
The Parliament of the Commonwealth of Australia

Consideration in detail of the main appropriation bill

House of Representatives
Standing Committee on Procedure

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Canberra

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Foreword

The consideration in detail debate on the main appropriation bill is a unique opportunity for the House to examine ministers in detail on the Government's expenditure proposals. However, for several years Members have expressed concern about the effectiveness of the debate in allowing them to adequately fulfil their scrutiny role. The greatest dissatisfaction arises around the allocation of the call and the length of speeches and the resultant effect of long speeches on the flow of the debate.

This report examines the history and evolution of this particular consideration in detail debate and how Members' concerns have arisen over time. It considers these issues and evaluates current practice and the various proposed remedies alongside the principles of good parliamentary practice that should apply to a debate of this nature and purpose.

The report also considers the influence that the Members with a key role in the proceedings have over the nature and conduct of the debate and how this has contributed to the current dissatisfaction. Recognising that Members with a role in the proceedings ultimately have the most influence over the conduct of the debate, the report offers guidance to Members in these roles on the approaches that have been more effective and satisfactory. The Committee has also recommended sessional orders which clarify the rules applying to the consideration in detail of the main appropriation bill and apply a shorter time limit to Member's speeches to promote a more interactive, free-flowing debate.

If the Committee's proposed sessional orders and speech time limit are adopted the Committee has suggested that the Speaker make a statement to the House, to be repeated by the Deputy Speaker in the Federation Chamber prior to the commencement of the detail stage debate. This should ensure as many Members as possible are aware of the sessional orders and what Members can do to achieve a more effective and satisfactory consideration in detail debate.

If the trial of these measures is successful they should be adopted as permanent measures for the 45th Parliament and the statements by the Speaker and Deputy Speaker prior to the commencement of the detail stage could be adopted as an annual practice prior to the commencement of the consideration in detail debate on the main appropriation bill.

Dr Andrew Southcott MP
Chair



Membership of the Committee

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Terms of reference

Inquire into and report on the consideration in detail of the main appropriation bill with reference to:

- the conduct of the debate, including the allocation of the call; and
- the adequacy of the Standing Orders in facilitating the debate.



List of recommendations

3 Improving the conduct of the debate

Recommendation 1

The Committee recommends that sessional orders 182A and 182B at Appendix B be adopted for the remainder of the 44th Parliament.

Recommendation 2

The Committee recommends that the House adopt a sessional order for the remainder of this Parliament to provide in respect of the consideration in detail stage of the main appropriation bill that each Member be permitted to speak for an unlimited number of 2 minute periods.

Appendix B – Proposed sessional orders

Procedures for Main Appropriation Bill

182A Second reading (Budget debate)

On the motion for the second reading of the Main Appropriation Bill, and Appropriation or Supply Bills for the ordinary annual services of government, public affairs may be debated, in accordance with *standing order 76(c) (exceptions to confining debate to the question)*.

182B Consideration in detail

During the consideration in detail stage of the Main Appropriation Bill, and Appropriation or Supply Bills for the ordinary annual services of government, the following rules apply:

- (a) The schedules of services for which an appropriation is to be made shall be considered before the clauses. Proposed expenditures in a schedule shall be considered in the order in which they appear unless the House otherwise orders, in accordance with *standing order 149 (order in considering bill)*.

(b) The question on each item of expenditure shall be –

That the proposed expenditure be agreed to.

Members may ask Ministers for information about the expenditure being considered. Questions and debate must be relevant to the expenditure being considered, and may refer to departmental activity and government policy relating to the expenditure, and related expenditure in other appropriation bills.

Introduction

- 1.1 Consideration in detail of the main appropriation bill (Appropriation Bill (No. 1)) is an important part of the consideration of the annual budget. It is the estimates consideration for the House and gives Members the opportunity to scrutinise and examine ministers' proposals for expenditure. Unlike the Senate's estimates process that takes place as committee proceedings, the process adopted by the House gives Members the opportunity to debate the detail of the bill directly with ministers.
- 1.2 It is standard practice for the consideration in detail of the main appropriation bill to take place in the Federation Chamber.¹ Proposed expenditure for the ordinary annual services of government is scrutinised portfolio by portfolio. Members are allowed an unlimited number of five minute periods to speak within the period of time allocated to each portfolio and the relevant Minister usually appears to answer Members' questions.
- 1.3 *House of Representatives Practice* outlines how the debate works in practice:

The order for considering the proposed expenditures is the order in which the portfolios are listed in the schedule which is traditionally in alphabetical order. As this order may not be convenient to individual Ministers or shadow ministers, it is the usual practice for a Minister to suggest a different order for consideration.

...

