



Parliament

MASTER OF ITS OWN HOUSEHOLD?



AUSTRALIAN
PUBLIC SERVICE
COMMISSION



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Jill Adams • October 2002



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P R E F A C E

This paper reports research I initiated in my dual role as Public Service Commissioner and Parliamentary Service Commissioner. I wanted to broaden my understanding of the history of Parliamentary administration as part of my ongoing role as Parliamentary Service Commissioner, meeting my responsibilities under the *Parliamentary Service Act 1999*. The research also provided historical background for a recent report I have provided to the Presiding Officers of Parliament on aspects of the administration of the Parliament.

The paper examines the history of attempts to change the administration of Parliament and responsibility for services to Parliamentarians over the last hundred years. It is a history of claims and counter-claims about bicameralism and the independence of Parliament from the Executive arm of Government and about costs, efficiency and improving services to Members. In terms of responsibility for services to Parliamentarians the history also illustrates administrative structures based essentially on history and sometimes on chance, rather than a careful consideration of good management. The paper looks at the ideas and people behind the initiatives for change and the arguments of those who have resisted change.

The new Parliamentary Service Act has altered the prevailing context by addressing concerns about the independence of Parliament from the Executive and by recognising bicameralism. Nevertheless, the paper illustrates that there is a long history of attempts to bring about greater administrative change, a history that should not be ignored.

This paper is the first of a series of research papers by APS Commission staff. They will be issued as Commission Occasional papers and added to our web site at www.apsc.gov.au.



Andrew Podger
October 2002

During the past hundred years there have been at least 20 attempts to change the way Parliament is administered. The key areas of concern have been:

- budgeting—changing responsibility for the administrative budget
- staffing—changing responsibility for the staff employed to administer parliamentary affairs
- structural—changing the number of parliamentary departments or rationalising work between the departments.

This paper examines each of these areas of concern and how they have been played out over the century. The debate centres on parliamentary independence. Should Parliament control its own budget and bring all the expenditure associated with the administration of Parliament within the ambit of a parliamentary budget? Should Parliament's staff be recognised as different to the public service? Does working for Parliament require distinctive skills, and does this therefore constrain mobility between the public service and the parliamentary departments? How can the administration of Parliament be made more efficient without impinging on its independence?

The main proponents for change have been—the Government in power, central agencies, and more recently, the Presiding Officers. If there have been proposals for change from within the parliamentary Departments few have become public.

The key resisters to change have been—the Presiding Officers during the first half of the century, the Clerks and senior staff of the departments throughout the period, and in the last 30 or so years, the Senators and individual backbenchers in both Houses. They have often been supported by academics and others concerned that the role of Parliament is being diminished by the growing strength of the Executive. Concerns have been expressed also about a weakening of 'the separation of powers'.

Significant budgetary changes have come about during the last quarter of the century and the *Parliamentary Service Act 1999* instituted the first substantial change in staffing arrangements. To date, attempts at structural (departmental) change have failed.

THE PLAYERS

The administrative arrangements for parliamentary affairs are as important to parliamentarians as the administrative arrangements for the affairs of Executive Government are to Ministers of State. (Reid & Forrest 1989: 8)

In the Senate this interest has been reflected in the activities of a Senate Standing Committee on Appropriations and Staffing established in 1982, and in a Senate Resolution of 1987. Together, they establish a mechanism for the members of the Committee, and Senators as a whole, to have their say on administrative matters that may affect them. This has been used both to support the arguments of Presiding Officers, in budgetary matters particularly, and to fend off administrative changes proposed by Presiding Officers, in 1987, 1993 and in 1997.

The Senate Standing Committee, established by standing order 19:

... is responsible for determining the amounts for inclusion in the parliamentary appropriation bills for the annual and additional appropriations and for reporting to the Senate on its determinations prior to the Senate's consideration of the relevant parliamentary appropriation bill. (Odgers 2001: 370)

and

[t]he Committee has a mandate to inquire into proposals to vary the staffing structure of the Senate as well as 'such other matters as are referred to it by the Senate'. (Odgers 2001: 151)

The Committee is responsible for making recommendations on staffing to the President and reporting to the Senate on any matter. It is required to make an annual report to the Senate on the operations of the Senate's appropriations and staffing and related matters (SO 19(3)). (Odgers 2001: 370)

In 1987, in response to a proposal by the Presiding Officers to amalgamate the three service departments, action was taken to give the Senate further time to examine the proposal. A Senate motion, moved by Senator Georges was agreed to by the Senate on 3 June 1987:

That the Senate declares that no changes in the structure or responsibilities of the Parliamentary departments should be made until—

- (a) particulars of proposed changes have been provided to all senators;
- (b) the Standing Committee on Appropriations and Staffing has examined the proposed changes and reported to the Senate; and
- (c) the Senate has approved of the changes. (J.1951) (PD Senate 3 June 1987: 3418)

This Senate Resolution continues to be in force. It not only strengthens the Standing Committee's role, but also provides a mechanism by which Senators—on their own behalf or on the behalf of parliamentary officers—can delay action by the Presiding Officers. It provides both a forum for Senators to be briefed on the matters at hand and time for likely supporters to be rallied to a cause.

The House has no such Committee. In 1981:

The [Jessop] select committee recommended the establishment of a similar standing committee in the House of Representatives to consider staffing and appropriations matters relating to that House, and to meet with the Senate committee in relation to joint services. The government, however, has not permitted the establishment of such a committee in the House. (Odgers 2001: 147–8)

But primary responsibility for the parliamentary departments has always been in the hands of the Presiding Officers.

In 1921 Robert Garran, Solicitor-General, gave evidence to the Senate Select Committee on the Position of Officials Engaged In and About the Senate regarding the respective powers of the Presiding Officers, the Senate and its committees.

... Garran had no doubt that the Presiding Officers had sole control over the officers of Parliament; parliamentary committees might only make recommendations and even the Senate itself had no part in controlling its staff. Any instruction issued by the Senate to the President in respect of the officers would have 'no legal effect'. (Reid & Forrest 1989: 425)

Garran made it clear that

... under the [Public Service] Act, the President, and not the Senate directly, has control, in the case of Senate officers; while the Speaker, and not the House of Representatives itself, has control of the officers of that House. (Senate Select Committee 1921: 1–2)

Asked whether Parliament had no control over its own officers under the Public Service Act, Garran responded: 'In one sense, the Parliament certainly has control over them, since it may legislate in regard to them'.

Asked again, Garran confirmed: 'Neither House, acting separately, has any control over them; but, by virtue of its power to legislate, the Parliament has. It has, however, no administrative power over them'.

And if the Senate instructed the President to carry out a requirement of the Public Service Act? Garran responded: 'It would have no legal effect'.

When asked what were the powers of the various Committees, Garran advised that 'They have just such powers as the Senate gives them'.

The Committee reported that:

... the President of the Senate is in absolute control of the officers of the Senate, and that the House cannot compel him to comply with any instruction contained in a resolution passed by it. (Senate Select Committee 1921: ix)

As noted above, the Senate did give powers to a Committee in 1982 to determine the amounts in its appropriation, inquire into and make recommendations to the President,

and report on any matter to the Senate, and subsequently reinforced this in its 1987 Resolution. Since these events the *political* constraints on the President's *legal* authority have been more visible.

The members of both Houses have challenged the right of Presiding Officers to decide on significant administrative changes without consultation. When Members and Senators learned of a plan in 1987 to amalgamate the three service departments through a letter from the Presiding Officers, Teresa Mannix reported in the *Canberra Times* that:

Senator Jessop (Lib, SA) has written to the Senate President, Senator Sibraa, accusing him and the Speaker of the House of Representatives, Mrs Childs [sic] of 'gross arrogance'.

He expressed 'strong resentment' that the presiding officers should make such decisions without adequate communication with the senators and without consulting the Senate Standing Committee on Appropriations and Staffing.

'It seems an act of gross arrogance that you and the Speaker, no doubt in collaboration with the Government, have conspired to act in a way that I believe is reprehensible,' he said.

Ten years later, when the Speaker, Robert Halverson, announced in the House that the Presiding Officers 'have decided to implement a management structure based on the two chamber departments' (the Department of the House of Representatives and the Department of the Senate) and had sought an implementation plan within two weeks, he was roundly attacked by a former Speaker, Leo McLeay, on the basis that

... if you have any regard for the rights of members here ... you need to take members into your confidence ... Mr Speaker you have the job of representing us ... [and] not be stampeded by the ERC [Expenditure Review Committee] but to take us into your confidence about what the government wants to do and seek our concurrence. If you do not do that you have not fulfilled your responsibilities as the person whose job it is to represent our views. (PD House 5 March 1997: 1961–3)

INDEPENDENCE OF THE PARLIAMENT

The arguments for Parliament to be master of its own household centre around achieving independence from the Executive. Yet Australia's Constitution does not establish a clear separation of powers. The Parliament is constituted (s. 1) by the two Houses and the monarch.

In effect this means that the Governor-General, as the Queen's representative (s. 2) and the Ministers of State, appointed by the Governor-General (s. 64) are also part of the Parliament and of the law-making process. (Reid & Forrest 1989: 5)

The framers of the Constitution adapted the British system of responsible, or cabinet government in which the executive power, nominally held by the head of state, is actually exercised by ministers who are also members of Parliament.

In the UK there is no strict separation of powers between the legislature and the Executive ... The position in the Commonwealth of Australia is virtually the same. The executive power is vested in the Sovereign, who is also an integral part of the Legislature: members of the Cabinet must be members of Parliament; in the ultimate, Parliament controls the Executive and the Executive promulgates subordinate legislation by delegation from the Parliament. (Renfree 1984: 391)

Thus it can be seen that the doctrine of the separation of powers is not strictly observed in the Commonwealth except to an extent in relation to the Judiciary vis-à-vis the other organs of government whereby the independence of the judiciary is preserved. (Renfree 1984: 198)

There is much overlapping. Quick and Garran cite Bagehot's *English Constitution*:

This separation in theory, but fusion in practice, of the legislative and executive functions, through the agency of the Cabinet ... is 'the latent essence and effectual secret of the English Constitution'. (Quick & Garran 1901: 382–3)

It is clear that the 'pure doctrine' of separation of powers has never been reflected in Australia's governmental arrangements; there has always been overlapping of people and functions. However, what Maurice Vile calls the 'ethos' of the doctrine recognises that 'restraints upon government' are an essential part of political liberty. This 'ethos' is also associated with the idea of power being constrained by 'checks and balances'. (Vile 1967: 13 & 18)

Much of the role of placing 'restraints upon government', has fallen to the Senate.

