

Summing up

Meanwhile the main problems of parliamentary procedure are two: on the one hand, how to find time within limited parliamentary hours for disposing of the growing mass of business which devolves on the Government; and on the other hand, ... the duties of Parliament as the grand inquest of the nation at which all public questions of real importance find opportunity for adequate discussion.

Ilbert, xxi

Introduction

- 8.1 In this penultimate chapter an attempt is made to assess the work of the committee more broadly. This assessment will be restricted largely to whether or not the committee's exertions led to change. There is usually a delicate balance to be struck between the competing interests which Sir Courtney Ilbert identifies above and it would be unwise to declare unequivocal benefits where one interest often must concede ground to the other.
- 8.2 In the opening quotation, Ilbert, who was Clerk of the House Commons at the time, characterised the major challenge of procedural reform in the first decade of the Twentieth Century. One hundred years later the competing demands between lawmaking and representation are no less insistent. Moreover, there is another contest for time which is even more unrelenting in a polity built on far-flung constituencies like Australia: Members must attend sittings in Canberra yet maintain a presence in their

electorates. Not surprisingly, much of the work of the Procedure Committee is about the management of time.

- 8.3 In judging the committee's efforts to provide a fair go for all within chronically stubborn constraints, the first challenge is to find evidence of its influence on procedural change. That evidence may not always be obvious. A jury must consider many questions, including: what was the motivation for change; how did the committee prepare and pursue proposals for change; what particular challenges did the committee confront; and, what conclusions might be drawn from practical experience about achieving procedural reform?
- 8.4 Much of the following discussion is drawn from the detailed description of the committee's activities in Chapter 6. As mentioned, Appendix C contains key information about each of the reports and its outcomes.

Claiming results

- 8.5 Chapter 2 attempted to resolve the terms 'practices' and 'procedures' as boundary markers for the committee's responsibilities. This has a bearing on identifying outcomes. By our definitions a change in procedure requires new or amended standing or sessional orders. A change in practice can be implemented, sometimes implicitly, by the wish of the House or even at the discretion of the Speaker.¹ In addition, changes in practice can occur gradually as a consequence of changes to the standing orders.² It is easier to identify changes to the standing or sessional orders which have arisen from committee recommendations than to note less visible consequential effects.
- 8.6 While the committee's domain has been practices and procedures, its attention and recommendations have also extended from time to time to matters that strictly speaking involve neither practices nor procedures.³

¹ As was the case during the trial of additional tellers to streamline the conduct of divisions; see the discussion on *Review of conduct of divisions* at paras 6.181–2.

² For example, the scheduling of the adjournment debate in the Main Committee was made more flexible by amendments to the standing orders on 22 August 2002 as proposed in *Second chamber*. Consequently, the practices involved in organising the initiation, duration and conclusion of the adjournment debate were progressively refined starting from the position outlined by the Deputy Speaker in the Main Committee on 17 September 2002—HR Deb (17.9.2002) 6471.

³ For example, *Second Chamber* and *Review of conduct of divisions* contained recommendations about locations, fixtures and fittings. *It's your House* ventured into the interaction between the institution of Parliament and the Australian community. The interim report *Media*

- 8.7 Another difficulty in identifying results emerges from how the Government—at most times in the House of Representatives, the default custodian of procedural initiative—responds to Procedure Committee reports and the sometimes indefinite manner in which endorsed recommendations are put into effect. Sometimes there is no explicit government response, as there is, say, to reports of the Joint Committee of Public Accounts and Audit.⁴ Rather, there has been a range of reactions extending from no public response at one extreme,⁵ through explicit rejection, partial acceptance, explicit endorsement, to almost immediate adoption, at the other.⁶
- 8.8 In addition, as has been acknowledged, what may on the surface seem to be the fruits of the committee's endeavours can at times really be the joint product of several actors.⁷

The genesis of inquiries

- 8.9 The Procedure Committee has always held the power to initiate inquiries in its own right. Therefore, within the general terms of reference discussed in Chapter 2, inquiries have commenced almost invariably on the committee's resolution. However, these have included matters which have been proposed to the committee by the Speaker, Leader of the House and, occasionally, private Members.⁸ The committee has also, of course, chosen not to proceed with such proposals.⁹
- 8.10 There have been no instances to date of matters being referred to the committee by resolution of the House. There have been attempts, nonetheless. In June 1990, the Leader of the Opposition unsuccessfully attempted to move a motion enabling Question Time to be televised with a provision that certain conditions for televising be referred to the Procedure Committee.¹⁰ In February 2003, an Opposition Member

coverage dealt with aspects of how the House is portrayed in the media.

