
The Parliament of the Commonwealth of Australia

Re-opening the debate

Inquiry into the arrangements for the opening day of Parliament

House of Representatives
Standing Committee on Procedure

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Canberra

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Foreword

The opening of Parliament is a hugely important occasion in Australia's democracy. It is the time when the Parliament comes back together following an election; it is the time when the people's representatives are officially sworn in and take their place in the chamber; and it is the time when the Government—through the Governor-General—announces its agenda for the ensuing parliamentary term. The practices and procedures for the opening of Parliament are, not surprisingly, largely borrowed from the British Parliament at Westminster. Ceremony is an integral part of the proceedings.

Previous Procedure Committees have conducted specific inquiries into the opening of Parliament on three separate occasions—in 1991, 1995 and 2001. Each report reflected a desire to balance tradition and modernity. This report is formulated on the same principle—the Committee strongly believes that the ceremony and tradition of opening day should be maintained. This report does not attempt to make any fundamental changes to opening day, but instead makes recommendations for change within the sound existing framework. The recommendations of previous reports were not able to effect change. The Committee is hopeful that this report will be more successful.

The primary reason for undertaking this inquiry was to analyse the staging of the Indigenous ceremony at the opening of this Parliament. The Committee was delighted with the conduct of the 'Welcome to Country' ceremony and feels it should be a part of future openings. The Committee has also made recommendations aimed at giving significant moments in the day a higher profile.

The Committee hopes that this report will spark debate among Members about the nature of the first day of a parliament and looks forward to hearing the views of all Members on this important subject.

Julie Owens MP
Chair



Membership of the Committee

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Terms of reference

Committee terms of reference

To inquire into and report on the practices and procedures of the House and its committees.

Inquiry terms of reference

To review the arrangements for the opening day of Parliament.



List of recommendations

Recommendation 1

The Committee recommends that the Standing Orders be amended to provide for an Indigenous ceremony before the formal declaration of the opening of Parliament.

Recommendation 2

The Committee recommends that at the conclusion of the Indigenous ceremony the bells ring and Members and Senators proceed directly to their respective chambers.

Recommendation 3

The Committee recommends that the Governor-General appoint two deputies for the purpose of declaring open the Parliament simultaneously in each chamber.

Recommendation 4

The Committee recommends that when entering the House for the first time, Members be required to remain at the perimeter of the chamber. Following the declaration of the opening of Parliament, Members should be called forward to the table in groups, swear an oath or affirmation, and then be invited to take their seats in the House. Members who are entering the House for the first time should be sworn in last, after all returning Members have taken their seats.

Recommendation 5

The Committee recommends that the election of Speaker be presided over by the longest-serving Member of the House who is not a Minister, Shadow Minister, Whip, or candidate for the Speakership. The Member should have the powers and authority of the Speaker for the duration of the election.

Recommendation 6

The Committee recommends that following the election of the Speaker, the House is suspended and the Speaker leads a procession of Members to the Great Hall where a function is to be held with invited members of the public.

Recommendation 7

The Committee recommends that the order of the afternoon's proceedings on opening day be amended as follows:

- Members return to the House at 2.30pm;
- Commencement of business: announcement of ministry and opposition front bench and election of Deputy and Second Deputy Speaker;
- Members summoned by Black Rod to the Senate Chamber for the Governor-General's speech;
- Return to the House to conclude the election of the Speaker's deputies (if necessary), for the presentation of a 'privilege' motion, to report the speech, and then adjourn;
- Presentation to Governor-General in Members' Hall.

Recommendation 8

The Committee recommends that the practice of presenting a 'privilege' bill be replaced by the presentation of a motion of commitment to the Australian people. The motion should be moved by the Prime Minister, seconded by the Leader of the Opposition, and then put without further debate.

Recommendation 9

The Committee recommends that prior to the commencement of the 43rd Parliament, the Department of the House of Representatives prepares an information booklet which can be distributed to Members and their guests on opening day. The booklet should include material about the history and purpose of opening day proceedings, as well as other background information.

Recommendation 10

The Committee recommends that prior to the commencement of the 43rd Parliament, information on the Welcome to Country ceremony be made available on the 'About the House' website. After the ceremony has been completed a video should be made on available on the website.

Introduction

Setting the scene

- 1.1 The opening of Parliament is an issue that the Procedure Committee has examined on several occasions over the years.¹ The 2001 report *Balancing tradition and progress*² gave a particularly in-depth analysis of the history of opening day procedures. This report will not duplicate the detailed information contained in the 2001 report, but those who wish to know more about opening day and the origin of many of our current practices are encouraged to read that report.
- 1.2 Current procedures for opening day are drawn from a range of sources – the Constitution, the House and Senate Standing Orders, and tradition. Most of the procedures for opening day are, not surprisingly, derived from the practices of the United Kingdom Parliament.
- 1.3 The attitude of the Procedure Committee to the opening of Parliament has been fairly consistent through each of its reports. There has always been a strong desire to maintain ceremonial traditions, as summarised in the 1991 report:

1 Standing Committee on Procedure, 1991, *The Standing Orders governing: general rule for conduct of business and procedures for the opening of Parliament*, Parliament of Australia, Canberra; Standing Committee on Procedure, 1995, *Procedures for the opening of Parliament*, Parliament of Australia, Canberra; Standing Committee on Procedure, 2001, *Balancing tradition and progress: procedures for the opening of Parliament*, Parliament of Australia, Canberra.

2 See Chapter 2 in particular.

The opening of a new parliament is an event of major significance, both to the nation and to those elected to form it. It is appropriate that pertinent traditional and ceremonial elements be incorporated into the opening procedures in recognition of this significance.³

- 1.4 At the same time, there has been an unwavering desire to modernise and simplify proceedings. The Committee's 1995 report acknowledged a problem that still exists to this day:

The present procedures are rather complex and can be confusing for both observers and participants.⁴

- 1.5 In an attempt to address this concern, successive Procedure Committee reports have made recommendations aimed at effecting change. There has been a reasonable degree of consistency in the recommendations, although each report has gone a little further in the degree of change proposed. In line with this trend, the recommendations in the 2001 report proposed a significant modernisation of proceedings.
- 1.6 While successive reports have made recommendations, change has not been forthcoming. As the 2001 report explained 'the House of Representatives, in most of its innovations, has preferred to proceed with caution.'⁵ In the case of change to opening day procedures, the House has barely proceeded at all.

Purpose of the report

- 1.7 The Committee undertook this inquiry with a view to considering the appropriateness and effectiveness of current opening day procedures. Like its predecessors, the Committee considers that the opening of Parliament must strike the right balance between tradition and modernity. Also like its predecessors, the Committee feels that the current balance is not quite right.
- 1.8 This report draws on previous Procedure Committee reports and recommendations, although it differs quite significantly in some areas. The key recommendations in this report seek to put a greater focus on what the Committee feels are the most important moments of opening day. One of these is the moment when Members leave the public spaces of Parliament House and first enter the secured space of the chamber. Another is the
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3 Standing Committee on Procedure, 1991, pp. 2–3.

4 Standing Committee on Procedure, 1995, p. 1.

5 Standing Committee on Procedures, 1995, p. 41.

moment when new Members are sworn in; yet another is the moment when Members emerge from the House for the first time as sworn parliamentarians.

- 1.9 One area of opening day where change has been implemented is in the introduction of an Indigenous welcome ceremony. This report considers the success of the ceremony that preceded the opening of the 42nd Parliament.

Structure of the report

- 1.10 Given the extent of previous work on this subject (particularly the 2001 report), the Committee felt there was little benefit in producing a long and detailed report. Instead, the following chapter will step through the current structure of opening day, providing a short discussion for each stage of the day, followed by the Committee's conclusions and, where appropriate, recommendations. The final section of the chapter will discuss the process the Committee believes is necessary to ensure the recommendations are implemented.
- 1.11 Appendix A contains copies of the three submissions to the inquiry.

Opening day and the options for reform

The opening ceremony

The Indigenous welcome

- 2.1 The 42nd Parliament marked the first occasion that the official opening of Parliament was preceded by an Indigenous ‘Welcome to Country’ ceremony. The ceremony was led by Matilda House Williams, an elder of the Ngambri people, who have a traditional connection with the Canberra and Yass region.¹
- 2.2 During the ceremony Ms House described the importance of the ceremony:

Today is significant because it is the best time in the history of the Australian Parliament. A Prime Minister has honoured us, the first peoples of this land, the Ngambri people, by seeking a ‘Welcome to Country.’

