

## Arrangements for opening day

### Purpose of submission

The department welcomes the invitation to make a submission to the committee on these matters. The committee's acknowledgement of the importance of tradition in many aspects of Opening Day is noted, as is the committee's interest in ways in which the proceedings might be modernised and made more relevant to the Australian community.

Given the inquiries conducted by Procedure Committees in the past, this submission is not a comprehensive analysis of the arrangements or of all possible changes, but rather a summary of, and comments on, aspects which have been subject to recommendations intended to make the day more straightforward and meaningful to participants and to the wider community.

The submission reflects departmental experience in the procedural and administrative aspects of the day. The department recognises that the greater challenges, and ones for the parliamentary and political skills of the committee, will be to identify changes that could be accepted broadly as giving worthwhile benefits, and for processes that will help achieve the consensus necessary for successful implementation to be agreed on.

Attached to this submission is a note of the times of key stages at the most recent opening. The department considers there is some opportunity to streamline the proceedings on the day while retaining those elements of ceremony that are valued by Members and which link to the traditions of the Houses.

Key features include:

### The indigenous welcome

It appeared to us as departmental officials that the indigenous welcome to country ceremony that took place at the recent opening fitted in well with the traditional parliamentary events that followed. Members of the committee will be better placed than we are to assess the success of the welcome in the wider context, but it did appear to be supported by a large number of Members. There are some advantages in such ceremonies being free of the restrictions of the standing orders framework – they are likely to involve members of each House and if they are not provided for in a prescriptive way flexibility and adaptation over time will be facilitated.

In its 2001 report *Balancing tradition and progress* (the '2001 report') the Procedure Committee also recommended the presentation of a formalised message by the Australian of the Year, on behalf of the Australian people. Committee Members may

wish to revisit this recommendation, or to consider other possibilities for wider community involvement or participation.

### **Assembly of Members of the House**

The indigenous welcome to country ceremony in 2008 was performed in the presence of members of the House and Senators. At the conclusion of the ceremony members of each House dispersed and were available to assemble in their respective chambers by 10.30 am.

In the 2001 report the Procedure Committee recommended that at the conclusion of such a ceremony members of each House proceed to their respective chambers. Reflecting on the experience of the 2008 opening, and assuming that many Members may believe that the number of formal processions should be kept to a minimum, the informal dispersal after an indigenous ceremony in time to allow Members to be seated in the traditional manner before the next stage would seem more appropriate than a procession into the House.

### **Appointment of deputies of the Governor-General**

The traditional practice has seen Members of the House receive a message, delivered by the Usher of the Black Rod, from a Deputy of the Governor-General inviting their attendance in the Senate chamber. Members have gone to the Senate in procession, and there heard the Deputy's commission read, following which the Deputy has declared the Parliament open and stated that the Governor-General will attend later in person to declare the causes of the calling of the Parliament together. The Deputy has then said '...members...will now return to the House of Representatives and choose a person to be your Speaker. Later today, you will present the person you have chosen to the Governor-General at a time and place appointed by him'. Members have then returned in procession to the Chamber.

In order to avoid the necessity for these first two processions, the Procedure Committee recommended in its 1995 report that two deputies be appointed by the Governor-General and that one attend in each Chamber, the idea being that, in each case, the commission could be read, the Deputies each make short statements, and the swearing in/affirmation processes follow immediately.

The Department has legal advice to the effect that the appointment of two deputies for these purposes would not be subject to any constitutional objection. The legal advice went on to say that if this course were to be adopted some adjustment of the words traditionally used would be desirable. Since 2004 different words have been used to those applying when the advice was received, but if the present committee makes a similar recommendation it would be important that further legal advice be obtained before implementation. Consultation would be needed on the detail of the instrument of appointment of deputies and on the words they used; for example it would seem inappropriate for each deputy to say '.....I declare open the ..... Parliament of the Commonwealth'.

In its 2001 report, the Procedure Committee envisaged simultaneous declaration of Opening of Parliament by the Governor-General and a Deputy. The Governor-General would attend in person in the Senate. The Deputy attending in the House would be the senior state Governor – that is the person who would be expected to serve as Administrator if necessary.

It may be more appropriate not to include the Governor-General in this simultaneous opening, but to have the Governor-General appoint two deputies, one to attend in the Senate and the other to attend in the House. The deputies could be the senior state Governor and the Chief Justice of the High Court. The appointment of two deputies to perform the role of declaring the Parliament open might avoid any perception that the Houses were not being treated equally.

Implementation of the Procedure Committee proposal, with the change suggested, would avoid Members being summoned—in the eyes of some putting the House in an inferior position—and making two processions, to attend in the Senate Chamber for a very short period of business. It would also mean that the Governor-General would still only come to Parliament House once during the day.

