
The Parliament of the Commonwealth of Australia

Encouraging an interactive Chamber

House of Representatives
Standing Committee on Procedure

December 2006

Canberra

© Commonwealth of Australia 2006

ISBN 0 642 78877 4 (printed version)

ISBN 0 642 78878 2 (HTML version)



Contents

Foreword.....	v
Membership of the Committee.....	vi
Terms of reference.....	vii
List of recommendations.....	ix
1 Encouraging an interactive Chamber	1
Introduction	1
Other proposals to encourage interactivity.....	2
The Matter of Public Importance (MPI) discussion	4
Audio visual aids.....	5
Other parliaments	5
2 The interventions proposal	9
Previous inquiry into arrangements for second reading speeches	9
Existing arrangements for second reading speeches.....	10
Essence of proposed change	11
Application of the proposal to Ministers and Shadow Ministers	12
Anticipated effect of change.....	13
Rules for interventions.....	15
Conclusion.....	17
Appendix A	19
Submission from the Clerk of the House.....	19



Foreword

It is often said that debates in the House of Representatives can be dull, characterised by lengthy speeches to an almost empty chamber. This inquiry by the Procedure Committee has looked at ways of enlivening debates on legislation and other methods of encouraging an interactive chamber. It builds on the committee's 2003 report titled "Arrangements for second reading speeches".

In that report the committee supported a proposal by the former Speaker, the Hon. Neil Andrew, that second reading speeches on bills be reduced from 20 minutes to 15 minutes, with 5 minutes at the end for a question and answer period. In the light of the success of the intervention procedure in the Main Committee, the committee believes an extension of interventions to the chamber, to allow for interventions after 15 minutes of a second reading speech have passed, would provide for a similar outcome as the earlier proposal.

The committee encourages the trial of new arrangements in the broader context of encouraging a more interactive House of Representatives chamber.

Margaret May MP
Chair



Membership of the Committee

Chair	Mrs M A May MP
Deputy Chair	Mr D Melham MP
Members	Hon B K Bishop MP
	Mrs P Draper MP
	Ms K J Hoare MP
	Mr L Hartsuyker MP
	Hon L R S Price MP

Committee Secretariat

Secretary	Joanne Towner
Research Officer	Peter Banson
Administrative Officer	Penelope Branson

House of Representatives

Parliament House

Canberra ACT 2600

Telephone: (02) 6277 4685

Email: Procedure.Committee.Reps@aph.gov.au

URL: www.aph.gov.au/house/committee/proc/



Terms of reference

General terms of reference

To inquire into and report on the practices and procedures of the House generally with a view to making recommendations for their improvement or change and for the development of new procedures

Terms of reference of the inquiry

Arrangements for second reading speeches and other methods of encouraging an interactive chamber.

List of recommendations

Recommendation 1

The committee recommends that standing orders be amended to allow interventions after the first 15 minutes of each second reading speech in the Chamber (other than the speeches of the mover and lead speaker in response). This should be implemented on a trial basis from the start of sittings in 2007, and reviewed by the Procedure Committee after 6 months of operation.

Recommendation 2

The committee recommends that Members should have the right to opt out of answering questions on their second reading speeches in the Chamber, either by indicating at the beginning of the speech that he/she would not be taking questions after the first 15 minutes of the speech, or by listening to a question before deciding whether to answer it.

Recommendation 3

The committee recommends that interventions should be brief and directly relevant to the second reading speech, and that the Speaker should have the discretion to rule out of order any intervention that abuses the orders or forms of the House.

Encouraging an interactive Chamber

Introduction

- 1.1 On 10 August this year the Procedure Committee decided to undertake an inquiry into ways of encouraging a more interactive House of Representatives Chamber. The inquiry arose from concerns about the level of actual debate on legislation and other business, with comments being made all too often about the reality of Members “reading” lengthy speeches to an almost empty Chamber.
- 1.2 The committee wrote to all Members of the House of Representatives seeking comment or suggestions on ways of increasing the level of interactive debate in the Chamber. After receiving a submission to the inquiry from the Clerk of the House, the committee forwarded the submission to all Members seeking any further comment. No comments were received from Members.
- 1.3 In the process of this inquiry the committee has built on a previous inquiry into the arrangements for second reading speeches, which was tabled in the House in December 2003¹. That inquiry was based on a proposal by the then Speaker, the Hon. Neil Andrew MP, that second reading speeches on bills be reduced from 20 minutes to 15

¹ *Arrangement for second reading speeches*, Standing Committee on Procedure, December 2003.

minutes, with the introduction of a 5 minute question and answer period at the end (the “15:5 option”). The committee notes that the proposal had considerable informal support from both sides of politics, but it was not ultimately supported by the Government. The committee has re-examined the proposal briefly in Chapter 2 of this report, but, in light of the successful operation of the interventions procedure in the Main Committee, has recommended the introduction of different arrangements to those originally suggested by Mr Andrew’s proposal.

