

Consideration in detail: The work of the Procedure Committee

Parliamentary procedure does not exist in a vacuum. Its very origins and development proclaim their connection with the politics of their day.

May, 4

Introduction

- 6.1 Before assessing the committee's impact, it is necessary to observe in some detail the work of the Procedure Committee. This chapter focuses on activity rather than outcomes. An attempt at assessing results will be left for a later chapter.
- 6.2 There are several ways to describe the committee's work. The scale of its undertakings has varied considerably. Some inquiries have been short and sharp to address very narrow issues or immediate problems; others have been long and broad, delivering many interrelated recommendations. These might be contrasted around case studies. Alternatively, we might distinguish inquiries of a practical bent from those involving fundamental principles of parliamentary procedure. However, a straightforward chronology best meets the need for broad evidence on which to base judgments of overall committee effectiveness.
- 6.3 The main benefits of this approach are first, comprehensiveness, second, the ability to discern trends over time, and third, to see each inquiry against the backdrop of its times, including the principal players and the involvement of the government of the day.

- 6.4 To these ends, we will examine the committee's work inquiry by inquiry, Parliament by Parliament. Appendix C contains summary details of the forty-four reports presented by the committee in the twenty years to March 2005.

Thirty-fourth Parliament: 1985–86–87

- 6.5 The Procedure Committee met for the first time at 9.17 a.m. on 20 March 1985 and elected Mr Len Keogh,¹ a backbencher, as Chairman. The committee did not immediately exercise its power to determine its own references, deciding instead to canvas widely on what matters it should first address. This was done by sending a questionnaire to all Members inviting them to rank a list of possible topics for inquiry or to suggest their own. The list contained ten candidates:

- programming of the business of the House,
- a general review of the standing orders,
- questions without notice,
- division procedures,
- procedures for considering legislation,
- quorum of the House,
- giving notices openly,
- presentation of petitions,
- rules governing debate, and
- the committee system.

A week was given to respond. The committee also authorised the Chairman to invite some 'notable former Members' and the Australasian Study of Parliament Group to submit their ideas.²

- 6.6 When the committee met on 28 March for its second meeting, it must only very briefly have considered the early responses to the questionnaire. The general feeling may have been that some quick runs on the board were in order: the committee resolved to inquire into 'alternative opportunities for

¹ Mr L. J. Keogh, Member for Bowman 1969–75 and 1983–87, Deputy Chairman of Committees 1984–87.

² Committee minutes.

private Members to concisely address the House consequent upon the adoption of sessional orders on 25 February 1985'.³ This was a topical matter because one of the effects of those sessional orders had been to remove the facility to give notice of motion orally, depriving private Members of an opportunity to draw a little attention before Question Time each day to matters of concern to them.⁴

- 6.7 The committee presented the report of the inquiry, its very first report, in the early hours of 24 May 1985,⁵ recommending that a fifteen-minute period be set aside each day after Question Time to allow private Members each to make a statement for a period not exceeding ninety seconds.⁶ On being given the call, a Member could opt to use the ninety seconds to give notice of motion orally instead of a statement. In effect, the proposal regularised the previous practice by some Members of orally stating the terms of a putative notice—with no expectation of it ever being called on for debate—as an artifice for making a brief undebatable statement.
- 6.8 In the meantime the committee had launched its second inquiry. On 18 April at its fourth meeting it resolved to inquire into 'the days and hours of sitting and the effective use of the time of the House'.⁷ This was a rather larger undertaking than the first inquiry and encompassed a number of issues identified in responses to the questionnaire.
- 6.9 In foreshadowing the establishment of the Procedure Committee, the Leader of the House had implied there would be a certain level of responsiveness by the Government to the committee's recommendations.⁸ Acting on this, the committee had expedited its first inquiry, limiting its scope in the hope that the new arrangement for Members' ninety-second statements could be in place for the Budget sittings.⁹ This was to prove unduly optimistic.
- 6.10 On 29 November, the last sitting day for 1985, the Leader of the House tabled the Government's response to the first report.¹⁰ While recognising a

³ Committee minutes; the inquiry was subsequently listed on the Notice Paper as 'Alternative opportunities for Members to concisely address the House'.

⁴ The (ultimately temporary) removal of the right to give notices orally was the result of a view that Members were using the procedure excessively at the expense of House time. See *Alternative opportunities*, 4–5 & 12.

⁵ VP 1985–86–87/332; HR Deb (23.5.1985) 3107–9.

⁶ *Alternative opportunities*, 8.

⁷ Committee minutes.

⁸ HR Deb (25.2.1985) 125–8.

⁹ *Alternative opportunities*, 9.

