

The future of the Federation Chamber

- 3.1 The range of business dealt with by the Federation Chamber has expanded from the consideration of non-controversial bills to include Members' statements, presentation of petitions, private Members' business, consideration of committee and delegation reports, condolence motions, motions to take note of documents and grievance and adjournment debates.
- 3.2 Through the course of the inquiry, the Committee did not consider any further expansion of the range of business, but did hear a number of concerns that the Federation Chamber is not being used to its full capacity. Of particular interest is the decline in government bills referred to the Federation Chamber during the 44th Parliament.¹

Programming government business

- 3.3 Under existing arrangements, business may be referred to the Federation Chamber in a number of ways:
- on motion of the House;²
 - the Leader of the House or Chief Government Whip may make a programming declaration in relation to government business;³ and

1 See Appendix A, Table A.5.

2 Standing Order 143, 26 March 2015.

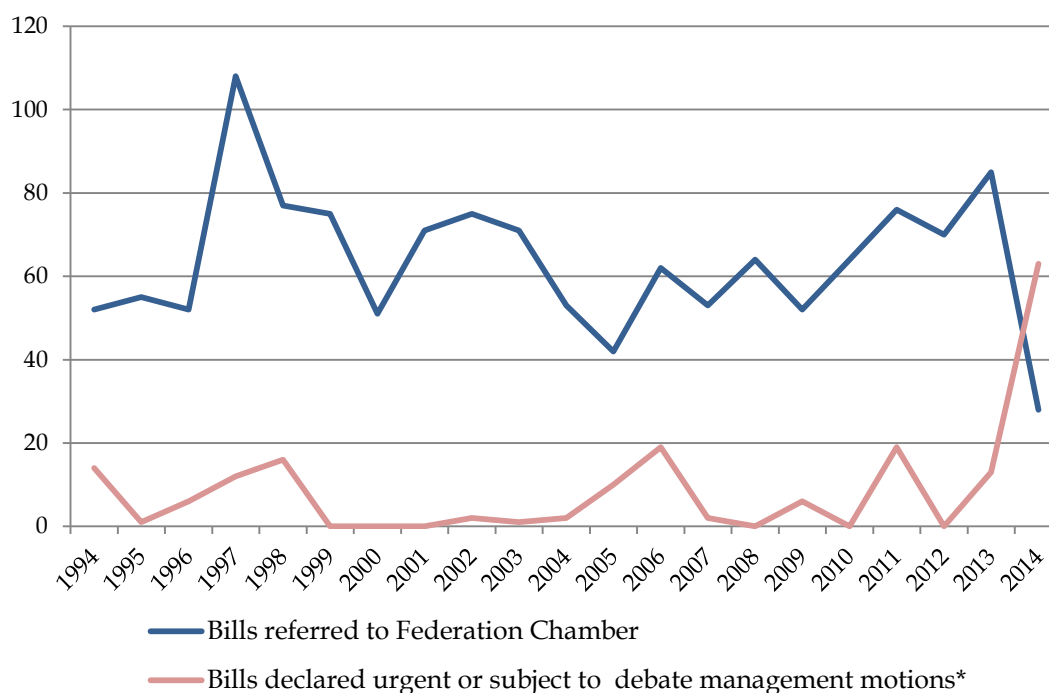
3 Standing Order 45, 26 March 2015. On 13 November 2013, Standing Order 45 was amended to allow the Leader of the House or Chief Government Whip to make a programming declaration in the House, to refer a government business order of the day to the Federation Chamber or to require a government business order of the day to be returned from the Federation Chamber. Prior to this, government bills were referred to the Federation Chamber by motion moved in the House.

- a Selection Committee report scheduling items of private Members' business and committee and delegation business.⁴

3.4 The introduction of the programming declaration in this Parliament has allowed for a straightforward process for referring government bills to the Federation Chamber. The declaration has been used on 16 occasions, referring 41 bills.⁵

3.5 Despite the introduction of the programming declaration, there was a significant decline in bills referred during 2014. There was also an increase in the number of bills being subject to time restrictions, usually through a suspension of standing orders to consider related bills together and to set time limits for each stage (often referred to by Members as 'debate management motions').

Figure 3.1 Bills referred to Federation Chamber and bills declared urgent or subject to debate management motions 1994-2014



* In practice, from 2006 debate management motions have replaced the guillotine procedure (declaration of urgency). See *House of Representatives Practice*, 6th edn, p. 392-3.