In doing this, the Prime Minister shows what we call, proper respect—to us, to his fellow parliamentarians, and to all Australians.

¹ Matilda House Williams, *Speech at the opening of the 42nd Parliament*, 12 February 2008, Parliament House, Canberra, transcript prepared by the Parliamentary Library.

A 'Welcome to Country' acknowledges our people and pays respect to our ancestors, the spirits who created the lands.²

- 2.3 The submission of Reconciliation Australia also commented on the ceremony:

The significance of our leading public institution adopting this practice sends a clear message to all Australians that Indigenous cultural protocols are valued and respected by our elected representatives.³

- 2.4 The leaders of both major parties also acknowledged the importance of the ceremony and made a commitment to hold a similar ceremony at openings of future parliaments. In relation to future ceremonies, the Prime Minister stated:

It's taken 41 parliaments to get here. We can be a bit slow sometimes. But we got here. And, when it comes to the parliaments of the future, this will become part and parcel of the fabric of our celebration of Australia in all of its unity and all of its diversity.⁴

- 2.5 Along similar lines, the Leader of the Opposition stated:

I assure you on behalf of the alternative government in supporting the Prime Minister that whatever happens in future parliaments, so long as I have anything to do with it, that we will have a welcome from Ngunnawal and their descendants.⁵

- 2.6 The Clerk's submission commented on the success of the ceremony from an administrative point of view:

It appeared to us as departmental officials that the Indigenous Welcome to Country ceremony that took place at the recent opening fitted in well with the traditional parliamentary events that followed.⁶

- 2.7 The ceremony was not required by the Standing Orders. Instead, it took place as a result of consultation between the Presiding Officers and the
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2 Matilda House Williams, *Speech at the opening of the 42nd Parliament*, 12 February 2008, Parliament House, Canberra, transcript prepared by the Parliamentary Library.

3 Reconciliation Australia, *Submission no. 3*, p. 1.

4 The Hon. Kevin Rudd MP, *Speech at the opening of the 42nd Parliament*, 12 February 2008, Parliament House, Canberra, transcript prepared by the Parliamentary Library.

5 The Hon. Brendan Nelson MP, *Speech at the opening of the 42nd Parliament*, 12 February 2008, Parliament House, Canberra, transcript prepared by the Parliamentary Library.

6 Clerk of the House of Representatives, *Submission no. 1*, p. 1.

Government. The Clerk's submission suggested that there were some advantages in the ceremony being free of the restrictions of the Standing Orders framework, particularly the flexibility it allowed.⁷

- 2.8 At the conclusion of the ceremony Members and Senators dispersed informally and were not required to proceed directly to the chambers. At 10.25am the bells rang for the 10.30am commencement of formal proceedings in the House. The Clerk's submission supported this arrangement on the assumption that Members prefer to be involved in fewer formal processions.⁸
- 2.9 While Reconciliation Australia was very happy with the overall conduct of the ceremony, it did make some recommendations for future ceremonies:
- That the Welcome to Country be broadcast live on national television;
 - That a section be created on the Parliament House website to explain the Welcome with podcasts of the inaugural Welcome and links to further information about Indigenous culture and history; and
 - That consultations be conducted with relevant stakeholders on who might be invited to participate in and attend future parliamentary welcome ceremonies.⁹

An extended ceremony?

- 2.10 The Procedure Committee's 2001 report on opening day procedures recommended a ceremony prior to the commencement of formal proceedings. Part of that ceremony was to be an Indigenous welcome, but it was also to include a number of other elements:
- It was to be held outdoors on the forecourt of Parliament House;
 - In addition to the Indigenous ceremony there was to be a short address by the Australian of the Year; and
 - At the conclusion of the ceremony there was to be a procession of Members and Senators – led by the Clerks, the Serjeant-at-Arms and the Black Rod – through the foyer, the Great Hall and Members' Hall to the respective chambers.
- 2.11 The ceremony was not implemented following the 2004 election and, as described above, a modified version was adopted at the most recent

7 Clerk of the House of Representatives, *Submission no. 1*, p. 2.

8 Clerk of the House of Representatives, *Submission no. 1*, p. 2.

9 Reconciliation Australia, *Submission no. 3*, p. 1.

opening of Parliament. There was apparently some thought given to the Indigenous ceremony being held on the forecourt, but the risk of bad weather was considered too great.

Committee conclusions

- 2.12 The Committee was delighted with the conduct of the Indigenous ceremony that preceded the opening of the 42nd Parliament and strongly believes that this practice should continue into the future.
- 2.13 The commitment by the Prime Minister and Opposition Leader that such a ceremony will be a part of future openings is welcome. However, the Committee is of the view that the ceremony should become a formal part of opening day by inclusion in the Standing Orders. Doing so would allow the House the opportunity to demonstrate the importance it places on such a ceremony.
- 2.14 The Committee notes the comments from the Clerk's submission about the flexibility allowed to the ceremony by being free of the restrictions of the Standing Orders. But there is no reason that a new Standing Order would need to be prescriptive about the conduct of the ceremony. The Standing Order could simply state, for example, *that before the declaration of the opening of Parliament, there may be an Indigenous 'Welcome to Country' ceremony*. The conduct of the ceremony would then be left to the Government, the Presiding Officers and, as recommended by Reconciliation Australia, local Indigenous representatives.
- 2.15 The Committee agrees with Reconciliation Australia's recommendation regarding more information about the Welcome to Country ceremony being made available on the Parliament's website (see the final section of this chapter: *Understanding of opening day proceedings*). Its other recommendation about a national television broadcast is essentially up to each of the television networks, but the Committee notes that the full ceremony was broadcast on pay television channel, Sky News.
- 2.16 The recommendation in the 2001 report to hold a more extensive opening ceremony on the forecourt of Parliament House is supported to the extent that the Committee would like to see the Welcome to Country ceremony be more accessible to the public. The arrangements for the last opening worked well, but holding the ceremony in the Great Hall or on the forecourt would add to the public involvement in opening day. The Committee is aware, however, that there are logistic and security considerations that probably make Members' Hall the most appropriate venue.

- 2.17 Regardless of where the Welcome to Country ceremony is held, the Committee would like to see some changes to what occurs at the end of the ceremony. At present there is very little ceremony associated with the calling of Members and Senators to their respective chambers for the first time—the bells ring and they simply wander to the chambers from wherever they may be in the building.
- 2.18 The first entrance to the chambers should be a part of the day that is given more attention and recognition. It is the first time that Members leave the open areas of the Parliament and enter the confined surroundings of the chamber. The Committee believes the first entrance could—and should—become a more significant moment for Members—particularly new Members. It is also a moment that could be of great interest to television audiences around the nation, and would provide a natural extension of proceedings flowing on from the Welcome to Country ceremony
- 2.19 The Committee proposes that at the conclusion of the Indigenous ceremony the bells should ring and Members and Senators move directly from Members' Hall to their respective chambers, led by the respective Clerks. The ringing of the bells could be preceded by an on-stage announcement. This is only a small change but one which would create a better flow to proceedings, allow television audiences to see Members and Senators entering the chambers for the first time, and make the first entrance a more significant moment in the day.

Recommendation 1

- 2.20 **The Committee recommends that the Standing Orders be amended to provide for an Indigenous ceremony before the formal declaration of the opening of Parliament.**

Recommendation 2

- 2.21 **The Committee recommends that at the conclusion of the Indigenous ceremony the bells ring and Members and Senators proceed directly to their respective chambers.**

Declaring the Parliament open

- 2.22 Under the current arrangements, once Members have entered the chamber and the Clerk has read the proclamation by the Governor-General calling the Parliament together, the Black Rod comes to the House to request Members' attendance in the Senate. Members then undertake a formal procession to the Senate to hear the commission appointing the Deputy to the Governor-General read (by the Senate Clerk) and the Deputy declare the Parliament open. Members then return to the House.
- 2.23 This part of opening day currently takes approximately 15 minutes, but Members are only in the Senate chamber for a few minutes—most of the time is taken up by the processions.¹⁰ Successive Procedure Committee reports have considered this practice unnecessary and have recommended it be abolished. The 1991 report, for example, argued:
- The need for this procession to the Senate must be questioned. It is time consuming and its importance is not readily apparent. There is no constitutional requirement for this procession to the Senate to hear the Deputy declare open the Parliament.¹¹
- 2.24 The method of abolition recommended in both the 1991 and 1995 reports was that the Governor-General appoint two deputies to declare open the Parliament in each House simultaneously.¹² In his submission to this inquiry, the Clerk noted the Department had received legal advice that there were no constitutional issues with the appointment of two deputies.¹³
- 2.25 The 2001 report agreed that the first procession to the Senate was unnecessary but differed slightly in its recommendation. Instead of appointing two deputies, the 2001 report recommended that the Governor-General be present in the Senate to declare open the Parliament, while a Deputy would be present in the House.
- 2.26 The Clerk's submission argued that the option of appointing two deputies would be more appropriate and 'might avoid any perception that the Houses were not being treated equally.'¹⁴ The submission also argued that the second Deputy could be the senior State Governor (the first Deputy could be the Chief Justice of the High Court, as is currently the case).

