

# Chapter 2

## Portfolio Issues

2.1 The following discussion highlights some of the major issues canvassed during the additional estimates hearings.

### Department of the Senate

2.2 The committee discussed changes in staffing in the Department of the Senate, including the movement of staff within the committee office and the impact this may have on workforce planning. The Clerk noted the recent departure of a number of long-term staff:

Over the past small number of years we have had the retirements of a number of staff with a significant number of years service so it seems like there are a lot of new staff. But in fact, at the moment, about 12 per cent of our employees have over 20 years service. Another quarter of employees have over 10 years service. But a third of the department has less than two years service, so we are going through a period of renewal. It is a generational thing because we have had significant departures and significant retirements over the past few years and we have also been doing quite a lot of recruitment, particularly in the committee office.<sup>1</sup>

2.3 The role of the Senate Appropriations and Staffing Committee and the separation of the executive and the legislature in respect to resourcing of the Parliament were canvassed by the committee. The Clerk explained that negotiation occurs between the Appropriations and Staffing Committee and the Government regarding disputed bids, and noted that a level of independence of the Parliament from the executive occurred within the constraints of the Constitution. The Clerk stated:

But I think that the main barrier to complete independence of the parliament in terms of funding models is the constitution, which requires that all expenditure be recommended by a message from the Governor-General—and, of course, the Governor-General is advised by the executive. Within that constitutional constraint there are some models for greater parliamentary independence. I would not say that what we have is perfect, but it is a useful mechanism.

One of the problems is that the department of finance and executive agencies tend to see the parliament as a portfolio just like an executive portfolio. So, rather than recognising the independence of the house to determine their own business and to some extent their own budget, they lump everybody together and say 'You go and work it out', which is a constitutionally difficult situation because it invites the Speaker of the House to get involved in Senate business and the President of the Senate to

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1 *Estimates Hansard*, 13 February 2012, p. 6.

get involved in decisions about House business, which is entirely inappropriate. This is something we keep pointing out to officials.<sup>2</sup>

2.4 Other issues raised by the committee related to risk assessments for stationary items and committee room booking notifications.<sup>3</sup> The committee also discussed the impact of overseas parliamentary delegations on departmental resources and funding. The Clerk noted that while some funding comes from the department, 'over the past few years we have also been bidding for AusAID funding and have been quite successful in getting some AusAID funding'.<sup>4</sup>

### **Department of Parliamentary Services**

2.5 The committee questioned the Department of Parliamentary Services (DPS) in relation to the new Australian Parliament House (APH) website, in particular delays and costs associated with the launch of the new site. The committee was informed that the launch of the new website was delayed by 12 months which resulted in an additional cost of \$614,000.<sup>5</sup> The President stated that security breaches had contributed to the delay:

Part of the delay was caused by a major breach of the security system externally from this place. That was something addressed not only in respect of that website but in terms of the operation of all IT in this place. That occurred in December 2010. That put additional costs on IT right throughout this place...<sup>6</sup>

2.6 The committee notes that the new APH website was launched on Friday, 17 February 2012.

2.7 Following on from previous estimates, the committee questioned DPS on the move from the previous MaxPro security system which was isolated from the Parliamentary Computer Network (PCN) to the new BAE security system which was connected to the PCN. The committee was informed that the cost for the total project was approximately \$7 million and that, following a review of IT systems, the BAE system will need to be isolated from the PCN.<sup>7</sup>

2.8 Following the retirement of former Secretary, Mr Alan Thompson, the committee questioned DPS on the recruitment process for the new secretary. The committee heard that an executive search agency had been engaged to identify potential suitable candidates. The President noted that 'this is a role that has proven

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2 *Estimates Hansard*, 13 February 2012, p. 9.

3 *Estimates Hansard*, 13 February 2012, pp 5, 7–8.

4 *Estimates Hansard*, 13 February 2012, pp 9–10.

5 *Estimates Hansard*, 13 February 2012, p. 17.

6 *Estimates Hansard*, 13 February 2010, p. 17.

7 *Estimates Hansard*, 13 February 2012, pp 25–29.

difficult to attract a strong field of applicants from standard vacancy advertising and this extra step might serve to produce a larger and stronger field'.<sup>8</sup> The committee heard that advice was being provided by the Parliamentary Service Commissioner and that no DPS employees were involved in advising the Presiding Officers on the selection process for the new secretary.