With party majorities secure, at least in the House of Representatives, the Parliament is made subordinate to the party-room of the governing Executive. This has led to familiar criticisms of Parliament as a 'rubber stamp' for the wishes of the Executive or as an 'elective dictatorship'. Critics of the dominance of the Executive, particularly in the House of Representatives, argue that Parliament has ceased to be a body of review and scrutiny, with its usefulness in decline. (Chalmers & Davis 2001: 4)

... the trinitarian struggle [between the House of Representatives, the Senate and the Government] provides the Senate with a particular interest in holding government to account. In recent decades the Senate majority has been shared between the Opposition and minor parties. This provides an incentive to scrutinise Executive decisions, and provides government with a need to negotiate. (Chalmers & Davis 2001: 15)

What are the continuing themes in the debates about parliamentary independence? How have they been played out? The first is Parliament's struggle to control its own budget.

The issue focuses on whether Parliament should control its own budget and bring the whole of the expenditure associated with its administration within the ambit of a parliamentary budget. Advocates of Parliament's control over its budget have never achieved this aim.

From the very start of the Commonwealth the Executive had control of the budget and of many of the services provided to Parliamentarians. Reid and Forrest conclude that Prime Minister Barton's strength in establishing this pattern of parliamentary administration:

... derived from three sources—the Executive's control of the available funds; the fact that Barton, a former Speaker of the New South Wales Legislative Assembly, had laid most of the groundwork before the parliamentarians were elected and took their seats; and the agreement with the State of Victoria over the use of Parliament House Melbourne which had been negotiated by Barton and to which the respective Executive Governments, and not the parliamentary Presiding Officers were contracting parties. (Reid & Forrest 1989: 401)

The Commonwealth Parliament, in so far as its staffing and appropriations were concerned, was dominated by the Executive Government from the beginning, without so much as a murmur, much less a fight. (Reid & Forrest 1989: 400)

And although there was some debate about a proper definition of an 'ordinary annual service of the Government' at no stage was any objection voiced about the inclusion of the parliamentary departments within this category. (Reid & Forrest 1989: 402)

This continued until 1964 when the Treasurer, Harold Holt, proposed a change to the Appropriation Bills which led Senator Lionel Murphy to raise the question of whether the Parliament had 'become one of the services of the Government' to be financed like any other Government department. In fact this had been the case since 1901 (Reid & Forrest 1989: 404). A Committee of Government Senators reported in 1967 that 'whether an Appropriation Bill deals exclusively with appropriations for the ordinary annual services of the Government' was a matter for the Houses themselves (Committee 1967: 9–10). As Sir Kenneth Bailey, the Solicitor-General, had advised in 1961, it was a matter of policy not of law. (Committee 1967: 3)

The Committee noted:

99. During the 1964 debate in the Senate on the contents of the annual appropriations Bills, it was questioned whether the Parliament was one of the services of the Government. It was suggested that it may be ordinary, it may be annual, and that it may even be regarded as a service—but not a service of the Government. It was suggested that it was inconsistent with the

concept of the separation of powers and the supremacy of the Parliament to treat the provisions made for the Parliament as being an ordinary annual service of the Government. The point was also made in the debate that the officers and staff of the Parliament are not officers and staff of the Government—they are responsible to the Parliament. (Committee 1967: 29)

The Committee recommended three annual Appropriation Bills: one for the ordinary annual services of the Government, one for public works, etc., and one for Parliament. (Committee 1967: 34–5)

Pressure for greater financial autonomy grew throughout the 60s and 70s. Senator Cormack, in 1968, pointed out that ‘the Senate itself, in relation to the appropriations which are required for [its] maintenance ... as an institution of Parliament, has only the lightest of control’. (CPD Senate 10 September 1968: 481–2)

Many of Parliament’s services were being administered by Executive departments, not by the Parliament.

WHO ADMINISTERS SERVICES TO PARLIAMENTARIANS?

Why are government departments involved in providing support to Parliamentarians? When did this begin and why have these boundaries between Parliament and Executive departments developed as they have? What impact does this have on Parliament’s independence?

As early as 1912 the Prime Minister’s Department was allocated responsibility for the ‘officers of Parliament’ and also for the Parliamentary Allowances Act, Public Accounts and Public Works Committee Acts. And in 1923 the ‘conveyance of members of Parliament and others’ was specifically listed in the functional statement of the Department of Works and Railways, also given responsibility for the ‘design, execution and maintenance of Commonwealth property’. By 1948 Treasury was responsible for the new Parliamentary Retiring Allowances Act and in 1952 the Prime Minister’s Department became responsible for electorate allowances. New functions continued to be added.

In 1981 the Senate Select Committee on Parliament’s Appropriations and Staffing (chaired by Don Jessop, Liberal) ascertained that the Appropriations which related

directly and indirectly to the operation of the Houses of Parliament and the parliamentary activities of their Members shows that, for the year 1980–81, approximately 39% of the estimated expenditure falls into the category of moneys under the control of the Presiding Officers and the remaining 61% into the category of moneys under the control of Executive departments. (Senate Select Committee 1981: 15)

It also noted that ‘the funds available to Parliament for what are described as civil works and repairs and maintenance are not contained in the appropriations of any parliamentary department ... [but] in the appropriations for the Department of Housing and Construction’. (Senate Select Committee 1981: 16)

Agreement, reached as a result of the Jessop Committee, to transfer the control of many of these functions to the Parliament, foundered when there was a change of Government from Coalition to Labor in 1983. A few minor transfers were made, and seen as ‘an integral part of the assertion of Parliament’s proper independence from the Executive’ (Department of the House of Representatives 1983: 35), but Parliament’s hopes for substantive transfers were dashed by Cabinet. Since then, while there have been numerous transfers of functions *within* the Executive departments, few functions have been transferred to Parliament.

The initial establishment in Executive departments of many functions serving Parliament appear to have been based primarily on pragmatism, existing capability and convenience. Responsibility for the acquisition and maintenance of all Commonwealth property throughout Australia, for example, had long rested with departments like Works, Interior, Housing and Construction, and Services and Property. Adding responsibility for electorate offices around Australia only extended an existing capability. This functional allocation to departments also reflects the bureaucratic ethos of the time.

The history of how some services are administered is sometimes the product of chance or local circumstances. The lack of a post office in Old Parliament House and the distance to the nearest post office in East Block led to a quarterly distribution of sheets of stamps to Parliamentarians. To this day, and despite the move to the New Parliament House, a stamp allocation is provided by each Chamber department each quarter separately to the remainder of the postage allowance (now renamed the communication allowance); the remainder being provided by the Department of Finance and Administration.

A crisis or loss of confidence in the current provider has provided the occasion for other functions to be moved. In the second half of 1997 parliamentary ‘travel rorts’ led to the resignation of three Ministers. Earlier in the year the Minister for Administrative Services had invited consultants to examine the issue and propose how accountability could be improved.

The payment of allowances was divided between the Chamber departments and Department of Administrative Services (DAS). The Chamber departments paid travel allowance (along with all salaries and other allowances) to Parliamentarians (except ministers and leaders and deputy leaders of the opposition who were paid by DAS), while DAS paid for airfares and provided cars to all Members, ministers and Opposition leaders.

The Baxter Report recommended in June the establishment of a single, centralised remuneration, allowances and entitlements system to be administered by DAS with the first step in the process of centralisation to be the transfer from the Chamber departments of responsibility for travelling allowances.

The then Minister for Administrative Services advised the President of the Senate in August 1997 that centralisation of travel entitlements administration would improve efficiency and transparency in the system by facilitating: effective internal audit; in-built checks and

matching of related data; and arrangements so that honest mistakes could be quickly rectified and instances of systemic exploitation or abuse quickly highlighted and sanctions quickly applied. (Australian National Audit Office 2001: 92)

The Senate Standing Committee on Appropriations and Staffing investigated the issues and recommended that the Senate agree to the transfer of responsibility for the administration of Senators' travelling allowances from the Senate (despite a dissenting report from Senator Vicki Bourne, Democrats). The function transferred in February 1998.

The controversies focussed public attention on the perceived administrative failures of both DAS and the Parliamentary departments and resulted in both of them losing not only the travel allowances function but also the broader remuneration, allowances and entitlements functions. DAS was incorporated into Finance and Administration. Finance was the administrative beneficiary.

How the Executive administers entitlements has come under judicial as well as public scrutiny.

The High Court found in *Brown v West* (1990) 160 CLR 195, that, where the Remuneration Tribunal or the Parliament has determined a particular allowance, the Executive has no discretion to alter or supplement that allowance. If any extension to this benefit is to be made, it must be done by either a determination of the Remuneration Tribunal or by regulation (pursuant to s.9 of the Act). (ANAO 2001: 214)

Legal advice was also obtained in May 1990 stating that certain benefits previously provided by executive decision to Parliamentarians, totalling around \$25 million in 1989–90, were paid without the necessary legislative backing. The *Parliamentary Entitlements Act 1990*, enacted in May 1990, authorised expenditure on, and validated with retrospective effect, these benefits. (ANAO 1991a: 32–4)

Parliamentarians, as the recipients of services in both Parliament House and their electorate offices, have sometimes expressed doubts about the way the duality of control affects their work. In the second reading debate on the Public Service (Parliamentary Departments) Bill 1988, for example, Roger Price commented as an aside:

There has been a woeful lack of coordination.

The initial provision of, say, computers has been a classic example. In Parliament House we have one software program but in the electorate office—I realise this is not necessarily the fault of the departments of the Parliament—we have a different type of program so that the two computers are incompatible. One cannot transfer information from one program to the other. (PD House 29 November 1988: 3471)

Ten years later this duality of control still existed. And Finance had contracted out electorate office information technology and information management to Computer Services Corporation and facilities and accommodation management services for electorate offices to Knight Frank Price Waterhouse.

WHO ADMINISTERS PARLIAMENT'S BUDGET?

Parliament has been more successful in separating its funding from the appropriations made for the ordinary annual services of the government. In the early 1980s the Government of the day was sympathetic to the issue.

