



PARLIAMENT *of* AUSTRALIA
HOUSE *of* REPRESENTATIVES

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4 December 2014

Mr D Randall MP
Chair
House Standing Committee on Procedure
Parliament House
Canberra ACT 2600

Dear Mr Randall

Thank you for your invitation to make a submission to the Committee's inquiry into the role and operations of the Federation Chamber. Attached is a submission from the Department of the House of Representatives.

I wish the Committee well in its deliberations. Please do not hesitate to contact me if I can assist in any way.

Yours sincerely

DAVID ELDER
Clerk of the House

INQUIRY INTO THE ROLE AND OPERATIONS OF THE FEDERATION CHAMBER

SUBMISSION FROM THE DEPARTMENT OF THE HOUSE OF REPRESENTATIVES

Introduction

The Federation Chamber, previously known as the Main Committee¹, was established in 1994 and held its first meeting on 8 June 1994. First recommended in a landmark report of the Procedure Committee in 1993², its principal aims were to:

- a. make more time available for the consideration of legislation and minimise the need for closures and the use of the guillotine; and
- b. allow increased opportunities for Members to contribute to debate on bills.

This primarily legislative focus was reflected in the wording of the Procedure Committee's recommendation: to establish a Main Committee (Legislation). While the name was varied when the Government proposed Standing Orders to institute this initial change, the intent remained that this body, subordinate to the House, would focus primarily on legislation. The Procedure Committee indicated it did not seek to be 'radical, nor original, nor overly ambitious' in its recommendations, noting that 'institutional change must be evolutionary'. It went on to note that the 'most radical of the committee's proposals, the establishment of a Main Committee for legislation, is more a break with form than practice'.³

The proposal was not without criticism at the time. In a dissenting report to the Procedure Committee report itself the concerns were highlighted:

The proposal for a second "Chamber" has to be treated with caution. First, because its creation may devalue or undermine the importance of the debate or activities in the House and second, because experience elsewhere with similar committees has not been successful.⁴

The Procedure Committee continued to monitor the operations of the Main Committee, consulting Members and recommending some fine-tuning of the procedures operating there. Reviews in 1995⁵ and again in 2000⁶ assessed its impact on the legislative process

¹ The Main Committee was renamed as the Federation Chamber in 2012. For ease of reference, the term 'Federation Chamber' is used when general comments are being made; the term Main Committee is used when referring to historical events, or when direct quotations are used.

² House of Representatives Standing Committee on Procedure, *About Time: Bills, Questions and Working Hours*, October 1993.

³ *Ibid.*, p. 2.

⁴ *Ibid.*, Dissenting report, p. 37.

⁵ House of Representatives Standing Committee on Procedure, *Time for Review: Bills, Questions and Working Hours*, June 1995.

and made recommendations about the location, facilities and operations of the second chamber, noting that it was considered to have been a success.⁷ A further report in 2004⁸ dealt with renaming the Main Committee, although that renaming did not occur until 2012.

In the 20 years since its inception, the Federation Chamber has become an accepted and indeed integral part of the operations of the House of Representatives. Its role has evolved over that period, with an expansion of the types of business it is able to deal with, and a regular pattern of sittings. Its success is reflected in the adoption by the House of Commons in the United Kingdom of a parallel body.

Role of the Federation Chamber in the work of the House since 1994

An evolving purpose

The Federation Chamber has developed over the past 20 years, moving beyond its original more limited role of consideration of non-controversial legislation, important though that remains, to be very much a second chamber dealing with a range of matters.

In the original changes to Standing Orders creating the Main Committee, there was also provision for resumption of debate on orders of the day relating to committee and delegation reports referred to it by the House. A further amendment to the Standing Orders was moved even before the Main Committee had met, to allow for it to consider orders of the day for resumption of debate on motions to take note of papers.⁹ Further expansions of its scope were to follow:

- 3 minute statements by Members;
- introduction of an adjournment debate;
- 90 second statements permitted in the Main Committee;
- Grievance debate to be conducted in the Main Committee ; and
- Private Members' business to be referred to the Main Committee for debate.

