

The Senate

Procedure Committee

Question time – temporary order

Correction of divisions after misadventure

Procedure for consideration of private senators'
bills

Third report of 2010

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PROCEDURE COMMITTEE

THIRD REPORT OF 2010

The committee reports to the Senate on the following matters referred to the committee and considered by the committee at a meeting on 25 October 2010. Owing to the unavoidable absence of the Deputy President, Senator Ferguson, the committee elected Senator Parry as acting chair for the meeting.

Question time – temporary order

The committee considered the temporary order of the Senate of 25 November 2009 which provides modified rules for question time. The order is due to expire at the end of the second sitting week of the current Parliament. The committee discussed the order and agreed to **recommend** to the Senate that the order continue in operation as a temporary order to the end of the 2010 sittings and for the first two sitting weeks of 2011.

Correction of divisions after misadventure

On 29 September 2010, on the motion of the leader of the Australian Greens, Senator Bob Brown, the Senate referred the following matter to the committee for inquiry and report by 27 October 2010:

Consideration of the following amendments to Senate standing order 104 and recommendations for their implementation:

Standing order 104, relating to the correction of divisions, be amended to read as follows:

104 Correction of divisions

(1) If there is misadventure, or in case of confusion or error concerning the numbers reported (unless it can be otherwise corrected), the Senate shall proceed to another division.

(2) A division under this standing order must be taken as early as is convenient.

The committee discussed the proposed amendments to standing order at 104 to provide for divisions to be held again in cases of misadventure. The committee noted that the current practice of the Senate is for divisions to be held again, by leave, when an

explanation has been provided to the Senate by a senator who has inadvertently, or by misadventure, missed a division. This practice embodies the principle that the will of the Senate should be reflected in any vote but that the Senate, as master of its own proceedings, should have the right to determine the circumstances in which divisions will be held again, on a case-by-case basis if necessary. The committee considered that current practice is satisfactory and that there have been no examples in recent years where any vote has miscarried due to misadventure, or where there has been any difficulty in securing agreement for the Senate to take votes again where requested.

However, the committee agreed to reconsider the matter if any incident in the chamber raised specific concerns about the operation of these practices. A majority of the committee agreed to **recommend** that there be no change at present to standing order 104. Senator Siewert did not agree with this recommendation.

Procedure for consideration of private senators' bills

On 29 September 2010, on the motion of the leader of the Australian Greens, Senator Bob Brown, the Senate referred the following matter to the committee for inquiry and report by 27 October 2010:

Consideration of the following amendments to Senate standing orders and recommendations for their implementation:

That the following operate as a temporary order of the Senate until the end of the first sitting week in August 2011:

(1) The routine of business on Mondays from 7.30 pm until 9.50 pm shall be consideration of general business orders of the day for the consideration of bills, in accordance with this order.

(2) Each bill shall be considered under a limitation of debate as follows:

(a) the time allotted for the remaining stages of each bill (or package of bills) shall be two hours; and

(b) if there is a requirement under standing order 115 that a bill be considered in committee of the whole, the time allotted for the second reading of the bill (or bills) shall be one hour.

(3) This order shall operate as an allocation of time under standing order 142.

(4) Each senator speaking to a motion for the second reading or third reading of the bill (or bills) shall speak for not more than 10 minutes.

(5) An amendment or request for an amendment to a bill considered under this order shall not be considered in committee of the whole unless it was circulated no later than 30 minutes after the commencement of consideration of the bill on that day.

(6) If there is no requirement under standing order 115 that the bill (or bills) be considered in committee of the whole, the question for the third reading of the bill (or bills) shall be put without debate immediately after the second reading of the bill (or bills).

(7) The order of bills for consideration shall be determined by the Senate.

It is intended that the order for the consideration of bills be determined by agreement between the opposition, minor parties and independent senators, in accordance with the usual practices of the Senate. This agreement would be implemented by a motion at placing of business.

It is also intended that, if a senator is unable to speak to the motion for the second reading of a bill because of the expiration of the allotted time, the Senate will allow the incorporation of that senator's speech in Hansard, subject to the usual practices of the Senate.

The Leader of the Government in the Senate, Senator Evans, noted that the creation of better opportunities for debating private senators' bills had been part of various agreements made by the Government following the 2010 election and that it was the Government's intention to honour those agreements. Alternatives to the consideration of private senators' bills on Monday evenings, as proposed by Senator Brown, were discussed and the committee instructed the Manager of Government Business, Senator Ludwig, to convene a meeting with his Opposition counterpart, Senator Fifield, and the Australian Greens Whip, Senator Siewert, consulting as necessary with the independent senators, to consider alternatives and come back to a further meeting of the committee (to be convened in the next sitting week) with a proposal to address the following requirements:

- the provision of additional time to consider private senators' bills;
- identification of how extra time could be made up during the week to compensate for the additional time for private senators' bills;
- a mechanism for determining which private senators' bill/s would be considered at any one opportunity (with any such mechanism to acknowledge the principle of proportionality); and
- whether time limits should operate in relation to the consideration of private senators' bills.

The committee reports accordingly that it intends to report again on this issue in the next sitting week.

Senator Stephen Parry
Acting Chair of the Procedure Committee