- 1.4 The committee has also drawn on information gathered during its recent study visit² to other parliaments in the United Kingdom and France.

Other proposals to encourage interactivity

- 1.5 In addition to the earlier proposal for changes to arrangements for second reading speeches, other proposals were also put forward to the committee in this current review. The Clerk of the House of Representatives in his submission outlined a number of options for encouraging more interactive debate in the Chamber. The options proposed in the submission can be summarised as:

- **Reduction in speech time limits**
- **Introduction of interventions in the House**
- **Categorisation of bills**
- **Greater use of the Main Committee**

- 1.6 The first option involves reducing speech time limits on second reading speeches from 20 minutes to 10 or 15 minutes. It is argued that this may lead to Members being more selective in the content of speeches, a greater sense of pace in debates and Members spending more time in the House and Main Committee so as to avoid missing the call when it is their turn to speak.

- 1.7 As detailed in Attachment 1 to the Clerk’s submission, the length of second reading speeches (aside from mover and mover in reply) in other Parliaments in Australia varies from 10 minutes in Victoria to 30 minutes in Tasmania. In some of these Parliaments Members can

2 *Learning from other parliaments*, Standing Committee on Procedure, August 2006.

extend their speeches by request or motion. In the New Zealand Parliament Members have 10 minutes each and there is a limit of 12 speeches for the whole debate, but the same time limits can apply for speeches on the first and third reading of government bills.

- 1.8 While the length of speeches may have some impact (see para 1.25), the committee does not support a reduction in speaking times at this stage. While debates will flow from speaker to speaker more quickly, such a reduction would not provide for Members to actually interact any more than they do at present.
- 1.9 The second proposal, the option of allowing interventions in the House, would involve simply extending the procedure already in place in the Main Committee to the main Chamber. As noted in the Clerk's submission, the interventions procedure has been successful in the Main Committee in allowing Members present to engage with a speaker, with 100 interventions having been accepted by Members speaking (out of 144 sought)³.
- 1.10 The committee sees merit in the extension of interventions to second reading debates conducted in the House, but has some concerns about the whole time of the speech being subject to such possible interruption. Instead the committee favours interventions being acceptable after 15 minutes of the speech have elapsed (ie in the final 5 minutes). This matter is discussed in more detail in Chapter 2.
- 1.11 The categorisation of bills option would require informal consultation between whips after bills were introduced, with a view to setting different time limits for their further consideration based on levels of interest/importance/controversy. The Clerk's submission outlines two possible methods of categorisation. The first is that time limits would be agreed for individual speeches depending on the category of bill (eg 15 minutes per speaker for category X bills, and 10 minutes per speaker for category Y bills). The second possibility is that time limits be set for the total consideration of bills depending on their category, with individual speeches not necessarily being reduced from their normal length.
- 1.12 Categorisation of bills with varied speaking times is not supported by the committee as it would prove unduly complicated for Members, and potentially limit the time available for Members. As with the option of a simple reduction in speaking times, the

3 Submission from Mr I C Harris, Clerk of the House, p. 5.

committee does not believe that categorising bills would significantly improve interactivity in the Chamber.

- 1.13 The fourth option listed above is greater use of the Main Committee. The Clerk's submission notes that debates often appear to be more interactive in the Main Committee than in the House, and suggests that additional use of the Main Committee could lead to a higher level of engagement and exchange in debates. Aside from allowing more bills to be referred to the Main Committee, the Clerk notes that a further possibility could be to allow the Main Committee to meet when the House is not sitting, either to start before or continue after the House sits, or to meet on non-sitting days.
- 1.14 The committee agrees that certain aspects of the Main Committee may be conducive to greater interactivity during debates than the Chamber, but notes that shifting more debates out of the Chamber and into the Main Committee could not be expected to change the character of debates in the House itself, which is the purpose of this inquiry. The Main Committee is already sitting for more extended periods and providing more opportunities for Members to speak, and it would be difficult to argue that substituting one venue (Main Committee) for another (Chamber) would encourage greater interactivity in the latter.

The Matter of Public Importance (MPI) discussion

- 1.15 The Clerk's submission also discusses possible changes to the standing orders in relation to the discussion on the matter of public importance on sitting Tuesdays, Wednesdays and Thursdays. Standing order 1 provides for two hours for the total discussion, with 15 minutes for the proposer and Member next speaking, and 10 minutes for any other Member.
- 1.16 The submission notes that in practice the discussion usually only lasts for 50 minutes, with two Members speaking for 15 minutes each and two speaking for 10 minutes each, and suggests that the discussion be limited to one hour, and that speaking time limits be reduced to allow more Members to speak to each MPI.
- 1.17 The committee notes the suggestion in the Clerk's submission, but believes that the current arrangements for the MPI are adequate, as they allow for expansion on the usual four speakers where necessary. It is also worth noting that while it is not technically a debate, the MPI discussion often seems to be one of the most

interactive parts of a sitting day, with usually the highest number of Members present in the Chamber besides question time and divisions.

