

Procedural reform: The objectives of the Procedure Committee

A committee is a cul-de-sac down which ideas are lured and then quietly strangled.

(attributed to) Sir Barnett Cocks¹

General

- 5.1 In earlier chapters we described the Procedure Committee's establishment, identified its 'mission statement'—to inquire into and report upon the practices and procedures of the House—and considered the scope of the term 'practices and procedures' along the way. In this chapter we take a closer look at objectives for the committee's establishment.
- 5.2 The early proponents of a procedure committee used the example of similar bodies in the UK and Canadian Houses of Commons.² Procedure committees in the former were select committees appointed from time to time not becoming what we would call a standing committee until 1997.³ The work of one such select committee, that for the 1958–59 session, was described as falling under three categories: (1) considering minor proposals for revising procedure to give it a more modern and businesslike aspect while paying due respect to tradition, (2) removing as

¹ Clerk of the UK House of Commons 1962–73.

² JCPCS (1976), 72; HR Deb (19.8.1981) 420–8.

³ May, 786.

much detail in procedures as was practicable and (3) providing further opportunity for back-bench activity.⁴

- 5.3 That description goes some way to providing a simple duty statement for a procedure committee: revision, simplification and balancing. Nevertheless, the roles of the corresponding committees in the UK and Canada have evolved in markedly different environments and no longer serve as similar models for comparison with the Australian variant.
- 5.4 For example, the UK House of Commons Select Committee on Procedure—whose role is to consider ‘the practice and procedure of the House in the conduct of public business’—coexists with a Select Committee on Modernisation of the House of Commons whose role is ‘to consider how the practices and procedures of the House should be modernised’.⁵
- 5.5 Meanwhile, the Canadian House of Commons Committee on Procedure and House Affairs now has a much wider ambit: the administration of the House and the provision of services and facilities to Members; ‘the Standing Orders, procedure and practice in the House and its committees; radio and television broadcasting of the proceedings of the House and its committees; Private Members’ Business; all matters relating to the election of members to the House of Commons; and miscellaneous other matters’.⁶
- 5.6 When some Members in the House of Representatives were advocating new mechanisms for procedural reform they did so in an environment where some of the functions of the UK and Canadian committees were already being undertaken by longstanding domestic committees. It would not be surprising therefore if those procedure committees followed different paths from the Australian model and there is probably little point in using overseas models for subsequent comparison.
- 5.7 In this chapter we examine perceptions of the purpose of the committee in the House of Representatives at its inception. The expectations of those who proposed and established the committee are obviously prime indicators of its anticipated role. However it is the day-to-day demands on the committee, by the government of the day, the major parties, individual Members and various others that will in time reveal a range of objectives.

⁴ *Table XXVIII* (1959) 31.

⁵ UK House of Commons web page: http://www.parliament.uk/parliamentary_committees/parliamentary_committees16.cfm [accessed 8 October 2004].

⁶ Canadian House of Commons standing order 108(3)(a).

The Joint Committee on the Parliamentary Committee System

- 5.8 After years of Members' concern within the House about the lack of action on procedural reform referred to previously, the Joint Committee on the Parliamentary Committee System in 1976 identified the existing Standing Orders Committee in the House of Representatives as 'a top-heavy body unable to function as an instrument of reform'.⁷
- 5.9 The joint committee proposed that a procedure committee should be appointed in each of the two Houses to remedy the defects in the existing arrangements. It recommended the committee's terms of reference (in the House of Representatives) should be:
- To maintain a continuing surveillance of the practices and procedures of the [House] with a view to making recommendations for their improvement or change and for the development of new procedures; such recommendations being made normally by report to the [House] but, on certain occasions, being made directly to the [Speaker] when the recommendations relate to the exercise of existing powers.⁸
- 5.10 The joint committee recommended that the Standing Orders Committee should continue to operate in its present form and remarked that the procedure committee would play a different role.⁹ It did not, however, provide any details of how the two committees would coexist without mutual interference.
- 5.11 Perhaps some inkling of a *modus vivendi* may be inferred from the joint committee's evidence. The then Speaker of the House of Representatives, Mr Scholes, in giving evidence to the joint committee, addressed the possibility of overlap between the two committees:
- I think that a Procedures Committee would look at all aspects of the operation of the Parliament. The Standing Orders Committee only looks at the Standing Orders.¹⁰
- 5.12 Further remarks suggest that the procedure committee would report directly to the House and that if changes to the standing orders were necessary upon the House adopting a recommendation then in some cases

⁷ JCPCS (1976), 72.