10 Clerk of the House of Representatives, *Submission no. 1*, p. 7.

11 Standing Committee on Procedure, 1995, p. 2.

12 Standing Committee on Procedure, 1995, p. 2; Standing Committee on Procedure, 1991, p. 3.

13 Clerk of the House of Representatives, *Submission no. 1*, p. 2.

14 Clerk of the House of Representatives, *Submission no. 1*, p. 3.

Committee conclusions

- 2.27 This Committee, like its predecessors, agrees that the first procession to the Senate is an unnecessary and time wasting practice. Of the two options for reform proposed in previous reports, the Committee prefers the appointment of two deputies to the Governor-General. This is not only because it gives more equal treatment to the two Houses, but also because it would be an unnecessary impost on the Governor-General to be required at Parliament House to declare open the Parliament and then to return several hours later to deliver the opening speech.
- 2.28 Under new arrangements, in each House the respective Clerk would read the proclamation by the Governor-General calling Parliament together and also read the commission from the Governor-General appointing deputies. The deputies would then declare open the Parliament in each chamber.
- 2.29 In recent times the Deputy has always been the Chief Justice of the High Court. It would seem appropriate that the second Deputy be the senior State Governor who would be appointed as administrator of the Commonwealth in the Governor-General's absence. Given the Senate's original role as the "States' House", the senior State Governor could carry out the duties in the Senate, with the Chief Justice to do the same in the House. The Committee recognises, however, that these decisions would ultimately rest with the Governor-General.

Recommendation 3

- 2.30 **The Committee recommends that the Governor-General appoint two deputies for the purpose of declaring open the Parliament simultaneously in each chamber.**

The swearing in ceremony

- 2.31 Under present practice, once Members have returned from the Senate the swearing in ceremony takes place. This requires the Deputy to the Governor-General to move from the Senate to the House to preside over the ceremony. However, under the proposal above, a Deputy would already be present in the House.
- 2.32 Members are required by section 42 of the Constitution to swear an oath or affirmation of allegiance before taking their seat. However, under current

practice, they physically take their seats in the chamber on two separate occasions before being sworn in. When members are sworn in they do so in groups of 10 to 12, with the Ministry usually sworn in first, followed by the opposition executive. Other Members, including new Members, then follow according to where they are seated.¹⁵

- 2.33 The 2001 report recommended changes to the text of the oath and affirmation to include ‘recognition of the people of Australia’.¹⁶ This recommendation was representative of one of the main themes of the 2001 report—that the opening of Parliament needs to have more emphasis on the responsibility of Members of Parliament to serve the people of Australia. But, as the report acknowledged, any change to the form of the oath and affirmation would require constitutional amendment and would therefore be very difficult to achieve.¹⁷
- 2.34 The submission by Mr Don Morris argued that a Deputy to the Governor-General need not be involved in the swearing in process. Mr Morris suggested that:

The Clerk would first swear in the Member with the longest unbroken service who is not a Minister or a member of the opposition executive, and that Member would preside over the swearing in of Members and the election of the new Speaker.¹⁸

Committee conclusions

- 2.35 The current arrangements for the swearing in ceremony—including the presence of a Deputy to the Governor-General to administer the oath and affirmation—are generally sound.
- 2.36 However, the Committee is of the view that the ceremonial aspects of the swearing in process should be made more significant. At present Members simply enter the chamber, take their pre-allocated seat, and come forward to take the oath or affirmation as part of a large group. The moment when Members are sworn in—when they officially become a Member of the House—is incredibly significant. It is the Committee’s view that the current arrangements do not adequately reflect this.
- 2.37 Section 42 of the Constitution says ‘... every member of the House of Representatives shall before taking his seat make and subscribe ... an oath

15 I Harris (ed), 2005, *House of Representatives Practice*, 5th edn, House of Representatives, Canberra, p. 140.

16 Standing Committee on Procedure, 2001, p. 52.

17 Standing Committee on Procedure, 2001, p. 44.

18 Mr Don Morris, *Submission no. 2*, p. 2.

or affirmation'. This section has never been interpreted literally but the Committee is suggesting that it should be. The Committee, therefore, proposes the following changes:

- When Members enter the House for the first time they do not take their allocated seats, but instead take a position on the floor of the chamber but around the perimeter.
- Once the Deputy to the Governor-General has declared the Parliament open, members are called forward in groups. Each new group comes to the table, swears an oath or affirmation, and then the Members are invited to take their seats in the House. As one group is taking their seats, the next is called forward.
- The first group to be sworn should contain the Prime Minister and other senior Ministers. Members who are entering the House for the first time should be sworn in last, once all other Members are sworn and seated.

2.38 It is possible that this new process would take a little longer. However, the extra time taken would be more than offset by the time saved in removing the first procession to the Senate. In any case, the Committee feels that any extra time is justifiable because the new arrangements would improve the ceremonial aspects of the swearing in.

2.39 The Committee agrees with the position in the 2001 report that the text of the oath and affirmation should be modernised. However, because it requires constitutional amendment it is unlikely to occur any time soon. The best time to reconsider this issue would be during future debates on a republic. If Australia were to become a republic the oath and affirmation would need to be amended so that Members of Parliament were not swearing allegiance to the Queen.

Recommendation 4

2.40 **The Committee recommends that when entering the House for the first time, Members be required to remain at the perimeter of the chamber. Following the declaration of the opening of Parliament, Members should be called forward to the table in groups, swear an oath or affirmation, and then be invited to take their seats in the House. Members who are entering the House for the first time should be sworn in last, after all returning Members have taken their seats.**

Electing the Speaker and deputies

- 2.41 Following the swearing in of Members the House must elect its Speaker. In recent Parliaments there has only been one nomination for the Speakership, thus avoiding the need for a ballot. On occasions where there is more than one nominee the election takes place by way of an exhaustive, secret ballot. Once the Speaker is elected the Mace is placed on the table to signify that the House is properly constituted.
- 2.42 The Clerk presides over the House during the election of Speaker. This has been a matter that has received considerable attention in previous Procedure Committee reports. All of the reports on the opening of Parliament have recommended that the longest serving Member of the House (excluding frontbenchers, whips and candidates for the Speakership) should preside over the election of Speaker, instead of the Clerk. The reasoning behind this consistent recommendation is summarised by the 1991 report:
- Many questions on the role of the Clerk whilst presiding over the chamber remain undetermined and doubts have been expressed about the extent of the Clerk's powers ... This places the House in a potentially vulnerable situation [which] could be removed by allowing a Member to preside who would be vested with the powers of the Speaker to apply the Standing Orders. It would also give some recognition to that Member for service in the House and would leave the Clerk free to conduct any ballots or special ballots when necessary.¹⁹
- 2.43 In his submission to the current inquiry, the Clerk noted that:
- A change to have the most senior eligible and available Member preside would make the point that the House is indeed the Members' house and that the role of the staff is one of facilitation and support.²⁰
- 2.44 The submission also noted that the debate about the Clerk's power to deal with contentious situations is 'more of a theoretical rather than practical point', referring to the fact that such a situation has never arisen.²¹
- 2.45 The 1995 and 2001 reports recommended that the Deputy Speaker and Second Deputy Speaker be elected immediately after the Speaker. Under

