



# *House of Representatives*

## **REPORT FROM THE STANDING ORDERS COMMITTEE**

together with

## **RECOMMENDATIONS**

**10 June 1970**

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
*1970—Parliamentary Paper No. 114*

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*Brought up and  
ordered to be printed 18 August 1970*

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COMMONWEALTH GOVERNMENT PRINTING OFFICE  
CANBERRA: 1970

## MEMBERS OF THE STANDING ORDERS COMMITTEE

*Ex officio:*

The Speaker (Sir W. J. Aston)—*Chairman*  
The Chairman of Committees (Mr Lucock)  
The Leader of the House (Mr Snedden)  
The Deputy Leader of the Opposition (Mr Barnard)

*Appointed:*

Mr Gorton (Prime Minister)  
Mr McEwen (Minister for Trade and Industry)  
Mr Bryant  
Mr Drury  
Mr Duthie  
Mr Everingham  
Mr Scholes

## REPORT

1. Your Committee met on 11 May 1970 and considered the draft report of the Committee of the previous (26th) Parliament which had not been finalised.
2. Recommendations are made for the adoption of amendments to the standing orders in respect of (a) references to the Senate, (b) time limits for debates and speeches and (c) Senate's amendments of House Bills.
3. In addition your Committee recommends that (a) legislative action be taken to reduce the quorum in the House from one-third of the Members to one-fifth and (b) that the days and hours of sitting in a sitting week be based on a four day week.
4. Your Committee after consideration did not agree to proposals relating to (a) the placing of a limit on the number of questions any one Member may place on notice for the same day, (b) the provision of a new standing order to enable the Speaker upon a petition of a quorum of Members to call the House together and (c) an amendment to standing orders which would prevent the interruption of a Member during his allotted speaking time.
5. Your Committee met again on 1 June 1970 and considered proposals for the development of standing and select committees including proposals submitted to the Prime Minister in April by Mr Speaker. At the Committee's request these proposals were circulated to all Members of the House for consideration.

### *Sitting days and hours in a sitting week*

6. A sub-committee consisting of the Chairman of Committees (Mr Lucock), Mr Bryant and Mr Drury was appointed to consider the matter of sitting days and hours in a sitting week.
7. Your Committee considered the report of the sub-committee and recommends that the sittings of the House be based on a four day week, two weeks of sitting and one week off as follows:

#### *First week*

Tuesday	2 p.m.-10.30 p.m.*
Wednesday	2 p.m.-10.30 p.m.*
Thursday	10 a.m.-10.30 p.m.*
Friday	10 a.m.-4.00 p.m.*

#### *Second week*

Monday	2 p.m.-10.30 p.m.*
Tuesday	10 a.m.-10.30 p.m.*
Wednesday	2 p.m.-10.30 p.m.*
Thursday	10 a.m.-10.30 p.m.*

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\* Unless the motion to adjourn the House is moved earlier than these times the Speaker will interrupt the debate and propose the question that the House adjourn. The motion is open to debate or if required by a Minister will be put immediately. If negatived the business interrupted is resumed at the point where it was interrupted. (See order of the House of 16 April 1970 for similar procedures.)

8. After consideration of a proposal that the House should sit over meal hours your Committee agreed that this matter should be left for decision by Members of the House.

9. Your Committee recognised that a change in the days and hours of sitting would involve consequential amendments in the standing orders regarding, *inter alia*, grievance day and general business.

*Standing order 72—Reference to Senate*

'72. No Member may allude to any debate or proceedings of the current session in the Senate, or to any measure pending therein; Provided that this standing order shall not prevent reference to a ministerial statement in the Senate.'

10. The proposed amendment of this standing order follows a submission by a Member that the practice in the House of referring to the Senate as 'another place' and to Senators as 'Members of another place' was of little present value in the procedures of Parliament and should be discontinued.

11. Parliamentary history is largely silent on the origin of the reference to 'another place' but it is reasonable to assume that it came into use as a device to surmount the rules that allusions to debates of the current session in the other House are out of order as are also reflections on Members of the other House. These rules prevented fruitless arguments between members of two distinct bodies who were unable to reply to each other and guarded against recrimination and offensive language in the absence of the party assailed, but it is probable that the principal reason for their existence was the understanding that the debates of the one House were not known to the other and could therefore not be noticed.

12. The daily publication of debates has changed the situation; the same questions are discussed by persons belonging to the same parties in both Houses and, despite the rule, there is an increasing tendency for debate and proceedings in the Senate to be referred to, a practice to which the Chair does not offer significant objection. It has for some time been permissible for reference to be made in the House to ministerial statements (many of which bear on policy) made in the Senate.

