



PARLIAMENT of AUSTRALIA
HOUSE of REPRESENTATIVES

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Ms Julie Owens, MP
Chair
Standing Committee on Procedure

Dear Ms Owens

Attached please find a submission for the Committee's consideration in its inquiry into the conduct of the business of the House.

My colleagues and I will be very pleased to provide any further assistance the Committee may require.

Yours sincerely

I C HARRIS
Clerk of the House

The conduct of the business of the House

Summary

The department appreciates the invitation to contribute to this inquiry. The committee's choice of this subject is to be welcomed; its record of success gives grounds for optimism that it will be able to identify and recommend worthwhile changes.

This submission deals with -

- sitting hours;
- speaking times;
- the Main Committee;
- committee reports;
- private Members' business;
- 90 second statements, and
- technological developments.

In short, we believe there are options which would build on adaptations already made and make the sitting arrangements more people-friendly without reducing the House's capacity to transact business; we believe that some reduction in speaking times could improve the vitality of debates as well as saving time, and we suggest options concerning committee reports, private members' business and members' statements.

The approach taken in the submission is to outline possibilities; it does not contain detailed or fully developed proposals. The Department will be happy to do further work on any or on all of these matters, as the Committee may require.

Sitting hours

Although the issues of sitting days and hours of sittings have often been considered at the same time, they are separate matters, and independent of the number of sitting days or weeks each year, the challenge long recognised by the Committee has been to find means by which maximum benefit or value can be obtained from the sittings of the House and meetings of the Main Committee.

The House has experimented with a number of arrangements for its sitting hours, and it has taken action to try to ameliorate the effects of the intense sitting week on Members - for example by introducing provisions for the deferral of divisions and quorums on Monday and Tuesday evenings and earlier this year by adopting special provisions concerning nursing mothers. We believe that it should be possible to have more people-friendly working hours, for example with no sitting scheduled to last beyond 8pm. Further, we believe that this could be done as part of a package which would ensure that there was no loss in the capacity of the House to transact government or non-government business.

Regular earlier adjournments would surely be appreciated by Members, by their staff and by departmental and other supporting staff. They would be seen as making the House a more people-friendly workplace and a more positive one in terms of the health of Members and of staff¹. In addition, such arrangements could encourage the recognition by Members, and more widely, that, important as its work is, the House is also a workplace. Working hours not too dissimilar to those of other workplaces should be more conducive to the conduct of the work of the House in a more regular and contemporary atmosphere. Such arrangements could also ultimately have some positive value in terms of community perceptions of the House and its Members².

Adjournment at 8pm on Mondays and Tuesdays (with the current adjournment times on Wednesday and Thursday) would reduce House sitting time by three hours. Even without more radical proposals, such as scheduling party meetings after the House has risen, it would be possible to compensate for the time lost.

The most obvious solution would be for the House to meet earlier on Tuesdays. In addition, the Main Committee could be scheduled to meet for additional hours. It is also possible that the loss of three hours of scheduled House sitting time in the evenings could be compensated for by less than three hours additional time without any reduction in Members' capacity to transact items of business. (This could be achieved if greater use was made of the Main Committee and/or if reductions were made in speech time limits or in the times for debates *see below*).

Speaking times

1 - Reductions in time limits

Reductions in speech time limits could result in a saving of time for Members participating in debate, and also allow more Members to contribute. We believe that this could be done without depriving Members generally of opportunities to make worthwhile and substantive speeches, and also that the quality of debates could be improved³. The Procedure Committee has commented
*....the length of speeches also has an impact on the extent to which debate is lively and interactive...*⁴

¹ *And see About Time*, op cit, pp30-33; *Time for review*, op cit p31-2.

² *And see About Time*, op cit, p32.

³ The comments that follow are based on a submission made to the Committee by the Department in 2006 - See the Committee's report *Encouraging an interactive Chamber*.