¹⁰ VP 1985–86–87/654; HR Deb (29.11.1985) 4021.

need to give more opportunities for private Members to address the House, the Government was ‘not attracted to the proposals for short statements ... to be implemented in isolation without further reform’. The fact that the committee was conducting a broader second inquiry was noted and a promise made to ‘put forward a comprehensive submission to the committee on the effective use of the time of the House’.¹¹

- 6.11 Undaunted, the committee continued with its second inquiry. A year would pass before the report was tabled. The committee received submissions from the Leader of the House, Members, parliamentary departments, the Government Printer, major airlines, the ACT Division of the National Heart Foundation of Australia and Australian Archives.¹² Among the twenty-two meetings at which the committee deliberated were two in a conference room at the Commonwealth Government Centre, Sydney on 29 and 30 January 1986, the first of the few occasions on which the committee has exercised its power ‘to move from place to place’.
- 6.12 The Chairman presented the second report on 29 May 1986 and noted in his tabling statement three main themes in the fifteen recommendations: more opportunities for private Members, a new approach to programming business and scheduling more sittings.¹³
- 6.13 Major proposals on behalf of private Members included a guaranteed adjournment debate each sitting, a period for private Members’ business each sitting Thursday and a fifteen-minute period each sitting for ninety-second statements (repeating the recommendation in the first report). A business committee would make recommendations about programming business (with an expectation, among other benefits, that times could be set for holding divisions). An augmented sitting pattern would see an increase of about forty percent in annual sitting hours. There were several subsidiary recommendations, including the reintroduction of legislation committees, new arrangements for tabling ministerial papers, a reduced quorum and a selective prohibition on the reading of speeches.
- 6.14 The recommendations were not unanimously supported, one committee member submitting a dissenting report. On a request from the Manager of Opposition Business during tabling, the duty minister moved a motion to take note of the report to enable further consideration in the Chamber.¹⁴ Debate was not resumed for another 6 months. However, on 25 November

¹¹ *Alternative opportunities*, Government response, 29 November 1985 (reproduced at Appendix 8 of *Days and hours*).

¹² *Days and hours*, 1.

¹³ VP 1985–86–87/1004; HR Deb (29.5.1986) 4262–3.

¹⁴ HR Deb (29.5.1986) 4265.

1986 the House devoted almost two and a half hours of debate on the motion. The Leader of the House expressed his hope that some of the recommendations could be implemented in the new year.¹⁵

- 6.15 The Government had not responded to the report before the 34th Parliament ended on 5 June 1987. Nevertheless, as will be seen in Chapter 8, *Days and hours* would become the committee's first notable achievement.
- 6.16 The four most favoured topics in Members' responses to the committee's questionnaire were division procedures, questions without notice, programming of business and giving notices openly.¹⁶ The first two inquiries had in many respects covered three of these issues. The third inquiry addressed the other: questions without notice.
- 6.17 While still in the middle of its second inquiry, the committee resolved on 20 February 1986 to inquire into the standing orders and practices which govern the conduct of Question Time.¹⁷ As soon as it had completed its second report on 22 May, it began work on what it would later claim was 'the first comprehensive review by a parliamentary committee of Question Time in the House of Representatives'.¹⁸
- 6.18 The committee completed its report, this time with three dissenting reports, on 25 November and the Chairman presented it to the House two days later.¹⁹ Among the fourteen recommendations was the core proposal that Question Time continue for forty-five minutes or until sixteen questions had been answered. While the committee had concluded that the existing standing orders were 'essentially sound'²⁰ it *did* support liberalisation in certain areas like the application of the anticipation rule and the prohibition on reflections on other countries.
- 6.19 The recommendations also touched on the length of questions, the relevance of answers and allowance of supplementary questions. At the Speaker's request the committee had ranged beyond the realm of questions to offer proposals on other forms of the House like statements by indulgence, dissent from rulings, a precursor of the 'sin bin' and, on its own initiative, the removal of 'pronouns importing one gender'.²¹

¹⁵ HR Deb (25.11.1986) 3677.

¹⁶ HR Deb (23.5.1985) 3107.

¹⁷ Committee minutes.

¹⁸ *Conduct of Question Time*, 2–3.

¹⁹ VP 1985–86–87/1380; HR Deb (27.11.1986) 3907–13.

²⁰ *Conduct of Question Time*, 6.

²¹ *Conduct of Question Time*, 11–2.

- 6.20 A motion to take note of the report was moved but not subsequently debated and, like its predecessor, the report did not receive a government response before the end of the 34th Parliament. The committee entered 1987 with a program but, dissolution impending, did not embark upon another inquiry. It did, however, consider presenting its own response, including proposed sessional orders, to the Leader of the House's informal indication of the Government's position on its second report given at a meeting on 9 April 1987.²²
- 6.21 The first formation of the Standing Committee on Procedure ended with the dissolution of the House of Representatives on 5 June 1987. Although it had addressed the major areas of concern expressed by Members in response to its inaugural questionnaire and had produced two weighty reports from its three inquiries, it was yet to see any runs on the board.

Thirty-fifth Parliament: 1987–88–89–90

- 6.22 The committee was reactivated in the 35th Parliament by the adoption of a sessional order on 24 September 1987 in similar terms to the resolution of appointment in the previous Parliament.²³ Even before the committee was reconstituted, the returned Government had tabled a response to the previous committee's second report.²⁴
- 6.23 Not all recommendations had been accepted—especially those which the Government felt infringed 'on the Government's direct responsibilities or prerogatives'—but a substantial proportion were accepted or were not opposed and the committee could at last claim some achievements.
- 6.24 When the new committee met for the first time on 8 October 1987, it elected Mr John Mountford,²⁵ a backbencher like his predecessor, as Chairman.²⁶
- 6.25 The first matter the committee considered was the possible consequences for its own operations of the House's agreement to the establishment of 8 new general purpose standing committees without provision for

²² The Leader of the House's subsequent correspondence is reproduced at Appendix 3 of *Improved opportunities*; a formal government response was presented on 15 September 1987.