⁴ The formal process of response to Public Accounts and Audit Committee reports by Executive Minute is described at HR Practice (5th edn), 629.

⁵ See *Review of reports* for examples.

⁶ And see the discussion below under **Responses to inquiries**.

⁷ See, for example, paras 6.111 and 6.171.

⁸ See Appendix C for a list of reports including notes on the origin of inquiries.

⁹ See, for example, paras 6.95 and 6.122–3.

¹⁰ Dr Hewson, the Leader of the Opposition, moved the suspension of standing and sessional orders to enable the motion to be brought on and debated. The suspension motion was negated on division. Had the motion to allow televising been brought on and carried, the

unsuccessfully moved an amendment to a motion to adopt a sessional order which would have seen the matter referred to the Procedure Committee.¹¹

- 8.11 Exercising its power to set its own course, the committee has included proposals from outside the committee within existing inquiries or indeed launched a broader inquiry with such a proposal at its kernel.

Types of inquiries

- 8.12 Most of the committee's inquiries may be grouped for purposes of comparison into four not necessarily exclusive categories which we may term: 'substantial inquiries', 'rapid reactions', 'campaigns' and 'reviews'. Some inquiries can be placed in two or more categories but others barely fit into one. Needless to say, as analytical devices these are retrospective descriptions and need not correspond with the committee's expectations when a particular inquiry was launched.

Substantial inquiries

- 8.13 This category covers large-scale, high impact inquiries which usually, but not always, take longer than others to complete and commensurately longer to deliver results. The Procedure Committee spends much of its time dealing with discrete problems—either on its own initiative or in response to proposals from outside the committee—and it does not often undertake broad inquiries covering a large range of interrelated issues. Consequently, the following inquiries have been categorised as substantial:

- *Days and hours* (1986)
- *About time* (1993)
- *It's your House* (1999)
- *Revised standing orders* (2003)

- 8.14 The *Days and hours* report was the committee's second report. The inquiry originated from responses to a questionnaire the committee sent Members and others to identify areas of major concern. It was this approach that

reference to the Procedure Committee would have raised jurisdictional issues, there being a Joint Committee on the Broadcasting of Parliamentary Proceedings.

¹¹ VP2002-03-04/698-9; and see paras 6.172-3.

determined the inquiry's breadth. Over a year elapsed between inquiry launch and presentation of the report. Two and a half years separated the start of the inquiry and the adoption of sessional orders, themselves proposed in a follow-up report, to implement those recommendations which had been accepted by the Government.

- 8.15 It was the title of the follow-up report, *Improved opportunities*, which better described the impact of *Days and hours*. As is noted in the first edition of *House of Representatives Practice*, the opportunities for private Members in the period to the early 1980s were scant and diminishing and frustration with their lot led Members to misuse the forms of the House, especially the giving of notices orally, and resort to disruptive behaviour like greater recourse to motions to suspend standing orders.¹² The initiatives arising from *Days and hours*, while not causing a major redistribution of House time in the favour of private Members,¹³ were nonetheless therapeutic.
- 8.16 The major achievement of *Days and hours* via *Improved opportunities* was not, as it attempted, to reclaim for the House control of its sitting pattern, hours of meeting and overall programming of business but to impose an orderly regime for the arrangement of private Members' business and the presentation of, and debate about, committee and delegation reports.
- 8.17 Previously, a little time on Thursdays was allowed on alternate weeks for debate on sometimes stale general business motions and on the grievance debate. Under the new regime, private Members' business was scheduled according to rational criteria and not according to mere seniority on the Notice Paper. In addition, grievance debate became a weekly event and time was set aside for committee reports.
- 8.18 The *About time* report was less broadly based than *Days and hours*, but delivered similarly large-scale results. The inquiry was significantly shorter in duration: it was completed in five months. The government response was presented a little over three months after the report was tabled and the accepted recommendations were adopted the same day, the entire process completed well within a year.
- 8.19 Like *Days and hours*, *About time* did not achieve entire acceptance notwithstanding the Chair's counsel against cherry-picking.¹⁴ However its

¹² HR Practice (1st edn), 513–20.

