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The Parliament of the Commonwealth of Australia

# **Interim Report: Monitoring and review of procedural changes implemented in the 43<sup>rd</sup> Parliament**

House of Representatives  
Standing Committee on Procedure

April 2011  
Canberra

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## Foreword

Following the election of 21 August 2010 the finely balanced numbers in the Parliament provided an opportunity for unaligned Members to pursue a more open Parliament by changing some of the habits and practices that had been developed over decades of substantial majority governments on both sides.

A more open Parliament was sought through ‘an increase in the authority and opportunity for participation for all 150 Members of the House, regardless of their party or status’.

Changes to House practice and procedure to support a new style of Parliament were agreed during the negotiations between the political parties and unaligned Members in the period between the election and the formation of government. They were expressed in the Agreement for a Better Parliament: Parliamentary Reform and are embodied in procedural changes introduced into the House and passed on 29 September 2010, the second day of the 43rd Parliament.

The Agreement was founded on the role of all Members as ‘local’ Members and the Parliament’s institutional role and authority, separate from Executive Government. It sought cultural as well as procedural change.

At the time of commencing to write this report, the House had sat for five weeks – enough time to make some early observations, but insufficient to comprehensively review the changes in action.

Consequently, this interim report will be followed by a more considered report after there has been more time to observe the impact of the changes.

In keeping with the Procedure Committee’s responsibility to scrutinise the practices and procedures of the House, this report is principally a technical review. It sets out the various changes agreed to and the means by which they are being implemented. It does not evaluate them as substantive and fulfilling of

initial hopes, or otherwise. It documents the early days, tells of the initial reactions of Members and suggests some initial fine-tuning.

The word 'reform' connotes improvement and correction. Whether the 43rd Parliament ushered in a period of procedural reform and strengthening of the Parliamentary institution or simply a period of change – of a different framework - remains to be seen, as does whether or not the objectives of the changes have been met - or will be met.

While it is unusual for Chairs to comment on the body of a report in the foreword, I raise one issue that was presented strongly by backbenchers from both sides of Parliament, and that is the length of the sitting day and the increased workload of the additional sitting hours. It is probably not politically wise to raise this issue, but nor is it wise to be silent on it.

Members of Parliament recognise that Parliamentary work is the central role of representatives, but Members of Parliament have the same responsibility as all members of the community to consider the balance between their health, their ability to do quality work, and a healthy relationship with family. Many Members of Parliament regularly work 12 hour days both in Parliament and in their electorates, but there is a strong view that the new hours which extend the Parliamentary days beyond that are not sustainable.

Consequently we have asked for a moderation of hours at this early stage of the review process.

**Julie Owens MP**  
**Chair**





## **Membership of the Committee**

**Chair** Ms Julie Owens MP

**Deputy Chair** Mr Russell Broadbent MP

**Members** Ms Sharon Bird MP

Mr Ewen Jones MP

Hon Joel Fitzgibbon MP

Mr Sid Sidebottom MP

Mr Steve Irons MP

## **Committee Secretariat**

**Secretary** Ms Catherine Cornish

**Inquiry Secretary** Ms Alison Clegg (to 17/02/11)  
Mr Justin Baker (from 20/02/11)

**Research Officers** Ms Naomi Swann  
Ms Penny Branson



## **Terms of reference**

To monitor and report on procedural changes implemented in the House of Representatives in the 43rd Parliament.



## **List of abbreviations**

ALP	Australian Labor Party
MPI	Matter of Public Importance
PBO	Parliamentary Budget Office



## List of recommendations

### 3 Strengthening the parliament: increased participation by all Members

#### Recommendation 1 (para 3.27)

The Committee recommends that the Selection Committee be encouraged to implement the 'General principles relating to the selection of private Members' business' and exercise the flexibility that is available to it pursuant to standing order 222 and the principles, particularly in relation to the length of debates and speaking times allocated.

#### Recommendation 2 (para 3.30)

The Committee recommends that the House take up the Selection Committee's recommendation that it consider adopting the 'General principles relating to the selection of private Members' business' (contained in Report No. 3 of the Selection Committee of 21 October 2010).

### 5 Current and emerging issues

#### Recommendation 3 (para 5.24)

The Committee recommends that the House considers measures to manage the workload of Members during sitting weeks, having regard to the health and wellbeing of Members, their staff and parliamentary staff, including but not limited to:

- a) commencing at 12.00 noon on Mondays in the House and 12.30 pm in the Main Committee;
- b) commencing at 12.00 noon on Tuesdays in the House;

- c) offsetting the reduction in sitting hours resulting from a) and b) by reducing the time allocated to private Members' business each week by three hours;
- d) providing that divisions called for after 8.30 pm on Mondays and Tuesdays be deferred until the following day; and
- e) reducing the time allocated for adjournment debate by half an hour on one evening.

**Recommendation 4** (para 5.55)

The Committee recommends that draft amendments to standing orders which enhance the operations of the House and correct oversights and inconsistencies be prepared and proposed for consideration by the House.



## Introduction

- 1.1 Following the 2010 general election and in the lead-up to the 43rd Parliament, significant procedural reforms were proposed by a group of non-aligned Members,<sup>1</sup> and agreed to by the major parties. These were articulated in the *Agreement for a Better Parliament: Parliamentary Reform* (the Agreement) which was signed on 6 September 2010. The full text of the Agreement is at Appendix A.

## Environment for parliamentary reform

- 1.2 In the weeks following the election of 21 August 2010, it became apparent that no single party or established coalition of parties had the numbers to form a majority government. As shown in Table 1.1 the Australian Labor Party (ALP) won 72 seats, the Coalition 73 (if Mr Tony Crook, who described himself as an 'Independent WA National' is included),<sup>2</sup> the Greens one and the Independents four.

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1 Standing orders define a non-aligned Member as '*a Member who is neither a government Member or an opposition Member*'. In the 43<sup>rd</sup> Parliament non-aligned Members include Mr Adam Bandt (Greens), Mr Bob Katter (Independent), Mr Rob Oakeshott (Independent), Mr Tony Windsor (Independent) and Mr Andrew Wilkie (Independent). Although initially counted as a Coalition Member, in August 2010 Mr Tony Crook (Nationals WA) indicated his intention to sit on the cross-benches as an Independent Member.

2 See Mr Crook's Blog posting of 22 October 2010 on his webpage: <http://www.tonycrook.com.au/News/Blogs/tabid/75/articleType/ArticleView/articleId/6/Tony-Crook--An-Independent-WA-National.aspx>, viewed 15 March 2011.

**Table 1.1 Party composition House of Representatives in the 42<sup>nd</sup> and 43<sup>rd</sup> Parliaments**

<i>Party</i>	<b>42<sup>nd</sup> Parliament*</b>	<b>43<sup>rd</sup> Parliament</b>
Australian Labor Party	83	72
Coalition**	63	73 (includes Mr Tony Crook)
Australian Greens	-	1
Independent	4	4

*Notes* \* Composition as at the dissolution of the 42<sup>nd</sup> Parliament.

\*\*Coalition comprises Liberal Party of Australia; The Nationals/Country Liberal; Liberal National Party and includes Mr Tony Crook (see Footnote 1, previous page).

1.3 A period of intense negotiations followed, as both major parties sought to win the support of sufficient non-aligned Members to allow them to form government. An agenda for parliamentary reform, based on the role of 'local MPs' as the 'building blocks' of Australia's democracy, and the assertion of the parliament's authority in its relationship with government, was a key component of these negotiations.<sup>3</sup>

1.4 On 7 September 2010, having secured support of the Greens Member and of three of the four Independent Members, it was established that the ALP had the numbers to form a minority government. In a statement to the press, Ms Gillard said:

We've agreed to far-reaching reforms that make me as prime minister and our government and how it functions more accountable to the Australian people.

So let's draw back the curtains and let the sun shine in, let our parliament be more open than it was before.<sup>4</sup>

1.5 The 43<sup>rd</sup> Parliament was opened on 28 September 2010 and in her first speech the Prime Minister stated:

Mr Speaker, the result of the 21 August election is a salutary reminder that parliament is not a creature of the executive and that every piece of legislation will require, and should be given, careful and thoughtful deliberation. It is also a reminder that our colleagues on the crossbench have their own rights as legislators which must be protected and upheld. For the government's part we accept these realities and welcome the opportunity for reform

3 The preamble spells out these two principles underlying the Agreement.

4 Excerpt from transcript of Ms Gillard's statement to the media on 7 September 2010 viewed on 6 January 2011 at: <<http://www.news.com.au/features/federal-election/transcript-julia-gillard-im-ready-to-govern/story-e6frllr-1225915743789>>.



that they present. We want this parliament to be productive both in its rules and procedures but also in its outcomes for the nation, and we pledge to uphold the spirit of consensus and goodwill at every possible turn.<sup>5</sup>

## Scope of the inquiry

- 1.6 An important aspect of the Agreement is that it provides for a mechanism to:

... review all standing order and other procedural changes in this agreement and will report following the first session of this Parliament.<sup>6</sup>

- 1.7 On the second day of the new parliament, the House agreed to a large number of amendments to standing orders, a sessional order and a resolution. In speaking to the motion to amend standing orders in line with the Agreement, the Leader of the House, the Hon Anthony Albanese identified the Procedure Committee as the appropriate body to review the implementation and operation of the reforms:

As the agreement stipulates, all of these reforms will be reviewed over the course of this five-week sitting period. All House related initiatives are to be subject to informal monitoring by the Procedure Committee, with the committee to hold round table meetings to discuss progress and any necessary refinements to the detail. The committee will present a formal report on the first year of operation of the new arrangements, but in between there should be discussion between the government, the opposition and the crossbenchers about how it works in practice and whether any refinements are needed prior to parliament returning next year.<sup>7</sup>

- 1.8 At its first meeting of the 43<sup>rd</sup> Parliament, the Standing Committee on Procedure (the Committee) adopted the following terms of reference:

To monitor and report on procedural changes implemented in the House of Representatives in the 43<sup>rd</sup> Parliament.<sup>8</sup>

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5 HR Deb, 28 September 2010, 7.

6 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 21, p 9.

7 HR Deb, 29 September 2010, 129.

8 Parliament of Australia website, viewed on 6 January 2011 at:  
<<http://www.aph.gov.au/house/committee/proc/proceduralchanges/tor.htm>>.

- 1.9 Although the Committee intends to present a more detailed report on aspects of the parliamentary reforms after a longer period of implementation, it is keen, first, to capture the early views and experiences of Members and to report to the House on these. In producing this 'interim' report the Committee acknowledges its inherent limitations.
- 1.10 Sitting weeks to date in the 43<sup>rd</sup> Parliament could largely be viewed as a period of 'bedding in' for the reforms. The Committee avoids being too definitive at this early stage, confining its observations to broad narrative, other than some of the comment made in chapters three and five. While the Committee presents comparative data in this report, it notes that trends may change over the course of the 43<sup>rd</sup> Parliament and will present more substantive data in its later report.
- 1.11 The inquiry so far, and this report, focus on the nature of the reforms and the initial processes of their implementation. The Committee cannot comment now on whether the ultimate objective of the reforms – the building of a more active and participatory House – has been achieved.

## **Conduct of the inquiry**

- 1.12 On 29 October 2010 the Chair of the Procedure Committee wrote to all Members of the House inviting feedback on their early experiences of the reforms. The Committee has drawn on this feedback, which includes evidence contained in five submissions and one exhibit, as well as feedback provided informally, in correspondence, at Committee briefings and a roundtable meeting with Members (detailed below). The report also draws on data collected by the Chamber Research Office and on comments made by Members in the House, or elsewhere, which are in the public domain.
- 1.13 On 25 November 2010 the Committee held a private meeting with the Speaker and the Clerk to discuss emerging issues on the reforms. The Clerk later provided some additional comments in a submission, a copy of which is included at Appendix E. On 22 February 2011 the Committee held a private roundtable with Members to seek initial feedback on their views and experiences of the procedural changes. Further feedback was collected during a private briefing with party Whips on 24 February 2011.

## Structure of the report

- 1.14 Chapter 2 presents an overview of the reform agenda, outlining the objectives, individual reforms and the mechanisms used to support their implementation.
- 1.15 In recognition of the reforms' focus on increasing the opportunities for participation by all Members, Chapter 3 considers the opportunities available now and the implications of these changes for the institution of parliament, as well as for Members.
- 1.16 Chapter 4 reviews two other significant procedural reforms: changes to Question Time and to the House committee system.
- 1.17 In Chapter 5 the Committee discusses issues – current and emerging – that, in its view, need to be addressed quickly, or to be monitored closely over the next several months.
- 1.18 Appendix A contains the text of the Agreement; Appendix B, a comparison of the reforms implemented in the standing orders with the previous situation; Appendix C, an outline of the evidence obtained by the Committee; Appendix D, the principles guiding the operations of the Selection Committee; and Appendix E, a copy of the submission from the Clerk of the House of Representatives.



## The reforms—an overview

- 2.1 The *Agreement for a Better Parliament: Parliamentary Reform* (the Agreement) provides a detailed schedule of reforms, with wide-ranging implications for parliamentary practice and procedure. In the early days of the 43<sup>rd</sup> Parliament, statements by Members from all sides reflected great interest in, and enthusiasm for, the reform agenda.<sup>1</sup>
- 2.2 The procedural reforms outlined in the Agreement have been introduced into the House of Representatives both formally, through amendments to the standing orders, the inclusion of a sessional order, and a resolution of the House, and informally, through arrangements and interpretations of the Agreement that the Speaker has noted to the House from time to time.<sup>2</sup> The effectiveness of the reforms will be determined through their application and interpretation over time.
- 2.3 This chapter provides an overview of the Agreement, outlining its fundamental objectives and examining individual reforms and the mechanisms used for implementation.

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1 See for example: HR Deb, 29 September 2010, 128-141, for a range of views.

2 See for example the Speaker's statement on the treatment of supplementary questions: HR Deb, 20 October 2010, 859.

## Preamble to the Agreement

- 2.4 The preamble describes the reforms as intended to enhance the authority of the parliament in its relationship with the executive government and to increase opportunities for participation for all Members of Parliament, 'local Members', regardless of their political party or office. It also acknowledges the critical importance of commitment and cultural change to the successful realisation of parliamentary reform.

## Role of the Speaker

- 2.5 A key provision of the Agreement seeks to enhance the authority and independence of the Speaker.<sup>3</sup> Speakers have always been expected to strive to discharge their responsibilities impartially. However, the fact that the position of Speaker is occupied by a government Member has led to occasional perceptions or assertions of bias.
- 2.6 Contrary to usual practice, the Agreement proposed that the roles of Speaker and Deputy Speaker should be filled by members from different parties. Following the election of Mr Harry Jenkins as Speaker, a Coalition Member, the Hon Peter Slipper, was elected Deputy Speaker. To enhance impartiality the Agreement provides that both the Speaker and Deputy Speaker will abstain from attending party room meetings.
- 2.7 Although the Agreement also recommends 'pairing' of votes for the occupant of the Chair during divisions, this provision was subject to extensive debate, which included questioning the constitutionality of such an arrangement, particularly any formal arrangement.<sup>4</sup> This provision has not been implemented.

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3 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 2.

4 See, for example, articles by Professor D R Rothwell and Dr D Dalla-Pozza, 'New paradigm shows early signs of wear', 21 September 2010, *Sydney Morning Herald*, viewed 1 March 2011 at <<http://www.smh.com.au/opinion/politics/new-political-paradigm-shows-early-signs-of-wear-20100921-15k6k.html>>; and Marcus Priest, 'Libs to force ALP's hand', *Financial Review*, 29 September 2010. The Commonwealth Solicitor-General issued advice on 22 September 2010.

## Selection Committee

- 2.8 The Agreement provides for the establishment of a Selection Committee to facilitate the participation of all Members in the work of the House.<sup>5</sup> The House Selection Committee was established under standing order 222 at the beginning of the 43<sup>rd</sup> Parliament, with a wider role than such committees established in the 41<sup>st</sup> and earlier parliaments.<sup>6</sup> The Selection Committee consists of eleven members: the Speaker, or in his absence the Deputy Speaker, the Chief Government Whip or their nominee, the Chief Opposition Whip or their nominee, the Third Party Whip or their nominee, three government Members, two opposition Members and two non-aligned Members.<sup>7</sup>
- 2.9 In the 41<sup>st</sup> and preceding parliaments, the Selection Committee was responsible for arranging private Members' business on sitting Mondays. There was no Selection Committee in the 42<sup>nd</sup> Parliament and these arrangements were decided by the Government and Opposition Whips.
- 2.10 The Selection Committee now considers every bill introduced in the House and refers those it decides are controversial or requiring further consultation or debate to a relevant House or joint committee. A request by one member of the Selection Committee is sufficient to select a bill for referral. The impact of this arrangement is discussed further in Chapter 4.<sup>8</sup> Details of the operations of the Selection Committee are discussed in Chapter 3.

## Questions without notice

- 2.11 Question Time has long been criticised for its 'robust' nature and its effectiveness – or otherwise – as an accountability mechanism. The

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5 *Agreement for a Better Parliament: Parliamentary Reform*, Clauses 1 and 11.

6 Although Selection Committees operated between 1994-2007, during the 42<sup>nd</sup> Parliament there was no Selection Committee. See para 2.9 and *House of Representatives Practice*, 5 ed., pp 560-566.

7 Standing order 222, 20 October 2010.

8 See standing order 222(a), 20 October 2010, and the Selection Committee's webpage <<http://www.aph.gov.au/house/committee/selc/index.htm>> for an overview of its activities and its reports. As at 24 March 2011, the Committee had referred 11 bills to committees.

Agreement includes several proposals for significant changes,<sup>9</sup> discussed in more detail in Chapter 4. The following reforms have been implemented through amendments to standing orders:

- imposing time limits on both questions (45 seconds) and answers (4 minutes) during Question Time;<sup>10</sup>
- limiting the duration of Question Time, with the expectation that it concludes by 3.30 pm;<sup>11</sup>
- requiring that answers be ‘directly relevant’ to the questions asked;<sup>12</sup> and
- allowing for only one point of order on relevance for each question.<sup>13</sup>

2.12 The Agreement also proposes that the Leader of the Opposition or a delegate may ask one supplementary question during Question Time.<sup>14</sup> Other reforms include provisions for a proportionate allocation of questions to Members, including questions from non-aligned Members, and to limit the use of notes for both questioners and ministers when giving answers. Standing orders were not amended to incorporate this provision, as the allocation of the call is at the discretion of the Speaker who, by convention, alternates the call. Reforms to Question Time are discussed in detail in Chapter 4.