2.9 The committee maintained its interest in the establishment of the Parliamentary Budget Office (PBO) including the location and accommodation of staff within Parliament House. The President commented in his opening statement that legislation to establish the PBO had received royal assent on 4 December 2011 and advice had been sought regarding an appropriate salary for the Parliamentary Budget Officer.<sup>9</sup> The President tabled a timeline indicating the PBO should be fully established in August 2012.<sup>10</sup>

2.10 As at previous estimates, the committee questioned DPS regarding allegations of bullying within the department. In particular, the committee discussed allegations made in an article by Mr Phillip Dorling on 12 December 2011 in the *Age*, titled 'Disorder in the House: bureaucracy under fire', that CCTV footage was being used to track whistleblowers in the committee's current inquiry into the performance of DPS.<sup>11</sup> Ms Bronwyn Graham, Assistant Secretary, Building Services Branch, stated that inquiries had indicated no request for footage had been made:

...I made some inquiries with the staff who may have received such a request. When I was told that no-one received such requests, I considered the matter to not require any further action. Could I also state that the footage in corridors is not recorded during the day and so it would be impossible to go back and have a look at that footage anyhow.<sup>12</sup>

2.11 The committee continued its discussion at previous estimates regarding the sale of billiard tables by DPS and heard that additional costs associated with sale were finalised at \$92,183.48.<sup>13</sup> The committee also heard evidence that DPS participated in a Comcare bullying prevention audit in September 2011 and is developing an action plan to implement the recommendations from the report.

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8 *Estimates Hansard*, 13 February 2012, p. 11.

9 *Estimates Hansard*, 13 February 2012, p. 11.

10 Senator the Hon John Hogg, President of the Senate, *Tabled document*, 'Timetable for implementation of the Parliamentary Budget Office'.

11 Mr Philip Dorling, 'Disorder in the House: bureaucracy under fire', *Age*, 12 December 2011, <http://www.theage.com.au/national/disorder-in-the-house-bureaucracy-under-fire-20111211-1oprk.html> (accessed 13 February 2012).

12 *Estimates Hansard*, 13 February 2012, p. 29.

13 Department of Parliamentary Services, *Additional Information*, Breakdown of costs associated with billiard table disposal and subsequent investigations.

2.12 The committee questioned DPS about the protest that occurred on 27 January 2012 involving the lighting of a fire on the parliamentary forecourt. The President explained that standard procedure for bringing a fire onto the parliamentary forecourt was that it is 'only permitted with the approval of the Presiding Officers'. The committee heard that in this instance, the Presiding Officers were not present and authority was delegated to the Usher of the Black Rod and Sergeant-at-Arms:

As I said, I was not there on the day. That is the difficulty I have. I was not confronted with the circumstances. There is a delegated authority to both the Black Rod and the Sergeant at Arms in these matters as part of the security management board.

2.13 The Usher of the Black Rod subsequently provided the committee with a written explanation of the events of that day including his decision to allow a ceremonial fire to be brought onto the parliamentary forecourt, and the presentation of a petition by members of the Aboriginal Tent Embassy.<sup>14</sup>

2.14 Other issues canvassed by the committee included: policy responsibility for handheld devices for senators and members; the use and provision of iPads for senators and members; WiFi access in electorate offices; Key Performance Indicators for 2020 client services; impact of the efficiency dividend; and blocking of access by senators and members to websites using the .info domain.

2.15 The committee noted the resignation of Ms Roxanne Missingham and thanked her for her work during her tenure as Parliamentary Librarian and during her appearances before the committee.

## **Prime Minister and Cabinet Portfolio**

### ***Independent National Security Monitor***

2.16 The Independent National Security Legislation Monitor made its first appearance at a Senate estimates hearing and answered questions relating to the development of its work plan. The committee also discussed the publication of classified material. Mr Brett Walker SC, Independent National Security Monitor, stated that 'classified material will not be published by me or the Prime Minister, I am sure, and the law requires so', however some material may be made public following the redaction of classified information.<sup>15</sup>

### ***Department of the Prime Minister and Cabinet***

2.17 The committee commenced its questioning of the Department of the Prime Minister and Cabinet (PM&C) with extensive questioning around the events that occurred at The Lobby Restaurant on Australia Day. Questioning focused on: the

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14 Mr Brien Hallett, Usher of the Black Rod, Department of the Senate, *Tabled document*, 'Additional information regarding the protest at Parliament House on 27 January 2012'.

