

## Improving the conduct of the debate

- 3.1 Throughout the course of this inquiry, the Committee has heard that the procedures governing the consideration in detail of the main appropriation bill could be revised to facilitate more effective scrutiny of the annual budget.
- 3.2 In exploring possible solutions to the concerns raised, the Committee has maintained three key considerations:
- the purpose of the consideration in detail stage of the main appropriation bill;
  - its stage in proceedings on the bill as a consideration in detail debate and the opportunities for Members normally attached to that stage; and
  - the right of all Members to be able to participate equitably in the business of the House.
- 3.3 As noted in Chapter 2, the most effective form of debate that Members and ministers have found the most satisfactory is a series of short, focussed, interchanges between Members and the minister.
- 3.4 It is difficult to achieve a focussed and interactive debate when Members – including ministers – are determined to speak to the 5 minute time limit. It is also difficult to ‘mandate’ this kind of debate with specific standing orders applying to the allocation of the call and time limits.
- 3.5 A more interactive debate during consideration in detail of the main appropriation bill is possible under the existing standing orders when the following occurs:
- the call is allocated alternately to each side of the House, consistent with the practice applying to all other debates;

- Members focus their contributions on short points of debate or questions with minimal preamble;
  - ministers indicate at the commencement of the debate on their portfolio how they intend, or would prefer, to conduct their part in the debate; and
  - ministers occasionally cede the call to government backbench Members when they are present to facilitate their participation.
- 3.6 Given that this debate only occurs once a year it might be helpful if some guidance were issued annually from the Chair to Members on the conduct of the debate and what the people in key roles can do to get the best out of the process.
- 3.7 The Committee suggests that, if the Speaker agrees, he make a statement offering guidance to the House to be repeated by the Deputy Speaker in the Federation Chamber immediately prior to the commencement of the consideration in detail debate. Proposed wording for this guidance is at Appendix A and assumes the sessional orders recommended below are adopted.

## **Adequacy of the Standing Orders**

- 3.8 The Committee has considered the adequacy of the current standing orders in facilitating the debate and considered suggestions for change including:
- mandating the allocation of the call;
  - mandating a 'question and answer' format for the debate; and
  - introducing shorter time limits.

## **Allocation of the call**

- 3.9 The key issue of concern in the debate is the current practice of the call being allocated as it is during question time, with both government and non-government Members directing questions to the relevant minister who responds in turn. This has resulted in a disproportionate amount of time being allocated to the government side.
- 3.10 Chapter 2 explains that the allocation of the call has only become an issue in recent years, as more government backbench Members have participated in the debate. Government Members are, of course, entitled to participate in the debate and may wish, for example, to speak critically on, or in support of, proposed expenditure and to seek information from ministers. The participation of government backbench Members should

not, however, result in a disproportionate allocation of time to the government side, as is currently the case.

- 3.11 There is a tension between the right of government backbench Members to participate in the debate, allocating the call in a manner that is fair to non-government Members and consistent with the practice in other debates, and the minister's role representing the Government in the debate. It should be incumbent on the government side to strike an appropriate balance between the right of government backbench Members to participate in the debate and allowing ministers sufficient time to fulfil their responsibilities.
- 3.12 The Committee is extremely reluctant to recommend that the allocation of the call during the debate be mandated by the standing orders. This would be an unprecedented development. It is the established practice of the House that the allocation of the call is at the discretion of the Chair and there have been many occasions when the Chair has exercised this flexibility to suit the convenience of the House.
- 3.13 However, it is the Committee's view that the allocation of the call during consideration in detail of the main appropriation bill should be consistent with the practice applying in other debates – that is, as far as practicable it should alternate and afford a roughly equal number of speaking opportunities and time to each side of the House. It would therefore assist occupants of the Chair if, when government backbench Members are participating in the debate, the minister occasionally made way and did not seek the call when it returned to the government side.
- 3.14 The Committee also suggests that it would be helpful if ministers indicate at the commencement of the debate on their portfolio how they intend, or would prefer, to conduct their part in the debate, providing some guidance to other Members on when and how they can expect the minister to respond to the issues they have raised.
- 3.15 Together, these two adjustments in approach would alleviate the disquiet on the opposition side over the allocation of the call and provide some guidance to Members on what to expect of the minister during the debate.

### Question and answer form of debate

- 3.16 When the Procedure Committee last reviewed the conduct of the consideration of the estimates, the format of the debate was one of the issues of concern. At that time, the Committee noted:

The objective should be that the debate focuses on the estimates, and that proceedings are more an interchange between Members

and the minister of matters raised and response, rather than set speeches.<sup>1</sup>

- 3.17 In the years following the release of this report, the then Deputy Speaker actively encouraged a more interactive process stating:

This is not an opportunity to make a speech; it is for questions on estimates.<sup>2</sup>

- 3.18 This approach has continued and for some time facilitated an interactive debate, however actively discouraging speeches in favour of questions is not supported by the current standing orders. A Member is entitled to speak during consideration in detail of the main appropriation bill without necessarily asking a question. Although it is not common to do so a Member may also move an amendment to the bill and use their time to argue in favour of their amendment:

A private Member may reduce the amount of the proposed expenditure, or may move to omit or reduce items, but may not move to increase an amount or alter the purposes of the proposed expenditure. The traditional form of the amendment is 'That the proposed expenditure for the Department of...be reduced by \$...'. The Member may then state the reason for moving the amendment, for example, 'as an instruction to the Government to...', 'because the Government has failed to...', 'because, in the opinion of the House, the Government should...'.<sup>3</sup>

- 3.19 In practice, the detail stage for the main appropriation bill is most often used by Members to seek information about proposed expenditure and to test a minister's knowledge of departmental activity and government policy in their portfolio area. The question and answer format is therefore a suitable mechanism to enable detailed scrutiny. However, mandating a question and answer format may obscure or diminish the right Members currently have to debate proposed expenditure and government policy and move amendments.