## **Private Members’ business and other opportunities for private Members**

### **Time for private Members’ business**

2.13 The Agreement proposes priority for committee and delegation business and private Members’ business on Mondays, recommending up to 3 hours and 45 minutes be allocated in the Chamber and 2 and a

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9 *Agreement for a Better Parliament: Parliamentary Reform*, Clauses 4.1-4.8.

10 Standing orders 100(f) and 104(c), 20 October 2010.

11 Standing order 34, 20 October 2010.

12 Standing order 104(a), 20 October 2010. See Chapter 4 for further detail.

13 Standing order 104(b), 20 October 2010.

14 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 4.2. Supplementary questions, although provided for in standing orders (101(b)) have not been asked since 1998, according to Chamber Research Office statistics. See Chapter 4 for further detail on current use.



half hours in the Main Committee.<sup>15</sup> However the amended standing orders allocate more time: a total of 8 and a half hours (3 and a half in the Chamber and 5 hours in the Main Committee), compared to 1 hour in the Chamber and 35 minutes in the Main Committee during the 42<sup>nd</sup> Parliament.<sup>16</sup>

## Voting on private Members' bills

- 2.14 The Agreement provides for time for votes on private Members' bills during government business time in the House.<sup>17</sup> The Selection Committee now has the authority to recommend items of private Members' business to be voted on.<sup>18</sup> In practice, standing orders have regularly been suspended on Thursday mornings to allow for votes on private Members' motions and bills during government business time in the House.<sup>19</sup> Voting on private Members' bills increases the attention paid to those individual bills, and raises the profile of private Members' bills generally. This is particularly true in the present context of a minority government, where a private Member's bill, even without the support of government, may be passed by the House.

## Other opportunities for private Members

- 2.15 The Agreement also provides greater opportunities for participation by private Members outside the allocated private Members' business periods. In accordance with the Agreement, the maximum time for debate on the Matter of Public Importance (MPI) has increased from 1 hour to 1 and a half hours.<sup>20</sup> Further detail on the provisions and the use made of them so far is provided in Chapter 3. Under the Agreement, 15 minutes is allocated prior to Question Time allowing for Members to make 90 second statements on constituency issues.<sup>21</sup> Amendments to the standing orders now provide for fifteen minute periods of 90 second statements in the House on Mondays,

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15 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 6.2.

16 Standing orders 34 and 192, 20 October 2010.

17 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 6.1.

18 Standing order 222, 20 October 2010.

19 See for example: HR Deb, 28 October 2010, 1990; HR Deb, 18 November 2010, 2944-2950; HR Deb, 25 November 2010, 3761-3768.

20 See standing orders 1 and 34, 20 October 2010.

21 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 8.

Wednesdays and Thursdays.<sup>22</sup> Further detail is contained in Chapter 3.

- 2.16 The Agreement provided for an extended adjournment debate in the House on Mondays and Tuesdays, from 30 minutes to 1 hour and the standing orders were amended accordingly.<sup>23</sup> The use made of this additional time is discussed in Chapter 3.

## The House committee system

- 2.17 Most reforms to the House committee system included in the Agreement – and implemented by amendments to standing orders – reflect recommendations made by the Procedure Committee in its report *Building a modern committee system* in June 2010.<sup>24</sup>
- 2.18 The Agreement provides for nine general purpose House standing committees (down from 12) and for their membership to be reduced from 10 permanent members to seven.<sup>25</sup> Recognising that Members may want to participate in specific inquiries by committees of which they aren't a member, the Agreement increases the maximum number of supplementary members allowed on an inquiry from two to four.<sup>26</sup>
- 2.19 The Agreement provides that the Chair of the Joint Committee on Public Accounts and Audit be an opposition or non-aligned Member. This reflects the overall intention of the Agreement to increase opportunities for all Members to hold various roles related to the

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22 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 7. Standing orders 34 and 43, 20 October 2010. In the previous parliament, these statements were held in the Main Committee for 15 minutes on Mondays. Before that time, they had been made in the House on Mondays, only, at 1.45 pm.

23 Standing order 34, 20 October 2010. The standing orders now provide for a 1 hour debate on Wednesday also.

24 See Standing Committee on Procedure, *Building a modern committee system: An inquiry into the effectiveness of the House committee system*, June 2010 and the *Agreement for a Better Parliament: Parliamentary Reform*, Clause 10. Amendments to the standing orders on 29 September 2010 implemented most of these reforms. See standing orders 39, 215, 229, and 232 in particular, as well as the resolution of 29 September 2010 on government responses.

25 Compare standing order 215, 1 December 2008, with standing order 215, 20 October 2010.

26 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 10.2; standing order 215(d), 20 October 2010.

work of the House and asserts the non-partisan nature of committees.<sup>27</sup>

- 2.20 Under amended standing order 39, the chair or deputy chair of a committee may make statements on an inquiry during periods set aside for committee and delegation business on Mondays.<sup>28</sup> This enables committee chairs and deputy chairs to inform the House – and the public – of the commencement of an inquiry, or to raise matters of interest during an inquiry, rather than speaking on an inquiry only at its completion. This change is expected to increase participation in and understanding of committee work, as well as increasing the range of evidence that is available to committees.
- 2.21 The Agreement provides for the Selection Committee to consider all bills and to refer those regarded as controversial or requiring further consultation or debate to House or joint committees for inquiry.<sup>29</sup> The Selection Committee's capacity to refer bills to committees has implications for the profile and work of committees, as well as for scrutiny of legislative proposals. The impact of the reforms on committees is considered further in Chapter 4 but, at this stage, there is not sufficient evidence to draw any conclusions on their effectiveness.
- 2.22 The Agreement requires that government responses to House or joint committee reports be presented within six months of presentation of the report.<sup>30</sup> Previously, governments have undertaken to provide responses to committee reports within three months, although there was no formal requirement for this and no sanction for non-compliance.<sup>31</sup> At approximately six-monthly intervals, Speakers have presented a schedule listing government responses to House and joint committees, including outstanding responses. After this the Leader of the House has presented a list of committee reports, outlining the current status of the government response.

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27 In addition, amended standing order 215(e) adopted on 29 September 2010, provides that the Chair of the Standing Committee on Regional Australia need not be a government Member (although this was not provided for in the Agreement).

28 See Standing Committee on Procedure, *Building a modern committee system*, June 2010, recommendation 7, in which the Committee recommended that this opportunity be enabled for committee chairs.

29 See Clause 10.5 of the Agreement, and standing order 222(a)(iii), 20 October 2010.

30 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 10.6.

31 *House of Representatives Practice*, 5 ed., pp 689-90.

- 2.23 In the previous parliament, the Procedure Committee made some recommendations to improve the consistency of responses to committee reports by ministers.<sup>32</sup> The Agreement does not adopt the Committee's recommendations per se, but the resolution of the House adopted on 29 September 2010 provides that if a government response is not presented within six months, the relevant Minister must present a statement explaining the delay. If requested, the Minister must appear before the relevant committee to answer questions on that statement.<sup>33</sup> If this process is not complied with to the satisfaction of the committee, it may raise the matter with the Auditor-General or the Speaker. This reform is expected to encourage more timely responses and to enable committees to follow-up on their inquiries.
- 2.24 In Chapter 4 the Committee considers in more detail the implementation and impact of the reforms on House committees and their membership.

## Consideration of bills

### Speaking times

- 2.25 The Agreement provides that the limit for Members' speaking times at the second reading stage of all bills be reduced from 20 to 15 minutes.<sup>34</sup> The amendments to standing orders now provide for a maximum speaking time of 15 minutes for most Members during second reading debate. The rationale is that this allows for more efficient debate on bills and potentially allows more Members to participate in a debate. This time limit does not apply to speeches by the mover, Leader of the Opposition or Member representing them for government bills; or to the mover, Prime Minister or Member representing them, or Leader of the Opposition or Member representing them for private Members' bills.<sup>35</sup>
- 2.26 Under the Agreement (and implemented in amended standing order 222), the Selection Committee may further reduce second reading

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32 Standing Committee on Procedure, *Building a modern committee system*, June 2010, pp 130-131.

33 HR Deb, 29 September 2010, 132.

34 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 11.1. The reduction does not apply to the speeches by the Minister presenting the bill or by the main speaker for the opposition.

35 See standing order 1, 20 October 2010.

speaking times to 5 or 10 minutes where a bill is not considered controversial. That Committee may also limit second reading speaking times when a large number of Members wish to speak on a bill, to enable as many Members as possible to participate.<sup>36</sup>

## Questions during second reading debate

- 2.27 The Agreement provides that the Speaker and the Selection Committee consider and potentially trial an allocation of five minutes for questions at the end of Members' speeches on bills.<sup>37</sup> On 29 September 2010, sessional order 142A was adopted for the remainder of the session, providing for questions and answers during second reading debate on government bills. At the end of a Member's second reading speech, the Member may agree to be questioned on his or her speech. Questions and answers may then continue for up to five minutes, with a time limit of 30 seconds for each question and two minutes for each reply. This does not apply to the Minister's second reading speech, the speech of the main opposition speaker or the Minister's speech closing the debate.
- 2.28 The option of questions during second reading debate was recommended by the Procedure Committee in the 41<sup>st</sup> Parliament in its 2006 report *Encouraging an interactive Chamber* to encourage more interactive debating, consistent with the responsibility of the House to debate legislation before voting.<sup>38</sup>
- 2.29 To date no Member has taken up this opportunity.

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36 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 11.1. See standing orders 1 and 222, 20 October 2010. See standing order 222(a)(iv), 20 October 2010 which provides that subject to standing order 1, the Selection Committee may reduce the maximum speaking time for second reading speeches on government bills for all Members except the mover, Leader of the Opposition or Member representing and the Minister at conclusion of debate; and on private Members' bills for all Members except the mover and Prime Minister or Member representing them.

37 See Clause 11.1.

38 Standing Committee on Procedure, *Encouraging an interactive Chamber*, December 2006, p 14.

## Other procedural reforms

### Acknowledgement of country

2.30 In accordance with the Agreement, standing orders were amended at the beginning of the 43<sup>rd</sup> Parliament to provide for the Speaker to make an acknowledgement of country prior to prayers at the start of each sitting day.<sup>39</sup> Now, at the start of each sitting day, the Speaker says:

I acknowledge the Ngunnawal and Ngambri peoples who are the traditional custodians of the Canberra area and pay respect to the elders, past and present, of all Australia's Indigenous peoples.<sup>40</sup>

2.31 This is followed by the reading of the Lord's Prayer by the Speaker, before the business of the House commences. The Committee has received no input on this reform.

### Recommittal of votes

2.32 On 29 September 2010, as part of the implementation of the Agreement, the Leader of the House moved to amend standing order 132 to allow for a vote to be repeated where a division has miscarried through misadventure (a Member being accidentally absent, or similar incident). Previously, the House could only divide again in the case of confusion, or error concerning the numbers reported by the tellers.

2.33 After some debate on the government amendment, the House agreed to an opposition amendment requiring that standing orders be suspended to enable recommittal of a vote.<sup>41</sup> The amendment had the effect that in order to recommit a vote which could be passed by a simple majority in the House, there must first be a suspension of standing orders which, when moved without notice, can only be carried by an absolute majority (currently 76 votes). That is, the votes required to recommit a vote may be greater than the numbers required to pass the vote, when the vote is retaken.

2.34 Where numbers in the House are close, it may be that a motion to suspend standing orders would only be carried if the suspension

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39 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 3; standing order 38, 20 October 2010.

40 Standing order 38, 20 October 2010.

41 HR Deb, 29 September 2010, 136-142.

motion is agreed to without division, negating the requirement for an absolute majority.

- 2.35 On 10 February 2011 the Leader of the House moved a suspension of standing orders to enable a vote on the second reading of a private Member's bill to be taken again – on the basis that a pair might have been sought (but was not) for an opposition Member who was ill and missed the vote. The question on the suspension was agreed to without a vote and the original vote was repeated.<sup>42</sup>
- 2.36 This issue is something that the Committee wishes to consider further as at the time of preparing this report this has been the only instance where a vote has been retaken since this change to the standing orders.

## Non-procedural reforms

- 2.37 In addition to the procedural reforms, the Agreement also includes proposals for non-procedural reforms. These include measures to ensure adequate resourcing to support the functions of the parliament, to increase the transparency and accountability of parliament and to enhance parliamentary standards.

## Resources of the parliament

- 2.38 As for other departments and agencies, funding for the operation of the parliament is determined through government budget processes. Concerns regarding the adequacy of resourcing have been expressed in the past by the Procedure Committee.<sup>43</sup> The Agreement includes proposals that relate directly to resourcing of parliament and the House, including the establishment of:
- a House Committee on Appropriations and Staffing; and
  - a Parliamentary Budget Office.<sup>44</sup>

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42 Votes and Proceedings No. 22, 10 February 2011, 299.

43 Standing Committee on Procedure, *Building a modern committee system*, June 2010, pp 24-27.

44 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 16.

## House Committee on Appropriations and Administration

- 2.39 Standing order 222A establishes a House Committee on Appropriations and Administration with a role that includes estimating the funding required by the Department of the House of Representatives each year and reporting to the Speaker and to the House on other matters of finance or services that might be referred to it for consideration. The Committee has the potential to improve the financial stability and autonomy of the House.<sup>45</sup>

## Parliamentary Budget Office

- 2.40 The Agreement proposes the establishment a Parliamentary Budget Office (PBO) to provide high quality financial research and analysis, and policy costings.<sup>46</sup>
- 2.41 In late November 2010 the Joint Select Committee on the Parliamentary Budget Office was established to consider the range of services to be provided by a PBO and other matters associated with its structure, protocols and resourcing. On Wednesday, 23 March 2011 the Committee tabled its report for the inquiry into the proposed Parliamentary Budget Office. The report is available online.<sup>47</sup> The tabling of the report concluded the work of the Joint Select Committee and it has now been dissolved.

## Codifying and enhancing parliamentary standards

- 2.42 The Agreement also proposes the establishment of a code of conduct for Senators and Members, to be overseen by a Parliamentary Integrity Commissioner.<sup>48</sup> Development of a Draft Code of Conduct has been referred by the House to the Standing Committee of Privileges and Members' Interests for inquiry and report.<sup>49</sup>

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45 See *Agreement for a Better Parliament: Parliamentary Reform*, Clause 16.3.

46 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 16.1.

47 Parliament of Australia Website, viewed on 4 April 2011 at:  
<<http://www.aph.gov.au/house/committee/jscpbo/report.htm>>.

48 *Agreement for a Better Parliament: Parliamentary Reform*, Clauses 18 and 19.

49 Parliament of Australia Website, viewed on 25 January 2011 at:  
<<http://www.aph.gov.au/house/committee/pmi/index.htm>>.



## **Strengthening the parliament: increased participation by all Members**

- 3.1 The two underlying principles of the *Agreement for a Better Parliament: Parliamentary Reform* (the Agreement) – reinforcing the identity of ‘local MPs’ and their communities in our democratic system and strengthening parliament by enhancing opportunities for all Members to participate<sup>1</sup> – are being adopted partly through an increase in the time for and prominence of private Members’ business. The Agreement seeks to achieve this by:
- increasing the time available for private Members’ business in the House and Main Committee;
  - adding to opportunities for private Members to raise issues; and
  - changing the order of business to give greater prominence to private Members’ business.
- 3.2 This chapter presents preliminary data on the allocation and use of the additional opportunities for private Members and addresses the need to balance these opportunities with the need to allocate sufficient time for government business. Based on feedback and data from the early stages of the 43<sup>rd</sup> Parliament, the Committee draws attention to aspects it believes warrant close monitoring. These will be considered further in Chapter 5.

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<sup>1</sup> *Agreement for a Better Parliament: Parliamentary Reform*, Preamble.

## More opportunities for contributions by private Members

- 3.3 Increased participation by Members has primarily been achieved by changes to the order of business in the House and Main Committee (considered below), and an increase in sitting hours (considered in more detail in Chapter 5). The order of business now provides additional:
- time for private Members' business: on Monday mornings and evenings in the Chamber and the Main Committee;<sup>2</sup>
  - time on Mondays, Tuesdays and Wednesdays for adjournment debates in the Chamber;<sup>3</sup>
  - opportunities for 90 second statements: now taking place in the Chamber in the 15 minutes prior to Question Time on Mondays, Wednesdays and Thursdays;<sup>4</sup> and
  - time for Matters of Public Importance: an extra 30 minutes and now scheduled to follow on immediately after Question Time and presentation of documents.<sup>5</sup>
- 3.4 In total, the maximum time available under the standing orders<sup>6</sup> for participation by private Members<sup>7</sup> in the House and Main Committee<sup>8</sup> has increased from 10 hours and 20 minutes in the 42<sup>nd</sup> Parliament to 19 hours and 45 minutes in the 43<sup>rd</sup> Parliament, with the largest increase in private Members' business.

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2 Total time allocated for committee and delegation business and private Members' business on Mondays in the Chamber increased from 1 hour to 3 hours 30 mins; in the Main Committee increased from 1 hour 35 minutes to 5 hours. (See standing orders 1, 34, 41, 192.)

3 At these times debate is not required to be relevant to the question – standing order 76(a) – enabling each Member to choose their topics. The length of adjournment debate in the Chamber increased from 30 minutes to 1 hour on Mondays, Tuesdays and Wednesdays although the Agreement provided for an increase only on Mondays and Tuesdays. (See standing orders 1, 29, 31, 34.)

4 Members' 90 second statements moved from Main Committee on Mondays to the Chamber on Mondays, Wednesdays and Thursdays. (See standing orders 1 and 43).