15 *Estimates Hansard*, 13 February 2012, p. 46.

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organisation of the function, the timeline of events that occurred on that day; and discrepancies between the versions of events. The committee discussed the events that occurred in the days following the incident, including the investigation conducted by the Prime Minister's Office.

2.18 The written agreement between the Prime Minister and Mr Andrew Wilkie MP was discussed at length by the committee, with particular focus given to the agreement to implement mandatory pre-commitment technology on all poker machines by 2014. The committee questioned PM&C on whether advice had been provided to the Prime Minister indicating that the 2014 deadline was unattainable prior to her meeting with Mr Wilkie on 15 January 2012. Minister Evans noted that while the agreement was between the Prime Minister and Mr Wilkie MP, the Department of Families, Housing, Community Services and Indigenous Affairs had the 'main lead policy' and would be best placed to provide information on the issue.<sup>16</sup>

2.19 The matter was pursued with questioning on whether draft papers were prepared for cabinet in relation to the broader agreement between the Prime Minister and Mr Wilkie MP. Ms Renee Leon, Deputy Secretary, Governance responded that, as a general rule, PM&C does not reveal what matters are taken before Cabinet:

We do not reveal what matters are taken before cabinet, not only the details of them but whether particular matters have been taken to cabinet for consideration...We do not reveal the preparation of documents for cabinet consideration. It is consistent with the longstanding practices surrounding cabinet confidentiality.<sup>17</sup>

2.20 The committee also questioned PM&C on the proposed trial of pre-commitment technology on poker machines for the ACT, specifically focusing on any advice that was provided to the Prime Minister on the potential conflict of interest that may arise with Labor Clubs in the ACT receiving funding as part of the trial. The department agreed to take questions on notice and respond to the committee.

2.21 The committee discussed the calculation and assignment of staff to members of the opposition. While the department advised that the question would be more appropriately asked of the Department of Finance and Deregulation, Senator Faulkner explained that while the final decision ultimately rests with the Prime Minister:

...the calculation is the number of government ministerial staff multiplied by 0.21, which was the figure that existed at the time when the Keating government lost office in 1996. Mr Howard, during the period of his prime ministership, adopted the same principle, and it has also applied since the change of government in 2007.<sup>18</sup>

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16 *Estimates Hansard*, 13 February 2012, p. 70.

17 *Estimates Hansard*, 13 February 2012, p. 71.

18 *Estimates Hansard*, 13 February 2012, p. 87.

2.22 Continued interest was shown in the work of COAG, with the committee questioning PM&C on the establishment of the COAG Select Council on Disability Reform and the national disability insurance scheme. The committee also discussed ministers' overseas travel, including the approval process and whether any requests had been refused.

2.23 The department provided the committee with an update on the progress towards the establishment of the Australian Charities and Not-for-profits Commission (ACNC), stating that:

The exposure draft of the ACNC legislation and the discussion paper on governance arrangements was released on 9 December. That only closed on 27 January 2012, so the comments that were received will still be in the process of being incorporated.<sup>19</sup>

2.24 Other issues canvassed by the committee included: the proposed change of name of Parkes Place in the parliamentary triangle to Queen Elizabeth Terrace; decisions relating to the seating arrangements in the cabinet room; and the appointment and role of Mr Ken Henry as special advisor to the Prime Minister. The committee continued its questioning on the progress of the State Coach to be provided to Her Majesty the Queen and indicated it will pursue the matter further at budget estimates in May this year.