### **Swearing in/affirmations**

My perception is that the traditional swearing of oaths/making affirmations process is of great significance to Members. The process enables the requirements of s.42 of the Constitution to be satisfied. It is estimated that the process took some 25.5 minutes at the last opening.

While noting that the process could be changed—for example Members could be sworn-in or make affirmations before opening day—I do not believe that there would be support for such a development. (I note that there was strong support for retaining the same swearing in procedures from the Members who responded to the Committee’s survey for the 2001 Opening of Parliament report). It seems to me that as well as being valued by Members and I assume by their families and supporters, there is much to be said for this process to be held in public, for government and non-government Members and for front and back bench members to all be dealt with in one ceremony, and for a senior judge to preside. It seems appropriate also that the election of a Speaker follow immediately after such a significant public event.

The 2001 report recommended that the words of the oath or affirmation be reviewed with a view to including recognition of the people of Australia. Successive governments since at least 1993 have adopted a different form of words in respect of the oath or affirmation of office for Ministers and Parliamentary Secretaries<sup>1</sup>, but the Constitution specifies the terms that must be used by Members (and Senators). Implementation of a change in the specified wording would not be a short-term matter, but the 2001 report recommended that a proposed new form be put to the people at a referendum.

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<sup>1</sup> The text of the Oath of Office used in the swearing in of the ministry on 3 December 2007, was: ‘I, [NAME], do swear that I will well and truly serve the Commonwealth of Australia, her land and her people in the office of [MINISTER FOR XXX]. So help me God!’

## **Election of Speaker**

The 2001 report recommended changes in three aspects: that the most senior Member who was not a Minister/Parliamentary Secretary, Party Leader or Whip preside instead of the Clerk and that immediately after the election of a Speaker the Deputy Speaker and the Second Deputy Speaker should be elected.

In respect of the election of a Speaker, the present committee may consider whether in practice the assertion that the Clerk could be not well placed to deal with the more 'contentious problems which could conceivably arise' is indeed more of a theoretical rather than practical point. Nevertheless a change to have the most senior eligible and available Member preside would make the point that the House is indeed the Members' house and that the role of staff is one of facilitation and support.

The recommendation for the election of a Deputy Speaker and a Second Deputy Speaker immediately after the Speaker seemed to be less about saving time (as the election processes take much the same time regardless of when they are held) than about having the 'parliamentary leadership group' (comprising these three officers) elected ready to present itself to the Governor-General in the afternoon. If the Committee proposes continuing with the current procession from the House with the Speaker presenting himself or herself to the Governor-General and to introduce Members, then there is less need to consider any change to the election of Deputy Speaker and Second Deputy Speaker.

## **Presentation to the Governor-General**

The 2001 report recommended that instead of the traditional procession to allow the Speaker to present himself or herself to the Governor-General and introduce Members, the three presiding members would introduce themselves, and other accompanying Members, to the Governor-General on their way to hear the Governor-General's speech.

It is unclear what value Members place on the traditional introduction arrangements. Certainly it is not necessary in terms of Australia's constitution: a Speaker does not need to present himself or herself to the Governor-General, there is no requirement for any acceptance or endorsement of the House's choice of a Speaker and there is no legal or procedural requirement for Members to be introduced to the Governor-General.

It is likely that some Members would regard the traditional practice as both archaic and meaningless, but it is also likely that other Members would see it as appropriate that Members interact with the Governor-General on parliamentary premises and that this does not have a connotation of subordination or of a need for approval. It is also likely that some backbenchers would value the opportunity to meet the Governor-General formally at the same time as the Speaker and other leading Members. The 2001 report also noted that Senators might wish to participate at this stage, although it is not clear how the logistics of this might be organised.

The 2001 recommendation would allow:

- a procession led by the Speaker from the House to Members Hall to allow the Speaker to present himself, the Deputy Speaker and the Second Deputy Speaker, and other Members, to the Governor-General;
- after their introductions Members moving into the Great Hall (and see below) prior to the Opening Speech;
- after introductions were completed the Speaker being led into the Great Hall to await the Governor-General's arrival there for the Opening Speech.

Under this arrangement two processions would be avoided - one for the return of Members to the House after the introductions, another from the House to the Senate (traditionally) for the opening speech. One point to note is that under this process it would not be possible to know how long the introductions would take and both the Governor-General and the Speaker could be required to wait to fit in with the scheduled time for the opening speech.

An alternative would be to retain the current procession of the Speaker and all Members from the House Chamber, with Members moving into the Great Hall for the opening speech once they have been presented.