In tabling the Government's response to the 1981 Jessop Committee Report, the Leader of the House, Ian Sinclair, agreed that the 'independence of Parliament from Executive control is a central principle of our Constitution which must be upheld'. A balance had to be found 'between these fundamental principles bearing in mind the provisions of the Australian Constitution and the development of parliamentary government in Australia'. The Government, he said, must also meet its constitutional obligations, namely, 'the control of the expenditure of public money' especially as 'it is the Government which has the odium of raising the revenue which funds that expenditure'. (PD House 25 March 1982: 1454)

The first Appropriation (Parliamentary Departments) Bill was introduced in 1982 by the Treasurer, John Howard. The Bill was not treated as an ordinary annual service, and recognised the principle, recommended by the Jessop Committee, 'that detailed control over individual expenditure items for the Parliament was not necessary'. The global figures for each department, the Treasurer revealed, had 'been agreed to between the leaders of the Houses and the Presiding Officers'. (Reid & Forrest 1989: 406)

The new financial arrangements increased Parliament's control of its finances, but the Government:

... clung to the position that it needed to maintain control over the total amount of funds available to the Parliament because of its constitutional responsibility for budgetary policy and the level of expenditure. (Jessop & Murdoch 1983: 19)

Jessop and Murdoch argue that this ignored the constitutional responsibility of Parliament:

This responsibility is reflected in the maxim: government proposes; Parliament disposes. (Jessop & Murdoch 1983: 19)

In Reid and Forrest's view:

... although the introduction of the bill was variously described as a 'historic occasion', a 'milestone in parliamentary democracy', and 'a reassertion of the old doctrine of the supremacy of parliament over the Executive and the bureaucracy', the changes were much more symbolic than real. Certainly the new procedure brought a greater degree of flexibility to parliamentary budgeting, but nevertheless did little to inhibit Executive influence. (Reid & Forrest 1989: 406)

That influence was quickly felt. In 1985 the Minister for Finance, Senator Walsh, announced:

The appropriations for the Parliament will be decided by the Executive Government. The Executive Government means, of course, whatever party has command of a majority in the

House of Representatives. It will certainly not be decided by the Senate. (PD Senate 17 October 1985: 1429)

I do not accept the proposition, which was accepted by the previous Government, that the amount of money appropriated for Parliament is a matter for the Parliament to determine. (PD Senate 7 November 1985: 1971)

He further advised the Presiding Officers of:

... the Government's wish to change the arrangements for discussing parliamentary estimates, of its decision to set outlays and staffing targets for each of the parliamentary departments, and of its determination to make a global appropriation for Parliament which the Presiding Officers would have to allocate among the departments. (Reid & Forrest 1989: 406–7)

This raised the issue of the relations between the Houses.

The President of the Senate, Douglas McClelland, wrote to the Minister for Finance to object:

I do not believe it is acceptable that the President of the Senate should be placed in a position of 'horse-trading' in the Estimates of our respective Chambers. That would fly in the face of the constitutionally established separation of responsibilities which exist between the two Houses ... [S]hould it be necessary to substantially alter or philosophically change the direction of the Senate's estimates, I would have no alternative but to discuss this matter with the Senate's Appropriations and Staffing Committee ... It would place the ... Committee in an untenable position to have to negotiate with Madam Speaker on amounts to be allocated between the Chamber departments. (Senate Standing Committee on Appropriations and Staffing 1986: Letter of 12 August 1986)

The Appropriations and Staffing Committee 'endorsed the President's response concerning the inappropriateness of using a global expenditure approach in relation to the Parliament—particularly in relation to the two chamber departments with their constitutionally distinct responsibilities'. (Senate Standing Committee on Appropriations and Staffing 1986: 1)

Ten years later the situation was unchanged. The Minister for Finance, John Fahey, was telling the Presiding Officers:

... it would be of considerable assistance to me if the five Parliamentary Departments were able to coordinate a consolidation of the various departmental submissions into one overall submission that I could carry forward on your behalf to the ERC. (Senate Standing Committee on Appropriations and Staffing 1996: Letter of 31 May 1996)

By 1997 the Presiding Officers were taking their own cases to the Expenditure Review Committee and not having to rely on the Minister for Finance's representation. (PD House 5 March 1997: 1969)

John Uhr, writing in the early 1980s, had commented that ‘around Parliament House in Canberra, one hears the quip that Parliament is unable to control its own expenses, let alone those of the executive departments of state’. (Uhr 1982: 28)

Ten years later Jim Pender commented that:

... it is ironic that on the one hand a government expects the parliament to vote on the funds it needs for its programs but on the other hand the government does not consider that same parliament sufficiently responsible to decide the nature of its own funds. International comparisons show that Parliaments in the Westminster tradition have been more than responsible in this respect. (Pender 1990: 194)

Compared with overseas:

In relation to the United Kingdom, Canada, and the United States, specifically, the concept of each legislature independently maintaining control of its own staffing and funding is readily accepted in all three countries. The United Kingdom House of Commons has had such an arrangement operating for the last four years; the United States for the last 60 years; and Canada for the last 115 years! (Jessop & Murdoch 1983: 18)

That may be so, but in Australia the Executive has continued to see the funds allocated in support of the Parliament as within its provenance to determine—subject, of course, to parliamentary approval of the appropriations. It has moved, however, since 1982 to have separate appropriations to those of the ordinary annual services to the Government, and to allow flexibility to the Presiding Officers in their allocation of those appropriations.

While some commentators have found this anomalous, the very authority of the Executive through its control of the House of Representatives will always constrain to some extent any claimed independence of the Parliament to set the budget for its own administration, and place some pressure on the Parliamentary Service to adopt similar management approaches to those operating in the public service.

One of the issues that continued to be debated throughout the century was the belief by many that working for Parliament should be recognised as different to working in the public service. It required, many argued, distinctive skills and a strong ethos of impartiality. This raised the question of whether there should be limits to mobility between the public service and the parliamentary departments.

THE EARLY YEARS

The view that Parliament's staff should be recognised as different to the Commonwealth Public Service is not new. The 1902 Public Service Act included the departments under the Act but not within the powers of the Public Service Commissioner:

Section 14 of the Act established provisions for a separate structure and staffing of four Parliamentary departments (Senate, House of Representatives, Parliamentary Library and Parliamentary Reporting Staff and the then Joint House Committee), under the jurisdiction of the Presiding Officers, with the latter able to exercise Public Service Commissioner powers in relation to parliamentary staff. The Joint House Committee became a department in the 1922 Act, which otherwise retained the same basic structural arrangements through to the *Parliamentary Service Act 1999*. (Minns 2002: 8)

As noted earlier, the Select Committee on the Position of Officials Engaged In and About the Senate concluded in 1921 that 'the President is in absolute control of the officers of the Senate'. (Senate Select Committee 1921: ix) The Speaker had equal power in relation to the officers of the House.

As Michael Bolton, Head of the Joint House Department, noted in his submission of 9 May 1997 to the Senate Standing Committee on Appropriations and Staffing:

... the Australian constitution is silent on the Administration to support the House of Representatives and the Senate.

And a legal opinion by Dennis Rose, QC, from Blake Dawson Waldron in 1996 notes (para 3) that:

The Constitution makes no reference at all to the staff to assist the Houses: indeed it does not even refer to the Clerks of the Houses. (Tanzer 1997: Letter attachment)

So all power, within the legislative ambit of the *Public Service Act 1902*, rested with the Presiding Officers.

But from the start the Executive was closely involved:

... each of the original senior officers owed his appointment not to the Presiding Officers but to the Prime Minister. (Reid & Forrest 1989: 399)

Reid and Forrest note that

... although all appointments and promotions were to be made 'on the nomination or recommendation' of the Presiding Officers, they were formally made by the Governor-General, thus providing the Executive with an opportunity for influence in the important area of staffing. (Reid & Forrest 1989: 402)

Thus for the most part, with parliamentary acquiescence, the Government approached the task of staffing and financing the Parliament as though it were merely another Executive department. (Reid & Forrest 1989: 402)

Despite their 'absolute control', by 1920 the Presiding Officers' were seeking to transfer much of their staffing power to the Public Service Commissioner. Their failure to classify the positions in their departments (as the Commissioner had done for the public service in 1904) had led to continual salary disputes and complaints and in 1920, in a letter sent jointly by the Presiding Officers to the Prime Minister, the President proposed a change to be incorporated in the new Public Service Bill:

We strongly recommend to the Government to include in the new Bill provisions making the Officers and Servants of Parliament subject to classification by the Public Service Commissioner, and for the amount of salary appropriate for each position to be fixed by him, but that in all other respects the Officers of Parliament should remain under the control of the President and Speaker, as at present.

This recommendation is made in the light of several years' experience, which prove to us that something of the kind must be done if continual political interference and agitation on behalf of the Officers of the House is to be avoided. (Reid & Forrest 1989: 423)

The Senate responded by establishing a Select Committee on the Position of Officials Engaged In and About the Senate to review the working of the Public Service Act so far as it concerned Senate staff. The Committee found that:

... the President has not, in the most important matters, exercised the powers and functions which come within his duty. Practically he has ignored the Act in every way with the exception of claiming for himself all the powers and privileges of Public Service Commissioner. (Senate Select Committee 1921: xi)

It also found that, while the President had certain powers vested in him, 'if he fails to carry out those duties, it would seem the Senate cannot compel him to do so without taking extreme measures'. (Senate Select Committee 1921: xi)

The Committee did not support the President's proposal 'to transfer almost all his powers to an authority outside Parliament' and considered 'such a procedure would amount to a sacrifice of the privileges of Parliament'. (Senate Select Committee 1921: xi)

The Committee concluded that 'Parliament must be master of its own household'. (Senate Select Committee 1921: x) and recommended:

1. That the Senate should retain control of its own officers.
2. That, apart from the classification of the Senate officials by the Public Service Commissioner, there should be no alteration in the present control of the Senate employees. (Senate Select Committee 1921: x)

Meanwhile, the Government had already received the report of its Royal Commissioner on Public Service Administration from its Commissioner, Duncan McLachlan:

In my opinion, there is no real justification for separating the Parliamentary Service from other departmental services, in so far as the jurisdiction of the Public Service Commissioner is concerned. Officers of the Parliament are servants of the Commonwealth precisely as are officers of the departments generally.

I am unable to see any justification for slavish adherence to precedent in a matter affecting the efficiency and well-being of a section of the Public Service, and therefore recommend that the officers of Parliament be brought into the general system of administration to govern the whole Service. (Royal Commission 1920: 45)

The Clerks reacted strongly to McLachlan's proposals, arguing that they were 'inimical not only to our own interests but to those of Parliament itself' and that

... practically all power will be taken away from the President and Speaker, and our duties, salaries, and status generally will be put under the control of authorities who in the nature of the case cannot become sufficiently conversant with the peculiar conditions of the Parliamentary service to perform justly and efficiently the functions handed over to them—so far as officers of Parliament are concerned ... It would seem now that Parliament is asked to abrogate its rights and privileges in favour of an outside body not only for one particular occasion but for all time. (House of Representatives file, cited in Reid & Forrest 1989: 426)

This view, that those outside Parliament would be unable 'to become sufficiently conversant with the peculiar conditions of the parliamentary service to perform justly and efficiently the functions handed over to them—so far as officers of Parliament are concerned', echoes throughout the century in submissions and reports, as will be shown shortly.

In the end, the argument for the independence of Parliament won the day but with increased Executive oversight.

Thus, when the Public Service Act passed into law in 1922, the Presiding Officers retained the same powers as they had enjoyed under the previous legislation, namely: to make recommendations to the Governor-General on staff appointments and promotions, and to act in place of the Public Service Board in respect of those sections of the Act applicable to the parliamentary staff. (Reid & Forrest 1989: 425)

Section 7 of the 1922 Act, however, defined the five parliamentary departments as departments of the Public Service. This effectively remained until the repeal of the Act in 1999 and the related passage of the Parliamentary Service Bill.

