

3. PRACTICE AND EXPERIENCE IN OTHER PARLIAMENTS

3.1 A common source of concern to all Parliaments is the growing imbalance in the relationship between Parliament and the Executive, the rapidly increasing power and influence of the Executive, the need for Parliament to strengthen its oversight and check of Executive activity, and the concurrent need for the Parliament to regain or assert greater independence and autonomy in regard to its own internal arrangements.

3.2 This concern was implicit in the July 1978 report of the Procedure Committee of the United Kingdom House of Commons. The relationship of the Executive and the Legislature was described in the introduction of the report as ' . . . the crucial feature of the functioning of our institution of government'. The balance of the advantage between Parliament and government in the day to day working of the constitution, it reported ' . . . is now weighted in favour of the Government to a degree which arouses widespread anxiety and is inimical to the proper working of our parliamentary democracy'.¹

3.3 For the majority of the members of the Inter Parliamentary Union, parliamentary budgets are not subject to any executive modification; the financial autonomy of these legislatures is thus guaranteed.² The general pattern is that the estimates are drawn up by the directing authority of Parliament, or by a special committee, on the basis of figures prepared by the administrative authorities, and then approved by the Chamber as a whole. As to the involvement of the Executive, typically the Minister for Finance enters the sums required by the Parliament into the national estimates without questioning them or consulting the Government about them.³

3.4 In the course of its deliberations, the Committee corresponded with the Presiding Officers and staffs of the United Kingdom House of Commons, the Canadian Senate and House of Commons and the United States' Senate and House of Representatives to ascertain the staffing and appropriations procedures prevailing in those countries. It is apparent from the following details that the concept of each legislative Chamber independently maintaining control of its own staffing and funding is readily accepted in all three countries. The arrangements are defined by statute in the United Kingdom and the United States, and by convention in Canada.

3.5 In the United States, the Congress had exercised such control for 60 years; in Canada, the Senate and House of Commons have had such control for 114 years; and in the United Kingdom, such control was established with the enactment of the *House of Commons (Administration) Act 1978*.⁴

United Kingdom—House of Commons

3.6 In the United Kingdom, all matters relating to the appropriations and staffing for the House of Commons are covered by the *House of Commons (Administration) Act 1978*.⁵ This legislation came into force on 1 January 1979 with the two-fold object of providing for a unified administrative structure for the support services necessary for the running of the House of Commons, and the preparation and presentation to the House of the annual estimate (and supplementary estimates as required) for the expenses of the House and its Departments.

3.7 To control these tasks, the legislation established a House of Commons Commission consisting of the Speaker as Chairman, the Leader of the House, a nominee of the Leader of the Opposition, and three other members of the House of Commons, none of whom shall be a Minister of the Crown.⁶ With the Leader of the House being the only Minister on the Commission, the majority party not having a majority on the Commission and with decisions of the Commission not requiring Government approval

for implementation, such a balanced political composition is indicative of the Commission's intent to serve the House as a whole in a non-partisan fashion.

Appropriations

3.8 The legislation provides for a real measure of financial and staffing autonomy for the Commission in that the estimate for proposed expenditure covered by the House of Commons (Administration) Vote is presented to the House by the Speaker on behalf of the Commission, not by a Treasury Minister as is the case for all other Votes.⁷ It should also be noted that the estimates do not undergo scrutiny and approval by the Treasury before being presented to the House.⁸ This is in direct contrast to the position prior to 1978, when expenditure of the House was subject to direct and detailed Treasury control.

3.9 The House of Commons (Administration) Vote covers expenditure for departmental salaries and general expenses, select committee expenses including overseas travel by committees, retiring allowances, police and post office services. The Treasury still retains control over some parliamentary expenditure including Members' salaries and expenses, their travelling and secretarial assistance and their pensions.

3.10 The initial detailed preparation of the draft estimates is undertaken by the officers of the House. The Commission then considers the estimates in detail and has the power to amend them. When confirmed by the Commission, the estimates are published in the general series of the Government's supply estimates and become subject to the normal supply procedures of the House. There is also provision for supplementary estimates which are published and obtained in a like manner to the supplementary estimates for Government departments.