5 Allocation of time for MPI extended from 1 hour to a maximum of 1 hour and 30 minutes on Tuesdays and Wednesdays. Time allocated on Thursdays remains in effect unchanged (See standing orders 1 and 34). The MPI was previously scheduled to follow Ministerial Statements.

6 Standing orders 1, 34 and 192, 20 October 2010.

7 Includes committee and delegation business, private Members' business, 90 second statements, 3 minute constituency statements, adjournment debate, debate on matters of public importance, and grievance debate.

8 Does not include time available for government business and committee and delegation business in the Main Committee on Wednesdays and Thursdays, or additional time provided 'if required' under standing order 192, 20 October 2010.

## Allocated time for private Members' business

- 3.5 In the 42<sup>nd</sup> Parliament, on Monday evenings, the time for private Members' business comprised 1 hour in the House and 1 hour 35 minutes in the Main Committee.<sup>9</sup> Eight and a half hours is now available on Mondays (3 and a half hours in the House and 5 hours in the Main Committee).<sup>10</sup>
- 3.6 As in previous parliaments, time for private Members' business is shared with other non-government business, including up to 10 minutes for presentation of petitions and responses by the Petitions Committee Chair, and time for committee and delegation business.
- 3.7 As proposed in the Agreement, a Selection Committee was (re)established to select and schedule items of non-government business, including private Members' business.<sup>11</sup>

## The Selection Committee and private Members' business

- 3.8 Standing order 222 prescribes the composition, powers and responsibilities of the Selection Committee.<sup>12</sup> Its three main roles are to:
- schedule committee and delegation business and private Members' business for each sitting Monday in accordance with standing orders 39 to 41;
  - recommend items of private Members' business to be voted on; and
  - select bills that the Committee regards as controversial or as requiring further consultation or debate for referral to the relevant standing or joint committee in accordance with standing order 143(b).
- 3.9 The Committee may also determine speaking times for second reading debates on private Members' bills.<sup>13</sup> If a second reading motion is agreed to, further consideration of the bill is accorded priority over other private

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9 This time included up to 10 minutes for the presentation of petitions and Ministerial responses, and time for committee and delegation reports.

10 As in the 42<sup>nd</sup> Parliament, this time includes up to 10 minutes for petitions and time for Committee and delegation business.

11 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 1. Note: The role of the Selection Committee in the 41<sup>st</sup> Parliament and previous parliaments was more limited than its current role. Refer to Chapter 2, p 9 for more information. There was no Selection Committee in the 42<sup>nd</sup> Parliament.

12 Refer to Chapter 2, p 9 for more information.

13 Subject to standing order 1; standing order 222(a)(iv), 20 October 2010.

Members' business and the Committee may determine times for consideration of the remaining stages.<sup>14</sup>

- 3.10 As anticipated, following its establishment the Selection Committee has been refining its practices and procedures. It meets each sitting Tuesday (primarily to schedule committee and delegation and private Members' business for the next sitting Monday) and Wednesday (primarily to consider bills for referral to committees). The Committee reports its determinations and recommendations to the House on Wednesdays and Thursdays. It has adopted general principles to guide its allocation of priorities regarding private Members' business.<sup>15</sup> These include the importance of the subject, the level of interest, and the extent of discussion on the subject in the parliament and elsewhere.

### **Private Members' motions and bills**

- 3.11 Data for the early stages of the 43<sup>rd</sup> Parliament show how the additional time allocated for private Members' business has been used. As at 4 March 2011, Members have lodged 116 items of private Members' business on the Notice Paper (101 motions and 15 private Members' bills).<sup>16</sup>
- 3.12 69 of the 101 private Members' motions were lodged by government Members, 25 by opposition Members and seven by non-aligned Members.
- 3.13 Of the seven private Members' motions lodged by non-aligned members, five were lodged by the Greens Member and two by Independents.
- 3.14 Of the 101 private Members' motions, 59 were debated, comprising 38 from government Members, 19 from opposition Members and two from non-aligned Members. Fifteen were voted on<sup>17</sup>: two from government Members, 12 from opposition Members and one from a non-aligned Member.
- 3.15 Of the 150 Members in the House, 48 contributed to the 101 private Members' motions lodged. Twenty-five Members lodged one motion each and the remaining 76 motions were shared across 23 Members.
- 3.16 In the first sitting period of the previous (42<sup>nd</sup>) parliament, only 10 private Members' motions were debated: five from government Members and five from opposition Members. None were put to a vote.

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14 Parliament of Australia website, viewed on 15 December 2010 at: <http://www.aph.gov.au/house/committee/selc/role.htm>.

15 These were reported to the House on 21 October 2010 and are included at Appendix D.

16 Chamber Research Office statistics.

17 Includes one disallowance motion, HR Deb, 1 March 2011, 1872-1881.

- 3.17 Of the 15 private Members' bills lodged in the 43<sup>rd</sup> Parliament (as at 3 March 2011), 14 were introduced in the House: 5 by non-aligned Members, 7 by shadow Ministers and 2 by the Leader of the Opposition. At 4 March, the Selection Committee had recommended 6 of these be voted on, and 2 others be referred to a House standing committee for further consideration. Of the 6 private Members' bills recommended for voting on, 2 were passed, 3 were negatived and 1 was still before the House. The Committee notes that the bill which was still before the House was discharged on 24 March 2011 after a bill with similar objectives was introduced by the Attorney-General. Both the Attorney-General and the Leader of the Opposition acknowledged the constructive cooperation which had achieved this outcome.<sup>18</sup>
- 3.18 In the first sitting period of the previous (42<sup>nd</sup>) parliament only one private Member's bill was introduced, but did not proceed beyond the first reading. In previous parliaments, private Members' bills were only occasionally debated and even then, usually not voted on. Historically, very few private Members' bills have been passed by the House.<sup>19</sup>

### **Committee comment**

- 3.19 There are mixed views as to whether the extent of the increase in time available to private Members was necessary, and some Members have questioned whether the additional time is being used effectively.
- 3.20 Informal feedback from the non-aligned Members indicated a variety of views and some were strongly in favour of retaining the increased private Members' time.
- 3.21 Feedback from government and opposition Members overwhelmingly indicated that the increase in time allocated to private Members' business was excessive. The issue of the allocation of time is covered in Chapter 5.
- 3.22 There was a perception that, in some cases, motions were proposed to fill the long periods allocated for private Members' business. Yet, some Members were concerned that there were occasionally private Members' motions and bills they wished to speak to, but could not, because there was not sufficient time allocated for that particular item.

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18 HR Deb, 24 March 2011, 3143-5, 3176.

19 From 2000-2009, 9 of the 122 private Members' bills presented were debated at the second reading stage (including a Speaker's bill, debated 16 March 2005), Chamber Research Office statistics. Prior to the 43<sup>rd</sup> Parliament, the last private Member's bill passed by the House was the Adelaide Airport Curfew Bill 1999, read a third time on 28 June 1999.

- 3.23 A number of Members also found that five minutes (often the period of time allocated by the Selection Committee) was not enough time to speak to private Members' items. Therefore, there may be instances where the time allocated for a debate for a particular item and, within that, the speaking times, do not take into account the significance of the topics under discussion.
- 3.24 There may be value in encouraging a reduction in the number of motions that are proposed, thereby enabling a greater number of speakers to debate fewer motions and possibly to speak for longer to them. The Selection Committee's general principles allow for this.<sup>20</sup>
- 3.25 The Selection Committee's principles and broad mandate under standing order 222 would enable it to address these concerns and exercise greater flexibility in the time it allocates to debates on items of private Members' business and to the speaking times it allows.
- 3.26 The Committee notes that the Selection Committee does make some variation in the length of debate but it may be worth considering greater flexibility.

### **Recommendation 1**

- 3.27 **The Committee recommends that the Selection Committee be encouraged to implement the 'General principles relating to the selection of private Members' business' and exercise the flexibility that is available to it pursuant to standing order 222 and the principles, particularly in relation to the length of debates and speaking times allocated.**
- 3.28 The Selection Committee's report of 21 October 2010 recommended that the general principles endorsed by the Selection Committee relating to the selection of private Members' business be adopted by the House.<sup>21</sup>
- 3.29 The standing orders used to provide (prior to 2003) that items of private Members' business be selected in accordance with general principles adopted by the House<sup>22</sup> and the Committee would be pleased if this provision were reinstated. This might assist the Selection Committee in applying the principles.

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20 House Selection Committee, Report No. 3, 21 October 2010 p 6.

21 House Selection Committee, Report No. 3, 21 October 2010 p 6.

22 See, for example, standing order 331(c), 8 October 2001.

## Recommendation 2

- 3.30 **The Committee recommends that the House take up the Selection Committee's recommendation that it consider adopting the 'General principles relating to the selection of private Members' business' (contained in Report No. 3 of the Selection Committee of 21 October 2010).**
- 3.31 The Selection Committee determines which items of private Members' business are to be voted on, but it does not schedule the votes (which are taken in government business time, necessitating an initial suspension of standing orders to enable the inclusion of private Members' business, and placing scheduling responsibility with the government).<sup>23</sup>
- 3.32 This issue warrants monitoring. One option would be to schedule votes on items of private Members' motions and bills during private Members' business (as was considered during negotiations on the Agreement).<sup>24</sup> Consideration might also be given to listing the items of private Members' business to be voted on in the Notice Paper.<sup>25</sup>
- 3.33 The Committee deals with the overall allocation of time for private Members' business in the context of the emerging issues discussed in Chapter 5.

## Other opportunities for private Members

- 3.34 Additional opportunities for private Members to raise matters of their choice include:
- adjournment and grievance debates;<sup>26</sup>
  - Members' 90 second statements and 3 minute constituency statements;<sup>27</sup> and
  - Matters of Public Importance.<sup>28</sup>

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23 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 6.1.

24 HR Deb, 25 November 2010, 3767.

25 Mr B Wright, Clerk of the House of Representatives, *Submission no. 1*, p 3.

26 See footnote 3 in this chapter for more information.

27 See footnote 4 in this chapter for more information.

28 See footnote 5 in this chapter for more information.

- 3.35 Reforms in the 43<sup>rd</sup> Parliament have included changes to some of these opportunities – discussed below.

### **Adjournment debates**

- 3.36 In a typical sitting week the time for adjournment debates in the House has increased from 2 hours in the 42<sup>nd</sup> Parliament to 3 and a half hours in the 43<sup>rd</sup> Parliament.<sup>29</sup> In the first four-week sitting period of the 42<sup>nd</sup> Parliament there were 17 adjournment debates and 101 speakers, averaging 25.3 speakers per week, compared to the first five-week period of the 43<sup>rd</sup> Parliament when there were 21 adjournment debates and 214 speakers, averaging 42.8 speakers per week.<sup>30</sup>

### **Members' 90 second statements and three minute constituency statements**

- 3.37 In the 43<sup>rd</sup> Parliament, Members' 90 second statements have been moved to the House, taking place on Mondays, Wednesdays and Thursdays, in the 15 minutes before Question Time.<sup>31</sup> A total of 134 statements were made in the first five sitting weeks. Members have made full use of the time.
- 3.38 The move back to the Chamber and the new timeslot expose the issues to a wider audience and provide a dynamic lead-in to Question Time.
- 3.39 Members continue to raise a range of issues during three minute constituency statements in the Main Committee on Mondays, Wednesdays and Thursdays. (The Agreement did not effect a change to this.)

### **Matters of Public Importance**

- 3.40 Discussion on Matters of Public Importance (MPIs) provides opportunities for debate on a topical issue and is usually proposed by a non-government Member. In the previous parliament up to one hour was available for the MPI, following Question Time, presentation of documents, and Ministerial statements, on Tuesdays, Wednesdays and Thursdays. Now, the MPI is discussed following Question Time and the presentation of documents, and the maximum time has been increased to one and a half hours on Tuesdays and Wednesdays (the time on Thursdays remaining in effect unchanged).<sup>32</sup>

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29 The 30 minute adjournment debates on Thursdays in the Main Committee have not changed.

30 Chamber Research Office statistics as at 10 January 2011.

31 Rather than one segment from 6.40-6.55pm in the Main Committee on Mondays.

32 See standing orders 1 and 46, 20 October 2010.



- 3.41 To date in the 43<sup>rd</sup> Parliament 25 MPIs have been discussed.<sup>33</sup> Twenty-four have been proposed by the opposition with roughly equal number of speakers from the government and opposition. So far no MPI has been proposed by a non-aligned Member.<sup>34</sup>
- 3.42 The average time taken for discussion on an MPI in the first sitting period of the 43<sup>rd</sup> Parliament was 1 hour and 8 minutes. For the equivalent period in the 42<sup>nd</sup> Parliament the average time was 52 minutes.

### **The balance between private Members' business and government business and the nature of legislative debate**

- 3.43 The proportion of time spent on private Members' motions and bills in the first sitting period of the 43<sup>rd</sup> Parliament was more than double the equivalent time in the 42<sup>nd</sup> Parliament, increasing from 8% to 17%.
- 3.44 Increased participation of all Members is central to the Agreement, however, it is also vital to operations of the parliament and the government, that adequate time is available to transact the business of government, which for the most part is government legislation. There has been a small decrease in the proportion of time allocated to government business, although data show that the total time spent on government business has increased slightly. During the first five sitting weeks of the 43<sup>rd</sup> Parliament an average of 19 hours and 32 minutes per week was committed in the House and Main Committee to government business and 63 government bills were presented to the House. For the equivalent period in the 42<sup>nd</sup> Parliament, the average time spent on government business in the House and Main Committee was 18 hours and 50 minutes. During the first four sitting weeks of the 42<sup>nd</sup> Parliament 50 government bills were presented to the House.
- 3.45 The passage of legislation is necessarily a time-consuming process and some observers have described debates on legislation as lengthy and uninteresting.<sup>35</sup> The Agreement includes proposals to make debate on legislation more efficient, lively and interactive.<sup>36</sup>
- 3.46 Standing orders have now reduced maximum speaking times on bills for most Members from 20 minutes to 15 minutes.<sup>37</sup> The Selection Committee

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33 As at 24 March 2011.

34 Chamber Research Office statistics, 2011.

35 Standing Committee on Procedure, *Encouraging an interactive Chamber*, December 2006, p 1.

36 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 11.

37 See Clause 11 of the Agreement and (revised) standing order 1 as at 20 October 2010. This reduced time limit does not apply to speeches by the mover, Leader of the Opposition or

may further reduce speaking times to 5 or 10 minutes when many Members wish to speak – although it has not yet done so. A sessional order which allows up to 5 minutes for questions and answers at the end of second reading speeches has been introduced<sup>38</sup> but to date no Member has used it.

## Committee comment

- 3.47 A stated aim of the Agreement is to increase the authority of the parliament – relative to the executive – by increasing opportunities for participation by all Members. Initial indications are that the increased time for private Members' business has provided Members with additional opportunities. An illustration of the effectiveness of the reforms was the first successful passage of a private Member's bill originating in the House since 1999.<sup>39</sup> A second private Member's bill has also been passed by the House and is currently before the Senate.<sup>40</sup>
- 3.48 The question arises as to whether there is adequate time to deal with government business. Although the allocation of time for private Members' business is generous compared to earlier parliaments, initial indications are that this does not appear to have compromised the ability to deal effectively with government business. This may be due to a number of factors, including the increased sitting hours (considered in Chapter 5), and reduced speaking times for debate during the second reading stage of bills. There may be potential for greater efficiencies, particularly if the Selection Committee reduces speaking times when opportunities arise, however, having not observed this in practice, the Committee is not in a position to comment.
- 3.49 With regard to time limits for speeches, the Committee acknowledges the following comments made on 21 October 2010 by the Selection Committee, noting apparent inconsistencies in standing orders:

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Member representing for government bills; or to the mover, Prime Minister or Member representing, or Leader of the Opposition or Member representing for private Members' bills.

38 See sessional order 142A, 20 October 2010.

39 Mr Wilkie's private Member's bill, the Evidence Amendment (Journalists' Privilege) Bill 2010, was passed by the House on 28 October 2010 and passed (with amendments) by the Senate on 3 March 2011. The last occasion that a private Member's bill initiated in the House was passed by the House was on 28 June 1999 (*Adelaide Airport Curfew Bill 1999*).

40 Mr Hartsuyker's bill, the Environment Protection and Biodiversity Conservation (Public Health and Safety) Amendment Bill 2010, was passed by the House on 10 February 2011 and as at 24 March 2011 was before the Senate.

The [Selection] Committee reports that, in setting times for the second reading and debate on the two private Members' bills, the committee was constrained, by standing order 222 (a) (iv) and standing order 1, from setting speaking times of 10 minutes per speaker for all speakers on the bill, including the mover and the Member representing the Prime Minister. The committee notes, however, that, under standing order 222 (c), the committee may determine the times allotted for each member speaking in private Members' business debates.

The [Selection] Committee suggests that the Procedure Committee, in monitoring and reviewing the procedural reforms implemented for the 43rd Parliament, consider proposing amendment of the standing orders to enable the Selection Committee the flexibility to set lesser speaking times for the mover of the second reading and the lead speaker for the Government or the Opposition, for private Members' bills.<sup>41</sup>

- 3.50 This is discussed in more detail in Chapter 5 which considers early observations on the need to fine-tune standing orders to address anomalies and to enhance the implementation of reforms to better meet the objectives of the Agreement.
- 3.51 While there is scope for greater efficiencies, based on initial observations, the Committee is cautiously optimistic that reduced speaking times and increased opportunities for committee scrutiny of bills (discussed further in Chapter 4) have improved the House's capacity to effectively manage the legislative process. However, the Committee is less optimistic about the changes intended to encourage more interactive debate. No Members have yet relied on sessional order 142A and asked questions at the end of second reading speeches. The Committee encourages Members to take up this opportunity to enliven debate.

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41 Selection Committee, Report No. 3, pp 4-5.



## Changes to Question Time and committees

- 4.1 As well as increasing opportunities for participation by private Members, the *Agreement for a Better Parliament: Parliamentary Reform* (the Agreement) includes an array of proposals and some of these are non-procedural. This chapter examines in more detail the application and implications of procedural changes affecting Question Time and the structure and operation of House committees.<sup>1</sup>
- 4.2 Comments are principally based on information and observations from the early stages of the 43<sup>rd</sup> Parliament. Therefore they are preliminary and do not pre-empt conclusions that the Committee may reach after a longer period of implementation.