In addition, the Federation Chamber has also seen debate not only on ministerial statements and formal condolence motions referred from the House, but also further statements on indulgence on matters as wide ranging as natural disasters, both in Australia and overseas, the 10th anniversary of the terrorist attacks in the US on 11 September 2001, and the canonisation of Mary MacKillop.

⁶ House of Representatives Standing Committee on Procedure, *The Second Chamber: Enhancing the Main Committee*, July 2000.

⁷ *Ibid.*, p. 27.

⁸ House of Representatives Standing Committee on Procedure, *Renaming the Main Committee*, June 2004.

⁹ May 1994.

Of particular benefit to Members has been the expansion of opportunities for private Members' business. Cumulatively, 90 second and 3 minute statements, the grievance debate and the adjournment debate, provide at least 72 opportunities each week in the Federation Chamber for Members to raise issues of concern to them. In addition, the current 2 ½ hours of private Members' business time on a Monday also provides significant opportunities for backbenchers.

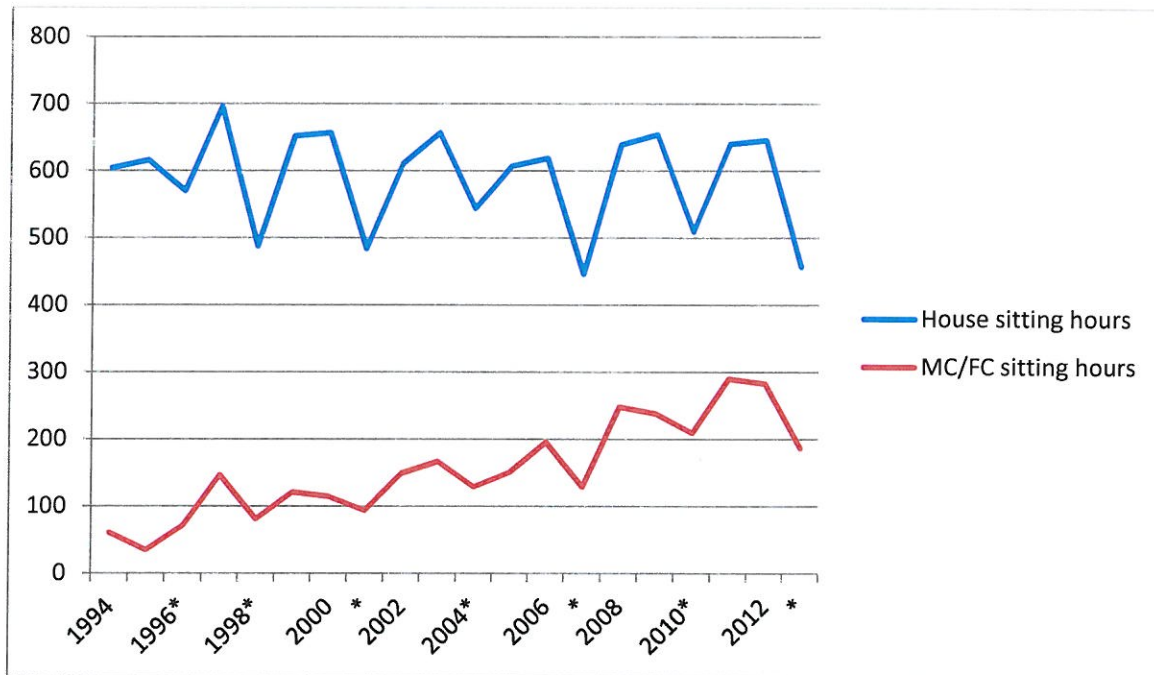
Regular meeting pattern

When first established, it was envisaged that the Main Committee would 'meet as required by the ebb and flow of legislation – to start with maybe only one session a week as the House adapted to the system'.¹⁰ As can be seen from Figure 1, there has generally been a steady increase in the meeting hours of the Federation Chamber. In its first year of operation, the Main Committee met for approximately 10% of the time of the Chamber; over the 20 years of its existence, on average it has met for the equivalent of 26% of the time of the Chamber, with a high of 43% in 2012. This added capacity has reduced pressure on the Chamber at peak times and provided more opportunities for Members to participate in debate.