²³ VP 1987-88-89-90/84.

²⁴ VP 1987-88-89-90/25; HR Deb (15.9.1987) 77–81.

²⁵ Mr J. G. Mountford, Member for Banks 1980–90, Deputy Chairman of Committees 1983–90.

²⁶ Committee minutes.

additional staff.²⁷ The committee agreed that the Chairman should express its view to the Speaker that it be allocated the same resources it held in the previous Parliament.²⁸

- 6.26 The committee also agreed at its first meeting to resume work on proposing sessional orders to implement measures in the second report which the Government accepted or did not oppose. These were finalised on 3 November and presented within a report²⁹ to the House on 5 November. The subsequent adoption of the sessional orders on 9 December ushered in a new regime for private Members' business—including the institution of the Selection Committee—and their effect will be discussed further in Chapter 8.
- 6.27 Behind the scenes, the Government also indicated its willingness to discuss a response to the third report which dealt with the conduct of Question Time. The committee held an informal discussion with the Leader of the House, Mr Young, about the matter at a meeting on 24 November 1987. However no formal response was ever made.³⁰
- 6.28 Having tidied its inheritance, the committee now turned to new inquiries. The committee agreed to a suggestion from the Leader of the House that it consider how the House would function in the New Parliament House, especially with respect to quorums and division procedures.³¹ The New Parliament House would be opened on 5 May 1988 and the two Houses would meet for the first time in it on 22 August.
- 6.29 The committee's first meeting for 1988 was on 23 February. Two inquiries were initiated: the publication of tabled papers (at the request of Speaker Child) and guidelines for witnesses appearing before parliamentary committees.

²⁷ On the same day the Procedure Committee was reactivated, the House agreed to a sessional order appointing 8 general purpose standing committees. During debate, the Leader of the House confirmed that no additional funding would be provided to support the new committees—HR Deb (24.9.1987) 693–4.

²⁸ Committee minutes.

²⁹ *Improved opportunities*; VP 1987–88–89–90/218; HR Deb (5.11.1987) 2133–7.

³⁰ In its June 1991 response to the Speaker's schedule of government responses, the Government reported that 'The recommendations were considered by the Government in 1990 when it examined Question Time procedures. Bi-partisan support on options for proposed new procedures for Question Time was not forthcoming'—HR Deb (5.6.1991) 4808. The corresponding December 1991 response stated that 'The Government will be responding to this report in due course'—HR Deb (19.12.1991) 3807. In August 1995 the Government indicated it would not respond because the report had been superseded by a later report [*Questions seeking information*]. An extract from a draft government response dated 29 October 1987 appears as an appendix to *Questions seeking information*.

³¹ Committee minutes.

6.30 This set the trend for a number of short, sharp inquiries dealing with specific issues. The committee's second report of the 35th Parliament—*Ringing of bells*—conflated several matters: the duration of the ringing of the bells for division and quorum calls in the new Chamber, the definition of the precincts of the new Chamber and an aspect of petitions.³² It was finalised in short order and presented to the House on 14 April 1988.³³ In presenting *Ringing of bells* the Chairman articulated the committee's immediate response to the Leader of the House's concerns about how the House would function:

The sheer size of the building alone is daunting, apart from other aspects of the new environment which in the long run may effect significant changes to our operations. Whatever long term changes may evolve, the Procedure Committee is committed to resolving anticipated needs and monitoring the adjustment of current procedures in the new environment.³⁴

6.31 The Government responded quickly to the recommendations relating to the new Chamber. On 24 May the House amended the standing order for counting quorums to allow for the new Chamber configuration and ordered a trial period of the first three sitting weeks in the new House during which the bells would be rung for four rather than three minutes on quorum and divisions calls.³⁵ The very next day the Government introduced the House of Representatives (Quorum) Bill 1988.³⁶

6.32 The Government later implemented the final recommendation of *Ringing of bells*, a proposal to release Members from the responsibility of certifying translations of petitions in languages other than English, in early 1989.³⁷

6.33 The committee spent the rest of 1988 working on the two inquiries it had initiated at the year's first meeting: publication of tabled papers and procedures for committee witnesses. The first of these culminated in *Publication of tabled papers* which was presented to the House on 24 November 1988.

³² *Ringing of bells*, 2.

³³ VP 1987–88–89–90/455; HR Deb (14.4.1988) 1535–7.

³⁴ HR Deb (14.4.1988) 1535.

³⁵ VP 1987–88–89–90/571. On 20 October 1988 the House agreed to amend the standing orders to perpetuate the change to 4 minutes—VP 1987–88–89–90/799.

³⁶ This was in response to a recommendation in *Days and hours* to which the Government had signified its acceptance in its response tabled on 15 September 1987—see para 6.22.

³⁷ The government response was presented as a paper on 28 February 1989—VP 1987–88–89–90/1026. At a meeting in April 1989 the committee resolved to ask the Leader of the House to put the recommendation into effect as soon as possible. The relevant standing order was amended on 4 May 1989—VP 1987–88–89–90/1163.

