



Introduction

Admission of visitors to committee proceedings

Standing order 344

- 1.1 Until 5 February 2003, standing order 344 had provided for the admission of visitors to committee meetings at which witnesses were being examined or the committee otherwise engaged in gathering information, virtually without change, since 1901. The standing order did not apply to committees taking *in camera* evidence, such meetings by definition being closed to visitors. The text of the standing order was:
 - 344 When a committee or subcommittee is examining a witness, or engaged in other proceedings for the purpose of gathering information, visitors may be admitted. They shall withdraw if requested by the chair or if any member of the committee or subcommittee asks the chair to request their withdrawal. All visitors must withdraw when the committee or subcommittee is deliberating or taking evidence in camera.
- 1.2 In this report all references to standing order 344 refer to the above text unless it is clear from the context that an earlier version of the standing order is being discussed.
- 1.3 The standing order contained four elements:

- visitors could be admitted by a committee or subcommittee (but they had no automatic right of admission to hearings¹);
- the right of visitors to remain at a hearing was removed if the chair requested him/her/them to leave (withdraw);
- the right of visitors to remain at a hearing was also removed if any member asked the chair to request his/her/their withdrawal; and
- there could be no visitors at private meetings or *in camera* hearings.

1.4 These four elements will be addressed in chapter 3.

Interpretation and application of standing order 344

1.5 The sections of standing order 344 which gave a power to initiate the withdrawal of visitors other than by committee agreement, were rarely (if ever) used until late in 2002 when they were invoked in contentious circumstances.² A committee member attempted to exercise an individual right under the standing order to remove visitors from a “public” hearing (i.e. it was not intended that the hearing take evidence *in camera* or that the evidence be kept confidential following the hearing). The hearing did not proceed so that part of the standing order relating to “any member” remains untested.

Replacement of standing order 344 with an amended sessional order

1.6 In response to the incident referred to above, the Leader of the House moved that the standing order be replaced by a sessional order, under which the decision to order the withdrawal of visitors would be a majority decision. The right of the committee chair to remove visitors without first consulting the committee was retained.

1.7 During debate on the motion a member moved an amendment to refer the matter to the Procedure Committee. The Leader of the House proposed that the Procedure Committee review the operation of the new sessional order but that it be introduced as originally drafted. Following debate the original motion to introduce sessional order 344 was agreed to by the House. The new sessional order came into effect on 5 February 2003 for the remainder of the session. The text of the sessional order is:

¹ The word “hearing” is used to cover formal hearings at which witnesses are examined and other proceedings during which a committee gathers information.

² House of Representatives Hansard, 5 February 2003, pp. 198-202.

344 When a committee or subcommittee is examining a witness, or engaged in other proceedings for the purpose of gathering information, visitors may be admitted. They shall withdraw if requested by the chair or if the committee or subcommittee resolves for their withdrawal. All visitors must withdraw when the committee or subcommittee is deliberating or taking evidence *in camera*.

- 1.8 All references to sessional order 344 are references to this text.

Reference of the matter to the Procedure Committee

- 1.9 At the conclusion of the debate on the introduction of sessional order 344 the Leader of the House asked the Procedure Committee to oversee the operation of the new sessional order and report on the effects of any changes before 19 June 2003.³

The conduct of the inquiry

- 1.10 The committee wrote to the chairs, deputy chairs and secretaries of all House standing committees seeking their help in assessing the operation of the sessional order. The committee also discussed issues relating to the standing and sessional order with the Clerk of the House, Mr Ian Harris.
- 1.11 The standing (and now sessional) order does not apply to joint committees because there is a potential conflict between the Senate and House standing orders on the issue. In such circumstances the Senate standing orders are followed by joint committees. The Senate assumes that all committee proceedings except *in camera* hearings and deliberative meetings will be held in public. Were this not to occur arrangements for the hearing would be made by majority decision of the committee.
- 1.12 Several committee chairs and secretaries responded to the invitation for information on how the sessional order affected their committees. All chairs and secretaries reported that the sessional order had not caused any problems. Indeed, it appears that the sessional order (with the possible exception of the provision allowing committees to decide to take evidence *in camera*, has not been invoked since its introduction four months ago.
- 1.13 The committee considers it valuable to review the history of standing order 344 and to address the relevant issues.

³ Hansard, 5 February 2003, p. 202.

Outline of the report

- 1.14 Chapter 2 presents a history of the standing order and a comparison with equivalent provisions in other jurisdictions.
- 1.15 Chapter 3 addresses the issues relevant to standing order 344 and the operation of sessional order 344. It concludes that the sessional order should be adopted as a standing order, and that a section should be included in the next edition of *House of Representatives Practice* to guide committees in their application of the provisions.
- 1.16 A list of submissions is at Appendix A. The three versions of standing order 344 in use since 1901 are reproduced at Appendix B.