BUSTING THE BUDGET

HOW TO STOP THE ABBOTT BUDGET

Much of the public debate on the senate "blocking supply" suggests that it is an all or nothing tactic. However this is not the case. The Senate can carefully cherry-pick the elements in the budget that it demands be amended and force the Abbott government to either accept those amendments or see its budget fail.

This is a short explanation of the Senate's powers and its ability to force a budget debate on its terms with the government-dominated House of Representatives.

the bills

The Federal budget contains two main pieces of legislation:

Appropriation Bill (No 1): This is the bill that covers the ordinary services of government - payment of public servant wages, new expenditure that has not been previously approved, payments to local government etc. It is the main budget bill and accounts for approximately 25% of the annual outlay of the Commonwealth Government.

Appropriation Bill (No 2): This deals with all other annual budget allocation. Some of the highly controversial parts of the budget such as medicare co-payments are to be found in this bill.

how the bills can be dealt with

The Senate can block either or both bills. It can also amend Appropriation Bill (No. 2). This is generally called the "Supply Bill".

Section 53 of the constitution says the Senate cannot amend Appropriation Bill (No. 1). However section 53 also says:

> "The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein."

Odgers Australian Senate Practice (the most authoritative text on the Senate's powers) takes the view that the Constitution permits the Senate to block supply and, in effect, to force amendments on the House of Representatives. On section 53, it states:

> "The provisions of section 53 are usually described as limitations on the power of the Senate in respect of financial legislation, but they are procedural limitations only, not substantive limitations on power, because the Senate can reject any bill and can decline to pass any bill until it is amended in the way the Senate requires. In particular, the distinction between an amendment and a request is purely procedural: in one case the Senate amends a bill itself, in the other it asks the House of Representatives to amend the bill. In both cases the bill is returned to the House of Representatives for its agreement with the proposed amendment. In the absence of agreement the Senate can decline to pass the bill."

In other words the Senate can demand the Supply Bill be amended by refusing to pass it unless amendments are made. It can provide those amendments to the House of Representatives and force the Abbott government to either accept the amendments or see the budget voted down.

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assuming this happens and there is a stand-off then what will happen?

If the Abbott government then refuses to accept the amendments and the budget fails to be adopted by 1 July 2014 then most of the ordinary services of government would continue. This is because 75% of Commonwealth expenditure is not covered by the Supply Bill, but is set out in separate Acts.

These are called separate appropriations and for the most part continue from year to year and are not dependent on the passing of the budget.

If the Senate blocked supply by not passing both Appropriation Bills, given that the majority of the Commonwealth's expenditure is covered by special appropriations, most functions of government would be able to continue.

Specifically:

- Welfare payments and pensions would continue under the *Social Security Act 1999*
- Medicare payments would continue under the *Health Insurance Act 1973*, and
- Payments to the states and territories would continue under the *Federal Financial Relations Act 2009*

If both bills were blocked, then the regressive proposed changes to welfare, medical and education spending would not occur.

The main negative effect would be to starve Commonwealth departments of the funds necessary to make periodic wages payments to public servants. While departments may have funds available from prior years appropriations, these would be quickly depleted. A likely result would be that public servants would either:

- be required to work without periodic payment or
- be stood down for a period.

However, as public servants have a contractual relationship with the Commonwealth, the Commonwealth would remain liable to make the necessary wages payments in due course. The effect would be to delay the payment of public servants for the period of any impasse in the Senate.

conclusion

Essentially it is not a case of all or nothing for the Senate. The Senate can choose the grounds on which to fight the budget, for example refusing to agree to cuts to local government funding, welfare, schooling, health and the environment.

With both the Supply Bill and the balance of the budget the Senate can target the debate to the deeply unpopular and unfair elements in the budget. This will force the Abbott Government to either agree to these fair amendments or see its entire budget defeated with the consequential shut down of much of the Government.

THE GREENS

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