- 6.34 Two issues were considered in *Publication of tabled papers*: whether, as the Senate had recently done, to authorise unrestricted publication of tabled papers (the committee recommended that the House retain its cautious approach toward releasing papers containing potentially actionable material) and second, to remove possible contradictions in the standing order authorising the publication of tabled papers.³⁸
- 6.35 Whether by accident or by design, the Chairman moved ‘That the report be adopted’ rather than the conventional ‘That the House take note of the report’.³⁹ The motion was never debated, being removed from the Notice Paper on 1 June 1989.⁴⁰ Since the House did not change its practices, it may be said that at least the first recommendation was adopted by default. However a notional government response would not be delivered until the next change of government.⁴¹
- 6.36 The committee had almost completed the other inquiry when it resolved, at its first meeting for 1989, to undertake a comprehensive review of the standing orders.⁴² A couple of meetings later it agreed to another short, sharp inquiry: on the election of Speaker. This had been instigated by a member of the committee (Mr Scholes) whose private Members’ motion seeking referral of an aspect of the process to the Procedure Committee had been moved but not further debated.⁴³ The Leader of the House had in the meantime written to the committee requesting it to examine the matter.⁴⁴
- 6.37 The report *Dealing with witnesses* was presented on 13 April 1989.⁴⁵ The single recommendation comprised a set of procedures for House committees which was intended to be effected by resolution of the House.

³⁸ VP 1987–88–89–90/916; HR Deb (24.11.1988) 3166–8.

³⁹ This was highly unusual. Presumably the House could be said to have agreed to put the report’s recommendations into effect if the motion were carried. This is only one of two occasions on which the motion has been moved in respect of a Procedure Committee report (see also para 6.49).

⁴⁰ The 8-sitting week ‘shelf-life’ provision (by which items are removed from the Notice Paper if not accorded priority by the Selection Committee within a prescribed period) which applies to private Members’ business and committee report orders of the day originated from a recommendation in *Days and hours*. (The Procedure Committee had recommended 4 weeks.)

⁴¹ On 19 June 1997, the Government presented a response to the Speaker’s schedule of government responses, including a commitment ‘to extend absolute immunity in respect of all documents tabled in the House’ thereby harmonising practice in the two Houses. Standing order 320 was amended on 27 August 1997—VP 1996–97–98/1867–8.

⁴² Committee minutes.

⁴³ VP 1987–88–89–90/741; HR Deb (29.9.1988) 1191–2.

⁴⁴ *Election of Speaker*, 1.

⁴⁵ VP 1987–88–89–90/1121; HR Deb (13.4.1989) 1541–3.

The procedures covered not only the treatment of witnesses themselves but also the taking of evidence.⁴⁶

- 6.38 The area of concern addressed by the next report, *Election of Speaker*, was the anomalous position of the Clerk of the House, who in accordance with longstanding practice, more or less presided in the Chamber until a Speaker had been elected. The committee recommended that a long-serving Member preside instead. The report was presented on 11 May 1989.⁴⁷
- 6.39 The final and sixth report of the committee in the 35th Parliament was presented on 30 November 1989.⁴⁸ Expectations of an election were in the air and in his tabling speech the Chairman indicated that he would not be seeking re-election to the House and that this was probably his last report. In keeping with the spirit of valediction the Chairman noted that the secretary of the committee since its inception, Mr Mark McRae, had recently left to take up the position of Clerk of the ACT Legislative Assembly.
- 6.40 The report, *Conduct of committees*, was the first instalment of what the Chairman noted was the first comprehensive review of the standing orders since that undertaken by the Standing Orders Committee in 1962. The committee had agreed at the outset of the review to consider the standing orders in discrete groupings.⁴⁹
- 6.41 The report was indeed comprehensive—albeit restricted to the discrete grouping of committee procedures—and proposed a detailed set of revised standing orders which not only deleted redundancies and reorganised those provisions which would be retained but also contained innovations such as an Appropriations and Staffing Committee. In addition, the committee sought a guarantee of its own survival in recommending that its appointment be entrenched in the standing orders, replacing an abolished Standing Orders Committee.⁵⁰
- 6.42 The 35th Parliament was to sit twice more—for two special ‘Christmas sittings’ on 21 and 22 December—before the House was dissolved on 19 February 1990. At the end of the Parliament, the committee had seen

⁴⁶ *Dealing with witnesses*, 7–10.

⁴⁷ VP 1987–88–89–90/1216; HR Deb (11.5.1989) 2446–8.

⁴⁸ VP 1987–88–89–90/1677; HR Deb (30.11.1989) 3205–8.

⁴⁹ *Conduct of committees*, 1.

⁵⁰ *Conduct of committees*, 3–4.

very little return for its own labours, its last four reports never to receive a formal government response.⁵¹

Thirty-sixth Parliament: 1990–91–92–93

- 6.43 The opening of the new Parliament saw a maturing Hawke Government entering its fourth term. As might be expected after some time in office, there was no mention of parliamentary or procedural reform in the Government's program as set out in the Governor-General's speech on 8 May 1990.⁵² Nevertheless, the committee's return was expeditious. On the very first day of the 36th Parliament, the House agreed to the adoption of essentially the same sessional orders establishing the Procedure Committee and the general purpose standing committees (as well as keeping the Standing Orders Committee in limbo).⁵³
- 6.44 There was however an oddity in forming the committee a third time. The membership of the first two committees had been determined through nominations received by the Speaker from the respective party whips and notified to the House.⁵⁴ This was in keeping with the terms of the resolution of appointment in the first instance⁵⁵ and the sessional order in the second.⁵⁶ However members were appointed by resolution in the 36th Parliament,⁵⁷ foreshadowing what would become standard procedure

⁵¹ The Government noted in a response tabled on 31 August 1995 to the preceding periodic Speaker's schedule of government responses to committee reports that a later inquiry had superseded *Election of Speaker* and that it would therefore not respond to that report. Some time after the change of government in 1996, a similar response to the Speaker's schedule of government responses indicated (a) that the Government had its own views concerning *Publication of tabled papers* and (b) that because the Procedure Committee of the 38th Parliament was examining committees it was unnecessary to respond to *Dealing with witnesses* and *Conduct of committees*.