### ***National Mental Health Commission***

2.25 The National Mental Health Commission made its first appearance before the committee and was questioned on the selection process for commissioners. The committee also discussed possible conflicts of interest for commissioners and how potential conflicts of interest are dealt with in relation to the work of the commission. Ms Rebecca Cross responded that 'as a standard part of any of these types of appointments there is a declaration by any of the people being considered as to whether they have any conflicts of interest, and this is taken into account in the approval process'.<sup>20</sup>

### ***Office of the Official Secretary to the Governor-General***

2.26 In his opening statement, Mr Stephen Brady, Official Secretary to the Governor-General, provided an explanation of the ongoing issue of access to documents relating to the Australian Honours System, including the decision to provide more information on the Governor-General's website and the formation of a subcommittee to ensure equity and greater public engagement.<sup>21</sup>

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19 *Estimates Hansard*, 13 February 2012, p. 80.

20 *Estimates Hansard*, 13 February 2012, p. 95.

21 *Estimates Hansard*, 13 February 2012, pp 97–98.

2.27 The committee questioned the Office of the Official Secretary regarding the current matter before the Administrative Appeals Tribunal, including the legal costs associated with the matter. The committee discussed the protocols and communication in relation to the decision to award an Order of Merit to Mr John Howard. Mr Brady responded that his office was not notified before the decision to award the Order of Merit was made and that the matter was 'entirely between the Queen and Mr Howard, and the communication of the award, I understand, was direct.'<sup>22</sup>

### ***Australian National Audit Office***

2.28 The Australian National Audit Office (ANAO) answered questions on the current audit of the Australia Network tender. The ANAO stated that preliminary findings were not available due to statutory due process requirements whereby a complete draft is circulated to interested parties for a 28 day period for comment. The ANAO advised that the report was due to be tabled in late March or early April this year.

2.29 The committee questioned the ANAO on the use of new powers under the *Auditor-General Amendment Act 2011*, which provides the ANAO with the power to audit private contractors engaged by the Commonwealth, and state and territory agencies that are responsible for delivering Commonwealth funded programs. The committee heard that the ANAO was preparing for their annual planning process and was not in a position to comment on whether the new powers would be used in the near future. The committee also canvassed the impact of these powers on small businesses. The Auditor-General stated:

We do have extensive powers. We are updating our guidance material on how we would propose to use these powers...To my mind, it would need to be a significant contractor and we would need, I think, a good reason to undertake an audit of a contractor's performance.<sup>23</sup>

2.30 The committee canvassed two reports with the ANAO: Report 24 2011–12, *Administration of Government Advertising Arrangements: March 2010 to August 2011* and Report 26 2011–12, *Capacity Development for Indigenous Service Delivery*.

### ***Australian Public Service Commission***

2.31 The Australian Public Service Commission (APSC) answered questions from the committee on the progress of reform to the APS, including the impact of budget cuts on the reforms. The committee was informed that following the budget cuts, agencies with over 200 employees have agreed to fund the work of the APSC in this area for five years.<sup>24</sup>

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22 *Estimates Hansard*, 13 February 2012, p. 101.

23 *Estimates Hansard*, 13 February 2012, p. 103.

24 *Estimates Hansard*, 13 February 2012, p. 109.

2.32 For the first time, the committee questioned the Parliamentary Services Commissioner, discussing the recruitment and appointment of the new secretary for DPS and allegations of bullying and harassment within DPS.

2.33 The committee continued to discuss the level of absenteeism within the APS and the general increase in unscheduled absence and sick leave since 2001. The committee also showed continued interest in the employment and satisfaction levels of employees with a disability within the APS.

2.34 Other issues canvassed by the committee included the occurrence and reporting of bullying and harassment within the APS and the ability of the Remuneration Tribunal to take submissions from the public.

### ***Office of the Inspector-General of Intelligence and Security***

2.35 The committee questioned the Inspector-General of Intelligence and Security on the security vetting report released in December 2011, paying particular attention to the interviews conducted with three whistleblowers that appeared on *Lateline* on 16 March 2011. The committee's questioning also included discussion of the focus of the investigation; recommendations included in the report; and other malpractice uncovered during the reporting process.<sup>25</sup>

## **Finance and Deregulation Portfolio**

### ***Commonwealth Superannuation Corporation***

2.36 The committee began its questioning of the Commonwealth Superannuation Corporation (CSC) with discussion on the amalgamation of Australian Rewards Investment Alliance and the Military Trustee Boards, focusing on staffing levels and the various costs associated with the merger. Mr Peter Carrigy-Ryan, Chief Executive Officer, informed the committee that approximately \$1.1 million had been received.<sup>26</sup>

