

The Senate

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## Procedure Committee

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Parliamentary privilege: republication of Hansard extracts

Speaking times in the open-ended adjournment debate

Removal of gender-specific language in standing orders

Routine of business

Second report of 2013

December 2013

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# **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 43<sup>rd</sup> 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)





### **Publication of Hansard and parliamentary privilege**

#### *Purpose of parliamentary privilege*

Parliamentary privilege exists to protect the operations of the Houses and their committees and the ability of members to carry out their functions as members. The boundaries of parliamentary privilege are determined by necessity:

- what areas does parliament need to have exclusive jurisdiction over?
- what activities is it necessary to protect in order for parliament to carry out its functions freely and without improper interference?

Parliamentary privilege operates as a collection of immunities from the ordinary law of the land.

#### *Main immunities*

Freedom of speech is often cited as the main immunity. It was first codified in the Bill of Rights 1689 (“That the freedom of Speech and debates or proceedings in Parliament ought not to be impeached or questioned in any Court of place out of Parliament”). Freedom of speech is actually part of the broader immunity of proceedings from impeachment or question by the courts. Minor immunities include immunity from arrest in civil causes<sup>1</sup>, exemption from jury service and exemption from compulsory attendance in a court or tribunal. Though they are seldom used, they embody the important principle that the Houses have first call on their members, and service as an elected representative should not be impeded by the requirements of legal proceedings before a court.

These immunities have been partially codified in the *Parliamentary Privileges Act 1987* which includes a definition of “proceedings in Parliament” and defines what courts and tribunals are unable to do by way of “questioning or impeaching” those proceedings. The Act also restricts the period of time during which the immunities from arrest in civil causes and compulsory attendance before courts apply to sitting days, committee meeting days and 5 days either side of each.

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<sup>1</sup> Such as debt, a common hazard for members of the House of Commons in the 19<sup>th</sup> century until the abolition of imprisonment for debt in 1870.

*Privilege attaching to preparation and publication of documents*

Each House, together with its committees, possesses the power to prepare and publish documents with absolute privilege attaching to the publication of the documents and their contents. This power was inherited under section 49 of the Constitution from the UK House of Commons (where it derived from the *Parliamentary Papers Act 1840*). It was partly codified in the *Parliamentary Papers Act 1908 (Cth)* and is now covered by paragraph 16(2)(d) of the 1987 Act (which provides that publication of a document “by or pursuant to an order of a House or a committee” is part of proceedings in Parliament and therefore absolutely privileged). The protection exists as a matter of statute law.

*– Hansard*

Standing order 43(3) authorises publication of the record of debate in the Senate, known as Parliamentary Debates or Hansard. Because of paragraph 16(2)(d) of the 1987 Act, such publication is absolutely privileged. Unlike the 1908 Act which referred to publication by the Government Printer, the authority to publish in standing order 43 is not limited to any particular publisher or medium. It extends to publication of Hansard in any medium. The protection is regarded as applying to publication of the whole debate.<sup>2</sup>

When an individual senator chooses to publish an extract of a speech or an individual contribution or a link to part of a larger debate, this is clearly a separate act of publication that does not come within the ambit of the authorisation given by standing order 43(3). The publication of extracts involves different issues to the publication of the debates as a whole:

- it does not serve the general purpose of making the proceedings of parliament available to the public to the maximum extent possible;
- extracts can be selective and therefore unrepresentative of the character of the debate as a whole;
- publication is likely to be for a secondary purpose such as informing constituents or communicating with the media (in other words, a purpose other than participation in proceedings in Parliament).

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<sup>2</sup> For application of this principle in other Houses, see *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 24<sup>th</sup> ed., 2011, p. 224; House of Representatives Practice, 6<sup>th</sup> ed., 2012, p. 739.

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The publication of an extract is not a proceeding in Parliament and does not therefore enjoy the absolute privilege that protects the operations of Parliament as an institution. Publication of extracts is not necessary for the proper functioning of the institution. Protection for individual senators or members – or, indeed, any others – who choose to publish extracts of debates is not a question of parliamentary privilege, but there may be other protections available that are for the courts to apply, including qualified privilege.<sup>3</sup>

For example, section 10 of the 1987 Act provides a defence in relation to defamation actions for all fair and accurate reports of proceedings in Parliament.

