The Senate

Procedure Committee

Arrangements for the opening of Parliament

Rules for questions under standing order 73

Second report of 2010

June 2010

© Commonwealth of Australia 2010

ISBN 978-1-74229-333-2

This document was produced by the Office of the Clerk of the Senate and printed by the Senate Printing Unit, Parliament House, Canberra

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

Senator Stephen Parry

Senator Rachel Siewert *

* Senator the Hon Eric Abetz replaced Senator the Hon Nick Minchin as Leader of the Opposition in the Senate 11 May, 2010

* Senator the Hon George Brandis SC replaced Senator the Hon Eric Abetz 12 May, 2010

* Senator Rachel Siewert replaced Senator Bob Brown 15 June, 2010

The Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

Telephone: (02) 6277 3350
Facsimile: (02) 6277 3199
E-mail: rosemarylaing@aph.gov.au
Internet: http://www.aph.gov.au/Senate/committee/proc_ctte

PROCEDURE COMMITTEE

SECOND 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 21 June 2010.

Arrangements for the opening of Parliament

In its *First report of 2010*, the committee put forward several options for the consideration of senators in relation to possible changes to procedures for the opening of Parliament that might be required if an Indigenous "Welcome to Country" ceremony were to become part of the procedures on opening day. The options were an amendment to standing order 1, a resolution of the Senate of continuing effect expressing the view that such a ceremony should precede the opening of Parliament, and the maintenance of the status quo.

Feedback received by the committee indicated that the views of senators on these matters were divided. This division was reflected amongst the members of the committee. Government members expressed strong support for the adoption of a resolution of continuing effect supporting the inclusion of a "Welcome to Country" ceremony before openings of Parliament. Opposition members expressed strong support for the maintenance of the status quo, noting that the current arrangements allow for such a ceremony to take place if that is the wish of the government of the day. It was noted that the "Welcome to Country" ceremony conducted at the beginning of the 42nd Parliament was conducted under the current arrangements.

Given the divergence of views on the committee, it is considered that this matter can only be resolved on the floor of the Senate. The committee therefore leaves this matter for the Senate to determine, noting that the Leader of the Government in the Senate, Senator Evans, at whose request this matter was considered by the committee, has indicated an intention to put forward a notice of motion proposing a resolution of continuing effect in support of the inclusion of a "Welcome to Country" ceremony before openings of Parliament

Rules for questions under standing order 73

At the request of the Leader of the Australian Greens, Senator Bob Brown, the committee considered a matter referred to it by the President of the Senate in relation to the application of the rules for questions in standing order 73. On 11 May 2010, Senator Bob Brown queried the use of the term "illegal entrant" in a question without notice asked by

an Opposition senator. The President referred to previous rulings and later made a statement referring to those rulings. The statement read as follows:

> Earlier today, Senator Bob Brown took a point of order about the use of the term 'illegal entrants' by Senator Brandis in a question directed to the Minister for Immigration and Citizenship, Senator Evans. Senator Brown claimed that as the description was arguable it was therefore contrary to standing order 73. Although I informed the Senate that I had ruled before on this question, I undertook to have a look at it.
>
> I have ruled before on several occasions that terms of this nature are not out of order. My rulings are in accordance with established rules of the Senate.
>
> Standing order 73 prevents the use of arguments, inferences or imputations, among other things, in questions. The fact that the accuracy of a term is disputed does not mean that it amounts to an argument, an inference or an imputation. It was on this basis that I ruled that the term was not out of order.
>
> Past Presidents have ruled over many decades that it is not the role of the Chair to judge the accuracy or truthfulness of senators' statements, and that statements by senators are not out of order merely on the basis that they are alleged to be inaccurate. This is a matter for refutation in debate, and not a question of order for the Chair

The committee supports these rulings.

Alan Ferguson
Deputy President
and Chair of Committees
Chair of the Procedure Committee