¹³ Compare Appendix 30 in HR Practice (1st edn) with Appendix 23 in HR Practice (4th edn): In 1980 the percentage distribution of time between Government business/Business of the House/Private Members' business/Other opportunities for private Members was 58.6/22.9/5.3/13.2 and in 2000 57.6/20.5/7.4/14.5.

¹⁴ See para 6.78.

major legacy is the Main Committee and the increasing contribution that that chamber makes to alleviating the pressure on the House to cope with both its lawmaking and representative functions within a limited number of sittings.¹⁵ A number of other innovations, like the ‘sin bin’ and the facility of referring bills to standing committees, have also stood the test of time.

- 8.20 *It’s your House* marked a change in perspective, from institutional introspection to extrospection, as has been noted.¹⁶ Again, the inquiry was broad-based and took most of the meetings in a year to complete. A further year passed before responses—on this occasion from the Speaker as well as the Government—were received. The recommendations were so diverse that in the meantime some had been implemented administratively. A significant number of recommendations could be effected without resolution of the House, and were done so on a piecemeal basis.
- 8.21 Two major outcomes which ultimately did require decision by the House were new standing orders to simplify the rules governing the petitioning process and the eventual revision of the standing orders. Other measures, including best practice committee operating procedures and a more strategic approach to committee engagement with the media, were also adopted. The report generated two spin-offs, *Promoting community involvement* and *Revised standing orders*.
- 8.22 *Revised standing orders* was the committee’s second attempt at achieving the wholesale revision of the standing orders. The first attempt was conducted nominally as a review (but in terms of our categories would be described as a ‘campaign’) and involved working through the standing orders in discrete segments. The campaign commenced at the beginning of 1989 and, after six largely fruitless rounds, had been abandoned by 1993.¹⁷
- 8.23 By contrast, the second attempt was an ‘all or nothing’ approach which did not envisage changing the substance of the existing standing orders but rather set out to standardise and reorganise them. The revision originated in a recommendation from *It’s your House* in which it was argued that comprehension, interpretation and application of the standing orders would be improved if they were rewritten and restructured.¹⁸

¹⁵ See *Second chamber* for an evaluation of the Main Committee.

¹⁶ See para 6.131.

¹⁷ See the discussion below under *Campaigns*.

¹⁸ *It’s your House*, 28–9.

- 8.24 At the committee's request, the Clerk of the House submitted a draft document which the committee presented to the House as a discussion paper, *Proposed revised standing orders*, in September 2002. The committee then spent the next year working through the standing orders using the draft in its deliberations culminating in the presentation of *Revised standing orders* in November 2003. The revision was accepted by resolution of the House in June 2004. In one sense the process had taken about five years but the result was not only a coherent, uniform and up-to-date expression of the House's procedures but also a more solid springboard for further reform.
- 8.25 The common features of the committee's inquiries in this category are scale and success: each was broad in scope and each led to significant results.

Rapid reactions

- 8.26 The 'rapid reaction' inquiry usually focuses on a single problem and often originates in a proposal from outside the committee, typically from the Speaker or the Leader of the House. Most of the committee's inquiries—but not necessarily most of the committee's exertions—are of this type and include the following:
- *Alternative opportunities* (1985)
 - *Improved opportunities* (1987)
 - *Ringing of bells* (1988)
 - *Publication of tabled papers* (1988)
 - *Dealing with witnesses* (1989)
 - *Responses to petitions* (1990)
 - *Private Members' business* (1991)
 - *Disclosure of in camera evidence* (1991)
 - *Application of technology to committees* (1994)
 - *SO 143* (1996)
 - *SO 226* (1996)
 - *Short speeches in the Main Committee* (1997)
 - *e-motions* (2000)
 - *SO 344* (2003)

