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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES
STANDING ORDERS COMMITTEE

Report together with recommendations
(Matters relating to presentation of
petitions and method of raising matters
of privilege)

15 November 1979

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HOUSE OF REPRESENTATIVES

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MEMBERS OF THE STANDING ORDERS COMMITTEE

Ex officio:

Mr Speaker (Sir Billy Snedden)—Chairman
The Chairman of Committees (Mr Millar)
The Leader of the House (Mr Viner)
The Deputy Leader of the Opposition (Mr Bowen)

Appointed:

Mr Anthony (Minister for Trade and Resources)
Mr Bryant
Mr Cairns
Mr Giles
Dr Jenkins
Mr Scholes
Mr Young

Clerk to the Committee (Mr Blake)

THE HISTORY OF THE UNITED STATES

1776

1789

1800

1861

1865

1877

1899

1914

1917

1929

1933

1945

1949

1954

1964

1973

1979

1981

1989

REPORT

Your Committee met on 13 and 14 November 1979 to consider matters relating to the presentation of petitions and the method of raising matters of privilege.

Recommendations involving changes to the Standing Orders

Your Committee agreed to the following recommendations:

1. That standing order 101 (routine of business) be amended to read:
101. The House shall proceed each day with its ordinary business in the following routine. 1. Giving notices. 2. Questions without notice. 3. Presentation of papers. 4. Ministerial statements, by leave. 5. Matter of public importance. 6. Presentation of petitions. 7. Notices and orders of the day; Provided that on those alternate sitting Thursdays when 'Grievance debate' is first order of the day, government business, under standing order 106 or when general business has precedence on the Notice Paper under standing order 104, 'Grievance debate' or general business, as the case may be, shall precede '5. Matter of public importance.'
2. That standing orders 95, 96 and 97 be omitted and the following standing order substituted:
95. Upon a matter of privilege arising: Privilege
 - (a) a Member shall give written notice of the alleged breach of privilege or contempt to the Speaker as soon as reasonably practicable after the matter has come to his attention;
 - (b) if the matter arises from a statement published in a newspaper, book or other publication, the Member shall provide the Speaker with a copy of the newspaper, book or publication;
 - (c) the Speaker thereupon will determine as soon as practicable whether or not the matter merits precedence over other business;
 - (d) if, in the opinion of the Speaker, the matter does not merit precedence, he will inform the Member, in writing, accordingly and may also inform the House of his decision, and
 - (e) if, in the opinion of the Speaker, the matter merits precedence, he will inform the House of his decision, and the Member who raised the matter may move a motion without notice forthwith to refer the matter to the Committee of Privileges.

Presentation of Petitions

Far from decreasing, the number of petitions lodged for presentation has attained record levels—2201 to 8 November this year, the greatest number in any year since Federation.

The particulars of petitions lodged for presentation to the House are announced to the House by the Clerk in a long announcement which cites the Member lodging the petition, the identity of the petitioners and the subject matter of the petition. This results in a burdensome narrative which has little significance for Members gathering in the Chamber at the start of the day's proceedings.

In summary, the time taken by the Clerk's announcement is increasing at the expense of prime Parliamentary time.

Placement of Petitions Announcement in the Order of Business

Standing order 101 (Routine of business) provides for the presentation of petitions to be first business for the day.

The reasons which your Committee believed important in support of the proposal to deal with petitions at a later time are:

- (1) The time at present occupied by petitions is at the most important time of the sitting day and should be fully utilised. Most Members are usually

present by the time the period for questions without notice commences (often using the time taken by petitions to permit them to arrive in the Chamber). To move petitions to a later position on the day's program would allow the House normally to move from Prayers, through Notices (if any), to Questions.

- (2) A later placement for petitions in the day's proceedings would allow Ministers and Members not concerned with petitions to depart to attend to urgent business. It needs to be remembered that, pursuant to standing order 132, a copy of every petition is sent by the Clerk to the appropriate Minister.
- (3) The United Kingdom House of Commons in 1974 altered the time for presentation of petitions until immediately before the half-hour adjournment debate. Though such a late position in the program of the House of Representatives' sitting is not suggested, it is suggested that a suitable position would be after matters of public importance. (A more detailed account of House of Commons practice is at Appendix A.)

Announcement by Clerk of particulars of petitions lodged

Standing orders provide that the Clerk shall make an announcement as to the petitions lodged with him for presentation to the House, indicating in the case of each petition the Member who lodged it, the identity of the petitioners and the subject matter of the petitions. It should be remembered that the terms of petitions are recorded in the Votes and Proceedings, printed in full in *Hansard* and copies referred to the responsible Minister.

Your Committee agreed that the Clerk's announcement of petitions lodged for presentation should refer to Members by electorate rather than by name and that the prayer of the petition should indicate, briefly, the action required.

This means that Members would not be personally identified with the terms of the petitions they had lodged for presentation, while citizens petitioning the Parliament would be able to identify their petition. While there would be no saving of Parliamentary time, the alteration to the routine of business would mean a saving of *prime* Parliamentary time.

Method of Raising Matters of Privilege

The frequency of occasions recently whereby some Members have obtained precedence over other business under the guise of raising a matter of privilege has been a cause of increasing concern. Mr Speaker, in giving his decision on a matter claimed to be a breach of privilege on 8 November 1979, suggested that the House might wish to consider the method by which complaints of breach of privilege were raised in the House of Representatives (standing orders 95, 96 and 97), and indicated that the new procedures adopted by the United Kingdom House of Commons might be considered by the Standing Orders Committee.