In recent years debate has become progressively more focussed as successive Deputy Speakers have encouraged a question and answer format in the Federation Chamber rather than general debate. Consideration of each portfolio sometimes starts with introductory remarks by the responsible Minister. Shadow

1 *House of Representatives Practice*, 6th edn, p. 432.

ministers usually play an important role and may speak first. Members seek the call to question the Minister, often not taking their full five minutes. Ministers may respond to questions individually, may wait until several Members have spoken before responding, or may respond to all questions in their closing remarks. Ministers may also offer, or be requested, to take some of the questions on notice.²

- 1.4 Under the standing orders, consideration in detail of the main appropriation bill is the same in almost all respects as consideration in detail of other bills.³ In practice, however, this particular debate has a unique style and format. The lack of specific provisions in the standing orders has led to some confusion surrounding the conduct of the debate.
- 1.5 The Procedure Committee has previously considered proposals to specifically provide for the question and answer format of the debate in the standing orders, formalising elements of existing practice. The Committee has also considered proposals to introduce shorter time limits, to improve the flow of the debate, and allow for more contributions in a given period. In the past, the Committee has declined to make any recommendations in relation to such proposals without having sufficiently consulted Members.⁴
- 1.6 In recent years, a recurring concern has been the allocation of the call during the debate. Current practice is that both government backbenchers and non-government Members participate, usually directing questions to the relevant Minister. When there are government backbench Members participating, the call is typically allocated as it is during question time.⁵ The concern is that the allocation of the call in this way results in a disproportionate allocation of time to the Government.
- 1.7 On 16 June 2015, concerns were again raised on this issue. In response, the then Speaker stated:

Earlier in the week in the Federation Chamber, the member for Grayndler raised questions about the allocation of the call during consideration in detail of the main appropriation bill, Appropriation Bill (No. 1). There have been issues raised about this matter over some time, although as a general practice it has now evolved that a question and answer format is generally used,

2 *House of Representatives Practice*, 6th edn, p. 432.

3 See Standing Orders 148-151. Standing Order 149(d)(i) provides for schedules to be considered before clauses during consideration in detail of an appropriation or supply bill.

4 See *Role of the Federation Chamber: Celebrating 20 years of operation*, May 2015, pp. 27-29. *Maintenance of the Standing and Sessional Orders*, June 2013 (43rd Parliament), p. 22.

5 eg Government Member – Minister – Opposition Member – Minister etc

rather than a general debate. However, there are valid issues to be raised about how best to deal with the consideration in detail of the appropriation bills. With this in mind, I have spoken to the Chair of the Standing Committee on Procedure and asked that that committee examine the way in which we deal with the consideration in detail of Appropriation Bill (No. 1) to see if we can work out a more satisfactory way that is consistent, because different deputy chairs can give the call in different ways.⁶

1.8 On Thursday 25 June 2015, the Committee adopted an inquiry into the consideration in detail of the main appropriation bill with the following terms of reference:

Inquire into and report on the consideration in detail of the main appropriation bill with reference to:

- the conduct of the debate, including the allocation of the call; and
- the adequacy of the Standing Orders in facilitating the debate.

Structure of report

1.9 There has been no call over the course of this inquiry for any change to the broader budget debate. The Committee has therefore confined its deliberations to the consideration in detail stage.

1.10 Chapter 2 discusses the history of the debate and the roles of the key people in the proceedings: deputy speakers, ministers and members. It then considers the two key areas of concern: the question and answer format of debate and the allocation of the call.

1.11 Chapter 3 offers the Committee's view on how this debate should proceed into the future, and offers some specific guidance for those with a role in the proceedings.

6 H.R. Deb (18.6.2015) 59.

Consideration in detail

- 2.1 The consideration in detail stage of a bill follows the second reading and is an opportunity to ‘consider the detail’ of the bill. While the second reading debate allows Members to address the broad policy proposals and general principles of a bill, consideration in detail focuses on the bill’s text.
- 2.2 Debate during consideration in detail must be relevant to the question before the House (i.e. that the clause, schedule or proposed amendment be agreed).¹ Members are allowed to speak for an unlimited number of five minute periods.²
- 2.3 As a matter of practice, the allocation of the call alternates between government and non-government Members (including crossbench Members proportionate to their representation in the House) giving an equal allocation of time to debate the bill. Ministers will generally receive priority over other government members seeking the call.³
- 2.4 Consideration in detail provides an opportunity for the detailed operation of a bill to be debated, for alternative propositions to be put, and for amendments to be proposed and debated. For the main appropriation bill, it is an opportunity for Members to scrutinise specific details of proposed expenditure, and for Ministers to argue the case for items in the budget within their portfolio responsibilities.
- 2.5 The main appropriation bill follows the same procedural steps as any bill before the House. Its significance as a key part of the annual budget, however, means that the conduct of the debate has a unique character. While consideration in detail of the bill is governed by normal bill

1 *Standing Order 76*, and see *House of Representatives Practice*, 6th edn, p. 375. The exemption from the requirement for the debate to be relevant to the question for the main appropriation bill as provided for under *Standing Order 76(c)* applies only to the motion for the second reading and not to the debate in the detail stage.