19 Standing Committee on Procedure, 1991, p. 5.

20 Clerk of the House of Representatives, *Submission no. 1*, p. 4.

21 Clerk of the House of Representatives, *Submission no. 1*, p. 4.

the current arrangements they are elected much later in the day, usually after the completion of other formalities. The 1995 report asserted:

The positions of Deputy Speaker and Second Deputy Speaker are important offices of the House and the Committee believes that it is appropriate that they be elected immediately after the election of Speaker.²²

- 2.46 The Clerk's submission noted that the proposal for the earlier election of the Speaker's deputies was not about saving time, but instead about 'having a parliamentary leadership group elected ready to present itself to the Governor-General in the afternoon.'²³

Committee conclusions

- 2.47 The Committee agrees with its predecessors that it would be preferable for a Member to preside over the election of Speaker. This would remove the potential for the House to be placed in a precarious position during the election and would also allow the Clerk to concentrate on administrative duties.
- 2.48 It would seem appropriate that the longest-serving Member (not a frontbencher, whip, or nominee for the Speakership) be asked to chair proceedings. This would not only provide recognition to the contribution of the Member, but also put someone in the chair with considerable parliamentary experience. As previous reports have noted, the Member would need to be vested with the powers of the Speaker.
- 2.49 While the Committee has some sympathy with the view of its predecessors in relation to the timing of the election of the Deputy Speaker and Second Deputy Speaker, it does not support bringing forward their election to this part of the day. Given that an election takes some time, the Committee would prefer for the election of the Speaker's deputies to remain later in the day so as not to over crowd the morning's proceedings. But the Committee does support moving the election to earlier in the day and prior to the presentation to the Governor-General (explained in Committee conclusions on the afternoon's proceeding below).

22 Standing Committee on Procedure, 1995, p. 5.

23 Clerk of the House of Representatives, *Submission no. 1*, p. 4.

Recommendation 5

- 2.50 **The Committee recommends that the election of Speaker be presided over by the longest-serving Member of the House who is not a Minister, Shadow Minister, Whip, or candidate for the Speakership. The Member should have the powers and authority of the Speaker for the duration of the election.**

Leaving the House for the first time

- 2.51 Under the current arrangements, once the Speaker has been elected the House suspends and Members leave the House for the first time as sworn-in Members of Parliament. There are no formal proceedings during this suspension. This part of the day has not received attention in previous reports and it was not mentioned in submissions.

Committee conclusions

- 2.52 The Committee is of the view that some kind of formal event should signify Members' first emergence from the chamber. It is, after all, the first time that Members leave the isolated environment of the chamber after officially being sworn in. It is appropriate that there should be some interaction between Members and the people they have been elected to represent at this point. This symbolic gesture would serve to remind Members of their duty to represent the interests of their constituents.
- 2.53 The Committee proposes that once the House has been suspended, the Speaker leads a procession of Members to the Great Hall. Waiting in the Great Hall could be a selection of people from constituencies across the country and other representatives such as the Australian of the Year. One possibility would be to invite two school children from each electorate. Once in the Great Hall, the newly elected Speaker could make a speech to welcome the guests and emphasise the importance of Parliament. Members would then have the opportunity to mingle with guests. The Committee believes that there should be community consultation and involvement in designing the exact content and structure of the event.
- 2.54 Senators would, of course, also be invited to attend the function. Because the Senate usually suspends much earlier than the House it is likely that

Senators would be able to make their way to the Great Hall at their own leisure.

Recommendation 6

- 2.55 **The Committee recommends that following the election of the Speaker, the House is suspended and the Speaker leads a procession of Members to the Great Hall where a function is to be held with invited members of the public.**

The afternoon's proceedings

Presentation to the Governor-General

- 2.56 Under current practice, the Governor-General arrives at Parliament House 2pm and is greeted on the forecourt of Parliament House by a military guard. After inspecting the guard, the Governor-General proceeds to meet the Senate President. After this short meeting the Governor-General is escorted to Members' Hall.
- 2.57 The House usually returns from the lunchtime suspension at 2.30pm, at which time the Speaker leads a procession to Members' Hall where the Governor-General awaits. The Speaker presents him or herself to the Governor-General and then introduces other Members.
- 2.58 This practice is borrowed from the United Kingdom where the Sovereign approves the House of Commons' choice of Speaker. The Speaker presents him or herself to the Sovereign's representative, the Lord Chancellor, at the bar of the House of Lords. The Lord Chancellor then informs the Speaker of the Sovereign's approval, at which time the Speaker will lay claim to the rights and privileges of the House.²⁴
- 2.59 In Australia there is no requirement for the Speaker to seek the Governor-General's approval or to claim the powers and privileges of the House. The powers of the Parliament—including the power for the House to elect its Speaker—are enshrined by the Constitution and the *Parliamentary Privileges Act 1987*.

24 Standing Committee on Procedure, 1995, p. 14.

- 2.60 This fact led to recommendations in the 1991 and 1995 reports that the presentation to the Governor-General be abolished. The 1991 report argued:

There is no constitutional requirement for the presentation of the Speaker to the Governor-General and the Committee considers that the procession to the Members' Hall to meet the Governor-General at a separate ceremony prior to the delivery of the opening speech is unnecessary and disruptive to the flow of the opening proceedings.²⁵

- 2.61 The 2001 report contained a survey of 54 Members on a range of previous Procedure Committee proposals for opening day. The one proposal opposed by Members was the abolition of the Speaker's presentation to the Governor-General. On the basis of this information, the Committee parted from earlier reports by recommending that the presentation remain a part of proceedings.

- 2.62 The Clerk's submission to this inquiry noted that Members probably have varying views on the subject:

It is likely that some Members would regard the traditional practice as archaic and meaningless, but it is also likely that other Members would see it as appropriate that Members interact with the Governor-General on parliamentary premises ... [and] some backbenchers would value the opportunity to meet the Governor-General formally at the same time as the Speaker and other leading Members.²⁶

The Governor-General's speech

- 2.63 After being introduced to the Governor-General, Members return to the House and await an invitation from the Black Rod to attend the Senate to hear the Governor-General's opening speech. At the conclusion of the speech a 19-gun salute is fired on the forecourt of Parliament House.

- 2.64 The fact that the speech is held in the Senate follows the British custom of the Sovereign's opening address being held in the House of Lords. The submission by Mr Don Morris explains why the speech cannot be held in the House of Representatives:

The representative of the Crown, after confrontation between King Charles I and the House of Commons in 1642, should never be

25 Standing Committee on Procedure, 1991, p. 6.

26 Clerk of the House of Representatives, *Submission no. 1*, p. 4.

present in the people's house, in our case the House of Representatives.²⁷

- 2.65 Successive Procedure Committee reports have argued that other venues for the opening speech should be considered. This position was most strongly put in the 2001 report, which recommended that the opening speech be held in the Great Hall. The report made a number of points in reaching the conclusion that 'there is a strong case for seeking the middle ground':
- The Senate and the House of Representatives are essentially coequal. There is no special affinity in the Australian political system between the 'Upper' House and the Crown, as there may have been historically in Britain;
 - Neither is the Senate shackled in the exercise of its powers as is the House of Lords;
 - While Members of the House may complain that the existing arrangements imply latent inferiority for their chamber, Senators might rejoin that their chamber was being imposed upon; and
 - The existing ceremony involves three separate processions of Member of the House of Representatives, two of those to the Senate chamber. Senators, on the other hand, appear to be relatively uninvolved. A more symmetrical opening—in the use of space in Parliament House and in the respective involvement of members of the two Houses—would demonstrate more clearly the equality of the two Houses.²⁸
- 2.66 The 2001 proposal would have seen Members proceeding from their introduction to the Governor-General directly into the Great Hall, rather than moving back to the House and awaiting an invitation. This was seen as a way to remove another of the processions and save further time.
- 2.67 The 1991 report noted that in 1988 the House unanimously agreed to a motion to move the speech to Members' Hall or the appropriate equivalent in the new Parliament House (which would have most likely been the Great Hall). The Governor-General was advised and the resolution was sent to the Senate for its concurrence, but the Senate took no further action.²⁹
- 2.68 During the debate on the 1988 motion, the Hon. Gordon Scholes MP stated:

27 Mr Don Morris, *Submission no. 2*, p. 1.

28 Standing Committee on Procedure, 2001, pp. 25-26.

29 Standing Committee on Procedure, 1991, pp. 6.

The origin of the present ceremonies and the delivery of the speech from the throne goes back into British history. It does not have a parallel in Australian history.