- *Second reading speeches* (2003)
 - *Joint meetings* (2004)
 - *Media coverage* (2004)
 - *Anticipation rule* (2005)
- 8.27 As so many—eighteen or about forty percent—of the committee’s inquiries can be considered in this way, it is difficult to find unifying features apart from a need to consider a proposed innovation or deal expeditiously with an existing or emerging problem. In contrast to substantial inquiries, rapid reactions have narrow scope, are completed quickly and are usually acted upon promptly.
- 8.28 Inquiries which have dealt with existing problems include *Disclosure of in camera evidence*, *SO 143*, *SO 226*, *SO 344*, *Joint meetings*, *Media coverage* and *Anticipation rule*. Each was triggered by events: leaking of committee material, questions without notice to Members other than Ministers, changes in legislative drafting, attempted exclusion of the media from a committee hearing, disorderly behaviour at a meeting of the two Houses, breaches in the rules governing photography in the Chamber and tactical raising of points of order. All but two of these had speedy and positive outcomes—the first was overtaken by a later inquiry and the penultimate delivered interim findings immediately before a general election.
- 8.29 Inquiries which have dealt with emerging problems include *Ringling of bells*, *Private Members’ business* and *e-motions* dealing respectively with certain challenges in shifting to a larger building, evolving practice in private Members’ business and barriers to using information technology in the conduct of House business. Again, to the extent that these reports dealt with real problems they were in most respects successful.¹⁹
- 8.30 A third type of rapid reaction inquiry encompasses proposals for innovation. Such proposals are also the stuff of campaigns but three which are typical of the rapid reaction are *Application of technology to committees*, *Short speeches in the Main Committee* and *Second reading speeches*. The first of these opened the way to the use of teleconferencing and related technologies in the conduct of committee inquiries. The second broadened the range of matters dealt with in the Main Committee. The third was an attempt to introduce more interaction in second reading debate but, not having received a response, is yet to deliver results.

¹⁹ As compared to recommendations that were incidental to the main problem area; for example the recommendation about seconding of notices in *e-motions* was not successful.

- 8.31 Some of the remaining reports, like the very first, *Alternative opportunities*, fell victim to initial inertia and then later, usually broader inquiries. However, the committee has shown a high level of persistence on some matters and many of these fall under the next category.

Campaigns

- 8.32 The ‘campaign’ focuses on an issue which is pursued through a number of inquiries. The issue may arise originally in a broader inquiry, or incidentally, and may be picked up again in other broad inquiries. A consistent theme often underpins these issues—the committee as a champion of the institution and of the role of individual Members. The following inquiries are deemed to be mainly elements of campaigns:
- *Conduct of Question Time* (1986)
 - *Election of Speaker* (1989)
 - Review of the standing orders (1989–92)²⁰
 - *Debate on reports* (1990)
 - *Right of reply* (1991)
 - *Opening procedures* (1995)
 - *Conduct of divisions* (1996)
 - *Balancing tradition and progress* (2001)
 - *Review of conduct of divisions* (2003)
 - *House estimates* (2003)
- 8.33 Most of these reports deal with issues on which the committee has persisted in advancing a cause, usually over a considerable period time. The desired outcome may be major, like revised opening procedures or the establishment of estimates committees, or relatively minor, like seconding of private Members’ notices of motion or the appointment of a Member to preside during the election of Speaker.
- 8.34 Perhaps the most ambitious campaign, the attempted systematic revision of the standing orders which was referred to earlier,²¹ occupied the

²⁰ The review comprised six inquiries each covering discrete segments of the standing orders; the six reports were: *Conduct of committees* (1989), *Conduct of business and opening of Parliament* (1991), *Speaker, Chairman etc.* (1992), *Seconding notices* (1992), *Questions seeking information* (1992) and *Disorder and strangers* (1992).

²¹ See para 8.22.

committee for the best part of four years before it was abandoned. In retrospect, it may be argued that this approach was less likely to succeed than the *Revised standing orders* inquiry because first, it was piecemeal, and second, it sought simultaneously to change both the form and substance of the standing orders.