Reid and Forrest conclude:

Yet even though the amendment was passed amid the rhetoric of parliamentary independence, the legislation enacted also tended to bring the parliamentary administration closer to the public service, in so far as it required the Presiding Officers to classify the officers and offices and made the regulation-making power much more explicit than it had been in the 1902 Act. (Reid & Forrest 1989: 426)

The biographer of Robert Broinowski, who joined the parliamentary staff in 1911 and retired as Clerk of the Senate in 1942, writing about this period, notes that:

A succession of clerks, often with the connivance or tacit approval of the presiding officers, successfully and repeatedly used the principle of parliamentary independence to maintain autonomy from the general public service in matters in which they deemed it advantageous to do so, such as separate recruitment, whilst maintaining the benefits of common standards in matters such as salary scales. (Broinowski 2001: 60)

Not much later, in 1930, one more attempt was made to bring the parliamentary departments under the Public Service Board's jurisdiction:

In 1930 the Acting Prime Minister, J. E. Fenton (ALP, Maribyrnong, Vic), wrote to the Presiding Officers, suggesting that 'the whole of the Parliamentary staffs, permanent and temporary' might be brought 'under the provisions of the Public Service Act and within the jurisdiction of the Public Service Board'. Citing the recommendations of the McLachlan Commission, Fenton suggested that Parliament might abide by the rules that it had set for others. (Reid & Forrest 1989: 427)

The Speaker responded strongly in the same vein as in the past: Parliament was 'the supreme authority in the land' and 'must retain control of its particular staff' and that there were 'significant differences between the work undertaken by parliamentary officers and that done in other departments'. The President's response suggested that 'there are so many vital points of difference between the two Services ... that such a scheme is impracticable'. (Reid & Forrest 1989: 428) The Government took no further action.

LATER YEARS

It was not until the 1970s that the issue was again raised, but this time in a very different way.

In one of its briefings to the Royal Commission of Australian Government Administration the Public Service Board proposed:

- a separate Parliamentary Service with its own legislation
- a separate Act to cover Ministerial advisers
- staff of MPs be engaged as ‘exempt’ (i.e., with non-career status) as part of the proposed Parliamentary Service. (Public Service Board 1975: 13–4)

It noted that:

8. The present arrangements create a situation where, although Parliamentary staff are employed under the Public Service Act, certain fundamental provisions of the Act do not relate to them, and certain features of the ‘career service’ proper do not therefore apply to them.
9. On the other hand, officers recruited to the Parliamentary departments, while not subject to the same recruitment provisions as officers recruited to Ministerial departments, nevertheless have the right to apply for and appeal against promotions in Ministerial departments. (Public Service Board 1975: 3–4)

The Royal Commission did not support separate legislation, nor did it consider that ‘the independence of Parliament in the staffing of its departments would be impaired by common legislation’. (Royal Commission on Australian Government Administration 1976: para 9.4.31) The Commission had developed proposals (9.4.6) for common but flexible legislation to cover all Commonwealth government employment. It suggested that Parliament would be able to ‘develop its distinctive patterns of service’ within that legislative framework. (9.4.32) This same legislation would also cover ministerial staff (9.4.24) and the staff of Parliamentarians (9.4.35).

In fact, no such legislation ever eventuated.

But in 1982, as part of its response to the Jessop Committee’s Report, the Government amended the Public Service Act, granting the Parliament increased control over its staffing processes. The Minister for Industrial Relations, Ian Viner, explained:

Briefly, the changes will enhance the autonomy of the parliamentary departments by empowering the Presiding Officers to create or abolish offices and to promote officers. The present provisions of the Public Service Act require these matters to be submitted to the Governor-General in Council for approval. (PD House 6 May 1982: 2397)

This had been achieved by the basis of an undertaking from the Presiding Officers to consult the Public Service Board before determining 'staff ceilings for individual parliamentary departments' and 'terms and conditions of employment of parliamentary staff'. (Reid & Forrest 1989: 432)

It was not until 1995 that the Public Service Act was amended to allow Presiding Officers to delegate these personnel powers. Before that amendment the Act did not:

... contain any provision which allows the Presiding Officers to delegate those powers to officers in their Departments. They may not, for instance delegate their power to appoint and promote staff, to create and abolish positions and raise or lower classifications. The lack of power to delegate means that the Presiding Officers are required to perform routine personnel management functions which are performed in other Departments at relatively junior levels. (PD Senate 29 March 1995: 2449)

On 11 November 1999 assent was given to the *Parliamentary Service Act 1999* to establish a non-partisan Parliamentary Service that is efficient and effective in serving the Parliament.

The legislation mirrors the principles-based approach adopted in the *Public Service Act 1999*, with important differences in the Values and Code of Conduct regarding accountability and responsiveness in particular, including that:

The Parliamentary Service provides professional advice and support for the Parliament independently of the Executive Government of the Commonwealth. (s. 10(1)(a))

There is, nonetheless, provision for rights of mobility with the public service; and in practice so far, the same person has been appointed as Parliamentary Service Commissioner and as Public Service Commissioner.

SKILLS AND MOBILITY

The particular skills required of parliamentary officers and the constraints these placed on mobility have been an issue since the early part of the century.

In 1921 the Acting Public Service Commissioner, William Edwards, expressed concern at the lack of mobility between the parliamentary departments and between the parliamentary departments and other public service departments.

... as Section. 14 [of the Public Service Act] stands it appears to make the Parliamentary Departments appear exclusive, and to shut them off from the outside Service.

Officers of the various Parliamentary Departments are not interchangeable, whereas in the ordinary Service an officer of one Department is eligible for promotion in another Department provided that there is not in that Department an officer equally qualified for promotion ... The Parliamentary officers, however, are all in close [sic] boroughs. (Senate Select Committee 1921: 3)

This view was rejected:

Both President Givens (Nat, Qld) and the Clerk of the Senate, George Monahan (1920–38), strongly defended the practice of separate departments, arguing, in the Clerk’s case, ‘that an officer who has been brought in from any other Department is of little service in the Parliamentary staff for a long time. So much depends here upon one’s previous experience and the knowledge acquired in his Parliamentary Service.’ (Reid & Forrest 1989: 411)

More recently, Harry Evans, the current Clerk of the Senate, argued the value of specialisation:

The great advantage of the parliamentary departments is that the specialised nature of their activities prevents them automatically succumbing to the orthodoxies and the ruling groups in the executive public service. The need for specialists is a barrier to the capture of the senior executive positions in the parliamentary departments by those orthodoxies and groups. (Advisory Committee 1993: Evans’ submission 10–11)

Evans reiterated this view in his response to the National Commission of Audit proposal in 1996 to amalgamate all five departments into one:

The parliamentary departments have a number of unrelated functions. There is no connection between providing legislative research to the Houses and their members and maintaining the air-conditioning of Parliament House. (Evans 1996: 3)

The staff of the Senate argued that the proposed amalgamated department ‘with divergent core functions’ would create a ‘department with diverse objectives and competing cultures’. (Evans 1996: Attachment p. 2)

The model for the administrative arrangement of five separate departments (initially as four departments and a Joint House Committee) was inherited in 1901 from Australia's colonial parliaments. Attempts since then to change the number of parliamentary departments and/or rationalise their functions have been frequent. The proposers of change have expressed their belief that amalgamations would result in efficiencies; the resisters of change have questioned this belief and asked for clearer evidence.

There are several subsidiary continuing themes in this debate about efficiency. One is about the quality of management in the parliamentary departments. Another is about the attitudes of parliamentary staff to their colleagues and towards Presiding Officers.

More recently, partly because of the difficulty of getting support in the legislature for structural changes, the reformers have given attention to establishing common services as another means of achieving efficiencies.

CONSTITUTIONAL AND LEGAL ADVICE

In 1996 Blake Dawson Waldron provided advice from Dennis Rose, QC, that:

In our opinion, there are no constitutional or other legal impediments to any of these amalgamations. (para 2)

The Constitution makes no reference at all to the staff to assist the Houses: indeed, it does not even refer to the Clerks of the Houses. (para 3)

We see no implications in the Constitution that the officers and other staff serving a House must be organised as officers of a separate 'Department'. (para 5) (Tanzer 1997: Letter attachment)

So, there is no constitutional reason why the departments cannot be amalgamated into any chosen configuration. But, since the 1902 Public Service Act, any changes to the structure of the parliamentary departments, or to the management of staff in those departments, have required the passage of legislation through the two Houses. Many of the proposed change have foundered on that requirement.

As a result, attempts to 'tinker' administratively—not requiring legislative action—have emerged as a means of bringing about limited change, economies, rationalisations and efficiencies.

AMALGAMATIONS PROPOSED AND RESISTED

The first proposal to amalgamate the departments came in 1910. Since then there have been four variants proposed: five into one, three into one, two into one and five into two. There have been at least four occasions when it has been suggested that the five departments should amalgamate into one (in 1910, 1933, 1953, and 1996). Proposals to amalgamate the three service departments into one have been equally popular, occurring in 1977, 1980, 1988 and 1996. The only attempt to amalgamate two into one (the Departments of the Parliamentary Library and the Parliamentary Reporting Staff) was in 1993. The most recent attempt, in 1997, was a fourth variant, to amalgamate all five departments into two—the two Chamber departments.

The arguments used to support and respond to each of these attempts, while being particular in time, have considerable continuity. Some of these are now examined to highlight the ongoing themes.

FIVE INTO ONE

The first proposal began in 1910 when the Prime Minister, Andrew Fisher, commented that

‘... the present practice of considering the officers of the Senate and the officers of the House of Reps in different Depts is, in my opinion very unsatisfactory, and in the best interests of the Parliament ought not to continue’. (cited in Reid & Forrest 1989: 408)

A year later he wrote to the Presiding Officers declaring that

‘It has now been decided by the Government to take steps to amend Section 14 of the Public Service Act with a view to enabling the Parliamentary staff to be dealt with as if they were officers of one Department.’ (cited in Reid & Forrest 1989: 408)

Surprisingly, the Presiding Officers agreed on the desirability of reducing the number of parliamentary departments but made a strong plea for creating two departments rather than one by separating the *Hansard* reporters from the officers of the other departments. The staff of the Chamber departments, who had transferred from positions in their respective State Parliaments, feared that their length of service would be ignored when promotions or vacancies occurred.

Their whole response was premised upon a concern not with the independence of Parliament, and more particularly its individual houses, but rather with the career opportunities of those officials who wished to see the staff of the two houses treated as a common pool from which, when vacancies occurred, the most senior officer might be taken. (Reid & Forrest 1989: 409)

In 1912 Fisher agreed to the two Department model.