2 *Standing Order 1*.

3 *House of Representatives Practice*, 6th edn, p. 503.

procedures, the debate is different from a typical consideration in detail stage in a number of ways. For example, while the relevance rule applies, 'in practice, debate is permitted to cover departmental activity or government policy in the portfolio area, as well as financial details'.⁴ It is also concerned more with administrative, rather than legislative, implementation.

- 2.6 During the consideration in detail of other bills, Members will at times ask questions of the Minister and the Minister may provide a response. However, the expectation of a question and answer format which has been established during consideration in detail of the main appropriation bill is unique to this particular debate.
- 2.7 The debate takes place over a number of sitting days and the time allocated for the debate has increased significantly in recent years (see Table 2.1).

Table 2.1 Time spent on Appropriation Bill (No. 1) 2004-2015

Year	Second reading debate	Consideration in detail	Total
2004	32 hrs 19 mins	8 hrs 50 mins	41 hrs 9 mins
2005	32 hrs 46 mins	8 hrs 58 mins	41 hrs 44 mins
2006	33 hrs 5 mins	11 hrs 34 mins	44 hrs 39 mins
2007	34 hrs 29 mins	12 hrs 28 mins	46 hrs 57 mins
2008	26 hrs 50 mins	12 hrs 30 mins	39 hrs 20 mins
2009	33 hrs 11 mins	13 hrs 12 mins	46 hrs 23 mins
2010	33 hrs 42 mins	13 hrs 13 mins	46 hrs 55 mins
2011	29 hrs 12 mins	19 hrs 19 mins	48 hrs 31 mins
2012	27 hrs 6 mins	17 hrs 14 mins	44 hrs 20 mins
2013	20 hrs 34 mins	16 hrs 08 mins	36 hrs 42 mins
2014	29 hrs 45 mins	18 hrs 26 mins	48 hrs 11 mins
2015	28 hrs 17 mins	18 hrs 27 mins	46 hrs 44 mins

4 Clerk of the House, *Submission 1*, p. 3 and see *House of Representatives Practice*, 6th edn, p 432.

- 2.8 The practice with regard to the conduct of the consideration in detail of the main appropriation bill has evolved over time driven by the approach of three key roles:
- Deputy Speaker (or Acting Deputy Speakers);
 - Ministers; and
 - participating Members.
- 2.9 This chapter examines the influence that each of these groups has on the nature and conduct of the debate. It also describes how the debate has evolved over time, leading to the current issues of concern. The following chapter considers whether the current practice best achieves the objective of the debate which is, ultimately, the effective scrutiny of the budget.

Roles in the debate

Deputy Speaker

- 2.10 As a smaller, more intimate, venue the Federation Chamber is well suited to this particular debate, allowing for an interactive exchange between Members and the relevant Minister regarding proposed expenditure. The Deputy Speaker chairs the Federation Chamber assisted by members of the Speaker's Panel.
- 2.11 Over the years, different chairs have taken varying approaches to managing the consideration in detail of the main appropriation bill. Some have taken the view that the debate should strictly follow a question and answer format and have required that Members make short statements that contain a question.⁵ As there are no provisions in the Standing Orders requiring this approach, other chairs have ruled that there is no requirement for a question and a wide ranging debate is in order.⁶
- 2.12 While there are standing orders that govern the consideration in detail of bills in general, there is very little guidance available to the Deputy Speaker specifically regarding the conduct of the consideration in detail of the main appropriation bill. The fact that this particular debate occurs only once a year also means that its unique format may not be immediately familiar to the chair or Members, particularly those with limited experience in the House.
- 2.13 The allocation of the call is at the discretion of the chair so Deputy Speakers must rely on their own judgement of how the debate should be conducted. This allows for a level of flexibility which may be welcome in

5 H.R. Deb. (15.06.2006) 128; H.R. Deb (05.06.2008) 4770; H.R. Deb (17.06.2008) 5116.

6 H.R. Deb. (05.06.2008) 4774.

certain circumstances but can also lead to uncertainty and confusion. In 2008, in response to a disagreement between Members regarding the allocation of the call during the debate, Deputy Speaker Burke stated:

There is no convention. There are no standing orders. I do not have anything. I have never been given anything. All I know is that whoever is first on their feet gets the call. I would have given it to the other side but nobody was on their feet. I will give it to the member for Shortland, but then I will go to the other side because I do not necessarily have to give it back to the minister.⁷

- 2.14 As the Federation Chamber is often chaired by new members of the Speaker's panel the lack of specific guidance compounds the difficulty in chairing this debate.