### Reforms to Question Time

- 4.3 Question Time is a very public measure of accountability and an important feature of responsible government. It takes place at 2.00 pm each sitting Monday to Thursday. As a result of the Agreement, significant procedural changes to Question Time were adopted by the House at the beginning of the 43<sup>rd</sup> Parliament. On introducing the package of reforms, the Leader of the House observed:

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<sup>1</sup> Most of the reforms to the House committee system included in the Agreement reflect recommendations made by the 42<sup>nd</sup> Parliament's Procedure Committee in its report *Building a modern committee system: An inquiry into the effectiveness of committees*.

Question time is the public face of the parliament and is often the Australian community's only perception of the workings of parliament. The adversarial nature of question time has thereby contributed to a perception that parliament is purely combative. The government is committed to ensuring that question time portrays a more balanced view of the workings of the parliament.<sup>2</sup>

- 4.4 In brief, the changes include amendments to standing orders to prescribe time limits for questions and answers,<sup>3</sup> a requirement that answers be 'directly relevant' and a limit of one point of order on relevance for each question.<sup>4</sup> In addition, several informal arrangements have been implemented. These include provision for a supplementary question by the Leader of the Opposition or his delegate, the guarantee of a proportionate share of questions for non-aligned Members, and an undertaking by Members to minimise the use of notes during questions and answers.<sup>5</sup> Table 4.1 provides a comparative summary of the key features of Question Time from the 41<sup>st</sup> to the 43<sup>rd</sup> parliaments.

**Table 4.1 Comparison of key features of Question Time**

	Questions without notice		
	41 <sup>st</sup> Parliament	42 <sup>nd</sup> Parliament	43 <sup>rd</sup> Parliament (Spring 2010)
Average duration of Question Time*	1 hour 7 minutes	1 hour 32 minutes	1 hour 23 minutes
Average number of questions per Question Time	18.7	18.6	18.6 (19.6)**
Average length of question	Figure not recorded	25 seconds	23 seconds
Average length of response	2 minutes 24 seconds	3 minutes 37 seconds	3 minutes 3 seconds
% of questions asked by government	49.0	49.7	49.3
% of questions asked by opposition	48.5	48.3	45.7
% of questions asked by Independent/ non-aligned Members	2.4	2.0	5.1
Average points of order per Question Time	Figure not recorded	10.7	7.4

Source: Chamber Research Office statistics as at 22 December 2010.

\* rounded to nearest full minute.

\*\* average of 19.6 questions if the supplementary question is included.

Note: Except where indicated, figures do not include data for supplementary questions.

2 HR Deb, 29 Sept 2010, 131.

3 Standing order 100(f) and 104(c), 20 October 2010, limit the duration of questions to 45 seconds and answers to 4 minutes.

4 Standing order 104, 20 October 2010.

5 *Agreement for a Better Parliament: Parliamentary Reform*, Clauses 4.2, 4.6 and 4.8.

4.5 For the first time, standing orders now impose a time limit on questions. Questions must not exceed 45 seconds. This has had little impact on the length of questions by government or opposition Members (see Table 4.2). Standing orders relating to the content of questions have not changed. The Speaker has made a number of statements indicating his intention to strictly adhere to the rules governing questions (standing order 100).<sup>6</sup> The Speaker has also referred to the nature and content of questions impacting on his ruling on answers. For example, following a point of order on the content of a supplementary question, the Speaker stated:

I just indicate, as I have indicated over the past few weeks, that when we have a question couched in the terms that this one has been couched in it opens the door very wide on direct relevance.<sup>7</sup>

**Table 4.2 Average length of questions without notice – first sitting period of 42<sup>nd</sup> and 43<sup>rd</sup> Parliaments**

<b>Autumn 2008 – 42<sup>nd</sup> Parliament</b>				<b>Spring 2010 – 43<sup>rd</sup> Parliament</b>			
	<i>Govt</i>	<i>Non-Govt</i>	<i>Total</i>		<i>Govt</i>	<i>Non-Govt</i>	<i>Total</i>
Questions	130	130	260	Questions	165	170	335
Time (mins)	38:15	76:31	114:46	Time (mins)	39:47	90:45	130:32
<b>Average</b>	<b>0:17</b>	<b>0:35</b>	<b>0:26</b>	<b>Average</b>	<b>0:14</b>	<b>0:32</b>	<b>0:23</b>

Source: Chamber Research Office statistics, 2011.

Note: Figures do not include out of order or supplementary questions.

4.6 Time limits on answers have also been introduced for the first time. Time limits have reduced the average length of answers from 3 minutes 37 seconds in the previous parliament, to 3 minutes 3 seconds in the first five weeks of the 43<sup>rd</sup> Parliament. The time limit has had little impact on the length of answers to opposition Members' questions. It has had a greater impact on the long-standing practice of ministers to give longer answers to government questions than to questions by opposition and non-aligned Members. In the 42<sup>nd</sup> Parliament, the average length of answers to questions from government Members was 4 minutes 52 seconds, compared to 2 minutes 23 seconds for non-government questions. The time limits have resulted in a more balanced distribution of time, with the average length of answers to government questions now 3 minutes 33

<sup>6</sup> See, for example, HR Deb 29 September 2010, 181; and HR Deb, 30 September 2010, 334.

<sup>7</sup> HR Deb, 23 November, 3427.

seconds, compared to 2 minutes 34 seconds for answers to questions by opposition and non-aligned Members.<sup>8</sup>

4.7 As noted above, standing orders were changed to require answers to be ‘directly relevant’ to the question.<sup>9</sup>

4.8 Previously, standing orders required that answers be ‘relevant to the question’.<sup>10</sup> *House of Representatives Practice* describes the application of the previous standing order:

The interpretation of “relevant” has at times been very wide, with a basic requirement being that an answer must maintain a link to the substance of the question. In practice the word has been frequently accepted by the Chair as meaning relevant in some way or relevant in part, rather than directly or completely relevant.<sup>11</sup>

4.9 The interpretation of the new requirement for answers to be ‘directly relevant’ rests with the Speaker. The Speaker noted that his interpretation of the intent of the Agreement in strengthening the relevancy requirement was ‘that there be less debate in answers.’<sup>12</sup>

4.10 Opposition Members have frequently criticised the broad interpretation of ‘relevance’, arguing that responses from Ministers are insufficiently relevant to questions. Repeatedly during the 43<sup>rd</sup> Parliament, the Speaker has expressed his regret that the changes did not apply the same rules to answers as to questions:<sup>13</sup>

Ad nauseam, I have suggested that the same standing order should apply to answers as applies to the questions. It would have been a much better solution than “directly relevant”. It would have meant that question time is not about the debate; you can have the debate on other occasions. I am happy to entertain discussions about that, but I am also of a mind that the amount of banter that goes on – I agree, from both sides of the chamber – could well be reduced, and question time could revert – if it has ever been – to an occasion when it has been about the discussion and debate on the matters of ideas rather than personalities. I would agree that the amount of debate that is in the answers is a big part of the problem that any occupant of the chair confronts.

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8 Chamber Research Office statistics as at 22 December 2010.

9 Standing order 104(a), 20 October 2010.

10 Standing order 104, 1 December 2008.

11 *House of Representatives Practice*, 5 ed., p 553.

12 HR Deb, 28 October 2010, 2063.

13 Standing order 100, 20 October 2010, provides the general rules which apply to all questions.



Something which I have been consistent on is that I cannot fathom why the House does not contemplate applying the same rules to the answers as it does to the questions.<sup>14</sup>

4.11 The Manager of Opposition Business on behalf of the Coalition indicated support for extending the same requirements to answers.<sup>15</sup>

4.12 In the past, oppositions have typically raised numerous points of order on relevance, often more than once in relation to a single answer. Criticisms of this included its tendency to be disruptive and to be used to point score. Standing orders were amended to limit points of order on relevance to one per question. The average number of points of order during Question Time has reduced from 10.7 in the 42<sup>nd</sup> Parliament, to 7.4 in the first sitting period of the 43<sup>rd</sup> Parliament.<sup>16</sup> The Coalition suggested the entitlement to a single point of order on relevance per question has become an issue because the 'direct relevance' change has not had the desired effect:

Once the point of order has been made Ministers are increasingly attempting to answer on a point scoring tangent in full knowledge that there is little recourse available to the Opposition.<sup>17</sup>

4.13 A further proposal made under the Agreement is for the Leader of the Opposition or his delegate to have the option of asking one supplementary question each Question Time to clarify an answer. Although already provided for in the standing orders<sup>18</sup>, supplementary questions have not been asked during Question Time since 1998.<sup>19</sup> With no recent practice to refer to, and only limited guidance from the Agreement and the standing orders, there was some initial confusion regarding implementation. In response to this, the Speaker stated:

I want to take this opportunity to let the House know of my position on supplementary questions. I will apply the following criteria: they need not be asked by the member who has asked the original question and may be asked either by the Leader of the Opposition or a member who appears to have been delegated by the Leader of the Opposition to ask the question, and I note that a supplementary question may be asked by a member other than the member who has asked the original question in a number of other

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14 HR Deb, 22 February 2011, 913.

15 Hon C Pyne, *Submission no. 4*, p 3.

16 See table 4.1.

17 Hon C Pyne, *Submission no. 4*, p 4.

18 Standing order 101(b), 20 October 2010.

19 Chamber Research Office statistics.

jurisdictions; they should not contain any preamble; and they must arise out of, and refer to, the answer that has been given to the original question.<sup>20</sup>

- 4.14 Subsequently the Speaker provided further clarification after an attempt by the Shadow Treasurer to ask the Treasurer a supplementary question to a question by a government Member. The Speaker advised that while other comparable jurisdictions have accommodated supplementary questions to questions asked by the other side of the House, he would not allow it at this stage. He added that the House may later consider the matter further. The Speaker also advised that another opportunity to ask a supplementary question would not be granted where an earlier attempt has been ruled out of order.<sup>21</sup>
- 4.15 The Agreement specifies that a 'proportionate share' of questions be allocated to non-aligned Members. This reflects a commitment to ensure these Members are given an equitable share of opportunities. In line with the long-standing practice that the allocation of the call during Question Time is an informal matter, standing orders were not amended to incorporate this.
- 4.16 For most of the 42<sup>nd</sup> Parliament, there were three non-aligned Members, making up 2% of all Members.<sup>22</sup> Data show that the non-aligned Members asked 2% of questions without notice, a figure proportionate to their number.<sup>23</sup> In the 43<sup>rd</sup> Parliament, the number of Members considered non-aligned increased to six, making up 4% of all Members.<sup>24</sup> In the first session of the 43<sup>rd</sup> Parliament they asked 5.1% of all questions.<sup>25</sup>
- 4.17 The Agreement also provides that the order in which non-aligned Members are given the call during Question Time should be taken into account. The Leader of the House advised that an agreement had been made between the Government and the Australian Greens Party, to provide a 'fixed and fair' allocation of questions to non-aligned Members:

During each question time, after five questions have been asked and answered, the call would ordinarily be given to a government member to ask the sixth question. In order to ensure that the

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20 HR Deb, 20 October 2010, 859.

21 HR Deb, 20 October 2010, 940.

22 This figure includes Mr Oakeshott, an Independent Member, who was elected at a by-election and sworn in on 17 September 2008, but does not include Mr Johnson, a former Liberal Member, who was an Independent Member from 20 May 2010.

23 See Table 4.1.

24 Four Independent Members, one Greens Member and one WA Nationals Member.

25 See Table 4.1.

commitment in the agreement is implemented in full, if at that point, that is, after the fifth question, a non-aligned Member rises to seek the call, the Chief Government Whip has asked that no government member seek the call.<sup>26</sup>

- 4.18 This allows for a non-aligned Member to ask a question when a government Member would normally be given the call. Previously, a non-aligned Member typically asked a question in place of an opposition Member.
- 4.19 Another element of the Agreement (implemented informally) related to the preference for Members not to use notes during questions and answers. This is intended to limit prepared statements being read during Question Time, while recognising that at times, notes may be needed to provide the House with the best possible information. The intention of the reform is to bring greater spontaneity to Question Time, and result in answers being related more directly to questions. The extent to which this arrangement has been implemented is difficult to measure. While acknowledging that some time may be needed, the Speaker indicated to the House his intention to address this issue.<sup>27</sup>

### **Committee comment**

- 4.20 The Committee concludes that Question Time appeared more efficient in the initial five weeks. Compared to the 42<sup>nd</sup> Parliament, the average length of Question Time decreased, while the average number of questions increased from 18.6 to 19.6 including supplementary questions which were allowed in 17 of the 18 Question Times. The number of points of order was lower compared to the last parliament. Answers were shorter and the historical discrepancy between length of answers to government and opposition questions was reduced. Independent and minor party Members had the opportunity to ask a greater proportion of questions.
- 4.21 The Committee notes that these measures are not an indication of the effectiveness of Question Time, but are still an important indicator of efficiency. The Committee will monitor them and may seek evidence on the potential for further efficiencies.
- 4.22 The Committee agrees that for the reforms to be effective in reducing the combative nature of Question Time, a cultural change will need to take place within the House. The Speaker emphasised this:

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26 HR Deb, 18 November 2010, 3027.

27 See HR Deb, 29 September 2010, 175.

...it will not only take a change of standing orders but a change of culture in the whole House to bring about the type of question time and proceedings in this place that many outside would like to see.<sup>28</sup>

- 4.23 Since the opening of the 43<sup>rd</sup> Parliament, a number of Members have supported this view, acknowledging the importance of cultural change to the successful reform of parliament, including Question Time.<sup>29</sup> On the basis of early indications, the Committee is cautiously optimistic that the reforms can bring some change that will limit scope for argument and better promote questions and answers that are concise and to the point.
- 4.24 The Speaker has given some indications of his intentions within the standing orders – in particular to limit the debate and argument in questions – and his clear guidance that where a question does contain debate and argument, it opens the door for a wide ranging answer. The Committee notes the Speaker’s preference to amend standing orders to apply the same rules to questions and answers.
- 4.25 The Committee will monitor Question Time to see how the implementation of the new standing orders plays out in coming sitting weeks before considering the matter again in its next report on the implementation of the procedural reforms.

## **Changes to the system of House committees**

- 4.26 An important feature of House committee work has been the generally non-partisan approach of Members, working cooperatively to achieve consensus. However, while the valuable work of committees is appreciated by the Members who serve on them, it seems to go largely unrecognised by the wider community and this has unfortunate implications for the status of the House (and parliament) as one of the principal institutions of the Australian democratic system.
- 4.27 The committee system is sometimes subject to criticism, including occasional perceptions of lack of independence and slow responses by government to committee reports.

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28 HR Deb, 28 October 2010, 2062.

29 See for example: HR Deb, 28 September 2010, 9; HR Deb, 18 October 2010, 423; HR Deb, 28 October 2010, 2062.

- 4.28 Proposals in the Agreement to strengthen and improve the House committee system include:
- rationalising the number of committees and reducing their membership;
  - increasing opportunities for the participation of supplementary members;
  - altering chairing arrangements for the Joint Committee of Public Accounts and Audit;
  - referring bills requiring additional scrutiny (as determined by the Selection Committee);
  - enabling committee chairs and deputy chairs to make statements in the House about committee inquiries; and
  - encouraging timely government responses to committee reports.<sup>30</sup>
- 4.29 Implementation of these proposals has seen the number of general purpose standing committees reduced from 12 in the previous parliament to nine.<sup>31</sup> Membership of each committee is still structured to reflect the party membership of the House. The number of positions per committee has also been reduced from 10 permanent members (six government and four non-government members) in the 42<sup>nd</sup> Parliament to seven permanent members (four government and three non-government members) in the 43<sup>rd</sup> Parliament.<sup>32</sup> The principal purpose of reducing the number and size of committees is to allow Members to dedicate more time to the committee or committees on which they serve.
- 4.30 In the 42<sup>nd</sup> Parliament there were 256 positions<sup>33</sup> on House and joint committees to be filled by 115 eligible Members.<sup>34</sup> Most eligible Members were therefore required to serve on two or three committees, with some serving on as many as four. Following the reforms there are 230 positions<sup>35</sup> on House and joint committees and 119 eligible Members.<sup>36</sup> A comparison

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30 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 10.

31 Standing order 215(a), 20 October 2010.

32 Standing order 215(d), 20 October 2010. Note: where a non-aligned Member is appointed to a general purpose standing committee standing order 215(d) provides that committee membership consist of eight members – four government members, three non-government members and one non-aligned member.

33 Excludes *ex officio* positions filled by the Speaker and Deputy Speaker.

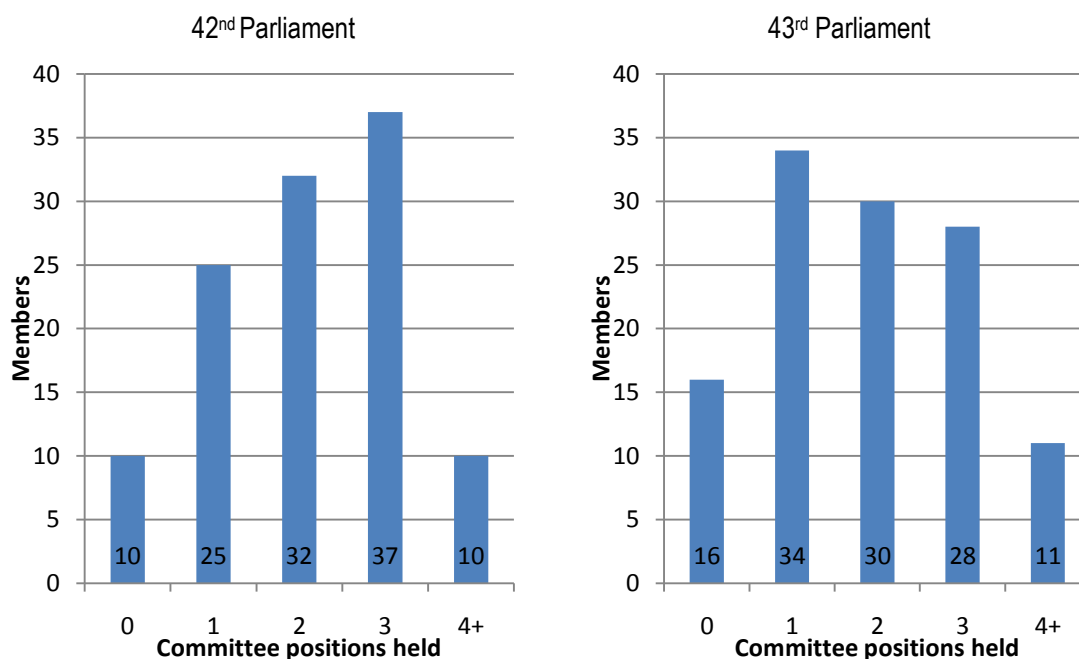
34 Excludes Ministers, Parliamentary Secretaries and Leader of the Opposition.

