

Parliamentary Committees — a Secretary's role

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All parliamentary committees have a secretary and may well have other staff, for example, for research. A secretary's responsibility is to support a committee, especially the committee chair, in organisation of inquiries, analysis of submissions, relations with the public, conduct of public hearings and preparation of reports. A secretary needs to have integrity, to be personable and to be intellectually talented.

Despite what you may read from time to time in the media, let me assure you that Australian parliamentarians are talented people. Before coming into the Commonwealth Parliament, some have been successful in commerce and industry. Others have been journalists, academics, doctors, teachers or lawyers. Some have progressed to the Parliament through national leadership positions in the trades unions. Yet others have been self-employed. In most cases, these are experienced people of considerable *talent*. And among their most important talents are their political instincts and the ability to understand people.

Of course, no matter how talented you are, there is a limit to the *amount and type* of work that you can do. Now, we want our parliamentarians to spend their time considering the most significant national issues. That should be their focus. So, they must be provided with very considerable support services if they are to be effective in their most important work.

Parliamentary committees facilitate the work of both Houses in the Australian Parliament. Various inquiries and legislation are considered in committees

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of different sorts: standing, joint and select. And almost all (backbench) parliamentarians serve on committees; this is the case both in the House of Representatives and in the Senate.

If parliamentarians are to exercise their political talents in the interests of the national legislature, then their committee work needs to be facilitated for them. That is, committees need to be managed so that they allow parliamentarians to make their most valuable contribution to public policy in the committee environment, and not be unnecessarily distracted by administration or similar concerns. For their committee work, *secretariats* fill the role of supporting parliamentarians in that manner.

Committee secretariats differ in composition and character from House to Senate, from inquiry to inquiry, and from individual staffer to individual staffer. What they all have in common, however, is a *Secretary*. I was a Committee Secretary in the Australian Senate for thirteen years until my recent retirement. It was a very satisfying career; I was privileged to serve the Parliament in that capacity. This afternoon, let me admit you into my confidence about the Secretary's role.

Now, whatever our country of origin, everyone at this course is a parliamentary official. So, we share an understanding of the central significance of standing orders in the conduct of the business of our parliaments. In the *Standing Orders of the Senate* (25)(18), provision is made that:

A committee shall be provided with all necessary staff, facilities and resources and shall be empowered to appoint persons with specialist knowledge for the purposes of the committee, with the approval of the President.

The administrator of those staff and resources is the Committee Secretary.

The Secretary has a wide range of responsibilities. But there is one essential focus in all of those concerns. It is *parliamentary privilege*.

As you will appreciate, the Secretary is the clerk of the Parliament for the committee. It is the Secretary's responsibility to ensure that the committee's activities comply with the requirements of the *Standing Orders* and any relevant legislation such as the *Parliamentary Privileges Act 1989*. If the proceedings do so comply, they will be lawful and attract parliamentary privilege for the protection of the free speech of parliamentarians and all those who submit views to the committee, either orally or in writing. This is perhaps the Secretary's first and most significant formal responsibility.

So much for formal considerations. May I now be frank, honest and personal about the role of a Committee Secretary. Some of what I have to say will not be found in any parliamentary handbook; it emanates from my experience about the best ways for a committee to function, both out of regard for professional standards and for the sake of pleasant working relations. Importantly, these two elements are linked. In many ways, the happier a committee is, the better the work that it will produce.

As a Committee Secretary, I determined to serve the whole committee. That is, whether a member was the Chair, a Government member, a member from the opposition parties or an independent, I sought to provide everyone with the best possible attention. That meant responding to virtually *any* request for assistance in connection with the committee's business. Yes, I have answered the telephone at home before 7.00am on a Saturday morning and spent the rest of that day assisting a committee member. That is most inconvenient. But, if you work hard for all members of the committee, they appreciate your support. This makes the conduct of committee business so much more harmonious.

That said, it would be foolish for Committee Secretaries not to focus their energy on the Chair as much as possible. After all, the Chair has an important role to play under the *Standing Orders*. And, the extent to which the Chair is perceived by other committee members to be competent, the better it is for the operations of the committee. The Secretary's major function, then, is to assist the Chair to manage the committee's business in the most highly competent manner possible. Of course, the better the Chair performs, the more authority the Chair will enjoy in the committee and the easier life is for the Secretary. This is not altogether altruistic!