It is also possible, although not tested, that the publication by a member of extracts of debates or an individual speech might attract the implied freedom of political communication found by the High Court in the Constitution as a corollary of the system of representative government.

#### *Privilege attaching to broadcasting of proceedings*

Proceedings in Parliament are broadcast by radio, television, by live streaming on the internet and through ParlView, a new service which provides access to audio-visual coverage of current and previous proceedings, together with the capacity to pause, search and download footage.

The *Parliamentary Proceedings Broadcasting Act 1946* requires the ABC to broadcast proceedings of the Houses and any joint sitting on national radio, in accordance with general principles determined by the Joint Committee on the Broadcasting of Parliamentary Proceedings. The principles were last reviewed earlier this year and are contained in a [report](#) presented to both Houses in May and June. Section 15 of the Act confers immunity from legal action, both civil and criminal, on the radio broadcast and rebroadcast of proceedings.

[Resolutions](#) of the Senate authorise:

- the televising of Question Time by the ABC

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<sup>3</sup> Statements which attract qualified privilege include a statement made in the performance of some public or private duty, legal or moral, provided that the statement is communicated to a person who has a reciprocal interest in receiving it. Qualified privilege is not available where the statement is excessive for the purpose which attracts the privilege or the communication is activated by malice.

- live electronic publication of sound and visual images of proceedings of the Senate and its committees, including on the internet.

These publications attract absolute privilege because they occur by order of the Senate.

Elsewhere, the resolutions permit the broadcasting and rebroadcasting of excerpts of proceedings in accordance with conditions determined by the Senate. (The House has equivalent resolutions.) Broadcasting of excerpts is protected by qualified privilege.

#### *The question raised by the House Committee*

The matter referred to the committee by the President under standing order 17(3) was raised by Senator Heffernan at a meeting of the House Committee. It is stated that senators and other people increasingly provide access to debates by sending an electronic link and that this may amount to the republication of an extract that is covered only by qualified privilege. The House Committee requests the Procedure Committee to examine the standing order to ensure that there is adequate protection considering the modern publication methods that are used.

#### *Discussion*

As the foregoing analysis of privilege attaching to publication of documents and broadcasting of proceedings shows, if a publication is authorised by the Senate it attracts absolute privilege. Other publications, including publication and republication of excerpts or extracts, may attract qualified privilege if they are fair and accurate. These principles apply regardless of the medium of publication. Just as senators need to be cautious about repeating potentially damaging remarks outside the chamber, they need to exercise the same level of caution in republishing extracts of proceedings in any medium.

Implicit in the question posed by the House Committee is the suggestion that because modern publication methods make republication so easy, perhaps republication should attract more than qualified privilege?

Similar suggestions have been rejected in Australia and comparable jurisdictions over the past couple of decades for the same reason: **Parliamentary privilege should be used to protect only those acts which are necessary for the proper functioning of the parliament.** It should not be used for the protection of secondary purposes.

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– *Australia*

For example, in November 1991, the Transport and Communications Legislation Amendment Bill 1991 was amended by the Senate, with the agreement of all parties, to remove provisions amending the Parliamentary Proceedings Broadcasting Act that would have extended absolute privilege to televised proceedings of the Houses and their committees. It was pointed out that the absolute immunity for radio broadcasts was enacted at a time when the ABC's continuous broadcast was the only broadcast available. Permitting television stations to broadcast and rebroadcast excerpts of proceedings involved different issues. Qualified privilege was available for fair and accurate reports. As edited television extracts could constitute highly unfair and inaccurate reports of proceedings it was inappropriate for them to have absolute privilege.

– *New Zealand*

The same distinction has been made in a recent report of the Privileges Committee of the New Zealand House of Representatives (June 2013).<sup>4</sup> In recommending that the Government introduce a parliamentary privileges bill incorporating many features of the 1987 Australian Act to address inroads by the courts into the business of parliament, the committee recommended that the bill include provisions:

- to confer absolute privilege on:
  - the live broadcast of proceedings in the House and select committees;
  - the delayed broadcast or rebroadcast of such proceedings made by order or under the authority of the House;
- to provide for qualified privilege to apply to:
  - fair and accurate reports of proceedings of the House, or summaries using extracts, by any person;
  - the broadcast or other publication of extracts of parliamentary proceedings, including select committees, made other than by order or under the authority of the House.

These recommendations had also been made by previous NZ Privileges Committees.

