



PARLIAMENTARY BUDGET OFFICE

Matters for consideration

A submission by the Public Policy Institute, Australian Catholic University

This submission has its origins in a paper by J. R. Nethercote entitled “The Senate – Some Modest Proposals.” It was delivered at a conference in Brisbane in April 2006 and was subsequently published with the papers from that conference in a volume, *Restraining Elective Dictatorship – The Upper House Solution?* (University of Western Australia Press, 2009, 103-115). The relevant parts of the text are set out in full at Attachment A.

The case

The case advocated nearly half a decade ago remains the same but, with the passage of time, with some refinement and enhancement. That case, briefly, is :

- parliamentary scrutiny of public expenditure is weak and inadequate; scrutiny of revenue is largely non-existent outside a campaigning context;
- the size of public expenditure, its dynamic nature, and the major changes in formalities concerning its management and presentation for parliamentary approval all underline an urgent requirement for comprehensive briefing , general and specific, of Senators, Members of the House of Representatives and parliamentary committees;
- the foregoing services to Senators and Members of the House of Representatives should be provided by an autonomous organization with high level leadership reporting directly to the Presiding Officers. This organization should be physically located within Parliament House.

Scrutiny of public expenditure and, more generally, of the nation’s economic, financial and commercial affairs, international as well as domestic, ought to be a prominent, central and active duty of both Houses of Parliament. Historically, approval of expenditure and taxation lie at the heart of parliamentary control of executive government. Especially since the Second World War, this role has receded at least in public significance. The cause is not altogether bleak. In the more prominent jurisdictions the public audit functions have developed significantly and with that, so, too, has the role and influence of public accounts committees.

Such relatively small though not unimportant gains have been dwarfed by the struggle of parliaments the world over to find a role in macroeconomic management as that responsibility has developed in the wake of the Depression, extensively influenced by the economic thinking of John Maynard Keynes. Again, the scene is not totally bleak; in the case of the Australian Parliament, the practice of bi-annual appearances of the Governor of the Reserve Bank of Australia before the House of Representatives Standing Committee on Economics represents a small but important advance.

But, in a policy field of enormous complexity and diversity, Parliament has generally failed to keep pace even to the limited extent achieved in relation to other functions such as legislation, in terms of both statutes and of regulations, etc, or international relations, including scrutiny of treaties.

One reason that this situation has arisen is lack of adequate staff support. Creation of a parliamentary budget office will be a major step in addressing this persistent weakness in Australia's parliamentary fabric.

There are two aspects which this Joint Select Committee needs to bear in mind in responding to its terms of reference.

The first is that, although the immediate purpose of a parliamentary budget office is to provide an adequate capacity for the Parliament to meet its responsibilities in relation to public expenditure and economic matters, it is not only Parliament which will benefit if this new body does its job well. There will be a general public benefit very much in keeping with the Parliament's traditional information and educative roles. Although the precise structure of the Parliamentary Budget Office will be shaped by its responsibilities to Parliament, the form and nature of its contribution to public (community) discussion and debate should be borne in mind. A good deal of its work will necessarily be publicly available.

It is not that Australia is wanting in vigorous public discussion and debate about economic, financial and commercial matters. If anything, there is a surfeit of it. But nearly all the very active participants in that debate have a perceptible interest in advancing their arguments and analyses. Even government departments and authorities, apart from being limited by their specified responsibilities, are in some measure inhibited by the situation and predispositions of their ministerial superiors.

A critical contribution of a parliamentary budget office is not simply to provide parliamentarians with briefings to allow them to participate in a properly informed way in national debate but to be able to do so on the basis of analysis which is both comprehensive and impartial.

Parliamentary Budget Office: the mandate

It follows from these views that we believe that the Parliamentary Budget Office (PBO) should have a mandate which is wide-ranging and comprehensive. Although the focus is, as suggested by its name, the budget, the mandate should be such as to enable the PBO to range broadly over all matters affecting the budget – economic policy generally; trade and commerce (domestic and international); government revenues and expenditures; federal fiscal arrangements; infrastructure and capital works; productivity; wages, salaries and income support. (The term, "budget," has somewhat different meanings in different jurisdictions – sometimes it mainly refers to revenue; in others, it is mainly about expenditure.)

The PBO's basic task will be to provide parliamentarians with timely advice about the budget and matters having a bearing on the budget (however defined). It would be expected that such advice will be furnished at regular intervals. Its functions will embrace briefing the Parliament on

legislation, particularly as it concerns public revenues and expenditure, and will, as a matter of course, extend to relevant committee inquiries.