However, for reasons that are not clear, Prime Minister Fisher, in introducing a Bill to amend the Public Service Act later that year, made no attempt to change s. 14 which dealt with parliamentary administration. Thus the five separate departments survived this first attempt at rationalisation. (Reid & Forrest 1989: 410)

Despite various Parliamentarians arguing against the continuance of the five departments—one saw them as ‘the acme of folly’—it was not until 1933 that the proposal was again put. (Reid & Forrest 1989: 410)

In 1933, as part of a general introduction of economies into the public service in the 1930s the Government sought to extend these economies into Parliament and established the Pinner Inquiry. JT Pinner was an Inspector, later a Commissioner, of the Public Service Board. The Board’s 1933 Report (p. 18) notes that at the request of the Presiding Officers ‘an investigation was made into the organization and working of the Departments of Parliament’. Pinner’s ‘recommendations’ were couched in terms of the five departments but he also set out ‘suggestions’ which would yield more significant economies. In his recommendations he

... strongly urged that economies might be made by the common provision of certain services presently undertaken separately by the five departments and to a lesser extent the Public Works and Public Accounts committees. (Reid & Forrest 1989: 413)

In the final part of his report Pinner set out ‘suggestions’ for more radical change. He suggested:

... the merger of the five separate departments into a single unit under a single permanent head responsible for all aspects of the parliamentary service. The existing permanent heads would become branch heads responsible to the new permanent head, who might assume the title of Clerk of Parliaments and who would be ultimately responsible to the President and the Speaker. (Reid & Forrest 1989: 413)

With its recommendations of staff cuts and salary reductions and its comment that officers of the Senate and House of Representatives might undertake stocktaking work in the Library during the recesses, the Report clearly did not endear itself to the parliamentary staff. The final suggestion that more radical change, including the merger of the five departments into one should be contemplated secured the report’s rejection. (Reid & Forrest 1989: 413)

There was some concern that the Presiding Officers had acted beyond their competence in allowing the enquiry to take place, but the President of the Senate responded:

‘Times have changed since the struggles between the Crown and Parliament, and as the government of the country is charged exclusively with the management of its financial affairs, and has the power of the purse, it has also control of parliamentary finance.’ (cited in Reid & Forrest 1989: 414)

The President of the Senate refused to make the report public and asserted that:

‘... a person who sets out on such an undertaking requires a knowledge of parliamentary procedure, and of the parliamentary system, before he can furnish a report of value’. (cited in Reid & Forrest 1989: 414)

Pinner, by implication, had neither.

Broinowski’s biographer notes that with the failure of the Pinner report to bring about structural change:

The members of the five departments thus withstood all early efforts to rationalise them. They became a self-contained and insular enclave, a priesthood, in which the status quo, the established order, and the importance of apprenticeship were heavily emphasised during the steady, if often glacially slow progression officials would make through the hierarchy. Promotion depended primarily on seniority, and secondarily on profound knowledge of parliamentary practice. (Broinowski 2001: 61)

In 1953 an Acting Assistant Public Service Commissioner, LO Brown, reviewed the parliamentary departments. He proposed that all accounting work and staff work be transferred to the Joint House, which would serve the needs of all five departments. He also recommended that there should be one Parliamentary Department not five. The Clerk of the House, in a memorandum to the Speaker responded:

‘1. Number of Departments. The Chairman of the Board recommends, for reasons stated by him, that there should be one Parliamentary Department instead of five. I support this recommendation, but, if it is not acceptable, I would be glad of an opportunity to submit an alternative organization of two Departments.’ (cited in Pender 1990: 122)

The equity of classification levels and salaries between those serving the House and the Senate was again raised and disputed. (cited in Pender 1990: 120–2)

It was not until 1996 that the proposal was again put forward, this time by the National Commission of Audit (NCA). The Commission asserted that:

The funding for these departments comes to \$0.6m in support costs for each Parliamentarian.

The current arrangements ... involve a significant duplication of corporate functions and are an inefficient way of delivering these support services to Parliament.

The corporate functions of all the departments should be combined into a single new department, which might be called, for example, ‘the Department of the Parliament’. If required, there could be an Office of the Senate and an Office of the House of Representatives in this Department. The reporting service, library and other functions such as printing could also be contracted out in the same way as the parliamentary catering service. (National Commission of Audit 1996: 110)

The Presiding Officers sought position papers from their five departmental heads on this recommendation. The Clerk of the Senate, Harry Evans, responded (August 1996)

The proposal [of NCA] ... is incompatible with bicameralism. The President and the Senate would lose their own dedicated group of advisers, who would be part of an organisation for which they would not be exclusively responsible. The services which are delivered to the Senate would be located in a joint department partially under the control of the House of Representatives, and, necessarily, of the ministry of the day which controls the House. This would give rise to an obvious conflict of interest in the government party having effective control over the services of the chamber which performs the parliamentary functions of scrutinising and holding accountable the government of the day ... The effectiveness of the Senate as a scrutineer of government would effectively be undermined by this centralised control of services and resources.

The constitutional safeguard provided by dividing the law-making power between two chambers necessarily involves these chambers having the means of acting independently. The National Commission of Audit does not understand this principle.

Parliament itself is an institution which rests on non-economic rationales.

... the cost of Parliament is the cost of democracy, and it is not great when compared with the costs of executive government and when the alternatives are considered. (Evans 1996: 4 and 8)

Noel Tanzer, asked by the Presiding Officers to review the five responses, brought to the task his four years experience as Secretary of the Department of Administrative Services. He concluded that 'logically a single department can be justified and has the potential for major savings but the question is whether it is politically achievable'. (Tanzer 1997: 3)

His review of submissions notes [my emphasis]:

... there are charges that the proposals are incompatible with *bicameralism*, that they would result in *conflict of interest* in the government party or parties and that they would undermine the effectiveness of the parliamentary process and *imperil independence*. (Tanzer 1997: 1)

Relations between the Houses have already been discussed in reference to the Presiding Officers' reluctance to submit a joint budgetary bid to the Minister for Finance. The same issue of independence arises here. Would the independence of the Clerks' advice and support to their Houses be affected by an amalgamated department? The House of Representatives has become primarily the house of the Executive, the Senate the house of review and scrutiny of that Executive. These differences are real. The Senate has jealously guarded its constitutional rights against incursion by the Government of the day.

The community, Senator Mason (Democrats) believes, supports its scrutiny of Executive decisions:

The community considers that it is very important that there is some check and balance on the unfettered power of the Executive. It is for that reason that the Senate can now successfully claim to be the people's House, as indeed it is. The other place, with all respect to it, is a mere rubber stamp of the Executive. (PD Senate 7 November 1985: 1713)

Those supporting reform claim that their proposals for change will not impinge negatively on the independence of each House. Peter Morris, Minister for Industrial Relations and Minister Assisting the Prime Minister for Public Service Matters, speaking in favour of a Bill to amalgamate the three service departments noted:

Whilst independence between the two chambers is necessary, we must also objectively assess the degree to which administrative arrangements need to be attached to the two chamber departments ... This Bill and those objectives I have repeated make a demarcation which will inevitably result in gains in efficiency, particularly on issues of personnel and financial management. (PD House 29 November 1988: 3488)

Where that demarcation is placed is the nub of much of the debate.

THREE INTO ONE

The first two proposals to amalgamate the three service departments came in 1977 from a former Speaker, Gordon Scholes, and a parliamentary officer, Alan Browning, then Clerk-Assistant, and later Clerk to the House. Browning expressed concern about how the departments were being managed:

'... the smallness of our present establishment and the emphasis which has been placed on technical knowledge rather than managerial ability have combined to make the Department insular and inward-looking'. (cited in Reid & Forrest 1989: 419)

He proposed that the three service departments merge into a department of Administrative Services. Scholes suggested the creation of a 'Department of the Parliament to be an overriding administrative department', which would control the three service departments without destroying their individual identities (cited in Reid & Forrest 1989: 415). Nothing, however, emerged from these suggestions.

Between 1977 and 1980 reviews of all five houses were undertaken at the invitation of the Presiding Officers by consultants as part of a Public Service Board Joint Management Review. The reviews of the Chamber departments concluded that 'there is substantial scope for improvement and consequent cost reduction'. (PA Consulting 1977 p. 2, cited in Pender 1990: 51)

The review of the three service departments by Urwick International generated five reports in 1980. Among many proposals to increase the departments' efficiency was a recommendation that they be amalgamated into a single department of Parliamentary Services.

Under pressure from the Public Service Board, the Joint House Department initiated a pilot study of a combined personnel service, but the unwillingness of the Parliamentary Librarian and the Principal Parliamentary Reporter to cooperate effectively stymied progress. (Senate House Committee 1982: 17)

The depth of the Senate's concern was shown by its decision, on 29 October 1981, to initiate an enquiry, by the Senate House Committee, into the organisation, operation, functions and financial administration of the Joint House Department. This inquiry which attracted strong criticism from the Speaker, who felt it impinged upon his rights under the Public Service Act, was undoubtedly part of a strategy designed to inhibit progress towards any merging of the parliamentary departments. In its report, tabled in August 1982, the House Committee recommended strongly that other matters should be dealt with before consideration was given to any amalgamation of all parts of the service departments. (Reid & Forrest 1989: 415)

The Senate House Committee concluded that:

4.27 The performance of the Joint House Department in administering its present functions certainly does not inspire in the Committee any confidence that the Department can take on any new functions.

4.28 An alternative that has emerged from the Committee's inquiry is that the Joint House Department could perhaps be dismantled or reduced from a Department to a services section of one of the other Parliamentary Departments. (Senate House Committee 1982: 21)

The Committee also noted that:

4.1 ... although the Presiding Officers have statutory powers in relation to the staff of the Joint House Department, nothing has been done by the Senate and House of Representatives to delegate responsibility for policy in relation to the functions of the Joint House Department. (Senate House Committee 1982: 19)

No amalgamations followed.

In May 1987 the Presiding Officers decided to set up several common service units. As a result, the Parliamentary Information Systems Office (PISO) was established with responsibility for providing all Parliament's technological requirements. A new senior position to coordinate these common services, and responsible to the Presiding Officers for the existing functions of the three service departments, was proposed.

The Presiding Officers indicated that they would 'be arranging for progressive examinations of other administrative support services to identify where gains in service and efficiency can be achieved through a greater degree of rationalisation of staffing resources'. (Presiding Officers' statement to Senators and Members, 14 May: PSB file 87/03192)

A month later, concern regarding the extent of this proposal led Senators to support the motion by Senator Georges to enhance the role of the Senate Standing Committee on

Appropriations and Staffing. The Resolution stopped changes to the structure or responsibilities of the parliamentary departments until the Committee had considered them and reported to the Senate.

In May 1988 Speaker Joan Child proposed a Public Service (Parliamentary Departments) Bill 'quite simply to reduce the number of separate departments serving the Parliament from five to three' (PD House 19 May 1988: 2692). The legislation proposed a new Department of Parliamentary Service, with a new Secretary to administer it, in lieu of the three joint departments. The main objectives of the Bill were: a less fragmented and more effectively coordinated administration; improved services to Senators and Members in a climate of severe resource restraint; a better balance of managerial, parliamentary procedural and other specialist viewpoints; and more flexibility in administrative arrangements. (PD House 19 May 1988: 2692)

The Presiding Officers estimated that it would save 18 staff and create greater efficiency in service provision. During the second reading debate on 29 November 1988 the Minister for Industrial Relations and Minister Assisting the Prime Minister for Public Service Matters, Peter Morris, recognised the sensitivity of 'independence' for the Chamber departments:

In this process of change it is important to note one significant issue, namely, the need to maintain the constitutional and institutional independence of the House of Representatives and the Senate. I am quite sure that everyone acknowledges that that is paramount. That is clearly reflected in the Bill. (PD House 29 November 1988: 3488)

The Government, Morris argued, had a responsibility because it needed to be sure taxpayers' money was used wisely:

It is the Government that goes to the polls and has to explain how it has used the taxpayers' money. Therefore the Government has the responsibility of ensuring that that efficiency is achieved and for ensuring that desirable structural change is embraced. That is what this Bill is about. It is about desirable, reasonable, long needed structural change in the way we do things in this place. (3490)

But, noting the cost of administering Parliament, he argued that this responsibility was not just the Government's.