Ministers

- 2.15 Current practice is that senior portfolio Ministers usually make themselves available during consideration of their portfolio to participate in the debate and respond to Members' questions. Prior to 2008, it was more common for parliamentary secretaries or ministers assisting to represent more senior ministers.⁸
- 2.16 Ministers have taken individual approaches to how they participate in the debate. Ministers have chosen to respond to each contribution individually, to hear from a number of Members (both government and non-government) before answering, or to hear all contributions before responding towards the end of the period allocated to their portfolio.⁹ This debate can be challenging for Ministers as they are expected to answer a wide range of questions relating to their portfolio, although it is not uncommon for questions to be taken on notice.
- 2.17 Ministers will often make an opening statement and will sometimes use this opportunity to lay out which of the approaches described above they intend to follow in responding to Members questions or speeches. This has been helpful to all participants in the debate.¹⁰
- 2.18 Ministers may seek the call when they see fit and will, by convention, usually receive priority over other government Members. However, the allocation of the call is ultimately at the discretion of the chair. In 2008, for

7 H.R. Deb (05.06.2008) 4767

8 Clerk of the House, *Submission 1*, p. 3.

9 E.g. H.R. Deb (15.06.2006) 125, H.R. Deb (05.06.2008) 4765-4776, H.R. Deb (16.06.2014) 6098-6127. Also see *House Estimates: Consideration of the annual estimates by the House of Representatives*, October 2003, p. 18.

10 For example, H.R. Deb (14.06.2007) 120.

example, Deputy Speaker Burke allowed a number of questions before giving the call to the Minister to respond:

As I have made clear all along, the minister does not necessarily have to respond to each. I think, given the lack of time available, I am going to throw it around and then go back to the minister.¹¹

- 2.19 Consideration in detail of the main appropriation bill offers Members the unique opportunity to directly question senior Ministers on departmental activity and government expenditure. It is important that the debate is conducted in a way that makes the most of the opportunity to scrutinise the annual budget and the Government more broadly.

Members

- 2.20 The approach taken by Members participating in the debate has varied, with some focussing on asking a question or series of questions and others making a longer contribution to the debate that may or may not include a question.
- 2.21 Prior to 2008, it was not usual practice for government Members, other than the relevant Minister, to participate in the debate. Since then, however, government backbench members have participated to a significant extent.¹² The participation of government backbench Members has increased the number of longer contributions being made to the stage where it is usual for most participants in most sessions to speak for 5 minutes at a time.
- 2.22 The increased participation of government backbench Members in the debate combined with the tendency to allocate the call to ministers to respond to each contribution, has led to a significant decrease in time allocated to non-government Members (see Table 2.2).

Table 2.2 Proportion of time taken by Ministers, other government Members and non-government Members during consideration in detail of the main appropriation bill

	Ministers	Other Government Members	Non-government Members
2005	36%	3%	60%
2010	42%	18%	40%
2015	47%	25%	28%

Source *Members' participation during consideration of proposed expenditure for four sample portfolios (broadly, Communications, Education, Attorney General's and Transport).*

11 H.R. Deb (18.06.2008) 5291.

12 Clerk of the House, *Submission 1*, p. 3.

Conduct of debate

Question and answer format

2.23 During the 41st Parliament, the then Deputy Speaker actively encouraged a question and answer format for the consideration in detail of the main appropriation bill, stating on separate occasions:

We are looking at how estimates money has been allocated to certain things. This is not an opportunity to make a speech; it is for questions on estimates;

This is not a debate; this is a matter of questions and answers.¹³

2.24 Since then, the question and answer format has largely been followed. The following paragraphs describe the current practice.

2.25 Ministers may answer questions individually or may respond after several questions have been asked. Shadow Ministers and Shadow Parliamentary Secretaries also play an important role, often directing several questions to the Minister for the portfolio area they represent. Both government and non-government backbench Members also ask questions, often with regard to how proposed expenditure might affect their constituency.

2.26 The Clerk notes that while the question and answer format is still followed, in recent years Members' speeches have become longer and less focussed:

Looking at the Hansard over the years, it appears that the most productive form of debate, most highly regarded by members participating, is when it consists of a series of relatively short interchanges between the minister and members. Before the 42nd Parliament there was more often an interchange of this nature between the shadow minister and minister by way of a series of alternating brief questions and responses.

Debate of this kind is difficult to achieve when members and ministers take up their full 5 minutes, and when the flow is interrupted by the call alternating to the other side (as required by convention). Since 2008 members' speeches seem to have become longer. There are instances where questions appear as token additions at the end of a full five minute speech.¹⁴

2.27 In 2008, the then Leader of the Nationals, from opposition, observed that the question and answer format had become less effective, suggesting that

13 H.R. Deb. (15.6.2006) 128; H.R. Deb. (14.6.2007) 154; and see Clerk of the House, *Submission 1*, pp. 4-5.

14 Clerk of the House, *Submission 1*, p. 4.

Members' speeches had taken the place of serious questions to the Minister:

I will begin by making a brief observation about the estimates process, particularly since the minister is Leader of the House – and I do this in a genuine spirit of trying to make this process work better. I have been disappointed that this year's estimates process has been largely taken up by speeches by government members which have occupied the time and therefore denied the capacity for opposition members to ask serious questions of the minister and give them an opportunity to give account for their stewardship of their portfolio. I am not suggesting that anybody has broken the standing orders or that the Speaker has ruled inappropriately in those matters, but the spirit and the conduct of the estimates process has changed this year.

