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The Parliament of the Commonwealth of Australia

House of Representatives  
Standing Committee on Procedure

# **Application of modern technology to committee proceedings**

## **Report**

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## **Conclusions and recommendations**

The Procedure Committee has concluded that in certain circumstances benefits can be obtained from the use of video or teleconferencing to hear evidence from a witness. Nevertheless the particular constraints imposed and the value of face to face discussion should not be underestimated. The committee sees such technology as an additional tool for use in circumstances where a positive benefit to the committee process can be gained. It would see this as being the exception rather than the rule, with each case being judged on its merits.

The committee concluded that there can be benefits in allowing members who are not able to be present to contribute to the deliberations of a committee. It is important that the views of all members are aired when a committee is formulating recommendations or discussing its operations. There are potential dangers — particularly in relation to security, control of proceedings and the inhibition of some of the subtleties of communication — if meetings were to be held with all or most members participating via video or teleconference. For this reason the committee believes that the current standing orders requiring a quorum to be present in one location should be retained at least for the present and that members who are not physically present should not be allowed to vote.

The committee concludes that modern technology offers committees the opportunity for increased flexibility and effectiveness in the way they carry out their functions. Its use needs to be carefully managed to ensure that committee proceedings (as part of the wider proceedings of Parliament) continue to be protected, to ensure that the quality of evidence received by committees is maintained, and to ensure the continued application of the necessary safeguards for members of the public who take part in, or who are affected by, those proceedings.

### **Recommendations**

**The committee recommends that the House agree to a resolution authorising its committees to meet and take evidence by electronic means subject to conditions agreed to by the House from time to time.** (Proposed terms for the resolution are at appendix 2 and proposed conditions governing the use by committees of electronic communication at meetings are at appendix 3.)

**The committee also recommends that the House agree to a similar resolution relating to joint committees and that the Senate be asked to take concurrent action in respect of joint committees with conditions applying to joint committees to be agreed to by both Houses.**

**The committee recommends that the Standing Committee on Procedure from time to time review the conditions governing the use by committees of electronic communication at meetings with a view to making recommendations for their amendment.**



## Introduction

### Background

1. Evidence is traditionally received orally from witnesses at meetings and in written form by way of submissions. Evidence from a witness at a formal meeting is automatically part of the proceedings of the committee, a submission becomes part of the proceedings when formally received by the committee (i.e. by motion moved at a formal meeting).
2. It would seem that evidence may already be received by electronic means (e.g. facsimile, telex, computer disc, video), for example possibly including a tape recording of a telephone call or video recording of a person speaking.<sup>1</sup> Use has also been made of modern technologies to gather more comprehensive input from the general public (eg by establishing telephone hotlines or 0055 numbers) than has previously been possible.
3. However, traditional procedures do not provide for the case of live oral evidence being received electronically at a committee meeting (e.g. by video or teleconference).
4. When the standing orders were written this situation was not envisaged and not provided for. Recently committees have become increasingly aware of the possibilities offered by modern technologies such as video or teleconferencing, and have in fact sought to use telephone hook-ups to take evidence from witnesses (including overseas witnesses), but have been advised that this was not considered (without the authority of the House) a valid means of obtaining properly constituted evidence.<sup>2</sup>
5. Such advice has of course legal, as well as practical and procedural, implications. Committees may have concerns that evidence received in this way might not be regarded as subject to the protection of parliamentary privilege.

### The inquiry

6. On 26 May 1994 the Speaker wrote to the Chair asking for the Procedure Committee's consideration of the possible application by committees of modern technology in fulfilling their

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<sup>1</sup> And may be authorised for publication pursuant to section 2(2) of the Parliamentary Papers Act. Legal opinion from the Attorney-General's Department is that the section is directed to the content of the evidence and not concerned about the means by which it was recorded. The opinion notes that the Acts Interpretation Act (s.25) extends the usual meaning of the word 'document' to include an audio or visual recording. (*Letter to former Clerk of the House dated 2 May 1989*).