### **Governor-General's speech**

In the 2001 report the Procedure Committee repeated an earlier recommendation that the Governor-General's speech should be delivered in the Great Hall. The House has agreed to a resolution on this matter (24 March 1988). The use of the Great Hall has been seen as more consistent with the constitutional framework and with the reality of the relationship between the two Houses.

Implementation of such a recommendation would involve the Governor-General, as well as each House of the Parliament. The standing orders of the House refer to Members attending at the 'place appointed by the Governor-General' to hear the speech (i.e., no change would be needed on this point), but Senate standing order 2 refers to the Governor-General being conducted to the chair in the Senate chamber and to the House attending in the Senate chamber.

### **Formal business**

The 2001 report recommended that instead of the presentation of a 'privilege bill' (traditionally a bill not expected to be proceeded with), the 'traditional assertion of the House's right to order its own business' would be maintained by the adoption of a resolution of commitment to the Australian people. The committee recommended that the resolution be moved by the Prime Minister, seconded by the Leader of the Opposition and put immediately without debate. The committee suggested a possible form of words, but recommended that the resolution be subject to broad consultation across the country to seek agreement or the submission of alternative versions.

## Address-in-reply

The 2001 report recommended that a more modern form of the address-in-reply be adopted. The wording of the address is open to change, and the terms used in 2008 saw such a change. In any case, this is a matter that comes before the House on a later day and is not part of the opening day arrangements.

The abolition of the appointment of an address-in-reply committee was recommended in the 2001 report. The Procedure Committee saw this traditional action as redundant, but wished to retain the involvement of new Members. Its proposal would have the proposed address moved by one new Member and seconded by another. Little needs to be said about this recommendation: the traditional action takes very little time, but it cannot be said to be necessary in any procedural or legal sense.

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The department will be very pleased to provide any more information or comment the committee may need and will be happy to assist in advising or assisting in the implementation of any recommendations which are agreed to.

I C HARRIS  
Clerk of the House  
5 May 2008

**House of Representatives - First Session of the 42nd Parliament – Timeline – Ceremonial Aspects**

	<b>Time<sup>1</sup></b>	<b>Elapsed time<sup>2</sup></b>
Members assemble in the HOR Chamber	10.30 am	
Clerk reads Proclamation from the Governor-General summoning the new Parliament	10.30 am	
*Message delivered by the Usher of the Black Rod	10.34 am	4
Members proceed to the Senate Chamber		
Declaration of the Opening of the 42nd Parliament	ends 10.41.5 am	11 5
Members return to the HOR Chamber		
*Deputy of the Governor-General arrives in the HOR Chamber		
Clerk reads to the House the authority to administer the oath or affirmation of allegiance	10.50 5 am	20.5
The writs for the General Election are laid on the Table	10.51 am	21
Swearing in of Members	ends 11.16 5 am	46.5
Election of the Speaker	ends 11.23 am	53
Speaker acknowledges, congratulatory speeches	ends 11.50 am	1 h 9
Speaker suspends the sitting of the House	11.51 am	1 h 21
Speaker resumes the chair	2.30 pm	1 h 21
Presentation of Speaker to the Governor-General in the Members' Hall		
Governor-General hands the Speaker the authority to administer the oath or affirmation of allegiance to Members not already sworn		
Speaker and Members return to the HOR Chamber	3.02 pm	1 h 53
Speaker resumes the chair and reports the authority received from the Governor-General	3.02.5 pm	1h 53.5
*Usher of the Black Rod with message for Members to assemble in the Senate Chamber	3.06 pm	1 hr 57
Members assemble in the Senate Chamber to hear the Governor-General's opening speech		
Members return to the HOR Chamber		
Prime Minister announces the Ministry, Govt Whips	3.52 5 pm	2 h 43.5
Leader of the Opposition announces Leadership, Whips and Shadow Ministry	3.53 pm	2 h 44
Leader of the Nationals announces Leadership and Whips	3.54 pm	2 h 45
Presentation of Privilege Bill	3.54.5 pm	2 h 45.5
Report of the Governor-General's speech and appointment of Address in Reply Committee	3.55.5 pm	2 h 46.5
Statements on indulgence	3.56 pm	2 h 47
Speaker suspends the sitting of the House	4.02 pm	2 h 53
Speaker resumes the chair	5.00 pm	2 h 53
Election of Deputy Speaker and 2nd Deputy Speaker	5.28 pm	3 h 21
Congratulatory speeches	End 5.43 .5pm	3 h 36.5

<sup>1</sup> The time is at the start of the item unless otherwise indicated.

<sup>2</sup> The elapsed time is recorded—in minutes or hours and minutes—excluding suspensions.

\* Marks a pause in proceedings while the House waits.