It was, I think, a convention that this time was used essentially by opposition members to ask questions of the minister. I have to say that as a minister I quite enjoyed the challenge, even though sometimes I would be found out, including sometimes by the member opposite when he was asking questions of me. But I think we do need to look at the standing orders to make this process meaningful, because it is the only opportunity for members of parliament to ask questions of ministers as a part of the budget process.¹⁵

Allocation of the call

- 2.28 The allocation of the call did not appear to be an issue of concern when Members (including ministers) confined their contributions to a short question or answer or a short debating point. It is the longer set speech that has changed the nature of the debate most significantly.
- 2.29 During all debates in the House and Federation Chamber, the allocation of the call is at the discretion of the Speaker and Deputy Speaker, respectively. It is usual, however, for chairs to follow the principle that the call should alternate between government and non-government Members.¹⁶

15 H.R. Deb (18.06.2008) 5289. See also for example H.R. Deb. (05.06.2008) 4770.

16 *House of Representatives Practice*, 6th edn, p. 503. See also Standing Order 65(c).

- 2.30 The allocation of the call during consideration in detail of the main appropriation bill has been an issue of concern since government backbenchers started participating regularly in the debate.¹⁷
- 2.31 During the consideration in detail process on an ordinary bill, the relevant Minister takes a prominent role in the debate and generally receives the call for the government side:
- A Minister (or Parliamentary Secretary) in charge of business during the consideration in detail of a bill ...would usually receive priority over other government Members whenever wishing to speak. This enables the Minister to explain or comment upon details of the legislation as they arise from time to time in the debate.¹⁸
- 2.32 Prior to 2008, the consideration in detail of the main appropriation bill was typically an exchange between the relevant Minister and Shadow Minister, with other opposition Members also participating. The call was fluid but typically alternated between government (the minister) and non-government Members (including non-aligned Members), with both sides given an approximately equal number of opportunities to speak.
- 2.33 Current practice is that both government and non-government Members direct questions to the relevant Minister. The call is being allocated as it is during question time (non-government Member – Minister – government Member – Minister), although a Minister may choose to respond after a number of Members have made contributions.
- 2.34 The Manager of Opposition Business argues against this approach:
- Practice* and convention clearly envisage that the call should be allocated in two equal proportions between government Members (**including both Ministers and backbenchers**) and non-government Members, and not instead allocated in three proportions between Ministers, government backbenchers and non-government Members. Ministers are allocated the call from the proportion afforded to all government Members and do not enjoy a separate proportion. Any other reading would allow debate to be completely dominated by government Members at the expense of both non-government members and proper parliamentary scrutiny.¹⁹
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17 Clerk of the House, *Submission 1*, p. 5. See for example H.R. Deb (18.06.2008) 5290; H.R. Deb (15.06.2008) 5425; H.R. Deb (16.06.2015) 6451.

18 *House of Representatives Practice*, 6th edn, p. 503.

19 Hon. Tony Burke MP, Manager of Opposition Business, *Submission 2*, p. [2].

- 2.35 The current practice with regard to the allocation of the call does not provide for a balanced distribution of time between government and non-government Members. In 2015, the proportion of time allocated to non-government Members was less than a third of the total time available. This is not consistent with the usual expectation applying to a debate generally, or to a process specifically intended to be an opportunity to subject government proposals to detailed scrutiny.
- 2.36 Allocating the call in the manner applying to question time assumes that the debate during consideration in detail on the main appropriation bill is, or ought to be, analogous to question time. However, during question time there is no proposition before the House to be resolved and therefore no in principle requirement to provide an opportunity for Members to advance alternative views. The Executive has a particular role in question time and as a result receives the call after each questioner.
- 2.37 The consideration in detail stage for all bills involves a debate on a question or series of questions. In the case of the main appropriation bill, debate occurs on a series of questions – that the proposed appropriation for [each portfolio] be agreed to – and it must always be open to Members to argue for or against that proposition. As in any debate the call should alternate, as far as practicable, between government and non-government Members and afford each side roughly equal speaking time.
- 2.38 Chapter 3 offers the Committee’s view on how this debate may be improved.