...

We still go through a ceremony at the opening of our parliament in which the members of this chamber do not enjoy equal status with the members of the Senate, and the members of the Senate allow themselves the luxury of the pretence that by some means they are the successors to the king's council of a day gone by. The President of the Senate is not the Lord Chancellor. He is the President of an elected chamber of the Australian Parliament. The Speaker of this Parliament is not a minion subservient to the barons of England, to be summoned before the bar of the Senate to sit at the end of the table and be lectured. The Speaker of this Parliament should have equal status in all things, including the opening of the Parliament, as should the members of this House with the members of the Senate.³⁰

- 2.69 In contrast, Mr Don Morris, in his submission to this inquiry, argued that the opening speech should remain in the Senate:

There have been suggestions in the past that the Governor-General should make his speech in the Great Hall, or some other 'neutral' part of Parliament House. I think this would severely downgrade the significance of the Governor-General's speech. It is proper that the only people present on the floor of the chamber should be the Governor-General, Senators, Members of the House of Representatives and parliamentary officers. If the Great Hall were used, the opening would be taking place in a venue which is used for all sorts of purposes, from official meals to concerts to cocktail parties. This suggestion would greatly demean the occasion and has no merit.³¹

Returning to the House for the commencement of business

- 2.70 At the conclusion of the Governor-General's speech Members return to the House to commence formal business. Standing Orders indicate that 'before the Governor-General's speech is reported some formal business shall be transacted and the Prime Minister may announce his or her ministry.' Once the Prime Minister has announced the Ministry, the opposition party
-

30 The Hon G Scholes MP, *House of Representatives Debates*, 24 March 1988, p. 1298

31 Mr Don Morris, *Submission no. 2*, p. 1.

(or parties) announce their leadership and whips. The next step is the presentation of the 'privilege' bill (also known as the formal bill).

- 2.71 As described in the Clerk's submission, the privilege bill is the 'traditional assertion of the House's right to order its own business.'³² In essence, this practice is an expression of the House's independence of the Crown and Executive Government.
- 2.72 The privilege bill is usually a non-contentious bill which is presented by the Prime Minister. The bill is read a first time and the second reading made an order of the day for the next sitting. The order of the day is placed on the Notice Paper and current practice (since 1945) is for it to remain on the Notice Paper throughout the session. The bill lapses at prorogation or dissolution. Although the privilege bill is not proceeded with, its provisions may be incorporated in another bill introduced and passed later in the Parliament.
- 2.73 The 2001 report recommended a change to this process. Instead of the presentation of a bill, the report recommended that the Prime Minister move a motion of 'commitment to the Australian people', to be seconded by the Leader of the Opposition and put without further debate. The exact wording of the motion was to be subject to broad consultation. It was envisaged that wording would become a pro-forma for future openings. This recommendation was again consistent with one of the key themes of the 2001 report—that the opening of Parliament needs to have more emphasis on the people of Australia.
- 2.74 Under the current arrangements, once the privilege bill has been presented, the Governor-General's speech is reported and then the House suspends again to allow Members to participate in an afternoon tea with the Governor-General and Senators in Members' Hall. After this function, Members return to the House, elect the Deputy and Second Deputy Speakers and then proceed with other business.

Committee conclusions

- 2.75 The Committee is of the view that the components of the afternoon's proceedings are all sound and necessary, but the order in which they occur could be improved.
- 2.76 The Speaker's presentation to the Governor-General is not a strictly necessary part of opening day. Despite this, the Committee feels it is a part of the day that is valued by the Speaker, most Members and, in all

32 Clerk of the House of Representatives, *Submission no. 1*, p. 4.

likelihood, the Governor-General. Furthermore, the Queen is the third component of the Parliament (together with the House and the Senate), so it is appropriate that her representative, the Governor-General, formally meets with Members of Parliament on the opening day.

- 2.77 The Committee would like to see a change to when the meeting occurs. Under the current arrangements, Members return to the House after the lunch break only to immediately leave to meet the Governor-General, and then after the meeting return to the House only to leave immediately once more. The Committee believes this is confusing and frustrating for Members.
- 2.78 The Committee would prefer that when Members return to the House at 2.30pm they instead commence business. This would include the announcement of the Ministry and opposition front bench and the election of the Speaker's deputies. It would be a challenge to complete all of this business by 3.00pm (the usual time when the Black Rod arrives), given that the election of the Speaker's deputies can take 35 to 40 minutes. However, the Committee feels it is more than possible to complete these two items of business within 30 minutes—it may require shorter nomination and congratulatory speeches or possibly an earlier start (2.15pm rather than 2.30pm). The Committee would not actually be concerned if business was to be interrupted by the arrival of the Black Rod—it would be possible to conclude the business upon returning to the House.
- 2.79 After the arrival of the Black Rod Members would be summoned to go to the Senate to hear the Governor-General's speech. At the conclusion of the speech, Members would return to the House to conclude the election of the Speaker's deputies (if necessary), for the presentation of the privilege motion (see discussion below), to report the speech, and then adjourn for the day. Any other items of business should be dealt with the following day.
- 2.80 After the adjournment of the House the Speaker would lead a procession to Members' Hall to meet the Governor-General. This would be followed by the traditional afternoon tea. The Committee believes that this new order of business would give opening day a much more logical flow.
- 2.81 It has been the view of previous Procedure Committees that an alternative venue should be used for the Governor-General's speech. This Committee does not share that view. It is true that the Senate is not akin to the House of Lords, but Australia has developed its own tradition of the Governor-General's speech being held in the Senate chamber.

- 2.82 The fact is the speech cannot be held in the House of Representatives because of the longstanding tradition that the Sovereign or Sovereign's representative should never be present in the 'people's house'. Two realistic options remain: the Senate or the Great Hall.
- 2.83 The main argument for holding the speech in the Great Hall is that it would provide more 'equal' treatment to the two Houses. However, it is not obvious to the Committee that Members feel at all 'inferior' by attending the Senate. In fact, many Members may enjoy the rare opportunity they have to be present in the Senate chamber. Holding the speech in the Senate also allows the retention of the important ceremonial moment of the Black Rod knocking three times on the chamber door. This moment adds greatly to the theatre of opening day.
- 2.84 If Australia were to become a republic at some stage in the future then this issue would need to be revisited. This would, of course, depend on a number of very uncertain variables – most particularly the exact role of the new Head of State.
- 2.85 The Committee agrees with the principle that there should be more emphasis on the responsibility of Members to the people of Australia during the opening of Parliament. The Committee therefore supports the proposal in the 2001 report to have a motion replace the privilege bill as the House's assertion of its right to order its own business.

Recommendation 7

- 2.86 **The Committee recommends that the order of the afternoon's proceedings on opening day be amended as follows:**
- **Members return to the House at 2.30pm;**
 - **Commencement of business: announcement of ministry and opposition front bench and election of Deputy and Second Deputy Speaker;**
 - **Members summoned by Black Rod to the Senate Chamber for the Governor-General's speech;**
 - **Return to the House to conclude the election of the Speaker's deputies (if necessary), for the presentation of a 'privilege' motion, to report the speech, and then adjourn;**
 - **Presentation to Governor-General in Members' Hall.**

Recommendation 8

- 2.87 **The Committee recommends that the practice of presenting a ‘privilege’ bill be replaced by the presentation of a motion of commitment to the Australian people. The motion should be moved by the Prime Minister, seconded by the Leader of the Opposition, and then put without further debate.**

Summary of proposed sequence of events

Action	Is this a change?	Summary of change	Reasons for change (or not changing)
1. Indigenous Welcome to Country ceremony.	Yes	Indigenous ceremony to be required by the Standing Orders.	To allow the House to give recognition of the importance placed on the ceremony.
2. Members and Senators to proceed from Members’ Hall to their respective chambers at the conclusion of the Indigenous welcome ceremony.	Yes	At the end of the Indigenous welcome the bells ring and Members and Senators proceed directly to their chambers.	To provide more significance and theatre to the first entrance to the chambers.
3. All Members to remain around the perimeter of the Chamber floor.	Yes	All members to remain on the perimeter of the chamber until they have been sworn in.	To increase the significance of the swearing in ceremony.
4. Clerk reads proclamation calling Parliament together and commission appointing Deputies to the Governor General.	Yes	Previously members would proceed to the Senate chamber after the Clerk has read the proclamation; the commission appointing the Deputy is read in the Senate.	To remove the unnecessary first procession to the Senate.
5. Deputy to the Governor-General declares open the Parliament in the House	Yes	Two Deputies to the Governor-General appointed to declare open the Parliament simultaneously in each chamber.	To remove the unnecessary first procession to the Senate.
6. All Members then sworn in as part of groups.	Yes	All members to be called forward in groups, take the oath or affirmation, and then take allocated seat in the House.	To increase the significance of swearing in ceremony.
7. Election of Speaker	Yes	Longest serving Member (not a minister, frontbencher, whip, or candidate for Speaker) takes the Speaker’s chair to preside over the election of Speaker.	To allow the House to deal more effectively with any contentious issues that may arise during the election of the Speaker. Also to provide recognition for a long serving Member.

