



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



PARLIAMENT *of* AUSTRALIA
HOUSE *of* REPRESENTATIVES

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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.

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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