

The Parliament of the Commonwealth of Australia
House of Representatives Standing Committee on Procedure

About Time

Bills, Questions and Working Hours

Report of the inquiry into reform of
the House of Representatives

October 1993

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Membership of the committee

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Committee staff

Robyn Webber (Secretary)

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Terms of reference of the committee

To inquire into and report on the practices and procedures of the House generally with a view to making recommendations for their improvement or change and for the development of new procedures.

Terms of reference of the inquiry

Within its general terms of reference the committee is to review and report on the practices and procedures of the House of Representatives with reference to but not limited to:

- (1) the sitting times of the House and the programming of its business;
- (2) questions without notice;
- (3) the role and powers of the Speaker;
- (4) the role and operation of committees of the House;
- (5) legislative procedures; and
- (6) the rules governing debates, ministerial statements and matters of public importance.

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Recommendations

Proposal for changes to the legislative process (paragraphs 56 and 57).

It is recommended that:

- (a) a Main Committee (Legislation) be established to take the second reading and consideration in detail stages of such bills as are referred to it by the House;
- (b) the Main Committee be a standing committee of the whole and all Members of the House be members of the committee;
- (c) the committee be chaired by the Deputy Speaker, the Second Deputy Speaker (should the position be created – *see page 19*), or a Deputy Chairman;
- (d) the committee be able to meet only during a sitting of the House, but disregarding suspensions of the sittings of the House for meal breaks or other reasons;
- (e) the proceedings of the committee be included in *Hansard* and be televised on the House monitoring system;
- (f) the committee have a quorum requirement of three Members, including the occupant of the Chair and two other Members, one of the two being a government Member and one being a non-government Member;
- (g) the Chair shall note the number of Members present and if a quorum is not present the Chair shall immediately suspend proceedings until a stated time or adjourn the committee to the next sitting day;
- (h) there be no provision for divisions in the committee, but any disagreement be noted in the committee's report to the House for resolution by the House;
- (i) proceedings in the committee continue notwithstanding quorum calls in the House but the Chair shall suspend proceedings for the duration of divisions in the House;
- (j) any Member suspended from the service of the House be excluded from participation in Main Committee proceedings.

It is recommended that the procedures for the passage of legislation be changed as follows:

First reading

When presenting a bill the Minister must table the bill's explanatory memorandum which should include an explanation of the reasons for the bill.

Resolution on the handling of the bill

At least one week after a bill's presentation and prior to the Minister moving 'that the bill be now read a second time', or, in the case of bills referred to a standing committee, following the presentation of the report of the committee, the House may agree that the bill be dealt with in the Main Committee. A program listing bills proposed to be dealt with in the Main Committee the following sitting week may be tabled by or on behalf of the Leader of the House and a motion 'That the program be adopted', which may be debated and amended, may be moved without notice then or at a later time: provided that the proposal is tabled and adopted in sufficient time for its provisions to be published in the *Notice Paper* of the first sitting day of the week to which it refers.

Following such resolution the Main Committee will deal with the second reading and consideration in detail stages of the bill or bills and report to the House.

All stages of bills not referred to the Main Committee will be dealt with in plenary session in the House of Representatives Chamber.

Second reading

Following a Minister's second reading speech, debate on the second reading may continue without adjournment.

Consideration in detail (clause by clause)

References in the practice of the House to the committee stage of bills shall be understood to refer to the consideration in detail stage.

The consideration in detail stage of bills not referred to the Main Committee will be taken in the House rather than committee of the whole – i.e. the Speaker or Deputy Speaker would remain in the Chair. Progress to this stage of the bill will be signified by an announcement by the Clerk, and different rules of debate will apply.

The rules governing consideration in detail would be the same as those currently applying to the committee of the whole stage, except that speeches would be limited to 5 minutes for all Members, provided that each Member would be able to speak an unlimited number of times.

Report stage (for bills dealt with by the Main Committee)

There would be a specific block of time allotted for the report stages of bills reported back from the Main Committee (for example, immediately before the adjournment debate each day).

There would be no debate at the report stage, except on amendments which the committee reported it had been unable to agree on, and no new amendments would be allowed apart from these.

Third reading

The third reading of all bills would take place in the House under the current rules, and the Chair would be expected to enforce the traditional restrictions on the scope of any debate at this stage.

Standing committee consideration of legislation (paragraph 65)

It is recommended that:

- (a) at least one week after a bill's presentation and prior to the Minister moving 'that the bill be now read a second time' a bill may be referred for consideration and report to the relevant general purpose standing committee, or where appropriate, to a committee formed of House of Representatives members of the Joint Committee on Foreign Affairs, Defence and Trade;
- (b) the House may specify a date as the deadline for the committee's report;
- (c) for the purpose of consideration of a bill so referred, one or more members of the committee may be replaced by other Members, with substitute committee members nominated by the whips and announced in the House in accordance with existing procedures for the nomination of committee members pursuant to SO 28B; and in addition, provisions for the nomination of supplementary committee members continue to apply;
- (d) the committee's composition, powers and procedures otherwise remain as specified by SO 28B, including the power to call witnesses and hear evidence;
- (e) the committee be charged with considering the implementation of the purposes of the bill given in the bill's explanatory memorandum;
- (f) the committee provide an advisory report on the legislation to the House;
- (g) the report may contain a request for a further reference from the House on matters raised by the committee's consideration of the bill.

Cognate bills (paragraph 70)

It is recommended that the standing orders be amended to provide that:

- (a) a Minister may seek leave of the House to declare a package of related bills to be cognate bills;
- (b) the House granting leave would allow, in relation to all the bills together
 - (i) a single motion to refer the bills to a committee;
 - (ii) a single report from the committee;
 - (iii) a single second reading speech by the Minister;
 - (iv) a single second reading debate (during which second reading amendments may be moved to one or more of the bills, but the moving of such amendments subsequent to the first would be a formality with no separate debate allowed)

provided that separate questions would be put at each stage for each of the bills.

Second Deputy Speaker (paragraph 75)

It is recommended that, should the House agree to the proposal for a Main Committee,

- (a) the House also consider creating the additional position of Second Deputy Speaker;
- (b) the Second Deputy Speaker perform the duties of the Speaker as Acting Speaker in the case of the absence of both the Speaker and the Deputy Speaker;
- (c) the Second Deputy Speaker be an opposition Member elected by the House;
- (d) there be one ballot for the two positions of Deputy Speaker and Second Deputy Speaker, the Member receiving the highest number of votes being elected Deputy Speaker and the Member with the next highest number of votes being elected Second Deputy Speaker.

Question time (paragraph 98)

It is recommended that:

- (a) question time continue for at least 45 minutes (or 2 consecutive 30 minute segments each sitting Monday) and until at least 16 questions (or 8 questions in each segment each Monday) have been answered, unless a motion, which may be moved without notice and by any Member, is agreed to 'That (further) questions be placed on notice': provided that the moving of a motion to suspend standing orders to bring on other business will end question time, regardless of *whether or not that motion is carried*;
- (b) the Speaker allow, to the original questioner, one immediate supplementary question in respect of each original question answered; and that supplementary questions be counted as part of the minimum number of 16 questions required each question time.

Rostering of Ministers (paragraph 106)

It is recommended that, as a trial for two sitting periods,

- (a) question time each Monday be in the form of two consecutive 30 minute segments each with a minimum of 8 questions to be asked;
- (b) Ministers be rostered so that the Ministers representing each portfolio (except Prime Minister and Cabinet, Treasury and Finance) and the Minister for Aboriginal and Torres Strait Islander Affairs attend to answer questions in one segment per sitting cycle. The grouping of portfolios and allocation of segments to be agreed by the Opposition and the Government;
- (c) the Opposition to be able to request the presence of one additional Minister, other than the Prime Minister, per segment by informing the Speaker in writing prior to the sitting of the House on the Monday to which the request relates.

Dealing with disorder (paragraph 113)

It is recommended that:

- (a) the Speaker be given the power to order, in cases of disorder, a Member's immediate withdrawal from the Chamber for a period of one hour;
- (b) no debate on or dissent to the Speaker's decision be allowed;
- (c) the Member concerned be barred from participating in all activity in the Chamber and Main Committee for the period of his or her withdrawal, including divisions and quorums;

- (d) a Member refusing to comply with the Speaker's order to withdraw may be named by the Speaker and a motion may then be moved for the Member's suspension in the usual manner;
- (e) orders to withdraw from the Chamber under this procedure not be counted as previous offences for the calculation of penalties for suspensions of Members under S.O. 305;
- (f) the scale of penalties for suspensions of a Member provided for by S.O. 305 be 24 hours, 3 and 7 sitting days for successive offences in a single year.

Answers to questions on notice (paragraph 115)

It is recommended that the following paragraph be added to standing order 150:

'If after the expiration of 90 days of a question first appearing on the *Notice Paper*, a reply has not been delivered to the Clerk, the Member who asked the question may rise in his or her place and request the Speaker to write to the Minister concerned, seeking reasons for the delay in answering.'

Days and hours of sitting (paragraph 134)

It is recommended that:

- (a) the House continue to sit to a four-week cycle of two sitting weeks followed by two non-sitting weeks;
- (b) The House sit on Monday to Thursday of each sitting week;
- (c) The sitting hours of the House be as follows –

Mondays	12.30 pm to 8 pm	
Tuesdays	12.30 pm to 8 pm	
Wednesdays	9.30 am to 1 pm	2 pm to 8 pm
Thursdays	9.30 am to 1 pm	2 pm to 6.30 pm

Routine of business (paragraph 142)

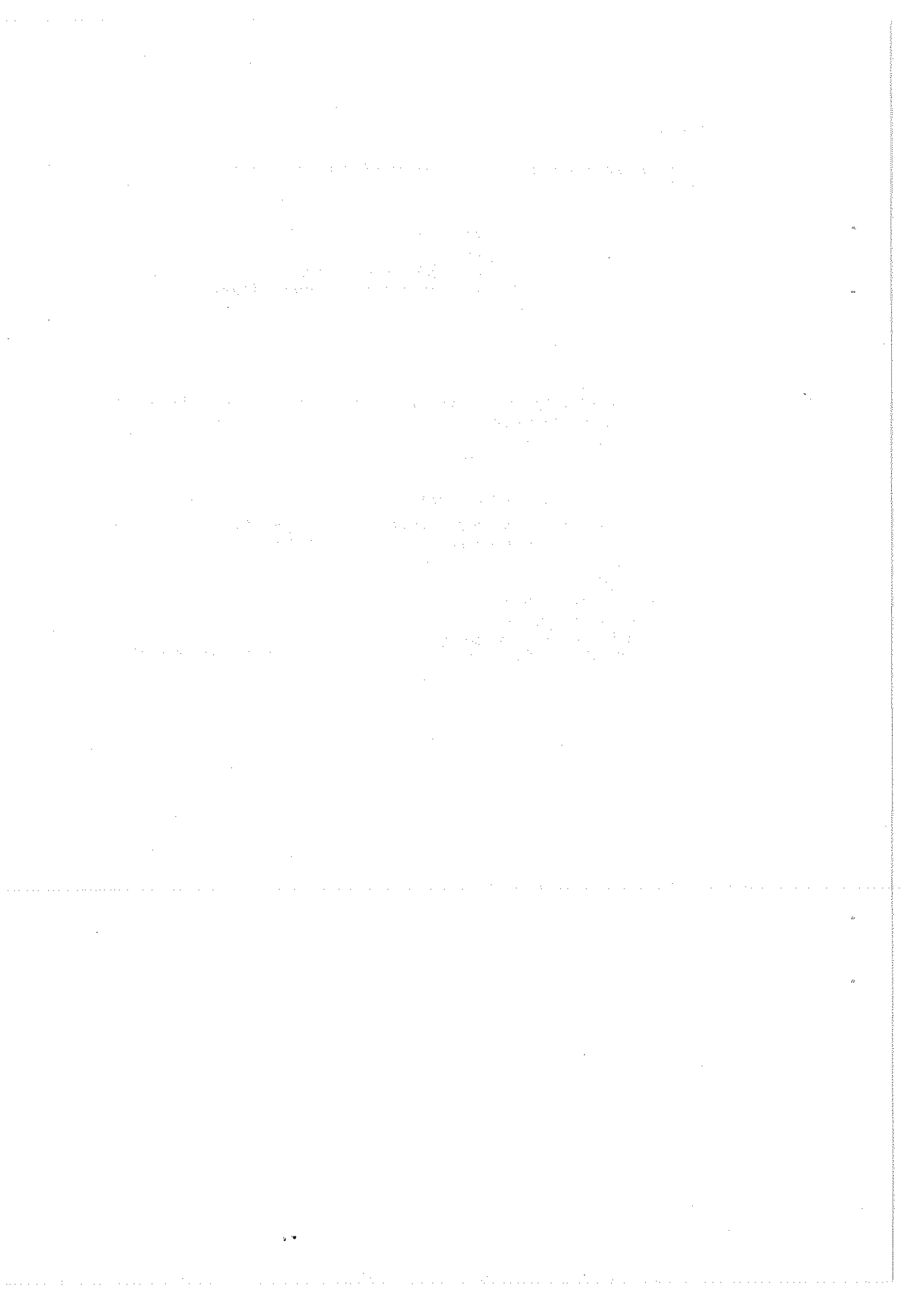
It is recommended that the daily routine of business be as follows:

Mondays

1. Private Members' business (from 12.30 pm to 2 pm)
2. Grievance debate (from 2 pm to 3.15 pm)
3. Members' statements (from 3.15 pm to 3.30 pm)
4. Questions without notice (from 3.30 pm to at least 4.30 pm)
5. Presentation of papers
6. Ministerial statements
7. Presentation of petitions
8. Presentation of and statements on reports from parliamentary committees and delegations
9. Orders of the day for the resumption of debate on motions moved in connection with committee and delegation reports (until no later than 6 pm)
10. Notices and orders of the day
11. Adjournment debate (from 7.30 pm to 8 pm)

Tuesdays, Wednesdays and Thursdays

1. Notices and orders of the day (from 12.30 pm on Tuesdays; from 9.30 am on Wednesdays and Thursdays with lunch suspension from 1 pm to 2 pm)
2. Questions without notice (from 3.30 pm to at least 4.15 pm)
3. Presentation of papers
4. Ministerial statements
5. Matter of public importance
6. Notices and orders of the day
9. Adjournment debate (from 7.30 pm to 8 pm on Tuesdays and Wednesdays; from 6 pm to 6.30 pm on Thursdays)



THE REPORT

Introduction

General background

1. Following the general election held on 13 March 1993 the Standing Committee on Procedure was established pursuant to standing order 28C on 12 May 1993. The standing order provides for the committee to inquire into and report on the practices and procedures of the House generally with a view to making recommendations for their improvement or change and for the development of new procedures.

2. Towards the end of the last Parliament and during the election period there had been a considerable amount of comment from Members, the media and the public about aspects of the House's operation. Since the advent of live television broadcasts of question time and the use of excerpts of proceedings on the nightly television news services, the proceedings of the House and the conduct of question time in particular have received closer scrutiny and criticism from the public at large. In view of this and other concerns which have been expressed from time to time the committee decided that a review of the major areas of the House's activity was appropriate and timely.

Scope and conduct of the inquiry

3. On 13 May 1993 the committee resolved to undertake an inquiry and agreed to the terms of reference set out at the front of this report. The committee considered a wide range of issues under these terms of reference and has drawn its conclusions and recommendations together under three broad headings – handling legislation; questions; and the sitting program – matters which it considers to be fundamental to the effective performance of the House's functions.

4. The committee first considered the sitting times of the House and the pattern of business within the sitting timetable. Following its preliminary discussions the committee prepared a model for a revised sitting timetable which it circulated to Members, parliamentary departments and other interested bodies for comment. Appendix 1 lists those from whom responses or other comments were received. At the request of the President of the Senate, the Senate Standing Committee on Procedure was provided with a copy of the sitting program preliminary model (the Senate Committee tabled its Second Report of 1993 on times of sitting and order of business on 30 September 1993).

5. The committee had before it earlier reports of the Procedure Committee on many of the issues it discussed. The Chairman and other members of the committee also held informal discussions with party leaders and others seeking comments on various issues related to the inquiry.

6. The committee has attempted to assemble a set of recommendations which together will assist the House to carry out more effectively two of its major functions – legislating and scrutinising government performance. Reform of the House of Representatives must balance the interests and needs of backbenchers with the legitimate concerns of government and the opposition leadership. The committee has sought to respond to each of these major groups within the broader objective of making the House of Representatives more relevant, effective and efficient.

Nature of the report, and implementation

7. The committee has not sought to be radical, nor original, nor overly ambitious. The committee does not share the nostalgic view of an idealised House of Representatives based on the days before political parties. The committee sees robust adversarial political parties as central to the system, and executive dominance and as a consequence executive responsibility as a fact of life. These realities cannot be wished away or dissolved by procedural reform. The House of Representatives is above all where the national political debate is structured, where a clear choice is offered to the electors between the Government and the Opposition. This has become an essential function of the House, and an unavoidable constraint on any reform of its procedures.

8. Within these constraints the committee recognises that institutional change must be evolutionary and that any radical break with present practices is likely to be counter-productive. The most radical of the committee's proposals, the establishment of a Main Committee for legislation, is more a break with form than practice.

9. Nor is the committee's report particularly original in its recommendations. Most of the committee's proposals are drawn from procedural inquiries over the past twenty years. This in itself is a telling comment on the House's ability to respond to long identified problems. As the title of the report suggests it is 'about time' some action was taken to remedy the problems. The committee looks particularly to the leadership of the government and opposition parties to take the initiative in responding positively and actively to the committee's proposals.

10. Again, where the committee has ventured on more unexplored territory, for example proposals for a rostered question time, the committee has been modest, suggesting a limited experiment as a prelude to any major change. The committee therefore has suggested that a sunset clause apply to this particular proposal. Indeed with respect to all its recommendations the committee suggests that, following their consideration, sessional orders be prepared so that the proposals can be trialled for a substantial period of time and minor adjustments made as necessary. The operation of the new

arrangements could be reviewed by the committee once the House has had sufficient time to test them fully.

11. The committee regards its proposals as a package to be broadly accepted or rejected, for the committee has sought in the totality of its recommendations to balance the needs and concerns of all the major interests. This is not, of course, to suggest that each and every proposal is sacrosanct nor that there cannot be sensible negotiations on the margins. But choosing significant parts of the package and rejecting significant other parts would jeopardise the integrity of the package and imperil the chances for effective reform.

Handling legislation

Background

12. The background to this section of the report is the increasing pressure of legislative business. There has been a marked increase in legislative activity since 1901. During the first decade of Federation an average of 23 Acts per year were passed, with, again on average, about 25 sitting hours per Act. In 1992 this figure was 264 Acts and the average number of sitting hours per Act was just over 2 hours.¹

13. The need for action to reduce legislative pressure has become especially urgent in recent years when it has become routine practice for large numbers of bills to be guillotined towards the end of each sitting period. The detailed consideration of legislation is one of the major casualties of the guillotine procedure. The amount of time available often means that government amendments are agreed to without debate, even when there has not been time to move them formally, and opposition amendments cannot even be moved, let alone considered.

14. The excessive – compared with historical precedent – use of the guillotine is a recent phenomenon starting from 1986. In that year 40 bills were declared urgent (guillotined). In 1992 this figure was 132 bills guillotined (compared with 282 bills introduced to the House and 264 Acts assented to).²

15. The Government's chief explanation for the heavy use of the guillotine is the Senate's refusal to consider, within the same sitting period, legislation received from the House after a fixed cut off date. However, part of the cause of this problem (and the claimed reason for the Senate deadline in the first place) is the introduction of many bills towards the end of the sitting period. It is obvious that better timetabling of legislation would greatly facilitate the work of the House. The committee calls the Government's attention to the desirability of better programming of its legislation. A positive response by the Government would make a major contribution to the flow of parliamentary business.

16. Moreover the number of individual items of legislative business passing through the Parliament is excessive. In the United Kingdom, a Parliament which has legislative responsibility for a unitary state without other legislatures, deals with about 50 to 60 bills per year. Yet the Australian Parliament, existing in a federal state with other legislatures, deals with an average of 215 bills per year. While constitutional requirements demand separate bills for certain legislative matters and while Australia makes less use of delegated legislation than the United Kingdom, there is considerable room for reducing

1 See Appendix 5 – Days and hours of sitting – historical averages.

2 See Appendix 2 – Consideration of bills 1988-93.

the number of separate items of legislation to be considered by the Parliament. Four departments (Primary Industries and Energy, Treasury, Attorney-General's and Transport and Communications) have accounted for approximately 55% of Acts in recent years. The committee welcomes the co-operation of portfolio Ministers and departments in seeking to reduce the number of individual items of legislation put forward. The Minister for Primary Industries and Energy has informed the committee of a review of this matter currently taking place within his department.³

17. The committee's objectives in this section of the report are to attempt to streamline legislative activity and, more importantly, provide additional time for the consideration of legislation. It seems to the committee that the only feasible way of accomplishing the latter, without significantly increasing sitting hours, is to develop the committee system to share the load – a path followed by most major Westminster-style Parliaments.

Previous inquiries

18. Reform of the committee system to handle legislative processes has been a feature of reform proposals over the last two decades. In 1976 the Joint Committee on the Parliamentary Committee System recommended ' . . . the appointment of legislation committees to consider bills, clause by clause, after they have passed the second reading'.⁴ Between 1978 and 1980 a cautious and tentative experiment with legislation committees as an alternative to committee of the whole consideration took place with a total of 13 bills being referred to legislation committees. In 1980 they were abandoned.

19. The Procedure Committee reviewed the use of legislation committees in its 1986 report *Days and hours of sitting and the effective use of the time of the House*.⁵ Despite the experience of 1978-80, the committee recommended the reintroduction of legislation committees. It saw legislation committees offering the following advantages: ' . . . bills may receive a more thorough examination, there would be better opportunities for Members to participate and they would have a less formal and more efficient involvement in the legislative process. And also, there may be savings in the time of the House.' The recommendation was not agreed to by the House.

3 A summary of the review is attached at Appendix 3.

4 Parliamentary Paper 128 of 1976, p 23.

5 Parliamentary Paper 108 of 1986, pp 29-30.

Proposal for changes to the legislative process

Legislation committees

20. Having reviewed the evidence, the present committee does not consider the advantages (some of them clearly considered uncertain) put forward by the 1986 committee sufficient justification, in present circumstances, for the reintroduction of legislation committees as previously operating.⁶ In particular, the need to reduce the pressure of legislative business is now more urgent than it was in 1986, when the amount of sitting time per Act was 2.8 hours – it is now 2.2 hours.

21. The committee notes that in the period 1978-80 the use of the committees does not seem to have saved the House time. The report stage in the House – normally a formality – took up considerable additional time, eliminating time-savings gained from removing the committee stage from the Chamber. The benefits appear to have been rather a more effective consideration of the legislation involved, with proceedings often more bipartisan than they would have been in the more confrontational atmosphere of the Chamber. This committee also seeks to provide these benefits, but in a way which would reduce time pressures in the House.

22. The committee therefore considers that discussion of this topic needs to go beyond the use of legislation committees as substitutes for the committee of the whole. Statistics on legislative activity over recent years show that most bills in fact bypass the committee of the whole stage – only about 25% of bills are considered in committee, and this takes up only about 12% of legislative time (28 hours per year out of a total of 240 hours).⁷

23. The committee has come to the conclusion that, on bills that are uncontroversial and unopposed, there seems to be little procedural reason why more than the traditional 'committee stage' could not be taken in a legislation committee. This is the main thrust of the committee's proposal for handling legislation.

24. It is an established procedure in the UK House of Commons, designed to ease legislative pressure on the Chamber, for some uncontroversial bills to be referred to Second Reading Committees for their second reading debates.⁸ After the debate the practice is that the committee reports to the House that it recommends the bill be read a second time and that question is decided in the House without amendment or debate. The committee saw many benefits from the House adopting this UK practice, but also saw unnecessary procedural and administrative complexities in operating separate second reading and 'committee stage' committees.

6 Procedures described in *House of Representatives Practice*, 1st ed., AGPS, Canberra, 1981, pp 331-333.

7 See Appendix 2 – Consideration of bills 1988-93.

8 *Erskine Mays Parliamentary Practice*, 21st ed., p. 477.

25. In rejecting legislation committees as previously operating, the committee also took into account Members' considerable existing committee commitments. The committee does however see a limited legislative role for the existing standing committees of the House. (see page 16 – *Standing committee consideration of legislation*)

Two legislative streams

26. The committee's proposal is aimed at making more time available for the consideration of legislation and allowing increased opportunities for Members to contribute to debate on bills. This would be achieved by considering legislation in two concurrent streams – in the House and in a single main committee on legislation. There will also be provision for a bill to be examined by a standing committee of the House prior to reference to either stream.

The 'committee stage'

27. Under the committee's proposal the concept of 'consideration in detail' has been separated from the concept of 'consideration in committee'. Consideration in principle (i.e. second reading debate) as well as in detail may take place in committee. Conversely, consideration in detail (the traditional 'committee stage') may also take place in the House rather than the committee of the whole.

