

CHAPTER ONE

The Committee's Inquiry

Establishment of the inquiry

1.1 In this inquiry, the Committee examined four individual pieces of proposed legislation—three Private Senators' Bills, two introduced by Senator Andrew Murray and one by Senator the Hon John Faulkner, and the provisions of a Private Member's Bill introduced by the Hon Mr Kim Beazley MP. Although this report examines four separate bills, there is considerable overlap in the matters they cover. The bills cluster around the core themes of probity in public affairs and public confidence in the institutions of government. As a package they propose to ensure that parliamentarians, ministers and, in some instances, their staff comply with expected standards in exercising their official duties, in accessing their parliamentary benefits and in conducting advertising campaigns.

1.2 The Government Advertising (Objectivity, Fairness and Accountability) Bill 2000 was introduced into the House of Representatives by the Hon Mr Kim Beazley, MP, the then Leader of the Opposition, on 26 June 2000. The bill was amended and read again by Mr Beazley on 6 August 2001. It deals specifically with the use of government advertising and seeks to set down minimum standards to regulate such advertising to prevent its use for party political purposes. It includes a schedule articulating 'guidelines and principles' for the use of government advertising. It proposes that any individual designer of a campaign that breaches the standards prescribed in the schedule could be subject to a court injunction, with certain exemptions, and could also be subject to specified penalties.

1.3 The Charter of Political Honesty Bill 2000 [2002] was introduced into the Senate by the Australian Democrat Senator Andrew Murray on 10 October 2000. The bill proposes to introduce an integrated ethics regime which seeks to discourage the use of government information campaigns for party political purposes, establish a code for parliamentary and ministerial conduct, and appoint an Ethics Commissioner to update and interpret the code. A Schedule attached to the bill outlines proposed guidelines for government advertising campaigns and is similar in content to the schedule in Mr Beazley's bill. The bill also seeks to establish a legislative framework to ensure that public appointments by ministers are merit-based, and not party political.

1.4 Senator Murray's other bill, the Electoral Amendment (Political Honesty) Bill 2000 [2002], was introduced as companion legislation on 10 October 2000. This bill seeks to amend the *Commonwealth Electoral Act 1918* to prohibit political advertising that is misleading to a material extent.

1.5 On 1 November 2000, Senator John Faulkner, Leader of the Opposition in the Senate, introduced the Auditor of Parliamentary Allowances and Entitlements Bill 2000. Mr Kim Beazley introduced the same bill with the same name in the House of Representatives on 27 November 2000. The bill's objective is to tighten the scrutiny of the expenditure of public monies by elected representatives and officers employed under the *Members of Parliament (Staff) Act 1984* by appointing an independent auditor who would monitor and investigate the use of parliamentary entitlements and allowances. The auditor is also intended to have an advisory function.

1.6 In its 20th Report of 2000, the Senate Selection of Bills Committee recommended that Senator Murray's bills be referred to the Senate Finance and Public Administration Legislation Committee to examine their effectiveness in meeting community expectations for the monitoring and enforcement of electoral and parliamentary standards. It also recommended that consideration be given to whether the bills meet international standards of accountability; and the practicality of the proposed mechanisms.¹ The two bills were referred on 29 November 2000 for inquiry and report by 24 May 2001.

1.7 On 5 December 2000, the Senate also referred the Auditor of Parliamentary Allowances and Entitlements Bill 2000 and the provisions of the Government Advertising (Objectivity, Fairness and Accountability) Bill 2000 to the Committee for inquiry and report by 24 May 2001, in conjunction with its inquiry into the two other bills.² The Committee subsequently sought and was granted an extension of time in which to report to 28 February 2002.

1.8 The bills, however, lapsed on the dissolution of Parliament. On 13 February 2002, after the commencement of the 40th Parliament, Senator Murray's bills were restored to the Notice Paper. The bills proposed by Senator Faulkner and Mr Beazley have not been restored to the Notice Paper. Senator Faulkner advised the Committee that it was not proposed to reintroduce these bills in their current form.

1.9 Although not all bills have been restored to the Notice Paper, the Committee resolved to recommend to the Senate that the reference into the package of four bills be re-adopted. On 21 March 2002, the matter was re-referred to the Committee with a reporting date of 25 June 2002. An extension of time to respond was granted by the Senate to 29 August 2002.

Conduct of the inquiry

1.10 The inquiry was advertised in the press on 16 December 2000 seeking written submissions. In addition the Committee wrote to a number of individuals and organisations with an interest in this area of public administration drawing their attention to the inquiry and inviting them to make a submission. Twenty-four submissions were received and published by the Committee. A list of submissions is at Appendix 1. The submissions can be viewed on the homepage of the Committee at www.aph.gov.au/senate_fpa.

1.11 A public hearing was held in Canberra on 6 April 2001. At the hearing, the Committee received evidence from officials and organisations that would have key roles in implementing the changes proposed. These included representatives from the Australian Electoral Commission (AEC), the Australian National Audit Office (ANAO) and the Office of the Commonwealth Ombudsman. The Committee also heard from the Clerk of the Senate and from other expert witnesses in the fields of public administration and governance. A full list of witnesses appears at Appendix 2. The Hansard transcript of evidence is also available electronically via the Committee's website.

1 Selection of Bills Committee, Appendix 1, *Report no. 20 of 2000*, Senate Hansard, 29 November 2000, p. 20139.

2 Referral to Senate Finance and Public Administration Legislation Committee—Reference, *Senate Journal*, no. 163, item 13, p. 20672.

1.12 Apart from the material contained in written submissions and in oral evidence presented to it, the Committee drew on information contained in reports from various committees of inquiry, from comments and articles by people directly involved with similar or related legislation, and from studies on ethics regimes.

1.13 The proponent of two of the bills, Senator Andrew Murray, has emphasised that referring private senators' or members' bills to committees is an important step, not only for reviewing the bills, but also for improving and refining them.

Structure of the report

1.14 The report is divided into three distinct sections. Part 1 provides background to the bills and considers the political context of their introduction. It surveys briefly models of ethics regimes set up to regulate ministerial and parliamentary conduct in the United States, Canada and the United Kingdom before examining Australian state and federal government initiatives in this area.

1.15 Part II of the report begins by considering the more general proposal to establish a code of ministerial and parliamentary conduct as provided for in Part 3 of the Charter of Political Honesty Bill 2000 [2002]. It also considers the bill's provisions for a code of practice for the making of appointments by ministers. Part II of the report then concentrates on the provisions of the Auditor of Parliamentary Allowances and Entitlements Bill 2000 [No. 2] and its proposal to introduce mechanisms to provide greater transparency in the use of parliamentary entitlements and allowances.

1.16 Part III of the report is concerned with advertising. It looks first at the content of electoral advertisements. It considers the provisions of A Bill for an Act to Amend the *Commonwealth Electoral Act 1918* to provide for truth in electoral advertising. The second section deals with government advertising campaigns and examines the provisions of the Government Advertising (Objectivity, Fairness and Accountability) Bill 2000 and Part 2 of the Charter of Political Honesty Bill 2000 [2002] which are concerned specifically with preventing the use of government advertising campaigns to promote party political interests.

Acknowledgments

1.17 The Committee would like to thank all those who made submissions to the inquiry and particularly those witnesses who appeared before the Committee at its public hearing on 6 April 2001.