⁵² HR Deb (8.5.1990) 19–26.

⁵³ VP 1990–91–92–93/12–20.

⁵⁴ VP 1985–86–87/77; VP 1987–88–89–90/115–6.

⁵⁵ VP 1985–86–87/56: '5 members to be nominated by either the Prime Minister, the Leader of the House or the Government Whip, 2 members to be nominated by either the Leader of the Opposition, the Deputy Leader of the Opposition or the Opposition Whip and 1 member to be nominated by either the Leader of the National Party, the Deputy Leader of the National Party or the National Party Whip'.

⁵⁶ VP 1987–88–89–90/84: '5 members to be nominated by the Government Whip or Whips and 3 members to be nominated by the Opposition Whip or Whips'.

⁵⁷ VP 1990–91–92–93/98.

several years later.⁵⁸ It is not apparent why the usual course, nomination, was not followed.

- 6.45 The House agreed to the motion appointing members to the committee late in the evening of 16 May 1990—in fact, shortly before midnight. About three hours earlier the committee held its first meeting at which it elected the Hon. Gordon Scholes⁵⁹ as Chairman. The new presiding member—although now, like his predecessors, a backbencher—had previously been Speaker of the House and had held ministerial office. He had also been a champion of procedural reform for many years.
- 6.46 The committee considered a possible program but left it to a subsequent meeting to decide on its first inquiry for the new Parliament.⁶⁰
- 6.47 The committee met again on 31 May and agreed to a series of inquiries. First to be launched was the Chairman's proposal to inquire into opportunities for Members to debate reports of parliamentary committees.⁶¹ This was not a new concern. Even before the establishment of the 8 general purpose standing committees in 1987, the committee had commented on the House's 'scant regard for the work of parliamentary committees and delegations'.⁶²
- 6.48 The private Members' business regime introduced after *Days and hours* and *Improved opportunities* had certainly allowed a prescribed period for the presentation and consideration of committee and delegation reports—before this, reports were presented as circumstances permitted in the normal run of business. Refinements had been proposed in *Conduct of committees*.⁶³ Nevertheless there was obviously still dissatisfaction among backbenchers.⁶⁴
- 6.49 The committee completed its inquiry in September and the Chairman presented the report, *Debate on reports*, to the House on 11 October 1990.⁶⁵ The main proposal was an earlier start to each sitting Thursday with more time being available for subsequent debate on reports presented at

⁵⁸ Following changes to the standing orders in December 1998, all committee memberships were determined by resolution—see HR Practice (4th edn), 621.

⁵⁹ The Hon. G. G. D. Scholes, Member for Corio 1967–93, Speaker of the House of Representatives 1975, Minister for: Defence 1983–84, Territories 1984–87.

⁶⁰ Committee minutes.

⁶¹ Committee minutes.

⁶² *Days and hours*, 26.

⁶³ As was noted at para 6.42, no action was taken on the recommendations of this report.

⁶⁴ As there would continue to be, this matter, like Question Time and sitting days and hours, being a hardy perennial.

⁶⁵ VP 1990–91–92–93/242–3; HR Deb (11.10.1990) 2635–6.

previous sittings. The Chairman noted that Members should be allowed time to familiarise themselves with a report before debate ensued. As had his predecessor with an earlier report,⁶⁶ the Chairman concluded his tabling speech with a motion ‘That the report be adopted’.

6.50 In the spirit of the report’s recommendations, the Selection Committee accorded the necessary priority⁶⁷ for subsequent consideration—allotting forty minutes of speaking time—and the motion came up for debate on 8 November. Six Members spoke before debate was adjourned.⁶⁸

6.51 *Debate on reports* achieved quick results. Even before the debate had been resumed on 8 November—indeed immediately after prayers that day—the Speaker informed the House:

In the report of the Standing Committee on Procedure on greater opportunities for debate on reports from parliamentary committees, presented on 11 October, the Committee recommended, among other matters, that orders of the day for the resumption of debate on motions moved in relation to committee or delegation reports should appear in a discrete section of the Notice Paper. To give effect to this recommendation required no amendment of the Standing or Sessional Orders or any action by the House. Consequently, the Notice Paper this week has been rearranged as recommended by the Committee and this new style will be used in subsequent issues of the Notice Paper.⁶⁹

This was an example of a committee recommendation that, strictly speaking, involved a change to neither practices nor procedures but to a matter of administration for which the Speaker was responsible. It could thus be effected by Speaker’s fiat.

6.52 On 6 December the House adopted sessional orders giving effect to the remainder of the recommendations from the first sitting in 1991.⁷⁰ The most noticeable of these was that the House would meet thirty minutes earlier on sitting Thursdays.