Audio visual aids

- 1.18 The potential use of audio visual aids is also canvassed in the Clerk's submission. It is noted that in a number of Parliaments Members have access to technology such as Powerpoint to supplement their speeches, and that the House may at some stage need to consider such concepts. The Clerk observes that the use of audio visual materials adds another dimension to presentations and may appeal to younger people observing proceedings, but also notes that these technologies are typically used by a person addressing an audience rather than by people engaged in a debate.
- 1.19 It is clear to the committee that the possible use of audio visual aids in the delivery of speeches raises a number of technological and procedural issues beyond the scope of this inquiry. The committee has an ongoing interest in the use of technology in the parliamentary environment and proposes to consider the use of audio visual equipment in that wider context.

Other parliaments

- 1.20 During a study tour of parliaments in the United Kingdom and France, the committee was impressed by the extent to which other Chambers encourage and experience a higher level of interaction during debate than that experienced in the House of Representatives. The subject was discussed first with the UK House of Commons Modernisation Committee. Any Member wanting to participate in a debate in the Commons is expected to come to the opening of the debate. The call is in the hands of the Speaker in reality (as opposed to being in the hands of the Speaker but subject to the arrangements put in place by the Whips). For major speeches, Members are expected to write to the Speaker requesting the opportunity to speak. The Speaker then consults his own list in allocating the call and is unlikely to call a Member who has not been listening to the debate in the Chamber. Further, Members are not expected to leave the Chamber as soon as they finish speaking. Such

behaviour would not be conducive to the member getting the call on a future occasion.

- 1.21 It was not clear whether the practice in the House of Commons was a deliberate attempt to encourage an active debating Chamber. It appears to have survived from a time when Members did not have so many other calls on their time. At the same time, Members of the Commons could see the advantages of the practice. One senior member expressed the view that the combination of a pre-arranged Speaker's list and a rule against interventions in the Chamber might lead to a "sterile debate".
- 1.22 Interactive debate in the smaller parliaments is also to some extent a function of the practice of expecting Members to be present in the Chamber if they want to participate in a debate. In the small parliaments (the Tynwald on the Isle of Man, and the National Assembly of Wales) Members are generally present during all proceedings – a discipline encouraged by the relatively short number of sitting days and hours and the fact that committee meetings are generally scheduled for times when the plenary is not sitting.
- 1.23 In the Scottish Parliament there is a convention that Members should be in the Chamber for the whole debate but more strictly, that they must be in the Chamber at least for the preceding and following speaker. It is not unusual for Members to be in the Chamber for three hours for a debate. The Scottish Parliament uses a list of speakers but they are not called in order.
- 1.24 The Scottish Parliament also allows interventions – another practice which encourages an interactive debating Chamber. Like the practice in our own Main Committee, interventions may be accepted or rejected by the Member with the call. The practice seems to be common, with one member estimating that about half the speeches in the Chamber have an intervention. The House of Commons also allows interventions. When asked if interventions encourage unruly behaviour, it was pointed out that a Member who abused the right to intervene would have a lot of difficulty "catching the eye of the Speaker".
- 1.25 The committee found that the length of speeches may have an impact on the extent to which debate is lively and interactive. Most Members of other legislatures found it greatly surprising that in the House of Representatives, Members are permitted to speak on the second reading of bills for 20 minutes without interruption and that

further, Members are permitted to read their speeches – generally to an all but empty Chamber. The average length of a speech on legislation in Scotland is about six minutes. In France speech times are allocated to a political group which then allocates the time amongst its members. Members may have to share as little as 15 minutes.

- 1.26 Despite the higher level of interactivity in other Chambers, the committee did not find total satisfaction with proceedings. Reportedly, in Wales, although a lot of Members are in the Chamber most of the time and there is “quite a lot of interaction”, the Presiding Officer would like to see more interaction.

The interventions proposal

Previous inquiry into arrangements for second reading speeches

- 2.1 In considering ways in which a more interactive Chamber could be encouraged, the committee felt it important to revisit the proposal by Speaker Andrew regarding second reading speeches, examined in the committee's 2003 report, *Arrangements for second reading speeches*¹.
- 2.2 Under Speaker Andrew's proposal², standing order 1 would be changed so that where the maximum speaking time is currently 20 minutes, this would be shortened to 15 minutes. The 5 minutes thus saved would be available for questions and answers relevant to the speech.
- 2.3 The object of Speaker Andrew's proposal was to enliven debate on legislation. In preparing their second reading speeches Members should be encouraged to become advocates for a particular position on the bill's policy. The combination of having a shorter time to communicate their views and the possibility of having to defend them during a question and answer period could, he hoped, return to the Chamber the sort of interactive, sometimes passionate debate that appears to be less common than in previous times.