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<sup>4</sup> *Question of privilege concerning the defamation action Attorney-General and Gow v Leigh*, Report of the Privileges Committee, 1.17A, June 2013.

– *United Kingdom*

The recent report of the UK Joint Committee on Parliamentary Privilege (July 2013) also affirmed these principles, while noting that the *Parliamentary Papers Act 1840* needed to be brought up to date to remove any ambiguity about the status of electronic records, among other things. Responding to calls by the media for absolute privilege to apply to all fair and accurate reports on the grounds of freedom of speech, the committee concluded:

We do not accept the argument that full freedom of expression in Parliament is dependent on a similar freedom being enjoyed by the media. The fundamental purpose of affording absolute privilege to proceedings in Parliament is to protect those proceedings themselves, so that the democratically elected representatives of the people can engage in free and fearless debate on issues of public concern. Such debate is the cornerstone of any democratic society. But Parliament's work can be done irrespective of whether or not it is reported... So while the freedom to report parliamentary debates in the media is of vital importance in a democratic society, it raises different issues, and it can be protected in different ways. That defence is not available, however, outside the field of defamation.<sup>5</sup>

The report noted the possibility that members could be used, wittingly or unwittingly, by the media to “launder” information that the media could then publish with impunity. While this is an extreme possibility, it also demonstrates the soundness of the traditional approach to what should be covered by parliamentary privilege, including where the line should be drawn between what is necessary and what is secondary.

*Conclusion*

These examples concern both media reporting of proceedings and the republication of speeches by members. They demonstrate that it is difficult to identify a principled basis on which a distinction could be drawn between the secondary, though important, function of media reporting and republication of parliamentary proceedings, and the secondary, though important, function performed by members in republishing speeches for the information of constituents and the media.

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<sup>5</sup> HL Paper 30, HC 100, p. 49.

If one type of publication were to be covered by qualified privilege and the other by absolute privilege on the basis of the identity of the person performing the act of publishing, this would represent a major shift in parliamentary practice and would raise complex questions about civil and political rights. It would be a departure from practices recommended in the most recent reviews of the issue in comparable jurisdictions.

Such a shift should not be undertaken without a detailed and wide-ranging inquiry by an appropriate committee. As it is highly likely that any such change would require legislation, the appropriate committee may well be a joint select committee to examine the issue on behalf of the Parliament as a whole.

Clerk's Office  
July 2013





**Gender specific language in the standing orders: mark-up of affected standing orders**

**CHAPTER 2**

**OFFICE OF THE PRESIDENT**

**6 Election of President**

- (1) Whenever the office of President becomes vacant, whether because of section 17 of the Constitution or of the standing orders, the Clerk shall act as ~~chairman~~ **chair** of the Senate prior to the election of the President, and shall have the powers of the President under the standing orders while so acting.
- (2) A senator, addressing the Clerk, shall propose to the Senate as President some senator then present, and move that that senator take the chair of the Senate as President. The senator proposing the motion and any senator speaking to it may speak for not longer than 15 minutes.
- (3) If only one senator is proposed as President, the senator so proposed is called by the Senate to the chair without any question being put, shall express a sense of the honour proposed to be conferred on the senator, and shall be conducted to the chair.
- (4) If 2 or more senators are proposed as President, a motion shall be made regarding each such senator, that that senator take the chair of the Senate as President, and each senator so proposed shall express a sense of the honour proposed to be conferred on the senator, and may address the Senate.

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## CHAPTER 3

### DEPUTY PRESIDENT AND ~~CHAIRMAN~~ CHAIR OF COMMITTEES

#### 9 Term of office

- (1) At the commencement of the sittings next ensuing after the 30th day of June following each periodical election, or at the commencement of the session after a general election of the Senate, or when any vacancy occurs, the Senate shall appoint a senator to be Deputy President and ~~Chairman~~ **Chair** of Committees.
- (2) The office of Deputy President and ~~Chairman~~ **Chair** of Committees shall become vacant:
  - (a) on the day next before the first sitting day of the Senate after the 30th day of June following a periodical election; and
  - (b) on the date of a proclamation dissolving the Senate.

*(amended 6 May 1993)*

#### 10 Appointment of Deputy President

The Deputy President and ~~Chairman~~ **Chair** of Committees shall be appointed in a similar manner to the President.