Improving the conduct of the debate

- 3.1 Throughout the course of this inquiry, the Committee has heard that the procedures governing the consideration in detail of the main appropriation bill could be revised to facilitate more effective scrutiny of the annual budget.
- 3.2 In exploring possible solutions to the concerns raised, the Committee has maintained three key considerations:
- the purpose of the consideration in detail stage of the main appropriation bill;
 - its stage in proceedings on the bill as a consideration in detail debate and the opportunities for Members normally attached to that stage; and
 - the right of all Members to be able to participate equitably in the business of the House.
- 3.3 As noted in Chapter 2, the most effective form of debate that Members and ministers have found the most satisfactory is a series of short, focussed, interchanges between Members and the minister.
- 3.4 It is difficult to achieve a focussed and interactive debate when Members – including ministers – are determined to speak to the 5 minute time limit. It is also difficult to ‘mandate’ this kind of debate with specific standing orders applying to the allocation of the call and time limits.
- 3.5 A more interactive debate during consideration in detail of the main appropriation bill is possible under the existing standing orders when the following occurs:
- the call is allocated alternately to each side of the House, consistent with the practice applying to all other debates;

- Members focus their contributions on short points of debate or questions with minimal preamble;
 - ministers indicate at the commencement of the debate on their portfolio how they intend, or would prefer, to conduct their part in the debate; and
 - ministers occasionally cede the call to government backbench Members when they are present to facilitate their participation.
- 3.6 Given that this debate only occurs once a year it might be helpful if some guidance were issued annually from the Chair to Members on the conduct of the debate and what the people in key roles can do to get the best out of the process.
- 3.7 The Committee suggests that, if the Speaker agrees, he make a statement offering guidance to the House to be repeated by the Deputy Speaker in the Federation Chamber immediately prior to the commencement of the consideration in detail debate. Proposed wording for this guidance is at Appendix A and assumes the sessional orders recommended below are adopted.

Adequacy of the Standing Orders

- 3.8 The Committee has considered the adequacy of the current standing orders in facilitating the debate and considered suggestions for change including:
- mandating the allocation of the call;
 - mandating a 'question and answer' format for the debate; and
 - introducing shorter time limits.

Allocation of the call

- 3.9 The key issue of concern in the debate is the current practice of the call being allocated as it is during question time, with both government and non-government Members directing questions to the relevant minister who responds in turn. This has resulted in a disproportionate amount of time being allocated to the government side.
- 3.10 Chapter 2 explains that the allocation of the call has only become an issue in recent years, as more government backbench Members have participated in the debate. Government Members are, of course, entitled to participate in the debate and may wish, for example, to speak critically on, or in support of, proposed expenditure and to seek information from ministers. The participation of government backbench Members should

not, however, result in a disproportionate allocation of time to the government side, as is currently the case.

- 3.11 There is a tension between the right of government backbench Members to participate in the debate, allocating the call in a manner that is fair to non-government Members and consistent with the practice in other debates, and the minister's role representing the Government in the debate. It should be incumbent on the government side to strike an appropriate balance between the right of government backbench Members to participate in the debate and allowing ministers sufficient time to fulfil their responsibilities.
- 3.12 The Committee is extremely reluctant to recommend that the allocation of the call during the debate be mandated by the standing orders. This would be an unprecedented development. It is the established practice of the House that the allocation of the call is at the discretion of the Chair and there have been many occasions when the Chair has exercised this flexibility to suit the convenience of the House.
- 3.13 However, it is the Committee's view that the allocation of the call during consideration in detail of the main appropriation bill should be consistent with the practice applying in other debates – that is, as far as practicable it should alternate and afford a roughly equal number of speaking opportunities and time to each side of the House. It would therefore assist occupants of the Chair if, when government backbench Members are participating in the debate, the minister occasionally made way and did not seek the call when it returned to the government side.
- 3.14 The Committee also suggests that it would be helpful if ministers indicate at the commencement of the debate on their portfolio how they intend, or would prefer, to conduct their part in the debate, providing some guidance to other Members on when and how they can expect the minister to respond to the issues they have raised.
- 3.15 Together, these two adjustments in approach would alleviate the disquiet on the opposition side over the allocation of the call and provide some guidance to Members on what to expect of the minister during the debate.

Question and answer form of debate

- 3.16 When the Procedure Committee last reviewed the conduct of the consideration of the estimates, the format of the debate was one of the issues of concern. At that time, the Committee noted:

The objective should be that the debate focuses on the estimates, and that proceedings are more an interchange between Members

and the minister of matters raised and response, rather than set speeches.¹

- 3.17 In the years following the release of this report, the then Deputy Speaker actively encouraged a more interactive process stating:

This is not an opportunity to make a speech; it is for questions on estimates.²

- 3.18 This approach has continued and for some time facilitated an interactive debate, however actively discouraging speeches in favour of questions is not supported by the current standing orders. A Member is entitled to speak during consideration in detail of the main appropriation bill without necessarily asking a question. Although it is not common to do so a Member may also move an amendment to the bill and use their time to argue in favour of their amendment:

A private Member may reduce the amount of the proposed expenditure, or may move to omit or reduce items, but may not move to increase an amount or alter the purposes of the proposed expenditure. The traditional form of the amendment is 'That the proposed expenditure for the Department of...be reduced by \$...'. The Member may then state the reason for moving the amendment, for example, 'as an instruction to the Government to...', 'because the Government has failed to...', 'because, in the opinion of the House, the Government should...'.³

- 3.19 In practice, the detail stage for the main appropriation bill is most often used by Members to seek information about proposed expenditure and to test a minister's knowledge of departmental activity and government policy in their portfolio area. The question and answer format is therefore a suitable mechanism to enable detailed scrutiny. However, mandating a question and answer format may obscure or diminish the right Members currently have to debate proposed expenditure and government policy and move amendments.

Proposed sessional orders

- 3.20 Currently, consideration in detail of the main appropriation bill is governed by the same standing orders that apply to the consideration in detail of other bills. The Clerk of the House has suggested that this debate 'differs so much from the normal consideration in detail process that it

1 *House Estimates: Consideration of the annual estimates by the House of Representatives*, October 2003, p. 29.

2 H.R. Deb. (15.6.2006) 128; and see Clerk of the House, *Submission 1*, p. 4.

3 *House of Representatives Practice*, 6th edn, p. 433.

should have its own rules clearly set out.’⁴ As a minimum, the Clerk suggested that:

it would be helpful to chairs, ministers and Members generally if the existing standing orders specifically applying to the budget and estimates debates could be co-located (that is moved, copied or at least cross-referenced) under the section of the standing Orders headed Financial Procedures.⁵

3.21 In the Committee’s opinion, the annual consideration of the budget and the consideration in detail stage, in particular, are unique, and of such importance, that the procedures for the main appropriation bill should be explicitly provided for in the Standing Orders, to make clear:

- the scope of relevance for the debates on the second reading and the detail stage; and
- the question before the House being debated in the detail stage; and
- the particular rules applying to debate in the detail stage, which currently allow for questions **and** debate.

3.22 The Clerk has drafted proposed sessional orders (at Appendix B) that clarify the existing rules and practice for consideration of the main appropriation bill. The sessional orders should serve to assist Members and occupants of the Chair to understand and apply the existing provisions more consistently.

3.23 The Committee is concerned to ensure that Members are aware that the consideration in detail stage on the main appropriation bill is a series of debates on the question – that the proposed expenditure be agreed to – and that they not forfeit any rights and opportunities now available to them. It must remain in order for a Member to make a point of debate without necessarily asking a question, and/or to move an amendment if they choose. The following words proposed in the sessional order make it clear that both questions and debate are permissible:

Members may ask ministers for information about the expenditure being considered. Questions and debate must be relevant to the expenditure being considered, and may refer to departmental activity and government policy relating to the expenditure, and related expenditure in other appropriation bills.⁶

3.24 The Committee supports a trial of the proposed sessional orders (to be located in Chapter 13. Financial Proposals) for the remainder of this

4 Clerk of the House, *Submission 1*, pp. 6-7.

5 Clerk of the House, *Submission 1*, p. 6.

6 See Appendix B.

Parliament which should see them in operation for the 2016-17 Budget. The sessional orders will co-locate existing procedures and clarify the rules relating to the second reading debate or 'budget debate' and the consideration in detail stage.

Recommendation 1

The Committee recommends that sessional orders 182A and 182B at Appendix B be adopted for the remainder of the 44th Parliament.

Time limits

- 3.25 Currently during consideration in detail on the main appropriation bill, as with all bills, Members are allowed an unlimited number of five minute periods to speak.⁷ At times, Members have confined their contributions to 1 to 2 minutes. In recent years there has been a trend towards Members making a set 5 minute speech, perhaps with a question at the end, and this has slowed the debate and diminished its effectiveness as a means to scrutinise government.
- 3.26 Proposals for different time limits for the debate have been put to the Committee in the past, including a suggestion that questions be limited to 2 minutes and answers to 4 minutes.⁸ During the course of this inquiry, varying proposals for amending time limits were put to the Committee including:
- 1 minute for questions and 2 minutes for answers; and
 - 2 or 3 minutes equally.
- 3.27 The Committee does not support different time limits for Members and ministers participating in the debate. Introducing unequal time limits to the debate on any stage of a bill would be unprecedented and unduly prioritise the view of the Executive over those of other Members. Any Member of the House should have the same time available to put their views as a minister has to put the case for the Government.
- 3.28 As discussed in Chapter 2, a free flowing exchange of short interchanges is possible within the current debate time limits. A speech time limit in any debate does not require each Member to speak for the maximum period of time. However, it is now more common in the detail stage debate on the main appropriation bill for Members to speak for the full 5 minutes. This

7 Standing Order 1.

8 Standing Committee on Procedure, *Maintenance of the Sanning and Sessional Orders*, June 2013, p. 22.

has slowed the debate and become a source of frustration for ministers and for Members on both sides of the House.