35 Excludes *ex officio* positions filled by the Speaker and provisions supplementary Members.

36 Excludes Ministers, Parliamentary Secretaries and Leader of the Opposition.

of the distribution of Committee positions among Members for the 42<sup>nd</sup> and 43<sup>rd</sup> parliaments is shown in Figure 4.1.

**Figure 4.1 Distribution of committee positions among Members in the 42<sup>nd</sup> and 43<sup>rd</sup> Parliaments**



Source: Chamber Research Office statistics, February 2011.

4.31 Although the number of permanent positions on general purpose standing committees has been reduced in the 43<sup>rd</sup> Parliament, standing orders now allow for up to four supplementary members (two government and two non-government or non-aligned members) per inquiry.<sup>37</sup> This facilitates participation by Members in inquiries of particular interest to them, without the need to seek permanent appointment. In contrast to earlier parliaments,<sup>38</sup> even at an early stage of the 43<sup>rd</sup> Parliament, supplementary members have been appointed for four inquiries.<sup>39</sup>

37 Standing order 215(d), 20 October 2010, reflecting Clause 10.2 of the Agreement. Note: previously a maximum of two supplementary Members (one government and one non-government) could be appointed per inquiry for general purpose standing committees.

38 In the 42<sup>nd</sup> Parliament, supplementary members were appointed for two committee inquiries, and in the 41<sup>st</sup> Parliament, supplementary members were appointed for one inquiry.

39 Standing Committee for Climate Change, Environment and the Arts – one supplementary member for the inquiry into the National Radioactive Waste Management Bill 2010; Standing Committee for Economics – one supplementary member for the inquiry into the Competition and Consumer (Price Signalling) Amendment Bill 2010; Standing Committee for Regional Australia – four supplementary members for the inquiry into the socio-economic impact of the proposed Murray-Darling Basin plan; Standing Committee on Education and Employment – one supplementary member for the inquiry into the Social Security Legislation Amendment (Job Seeker Compliance) Bill 2011. As at 24 March 2011.

- 4.32 Previously, standing orders provided for committee chairs to be drawn from government committee members and, although not specified, the position of deputy chair has been filled by a non-government member by convention.<sup>40</sup> However, the Agreement provides specifically for the Joint Committee of Public Accounts and Audit to be chaired by a non-government Member. In addition, the amended standing orders allow for the Standing Committee on Regional Australia to be chaired by a non-government Member.<sup>41</sup> Both committees have appointed non-aligned Members as chair.
- 4.33 The Agreement proposes that the Selection Committee refer bills it considers to be controversial or needing additional debate to the relevant standing or joint committee for inquiry prior to debate in the House. Historically under standing order 215, House standing committees and joint committees have been able to inquire into and report on bills and pre-legislative proposals, if referred to them by the House or relevant Minister. But this has not been a significant aspect of House committee work.<sup>42</sup> In the 42<sup>nd</sup> Parliament only six legislative inquiries were undertaken by House and joint committees. Of these, four were by joint committees and two by House committees. As at 4 March 2011, the Selection Committee has referred seven bills, comprising five government bills and two private Members' bills, to House committees for inquiry.<sup>43</sup> It is difficult to predict the frequency with which the Selection Committee will refer bills to House and joint committees, but early indications are that referrals will increase, particularly as only one member of the Committee is needed to effect this.<sup>44</sup>
- 4.34 Traditionally committees have reported in the House only at the conclusion of an inquiry, when the report is presented. To raise the profile of committee work, and to promote interest in new inquiries, the Agreement proposed that committee chairs and deputy chairs be able to make statements informing the House about inquiry matters during private Members' business time.<sup>45</sup> This opportunity was used for the first

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40 Standing order 232, 20 October 2010.

41 Standing order 215(e), 20 October 2010.

42 The majority of inquiries conducted by House standing committees and by joint committee have either been policy focussed or relate to government scrutiny.

43 As at 4 March 2011, the Selection Committee has referred four bills to the Standing Committee on Economics, one bill to the Standing Committee on Climate Change, Environment and the Arts; one bill to the Standing Committee on Education and Employment; and one bill to the Standing Committee on Health and Ageing.

44 Standing order 222(a)(iii), 20 October 2010.

45 Standing order 39(a), 20 October 2010.

time on 22 November 2010 by the Chair and Deputy Chair of the Standing Committee on Regional Australia, in relation to the inquiry into the socio-economic impact of the proposed Murray-Darling basin plan. As at 4 March 2011, 13 statements have been made, relating to eight inquiries.

- 4.35 Although not bound under standing orders, since 1983 successive governments have undertaken to respond to committee reports within a three month period. Historically, government responses have rarely been received within this timeframe, and in some cases reports have not been responded to at all.<sup>46</sup> To encourage more timely government responses, early in the 43<sup>rd</sup> Parliament the House passed a resolution requiring Ministerial explanations if government responses are not received in a six month timeframe.<sup>47</sup> With the first committee reports of the 43<sup>rd</sup> Parliament presented in late November 2010, government responses will be due by late May 2011. The effectiveness of the resolution will be established as the parliament progresses.

## Committee comment

- 4.36 Many of the proposals for reform to the House committee system have been informed by recommendations made by the Committee.<sup>48</sup> The main aims of these reforms are to strengthen the House committee system by making it more workable for Members, increase committee independence and government responsiveness, and to make committees more responsive to community expectations. Initial observations suggest a measure of success but the Committee is yet to receive detailed feedback on these reforms and so its comments are tentative and will be expanded upon in its next report.
- 4.37 Since the commencement of the modern committee system in 1987, there have been slight variations in subject coverage. These have often reflected changing government priorities and have mirrored government portfolio restructures and associated departmental changes. As a result of the current reforms, the House standing committees now have a stronger focus on regional issues, presumably an outcome of negotiations with Independent Members. Nevertheless, when considered in combination with the existing joint committees, the House committee system still provides sufficient subject area coverage to support inquiries into all domains of government policy and administration. Whether this current

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46 See report register for data on timeliness of responses. Available online at: <[http://www.aph.gov.au/house/committee/report\\_register/parlist.htm](http://www.aph.gov.au/house/committee/report_register/parlist.htm)>.

47 Resolution adopted 29 September 2010.

48 Standing Committee on Procedure, *Building a modern committee system*, June 2010.



structure is fully optimised, or whether it would benefit from further refinements, is a matter of conjecture. The Committee looks forward to receiving specific feedback on this issue.

- 4.38 The effects of having fewer and smaller House standing committees and changes to chairing arrangements on their workability also remain to be determined.
- 4.39 Although the work of House committees has generally been characterised by a cooperative non-partisan approach, changes to the composition of committees and to chairing arrangements for some committees clearly have implications for decision making. Notably, when a non-aligned Member is appointed to a general purpose standing committee, the membership increases from seven to eight members; that is four government members, three non-government members and one non-aligned member.<sup>49</sup> The balance of power favours the non-aligned member. Where a committee is chaired by a non-aligned member, in circumstances of an even division in the committee, the chair will have the casting vote. Although optimistic that the culture of cooperation and non-partisanship will persist in the work of committees, the Committee will monitor this.
- 4.40 The Committee has observed an encouraging response from Members to increased opportunities for the appointment of supplementary members for specific inquiries. As noted, already in the 43<sup>rd</sup> Parliament seven Members have taken advantage of the opportunities to participate in four inquiries as supplementary members.
- 4.41 The role of the Selection Committee in referring bills to committees for inquiry, and the resulting increase in activity in this area, is encouraging. The Committee recognises the potential for committee consideration to enhance the legislative process by recommending amendments to improve bills before consideration by the House. The Committee has not received specific feedback about this aspect of the role of the Selection Committee and will continue to monitor the mechanism for referral and the time taken to complete bills inquiries.
- 4.42 The new opportunity for chairs and deputy chairs to make statements to the House on committee activities has already been referred to.<sup>50</sup> Raising awareness of committee activities and improving the parliament's relationship with the public by enhancing dialogue between committees and the wider community are both addressed in the Agreement. Mechanisms to enhance relationships with the public by improving

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49 Standing order 215(d), 20 October 2010.

50 See para 4.33.

dialogue have highlighted the potential for committees to make more use of new technologies so they become more accessible, interactive and responsive. There are an increasing number of examples of committees using new technologies to gather evidence and to engage with the public.<sup>51</sup> To support the committees in this evolving technological environment, the Agreement proposes that the Leader of the House and the Speaker investigate the adequacy of teleconferencing and videoconferencing with a view to considering any necessary upgrades or additional facilities to meet current and projected needs.<sup>52</sup> A review of the powers of committees has also been referred to the Liaison Committee of Chairs and Deputy Chairs. The Committee looks forward to receiving information on the outcomes.

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51 This includes the use of online surveys, collecting information via online forums and advertising committee inquiries through social networking websites.

52 See *Agreement for a Better Parliament: Parliamentary Reform*, Clause 16.4.

## **Current and emerging issues**

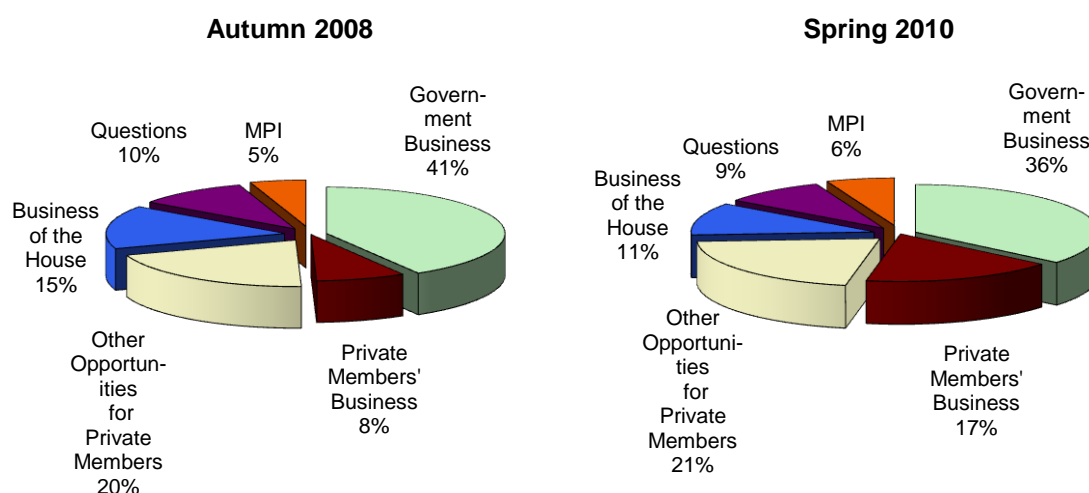
- 5.1 For many of the procedural reforms in the 43rd Parliament, it is too early for the Committee to provide a considered view. However, specific issues have been identified which the Committee would prefer to see addressed quickly, or has noted warrant further monitoring.
- 5.2 Members indicated they hold significant concerns over the increase in weekly sitting hours and the adverse impact of longer sitting days on the health and wellbeing of Members, their staff and parliamentary staff. Members are also concerned about the impact of additional sitting hours on their productivity and their ability to perform their duties effectively. These are considered in more detail below.
- 5.3 Other issues raised include possible refinements to enhance the implementation of procedural changes or to address anomalies. Where the Committee believes there is appropriate justification for immediate change, it has made comment accordingly. For other issues that have arisen, the Committee will monitor these closely over the next several months prior to forming a considered view in its next report.

## **Changes to weekly sitting hours**

- 5.4 Reforms to provide additional opportunities for private Members have been accompanied by both an increase in sitting hours and an extension of sitting days with significant consequences for Members, their staff and parliamentary staff.

5.5 In the 42<sup>nd</sup> Parliament, the scheduled weekly sitting hours comprised 48 and a half hours: 36 hours in the House and 12 and a half hours in the Main Committee. The scheduled time has been extended by 7 and a half hours in the 43<sup>rd</sup> Parliament, now totalling 56 hours over four sitting days per week (40 hours in the House and 16 hours in the Main Committee). Figure 5.1 shows how the House's time has been allocated in the first five sitting weeks of the 43<sup>rd</sup> Parliament in comparison to the first four weeks of the previous parliament. The graphic below illustrates the significant increase in the proportion of time allocated for private Members' business and the decrease in the proportion of time allocated to government business.

**Figure 5.1 Business conducted in the House of Representatives 42<sup>nd</sup> and 43<sup>rd</sup> parliaments**



Source: *Statistical Digests prepared by the Chamber Research Office.*

**Government business** includes government sponsored legislation and motions (including motions to suspend standing orders) and ministerial statements.

**Private Members' business** includes legislation and motions (including motions to suspend standing orders) sponsored by private Members and statements by Members.

**Other opportunities for private Members** includes adjournment debates, grievance debates and debate on the Address in Reply.

**Business of the House** includes time spent on petitions, giving notices, presentation of papers (excluding motions to take note), privilege matters, personal explanations, dissent motions, announcements of ministerial arrangements, motions to appoint committees (unless moved by private Members), statements and debate on committee reports, motions for addresses, votes of condolence, leave of absence and special adjournment.

- 5.6 The additional sitting hours have had a significant impact on the average length of each sitting day. For the first sitting period of the 43<sup>rd</sup> Parliament the extended hours translated in practice to an average sitting day<sup>1</sup> of 10 hours and 2 minutes in the House and 4 hours and 12 minutes in the Main Committee. Compared to the equivalent period in the 42<sup>nd</sup> Parliament, the average sitting day has been extended by one hour in the House and one hour in the Main Committee. A comparison of the set meeting and adjournment times for the current and previous parliaments is reflected in Tables 5.1 and 5.2 below.

**Table 5.1 Set meeting and adjournment times of the House, 43<sup>rd</sup> Parliament**

1	2	3	4
day	meeting commences	adjournment proposed	House adjourns
Monday	10.00 am	9.30 pm	10.30 pm
Tuesday	2.00 pm	9.30 pm	10.30 pm
Wednesday	9.00 am	7.00 pm	8.00 pm
Thursday	9.00 am	4.30 pm	5.00 pm

Source: *Standing order 29(b), 20 October 2010.*

**Table 5.2 Set meeting and adjournment times of the House, 42<sup>nd</sup> Parliament**

1	2	3	4
day	meeting commences	adjournment proposed	House adjourns
Monday	12 noon	9.30 pm	10.00 pm
Tuesday	2.00 pm	8.30 pm	9.00 pm
Wednesday	9.00 am	7.30 pm	8.00 pm
Thursday	9.00 am	4.30 pm	5.00 pm

Source: *Standing order 29(b), 1 December 2008.*

- 5.7 The duties of a parliamentarian do not begin and end when parliament is sitting. Days start early with caucus and committee meetings, particularly on Monday and Tuesday mornings. Many Members spend considerable time travelling to and from Canberra and on returning to their electorate have obligations in their offices and their communities.
- 5.8 When parliament is sitting, Members are not required to be present in the House or Main Committee continuously, enabling them to attend to other activities. Due to the close numbers, Members have a greater requirement

1 All times given in paragraphs 5.5 to 5.6 exclude time for suspensions.

to be 'on call' for divisions than in previous parliaments. Even at times when divisions and quorums are deferred, not all Members are free from their obligations to be 'on call' and do not leave Parliament House until the House adjourns.

- 5.9 Feedback from Members identified two further ways that the close margin in numbers between government and opposition Members in the House has impacted on the demands on Members' time. It was noted that there is less flexibility in pairing arrangements which enable Members to be absent from the House for periods of time to attend to other business or personal matters. It was also noted that those government Members serving on the Speaker's Panel have faced additional workloads as the opposition has not nominated any of its Members to serve on the panel.
- 5.10 The additional time for private Members' business has had workload implications for Members and their staff in terms of research and preparation. As shown in Table 5.3 the number of private Members' speeches in the first five sitting weeks of the 43<sup>rd</sup> Parliament is more than twice the number for the first four sitting weeks in the 42<sup>nd</sup> Parliament (525 speeches versus 219 speeches respectively).

**Table 5.3 Number of speeches**

Private Members' Speeches	42 <sup>nd</sup> Parliament (Autumn 2008)		43 <sup>rd</sup> Parliament (Spring 2010)	
	Occurrences	Number	Occurrences	Number
Adjournment	17	101	21	214
Grievance	2	7	4	25
90 second statements	2	20	14	134
3 minute constituency statement	9	91	15	152
Total		219		525

Source: Chamber Research Office statistics, as at December 2010.

## The impact of longer sitting hours

- 5.11 The longer sitting hours have been questioned publicly by representatives from both sides of politics<sup>2</sup> and prompted Members to raise concerns about potentially adverse effects on the health of Members, their staff, and

2 ABC News Website, viewed on 15 December 2010 at: <http://www.abc.net.au/news/stories/2010/11/27/3078096.htm>.

parliamentary staff. Members who participated in a private round table meeting with the Committee were unanimous in their view that the current sitting hours cannot be sustained because of their implications for good health and the quality of their work.

- 5.12 In October 2010 Dr Mal Washer MP expressed his concerns about the physical and emotional toll on Members and their staff. In an interview with the ABC, Dr Washer observed:

...at the moment I've got people walking around with lots of respiratory problems because their immune systems are being compromised, they're fatigued, they're not as sharp as they would normally be.