⁴ Procedure Committee, *Learning from other parliaments*, para 2.12.

The benefits of reduced time limits could be gained as a result of:

- Members feeling the need to be more selective in the content of speeches;
- Members not feeling they needed to take their full 20 minutes (on bills) when in fact all that they might wish to say could be said in 10 or 15 minutes⁵ - some members may feel they are 'letting the side down' if they do not take their full time or close to it; sometimes Members have been taunted that economy of time and expression suggests a weakness in their case when it appears they may not take their full time;
- a greater sense of pace or momentum in debates;
- a reduction in overlap in the content of speeches;
- Members possibly spending more time in the House/Main Committee or at least being present for more of the speech of the preceding speaker, because the speeches of other members would be shorter and they might perceive a higher risk of missing the call. Further, if debate became more interactive a Member may also choose to stay to hear the speech of the following speaker.

An analysis of 11 second reading debates held in the House recently this year has shown the following: averages:

- length of speeches - 14.42 min (including Ministers/Parl Secs);
- length of Ministerial/Parl Sec speeches – 7.57 mins;
- length of speeches excluding Ministers/Parl Secs – 15.50 mins;
- length of debate – 3hrs.7 mins;
- number of speakers – 13.

These statistics are similar to averages taken from a sample of bills in 2006. It is notable that an analysis of thirty one recent second reading debates in the Main Committee showed an average speaking time of 11 minutes and an average length of debate of just under one hour. Presumably these differences can be explained largely by the fact that non-controversial bills are referred to the Main Committee, but it is also possible that the characteristics of the Main Committee itself and its less formal atmosphere influence the time taken – for example Members may feel less pressure to speak for longer than they really believe they need to.

The Committee's report *Learning from other parliaments* states that members of other legislatures visited were surprised that in the House Members were permitted to speak on the second reading of bills for 20 minutes without interruption – in the British House of Commons, for example, the Speaker announces at the commencement of debates what the

⁵ An analysis of 11 recent second reading debates in the House shows an average length of speeches excluding Ministers/Parl Secs of 15.50 minutes

time limits will be (8 minutes is a minimum)⁶. The committee reported that it found that the length of speeches had an impact on the extent to which debate was lively and interactive⁷. The Committee also reported that members of other parliaments are expected to be present in the chamber – for example for the opening of a debate and for the preceding and following speaker – if they wish to receive the call.⁸

We note also that in the New Zealand House of Representatives the Business Committee has the task of setting speaking times for individual Members, as well as determining the order of business and the time for items. The Committee is chaired by the Speaker, its members include the Leader and the Shadow Leader of the House and the party Whips, all parties are represented, and, although they could be overturned by the House, its determinations have effect without the need for endorsement by the House⁹.

Attachment 1 summarises time limits on the second reading or equivalent stage in 10 other houses, and notes other relevant practices.

Experience with debates on private members' resolutions suggests that worthwhile and more lively debates can be held with shorter time limits. It is also notable that on condolence and similar motions, when time limits are not set, Members usually speak for periods well short of the 15 minute 'other debates' default time, yet appear to be able to say all that they wish to.

It would be possible, for example to set the following limits:

Second reading of bill

Mover and main opposition speaker: 20 minutes, with the

Minister having the right to require an extension of 10 minutes which, if exercised,

gives the Leader of the Opposition or member representing the Leader the same right;

Other speakers: 15 minutes (but see also 4 below)

Debates not otherwise provided for: 15 minutes for mover, 10 minutes for others.

Under the current standing orders there is an anomaly in respect of debates on motions to take note of committee and delegation reports. When such debates take place on Mondays, the maximum time is 10 minutes, but when they take place on other days the default provision (debates not otherwise provided for) of 15 minutes applies. The Committee might wish to consider this anomaly.

⁶ May, 23 rd edn , p 432-3

⁷ Ibid.