6.53 Earlier the same day the Chairman presented the committee’s second report for the 36th Parliament, *Responses to petitions*.⁷¹ This was another matter that had been examined before. Again *Days and hours* and *Improved*

⁶⁶ See para 6.35.

⁶⁷ HR Deb (18.10.1990) 3192–3.

⁶⁸ HR Deb (8.11.1990) 3531–9.

⁶⁹ HR Deb (8.11.1990) 3527.

⁷⁰ VP 1990–91–92–93/424–6; HR Deb (6.12.1990) 4640–1.

⁷¹ VP 1990–91–92–93/413; HR Deb (6.12.1990) 4550–1.

opportunities had offered a remedy: a provision for ministerial responses to petitions.⁷² This had been implemented in early 1988, at the same time as the new private Members' business regime, but the committee noted that there had been no ministerial responses to date and recommended they be made mandatory, not optional.⁷³ The Government did not present a formal response to the report.⁷⁴

- 6.54 At its last meeting for 1990, the committee resolved to inquire into division procedures.⁷⁵ Work began on the inquiry at the next meeting. However, first the committee agreed to deal with two problems raised by the Chairman of the Selection Committee: pre-emption of private Members' business time by lodging notices to present bills after the Selection Committee's report had been adopted⁷⁶ and the informality of individual speaking times allotted for debate of private Members' business.⁷⁷
- 6.55 The committee acted quickly, completing a report, *Private Members' business*, at its next meeting on 6 March and presenting it to the House the same day, shortly before the adjournment, with no Chairman's statement.⁷⁸ The Government responded quickly, too. On 14 March, the House agreed to the Leader of the House's motion to adopt both the amended sessional orders recommended in *Private Members' business*.⁷⁹
- 6.56 The committee was particularly active over the next few weeks. It considered a problem that had arisen over a potential conflict between the

⁷² Implemented as sessional order 132, operative from 15 March 1988, which gave a Minister the option of lodging a response to be recorded in the *Votes and Proceedings* and printed in *Hansard*.

⁷³ *Responses to petitions*, 8.

⁷⁴ There was an informal response, however. The Leader of the House wrote to the Chairman on 19 December 1990 stating that because petitions were presented to the House, not the Executive, it was not in his view appropriate for Ministers to be required to respond. The committee agreed that the Chairman should ask the Leader of the House for Cabinet to consider the report—Committee minutes. The committee revisited *Responses to petitions* in *Review of reports*—see paras 6.114 and 6.117.

⁷⁵ Committee minutes.

⁷⁶ Under the existing sessional orders, priority had to be given to a private Members' bill at the next sitting Thursday, even when the notice of intention to present the bill was lodged after the Selection Committee had determined the timetable for the next sitting Thursday—these 'late arrivals' could encroach on the time already allotted for other items of private Members' business.

⁷⁷ At this stage the times allotted by the Selection Committee for each Member to speak during debate on an item of private Members' business were not enforceable and the time shown on the speech timing clocks in the Chamber was the time prescribed by standing orders, not the determination of the Selection Committee. This was misleading for the Members speaking.

⁷⁸ VP 1990–91–92–93/563.

⁷⁹ VP 1990–91–92–93/598–9.

provisions for disallowable instruments and the eight-week shelf-life for private Members' business.⁸⁰ While not proceeding to an inquiry on this matter, it did decide to report on the general rule for conduct of business, procedures for the opening of Parliament, citizens' right of reply and disclosure of in camera evidence before committees.⁸¹

- 6.57 The committee finalised two reports covering the first three matters at a meeting on 4 June. On 6 June the Chairman presented *Conduct of business and opening of Parliament* and *Right of reply* together.⁸² The former—at first glance an odd combination—dealt with chapters I and II of the standing orders as part of the committee's overall review. In essence, the report recommended revised procedures for the opening of Parliament—including a reiteration of the recommendation in its 1989 report *Election of Speaker* that a Member, not the Clerk, preside until the Speaker had been chosen—as well as the supersession of obligatory recourse to UK House of Commons practice.⁸³
- 6.58 The other report, *Right of reply*, recommended that the House adopt a similar procedure to that in the Senate by which an ordinary citizen claiming to be adversely affected by remarks made in parliamentary proceedings could seek to publish an appropriate response in *Hansard*.⁸⁴ The committee had considered this matter to some extent in a previous inquiry but had not then supported the measure.⁸⁵
- 6.59 A motion to take note of the reports was debated on 20 June.⁸⁶ Neither report had received a response before the change of government in 1996.⁸⁷ However, in neither case was it the end of the story.⁸⁸

⁸⁰ This concerned the time allowed under the *Acts Interpretation Act 1901* and other statutes for the disallowance of regulations and similar instruments in Parliament. This was typically 15 sitting days which in certain circumstances might not elapse before a notice of motion for disallowance was removed as an item of private Members' business if not dealt with within 8 sitting weeks. Although the committee considered the problem it decided that the onus was on the Government to deal with disallowance motions.

⁸¹ Committee minutes.

⁸² VP 1990–91–92–93/863; HR Deb (6.6.1991) 4895–7.

⁸³ See para 2.9.

⁸⁴ *Right of reply*, 7–8.

⁸⁵ *Conduct of Question Time*, 34–5 and 76–8 (Mr McLeay's dissenting report).

⁸⁶ VP 1990–91–92–93/884; HR Deb (20.6.1991) 5061–8.