And so we're creating to some level slight dysfunctionality in our politicians.<sup>3</sup>

- 5.13 Dr Washer reiterated these concerns, noting:

These additional hours are having an adverse effect on the mental and physical health of Members, their staff and the staff of the Parliament.

The result is mental and physical fatigue leading to altered mood with higher levels of anxiety and depression, poor concentration and often abnormal sleep patterns. Physically there is a drop in fitness levels and reduced immunity which would affect resistance to infection and malignancy and exacerbate chronic disease. There is a greater tendency for the use of medication to assist with sleeping and with some increased alcohol consumption.

Many Members have time zone differences up to 3 hours during Eastern Daylight Saving further compounding the problem and are fatigued by up to 7 or more hours of travelling to Canberra.

We all have a duty to care for ourselves and our staff.<sup>4</sup>

- 5.14 The potentially adverse health effects due to long sitting hours are not a new concern. Previous Procedure Committee reports have supported the view that the fatigue associated with late night sittings may compromise the health and wellbeing of Members and staff.<sup>5</sup>

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3 ABC News Website, viewed on 15 December 2010 at:  
<<http://www.abc.net.au/am/content/2010/s3052657.htm>>.

4 Dr M Washer, *Submission no. 2*, p 1.

5 See Standing Committee on Procedure, *Days and hours of sitting and the effective use of the time of the House*, 29 May 1986, Parliamentary Paper No. 108/86; and Standing Committee on Procedure, *About Time: Bills, questions and working hours* – Report of the inquiry into reform of the House of Representatives, 28 October 1993, Parliamentary Paper No. 194/93.

- 5.15 In 1994, for example, substantial changes to the hours and routine of business in the House, including the abolition of late night sittings and the establishment of the Main Committee as an alternative debating forum, resulted from recommendations of a Procedure Committee report chaired by the Hon Dr Neal Blewett. The 1993 report, *About Time: Bills, questions and working hours*, sought to address concerns about the adverse consequences of late sitting hours on the health of Members and parliamentary staff. Members at the time had also questioned their effectiveness in carrying out their duties as parliamentarians due to the length and lateness of the hours they were working.<sup>6</sup>

### **Adapting to additional sitting hours**

- 5.16 The increased sitting hours have caused Members to significantly alter their travel habits. Monday morning sittings now commence at 10 am in the House and 10.30 am in the Main Committee.<sup>7</sup> For some Members, it is no longer possible to travel in the morning on sitting Mondays. Instead, Members have to travel on the Sunday, leaving less time for constituency matters and family commitments.
- 5.17 Informal feedback suggests that some Members, in considering the wellbeing of their staff, are not requiring their staff to work the later hours and are allowing them to travel to Canberra on the Monday morning in spite of the earlier start. As a consequence, Members are carrying a greater proportion of the additional workload than they otherwise might.
- 5.18 The Committee notes that Monday morning travel would not be a viable option during the winter months because of uncertainty due to fog.
- 5.19 The Committee is conscious that while Members can choose to send their own staff home while the House is sitting, they have no influence over the working hours of parliamentary support staff, and Members have observed the additional strain on these staff.
- 5.20 There was no evidence to suggest that the new arrangements had led Members to spend less time discharging their responsibilities as parliamentarians. Members noted they were adjusting by reducing their sleep and exercise and travelling earlier to Canberra on Sundays (foregoing attending electorate functions which they were previously able

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6 Standing Committee on Procedure, *About Time: Bills, questions and working hours* – Report of the inquiry into reform of the House of Representatives, 28 October 1993, Parliamentary Paper No. 194/93, p 30.

7 Formerly on Mondays sitting commenced at 12 noon in the Chamber and 4.00 pm in the Main Committee.



to attend) in order to avoid an additional late night at the start of a sitting week. Members also indicated they were less satisfied with the quality of their work now, particularly their speeches, and this was exacerbated towards the end of a sitting week. Members questioned whether the increased hours had generated increased productivity.

## Committee comment

- 5.21 Members recognise that parliament is at the core of their role as representatives. However, the hours in which the House chooses to conduct its business should aim to reflect community expectations of efficiency balanced with workplace health and safety.
- 5.22 During the Committee's private roundtable, a number of options were canvassed in consultation with Members as to how their workloads may be reduced with minimal impact on the business of the House. Suggestions focused largely on ways to reduce the length of sitting days to allow Members, particularly those from Western Australia, to travel to Canberra later on Sundays or early on Mondays. There were no suggestions to reduce the amount of time allocated to government business. Some of the proposed 'solutions' included:
- revising the order of business, including:
    - ⇒ delaying the commencement of sitting on Monday to 12 noon to allow Members to travel to Canberra later on Sunday or early on Monday mornings of sitting weeks;
    - ⇒ compensating for the later commencement on Mondays by sitting at 12 noon on Tuesdays;
    - ⇒ reducing the time allocated for the adjournment debate from an hour to half an hour on Monday, Tuesday and Wednesday, thereby reducing the sitting day by half an hour;
    - ⇒ moving the adjournment debate to the Main Committee at an earlier hour;
    - ⇒ reducing the time allocated for private Members' business (currently accounting for 17% of the House's time) and with no reduction of the time allocated for government business (currently accounting for 40% of the House's time);
  - extending the periods where divisions and quorums are deferred (currently on Monday and Tuesday evenings from 6.30-8.00 pm); and
  - scheduling (an) additional sitting week(s) to enable a reduction in sitting hours through the rest of the year.

- 5.23 Members expect to work hard and they are honoured to have their various obligations. What does concern them, however, is the likelihood that because of the increased length of sitting days and corresponding additional competition for their time, they will not be able to meet their expectations of themselves, much less the expectations of their constituents or colleagues in their party or on their committees and so on. The Committee acknowledges the point made by the Clerk of the House in a submission to the Committee's inquiry into the conduct of the business of the House: '[I]mportant as its work is, the House is also a workplace.'<sup>8</sup>

### **Recommendation 3**

- 5.24 **The Committee recommends that the House considers measures to manage the workload of Members during sitting weeks, having regard to the health and wellbeing of Members, their staff and parliamentary staff, including but not limited to:**
- a) commencing at 12.00 noon on Mondays in the House and 12.30 pm in the Main Committee;**
  - b) commencing at 12.00 noon on Tuesdays in the House;**
  - c) offsetting the reduction in sitting hours resulting from a) and b) by reducing the time allocated to private Members' business each week by three hours;**
  - d) providing that divisions called for after 8.30 pm on Mondays and Tuesdays be deferred until the following day; and**
  - e) reducing the time allocated for adjournment debate by half an hour on one evening.**
- 5.25 The Committee expects that if this recommendation is adopted, the current provision in standing orders for divisions and quorums to be deferred between 6.30 pm and 8.00 pm<sup>9</sup> on Mondays and Tuesdays will be removed. Typically, when divisions have been conducted after the deferral period on Monday evenings, less time has been available for the final item of private Members' business.<sup>10</sup> Removal of this provision will

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8 Department of the House of Representatives, Submission no. 4, p. 2, to the Inquiry into the conduct of the business of the House.

9 Standing order 133(b), 20 October 2010.

10 Mr B Wright, Clerk of the House of Representatives, *Submission no. 1*, p 2.

ensure that there is no disruption to private Members' business on Monday evenings.

- 5.26 The Committee also acknowledges that, if adopted, the measures recommended above will have a positive impact on Members' commitments and working hours but that obligations on parliamentary staff will continue to be onerous. These obligations on staff should be monitored closely and additional staffing be funded as necessary.

## **Refinements to improve the efficiency of proceedings**

- 5.27 In addition to offering some general observations on the implementation of the procedural changes, the Clerk of the House submitted detailed suggestions for consideration, some of which would require fine-tuning of standing orders, and others which would require a change in practice. The proposed changes are intended to address unforeseen anomalies in the standing orders and/or to enhance procedural efficacy. Specific issues raised include arrangements for:
- speaking times associated with the presentation of private Members' bills;
  - scheduling of private Members' items in the Main Committee and return of items from the Main Committee; and
  - speaking time limits for debates not otherwise provided for and items of private Members' business.
- 5.28 The following section summarises refinements proposed in the Clerk's submission which have not been addressed earlier in this report. The Clerk's submission has been included at Appendix E for easy reference.

## **Presentation of private Members' bills**

- 5.29 There is a degree of duplication arising from the two-stage approach to private Members' bills, whereby a Member may make a statement (not exceeding 10 minutes) on presenting a bill, and then may speak again in support of the bill if the Selection Committee sets time for the second reading to be moved:

This two-stage approach has been a feature of the arrangements for private Members' bills for more than 20 years. It seems that the original idea was that a private member would present a bill on a Monday and make a 5 minute statement. The second reading

would then be moved and debated on the Thursday; the 5 minute statement having allowed members to explain their proposals briefly.<sup>11</sup>

- 5.30 This duplication could be addressed by amending standing orders to facilitate Members presenting private Members' bills to move the second reading at the time of presentation, rather than making a statement with debate then being adjourned.<sup>12</sup> Such a move would also ensure that private Members' bills are treated procedurally in the same manner as government bills.

### **Private Members' items in the Main Committee**

- 5.31 Two modifications suggested to enhance procedural efficacy relate to the scheduling of private Members' business items for the Main Committee and the return of items of private Members' business from the Main Committee.

- 5.32 When the Selection Committee schedules items of private Members' business for the Main Committee, currently the Speaker presents copies of the items to the House and further debate is automatically referred to the Main Committee.<sup>13</sup> A refinement to the standing orders would provide that items scheduled for the Main Committee by the Selection Committee are deemed to have been referred by the House:

This would obviate the need for the Speaker to table the terms of matters in the House and for the matters to be deemed to be presented or moved before they can stand referred to the Main Committee. It would also allow the Member responsible for a notice to initiate a matter in the Main Committee by presenting a bill or moving a motion.<sup>14</sup>

- 5.33 The second proposal relates to the return of items of private Members' business from the Main Committee. Presently, this is achieved via a formal report by the Speaker when other business is not before the House.<sup>15</sup> A more efficient practice would be for a Member to move, in the Main Committee, that further proceedings be conducted in the House, as provided by standing order 197(a).<sup>16</sup> This would enable returned items to

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11 Mr B. Wright, Clerk of the House of Representatives, *Submission no. 1*, p 1.

12 Mr B. Wright, Clerk of the House of Representatives, *Submission no. 1*, pp 1-2.

13 See standing orders 41(d) and 41(g), 20 October 2010.

14 Mr B Wright, Clerk of the House of Representatives, *Submission no. 1*, p 2.

15 See standing order 198, 20 October 2010.

16 Mr B Wright, Clerk of the House of Representatives, *Submission no. 1*, p 2.

be listed as orders of the day on the Notice Paper, where they could be called upon to be voted on during government business time if standing orders were suspended. This change would require a change in practice and is not prohibited by the standing orders.

## Speaking time limits

- 5.34 The reduction in time limits for most second reading speeches from 20 minutes to 15 minutes appears to be successful. Consideration might be given to also reducing time limits for debates not otherwise provided for (currently 20 minutes for the mover and 15 minutes for other speakers) to 15 minutes for the mover and 10 minutes for other Members. The current 'default' provision applies in the case of motions to take note of papers and motions to suspend standing orders by leave.<sup>17</sup>
- 5.35 An anomaly relates to the time limits which apply when items of private Members' business are called on during government business time. The Selection Committee routinely sets time limits for each Member speaking on an item during time set aside for consideration of private Members' business. However, when an item is called on during government business time, Members are subject to the standard time limits, which are usually longer than those determined by the Selection Committee.
- 5.36 A further issue with speaking time limits was raised by the Selection Committee in its report to the House on 21 October 2010. The Selection Committee noted its difficulty in allocating lower speaking times than those provided under standing order 1 for the mover and lead speakers in the second reading debates of private Members' bills. While standing order 222 provides for the Selection Committee to determine speaking times for second reading debates, it is unclear whether this overrides the maximum times specified under standing order 1.
- 5.37 The Committee would welcome all of these matters being considered by the House in the expectation that the House is committed to continuing to improve and refine procedures.

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17 Mr B Wright, Clerk of the House of Representatives, *Submission no. 1*, p 3.

## Other issues

### Stating the question on amendments

5.38 A discussion paper submitted by the Clerk<sup>18</sup> considered a change in practice to the way questions on amendments are stated and put to the House.

5.39 The long-standing practice has been for amendments to motions to be moved in the form that all words after ‘that’ be omitted with a view to substituting other words, as provided by standing order 122(a)(ii):

**Standing order 122(a)(ii):**

If the purpose is to omit certain words in order to insert or add other words, the question shall be –

*That the words proposed to be omitted stand part of the question.*

If this question is resolved in the affirmative, the amendment is disposed of: if negatived, the Speaker shall put a further question –

*That the words proposed be* [inserted, or added].

5.40 The Clerk noted that stating the question in this form can be ‘counter-intuitive and puzzling to members and observers’ because Members in favour of an amendment must vote ‘no’ on the initial question. Furthermore, where an amendment is supported by a majority but contested, two divisions are required for the amendment to be made.<sup>19</sup>

5.41 Standing order 122(b) already includes provision for the shortened form ‘that the amendment be agreed to’, provided that no Member objects. The wording in this provision is such that if any Member objected, the Chair would have no discretion and the longer form of the question would need to be put.<sup>20</sup> The simpler form is currently used for detailed stage amendments and sometimes for amendments to motions, such as those moved by Ministers to non-government Members’ motions.

5.42 The Clerk identified a number of advantages of the question on amendments always being stated in the alternative simpler form:

- it is much more straight forward than the “words stand” form and will always be clear to members and those following

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18 *Exhibit no. 1.*

19 Mr B Wright, Clerk of the House of Representatives, *Exhibit no. 1*, p 14.

20 Mr B Wright, Clerk of the House of Representatives, *Exhibit no. 1*, p 12.

proceedings. Members in favour of the amendment vote 'aye' and those against it vote 'no' ...;

- it allows amendments to be moved to the amendment itself;
- if an amendment is defeated other amendments can be moved to the main question, as well as amendments to the question "that the motion, as amended, be agreed to";
- in the case of amendments going to a vote, one division only is required to make a decision on the amendment.<sup>21</sup>

5.43 One of the negative aspects of moving to the shorter form for all amendments is that should an amendment to a motion be agreed to, the second question will be that the motion, as amended, be agreed to. The mover of the original motion is therefore denied a distinct vote on their proposition.<sup>22</sup> Another, perhaps less significant, consequence of moving to the simpler form is that, if the trend whereby most amendments are moved by non-government Members to government sponsored motions were to continue, most Members would be required to cross to different sides of the House for divisions.

5.44 The Committee acknowledges the potential for confusion in the way in which questions on amendments are currently stated and put to the House. While the closeness of the current numbers in the House has drawn attention to this matter, the Clerk emphasised that change should only occur on the basis that it would be a long-term change, irrespective of the composition of the House.<sup>23</sup>

5.45 The Committee considers that there is merit in trialling the shortened form 'that the amendment be agreed to' for all amendments, noting that standing orders already provide that it would remain open to any Member to object and require that the longer form be used.

### **Listing of private Members' business items to be voted on in the Notice Paper**

5.46 Current practice is that items of private Members' business which the Selection Committee has recommended be voted on are listed in reports of the Selection Committee. Selection Committee reports are published online on the Committee's home page after presentation to the House. While this makes the recommendations public, it may be of assistance to Members and others if items recommended for voting are listed in the Notice Paper.<sup>24</sup> This could be facilitated by a minor amendment to

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21 Mr B Wright, Clerk of the House of Representatives, *Exhibit no. 1*, p 15.

22 Mr B Wright, Clerk of the House of Representatives, *Exhibit no. 1*, pp 15-16.

23 Mr B Wright, Clerk of the House of Representatives, *Exhibit no. 1*, p 17.

24 Mr B Wright, Clerk of the House of Representatives, *Submission no. 1*, p 3.

standing order 222 which requires that the Selection Committee's recommendations on items to be voted on are published on the Notice Paper prior to any action being taken on them.

- 5.47 The Committee would be pleased if this action were taken and expects that it would reduce any possible confusion.

### **Selection Committee**

- 5.48 As discussed in Chapter 2, the House Selection Committee was re-established at the beginning of the 43<sup>rd</sup> Parliament with a wider role than Selection Committees established in the 41<sup>st</sup> and previous parliaments. The 11-member Committee is chaired by the Speaker and is comprised of government, opposition and non-aligned Members. Previous Selection Committees were chaired by the Deputy Speaker. The Clerk has suggested that, while it has been beneficial to have the Speaker chair the Committee given its wider responsibilities, it may be appropriate to consider whether the Speaker should be a step removed given the potential significance of decisions of the Committee, for example, in the scheduling of items of business and consideration of the referral of bills to committees.<sup>25</sup>

### **Appointment of supplementary members to House committees**

- 5.49 Reforms to House committees have sought to increase flexibility by reducing the number of permanent committee positions and increasing opportunities for Members to be supplementary members on inquiries of particular interest to them. In informal feedback provided to the Committee, it has been suggested that the current phrasing in standing orders 215(d) and 229(c) which provide that a committee may 'supplement its membership' has created the mistaken impression by some people that committees have a role in appointing their supplementary members. A minor amendment to the standing orders may be required to clarify that appointment of supplementary members occurs through the usual mechanisms pursuant to standing order 229.

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25 Mr B Wright, Clerk of the House of Representatives, *Submission no. 1*, p. 4.



## Naming of the Main Committee

- 5.50 The Deputy Speaker, the Hon Peter Slipper, invited the Committee to consider the matter of renaming the Main Committee, which has been proposed by previous Procedure Committees in 2000 and 2004.<sup>26</sup>
- 5.51 In 2000, the then Procedure Committee recommended that the Main Committee be renamed 'the Second Chamber', while the 2004 Procedure Committee recommended the name 'the Federation Chamber of the House of Representatives' ('Federation Chamber' for short).<sup>27</sup> Neither recommendation was adopted.
- 5.52 The Deputy Speaker noted that the rationale behind previous proposals to rename the Main Committee included that the separation of the Main Committee from the Main Committee Room has resulted in confusion between the two, but also that a name change could enhance the status and role of the alternative chamber. The Deputy Speaker stated:
- I consider the reasons given in earlier reports for a name change were very persuasive.<sup>28</sup>
- 5.53 The Committee intends to consult more broadly on this issue prior to giving this matter further consideration.