#### 11 Duty of ~~Chairman~~ Chair

The ~~Chairman~~ **Chair** of Committees shall take the chair of the committee at the table whenever a committee of the whole is constituted.

#### 12 Temporary ~~Chairman~~ Chairs

The President shall nominate at the commencement of each Parliament a panel of not less than 2 senators who may act as Temporary ~~Chairmen~~ **Chairs** of Committees when requested so to do by the ~~Chairman~~ **Chair** of Committees, or when the ~~Chairman~~ **Chair** of Committees is absent.

## CHAPTER 4

### ABSENCE OF PRESIDENT, DEPUTY PRESIDENT AND OFFICERS

#### 15 Relief of President

- (1) The Deputy President shall take the chair whenever requested so to do by the President during a sitting of the Senate, without any formal communication to the Senate.
- (2) During the absence of the Deputy President, the President may call upon any one of the Temporary ~~Chairmen~~ **Chairs** of Committees to relieve temporarily in the chair, without any formal communication to the Senate.

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## CHAPTER 5

### STANDING AND SELECT COMMITTEES

#### Standing committees

#### 19 Appropriations and Staffing

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- (6) The ~~chairman~~ **chair** of the committee shall be the President, who may from time to time appoint another member of the committee to be deputy ~~chairman~~ **chair**, who shall act as ~~chairman~~ **chair** at any time when there is no ~~chairman~~ **chair** or the ~~chairman~~ **chair** is not present at a meeting of the committee.
- (7) Where the votes on any question before the committee are equally divided, the ~~chairman~~ **chair**, or the deputy ~~chairman~~ **chair** when acting as ~~chairman~~ **chair**, shall have a casting vote.

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#### 22A Senators' Interests

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- (5) The ~~chairman~~ **chair** may from time to time appoint a member of the committee to be deputy ~~chairman~~ **chair**, and the member so appointed shall act as ~~chairman~~ **chair** of the committee when there is no ~~chairman~~ **chair** or the ~~chairman~~ **chair** is not present at a meeting of the committee.
- (6) Where votes on a question before the committee are equally divided, the ~~chairman~~ **chair**, or the deputy ~~chairman~~ **chair** when acting as ~~chairman~~ **chair**, shall have a casting vote.
- (7) The committee shall have power to send for persons or documents, but shall not exercise that power, nor undertake an investigation of the private interests of any person, except in accordance with a decision agreed to by not less than 3 members of the committee other than the ~~chairman~~ **chair**.

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#### 23 Regulations and Ordinances

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- (6) The committee shall elect as ~~chairman~~ **chair** a member appointed to the committee on the nomination of the Leader of the Government in the Senate.
- (7) The ~~chairman~~ **chair** may from time to time appoint a member of the committee to be deputy ~~chairman~~ **chair**, and the member so appointed shall act as ~~chairman~~ **chair** of the committee when there is no ~~chairman~~ **chair** or the ~~chairman~~ **chair** is not present at a meeting of the committee.

- (8) Where votes on a question before the committee are equally divided, the ~~chairman~~ **chair**, or the deputy ~~chairman~~ **chair** when acting as ~~chairman~~ **chair**, shall have a casting vote.

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## 24 Scrutiny of Bills

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- (4) The committee shall elect as ~~chairman~~ **chair** a member appointed to the committee on the nomination of the Leader of the Opposition in the Senate.
- (5) The ~~chairman~~ **chair** may from time to time appoint a member of the committee to be deputy ~~chairman~~ **chair**, and the member so appointed shall act as ~~chairman~~ **chair** of the committee when there is no ~~chairman~~ **chair** or the ~~chairman~~ **chair** is not present at a meeting of the committee.
- (6) When votes on a question before the committee are equally divided, the ~~chairman~~ **chair**, or the deputy ~~chairman~~ **chair** when acting as ~~chairman~~ **chair**, shall have a casting vote.

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## General committee provisions

### 28 Time for reporting

On the appointment of every committee other than a standing committee a day shall be fixed for the reporting of its proceedings to the Senate, by which day the final report of the committee shall be presented by the ~~chairman~~ **chair**, unless further time is moved for and granted.