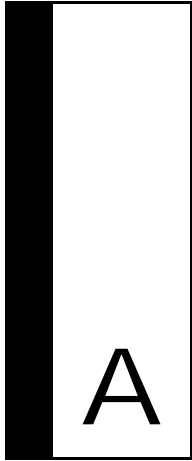
- 3.29 The introduction of shorter time limits may encourage a more focussed and interactive debate and would allow more Members to participate. The Committee's view is that time limits should be equal for Members and ministers, noting that ministers would normally receive priority for the call over other government Members and so may ensure for themselves a number of opportunities to speak during consideration of their portfolio.
- 3.30 The Committee is therefore recommending that a shorter speech time limit be trialled, by sessional order, for the consideration in detail stage of the 2016-2017 main appropriation bill. Specifically, the Committee is recommending a trial of an unlimited number of two minute periods for each Member. When looking at the more effective debates in the past, this appears to be an adequate amount of time for contributions from Members, including ministers.⁹ It would remain possible for Members and ministers to seek the call for consecutive two minute periods if no other Member rose to speak.

Recommendation 2

The Committee recommends that the House adopt a sessional order for the remainder of this Parliament to provide in respect of the consideration in detail stage of the main appropriation bill that each Member be permitted to speak for an unlimited number of 2 minute periods.

Dr Andrew Southcott MP
Chair
11 February 2016

⁹ See for example: H.R. Deb (15.06.2005) 192-235; H.R. Deb, (15.06.2010) 5420-5463



Appendix A – Proposed announcement to the House

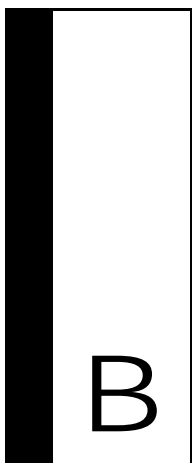
For the benefit of honourable Members, I remind the House of new sessional orders applying to the proceedings on the main appropriation bill which were adopted by the House on [date]. These sessional orders were recommended to the House by the Procedure Committee following its inquiry into the consideration in detail of the main appropriation bill, which was prompted by concerns raised in the House by the Member for Grayndler on 18 June last year.

Sessional orders 182A and 182B effectively clarify the pre-existing practice and procedure relating to the main appropriation bill and reproduce some existing provisions in the standing orders in Chapter 13, which deals specifically with financial proposals. The House has also adopted new time limits by sessional order, which apply only to the consideration in detail stage on the main appropriation bill. Each Member, including ministers, may speak for an unlimited number of periods of two minutes duration.

In respect of the consideration in detail stage, sessional order 182B makes it clear that both questions to ministers and general debate are in order. Questions and debate must be relevant to the expenditure being considered, and may refer to departmental activity and government policy relating to the expenditure, and related expenditure in other appropriation bills.

I also take this opportunity to remind the House that the Procedure Committee made some other suggestions about the conduct of this debate which, if observed by Members, ministers and the occupants of the Chair, will help to ensure a more focussed interactive debate. The Procedure Committee suggested the following be observed:

- subject to the usual discretion of the Chair, the allocation of the call ought to be consistent with the practice applying to other debates and alternate between government and non-government Members;
- Members focus their contributions on short points of debate or questions with minimal preamble;
- Ministers indicate at the commencement of the debate on their portfolio how they intend, or would prefer, to conduct their part in the debate, providing some guidance to other Members on when and how they can expect the minister to respond to the issues they have raised; and
- it would assist occupants of the Chair if, when government backbench Members are participating in the debate, the minister occasionally made way and did not seek the call when it returned to the government side.



Appendix B – Proposed sessional orders

Procedures for Main Appropriation Bill

182A Second reading (Budget debate)

On the motion for the second reading of the Main Appropriation Bill, and Appropriation or Supply Bills for the ordinary annual services of government, public affairs may be debated, in accordance with *standing order 76(c) (exceptions to confining debate to the question)*.

182B Consideration in detail

During the consideration in detail stage of the Main Appropriation Bill, and Appropriation or Supply Bills for the ordinary annual services of government, the following rules apply:

- (a) The schedules of services for which an appropriation is to be made shall be considered before the clauses. Proposed expenditures in a schedule shall be considered in the order in which they appear unless the House otherwise orders, in accordance with *standing order 149 (order in considering bill)*.
- (b) The question on each item of expenditure shall be –

That the proposed expenditure be agreed to.

Members may ask Ministers for information about the expenditure being considered. Questions and debate must be relevant to the expenditure being considered, and may refer to departmental activity and government policy relating to the expenditure, and related expenditure in other appropriation bills.