



Appendix A

Submission no. 1: Clerk of the 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


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.

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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.

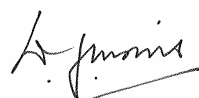
Option 2 (preferred)

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

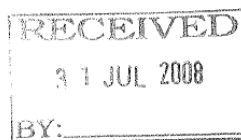


(Don Morris)

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



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

A handwritten signature in cursive script that reads "Barbara Livesey".

Barbara Livesey
Chief Executive

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