<sup>2</sup> Hon. S P Martin MP, Speaker of the House, *Letter to the committee*, 26 May 1994.

functions, particularly in respect of the electronic collection of evidence, for example the use of videoconferencing or teleconferencing facilities.

7. The Speaker stated that, in his view, committees were not at liberty to move in this direction without the endorsement of the House, and that a review by the Procedure Committee would assist the House in considering a position which might allow committees to improve their capacity to take the widest range of evidence in the most efficient way.

8. At its meeting of 30 May the committee considered the Speaker's request and (pursuant to its standing terms of reference contained in standing order 28C) resolved to undertake an inquiry in the following terms: The possible application to committees of modern technology.

9. The committee received written briefings from the Clerk of the House, the Clerk of the Senate (outlining the experience of Senate committees in using video and teleconferencing) and the Secretary of the Department of the Parliamentary Reporting Staff (overview of technology and approximate costs). The committee wrote to party leaders and the chairs of House of Representatives committees seeking their views (a list of submissions received is at appendix 1). The Clerk of the House also provided information on the practice in a range of State, Territory and overseas Parliaments.

10. The committee would like to record its thanks to the Chair, members and staff of the Senate Standing Committee on Employment, Education and Training who provided much valuable assistance. The Deputy Chair of the Procedure Committee attended a meeting of the Senate committee at which evidence was taken using videoconference facilities. Senator Zakharov (Chair) and other members of the committee discussed with the Procedure Committee their observations and experience with the technology giving a useful practitioner's viewpoint. Brenton Holmes, Secretary of the Senate committee also provided information on the administrative arrangements and costs involved.

## **Scope of the inquiry**

11. It is inevitable that technology will continue to improve and that its cost will come down. Sooner or later committees will wish to make use of whatever appropriate technology is available to help them carry out their functions more effectively or efficiently.

12. Questions of technology and cost are outside the province of the Procedure Committee and the committee has confined this inquiry to procedural questions although obviously these will be issues to be considered by individual committees if electronic gathering of evidence is to be pursued. The committee believes that the House needs to have an established position on the use of technology, and rules which cover its use, regardless of the precise form of technology to be used.

13. Similarly the use of various technologies for administrative purposes, for example transmitting information to members, is a matter for individual committees to determine based on considerations of cost, accessibility and suitability for their particular purposes. The

committee has confined its inquiry to questions affecting the proper constitution of a meeting and the gathering of evidence.

14. The committee has taken the approach that the question is not whether evidence can be received by electronic means (this is established in the case of submissions — see paragraph 2) but whether a meeting of a committee may take place using electronic means — that is, with one or more participants (witnesses or members or both) not physically present, but linked by a telephone or video (electronically present).

## Legal considerations

### Privilege

15. The foremost question to be considered was whether evidence taken orally from a witness via electronic means would be covered by privilege in the same way as oral evidence from a witness who was physically present.

16. The Parliamentary Privileges Act, in declaring the application of privilege to proceedings in Parliament, provides that for the purposes of the provisions of article 9 of the Bill of Rights<sup>3</sup> and for the purposes of that section “ ‘proceedings in Parliament’ means all words spoken and acts done in the course of, or for the purposes of or incidental to, the transacting of the business of a House or of a committee”<sup>4</sup>. In the opinion of the Clerk of the House this would cover evidence given to a committee from a distance via electronic means. The committee agrees with the Clerk’s view.

17. It is important to note however that the privilege afforded by the Act would not extend beyond the jurisdiction of the Commonwealth Parliament so that overseas witnesses may find they are subject to the law of their own country in some relevant respect, e.g. defamation laws.

### Quorum

18. The question also arises as to the legal status of a meeting of a committee held with a number of committee members, or all members, linked by electronic means.