Expenditure of that kind places upon the Presiding Officers, the Clerks ... and all those involved in the services associated with those two chambers, a very heavy responsibility to ensure, as good managers as distinct from their parliamentary functions, that that money is used wisely, and that the services are provided efficiently. (3489)

Sometimes, I think, within this parliamentary organisation there are citadels in which people see themselves as being there to maintain the tradition regardless of the level of efficiency. (3490)

Others made external comparisons:

Mr Price: What we have really heard is that it [the Opposition] wants to keep in place, to cement for all time, the ludicrous position that five permanent heads are running this Parliament House at a time when private enterprise and the Government, if not the Opposition, recognise that we must have a leaner, trimmer, more efficient Public Service and when a lot has been done to the Senior Executive Service in the Public Service and freedoms have been granted to government business enterprises. What the Opposition is saying is that Parliament should be immune from that process. (3471)

Mr Brumby: I am told that the Block Efficiency Scrutiny Unit declined even to consider looking at parliamentary departments because the matter had been canvassed so often in the past that it thought there was no need to duplicate previous effort and that the solutions to problems which had been identified in the past, and which I have outlined, were fairly obvious. (3477)

Mr Brumby also saw it as offering advantages to staff:

Mr Brumby: ... the restructure will provide more career opportunities, and more opportunities for development, wider interest, multiskilling and so on for employees in the Parliament. (3477)

The Deputy Speaker, and future Speaker, deplored the duplications:

Mr Leo McLeay: I found a number of duplications that occurred there to be bizarre, to say the least; to be antiquated, to be unkind. I found it disgraceful that in the 1980s we were still sticking to these tried old formulas. (3484)

Those against the Bill questioned the validity of the cost savings and considered them not substantial enough to justify the significant change. They also questioned whether improved services would follow.

Mr Ruddock: I wonder whether a new structure which puts one person in charge of that, the Library and Hansard, will deliver a better and more effective service to members of Parliament rather than simply achieving administrative savings of the sort that the honourable member for Chifley thought might be possible but which under the arrangements that are before us seem unlikely to be obtained. (3475)

Doubts were aired about whether amalgamation would necessarily deliver efficiencies:

Mr Fife: There seems to be no great merit in the amalgamation of dissimilar and specialised functions which will do little more than create the necessity of a new layer of managers, probably with limited knowledge or skills in their specialised functions. (3471)

Mr Rocher: We do not necessarily equate efficiencies and the desirability of efficiency with changes ... I am not necessarily of the mind that because one creates fewer operating cells one necessarily achieves economies. One does not necessarily reduce expenditure or necessarily arrive at a better management program or system. (3478)

The Australian Labor Party supported the Bill; the Coalition opposed it. The Bill was passed in the House but was not considered in the Senate.

In 1996 former Speaker, Stephen Martin, introduced a Public Service (Parliamentary Departments) Amendment Bill to amalgamate the three service departments to create a new Parliamentary Services Department. The Explanatory Memorandum notes that ‘the expected saving would be at least \$1.5m per annum’.

I invite honourable members to take one step further than the 1993 bill and endorse the combination of all departments serving the parliament, except for the Department of the House of Representatives and the Department of the Senate, which are most desirably separate on a constitutional basis (Martin, PD House 20 May 1996: 799)

The Bill failed to gain priority for resumption of debate on its second reading.

Again, this sequence of proposals emphasised the importance of maintaining the constitutional and institutional independence of the House of Representatives and the Senate, while attempting to put in place new structures to achieve efficiencies and cost savings. All parties claimed to support attempts to bring about administrative efficiencies, but the particular proposal—to deliver both physical and information support within the structure of one department—was not successful.

TWO INTO ONE

In 1992 the Presiding Officers asked John Templeton, head of the Department of the Parliamentary Reporting Staff, and acting Parliamentary Librarian, to consider the broader issue of effective coordination and management of information services provided to the Parliament by the two departments. In response he suggested that a Department of the Parliamentary Information and Reporting Services be created by combining the two departments.

The proposal noted that:

... the common links between the departments are information service delivery and information technology, and argues that better coordination and integration of these would provide potential for more effective use of resources and enhanced client services. This could be achieved by including the Library in an ‘umbrella’ administrative department. (Advisory Committee 1993: i)

The Presiding Officers established an Advisory Committee of Senators and Members from both sides, chaired by Peter Nugent, MHR, to consider, take submissions and report on the proposal.

The Committee did not reach a unanimous decision and majority and dissenting reports were produced. The majority supported the proposal.

The majority report notes that the submissions and evidence, (not available, because the Committee did not meet in public and the hearing transcripts are not public) reflect ‘a considerable resistance to the proposal in the client service areas of the Library’ and ‘an apparent general reservation towards technology-based services which are perceived as encroaching on some of the Library’s traditional monopoly on ‘intellectual’ services’. (Advisory Committee 1993: ii) The Committee addresses more than half of its finding to these issues but, according to the dissenting report by three Senators, does ‘not find a solution to the fundamental compromise inherent in the amalgamation’.

The dissenting report finds against the proposal:

We support the existing and longstanding provisions for there being two separate Departments. We do not wish to see any undermining of the independence of the Parliamentary Library in fulfilling its objectives and its responsibilities to the Parliament. (Advisory Committee 1993: Dissenting report 1)

The dissenting Senators draw heavily upon the submission and evidence of the Clerk of the Senate, Harry Evans that, alone of all the submissions, is included in the report at their request. Evans’ views were made very clear:

Senator Teague: I have not got you wrong have I? You are root and branch opposed to this proposal?

Mr Evans: ... the answer to your question is yes. I do not believe this proposal has anything to commend it. (Advisory Committee 1993: Dissenting report 3)

Evans’ submission argues that the proposal misconceives what the Library and DPRS do and would cut away at the Library’s independence:

The two departments are not in the same business. On the contrary, their roles are quite different. The references to research and policy advice in the mission statement of the Library quoted at paragraph 5 of the minute sufficiently establishes that point. To say that both departments are in the business of providing ‘information services’ is to confuse the provision of the technical means for information services with the actual provision of information. (Advisory Committee 1993: Evans’ submission: 3)

He quotes a case where the Library provided advice, contrary to that provided by the Government, which was eventually accepted as correct, and notes that:

The access of the Houses and their members to this independent source of advice, therefore, is of enormous importance to the proper conduct of government.

The appropriate independence of the Library requires that it be separate from other departments and separately funded, with direct responsibility to the two Houses. Any possibility of the Library falling under executive government control should be avoided.

... The independence of the Library would ultimately be lost. It is no answer to say, in the manner of a person taking over a newspaper, that the Library would remain free to provide advice as it sees fit. An adviser funded by somebody else is not an independent adviser. Having fewer independent sources of advice is as dangerous as having fewer independent newspapers. (Advisory Committee 1993: Evans' submission: 10)

And Evans joins those who doubt the advantages of amalgamations.

I know of no coherent data suggesting that amalgamation of public service or other organisations adds to their efficiency. (Advisory Committee 1993: Evans' submission: 6)

As the dissenting Senators note:

Clearly many of the urges for the earlier failed amalgamation attempts are now being revisited. The Senate has an established track-record of safeguarding the foundation objectives and responsibilities of the Parliamentary Departments and the independence of those Departments. (Advisory Committee 1993: Dissenting report 5)

The next Speaker, Stephen Martin, made his views of the dissenting report very clear a few years later:

That minority report was brought down on behalf of coalition senators ... who were got to by people on the other side of the building. Dare I say that it was the Clerk—I shouldn't, but it probably was—who convinced them that this was the start of all evilness ... where there was going to be only one parliamentary department and that any influence that he might have in the operation of the Parliament may in fact be dissipated if in fact he did not get a say.

He convinced the coalition senators about this and, of course, they refused to deal with it over there. (PD House 5 March 1997: 1969–70)

The report was tabled on 27 May 1993. The new Speaker, Stephen Martin, introduced the Public Service (Parliamentary Departments) Amendment Bill 1993 to implement the majority report and create a combined Department of the Parliamentary Library and Reporting Services. His Second Reading speech (24 November 1993: 3509–10) argued that:

This will give the parliament two service departments, one providing information services, the other—the Joint House Department—providing physical services. The President and I believe that this structure is the most appropriate and effective one for the parliament. We do not believe that any further reduction in the number of parliamentary service departments is warranted and we do not intend to propose that there be any further changes.

The principal advantage of the merger of the two departments will be improvements in the provision of information services to the parliament.

The bringing together of the two departments into one will allow for greater efficiency in the corporate support areas and will lead to savings of around \$1 million over the life of a parliament.

... the President and I place on record our commitment to the importance of the Parliamentary Library's role as a provider of independent information, research and advice to members and senators of all parties, as well as independent members and senators.

The Second Reading debate occurred in the House on 8 February 1994 (pp. 573–86). Peter Nugent, Chairman of the 1993 Advisory Committee, supported the legislation:

At the moment there are just too many fiefdoms that, frankly, cause too many duplications. (579)

There were many claims about the loss of independence of the library under the proposed arrangements. We spent a great deal of time and effort looking at them and, frankly, those claims, in my view, were simply not supported by evidence. (580)

Leo McLeay, a former Speaker, made some strong statements about those who had something to gain by opposing reform:

However, a small clique of people in two of the other parliamentary departments—not, I am pleased to say, the Department of the House of Representatives—have decided that what they really want is for the cosy, sheltered workshop they have worked in all their lives to prevail and, while the rest of the world, the Public Service and industry, can change, the parliamentary departments will be the same as they were in 1901 when they started and in 1927 when they moved here. That is absolutely ridiculous. (580–1)

When someone says, 'Maybe we ought to change this a bit; maybe we ought to get a bit of modern management into this place', the people in the library say, 'Goodness, no. Don't do that. That would be awful because you would be interfering with the independence of the library'. No-one wants to interfere with the independence of the library. Those of us on this side and on the other side—at least those of us who think about it—realise that the cycle in this place changes. It is inevitable that at some time or other one party will be in government and then it will go out of government. When we go out of government, we need the resources of the library to help us do our job as members. So no-one is going to try to do anything about that. But, for goodness sake, let us make the library work better. (582)

The only people who will benefit from this amalgamation are members and senators. That is why these two service departments are there. They are not there for self-serving reasons of the people who head them. (582)

Warren Truss, a member of the Advisory Committee, affirmed this perspective and reminded his colleagues of the severe management problems in the two departments:

There was clearly some orchestration in the campaign by library staff and others to oppose this particular proposal. We even had representations from the various state parliamentary librarians indicating how this proposal would just about bring an end to the universe. But, with a bit of investigation, we found that many of the state parliamentary libraries themselves are not separate departments. So much of their comment seemed to be a little bit hollow. (586)

Over the years there have been management problems in both departments. There have been unfavourable audit reports which have dealt very critically with the operations of both of these significant parliamentary departments. In 1989 there was criticism of the Department of the Parliamentary Reporting Staff that led to some considerable reforms. Audit Report (No. 6) of 1990–91 [sic] into the Department of the Parliamentary Library also contained much criticism and, particularly, concerns about the lack of leadership and poor management within that department. (584)

The Speaker, Stephen Martin, concluded the debate by noting the obstruction of some senior parliamentary officers to reform:

As a Presiding Officer, I find it disturbing when I learn of very strongly held views of senior officers within this place where those views are sought to be imposed on some members and senators for other reasons. (588)

In that respect I am reminded of a comment made by a senior officer of the parliament to the former President immediately prior to his departure. He said, 'You will never get this proposal up because I do not support it'. I think it is fair to say that that particular person is doing whatever he can to ensure that that happens. (588)

The Opposition (Coalition) opposed the Bill. The Bill was read a third time and passed to the Senate where the Second Reading speech was incorporated into the Hansard on the next day. No debate ensued.