- 8.35 There are several issues to which the committee has returned on more than one or two occasions. Three are worthy of comment: the conduct of Question Time, the procedures for opening a new Parliament and division procedures.
- 8.36 It would be tempting to liken Question Time to the weather: everyone complains about it but no one does anything about it. The committee has certainly tried. It started in 1986 with *Conduct of Question Time*. The committee returned to the topic in 1992 as part of its review of the standing orders in *Questions seeking information*. The blockbuster *About time* and its accompanying review, *Time for review*, both contained recommendations about Question Time. By 1995 the committee felt that ‘there [was] little to be gained by the committee re-examining question time and making another set of recommendations’ and instead placed the ball in the House’s court and tabled a discussion paper.²²
- 8.37 Ten years later little has changed. It is evident from procedural reform in the House of Representatives over the last 105 years that it is not sufficient merely to place proposals before the House and expect an outcome. Clearly an initiator is needed. If the will exists for Question Time to be reformed, then someone must act. It may fall to the committee to revisit the issue.
- 8.38 The committee has been similarly unsuccessful with its recommendations about the opening procedures of Parliament. The committee first touched on opening procedures in *Election of Speaker* in 1989 but took a more comprehensive approach in *Conduct of business and opening of Parliament*, the second round of its review of the standing orders. It tried again in 1995 in *Opening procedures* and yet again in 2001 with *Balancing tradition and progress*. Not one recommendation has been implemented.
- 8.39 The committee has been a little more successful with division procedures. The committee first touched on divisions in *Days and hours* in which it canvassed holding divisions at agreed times.²³ The proposal went nowhere

²² See para 6.99.

²³ *Days and hours*, 2–3. Timetabling divisions was dependent on the establishment of a Business Committee, a recommendation which the Government did not accept (see *Improved opportunities*, 17).

but a slight change to division procedures did result from *Improved opportunities*, the sequel to *Days and hours*: the deferral of certain divisions called for during the time allocated for consideration of private Members' business.²⁴

- 8.40 More tinkering with existing procedures arose from *Ringing of bells*, a rapid reaction report occasioned by the move to the new, more spacious, Parliament House in 1988. In this case, the time for the ringing of the bells was extended to four minutes.
- 8.41 However, despite the early signals,²⁵ the committee did not begin to examine the divisions process comprehensively until 1990.²⁶ This inquiry was overtaken by other activities, not least the inquiry behind *About time*, and it was not until 1996 that the committee resumed its examination and presented a report. Measures to streamline the process were proposed in *Conduct of divisions*, trialled as sessional orders and subsequently adopted as standing orders.²⁷
- 8.42 The committee revisited the divisions process in 2003 with *Review of conduct of divisions* and the sequel *Additional tellers*, however, these did not result in significant changes.²⁸ But in fact most of the provisions relating to the conduct of divisions in the standing orders bear the committee's finger prints to some extent. Perhaps the only outstanding issue is electronic voting.²⁹
- 8.43 A further demonstration of the value of persistence rests in the campaign to rejuvenate the general rule for the conduct of business. The general rule was embodied for many years in standing order 1, which, as has been argued elsewhere,³⁰ had become something of a procedural fossil. During its first review of the standing orders, the committee recommended a less restrictive power for the Speaker to determine matters not covered by existing House practices and procedures.³¹ Unlike some other campaigns this was successfully waged behind the scenes and its outcome can be seen in existing standing order 3(e).

²⁴ Implemented among sessional orders adopted on 9 December 1987 (VP 1987–88–89–90/302).

²⁵ For example, *Days and hours*, 2–3 and *Ringing of bells*, 6.

²⁶ See para 6.54.

²⁷ See para 6.112.

²⁸ See paras 6.182 and 6.188.

²⁹ The committee believes this is not a narrowly technical matter and needs to be fully considered by the House. See *Review of conduct of divisions*, 6–9.

³⁰ See, for example, para 2.9 and HR Practice (1st edn), 17.

³¹ *Conduct of business and opening of Parliament*, 1–2.

- 8.44 Campaigns are the practice of the maxim ‘if at first you don’t succeed’ and are waged, obviously, when a desired outcome is not attained at the first attempt. The committee has before it at least three unresolved campaigns, opening procedures, presiding at the election of Speaker and seconding of private Members’ notices. A reformist committee must also bear in mind, of course, another saying about flogging dead horses.