The Federation Chamber now meets routinely on three days each week. On Mondays much of the time is devoted to private Members' business, although there is provision for some government business. On Wednesdays and Thursdays the pattern now sees the Federation Chamber meeting at 9.30 am, commencing with half an hour of 3 minute constituency statements, followed by government business and/or committee and delegation business. On Thursdays there is a half-hour adjournment debate at the conclusion of proceedings from approximately 12.30 pm. There is also more flexibility in meeting times, as the Federation Chamber may meet for additional time on Tuesday and Wednesday afternoons if required. This is particularly useful for debates, such as those on the Appropriation (budget) bills, where most Members wish to speak. This established routine of meetings also allows Members to better plan for the presentation of petitions or for contributions highlighting events in their electorates.

¹⁰ House of Representatives Standing Committee on Procedure, *About Time: Bills, Questions and Working Hours*, October 1993. p. 8.

Figure 1: Comparison of sitting hours of the House and Main Committee/Federation Chamber, 1994-2013.



Source: House of Representatives: *Work of the Session*. (Note: all hours exclusive of suspensions. * indicates election year.)

Has the Federation Chamber met its original purpose?

In the years immediately prior to the establishment of the Federation Chamber, the use of the limitation of debate tactic, known as the guillotine, had reached a high point. On one day alone in 1991, the then Leader of the House declared 67 bills urgent and set a timetable that had all bills passing within 4 sitting days.¹¹ In 1992, there were 132 bills guillotined; in 1993 there were 111 instances of debate being truncated in this manner. As Figure 2 demonstrates, the inauguration of the Main Committee had an immediate and sustained impact on the use of the guillotine, or other procedural measures to limit debate.

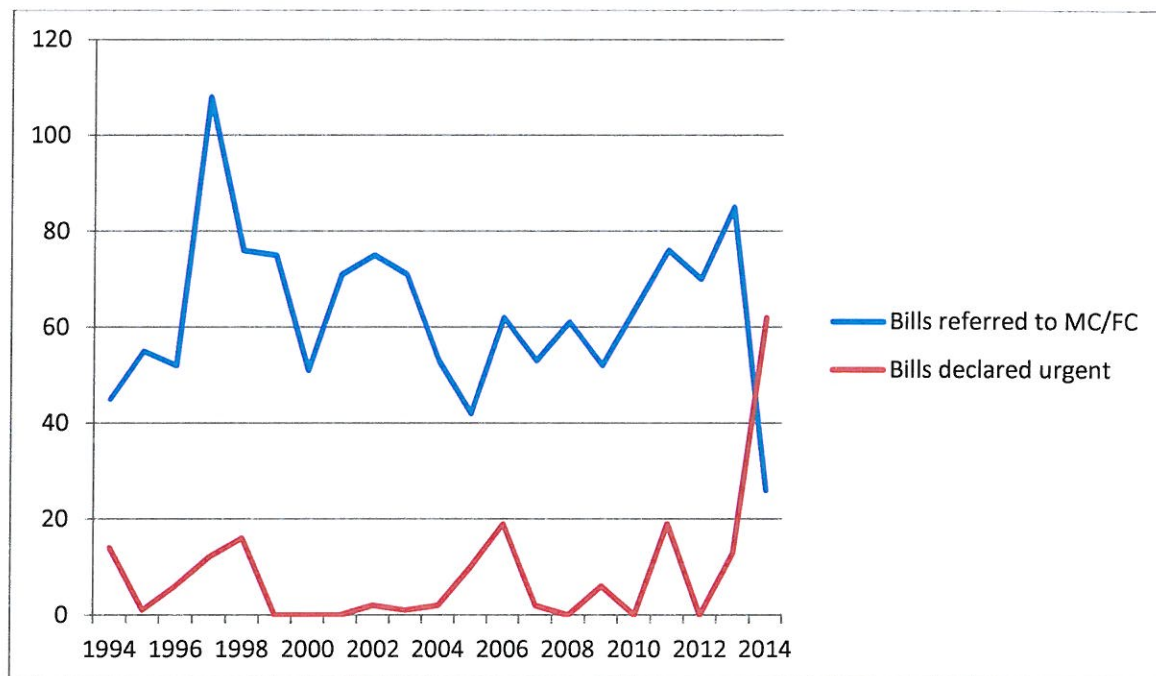
On average 64 bills have been referred to the Federation Chamber each calendar year since its inception. In 2014, this number has dropped significantly, with only 26 bills having been referred. While the reasons for this decline are unclear, the consequence has been that Federation Chamber is not operating currently at full capacity nor as originally intended. The

¹¹ House of Representatives, *Votes and Proceedings*, 5 November 1991, pp. 1938-1939.