13. It is therefore proposed, in recognition of the changes which have taken place, that standing order 72 be amended to allow *relevant* allusion to Senate debate and proceedings. A safeguard against recrimination or offensive language will be standing order 75 prescribing that no Member may use offensive words against either House of the Parliament or any Member thereof.

14. It is also recommended, as a corollary, that, subject to the prohibitions imposed by standing order 75, there be no restriction on direct reference to the Senate and Senators. This will not prevent Members from using the oblique references to the Senate and Senators if this is preferred.

15. Your Committee recommends that standing order 72 be amended by the insertion of the words shown hereunder in capital letters:

'No Member may allude to any debate or proceedings of the current session in the Senate, or to any measure pending therein, UNLESS SUCH ALLUSION

BE RELEVANT TO THE MATTER UNDER DISCUSSION: Provided that this standing order shall not prevent reference to a ministerial statement in the Senate.

*Standing order 91—Time limits for debates and speeches*

16. Your Committee recommends that standing order 91 be amended as shown hereunder:

The maximum period for which a Member may speak on any subject indicated in this standing order, and the maximum period for any debate, shall not, unless otherwise ordered, exceed the period specified opposite to that subject in the following schedule:

SUBJECT	TIME	
	At present	Proposed
<b>In the House—</b>		
<i>Election of Speaker or Chairman—</i>		
Each Member . . . . .	5 mins	
<i>Address in Reply—</i>		
Each Member . . . . .	25 mins	20 mins
<i>Discussion of definite matter of public importance (under standing order 107)—</i>		
Whole debate . . . . .	2 hrs	
Proposer . . . . .	15 mins	
One Minister . . . . .	15 mins	
Any other Member . . . . .	10 mins	
<i>Motion for adjournment of House to terminate the sitting—</i>		
Each Member . . . . .	10 mins	
<i>Censure or want of confidence—</i>		
Motion accepted by a Minister as provided under standing order 110—		
Mover . . . . .	45 mins	40 mins
Prime Minister or one Minister deputed by him . . . . .	45 mins	40 mins
Any other Member . . . . .	25 mins	20 mins
<i>Limitation of debate—</i>		
Motion for allotment of time (under standing order 92)—		
Whole debate . . . . .	20 mins	
Each Member . . . . .	5 mins	
<i>Second reading of a bill—</i>		
Main Appropriation Bill for year—		
Mover . . . . .	not specified	
Leader of the Opposition or one Member deputed by him . . . . .	not specified	
Any other Member . . . . .	30 mins	25 mins
<i>Other Bills (Government)—</i>		
Mover . . . . .	45 mins	40 mins
Leader of the Opposition or one Member deputed by him . . . . .	45 mins	40 mins
Any other Member . . . . .	30 mins	25 mins

SUBJECT	TIME	
	At present	Proposed
<b>In the House—continued</b>		
<i>Other bills (Private Government Member)—</i>		
Mover . . . . .	45 mins	40 mins
Prime Minister or one Minister deputed by him . . . . .	45 mins	40 mins
Leader of the Opposition or one Member deputed by him . . . . .	45 mins	40 mins
Any other Member . . . . .	30 mins	25 mins
<i>Other bills (Opposition Member)—</i>		
Mover . . . . .	45 mins	40 mins
Prime Minister or one Minister deputed by him . . . . .	45 mins	40 mins
Any other Member . . . . .	30 mins	25 mins
<i>Question 'That grievances be noted' (under standing order 106)—</i>		
Each Member . . . . .	10 mins	
<i>Proposed resolution relating to tax or duty—</i>		
Mover . . . . .	30 mins	20 mins
Leader of the Opposition or one Member deputed by him . . . . .	30 mins	20 mins
Any other Member . . . . .	20 mins	10 mins
<i>Debates not otherwise provided for—</i>		
Mover of a motion . . . . .	30 mins	25 mins
Any other Member . . . . .	20 mins	15 mins
<b>In committee—</b>		
Minister in charge . . . . .		periods not specified
<i>Limitation of debate—Motion for allotment of time (under standing order 92)—</i>		
Whole debate . . . . .	20 mins	
Each Member . . . . .	5 mins	
<b>Each question before the Chair on the main Appropriation Bill for year or on a Tariff Bill—</b>		
Minister in Charge . . . . .		periods not specified
Any other Member—two periods each not exceeding . . . . .	15 mins	10 mins
<i>Debates not otherwise provided for—</i>		
Each Member—two periods each not exceeding . . . . .		10 mins
<b>In the House or in committee—</b>		
Extension of time—with the consent of a majority of the House or of the committee, to be determined without debate, a Member may be allowed to continue a speech interrupted under the foregoing provisions of this standing order.		
(Except a first speech in committee) for one period not exceeding . . . . .		10 mins
Provided that no extension of time shall exceed half of the original period allotted.		



