

Parliamentary Departments

2.1 The committee took evidence from the parliamentary departments on Monday, 18 February 2008.

Department of the Senate

2.2 The following issues of interest are discussed below:

- Senate Select Committees;
- Question Time in the Senate; and
- Friday sittings of Parliament;

Senate Select Committees

2.3 With the recent establishment of three Senate Select Committees¹ the committee examined the issues surrounding the relationship between the establishment of Select Committees and government control of the Senate, associated costs and the appointment of consultants.

2.4 Senator Ray questioned the Clerk of the Senate, Mr Harry Evans, about the relationship between government control of the Senate post July 2005, and the establishment of Select Committees. Mr Evans informed the committee that the only Select Committee to be established was the Select Committee on Mental Health.²

2.5 Further information was sought by Senator Ray regarding the refusal of the Senate to authorise the establishment of Select Committees during the previous government's control of the Senate. This information was later provided by the department in an answer to a question on notice. This answer indicated that two proposals were refused: 'Mental Health Services' on 5 December 2006; and 'Australia's Anti-Terrorism Laws' on 9 August 2007.³

2.6 The Department of the Senate was also asked to provide information about the cost to administer a Select Committee. Mr Evans informed the committee that:

The cost of a select committee very much depends on how long it runs. The average figure that we work on is \$150 000 to run a short select committee.

1 *Journals of the Senate*, No. 3, 14 February 2008, pp 145–148.

2 Mr Harry Evans, Clerk of the Senate, *Estimates Hansard*, 18 February 2008, p. 4.

3 Department of the Senate, answer to question on notice, 18 February 2008 (received 25 February 2008). See: www.aph.gov.au/Senate/committee/fapa_ctte/estimates/add_0708/parliament/p1_p2.pdf (accessed 6 March 2008). The proposed 'Mental Health Services' Select Committee was put forward as a result of the earlier Select Committee on Mental Health referred to in paragraph 2.4.

Select committees that go on for much longer can cost much more, obviously.⁴

2.7 Senator Ray sought a guarantee from the President of the Senate, Senator the Hon Alan Ferguson, that the use of consultants for the newly established Select Committees would be appropriate, and closely monitored:

Senator ROBERT RAY—President, are you going to carefully supervise the appointment of consultants?...

The PRESIDENT—In the committees I have been involved in previously where we have had to engage consultants we have always had to go to the President to get approval...I will continue in the same vein as previous Presidents, who are pretty hard to convince on some occasions that the expense of the consultants was worth while when we had some expertise within the department...However, there were some occasions—the inquiry into the GST was probably a prime example—where consultants were engaged to provide outcomes...⁵

Question Time in the Senate

2.8 The committee questioned the President of the Senate on the rationale behind the current distribution of questions asked by government and opposition Senators during Question Time.

2.9 Senator Ray asked the President why in his advice outlining the current allocation of questions between government, opposition and minor party Senators, for the 42nd Parliament,⁶ that there was no consideration of scraping the proportionality of questions according to the numbers of Senators in political parties:

Senator ROBERT RAY—...I agree with the [current] allocation, because question time is about scrutiny; it is about giving the opposition rights...I think what you have done is right, but I am trying to seek the reason why it was done and why it was reversed from what applied in the previous parliament.

The PRESIDENT—We determined the proposed order of questions in my office, basically on the number of government senators and the current number of minor party senators, knowing that after 1 July that will change because the number of the minor parties will be fewer...

Senator ROBERT RAY—...but I have acknowledged that I support the allocation and I know about the correspondence sent...The matter of proportionality was not canvassed highly in that letter, though, was it?

4 Mr Harry Evans, Clerk of the Senate, *Estimates Hansard*, 18 February 2008, p. 4.

5 *Estimates Hansard*, 18 February 2008, p. 6.

6 The written advice, which was circulated to Senators, was tabled during the hearing by the President. To access this information see: *Proposed Order of Call—Question Time*, located at www.aph.gov.au/Senate/committee/fapa_ctte/estimates/add_0708/parliament/index.htm (accessed 7 March 2008).