⁸ Ibid, p7

⁹ And see David McGee *Parliamentary Practice in New Zealand*, (3rd edn, 2005), pp 166-9.

In respect of current or modified time limits an extension could always be sought if a Member found it necessary. Our recollection is that requests for an extension have not caused controversy in the past.

A variation on the reduction of time limits would be Speaker Andrew's suggestion that the maximum time for a second reading speech after the Minister and leading Opposition speaker be reduced from twenty to fifteen minutes with the remaining five minutes being available for questions and answers relevant to the speech. He saw this as having the potential to enliven debate on legislation, it was not approached from the perspective of saving time. The Procedure Committee recommended that the procedure be available on an 'opt out' basis, with Members able to indicate at the beginning of their speeches that they would not be available for a question and answer period at the end, or by listening to a question before deciding whether to answer it, and recommended a trial of the procedure¹⁰. The government at the time did not support the recommendation; it considered that the existing arrangements provided the opportunity for significant debate and that they remained appropriate. Naturally should the second component of the time be used there would be little or even no time saving. This proposal was considered in light of experience gained with the intervention procedure in the Main Committee, and, like it, supported because of its potential to improve the dynamics of debates, neither issue was supported in terms of saving time – but, in our view, the character of debates is of great importance and one worthy of consideration by the Procedure Committee.

2 Variable time limits

A variation on general reductions in speech times would be to allow certain time limits for the first group of speakers and lesser limits for later speakers. Such arrangements apply in the House of Commons in Canada. Presumably this would put some pressure on whips and their offices, although such differentiations have been accommodated in respect of private Members' business for several years, and more recently in respect of matters of public importance, without any apparent problem.

3 - Differentiation between groups of bills - times available

The success of both House and Main Committee processes shows that informal arrangements about the treatment of bills can work very successfully. It could be possible for such arrangements to be extended.

One option would be to allow informal consultations to take place after bills were introduced with a view to agreement between the Leader of the House/ Manager of Opposition business and the Whips as to the time allocated for further consideration, in particular the second reading debate. In the same way that agreement is reached about bills to be referred to the Main Committee agreement could, for example, be sought that bills be differentiated in terms of the times to be available for their further consideration.

¹⁰ Arrangements for second reading speeches Standing Committee on Procedure, Dec 2003, p 4.

One possibility would be for agreement to be sought as to the times to be available for individual speeches (for example, some bills would attract certain times, such as 15 minutes, and other bills lesser times, such as 10 minutes). The quality of exchanges in debate could be assisted because for certain bills there would be an agreed compression of the time available for individual speeches – either desirable because of the nature of the bill or necessary because of the numbers of members wishing to speak. There could be a degree of what could be thought of as 'friendly peer pressure' on participants in debates, leading hopefully to tighter and more lively exchanges.

A second possibility would be to seek agreement that certain bills would attract a limited amount of time in toto. This sort of issue may be a familiar area of discussion between the whips. The possibility of having agreements endorsed by the House would be significant, and as another type of time limitation arrangement not a development which would sit easily with any general assumption that all members who wished to speak on a matter should be able to do so. The Legislation Handbook outlines an established, and public, categorisation system for bills. The House may never want to commit to categorisations made within government during earlier stages, but it could find them useful.¹¹

Safeguards would be needed. Government would presumably wish to retain ultimate control over the programming of its business and would not want changes to the rules to lead to delays it would regard as unacceptable. From an Opposition viewpoint presumably a reduction in the total time for the consideration of legislation would not be likely to be acceptable and equality between Ministers and Shadow Ministers would be important.

The interests of individual Members, including independents, would need to be recognised. There could be a requirement that informal agreement was subject to ratification in the House, in the same way as references to the Main Committee, although it is not suggested that an individual Member have the ability effectively to override agreements reached. The Opposition Whips could continue to be regarded as having some responsibilities in relation to all non-government Members.