8. Suspension of sittings	No	-	-
9. Procession from the House to the Great Hall for function with invited members of the public.	Yes	A formal function in the Great Hall after Members leave the House for the first time.	To increase the significance of the moment when Members first leave the confines of the House after being sworn in.
10. Lunch break	-	-	-
11. Members return to the House to commence business: announcement of ministry and opposition front bench, and election of Speaker's Deputies.	Yes	Commencement of business brought forward.	Better flow to proceedings.
12. Members await invitation from the Black Rod to attend the Senate. Members proceed to the Senate to hear Governor-General's speech.	No	-	The Senate is the traditional location for the speech and the arguments for change are not persuasive.
13. Members return to the House for presentation of motion of commitment to Australian people and to report Governor-General's speech.	Yes	Presentation of a motion to replace the traditional 'privilege bill'.	Better flow to proceedings. And to enable the opening of Parliament to contain more emphasis on the responsibility of Members to the people of Australia.
14. Adjournment of sittings	No	-	-
15. Presentation to Governor-General and afternoon tea in Members' Hall.	Yes	Presentation to Governor-General left until later in the day.	Better flow to proceedings.

Making change happen

2.88 As discussed throughout this report, previous Procedure Committees have made a range of recommendations aimed at changing the opening of parliament—most of which have not been implemented. Some of the recommendations of this report are similar or the same as previous reports, others are quite different. Given the lack of success of previous reports' recommendations, the Committee has given some consideration to the process that could occur to make change happen.

2.89 Some of the recommendations can be implemented by the House alone, while others would need agreement of the Senate and the Governor-General. The Committee suggests that as a first step Members of the House are given an opportunity to debate the report—perhaps in the Main Committee. This would provide an opportunity for all interested Members

- to comment on the proposed changes and raise any other issues they feel relevant.
- 2.90 Provided that there appeared to be significant support for these changes, at a subsequent sitting the Leader of the House could:
- Move a motion to make the necessary amendments to the House Standing Orders; and
 - Move a motion that the House advise the Senate and the Governor-General of the proposed changes, and request that the Senate make any necessary changes to its Standing Orders.
- 2.91 This process for communicating with the Senate and the Governor-General is similar to the process undertaken in March 1988 when the House passed a resolution requesting that the Governor-General's speech be moved to the Great Hall.
- 2.92 The Committee believes this structured approach will help to ensure that the recommendations are given proper consideration by the two Houses, and maximises the chances of the recommendations being implemented.

Understanding of opening day proceedings

- 2.93 The proceedings of opening day are quite complex and there is a lack of understanding of their purpose and history among most people who do not have an in-depth knowledge of parliamentary practice and procedure. Even experienced Members of Parliament can find themselves a little lost on opening day. Part of the problem is that openings of Parliament usually only occur every three years, so any knowledge about the proceedings will often be lost in the intervening period.
- 2.94 An infosheet is available on the Parliament's website to help members of the public understand opening day. This is a useful resource available to any person with an interest in knowing more about the purpose and history of the various practices and procedures. To assist Members' understanding of proceedings, prior to the commencement of this Parliament the Department of the House of Representatives produced an information DVD. This is also a very useful resource.
- 2.95 To complement this material, the Committee feels that more information could be provided to Members and their guests on the day itself. A short booklet could be prepared and distributed on the floor of the House and in the galleries. The booklet could contain an approximate timetable of

proceedings, explanatory information about the practices and procedures (similar to that contained in the infosheet), and a full list of Members and their electorates. Other historical information could also be considered for inclusion, such as the dates of each Parliament since 1901, a list of Prime Ministers and Opposition Leaders, and a list of Speakers. Not only would this publication provide useful information, it might also become a valued piece of memorabilia for Members and their guests.

- 2.96 Another aspect of opening day that would benefit from further explanation and attention is the Welcome to Country ceremony. This was highlighted in the submission of Reconciliation Australia, who argued that information on, and a video of, the ceremony should be available on the Parliament House website. The Committee is of the view that the enhanced 'About the House' section on the website would be the ideal location for such material as there is now a facility to provide video highlights of House proceedings.

Recommendation 9

- 2.97 **The Committee recommends that prior to the commencement of the 43rd Parliament, the Department of the House of Representatives prepares an information booklet which can be distributed to Members and their guests on opening day. The booklet should include material about the history and purpose of opening day proceedings, as well as other background information.**

Recommendation 10

- 2.98 **The Committee recommends that prior to the commencement of the 43rd Parliament, information on the Welcome to Country ceremony be made available on the 'About the House' website. After the ceremony has been completed a video should be made on available on the website.**

Julie Owens MP
Chair
October 2008



Appendix A

Submission no. 1: Clerk of the House of Representatives



PARLIAMENT of AUSTRALIA
HOUSE of REPRESENTATIVES

OFFICE OF THE CLERK OF THE HOUSE

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5 May 2008

Ms Julie Owens, MP
Chair
Standing Committee on Procedure
House of Representatives
Parliament House
CANBERRA

Dear Ms Owens

Opening Day

Attached please find a submission in connection with the committee's inquiry into the arrangements on Opening Day.

My colleagues and I will be very pleased to provide any further information or assistance that the committee may wish to have from us.

Yours sincerely

A handwritten signature in black ink that reads 'Ian Harris'.

I C HARRIS
Clerk of the House

Arrangements for opening day

Purpose of submission

The department welcomes the invitation to make a submission to the committee on these matters. The committee's acknowledgement of the importance of tradition in many aspects of Opening Day is noted, as is the committee's interest in ways in which the proceedings might be modernised and made more relevant to the Australian community.

Given the inquiries conducted by Procedure Committees in the past, this submission is not a comprehensive analysis of the arrangements or of all possible changes, but rather a summary of, and comments on, aspects which have been subject to recommendations intended to make the day more straightforward and meaningful to participants and to the wider community.

The submission reflects departmental experience in the procedural and administrative aspects of the day. The department recognises that the greater challenges, and ones for the parliamentary and political skills of the committee, will be to identify changes that could be accepted broadly as giving worthwhile benefits, and for processes that will help achieve the consensus necessary for successful implementation to be agreed on.

Attached to this submission is a note of the times of key stages at the most recent opening. The department considers there is some opportunity to streamline the proceedings on the day while retaining those elements of ceremony that are valued by Members and which link to the traditions of the Houses.

Key features include:

The indigenous welcome

It appeared to us as departmental officials that the indigenous welcome to country ceremony that took place at the recent opening fitted in well with the traditional parliamentary events that followed. Members of the committee will be better placed than we are to assess the success of the welcome in the wider context, but it did appear to be supported by a large number of Members. There are some advantages in such ceremonies being free of the restrictions of the standing orders framework – they are likely to involve members of each House and if they are not provided for in a prescriptive way flexibility and adaptation over time will be facilitated.

In its 2001 report *Balancing tradition and progress* (the '2001 report') the Procedure Committee also recommended the presentation of a formalised message by the Australian of the Year, on behalf of the Australian people. Committee Members may wish to revisit this recommendation, or to consider other possibilities for wider community involvement or participation.

Assembly of Members of the House

The indigenous welcome to country ceremony in 2008 was performed in the presence of members of the House and Senators. At the conclusion of the ceremony members of each House dispersed and were available to assemble in their respective chambers by 10.30 am.