28. Historically, in the House of Commons bills were committed for revision and improvement, or to incorporate amendments, to committees of Members who were often officially connected to the Crown, or who might be composed of particular categories, for example, lawyers. The 'committee of the whole House' originated as a device to let ordinary Members take part in such deliberations on legislation, and it also, during the period when the Speaker was regarded as looking after the interests of the Crown, allowed them to do so without the constraining presence of the Speaker.⁹ Such reasons for the committee of the whole no longer appear relevant to the Australian situation.

29. Current House of Representatives practice¹⁰ is that a bill almost always goes through its 'committee' stage (if it goes through it at all) immediately following its second reading and is considered 'in committee' by the Members present in the Chamber who have just participated in the second reading debate. The Chair of the House moves to a different place, changing in title from Speaker or Deputy Speaker to Chairman or Deputy Chairman. Following the consideration of amendments the Chair of the committee reports back to the Chair of the House (with the exception of the Speaker, who only takes the Chair in the plenary, both these positions are filled at different times by the same Members under different titles). The Members present then agree formally,

⁹ Lord Campion, *An Introduction to the Procedure of the House of Commons*, 3rd ed., Macmillan, London, 1958, pp. 25-29.

¹⁰ Described in *House of Representatives Practice*, 2nd ed., AGPS, Canberra, 1989, pp 394-401.

as 'the House', to accept what they, seconds before, have agreed to as the committee of the whole.

30. The committee sees no advantages from the continued use of the committee of the whole in this context. The procedure seems to gain the House nothing. It adds unnecessary complication to the legislative process, while the House loses a little time and perhaps some dignity.

31. The committee notes that other Westminster-style Parliaments operate without committee of the whole consideration of legislation but with an equivalent stage in the plenary – to take two extremes in size, India ('clause by clause consideration') and the ACT Legislative Assembly ('detail stage').

32. Under the committee's proposals the procedures for the consideration in detail stage would be based on those currently applying to the committee of the whole. If the other recommendations in this report are implemented there will be more time available for such consideration and, in that case, the committee sees no reason why proceedings could not be more flexible than those currently applying (*see page 11 – Speech time limits*).

The Main Committee (Legislation)

33. The proposal envisages one Main Committee, which would be a standing 'committee of the whole', in that it would have a continuing existence and its membership would consist of all Members. In practice Members participating in its proceedings at any one time would be nominated by the whips, although any Member would be free to participate. The committee would be chaired by the Deputy Speaker or one of his or her deputies.

34. The Main Committee's proceedings would be included in *Hansard* and be televised on the House monitoring system. The committee would meet as required by the ebb and flow of legislation – to start with maybe only one session a week as the House adapted to the system. Bills would be considered one after the other, rather than the committee meeting on a separate occasion for each bill.

35. Bills referred to the Main Committee would be given consideration in principle (i.e. second reading) as well as in detail in this committee. For the second reading and consideration in detail ('committee') stages this would thus constitute a second legislative stream.

Time and place of meeting

36. The Main Committee would meet in the main committee room and would meet during sittings of the House.

Main Committee procedures

37. a) A minimal quorum requirement of three (to include both government and non-government Members) – the justification for this is that the committee's decisions would be subject to the confirmation of the House.
 - b) No provision for divisions – if agreement cannot be reached (and given the nature of the bills referred this is unlikely to occur) disagreement is noted in the committee's report and the matter resolved in the House during the report stage.
 - c) Arrangements would have to be devised to cover interruptions caused by events taking place in the House. The committee proposes that proceedings in the committee would normally be expected to continue despite quorum calls in the House. The Chair would suspend proceedings of the committee for the duration of any division in the House.
 - d) Any Member suspended from the service of the House would be excluded from participation in Main Committee proceedings.
38. Other operational details would be those applying to the equivalent stage of the bill (i.e. the second reading and consideration in detail stages) in the Chamber. For each stage the procedures in the Chamber and the Main Committee would be the same – although the committee suggests that in both places procedures for the consideration in detail stage be relaxed (*see page 11 – Speech time limits*).

Method and time of referral

39. To give the parties time to study the bill and negotiate, it is proposed that a bill would be referred to the Main Committee (or to a standing committee for prior consideration) at least one week after introduction. As referral would occur before the Minister's second reading speech it is proposed that the bill's introduction should be accompanied by the tabling of its explanatory memorandum, which would include an explanation of the reasons for the bill.
40. To an extent the explanatory memorandum will take over part of the role of the Minister's second reading speech. The proposal does not provide for an adjournment between the Minister's second reading speech and the remainder of the second reading debate. In the committee's opinion, as well as saving time, this would have the advantage of the first opposition speaker being able to respond immediately and directly to the Minister's speech. To observers, the debate will seem more of a whole, with both sides of the question able to be presented at the one time. However, this process can only work with a proper explanatory memorandum.
41. Referral would be by means of a resolution of the House, following negotiation between the parties and any independent Members. In practice, as divisions on the motion would be time-wasting and counter-productive, the motion would not be moved without prior opposition agreement.

42. The committee proposes that following negotiations between the parties, the Leader of the House or another Minister would table, in the form of a proposed program, a list of bills to be referred to the Main Committee (or for prior consideration to a standing committee), and move 'That the program be adopted'. Agreement to this motion would in effect refer the bills to the main committee or for prior consideration to a standing committee. The motion would be open to debate and amendment.

Report stage and third reading

43. a) Committee members for a bill would need to be able to plan to be present in the House when it is reported.
- b) The report stages of bills reported back from the Main Committee could be allotted to a particular block of time. The committee suggests immediately before the adjournment debate each day.
- c) It is proposed that there would be minimal debate at the report stage. As all Members would have the opportunity to take part in the committee proceedings, there is no justification for the report stage being an opportunity for new debate or new amendments. Debate would be allowed only on amendments which the committee reported it had been unable to agree on. No new amendments would be permitted.
- d) At present debate on the third reading rarely occurs and this practice might be expected to continue. However, a restriction on third reading debate could be considered at a later stage, if found necessary.

Selection of bills and programming

44. To avoid unproductive consideration of controversial bills in the Main Committee and to minimise time being taken up at the report stage in the House, the guiding principle for the selection of bills should be that only bills on which there is potential for agreement to be reached should be referred to the Main Committee. However, a reasonably large proportion of bills would seem to be uncontroversial and unopposed and therefore candidates for committee consideration — statistics for recent years show that divisions in fact occur on only about 12 percent of bills.¹¹

45. Greater attention would need to be given, by both the Government and the Opposition, to the programming of business. For the maximum streamlining of legislation to occur, the Government would need to be willing to discuss (uncontroversial) bills with the Opposition prior to introduction, so that agreement can be reached on the selection of bills to be considered in committee. It is envisaged that a proposed program of bills to be referred to the committee would be tabled by the Leader of the House following informal negotiations. A more formal process could be put in place if

¹¹ See Appendix 2 – Consideration of bills 1988-93.

necessary. Entries for bills referred to the committee would appear in a separate Main Committee Business section of the *Notice Paper*.

Speech time limits

46. For the second reading stage of a bill the present speech time limits are 30 minutes for the main speakers and 20 minutes for other Members.

47. The committee proposes no changes to these – however it does remind Members that these are *maximum times*. It has been put to the committee that, although the time limits are maximums, Members feel obliged to fill the time allotted by whips' speaking lists, whether or not the points they wish to make can be made more effectively in a lesser time. The committee also notes that, in practice, second reading speeches are already often limited by agreement between the parties to 10 minutes in order to allow more Members to speak on particular bills.

48. At present for the consideration in detail stage (committee of the whole) the Minister in charge of the bill may speak without restriction and other Members are each limited to two periods of 10 minutes on each question.

49. For the consideration in detail stage the committee proposes that all Members have the opportunity to speak an unlimited number of times, but that each speech be limited to 5 minutes. It is the committee's view that this would encourage greater spontaneity, responsiveness and relevance in debate, discourage set-piece orations more appropriate to the second reading stage, and generally make the mood of proceedings more co-operative.

Resource implications

50. The committee recognises that the changes it proposes to the way the House processes legislation will place an additional workload on those responsible for organising and supporting the business of the House – the Leader of the House and Manager of Opposition Business, the whips and some of the parliamentary staff. The need for additional resources may need to be considered by the parties and by the Speaker in the light of experience. Nevertheless the committee believes that the benefits to the parliamentary process and the quality of legislation would far outweigh any potential cost.

The Main Committee – Summary of benefits

51. The proposals reorganise legislative business to allow Members to use their time more productively. The dual legislative streams should make a major contribution to minimising the need for closures and the use of the guillotine. It gives the House more time (by putting more of its business into committee and removing committee proceedings from the Chamber). More legislation can be dealt with in a given number

of days. At the same time it is possible to give additional time to individual bills. The additional legislative time would open up fuller opportunities, in the House, for debate on the major and controversial items of the Government's legislative agenda. It would also provide more opportunities for backbenchers to make speeches for the record (recorded in *Hansard* and shown on the House monitoring system) on routine bills which are of special interest to them or of importance to their electorate.

52. Separating committee of the whole proceedings from House proceedings rather than having them interspersed, as well as streamlining business, will also have the beneficial by-product of avoiding the need for repetitively changing Chairs during proceedings.

53. The proposal could benefit both Members and Ministers and both Government and Opposition – at the least it would not disadvantage any party.

54. The system would be flexible. While the inducement for referring bills to committee would be the convenience of Members as a whole, there is no obligation for any bill to be referred, and any bill not referred would be considered in the House as it is now. If no bills are referred (perhaps during periods of political heat) the new system would remain latent and able to be called on when again required.

55. A frequent criticism of legislation committees in other Parliaments – for example, one often made about the UK system – is that debate at the report stage in the House tends to become a mere rehash of the debate at the committee stage. The committee's proposals deliberately do not permit such time-wasting. A vitally important feature of the committee's proposals is the restriction on debate at the report stage, and the advantages of a more productive use of time depend on this.

Recommendations

56. It is recommended that:

- (a) a Main Committee (Legislation) be established to take the second reading and consideration in detail stages of such bills as are referred to it by the House;
- (b) the Main Committee be a standing committee of the whole and all Members of the House be members of the committee;
- (c) the committee be chaired by the Deputy Speaker, the Second Deputy Speaker (should the position be created – see page 19), or a Deputy Chairman;
- (d) the committee be able to meet only during a sitting of the House, but disregarding suspensions of the sittings of the House for meal breaks or other reasons;
- (e) the proceedings of the committee be included in *Hansard* and be televised on the House monitoring system;

- (f) the committee have a quorum requirement of three Members, including the occupant of the Chair and two other Members, one of the two being a government Member and one being a non-government Member;
- (g) the Chair shall note the number of Members present and if a quorum is not present the Chair shall immediately suspend proceedings until a stated time or adjourn the committee to the next sitting day;
- (h) there be no provision for divisions in the committee, but any disagreement be noted in the committee's report to the House for resolution by the House;
- (i) proceedings in the committee continue notwithstanding quorum calls in the House but the Chair shall suspend proceedings for the duration of divisions in the House;
- (j) any Member suspended from the service of the House be excluded from participation in Main Committee proceedings.

57. It is recommended that the procedures for the passage of legislation be changed as follows:

First reading

When presenting a bill the Minister must table the bill's explanatory memorandum which should include an explanation of the reasons for the bill.

Resolution on the handling of the bill

At least one week after a bill's presentation and prior to the Minister moving 'that the bill be now read a second time', or, in the case of bills referred to a standing committee, following the presentation of the report of the committee, the House may agree that the bill be dealt with in the Main Committee. A program listing bills proposed to be dealt with in the Main Committee the following sitting week may be tabled by or on behalf of the Leader of the House and a motion 'That the program be adopted', which may be debated and amended, may be moved without notice then or at a later time: provided that the proposal is tabled and adopted in sufficient time for its provisions to be published in the *Notice Paper* of the first sitting day of the week to which it refers.

Following such resolution the Main Committee will deal with the second reading and consideration in detail stages of the bill or bills and report to the House.

All stages of bills not referred to the Main Committee will be dealt with in plenary session in the House of Representatives Chamber.

Second reading

Following a Minister's second reading speech, debate on the second reading may continue without adjournment.

Consideration in detail (clause by clause)

References in the practice of the House to the committee stage of bills shall be understood to refer to the consideration in detail stage.

The consideration in detail stage of bills not referred to the Main Committee will be taken in the House rather than committee of the whole – i.e. the Speaker or Deputy Speaker would remain in the Chair. Progress to this stage of the bill will be signified by an announcement by the Clerk, and different rules of debate will apply.