Staffing

3.11 The Commission is the statutory employer of all staff in the Departments of the House (except for the Clerk, Clerk Assistant and the Sergeant-at-Arms, who are appointed by the Queen, and the Speaker's staff who are personal appointments)⁹ and is responsible for their overall management, including recruitment, pay and conditions of service.¹⁰

3.12 A limitation placed on the authority of the Commission in House staffing matters is the statutory requirement to keep the complementary grading, pay and conditions of service of the House staff 'broadly' in line with the pay and conditions of the United Kingdom Home Civil Service.¹¹ However, the term 'broadly' also infers a degree of discretion which the Annual Reports of the Commission reveal has been applied to award House staff with pay loadings for shift work and late hours. There is no such requirement for recruitment procedures or staff numbers to be kept in line with the policies of the Home Civil Service and in these matters the Commission exercises total discretion and independence.

3.13 A Board of Management was established, consisting of the Heads of the five House Departments, with the Clerk of the House as Chairman, to supervise matters of day-to-day management on behalf of the Commission.¹² The functions of the Board are to exercise co-ordination authority over the separate Departments in all matters affecting more than one Department and to develop a House of Commons service in which the conditions of service of staff conform with the requirement mentioned in the previous paragraph. For these purposes the functions of the Commission in regard to staff were delegated to the Board, subject to the control of the Accounting Officer in relation to expenditure.

3.14 Staffing proposals are formulated within the various Departments and are forwarded by the Head of the Department to an organ of the Board of Management which

is called the Administration Committee (this Committee comprises the Head of the Administration Department as Chairman, together with the Deputy Heads of all the other Departments). Once a proposal has been agreed to, it is submitted to the Clerk, who as Accounting Officer, has been delegated the authority of the Commission to 'grant final authorisation for staffing proposals'.

3.15 Staffing proposals for committees are referred through a Liaison Committee of Committee Chairmen direct to the Commission. If the Commission authorises the proposal, it is referred to the Administration Committee for the usual processing described above (in paragraph 3.14).

3.16 Section 1 (3) of the Act requires the Commission to report annually to Parliament on the exercise of its functions. In the Report, the Clerk, as Accounting Officer, publishes the annual accounts of the Commission, together with all decisions and arrangements made by him under authority delegated by the Commission, such as the creation of new staff positions, appointments of staff, alterations in rates of pay and conditions of employment. In addition to this statutory requirement, there is an arrangement whereby Members can put to the Commission's nominated member oral or written questions during Question Time about the operation of the Commission.

United States of America

Senate Appropriations

3.17 Formulation of the budget for the United States' Senate is governed by a complex set of authorities, the principal one of interest being the *Budget and Accounting Act 1921*.¹³ The section of the Act which guarantees the financial autonomy of the Senate is as follows:

'11. (a) . . . The Budget shall set forth in such form and details as the President may determine . . . estimated expenditures and proposed appropriations necessary in his judgement for the support of the Government for the ensuing fiscal year and projections for the four fiscal years immediately following the ensuing fiscal year, except that estimated expenditures and proposed appropriations for such years for the legislative branch of the Government and the Supreme Court of the United States shall be transmitted to the President on or before October 15 of each year, and *shall be included by him in the Budget without revision*'.¹⁴

The notable element of this legislation is that the President is required to include the estimates of the legislative branch in his annual budget submission without revision.

3.18 In addition to this independence from the Executive, each House determines its own Budget. The procedure is for the House of Representatives to pass its own appropriations first and then the Bill is reported to the Senate where the Senate's appropriations are incorporated into the Bill as an amendment. This procedure underlines the independence of the Senate and the House in relation to their respective requirements for funds and staffing.

3.19 Detailed funding requirements for the operation of the Senate are determined by the Senate Sub-committee on Legislative Branch Appropriations. This Sub-committee considers requests for new positions, position classifications, limitations on the number of positions, limitations on salary levels, allowances for staff and expenses for Senators' offices.

3.20 The Budget estimates for the Senate are prepared by the Financial Clerk of the Senate who then presents the justifications for each item to the Sub-committee on Legislative Branch Appropriations. In addition, the Sub-committee routinely requests the appearance of Senators, Committee Chairmen and Officers for additional information and further justification of funds.