If we can turn this issue on its head for one moment, consider now the committee's constituency, those beyond the Parliament for whom the matters considered by the committee are of considerable significance. Some committees have clearer and more involved constituencies than others.

In my case, for some eight years I managed the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund. Native title is a critical issue for Indigenous Australians. The recognition of native title concerns the self-identity of Aborigines and Torres Strait Islanders. It also can allow for their involvement in land management and the exploitation of resources. Accordingly, the inquiries conducted by the Parliament's Native Title Committee are of major importance to Indigenous Australians. As a consequence of the significance of native title for land management, that committee's activities are also of concern to many other Australians, but especially to those engaged in pastoral activity, farming, mining and any other pursuits that entail exploitation of natural resources.

So the Native Title Committee has a clear constituency of Australians affected by it. How should that constituency be managed and serviced? The first point to be made is that committees in these circumstances must *recognise* their constituencies. In a Western democracy such as that practised in Australia, the committees are significantly responsible for taking the Parliament to the people. Australians have a direct voice in the Parliament through the committee process.

Committees, then, must be concerned to interact appropriately with their constituencies. This entails proper advertising of the Committee's inquiries in the media so that anyone interested in the issues can make submissions. You will be

able to find advertisements regarding committees of the Australian Parliament in the Wednesday editions of *The Australian* newspaper.

Importantly, proper interaction with constituencies should also involve the careful maintenance of mailing lists to which the committee regularly sends advice such as announcements about new inquiries, notices of public meetings and information about reports that the committee has completed. Like many other aspects of committee management, it is the Secretary who must drive this activity.

Appropriate interaction with constituencies covers many features. For example, the interaction of all interested parties with the committee must be facilitated. This includes assistance to potential submitters to the committee's inquiries. It can be necessary to provide careful advice and guidance to people wishing to submit evidence before parliamentary inquiries; they often need explanation about the range of ways in which they can present their views to committees. If this is well managed, the benefit is not only to the submitter, but also to the committee. The committee will receive evidence about its inquiries that might not otherwise have been received.

Having interacted in this way with potential submitters, the Secretary then should advise the Chair about the range of submissions that could be available to the committee for particular inquiries. (Such evidence is available both in writing and through oral presentation at public hearings.) A list of potential witnesses at public hearings can then be devised. And persons who have not contacted the committee but are known to have professional expertise in the subject matter of the committee's inquiry can be requested to provide expert evidence. This should be initiated by advice to the Chair from the Secretary.

Of course, once written submissions begin to be sent, the Secretary's duty is to provide them to committee members as they are received. Crucially, and as with all forms of correspondence received by the committee, submissions are the property of the committee. It is not for the Secretary or anyone else to withhold them from members; that would be a breach of parliamentary privilege under the *Standing Orders*. By the same token, it would also be a breach of parliamentary privilege for a Secretary to release to the public copies of documents that have not been approved by the committee for publication.

Written submissions are important; so is oral evidence. And it is part of the Secretary's role to advise the committee through the Chair about the holding of public hearings to receive oral evidence. In a country as large as Australia, this can involve a significant amount of travel. But committees understand their obligation to take the Parliament to the people. And they are also aware that many potential witnesses are unable to travel to the Parliament in Canberra to present their views.

Very often, committees travel to remote places in Australia. In the case of the Native Title Committee, since 1994 this has included two visits to the Torres Strait,

and numerous regular trips to outback locations where the committee has sat in the dust to confer with native title holders. In this manner, parliamentarians find that they acquire invaluable understanding of the concerns of constituents. And constituents appreciate the trouble taken by Commonwealth parliamentarians to consult. Of course, all oral evidence taken in this way is recorded by the Parliament's Hansard and published both in print and on the Parliament website.