### 30 Meetings

- (1) The mover of a committee, if a member of it, shall fix the time for the first meeting of the committee; if the mover is not a member the secretary shall fix the time.
- (2) Notice of meetings subsequent to the first meeting shall be given by the secretary attending the committee:
- (a) pursuant to resolution of the committee;
  - (b) on instruction of the ~~chairman~~ **chair**; or
  - (c) upon a request by a quorum of members of the committee.
- (3) A committee is authorised to hold meetings by electronic communication without the members of the committee or witnesses being present in one place, provided that:
- (a) when a committee deliberates, members of the committee constituting a quorum are able to speak to, and hear, each other contemporaneously;

- (b) when a witness gives oral evidence, members of the committee constituting a quorum are able to hear the witness contemporaneously and to put questions to the witness in each other's hearing; and
- (c) the chair of such a meeting takes care to ensure that a quorum is maintained during the meeting and that the standing orders and rules of the Senate are observed.

*(amended 13 February 1997)*

### **31 Chairman Chair**

A committee, before transacting any business, shall elect one of its members to be ~~chairman~~ **chair**, who, unless it is otherwise provided, shall have a deliberative vote only.

### **34 Powers**

- (1) The Senate may give a committee power to send for persons and documents, and a committee with that power may summon witnesses and require the production of documents.
- (2) The ~~chairman~~ **chair** of a committee shall direct the secretary attending the committee to invite or summon witnesses and request or require the production of documents in accordance with the orders of the committee.

### **38 Reports**

- (1) The ~~chairman~~ **chair** of a committee shall prepare a draft report and submit it to the committee.
- (2) After a draft report has been considered and agreed to by a committee, with or without amendment, a minority or dissenting report may be added to the report by any member or group of members, and any member or participating member may attach to the report relevant conclusions and recommendations of that member.
- (3) If any senator other than the ~~chairman~~ **chair** submits a draft report to a committee, the committee shall first decide upon which report it will proceed.
- (4) After a draft report has been considered the whole or any part of it may be reconsidered and amended.
- (5) A report of a committee shall be signed and presented to the Senate by the ~~chairman~~ **chair**.
- (6) By order of the Senate a committee may report from time to time its proceedings or evidence.
- (7) If the Senate is not sitting when a committee has prepared a report for presentation, the committee may provide the report to the President or, if the President is unable to act, to the Deputy President, or, if the Deputy

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President is unavailable, to any one of the Temporary ~~Chairmen~~ **Chairs** of Committees, and, on the provision of the report:

- (a) the report shall be deemed to have been presented to the Senate;
- (b) the publication of the report is authorised by this standing order;
- (c) the President, the Deputy President, or the Temporary ~~Chairman~~ **Chair** of Committees, as the case may be, may give directions for the printing and circulation of the report; and
- (d) the President shall lay the report upon the table at the next sitting of the Senate.

*(amended 24 August 1994, 13 February 1997)*

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## CHAPTER 8

### SITTINGS, QUORUM AND ADJOURNMENT OF THE SENATE

#### 52 Quorum during sitting

- (1) If it appears, on the report of a division of the Senate by the tellers, that a quorum is not present, the President shall adjourn the Senate till the next sitting day; and no decision of the Senate shall be considered to have been arrived at by such division.
- (2) When the President is informed by the ~~Chairman~~ **Chair** of Committees that a quorum is not present, the bells shall be rung for 4 minutes; the President shall then count the Senate, and if no quorum is then present, shall adjourn the Senate till the next sitting day; but if a quorum is then present, the President shall leave the chair and the committee resume.
- (3) If a senator draws attention to the lack of a quorum, the bells shall be rung for 4 minutes; the President shall then count the Senate, and, if a quorum is not present, shall adjourn the Senate till the next sitting day.
- (4) When the attention of the President, or of the ~~Chairman~~ **Chair** of Committees, has been called to the absence of a quorum, a senator shall not leave the chamber until the Senate has been counted by the President.
- (5) The doors of the Senate shall be unlocked when the President is counting the Senate.
- (6) When the Senate is adjourned for lack of a quorum the names of the senators present shall be entered in the Journals.
- (7) Time taken to form a quorum shall not be regarded as part of the amount of time allowed for a senator to speak in a debate or ask a question or for a debate.

*(amended 13 February 1997)*

#### 54 Adjournment without motion

- (1) At the time specified for each sitting day, the President shall propose the question that the Senate do now adjourn, and that question shall be open to debate.
- (2) If the Senate is in committee at that time, the ~~chairman~~ **chair** shall leave the chair and report to the Senate, and on such a report being made the President shall forthwith propose the question that the Senate do now adjourn, and that question shall be open to debate.
- (3) If the Senate or the committee is in division at that time the President shall not propose that question or the ~~chairman~~ **chair** leave the chair till the result of the division has been declared.