1 *Arrangements for second reading speeches*, Standing Committee on Procedure, December 2003.

2 Referred to as the 15:5 option.

- 2.4 As observed at the time, the effect of allowing a question period at the end of a speech could reasonably be expected to encourage backbench Members to take seriously their obligation to hold the executive to account. The committee agrees with the view put forward that a critical analysis of legislation would be encouraged if Members could be asked to defend their reasoning or conclusions.
- 2.5 During the previous inquiry it was suggested that the possibility of being asked questions relating to a second reading speech might result in a smaller speakers list because only those who felt confident they understood the issues would want to participate. The committee noted that this may have the dual effect of encouraging better preparation for speeches and reducing time pressures on the Chamber.
- 2.6 If the 15:5 proposal was adopted, it was hoped that more Members might remain in the Chamber to listen to their colleagues' speeches as well as to ask questions. In turn, this would enhance the public's perception of the significance of parliamentary proceedings. It would go some way towards addressing what one Member during the previous inquiry called "the burning problem of an empty Chamber and a sterile debate".
- 2.7 The government responded to the report in December 2005 indicating it considered that the existing arrangements provided the opportunity for a significant debate on legislation and that they remained appropriate. Accordingly, the government did not support the recommendations of the report.
- 2.8 This proposal was again considered by the committee during the current inquiry. However, in light of the earlier government response and the success and formal adoption of the intervention procedure in the Main Committee since that earlier report, the committee decided to pursue a different path in modifying the arrangements for second reading speeches in the Chamber.

Existing arrangements for second reading speeches

- 2.9 Standing order 1 provides that the mover of a government bill has a maximum of 30 minutes for his/her second reading speech. The

Leader of the Opposition or one Member delegated by the Leader also has a maximum of 30 minutes.³

- 2.10 The maximum time available under standing order 1 for all other speakers on the second reading is 20 minutes. In general Members from both sides come into the Chamber just in time to give their speeches. They speak for up to 20 minutes unless (uncommonly) the Whips have asked Members to speak for a shorter period.⁴ The Member is then most likely to leave the Chamber. Sometimes a Member will arrive 10 minutes or so before the previous speaker is scheduled to finish, but equally Members often arrive less than 5 minutes before the end of the previous speech.

Essence of proposed change

- 2.11 As interventions are now a permanent feature of the Main Committee, the committee believes that it would be worthwhile to trial an extension of the procedure in a modified form in the Chamber.
- 2.12 The committee's proposal is that the standing orders be amended to permit interventions after the first 15 minutes of a Member's second reading speech in the Chamber. The maximum times for second reading speeches would remain as they are at present. The intervention process in the Chamber would apply only to second reading speeches on bills at this stage, and not more generally to other orders of the day as occurs in the Main Committee.
- 2.13 As in the Main Committee, the clock would not be stopped during interventions, and interventions would only be accepted in the final quarter of a Member's speech. If the process is effective in encouraging greater interactivity in the Chamber, the committee will consider recommending an extension of the procedure to the full period of the speech.

³ No maximum time is specified for the mover and lead opposition speaker on the second reading of the Main Appropriation Bill for the year. In relation to Private Members' bills standing order 1 provides for a maximum of 30 minutes for the mover and either one or two others depending on whether the mover is a Government or non-government member.

⁴ The maximum time allowable for a second reading speech is shown on the Chamber clocks even though Members may have been asked by the Whips to speak for a shorter time.

Application of the proposal to Ministers and Shadow Ministers

- 2.14 After the Main Committee interventions procedures were adopted in 2002, the Deputy Speaker, in explaining the application of the procedures, noted:

Because of the significance of ministers' or parliamentary secretaries' second reading speeches in terms of statutory interpretation, interventions would not be appropriate in those cases, but a question could be appropriate during a minister or parliamentary secretary's summing-up speech.⁵

- 2.15 The committee considers that for the same reason, Ministers and Parliamentary Secretaries should not be expected to take interventions in the Chamber when moving the second reading, and that this exclusion should also extend to the lead speaker in reply. However, interventions when the Minister is summing up the debate should be allowed, in keeping with the practice in the Main Committee.

Shadow Ministers

- 2.16 While not having the same legal interpretive significance, the second reading speech by the Leader of the Opposition or his/her nominee (usually the relevant Shadow Minister) encompasses the official Opposition position on the bill (including when the bill is not opposed). It is an important aspect of House proceedings that the Opposition should have the same opportunity as the Government to explain its position in relation to a bill. The committee therefore believes that the arrangements for the Shadow Minister's speech should remain as they are.