4 Standing Order 222, 26 March 2015. Selection Committee reports are treated as having been adopted when presented.

5 Including two declarations regarding six appropriations bills. See VP No. 38, 26 May 2014 and VP No. 39, 27 May 2014.

- 3.6 The Leader of the House referred to the quorum of the Federation Chamber (the Deputy Speaker, one government Member and one non-government Member) and the ability of the Opposition to effectively veto referrals by withdrawing the quorum.⁶ He noted that the reduction in referrals has ‘regrettably meant that the Government has been forced to curtail debate more often than it would otherwise need to do, thus depriving Members of both sides speaking opportunities.’⁷
- 3.7 It is, of course, a matter for the Government which of its bills and other business items it wishes to refer to the Federation Chamber. As the Federation Chamber operates on the principle of cooperation, the referral of government business is also contingent on agreement being reached between the major parties about which matters will be referred.
- 3.8 The Committee notes the possibilities offered by the blocks of government business time available in the Federation Chamber. These provide opportunities for large numbers of Members to contribute to debates on bills and, if used fully, would minimise the need for debate to be curtailed in the House.

Consideration of committee reports

- 3.9 There has also been a significant decline in the number of committee reports debated in the Federation Chamber during the 44th Parliament despite a comparable number of reports referred for debate as previous parliaments.

Table 3.1 Debate on committee reports (42nd – 44th parliaments, comparable periods)

	42nd Parliament (12.2.08 to 26.6.09)	43rd Parliament (28.09.10 to 23.3.12)	44th Parliament (12.11.13 to 26.3.15)
No. of reports presented in the House	105	207	149
No. of reports referred to the Federation Chamber	30	47	32
No. of reports debated in the Federation Chamber	24	31	14
Time (h:m) spent debating reports in the Federation Chamber	17:07	19:07	6:07
Percentage of Federation Chamber meeting time spent debating committee reports	4.4%	5.1%	2.2%

6 This provision has been a feature of the Federation Chamber since its inception.

7 Hon C. Pyne MP, Leader of the House, *Submission 5*.

- 3.10 The Clerk of the House proposed that in lieu of there being government business to debate:
- Consideration also could be given to providing the opportunity for committee reports to be debated during government business time on those occasions when government bills are not referred. [As at 27 November 2014] 20 committee reports stand referred to the Federation Chamber for debate, with six currently due to be discharged from the Notice Paper as they have not been accorded priority for eight sitting Mondays.⁸
- 3.11 The Committee's consultation with Members found that there is general agreement that opportunities to debate committee business in the Federation Chamber should be better used and, if there is no government business referred, then this time could be used for debating committee reports, ideally soon after a report is presented.
- 3.12 As at 26 March 2015, 14 committee reports stand referred to the Federation Chamber⁹ and there is nothing to prevent these reports being scheduled for debate (the Federation Chamber order of business allows for consideration of committee business each meeting day). Two of these reports have been listed for six months and while the issues may remain current, this is a considerable delay in debate.
- 3.13 Timely debate in the Federation Chamber may also afford Ministers an opportunity to immediately respond to urgent issues raised by a committee report, prior to the presentation of a detailed government response.¹⁰
- 3.14 In the Committee's view, Chairs of committees must take greater responsibility for seeking reports to be scheduled for debate and encouraging Members to speak on them. The Committee is concerned that this may not be occurring because Chairs and Deputy Chairs may not be aware that they are able to seek to have debate on reports scheduled.
- 3.15 In addition, Standing Order 39 allows for the presentation of reports to occur in the Federation Chamber. Previously reports could only be presented in the House and as such, Chairs may not be aware that they can seek that the Selection Committee determine that committee and delegation reports be presented in the Federation Chamber. Greater awareness of this standing order may facilitate increased debate on committee reports in the Federation Chamber.