## Committee comment

- 5.54 The Committee agrees in principle to the need for minor amendments and updates to the standing orders and, where necessary, changes in current practice, to enhance the operations of the House, correct oversights and ensure consistency.

## Recommendation 4

- 5.55 **The Committee recommends that draft amendments to standing orders which enhance the operations of the House and correct oversights and inconsistencies be prepared and proposed for consideration by the House.**

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26 See Standing Committee on Procedure, *The second chamber: enhancing the Main Committee*; 14 August 2000, Parliamentary Paper No. 158/2000; and Standing Committee on Procedure, *Renaming the Main Committee*, 3 June 2004, Parliamentary Paper No. 118/2004.

27 Hon P Slipper, *Submission no. 3.1*, p 1.

28 Hon P Slipper, *Submission no. 3.1*, p 1.

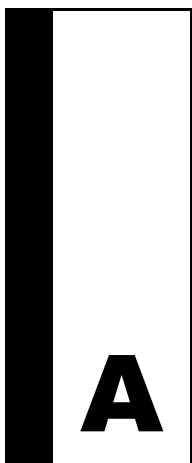
## Concluding statement

- 5.56 Following a prolonged period of majority governments at the federal level in Australia, the power of the executive is reflected in the practice of the House. A corollary of this dominance has been a decrease in the authority of the parliament as an institution. While this situation continued, calls for parliamentary reform to redress the balance went largely unheeded by successive governments. However, the outcome of the 2010 election provided an ideal opportunity to negotiate a parliamentary reform agenda and the *Agreement for a Better Parliament: Parliamentary Reform* came into being. The 43<sup>rd</sup> Parliament opened on 28<sup>th</sup> September 2010 and on the following day significant procedural reforms were implemented.
- 5.57 The Committee, while recognising that the reforms will necessarily need a period of adaptation, considered an important part of its role was to capture early views, experiences and information. In this report the Committee has sought to provide an overview of the Agreement and the mechanisms used to support the implementation of its proposals. Based on observations from the early stages of the 43<sup>rd</sup> Parliament, input from Members and the Clerk, the Committee has, where possible, provided initial comments on the practicality and operability of the procedural reforms. The Committee has considered more detailed evidence including suggestions for fine-tuning standing orders to address anomalies and/or to enhance procedural efficacy. Where appropriate the Committee has indicated in-principle support for change.
- 5.58 As the 43<sup>rd</sup> Parliament progresses, the Committee will continue to monitor and review the changes. It will provide further opportunities for input on all aspects of the reforms. The Committee intends to report in more detail to the House on matters associated with the procedural reforms after there has been a greater opportunity for assessment. It may then make further recommendations on aspects of the reforms that require fine tuning, or more substantial amendment.

**JULIE OWENS MP**

**Chair**

**28 April 2011**



## **Appendix A – Agreement for a Better Parliament: Parliamentary Reform**



# **AGREEMENT FOR A BETTER PARLIAMENT**

## **PARLIAMENTARY REFORM**

### **Preamble**

There are 150 local MP's that have recently been elected by the communities of Australia to the House of Representatives. This document is a combined effort to increase the authority and opportunities for participation for all MP's, regardless of their political party or their status of office.

The principles behind this document are twofold; to confirm 150 local MP's (and by extension their communities) as the foundation blocks of our Australian system of democracy, and increasing the authority of the Parliament in its relationship with the Executive.

For these improvements to work, it will take a commitment by all MP's to respect the cultural change that these changes bring. While the community demands a 'fiesty' and 'testing' parliamentary floor, there will be a need for recognition by all to allow more MP's to be involved in various roles and debates, to allow more community issues to be tested through private members voting, and to allow a Speaker (in particular) to rule with a firm hand as debate tests the boundaries of the Standing Orders on the floor.

The Executive will also need to show a commitment to the cultural change that this moment brings, and will need to be more flexible, more consultative, and more engaged with all MP's if these new arrangements are to work.

This document has been produced through engagement with many people, including former Speakers and Clerks, MP's, party "elders", and members of the community. This broad engagement has been done in an endeavour to achieve improvements that are sustainable beyond the current three year-term, and improvements that work for all. All are thanked for their considered involvement.

## **1. ENHANCING THE PARTICIPATION OF ALL MEMBERS IN THE MANAGEMENT OF THE HOUSE OF REPRESENTATIVES**

An expanded Selection Committee will be established, including aligned and non-aligned Members.

The Committee will be Chaired by the Speaker.

All Members will receive the same rights for the purposes of facilitating their full participation in all processes of the House. For the purposes of Standing Order 41A, Question Time and participation in all other debates, all Members interests would be guaranteed by the Selection Committee.

## **2. INDEPENDENT SPEAKER**

### **2.1 Independence**

The role of the Speaker will be independent of Government.

If the Speaker is drawn from a political party then the Deputy Speaker will be drawn from an alternate political party and both the Speaker and Deputy Speaker will:

- abstain from attending their respective party rooms; and
- when in the Chair, be paired for all divisions.

If the Speaker is non-aligned, then the same pairing arrangements will apply.

The Speaker and Deputy Speaker can participate in Private Members' Business but cannot vote.

Members of the Speakers Panel will be temporarily paired when occupying the chair during votes.

### **2.2 Power of the Speaker**

The Speaker will rigorously enforce the Standing Orders of his or her own motion.

## **3. ACKNOWLEDGEMENT OF COUNTRY**

At the beginning of each sitting day, prior to prayers, the Speaker will make an acknowledgement of country.

## **4. QUESTION TIME**

### **4.1 Time Limits for Questions and Answers**

Questions during Question Time be limited to forty five seconds and answers to four minutes.

It is noted that a Member may ask leave of the House for an extension of time.

#### **4.2 Supplementary Question**

The Leader of the Opposition or their delegate has the option of asking one supplementary question during each Question Time.

#### **4.3 Duration of Question**

Question Time will conclude no later than 3.30pm, enabling 20 questions each day in the normal course of events.

#### **4.4 Questions**

The Speaker shall give due regard to Standing Order 100 dealing with the material that questions may contain but not in such a way that would inhibit the ability of the Opposition to hold the Government to account.

#### **4.5 "Relevance" Standing Order**

The Standing Orders be amended so that answers must be "directly relevant to the question", with the Speaker to lead on enforcement of the relevance test.

The Government and Opposition will support the Speaker in taking a strong stance on this issue.

#### **4.6 Proportionate Share**

A proportionate share of the Questions be allocated to non-aligned members, including the order in which those questions are asked during Question Time.

#### **4.7 Points of Order**

The Standing Orders be principally raised and enforced by the Speaker.

The point of order on relevance can only be once per question.

#### **4.8 Notes**

It is the preference in Question-Time for both questioners and Ministers to use best endeavours not to use notes. It is understood there are times when notes should be used to assist in providing the House with the best possible information in the most accurate and timely way possible. However, at all other times, the preference is no notes.

This will be reviewed at the end of the first session to see if further restrictions on use of notes in Question Time can and should be applied.

### **5. MATTERS OF PUBLIC IMPORTANCE**

#### **5.1 Length**

The maximum length of discussion on Matters of Public Importance be extended to 1 hour and thirty minutes. That the proposer and the next speaker be allowed to speak for up to 15 minutes and that other speakers be allowed to speak for up to 10 minutes.

#### **5.2 Greater Prominence**

The Matter of Public Importance debate will immediately follow Question Time.

### **5.3 Proportionate Share**

A proportionate share of Matters of Public Importance be allocated to all non-Government Members.

## **6. PRIVATE MEMBERS BUSINESS AND PRIVATE MEMBERS BILLS**

### **6.1 Voting on Private Members' Bills**

The Speaker, the Leader of the House, and the Selection committee, will ensure time is allocated for votes on Private Members' Bills during Government Business time in the Main Chamber.

### **6.2 Priority given for Private Members Business on Mondays**

The Standing Orders will be amended to provide for:

- a period of committee and delegation business and private Members' business to be given priority in the Chamber on Mondays from 12 noon – 1.45pm, beginning with Petitions Committee report and statement(s) for 10 minutes;
- quorums and divisions called during the period of committee and delegation business and private Members' business being deferred until 5pm on Monday;
- the Main Committee to regularly meet on Mondays from 10.30 a.m. to 1.30 p.m, commencing with a 30 minute period of three minute constituency statements as provided by standing order 193, followed by committee and delegation reports and private Members' business being given priority;
- 90 second statements to take place from 1.45 p.m. each day, prior to Question Time, in the Main Chamber;
- a period of committee and delegation business and private Members' business to be given priority in the Chamber from 7:30pm to 9:30pm; and
- the adjournment to be proposed at 9.30 p.m. on Mondays, and the House adjourning at 10 p.m.

## **7. ADJOURNMENT**

The Adjournment Debate shall be one hour on Monday and Tuesdays, and 30 minutes on Wednesdays and Thursdays.

## **8. 90 SECOND STATEMENTS**

15 minutes will be allocated prior to Question time for Members to make 90 Second Statements on constituency issues.



## **9. MINISTERIAL STATEMENTS**

### **9.1 Time Limits**

Ministerial statements and response be limited to 10 minutes, except in circumstances agreed to by the Speaker or for Prime Ministerial statements.

### **9.2 Proportionate Opportunities to Respond to Ministerial Statements**

The Speaker will ensure that opportunities to respond are provided to non-Government Members.

## **10. THE COMMITTEE SYSTEM**

### **10.1 Numbers of Committees**

The number of general purpose standing committees be reduced to nine, comprising standing committees on:

- Aboriginal and Torres Strait Islander Affairs;
- Economics;
- Education and Employment;
- Climate Change, Environment and the Arts;
- Health and Ageing;
- Infrastructure and communications;
- Social Policy and Legal Affairs;
- Agriculture, Resources, Fisheries and Forestry; and
- Regional Australia.

### **10.2 Committee Membership**

Membership of committees will ideally be seven. Committee membership will fully reflect membership of the House, including the crossbench.

The maximum number of supplementary members for each general purpose standing committee inquiry be increased to four; with supplementary members having full participatory rights, other than voting rights.

### **10.3 Powers of Committees**

The powers of Committees be referred immediately to the Committee of Chairs as soon as established to ensure the most authority possible for Committees within allocated resources.

### **10.4 Chair of the Joint Parliamentary Committee on Public Accounts and Audit**

The Chairman of the Joint Parliamentary Committee on Public Accounts and Audit be drawn from a member of a non-Government party or a non-aligned Member.

## **10.5 Pre-Legislative Scrutiny of Bills**

All Bills to be introduced into the House be referred immediately to the Selection Committee.

All Bills regarded as controversial or requiring further consultation or debate be immediately referred to the relevant Standing or Joint Committee to allow a period of discussion and public consultation on introduction. One member objecting in the Selection Committee will be sufficient to declare a Bill controversial.

Non-controversial Bills will be authorised for immediate introduction into the House.

This mechanism will be reviewed to ensure it does not cause unnecessary delays to the House legislative processes, and is indeed a mechanism to speed up the legislative agenda.

## **10.6 Responses to Committee Reports**

Within six months of a House or Joint committee report being presented in the House, a government response will be tabled in the House. If no such response has been received within six months of such a report being presented in the House, a statement signed by the relevant Minister (or Minister representing the Minister) must be tabled stating the reasons why the response could not be prepared in time.

The Minister (or Minister representing the Minister) must also make themselves available to appear before the relevant Committee at the next reasonably available opportunity to answer questions on that statement.

Following this, issues of dispute between a Parliamentary Committee and an Executive will be referred to the Auditor-General for further follow-up, clarification, and attempted resolution.

A timely response to Committee Reports will be included as a Key Performance Indicator in the employment arrangements of Agency Heads.

The Clerks will ensure a report on the status of responses to Committee Reports is included in the Notice Paper on a monthly basis online.

## **10.7 Statements during Private Members Business by Committee Chairs**

Standing orders will be amended to provide for committee Chairs to make short statements during private Members' business time, informing the House of new inquiries being undertaken by the committee.

## **11. CONSIDERATION OF BILLS**

### **11.1 Speaking Times**

The time limit allocated for all Members speaking on Bills will be reduced from 20 to 15 minutes.

The Selection Committee is able to determine, where a Bill is not controversial, that time limits for speaking on that Bill be reduced to 5 or 10 minutes.

Where a large number of Members wish to speak on a particular Bill, the Selection Committee can, by agreement, place limits on speaking times to facilitate as many Members as possible speaking on the Bill.

The Speaker, with the Selection Committee, is to consider and potentially trial 5 minutes of questions (30 second question with two minute answers) at the end of all MP's speeches, so as to encourage "smarter debate".

### **11.2 Consideration in Detail**

The Leader of the House in consultation with the Selection Committee will ensure that;

- during Government Business time in the Main Chamber additional time will be allocated for the summing up of Appropriations and related Budget Bills by the Minister for Finance; and
- additional time is allocated for the Consideration in Detail process in the Main Committee.

## **12. RECOMMITAL OF VOTES**

The Standing Orders be amended so that there may be a recommital of a vote on the same sitting day when a Member is inadvertently absent following a successful suspension of standing orders after debate.

## **13. APPROPRIATION BILLS**

The Senate resolution on appropriation bills which contain matters which should have been the subject of separate legislation is noted. To prevent this occurring, the parties and non-aligned Members agree to developing a mechanism to resolve this issue prior to the next appropriation bills being introduced.

## **14. ASSENT TO LEGISLATION**

A mechanism be established to ensure a commencement date be included in all legislation.

## **15. SITTING DAYS**

That more sitting weeks each year be considered depending on Government and Private Members Business.

## **16. RESOURCES OF THE PARLIAMENT**

### **16.1 Parliamentary Budget Office**

A Parliamentary Budget Office be established, based in the Parliamentary Library, to provide independent costings, fiscal analysis and research to all members of parliament, especially non-government members.

The structure, resourcing and protocols for such an Office be the subject of a decision by a special committee of the Parliament which is truly representative of the Parliament.

### **16.2 External review of staffing levels within the Department of the House of Representatives committee Office**

The Speaker will arrange for an external review of staffing levels within the Department of the House of Representatives Committee Office and the Parliamentary Library.

This will incorporate a work analysis to determine the nature and level of secretariat support necessary for the ongoing inquiry work of committees, to ensure that the House committee system is supported by an adequate number of appropriately qualified staff.

### **16.3 Establishment of a representative House Committee on Appropriations and Staffing**

A House Committee on Appropriations and Staffing be established, chaired by the Speaker, to make recommendations to the House on:

- estimates of the funding required for the operation of the Department of the House of Representatives; such estimates, once agreed by the House, are to be conveyed by the Speaker to the Minister for Finance and Deregulation for consideration and approval;
- proposals for changes to the administrative structure of, or service provision by, the Department of the House of Representatives;
- administration and funding of security measures affecting the House;
- any other matters of finance or services referred to it by the Speaker or the House; and
- the Liaison Committee of Chairs and Deputy Chairs have a more active role in monitoring the resources available to committees, with the Chair to report to the House Committee on Appropriations and Staffing on committee activities and resource levels.

### **16.4 Allocation of teleconferencing and videoconferencing facilities**

The Leader of the House, with the Speaker will investigate the adequacy of teleconferencing and videoconferencing facilities available to committees; and consideration of any upgrades or additional facilities required to meet current and anticipated future demand from committees.

## **17. PAIRING VOTES**

### **17.1 Pairing arrangements for all Members**

Additional mechanisms will be considered that responsibly deal with essential absences by Members from the House, including 'pairs'.

The Government and Opposition will guarantee a 'pair' to non-aligned Members providing there are reasonable grounds.

These arrangements may be similar to those that currently occur between the Whips in the Senate.

## **18. PARLIAMENTARY INTEGRITY COMMISSIONER**

This commissioner would be supervised by the privileges committee from both House and Senate to provide advice, administration and reporting on parliamentary entitlements, investigate and make recommendations to the Privileges Committees on individual investigations, provide advice to parliamentarians on ethical issues and uphold the Parliamentary Code of Conduct and control and maintain the Government's Lobbyists register.

## **19. ESTABLISH A FORMAL CODE OF CONDUCT FOR MEMBERS AND SENATORS**

A cross-party working group and inquiry process will be established to draft a code of conduct for members of the House and the Senate. Once established, this code will be overseen by the Privileges committee.

## **20. REGISTER OF LOBBYISTS**

Further enhancements to the Register of Lobbyists be examined, including to the online publication of the Register and to place the register under the supervision of the Parliamentary Integrity Commissioner.

## **21. REVIEW MECHANISM**

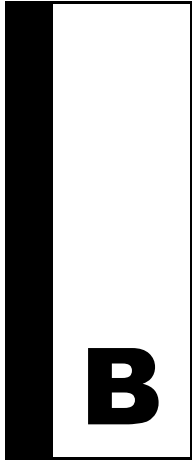
A mechanism will be established to review all standing order and other procedural changes in this agreement and will report following the first session of this Parliament.