Procedure Committee may wish to encourage the Government and Opposition to refer more bills to the Federation Chamber in future.

It is interesting to note that there has been also an increase in the number of bills subject to time restrictions (commonly now in the form of suspensions of Standing Orders to take related bills together and set time limits on each stage of their consideration – colloquially these are known as debate management motions). The figures are distorted a little by the inclusion of some large packages of bills, some of which have had two passages through the House because of their rejection by the Senate. Understandably there may be good reasons for imposing such restrictions, particularly around the need for urgent passage of some bills. However, it is important to recognise the role that the Federation Chamber can play in taking the pressure off the time of the House by dealing with less controversial legislation, permitting a more extended debate of legislation generally.

Figure 2: Bills referred to the Main Committee/Federation Chamber, and Bills declared urgent/subject to guillotine/debate management motions 1994-2014.



Source: Department of the House of Representatives *Work of the Session*.

Non-controversial legislation

As noted earlier, the original intent was for non-controversial legislation to be referred to the Federation Chamber. As the Procedure Committee noted:

To avoid unproductive consideration of controversial bills the guiding principle for the selection of bills should be that only bills on which there is potential for agreement to be reached should be referred to the Main Committee.¹²

It was envisaged that there would be negotiation between the Government and Opposition, with referrals only being made where there was agreement that such a step was suitable. While selected legislation may have been important in terms of addressing public policy matters, the intent was for bills referred for consideration in the second chamber to be non-contentious. This, however, did not mean that amendments could not be moved to bills referred, and the initial Standing Order changes permitted referral to the Main Committee for not only the second reading debate but also the consideration in detail stage – thus assuming that amendments would be possible. As the then Leader of the House, the Hon Kim Beazley MP, noted in moving the original amendments to Standing Orders that established the Main Committee on 10 February 1994:

If the main committee is to work as envisaged ... it ought to have before it legislation which is effectively non-controversial but which does require a bit of detailed attention from the House, in the spirit of bipartisan cooperation. One would hope that simply because legislation would be considered on a non-controversial basis it would not necessarily be the case that it would not be amended. There should be opportunities for members on both sides of the House to put forward amendments. If they become matters of disagreement, the suggestion is that that disagreement has to be reported to the House ...¹³

As the Federation Chamber has evolved, so too has the type of legislation referred to it. While most bills referred are not highly contested, the important principle has been that there should be agreement that the Federation Chamber is an appropriate venue for consideration of the legislation.

Since 1995 the Appropriation bills have been referred to the Federation Chamber for much of the second reading debate, and the consideration in detail stage. Where there has been disagreement, for example, on a second reading amendment, the bills have returned to the House for that question to be determined, before being returned to the second chamber.

A subordinate body operating by consensus

One of the guiding principles of the Federation Chamber has been that it is subordinate to the plenary, that is, the Chamber. As the Procedure Committee has previously noted, it was 'crafted on a foundation of indivisible cooperation and due deference to the priority of the

¹² House of Representatives Standing Committee on Procedure, *About Time: Bills, Questions and Working Hours*, October 1993, p.10.

¹³ House of Representatives, *Hansard*, 10 February 1994, p. 812.

House'.¹⁴ Items of business do not commence or conclude in the Federation Chamber – they must be referred to it (albeit through a variety of mechanisms), and the final resolution of a matter is always conducted in the House. The Federation Chamber can only meet when the House is sitting, and if the House adjourns, proceedings in the Federation Chamber must cease immediately. A division in the House results in a suspension of the Federation Chamber, allowing Members to attend and discharge their responsibilities there.