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<sup>3</sup> By the 9th article of the Bill of Rights 1688 it was declared “That the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament”. The provisions of article 9 became part of the law applying to the Commonwealth Parliament by virtue of s.49 of the Constitution. (*House of Representatives Practice*, 2nd edn. AGPS, Canberra, 1989. p.688).

<sup>4</sup> Subsection 16(2) of the *Parliamentary Privileges Act 1987*.

19. Senate Committees do meet using telephone links. The Clerk of Senate argues that it is likely that a court would hold that a meeting of a committee by electronic means was a meeting attracting the normal legal status. However, in order to avoid any doubt on the matter, present Senate practice is to make sure that at least a quorum of members is present in the one location, and the Clerk considers it might be wise for the Houses to explicitly authorise their committees to meet and take evidence by electronic means.<sup>5</sup> The question of authorisation of committees to operate in this way is discussed later in the report.

20. The Clerk of the House argues that a change to the standing orders or resolutions of appointment, or special enabling resolutions, would be necessary to enable a meeting by video-conference if a quorum is not physically present in the one place.<sup>6</sup> Implicit in this advice is that the current standing orders would permit a committee meeting to take place with electronically connected remote participants, if a quorum is physically present.

21. Current House of Representatives standing orders 328 and 329 specify quorum requirements for select committees (by extension they are taken to apply to all House committees). These standing orders use the terms "...if at any time the quorum be not present..." (SO 328) and "If ... there is not a quorum, the members present..." (SO 329). These standing orders would appear to impose a requirement that a quorum of members must be physically present in one location (in Australian territory) for a formal meeting to take place. This would not preclude the participation of members via electronic means provided the quorum requirements are met at one of the locations used.

22. It is within the power of the House to amend the standing orders or take other action to allow more flexible quorum requirements. The committee does not recommend, however, that such a step should be taken at this stage. The question can be reviewed in the light of experience.

## **Benefits and potential problems**

### **Taking evidence from remote witnesses**

23. In deciding whether there are benefits to be gained in taking evidence via electronic means from remotely located witnesses, there are a number of issues which need to be considered. The use of this kind of technology imposes a range of limiting factors which, in differing circumstances, may be considered benefits or limitations compared with traditionally conducted public hearings. Some of these factors are discussed below.

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<sup>5</sup> Harry Evans, Clerk of the Senate, *Submission* p.4.

<sup>6</sup> L M Barlin, Clerk of the House, *Submission* p.6.

### ***Time and cost***

24. Electronic communication may enable witnesses to be heard who otherwise could not be heard, or only heard at very great expense. The possibility of speaking directly with overseas witnesses is one example where this technology may provide considerable advantage. Electronic communication may also be more cost effective than transporting a witness from, or transporting the whole committee to, a remote location. Instead of a committee travelling, perhaps over several days, to a number of different locations to hear a series of witnesses, the witnesses could be heard in a single day with the committee located in one place. Electronic communication techniques can thus save the time of members and witnesses as well as provide cost benefits.

25. It would appear that the cost of hiring video conference or video link facilities is extremely variable, with many facilities costing considerably more than the likely travel costs for a witness or the committee. On the other hand the Senate Standing Committee on Employment, Education and Training has utilised existing videoconference networks established in the education sector for minimal cost. The committee has been informed that the capital costs to acquire appropriate equipment for Parliament House would be in the order of \$200 000.<sup>7</sup>

26. Costs for teleconferencing are minimal and can be arranged using existing telephone equipment in Parliament House.

27. There will always, rightly, be pressure on committees to operate in a cost effective manner. Similarly the increasing demands on the time of individual Members and the House as a whole make more attractive techniques which will help a committee to report quickly. It is important, however, that the inducement of potential time and cost savings, particularly as facilities get cheaper and more accessible, should not lead to use of the technology in inappropriate circumstances. A range of less easily measurable factors should also be taken into consideration as discussed below.