The department acknowledges that options such as variable time limits for individual speeches, and for types of bills, would have some potential to cause disputation and confusion. We also recognise that decisions to categorise bills in a certain way could lead to criticism by lobby groups, interested persons or organisations and even campaigns run through the media.

Greater use of the Main Committee

Early reservations about referring bills to the Main Committee have long been replaced by recognition of its merits and its usefulness in terms of increasing the capacity of Members to take part in the law-making process¹². Negotiations about the referral of other matters to the committee also appear to be straightforward.

¹¹ *Legislation Handbook*, para 2.3, P7

¹² See, for example Procedure Committee report *The Second Chamber - Enhancing the Main Committee*, July 2000, chs 1-3.

Greater use of the Main Committee would enable the time of the House itself to be saved. It could also lead to a higher proportion of debates being characterised by good engagement and exchange. The statistics already mentioned also suggest that the time spent on bills to be considered in the Main Committee could be less than if the same bills were considered in the House.

Members of the Procedure Committee will be able to make judgments about the potential for a higher percentage of bills to be referred to the committee – and for it to be used more for other purposes.

One means of permitting greater use of the Main Committee would be to drop the requirement that the Committee can only meet during sittings of the House. This would, for example, allow the Committee to meet before the House itself or even allow the House to adjourn earlier on some days but for the Main Committee to continue. Such a change would also allow the Main Committee to meet on a non-sitting day

One of the complaints made about the House is that often very few Members are present in the Chamber. This problem is presumably exacerbated when the House and the Main Committee meet at the same time. Some Members with what might be regarded as heavy legislative workloads spend time in both venues and lists of speakers often need to be adjusted as a sitting unfolds to account for the competing demands. Having the Main Committee sometimes meet when the House is not meeting would relieve this problem, albeit temporarily.

It is possible that if only the Main Committee were meeting more visitors may attend in the Committee and the presence of visitors to the Main Committee proceedings could add to the atmosphere and influence the vitality of debates there.

Committee reports

For many years, and with some adaptation along the way, the scheduling of, and allocation of time for, committee and delegation reports has been done in conjunction with the programming of private Members' business. This has been the responsibility of the Selection Committee/the Whips, but subject to the authority of the House itself. These categories of business have been dealt with on the same day, and an advantage of the arrangements has been that the variable demand for time for committee and delegation reports has been able to be accommodated by adjusting the time allocated to private Members' business.

Although it has not been uniform, the trend for several years has been for Members to allocate significant time to their committee work and for committees to play a leading role in dealing with important issues confronting the community and the government.

In the longer term, if this trend continues the House might want to allocate a higher priority in its own program to committee reports. One option for a more distinct dedicated time for the presentation of and statements or debate on committee (and delegation) reports would be before Question Time on Tuesdays. Presumably there would usually be significant demand for time for the presentation of, and statements

or debate on, committee reports in the traditional form, but provision could also be made for short statements by committee chairs and other Members – for example to allow the House to be informed of progress on substantial inquiries.

If this category of business were to be separated from private Members' business, the Deputy Speaker could be given responsibility for the allocation of priorities and times. The Deputy Speaker could be required to consult with Committee Chairs and Deputy Chairs in these matters. This would build on the work of the Deputy Speaker as chair of the (informal) group of Committee Chairs and Deputy Chairs¹³. The Deputy Speaker could be supported in these matters by departmental staff.

The obvious advantage of such an arrangement would be to give greater recognition to the committee work of Members.

It is also noted that the normal order of business from 10 am on Wednesday and Thursday in the Main Committee is for Government business and/ or committee and delegation reports. The arrangements that currently apply to the programming of government business also apply to the programming of committee and delegation business during these times.

Private Members' business

Under present arrangements, the time ordinarily available for private Members' business and committee and delegation reports is 2 hours 35 minutes; 1 hour in the House, and the remainder in the Main Committee.