An interesting development in this Parliament has been that the Selection Committee selects items of private Members' business for consideration in the Federation Chamber and, once the Selection Committee has reported its determination to the House, such matters are then deemed to be before the Federation Chamber. It means that items of private Members' business, such as motions, are now being moved in the Federation Chamber. This does not represent an undermining of the subordinate status of the Federation Chamber as the Selection Committee's reports are adopted by the House at the time they are tabled, and so in effect it is the House that has sent these matters to the Federation Chamber. No change to this subordinate status is proposed as it is fundamental to the philosophy that lies behind the Federation Chamber.

The Standing Orders also reflect the concept of consensus. The establishing Standing Orders set out that every question should be decided on the voices and that if any Member dissented from the result announced by the Chair, the question should be considered 'unresolved' and reported back to the House for further consideration.¹⁵ That practice has continued. Also, there is little scope for the Chair of the Federation Chamber to deal with disorder and where disorder has arisen in the Federation Chamber, it has been because of a lack of consensus and cooperation. Again this concept of consensus is fundamental to the philosophy of the operation of the Federation Chamber.

The quorum of the Federation Chamber has remained at three – the occupant of the Chair, one government Member and one non-government Member. This, in concert with the Standing Orders relating to consensus, has meant that the Federation Chamber can only meet with the concurrence of all Members, government and non-government alike. The quorum can be lost by one grouping removing its members. This remains a useful safeguard in ensuring that the cooperative nature of the Federation Chamber is preserved.

As noted:

... its continued success relies fundamentally upon the cooperation of the Members who use it. Cooperation is the guiding principle by which the Main Committee was intended to operate, and it is only by means of consensus and general respect for

¹⁴ House of Representatives Standing Committee on Procedure, *The Second Chamber: Enhancing the Main Committee*, July 2000, p. 6.

¹⁵ House of Representatives *Votes and Proceedings*, 10 February 1994, p. 767.

the institution the Main Committee represents, that the usefulness of this chamber will continue.¹⁶

The Federation Chamber as a forum to trial procedures and equipment

One of the perhaps unforeseen benefits of the establishment of the Federation Chamber has been that it has provided a forum to trial procedures and equipment, before introducing them into the Chamber. Of particular note has been:

- in August 2002 a sessional order was adopted by the House, with effect from 16 September 2002, that permitted interventions to be made during debate on any order of the day in the Main Committee. This provision was extended to debate in the Chamber in 2013; and
- Use of display screens to inform those present of the current item of business were first used in the Federation Chamber on a trial basis in 2012. Screens were subsequently introduced into the House in October 2014.

The Federation Chamber has also provided a valuable opportunity for new Members of the House to participate in debate in a less intimidating venue than the main chamber; for new members of the Speaker's panel to gain experience in the Chair; and for training of departmental staff who serve at the Table and as attendants.

Venue and support services

The Federation Chamber has met since its inception in Committee Room 2R3. Physical changes were made to what was a large committee meeting room, to create a more chamber style meeting space – desks were placed in a horse-shoe shape, facing a raised dais where the Deputy Speaker sits as Chair, with a Clerk and Deputy Clerk on either side, similar to the former 'Committee of the Whole' arrangements. Galleries for public visitors are on either side of the chamber. Proceedings are recorded by parliamentary reporting staff, and included in the Hansard produced for each House sitting. Proceedings are also broadcast throughout the building on the House Monitoring Service, and more recently including on the Parliament's website. While Committee Room 2R3 is a functional space, there have been requests, from time to time, to have a purpose built space in which to house the Federation Chamber. The Procedure Committee, in a July 2000 report, argued for the relocation of the Main Committee to a position adjacent to the Chamber and more readily accessible to the public:

Greater convenience for those attending and supporting meetings would result. A modest improvement in the Main Committee's profile might also be achieved.

¹⁶ Palmieri, S., "Cooperation or Consideration: An analysis of the Main Committee in the Australian House of Representatives", in *Legislative Studies*, Vol 13, No. 1, Spring 1998, p. 66.

Finally freeing up what was a more generally available facility would reduce the competition for committee rooms, particularly on sitting days.¹⁷

While a possible alternative venue has been sought, issues around the cost of a purpose built location have inhibited real progress in establishing a distinct Federation Chamber, adjacent to the Chamber itself.