This debate echoes earlier views: about independence of advice from the Library; doubts about amalgamations; the Senate's role in safeguarding independence, and attitudes of parliamentary officers to change. It reflects the political constraints on the power of Presiding Officers who have been unable to obtain the support of enough Members to their legislation. Many of these views recur in submissions to the Senate Standing Committee on Appropriations and Staffing in 1997.

FIVE INTO TWO

The most recent major proposal came about when the Presiding Officers rejected the National Commission of Audit's 1996 recommendation for all five departments to be merged into one. As noted earlier, the Presiding Officers sought position papers on NCA's proposal for subsequent consideration by former Secretary, Noel Tanzer.

Tanzer concludes that 'logically a single department can be justified and has the potential for major savings but the question is whether it is politically achievable', yet reports that 'the option favoured by most (albeit only if a major change is determined as necessary) is that of a contraction to two departments based on the existing Chambers'. (Tanzer 1997: 3)

On 5 March 1997 the Presiding Officers announced their decision to implement a management structure based on the two Chambers:

The two-chamber department structure is the best way of achieving a dynamic and responsive organisation which will allow the parliament to make significant savings while improving the services provided to senators, members and committees.

We have asked the departmental heads to provide us by Tuesday, 18 March with an implementation plan for the transition to the new structure. I will advise the Senate as soon as practicable after that, and as required by the rules of the Senate I will be consulting the Appropriations and Staffing Committee as the matter progresses. (PD Senate 5 May 2002: 1245)

Twelve days later a working group appointed by the heads to advise them on an implementation plan issued its report 'Managing the Parliament—The Way Ahead'.

The Senate referred the matter to the Senate Standing Committee on Appropriations and Staffing for its consideration. The Committee received fifteen submissions. Many reiterated the ongoing themes already discussed, others made claims about the current management environment. Views expressed included:

- [There is] undue dominance of the executive government in the process of determining what in effect is the budget *for* rather than *of* the Australian parliament.
- The appropriate independence of the Library requires that it be separate from other Departments and separately funded, with direct responsibility to the two Houses. Any possibility of the library falling under executive government control should be avoided.
- It is important that advice on information technology be independent and not simply reflect the views and interests of the prevailing school.
- The current fractured nature of the parliamentary administration ... does not provide any forum for a long term corporate vision for the Parliament.
- [There is] a lack of common purpose in the current ... dysfunctional support structure.
- The present parliamentary administration is, generally speaking, little more than a loose affiliation of warring tribes whose efforts have been, to date, directed towards maintaining existing fiefdoms.
- The history of possible rationalisation of the parliamentary administration ... has been one of failure because the Opposition Parties in the Senate have jealously guarded the Senate's independence and have interpreted broadly that which they consider to be an interference in the affairs of the Senate by the government of the day.

- There seems to be a degree of reluctance on the part of some senior officers to accept that all 5 departments exist for exactly the same purpose, that is to serve the Parliament and, through it, Australia and the people (who pay for its upkeep).

The Committee reported in June 1997. It recommended to the Senate that the proposal not be agreed. The Senate and House were advised accordingly. The Presiding Officers, defeated again, announced that they would continue to ‘work toward a rationalisation of the mechanisms by which services are delivered to parliament’. (PD House 26 June 1997: 6630)

OTHER OPTIONS—COMMON SERVICE UNITS

As already noted there were early attempts to bring together common services across the departments. As early as 1933 Pinner was suggesting that ‘economies might be made by the common provision of certain services presently undertaken separately by the five departments’, a theme Brown reiterated in 1953. By 1981, attempts were being made by the Joint House Department to achieve this in personnel services, but there was little support from the other departments. In 1987, the Presiding Officers decided to ‘set up common service units’ across parliamentary and public relations; computer based information systems; and staffing, accounting and purchasing operations. Of these, only the Parliamentary Information Systems Office (PISO) was established, with responsibility for meeting all Parliament’s technological requirements.

The Advisory Committee on the Proposed Creation of a Department of Parliamentary Information and Reporting Services in 1993 rejected the option of increasing common services. While the majority report acknowledged that there had been some progress in providing common services across the parliamentary departments—in HRD and the supply of stationery—it

... considers further development of the common provision of services for the three non-chamber departments exercise unlikely to yield anywhere near the level of savings available under the proposal and without such savings there is far less scope for enhanced client services. (Advisory Committee 1993: v)

Suggestions of merging only the common services areas of the two departments were rejected on the basis that this

... is not considered a suitable alternative by the committee. The department head would not have operational oversight of, and responsibility for, those activities about which she or he would have to exercise statutory obligations. (Advisory Committee 1993: v)

By 1997 parliamentary officers were able to point to at least one failed attempt to provide common services. Harry Evans, in his submission to the Senate Standing Committee on Appropriations and Staffing, noted the ‘conspicuous failure’ of an earlier attempt to merge staff development functions that was wound up because the service ‘failed to

meet the differing training needs of the respective departments' (Evans 1997: 6). But, in an interview at the time, he noted that:

If amalgamation was to occur, amalgamation of corporate services would be, if not the best then the least worst plan. (Committee Bulletin 1997: 3)

Nevertheless, while it remains so difficult to achieve legislative changes, reformers will continue their attempts to rationalise functions and activities to provide more efficient services to Parliament.

What have been the continuing issues in the debate about the administrative reform of Parliament over the century? Why have Presiding Officers been unable to bring about change?

The key argument has centred on Parliament's independence—that to be independent 'Parliament must be master of its own household' (Senate Select Committee 1921: x). From this perspective, Parliament's budgetary, staffing and administrative independence is crucial to its status and role and the Executive's involvement in these arrangements undermines the spirit of the separation of powers. Attempts to amalgamate or rationalise the two Chamber departments is also seen to offend the principle of bicameralism and would result in a conflict of interest between the Executive-dominated House of Representatives and the Senate, the house of review. There are also recurring claims that attempts to merge the Department of the Parliamentary Library with other departments could undermine its independence and thereby the independence of Parliament.

Parliamentarians have not been convinced that they will benefit from proposals to amalgamate departments and have refused to support legislation initiated by the Presiding Officers.

As Peter Reith, then Leader of the House, noted during the 1997 debate:

Ultimately these administrative arrangements can go to matters of great constitutional import as to the balance between the houses and the independence of the houses. (PD House 5 March 1997: 1976–7)

Despite their formal power the Presiding Officers have had difficulty in achieving their reform aims. Ken Wiltshire, writing in 1982, commented that:

There can be no doubt that a basic cause of the inability of parliaments to confront the executive over questions such as their own staffing and appropriation is the absence of any individual who will accept responsibility for such matters.

It has been extremely rare in Australia, Canada or the United Kingdom for presiding officers of parliaments to answer for parliament as a body, let alone defend it or justify its actions. (Wiltshire 1982: 305–6)

Reid and Forrest made a similar point:

The party affiliations of the respective Presiding Officers and the temporary nature of their appointments have consistently placed the parliamentary organisations they are required to administer at a considerable disadvantage.

The lack of a person authorised to advocate, negotiate and plan in the interests of Parliament as an institution has greatly impeded the growth of an effective parliamentary administration. (Reid & Forrest 1989: 433)

Jim Pender, who recently retired as Clerk Assistant in the Department of the House of Representatives, commented in 1990 on relationships between Presiding Officers and their Clerks:

There is sometimes antagonism between a presiding officer and a Clerk ... The problem ... is that the presiding officers are very influential in management decision-making ... The so-called head of the administration, the Clerk, can be rendered virtually impotent by a presiding officer or, on the other hand, given total control. (Pender 1990: 171)

and between the Presiding Officers and their staff:

With this mixture of authority and the overriding need to remain apolitical, it is little wonder that the officers in the parliamentary administration look to the Clerk not the presiding officer for leadership. (Pender 1990: 173)

Past attempts by Presiding Officers to reform the parliamentary administration have not benefited from this diffusion of leadership.

The new legislative environment created by the *Parliamentary Service Act 1999* recognizes and responds to some of these issues. The Act explicitly establishes the Parliamentary Service independently of the Executive (s. 10). It also acknowledges bicameralism in that it establishes the two Chamber departments (s. 54(1)) and the offices of the two Clerks (s. 55).

Now a new report is on the table. At the request of the Presiding Officers in April 2002 the Parliamentary Service Commissioner has reviewed 'aspects of the administration of the Parliament'. It is possible that, in this new legislative environment, Parliamentarians may regard differently these proposals for administrative change.

Nevertheless, the proposals flowing from this review, like those before, will succeed only if Parliamentarians believe they will help them in their work. Stephen Martin, a former Speaker, summarised the intent of the reforming Presiding Officers who have

... endeavoured to bring before this place legislative efficiencies to the way in which Parliament operates. I do not think anyone disputes that this is necessary. I do not think anyone disputes there is duplication.