Private Members' bills

- 2.17 As was discussed in the 2003 report, very few Private Members' bills go through a full second reading stage in the House but it is necessary to make provision for such bills for the sake of completeness. The committee considers that there should be no interventions during those speeches currently allocated 30 minutes speaking time.

5 House of Representatives *Hansard*, 17 September 2002, p. 6471.

Recommendation 1

- 2.18 **The committee recommends that standing orders be amended to allow interventions after the first 15 minutes of each second reading speech in the Chamber (other than the speeches of the mover and lead speaker in response). This should be implemented on a trial basis from the start of sittings in 2007, and reviewed by the Procedure Committee after 6 months of operation.**

Anticipated effect of change

Enlivening debate

- 2.19 In suggesting the possibility of allowing interventions in the House, the Clerk observes in his submission:

It appears that Members have adjusted to the procedure allowing interventions in the Main Committee.

...

Interventions seem to have played a role and have shown that Members are listening and willing to engage with a speaker, and vice-versa.⁶

- 2.20 Due to the success of interventions in the Main Committee, the committee believes it is reasonable to expect that its proposal of permitting interventions after the first 15 minutes of second reading speeches will be successful as a first step in facilitating a more interactive main Chamber.
- 2.21 It has been argued that the effect might go beyond that desired and that the proposed change might create “some room for mischief” – i.e. it might encourage the wrong sort of interaction. However, unruly interjections are more likely to be caused by frustration at not being able to engage in a proper debate with a Member with opposing views. If Members are allowed, indeed encouraged, to debate and question the substance of the matters under discussion, this could have the effect of decreasing unruly behaviour.

⁶ Submission from Mr I C Harris, Clerk of the House, p. 5.

- 2.22 The question of whether Members would spend more time in the Chamber if they were allowed to participate in this way can only be answered by a trial of the proposal. If interventions were allowed after the first 15 minutes of second reading speeches it is arguably more likely that Members might attend to hear more speeches than they otherwise would. It is not envisaged that Members would be required or expected to attend for a whole second reading debate.

Conclusion on the likely impact of the proposal

- 2.23 It is not possible to predict the impact of the proposed change but it is possible to assess the value of the proposal's objectives. The committee considers that the objective of encouraging a more interactive debating style is consistent with the constitutional role of the House, to debate legislation before voting on it. Every attempt to facilitate real debate should be encouraged by all Members and recognised in the standing orders. If more relevant proceedings mean that the House is more meaningful to the public, this is an additional bonus.
- 2.24 In weighing up the claimed benefits and possible undesirable side effects of the proposed change, the committee concludes that a trial of changed arrangements is the only way to test either.

Opting out of taking interventions

- 2.25 The standing order relating to interventions in the Main Committee (66A) provides for a Member speaking to refuse to give way to another Member seeking to ask a question. The committee believes that the proposed new arrangements in the House are more likely to be well tested if all Members are able to opt out of taking interventions, and therefore proposes that this provision also be included in arrangements for interventions in the House.
- 2.26 The committee considered whether a Member opting out of answering questions should still have 20 minutes available for his or her speech (as would not have been the case with the 15:5 proposal). The committee concluded that Members who do not take or are not asked questions should not be penalised 5 minutes of speaking time.

Mechanism of opting out

- 2.27 This could be effected by the Member announcing at the start of the speech that he/she would not be taking questions after 15 minutes.

Alternatively, a Member could wait until he/she heard the question before deciding whether to answer it.

- 2.28 The pros and cons of these options are best left to the Member involved. In relation to the objectives of the proposal, an announcement by the Member at the beginning of his/her speech that no questions would be answered is unlikely to encourage other Members to stay in the Chamber to listen to the speech. There would be some pressure on Members not to refuse questions at least until he or she heard the question. If the question seemed not to be in the spirit of the proposal that would be time enough for the Member to refuse to answer it.

Recommendation 2

- 2.29 **The committee recommends that Members should have the right to opt out of answering questions on their second reading speeches in the Chamber, either by indicating at the beginning of the speech that he/she would not be taking questions after the first 15 minutes of the speech, or by listening to a question before deciding whether to answer it.**

Rules for interventions

- 2.30 In its 2000 report recommending the introduction of interventions in the Main Committee, the committee observed:

The intention would be to encourage interactivity and spontaneity in debate. However the committee would not like the intervention process to degenerate into point scoring or disruption. It has in mind that the Chair would play an active role in ensuring that the procedure was not abused and that interventions were courteous, orderly, brief and in the form of a question. In this way it is hoped that Members would be encouraged to accept and respond to interventions.⁷

- 2.31 The important principle is that questions should be brief and directly relevant to the second reading speech. The standing order governing interventions in the Main Committee (66A) includes the provision: 'Provided that, if, in the opinion of the Chair, it is an

⁷ *The Second Chamber; Enhancing the Main Committee*, Standing Committee on Procedure, July 2000, p. 37.

abuse of the orders or forms of the House, the intervention may be denied or curtailed.’

