

Scrutinising budget estimates in the House of Representatives: testing ministerial power and responsibility

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The introduction and passage through parliament of the annual budget provides an opportunity for governments to draw attention to their achievements over the past year and set out policies to be implemented into the future. The budget also provides non-government members an opportunity to scrutinise government performance across the entire breadth of its activity. Besides the treasurer's budget night speech and the leader of the opposition's speech in reply, perhaps the most prominent budget related activity of the parliament is consideration of the estimates of expenditure by Senate committees. Senate estimates hearings have developed a reputation as a forum for spectacle and combat between parliament and government (both ministers and officials).¹ Senate estimates may be considered a particularly effective procedure by which to hold a government to account for two reasons. First, the budget encompasses the entire scope of government activity. Second, in recent decades governments have only infrequently enjoyed majorities in the Senate. A house that is not subject to a government majority is more likely to set in place arrangements that will allow a comprehensive review of government operations.

Governments are formed in the House of Representatives. No government or minister has survived a successful vote of no confidence in that house. Thus unlike the Senate, the government invariably enjoys a majority of support in the House. The fact of majority support for governments in the House provides both greater opportunities to hold them to account and greater potential for obstruction of these opportunities than in the Senate. The greater opportunity to hold governments accountable in the House occurs by virtue that cabinets consist of an overwhelming majority of members of the House as opposed to senators.² The disproportionate representation of members of the House in cabinet is significant because ministers, whether members or senators, are individually responsible to the Parliament through the chamber to which they are elected. Thus, accountability mechanisms of the House are the primary means by which the majority of ministers in any

¹ See for example, 'Parliamentary reform: oddities, estimates and loopholes', accessed at <http://www.abc.net.au/news/stories/2010/09/20/3016403.htm?site=thedrum> on 21 September 2010.

² Recent cabinets have consisted of between three quarters and two thirds of members of the House compared to senators.

government are held responsible to parliament. The greater potential obstruction of government accountability lays in the protection a government gains precisely because it enjoys a majority of support in the House.

As observed at the outset, consideration of estimates provides an opportunity to consider the entire range of a government's administration and expenditure. Over the years, the House has used various arrangements for considering estimates and these arrangements have produced chequered results in holding ministers to account. The following paper provides a survey of the various forms used by the House to consider budget estimates from Federation until present. The success and shortcomings of each set of arrangements is considered primarily with reference to the statements of ministers and private members of both sides of the House. The survey concludes with a detailed examination of the effectiveness of the current procedure that the House employs to consider estimates, which has been in place since the mid 1990s. The paper will make observations on the success of the current arrangement in holding governments to account and areas in which it might be improved. House estimates provide an opportunity to hold ministers directly responsible for expenditure, administration and policy within their portfolios. Attending to the various procedures that the House has used to consider estimates and the success and shortcomings of these arrangements also invites observation on circumstances that contribute to effective scrutiny of government in a chamber where it enjoys a majority of support. Consideration of current estimates also invites observation of the evolution of parliamentary tactics to take advantage of the 'forms of the House' to hold ministers to account and how ministers respond to these challenges.

Estimates, appropriation and the financial power of the House

Under the Constitution, all revenues raised or received by a government, for instance through taxation, tariff and excise charges, form a Consolidated Revenue Fund (section 81) and any expenditure of these funds requires an act of the Parliament (section 83). The Constitution specifies that an act appropriating revenue must originate in the House of Representatives (section 53). From time to time it has been argued that the House's exclusive propose how money is spent imposes upon it, in particular, a responsibility to monitor and review these expenditures. A key way in which the House may seek this information is through consideration of budget estimates.

The estimates of expenditure, commonly known as 'estimates', are provided as a schedule to the main appropriation bill (Appropriation Bill No. 1). This bill funds expenditure on the

ordinary annual services of government in support of its continuing policies. The schedule contains the detail of proposed expenditure on an item-by-item (agency-by-agency) basis. Other annual appropriation bills introduced with the main appropriation bill propose funds for new policies, new capital works and grants to the states under section 96 of the Constitution (Appropriation Bill No. 2) and for the parliamentary departments (Appropriation (Parliamentary Departments) Bill). Together with supporting documents, these appropriation bills form a government's annual budget.

It is worth noting that one way in which the parliament has been observed to have abnegated its responsibility to scrutinise appropriations is in passing bills making special appropriations. These bills can provide undesignated amounts of funds for specific purposes on an ongoing basis. Reid and Forrest note that until the 1943 National Welfare Bill, special or permanent appropriations were 'relatively small'.³ In 1965/66 they constituted 44 per cent of the government's annual expenditure, and had increased to 68 per cent by 1985/86. This trend has continued:

In 2002–03, more than \$223 billion was spent from the [Consolidated Revenue Fund] under the authority of Special Appropriations. This represented more than 80 per cent of all appropriation drawings for the year.⁴

Despite the decreasing proportion of government annual expenditure contained in the budget, the introduction of the main appropriation bill on budget night enjoys a high level of interest in the community and media. The introduction of the budget bills remains a platform for governments to announce their overall fiscal policy and other significant programs into the coming years. The ensuing passage of the budget bills through the parliament provides an opportunity to challenge government policy and administration and, for reasons set out below, consideration of estimates is the most significant opportunity for members of the House to do so within this process.

The comprehensiveness of the scope of the main appropriation bill is reflected in the latitude permitted to speeches on the motion for its second reading, where the principles underlying a bill are debated. Standing Order 76 sets out three exceptions to the general requirement that

³ G.S. Reid and Martyn Forrest, *Australia's Commonwealth Parliament 1901–1988: Ten Perspectives*, Melbourne, Melbourne University Press, 1989, pp. 351–2.

⁴ Australian National Audit Office, *Financial Management of Special Appropriations*, Audit Report No. 15, 2004–05, p. 11.

debate be confined to the question under consideration (the so-called relevance rule). One of these exceptions specifies that public affairs may be debated in speeches on the motion for the second reading of the main appropriation bill, and other appropriation or supply bills for the ordinary annual services of government. A report of the House Standing Committee on Procedure explains:

The nature of the budget debate, like the grievance debate, has its ultimate origin in the ancient House of Commons practice of insisting on airing its grievances and debating matters of concern to it, before granting financial supply to the Crown.⁵

This is the only exception to the relevance requirement that applies to a motion for debate on bills. (The other exceptions apply to adjournment debates and the reply to the Governor-General's speech to open parliament.)

The broad scope allowed speeches in the budget debate means members can refer to any public policy matter or concern they wish to raise. After the main appropriation bill has been agreed in principle (on passing the second reading), it is considered in detail. At this stage, the schedule containing the estimates of expenditure is considered clause by clause (item by item). Speeches made when considering the estimates must be confined to the subject under consideration. The breadth allowed members in the second reading debate has two potential effects. First, members may guard the opportunity to speak without the constraints of relevance and thus be reluctant to sacrifice time on the second reading debate for other matters (such as estimates). Indeed, members may be happy to increase the time for second reading debates at the expense of estimates. Second, the consideration of estimates may take on increased importance to the public interest precisely because it remains subject to relevance requirements.

Since Federation, the House has used four sets of arrangements to consider estimates. From 1901 to 1962, *committees of supply* were used to debate the principles underlying the budget and consider proposed estimates (transmitted to the House by message from the Governor-General) prior to the introduction of a bill to appropriate funds. From 1963 to 1978 and again from 1982 to 1994, *ordinary committees of the whole House* considered estimates after the second reading of the main appropriation bill. Scrutiny of estimates by ordinary committees of the whole will not be considered in any detail in this paper, as there was little to

⁵ House of Representatives Standing Committee on Procedure, *House Estimates: Consideration of the Annual Estimates by the House of Representatives*, October 2003, para. 3.27.

distinguish consideration of an appropriation bill from consideration of other non-financial bills under this arrangement. From 1979 to 1981, two or more *estimates committees* considered the estimates at the same time as debate occurred on the second reading of the main appropriation bill in the chamber. From 1995 until the present, some of the debate on the second reading and consideration of estimates has occurred in the *Main Committee*. Under current arrangements, the scrutiny of estimates is worthy of particular attention because it shows ways in which members have used procedural opportunities to put ministers under pressure and devices ministers use in response to this pressure.

1901–1962: committees of supply

The original standing orders of the House followed the House of Commons at Westminster in providing for the appointment of committees of supply and committees of ways and means to examine financial proposals.⁶ Committees of supply and committees of ways and means were both committees of the whole House. Committees of supply examined proposals to appropriate funds for government services and programs. Committees of ways and means examined proposals to raise revenue, such as taxation, tariff and customs excise measures.⁷ The Hon. W.J. Aston, Speaker of the House from 1967 to 1972, outlined the procedure for consideration of budget proposals in committees of supply:

The main Appropriation Bill for the year was initiated by the Governor-General transmitting Estimates of Expenditure [to the House] which were referred to the Committee of Supply. In this Committee, on the motion that the first item be agreed to, the Treasurer presented his Budget Speech and the Budget debate followed. The Opposition, in expressing its objection to the Budget, could move the only form of amendment permitted – that the amount be reduced by a token sum.