Here I should record something that is certainly not in any parliamentary handbook. It is this: Committee Secretaries should be able to pass the 'dinner party test'. What do I mean by that? Well, Secretaries can spend considerable amounts of time in the company of committee members during extensive travel together through remote Australia. If Secretaries are not good company for their committees, these trips can be onerous. But *sociable* Secretaries can facilitate pleasurable visits. Indeed, some time can be employed during informal conversation to reflect on matters before the committee and to assist the members in their consideration of them. Secretaries gain the confidence of members in this way.

The committee having advertised its inquiry and taken written and oral evidence, the most demanding part of the inquiry from the Committee Secretary's perspective then takes place: the drafting of the committee's report.

This is the furnace in which the mettle of the Committee Secretary is most searchingly tested. Throughout the inquiry the Secretary should have been carefully studying the written evidence; and the oral evidence should have been conscientiously considered by the Secretary. One reason for such treatment of evidence is that the secretariat then can prepare high standard briefs for the committee members' use at subsequent public hearings. Such briefs will interrogate the issues and evidence received so as to specify the most important aspects and their public policy implications. Careful preparation of briefs not only facilitates the elicitation of further evidence before the committee in public hearings, but it also can form the basis of the draft report for the inquiry.

Now, in the Australian Parliament committee secretariats are provided with research officers who assist in drafting reports. Ideally, such officers will have not only a strong interest in the subject matter before the committee, but will also have considerable expertise in the field. In regard to the Native Title Committee, as Secretary I always ensured that I recruited lawyers who could be trained to be expert in what is an extensive and technical statute, the *Native Title Act 1993*. Further, expert advisers can be recruited on contract to provide competent advice. (My first acquaintance with the Australian Parliament was as a specialist adviser on nuclear disarmament to the Joint Committee on Foreign Affairs and Defence.)

If you will permit, may I now express a prejudice. I have never believed in the idea that parliamentary officers should be 'generalists' who write reports giving general (non-expert) coverage of the issues. The nation deserves better than that in the advice available to its legislature. If highly competent research staff are not

available to the committee from the permanent officers of the Parliament, then such experts should be recruited if only for the drafting of the committee report.

Further, and by corollary, Committee Secretaries should be *intellectually talented*. They should be capable of discussing complicated matters and distilling the essence of the issue. And they must be highly competent writers who can produce readable and attractive reports that gain the respect of experts in the field of inquiry. Crucially, the committee and the Chair in particular should have confidence in the intellectual competence of the Committee Secretary. After all, the committee members do not have the time or opportunity to check the detailed research carried out by the secretariat.

Highly competent draft reports presented to committees have a strong likelihood of unanimous acceptance by the committee. And in many circumstances, that can be an indicator of both the success of the committee's inquiry and of the Secretary's skill. Nevertheless, and often for political reasons, at times it is not possible to achieve unanimity on the issues before a committee. On those occasions, members who dissent from the majority report are entitled to table a minority report. One test of the confidence enjoyed by the Committee Secretary is whether parliamentarians wishing to table a minority report request the Secretary to draft it. Remember that this requires the Secretary to be so competent in the issues as to be able to write a report that argues credibly against the view that the Secretary has already presented in the (majority) committee report! This can be an indicator of political neutrality, objectivity and integrity on the part of the Committee Secretary.

To this point I have been emphasising the need for Committee Secretaries to be personable and intellectually talented. However, I have now raised what is clearly one of the most important attributes of a Committee Secretary: *integrity*. For instance, at times you can be approached by some members of the committee with a request for the preparation of a minority report before the committee's draft report has been considered. It is important in such circumstances to encourage the dissenting members to take their views to the committee in the first instance, and seek to amend the majority report if possible. When that is not achievable, despite knowing that he will have to draft arguments against it, the Secretary must ensure that the majority report nevertheless presents its case as rigorously as possible. And, in balance, the Secretary must draft a minority report that presents the alternative argument as rigorously as possible. It is not for the Secretary to determine the strength of the cases put by each side.

Similarly, concern for integrity requires the Secretary to speak honestly and openly to committee members. Sometimes that means giving advice to members that is unwelcome. For instance, you may need to advise members that they are unable to act in certain ways because it would be contrary to the *Standing Orders*. Importantly, Secretaries must be fearless in providing correct advice to committee members despite the fact that parliamentarians occupy positions of considerable power and that such advice may not be welcome.