### ***Interaction between witnesses and committee members***

28. The use of video communication significantly diminishes the value of body language, eye contact and other non-verbal communication (and, of course, in the case of teleconferencing this is absent altogether). Limitations of the technology (e.g. delay between sound and vision, frozen images) can mean that capturing subtleties of communication and building a rapport with a witness can be difficult, as can making judgments about his or her credibility. Both witnesses and committee members need to develop new skills to communicate effectively in this medium. The experience of a witness in using video or teleconferencing needs to be taken into account when deciding on its suitability. Some witnesses may not be comfortable with the constraints imposed — on the other hand, it may be particularly suitable for some witnesses who may have cultural or other difficulties in speaking directly to members of a committee.

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<sup>7</sup>J W Templeton, Secretary, Department of the Parliamentary Reporting Staff, *Submission*.

29. Using electronic communication the conduct of hearings must be very ordered. Committee members must identify themselves each time they ask a question as the witness cannot see who they are until the camera is redirected. The same discipline applies to witnesses if there is more than one person answering questions. This has the potential to disrupt the free flow of question and answer. Great care has to be taken to ensure that all participants are clear about what is happening and who is involved — for example, it is important that the witness knows who is present and the committee knows if others are present in the room with the witness.

30. The value of informal interaction with witnesses (eg at morning tea or before a hearing or ‘off the record’ exchanges) and of visiting and seeing the community or environment in which they are placed has to be weighed against convenience. For some inquiries and witnesses these factors can assume major significance.

31. Verifying the identity of a witness can be difficult, especially with teleconferencing. These technologies would not be suitable if there is any doubt about the identity of a witness. However this difficulty should not be overstated. A witness who appears in person before a committee may not be known personally to the members of the committee — the witness’s declaration concerning his or her identity is accepted.

32. Although there is no requirement in the standing orders or practice of the House to swear witnesses (false evidence may be treated as a contempt whether sworn or not) at times some committees find the practice desirable (for example to impress upon a reluctant witness the solemnity of the occasion and remind him or her of the moral obligation to tell the truth).

33. If a committee was planning to take evidence using electronic means it would need to consider this issue. If administration of an oath was felt to be desirable the committee would need to satisfy itself that the arrangements for its administration, whether by an officer of the committee travelling to the place where the witness was located, or by another qualified person (e.g. Justice of the Peace, magistrate) who could be authorised to administer it, are satisfactory and appropriate. Alternatively the witness could be asked by the Chair to make an affirmation, for which there is no requirement to hold or be seen to hold a Bible or other document. However it is likely that some of the impact of swearing a witness would be lost if it is not administered in the immediate presence of the members of the committee.

### ***Time constraints***

34. On most occasions committees would need to hire videoconference facilities. Even if such facilities were set up in Parliament House it is likely that facilities at the remote location would need to be hired. This generally means that hearings would need to be kept to a strict time schedule. (Teleconference facilities are more easily obtainable and offer greater time flexibility.) It may not be possible to extend a hearing or to hear a particular witness earlier than planned. Adjourning hearings for private deliberations would eat into the time available. The ability to follow up a line of questioning which arises in the course of the evidence can be curtailed by the time limit on the availability of the facilities.

35. These constraints impose a responsibility on all participants: on the chair to apportion time fairly to individual committee members; on the members to use their time efficiently and

constructively; and on witnesses to present their evidence concisely. This may require greater guidance to be exercised by the chair in managing the proceedings. This restriction can help participants to focus on key issues. Equally, however, it can inhibit free flowing discussion. Interruptions and interjections are not easily captured. A balance needs to be struck.

### ***Atmosphere and importance***

36. Videoconference (and to an even greater extent teleconference) may not impart the same sense of importance to a witness as does the giving of evidence face to face. In some circumstances lack of formality can be a benefit but it is necessary that the witness understands the importance of the occasion and the authority of the committee. The dignity and integrity of the committee must be maintained. The selection of a venue and the physical arrangement of the room may affect this as may the quality of the equipment used and all of these issues should be considered.