⁸ JCPCS (1976), 71.

⁹ JCPCS (1976), 73.

¹⁰ JCPCS (1976), Transcript of evidence, 713.

the Standing Orders Committee should devise them. This interpretation is supported by remarks Mr Scholes made in August 1981 when moving a general business motion to establish a procedures committee:

If they were to become part of the Standing Orders or the regular procedures of this House, one would expect that the Standing Orders Committee would ultimately draft and present the necessary Standing Orders.¹¹

- 5.13 Perhaps the joint committee saw a complementary role for the two committees. Alternatively, it may have assumed that the Standing Orders Committee would continue as before and be little more than a figurehead while the procedure committee did the real work. The status of the membership of the Standing Orders Committee may have been a factor in a reluctance to abolish it outright.

The government of the day

- 5.14 There is little on the public record to explain why the idea of cooperative committees had been abandoned by the time the House (on the Government's initiative) established the Procedure Committee in 1985. In a 'cognate speech' accompanying a series of motions to establish committees on 27 February 1985, Mr Young, the Leader of the House, reversed the onus of proof on the need for the Standing Orders Committee. Rather than continue to exist and then wither away if proven superfluous it should be discarded and revived only if proven indispensable:

I have proposed that a new procedures committee be established to examine the procedures of this House. I also propose to move that the Standing Orders Committee be suspended for the remainder of this session. The Committee met on only six occasions during the life of the Thirty-third Parliament. It is to be hoped that the procedures committee can look at the formal work of the Standing Orders Committee. I realise from discussions I have had with the Manager of Opposition Business (Mr Sinclair) that he would have wished the Standing Orders Committee to continue and for it to run parallel with the procedures committee. However, for the first session, I am hopeful that the procedures committee will look at those matters which appertain to the

¹¹ HR Deb (19.8.1981) 421 and see para 4.8.

running of this chamber and bring in a report quickly. If it is felt by that committee that the Standing Orders Committee ought to be re-established for the second session, we can do that.¹²

- 5.15 There may be a hint of the Government's rationale in remarks made by the Leader of the House two days earlier when, in moving the adoption of sessional orders largely about sitting days and hours and the routine of business, he foreshadowed the establishment of a 'procedures committee':

It is very difficult to talk about the Sessional Orders as we are at the moment without drawing to the attention of honourable members that we are asking a joint committee to look at the procedures of this House, which may have some bearing on the decision which the Government has made today. That decision makes some minor alterations to the Sessional Orders in relation to the operation of this House. Hopefully the procedures committee will not see itself as a committee which must report back here in two or three years' time. However, there are some rather urgent matters which can be placed before it immediately and upon which the Government feels it could report to us expeditiously.¹³

- 5.16 The Government may have thought that given the need for quick results, a Standing Orders Committee might stifle procedural reform either through active interference or through masterful inactivity. (As an aside, it is assumed that Mr Young's reference to a joint committee was a slip of the tongue.)

- 5.17 Almost a month after the committee had been established and members appointed, a Government backbencher asked the Leader of the House a question without notice about what the 'Government [saw] as the role of the newly-established Standing Committee on Procedure'.¹⁴ It was clear from Mr Young's answer that the committee's purpose was not seen to be antithetical to executive convenience:

The Government sees an enormously important role for the Procedure Committee which has just been established. We hope that the infusion of new blood into the Parliament will see more opportunity for changes to some rather archaic traditions which have been enshrined in the procedures of the Parliament. Obviously, some back bench members will see the rights of

¹² HR Deb (27.2.1985) 305.

¹³ HR Deb (25.2.1985) 125.