The basic principle is that the PBO should act on its own initiative but with the presumption that on any matter with a significant economic, financial or budgetary dimension, the PBO will furnish assistance in the form of issues papers, background information and briefs for hearings and investigations by committees. In addition, parliamentary office-holders and committees should be authorized to seek the advice of the PBO on matters relating to economic policy and public finance (revenues and expenditures).

In general, the PBO should not be a duplicating body. Within the context of providing parliamentarians with information and analysis, its role is essentially that of quality control. It will naturally have its own holdings of data and other information and data capabilities but it should not be expected that it will be a primary collector or supplier of information.

The question has arisen, should the PBO have responsibility for costing party policies and programs, particularly when an election is imminent. The basic answer is that this responsibility should remain where it is at present (subject to any improvements). As in other matters, the PBO, as a back-up resource, would be available to provide quality assurance.

Organisation and funding

This broad view of the PBO's mandate and functions forms the foundation of our views about its place within the parliamentary organization and its funding.

There are two possible approaches. One will be based upon existing practices of parliamentary departments including the Library and the Parliamentary Research Service in serving parliamentarians individually and in committees. This approach has proven serviceable in a number of fields including legislation generally (Bills Digest) and, in some measure, foreign relations, defence and national security.

Except in the case of the Joint Committee on Public Accounts and Audit, the record in economic matters, the budget, public finance (taxation and public expenditure), industry and commerce, has not been distinguished.

Moreover, even in Westminster parliaments which have provided resources in these fields and attracted favourable professional attention, the record has not been sustained. An example may be found in expenditure studies for UK House of Commons committees during the early 1980s – much admired for a time but now barely remembered.

On the basis of several decades of history, in Canberra and elsewhere, it seems unlikely that a convincing case can be made that an effective and durable PBO could be developed within the existing models of support for the Australian Parliament, parliamentarians and parliamentary committees. Moreover, were the PBO to be located within existing organizations, it is likely that there would be considerable problems in attracting sufficiently qualified staff in the numbers required; its effectiveness could readily be limited by attrition of its funding.

The correct view should be that existing organizations have had the opportunity over many years to provide proper support for the financial and budgetary responsibilities of the Parliament and they have not acted.

The second approach, which has already had an influence in this prospective development in the Australian Parliament, is that provided by the Congressional Budget Office in Washington, DC. (It is regrettable that a forthcoming study of the CBO, Phillip Joyce (University of Maryland), *The Congressional Budget Office – Honest Numbers, Power and Policymaking*, Georgetown University Press, 2011, ISBN 978158901573, will not be available until mid-year though it would be to the committee's advantage to try to secure access to an advance copy.)

It needs to be stressed that the CBO provides only guidance as to the approach which might be adopted here in Australia but it is not a model to emulate in detail. The CBO has a staff of more than 200 professionals (economists) and a range of functions which relate directly to handling of financial matters within the Congress of which there are no counterparts in the Australian Parliament.

The key point is that, notwithstanding the record and achievement of the Congressional Research Service, the CBO was established as an autonomous body, not part of the Congressional Research Service.

For reasons apparent in the foregoing paragraphs, a PBO in the Australian Parliament, to be effective and durable, needs to be autonomous. Although it is essential that the PBO be physically located in Parliament House, it is the relationship between the Parliament and the Auditor-General which provides a useful guide as to how the PBO might relate to the Parliament.

The Director of the PBO should report directly to the Presiding Officer and be appointed by them in manner similar to that used for heads of parliamentary departments. Appointment should be for a renewable term of seven years. Within an agreed financial allocation, which should be a fresh allocation, the PBO should be autonomous in terms of finance and staffing. Because it will not be a large organization, the PBO should attempt to out-source core administrative support activities.

The Presiding Officers would be wise to establish a small advisory committee, mainly composed of, but not limited to, committee chairs with the strongest interest in the work of the PBO, to oversee the development and activities of the PBO.

There will be considerable resistance to this general approach. Cost will be mentioned but it will not be the major consideration. Cost should not be very different whatever style of organization and relationship is adopted.

There will be argument that the CBO does not provide viable guidance because relationships in a Westminster parliament are substantially different to those in a congressional situation.

This argument is familiar in Canberra, but not flatteringly so. It was long employed by officers of the Department of Finance in their bids to restrict development of what was then the Audit Office with very limited financial regularity functions into the Australian National Audit Office with efficiency and value for money mandates.

To the extent that there is validity in this type of argument, it has been addressed above. The CBO is a guide; it is a necessary guide because extant methods of supporting the Australian Parliament are not sufficient for the durable establishment of a PBO.