The PRESIDENT—No...⁷

2.10 Senator Ray's exchange with the President revealed that if the allocation of questions during Question Time continues to be based on proportionality, that when the distribution of party numbers change in the Senate, post July 2008, then the allocation of questions would face further change. In order to pursue this matter, and to consistently enable future oppositions to have the greatest possibility to scrutinise successive governments, Senator Ray suggested, and the President agreed, that this issue be examined by the Senate Procedure Committee.⁸

Friday sittings of Parliament

2.11 Opposition Senators questioned Mr Evans about their concern over the government's introduction of Friday sittings of the House of Representatives. Senator Fifield questioned Mr Evans about the validity of Friday sittings of Parliament, whereby the *House of Representatives Standing and Sessional Orders* have been amended to suspend quorum requirements. Senator Fifield cited section 39 of the *Constitution* which states:

Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the members of the House of Representatives shall be necessary to constitute a meeting of the House of Representatives for the exercise of its powers.⁹

2.12 Senator Fifield specifically asked about the meaning of the phrase 'until the Parliament otherwise provides'. Mr Evans explained that:

...It has to be a statute passed by both houses and signed by the Governor-General. Both houses have initiated changes to their quorums since 1901, and they have been done by statute. This is a question that has been discussed over many, many years. What we have always said is that it is not constitutional for the Senate to take away the right of any senator to draw attention to the lack of a quorum because the Constitution requires the quorum to be at least available. It may not be a justiciable question, but it is one of those provisions in the Constitution that the Senate has to have regard to and comply with itself. Needless to say, many people over many years have said, 'Can't we do away with quorum calls?' and that has always been the response.¹⁰

2.13 Senator Fifield sought further clarification, asking:

7 *Estimates Hansard*, 18 February 2008, p. 10.

8 *Estimates Hansard*, 18 February 2008, p. 11. Under the *Standing orders and other orders of the Senate* 17(3), Septemebr 2006, the Procedure Committee may consider any matter relating to the procedures of the Senate referred to it by the Senate or by the President.

9 *The Constitution*, s. 39.

10 Mr Harry Evans, Clerk of the Senate, *Estimates Hansard*, 18 February 2008, p. 6.

Senator FIFIELD—...So any attempt to dispense with the requirement for a quorum without legislation would be contrary to the Constitution?

Mr Evans—The senator says 'dispense with a quorum'. I think the statute would have to set some kind of quorum. Possibly it could set a quorum of one, but that might be a bit dubious too. It might become justiciable if that happened. But the quorum can certainly only be changed by statute...If a house passes an order to abolish quorum calls, it is within its power to do so. But what my predecessors have always said over many, many years is that it is not constitutional to do so.

Senator FIFIELD—Is there a similar constitutional provision for the Senate?

Mr Evans—Yes, it applies to both houses.¹¹

2.14 The committee notes the government's subsequent announcement that Friday sittings for the House of Representatives will no longer be held.¹²

2.15 Other matters of interest raised during the examination of the Department of the Senate included:

- appointment of a new Secretary of the Department of Parliamentary Services;¹³
- maintenance of the Women parliamentarians photographic display in the public area of Parliament House;¹⁴
- allocation of public seating for the opening of Parliament;¹⁵ and
- expected publication date of Volume 3 of the *Biographical Dictionary of the Australian Senate*.¹⁶

Department of Parliamentary Services

2.16 The following issues of interest relating to the Department of Parliamentary Services (DPS) are discussed below:

- information technology systems and services; and
- environmental impacts.

11 *Estimates Hansard*, 18 February 2008, p. 6.

12 This was announced on 7 March 2008, by the Hon Anthony Albanese, Leader of the Government in the House of Representatives, to read transcript of this announcement see: www.anthonyalbanese.com.au/file.php?file=/news/VSPZPOSJZZPACUFSAPBACYSZ/index.html (accessed 12 March 2008).

13 *Estimates Hansard*, 18 February 2008, p. 8.

14 *Estimates Hansard*, 18 February 2008, p. 9.

15 *Estimates Hansard*, 18 February 2008, p. 9.

16 *Estimates Hansard*, 18 February 2008, p. 11.

Information technology systems and services

2.17 Government, opposition and minor party Senators examined the information technology (IT) systems and services provided to members of Parliament by DPS. The broad issues relating to the examination of IT systems and services were: the procedures for archiving electronic data; whether emails held by Senators and Members are covered by Parliamentary Privilege and the *Freedom of Information Act 1982* (FOI Act); and what procedures DPS has in place to ensure the Parliamentary network is only accessed by appropriately authorised personnel.