⁶ See House of Representatives, *Standing Orders Relative to Public Business, Temporarily Adopted by the House on 6th June 1901*, Standing Orders 240 and 241.

⁷ Standing Order 243 required all proposals to expend or raise revenue to be considered by committee of the whole House:

If any motion be made in the House for any public aid or charge upon the people, the consideration and debate thereof may not be presently entered upon, but shall be adjourned till such further day as the House shall think fit to appoint, and then it shall be referred to a Committee of the whole House before any resolution or vote of the House do pass thereon.

At the conclusion of this debate the Supply committee then proceeded to consider the remainder of the Estimates, the proceedings as a whole taking some 6 or 7 weeks to complete.⁸

The order in which portfolios and groups of portfolios were to be considered was agreed at the beginning of the estimates. Speeches on the estimates were very similar to the budget speeches except that instead of ranging over the entire sphere of public affairs they focussed upon the particular item (portfolio or group of portfolios) under consideration. Ministers, including prime ministers, often contributed to debate on expenditure in the portfolio for which they were responsible. On conclusion of the budget debate and consideration of estimates the committee resolved that a draft bill be prepared to appropriate the required sum for the purposes specified.

Table one shows the number of hours and minutes taken to debate the budget and consider the general estimates⁹ in committees of supply at ten year intervals between 1912 and 1962. The times are based on Hansard log times included in the transcript of proceedings; log times were not entered for 1902.

Table 1 Time for consideration of proposed expenditure in committee of supply

	1912	1922	1932	1942	1952	1962
Debate on the budget	31.26	19.53	34.39	34.36	37.46	39.25
Consideration of estimates	45.38	1.52	31.35	18.12	43.10	41.58
Total	77.04	21.45	66.14	52.48	80.56	81.23

Source: House of Representatives, *Official Hansard*.

The time for consideration of the 1922 budget shows a low point in scrutiny of government finances by the House. The Prime Minister made his budget speech in the committee on 7 September and debate was then adjourned until the penultimate sitting of the Eighth

⁸ The Hon. W.J. Aston MP, 'Financial Procedures', *1st Conference of Presiding Officers and Clerks*, Canberra, 1968, p. 47

⁹ 'General' estimates refers to estimates attached to the main appropriation bill for the ordinary annual services of government. It was a practice in committees of supply to consider the estimates for works and building (that is estimates attached to Appropriation Bill No.2) after the budget speech of the prime minister or treasurer and before the rest of the budget debate 'in order to enable works to be carried out in the Commonwealth'. See, for instance, House of Representatives, *Official Hansard*, 6 August 1912, p. 1682. The above figures cover consideration of estimates for the main appropriation bill only.

Parliament on 12 and 13 October when consideration of estimates concluded.¹⁰ Parliament was prorogued on 18 October and a federal election held 16 December. More generally, the sample group shows that committees of supply spent varying proportions of time on estimates in relation to the overall time spent considering the budget and that the overall time for consideration of budget proposals was also subject to considerable variation. Of the six considerations of estimates examined here, members only complained of limited time in 1922.

In 1963, the House abolished the requirement that proposed expenditure be subject to scrutiny by committees of supply. This move followed a report of the Standing Committee on Standing Orders that recommended:

simple procedures ... which will allow a financial bill to be introduced in the same way as a non-financial bill, that is, the bill would not be introduced to give effect to a preliminary money resolution in the Supply, Ways and Means, or Money committees.¹¹

Under the new arrangements:

the budget debate is transferred from the Committee of Supply to the second reading stage of the Bill [and] the Estimates consideration is transferred to the Committee of the Whole stage of the Bill...¹²

The abolition of committees of supply was recommended because the procedure was seen as unnecessarily complex:

¹⁰ See House of Representatives, *Official Hansard*, 12 October 1922, p. 3792. The last sitting day of the House was 14 October 1922.

¹¹ House of Representatives Standing Orders Committee, *Report together with Proposed Revised Standing Orders of the House of Representatives*, August 1962, Chairman's Foreword, p. 3. Standing Order 292 required that:

No proposal for the appropriation of any public moneys shall be made unless the purpose of the appropriation has in the same session been recommended to the House by message of the Governor-General, but a bill, except an Appropriation or Supply Bill, which requires the Governor-General's recommendation may be brought in by a Minister and proceeded with before the message is announced. No amendment of such proposal shall be moved which would increase, or extend the objects and purposes or alter the destination of, the appropriation so recommended unless a further message is received.

¹² The Hon. W.J. Aston MP, 'Financial Procedures', *1st Conference of Presiding Officers and Clerks*, Canberra, 1968, p. 49.

[T]he whole extent of this financial procedure ... contained a mass of formal and inconsistent time wasting procedures, involving the moving of a great number of motions, consequent questions from the Chair and movement in and out of various committees...¹³

On Aston's view, the abolition of committees of supply took nothing away from the powers of the House in relation to a government's budget: 'the only form of amendment permitted under the old arrangements – that the amount be reduced by a token sum' – has always since been available to the House.

In a wide-ranging debate on the adoption of the Standing Orders Committee report, the proposals relating to money bills were supported without reservation by all who participated, with one exception:

One opposition member, G.M. Bryant ... saw a constant theme running through the proposals, namely the 'absolute domination of the Ministry and the Government' ...¹⁴

Over two decades after the abolition of committees of supply, Reid and Forrest expanded on Bryant's concern. They argued that, far from adding nothing to the powers of the House in scrutinising appropriation, committees of supply were significant because they considered appropriation proposals prior to the introduction of the bills necessary to appropriate the required funds:

[E]ach committee, after its deliberation on a financial proposal, would report a financial resolution to the House which, if it adopted the report, ordered a minister to prepare and bring in a bill to give effect to the proposals in the resolution.¹⁵

Thus, a committee resolution 'when accepted by the House, determines the financial limits of the Bill to be drawn up and introduced'.¹⁶ The subsequent appropriation bill 'might reduce the charge as so expressed or be amended so as to reduce it, but it cannot increase it or alter

¹³ The Hon. W.J. Aston MP, 'Financial Procedures', *1st Conference of Presiding Officers and Clerks*, Canberra, 1968, p. 48.

¹⁴ G.S. Reid and Martyn Forrest, *Australia's Commonwealth Parliament 1901–1988: Ten Perspectives*, Melbourne, Melbourne University Press, 1989, p. 159. See House of Representatives, *Official Hansard*, 1 May 1963, pp. 899–901.

¹⁵ G.S. Reid and Martyn Forrest, *Australia's Commonwealth Parliament 1901–1988: Ten Perspectives*, Melbourne, Melbourne University Press, 1989, p. 196.

¹⁶ G.S. Reid, 'Financial Procedure in the Commonwealth Parliament', *Public Administration* 18(3), September 1959, p. 220.

the objects to which the charge is directed'.¹⁷ On this understanding, committees of supply played a potentially significant role in allowing private members to contribute to a budget at the proposal stage. If accepted by the House, a resolution of the committee could determine that an appropriation bill be more or less than the amount recommended in the message from the Governor-General. Of course, a committee resolution that increased an appropriation beyond the amount specified in the original Governor-General's message would require a new message from the Governor-General recommending the purposes of the new appropriation.

Reid and Forrest argued that in changing procedures for the consideration of appropriation bills, the House negated 'some of the freedom that was clearly left to members by the financial provisions of the Constitution'. Section 56 of the Constitution requires that the House not pass a measure to appropriate funds unless a message from the Governor-General recommending the purposes of appropriations is received in the same parliamentary session as the proposal originated. Reid and Forrest claimed that the Standing Orders Committee had reinterpreted 'shall not be passed' in section 56 to mean 'shall not be introduced'.¹⁸ The House had surrendered some of its power for input into appropriation proposals to the executive government. The new procedures established exclusive ministerial power to propose appropriations.

Reid and Forrest presented the abolition of committees of supply as a triumph of the executive over the House. It should be noted, however, that a private member has never moved an amendment to a main appropriation bill that increased expenditure in a committee of supply. Even if a private member was to move an amendment to increase expenditure, it is questionable that it would take effect. In the event that a committee of supply passed a resolution to increase an appropriation beyond the estimates transmitted from the Governor-General, a new message would be required and such messages are only available on the advice of ministers.¹⁹ A more edifying representation of the 1963 change to standing orders suggests that it clarifies the effective power of private members and ministers. The 1963 clarification of ministerial power highlighted ministerial responsibility for the expenditure

¹⁷ G.S. Reid, 'Financial Procedure in the Commonwealth Parliament', *Public Administration* 18(3), September 1959, p. 220.