Protocols

The terms of reference wisely seek the views of the Committee about protocols concerning non-routine work; priorities; disclosure of PBO work; and relationships with other institutions and processes.

There are already a number of protocols and practices within the Australian Parliament, including within the provenance of the Library and Research Service. Only occasionally do these protocols and practices give rise to controversies. They therefore furnish a known foundation for the new organization to build upon. It may be necessary to think about information from and relationships with businesses, private organizations and trades unions. In this connection, the workings of the now-abolished Office of the Economic Planning Advisory Council may furnish useful guidance.

In the past, for bodies of this character, access to information was a major stumbling block. Because of the great capacities of modern information technology, and much less restrictive views about availability of information, these questions are not nearly so forbidding. Nevertheless, by whatever means the PBO is established, express provision should be made for gathering and protection of information.

Method of establishment

A final matter to address is how the PBO should be established – by Act of Parliament or resolution of the two Houses. In such cases, in the interests of convenience, expedience and flexibility, preference will largely rest with resolutions of the Houses.

This, however, is not a very secure foundation. There will be a fear, affecting both recruitment and readiness of organisations to cooperate with the new body, that the PBO will be short-lived. It is not invariably the case that governments are impervious to the value of resourcing the Parliament properly – indeed, the Parliamentary Research Service was established on the initiative of the then Coalition Government during the late 1960s. But their enthusiasm is usually limited.

In current circumstances, however, balance of the argument would seem to lie with creation by means of a statute. But there will be problems. One obvious problem is time. The wheels of legislation move very slowly. In this case, there is no clear precedent legislation on which to base an Act for a Parliamentary Budget Office.

This is, therefore, a serious concern and will require, on the part of the Parliament, determination, resilience and vigilance.

Restraining Elective Dictatorship

The Upper
House Solution?

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and it has been the main means whereby the Senate has made its presence felt, whether in Canberra in overseeing government and administration, or throughout Australia as a vehicle whereby Australians can speak directly to their representatives in a formal setting.

One effect of insistently casting appraisal of the Senate in terms of ancient battles of King and Parliament is to obscure avenues for improvement in the ways in which this key aspect of Senate activity is performed. The matter may be expressed thus: while it is right that the Senate should constantly be striving to draw attention to mores in the eyes of ministers, government departments and agencies, there are times when it should look to the beams in its own eyes.

What is striking about Senate committees is their archaic mode of inquiry. They remain, generally though not absolutely, entrenched in a methodology of the earliest phases of committee life, not very different from the earliest days of the Parliament. The major means of assembling information and views are submissions and hearings, usually public. Notwithstanding a professional (now statutory) goal of providing a service 'independent of executive government', it is the agencies of executive government which remain the main source of informed and expert material for committees.

In 1976, more than thirty years ago, the Royal Commission on Australian Government Administration drew attention to the view that there is a 'need, in an increasingly expert society, for Senators to be able to call upon scholarly research and advice equal in competence to that relied upon by the Government.'¹⁰ There has, however, been little effort to develop inquiry methodology to ensure that such sources of expertise are available for policy work, either directly or through the Parliamentary Research Service.

Back in 1950 a select committee of the Senate made an impact at the time when it brought various academic experts into an inquiry into the bicameral relations within the Parliament—a proposed referendum, which did not proceed, aimed at reducing the likelihood of deadlock between the houses. In the late 1960s there was a similar initiative concerning legislation about control of offshore territory.¹¹ Very little has been done to foster this style of contribution. Thus, for want of appropriate expert support, the report of the Senate Select Committee on A Certain Maritime Incident was weak precisely on the very structural and institutional circumstances which gave rise to the actions in controversy. Some of these matters were farmed off to another committee but the impact of parliamentary opinion

was inevitably reduced. It will be of interest to see if the Labor Government revisits these matters.¹²

This failing of Senate committees is perhaps most conspicuous in what many people see as the signature style of the Senate—what were for many years estimates committees and are now essentially estimates hearings. Especially in the wake of the BBC comedy, *Yes, Minister*, they won much fame as a forum in which officials, professionally reticent, could be discomfited as senators probed the intricacies of expenditure, defined so broadly that the idea of 'relevance' of questions to public expenditure became almost irrelevant. Unfortunately, estimates hearings, rather than being searching reviews of public expenditure and other aspects of the financing of government operations, have too often become little more than a form of trivial pursuits, the object of which is often some very minor extravagance. Public expenditure in the main receives very little parliamentary scrutiny nowadays.