- (4) If the consideration of government documents under standing order 61 or the consideration of committee reports under standing order 62(1) concludes before the expiration of the times provided, the question for the adjournment shall then be proposed.
- (5) Except on Tuesday debate on the question for the adjournment shall not exceed 40 minutes, and a senator shall not speak to that question for more than 10 minutes on any day. On Tuesday at the conclusion of debate, and on other days at the expiration of 40 minutes, at the conclusion of debate, or at the time specified for adjournment, whichever is the earlier, or if there is no debate, the President shall adjourn the Senate without putting the question.
- (6) On the question for the adjournment of the Senate on Tuesday, a senator who has spoken once subject to the time limit of 10 minutes may speak again for not more than 10 minutes if no other senator who has not already spoken once wishes to speak, provided that a senator may by leave speak for not more than 20 minutes on one occasion.

*(amended 13 February 1997, 7 December 1998, 28 August 2002, 10 March 2009)*

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## CHAPTER 9

### TIMES OF SITTINGS AND ROUTINE OF BUSINESS

#### 55 Times of meetings

- (1) The days and times of meeting of the Senate in each sitting week shall be:
 

Monday	12.30 pm – 6.30 pm, 7.30 pm – 10.30 pm
Tuesday	12.30 pm – adjournment
Wednesday	9.30 am – 8 pm
Thursday	9.30 am – 8.40 pm.
- (2) The President, at the request of an absolute majority of the whole number of senators that the Senate meet at a certain time, shall fix a time of meeting in accordance with that request, and the time of meeting shall be notified to each senator.
- (3) For that purpose a request by the leader or deputy leader of a party in the Senate shall be deemed to be a request by every senator of that party.
- (4) A request may be made to the President by delivery to the Clerk, who shall immediately notify the President.
- (5) If the President is unavailable, the Clerk shall notify the Deputy President, or, should the Deputy President be unavailable, any one of the Temporary ~~Chairmen~~ **Chairs** of Committees, who shall be required to summon the Senate on behalf of the President, in accordance with this standing order.

*(amended 13 February 1997, 4 September 1997, 7 December 1998, 28 August 2002, 14 May 2003)*

#### 68 Interruption of business

- (1) If any business before the Senate or a committee of the whole is interrupted by the operation of any standing or other order, such business may be dealt with at a later hour of the day, or shall be set down on the Notice Paper for the next day of sitting.
- (2) Where an order of the Senate specifies a time for the consideration of a matter, at the specified time:
  - (a) if a question is before the Senate consideration of that question shall be interrupted, a senator speaking shall be taken to have leave to continue the senator's speech, and resumption of debate on that question shall be made an order of the day for a later hour of the day without any question being put;
  - (b) if the Senate is in committee the ~~chairman~~ **chair** shall report progress, and further consideration of the business before the committee shall be made an order of the day for a later hour of the day without any questions being put; or

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- (c) if a vote is being taken the vote shall be completed and the procedures in paragraph (a) or (b) then followed as appropriate.

## CHAPTER 18

### DIVISIONS

#### 99 Voting by President

- (1) The President and the Deputy President and ~~Chairman~~ **Chair** of Committees shall in all cases be entitled to a vote.
- (2) The President and the Deputy President and ~~Chairman~~ **Chair** of Committees when in the chair may vote by stating to the Senate or to the committee whether they vote with the “ayes” or with the “noes”.

#### 101 Taking of divisions

- (1) Before a division is taken the Clerk shall ring the division bells for 4 minutes.
- (2) The doors shall be closed and locked as soon after the bells cease ringing as the President directs, and then no senator shall enter or leave the chamber until after the division.
- (3) When successive divisions are taken, and there is no debate after the first division, the bells for each ensuing division shall be rung for one minute only.
- (4) When the doors have been locked, and senators are in their places, the President shall state the question to the Senate, and then direct the “ayes” to proceed to the right of the chair, and the “noes” to the left, and shall appoint one teller for each side.
- (5) Every senator present when the question is stated shall vote, except the President, or the ~~Chairman~~ **Chair** of Committees in the chair of a committee, for whom voting shall be optional.
- (6) When a division has been called for, senators shall take seats on the side of the chamber on which they intend to vote, and shall not move from those seats after tellers have been appointed until the result of the division has been declared.