In the absence of a purpose built second chamber, further enhancements have been made recently to the existing Federation Chamber, with the aim of increasing its authority and facility. Improved signage, fixed screens on the walls displaying captions about proceedings, a redesigned desk for the Deputy Speaker and Clerks, new lecterns and a central table to hold chamber documents, are some of the initial steps taken. Further enhancements, including a new Coat of Arms, some art work and enhanced lighting are anticipated. In light of these enhancements, it is suggested that proposals to construct a purpose built Federation Chamber now not proceed for the time being.

Options to enhance its effectiveness

The Federation Chamber has been a source of innovation for the House. It is seen to be working at its best when it meets regularly and deals with a range of business. Unusually, 2014 has seen a decline in the amount of government business referred to it, and on 11 occasions this year the only items dealt with in a meeting of the Federation Chamber have been Members' three minute constituency statements and an adjournment debate. A number of suggestions for the Committee to consider in its inquiry are proposed that may further the evolution of the Federation Chamber.

In relation to the referral of government bills, it is noted the change to the Standing Orders in this Parliament to permit the Leader of the House or the Government Whip to declare matters referred to the Federation Chamber. While this has made the process of referral more straightforward, it does not deal with the issue of agreement being obtained for matters to be referred. Any suggestions that the Committee could make to ensure the Federation Chamber has government bills referred to it would be welcome.

Consideration also could be given to providing the opportunity for committee reports to be debated during government business time on those occasions when government bills are not referred. Currently over 20 committee reports¹⁸ stand referred to the Federation Chamber for debate, with six currently due to be discharged from the Notice Paper as they have not been accorded priority for eight sitting Mondays. There is provision in the Standing Orders for the Selection Committee to allocate time on a Monday for debate on committee and delegation reports, but in practice this does not occur because of the high number of

¹⁷ House of Representatives Standing Committee on Procedure, *The Second Chamber: Enhancing the Main Committee*, July 2000, p.9.

¹⁸ As per the Notice Paper of 27 November 2014.

private Members' motions seeking time. If the Federation Chamber is going to meet on Wednesdays and Thursdays as per Standing Order 192, it would seem sensible to have committee and delegation reports scheduled for debate on those days.

There have been suggestions that the consideration in detail stage of the annual Appropriation bill which takes place in the Federation Chamber could be more streamlined and focus more on questions and answers rather than statements. Such a proposal was considered by the Procedure Committee in 2013, and while it acknowledged that the idea had merit, at that time it felt that existing arrangements were sufficient.¹⁹ The Committee may wish to reconsider whether changes could be made (perhaps as a trial) to see whether there could be improvement in the consideration of the estimates of government portfolios.

As noted earlier, the Federation Chamber has been a source not only of procedural, but also technological, innovation. The Committee could consider the technological, practical and procedural changes that may be necessary to enable the screens, now permanently located in the Federation Chamber, to be used to enable Members to illustrate their speeches, for example with photographs, images, graphs etc.

Finally, although public access to the Federation Chamber is permitted there is still only limited knowledge about the Federation Chamber and its role. There may be scope for additional publicising of the sittings of the Federation Chamber to encourage visitors to the building to attend. Information material for use by visitors, similar to material currently distributed in the galleries of the Chamber, also may be of use.

Concluding comment

The Federation Chamber will continue to play an important role as a second debating venue, able to relieve some of the pressure on time of the House. It also plays a crucial role in permitting private Members further opportunities to place on the record matters of concern to them. Its success and acceptance has been largely due to its nature as a subordinate, consensus-driven body. Through a process of evolution of parliamentary procedure, rather than radical change, the Federation Chamber has developed to be a useful adjunct to the operations of the main chamber. It is unlikely that proponents in 1994 would have envisaged the scope of its current role. On this, the 20th anniversary of the Federation Chamber, the Department welcomes this review by the Procedure Committee, and looks forward to recommendations that will take the Federation Chamber into its next 20 years and beyond.

¹⁹ House of Representatives Procedure Committee, *Maintenance of the standing and sessional orders*, June 2013, p. 22.

Clerk's Office
December 2014