*Standing order 250—Senate's amendments of Bills originated in the House*

17. When a Bill is returned a *first time* by the Senate with amendments, standing order 246 permits the House to make a further amendment to the Bill provided it is relevant to a Senate amendment rejected by the House. That is, the House rejects the Senate amendment, but makes in place thereof another (and relevant) amendment.

18. Standing order 250, on the other hand, sets out the procedure which may be followed where a Bill is returned a *second time* from the Senate and where the Senate insists on its original amendments to which the House has disagreed. In this case, however, the standing order does not empower the House to make a further amendment to the Bill in place of the Senate amendment which is rejected. To this extent it is felt that existing standing order 250 is defective and that an appropriate amendment of the standing order should be made. This proposed procedure is consistent with the practice of the House of Commons. (*See May 17 Ed., p. 580.*)

19. Your Committee recommends that standing order 250 be amended by the insertion of the words shown hereunder in capital letters:

If the Senate returns the Bill with a message informing the House that it—

I. Insists on the original amendments to which the House has disagreed

.....  
the House may, as to I.

Agree, with or without amendment, to the amendments to which it had previously disagreed, and make, if necessary, consequential amendments to the Bill; or insist on its disagreement to such amendments AND MAKE, IF NECESSARY, AMENDMENTS RELEVANT TO THE REJECTION OF THE AMENDMENTS OF THE SENATE;.....

*Quorum in the House*

20. In addition, your Committee recommends that legislative action be taken to reduce the quorum in the House from one-third of the Members to one-fifth.

21. The present quorum of the House is fixed by section 39 of the Constitution, as follows:

'Until the Parliament *otherwise provides*, the presence of at least one-third of the whole number of the Members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers'.

22. As the House has not so far provided otherwise, the quorum is therefore 42 members, including the occupant of the Chair, being one-third to the next highest whole number of the total number of 125 Members.

23. As the Parliament can 'otherwise provide' only if it makes a law to that effect, legislative action will be necessary if the Committee's recommendation is to be implemented.

24. The relevant standing orders of principal interest are as follows:

15—quorum required for election of Acting Speaker;

41—quorum required for meeting of House;

44—quorum required for division; otherwise no decision arrived at and House adjourned;

45—quorum required during sitting if attention called; otherwise House adjourned.

25. Of these, standing order 44 is of particular importance and is quoted in full:

'If it appears on the report by the tellers of a division of the House that a quorum of Members is not present, the Speaker shall adjourn the House till the next sitting day; and no decision of the House shall be considered to have been arrived at by such division.'

25. When considering this question of the quorum size, your Committee was conscious of the importance to see that the need for the House responsibly to carry out its functions and reach decisions of importance to the people, particularly when voting in division, should not be prejudiced by any reduction in the quorum numbers. It was clear, however, that this would not be at risk as, with almost negligible exception, the number of Members voting in division has been well in excess of the quorum requirement. For example, during the three years 1965-67, when the whole number of Members for quorum calculation purposes was 122 rising to 123 and the quorum was 41, the number of Members voting in division varied between 115 maximum and 68 minimum, the average for all divisions being 96. During the two years 1968-69, the whole number of Members for quorum calculation purposes was 123 rising to 124 in May 1968 when the quorum rose to 42. The number of Members voting in division varied between 112 maximum and 66 minimum, the average for all divisions being 93. These figures are extremely high as a number of Members is always away from Canberra on public business, either overseas or in Australia. There have been only four occasions in the years since 1901, the last being 1934, when there was a lack of quorum on division and standing order 44 operated. On each occasion, the question was the formal one that the House do now adjourn.

26. Since Federation, the considerable growth in the scope and volume of Commonwealth affairs has increased the demands on Members to the point where they have to make the maximum effective use of their available time, particularly while they are in Canberra. Meetings of Committees and of sub-committees, meetings of the Parliamentary political party to which they belong, correspondence, and discussions with constituents visiting the National Capital are among the many things with which Members have to cope in addition to their primary responsibility as Members in the House itself.

27. It is of substantial interest to note that, in other Parliaments, as a general rule, the bigger the membership of a legislature, the lower the percentage required for a quorum, for instance,

Legislature	Membership	Quorum
		Per cent
Tasmania Assembly	35	40
Western Australia Assembly	50	33½
New South Wales Assembly	94	21
Ceylon House of Representatives	157	13
South Africa Assembly	170	18
Canada Commons	263	7½
India Lok Sabha	523	10
United Kingdom Commons	630	6½

28. The quorum requirement for the House of Representatives of 33½ per cent of 125 Members, is obviously out of step with provisions which have been found realistic and acceptable elsewhere.