United Kingdom House of Commons Procedure

The recently adopted procedure of the United Kingdom House of Commons for raising complaints of breaches of privilege is as follows:

A Member must give written notice to Mr Speaker's office on a sitting day as soon as reasonably practicable after the matter has come to his attention. Whether the application is in time is a matter for the Speaker's discretion but the criteria are fairly strict. Mr Speaker then considers whether the matter merits precedence over other business. During this time, the Member may decide, after seeking advice or for other reasons, that he does not wish to pursue the matter.

If Mr Speaker decides against giving precedence he informs the Member in writing. It is then not in order for the Member to raise it with Mr Speaker in the House, but it would still be open, in that event, for a Member to give notice of motion, though the motion would not be entitled to any kind of precedence.

If Mr Speaker decides to allow precedence, he informs the Member of the day he proposes to announce his decision (as soon as reasonably practicable). On the day of Mr Speaker's announcement, the Member tables a motion to be moved by him on the following day. This motion is given precedence over other Motions and Orders of the Day.

(A more detailed account of revised House of Commons' procedure, in respect of raising matters of privilege is at Appendix B.)

B. M. SNEDDEN
Chairman

APPENDIX A

Public Petitions—Practice of the United Kingdom House of Commons

Formal presentation of petitions

In the United Kingdom House of Commons, in the normal course, a Member lodges a petition with the Clerk of Public Petitions, who initials it if in order. The Member must sign a paper if he wishes to present the petition to the House.

On Mondays to Thursdays, petitions are presented immediately before the Adjournment Debate occurs. On Fridays they are presented at the beginning of the day's proceedings (after Prayers).

A Member, on presentation of a petition, may read the Prayer and make a statement as to the parties from whom it comes, the number of its signatures and its material allegations. The petition may be read by the Clerk at the Table, if required.

Once presented, a petition is placed in a bag behind the Speaker's Chair from which it is later removed for inclusion in the Votes and Proceedings. The Votes and Proceedings briefly record the presentation but a copy of the petition (excluding signatures) is printed and circulated as a supplement to the Votes and Proceedings. A copy is also sent to the appropriate department and any reply received from the department is later printed as a supplement to the Votes and Proceedings.

Informal method of presenting petitions

If he prefers, a Member may present a petition at any time during the sitting by placing it in the petition bag behind the Speaker's Chair. It is later removed and examined by the Clerk of Public Petitions. If in order it is included in the Votes and Proceedings and sent to an appropriate department similar to a petition formally presented.

APPENDIX B

United Kingdom House of Commons—Procedure for Raising Matters of Privilege

On 6 February 1978 the House of Commons passed a resolution approving the Third Report (1976-77) of the Committee of Privileges which reviewed the report of the 1967 Select Committee on Parliamentary Privilege. The effect of that resolution in respect of the procedure for raising privilege complaints is as follows.

A Member must give written notice to Mr Speaker's office on a sitting day as soon as reasonably practicable after the matter has come to his attention. Whether the application is in time is a matter for the Speaker's discretion but the criteria are fairly strict (paragraph 10 of Third Report).

Mr Speaker then considers whether the matter merits precedence over other business. During this time, the Member may decide, after seeking advice or for other reasons, that he does not wish to pursue the matter (paragraph 9 of Third Report).

If Mr Speaker decides against giving precedence he informs the Member in writing. It is then not in order for the Member to raise it with Mr Speaker in the House^(a) (paragraph 9 of Third Report). But it would still be open, in that event, for a Member to give notice of motion, though the motion would not be entitled to any kind of precedence.

If Mr Speaker decides to allow precedence, he informs the Member of the day he proposes to announce his decision (as soon as reasonably practicable)^(b) (paragraph 9 of Third Report).

On the day of Mr Speaker's announcement, the Member tables a motion to be moved by him on the following day. This motion is given precedence over other Motions and Orders of the Day^(c) (paragraph 9 of Third Report).

The following matters were suggested by the Commons Committee to Mr Speaker for his consideration in deciding on precedence to complaints of privilege:

- Privilege should be invoked as sparingly as possible, e.g. when necessary in order to avoid interference with the functions of the House (paragraph 4 of Third Report).
- Regard may be had to previous Reports of the Committee of Privileges (paragraph 4 of Third Report).
- Mr Speaker may take into account other remedies which may be available to a complainant (paragraph 5 of Third Report).
- Mode and extent of publication may be taken into account; contempts may be of limited circulation (paragraph 6 of Third Report).
- In considering allegations against a Member or Members, truth, and the reasonable belief that the allegation was in the public interest, may be taken into account by the House in considering a complaint (paragraph 16 of Third Report); this could therefore also be considered to be a factor which the Speaker could on occasions take into account in deciding on precedence.

(a) Nevertheless, Mr Speaker may decide to make a statement on the matter if he considers it raises issues about which the House ought to be informed.

(b) If, exceptionally, Mr Speaker considers the matter to be urgent, he will inform the Member that he will rule on it the same day (paragraph 9 of Third Report).

(c) The form of the motion is to call attention to (the matter) and to move normally that the matter be referred to the Committee of Privileges.

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