¹⁸ G.S. Reid and Martyn Forrest, *Australia's Commonwealth Parliament 1901–1988: Ten Perspectives*, Melbourne, Melbourne University Press, 1989, p. 159.

¹⁹ See I.C. Harris, B.C. Wright and P.E. Fowler, eds, *House of Representatives Practice*, 5th edition, Department of the House of Representatives, 2005, p. 418, n. 71.

within ministers' portfolios. A response to the clearly defined financial initiative of ministers (in securing their accountability for appropriation proposals) was not specifically addressed until the late 1970s. In the interim, estimates were debated like the detail of non-financial bills in committees of the whole House.

1970s: parliamentary reform and estimates committees

Senate estimates committees

Although this paper is concerned with consideration of estimates in the House of Representatives, developments in Senate estimates procedures need to be acknowledged as acting both as an impetus for change and a limitation on House procedures. As will be seen below, some members of the House strongly supported implementing similar estimates arrangements to those that developed in the Senate from 1970, while others opposed duplicating an already established review mechanism.

Senate consideration of estimates evolved because 'appropriation bills were often received late in the period of sittings by which the measures required to be passed leaving insufficient time for consideration'.²⁰ In 1961 the Senate began a practice whereby:

on the same day as the Appropriation Bill is brought into the House of Representatives we ... have a document presented to us ... called 'Details of the Proposed Expenditure for the year'. In effect it has the same detail in it as the Appropriation Bill. ... [W]hen the House of Representatives goes into a Committee of the Whole to deal with the detail of the Bill the Senate passes a motion that it resolve itself into a Committee of the Whole to consider details and particulars of the proposed expenditure ...²¹

In 1970, the Senate appointed seven legislative and general purpose committees for the systematic scrutiny of government and five estimates committees to scrutinise appropriation proposals.²² The committees provided a forum for the sustained questioning of government representatives, both ministers and departmental officials, by senators. In 1994 consideration

²⁰ H. Evans, ed., *Odgers' Australian Senate Practice*, 11th edition, Department of the Senate, 2004, p. 309.

²¹ J.R. Odgers, 'Proceedings', *1st Conference of Presiding Officers and Clerks*, Canberra, 1968, p. 53.

²² H. Evans, ed., *Odgers' Australian Senate Practice*, 11th edition, Department of the Senate, 2004, pp. 310, 347.

of estimates was devolved from specifically appointed estimates committees to eight standing legislation committees.

Developments in the House committee system

During the 1970s, the House began to appoint standing committees of small groups of members to inquire into and report on particular areas of concern and interest.²³ In 1976, the House adopted sessional orders providing for the appointment of a Standing Committee on Expenditure. The Committee's powers included the consideration of 'any papers on public expenditure presented to this House and such of the estimates as it sees fit to examine'.²⁴ While the Expenditure Committee's powers to self-initiate inquiries into estimates allow some independence from ministers, Martin Indyk has noted elements which obstructed the Expenditure Committee's capacity to scrutinise the whole gamut of government activity:

Its terms of reference made clear that its primary duties were to conduct cost benefit analyses of government programs and consider whether government policies could be carried out more economically ... The expenditure committee was also strictly limited in size. It would have a membership of twelve and its sub-committees would have to have a membership of at least five. This effectively prevented the committee from emulating its British counterpart by establishing a system of functional sub-committees to cover the full range of government expenditure.²⁵

Although the Expenditure Committee did not exercise its power to examine estimates directly, it did inquire into measures that would improve the opportunity for House consideration of estimates.²⁶

A Joint Select Committee on the Parliamentary Committee System was appointed in 1974 'to rationalise the [committee] system, [and] to distribute the increasing workload amongst a carefully designed and integrated system of committees'.²⁷ Following the 1975 election, the

²³ Thus, an Environment and Conservation Committee was established in 1973, an Aboriginal Affairs Committee in 1973 and a Road Safety Committee in 1974.

²⁴ House of Representatives, *Votes and Proceedings*, 1976–77, pp. 131–2.

²⁵ Martin Indyk, 'Making the Government Responsible: The Role of Parliamentary Committees', *Australian Journal of Political Science*, 15, 1980, p. 95.

²⁶ See House Standing Committee on Expenditure, *Parliament and Public Expenditure*, February 1979.

²⁷ Joint Select Committee on the Parliamentary Committee System, *A New Parliamentary Committee System*, May 1976, para. 4.

committee presented its final report.²⁸ Its recommendations included the amendment of standing orders to provide for the appointment of legislation committees in the House to consider bills clause by clause instead of being considered by the Committee of the Whole after passing the second reading stage.²⁹ In 1978, the House agreed to sessional orders appointing legislation committees.³⁰ Although legislation committees were specifically prohibited from examining appropriation and supply bills and thus estimates, they would prove to be the precursors of House estimates committees. Legislation committees allowed a stable group of interested members to consider bills in detail without restrictions on the length or number of times they could speak. From 1978 to 1980, legislation committees considered 13 bills. Following the election in 1980, sessional orders were adopted to establish legislation committees but no bills were referred.³¹

Estimates committees 1979–81

On the last sitting day of 1978, the Prime Minister foreshadowed the appointment of estimates committees in the House of Representatives:

I believe quite certainly that as time passes this [legislation] committee system ... may well assist in the process of the Budget debates themselves. Some consideration could be given to the Committee stage of the Budget being carried forward in committees, two or more...³²

Arguments supporting estimates committees related to perceived inadequacies in the consideration of estimates by committees of the whole. Early in 1979, the Clerk of the House reported that:

the responsibility to properly scrutinise all financial proposals initiated by it ... has not been accepted by the House of Representatives. ... [T]he House persists with its shallow, cursory and largely meaningless committee of the whole consideration of the estimates of a department or of a group of departments.³³

²⁸ House of Representatives, *Votes and Proceedings*, 1976–77, p. 202.

²⁹ See Joint Select Committee on the Parliamentary Committee System, *A New Parliamentary System*, paras 80, 97, 104, 109, 113, 116 and 120.

³⁰ House of Representatives, *Votes and Proceedings*, 1978–80, pp. 321–4.

³¹ House of Representatives, *Votes and Proceedings*, 1980–83, pp. 133–4.

³² House of Representatives, *Official Hansard*, 24 November 1978, p. 3,459.

³³ J.A. Pettifer, 'A System of Finance and Government Operations Committees for the House of Representatives', Department of the House of Representatives, 3 April 1979, p. 1.

The Clerk's view was shared by some members. John Hyde, a strong advocate for the appointment of House estimates committees through his chairmanship of the Government Members Parliamentary Reform Committee, described 'procedures in the plenum of the House' as 'a series of set speeches laced with vitriol and quite shallow political point scoring and hence misinformation'.³⁴ Complaints at the procedure by which estimates were considered focussed on it following the format of a legislative debate (which is precisely what it formally is). The legislative debate format entailed consideration being effectively a series of unrelated speeches on each portfolio with the minister closing the debate for each item without necessarily addressing, with any specificity, the matters raised. A similar situation, it may be noted, prevailed in committees of supply.

On 20 September 1979, the House adopted sessional orders that provided for the appointment of two estimates committees based on 'a formula ... not dissimilar to that which is applicable to the legislation committees'.³⁵ The estimates committees were to examine and report on proposed expenditures outlined in the estimates. The reports could contain a resolution or expression of opinion but could not vary the amount of proposed expenditure. Estimates could be referred to the committees by a minister after the Leader of the Opposition's speech on the motion for the second reading of the main appropriation bill.

In 1979, 10 government and five opposition members were appointed to each committee.³⁶ Committee membership varied significantly between each of the portfolios under consideration.³⁷ The minister responsible for the proposed expenditure or the minister's representative also sat on the committee and it was chaired by either the Chairman of Committees or a deputy chair. Members of the House who were not committee members could participate at the discretion of the chair but could not vote, move any motion or be counted for the purposes of quorum, which was five members. Officials from the departments under consideration could address the committee with the approval of their ministers.³⁸

In August 1980, the House amended the sessional orders to increase the number of estimates committees from two to four; membership decreased to 10 (plus the responsible minister and

³⁴ Correspondence from Mr John Hyde MP to the Speaker, the Rt. Hon. Sir Billy Snedden KCMG QC MP, 16 January 1980, p. 3, Department of the House of Representatives, File No. 79/11, folios 79–84.

³⁵ House of Representatives, *Official Hansard*, 19 September 1979, p. 1,279.

³⁶ House of Representatives, *Votes and Proceedings*, 1978–80, pp. 1,017–18.

³⁷ The beginning of each Hansard transcript of evidence for the portfolio under consideration listed the committee membership.