The size of public expenditure itself, its dynamic nature, and the major changes in formalities concerning its management and presentation for parliamentary approval all underline an urgent requirement for comprehensive professional briefing of committees. An insight into the struggles and frustrations which confront a senator taking scrutiny of public expenditure seriously can be found in Senator John Hogg's account of his endeavours to make sense of the intractable issues surrounding the finances of the Department of Defence.¹³ His has been a voice crying in the wilderness. It is unlikely that even a group of senators could, in any sustained sense, accomplish this task. It is, indeed, a clear case where senators need (but barely receive) support 'independent of the executive.'

What is required is not some formidable organisation in the mould of the Congressional Budget Office but, instead, a small secretariat of perhaps a dozen staff with relevant qualifications in economics, finance, accountancy and business practice. A primary obligation would be to service estimates hearings of Senate committees and to furnish advice to other committees where warranted by terms of reference and the interests of senators. While there is much to be said for its location in the Parliamentary Research Service, thus making its work available to the House of Representatives and its committees as well, this may not be conducive to effectiveness given longstanding intramural rivalries. Hence, location within the Senate bureaucracy is probably expedient, though its failure over a long period to

furnish estimates activity with professional briefing and support must be a grave concern.

(It may well be claimed that these deficiencies stem from limits placed on parliament by executive government action. But the resources are there; it is more a question of composition and utilisation of resources, recognising and seeking requisite skills. Scrutiny is a matter of substance as well as procedure.)

The antiquated modes of committee operations extend to a number of the longer-standing committees of the Senate whose proceedings have been largely unaffected by the practices of committees established post-1970. As a working rule, committees ought to be encouraged to conduct their proceedings in public. In the recent excitement over Coalition proposals to rationalise committee structures and chairmanships, leading several newspapers to fulsome editorials on the subject, it was absurd that the Senate Procedure Committee neither sought submissions from the public nor held any hearings at all, let alone in public. Yet it was a matter of genuine public importance and one where the public interest went well beyond that of senators. The Senate's own handling of the matter was, however, marked by secrecy, brevity (in terms of the committee's report) and, when it reached the chamber, a little-noticed debate whose value was diminished by ever-present party discipline.

The Senate's distinction is well-deserved. But it is a human institution. As such there will be occasions when its own performance and accountability need to be on the reform agenda. In this context these proposals, though modest, would, if adopted, remedy a design deficiency, restore a significant traditional function, and conspicuously enhance performance of vital scrutiny functions.

- 1 7 February 1981, p. 42.
- 2 Nethercote, John, 'Senate is a People's House, Too', *Sydney Morning Herald*, 14 March, 1994, p. 15.
- 3 See Nethercote, J. R., review of *Representing the People in Legislative Studies*, vol. 8(2), Autumn 1994, pp. 98-100.
- 4 Solomon, David, *Coming of Age - Charter for a New Australia*, University of Queensland Press, St Lucia, 1998, pp. 16-17, 8, 9-10 and 86.
- 5 Brennan, Frank, '5 Rs for the Enlargers: Race, Religion, Respect, Rights and the Republic', 2006 Manning Clark Lecture, 2006.

- 6 Odgers, J. R., *Australian Senate Practice*, 6th edn, RAIPA (ACT Division), Canberra, 1991, p. xxviii.
- 7 Kenyon, J. P., *Stuart England*, Pelican, Harmondsworth, 1978, p. 166.
- 8 Weller, Patrick, *Don't Tell the Prime Minister*, Scribe, Melbourne, 2002.
- 9 Odgers, J. R., *Australian Senate Practice*, p. xxviii.
- 10 Report of the Royal Commission on Australian Government Administration (Chair: H. C. Coombs), AGPS, Canberra, 1976, para 5.1.21, p. 113.
- 11 Report of the Senate Select Committee on the Constitution Alteration (Avoidance of Double Dissolution Deadlocks) Bill 1950, Paper No. 51 of 1950-51 reports of the Senate Select Committee on Off-shore Petroleum Resources, Papers Nos. 63 of 1979; 201 and 201A of 1971.
- 12 Senate Select Committee on A Certain Maritime Incident (Chair: Senator Peter Cook), Report, October 2002, Senate Finance and Public Administration References Committee (Chair: Senator Michael Forshaw), *Staff Employed under the Members of Parliament Act* 1984, Canberra, 2003.
- 13 Hogg, John, 'Senate Estimates Committees', *Australian Parliamentary Review*, vol. 16 (2), Spring 2001, pp. 167-72.