The rules governing consideration in detail would be the same as those currently applying to the committee of the whole stage, except that speeches would be limited to 5 minutes for all Members, provided that each Member would be able to speak an unlimited number of times.

Report stage (for bills dealt with by the Main Committee)

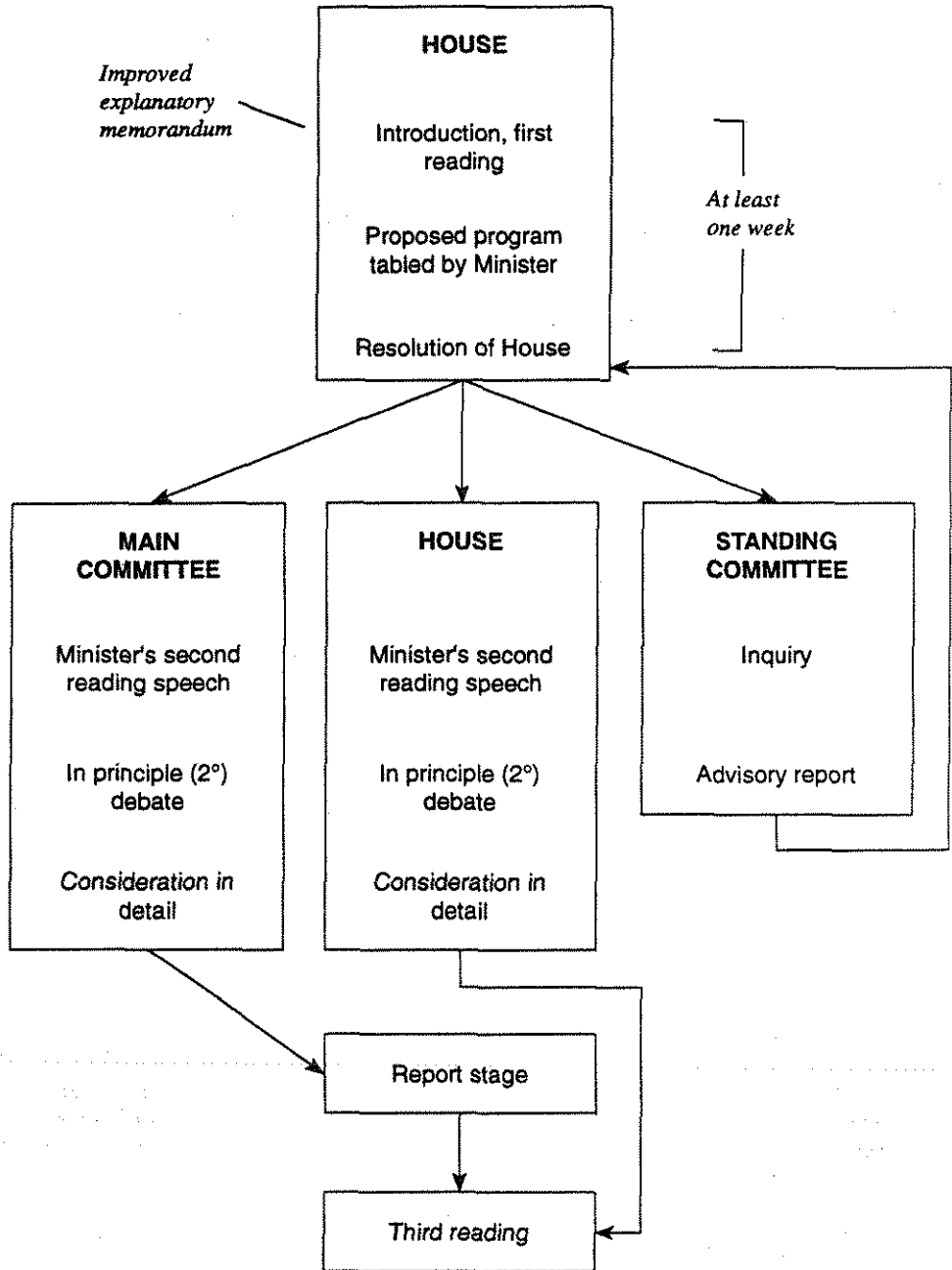
There would be a specific block of time allotted for the report stages of bills reported back from the Main Committee (for example, immediately before the adjournment debate each day).

There would be no debate at the report stage, except on amendments which the committee reported it had been unable to agree on, and no new amendments would be allowed apart from these.

Third reading

The third reading of all bills would take place in the House under the current rules, and the Chair would be expected to enforce the traditional restrictions on the scope of any debate at this stage.

Figure 1. Proposed legislative process



Standing committee consideration of legislation

58. SO 221 permits bills to be referred to a select committee following their second reading. No bills have ever been referred under the standing order, although standing orders have been suspended to refer a bill to a joint select committee immediately following the Minister's second reading speech. General purpose standing committees are expressly empowered by the standing orders to consider bills referred to them by a Minister or the House. However, there is no mechanism for such referral given in the chapter of the standing orders covering bills or any indication as to what stage of the bill it should be so referred (SO 221 has been considered not to apply as it refers exclusively to select committees¹²). The committee considers that a procedural mechanism to permit a bill to be referred to a standing committee needs to be provided formally in standing orders.

59. The committee does not see the referral of a bill to a committee empowered to hear witnesses and receive submissions as a routine stage in the passage of a bill, but rather as a process to be used judiciously where appropriate. Nor does the committee wish to duplicate Senate activity in this area (e.g. same submissions, same witnesses). The committee is also fully conscious of the committee workload already faced by Members. Nevertheless the committee does see a useful role for standing committees in enabling greater input to the legislative process from the community and interested groups and considers that the possibility of such opportunities should be explicitly provided for.

60. The committee sees standing committee consideration as a public discussion and information gathering stage which will contribute to better informed debate on the bill and enable recommendations for improvements to implementation and administrative aspects of the bill. For example, some social security bills might be improved by allowing extra-parliamentary input on details of service delivery or client liaison.

61. In relation to timing, the committee considers that referral following the second-reading comes at too late a stage in the passage of a bill for such community consultation. Positions have already been placed on record and options narrowed.

62. The committee considers that the role of standing committees in relation to bills should be advisory only. They would be able to recommend changes or alternative approaches rather than amend the text of the bill. Actual amendments to the bill would be moved by the Government or Opposition (or indeed any Member, for example, perhaps by members of the standing committee) at the appropriate stage of the bill's consideration in the House or Main Committee.

63. The committee also considers it important that Members of the House interested in a particular bill have the opportunity to participate in its consideration and proposes that more flexible membership arrangements apply to standing committees when considering legislation.

12 *House of Representatives Practice*, 2nd ed., AGPS, Canberra, 1989, p. 392.

64. To avoid a reference of a bill to a standing committee being used to unduly delay the bill's passage, the committee considers that references need to be able to include a deadline for the committee to report. However, for the practice to be worthwhile it is obvious that reasonable deadlines must be given. The committee appreciates that committee scrutiny of a bill will sometimes raise related matters which the committee, although not wishing to delay the bill, might wish to consider or investigate further. The committee's proposal supplies a mechanism for this to occur.

Recommendation

65. It is recommended that:

- (a) at least one week after a bill's presentation and prior to the Minister moving 'that the bill be now read a second time' a bill may be referred for consideration and report to the relevant general purpose standing committee, or where appropriate, to a committee formed of House of Representatives members of the Joint Committee on Foreign Affairs, Defence and Trade;
- (b) the House may specify a date as the deadline for the committee's report;
- (c) for the purpose of consideration of a bill so referred, one or more members of the committee may be replaced by other Members, with substitute committee members nominated by the whips and announced in the House in accordance with existing procedures for the nomination of committee members pursuant to SO 28B; and in addition, provisions for the nomination of supplementary committee members continue to apply;
- (d) the committee's composition, powers and procedures otherwise remain as specified by SO 28B, including the power to call witnesses and hear evidence;
- (e) the committee be charged with considering the implementation of the purposes of the bill given in the bill's explanatory memorandum;
- (f) the committee provide an advisory report on the legislation to the House;
- (g) the report may contain a request for a further reference from the House on matters raised by the committee's consideration of the bill.

Cognate bills

66. When two or more related bills are before the House it often suits the House to have a single second reading debate on the bills together. Proposed cognate debates are usually agreed to by the Government and Opposition as part of the programming process

and the bills are linked accordingly on the Daily Program. The Chair formally seeks the agreement of the House to the proposal when the first of the bills is called on. At the conclusion of the debate separate questions are put for each bill as required.

67. The obvious purpose of the procedure is to save the time of the House. However an important further consideration is that the bills involved may be so closely interdependent that separate debates attempting to maintain the rule of relevance would be forced and artificial. Cognate bill packages are often aspects of the same measure divided into separate bills because of the requirements of the Constitution – matters which in other legislatures would be treated as a single bill.

68. The longstanding and very sensible practice of debating bills cognately has never been recognised in the standing orders. The committee considers that the time has come to do this. The committee's proposals go slightly beyond current practice in that they formally allow a package of cognate bills to be taken together for various procedural purposes in addition to the second reading debate. Taking the bills cognately would still depend on leave of the House being granted – as now, if one Member objected the bills would have to be taken separately.

69. One result of current practice being unofficial is that Members can insist on speaking to each separate question put from the Chair, although this is contrary to the spirit of the practice. The committee's proposal would preclude such separate debate.

Recommendation

70. It is recommended that the standing orders be amended to provide that:

- (a) a Minister may seek leave of the House to declare a package of related bills to be cognate bills;
- (b) the House granting leave would allow, in relation to all the bills together
 - (i) a single motion to refer the bills to a committee;
 - (ii) a single report from the committee;
 - (iii) a single second reading speech by the Minister;
 - (iv) a single second reading debate (during which second reading amendments may be moved to one or more of the bills, but the moving of such amendments subsequent to the first would be a formality with no separate debate allowed)

provided that separate questions would be put at each stage for each of the bills.

Second Deputy Speaker

71. The use of the Main Committee as envisaged will cause an additional workload, administrative as well as in the Chair, for the Deputy Speaker and Chairman of Committees. The committee considers that, once the proposal has been tested and a flow of bills established, an additional position of Second Deputy Speaker would be justified.

72. The success of the Main Committee will depend very much on the selection of appropriate bills for its consideration. This in turn will depend on consultation and agreement between the parties. The committee considers that the importance of the Opposition to this process ought to be formally recognised, and its involvement facilitated, by requiring that the new position be filled by an opposition Member.

73. To avoid an additional time-consuming ballot on the first sitting day of each Parliament, the committee suggests that both positions be filled from the ballot currently held for the position of Deputy Speaker and Chairman of Committees.

Titles and terminology

74. If the committee of the whole is abolished as the committee recommends, the question will arise of the titles of Chairman of Committees and Deputy Chairman. At present the House has a Member with the dual title of Deputy Speaker and Chairman of Committees, who becomes Chairman of Committees when in the chair of the committee of the whole. Other Members are appointed Deputy Chairman to chair the committee of the whole, but are also able to chair the House as Deputy Speaker. The alternatives would seem to be to retain the titles of Chairman of Committees and Deputy Chairman but to apply them only in relation to the Main Committee, or to abolish them and just use the title Deputy Speaker. The committee has taken the latter course for the sake of simplicity.

Recommendation

75. It is recommended that, should the House agree to the proposal for a Main Committee,

- (a) the House also consider creating the additional position of Second Deputy Speaker;
- (b) the Second Deputy Speaker perform the duties of the Speaker as Acting Speaker in the case of the absence of both the Speaker and the Deputy Speaker;
- (c) the Second Deputy Speaker be an opposition Member elected by the House;

- (d) there be one ballot for the two positions of Deputy Speaker and Second Deputy Speaker, the Member receiving the highest number of votes being elected Deputy Speaker and the Member with the next highest number of votes being elected Second Deputy Speaker.

Consideration of estimates

76. The committee felt that with improved consideration of legislation the House should also look at improving the way it scrutinises the budget estimates. The financial initiative resides with the House of Representatives yet, for a range of reasons, it has left detailed scrutiny of estimates largely to the Senate. An experiment with estimates committees in the years 1979 to 1981 was not continued.

77. The committee sees some merit in the two Houses jointly scrutinising estimates in a joint estimates committee system but concedes that there are considerable obstacles to implementing such a proposal. It hopes to pursue the question of improving the House's consideration of financial measures in a later inquiry and would welcome any proposals or comments which Members or Senators may care to put forward.