Behind driving change under previous Presiding Officers has been the desire to ensure that efficiencies were there, that it delivered some savings but that those savings would go back into ensuring that in no way was the opportunity for members and senators to carry out their responsibilities diminished. I think that this is a paramount issue in this debate. (PD House 5 March 1997: 1967-8)

CHRONOLOGY OF KEY POSPOSALS FOR STRUCTURAL AND STAFFING CHANGE—1901–2001

DATE	ORIGINATOR(S)	KEY PROPOSAL
1910–12	Prime Minister, Andrew Fisher	Proposes amalgamation of the five departments into one.
	Presiding Officers—in response to the 1911 proposal	Argue for amalgamation into two departments—a large Department plus a Department for <i>Hansard</i> reporters. Fisher agrees to the two-department model but takes no action.
1920–22	Presiding Officers	Propose parliamentary officers be made subject to classification by the Public Service Commissioner and for salaries to be fixed by him, but in all other respects to remain under control of the Presiding Officers.
	McLachlan Royal Commission	Recommends incorporating parliamentary officers into the public service and Public Service Act coverage.
	Select Committee on the Position of Officials Engaged in and about the Senate	Clarifies responsibilities of the Presiding Officers vis-a-vis the Houses and their Committees, and recommends against both proposals.
	The Government	The Public Service Bill, incorporating McLachlan’s recommendation, is debated in Parliament.
	President Givens, in consultation with the Speaker	Successfully moves to amend the Bill so that Presiding Officers retain control of Parliamentary officers.
1930	Acting Prime Minister, James Fenton	Suggests that McLachlan’s proposal be acted on. The Speaker responds strongly. The Government takes no further action.

1933	Presiding Officers	Request the Pinner Inquiry. Pinner recommends efficiencies and suggests amalgamation of the five departments into one.
1953	Public Service Board	Brown recommends five departments amalgamate into one.
1975–76	Public Service Board	Proposes a separate Parliamentary Service to the Royal Commission on Government Administration. Not supported.
1977	First Clerk-Assistant to the House, Alan Browning	Calls for the three service departments to amalgamate.
	Former Speaker, Gordon Scholes	Proposes a Department of Parliament to oversight and administer the amalgamated three service departments.
	Speaker, Billy Snedden	PA Consulting Services reviews the House Department. Recommends hiving off administrative functions from procedural.
1979	President of the Senate, Condor Laucke	PA Consulting Services reviews the Senate Department. Recommends hiving off administrative functions from procedural.
1980–82	Presiding Officers	Urwick International reviews the three service departments. Recommends economies and their amalgamation into one.
	Joint House Department	Pilot study on the coordination of personnel services. Two departments refuse to participate.
	Senate House Committee	Inquiry into the Joint House Department.
	Legislative change	<i>Public Service Act 1982</i> gives Presiding Officers statutory powers in staffing parliamentary departments.
1987	Presiding Officers	Propose the amalgamation of the three service departments into one and the creation of common service units.
	Senate	Senate Resolution gives power to the Senate Standing Committee on Appropriations and Staffing and the Senate before change can happen.

1988	Speaker, Joan Child	Introduces the Public Service (Parliamentary Departments) Bill to amalgamate the three service departments. Passes the House but not considered in the Senate.
1992–94	Presiding Officers and John Templeton	Propose amalgamation of DPRS and the Parliamentary Library. Advisory Committee of MPs supports proposal.
	Speaker, Stephen Martin	Introduces the Public Service (Parliamentary Departments) Amendment Bill to action the Advisory Committee recommendations. Passes the House but not the Senate.
1996	Former Speaker, Stephen Martin	Introduces a private members Bill to amalgamate the three service departments. Fails to get 2nd reading debate.
1996–97	National Commission of Audit	Recommends the amalgamation of the five departments into one and contracting out of functions.
	Presiding Officers	Seek position papers on NCA proposal.
	Noel Tanzer inquiry	Reports some support for the three service departments to be incorporated into the two Chamber departments.
	Presiding Officers	Decide on the two Chamber departmental model.
	Department heads working group	Implementation plan—‘Managing the Parliament’.
	Senate Standing Committee on Appropriations and Staffing	Recommends to the Senate that the NCA proposal not be agreed.
1998–99	John Templeton, DPRS	Restructuring of DPRS (internal arrangements only).
1999	Legislative change	Parliamentary Service established under the <i>Parliamentary Service Act 1999</i> .

ABBREVIATIONS

CPD Commonwealth Parliamentary Debates (1901–October 1972)

PD Parliamentary Debates (27 February 1973—)

REFERENCES

Advisory Committee on the Proposed Creation of a Department of Parliamentary Information and Reporting Services 1993, *Report to the Presiding Officers*, (Peter Nugent, chairman), DPL and DPRS, Canberra.

Australian Audit Office 1989, *The Department of the Parliamentary Reporting Staff*, Audit report no. 21 1989–90, AGPS, Canberra.

Australian National Audit Office 1991a, *Aggregate and departmental financial statements 1989–90*, Audit report no. 22 1990–91, AGPS, Canberra.

— 1991b, *Department of Administrative Services—services provided to Members of Parliament and their staff*, Audit report no. 34 1990–91, AGPS, Canberra.

— 1991c, *Project audit: Department of the Parliamentary Library—review of management*, Audit report no. 6 1991–92, AGPS, Canberra.

— 1997, *Ministerial travel claims*, Audit report no. 23 1997–98, AGPS, Canberra.

— 2001, *Parliamentarians' entitlements 1999–2000*, Audit report no. 5 2001–02, AGPS, Canberra, viewed July 2002,
<http://www.anao.gov.au/WebSite.nsf/Publications/4A256AE90015F69BCA256AA000827575>.

Bolton, Michael 1997 'Senate Committee Inquiry in the proposed amalgamation of the parliamentary departments', Joint House Department, Canberra.

Broinowski, Richard 2001, *A witness to history: The life and times of Robert Broinowski*, Melbourne University Press, Melbourne.

Chalmers, Jim & Davis, Glyn 2000, *Power: Relations between the Parliament and the Executive*, Research paper 14 2000–01, Department of the Parliamentary Library, Canberra, viewed July 2002,
<http://www.aph.gov.au/library/pubs/rp/2000-01/01RP14.htm>.

Committee Appointed by Government Senators on Appropriation Bills and the Ordinary Annual Services of the Government 1967, *Report*, (MC Cormack, chairman), Parliamentary paper no. 55 of 1967, Government Printer, Canberra.

Department of Administrative Services *Annual reports*, AGPS, Canberra.

Department of Finance and Administration *Annual reports*, AGPS, Canberra.

Department of the House of Representatives 1983, *Annual report 1982–83*. Canberra.

Department of the Special Minister of State *Annual reports*, AGPS, Canberra.

Evans, Harry 1996, 'Proposed amalgamation of parliamentary departments: Observations by the Department of the Senate', Department of the Senate, Canberra.

—1997, 'Proposed amalgamation of parliamentary departments', Department of the Senate, Canberra.

'Flawed logic' to amalgamate parliamentary departments', *Committee Bulletin*, June 1997, p. 3.

Healy, Margaret 2000, *Remuneration of Members of the Parliament of Australia*, Research paper 30 1999–2000, Department of the Parliamentary Library, Canberra, viewed July 2002, <http://www.aph.gov.au/library/pubs/rp/1999–2000/2000rp30.htm>.

Jessop, Don S & Murdoch, PN 1983, 'Australian Senate Select Committee on Parliaments Appropriations and Staffing', *The Parliamentarian*, vol. 44, no. 1, pp. 16–20.

Kennedy, Maurice 2002, *Cheques and balances*, Research paper 16 2001–02, Department of the Parliamentary Library, Canberra, viewed July 2002, <http://www.aph.gov.au/library/pubs/rp/2001-02/02rp16.htm>.

Mannix, Teresa 1987, 'Senate revolt likely over 'rationalisation'', *Canberra Times*, 28 May, p. 1.

Manthorpe, Leanne 2002, *Parliamentary remuneration*, Current issues, Department of the Parliamentary Library, Canberra, viewed July 2002, www.aph.gov.au/library/INTGUIDE/pol/parlrem.htm.

McLachlan Report—see Royal Commission on Public Service Administration 1920.

Minns, Bob 2002, 'The evolution of the *Public Service Act 1999*', (forthcoming), Australian Public Service Commission, Canberra.

National Commission of Audit 1996, *Report to the Commonwealth Government*, (Robert R Officer, chairman), AGPS, Canberra.

Odgers, James R 2001, *Odgers' Australian Senate practice*, 10th edn., ed. Harry Evans, Department of the Senate, Canberra.

PA Consulting Services Pty Ltd 1977, 'Report: A review of the operational effectiveness of the Department of the House of Representatives (Australia)'.

Pender, Jim W 1990, 'Parliamentary administration in traditional Westminster Parliaments: reflections on the role of procedure and management', thesis, University of Canberra.

Public Service Board 1933, *Annual report*, Government Printer, Canberra.

— 1975, *Staff of parliamentary departments, ministerial staff, and staff for Members of Parliament*, PSB memorandum 12 to the Royal Commission on Australian Government Administration, PSB, Canberra.

— 1982–83, *Annual report*, AGPS, Canberra.

Quick, John & Garran, Robert R 1901, *The annotated constitution of the Australian Commonwealth*, Legal Books, Sydney.

Reid, Gordon & Forrest, Martyn 1989, *Australia's Commonwealth Parliament—1901–1988: Ten perspectives*, Melbourne University Press, Melbourne.

Renfree, HE 1984, *The executive power of the Commonwealth of Australia*, Legal Books, Sydney.

Royal Commission on Australian Government Administration 1976, *Report*, (HC Coombs, chairman), AGPS, Canberra.

Royal Commission on Public Service Administration 1920, *Report*, (DC McLachlan, commissioner), Government Printer, Melbourne.

Senate House Committee 1982, *Report on its inquiry into the Joint House Department*, (Kathryn J Martin, chairperson), Parliamentary paper no. 163 of 1982, Canberra, Government Printer.

Senate Select Committee 1981, *Parliament's appropriations and staffing: Report*, (Don S Jessop, chairman), AGPS, Canberra.

Senate Select Committee on the Question of the Position of the Officials Engaged in and About the Senate 1921, *Final report*, (Hugh de Largie, chairman), Government Printer, Melbourne.

Senate Standing Committee on Appropriations and Staffing 1986, *7th report*, Parliamentary paper 429 of 1986, AGPS, Canberra.

— 1996, *24th report*, Parliamentary paper 427 of 1996, AGPS, Canberra.

— 1997, *26th report: Inquiry into the proposed amalgamation of the parliamentary departments*. Parliamentary paper 99 of 1997, AGPS, Canberra.

—1997, *27th report: Transfer of responsibility of administration of Senators' travelling allowances*, Parliamentary paper 143 of 1997, AGPS, Canberra.

Tanzer, Noel 1997, 'Rationalisation of parliamentary departments', Canberra.

Uhr, John 1982, 'Parliament and public administration', in JR Nethercote (ed.) *Parliament & bureaucracy*, Hale & Iremonger, Sydney.

Vile, Maurice JC 1967, *Constitutionalism and the separation of powers*, Clarendon Press, Oxford.

Wiltshire, Kenneth 1982, 'Staffing and appropriations of Parliament', in JR Nethercote (ed.) *Parliament & bureaucracy*, Hale & Iremonger, Sydney.

Working Group 1997, *Managing the Parliament—the way ahead: Report to the heads of the parliamentary departments*, Canberra, viewed July 2002, <http://repiis1.parl.net/corp/way/wayahed.htm>.