2.37 In relation to projected savings, the committee questioned CSC on efficiency targets. Mr Carrigy-Ryan informed the committee that savings would be achieved through investment cost efficiency resulting from the merger. The committee also heard that no efficiency targets had been set:

I would expect it would wait until a first year of operation to be complete. It would also wait for the assets to be integrated into a single investment trust, as they are being, then for investment to take place and then to do some comparative analysis, when you have got some experience with that.<sup>27</sup>

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25 *Estimates Hansard*, 13 February 2012, pp 120–124.

26 *Estimates Hansard*, 14 February 2012, p. 7.

27 *Estimates Hansard*, 14 February 2012, p 5.



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***Medibank Private Ltd***

2.38 Continuing from previous estimates, the committee questioned Medibank Private on the payment of special and ordinary dividends to the Government. The committee continued its interest in the value of Medibank, staffing numbers and levels of customer satisfaction.

2.39 The committee discussed the implementation of the My Health program, which offers 24 hour health advice to Medibank members. Medibank informed the committee that the program has been rolled out in Queensland, Western Australia and the ACT and that discussions between the state governments and NHCCN were ongoing.<sup>28</sup>

***ASC Pty Ltd***

2.40 The committee questioned ASC Pty Ltd (ASC) regarding the current negotiations between ASC and the Defence Materiel Organisation (DMO) relating to the In-Service Support contract and potential sanctions included within the contract. Mr Stephen Ludlam, Managing Director and Chief Executive Officer, took a number of questions on notice noting that 'the sanctions are within the commercial confidentiality that I have to observe due to our negotiations with the DMO.'<sup>29</sup>

2.41 Continuing from previous estimates, the committee questioned ASC on the revenue and operations of Deep Blue Tech Pty Ltd. ASC advised the committee that the revenue from Deep Blue Tech was provided by ASC. ASC also commented on the separation of Deep Blue Tech from involvement in the sustainment of the Collins class submarines due to intellectual property constraints.

2.42 Other issues canvassed by the committee included: ASC's insurance policy and premiums; the continued placement of the Collins class on the Projects of Concern list; and the schedule for completion of the full-cycle docking of HMAS *Rankin*.

***Department of Finance and Deregulation***

2.43 The committee opened questioning of the Department of Finance and Deregulation (Finance) on the progress toward the establishment of the Parliamentary Budget Office (PBO). Finance informed the committee that work on legislation had been completed and that a Memorandum of Understanding between the PBO, Finance and Treasury would be created following the appointment of the Parliamentary Budget Officer.

2.44 The committee showed continued interest in the Office of Best Practice Regulation, questioning the Office on regulatory impact statements (RIS) in relation to

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28 *Estimates Hansard*, 14 February 2012, pp 16–17.

29 *Estimates Hansard*, 14 February 2012, p. 19.

the Government's Future of Financial Advice legislation. The Office noted that while RISs were created by Treasury in the lead up to the Government's introduction of the legislation, the RIS's of six elements of the reforms were not of an adequate standard, noting time constraints as a contributing factor.<sup>30</sup>

2.45 Government campaign advertising was discussed with Finance following the release of the ANAO report *Administration of Government Advertising Arrangements: March 2010 to August 2011*. The committee questioned the department on the Clean Energy Future advertising campaign and the recommendations included in the ANAO report. Finance noted that they have accepted recommendations and are working to 'provide more guidance to agencies so they have a better handle on assessing whether it meets the requirements around value for money'.<sup>31</sup> The committee also canvassed the results of a ThinkPlace review of procurement processes for procurements under \$80,000, which indicated that the department had breached its own internal procurement guidelines. Finance noted that these were not breaches of the Commonwealth Procurement Guidelines (CPGs):

What we had done was put a lot of extra rules in place internally to try to make our own internal procurement best practice and all of those went beyond what was required by the CPGs.<sup>32</sup>