Questions

Question Time

Background

78. The background to this section of the report is a widespread feeling among Members that question time has deteriorated, compared to the past and compared to what it should be. This feeling comes from Members' own experiences, but is reinforced by adverse public comment, particularly since the advent of televising of question time.

79. Previous Procedure Committee reports (*see page 22*), instigated by similar concerns, have gone into the history and purpose of question time in the House of Representatives and this is also covered in detail in *House of Representatives Practice*.¹³ Interested readers are referred to these sources. On this occasion the committee has decided to go directly to what it sees as the heart of the problem – the continuing decline in the number of questions asked each question time.

80. From 1976 to 1992 the average number of questions asked each question time almost halved, from 19.3 to 10.8, despite an increase in the length of question time from 48.5 to 62.8 minutes. This increase in length of question time was a consequence of the Government's willingness to extend question time with a view to accommodating a minimum number of questions (variously stated as 7 opposition questions¹⁴ or 14 questions¹⁵) – targets which the statistics show are not being met.

81. Over the same period the average time taken for each question to be asked and answered more than doubled, from 2.5 to 5.8 minutes. This was directly the result of the increasing length of Ministers' answers. Explanations in terms of increased opposition disruption of question time by means of repeated points of order can be countered with the argument that such points of order are generally on the subject of the length or relevance of a Minister's answer. (This is not to ignore the importance of reducing such disruption, and this is covered later in the report.)

82. Appendix 4 shows statistics on questions without notice 1970-1993. In 1993 (to 7 October) the length of question time has declined again to 48.2 minutes. The average number of questions is 10.6 and the average length of question and answer is 4.5 minutes.

13 *House of Representatives Practice*, 2nd ed., AGPS, Canberra, 1989, pp 507-509.

14 H.R.Deb. (14.5.87) 3241.

15 H.R.Deb. (15.4.91) 2550.

Previous Procedure Committee inquiries

83. Question time has been the subject of two Procedure Committee reports – *The standing orders and practices which govern the conduct of question time* (1986)¹⁶ and *The standing orders governing questions seeking information* (1992)¹⁷. The main recommendations of these reports relating to question time are detailed below:

<i>Report</i>	<i>Recommendations</i>
1986	<ul style="list-style-type: none">• The duration of question time remain approximately 45 minutes but be extended until a minimum of 16 questions (excluding disallowed and supplementary questions) are asked unless major interruptions occur.• Questions be brief and confined to a single issue.• Answers to questions must be relevant, not introduce matter extraneous to the question and should not contain arguments, etc. (i.e. similar restrictions on language to those applying to questions).• One immediate supplementary question be allowed.
1992	<ul style="list-style-type: none">• At the beginning of a Parliament and at other times, the Speaker should advise the House on how the standing orders relating to questions and answers will be applied;• Proposed revised standing orders (including provisions that both questions and answers should be concise and relevant).

84. To date there has been only a 'draft' government response to the first of these reports and no action taken by the House on either.

Relevance of answers

85. The only standing order relating to answers is that they 'be relevant to the question' (SO 145). Speakers have found this rule difficult to apply. As stated in *House of Representatives Practice*, 'the word [relevance] has been frequently accepted by the Chair as meaning relevant in some way or relevant in part, rather than directly or completely relevant'.¹⁸

86. The 1986 Procedure Committee report recommended that answers not introduce matters extraneous to the question (the Government's draft response rejected the recommendation on the grounds that it might be necessary to introduce *seemingly* extraneous matter to provide a complete answer). The present committee's view is that, however much the requirements of the standing order were to be tightened up, relevance would continue to be a matter of opinion. Speakers would continue to find the rule difficult to apply and points of order on the subject would still be a cause of disruption. The committee also feels that the achievement of significant change in the nature of

16 Parliamentary Paper 354 of 1986.

17 Parliamentary Paper 179 of 1992.

18 *House of Representatives Practice*, 2nd ed., AGPS, Canberra, 1989. p. 528.

answers will depend more on changes of attitudes, on the part of Members asking questions as well as on Ministers answering them, rather than on changes of rules. The committee prefers to treat non-relevant answers as a by-product of the central problem – the length of answers – and attack that directly.

Length of answers

87. While the relevance of answers can be viewed as a matter of interpretation, the length of answers is a matter of unarguable fact. They are too long.

88. Faced with a similar problem the Senate has introduced a time limit on Ministers' answers. The committee considers that this solution would be better than the current arrangements, but agrees that a fixed time limit would be inflexible, as some questions do legitimately require longer answers than others.

Timetabling of question time

89. The committee's proposed timetable puts question time at 3.30 pm every sitting day for reasons discussed later in the report (*see page 35*).

Duration of question time

90. The length of question time is not formally provided for in the standing orders, and, in theory and in practice, is at the discretion of the Prime Minister. This situation derives historically from the rather unofficial beginnings of question time in the House of Representatives (originally the rules of the House provided for only questions on notice, but questions without notice were not objected to by early Speakers as long as Ministers were prepared to answer them). However, the question period has now been recognised for very many years as one of the regular proceedings of the House, and there is no reason to prevent the House allotting a specific period of time for it in the standing orders. The committee proposes that 45 minutes be so allotted. This is the traditional duration of the question period – admittedly less than the recent 60 minute average, but, in the view of the committee, sufficient if the committee's other proposals are adopted. The 45 minutes would be specified as a minimum time. In addition, if the proposed rostering of Ministers is adopted for Mondays, that question period would consist of two half hour segments (*see page 25 – Rostering of Ministers*).

91. The committee accepts that on occasions, for a variety of reasons (including disorder), the House may desire to cut question time short. The committee believes that a formal mechanism for this should be provided in the standing orders and that this mechanism should be a resolution of the House. The committee proposes a similar procedure to that currently used for ending a discussion of a matter of public importance, but using the traditional words 'That (further) questions be placed on notice'.

92. It is a not infrequent practice for question time to be interrupted with a motion to suspend standing orders to permit a matter to be debated, for example a censure motion. The committee proposes that the effect of this practice in terminating question time should be formally recognised.

Minimum number of questions

93. The committee proposes that current arrangements should be altered to specify a minimum number of questions. Like the 1986 Procedure Committee, this committee believes that achieving a reduction in the length of answers through this means would be preferable to the alternative of placing time limits on answers.

94. A minimum number of questions would impose some discipline on Ministers to complete their answers quickly so as to avoid question time taking all afternoon, but would not impose unreasonable constraints on individual answers. The committee agrees with the earlier committee's recommendation of 16 questions. The committee hopes that this measure will encourage Ministers to make their answers concise and germane to the question and lead to an improvement in the relevance of answers as well as their length.

95. If, in the interests of a more effective question time, Ministers are required to submit to this discipline, shadow Ministers and backbenchers will also need to make their contribution. Question time is often disfigured by argumentative and abusive questions quite contrary to standing order 144 and interruptions for spurious points of order have been raised to an art form. Because lengthy ministerial answers have often been the provocation for both these abuses, Speakers have been reluctant to apply strictly the standing orders governing the form and content of questions. These standing orders should be strictly enforced. The committee has recommended an extension of the powers of the Speaker to enable repeated spurious points of order and other disruptions to question time to be dealt with in a more effective and flexible way than is possible at present (*see page 27 – Dealing with disorder*).

Supplementary questions

96. Supplementary questions are already permitted by the standing orders – SO 151 states 'At the discretion of the Speaker supplementary questions may be asked to elucidate an answer.' However, in practice, Speakers have prevented immediate supplementaries by sticking rigidly to the alternation of the call between the parties. The 1986 recommendation for immediate supplementaries was resisted on these grounds. The committee appreciates the reasons for this attitude and agrees that in a situation of very few questions, to depart from the alternation of the call would be inequitable. However, the situation would be different under a system allowing more questions and encouraging shorter answers, and the committee believes immediate supplementaries could be accommodated under its proposals.

97. The committee believes that immediate supplementary questions would place added pressure on Ministers to remain relevant and enhance the effectiveness of question time in calling Ministers to account for their administrative responsibilities. Allowing only one supplementary per question and counting them as part of the minimum number of questions to be answered should prevent debate developing and encourage discrimination in the use of the procedure.

Recommendation

98. It is recommended that:

- (a) question time continue for at least 45 minutes (or 2 consecutive 30 minute segments each sitting Monday) and until at least 16 questions (or 8 questions in each segment each Monday) have been answered, unless a motion, which may be moved without notice and by any Member, is agreed to 'That (further) questions be placed on notice': provided that the moving of a motion to suspend standing orders to bring on other business will end question time, regardless of whether or not that motion is carried;
- (b) the Speaker allow, to the original questioner, one immediate supplementary question in respect of each original question answered; and that supplementary questions be counted as part of the minimum number of 16 questions required each question time.

Rostering of Ministers

99. Question time, particularly since the advent of televising, has become dominated by party leaders on both sides with the majority of questions being asked of the Prime Minister and the Treasurer by the leaders and deputy leaders of the opposition parties – the main exception to this being occasions when a particular Minister is singled out for repetitive questioning on the basis of a perceived flaw or error. In 1992 (admittedly a pre election year) some 70% of all opposition questions came from the Leader and Deputy Leader of the Opposition and the Leader of the National Party. Some 70% of all answers were given by the Prime Minister and the Treasurer. The result is that question time is frequently a highly rhetorical, gladiatorial contest from which the majority of backbenchers on both sides, and indeed most Ministers and shadow ministers, are excluded.

100. The committee considered rostering of Ministers to answer questions as a way to break down this culture of a gladiatorial contest between leaders. It considered a system of rostering Ministers in portfolio subject groupings so that each Minister appeared at least once a week with the Prime Minister possibly appearing more frequently and the

Opposition retaining the right to nominate one Minister not on the roster to appear each day. The benefits of the proposal were seen to be:

- increasing the involvement of Members and Ministers other than party leaders;
- making question time more systematic and ordered;
- refocussing questions on policy issues rather than personalities;
- continuing to allow topical issues to be raised; and
- reducing the time and resources required by Ministers to prepare for question time.

However, the committee also saw some disadvantages in this proposal including:

- the Opposition would lose some control over the tactics it wished to apply;
- Ministers required to attend outside the roster arrangements would be warned to expect questions; and
- as Cabinet Ministers have already delegated many of their House tasks to junior Ministers and Parliamentary Secretaries a rostered question time would see a further reduction in their duties in the House.

101. The committee was unable to reach agreement on a system of rostering which would advance the aims of both the Government and the Opposition in question time. However the committee does support a limited experiment with a rostered question time, using and extending the Monday question time for this purpose. Question time each Monday would be for a minimum of one hour divided into two half hour segments. Over the period of the sitting fortnight this would provide four half hour segments in which portfolios could be rostered as follows:

1st Monday, 1st segment

Industrial Relations
Industry, Technology and Regional Development
Primary Industries and Energy
Tourism
Transport and Communications

1st Monday, 2nd segment

Defence
Foreign Affairs and Trade
Immigration and Ethnic Affairs

2nd Monday, 1st segment

Employment, Education and Training
Health, Housing, Local Government and Community Services
Social Security

2nd Monday, 2nd segment

Aboriginal and Torres Strait Islander Affairs
Arts and Administrative Services
Attorney-General
Environment, Sport and Territories

102. In each case all the House of Representatives Ministers within or representing a portfolio would attend. Because of its discrete identity, Aboriginal and Torres Strait Islander Affairs has been included although it is not a portfolio in its own right.

103. It should be noted that the Prime Minister, Treasurer and Minister for Finance are not included in the roster but, as has been pointed out above, the Prime Minister and Treasurer responded in 1992 to some 70% of all questions. The Minister for Finance is among the other most frequently questioned Ministers. These Ministers would be available for questioning on all the remaining sitting days.

104. The Opposition would be able to request the presence at question time of one Minister (not including the Prime Minister) additional to the roster by informing the Speaker of its request prior to the sitting at 12.30 pm.

105. To allow the House to draw conclusions about the usefulness of this novel procedure, the committee suggests that it be introduced as a trial for two sitting periods.

Recommendation

106. It is recommended that, as a trial for two sitting periods,

- (a) question time each Monday be in the form of two consecutive 30 minute segments each with a minimum of 8 questions to be asked;
- (b) Ministers be rostered so that the Ministers representing each portfolio (except Prime Minister and Cabinet, Treasury and Finance) and the Minister for *Aboriginal and Torres Strait Islander Affairs* attend to answer questions in one segment per sitting cycle. The grouping of portfolios and allocation of segments to be agreed by the Opposition and the Government;
- (c) the Opposition to be able to request the presence of one additional Minister, other than the Prime Minister, per segment by informing the Speaker in writing prior to the sitting of the House on the Monday to which the request relates.