³⁸ House of Representatives, *Votes and Proceedings*, 1978–80, pp. 1,011–13.

excluding the chair); the committees were empowered to meet outside sittings of the House; and three of the committees were given permanent chairs.³⁹ Following the October 1980 election, on 20 August 1981 the House adopted sessional orders to establish six estimates committees on the same terms as those appointed in the previous Parliament.⁴⁰ The six committees appointed in 1981 allowed for more stable memberships than had been the case in 1979 and 1980. From 1979 to 1981, the estimates of every Commonwealth department (excepting the Department of the Senate⁴¹) were subject to committee scrutiny.

Some members expressed concern that the operation of estimates committees while the House was sitting could require them to choose between attending important debates in the chamber and attending estimates.⁴² In response it was agreed that meetings of the committees would be included on the daily program to help members manage their time.⁴³ Additionally, as noted above, after 1979 the committees were permitted to meet when the chamber was not sitting. One member suggested that the committee process took ‘the proceedings of Parliament outside this chamber into some clandestine situation’.⁴⁴ Debate in the chamber was broadcast but committee proceedings were not. However, committee proceedings were public with access granted to media and they were published in Hansard.⁴⁵ Another member suggested that lack of broadcasting facilities might actually benefit the proceedings of committees by ‘placing members in more intimate ... circumstances, away from the glare of immediate publicity where grandstanding is less likely to be profitable’.⁴⁶ Estimates

³⁹ House of Representatives, *Votes and Proceedings*, 1978–80, pp. 1,589–90; the Rt. Hon. Sir Billy Snedden, ‘The Function of the House of Representatives Estimates Committees in the Federal Parliament’, *12th Regional Conference of Presiding Officers*, Wellington, 1981, p. 4.

⁴⁰ House of Representatives, *Votes and Proceedings*, 1980–83, pp. 419–21.

⁴¹ See I.C. Harris, B.C. Wright and P.E. Fowler, eds, *House of Representatives Practice*, 5th edition, Department of the House of Representatives, 2005, p. 35:

[T]he Speaker took the view in 1970 that it would be parliamentarily and constitutionally improper for a Senate estimates committee to seek to examine the financial needs or commitments of the House of Representatives. In similar manner the House of Representatives estimates committees, when they operated, did not examine the proposed appropriations for the needs of the Senate.

⁴² House of Representatives, *Official Hansard*, 19 September 1979, p. 1,281. Debate on the sessional orders that provided for the appointment of estimates committees occurred while the ASIO Bill was before the House.

⁴³ House of Representatives, *Official Hansard*, 20 September 1979, p. 1,406.

⁴⁴ House of Representatives, *Official Hansard*, 20 August 1981, p. 608.

⁴⁵ House of Representatives, *Official Hansard*, 20 August 1981, p. 608.

⁴⁶ Correspondence from Mr John Hyde MP to the Speaker, the Rt. Hon. Sir Billy Snedden KCMG QC MP, 16 January 1980, p. 3, Department of the House of Representatives, File No. 79/11, folios 79–84.

committees were intended to provide supplementary information that could be used in House debates rather than providing an alternative forum for debate.⁴⁷

Some members suggested that the role of estimates committees could be enhanced by earlier consideration of estimates. Early in 1979, prior to the appointment of estimates committees, the Standing Committee on Expenditure recommended that 'Time be set aside in the Autumn sittings of the House for a debate on expenditure patterns and priorities'.⁴⁸ During an estimates hearing, the chair of the Expenditure Committee suggested that consideration of appropriation proposals prior to their introduction into the House as bills was one way in which House estimates sessions might be differentiated from Senate proceedings.⁴⁹ Gordon Bryant, the only member to have expressed disquiet at the abolition of committees of supply in 1963, took the opportunity provided by debate on the sessional orders appointing estimates committees to revisit the House's former power:

The time is long past ... when the Parliament had some input into the construction of the estimates ... it would [not] be difficult at an early stage in the consideration of the estimates to have the apparatus of departments and Ministers placed at the disposal of the Parliament so that some ideas can be put into the estimates from the electorates we represent.⁵⁰

The question of timing of consideration of estimates in the House has persisted. Most recently early consideration of estimates was raised by the clerks of the Senate and House in a 2003 inquiry into House estimates by the Procedure Committee.⁵¹ The Committee reported that it saw:

no role for direct or formal involvement by parliamentary committees in budget formulation. However, pre-budget briefings of committees on departments' future funding needs, and committee reports (soundly based on the examination of past performance and expenditure) seeking to influence the direction or amounts of future

⁴⁷ House of Representatives, *Official Hansard*, 16 September 1982, p. 1,536.

⁴⁸ Standing Committee on Expenditure, *Parliament and Public Expenditure*, February 1979, Recommendation 4, para. 48. Since 1997 budgets have been introduced in the autumn session of sittings. However, when the Expenditure Committee made its recommendation budgets were introduced in August during the winter sittings.

⁴⁹ House of Representatives Estimates Committee A, *Official Hansard*, 25 September 1979, p. 16.

⁵⁰ House of Representatives, *Official Hansard*, 20 September 1979, p. 1,409.

⁵¹ House of Representatives Standing Committee on Procedure inquiry into House estimates: consideration of the annual estimates by the House of Representatives, H. Evans, *Submission No. 3*, p. 2 and I.C. Harris, *Submission No. 4*, p. 10.

expenditure, could be later, and perhaps natural, developments of the expenditure committee proposal.⁵²

Another theme in debates on the character of estimates committees related to whether the House would – or should – duplicate Senate estimates processes. A note on discussions between the departments of the Prime Minister and Cabinet and the House of Representatives prior to the adoption of the sessional orders establishing estimates committees recorded cabinet concerns that ‘the committees could duplicate the work of the Senate committees and unnecessarily increase departments’ work commitments’.⁵³ However, in proposing the sessional orders, the Leader of the House stated that ‘there is no duplication of the procedures in the other chamber ...’.⁵⁴ The Manager of Opposition Business responded that: ‘We should be given the opportunity to compete with them [senators] ... [I]t is more the responsibility of this House than of the Senate to carry out this task’.⁵⁵ Another member observed that:

It always seemed to me to be an anomaly that the Senate should have estimates committees and that this House, which, whatever the debate, is certainly the primary House in the field of finance, did not have such committees.⁵⁶

The Speaker stated:

It would be wrong for House of Representatives Estimates Committees to involve themselves in detailed line by line examination which the Senate is well equipped to do. The House of Representatives is the House in which money measures are introduced. Therefore the general policy issues as they arise should be examined here in the House.⁵⁷

⁵² House of Representatives Standing Committee on Procedure, *House Estimates: Consideration of the Annual Estimates by the House of Representatives*, October 2003, para. 4.50. Under section 8(1) of the *Public Accounts and Audit Act 1951* the Joint Committee of Public Affairs and Audit considers the resources of the Audit Office, including funding staff and information technology ...[and] draft estimates for the Audit Office...’

⁵³ Note for file, 4 September 1979, File No. 79/110, Department of the House of Representatives.

⁵⁴ House of Representatives, *Official Hansard*, 19 September 1979, p. 1,279.

⁵⁵ House of Representatives, *Official Hansard*, 20 September 1979, p. 1,407.

⁵⁶ House of Representatives, *Official Hansard*, 20 September 1979, p. 1,410.

⁵⁷ House of Representatives Estimates Committee A, *Official Hansard*, 28 August 1980, p. 3. Senate estimates no longer focuses on detailed line-by-line consideration. See H. Evans, ed., *Odgers’ Senate Practice*, 11th edition, p. 367:

The only substantive rule of the Senate relating to the scope of questions is that questions must be relevant to the matters referred to the committees, namely the estimates of expenditure. The Senate endorsed on 22 November 1999 the views of the Procedure Committee on the relevance of questions at estimates hearings ... The Procedure Committee

The primacy of policy concerns of House estimates committees meant that they ‘focus[ed] on the relevant minister rather than the permanent head or senior departmental officers ...’.⁵⁸ It has never been considered within the responsibilities of departmental officials to debate policy but rather to explain administrative decisions on how policies are implemented.

A third theme relating to the performance of estimates committees concerned their success in allowing additional time for consideration of the main appropriation bill. Concerns were raised that, while the total amount of time for consideration of proposed expenditure might increase, the overall time for debate on the appropriation bill in the House would decrease.⁵⁹ In debate on the proposed amendment of sessional orders in 1980, concerns were expressed about the House having insufficient time to consider the reports of its estimates committees and the diminution of time provided for the second reading debate.⁶⁰ Furthermore, the tight timeframe for committees to report to the House was criticised.⁶¹ Table 2 provides a comparison of the hours spent on consideration of the main appropriation bill through the debate on the second reading and estimates stages between the years in which estimates committees operated and the years immediately prior to their appointment.