2.46 The committee canvassed requirements under section 44 of the *Financial Management and Accountability Act 1997* (FMA Act) regarding the responsibilities of Chief Executive Officers (CEOs) and the use of Commonwealth funds, specifically if any cases of noncompliance have been investigated by the department. Finance noted that 'it is the responsibility under the FMA Act for the CEO [of an agency] to investigate particular situations' of noncompliance and undertook to provide the committee with information on the number of investigations conducted by Finance into allegations of noncompliance.<sup>33</sup>

2.47 Similar to previous estimates, Finance answered questions on the balances and expenditure of the Building Australia Fund, the Education Investment Fund and the Health and Hospitals Fund. In addition, the committee continued discussion on NBN Co. from previous estimates, questioning Finance on the number of meetings between the Minister and the NBN Co. Board. The committee also asked questions concerning the NBN Co. corporate plan and required equity.

2.48 Other issues canvassed by the committee included: timeliness of responses to Questions on Notice; the Skehill review into small agencies within the Attorney-General's portfolio; the structural integrity of the budget and the debt ceiling; the

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30 *Estimates Hansard*, 14 February 2012, p. 31.

31 *Estimates Hansard*, 14 February 2012, p. 65.

32 *Estimates Hansard*, 14 February 2012, p. 67.

33 *Estimates Hansard*, 14 February 2012, p. 45.

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deregulation target of one-in-one-out; and the process for small businesses to claim interest on late invoice payments.

2.49 The committee again questioned Finance on ministerial and parliamentarians' staff numbers, including personal classifications of staff for previous ministers who remain in parliament. The committee continued its discussion of the provision of IT support and services for senators and members, questioning Finance on the access of iPhones and iPads to the Parliamentary Computer Network and the storage, applications and password costs and settings on blackberry devices.

2.50 Finally the committee canvassed the printing budget for senators; Finance's policy on the timeframe for payment of accounts relating to senators' electorate offices; and parliamentary staff training opportunities and costs, including First Aid training.

### ***ComSuper***

2.51 The committee continued to discuss the expected staff decrease for ComSuper and was advised that the targeted reduction of 56 staff is expected to be met within three to six months. Similar to previous estimates, the committee canvassed the claims made by Community and Public Sector Union relating to staff contributions made by ComSuper. Mr Richard Bridge, Chief Governance Officer, informed the committee that under the new enterprise agreement, ComSuper had 'agreed to pay 15.4% to all staff members regardless of which fund they belong to'.<sup>34</sup>

### ***Future Fund Management Agency***

2.52 The committee continued its discussion from previous estimates, questioning the Future Fund on the current balance of the Fund, the investment strategy and the sale and management of assets. The committee continued its interest in the extent of Government oversight of the Fund and factors behind decisions for international investments.

2.53 The committee also discussed investment by the Fund in companies with links to nuclear weapons manufacturing and the current value of the Fund's tobacco stocks. Following the release of documents by the Fund under Freedom of Information, the committee questioned the Fund on the involvement of Mr Paul Costello in the allocation of funds to Blackstone Alternative Asset Management.

### ***Australian Electoral Commission***

2.54 The committee began its questioning of the Australian Electoral Commission (AEC) with extensive discussion relating to multiple voting in the 2007 federal election, particularly in relation to the seat of McEwen. The committee questioned the

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34 *Estimates Hansard*, 14 February 2012, p. 48.

AEC on prosecution action relating to multiple voting. Mr Ed Killesteyn, Australian Electoral Commissioner, advised the committee:

Essentially our role is to refer matters to the Australian Federal Police who then take a decision about whether they will proceed with an investigation. Subject to that, any further prosecution action based on the evidence that the AFP may collect is a matter for the DPP. Our role is essentially a referral agency and beyond that it is out of our hands.<sup>35</sup>

2.55 The committee was advised that the last time an individual was prosecuted for multiple voting occurred sometime before the 2004 general election.

2.56 The committee returned to questions from previous estimates on the Fair Work Australia investigation into the member for Dobell and the BDO Kendall report.

2.57 Other issues canvassed by the committee included the relationship between Coastal Voice inc and the Australian Labor Party (ALP), donations from Mr Graham Wood to the Australian Greens, options for parties, candidates and donors to submit returns online and state and territory reporting obligations in relation to disclosure periods.

**Senator Helen Polley**

**Chair**

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35 *Estimates Hansard*, 14 February 2012, p. 81.