29. In all the circumstances, your Committee reached the conclusion that, although there may have been good reason for a constitutional requirement as high as one-third in the early years of the House, this is no longer the case and a reduction to one-fifth would serve the best interests of the House, its Members, and the electors whom they represent.

30. As illustrated earlier in this Report, an extremely high number of Members takes part in divisions but it is apparent that the attendance of Members in the Chamber itself during debates will vary according to the nature of the business immediately before the House on the one hand and their extra-Chamber Parliamentary duties on the other. It follows that the need for one-third of Members to answer quorum calls (and it would be begging the question to deny that many quorum calls have a nuisance value only) is an unwarranted harassment of Members in the discharge of their legitimate duties and one which could well defeat the purpose for which this quorum level was first established.

31. Your Committee therefore recommends that the House adopt the proposal to lower the quorum from one-third to one-fifth and that legislation be introduced to give early effect to the change.

#### *Quorum in Committee of the Whole*

32. In considering the question of the size of the quorum in the House, your Committee also looked at the quorum requirement in Committee of the Whole. In so doing, it had regard to the submission of the Member who had raised the general question of quorums that, in Committee, the only requirement should be the presence of a quorum during division.

33. The requirement of a quorum in Committee and the size of the quorum is at present prescribed by standing order 270, as follows:

'The quorum in Committee shall consist of the same number of Members as is requisite to form a quorum of the House.'

34. Related standing orders applicable in Committee are—

284—want of quorum in division; no decision arrived at and Chairman reports to Speaker;

285—quorum required during sitting if attention called; otherwise Chairman reports to Speaker.

35. If, in either circumstance, the Chairman reports to the Speaker that there has been a want of quorum in the Committee, the Speaker then, pursuant to standing order 46, orders the bells to be rung in the House for two minutes, and if a quorum forms in the House, the Committee resumes; if a quorum is not formed, the House adjourns to the next sitting day.

36. The question of whether or not there should be a quorum requirement in Committee is a matter for the House itself to decide. A legal opinion obtained from the Attorney-General's Department confirmed that section 39 of the Constitution is concerned only with meetings of the House. A Committee of the Whole is not a meeting of the House in the sense in which that term is used in section 39. Such Committee is created by the House pursuant to the powers given the House by section 50 of the Constitution and the House may therefore determine by standing orders what quorum, if any, is to apply to meetings of the Committee of the Whole without regard to the provision of section 39 or any legislation pursuant to that section.

37. Of direct relevance also is the fact that the proceedings and decisions of a Committee of the Whole are always subject to confirmation by the House and are of no Parliamentary effect unless the House so confirms them by adopting the Report from the Committee. To this extent, a Committee of the Whole is in no different position to a standing committee or select committee consisting of a small number of Members.

38. There is argument, therefore, in favour of the abolition of the quorum requirement in Committee of the Whole but there could be doubt whether this should extend to abolishing the requirement of a quorum when the Committee is dividing.

39. However, your Committee, having considered all the factors involved, was of the opinion that there should be a quorum requirement in Committee of the Whole and that this should continue to be the same number of Members as is requisite to form a quorum of the House.

#### *Matters noted*

40. *Motions to take note of Paper*—The 1966 Committee referred for discussions between the Leader of the House and the Deputy Leader of the Opposition the growing number of orders of the day for the resumption of debate on motions that the House take note of Ministerial Papers which were appearing on the Notice Paper and the difficulties which could, as a consequence, arise from the application of the anticipation rule contained in standing orders 82 and 163. Your Committee was informed that this discussion had taken place and that a mutually agreeable solution had been arrived at.

41. *Incorporation in Hansard*—The Committee of the previous Parliament was informed by Mr Speaker that questions had arisen in the House concerning the incorporation in Hansard of matter which had not been read to the House, particularly in respect of the incorporation of associated memoranda in the speech of a Minister who moves the second reading of a Bill of a markedly technical nature. Mr Speaker referred to two instances when, although leave to incorporate had been given by the House, he had, as the final arbiter, agreed with some reluctance. Your Committee noted Mr Speaker's remarks and agreed there should be no change in the procedure agreed to by the House on 31 March 1965 when it adopted a recommendation contained in a Report of the then Standing Orders Committee that, *inter alia*, the final decision regarding the incorporation in Hansard of matter unread to the House shall be made by the Presiding Officer.

42. Subsequently, the purpose of the Member who had raised the question of the incorporation in Hansard of associated memoranda was largely met when Mr Speaker arranged for all explanatory memoranda circulated in the Chamber for the information of Members to be published by the Government Printer and made available for distribution or sale to persons and institutions interested in the Bill.

W. J. ASTON  
Chairman

House of Representatives,  
10 June 1970