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## CHAPTER 20

### BILLS

#### 116 Consideration in committee

In committee of the whole the preamble shall stand postponed without question put, and the clauses shall be read in their order separately by the ~~chairman~~ **chair**, and on each clause the question shall be put by the ~~chairman~~ **chair**, that the clause stand as printed. The words of enactment at the head of the bill shall not be put to the committee.

#### 120 Report from committee

- (1) When the consideration of a bill in committee of the whole has been concluded the question shall be put that this bill (or this bill as amended) be reported, and if that question is agreed to the ~~chairman~~ **chair** shall leave the chair and report the bill forthwith.
- (2) On the motion that the bill be reported the reconsideration of any clauses may be moved as an amendment.
- (3) If a bill is reported with amendments a future day shall be appointed for taking the report into consideration and moving its adoption, and the bill, as reported, shall be printed, but if no amendments have been made the report may be at once adopted.

#### 124 Corrections

Amendments of a formal nature may be made, and clerical or typographical errors may be corrected, in any part of a bill by the ~~Chairman~~ **Chair** of Committees.

#### 140 Requests on bills not amendable by the Senate

- (1) Requests to the House of Representatives may be made at all or any of the following stages of a bill which the Senate may not amend:
  - (a) On the motion for the first reading of the bill.
  - (b) In committee after the second reading has been agreed to.
  - (c) On consideration of any message from the House of Representatives referring to the bill.
  - (d) On the third reading of the bill.
- (2) A committee may recommend that the Senate make, press, or modify, and may generally deal with, requests on the bill.
- (3) Proceedings in committee shall be as follows:
  - (a) The ~~chairman~~ **chair** shall call on each clause or item, and put the question—That the clause or item be now passed without requests.

- (b) If motions for requests are moved and passed, the ~~chairman~~ **chair** shall put a further question—That the clause or item be now passed, subject to the requests being complied with.
  - (c) If either of those questions is negatived, it shall again be proposed by the ~~chairman~~ **chair**, and consideration of the clause or item may continue until either question is agreed to.
  - (d) At the request of a senator a clause or item shall be divided.
- (4) When a request to the House of Representatives is made a message shall be sent to the House of Representatives returning the bill and requesting the House to make amendments in the bill in accordance with the request.

## 142 Limitation of debate on bills

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- (3) On such further motion or motions with regard to the allotment of time, debate shall not exceed 60 minutes, and in speaking, a senator shall not exceed 10 minutes, and if the debate is not sooner concluded, forthwith upon the expiration of that time the President or the ~~chairman~~ **chair** shall put any questions on any amendment or motion already proposed from the chair.
- (4) For the purpose of bringing to a conclusion any proceedings which are to be brought to a conclusion on the expiration of the time allotted under any motion passed under the provisions of this standing order, the President or the ~~chairman~~ **chair** shall at the time appointed put forthwith the question on any amendment or motion already proposed from the chair, and, in the case of the consideration of any bill in committee, shall then put any clauses and any amendments and new clauses and schedules, copies of which have been circulated among senators 2 hours at least before the expiration of the allotted time, and any other question requisite to dispose of the business before the Senate or committee, and no other amendments, new clauses or schedules shall be proposed.

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## CHAPTER 21

### COMMITTEES OF THE WHOLE

#### 144 Proceedings in committee

- (1) A committee shall consider only the matters referred to it by the Senate.
- (2) A question in committee shall be decided in the same manner as in the Senate.
- (3) A motion contradictory of a previous decision of a committee shall not be entertained in the same committee.
- (4) A motion for the previous question may not be made in committee.
- (5) In committee senators may speak more than once to the same question, and, when a question has been proposed from the chair, shall confine themselves to that question.
- (6) Motions that the question be now put and that the ~~chairman~~ **chair** report progress and ask leave to sit again shall be moved without discussion and immediately put and determined, but neither of those motions shall be repeated within 15 minutes after either of them has been moved.
- (7) Except as otherwise provided by the standing orders, the same rules of the conduct of senators and of debate, procedure, and the conduct of business shall be observed in committee as in the Senate, the ~~Chairman~~ **Chair** of Committees being invested with the same authority as the President for the preservation of order, but disorder in a committee may be censured only by the Senate, on receiving a report.