¹⁴ HR Deb (20.3.1985) 576-8.

individual parliamentarians being preserved and enhanced by the establishment of the Procedure Committee. Of course, that will be uppermost in the minds of the people who will serve on the Procedure Committee, all of whom will be back benchers. Obviously there will be some emphasis on the role of and the time available to private members in the Parliament in future.

Hopefully, in looking at the Standing Orders and the other procedures and functions of the Parliament, the Procedure Committee will also take into account the fact that the Executive of the Government has an enormously important task to perform in the conduct of government in this country and will understand the Executive's work load in carrying out the business of government.

The Committee may also take the opportunity to look again at the legislation committees which have been experimented with in this House previously and not continued. It may well be that we can facilitate the business of this chamber by the establishment of legislation committees running parallel with meetings of the Committee of the Whole. The Committee could also look at the handling of committee reports. It could look at the calling of quorums ...

- 5.18 Nevertheless as will be seen below there was little evidence to suggest that the committee would be hostage to a Government agenda.

The Opposition

- 5.19 During the debate which foreshadowed the Government's proposal to establish a procedure committee, the Manager of Opposition Business, Mr Sinclair,¹⁵ displayed a certain amount of perhaps only rhetorical scepticism:

He will set up a new procedures committee. What is in a name? Whether it be called a procedures committee or a Standing Orders committee makes no difference; there has always been such a

¹⁵ The Rt Hon. I. McC. Sinclair, Member for New England 1963–98, Minister: for Social Services 1965–68, assisting the Minister for Trade and Industry 1966–71, for Shipping and Transport 1968–71, for Primary Industry 1971–72 and 1975–79, for Agriculture 1975, for Northern Australia 1975, for Special Trade Representations 1980, for Communications 1980–82 and for Defence 1982–83; Leader of the House 1975–79 and 1980–82; Leader of the Federal Parliamentary National Party of Australia 1984–89; Speaker of the House of Representatives 1998.

committee. The Leader of the House thinks that because he changes the name there will be some inherent magic about it. It will change the Standing Orders in exactly the same way or introduce sessional orders as they have always been introduced.¹⁶

- 5.20 When the motion to establish the committee came on for debate on 27 February, the Opposition signalled their support but took the opportunity to bemoan the loss of the procedure for orally giving notices of motion which had been effected in the sessional orders adopted two sittings earlier.¹⁷ Again, there was a certain degree of apparent scepticism on the establishment of the committee itself especially coming after what were argued as being pre-emptive changes to the standing orders:

The Government set about making changes which have far reaching effects on the way this Parliament and its procedures work. Having done that, the Government has decided to set up a committee to look at the procedures. I give the Minister marks for being very devious and very clever at casting smoke screens. But I ask: Why on earth are we to have a procedures committee when the changes that the Government desired have already been made?¹⁸

- 5.21 When the Leader of the House acknowledged first, in his response to the ‘Dorothy Dixer’ some sittings later,¹⁹ that the committee, composed as it was of backbenchers, could preserve and protect the rights of individual parliamentarians, he may have spoken in mitigation.

The Committee

- 5.22 Far from seeing itself as maintaining the tradition in the House of procedural reform to support the Government in the House, the committee, in its first report, demonstrated a broader view. The first inquiry dealt with alternative opportunities for Members in general to address the House.²⁰ The Chairman, Mr Keogh, declared in his tabling speech:

¹⁶ HR Deb (25.2.1985) 129.

¹⁷ Discussed later at para 6.6.

¹⁸ HR Deb (27.2.1985) 311.

¹⁹ See para 5.17.

²⁰ Discussed later at para 6.7.

I am sure all honourable members will agree that, as we approach our bicentennial year and the historic move to the new Parliament House, it is appropriate that we consider the desirability of new procedures and Standing Orders and accomplish significant reform prior to our move. To ascertain the views on procedural areas needing investigation the Committee circulated a questionnaire to all honourable members listing possible subjects of inquiry and inviting them to indicate those matters they would like the Committee to address. The response to the questionnaire was heartening; almost half the honourable members responded. Those matters listed by most honourable members were division procedures, questions without notice, programming of business of the House and giving notices openly.²¹

- 5.23 The committee had chosen its first reference, addressed a matter of lingering concern to many private Members, the abolition of giving notice of motion orally, and was allowing Members collectively to direct where it should next proceed.