- 2.32 It is proposed that the rules for interventions observed in the Main Committee be applied to interventions in the House.

Recommendation 3

- 2.33 The committee recommends that interventions should be brief and directly relevant to the second reading speech, and that the Speaker should have the discretion to rule out of order any intervention that abuses the orders or forms of the House.**

Reading speeches

- 2.34 The topic of reading speeches is related to the overall aim of encouraging a more lively debating style in the Chamber. The need for concentration in case a question should be asked might encourage less reliance on a written speech. In this context it is worth noting that the standing order prohibiting reading speeches was deleted in 1965. One of the reasons given for omitting the standing order was that it was reasonable to allow reading “whenever there is reason for precision of statement such as on the second reading of a bill, particularly those of a complex or technical nature, or in ministerial or other statements”.⁸
- 2.35 While the committee notes that there is a general feeling that speeches should not be read, and that the practice of reading speeches is much wider than a Minister’s second reading speech, the committee does not at this stage believe that a ban on reading speeches should be re-introduced.

⁸ Quoted in *House of Representatives Practice (5th edition)*, p. 479, relating to the 1964 Standing Orders Committee recommendation to omit the standing order preventing a Member from reading “his” speech. The other reason given for omitting the rule was difficulty in implementing it.

Conclusion

- 2.36 The committee commends the new procedure to the House and hopes it can be introduced from February 2007 to allow for as substantial a trial as possible.

Margaret May MP
Chair



Appendix A

Submission from the Clerk of the House

Submission to the inquiry by the Standing Committee on Procedure into encouraging an interactive chamber

Summary

The department welcomes the opportunity to contribute to this inquiry. The Committee's choice of this subject for further study shows its commitment to the goal of improving the vitality of debates – in its previous inquiry members were critical of the current standards of debate¹.

Debate in a modern legislative chamber certainly differs from the pure form undertaken by debating societies, not least because the immediate outcome is determined by participants rather than neutral judges. In addition it is to be hoped that Members taking part in debates in the House will be judged more for the depth and quality of their contributions rather than for their technical skills in the art of debate.

While it is unlikely in ordinary circumstances that words spoken in the Chamber will change immediate voting decisions—which are more or less

¹ Eg H R Debates (1.12.03) 23283

determined according to agreements in the respective party rooms—debate still plays a central role in parliamentary proceedings.

This submission outlines changes that could be considered by the committee as likely to encourage more interactive debate, including:

- reduced speech time limits;
- modified speech time limits;
- the introduction of the interventions procedure in the House;
- the categorisation of bills so as to attract lower speech time limits, or even limited total times, to certain bills, and
- greater use of the Main Committee, including the possibility that on some days the House could adjourn but the Main Committee continue.

The use of audio-visual aids is also discussed.

The department will be pleased to work with the Committee in any way it might wish in the further consideration of any options.

A note on the purpose of debate

In its purest form, debate is a contest of ideas. Speakers in favour of a proposition put forward their case and defend it against the arguments of speakers who oppose it. The objective is to convince a third party—the judge, panel or assembly having the power to decide—whether the proposition should be accepted or rejected. Ideally the decision is made on the respective merits—rational, moral and emotional—of the arguments for and against.

Debate in a legislative chamber is not such a straightforward concept. The speakers, for and against, will themselves participate in deciding the immediate outcome. Moreover, they do not act merely as autonomous individuals but as representatives of constituencies and in most cases as members of political parties. Usually the decision to support or oppose a proposition will have been made before the formal debate commences and is not amenable to change. In a chamber with a strong party political presence like the House of Representatives, debate rarely has a part to play in determining immediate voting decisions.

For those who see debate only as the means for reaching a necessary decision, proceedings on the floor of the House might seem of limited value, especially when, as is often the case, very few Members are present while speeches are being made. Occasionally, as happens when members are allowed a free vote, speeches on the floor of the House can influence the outcome. There is also

some evidence that members and others find such debates both interesting and helpful in forming their own views.

Even if positions are usually taken in advance, debate on proposed laws serves a number of purposes. First, it enables proponents to place on the official record the intentions behind a legislative proposal. This can be of value to those with a particular interest in a matter and can be used to assist subsequent statutory interpretation in the courts. Second, the respective parties and individual representatives are able to explain and publicise their positions on proposals. Third, it enables Members to give voice to the impact of proposals on particular areas, groups or interests. Finally, individual Members may demonstrate expertise on a particular subject, or skill as an advocate, which enables them to advance their parliamentary careers. While these factors are particularly relevant to debates on legislation, they are at least in part also applicable to other debates.