#### 145 Objection to ~~chairman's~~ **chair's** ruling

If objection is taken to a decision of the ~~Chairman~~ **Chair** of Committees, such objection must be stated at once in writing. The ~~chairman~~ **chair** shall then leave the chair, and the Senate resume. The matter having been laid before the President, and senators having addressed themselves to it, shall be disposed of, and the proceedings in committee shall be resumed where they were interrupted.

#### 147 Quorum

- (1) The quorum in committee of the whole shall be the same as for the Senate.
- (2) If notice is taken of the absence of a quorum in committee, the ~~chairman~~ **chair** shall count the committee, and if after the bells have been rung for 4 minutes a quorum is not formed, or if it appears on a division (by which division no decision shall be taken to have been arrived at) that a quorum is not present, the ~~chairman~~ **chair** shall leave the chair and report to the Senate.
- (3) If the proceedings of a committee are interrupted by lack of a quorum and consequent adjournment of the Senate, the resumption of the committee

shall be an order of the day for the next day of sitting, and when the order is called on the proceedings shall be resumed at the point where they were interrupted.

#### **148 Report of committee**

- (1) When all matters referred to a committee have been considered, the ~~chairman~~ **chair** shall be directed to report to the Senate, and when the consideration of those matters has not been concluded, the ~~chairman~~ **chair** may be directed to report progress and ask leave to sit again.
- (2) A motion may be made at any time during the proceedings of a committee that the ~~chairman~~ **chair** report progress and ask leave to sit again.
- (3) Resolutions reported from a committee may be agreed to or disagreed to by the Senate, or agreed to with amendments, recommitted to the committee, or the further consideration of them postponed.



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**CHAPTER 26**  
**TABLING OF DOCUMENTS**

**166 Other methods of tabling documents**

- (1) Other documents may be presented pursuant to statute, by the President, or by a minister.
- (2) If:
  - (a) the President certifies that a document is to be presented to the Senate; or
  - (b) a minister or the Auditor-General provides to the President, or, if the President is unable to act, to the Deputy President, or, if the Deputy President is unavailable, to any one of the Temporary ~~Chairmen~~ **Chairs** of Committees, a document which is to be laid before the Senate,  
on the certification or the provision of the document, as the case may be:
  - (c) the document shall be deemed to have been presented to the Senate;
  - (d) the publication of the document is authorised by this standing order;
  - (e) the President, the Deputy President, or the Temporary ~~Chairman~~ **Chair** of Committees, as the case may be, may give directions for the printing and circulation of the document; and
  - (f) the President shall lay the document on the table at the next sitting of the Senate.

*(amended 13 February 1997, 7 December 1998)*

**CHAPTER 30****WITNESSES****177 Senators as witnesses**

- (1) When the attendance of a senator is ordered by the Senate, the senator shall be summoned by the President to attend in the senator's place.
- (2) If a committee requires the attendance of a senator as a witness, the ~~chairman~~ **chair** shall, in writing, request the senator to attend, and if the senator declines to attend or to give evidence, the committee shall report the matter to the Senate.
- (3) The Senate may order a senator to attend a Senate committee and to give evidence to the committee.

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## CHAPTER 31

### CONDUCT OF SENATORS AND RULES OF DEBATE

#### 196 Tedious repetition

The President or the ~~Chairman~~ **Chair** of Committees may call the attention of the Senate or the committee, as the case may be, to continued irrelevance or tedious repetition, and may direct a senator to discontinue a speech, but that senator may require that the question whether the senator be further heard be put, and then that question shall be put without debate.

#### 203 Infringement of order

- (1) If a senator:
  - (a) persistently and wilfully obstructs the business of the Senate;
  - (b) is guilty of disorderly conduct;
  - (c) uses objectionable words, and refuses to withdraw such words;
  - (d) persistently and wilfully refuses to conform to the standing orders; or
  - (e) persistently and wilfully disregards the authority of the chair,the President may report to the Senate that the senator has committed an offence.
- (2) If an offence has been committed by a senator in a committee of the whole, the ~~chairman~~ **chair** may suspend the proceedings of the committee and report the offence to the President.
- (3) A senator who has been reported as having committed an offence shall attend in the senator's place and be called upon to make an explanation or apology, and then a motion may be moved that the senator be suspended from the sitting of the Senate. No amendment, adjournment or debate shall be allowed on such a motion, which shall be immediately put by the President.