In the 2001 report the Procedure Committee recommended that at the conclusion of such a ceremony members of each House proceed to their respective chambers. Reflecting on the experience of the 2008 opening, and assuming that many Members may believe that the number of formal processions should be kept to a minimum, the informal dispersal after an indigenous ceremony in time to allow Members to be seated in the traditional manner before the next stage would seem more appropriate than a procession into the House.

Appointment of deputies of the Governor-General

The traditional practice has seen Members of the House receive a message, delivered by the Usher of the Black Rod, from a Deputy of the Governor-General inviting their attendance in the Senate chamber. Members have gone to the Senate in procession, and there heard the Deputy's commission read, following which the Deputy has declared the Parliament open and stated that the Governor-General will attend later in person to declare the causes of the calling of the Parliament together. The Deputy has then said '...members...will now return to the House of Representatives and choose a person to be your Speaker. Later today, you will present the person you have chosen to the Governor-General at a time and place appointed by him'. Members have then returned in procession to the Chamber.

In order to avoid the necessity for these first two processions, the Procedure Committee recommended in its 1995 report that two deputies be appointed by the Governor-General and that one attend in each Chamber, the idea being that, in each case, the commission could be read, the Deputies each make short statements, and the swearing in/affirmation processes follow immediately.

The Department has legal advice to the effect that the appointment of two deputies for these purposes would not be subject to any constitutional objection. The legal advice went on to say that if this course were to be adopted some adjustment of the words traditionally used would be desirable. Since 2004 different words have been used to those applying when the advice was received, but if the present committee makes a similar recommendation it would be important that further legal advice be obtained before implementation. Consultation would be needed on the detail of the instrument of appointment of deputies and on the words they used; for example it would seem inappropriate for each deputy to say '.....I declare open the Parliament of the Commonwealth'.

In its 2001 report, the Procedure Committee envisaged simultaneous declaration of Opening of Parliament by the Governor-General and a Deputy. The Governor-General would attend in person in the Senate. The Deputy attending in the House would be the senior state Governor – that is the person who would be expected to serve as Administrator if necessary.

It may be more appropriate not to include the Governor-General in this simultaneous opening, but to have the Governor-General appoint two deputies, one to attend in the Senate and the other to attend in the House. The deputies could be the senior state Governor and the Chief Justice of the High Court. The appointment of two deputies to perform the role of declaring the Parliament open might avoid any perception that the Houses were not being treated equally.

Implementation of the Procedure Committee proposal, with the change suggested, would avoid Members being summoned – in the eyes of some putting the House in an inferior position – and making two processions, to attend in the Senate Chamber for a very short period of business. It would also mean that the Governor-General would still only come to Parliament House once during the day.

Swearing in/affirmations

My perception is that the traditional swearing of oaths/making affirmations process is of great significance to Members. The process enables the requirements of s.42 of the Constitution to be satisfied. It is estimated that the process took some 25.5 minutes at the last opening.

While noting that the process could be changed – for example Members could be sworn-in or make affirmations before opening day – I do not believe that there would be support for such a development. (I note that there was strong support for retaining the same swearing in procedures from the Members who responded to the Committee's survey for the 2001 Opening of Parliament report). It seems to me that as well as being valued by Members and I assume by their families and supporters, there is much to be said for this process to be held in public, for

government and non-government Members and for front and back bench members to all be dealt with in one ceremony, and for a senior judge to preside. It seems appropriate also that the election of a Speaker follow immediately after such a significant public event.

The 2001 report recommended that the words of the oath or affirmation be reviewed with a view to including recognition of the people of Australia. Successive governments since at least 1993 have adopted a different form of words in respect of the oath or affirmation of office for Ministers and Parliamentary Secretaries, but the Constitution specifies the terms that must be used by Members (and Senators). Implementation of a change in the specified wording would not be a short-term matter, but the 2001 report recommended that a proposed new form be put to the people at a referendum.

Election of Speaker

The 2001 report recommended changes in three aspects: that the most senior Member who was not a Minister/Parliamentary Secretary, Party Leader or Whip preside instead of the Clerk and that immediately after the election of a Speaker the Deputy Speaker and the Second Deputy Speaker should be elected.

In respect of the election of a Speaker, the present committee may consider whether in practice the assertion that the Clerk could be not well placed to deal with the more 'contentious problems which could conceivably arise' is indeed more of a theoretical rather than practical point. Nevertheless a change to have the most senior eligible and available Member preside would make the point that the House is indeed the Members' house and that the role of staff is one of facilitation and support.

The recommendation for the election of a Deputy Speaker and a Second Deputy Speaker immediately after the Speaker seemed to be less about saving time (as the election processes take much the same time regardless of when they are held) than about having the 'parliamentary leadership group' (comprising these three officers) elected ready to present itself to the Governor-General in the afternoon. If the Committee proposes continuing with the current procession from the House with the Speaker presenting himself or herself to the Governor-General and to introduce Members, then there is less need to consider any change to the election of Deputy Speaker and Second Deputy Speaker.

Presentation to the Governor-General

The 2001 report recommended that instead of the traditional procession to allow the Speaker to present himself or herself to the Governor-General and introduce Members, the three presiding members would introduce themselves, and other accompanying Members, to the Governor-General on their way to hear the Governor-General's speech.

It is unclear what value Members place on the traditional introduction arrangements. Certainly it is not necessary in terms of Australia's constitution: a Speaker does not need to present himself or herself to the Governor-General, there is no requirement for any acceptance or endorsement of the House's choice of a Speaker and there is no legal or procedural requirement for Members to be introduced to the Governor-General.

It is likely that some Members would regard the traditional practice as both archaic and meaningless, but it is also likely that other Members would see it as appropriate that Members interact with the Governor-General on parliamentary premises and that this does not have a connotation of subordination or of a need for approval. It is also likely that some backbenchers would value the opportunity to meet the Governor-General formally at the same time as the Speaker and other leading Members. The 2001 report also noted that Senators might wish to participate at this stage, although it is not clear how the logistics of this might be organised.

The 2001 recommendation would allow:

- a procession led by the Speaker from the House to Members Hall to allow the Speaker to present himself, the Deputy Speaker and the Second Deputy Speaker, and other Members, to the Governor-General;
- after their introductions Members moving into the Great Hall (and see below) prior to the Opening Speech;
- after introductions were completed the Speaker being led into the Great Hall to await the Governor-General's arrival there for the Opening Speech.

Under this arrangement two processions would be avoided - one for the return of Members to the House after the introductions, another from the House to the Senate (traditionally) for the opening speech. One point to note is that under this process it would not be possible to know how long the introductions would take and both the Governor-General and the Speaker could be required to wait to fit in with the scheduled time for the opening speech.

An alternative would be to retain the current procession of the Speaker and all Members from the House Chamber, with Members moving into the Great Hall for the opening speech once they have been presented.

Governor-General's speech

In the 2001 report the Procedure Committee repeated an earlier recommendation that the Governor-General's speech should be delivered in the Great Hall. The House has agreed to a resolution on this matter (24 March 1988). The use of the Great Hall has been seen as more consistent with the constitutional framework and with the reality of the relationship between the two Houses.

Implementation of such a recommendation would involve the Governor-General, as well as each House of the Parliament. The standing orders of the House refer to Members attending at the 'place appointed by the Governor-General' to hear the speech (i.e., no change would be needed on this point), but Senate standing order 2 refers to the Governor-General being conducted to the chair in the Senate chamber and to the House attending in the Senate chamber.

Formal business

The 2001 report recommended that instead of the presentation of a 'privilege bill' (traditionally a bill not expected to be proceeded with), the 'traditional assertion of the House's right to order its own business' would be maintained by the adoption of a resolution of commitment to the Australian people. The committee recommended that the resolution be moved by the Prime Minister, seconded by the Leader of the Opposition and put immediately without debate. The committee suggested a possible form of words, but recommended that the resolution be subject to broad consultation across the country to seek agreement or the submission of alternative versions.

Address-in-reply

The 2001 report recommended that a more modern form of the address-in-reply be adopted. The wording of the address is open to change, and the terms used in 2008 saw such a change. In any case, this is a matter that comes before the House on a later day and is not part of the opening day arrangements.

The abolition of the appointment of an address-in-reply committee was recommended in the 2001 report. The Procedure Committee saw this traditional action as redundant, but wished to retain the involvement of new Members. Its proposal would have the proposed address moved by one new Member and seconded by another. Little needs to be said about this recommendation: the traditional action takes very little time, but it cannot be said to be necessary in any procedural or legal sense.