3.21 During the course of the Sub-committee hearings, Senators, Committee Chairmen, Senate Officers and other authorised individuals may submit requests revising the Budget estimate for their particular office. In anticipation of a reappraisal of bids, hearings of the Sub-committee are timetabled well in advance of the Senate's consideration of the legislature's Appropriation Bill.

House of Representatives Appropriations

3.22 The House of Representatives enjoys the same privileges guaranteed by section 11, Title 31 of the United States Code outlined in paragraph 3.17, entitling it to the automatic inclusion of its appropriation within the National Budget.

3.23 The Committee on Appropriations and the Committee on House Administration have responsibility for formulating the House's budget. Different elements within the House such as Committee Chairmen, the Sergeant-at-Arms, Doorkeeper and Postmaster also participate in the budget formulation. Under the *Budget and Accounting Act 1921*, the Clerk of the House and the Secretary of the Senate, submit budget estimates to the Office of Management and Budget for inclusion in the President's budget.

3.24 Funds for the House are provided in three types of Appropriation Acts. The initial Act which provides the bulk of the funds for the fiscal year is a regular Appropriation Act. If a subsequent need for funds develops, and the need is too urgent to be postponed until the next budget, then a supplemental appropriation may be enacted. Finally, if Congress fails to complete action on a regular Appropriation Bill before the start of the new fiscal year, then, a continuing appropriation providing stop-gap funding may be enacted. In recent years, the House has regularly received supplemental appropriations, primarily to cover increased salary costs resulting from annual inflation adjustments.

3.25 The Legislative Branch Appropriation Act is occasionally debated on the floor of the House. The more usual course is for the detailed examination of the Budget to be undertaken by the Sub-committee on the Legislative Branch. This Sub-committee thoroughly scrutinizes each component and requires witnesses to appear before it to justify their requests.

Senate and House of Representatives Staffing

3.26 The autonomy of the Senate and House with regard to appropriations is reflected in the ability of both chambers to appoint staff as required.

3.27 With regard to committee staffs, there is a commitment and an acceptance of the need to match the expanding government programmes and expenditures with increased staffing levels. The requirement to maintain legislative oversight and to investigate the administration and effectiveness of existing laws with a view to controlling executive discretion has meant that there has been a significant expansion in the size and subject specialisation of the Houses' committees.

3.28 Congressional committee staffs are divided into two categories; statutory and investigative. All but two House Standing Committees are authorised to employ staff on the recommendation of the Chairman after consultation with his particular Committee. There are, in addition, staff engaged pursuant to resolutions relating to annual studies and investigations.

Canada

Senate and House of Commons Appropriations

3.29 The concept that a legislature's finances and staffing should be regulated by its own members and by its own principal elected officer has long been encapsulated in legislation in Canada. *An Act respecting the internal economy of the House of Commons, and for other purposes* was first passed in 1867 providing for the Speaker and four other Commissioners to control the finances and the administration of the House.¹⁵ Assistance in the preparation of the estimates of all expenditure in the House was provided by the Clerk.¹⁶

3.30 Today, the Canadian *House of Commons Act* contains substantially the same provisions and has proved consistently effective in controlling the appropriation of the Canadian Parliament.¹⁷ The financial administration and control of the internal affairs of the House is vested in the Speaker and four Commissioners of Internal Economy who are Ministers of the Crown and appointed by Order-in-Council.¹⁸ The Speaker presides over meetings of the Commission and only he may approve the estimates. The Clerk of the House of Commons is the Secretary of the Commission.¹⁹

3.31 In 1975, the Standing Orders of the House of Commons were amended to provide for a Standing Committee on Management and Members' Services to advise the Speaker and the Commissioners on the administration of the House and the provision of services and facilities to Members.²⁰ This Committee consists of 12 Members and was established following the recommendation of the Standing Committee on Procedure and Organisation that it was essential to provide a forum in which members, in addition to Ministers and Commissioners, could formally participate in the development and management of administrative decisions affecting the House. Under the Standing Orders, all matters relating to the administration of the House and the provision of services and facilities to Members are deemed to be referred to this Committee on the first day of each session.²¹

3.32 The Committee is chaired by a Member of the Opposition and is extensively consulted by the Speaker on the needs and views of backbench Members in connection with the various administrative decisions which he or the Commissioners make. The Committee usually meets in camera, delegates its work to numerous sub-committees and normally does not report to the House, but authorises its Chairman to communicate its recommendations directly to the Speaker. The Committee advises on staff arrangements and salaries and the Speaker, after receiving such recommendations, submits them to a meeting of the Commissioners of Internal Economy for consideration and final approval.

