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## **Procedure Committee**

Consideration of Private Senators' Bills

Fourth report of 2010



## MEMBERS OF THE COMMITTEE

Senator the Hon John Hogg President of the Senate

Senator the Hon Alan Ferguson Deputy President and Chair of Committees, **Chair** 

Senator the Hon Chris Evans Leader of the Government in the Senate

Senator the Hon Eric Abetz Leader of the Opposition in the Senate

Senator the Hon George Brandis SC

Senator the Hon John Faulkner

Senator Annette Hurley

Senator the Hon Joe Ludwig

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### PROCEDURE COMMITTEE

### **FOURTH REPORT OF 2010**

The committee reports to the Senate on the following matter referred to the committee and considered by the committee at meetings on 25 October and 15 November 2010.

#### **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.

In its *Third report of 2010*, the committee reported that it had instructed the Manager of Government Business in the Senate, Senator Ludwig, to convene a meeting with his Opposition counterpart, Senator Fifield, and Australian Greens Whip, Senator Siewert, to consider alternatives and come back to the committee 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 considered a report from this group at a meeting on 15 November 2010 and agreed to recommend to the Senate that a scheme based on the following principles be tried on a temporary basis for the first six months of 2011.

- (1) That additional time of 2 hours and 20 minutes during the week be provided exclusively for the consideration of private senators' bills.
- (2) That there be compensation for this additional time elsewhere in the weekly routine of business.
- (3) That the time allocated for consideration of private senators' bills be made up by the Senate meeting on Mondays at 10 am, with any divisions deferred until after 12.30 pm (either by agreement or by prescription).
- (4) That private senators' bills be considered on Thursday mornings from 9.30 to 11.50 am and that the current routine of business for Thursday mornings commence immediately afterwards.

- (5) That the bills for debate be selected informally by the existing whips' group and designated by a motion in the Senate at placing of business in the sitting week preceding the Thursday on which the bills are to be considered.
- (6) That bills to be considered at this time not be subject to any special time limits, but that any senator who wishes to have his or her bill debated under time limits (with or without provision for the questions to be put) should implement such arrangements by motion on notice, or by leave or, in respect of time limits only, by the kinds of informal arrangements that commonly apply to other debates.

Given that they are not represented on the Procedure Committee, the committee authorised the Manager of Government Business in the Senate to consult Senators Fielding and Xenophon about the proposed scheme prior to the presentation of its report to the Senate.

The committee acknowledges that the fundamental rationale of the Senate's standing orders is to provide effective operating rules that respect the rights of all senators to participate in its proceedings. Consequently, it does not support any system of selection of private senators' bills for debate that discriminates against any specific group of senators. The committee emphasises that good will is necessary for the effective operation of the Senate and for the implementation of any procedural change in particular. However, it is confident that these principles can form the basis for enhanced opportunities for consideration of private senators' bills, as proposed in Senator Bob Brown's motion and as envisaged by the various agreements on parliamentary reform entered into at the commencement of the  $43^{\rm rd}$  Parliament.

The terms of a temporary order giving effect to these principles are contained in Appendix 1. Note that the order provides for divisions on Mondays to be deferred till after 12.30 pm.

The committee <u>recommends</u> that the temporary order be adopted on a trial basis for the first half of 2011.

Senator the Hon Alan Ferguson Chair of the Procedure Committee

# PROPOSED TEMPORARY ORDER FOR THE CONSIDERATION OF PRIVATE SENATORS' BILLS (new text shown thus)

- (1) That:
- (a) standing orders 55(1), 57(1)(d) and 59 be modified as follows to provide for the consideration of general business orders of the day relating to bills on Thursdays from 9.30 am for not more than 2 hours and 20 minutes; and
- (b) this order operate as a temporary order from the first sitting day in 2011 till 30 June 2011.

#### 55 Times of meetings

(1) The days and times of meeting of the Senate in each sitting week shall be:

Monday  $\frac{12.30 \text{ pm}}{10.30 \text{ pm}} = 10.30 \text{ pm}, 7.30 \text{ pm} = 10.30 \text{ pm}$ 

Tuesday 12.30 pm – adjournment

Wednesday 9.30 am - 8 pmThursday 9.30 am - 8.40 pm

#### **57** Routine of business

- (1) The routine of business shall be:
  - (d) On Thursday:
    - (ia) General business orders of the day for consideration of bills only for up to 2 hours 20 minutes
    - (i) Petitions
    - (ii) Notices of motion
    - (iii) Postponement and rearrangement of business
    - (iv) Formal motions discovery of formal business
    - (v) Consideration of committee reports under standing order 62(4)
    - (vi) Government business
    - (vii) At 2 pm, questions
    - (viii) Motions to take note of answers
    - (ix) Any proposal to debate a matter of public importance or urgency
    - (x) Not later than 4.30 pm, general business
    - (xi) Not later than 6 pm, consideration of government documents under general business

- (xii) Not later than 7 pm, consideration of committee reports and government responses under standing order 62(1)
- (xiii) At 8 pm, adjournment proposed
- (xiv) At 8.40 pm, adjournment.
- (2A) If a division is called for on Monday before 12.30 pm, the matter before the Senate shall be adjourned till after that time.

#### **Government and general business**

Government business shall take precedence of over general business, except that general business shall take precedence of over government business on Thursday as follows:

- (a) from 9.30 am, for a period not exceeding 2 hours and 20 minutes, general business orders of the day for the consideration of bills shall be considered; and
- (b) at the time provided, from not later that 4.30 pm, for a period not exceeding 2½ hours, and general business orders of the day shall take precedence of over general business notices of motion on alternate Thursdays.