Table 2 Time for House consideration of proposed expenditure, 1973–81 (hours)

	1973	1974	1975	1976	1977	1978	1979	1980	1981
Debate on the second reading	25	22	24	30	20	14	32	9	22
Consideration of estimates	42	34	36	30	29	29	56	47	66
Total	67	56	60	60	49	43	88	56	88

Source: House of Representatives Standing Committee on Procedure, *House Estimates: Consideration of the Annual Estimates by the House of Representatives*, October 2003,

Table 2 shows that concerns that time given over to committee proceedings would lessen the time for debate on the second reading were largely unfounded. One exception was the limited debating time of nine hours in 1980. The 1980 estimates sessions were also criticised for the short notice given to members of upcoming hearings and for the non-attendance of opposition

adopted advices [that] ... [a]s the estimates represent departments’ and agencies’ claims on the Commonwealth for funds, any questions going to the operations or financial positions of the departments and agencies which shape those claims are relevant.

⁵⁸ ‘The people’s hands on the people’s purse strings’, *Australian Financial Review*, 5 November 1979.

⁵⁹ House of Representatives, *Official Hansard*, 19 September 1979, p. 1,281, 20 September 1979, p. 1,407.

⁶⁰ House of Representatives, *Official Hansard*, 27 August 1980, pp. 829–30.

⁶¹ House of Representatives, *Official Hansard*, 27 August 1980, p. 830.

members, shadow ministers and ministers at some of the estimates hearings.⁶² The Rt. Hon. Sir Billy Snedden explained that the 1980 committees:

ran into difficulties because it was an Election year. The Budget sittings were halved and the commencing and reporting dates brought forward accordingly.⁶³

Since 1981 the total time spent considering the main appropriation bill has not exceeded 50 hours, and the time allotted for estimates has suffered disproportionately, despite the use of the Main Committee as a second chamber since 1995 (discussed below).

A final theme running through debates on the desirability of estimates committees concerned the attendance and participation of departmental officials at estimates hearings. Arguments for and against allowing departmental officials to present information directly to committees turned on the notion of ministerial responsibility. The participation of departmental officials was supported on the grounds that increases in the size of the bureaucracy meant that ministers, no matter how competent, could not expect or be expected to be aware of, and thus responsible for, the entire operations of their departments:

[B]ureaucracies have effectively got out of direct ministerial control over every aspect of them. A Minister cannot expect to be fully briefed on every point of a position being adopted by his servants. ... In 1901 ... [t]here were 3,774,000 Australians and a Public Service numbering 11,191. Total government outlays were \$4,024,000. In 1980 ... our population [had increased] to 14.5 million, [and] there were 469,000 civil servants under the control of the Federal Parliament ... Total government outlays were \$39 billion.⁶⁴

In favour of departmental participation, it was argued that the presence of officials was educative for members in allowing them insights into the considerations that went into policy development below the ministerial level.⁶⁵ Estimates not only permitted members to access a

⁶² 'After the silence, the leader bounces back', *Australian Financial Review*, 11 September 1980; 'Labor rapped over role in committees', *Australian*, 11 September 1980; 'Scheme to help backbenchers runs into trouble from all sides', *Sydney Morning Herald*, 11 September 1980; 'Question stirs Lab.', *West Australian*, 11 September 1980; 'Attacks over attendance', *Canberra Times*, 11 September 1980.

⁶³ Rt. Hon. Sir Billy Snedden KCMG QC MP, 'The function of the House of Representatives estimates committees in the Federal Parliament', *12th Regional Conference of Presiding Officers*, Wellington, 1981, p. 4. The 1980 election was held on 18 October.

⁶⁴ House of Representatives, *Official Hansard*, 16 September 1982, p. 1,538.

⁶⁵ House of Representatives, *Official Hansard*, 16 September 1982, p. 1,536.

range of administrative information but directly acquainted departmental officials with the views and experiences of members and their constituents.⁶⁶

Departmental officials' participation was opposed on the grounds that ministers ought to be responsible to the Parliament no matter what the consequences. The Minister for Defence stated:

I hold very strongly to the view that ministers and not civil servants answer to Parliament. Therefore questions will be addressed to me. If I do not have the information I will secure it and provide it to the Committee.⁶⁷

Nevertheless, in 1979 this minister did have occasion to refer matters to his departmental officials and permitted them to respond directly to the committee. In 1980, he did not appear at estimates because of a bout of laryngitis and his representative (the Minister for Administrative Services) allowed departmental officials to provide most of the required information to the committee.⁶⁸ However, he returned to his original point in no uncertain terms in the final year of estimates committees when he appeared without any departmental officials.⁶⁹

Of the various hopes and concerns raised regarding estimates committees, the suggestion that the participation of departmental officials adversely impacted on ministerial responsibility provided the ultimate basis for discontinuing their operation. In 1982, the Leader of the House wrote to the Deputy Leader of the Opposition informing him that estimates would not be referred to committees. He argued that the opportunity for a minister to have his departmental officials directly answer questions raised the possibility of a breach of ministerial responsibility:

The examination of estimates by committees has tended to degenerate into a question and answer session ... between members and officials and the appropriate responsibilities of Ministers tend to be distorted by the process.⁷⁰

⁶⁶ House of Representatives, *Official Hansard*, 16 September 1982, p. 1,542.

⁶⁷ House of Representatives Estimates Committee A, *Official Hansard*, 18 October 1979, p. 308.

⁶⁸ House of Representatives Estimates Committee A, *Official Hansard*, 8 September 1980, p. 252.

⁶⁹ House of Representatives Estimates Committee A, *Official Hansard*, 23 September 1981, pp. 463–79.

⁷⁰ House of Representatives, *Official Hansard*, 16 September 1982, p. 1,547.

After receiving notification from the Leader of the House that appropriation bills for that year would not be referred to estimates committees, the Deputy Leader of the Opposition moved an amendment to sessional orders.⁷¹ The amendment would extend the ministerial powers to refer estimates to committees to the Leader or Deputy Leader of the Opposition. If successful, ministers would have lost sole control over whether estimates were referred to committees.

During the debate on the proposed amendment, the Leader of the House suggested a return to consideration of estimates by committees of the whole House. Under this arrangement, he argued, estimates could be an interrogative exercise conducted between members and the responsible minister:

No matter how uncomfortable ... embarrassing ... distressing or hurtful the process of inquiry may be, a Minister must answer. ... The dangerous question ... is the short question ... I would like to see the two hours which is allocated to, say, the Department of Defence ... given over to questioning of the Minister ... [T]he Minister must answer.⁷²

However, another member argued vehemently that committees of the whole did not promote this kind of ministerial responsibility:

Under the ... system ... we are about to reintroduce, if I get the chance I can stand in this place and speak ... I emphasise the words 'if I get the chance'. The truth of the matter is that there are only so many opportunities to speak during Estimates debates. There are only so many opportunities per department ... only three or four can speak at the very most, and sometimes only one or two. ... At the end of the debate the Minister, who has three or four public servants advising him, would ... stand up and say 'I appreciate the various contributions that have been made by members on this subject. I will bear them in mind and have them looked at.' He would then walk out ... [and] the subject matter was a closed book for another year ... What is more, because of the lack of continuity which comes with close questioning, the system to be introduced is not much better than a disjointed page flipping exercise.⁷³

⁷¹ House of Representatives, *Votes and Proceedings*, 1980–83, p. 1,051; House of Representatives, *Official Hansard*, 16 September 1982, p. 1,535.

⁷² House of Representatives, *Official Hansard*, 16 September 1982, p. 1,546.

⁷³ House of Representatives, *Official Hansard*, 16 September 1982, p. 1,541.

The Deputy Opposition Leader's motion was defeated along party lines, despite some strong expressions of disappointment from members on the government backbenches that estimates would not be referred to committees. Those members of the opposition who decried the failure to refer estimates in 1982 did not revisit the case following the general election in March 1983 on their move to the treasury benches. Consideration of estimates in ordinary committees of the whole persisted from 1982 until 1994.

Estimates committees were established under sessional orders and as such effectively remained on trial over the three years of their operation. Furthermore, the sessional orders specified that a minister *may* refer estimates to committees, not that he or she *shall* make the referral. Ministerial power to initiate appropriation proposals was reaffirmed in the refusal to countenance proposals to allow estimates committees early consideration of or input into the estimates. Despite these limitations, the committees achieved considerable success in aiding the House to hold ministers to account for the policies on which appropriations were raised and the way in which these funds were expended. In particular, they were an unqualified success as mechanisms for increasing the time available for members to hold ministers to account for the activities of their departments using periods of sustained questioning.

The claim that, far from facilitating ministerial responsibility, the estimates committees compromised House scrutiny of ministers draws a rather long bow. At best, an argument that participation of departmental officials compromised ministerial responsibility would only justify the withdrawal of the right of a minister to allow or direct officials to address the committee. The failure to reappoint estimates committees after three years of operation on the tenuous ground that the committees hindered ministerial responsibility shows the magnitude of the task of imposing effective responsibility on ministers in a chamber where the government enjoys a majority of support. However, the very establishment of estimates committees shows that governments can and have agreed to greater scrutiny.