2.18 Senator Fifield asked officials from DPS whether the electronic storage facilities were such that deleted emails could be restored. Mr David Kenny, Acting Secretary of DPS, stated that in some cases it was possible, but not after a period of three months, whereby the information stored in archive facilities designed for 'disaster recovery purposes' would be deleted.¹⁷

2.19 Senator Fifield also raised the question with Mr Kenny as to whether Senator's and Member's email records attract Parliamentary Privilege or are subject to the FOI Act. The committee heard that in some cases email is subject to Parliamentary Privilege, whilst the FOI Act does not apply to either of the Parliamentary departments.¹⁸

Environmental impacts

2.20 Continuing on from the previous examination during the May 2007 Budget Estimates hearings, the committee examined DPS's commitment to lowering the department's impact on the environment. Of particular interest to the committee were the topics of water and energy conservation.

2.21 Mr Kenny informed the committee that a review into the use of water for landscaping purposes is due to be completed by 18 April 2008. Senator Murray requested that DPS provide a briefing about the findings of the review to the committee before the next hearing.¹⁹

2.22 The committee heard further evidence about DPS's current and planned water saving measures. Mr Kenny cited the statistics that:

17 Mr David Kenny, Acting Secretary, Department of Parliamentary Services, *Estimates Hansard*, 18 February 2008, pp 12 and 15.

18 *Estimates Hansard*, 18 February 2008, p. 12. If Senator's emails are compiled for the purpose of the performance of their Parliamentary functions, they are protected by Parliamentary Privilege. The FOI Act does not apply to the Parliamentary departments because they are not included in the definition of the agencies to which it applies.

19 *Estimates Hansard*, 18 February 2008, p. 25.

- 'The Parliament House water consumption as at the end of January 2008 is running at a 40 per cent reduction on the equivalent period in 2005-06 which is 5 per cent better than when the target was set';²⁰ and
- '[Parliament House's statistics for the use of water to air-condition the building] were at 150-plus kilolitres [per day]...With the changes in the air-conditioning that we trialled last year, it came down by about 50 kilolitres'.²¹

2.23 Mr Kenny also revealed other water saving measures including: the trial of drought tolerant 'buffalo grass'; abolishing summer floral displays; no watering of plants between 10:00am and 6:00pm; and the instillation of AAA rated shower heads.²²

2.24 The committee notes these improvements made by DPS's water conservation measures. The committee also makes the suggestion, as detailed by various Senators during the hearing,²³ that DPS consider, where possible, the use of grey water to further reduce Parliament House's water consumption.

2.25 Mr Kenny informed the committee of DPS's ongoing review into Parliament House's energy consumption. He stated that this review will be completed before the end of June 2008. The committee notes Senator Murray's suggestion that the committee be provided with a briefing on the progress of this review before the May estimates hearing.²⁴

2.26 Other matters of interest raised during the examination of DPS included:

- the cost of moving Senators and Members to different offices after the November 2007 Federal election;²⁵
- the appropriate use of facilities provided to the former Government Members Secretariat;²⁶

20 Mr David Kenny, Acting Secretary, Department of Parliamentary Services, *Estimates Hansard*, 18 February 2008, p. 25.

21 Mr David Kenny, Acting Secretary, Department of Parliamentary Services, *Estimates Hansard*, 18 February 2008, p. 25.

22 Mr David Kenny, Acting Secretary, Department of Parliamentary Services, *Estimates Hansard*, 18 February 2008, p. 25.

23 *Estimates Hansard*, 18 February 2008, p. 26.

24 *Estimates Hansard*, 18 February 2008, p. 26.

25 *Estimates Hansard*, 18 February 2008, p. 16.

26 *Estimates Hansard*, 18 February 2008, p. 17.

- Parliamentary Library staff and services;²⁷
- maintenance of Members and Senators suits;²⁸ and
- the provision of child care at Parliament House.²⁹

27 *Estimates Hansard*, 18 February 2008, pp 22 and 28–29.

28 *Estimates Hansard*, 18 February 2008, pp 36–38.

29 *Estimates Hansard*, 18 February 2008, pp 38–39.