## **22. OTHER "BETTER GOVERNMENT" IMPROVEMENTS;**

It is expected, through the life of this Parliament, and with Private Members Bills now having the ability to be voted on, that there will be further steps taken to improve Government in the following way;

- Open and Accountable Government improvements
- Further steps on improving democratic operation of the Parliament
- Electoral Funding Improvements
- Truth in Political Advertising improvements





## **Appendix B – Overview of procedural changes**





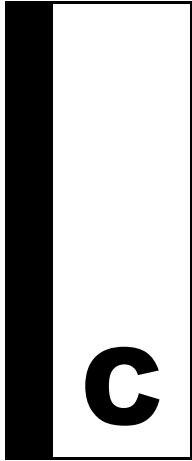
## Overview of Procedural Changes

Item	42 <sup>nd</sup> Parliament	43 <sup>rd</sup> Parliament	Comments/ Relevant standing orders
<b>Acknowledgement of country</b>	No acknowledgement of country	Speaker to make acknowledgement of country every morning before prayers	Introduced for the first time in 43 <sup>rd</sup> Parliament <b>(SO 38)</b>
<b>Question Time</b>	<ul style="list-style-type: none"> <li>No time limits for questions or answers</li> <li>Answers must be relevant to the question</li> </ul>	<ul style="list-style-type: none"> <li>Time limits of 45 seconds for questions and 4 minutes for answers</li> <li>Answers must be 'directly relevant' to the question</li> <li>Only one point of order on relevance allowed for each answer</li> </ul>	<b>(SOs 86, 100, 104)</b>
<b>Matter of public importance (MPI)</b>	<ul style="list-style-type: none"> <li>After Question Time, documents and ministerial statements on Tuesdays, Wednesdays and Thursdays</li> <li>Duration, 1 hour</li> <li>Speaking times – 15 mins for proposer and Member next speaking, 10 mins for next two Members speaking and 5 mins for any other Member</li> </ul>	<ul style="list-style-type: none"> <li>After Question Time and documents on Tuesdays, Wednesdays and Thursdays</li> <li>Duration, 1 hour 30 mins</li> <li>Speaking times – 15 mins for proposer and next Member speaking and 10 mins for any other Member</li> </ul>	Duration of MPI extended to 1 hour 30 minutes. MPI to follow Question Time (and documents). <b>(SOs 1, 34, 46)</b>
<b>Private Members' business</b>	<ul style="list-style-type: none"> <li>Total time allocated for committee and delegation business and private Members' business on Mondays in Chamber, 1 hr, and in Main Committee, 1 hr 35 mins</li> <li>Government and Opposition Whips schedule private Members' business on Mondays</li> <li>5 mins speaking time on presentation of private Members' bills</li> </ul>	<ul style="list-style-type: none"> <li>Total time allocated for committee and delegation business and private Members' business on Mondays in Chamber, 3 hrs 30 mins, and in Main Committee, 5 hrs</li> <li>Selection Committee schedules private Members' business on Mondays</li> <li>10 mins speaking time on presentation of private Members' bills</li> <li>Selection Committee recommends items of private Members' business to be voted on</li> </ul>	<ul style="list-style-type: none"> <li>Additional time for private Members' business in Chamber and Main Committee</li> <li>Role for Selection Committee in scheduling private Members' business and in recommending items to be voted on</li> <li>Increase in speaking time for presentation of private Members' bills from 5 to 10 mins <b>(SOs 1, 34, 41, 141, 192, 222)</b></li> </ul>
<b>Adjournment debate</b>	<p><i>Chamber</i></p> <p>Monday: 9.30pm–10pm Tuesday: 8.30pm–9pm Wednesday: 7.30pm–8pm Thursday: 4.30pm–5pm</p> <p><i>Main Committee</i></p> <p>Thursday: 12.30pm–1pm</p>	<p><i>Chamber</i></p> <p>Monday: 9.30pm–10.30pm Tuesday: 9.30pm–10.30pm Wednesday: 7pm–8pm Thursday: 4.30pm–5pm</p> <p><i>Main Committee:</i></p> <p>Thursday: 12.30pm–1pm</p>	Length of adjournment debate in Chamber increased from 30 mins to 1 hour on Mondays, Tuesdays and Wednesdays. <b>(SOs 1, 29, 31, 34, 192)</b>
<b>90 second statements</b>	In Main Committee on Mondays (6.40pm-6.55pm).	In Chamber on Mondays, Wednesdays and Thursdays, immediately prior to Question Time (1.45pm-2pm).	<b>(SOs 1, 43)</b>

Item	42 <sup>nd</sup> Parliament	43 <sup>rd</sup> Parliament	Comments/ Relevant standing orders
<b>House committees (general purpose standing)</b>	<ul style="list-style-type: none"> <li>• 12 committees</li> <li>• Membership of committees is 10</li> <li>• 2 supplementary members allowed on an inquiry</li> </ul>	<ul style="list-style-type: none"> <li>• 9 committees</li> <li>• Membership of committees is 7</li> <li>• 4 supplementary members allowed on an inquiry</li> <li>• Selection Committee to refer controversial bills/bills requiring additional consultation to relevant committee</li> <li>• Provision for Chairs and Deputy Chairs to make statements in House regarding inquiries during time for committee business on Mondays</li> </ul>	<ul style="list-style-type: none"> <li>• Number of committees and membership of committees reduced</li> <li>• Number of supplementary members allowed increased</li> <li>• Referral of bills to committees by Selection Committee and provision for statements in the House regarding inquiries are new reforms</li> </ul> <p><b>(SOs 39(a), 143, 215, 222(iii))</b></p>
<b>Government responses to House/Joint committee reports</b>	No formal time limit for government responses	<ul style="list-style-type: none"> <li>• Six month time limit for government responses</li> <li>• When time limit not met, statement of reasons for delay to be presented in House by relevant Minister and possibility of Minister being required to appear before relevant committee</li> </ul>	<b>Resolution of the House (adopted 29 September 2010)</b>
<b>Time limits for second reading speeches</b>	20 min limit for second reading speeches (Excludes speeches by Mover, Leader of Opposition or Member representing for government bills; and Mover, Prime Minister or Member representing and Leader of Opposition or Member representing for private Members' bills)	15 min limit for second reading speeches, or lesser time determined by Selection Committee.(Excludes speeches by Mover, Leader of Opposition or Member representing for government bills; and Mover, Prime Minister or Member representing and Leader of Opposition or Member representing for private Members' bills)	Time limit for most second reading speeches reduced from 20 to 15 minutes. Selection Committee may reduce time-limit further. <b>(SOs 1, 222(a)(iv))</b>
<b>Questions during second reading debate</b>	No provision for questions during second reading debate	<ul style="list-style-type: none"> <li>• For 5 mins at conclusion of second reading speech, Member may be questioned in relation to their speech</li> <li>• Time limit of 30 secs for questions and 2 mins for replies</li> <li>• Members not obliged to take questions</li> <li>• Does not apply to Minister's second reading speech, speech of main Opposition speaker and Minister's speech closing debate</li> </ul>	<b>(Sessional order 142A)</b>
<b>Recommittal of votes</b>	No provision for recommittal of vote where Member accidentally absent	If a division has miscarried by a Member being accidentally absent or similar incident, a Member may move a suspension of standing orders to enable the House to divide again. If agreed to, the question is put again.	A suspension motion moved without notice can be carried only by an absolute majority of Members <b>(SOs 47, 132(b))</b>

Item	42 <sup>nd</sup> Parliament	43 <sup>rd</sup> Parliament	Comments/ Relevant standing orders
<b>House Selection Committee</b>	No House Selection Committee	Established to: <ul style="list-style-type: none"> <li>• Arrange timetable and order of committee and delegation business and private Members' business on Mondays</li> <li>• Recommend items of private Members' business to be voted on</li> <li>• Select bills for referral to relevant committee</li> <li>• Subject to SO 1, set speaking times for second reading debates</li> </ul>	Selection Committee re-introduced with wider role than Selection Committees established in 41 <sup>st</sup> and previous parliaments <b>(SO 222)</b>
<b>House Appropriations and Administration Committee</b>	No House Appropriations and Administration Committee	Established to consider: <ul style="list-style-type: none"> <li>• estimates of funding for the Department of the House of Representatives (DHR)</li> <li>• proposals for administrative changes and variation to service provided by the DHR</li> <li>• administration and funding of security measures affecting the House</li> <li>• proposals for works in the parliamentary precincts requiring parliamentary approval</li> </ul> Committee will make an annual report to the House on its operations	Established for the first time in 43 <sup>rd</sup> Parliament <b>(SO 222A)</b>
<b>Hours of sitting</b>	<i>Chamber</i> Monday: 12 noon–10pm Tuesday: 2pm–9pm Wednesday: 9am–8pm Thursday: 9am–5pm  <i>Main Committee</i> Monday: 4pm–6.40pm (if required), and 6.40pm–9.30pm Tuesday: 4pm–8.30pm (if required) Wednesday: 9.30am–1pm, and 4pm–7.30pm (if required) Thursday: 9.30am–1pm	<i>Chamber</i> Monday: 10am–10.30pm Tuesday: 2pm–10.30pm Wednesday: 9am–8pm Thursday: 9am–5pm  <i>Main Committee</i> Monday: 10.30am–1.30pm, and 4pm–10pm Tuesday: 4pm–10pm (if required) Wednesday: 9.30am–1pm, and 4pm–7.30pm (if required) Thursday: 9.30am–1pm	Sitting hours extended on Mondays and Tuesdays in Chamber and Main Committee <b>(SOs 29, 34, 192)</b>





## **Appendix C – List of submissions and exhibits**

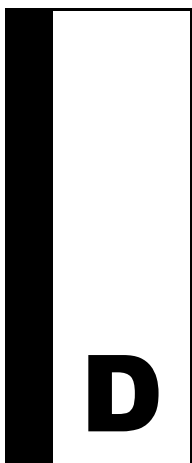
### **Submissions**

1. Clerk of the House of Representatives
2. Dr Mal Washer MP
3. Hon Peter Slipper MP
- 3.1 Hon Peter Slipper MP (Supplementary)
4. Hon Christopher Pyne MP

### **Exhibits**

1. Discussion paper from the Clerk of the House of Representatives: *Stating the Question on Amendments.*





## **Appendix D – Selection Committee principles**

In formulating the priority to be given to items of private Members' business the Selection Committee shall have regard to:

- (a) the importance of the subject;
- (b) the current level of interest in the subject;
- (c) the extent of the current discussion on the subject both in the Parliament and elsewhere;
- (d) the extent to which the subject comes within the responsibility of the Commonwealth Parliament;
- (e) the probability of the subject being brought before the House by other means within a reasonable time; and
- (f) whether the subject is the same, or substantially the same, as another item of business which has been debated or on which the House has already made a decision in the same period of sittings and, if so, whether new circumstances exist.

2. The Committee shall accord priority to private Members' business:

- (a) with regard to the numbers of Members affiliated with each party in the House;
- (b) in a way which ensures that a particular Member or the Members who comprise the Opposition Executive do not predominate as the movers of the items selected;
- (c) in a way which seeks to ensure balance is achieved over each period of sittings;

(d) in a manner that ensures appropriate participation by non-aligned Members.

3. When a private Member has the responsibility for the carriage of a bill transmitted from the Senate for concurrence, the bill shall be accorded priority following the question for the second reading being put to the House in the same way as a private Member's bill originating in the House is accorded priority by standing order 41.

4. Priority shall not be accorded to any item of private Members' business if the matter should be dealt with by the House in another, more appropriate, form of proceeding.

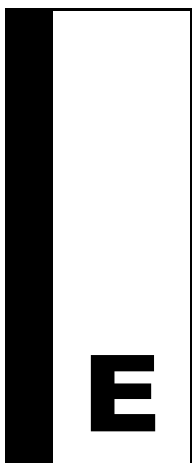
5. The general principles set out above shall be observed by the Selection Committee but nothing in the general principles shall be taken to prevent the Selection Committee departing from those general principles in order to meet circumstances, which, in its opinion, are unusual or special.

6. These general principles shall continue in effect until altered by the House following a report from this or a future Selection Committee.<sup>1</sup>

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1 Selection Committee, Report No 3, p 7.





## **Appendix E – Submission from the Clerk of the House of Representatives**





PARLIAMENT *of* AUSTRALIA  
HOUSE *of* REPRESENTATIVES

OFFICE OF THE CLERK OF THE HOUSE

PO Box 6021, Parliament House, Canberra ACT 2600 | Phone: (02) 6277 4111 | Fax: (02) 6277 2006 | Email: [clerk.reps@aph.gov.au](mailto:clerk.reps@aph.gov.au)

10 December 2010

Ms Julie Owens MP  
Chair  
House Standing Committee on Procedure  
Parliament House  
CANBERRA ACT 2600

Dear Ms Owens

Thank you for the opportunity to appear before the committee on 25 November to discuss the operation of the new arrangements.

My perception is that many of the standing order changes that have been made to implement the parliamentary reform agenda are working well. In particular, they have provided greater scope for private members – both to raise matters of concern in the additional time provided for members' statements and the adjournment debate and to pursue issues through private members' bills and motions, and have them voted on.

At this stage I would like to make some preliminary comments on matters which could be addressed by the Committee. There may be the opportunity, once arrangements have been in place longer, for more significant change to be considered.

#### PRIVATE MEMBERS' BILLS

Currently, the standing orders provide that a private Member may make a statement for a period not exceeding 10 minutes when presenting a bill. If the Selection Committee sets time for the second reading to be moved the member is given a further opportunity to speak in support of the bill.

This two-stage approach has been a feature of the arrangements for private Members' bills for more than 20 years. It seems that the original idea was that a private member would present a bill on a Monday and make a 5 minute statement. The second reading would then be moved and debated on the Thursday; the 5 minute statement having allowed members to explain their proposals briefly.

In the present arrangements there seems to be a degree of duplication between the 10 minute statements being made on presentation and the second reading speeches made when the bills are listed again.

The committee may wish to consider whether private Members presenting bills should be able to move the second reading at the time of presentation, instead of making a statement

with debate then being adjourned. This would mirror the practice that applies to government bills.

#### PRIVATE MEMBERS' BUSINESS – MONDAY NIGHTS

Standing Order 34 provides for Committee and delegation reports and private Members' business to have priority in the House from 8.00 pm until 9.30 pm on Monday nights.

When a division has been deferred between 6.30 pm and 8.00 pm the time taken from 8.00 pm on (a) division(s) can have a significant impact on the time notionally available for private Members' business. The usual result has been to reduce the time available for the final item.

It is not easy to see a solution to this problem. One possibility would be a change to the order of business to try to guarantee a specified period of time for Private Members Business, but that would have other consequences, such as a reduction in the time for the adjournment debate. Another option may be to delay the commencement of Private Members' Business until 8.30 pm (ie extending government business by half an hour), with a compensatory adjustment to PMB earlier in the day (ie extend it to 12.30 pm). This would allow for deferred divisions to be held in government business time and not impact on PMB.

#### PRIVATE MEMBERS' ITEMS IN MAIN COMMITTEE

When the Selection Committee selects items of business and schedules them for the Main Committee, the Speaker presents copies of the items to the House and further debate is automatically referred to the Main Committee. This process reflects the thinking that business items do not originate in the Main Committee, instead they are referred by the House.

The Procedure Committee may think it reasonable that the standing orders provide that when the Selection Committee schedules items for the Main Committee they be deemed to have been referred by the House. This would obviate the need for the Speaker to table the terms of matters in the House and for the matters to be deemed to be presented or moved before they can stand referred to the Main Committee. It would allow the Member responsible for a notice to initiate a matter in the Main Committee by presenting a bill or moving a motion.

#### RETURN OF ITEMS FROM MAIN COMMITTEE

At present, the return of items of private members' business from the Main Committee is achieved by means of a formal report by the Speaker. A simpler alternative would be to have a member move, in the Main Committee, that further proceedings be conducted in the House (SO 197(a)). It would then be possible for items in this category to be listed on the Notice Paper as orders of the day under Private Members' business for the House. They could then be called on if standing orders were suspended to enable them to be voted on during government business time.

While such a process is not prohibited by the standing orders, because it would amount to a new practice, it would be desirable for the committee to endorse it (if the committee thinks it worthwhile).

## ADOPTION OF SELECTION COMMITTEE PRINCIPLES

The Selection Committee has agreed on principles to apply to the selection of items of private Members' business. The committee has reported these to the House – and the Procedure Committee may consider that they be considered by the House and, if agreed, adopted by it.

## PRIVATE MEMBERS' BUSINESS TO BE VOTED ON – LIST IN NOTICE PAPER?

Selection Committee reports, which are published on the committee's home page, list items recommended for voting. While this makes the recommendations public, the Committee may consider that listing the items recommended in the Notice Paper would also be of assistance to members and others.

## TIME LIMITS

Although members will be better judged than I am to assess the matter, my preliminary observation is that the reduction in ordinary time limits for second reading speeches from 20 minutes to 15 minutes has been successful. The committee may be interested in considering the provision for time limits for debates not otherwise provided for (20 minutes for the mover and 15 minutes for other speakers). This 'default' provision applies in the case of motions to take note of papers and motions to suspend standing orders that have been moved by leave. The Committee may wish to consider the possibility of the time limits being reduced to 15 minutes for the mover and 10 minutes for other members.

The Selection Committee routinely determines the time limits for each member speaking on an item of private Members' business. These time limits have applied when an item has been considered during the times set aside for Private Members' Business, but not when it has been called on during government business time. Thus when an item has been called on, perhaps prior to a vote, Members speaking at that stage have been subject to the standard time limits, and these are longer than those usually determined by the Selection Committee. The Procedure Committee may think that this is an anomaly that should be corrected and covered by Selection Committee determination.

On a further point of detail, the Selection Committee has reported to the House (report No. 3 of 21 October 2010) that it has been constrained by SO 1 in adjusting speaking times for the mover and lead speakers on private Members' bills, despite having the power under SO 222 (c) to determine the time limits for each Member speaking in private Members' business.

## REFERENCE OF BILLS TO COMMITTEES

The standing orders allow the Selection Committee to refer bills to standing committees. Although it is early days, as at the adjournment of the House on 29 November 2010 only two government sponsored bills and two private members bills had been referred. This is a matter the Committee may wish to monitor and regard will need to be taken of the processes in the Senate for the referral of bills to Senate committees; I will be happy to provide further comment on this matter should the committee wish me to.

## SELECTION COMMITTEE

When it existed with its more limited role, between 1995 and 2007, the Selection Committee was chaired by the Deputy Speaker. In many ways, given its wider and newer responsibilities it has been helpful that the committee has been chaired by the Speaker. Nevertheless, from a longer term perspective, the Committee may wish to reflect on the desirability of the Speaker being a step removed from the arrangements and negotiations about the scheduling of business, decisions about referral of bills to committees and so on.

\* \* \*

My colleagues and I will of course be happy to provide any further comment or advice the committee may require.

Yours sincerely



BERNARD WRIGHT  
Clerk of the House