Reviews

- 8.45 The ‘review’ revisits earlier reports or initiatives, mostly those resulting from successful Procedure Committee recommendations, with a view to evaluating the outcomes and proposing further fine tuning (or, on occasion, a return to the status quo). The following inquiries are deemed to fall within this category:
- *Time for review* (1995)
 - *Review of reports* (1996)
 - *Ten years on* (1998)
 - *Second chamber* (2000)
 - *Promoting community involvement* (2001)
 - *Additional tellers* (2003)
 - *Renaming the Main Committee* (2004)
- 8.46 The first of the listed reviews revisited the major accomplishments of *About time* and proposed some minor fine tuning. *Time for review* was successful inasmuch as the Government broadly accepted its recommendations, however these were not immediately adopted.³² *Second chamber* was also a review of a major outcome of *About time*, the establishment of the Main Committee. It, too, was broadly successful³³ and led in turn to a further review, *Renaming the Main Committee*, the response to which shows signs of triggering a campaign.³⁴
- 8.47 *Promoting community involvement* followed the pattern of reviews of committee-inspired initiatives³⁵ but *Additional tellers* stands alone, perhaps,

³² See para 6.100.

³³ See paras 6.161–2.

³⁴ See para 6.208.

³⁵ See para 6.163.

as a review which found against a procedural experiment suggested by the committee and culminated in a reversion to old methods.³⁶

- 8.48 The remaining two reviews were each in their way different from the rest. *Review of reports* was in effect a house-keeping exercise necessitated by a change of government and a backlog of ignored reports. Not only did it clear the books, so to speak, but it also triggered the delayed adoption of proposals which had been neglected for some time.³⁷
- 8.49 Of all the listed reviews, *Ten years on* is unique in that its principal focus was on the establishment of the general purposes standing committees in 1987, which was not a direct outcome of Procedure Committee recommendations.

Formulation of recommendations

- 8.50 Those who would wish to judge a committee's effectiveness by the percentage of recommendations implemented need only survey the variability in the way the Procedure Committee has presented its recommendations over the last twenty years to see the pitfalls in such an approach.
- 8.51 The committee's *Days and hours* report did not contain individually numbered recommendations. Instead, recommendations took the form of dot-point proposals grouped under fifteen general categories. Nor were the recommendations expressed in a form which could be implemented immediately by resolution of the House. Instead, it was left to the Government to indicate which proposals it supported and then ask the committee to devise the necessary sessional orders to subject them to trial. Those sessional orders were contained in a subsequent report, *Improved opportunities* and were promptly implemented.
- 8.52 At the other extreme, for example, was the committee's second attempt at the wholesale revision of the standing orders contained in *Revised standing orders*. There was just one 'recommendation', that the proposed standing orders be adopted. This report had a one hundred percent success rate but in rearranging the standing orders without explicitly changing practices and procedures the impact will be more subtle than that of the less than fully endorsed *Days and hours* or *About time*.

³⁶ See para 6.188.

³⁷ See para 6.117.

- 8.53 The committee has become more sophisticated in preparing for the implementation of its recommendations. In its early reports it tended to express its recommendations as statements of principle with the fine detail of requisite standing or sessional orders being left for later, after some indication of agreement in principle had been given.³⁸ In later reports the recommendations were accompanied by fully drafted orders.³⁹

Presentation of reports

- 8.54 The Procedure Committee as architect and maintainer of the procedures which support the regime for organising private Members' business and the presentation of committee and delegation reports is perhaps more aware than most critics of the difficulties faced by the Selection Committee in allocating times for report presentation. In recent years, the Selection Committee has appeared to follow a practice of allocating ten minutes for each report to be presented at a Monday sitting. While this approach may be commended for its equity, unfortunately it fails to recognise reports of particular significance. The Procedure Committee has itself on occasion felt that the time it has been accorded to present a report of some moment has been manifestly inadequate. The committee has often addressed the issue of the limited time available to debate committee reports.⁴⁰

Responses to inquiries

- 8.55 A general framework for responses to committee reports has evolved since the Fraser Government undertook in 1978 to formalise the process.⁴¹ There is a general commitment for the government to respond to reports within three months. Twice each year, the Speaker presents a schedule of outstanding government responses to reports of House and joint committees for the preceding period (usually approximately the last six months). The schedule includes responses received during the period as well as indications from the Government on the progress of outstanding responses. About the same time as the Speaker's schedule is presented, the Leader of the House presents the Government's response to the previous

³⁸ For example, *Days and hours*, *Conduct of Question Time* and *About Time*.

³⁹ For example, *It's your House* and *Second chamber*.

⁴⁰ For example, *Debate on reports*, *Ten years on*, *It's your House* and *Second chamber*.