Dealing with disorder

107. Disorder in the House is closely allied in the public mind with question time, and not without reason – it is the period when proceedings are indeed most partisan and emotional. Unfortunately, because of media coverage, it is the period from which most people take their images of Parliament in action.

108. While partisanship is understandable, and even unavoidable, given the nature of question time, there are times when proceedings do become unacceptably disorderly.

109. The Speaker's ultimate weapon in such circumstances is to name an offending Member, thus instigating a vote of the House on the motion for his or her suspension from the service of the House – a matter usually resolved by division on party lines. Suspension is not only a serious penalty, but the process is also time-consuming and is itself disruptive of proceedings.

110. The committee considers that order in the House would be better maintained if the Speaker were to have available a disciplinary procedure of lesser gravity, but of greater speed of operation. The committee proposes the Speaker be given the power to order a Member to leave the Chamber for a limited period. The committee sees such a mechanism as a means of removing a source of disorder rather than as a punishment. It would enable a situation to be defused quickly before it deteriorated, and without disrupting proceedings to any great extent.

111. A similar procedure was one of the recommendations of the 1992 Procedure Committee report on *The standing orders governing disorder and strangers*.¹⁹ The committee raises this particular matter again now because of its application to the conduct of question time.

112. The committee also repeats the 1992 report recommendation that penalties under SO 305 be expressed as sitting days. The committee sees the present provision for calendar days as inequitable, and at the end of a sitting period – with the totally insignificant penalty of suspension for 7 or 28 non-sitting days – little deterrent.

Recommendation

113. It is recommended that:

- (a) the Speaker be given the power to order, in cases of disorder, a Member's immediate withdrawal from the Chamber for a period of one hour;
- (b) no debate on or dissent to the Speaker's decision be allowed;
- (c) the Member concerned be barred from participating in all activity in the Chamber and Main Committee for the period of his or her withdrawal, including divisions and quorums;
- (d) a Member refusing to comply with the Speaker's order to withdraw may be named by the Speaker and a motion may then be moved for the Member's suspension in the usual manner;
- (e) orders to withdraw from the Chamber under this procedure not be counted as previous offences for the calculation of penalties for suspensions of Members under S.O. 305;

¹⁹ Parliamentary Paper 243 of 1992.

- (f) the scale of penalties for suspensions of a Member provided for by S.O. 305 be 24 hours, 3 and 7 sitting days for successive offences in a single year.

Answers to questions on notice

114. As an adjunct to its proposals for question time the committee also looked at improving the Government's accountability through questions on notice. In its 1992 report on *The standing orders governing questions seeking information*²⁰ the committee noted that some questions on the *Notice Paper* remain unanswered for a year or more. Having considered the matter again the committee concurred with the conclusions of the 1992 committee and again suggests a mechanism for Members to follow up questions which have not been answered within 90 days.

Recommendation

115. It is recommended that the following paragraph be added to standing order 150:

'If after the expiration of 90 days of a question first appearing on the *Notice Paper*, a reply has not been delivered to the Clerk, the Member who asked the question may rise in his or her place and request the Speaker to write to the Minister concerned, seeking reasons for the delay in answering.'

²⁰ Parliamentary Paper 179 of 1992.

Sitting program

Days and hours of sitting

Background

116. The sitting times reference in this inquiry has arisen because of Members' growing dissatisfaction with current sitting hours, and in particular with the late night sittings these involve. There is also a widespread feeling that the House ought to be spending more time on the consideration of legislation.

117. Members have concerns about the adverse consequences of late hours on their own health and on that of parliamentary staff. They also question whether they can be fully effective as parliamentarians working late night after night (and it has to be stressed that a Member's working day starts early, even if the House does not meet until the afternoon). Members are also aware of community disquiet about the way the Parliament operates, and that parliamentary sitting hours are one element of such criticism.

118. Although the number of sitting hours per year has not changed markedly since the establishment of the Parliament, the amount of legislation considered by the House each year has increased ten fold – between 1901 and 1910 there were on average 25.1 sitting hours per Act passed, there are now only 2.2 sitting hours.²¹ Expressed another way – ten times as much business is compressed into the same time, or alternatively, each piece of legislation receives a tenth as much attention. The situation has become dramatically obvious in recent years, when a large, and increasing, proportion of legislation has been subject to guillotine procedures and passed with minimal debate. This has occurred at least partly because of a shortage of time, although programming and Senate-imposed deadlines are also contributing factors.

Current hours of sitting

119. With some relatively minor variations the present two weeks on two weeks off sitting pattern and timetable have been in operation since 1984. Since then the House has sat an average of about 550 hours (not including meal breaks and other suspensions) on 60 days over 18 sitting weeks per year. In 1992 the House sat 589 hours on 60 days over 19 sitting weeks and its average time of rising was 11.25 pm. The current days and times of sitting are as follows:

²¹ See Appendix 5 – Days and hours of sitting – historical averages.

<i>Week 1</i>		<i>Week 2</i>	
		Monday	2.00 pm – 6.30 pm 8.00 pm – 11.00 pm
Tuesday	2.00 pm – 6.30 pm 8.00 pm – 11.00 pm	Tuesday	2.00 pm – 6.30 pm 8.00 pm – 11.00 pm
Wednesday	10.00 am – 12.45 pm 2.00 pm – 6.30 pm 8.00 pm – 11.00 pm	Wednesday	10.00 am – 12.45 pm 2.00 pm – 8.00 pm
Thursday	9.30 am – 6.30 pm 8.00 pm – 11.00 pm	Thursday	9.30 am – 6.30 pm 8.00 pm – 11.00 pm

This timetable provides 65.5 hours of sitting over the two week period.

Previous Procedure Committee inquiry

120. The Procedure Committee reviewed the days and hours of sitting of the House in its 1986 report *Days and hours of sitting and the effective use of the time of the House*.²² During this inquiry the committee consulted widely, surveyed Members and took evidence from medical and health authorities. The survey showed that large majorities of Members favoured a two weeks on two weeks off sitting pattern and sitting Monday to Thursday, and that a significant proportion of Members favoured early rising.

121. The committee recommended the House sit for a minimum of 20 weeks each year, to a sitting pattern of two four-day sitting weeks, sitting Monday to Thursday, followed by two non-sitting weeks, and that the House rise by 10.30 p.m. each day.

122. The committee did not recommend early rising, although recognising the support for it among Members, opting for the traditional hours rather than compressing the sitting to eliminate meal breaks, which it saw as the only alternative.

The present inquiry and proposal for changes to current arrangements

123. The aims of the committee in reviewing the sitting hours were:

- to improve the effectiveness of Members in carrying out their parliamentary duties;
- to provide more time for the House to carry out its functions, particularly its legislative functions;

²² Parliamentary Paper 108 of 1986, pp 6-14.

- to provide a more healthy work pattern for Members and parliamentary staff; and
- (as a consequence of meeting the above goals) to enhance community perceptions of the House of Representatives.

124. Having reviewed the earlier evidence and consulted with colleagues, the committee concluded that there was general support for the earlier recommendation for a two weeks on two weeks off sitting pattern sitting Monday to Thursday of each sitting week. That is, the current arrangement but with an additional Monday sitting. The advantages of this change were seen as consistency of timetabling as well as an additional sitting day per four week cycle.

125. The committee also concluded that there was considerable support among Members for earlier rising, and that this support appeared to be even stronger than it had been in 1986. The advantages of this change were seen as a more healthy work pattern for Members and staff, and consequently improved effectiveness. Cost savings were also envisaged.

126. The committee decided to draw up these preliminary conclusions in the form of a model sitting program, to be circulated for discussion among Members and others who would be affected.

127. The model proposed sitting on Mondays from 11.45 am to 5 pm (allowing time for Cabinet and shadow executive meetings in the morning and party meetings in the evening), and Tuesdays, Wednesdays and Thursdays from 9.45 am to 8 pm.

128. The response to the preliminary model, in respect of the days and hours of sitting, was almost entirely favourable. The avoidance of night sittings was widely seen by Members to be a great improvement over present practice (although one Member did express a fear of being bored after 8 pm). Members' responses also strongly opposed sitting on Fridays, although the committee had not in fact proposed this. Heads of parliamentary departments noted the benefits to staff (with the possible exception of some in the Chamber support areas) and reduced administrative costs. The Australian Government Publishing Service stated that the proposal would mean that it would be able to provide the same service to the Parliament with less cost. The Press Gallery replied that as well as being less stressful to reporters the earlier rising would assist in the reporting of Parliament (e.g. coverage of the adjournment debate).

129. However one aspect of the model – the proposal to sit on Tuesday mornings – did arouse considerable concern, particularly among opposition Members. It was put to the committee that the coalition parties needed to retain Tuesday mornings free for party meetings, and that these could not be accommodated easily on Monday. Although the committee was disappointed with this response, as not to sit Tuesday mornings would reduce the number of sitting hours available and also weaken the symmetry and predictability of the timetable, we have responded to this concern in the committee's final model, which has a 12.30 start for both Monday and Tuesday. The hours were made up

by starting slightly earlier on Wednesday and Thursday mornings and sitting until 8 pm on Mondays.

130. After some reflection the committee eventually decided to propose a 6.30 pm rise on Thursdays. The purpose of this was to allow those Members who wished to, and were able to, to travel back to their electorates on Thursday evenings.

131. Inevitably, compromises had to be made in the final model. However, the committee believes that its revised sitting program has accommodated the interests of the maximum number of Members of the House. The central feature of the proposal remains the 8 o'clock adjournment, which we see as a critical feature of the change. We do expect, of course, that evenings will be used for parliamentary and party committee meetings. Such meetings would be free of division and quorum calls in the Chamber; would be called at times to suit the majority of members of the committee; and, most importantly, would finish at an hour determined by the committee members themselves. It is the committee's opinion that Wednesday evenings should be kept free from all parliamentary commitments, but that Monday and Tuesday evenings would be available for parliamentary committees.

132. The proposed timetable provides 65 hours of sitting over the two week period.

133. As the annual pattern of parliamentary sittings was under consideration by the Executive, the committee did not address this issue. The committee believes that any change to the sitting pattern should retain the two weeks on, two weeks off principle, and should possibly secure some extension of the number of weeks the Parliament sits during the year.

Recommendation

134. It is recommended that:

- (a) the House continue to sit to a four-week cycle of two sitting weeks followed by two non-sitting weeks;
- (b) The House sit on Monday to Thursday of each sitting week;
- (c) The sitting hours of the House be as follows –

Mondays	12.30 pm to 8 pm	
Tuesdays	12.30 pm to 8 pm	
Wednesdays	9.30 am to 1 pm	2 pm to 8 pm
Thursdays	9.30 am to 1 pm	2 pm to 6.30 pm

The committee's proposed sitting program incorporating these recommendations is shown in the table on page 35.

Routine of Business

135. The question of days and hours of sitting cannot be isolated from the consideration of the routine of business. The preliminary model of sitting times made it necessary for the committee to take account of the following:

- no evening sittings (currently devoted to government business)
- additional morning sittings
- regular Monday sittings, accompanied by the need to accommodate Cabinet, opposition executive and party meetings on Mondays.

In addition the committee took the opportunity to take a fresh look at other aspects of the established order of business.

136. It was immediately obvious that, despite the committee's desire for uniformity, the sitting hours on Monday would probably have to be different from those on the other days of the week. A later starting time would be preferred by almost all Members because of travel considerations. Party meetings and Cabinet meetings would need to be catered for. As Monday hours would be different anyway, it seemed to the committee that it would be beneficial to move private Members' and committee proceedings, currently taking place on Thursday mornings, to Monday, and to restrict Monday proceedings mainly to these. Making Monday 'Private Members' Day' would allow Cabinet and shadow executive meetings to occur uninterrupted by events in the Chamber, and enable the other days of the week to have a standard routine, concentrating on government business. The committee agreed that there should be no MPI on Mondays, but that there should be question time.

137. The committee saw advantages in moving 'other business' – question time, presentation of papers and ministerial statements, discussion of a matter of public importance – to the beginning of proceedings, leaving the remainder of the day as a consolidated block of government business. Getting question time over with early in the morning was also expected to offer benefits to Ministers and shadow ministers by allowing them to program the rest of their day more flexibly, and particularly by allowing them to fulfil lunchtime engagements in Canberra, Melbourne and Sydney.

138. The committee incorporated these ideas into its preliminary model sitting program. Other ideas floated were having a second grievance debate during the Thursday lunch period and having a short period of Members' statements each day, as the first item of business.