⁸⁷ The Government noted in a response tabled on 31 August 1995 to the preceding periodic Speaker's schedule of government responses to committee reports that a response was not necessary to *Conduct of business and opening of Parliament* because the committee was undertaking another inquiry into opening procedures.

⁸⁸ The committee revisited the issues in *Conduct of business and opening of Parliament* in later inquiries. The recommended procedure in *Right of reply* was adopted by resolution of the House in 1997.

6.60 The committee completed one more inquiry in 1991. Again it was in response to an emerging problem.⁸⁹ The Chairman presented the report *Disclosure of in camera evidence* on 14 November.⁹⁰ The report proposed a means for greater protection of witnesses giving evidence where confidentiality was a crucial issue. This was another report not to receive a response before the change in government.

6.61 Perhaps the Government was finding it hard to keep up. For whatever reason, the list of reports awaiting a formal government response was lengthening and the committee was becoming increasingly frustrated. At the last sitting for 1991, the Speaker presented his biannual schedule of government responses to committee reports⁹¹ which showed responses were outstanding to:

Conduct of Question Time (presented 27.11.86)

Publication of tabled papers (presented 24.11.88)

Dealing with witnesses (presented 13.4.89)

Election of Speaker (presented 11.5.89)

Conduct of committees (presented 30.11.89)

Responses to petitions (presented 6.12.90)

Right of reply (presented 6.6.91)

Conduct of business and opening of Parliament (presented 6.6.91)

Disclosure of in camera evidence (presented 14.11.91).

All but the last of these had been presented well outside the three-month period within which the Government had volunteered in 1983 to respond to each report of a parliamentary committee.

6.62 Australia entered 1992 with a new Prime Minister. The committee entered the year with three inquiries listed on the Notice Paper: (1) division procedures, (2) review of the standing orders and (3) the *sub judice* convention.⁹² When it met on 3 March for the first time in the new year, it agreed that the lack of responses to Procedure Committee reports should be raised with the Leader of the House. It continued work on the review of standing orders, which had become a virtual standing reference, and it agreed to prepare a report on seconding of notices.⁹³

⁸⁹ *Disclosure of in camera evidence*, 5—At issue was the inclusion of in camera evidence in a dissenting report presented by a joint committee.

⁹⁰ VP 1990–91–92–93/1179; HR Deb (14.11.1991) 3040–1.

⁹¹ HR Deb (19.12.1991) 3794–9. (Later in the sitting the Hon. R. J. L. Hawke made his last speech in the House as Prime Minister having lost a party room ballot for leadership of the parliamentary ALP—HR Deb (19.12.1991) 3867–9.)

⁹² NP (2.1.1992) 3992.

⁹³ Committee minutes.

- 6.63 The Chairman presented two reports, *Speaker, Chairman etc.* and *Seconding notices*, on 30 April 1992,⁹⁴ both falling within the purview of the review of standing orders. The first dealt with chapter III of the standing orders relating to the Speaker and other office holders; the second referred specifically to the requirement for notices of motion to be seconded. The Selection Committee had allocated all of five minutes for presentation and statements. The Chairman barely had time to explain that the first report, among other things, returned yet again to the election of Speaker⁹⁵ and that the second sought to remove a burden which in practice fell only on private Members. Neither report was to receive a formal government response.⁹⁶
- 6.64 The committee continued its comprehensive review of the standing orders, turning its attention next to chapter XI, questions seeking information. The inquiry was completed on 2 June and the report *Questions seeking information* presented on 25 June.⁹⁷ On this occasion the Selection Committee was a little more generous and allowed twenty minutes for statements on presentation. The Chairman opened his tabling statement with a grievance:

This is the third occasion on which the Standing Committee on Procedure has looked at Question Time. Neither of the two previous reports has been adopted, nor have they been debated by the House. Unfortunately, there are a number of Procedure Committee reports, some of them of considerable significance, which are at present unresolved and undebated in this Parliament. It is necessary, if the Procedure Committee is to continue to operate, for some consideration to be given to these things and for some time to be set aside whereby the House can in fact discuss recommendations made by a Committee that it set up for that very purpose.

- 6.65 The report, which, as the Chairman had noted, revisited ground covered in previous reports,⁹⁸ proposed a simplification of the rules for questions,

⁹⁴ VP 1990–91–92–93/1444; HR Deb (30.4.1992) 2080.

⁹⁵ Two previous reports had recommended an alternative to the Clerk conducting proceedings up to the election of Speaker—see paras 6.38 and 6.57.

⁹⁶ On 31 August 1995, the Government presented a response to the Speaker's schedule of government responses, indicating that it would not respond because the report *Speaker, Chairman etc.* had been overtaken by a subsequent report (*About time*)—VP 1993–94–95–96/2367–8. After the change of government in 1996, the Government responded by similar means on 19 June 1997 to the other report, *Seconding notices*, observing that it saw 'no compelling reason to dispense with the requirement'—VP 1996–97–98/1698.

⁹⁷ VP 1990–91–92–93/1618; HR Deb (25.6.1992) 3906–8.