8 D. Elder, Clerk of the House of Representatives, *Submission 2*, p. 9.

9 Notice Paper No. 110, 26 March 2015.

10 H.R. Deb. (26.06.2013) 7222.

Recommendation 1

- 3.16 **The Committee recommends that the Liaison Committee of Committee Chairs and Deputy Chairs consider the mechanisms available to committees to seek to have their reports presented and/or debated in the Federation Chamber.**

Constituency statements and grievance debate

- 3.17 Three-minute constituency statements by Members are scheduled for the first 30 minutes of business on any day that the Federation Chamber meets.
- 3.18 On 17 occasions in the 44th Parliament¹¹ constituency statements have been extended to a 60 minute period. This practice has become more frequent over the course of the Parliament, with 8 of 14 statement periods being increased to 60 minutes in the 2015 autumn sitting period.
- 3.19 This has provided considerable additional time for Members (including Ministers and Parliamentary Secretaries) to speak on matters of importance to their electorates. In 2014, the extension of constituency statements provided 80 additional speaking slots. In total, 642 constituency statements were made by 130 different Members, including 33 constituency statements made by 13 different Ministers.¹²
- 3.20 It was noted that speaking times during three minute constituency statements 'seem to be the most popular and most sought after', compared to other opportunities for statements by Members.¹³
- 3.21 As stated above, Ministers are also regularly making use of three minute constituency statements.¹⁴ Given the limitations on Ministers (under the standing orders or in practice) speaking during opportunities usually reserved for private Members, there is merit in expanding the opportunity for these Members to speak on matters concerning their constituencies.
- 3.22 The Committee also heard proposals for the grievance debate, currently held for one hour on Mondays, to be extended to two hours (six speakers from each side) where there is no government business before the

11 To 26 March 2015.

12 Includes: Ministers, Parliamentary Secretaries and the Deputy Speaker.

13 V. Riggio, Office Manager, Office of Nola Marino, *Submission 4*, p. [2].

14 The Deputy Speaker has utilised this opportunity to speak on constituency matters, as did Speaker Burke in the 43rd Parliament (H.R. Deb. (26.06.2013) 7192).

Federation Chamber. This would provide significant additional speaking time on matters of interest to Members.

Recommendation 2

- 3.23 **The Committee recommends that Standing Orders 1 and 192B be amended to allow for a grievance debate of up to two hours on Mondays if there is no government business before the Federation Chamber.**

Recommendation 3

- 3.24 **The Committee recommends that Standing Orders 1 and 193 be amended to allow for up to 60 minutes of three minute constituency statements on Monday, Wednesday and Thursday meetings of the Federation Chamber.**
- 3.25 The Committee also notes that a previous recommendation of the Procedure Committee (43rd Parliament)¹⁵ that Standing Order 192, Figure 4, be amended to better reflect the indicative nature of the Federation Chamber order of business, was only implemented in part.
- 3.26 As the recommendations of this report rely on the flexibility inherent in the order of business of the Federation Chamber, the Committee maintains the view of its predecessor that its indicative nature should be made clear in Standing Order 192 by retitling 'Figure 4. Federation Chamber order of business' as 'Figure 4. Federation Chamber indicative order of business'.

Recommendation 4

- 3.27 **The Committee recommends that Standing Order 192, Figure 4 be amended to clarify the indicative nature of the order of business for the Federation Chamber.**

15 Standing Committee on Procedure (43rd Parliament), *Maintenance of the standing and sessional orders*, June 2013, p. 18.

Consideration in detail of the Main Appropriation Bill

- 3.28 Consideration in detail of Appropriation Bill (No. 1) generally occurs in the Federation Chamber and the Bill is considered by portfolio with relevant Ministers present for the debate. However, the practice has varied over time. Rather than the more traditional consideration in detail style debate, the format for the consideration of the Main Appropriation Bill has become more informal, with Members asking the responsible Minister a short question, or questions, and the Minister making a short reply to each or grouping replies.
- 3.29 *House of Representatives Practice* outlines this format:
- In recent years debate has become progressively more focussed as successive Deputy Speakers have encouraged a question and answer format in the Federation Chamber rather than general debate. Consideration of each portfolio sometimes starts with introductory remarks by the responsible Minister. Shadow ministers usually play an important role and may speak first. Members seek the call to question the Minister, often not taking their full five minutes. Ministers may respond to questions individually, may wait until several Members have spoken before responding, or may respond to all questions in their closing remarks.¹⁶
- 3.30 This practice has led to the consideration of the Main Appropriation Bill affording Members an opportunity to directly test Ministers on aspects of the budget estimates or discover information directly relevant to their electorates. The question and answer format has, however, created some confusion about the allocation of the call¹⁷ and led to time allocated to a particular portfolio to be taken up with points of order as Members debate procedural aspects.¹⁸
- 3.31 There have been a number of calls for the standing orders to be amended to provide for the 'question and answer' format:
- I will begin by making a brief observation about the estimates process, particularly since the minister is Leader of the House — and I do this in a genuine spirit of trying to make this process

16 *House of Representatives Practice*, 6th edn, 2012, p. 432. Past practice has been for Ministers to either answer questions directly or answer them in writing, although answers in writing do not form part of the proceedings of the House.