⁴¹ See HR Practice (5th edn), 689 for a brief description of the process.

schedule which lists completed responses as well as indicating progress on outstanding responses. The two documents are thus symbiotic, each feeding into the next generation of the other.

- 8.56 It is often difficult to isolate the point at which the Government has responded to a Procedure Committee report.⁴² Historically, the committee has not routinely received a formal written response which is tabled in the House—as is the case with the reports of general purpose standing committees—although this has happened on a few occasions. One of three outcomes is probable: (1) recommendations are implemented by the adoption of sessional orders or amendments to the standing orders and an acknowledgment to the committee is made during the accompanying debate, (2) the Government indicates in its periodic Government response to the Speaker’s schedule (GRSS) that it will not be responding or that it has taken or will take action or (3) there is no evident indication of a response whatsoever.
- 8.57 This irregularity makes it difficult for the committee to remain aware of the standing of some of its recommendations. For example, in its GRSS of 9 December 2004, the Government indicated that it did not support the proposed name change recommended in *Renaming the Main Committee*. However, whether this in itself constitutes a government response is a moot point. There is scope for examining the pros and cons of a more clearly defined process as well as considering the appropriateness of leaving responsibility for responses entirely with the Government.

Following through

- 8.58 Just as the committee has become more sophisticated in framing its recommendations, it has also become more active in promoting them after a report has been presented. This has in part been motivated by the uncertain response mechanism referred to in the preceding paragraphs. But it also reflects a growing confidence in the committee’s role and its commitment to the value of its work.
- 8.59 In the first few years of its existence, the committee was sufficiently novel, perhaps, not to be taken for granted and responses were readily provided. However in a political environment where the government of the day had other distractions, it was no longer sufficient to present a report and

⁴² See Appendix C for details on responses to Procedure Committee reports.

passively await results.⁴³ It may also be the case that the steadily increasing output from the general purpose standing committees created in 1987 competed against Procedure Committee reports in a contest for government attention.

- 8.60 In later years the committee has nurtured links with both the Leader of the House and the Manager of Opposition Business as well as a range of other regularly consulted parliamentary players, like the Speaker, whips, committee chairs and the Clerk of the House.⁴⁴ This process has been conducted behind the scenes as far as the official record is concerned and its efficacy is not easily proven but arguably plays no small part in some of the committee's most recent successes.
- 8.61 A less common instance of committee activism occurred following the *Second chamber* inquiry. On this occasion the committee surveyed Members on their responses to the report's recommendations and used this as evidence in support.⁴⁵

Status of the committee

- 8.62 Parliamentary committees are categorised in several ways. The Procedure Committee is a House of Representatives Committee, as distinct from a Senate or Joint committee. It is a standing committee—existing for the life of a Parliament with a continuing role—not a select committee. It is appointed pursuant to standing orders and not by statute or a finite resolution of the House.
- 8.63 However beyond these clear distinctions, its status becomes less clear-cut. It is obviously a domestic committee because its 'functions are concerned with the powers and procedures of the House or the administration of Parliament'.⁴⁶ However, unlike a typical domestic committee, it has an investigative role and may call witnesses. It also has the power to move from place to place and has done so in three inquiries.⁴⁷ A third point of departure lies in the nature of its reports, little resembling the

⁴³ Appendix C shows a prolonged period of 'no response, no action' entries after the initial flush of success.

⁴⁴ Typically this contact has taken place in two forms: on hand for individuals to be invited to attend deliberative meetings and on the other for groups to convene in round table discussions.

⁴⁵ See paras 6.143–4.

⁴⁶ HR Practice (5th edn), 622.

⁴⁷ Each, incidentally, a substantial inquiry. See paras 6.11, 6.73 and 6.170.

standardised output of most domestic committees. In some respects, then, it operates more like a general purpose standing committee than a purely domestic committee.

- 8.64 This leads to the issue of resources. The committee does not have a full-time secretariat as do most investigative committees, including the general purpose standing committees. The secretary is a senior member of House staff, generally the Director of the Chamber Research Office, whence other research and administrative staff are drawn as required. While this arrangement has the benefit of providing support staff with degrees of expertise in parliamentary procedure it may constrain the workload which the committee can accept at any time.