139. The preliminary model received a few specific criticisms in respect of the routine of business. These included: too much time for Members' statements and grievance debate at the expense of private Members' business (i.e. private Members' motions and bills); early question time might not give enough time for Ministers to be briefed; the inconsistency of question time being at a different time on Mondays.

140. However, accommodating those who desire to keep Tuesday mornings free for party meetings, and also have question time at the same time each day (but still away from the lunch period) meant moving question time to mid afternoon. The moving of party meetings to Tuesday let the House sit until 8 pm on Monday, thereby achieving consistency at the end of each sitting day, with the additional time allotted to government business. Although the committee would have preferred not to split government business on Tuesdays, Wednesdays and Thursdays into two sessions divided by question time and other routine business, these changes still allowed the order of business and afternoon timetable on these days to remain consistent. The committee's proposed sitting program incorporating these recommendations is shown in the table below.

Figure 2. Proposed sitting program

Start Time	Monday 12.30 pm - 8 pm	Tuesday 12.30 pm - 8 pm	Wednesday 9.30 am - 8 pm	Thursday 9.30 am - 6.30 pm
9.30			Government Business	Government Business
12.30	Private Members'	Government Business	Lunch	Lunch
1.00	Business			
2.00	Grievance Debate		Government Business	Government Business
3.15	90 sec stats			
3.30	Question Time	Question Time	Question Time	Question Time
4.15	(2 segments)	Papers/Min.St.	Papers/Min.St.	Papers/Min.St.
4.30	Papers Petitions	MPI	MPI	MPI
5.15	Committee Reports	Government Business	Government Business	Government Business
6.00	Government			Adj. Debate
6.30	Business			
7.30	Adj. Debate	Adj. Debate	Adj. Debate	
8.00				

141. The proposed timetable does not appreciably alter the time provided for any item of business. Over a sitting fortnight there is an additional 30 minutes provided for government business. Private Members' business is unchanged. There is an additional question time and an additional adjournment debate, but one less MPI. Additional time for debating legislation will be obtained from the committee's proposals for handling legislation.

Recommendation

142. It is recommended that the daily routine of business be as follows:

Mondays

1. Private Members' business (from 12.30 pm to 2 pm)
2. Grievance debate (from 2 pm to 3.15 pm)
3. Members' statements (from 3.15 pm to 3.30 pm)
4. Questions without notice (from 3.30 pm to at least 4.30 pm)
5. Presentation of papers
6. Ministerial statements
7. Presentation of petitions
8. Presentation of and statements on reports from parliamentary committees and delegations
9. Orders of the day for the resumption of debate on motions moved in connection with committee and delegation reports (until no later than 6 pm)
10. Notices and orders of the day
11. Adjournment debate (from 7.30 pm to 8 pm)

Tuesdays, Wednesdays and Thursdays

1. Notices and orders of the day (from 12.30 pm on Tuesdays; from 9.30 am on Wednesdays and Thursdays with lunch suspension from 1 pm to 2 pm)
2. Questions without notice (from 3.30 pm to at least 4.15 pm)
3. Presentation of papers
4. Ministerial statements
5. Matter of public importance
6. Notices and orders of the day
9. Adjournment debate (from 7.30 pm to 8 pm on Tuesdays and Wednesdays; from 6 pm to 6.30 pm on Thursdays)

NEAL BLEWETT

Chairman

21 October 1993

DISSENTING REPORT

Introduction

The review of sitting hours and other matters pertinent to the conduct of the processes of the House of Representatives is overdue. There is clearly an excellent case for a more rational sitting schedule to provide for a higher standard of representation and, of course, an improvement in the quality of decision-making. It is ludicrous to expect Members to function in a consistent manner when the demands placed upon them are increasing at such an exponential rate.

It is unfortunate that the committee chose not to fully survey Members with a list of various proposals to find out their preferences.

The proposal for a second 'Chamber' has to be treated with caution. First, because its creation may devalue or undermine the importance of the debate or activities in the House and second, because experience elsewhere with similar committees has not been successful. In the United Kingdom House of Commons, for example, there is no evidence that the quality of debate is better as the same partisan tactics are used just as fiercely as in the main Chamber.

Handling Legislation

Whilst the report properly draws attention to the dramatic decline in debating time per Act since Federation, as its basis for criticism of legislative procedures, it does not recognise one of the principal factors which leads to the present dissatisfaction and frustration experienced by many Members of the House of Representatives. A significant statistic not dealt with at all in the report, but which is highly relevant, is the increase in the numbers of Members of Parliament since Federation.

In 1901 there were 75 Members of the House of Representatives; by 1992, there were 148 Members of the House of Representative. To extend the statistic of the number of sitting hours per Act, in the decade to 1910 each Member could have averaged 20 minutes speaking time per bill, whereas by 1992 the average had declined to less than one minute per bill per Member. Whichever way you choose to do the statistics, the incontrovertible fact is that we now have nearly twice as many Members of Parliament as there were at Federation, but an allotment of only one tenth the debating time per bill as was available then (for fewer Members).

Further, such factors as the amount of time now allowed in the House of Representatives for private Members' business, and the virtual disappearance of ministerial statements from the House in the past couple of years, very much affect the opportunity for and quality of Members' individual contribution, through debate, on national issues.

Another important issue not considered by the committee – but which must be addressed if there is to be a serious debate about the opportunities for Members to fulfil their parliamentary role – is the proportion of each year that the House is in session.

It is unfortunate that the committee has not addressed the 'in principle' issue of a desirable amount of time (say, per annum) that Parliament should allot to various aspects of its business: consideration of bills, ministerial statements, matters of public importance, question time, private Members' business and so on. Instead, the committee has proceeded on the 'hunch' that Members generally would like to have more opportunity for contributing to debate on bills. Figures show that since Federation the number of sitting hours per Act has declined from 25 to 2 hours in 1992.

Main Committee (Legislation)

The suggestion that there be a second 'Chamber' is radical. The report's justification principally derives from the current mechanics of committee consideration of bills, and the historical origins of these procedures.

Whatever the original reasons for the procedure of an 'in principle' (second reading) debate, followed by a 'clause-by-clause' consideration (when leave is not granted to proceed to the third reading forthwith), there has not been any general expression of opinion from Members that this is an out-dated, irrelevant or clumsy (much less time consuming) device. In practice, it works quite well. There certainly has not been a history of Members suggesting radically alternative procedures for handling bills.

In the context of this report, the main justification for the suggested 'Main Committee (Legislation)' could only be to afford more time for debating individual bills – given that the option that time might come from additional sitting weeks was not considered by the Procedure Committee.

On the other hand, the suggested new procedure could be very inflexible by precluding the pursuit in committee of the whole in the House of Representatives Chamber of those matters that arise in debate in the Main Committee which may not have been anticipated. Matters cannot be addressed by moving additional amendments in the House.

The procedure proposed in the committee's report cuts off this option. On these occasions the Opposition would have good cause to feel debate had been stifled. Thus, the proposal could significantly undermine the proper scrutiny of legislation by the House of Representatives. It is not reasonable to expect that all such issues will be foreseen in the course of reaching agreements with the Government by whichever opposition executive Member(s) is (are) responsible for negotiating the division of bills between the House of Representatives Chamber and the Main Committee.

Further, the suggestion of a changed nature for the explanatory memorandum to enable the referral of a bill to the Main Committee before a Minister's second reading speech giving the policy reasons for government proposals, runs the risk of debates being more 'staged' than ever. It is not unreasonable for a Minister to state the Government's policy

at the same time as putting a bill initially before Parliament. To include 'propaganda' in an explanatory memorandum could only devalue it, and reduce its effectiveness as a resource in understanding the bill.

The 'time saving' asserted in paragraph 40 is not apparent. The present situation of a bill and its explanatory memorandum being tabled effectively at the same time as the Minister's second reading speech has worked quite satisfactorily. Even with the changed structure proposed in this report, there does not seem to be any real justification for holding back on the Minister's second reading speech at the initial stage of introduction of the bill. In fact, given that the courts are now required to take into consideration a Minister's second reading speech on a given law, it could be undesirable to separate the presentation of the bill and the Minister's second reading speech, (that is, the bill's justification and intent in practice) from one another.

Therefore we disagree with the Committee's recommendation to establish a Main Committee (Legislation).

Instead, we recommend that the Procedure Committee have drawn up and circulated to all Members of the House of Representatives a discussion paper canvassing an extended range of alternative means of increasing the amount of House debating time, for example, an increase in the number of sitting weeks per annum, programming legislation to avoid the use of guillotine.

Sitting hours

Whilst there is very little dissent from the view that a substantial review of Parliament's sitting hours is needed, the model circulated by the committee (para. 127) drew very substantial criticism from the Opposition. Its concern was not only the proposal to sit on Tuesday mornings (para. 129), but also the proposal to sit on Monday mornings.

Monday morning is presently used for shadow ministry meetings. In this regard, it needs to be borne in mind that shadow ministers are also 'private Members', and often need to participate in private Members' business and committee reports. The view was stated very strongly in a meeting between the Chairman and Deputy Chairman of the Committee and the Opposition's leadership group (both Liberal and National Parties, House of Representatives and Senate Leaders and Managers of Opposition Business) that it was unacceptable for Parliament to be sitting at the same time as the scheduled shadow ministry meeting on Monday mornings.

Further, it should be recognised that, at present, the shadow ministry meets all day on Mondays of the first week of sitting, plus the morning of the Monday of the second week of sitting. Under the proposed change, whereby both Mondays of the sitting fortnight would be sitting days, shadow ministry meetings will necessarily be restricted to Monday mornings only. Therefore that time becomes all the more important. To overlap it with scheduled sittings of Parliament would put unacceptable pressure on shadow ministers.

The structure of Tuesday's opposition party meetings also needs to be borne in mind. The normal procedure is for a 9 am meeting of the National Party each week, and a

meeting of the Liberal Party usually every second week; a 10 am joint party meeting, which can finish any time between 12 noon and 1 pm; a Senate party meeting which follows the joint party meeting and normally occupies the 'lunch break' on Tuesdays. Therefore, to enable the flow of business within the coalition's party meetings up to five hours is required.

The model which would have had party meetings on Monday evenings was unacceptable on the grounds not only of insufficient time, but also the fact that it is undesirable for Members to be tired after a day's parliamentary sittings when they embark on party meetings. The Opposition leadership group was therefore emphatic that Tuesday mornings must be maintained at the same hours as they are at present, that is, sittings commencing no earlier than 2 pm. There was, however, agreement between Government and Opposition that it would be more convenient for frontbenchers on both sides if question time was scheduled a little later than the present 2 pm.

The proposed sitting hours contained in the report only go a limited distance towards meeting the Opposition's needs on Monday and Tuesday mornings. Whilst the committee subsequently considered a pattern of sittings which would have been more satisfactory to the Opposition, this pattern was abandoned when a majority of the committee opted in favour of a 6.30 pm Adjournment on Thursday evenings to enable some Members to return to their electorates that night. (Under present airline schedules, a substantial number of Members would not be able to return to their electorates on Thursday nights and of those who could, many of them could only do so if they were to leave Parliament during the adjournment debate).

Scheduling question time at 3.30 pm each day raises another serious opposition concern. For most of the present parliamentary sitting period the Opposition has been precluded from raising matters of public importance and censure motions. Under the committee's proposal it is unlikely that any MPI would commence much before 4.30 pm, which would mean a 5.30 pm conclusion.

Furthermore, it can often happen that other items intervene between question time and the bringing on of a matter of public importance, which would have the effect of running the MPI much later. This is one of the very few opportunities that the Opposition has available to it to raise for debate those issues of public moment. Given the afternoon deadlines of major sections of the media, an effect of this proposal could be to render MPIs virtually meaningless in terms of their reach to the general public.

Furthermore, changing Monday's question time to a 'roster' system, unless it is only done by agreement with the Opposition on a week-by-week basis, would result in a further lessening of the Opposition's ability to pursue issues of public moment at the time that they are most relevant. The committee's proposal affects two of the scheduled question times out of the eight proposed. At present, the Opposition has seven 'open' question times per sitting fortnight – this proposal would reduce them to only six per fortnight.

In the struggle between the interests of the Executive and the Parliament, access to matters of public importance, censure motions and question time are critical to the proper scrutiny of the Government by the Opposition. Any reduction of the 'effective

time' available for these functions is detrimental to the interests of the community. Thus, in changing the sitting hours to accommodate a more reasonable sitting regime, it is not acceptable to have question time commence any later than 2.30 pm.

An alternative sitting schedule is appended.

Below is a comparison of the time available, for each of the substantial categories of business – the present schedule of business, the committee's proposal, and this minority report proposal.