17 For example, where a non-government Member questions a Minister, who then responds, after which a government Member is given the call. Some Members have argued that this results in the government side being given the call twice.

18 See for example H.R. Deb. (05.06.2008) 4767, H.R. Deb. (18.06.2008) 5291, H. R. Deb. (17.06.2014) 6311.

work better. I have been disappointed that this year's estimates process has been largely taken up by speeches by government members which have occupied the time and therefore denied the capacity for opposition members to ask serious questions of the minister and give them an opportunity to give account for their stewardship of their portfolio. I am not suggesting that anybody has broken the standing orders or that the Speaker has ruled inappropriately in those matters, but the spirit and the conduct of the estimates process has changed this year.

It was, I think, a convention that this time was used essentially by opposition members to ask questions of the minister. I have to say that as a minister I quite enjoyed the challenge, even though sometimes I would be found out, including sometimes by the member opposite when he was asking questions of me. But I think we do need to look at the standing orders to make this process meaningful, because it is the only opportunity for members of parliament to ask questions of ministers as a part of the budget process.¹⁹

- 3.32 The Procedure Committee of the 43rd Parliament considered this issue and outlined the following proposal:
- standing orders could specifically provide for Members to ask questions and Ministers to provide answers during consideration in detail of the Main Appropriation Bill;
 - Members could have an unlimited number of two minute periods to ask questions; and
 - Ministers could have an unlimited number of four minute periods to respond to questions.²⁰
- 3.33 That Committee acknowledged the merit of the proposal and noted that it 'would allow Members to pursue specific constituency issues' but declined to make any recommendations.²¹
- 3.34 As part of this inquiry, the Committee has again considered proposals for amending the standing orders to encourage a more effective consideration in detail of the Main Appropriation Bill.
- 3.35 The proposal outlined above would formalise the question and answer format already possible under the current standing orders. It would also encourage a more efficient debate through the introduction of a shorter

19 W. Truss MP, Leader of the Nationals, H.R. Deb. (18.06.2008) 5289.

20 Standing Committee on Procedure (43rd Parliament), *Maintenance of the Standing and Sessional Orders*, June 2013, p. 22.

21 Standing Committee on Procedure (43rd Parliament), *Maintenance of the Standing and Sessional Orders*, June 2013, p. 22.

time limit for both questions and answers and allow a form of estimates scrutiny not otherwise undertaken by the House or its committees.

- 3.36 Despite the merits of the suggestion, the Committee declines to make any recommendations without wider consultation with Members. The Committee will closely monitor the conduct of the consideration in detail stage of the Main Appropriation Bill as part of its ongoing monitoring of the standing orders.

Use of Standing Order 66A—encouraging interactive debate

- 3.37 Standing Order 66A provides that a Member may rise during consideration of any order of the day and seek to interrupt the Member speaking to ask a short question or make a brief response. After an extended trial in the Federation Chamber, standing orders were amended to also allow interventions in the House.²²
- 3.38 Standing Order 66A has been used on occasion²³ in both the House and Federation Chamber since its introduction but Members are not making extensive use of it. Greater awareness and use of this standing order in the Federation Chamber may result in a more dynamic and interactive debate, appropriate for the second chamber.
- 3.39 Greater use of the intervention procedure could be encouraged by the provision of written advice on the use of the standing order being made available on desks in the Federation Chamber and by reminding members of the Chair's panel of its possible use.

22 D Elder, *Submission 2*, p. 8.

23 H.R. Deb. (13.11.2013) 201; H.R. Deb. (18.11.2013) 503; H.R. Deb. (12.12.2013) 2594, 2597; H.R. Deb. (26.03.2014) 3158, 3162, 3187; H.R. Deb. (26.05.2014) 4206; H.R. Deb. (25.06.15) 7385.