The department will be very pleased to provide any more information or comment the committee may need and will be happy to assist in advising or assisting in the implementation of any recommendations which are agreed to.

I C HARRIS

Clerk of the House

5 May 2008

First Session of the 42nd Parliament

	Time ¹	Elapsed time (minutes) ²
Members assemble in the HOR Chamber	10.30 am	
Clerk reads the proclamation from the G-G	10.30 am	
*Message delivered by the Usher of the Black Rod	10.34 am	4
Members proceed to the Senate Chamber		
Deputy to the G-G declares open the 42nd parl	Ends 10.41 5 am	11 5
Members return to the HOR Chamber		
Deputy arrives in the HOR Chamber		
*Authority to administer the oath or affirmation of allegiance to Members is read	Ends 10.50 5 am	20 5
Clerk lays on the Table the writs for General election	Ends 10.51 am	21
Members make their oath or affirmation of allegiance	Ends 11.16 5 am	46 5
Election of the Speaker	Ends 11.23 am	53
Speaker acknowledges the honour followed by congratulatory speeches	Ends 11.50 am	1 h 9
Speaker suspends the sitting of the House	11.51 am	1 h 21
Members assemble in the HOR Chamber to accompany the Speaker to the Members' Hall	2.30 pm	
Speaker presents himself to the G-G as the Speaker chosen by HOR		
G-G hands the Speaker the authority to administer the oath or affirmation on allegiance		
Speaker and Members return to the HOR Chamber	3.02 pm	1 h 53
Speaker resumes the chair and reports the authority received from the G-G	3.02 5 pm	1h 53.5
*Usher of the Black Rod with message for Members to assemble in the Senate Chamber	3.06 pm	1 hr 57
Members assemble in the Senate Chamber to hear G-G 's speech		
Members return to the HOR Chamber		
PM announces Ministry, Govt Whips	3.52 5 pm	2 h 43.5
Leader of the Opposition announces Leadership, Whips and Shadow Ministry	3.53 pm	2 h 44
Leader of the Nationals announces Leadership and Whips	3.54 pm	2 h 45
Prime Minister presents Bill. Bill read a first time. 2nd reading made an order of the day	3.54.5 pm	2 h 45.5
G-G speech reported and formation of Address in Reply Committee	Ends 3.56pm	2 h 47
Statements on indulgence	4.00 pm	2 h 51
Speaker suspends the sitting of the House	4.02 pm	2 h 53
Members assemble in the HOR Chamber	5.00 pm	
Election of Deputy Speaker and 2nd Deputy Speaker	5.28 pm	3 h 21
Congratulatory speeches	Ends 5.43 .5pm	3 h 36.5

¹ The time is at the start of the item unless otherwise indicated.

² The elapsed time is recorded excluding suspensions.

* Marks a pause in proceedings while the House waits.

Submission no. 2: Mr Don Morris

D. J. MORRIS

P.O. BOX 43
SOUTH HOBART, TAS. 7004

Received 21/5/08
J.

6 May 2008

Submission No. 2

Ms Julie Owens, MP
Chairman
Standing Committee on Procedure
House of Representatives
Parliament House
CANBERRA ACT 2600

Dear Madam Chairman

I make this submission to the current inquiry by your Committee reviewing the arrangements for Opening Day of Parliament. I cannot find on the website when the deadline for submissions has been set, so I hope this is received in good time.

It is my strong view that the current basic arrangement for the Opening Day of a new Parliament is sound. Some, particularly Members of the House of Representatives, have grumbled in the past about having to attend the Governor-General's Speech in the Senate Chamber, but it is a symbolic, but valuable, part of our parliamentary heritage that the Speech is delivered in the Senate. The representative of the Crown, after the confrontation between King Charles I and the House of Commons in 1642, should never be present in the people's house, in our case the House of Representatives. This historical remnant now serves to remind those of us with the Westminster system of the separation of powers between the Executive (the Crown) and the Parliament. Whilst it could not be said that the Senate is akin to the House of Lords, it is nevertheless the house of review and for the Crown, as the third organ of Parliament, to outline the government's legislative plans in the Senate Chamber seems most appropriate.

There have been suggestions in the past that the Governor-General should make his or her speech in the Great Hall, or in some other 'neutral' part of Parliament House. I think this would severely downgrade the significance of the Governor-General's Speech. It is proper that the only people present on the floor of the Chamber should be the Governor-General, Senators, Members of the House of Representatives and parliamentary officers. If the Great Hall were used, the Opening would be taking place in a venue which is used for all sorts of purposes, from official meals to concerts to cocktail parties. This suggestion would greatly demean the occasion and has no merit.

- 2 -

There is, however, one reform that I would strongly suggest be adopted. At present the Governor-General appoints a Deputy (the Chief Justice of Australia) to actually declare open the Parliament and then to preside over the swearing in of Members. This at present involves the Deputy summoning all Members to the Senate Chamber purely to inform them that the Governor-General would be attending the Parliament later in the day to declare the purposes of calling the Parliament together.

Whilst I hold parliamentary tradition in high regard, I think this particular one has become a 'dead letter'.

Option 1

There is no reason why the Clerk of the House of Representatives should not be empowered to announce that the Governor-General's Deputy is in the precincts, and then the Deputy would enter the Chamber of the House, take the Speaker's Chair and preside over the swearing in of Members. This would remove the need for Members to process twice to the Senate Chamber, but would preserve the other important elements (even the 'theatre') of Opening Day, such as the Usher of the Black Rod being sent to summon the Speaker and Members to the Senate Chamber to hear the Governor-General's speech, being initially denied entry, etc.

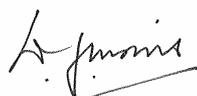
Option 2 (preferred)

Indeed, if it were thought better not to involve the Deputy at all, the Standing Orders could be changed to provide that the Clerk would first swear in the Member with the longest unbroken service who is not a Minister or a member of the Opposition Executive, and that Member would then take the Chair (with the same authority as if he or she were Speaker) and preside over the swearing in of Members and the election of the new Speaker.

This approach has worked well in the United Kingdom House of Commons since 1971 when it was established to avoid again putting the Clerk (who had previously chaired the House during the election of the Speaker) in an invidious position when the election was contested and debate ensued. Should the Committee and the House adopt this approach, I am sure the Chief Justice could occupy his morning with better pursuits.

Thank you for the opportunity to make this submission.

Yours sincerely

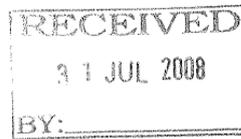


(Don Morris)

Submission no. 3: Reconciliation Australia

28 July 2008

Ms Julie Owens, MP
Chairman
Standing Committee on Procedure
House of Representatives
Parliament House
CANBERRA ACT 2600



Reconciliation Australia

Submission 3

Dear Ms Owens

Reconciliation Australia welcomes the opportunity to make a brief submission to the review of the arrangements for the opening day of parliament. Along with a great many Indigenous and non-Indigenous Australians, we were delighted with the inaugural Welcome to Country that opened the 42nd sitting of the Federal Parliament earlier this year. We were proud to have been able to play a role in facilitating the Welcome and assisting in the arrangements for the historic occasion.

A traditional Welcome to Country has long been standard practice in many areas of Australian life and signifies respect for and recognition of traditional owners and their long held connections to the land we share. The significance of our leading public institution adopting this practice sends a clear message to all Australians that Indigenous cultural protocols are valued and respected by our elected representatives. The importance of this message is critical as a step forward for reconciliation, a process based on mutual respect and recognition.

To maximise the community reach and education potential of the Welcome to Country for future Parliamentary openings we recommend that the following actions be considered:

- that the Welcome to Country be broadcast live on national television
- that a section be created on the Parliament House website to explain the Welcome with podcasts of the inaugural Welcome and links to further information about Indigenous culture and history
- that consultations be conducted with relevant stakeholders on who might be invited to participate in and attend future parliamentary Welcome ceremonies.

We would be pleased to assist with the last recommendation and would be happy to meet with you to discuss our ideas further. We strongly support the Prime Minister's leadership in initiating the first Welcome to Country and we're also very pleased that there is bi-partisan support for making the Welcome to Country a standard feature of all future openings of Parliament.

Kind Regards

Barbara Livesey
Chief Executive

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