The circumstances which appears most conducive to the appointment of estimates committees appears to be a high level of comfort in cabinet that accompanies a large government back bench (the coalition parties won 86 of the 124 seats at the 1977 federal election). This back bench contained some particularly restive elements, which were provided a mechanism to push for reform through the Government Members Parliamentary Reform Committee. The contraction of the size of the government's majority following the 1980 election (the coalition parties secured 74 of the 125 seats) would have made the government

more cautious at providing the opposition with opportunities to embarrass it. Reid and Forrest have observed a further contributing factor to the discontinuation of estimates committees was the loss of significant supporters among those who were not returned at the 1980 election.⁷⁴ Barry Simon was the one such notable champion of the committees to lose his seat at this election.⁷⁵ Emblematic of increased cabinet resistance to the committees was the accession of the Hon. Sir James Killen – a declared opponent of the committees (who had been Minister for Defence in 1979, 1980 and 1981) – to Leader of the House in August 1982. How far estimates procedures in the House could rise to meet the vision of ministerial responsibility affirmed by Sir James would not begin to be explored until the mid-1990s with the implementation of a new arrangement – the Main Committee.

1995–present: the Main Committee

From 1963, excluding the years in which the House trialled estimates committees, estimates were considered in ordinary committees of the whole following the second reading of the main appropriation bill. A 1993 majority report of the Procedure Committee proposed several changes to standing orders, two of which would particularly affect the estimates. The House amended standing orders to implement the Committee’s recommendations in February 1994 and these arrangements have continued through until the time of writing.⁷⁶

First, the Committee recommended that the House amend standing orders to replace consideration of bills by committees of the whole (after the second reading stage) with a ‘consideration in detail stage’. The consideration in detail stage would perform the same function as the old committee stage, however, time limits on speeches would be amended.⁷⁷ The previous arrangement allowed the minister in charge of a bill to speak without restriction and members to speak for two periods of 10 minutes on each question before the chair.⁷⁸ The new time limits on consideration in detail speeches allowed all members to speak for an unlimited number of five-minute periods.⁷⁹

⁷⁴ G.S. Reid and Martyn Forrest, *Australia’s Commonwealth Parliament 1901–1988: Ten Perspectives*, Melbourne, Melbourne University Press, 1989, p. 357.

⁷⁵ Member for McMillan.

⁷⁶ House of Representatives, *Votes and Proceedings*, 1993–96, pp. 758–60, 766–8.

⁷⁷ House of Representatives Standing Committee on Procedure, *About Time: Bills, Questions and Working Hours*, October 1993, para. 57.

⁷⁸ House of Representatives, *Standing and Sessional Orders as at 4 January 1993*, Standing Order 91.

⁷⁹ House of Representatives Standing Committee on Procedure, *About Time: Bills, Questions and Working Hours*, October 1993, paras 48–49: ‘It is the committee’s view that this would encourage greater spontaneity, responsiveness and relevance in debate, discourage set-piece orations more

The second recommendation to impact upon consideration of estimates was the establishment of a new Main Committee.⁸⁰ The Main Committee was to be a committee of the whole to take the second reading and consideration in detail stages of such bills as were referred to it by the House.⁸¹ It was effectively a second chamber to increase the amount of time available for debate. Thus, the Main Committee was not an additional stage through which bills must pass but rather an alternative venue for consideration of proposed legislation.⁸² The Committee was to meet only during a sitting of the House and a record of proceedings would be included in Hansard. The quorum requirement was three members; the occupant of the chair and two other members (one government and one non-government). A matter that was referred to the Committee could be referred back to the House on motion from any member.⁸³

The main appropriation bill has been referred to the Main Committee for some of the second reading debate and the entire consideration of estimates since 1995. The consideration of estimates in the Main Committee has provided some of the framework for precisely the types of exchanges for which Sir James Killen had appealed over a decade earlier. Although within the Main Committee, consideration of estimates as a device for effecting ministerial responsibility has proved a fragile instrument whose potential is easily blunted.

The Main Committee has been observed to have enhanced debate in that ‘there is better interplay and the more intimate environment encourages true debate and response to others’ contributions’.⁸⁴ During consideration of the 2007 estimates for the Department of Industry, Tourism and Resources, the Deputy Speaker appeared simply to assume that estimates was

appropriate to the second reading stage, and generally make the mood of proceedings more cooperative.’

⁸⁰ House of Representatives Standing Committee on Procedure, *About Time: Bills, Questions and Working Hours*, October 1993, para. 56.

⁸¹ House of Representatives Standing Committee on Procedure, *About Time: Bills, Questions and Working Hours*, October 1993, para. 56.

⁸² I.C. Harris, B.C. Wright and P.E. Fowler, eds, *House of Representatives Practice*, 5th edition, Department of the House of Representatives, 2005, p. 350.

⁸³ House of Representatives, *Standing Orders as at 8 February 2005*, Standing Order 197(a).

⁸⁴ House of Representatives Standing Committee on Procedure, *Time for Review: Bills, Questions and Working Hours*, June 1995, para. 4.2.5. For an excellent example of the type of exchange the Procedure Committee was attempting to encourage, see the consideration of estimates for the Department of Education, Training and Youth Affairs involving the shadow minister and the parliamentary secretary at House of Representatives, *Official Hansard*, 21 June 2000, pp. 17986–92 also Department of Finance and Deregulation involving the minister and shadow at House of Representatives, *Official Hansard*, 18 June 2008, pp. 5345–52. The Shadow Minister for Families, Community Services, Indigenous Affairs acknowledged: ‘the spirit with which [the minister] has entered into this, her willingness to engage and also particularly her preparedness to not take five minutes for an answer.’ House of Representatives, *Official Hansard*, 5 June 2008, pp. 4788.

more an interrogative exercise involving question and answer than a series of speeches; he directed that ‘The honourable member understands that a question has to be succinct. That was more a speech than a question’, and later he appealed to members, ‘Can we have an organised question and answer here?’⁸⁵ This assumption has persisted. In 2008 the interrogative character of the estimates debate was insisted on by opposition members and supported by the Deputy Speaker.⁸⁶ Consideration of estimates has certainly worked at its best as an accountability mechanism when ministers or their representatives have been willing and able to respond immediately to individual observations and questions, however, some practices and constraints have obstructed free flowing question and answer exchanges.⁸⁷

Two key conditions must be met to achieve ministerial responsibility in estimates. The first condition, in relation to which the Main Committee has failed quite dramatically, is to provide an adequate amount of time for estimates. As noted previously, the latitude provided members in the second reading debate of the main appropriation bill could mean that they guard the opportunity to speak without the constraint of relevance and are thus reluctant to sacrifice time on the second reading debate for other stages of the bill (such as consideration of estimates). Indeed, members may be happy to increase the time available for second reading debates at the expense of estimates.

A 2003 report of the Procedure Committee confirmed that the lion’s share of additional time made available by the Main Committee ‘has been used for ... second reading debate at the expense of consideration of the estimates’.⁸⁸ The report contrasted an average 17 hours spent on consideration of estimates from 1982 to 1993, prior to the establishment of the Main Committee, with an average eight hours on estimates from 1997 to 2003. Meanwhile, the average total time taken to pass the main appropriation bill remained relatively static at 36 hours and 37 hours in the respective periods. Thus, the available time for consideration of

⁸⁵ House of Representatives, *Official Hansard*, 13 June 2007, pp. 162, 166.

⁸⁶ See House of Representatives, *Official Hansard*, 5 June 2008, pp. 4768 and 4771.

⁸⁷ Examples of free-flowing estimates debates can be found at House of Representatives, *Official Hansard*, 15 June 2005, pp. 225–8, 14 June 2006, pp. 196–204, 231–43 and 18 June 2008, pp. 5345–52.

⁸⁸ House of Representatives Standing Committee on Procedure, *House Estimates: Consideration of the Annual Estimates by the House of Representatives*, October 2003, para. 3.16.

It should be noted that the available time for consideration of estimates and the order in which they will be considered is through an informal agreement of the party whips. However, there is nothing to prevent members from considering estimates beyond the agreed times, except that ministers or their representatives may become unavailable. The problem of ministerial availability is less likely to arise for Senate estimates because consideration occurs when the Senate is not sitting.

estimates fell by an average nine hours while the average time available for second reading debate on the main appropriation bill rose by 10 hours. Clearly, the increased time for considering the main appropriation bill made available by the Main Committee was given over to second reading speeches at the expense of consideration of estimates. From 2004 (the year following the presentation of the Procedure Committee's report) to 2010, the average time for consideration of estimates rose to just over 11.5 hours out of an average total time spent on the main appropriation bill of approximately 44 hours. From 2004 the time spent on estimates increased each year reaching almost 13.25 hours in 2010. Despite the improvements in time for consideration of estimates since the Procedure Committee presented its report, a proportionately greater time remains given over to second reading of the main appropriation bill.