Redlich puts parliamentary debate in the wider context:

Without speech the various forms and institutions of parliamentary machinery are destitute of importance and meaning ..By speech and reply expression and reality are given to all the individualities and political forces brought by popular election into the representative assembly ².

The following sections of this submission outline changes that we believe should have some potential to making debate more interactive. The possibilities are not all mutually exclusive, nor are they put forward as recommendations, rather they are submitted for the committee's consideration and with the offer to provide any further information or comment the committee may desire.

1 - Reductions in speech time limits

*....the length of speeches also has an impact on the extent to which debate is lively and interactive...*³

Reductions in certain of the time limits could indeed help debates to be more interactive. This could be a result of:

² Josef Redlich *The procedure of the House of Commons*, London, 1908, vol III, pp 42-3, quoted in *House of Representatives Practice*, 5th edn, p 479.

³ Procedure Committee, *Learning from other parliaments*, para 2.12

- members being forced 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 minutes⁴ - 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;
- 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 conclude earlier 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 24 recent debates has shown the following: averages:

- length of speeches 16.15min (including Ministers/Parl Secs);
- length of Ministerial/Parl Sec speeches – 6 mins;
- length of speeches excluding Ministers/Parl secs – 17 mins;
- length of second reading debate – 3.38 hrs;
- number of speakers – 13.46.

The Committee's report *Learning from other parliaments* records that most members of other legislatures visited found it greatly surprising 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 time limits will be (8 minutes is a minimum)⁵. More significantly, the committee reported that it found that the length of speeches had an impact on the extent to which debate is lively and interactive⁶.

⁴ An analysis of 27 recent second reading debates shows an average length of speeches excluding Ministers/Parl Secs of 17 minutes

⁵ May, 23 rd edn , p 432-3

⁶ Ibid

The report also records 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.⁷

The history of 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 motions, when time limits are not set, members usually speak for shorter periods than 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 same right;

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

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

MPI: The total time of the House is limited. The committee may wish to consider whether some debates might be restricted in total time with a view to transfer saved time to wider debates. For example, the conventional practice of the House is for the total debate to last for 50 minutes, although the standing order provides for 2 hours. On occasion, independent members seek to add to the conventional two-a side, taking time from debate on orders of the day. The committee may consider a solution to accommodate the maximum number of viewpoints on this matter by limiting the total debate to 50 minutes or an hour, and facilitating wider participation if desired by reducing certain times limits, eg: 10 minutes for first two speakers, 5 minutes for 6 others or 15 mins for first, two 5 minutes for 4 others.

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.

⁷ Ibid, p7

Presumably this would put some pressure on whips and their office, although such differentiations have been made in respect of private members' business. If this change were to be made perhaps group messaging by the Whips would be necessary.

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

2 - Modified speech time limits 15:5 - proposal by Speaker Andrew

Speaker Andrew suggested in 2002 that the maximum time allowed for a subsequent speech (those after the Minister and leading Opposition speaker) during second reading debate 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. The Procedure Committee presented its report on *Arrangements for second reading speeches* in 2003 following consideration of Speaker Andrew's request and a round-table discussion with Mr Andrew, the Deputy Speaker, the Leader of the House, the Manager of Opposition Business, the whips and other members.

It was recognised that a number of benefits would flow from the proposal, including more Members being present in the Chamber to engage in a truer debate and Members being better prepared when speaking, perhaps to the extent of minimising the reading of prepared speeches.

The 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.

Some aspects of the proposal were recognised as having the potential to cause confusion among Members. In the committee's 2003 report it identified two risks. First, it noted that some members felt there was 'room for mischief', that is, the wrong sort of interaction⁸. Second, it was noted that the reason for low attendance levels in the chamber was the existence of many calls on members' time, but the need to sit through other members' speeches would

⁸ Arrangements for second reading speeches Standing Committee on Procedure, Dec 2003, p4.

add to the problems⁹. The Committee concluded that a trial of the procedure would enable such questions to be answered¹⁰.

The government did not support the recommendation; it considered that the existing arrangements provided the opportunity for significant debate and that they remained appropriate.

Should such a procedure be trialled, as well as certain speeches being exempted (see above) a decision would need to be made as to whether the intervention procedure were to be retained in the Main Committee (it is also noted that the procedure is available on any order of the day not just bills). Technically there would be no problem in allowing that mechanism to remain in place. In practice, however, a member with 15 minutes for his or her speech on a bill would probably be unwilling to accept interventions knowing that other members would be able to ask questions at the end of the speech¹¹. A statement by the Deputy Speaker could draw attention to this issue and practice could be developed.