### ***Public Access***

37. One of the benefits of the traditional form of hearing evidence is its public nature. Members of the public, the press and other witnesses can attend and hear (and see) evidence being given. Although at a video or teleconference hearing these people may be present with the committee or with the witness giving evidence, their view will be restricted, and in some cases the limitations of the venue or the technology may preclude the presence of the public altogether.

38. There is a possibility that committees could become more Canberra-centred and remote from the community if they were to take evidence by videoconference on a regular basis. This would be particularly so if permanent videoconference facilities were to be installed in Parliament House.

39. The possible need to take *in camera* evidence also should be considered. Different videoconference facilities use different systems for transmission of data with different levels of security. It is extremely difficult, even with videoconferencing, for a committee to verify that there are no unauthorised listeners at the remote site or that the transmission is absolutely secure. For these reasons the committee believes that video and teleconferencing should not be used for *in camera* evidence.

### ***Technical considerations***

40. Videoconference facilities are available in a range of configurations and quality. These can affect the success or otherwise of hearings. Such factors include whether all microphones are continuously live or whether someone must control them (some equipment automatically selects the strongest voice for transmission) or the placement and size of video monitors. Poor quality of sound can affect how evidence is perceived or valued and can make communication difficult.

41. Availability of document cameras and fax machines, to enable all participants to see documents referred to, can be an important factor. Location of Hansard staff and other support matters need to be taken into account.

42. All of these factors must be assessed against the requirements of the particular inquiry and the nature of the witnesses being asked to give evidence.

43. The Procedure Committee has concluded that in certain circumstances benefits can be obtained from the use of video or teleconferencing to hear evidence from a witness. Nevertheless the particular constraints imposed and the value of face to face discussion should not be underestimated. The committee sees such technology as an additional tool for use in circumstances where a positive benefit to the committee process can be gained. It would see this as being the exception rather than the rule, with each case being judged on its merits.

## **Participation of remotely located committee members**

44. Another possibility which committees may seek to use from time to time is the participation by one or more members of the committee in a meeting using electronic means.

### ***Deliberative meetings***

45. The simplest form of remote participation would be for one or more members to take part in a *deliberative meeting via teleconference*. The cost, accessibility and complexity of videoconferencing would most probably preclude its use for deliberative meetings, at the current stage of development, but its future use can be envisaged.

46. Many of the same considerations apply as those applying to the taking of evidence by electronic means. For example, potential saving of travel costs and time, practical problems (e.g. members trying to speak simultaneously, the need to consult documents), loss of flexibility and inhibition of non-verbal communication. Some of these assume less importance in the context of a deliberative meeting but nevertheless have to be taken into consideration.

47. The difficulties of ensuring security, and possibly of maintaining contact, at remote locations when telephone links are used can cause added problems for private meetings. Presumably committee members would be confident of the identity of another member participating by telephone but it would be difficult to ensure that others were not listening or that the proceedings were not being recorded without authorisation.

48. An additional question arises in the case of deliberative meetings and that is the mechanism for taking a vote. Should members who are not physically present (and not counted for quorum purposes — see paragraph 21) be able to vote, move motions etc.

49. The committee is of the view that (at least initially) only those members who comprise the quorum of the meeting (i.e. those physically present) should be allowed to vote. If

members who are not actually present are permitted to vote there is the possibility that members of a committee may simply telephone the meeting to lodge their vote on a question without having heard or participated in the discussion that preceded the calling of the vote. Under current rules members who are unable to be present at a meeting of a committee cannot participate in the proceedings in any way (other than by seeking to have a colleague put forward views on their behalf). They must accept any decisions made by the members who were present or seek a rescission of the decision at another meeting. The Procedure Committee's proposal to allow participation in debate, but not voting, by members who are not physically present allows better canvassing of views while minimising the risk of misuse of the committee process. This approach will be reviewed as the use of this type of technology by committees develops.