Table 3 shows how the limited time made available for estimates in the Main Committee has affected completion rates of estimates programs as well as the pressure brought to bear for completion of each item.

Table 3 Consideration of estimates in the Main Committee, 1995–2010

Year	No. of depts	No. of depts completed	Total time on estimates (hrs & mins)	Average no. of minutes per dept considered
1995	20	20	2.26	7
1997	18	16	9.47	37
1998	17	17	9.04	32
1999	17	17	8.39	30
2000	17	5	6.10	74
2001	18	16	10.15	38
2002	17	7	6.04	52
2003	17	9	8.28	56
2004	17	17	8.50	31
2005	16	16	8.58	34

2006	16	16	11.34	43
2007	17	17	12.28	44
2008	20	20	12.30	37
2009	17	17	13.12	47
2010	20	20	13.13	40

Source: House of Representatives, *Official Hansard*.

Limited time for estimates has adversely affected the House's ability to hold individual ministers accountable for their portfolios. Consideration of estimates in the Main Committee began on a singularly unpromising note. In 1995 estimates took the form of a single speech by a member of the opposition followed by a response from a parliamentary secretary representing the minister for each portfolio considered. The total time taken for consideration of 20 portfolios was 146 minutes – a little under two and a half hours. In 1996 there was no consideration of estimates as the main appropriation bill was declared urgent. For the six years from 1997 to 2003, estimates programs failed to be completed on five occasions, the worst performances occurring in 2000, 2002 and 2003 when respectively the estimates of five, seven and nine of 17 portfolios were not examined.⁸⁹ Completion rates improved markedly from 2004 to 2010 when each department was considered individually and the program for each year was completed. However throughout these years, members consistently indicated their awareness of the limited time available for each session.⁹⁰ The limited time has provoked responses in members that have been deleterious to the interrogative character of estimates. Some of these responses are noted out below.

The Procedure Committee's report on estimates proposed a new format for consideration of the main appropriation bill by having the House agree to the second reading after the Leader of the Opposition's response to the Treasurer's speech. The budget debate would be held on the motion 'That the House approves the Budget' rather than on the motion for the bill's

⁸⁹ Where ministers or their representatives were available but no member sought the call, consideration of estimates was taken to have occurred. This is not necessarily without difficulty because members may have had points to raise on particular portfolios but sought to maximise the limited available time by focusing their attention elsewhere.

⁹⁰ See, for example, House of Representatives, *Official Hansard*, 17 June 2004, pp. 30,838 and 30,859, 21 June 2004, pp. 31,003, 31,007 and 31,019, 16 June 2005, pp. 152–5, 20 June 2005, pp. 154 and 170, and 14 June 2006, p. 213.

second reading.⁹¹ Having passed its second reading, estimates could be considered in the Main Committee at the same time as the budget debate occurred in the chamber. The government did not support the recommendation. Until the amount of time available for estimates is increased to allow members reasonable opportunity to question ministers, estimates must fall short of its full potential as a mechanism for securing ministerial responsibility to the House.

Following the 2010 election of a hung parliament the possibility of extending the time for consideration of estimates once again gained prominence. Prior to the first sitting of the new parliament an ‘Agreement for a Better Parliament: Parliamentary Reform’ was endorsed by some independent members and the leaders of the two major parties. One of the undertakings specified that:

- during Government Business time in the main Committee additional time will be allocated for the summing up of Appropriations and related Budget Bills by the Minister for finance; and
- additional time is allocated for the Consideration in Detail process in the Main Committee.⁹²

Time will tell whether the undertaking will provide improved and adequate time for consideration of estimates.

Even if adequate time were made available for estimates, this is only a necessary condition for holding ministers accountable. The sufficient condition requires that members are able to effectively test ministers, which is determined by the willingness of the responsible minister to both attend *and* participate in the proceedings. Ministers or their representatives are not required to attend estimates but do so by convention. The attendance of appropriate ministers for estimates in the Main Committee has had a chequered history. On concluding the first estimates sitting for 1997, the Deputy Speaker acknowledged a high point in ministerial attendance:

⁹¹ House of Representatives Standing Committee on Procedure, *House Estimates: Consideration of the Annual Estimates by the House of Representatives*, October 2003, para. 3.35, Recommendation 1.

⁹² ‘Agreement for a Better Parliament: Parliamentary Reform’, p. 7.

We are pleased that throughout this debate the relevant ministers have been here for the whole of the debate for each session. I am reliably informed that this is the first time this has happened in some decades.⁹³

Cabinet ministers were almost always present for consideration of each of the subsequent estimates sessions for this year.⁹⁴ From 1998 to 2007, ministerial representation was often devolved to parliamentary secretaries and junior ministers, although some senior ministers continued to attend estimates regularly. Non-attendance of cabinet ministers was exacerbated when the estimates of departments were considered in groups. There were occasions between 1998 and 2007 when only one (often junior) ministerial representative attended for consideration of up to three sets of estimates. With the change of government in 2008, senior ministers appeared for consideration of their portfolios with very few exceptions, often accompanied by junior ministers or parliamentary secretaries.⁹⁵

The improved attendance of ministers appears to acknowledge the importance of estimates. In light of this acknowledgement, the House could follow the Senate practice of ordering that ministers attend estimates.⁹⁶ The attendance of the Prime Minister and Treasurer for consideration of their respective portfolios has not occurred in the Main Committee but would likely raise the profile of House estimates. The case for participation by ministers is indicated in Standing Order 97, which specifies that questions presented in writing or orally at question time may be asked of a minister but not of a parliamentary secretary. By contrast, in estimates hearings parliamentary secretaries and junior ministers have been required to

⁹³ House of Representatives, *Official Hansard*, 17 June 1997, p. 5512.

⁹⁴ The exceptions were sessions for the consideration of estimates for the Department of Social Security, the Department of Immigration and Multicultural Affairs and the Department of Employment, Education, Training and Youth Affairs which were attended by parliamentary secretaries.

⁹⁵ The Shadow Minister for Families, Community Services, Indigenous Affairs: 'concede[d] that ministers did not always appear in the former government, and I think it is good that they have appeared.' House of Representatives, *Official Hansard*, 5 June 2008, p. 4779. In 2008, 2009 and 2010 the Prime Minister, Treasurer and Minister for Foreign Affairs failed to attend estimates; in 2009 and 2010 the Minister for Defence did not attend and in 2009 the Minister for Resources Energy and Tourism failed to attend.

⁹⁶ See H. Evans, ed., *Odgers' Senate Practice*, 11th edition, 2004, p. 365:

Although the Senate permitted parliamentary secretaries to appear before estimates committees in the past, an increase in the number of ministers in the Senate following the 1993 election led the Senate to agree to an order ending this practice (sessional order 6/5/1993, J.100; permanent order 11/11/1998, J.54). This prohibition was subsequently relaxed to allow parliamentary secretaries to represent ministers other than Senate ministers in relation to the latter's own responsibilities (6/2/2001, J.3860). Although it is desirable that a minister be present at the hearings, it is not required by standing orders.

account for expenditure and policy proposals for an entire portfolio whose scope of activity falls well beyond their direct responsibilities.

A result of representation by parliamentary secretaries or junior ministers (who cannot be expected to be across the entire portfolio) was an increase in questions taken on notice in response to matters raised in debate. Unlike questions in writing, which appear on the Notice Paper and whose response appears in Hansard (and where lack of response can be raised with the Speaker if a minister fails to respond within 60 days),⁹⁷ there is no formal mechanism for or public record of a response to a question taken on notice in estimates. Members have not always been aware that ministerial responses to questions taken on notice during estimates are a private matter between a member and a minister.⁹⁸ During the 2008 consideration of the estimates for the Immigration and Citizenship portfolio an ‘extensive list of questions’ was tabled rather than being read into the transcript. This device effectively obstructed both sides of the exchange from public scrutiny.⁹⁹ The preparedness of members to have questions taken on notice, in order to allow other members to ask their questions, is likely to be encouraged by limited available time.

As noted above, the attendance of ministers is not a sufficient condition for testing their grasp of their portfolio responsibilities. Some ministers have effectively avoided interrogation by employing a practice, inherited from consideration of estimates in committees of the whole, of not answering questions immediately they are put. Instead, ministers may wait until a member has asked all their questions or, in some cases, until all members have contributed to the debate before making any response. In 2006 under rather intense hostile questioning the Minister for Employment and Workplace Relations chose to respond to contributions at the end of the debate. The frustration of the Shadow Minister for Industry, Infrastructure and Industrial Relations was evident:

Given the minister’s refusal to answer questions about the Cowra Abattoir, his refusal to answer questions about leave for trade union training and his refusal to answer questions about economic modelling for the government’s legislation, and given the very erudite response by the member for Rankin, I move:

⁹⁷ House of Representatives, *Standing and Sessional Orders as at 8 February 2005*, Standing Order 105(b).