3 - Allow interventions in the House

It appears that members have adjusted to the procedure allowing interventions in the Main Committee. It is possible that some are constructive and others little more than attempts to score points. Of some 144 interventions sought, 100 have been taken by the members speaking.

The procedure appears not to have caused problems for the Chair. An early statement by the Deputy Speaker provided that interventions would not be allowed on Ministers/Parliamentary Secretaries moving the second reading of bills¹².

Interventions seem to have played a role and have shown that members are listening and willing to engage with a speaker, and vice-versa. It is notable

⁹ Ibid, p4

¹⁰ Ibid, pp 4-5.

¹¹ Ibid pp 9-10.

¹² H R Debate (19.9.02),p 6471

that of the 100 interventions estimated to have been accepted, only two have come from a member of the same party/coalition as the member speaking.

The committee may see value in extending the facility to debate on orders of the day in the House. A statement by the Speaker could supplement a standing or sessional order provision and exempt selected speeches, such as lead speeches by Ministers and Shadow Ministers. This would be an alternative to the question/answer proposal discussed at 2 above.

4 - Differentiation between groups of bills - times available

The successful operation of the Main Committee processes shows that informal arrangements 'behind the scenes' about the treatment of bills can work very successfully. It is possible that such arrangements could be extended and result in some improvement in the quality of exchanges in debates.

One option would be to allow informal consultations to take place after bills were introduced with a view to agreement between the Whips as to their further consideration, in particular the second reading debate.

In the same way that agreement is sought about bills to be referred to the Main Committee agreement could, for example, be sought that bills be differentiated with a view to the times to be available for their further consideration.

Two possibilities exist. One would be for agreement to be sought as to the times to be available for individual speeches (for example category X bills would attract certain times, for example 15 minutes, and category Y bills lesser times, such as 10 minutes). It would be important that such a distinction was not taken as necessarily implying that bills to which shorter time limits were applied were of lesser importance: indeed the level of interest in certain bills could be such that in order to accommodate the numbers wishing to speak shorter time limits were agreed. This is of course a common result- or at least a common goal - of informal arrangements.

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. Again, no doubt this is a familiar topic of discussion between the whips. The possibility of having agreements endorsed by the House would be a significant development, 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. I note the Legislation Handbook outlines an established, and public, categorization system for bills. The House may never want to commit to following categorizations determined within government during earlier stages, but it could find them useful.¹³

Safeguards would be needed. It would presumably be important to Government that it retained ultimate control over the programming of government business and that changes to the rules did not lead to delays it would regard as unacceptable. From an Opposition viewpoint presumably no reduction in total time for the consideration of legislation would be acceptable and equality between Ministers and Shadow Ministers would be important.

It would also be important that the interests of individual members, including independents, were recognised. This could be assisted by requiring that any agreements reached informally were subject to ratification in the House, in the same way that references to the Main Committee are. It is not suggested, however, that any member have the ability to effectively override agreements reached. Presumably the Opposition Whips would continue to be regarded as having some responsibilities in relation to all non-government members.

5 - Greater use of the Main Committee

It appears that debates in the Main Committee are often more interactive than those in the House itself. There may be many reasons for this, including the sort of matters dealt with there, the scale of the meeting room and the fact that members do not have fixed places. It appears that early reservations about referring bills to the Main Committee have declined. Negotiations about the referral of other matters to the committee also appear to be easy and straightforward.

Greater use of the Main Committee could lead to a higher proportion of debates characterized by good engagement and exchange. Members of the committee will be able to make judgments about the potential for more bills to be referred to the committee.

¹³ *Legislation Handbook*, para 2.3, p 7

A further possibility would be to drop the requirement that the Committee can only meet during sittings of the House. This would allow the House to adjourn earlier on some days, with the Main Committee continuing. Such a change would also allow the Main Committee to meet before the House on any day, or on a non-sitting day. This could have financial efficiency implications that might assist in paying for a reconstructed meeting location.

One of the complaints made about the House is that often very few members are present in the Chamber. This problem must be 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 chambers and lists of speakers often need to be adjusted as sitting mornings unfold. Having the Main Committee sometimes meet when the House is not meeting would relieve this problem at least temporarily.

In some ways such a change could be seen as an indictment of the House itself, however it could also be seen as a sensible and cost-effective way of making progress with the legislative workload.

It is possible that visitors could be disappointed at not being able to see the House meeting. In fact, very few visitors appear on sitting nights, and in any case, even in 2R3, visitors wishing to observe debates are accommodated. It is even possible that the presence of more visitors to the Main Committee proceedings could add to the atmosphere and influence the vitality of debates there.

6 - Illustrative material such as PowerPoint

It appears that in a small number of Parliaments members can use, or will soon 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 probably 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.

While it is thus not clear that such developments would improve the internal dynamics of debate as such, 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 option the committee may wish to consider.

Attachment 1

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 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: 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)