50. The committee concluded that there can be benefits in allowing members who are not able to be present to contribute to the deliberations of a committee. It is important that the views of all members are aired when a committee is formulating recommendations or discussing its operations. There are potential dangers — particularly in relation to security, control of proceedings and the inhibition of some of the subtleties of communication — if meetings were to be held with all or most members participating via video or teleconference. For this reason the committee believes that the current standing orders requiring a quorum to be present in one location should be retained at least for the present and that members who are not physically present should not be allowed to vote.

### ***Public hearings***

51. It would be possible for one or more members of the committee to participate in a public hearing (i.e. listen to proceedings and ask questions) using electronic means and the same considerations would apply as in the case of the witness being in a remote location.

52. There may be occasions when there is some benefit in this situation, for example when the member involved cannot physically attend, but is an independent member or the sole representative of his or her party able to participate in the hearing (and therefore has no colleague to represent him or her) or has a special interest in the subject to be discussed.

### **Simultaneous use of different types of electronic communication**

53. The logical extension of the scenarios which have been discussed so far is that both the witness and one or more of the committee members could participate in a hearing at the same time via the same or different electronic means. For example, some members may be meeting in a committee room in Parliament House hearing evidence from a witness by videoconference with two other members of the committee participating, each from a different location, via telephone.

54. The technical difficulties in achieving this are greater but it would seem inevitable that such options will become available in the future and the possibility of their use should be

provided for in any arrangements the House makes for its committees to utilise technology in their work.

55. The committee proposes that the same approach should be taken when considering the use of this kind of arrangement as has been discussed earlier in the report. It should be borne in mind however that proceedings will become even more complicated and the constraints more marked the greater the number of remote participants. The requirement for a quorum to be present at one of the locations should still apply.

## Summary

56. The principal benefits and possible problems of taking evidence via electronic mechanisms can be summarised under the following headings:

### Benefits

- cost — saving of travel expenses
- saving of time
- receipt of evidence which would not otherwise be available
- convenience of witnesses
- potential for committees to conduct their work more efficiently and effectively

### Possible problems

- problems with witness identification (especially teleconferencing)
- no eye contact, reduced non-verbal communication
- decreased control of proceedings
- practical problems (eg. people trying to speak simultaneously)
- decreased capacity to convey the solemnity of the occasion (sometimes necessary)
- problems of consulting documents presented or referred to
- decreased capacity for public involvement
- loss of flexibility (eg. difficulties in adjourning for private deliberations or extending hearings if electronic facilities are hired)
- cost and existence of electronic facilities in Parliament House and at remote location
- difficulties with swearing witnesses (but alternative of affirmation)
- committees could become remote (i.e. Canberra centred) — videoconferencing would bring people to the Parliament rather than Parliament to the people

57. The benefits and possible problems of members participating from a remote location especially in private meetings:

### Benefits

- saving of travel costs
- saving of time

- convenience
- allows members to participate who otherwise may not be able to do so

### **Possible problems**

- practical problems (eg. members trying to speak simultaneously)
- difficulty of ensuring privacy of proceedings
- problems of consulting documents presented or referred to
- loss of flexibility (extending meetings if electronic facilities are hired)
- existence and cost of electronic facilities in Parliament House and at remote location
- problems of taking a vote

58. The committee concludes that modern technology offers committees the opportunity for increased flexibility and effectiveness in the way they carry out their functions. Its use needs to be carefully managed to ensure that committee proceedings (as part of the wider proceedings of Parliament) continue to be protected, to ensure that the quality of evidence received by committees is maintained, and to ensure the continued application of the necessary safeguards for members of the public who take part in, or who are affected by, those proceedings.