⁹⁸ House of Representatives, *Official Hansard*, 18 June 2008, p. 5297: ‘I am very happy for [my questions] to be addressed in writing by the minister. They will be in *Hansard*...’

⁹⁹ House of Representatives, *Official Hansard*, 18 June 2008, p. 5323.

That the member for Rankin be authorised by the Main Committee to proceed across the chamber to sit in place of the minister and to answer questions on the minister's behalf.¹⁰⁰

More benign examples of non-participation have no less debilitating consequences on debate. In 2004 the Parliamentary Secretary to the Minister for Finance and Administration was late for his appointed session and offered an irrelevant general response to questions raised.¹⁰¹ On another occasion, the Minister for Science representing the Minister for Communications and Information Technology failed to respond to several speakers because he left the 2003 estimates session early.¹⁰² One member pointed out the potentially debilitating effect on the quality of debate of the refusal by ministers to respond: it 'provides ... little opportunity to ask follow-up questions or indeed to point out to the minister that he has neglected to answer the odd question along the way ...'¹⁰³ Under current arrangements, members have no right to a direct response, however, if estimates is to be an effective device for testing ministerial responsibility, direct responses to questions must be encouraged.

Direct responses by ministers to questions from members have been hindered by the formal nature of estimates. Although at its most effective participants have allowed estimates to flow as an interrogative question and answer session, estimates is formally a debate consisting of an unlimited number of five minute speeches. In instances when members take their full five minutes of speaking time, proceedings become less interactive and more like the old

¹⁰⁰ See House of Representatives, *Official Hansard*, 14 June 2006, p. 186. The motion was ruled out of order.

¹⁰¹ See House of Representatives, *Official Hansard*, 21 June 2004, pp. 31029–33:

I thank all of those honourable members [who] have participated in the debate on the estimates in relation to the Department of Finance and Administration. In Appropriation Bill (No. 1) 2004–2005, the Department of Finance and Administration appropriated \$364.6 million – \$165.8 million for departmental outputs and \$198.7 million for administered expenses. Departmental outputs have increased by \$17.1 million from 2003–04 due to new and prior year measures and an increase in the appropriation in lieu of interest on the Comcover special account.

These new measures are \$1.3 million for South Pacific economic governance and stabilisation; \$1.4 million for defence capability proposals and establishment of enhanced cost assessment capability; \$6 million for government procurement arrangements relating to the Australia–United States free trade agreement; and \$1 million for asset sales, staffing and administrative costs. Administered costs have increased by \$8.7 million from 2003–04 due to additional funding for the administering of the electorate offices of all parliamentarians and ministers' offices and for the provision of electorate office relief staff. The funding for this increase was provided for in prior year measures. I commend the expenditure to the chamber.

¹⁰² House of Representatives, *Official Hansard*, 18 June 2003, p. 16,933.

¹⁰³ House of Representatives, *Official Hansard*, 14 June 2006, p. 190.

committee of the whole debates. In recent years, the increased involvement of government back benchers, who almost always speak in support of the proposed expenditure, has exacerbated a lack of interactivity and placed additional pressure on already limited available time to press ministers. Table four shows the number of contributions made by government back benchers in estimates debates since 1999.

Table 4 No. of government back bench contributions in estimates debates 1999-2010

Year	99	00	01	02	03	04	05	06	07	08	09	10
No of contributions	5	7	6	5	2	0	6	8	7	43	36	32
Total time	8.39	6.10	10.15	6.04	8.28	8.50	8.58	11.34	12.28	12.30	13.12	13.13

Source: House of Representatives, *Official Hansard*.

The marked increase in contributions by government back benchers since 2008 has raised two issues. First, although overall available time for consideration has continued to increase gradually over the last three years, the dramatic increase in speakers supporting the budget has left a net diminution of time for those members wishing to test ministers. As well as frustrating members seeking to test ministers, the increased involvement of members supporting budget measures has frustrated and presented complications for the chair. By convention chairs alternate the call in debates on bills between the two sides of the chamber. The convention of alternating the call is conducive to interrogation of a minister when an opposition member is asking questions and a minister is responding. However, on the occasions that a government back bencher makes a contribution, occupants of the chair as well as members on the floor have appeared confused as to whether this should be considered the ‘government’ contribution or whether the minister should then be given the call.¹⁰⁴ It is evidently unclear to many participants whether the debate on estimates should occur between all members of the House, as it does for non-financial bills or whether estimates should be a more direct opportunity to test ministers. The current standing orders acknowledge the right

¹⁰⁴ See for example exchanges between a member and the Deputy Speaker at House of Representatives, *Official Hansard*, 5 June 2008, pp. 4767-68 and House of Representatives, *Official Hansard*, 18 June 2008, p. 5291.

of all members to contribute to a debate. However, granting the call to government back benchers in estimates prevents ministers from directly answering questions put to them by opposition speakers. If estimates is ideally understood as an interrogative exercise, contributions by government back benchers are akin to the practice of asking ‘Dorothy Dixers’ in question time. The stultifying effect that speeches in support of the budget have on interrogation is exacerbated by the five minute time period that members have available to them.

Currently, no House procedure requires ministers to submit to members’ sustained public questioning on their portfolio responsibilities.¹⁰⁵ The interactive character of debate that is encouraged in the Main Committee potentially provides a high point in the parliamentary year for this questioning to occur. However, this potential will not be realised until or unless a reasonable amount of time is allocated for consideration of estimates and senior ministers are required to attend and participate in these proceedings.

Conclusion

The various arrangements employed in House consideration of estimates have identified and, with varying degrees of success, satisfied some of the conditions necessary to hold ministers responsible for their portfolios. Committees of supply were capable of providing sufficient time for consideration of estimates – particularly when it is recognised that the size of the Commonwealth Government and the range of its activity were not nearly as broad in the first half of the twentieth century as they are now. Senior ministers, including prime ministers attended and participated in the debates on proposed expenditure for their portfolios. However, the formal character of the estimates debate in committees of supply militated against a level of interactivity that would allow members to test ministers. As consideration of estimates moved into what I have called ordinary committees of the whole, the lack of interactivity was exacerbated by a gradual erosion of time made available.

The brief experiment with estimates committees from 1979 to 1981 redressed the issue of lack of available time and was successful in providing a forum for private members to

¹⁰⁵ It could be suggested that question time provides the opportunity for members to interrogate ministers on matters relating to their portfolios. While it should not be discounted as a forum in which to hold ministers to account for policies and administration, question time does not allow for a sustained line of questioning – supplementary questions have not usually been allowed by recent Speakers. See I.C. Harris, B.C. Wright and P.E. Fowler, eds, *House of Representatives Practice*, 5th edition, Department of the House of Representatives, 2005, p. 532.

challenge ministers and departmental staff on their performance. The House estimates committees showed what an engaged government back bench could achieve in terms of parliamentary reform when the cabinet of the time feels electorally comfortable enough to open itself to additional scrutiny. The demise of the estimates committees left estimates, once again, in the hands of ordinary committees of the whole. Following the estimates committees experiment, the House has not again acknowledged that its exclusive power to propose appropriation measures should entail arrangements for the consideration of money bills beyond those in place for the passage of non-financial legislation. The absence of specific measures for the consideration of estimates should concern those who hold that the House's power to raise appropriations imposes on it, in particular, a responsibility to scrutinise those proposals. However, developments in the way that estimates are scrutinised have not meant that the House is completely bereft of devices for holding ministers to account for proposed expenditure.

Despite the House's insistence on treating its appropriation powers as unexceptional, amendments to the procedures by which bills are considered and the establishment of the Main Committee in 1994 provided a potential framework in which to hold ministers to account for estimates of expenditure. Consideration of estimates in the Main Committee has had varying levels of success in providing ministerial responsibility to the House. The proceedings can be conducive to the interactivity required to allow members to pursue ministers on issues of concern. However, matter requiring urgent attention are the making available of sufficient time for consideration of estimates and ensuring that appropriate ministers attend and participate in proceedings. While over the last few years most senior ministers have begun to attend estimates of their own accord, the opportunity to test them through sustained question and answered has been obstructed by limited available time and the contributions of private members who support the budget measures. The House must determine whether estimates should be treated as any other consideration in detail debate on a bill or whether the potential these debates have shown in providing ministerial accountability should be consolidated through either amendment of the standing orders or resolutions of the House or both.¹⁰⁶ Consideration of estimates in the House of Representatives has the potential to constitute a significant date in the annual calendar of parliamentary sittings. It is an occasion that invites members to test a government through the sustained interrogation of

¹⁰⁶ It is unlikely that any amendment to standing orders or resolution on estimates would pass the House without a further inquiry by the Procedure Committee.

individual ministers and, indeed, has occasionally risen to these heights. As the chamber in which governments are formed and to which the vast majority of ministers belong, the House of Representatives focus on estimates as a mechanism for ministerial responsibility should be crucial.