

Democracy in Australia – The Roles of the Speaker of the House of Representatives and the President of the Senate

The Speaker of the House of Representatives and the President of the Senate in the Federal Parliament of Australia are the principal office holders in their respective chambers. They are responsible for the conduct of the meetings of the House and Senate and therefore hold significant administrative and political power. Most of their responsibilities are very similar and both roles must be performed impartially.

The Speaker of the House of Representatives is the principal office holder in the House. The Speaker is responsible for the conduct of the meetings of the House (the sittings of the lower house of Parliament). The Speaker's position is one held by a Member of the house who is elected to Parliament in the usual way. At the beginning of each term of office of the Parliament, the first item of business is the election of the Speaker. Once elected, the Speaker is expected to detach him or herself from government activity in order to run the the House impartially. Like other members, the Speaker will usually be a member of a political party but after his or her appointment, the Speaker does not take part in the debates of the Parliament or vote. If the votes for or against a motion are tied, the Speaker, however, holds a casting vote. Because the Speaker does not vote in ordinary divisions of the House the political party to which she or he belongs loses a vote on the floor in daily sittings.

Election to the office of President of the Senate is carried out in a similar manner. The President is elected by Senators from the group of existing Senators and steps away from party political activity to perform the role impartially. A Deputy President is also elected, and that Senator has additional duties as the Chair of the Senate Standing Committee on Procedure. One substantial difference from the role of the Speaker of the House of Representatives is that the President, while refraining from participating in debate in the Senate, does exercise a vote in ordinary business. This reflects both the position of the Senate as a House of review, and the comparative sizes of the two houses (150 Members sit in the House of Representatives and 76 Senators in the Senate).

Both the Speaker and President have ceremonial duties and a place in the Commonwealth Table of Precedence (a list used to determine issues of protocol at official functions). The longer serving office holder of the two has the third place, and the other, the fourth.

The 2010 Federal Election and the current Parliament

Traditionally, the party which forms Government supplies the Speaker, but the problems associated with this arrangement were illustrated in the formation of the first Parliament after the 2010 Federal election. Neither the Coalition nor the ALP had a majority, but Julia Gillard gained sufficient numbers to form Government after receiving the support of the Greens and two independent members in the lower house. This minority government has two more votes in the lower House than the opposition.

Before government was formed, both major parties had agreed that the Speaker would be "paired", that is, that because the vote of the Speaker cannot be cast on behalf of his or her party, one member from the opposing party would refrain from voting. However, after the ALP formed government, the Liberal party argued that this pairing arrangement would be unconstitutional. After some delay, ALP member Harry Jenkins was voted Speaker of the House, and Liberal member Peter Slipper the deputy Speaker. Commentators have pointed out that in a close vote on the floor of the house, the Speaker would be able to force a pairing arrangement by temporarily excusing himself from the Chair, requiring the deputy Speaker to step in and so lose his vote.

In November 2011, Harry Jenkins stepped down from his position as Speaker, announcing that he intended to resume an active role in the business of the House. After a difficult session in which nine Government members were nominated by the Opposition, deputy Speaker Peter Slipper accepted the nomination and was elected Speaker. In October 2012, following claims against Slipper of harassment and misuse of parliamentary funds and public exposure of

details of the court case, Peter Slipper resigned and Labor MP, Anna Burke was voted in as Speaker, becoming the third Speaker for the current Parliament.

Problems in the Australian system

The difficulty of the Parliament agreeing on a Speaker after the 2010 Federal election illustrates that the removal of the Speaker from ordinary Parliamentary business is potentially a concern for the party in Government and for the Speaker. In addition to being removed from the activities of the Government, the need for the Speaker to withdraw from party business can be a disadvantage to the Speaker at an election. The Speaker can not raise matters in the House on behalf of his or her electorate but may raise these matters with government departments and Ministers outside the House. The Speaker will accordingly have had a relatively low profile, having not spoken out on electorate matters in the media or in the Parliament, while a high workload will also keep him or her away from the electorate during sitting time. This may leave the Speaker vulnerable to losing his or her seat, a clearly unsatisfactory outcome.