Further, Secretaries are in a position to know a great deal of confidential information about the parliamentarians with whom they work. If Secretaries are competent, parliamentarians will very often confide in them on a political level. It is critical for Secretaries to retain these confidences. Out of ethical concerns, private conversations and the confidences that they entail must not be breached. Of course, where such confidences are breached, and if the breach becomes known, the Secretary will lose the confidence of committee members, and will be less effective as a consequence. (In the worst case, it could be necessary for a Secretary to leave the committee.)

This raises an interesting associated point. As professional advisers, Committee Secretaries can be of service to the Parliament beyond the members of the committee itself. When Secretaries are known for their experience and competence, they can be consulted by parliamentarians who are not members of the committee served by that Secretary. I have been asked to provide advice to Senators on that basis. This can be a daunting responsibility, especially when the fate of legislation can depend upon the vote of the minority or independent Senators who seek your advice. Again, *integrity* in these circumstances is a paramount consideration. The Secretary must take care not to divulge privately information that is confidential to the committee. Further, that a Secretary has been consulted in this manner must remain confidential unless the parliamentarian divulges that fact.

Now, I had been describing the significance of the Secretary's role in drafting the committee's report. Once the committee report and any dissenting reports are agreed by the committee, they are approved for printing and tabling. In the parliamentary process, report tabling is an important responsibility of the Secretary.

Secretaries must take care to ensure that all appropriate committee documentation is provided for tabling. In addition to the committee's report, this includes the original written submissions, copies of the Hansard transcript of public hearings and the minutes of committee meetings.

Further, arrangements must be made for tabling all of this documentation with the Table Office of both Houses in the case of joint committees. Of course, if the committee belongs to either the Senate or the House of Representatives, tabling takes place only in the relevant House. Whatever the case, a tabling speech must be prepared for the Chair, and often for other committee members as well.

The tabling speech is a significant matter. First, it is an opportunity to state concisely what the concerns of the inquiry were and the essence of the conclusions reached by the committee on the basis of the evidence that it has heard. The conclusions would include any recommendations for administrative or legislative action. (Some recommendations, such as administrative reforms, require the consideration of Executive Government. Others, such as legislative reform, require the consideration of the Parliament.)

Second, the tabling of reports is an important aspect of the interaction of the committee with the public. The media usually reports the outcome of interesting inquiries. This is a significant way in which the committee can argue its case to the public and have its views accepted.

Notably, if the media is to become interested in the committee report and its tabling, then the Chair should issue a press release a day or two before the report is tabled. Of course, it is the Committee Secretary who drafts such press releases for the Chair's consideration. Well-constructed press releases will encourage journalists to take note of the committee's report, raising the prospect that the report will be covered in the press.

Whether or not the matter is reported by the media, the Committee Secretary should take every opportunity to disseminate the report and publicise its tabling. This can include the provision of the report to government bookshops for sale, the posting of the report to all or part of the constituency on the committee's mailing list, and the mailing out of the Chair's tabling speech and press release. Of course, once tabled the report should be posted to the committee's website. The committee files can then be prepared for archiving should that be appropriate.

You will notice that the conclusion of a committee inquiry comes back to the same concern as was evident in the beginning: interaction of the Parliament with Australian society. Here, as in all other aspects of the committee's activities, the success of an inquiry can depend upon the energy that the Secretary invests. Good Secretaries are pro-active. They do not wait to be asked to act; they take the initiative. Most importantly, they take the initiative in providing advice to the Chair about all aspects of the issues under consideration, the importance of particular witnesses, the features of the best submissions, and the public policy implications of the kinds of conclusions that the inquiry might reach.

In conclusion, then, the role of a Committee Secretary in the Australian Parliament is quite demanding. Secretaries should have an excellent knowledge of the operations of the Parliament and of the Australian Constitution. They also need to have a strong familiarity with the Australian public service which administers the policies of the Government. The Secretary's role requires intellectual talent, an ability to understand people and to gain their confidence, an interest and competence over a range of significant public policy matters, political neutrality and a strong capacity to communicate clearly and naturally with everyone from Parliamentarians to constituents of the committee. Most importantly, above all the Secretary must retain the attribute of unshakeable integrity. ▲