Williams v Commonwealth</i> results in legislation to validate expenditure on schools chaplains' and similar programs and provide a future funding mechanism using regulations
July 2012	Parliamentary Budget Office begins operation
2012	<i>Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Act 2012</i> provides for establishment of commissions to investigate allegations and advise the Houses before they consider resolutions under s. 72 of the Constitution
6 February 2013	Senate orders the production by the ATO Commissioner to the Economics References Committee of minerals resource rent tax revenue figures that the <i>Taxation Administration Act 1953</i> explicitly prohibited the ATO from providing to the minister for tabling in Parliament under a rare provision limiting parliamentary privilege. The information is provided to and published by the committee
March 2013	A national apology is made to people affected by former policies on forced adoptions, in accordance with a recommendation of the Community Affairs References Committee in its report on the subject
5 April 2013	The Western Australian half-Senate election was held again after the High Court sitting as the Court of Disputed Returns declared the initial election void because of the loss of 1370 ballot papers
26 February 2014	House of Representatives purports to "admonish" a senator for conduct during a Senate estimates hearing
May 2014	Regulations and Ordinances Committee, at the request of the Appropriations and Staffing Committee, starts to draw the Senate's attention to post-Williams regulations authorising expenditure that would not appear to meet the Senate's tests for categorisation as ordinary annual services of the government
May 2014	Joint Standing Committee on Electoral Matters, in an interim report on the conduct of the 2013 election, recommends that future Senate elections proceed on a system of optional preferential voting, including options for both above and below the line voting
24 June 2014	2009 changes to questions without notice adopted permanently
25 June 2014	Changes to estimates procedures to strengthen the rights of the minority agreed to, including in relation to unanswered questions on notice, spill-over hearings and duration of questioning on programs
	Senate agrees to a consolidated resolution on the accountability of officers and a resolution rejecting the existence of an FOI application as a reason for refusing to answer questions
15 July 2014	Changes agreed to standing order 24 to implement recommendations in the Scrutiny of Bills Committee's review of its future direction and operations

24 September 2014	Several measures recommended by the Procedure Committee to streamline routine committee business and simplify consideration of documents and committee reports adopted as temporary orders
18 February 2015	A revised version of the Government Guidelines for Official Witnesses appearing before Parliamentary Committees, the first revision since 1989, is presented out of sitting following scrutiny of a draft by the Privileges Committee
2 March 2015	The Attorney-General is censured for his conduct in relation to a statutory officer, the President of the Australian Human Rights Commission
14 May 2015	Long-standing Senate order for details of government contracts (the “Murray motion”) is amended following review by the Finance and Public Administration References Committee in the wake of the implementation of the <i>Public Governance, Performance and Accountability Act 2013</i>
15 June 2015	Norfolk Island Legislative Assembly presents a remonstrance protesting the removal of self-government from the territory
23 June 2015	Procedure Committee reports on the issue of third party arbitration of public interest immunity claims on the NSW model. The committee concludes that, in the absence of all-party agreement, the NSW model is not amenable for adaptation for the Senate and that existing approaches (which may include third party arbitration as an option) are preferred
24 June 2015	Temporary orders relating to consideration of private senators’ bills, streamlining of routine committee business, consideration of documents and committee reports adopted permanently to take effect on first sitting day in August
13 August 2015	Federal Court decision upholding the validity of certain Family Court fees regulations remade within 6 months of disallowance by the Senate with only a minor change in the quantum of fee increase. The decision is appealed. The remade regulations are also disallowed.