In practice, the Speaker is usually drawn from the pool of Members of the governing party who hold the safest seats in the country. In this way the re-election of the Speaker can be assured while he or she has withdrawn from party politics. However, this does reduce the pool of available talent for the position, and leave practical eligibility for the role in party hands rather than that of the House.

Because the President of the Senate continues to exercise a vote, the power balance in the Senate is not affected by the choice of the President. By convention, the Speaker and President avoid participating in debate except on a proposal which concerns the operation of the Parliament or the Senate.

The UK system

The Speaker of the House of Commons in the United Kingdom plays a similar role to that in the Australian system. There are, however, practices that make him or her more securely impartial. The Speaker is elected by Members of the House of Commons by secret ballot and an absolute majority is required. On election as the Speaker, the Member resigns his or her party membership. He or she then removes him or herself from political issues. The

constituents of the Member who is Speaker are assisted at the electoral office level but the Speaker will not directly advocate for them in Parliament.

In an election, major parties will not stand candidates against the Speaker, which removes the need for the Speaker to campaign. He or she stands for the seat as 'The Speaker seeking re-election'. In a new Parliament, one of the first orders of business is to re-establish the Speaker if he or she plans to continue in the role or, if not, to elect a new Speaker.

The advantage of the UK system is that it enhances independence by removing the Speaker from party politics and election concerns.

The Canadian system

In the Canadian parliament, which is also based on the Westminster system, the Speaker of the House operates under similar rules. He or she is elected by the Members of the House in a secret ballot, and casts only a deciding vote if there is a tie. Political parties in Canada have also embraced, from 1968, the UK principle of not standing candidates against the Speaker in an election. However, in 1972 the parties, anticipating a close election, did not come to an agreement and the seat of the sitting Speaker was contested.

The Speaker of the Senate in Canada is appointed by the Governor General on the advice of the Prime Minister. The Canadian upper house is substantially different to the Australian Senate, though, as all members of the house are appointed, making the Canadian upper house less a true house of review by elected representatives than is the Senate in Australia. The Canadian Speaker of the Senate continues to vote, and also to participate in debate, whereas the Australian President, by convention, does not participate in debate on most matters.

Alternative proposals

The practices in the UK go some way in enhancing the independence of the Speaker. To fully ensure the independence of the role, however, the Speaker could be directly elected by the people. Alternatively, if the Speaker is drawn from sitting Members, on election to the position, he or she could withdraw from his or her party, and would then be elevated to an independent Speakership and a by-election would be held for the former Member's seat. This would

provide formal independence for the Speaker since the UK system is based solely on convention. It might be argued that there would be unnecessary costs involved by the required by-election. If, however, the Speaker was elected for the life of two terms of Parliament the costs would be halved and the benefits would much outweigh the costs.

Senate Clerk, Rosemary Laing, argues that the successful working of the UK system shows that convention can resolve the problem of insufficient independence and that legislative or constitutional reform is too rigid and difficult. The problems which occurred at the start of the 2010 Federal Parliament would seem to contradict this view; the leader of the parliamentary Liberal party had, before the ALP formed Government, made an agreement to 'pair' the Speaker, but, after the Government was formed, the Opposition argued that the Constitution in fact barred such an arrangement.

The role of the Speaker of the House is an essential one for ensuring the lower house functions according to the Constitution and for protecting the rights of all members to speak. The need for the Speaker and President to campaign for re-election makes it impossible for those members to fully withdraw from party business. The short-lived Canadian attempt at enforcing agreements not to stand against the Speaker shows the fragility of conventions.

The ability of the Speaker of the House and President of the Senate to regulate the Parliament and to act with full impartiality is very important for the democratic functioning of Parliament. Reform is required to enhance the independence of these positions in Australia.

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