## **Authorisation**

59. The Speaker's view, which was communicated in his letter to the Chair of the Procedure Committee on 26 May 1994, is that committees are not at liberty to adopt videoconferencing or teleconferencing technologies for their formal proceedings without the endorsement of the House.

60. The Clerk of the House argues that the House should explicitly authorise its committees to receive evidence by electronic means. Committees have only the powers (to send for persons, papers and records) delegated to them by the House, and in the absence of a position on the matter by the House, the power of individual committees should be limited.<sup>8</sup>

61. On the other hand the Canadian House of Commons holds the view that no special authorisation is necessary, as the power to take evidence by electronic means is implicit in the "power to send for persons".<sup>9</sup>

62. While it is arguable that the power to take evidence by electronic means may be implicit, the committee agrees with the Speaker and the Clerk of the House that it should be made explicit.

63. Other jurisdictions appear to have avoided the question by treating such proceedings as informal — as information gathering exercises rather than as receipt of formal evidence. For example, in the United Kingdom House of Commons evidence has been received from

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<sup>8</sup> L M Barlin, Clerk of the House, *Submission* p. 4.

<sup>9</sup> Robert Marleau, Clerk of the House of Commons, Canada, *Letter to the Clerk of the House*, 14 June 1994.

witnesses by videoconference at an *informal* public meeting (not formally part of committee's proceedings — but the character of the meeting was “almost exactly like a normal committee meeting”)<sup>10</sup>. The committee believes that the status of evidence should not have to depend on its method of receipt.

64. It is possible to argue that the power for committees to meet with one or more members participating via electronic means is implicit in the standing orders (see discussion on the need for a quorum to be present in one location, paragraphs 20 and 21). The committee believes that it is preferable, for the removal of any doubt, for this power to be made explicit.

## Form of authorisation

65. The Clerk proposes a resolution of the House giving a general authorisation for its committees to resolve to collect evidence by electronic means.<sup>11</sup>

66. The committee concurs with the Clerk's view but proposes that the scope of the resolution should be widened to cover participation of members in committee meetings by electronic means, i.e. authorisation to meet using electronic means and for witnesses and members to participate in meetings using electronic means.

67. The committee proposes a standing authorisation by the House, including a requirement that practice would be subject to conditions agreed to by the House from time to time.

68. The practice will be experimental, at least initially, and technology will inevitably change. This offers the House a way to step cautiously, to adapt and expand in future.

69. **The committee recommends that the House agree to a resolution authorising its committees to meet and take evidence by electronic means subject to conditions agreed to by the House from time to time.** (Proposed terms for the resolution are at appendix 2 and proposed conditions governing the use by committees of electronic communication at meetings is at appendix 3.)

70. **The committee also recommends that the House agree to a similar resolution relating to joint committees and that the Senate be asked to take concurrent action in respect of joint committees with conditions applying to joint committees to be agreed to by both Houses.**

## Proposed conditions

71. The committee believes that it is not possible to lay down rigid rules as to when the use of electronic communication should be allowed, nor can it specify what technology might be

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<sup>10</sup> Sir Clifford Boulton, GCB, Clerk of the House of Commons, UK, *Commonwealth Newsletter*, 18 July 1994.

<sup>11</sup> L M Barlin, Clerk of the House, *Submission* p.4.

used. Committees deal with a wide range of inquiries, witnesses and circumstances and must be left to judge for themselves the suitability of the techniques in each circumstance.

72. However the committee proposes that certain conditions be imposed to protect the legality of committee proceedings and to ensure that decisions are made after due consideration, including the provision of some guidance for the decision making process.

73. The conditions which the committee proposes include requirements for committees to authorise separately each occasion on which evidence is to be collected by electronic means, for a quorum to be required to be present in one place, that *in camera* evidence not be taken by electronic means and setting out voting rules for members participating in meetings electronically. The conditions would also give a list of matters which committees must consider before taking evidence or holding meetings via electronic means. The proposed terms of the conditions are at appendix 3.