The Speaker

- 5.24 The Speaker at the time the committee was established, Dr Jenkins, had been an active proponent of its establishment for many years.²² During the valedictory remarks at the last sitting in 1985, the Speaker intimated his own expectations:

I guess that it is no secret that I am not particularly satisfied with behaviour in the House. I hope that the Standing Committee on Procedure will give us some assistance in the recommendations that it will bring forth and that there will be more guidance to honourable members, and even more guidance to the Speaker, who often has to decide whether in applying the sanction the very business of the day may not go on. That is one of the difficult decisions that I have to face.²³

²¹ HR Deb (23.5.1985) 3107.

²² See Chapter 4.

²³ HR Deb (29.11.1985) 4044. Though it was not evident in his remarks, Speaker Jenkins was to resign—less than a month later—on 20 December 1985 subsequently to take up a diplomatic posting.

- 5.25 Shortly after the committee became a year old, the next presiding officer, Speaker Child, also alluded to the role the committee might play in resolving difficulties for the Chair:

I would draw the attention of the House to the Standing Orders. At present the Procedure Committee is going through the Standing Orders trying to get rid of those that are ambiguous or conflict with others. On reading the Standing Orders, I find that they have to be read one in conjunction with another. Standing Order 77 is very clear:

When any offensive or disorderly words are used, whether by a Member who is addressing the Chair or by a Member who is present, the Speaker shall intervene.

Honourable members will all understand that there have been times when I have intervened at Question Time when an offensive remark has been made from one side or the other and asked for a withdrawal immediately. I do not wait for a member to draw my attention to it. That is one circumstance.

... Because so many members found so many things offensive, the authority of determination was given to the Chair. So we have two distinct circumstances, they are both relevant and they both still apply, but I would ask the Procedure Committee to examine a few of the other Standing Orders because, if one reads them in conjunction, we are quite often in conflict.²⁴

- 5.26 So from the outset, the committee had at least three expectant constituencies: ordinary Members, the Government and the Speaker. Each had its own particular preference for the thrust of procedural reform: preservation and enhancement of rights and opportunities; improved efficiency; and clarification.

Others

- 5.27 It is understandable that immediate pressures—the impending move to a new building, a sense of futility in the lot of a backbencher, a belief that sclerotic procedures were slowing the flow of business, a conviction that some judicious pruning would make life less difficult for the Speaker—would foster institutional introversion. But quite early in the committee's

²⁴ HR Deb (1.5.1986) 2836–7.

existence, Members themselves were more attuned to the opportunities offered to enhance external perceptions of Parliament.

- 5.28 Apart from Question Time, little external attention is paid to the proceedings of the House. The days when newspapers extensively covered debates are long past. Whatever the reasons, Parliament is a dimmed presence in the civil landscape. The arrival of a new vehicle for procedural reform passed largely without note in the media and there were few expectations that this might have any effect on the relationship between the electorate and its representatives.
- 5.29 There were early signs within the House and the committee, however, that the institution's relationship with the outside world was an important aspect of the committee's work. When the first Chairman, Mr Keogh, presented the committee's second report in May 1986 he noted in the conclusion of his tabling speech:
- .. for only Parliament can reform its own practices and procedures and only Parliament can bring about the changes that are required not only to meet its own needs more effectively but also, and perhaps more importantly, to improve the public perception of the Parliament.²⁵
- 5.30 Other Members returned to this theme when the second report was debated in the House on 25 November 1986.²⁶ Certainly there was an awareness of needs beyond the confines of the Chamber but at this stage of the committee's development the concerns were chiefly about perceptions, looking in. A desire to improve engagement with citizens—looking out—would not feature among the committee's objectives until a few years later.

Conclusion

- 5.31 This chapter has dealt with committee objectives from several points of view mainly within the period covering the establishment and early operation of the committee. The next chapter will examine in considerable detail the committee's activities to date. In a later chapter which assesses the committee's achievements we will revisit the committee's objectives and note any later developments.

²⁵ HR Deb (29.5.1986) 4263.

²⁶ HR Deb (25.11.1986) 3675–700.