

The procedures of the House

- 4.1 In the course of this inquiry the committee looked at two existing procedures of the House—petitions and the procedure allowing people to reply to critical statements made about them in the House—which directly affect the community. It also considered whether there are any general aspects of the procedures which hamper understanding of the role and operations of the House and looked at whether there was scope to allow individuals any more direct interaction with the workings of the House.

The mystique of the procedures of the House

- 4.2 While the House of Representatives has developed its own unique procedures adapted to the Australian context, the roots of those procedures undoubtedly lie in the traditional practices of the House of Commons at Westminster. The fundamentals of these practices have been developed over centuries. Some of the positive results of this long process include:
- fairness and consistency in proceedings—the rules seek to find a balance between supporting the imperatives of government and ensuring all Members and groups get a fair opportunity for input;
 - predictability of processes;
 - an element of formality;
 - a sense of tradition and significance for both participants and observers; and
 - a framework to aid the dignity of the House.

All of these factors contribute to the legitimacy and authority of the processes of the House.

- 4.3 Against this it might be argued that at least some of the procedures are archaic and the traditional language associated with them is difficult to understand. While tradition, formality and structured processes enhance the dignity and authority of the House, incomprehensible and archaic terms can sometimes appear silly to those not familiar with them and undermine the very dignity they are meant to uphold.
- 4.4 The rules are intended to be used and understood by the Members of the House. People who simply observe proceedings can do so satisfactorily without needing to be conversant with the underlying procedure and practice. For Members the unique terminology and procedures can add to the sense that they are performing a special and important role. Many of the rules also help to protect the House and individual Members from political gamesmanship.
- 4.5 Nevertheless it is possible that the community would have more interest in and, possibly, more respect for the proceedings of the House if they could more readily understand the terminology and rules used.
- 4.6 The House has taken some recent steps to modernise some of its procedures. In response to recommendations from the Procedure Committee the House in 1994 abolished the Committee of the Whole and the former committee stage of bills was replaced with the consideration in detail stage.¹ The requirement to appoint a committee of reasons whenever the House disagreed to Senate amendments to bills was abolished in 1998. Now the reasons for disagreeing to the amendment are tabled by the Member, usually a Minister, who moved the motion for disagreement.

Reader friendly standing orders

- 4.7 The standing orders of the House were first developed at the beginning of this century. They have been added to and amended repeatedly over the years with the result that the style of language used is inconsistent, with a mixture of modern and obsolete forms. The structure and order is not always logical. The ambiguous phrasing of some standing orders has led to changing interpretations over the years.
- 4.8 The committee proposes that the standing orders be restructured and, where necessary, rewritten to make them more consistent and easily used by Members and those observers and students seeking to understand better how the House operates. While retaining the effect of the present standing orders, the process could be used to:

1 House of Representatives Standing Committee on Procedure, *About time: Bills, questions and working hours*, October 1993.

- introduce a more logical sequence and groupings;
 - make the language generally more readable and intelligible to the modern reader;
 - incorporate intentions or purposes where appropriate to add meaning to formal processes; and
 - remove inconsistencies and ambiguities.
- 4.9 Uniquely parliamentary terms such as references to ‘readings’ of bills or ‘naming’ of a Member should be retained. They are a part of the House’s heritage and character and are symbolic of its unique place among national institutions. Obtuse sentence forms could be modified to make the document more readable.
- 4.10 The committee envisages that such a project would entail a considerable commitment of resources and take some time but a completely revised set of standing orders would be a fitting project for the House in its second 100 years.

Recommendation 8

- 4.11 **The committee recommends that the standing orders be restructured and rewritten to make them more logical, intelligible and readable. The committee recommends that the Clerk prepare a draft for the committee’s consideration.**

Lodgment of questions on notice on behalf of individuals

- 4.12 The parliamentary system of government in Australia does not encompass direct participation of electors in the business of the House. As discussed in the first chapter of this report the role of Members of Parliament is to represent the community that elected them. The way in which Members do so is for them to decide.
- 4.13 The committee feels however that the questions on notice procedure presents an opportunity for Members to take action on behalf of their constituents and directly acknowledge the link to individual people.
- 4.14 The committee examined a proposal for an amendment to the standing orders to allow Members to lodge questions on notice on behalf of people

who live in the Member's electorate.² Members can and do lodge questions on behalf of constituents under the present rules. The key difference represented by this proposal is that the name of the person on whose behalf the question is lodged would be identified on the Notice Paper. The proposal envisaged an annual limit on the number of such questions which could be asked by each Member. There would continue to be no limit on the number of questions which Members could ask on their own behalf.

- 4.15 The committee believes that the proposal has merit and offers an avenue for people to learn first hand of one aspect of the House's operation and their Member's role in it. The committee has some concern that the process may become dominated by professional lobby and special interest groups at the expense of individuals. These groups already have access to Ministers and Members and are proficient at obtaining the information they need and getting their message across. For this reason the committee has recommended that the proposal be trialled in the form of a sessional order to ascertain its usefulness. It has also included a provision that the Member must be satisfied that the person lives in his or her electorate.
- 4.16 This proposed sessional order includes a requirement that any question lodged in this way must comply with the standing orders governing questions. Members will be obliged to lodge any questions they receive up to the annual limit of 25. This obligatory factor should ensure that the questions are truly those asked by the constituents and Members cannot be seen to lodge only those questions which suit their personal or party convictions.

Recommendation 9

- 4.17 **The committee recommends that the following sessional order be adopted for a period of 12 months:**

Questions from citizens

148A A Member may give notice of a question in terms proposed by a person who resides in the Member's electoral division. The following conditions shall apply to notices of questions given under this sessional order:

- (a) A Member shall satisfy himself or herself that the person proposing the question resides within the Member's electoral division.**

² Notice of motion lodged by Hon L R S Price MP on 1 June 1999.

- (b) The question shall show the name of the person who proposed the question.**
- (c) A Member may not give notice of more than 25 questions in a calendar year.**
- (d) Questions shall conform with the standing orders.**
- (e) Provided the foregoing provisions are met a Member must give notice of every question proposed to him or her up to the limit of 25 per year.**

