

Procedure Committee

Second report of 2013

The committee reports to the Senate on the following matters considered at its meeting of 10 December 2013.

Parliamentary privilege: republication of Hansard extracts

By letter dated 27 May 2013, the President of the Senate, Senator the Honourable John Hogg, referred to the committee under standing order 17(3) a matter raised by the House Committee concerning the publication of Hansard extracts. The committee was unable to consider the matter before the end of the 43rd Parliament.

The publication of Hansard as a whole is ordered by the Senate and attracts absolute privilege. A member of the House Committee raised a concern that, with increased use of electronic devices, the transmission of links to parts of debates is increasingly common. In this case a person, including a senator, may be republishing an extract, an action which attracts only qualified privilege. The House Committee asked the Procedure Committee to consider whether adequate protection was available to senators given modern methods of publication.

The committee considered a discussion paper from the Clerk which is published as attachment 1 to this report. The committee noted the purpose of parliamentary privilege is to protect the ability of a House, its committees and members to carry out their functions. It noted that the republication of Hansard extracts is not essential to the carrying out of parliamentary functions and is therefore appropriately covered by qualified privilege.

The committee further noted that extending absolute parliamentary privilege to the republication of Hansard extracts would involve a significant change to the law which should not be undertaken without a detailed and wide-ranging inquiry by an appropriate committee.

The committee was not persuaded that such an inquiry was warranted.

Speaking times in the open-ended adjournment debate

A temporary order providing for 5, 10 and 20 minute speaking times for the open-ended adjournment debate on Tuesdays was recommended by the committee in its

First report of 2013 and adopted by the Senate. The temporary order is in operation till 30 June 2014.

The committee is of the view that the order has operated successfully and is beneficial to senators wishing to participate in the open-ended adjournment debate on Tuesdays.

Recommendation 1

The committee therefore **recommends** to the Senate that the temporary order be adopted as a permanent amendment of standing order 54(6), with immediate effect, as follows:

Omit standing order 54(6), substitute:

- (6) On the question for the adjournment of the Senate on Tuesday, a senator shall speak to that question for not more than 5 minutes, except in accordance with the following paragraphs:
 - (a) if no other senator wishes to speak for up to 5 minutes, a senator who has not already spoken may speak for up to 10 minutes; and
 - (b) if no other senator wishes to speak under paragraph (a), a senator who has not already spoken may speak for up to 20 minutes.

Removal of gender-specific language in standing orders

Before her retirement, Senator Crossin asked the President to refer to the committee the use of the terms “chairman” and “chairmen” in some standing orders, noting that other standing orders used the gender-neutral term “chair”. The President referred this matter to the committee under standing order 17(3) but the committee was unable to consider it before the end of the 43rd Parliament.

The committee noted that standing order 25 which establishes the legislative and general purpose standing committees has been the most frequently amended standing order in modern times and uses the term “chair” throughout. That term is also used in some committee-specific standing orders, including those establishing the Procedure Committee (standing order 17), the Committee of Privileges (standing order 18), the Library Committee (standing order 20), the House Committee (standing order 21) and the Publications Committee (standing order 22). The term “chairman” is used in standing order 19 (Appropriations and Staffing Committee), standing order 23 (Regulations and Ordinances Committee) and standing order 24 (Scrutiny of Bills Committee). Standing order 22A, establishing the Senators’ Interest Committee, uses both terms.

“Chairman” also occurs in the titles of Deputy President and Chairman of Committees, and Temporary Chairman of Committees. The former title also appears inconsistently in the statute books.

These inconsistencies are based in historical circumstances, involving amendment of some standing orders and not others, rather than in logic or principle. The committee is of the view that these inconsistencies should be removed when the standing orders are next reprinted. The affected standing orders and proposed changes are contained in attachment 2.

Recommendation 2

The committee therefore **recommends** that the Senate agree that the terms “chairman” and “chairmen” be replaced by the terms “chair” and “chairs” wherever occurring in the standing orders, and that the change take effect in the next reprint of the standing orders.

Routine of business

The committee also advises the Senate that it proposes to keep the routine of business under review and to report to the Senate in 2014 with any proposals for further changes.

Senator Stephen Parry
(Chair)