## Proposed sessional orders

- 3.20 Currently, consideration in detail of the main appropriation bill is governed by the same standing orders that apply to the consideration in detail of other bills. The Clerk of the House has suggested that this debate 'differs so much from the normal consideration in detail process that it

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1 *House Estimates: Consideration of the annual estimates by the House of Representatives*, October 2003, p. 29.

2 H.R. Deb. (15.6.2006) 128; and see Clerk of the House, *Submission 1*, p. 4.

3 *House of Representatives Practice*, 6<sup>th</sup> edn, p. 433.

should have its own rules clearly set out.’<sup>4</sup> As a minimum, the Clerk suggested that:

it would be helpful to chairs, ministers and Members generally if the existing standing orders specifically applying to the budget and estimates debates could be co-located (that is moved, copied or at least cross-referenced) under the section of the standing Orders headed Financial Procedures.<sup>5</sup>

3.21 In the Committee’s opinion, the annual consideration of the budget and the consideration in detail stage, in particular, are unique, and of such importance, that the procedures for the main appropriation bill should be explicitly provided for in the Standing Orders, to make clear:

- the scope of relevance for the debates on the second reading and the detail stage; and
- the question before the House being debated in the detail stage; and
- the particular rules applying to debate in the detail stage, which currently allow for questions **and** debate.

3.22 The Clerk has drafted proposed sessional orders (at Appendix B) that clarify the existing rules and practice for consideration of the main appropriation bill. The sessional orders should serve to assist Members and occupants of the Chair to understand and apply the existing provisions more consistently.

3.23 The Committee is concerned to ensure that Members are aware that the consideration in detail stage on the main appropriation bill is a series of debates on the question – that the proposed expenditure be agreed to – and that they not forfeit any rights and opportunities now available to them. It must remain in order for a Member to make a point of debate without necessarily asking a question, and/or to move an amendment if they choose. The following words proposed in the sessional order make it clear that both questions and debate are permissible:

Members may ask ministers for information about the expenditure being considered. Questions and debate must be relevant to the expenditure being considered, and may refer to departmental activity and government policy relating to the expenditure, and related expenditure in other appropriation bills.<sup>6</sup>

3.24 The Committee supports a trial of the proposed sessional orders (to be located in Chapter 13. Financial Proposals) for the remainder of this

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4 Clerk of the House, *Submission 1*, pp. 6-7.

5 Clerk of the House, *Submission 1*, p. 6.

6 See Appendix B.

Parliament which should see them in operation for the 2016-17 Budget. The sessional orders will co-locate existing procedures and clarify the rules relating to the second reading debate or 'budget debate' and the consideration in detail stage.

### Recommendation 1

**The Committee recommends that sessional orders 182A and 182B at Appendix B be adopted for the remainder of the 44<sup>th</sup> Parliament.**

### Time limits

- 3.25 Currently during consideration in detail on the main appropriation bill, as with all bills, Members are allowed an unlimited number of five minute periods to speak.<sup>7</sup> At times, Members have confined their contributions to 1 to 2 minutes. In recent years there has been a trend towards Members making a set 5 minute speech, perhaps with a question at the end, and this has slowed the debate and diminished its effectiveness as a means to scrutinise government.
- 3.26 Proposals for different time limits for the debate have been put to the Committee in the past, including a suggestion that questions be limited to 2 minutes and answers to 4 minutes.<sup>8</sup> During the course of this inquiry, varying proposals for amending time limits were put to the Committee including:
- 1 minute for questions and 2 minutes for answers; and
  - 2 or 3 minutes equally.
- 3.27 The Committee does not support different time limits for Members and ministers participating in the debate. Introducing unequal time limits to the debate on any stage of a bill would be unprecedented and unduly prioritise the view of the Executive over those of other Members. Any Member of the House should have the same time available to put their views as a minister has to put the case for the Government.
- 3.28 As discussed in Chapter 2, a free flowing exchange of short interchanges is possible within the current debate time limits. A speech time limit in any debate does not require each Member to speak for the maximum period of time. However, it is now more common in the detail stage debate on the main appropriation bill for Members to speak for the full 5 minutes. This

7 Standing Order 1.

8 Standing Committee on Procedure, *Maintenance of the Standing and Sessional Orders*, June 2013, p. 22.

has slowed the debate and become a source of frustration for ministers and for Members on both sides of the House.

- 3.29 The introduction of shorter time limits may encourage a more focussed and interactive debate and would allow more Members to participate. The Committee's view is that time limits should be equal for Members and ministers, noting that ministers would normally receive priority for the call over other government Members and so may ensure for themselves a number of opportunities to speak during consideration of their portfolio.
- 3.30 The Committee is therefore recommending that a shorter speech time limit be trialled, by sessional order, for the consideration in detail stage of the 2016-2017 main appropriation bill. Specifically, the Committee is recommending a trial of an unlimited number of two minute periods for each Member. When looking at the more effective debates in the past, this appears to be an adequate amount of time for contributions from Members, including ministers.<sup>9</sup> It would remain possible for Members and ministers to seek the call for consecutive two minute periods if no other Member rose to speak.

## Recommendation 2

**The Committee recommends that the House adopt a sessional order for the remainder of this Parliament to provide in respect of the consideration in detail stage of the main appropriation bill that each Member be permitted to speak for an unlimited number of 2 minute periods.**

Dr Andrew Southcott MP  
Chair  
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<sup>9</sup> See for example: H.R. Deb (15.06.2005) 192-235; H.R. Deb, (15.06.2010) 5420-5463