3.33 The annual estimates are prepared at the operational level of the House and submitted to the Speaker. After receiving the Speaker's approval, the estimates are transmitted to the Minister for Finance for inclusion in the annual estimates. During parliamentary scrutiny of the estimates, the votes relating to Parliament are referred to the Committee on Management and Members' Services which has the power to reduce or alter any of the provisions. After consultation, the Committee reports the estimates back to the House, with or without amendment, for further review by the House itself, if it so chooses. To cope with unforeseen expenses, the Speaker may seek additional funds for the House through supplementary estimates; these are generally tabled for consideration three to four times a year.

3.34 It is important to note the practice that the Minister for Finance incorporates the parliamentary estimates in the composite Government estimates without any modification. The estimates of the House, however, are transmitted to the Minister for

purposes of convenience and in order to ensure that they will receive the same parliamentary scrutiny as the estimates of Executive departments.

3.35 In preparing the estimates for the House, the Speaker, the Clerk and the Sergeant-at-Arms try to follow as closely as possible the general expenditure guidelines and policies set by the Government. The Executive does not attempt to influence the Speaker to amend the appropriation bids.

3.36 As in Australia, and the United States, consideration of the estimates of one House by the other is a formality.

Staffing

3.37 The *House of Commons Act* also governs the appointment and conditions of employment of officers of the House. Appointments to senior positions must be approved by an internal committee of the House which is chaired by the Speaker, and whose members include the Clerk, the Administrator and the Serjeant-at-Arms. Except for provisions on superannuation and other social benefits, legislation governing the general public service is not adopted by or applicable to the House of Commons.

3.38 The Speaker is ultimately responsible for the administration of the House and directs the management of its internal affairs. The Clerk and the Serjeant-at-Arms and, more recently, the Administrator, support the Speaker in fulfilling these responsibilities.

3.39 The Canadian Public Service has no influence in staffing matters. Parliamentary Committees themselves decide whether they need additional staff, and it is entirely their responsibility to engage whatever supplementary help is required. Apart from normally prescribed rules and regulations, there is no set or predetermined method used to control staff numbers. There are, however, budgetary ceilings established which are controlled by the responsible managers.

3.40 The conduct of the internal administrative affairs of the Senate is similar to that of the House of Commons described above. The Senate has a Committee provided for in its Standing Orders, termed the Committee on Internal Economy, Budgets and Administration, empowered of its own initiative to consider any matter relating to the internal economy of the Senate, including budgetary matters and administration generally, and to report the result of such consideration to the Senate.

Notes and references

1. R. E. Bullock, *Observations on Practices and Procedures in Overseas Parliaments*, Parliamentary Paper No. 7 of 1980, p. 280
2. V. Herman, F. Mendel, *Parliaments of the World*, London, 1976, p. 280
3. See Appendix 3
4. See Appendix 1
5. Appendix 1. This Act repealed the *House of Commons (Offices) Act 1812*, as amended, and the Commission which that legislation established.
6. *House of Commons (Administration) Act 1978*, section 1 (2)
7. *ibid*, section 3 (1)
8. *ibid*, section 3 (2)
9. *ibid*, section 2 (4)
10. *ibid*, section 2 (1)
11. *ibid*, section 2 (2)
12. The Departments of the House and their staff numbers are as follows:
Department of the Clerk of the House—(131 personnel)
Department of the Sergeant-at-Arms—(211 personnel)
Department of the Library—(131 personnel)
The Administrative Department—(64 personnel)
The Department of the Official Report—(71 personnel)
The Refreshment Department—(233 personnel)
13. United States Code, Title 31, Money and Finance, section 11 (a)

14. *ibid*
15. 31 Victoria, Chapter 27, section 1
16. 31 Victoria, Chapter 27, section 2
17. Canada, House of Commons Act, Revised Statutes, Chapter 143, section 1
18. *ibid*, section 16 (1)
19. *ibid*, section 17 (1)
20. Canada, Standing Orders of the House of Commons, 65 (5)
21. *ibid*, 65 (13)