Members of the Procedure Committee will have a far better feel for the demand for time for private Members' business than we could have as staff members, and also for the most suitable times for it to be scheduled. One possibility is that, in the context of the weekly program and the wider programming and flow of government business, both government and non-government Members could find it advantageous not to schedule Government Business until after Question Time on Mondays and to schedule instead a period for Private Members' business before Question Time on Mondays.

We are not aware of any criticism of the selection of items and the allocation of times by the Chief Whips, although as time passes the Whips could be vulnerable to criticism: at a practical level, for example by a Member who might have issues with his or her party and come to believe feel that he or she had been discriminated against, or at a more theoretical level, for example by those who would be critical in terms of party domination of the House.

90 second statements

The introduction of 90 second statements was the recommendation of the Procedure Committee's first report¹⁴. The period was originally held on Thursdays, but later moved to Mondays in the House. The thought that Members would find it possible to say anything worthwhile in 90 seconds was viewed originally with some scepticism,

¹³ See *House of Representatives Hansard*, 8 February 2007, 19 June 2007.

¹⁴ *Alternative opportunities for Members to concisely address the House*, May 1985.

but as experience was gained the period appeared to be valued by Members, they were characterised by elements of spontaneity and good humour and a wide range of matters was often raised. Frontbenchers were not given priority. The calling of quorums and the taking of points of order was seen as not in accordance with the spirit of the period and were not problems. When held in the House these statements seemed to be appreciated by visitors, and the House was usually well attended by visitors in the lead-up to Question Time. In addition, when held in the House they provided opportunities for what appeared to be a healthy type of interaction between the Ministry and backbenchers.

As we see it, there are greater benefits for individual Members, for the wider membership of the House and for visitors in scheduling this period in the House rather than the Main Committee. The Committee might also consider the possibility of such statements being scheduled immediately before Question Time on Wednesdays and Thursdays. The time taken could be balanced by not having an adjournment debate on Thursdays.

Technological developments

Electronic voting

The Committee has commented on the issue of electronic voting at least twice. In its 1996 report *The conduct of divisions* the Committee reviewed work that had been done to that point on electronic voting, but concluded that the costs involved precluded it as an option at that point and concentrated on other ways to speed up the voting process. In its *review of the conduct of divisions* report of August 2003 the Committee did not recommend the introduction of electronic voting, but said that at some point all Members should have the opportunity to debate the issue and express their views. There are a number of issues to be considered in connection with this matter, including costs, the operation of a system, the time that could be saved and the impact of such a system in a wider sense (one of the issues has been that the ability to force a division in the traditional sense has been valued by minorities, although arrangements could, for example, allow for some quarantining of questions).

Illustrative material such as PowerPoint

It appears that in a small number of Parliaments members may be able to use technology, such as PowerPoint, to supplement their speeches. These are possibilities the House will need to consider. The use of such material in presentations adds another dimension to the ability to convey ideas and messages. In addition to the ability to improve the impact or absorption of information, the use of such technology by members would be consistent with the approach of many other persons, such as teachers and university lecturers. To younger people especially, the experience of observing parliamentary proceedings might therefore not appear to be so foreign.

The use of such technology would not sit easily with reductions in speech time limits, PowerPoint usually being associated with longer presentations. In addition, these technologies are typically used by a person, such as a lecturer, addressing a group of people, rather than persons engaged in a debate with each other. Accordingly, advantages in terms of observers in the galleries could be offset by at best different, at worst less, engagement between members. Care would also need to

be had in regard to the capacity of those listening to a broadcast or observing a telecast of proceedings to understand fully the message being conveyed. The committee would also need to be alert to the possibility of what might be ultimately less substantial contributions gaining greater attention because of the use of technology, possibly even the use of material or approaches prepared by experts in communications. Accommodating such technology in the Chamber would also change the dynamics of the Chamber and present technical challenges in terms of the record and the telecast/broadcast. These would not be insurmountable but there would be obvious cost implications.

