

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