## Review of conditions

74. It is most likely that as experience grows and technology changes the conditions will need to be reviewed.

75. The committee proposes that it would have a role in reviewing the conditions from time to time, at its own initiative or at the request of the House, and making recommendations to the House for amendments. Any amendments would need to be agreed to by the House as would the initial set of conditions.

**76. The committee recommends that the Standing Committee on Procedure from time to time review the conditions governing the use by committees of electronic communication at meetings with a view to making recommendations for their amendment.**

BOB BROWN  
Chair

17 November 1994

## **Evidence received by the committee**

### **Submissions received from:**

Clerk of the House  
Clerk of the Senate  
Secretary of the Department of the Parliamentary Reporting Staff  
House of Representatives Standing Committee on Banking, Finance and Public Administration  
Chair of the House of Representatives Standing Committee for Long Term Strategies

The submission from the Clerk of the House included evidence on the **practice of other Parliaments** as follows:

Canada, House of Commons  
India, Lok Sabha  
India, Rajya Sabha  
New Zealand, House of Representatives  
United Kingdom, House of Commons  
United Kingdom, House of Lords

A.C.T., Legislative Assembly  
New South Wales, Legislative Assembly  
New South Wales, Legislative Council  
Northern Territory Legislative Assembly  
Tasmania, House of Assembly  
Tasmania, Legislative Council  
South Australia, Legislative Assembly  
South Australia, Legislative Council  
Victoria, Legislative Assembly  
Victoria, Legislative Council  
Western Australia, Legislative Assembly

### **Informal discussions were held with**

Senator A O Zakharov (Chair),  
Senator R J Bell, and  
Brenton Holmes (Secretary) of the Senate Standing Committee on Employment, Education and Training

### **Additional information supplied by**

Brenton Holmes  
Secretary of the Department of the Parliamentary Reporting Staff

## **Proposed resolution of the House**

That:

(1) this House authorises the use of electronic communication devices by a standing or select committee of the House in order to:

(a) take oral evidence from a witness who is not in attendance at the meeting of the committee; and

(b) enable one or more members of the committee who are not in attendance to participate in a public or private meeting of the committee:

Provided that the committee adheres to such conditions governing the use of electronic communication at meetings as are agreed to by the House; and

(2) this resolution continue in force unless and until amended or rescinded by the House in this or a subsequent Parliament.

## **Proposed conditions governing the use by committees of electronic communication at meetings**

These conditions apply to the use of an electronic device or devices to enable a person, being a member of the committee or a witness giving evidence before the committee, who is located at a place remote from the meeting of the committee, to hear the proceedings and to be heard by all the participating committee members.

1. The committee must authorise by resolution each occasion the committee is to meet, or on which evidence is to be heard from a witness in a remote location, using electronic means.
2. A quorum of members must be in attendance at one location within Australia or its territories.
3. *In camera* evidence must not be heard by electronic means from a witness in a remote location.
4. Members who are not in attendance at a meeting of a committee may not vote.
5. Before proceeding to make use of electronic communication at a meeting the committee should consider the following factors:
  - whether any benefit can be gained from the use of electronic communication compared with traditional techniques;
  - whether the anticipated evidence is from a subject specialist or expert or is of a non-contentious nature;
  - whether it is necessary for a witness to be tested rigorously for truthfulness;
  - whether the administration of an oath is necessary (which would, unlike an affirmation, require the presence of an authorised officer to administer);
  - whether the identification of a proposed witness is acceptable;
  - the real cost comparisons of alternative means of evidence collection, taking into account the possibility that videoconferencing may involve significant additional costs to committees, whereas the costs of Members' travel are met from Special Appropriations and not from committee budgets;
  - the value of the committee being present at a location away from Canberra;
  - the value of the public being able to physically see the committee in action; and
  - any other matters the committee may consider relevant.

For the purposes of these conditions 'in attendance' means physically present at a meeting of the committee.