HOURS PER SITTING FORTNIGHT

CATEGORY OF BUSINESS	Present Arrangement	Majority Recommendation	Minority Recommendation
Question Time unlimited rostered	5¼ -	4½ 2	4½ 2
MPI (times)	7	6	8
Government Business	39	39½	39½
Committee' Business	3	3	3
Private Members' Business	3	3	3
Grievance Debate	2½	2½	2
Ninety Second Statements	½	½	1
Adjournment Debate	3½	4	4
TOTAL HOURS	65½	65	67

Start Time	Monday 2.15 pm - 8 pm	Tuesday 2.15 pm - 8 pm	Wednesday 9 am - 8 pm	Thursday 9 am - 8 pm
9.00			Government Business	Government Business
12.30			Grievances	Grievances
1.00			Committee Reports	Private Members' Business
2.15	90 sec stats	90 sec stats		
2.30	Question Time	Question Time	Question Time	Question Time
3.15	(2 segments)	Papers/Min.St.	Papers/Min.St.	Papers/Min.St.
3.30	Papers/Min.St. MPI	MPI	MPI	MPI
4.15				
4.30	Government Business	Government Business	Government Business	Government Business
7.30	Adj. Debate	Adj. Debate	Adj. Debate	Adj. Debate
8.00				

Kathy Sullivan MP
27 October 1993

Paul Filing MP
27 October 1993

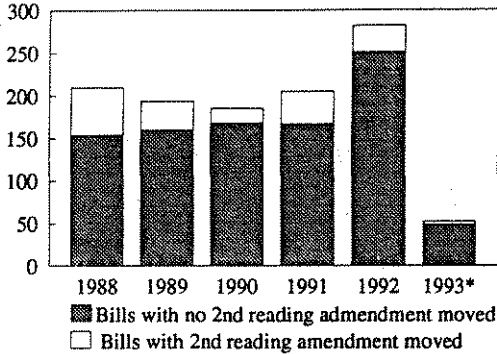
Appendix 1 – Correspondence received by the committee

Correspondence was received from the following people in response to the preliminary model for a sitting program and in relation to other matters associated with the inquiry.

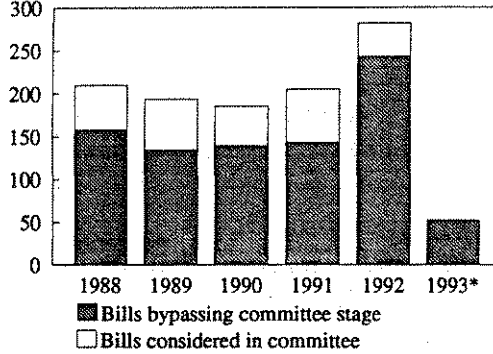
Mr J N Andrew MP
Mr L M Barlin, Clerk of the House
Mr R E Charles MP
Ms M J Deahm MP
Mr D Dean, Group Sales Director, ACT, Qantas
Hon M J Duffy MP
Mr T A Fischer MP, Leader of the National Party of Australia
Mr S E Hearn, First Assistant Secretary, Ministerial Co-ordination Division, Department of Primary Industries and Energy
Senator J Herron
Hon G T Johns MP, Parliamentary Secretary
Mr J V Langmore MP
Hon M H Lavarch MP, Attorney-General
Mr A Law, General Manager, Australian Government Publishing Service
Hon S P Martin MP, Speaker
Mr P E Nugent MP
Ms H Penfold, First Parliamentary Counsel
Mr J K Porter, Acting Secretary, Joint House Department
Mr P Rowe, State Manager, ACT, Ansett Australia
Mr P M Ruddock MP
Hon G G D Scholes, former Member and former Procedure Committee Chairman
Hon K W Sibraa, President of the Senate
Hon D W Simmons MP
Mr L J Tanner MP
Mr J W Templeton, Secretary, Department of the Parliamentary Reporting Staff
Mr G World, President, Federal Parliamentary Press Gallery

Appendix 2 – Consideration of bills 1988-93

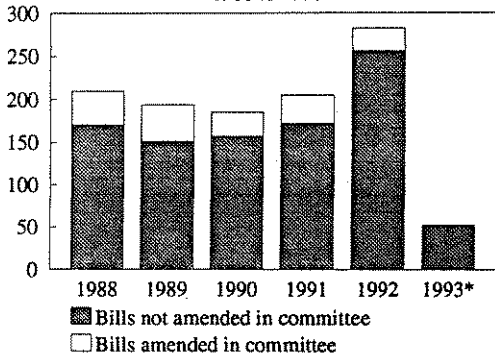
**Second reading amendments moved
1988 to 1993***



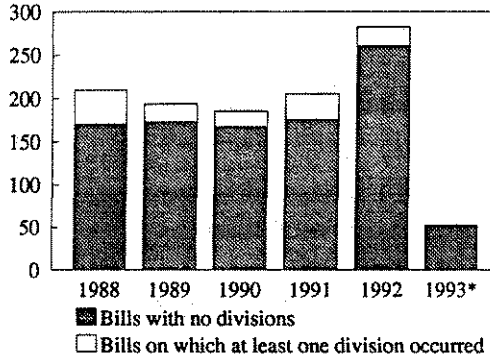
**Bills at committee stage
1988 to 1993***



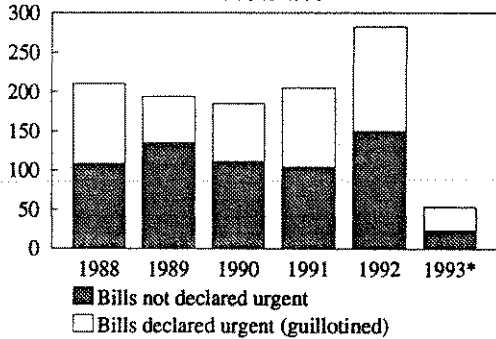
**Bills amended in committee
1988 to 1993***



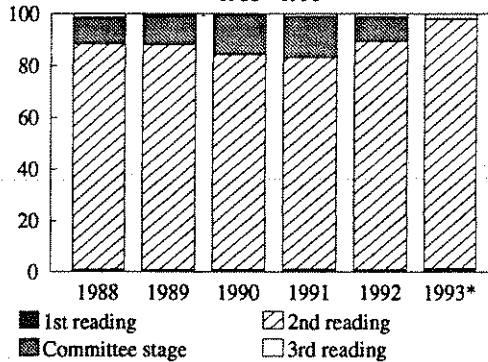
**Divisions on bills
1988 to 1993***



**Urgent bills
1988 to 1993***



**Percentage of time spent on stages of bills
1988 - 1993***



* as at COB 27 May 1993

Appendix 3 – Legislation review – Department of Primary Industries and Energy

(Summary supplied to the committee by the Department in its letter of 19 October 1993)

PRIMARY INDUSTRIES AND ENERGY PORTFOLIO

LEGISLATION REVIEW

Background

The Department of Primary Industries and Energy administers over 200 Acts of Parliament. Approximately 40% of these are classified as taxing Acts.

There has been a steady increase in the annual volume of legislation for the portfolio, rising from 17 Acts in 1988 to 54 Acts in 1992. A majority of Acts passed each year are Acts to amend existing legislation. A majority of Acts passed each year are taxing Acts.

Reviewing the legislation program

The Department commenced a review of the portfolio legislation program early in 1993 to identify opportunities for reducing the total volume of legislation administered by the Department and the number of Bills required in each sittings.

Immediate action was taken for the Budget sittings 1993 to amalgamate into a single portfolio bill, amendments to 14 separate Acts. Amendments to the Australian Wine and Brandy Corporation Act 1980, proposed for inclusion in the portfolio Bill, were subsequently introduced as a separate bill only to meet timing requirements for introduction of the portfolio Bill. For the Budget sittings 1993, the portfolio will be introducing some 10 legislation packages involving possibly 31 separate bills - 21 of which will be taxing Bills which cannot be included in amalgamated or portfolio bills.

For the Autumn sittings 1994, the portfolio has reduced its legislation bids to 9 packages involving approximately 19 separate bills.

A single package including 7 separate levy Acts or amendment Acts has been proposed. The only relationship between each of the proposals is that they relate to the imposition of industry levies but, as they are simple, short bills, debate on which rarely raises any controversial issues, a single cognate debate would seem an efficient way to deal with the bills.

Future review activities

The Department has identified a number of options which could be pursued in working towards the objective of reducing the volume of legislation. The Department is analysing the relative costs and benefits of each of the options, with a view to identifying those which will return the greatest

savings in Departmental, Ministerial and Parliamentary time and resources utilised in the preparation, introduction, passage and implementation of legislation.

Some current options under consideration are as follows.

Amalgamation of taxing legislation

Preliminary advice from the Attorney-General's Department suggests it may be possible to amalgamate some of the taxing Acts administered by the portfolio, perhaps into 4-6 Acts. This could reduce the number of separate taxing amendment Acts subsequently required and the number of new Acts required.

Review of statutory authority establishment legislation

Consideration is being given to whether the standard administrative arrangements for the large number of statutory bodies within the portfolio could be included in a single Act. This could reduce the need to make the same amendments to a number of Acts to implement administrative changes. A recent example would be the removal of the 65 year age limit on appointments to the bodies, which has been effected over the past 2-3 Sittings in several separate Bills.

This consideration will also encompass the application of the Research and Development Corporation model (in the *Primary Industries and Energy Research and Development Act 1989*) under which statutory corporations may be established by regulation to other kinds of statutory bodies within the portfolio. Similar work has been undertaken in NSW and Victoria.

Review of obsolete and administrative provisions

All existing legislation could be reviewed to identify obsolete provisions which could be deleted and provisions which implement administrative arrangements and which could be dealt with by regulations rather than in the Act.

Quality control

The Department is analysing Bills introduced for the past few years to identify how much of its legislation each sittings is required to either correct errors in the original legislation or make changes to administrative arrangements which, on implementation, proved to be in some manner ineffective or inappropriate. Should this prove to be the case, consideration will be given to effective arrangements which could be made to improve the quality of the original legislation put forward to the Parliament.

**DEPARTMENT OF PRIMARY INDUSTRIES AND ENERGY
OCTOBER 1993**

Appendix 4 – Questions without notice 1970-93

Year	No. of sitting days	No. days questions asked	Total no. of questions asked	Average no. of questions asked per day	Average length question time	Average time for question and answer
1970	73	71	1187	16.7	43.0	2.6
1971	74	72	1218	16.9	43.0	2.5
1972	60	58	1024	17.7	47.0	2.7
1973	81	75	1219	16.3	49.0	3.0
1974	62	56	782	14.0	46.0	3.3
1975	69	63	956	15.2	45.0	3.0
1976	79	75	1447	19.3	48.5	2.5
1977	68	62	1021	16.5	48.0	2.9
1978	75	68	1098	16.1	46.5	2.9
1979	68	63	1033	16.4	49.0	3.0
1980	51	50	762	15.2	49.5	3.2
1981	62	58	943	16.3	45.0	2.8
1982	53	46	709	15.4	45.0	2.9
1983	49	47	597	12.7	48.5	3.8
1984	52	49	591	12.1	48.0	4.0
1985	66	62	734	11.8	49.0	4.1
1986	79	79	934	11.8	47.4	4.0
1987	74	72	900	12.5	50.6	4.0
1988	65	65	715	11.0	47.5	4.3
1989	59	57	665	11.7	49.5	4.2
1990	38	33	453	13.7	58.0	4.2
1991	67	64	861	13.5	62.4	4.6
1992	60	57	616	10.8	62.8	5.8
1993*	25	23	244	10.6	48.2	4.5

* as at COB 7 October 1993

Appendix 5 – Days and hours of sitting – historical averages

Period	Sitting weeks per year	Sitting days per year	Sitting hours per year*	Acts passed per year	Hours per Act
1901-1910	26	95	577	23	25.1
1911-1920	22	71	449	40	11.2
1921-1930	20	67	425	47	9.0
1931-1940	18	58	382	75	5.1
1941-1950	22	70	452	73	6.2
1951-1960	21	63	461	96	4.8
1961-1970	20	62	483	120	4.0
1971-1980	22	69	543	173	3.1
1981-1990	18	60	524	170	3.1
1988+	21	65	588	155	3.8
1989++	18	59	560	183	3.1
1990++	12	38	362	144	2.5
1991+++	21	67	662	204	3.2
1992+++	19	60	589	264	2.2
1901-1992	21	68	486	94	5.2

- * hours House actually spent considering business – does not include meal breaks
- + includes 2 weeks with only 1 sitting day
- ++ includes 2 weeks with only 2 sitting days
- +++ includes 2 weeks with only 2 sitting days and 1 week with only 1 sitting day