Avoiding trespass

- 8.65 The relatively liberal boundaries of the committee's domain⁴⁸ impose a responsibility to avoid stepping on the toes of other committees. As has been noted, a potential conflict with the remit of a statutory committee may have been imposed on the Procedure Committee had a proposed reference been carried in the House.⁴⁹ There are obvious overlaps in the respective jurisdictions of the Privileges Committee and the Procedure Committee and on at least one occasion the latter has reconsidered proceeding with an inquiry which may have been seen as trespassing. During its recent inquiry into *Media coverage* the committee was mindful of the statutory obligations of the Joint Committee on the Broadcasting of Parliamentary Proceedings.⁵⁰
- 8.66 It is less likely that another committee would intrude in the Procedure Committee's domain. For example, under its enabling standing order⁵¹ the Privileges Committee is restricted to reporting on matters referred to it by the House; it has no power to initiate its own inquiries. There is at least one case of a committee declining to examine a term of reference because it believed it encroached on the Procedure Committee's turf. In presenting a report of the Joint Standing Committee on Electoral Matters a member of that committee stated:

⁴⁸ See Chapter 2.

⁴⁹ See para 8.10.

⁵⁰ *Media coverage*, 3–4.

⁵¹ Standing order 216.

The committee did not consider that it was authorised to conduct an inquiry on the third of the terms of reference. The report notes recent developments to introduce sitting hours for the Senate and the House which we see as being more conducive to family life than the traditional hours. However, matters of parliamentary procedure and practice are outside the scope of the authority conferred on the committee by the parliament and would be more appropriately undertaken by the respective procedure committees of the Senate and the House.⁵²

- 8.67 The committee has also avoided provoking the Executive by intruding on what Leaders of the House may see as their preserve, the range of procedural devices which they use to enable government business to subordinate other proceedings. Successive Leaders of the House have developed a formidable armoury of tactical weapons by using the gag, guillotine and suspension of standing orders without notice in various combinations. Rather than entering a futile dispute on contestable principles of parliamentary procedure, the committee has acted constructively, finding ways to alleviate the conditions which tempt governments to act heavy-handedly. There are numerous examples, chief among them the establishment of the Main Committee which contributed directly to a diminished need to resort to the guillotine.

Progress versus tradition

- 8.68 In assessing the work of the UK House of Commons Select Committee on Procedure for the 1967 Session, a commentator noted:

By and large, what emerged from the Committee was a respect for the safeguards for minorities devised by previous generations and a determination to sharpen and redefine them.⁵³

If there is any truth in the observation that ‘Australian politics is played like Australian sport, up front, down to earth and with a blatant desire to win at any cost’,⁵⁴ then one might expect there to be little local concern for the procedural devices of previous generations.

- 8.69 Nonetheless, the maintenance of tradition has been a factor in the committee’s deliberations. For instance, in proposing a rationalisation of

⁵² HR Deb (6.6.1994) 1383.

⁵³ *Table XXXVI* (1967), 58.

⁵⁴ Weller, 633.

the procedures for the opening of Parliament, the committee was careful not to propose discarding the ‘symbolic elements which commemorate the evolution of Parliament’.⁵⁵ And when revising the standing orders, archaisms were not sacrificed lightly.⁵⁶

Recurring issues

8.70 It will be obvious from preceding discussion in this and earlier chapters that some issues which the committee has examined in the last 20 years are less tractable than others. They include:

- sitting patterns,
- Question Time,
- opening procedures,
- divisions, and
- debating committee reports.

8.71 The committee should not shirk its responsibilities in maintaining the House’s operating procedures. However it should direct its finite resources toward activities that will achieve results. The committee has shown an increasing sophistication in fulfilling its obligations to the House. Perhaps the next step is to be a little more strategic in recognising the right moment to promote a particular necessary reform.

Conclusion

8.72 This chapter has taken an analytical approach toward the practical aspects of procedural reform. It has compared the kinds of problems which the Procedure Committee has dealt with and distinguished the different methods it has followed to achieve results. Some of the obstacles it has confronted have also been described.

⁵⁵ *Balancing tradition and progress*, 5.

⁵⁶ For instance, the expression ‘the Speaker shall give a ruling thereon’ in old standing order 99 (Proceedings on question of order) was replaced by ‘the Chair must rule on the point of order’ in the Clerk’s draft; this was restored by the committee to ‘by the Speaker giving a ruling thereon’ in revised standing order 86 (Point of order).