While it is thus not clear that such developments would improve the internal dynamics of debate, or save time, they have other attractions and are matters to which the committee may wish to give further consideration.

The Department will be pleased to do further research or analysis on any of the possibilities outlined in this submission, or on any other aspects the committee may wish to consider.

10 September 2008

TIME LIMITS FOR 'SECOND READING' SPEECHES

(this information only covers second reading debates on government legislation (excluding appropriation bills) and does not include times for private members' bills)

Australian House of Representatives

- 30 minutes for Minister and Leader of Opposition/nominee
- 20 minutes for other speakers

Australian Senate

- 20 minutes (but is possible for a motion to be moved to extend time by 10 minutes)

New South Wales Legislative Assembly

- Mover – unspecified
- Leader of Opposition (or nominee) - unspecified
- Any other member - 15 minutes, but can be extended by 5 minutes on motion

Victorian Legislative Assembly

- Mover – unlimited
- Leader of Opposition (or nominee) – 30 minutes (where the minister speaks for more than 30 minutes, an additional time equivalent to the ministers time in excess of 30 minutes can be added)
- Lead speaker from any other party – 20 minutes (same provision for extension)
- Any other member – 10 minutes

Queensland Legislative Assembly

- Mover – 1 hour
- Leader of Opposition (or nominee) – 1 hour
- Other members – 20 minutes
- Mover in reply – 30 minutes

South Australian House of Assembly

- Mover – unlimited
- Leader of Opposition (or nominee) – unlimited

- Any other member – 20 minutes
- Mover in reply – 1 hour
- Note: also members can speak on third reading for 20 minutes each.

Western Australian Legislative Assembly

- Mover – 60 minutes
- Leader of Opposition (or nominee) – 60 minutes
- any other member – 20 minutes (but can be extended on request of member by a further 10 minutes)
- mover in reply – 45 minutes
- Note: on third reading, mover and any other member can speak for 30 minutes each

Tasmania House of Assembly

- Mover – 40 minutes
- Leader of Opposition (or nominee), or leader of another party – 40 minutes
- Any other member: 30 minutes max

New Zealand Parliament

- Each member 10 minutes
- But whole debate: limit of 12 speeches
- Note: 1) Role of Business Cttee in setting times, and 2) Can have speeches on first and third reading of government bills as well (10 minutes each member, whole debate 12 speeches at each stage)

Canadian House of Commons

- 20 minutes if the Member is the first to speak on behalf of a recognised party in the first round of speeches*
- 20 minutes following the first round of speeches, if the Member begins to speak within the next five hours of consideration*
- 10 minutes if a Member speaks thereafter
- 20 minute speeches are generally followed by a 10 minute period during which other Members may ask questions or comment briefly and receive a reply from the member.
- Note: same time limits apply for third reading

[*SO allow the Whip of a recognised party to indicate that Members of their party will split their 20 minute speaking time in two. In such cases, Members speak for 10 minutes, followed by a question and comment period of 5 minutes.]

UK House of Commons (this relates to public bills only; not private or hybrid bills)

- No set time limits

- For Government bills, programme motions are often set in place which set out a timetable for the conclusion of proceedings on a bill (ie which set the length of time to be allocated to a particular stage). In the event of disagreement over programme motions, an 'allocation of time motion' (guillotine) is generally used when the government is unable to get the agreement of the opposition parties to a programme motion.
- Under SO 47 the Speaker can indicate the length of time for individual speeches on any motion or order of the day relating to public business (the time limit must not be less than eight minutes) and will direct a member to resume his seat at the end of the period. This does not apply to Minister, Leader of Opposition (or nominee) or Leader of second largest opposition party or nominee). Since 2002 there has also been provision for 'injury time' in respect of interventions: the Chair is required to add one minute if an intervention is accepted, plus the time taken by the intervention, and two minutes if two or more interventions are accepted, plus the time taken by the first two interventions. (*Short speech procedure*)