⁹⁸ *Days and hours and Conduct of Question Time*.

an amplification of the rules for answers and more authority for the Speaker. A further innovative recommendation was an adaptation of a Senate procedure for allowing Members to seek explanations for lengthy delays in answering questions on notice. The committee recommended that if a question on notice had not been answered after ninety days the Member concerned might ask the Speaker to write to the offending Minister seeking an explanation for the delay.⁹⁹ Consistent with the Chairman's lament, this was to be another report which would be overtaken by later inquiries before receiving any form of government response.¹⁰⁰

- 6.66 The committee continued its review, turning to chapters XXI and XXII, dealing with disorder and strangers, respectively. By now the end of the Parliament loomed on the horizon and the meeting on 13 October at which it finalised the report was its last for the 36th Parliament. It also chose to respond to requests for consideration of two matters, a proposed change to the title of 'Chairman of Committees' (submitted by the Speaker) and more latitude in scheduling report presentation in peak periods (submitted by the Chairman of the Selection Committee) by undertaking to convey its support by advice, rather than report.¹⁰¹
- 6.67 The Chairman presented the last report for the 36th Parliament, *Disorder and strangers*, on 15 October.¹⁰² There were echoes in at least two of the proposals, the 'sin bin' provision by which the Speaker could require a disorderly Member to leave the Chamber for a certain period and the removal of gender specific pronouns.¹⁰³ It was also proposed that 'strangers' should be called 'visitors'.¹⁰⁴
- 6.68 On the same day that *Disorder and strangers* was tabled, the Leader of the House—after persistent lobbying behind the scenes by the Chairman of the Procedure Committee—at last submitted to the House a motion to adopt an accumulation of sessional orders as standing orders.¹⁰⁵ Debate continued for about eighty minutes, during which the Chairman took the opportunity to ask for more:

⁹⁹ *Questions seeking information*, 18.

¹⁰⁰ As with *Speaker, Chairman etc.*, the Government in its response on 31 August 1995 expressed a view that *Questions seeking information* had been overtaken by *About time*.

¹⁰¹ Committee minutes.

¹⁰² VP 1990–91–92–93/1782; HR Deb (15.10.1992) 2195–6.

¹⁰³ Both had been mooted in *Days and hours*; see para 6.19.

¹⁰⁴ *Disorder and strangers*, 11.

¹⁰⁵ VP 1990–91–92–93/1786–8; HR Deb (15.10.1992) 2294–313.

I express pleasure that the Sessional Orders are at last being converted into Standing Orders. Most of these reports were made by the Procedure Committee when either Mr Keogh or Mr Mountford was the Chairman. I do not think any of them arose from the last three years. That is disappointing, in that a very substantial review of the Standing Orders has taken place.

...

With this motion we are putting the Procedure Committee into the Standing Orders for the first time. It is pointless continuing to examine the Standing Orders if those recommendations are not going to be given the opportunity of being heard in the House and applied and tested by the House in practice.

- 6.69 The motion was agreed to and sessional order 28C (Standing Committee on Procedure) became standing order 28C. The committee was now entrenched in the permanent rules of the House, along with many of the procedures and practices which its reports had initiated.
- 6.70 Like so many of the preceding reports, *Disorder and strangers* had to await another Parliament before receiving any form of response. The committee did not meet again before the Parliament was prorogued and the House dissolved on 8 February 1993.

Thirty-seventh Parliament: 1993–94–95–96

- 6.71 The Governor-General's speech at the opening of the 37th Parliament on 4 May 1993 suggested a focus on constitutional rather than parliamentary or procedural reform.¹⁰⁶ Of course now that its appointment was automatic by virtue of being written into the standing orders, the formation of the Procedure Committee awaited only the appointment of members.
- 6.72 The whips' nominations were announced on 12 May¹⁰⁷ and the committee met for the first time the next day. Dr Blewett¹⁰⁸—like his predecessor, who had retired at the last election, a former Minister—was elected

¹⁰⁶ HR Deb (4.5.1993) 21–33.

¹⁰⁷ VP 1993–94–95–96/65.

¹⁰⁸ The Hon. Dr Neal Blewett, Member for Bonython 1977–94, Minister for: Health 1983–87, Community Services and Health 1987–90, Trade Negotiations 1990–91, Trade and Overseas Development 1991, Social Security 1991–93.

Chairman.¹⁰⁹ The committee wasted no time, agreeing to undertake an inquiry with the following terms of reference:

Within its general terms of reference the committee is to review and report on the practices and procedures of the House of Representatives with reference to but not limited to:

- (1) the sitting times of the House and the programming of its business;
- (2) questions without notice;
- (3) the role and powers of the Speaker;
- (4) the role and operation of committees of the House;
- (5) legislative procedures; and
- (6) the rules governing debates, ministerial statements and matters of public importance.

The inquiry was listed on the Notice Paper as ‘Reform of the House of Representatives’.¹¹⁰

- 6.73 The next meeting, on 8 June, only the second occasion on which the committee had moved from place to place, was held in the Jubilee Room of Parliament House in Sydney.¹¹¹ The inquiry’s scope was refined.
- 6.74 By the third meeting, again in Sydney, on 9 August, the committee had agreed to a preliminary proposed time table for weekly sittings of the House and decided to circulate it for comment. Attention turned to core elements of the inquiry like rostering of Ministers for Question Time and consideration of legislation in two parallel streams.¹¹²
- 6.75 Meanwhile, initiatives were being taken in another place. On 18 August the Senate resolved to refer ‘ways in which the days and hours of sitting of the Senate and the order of business can be arranged such that more time is available for legislation and other business and late night sittings are avoided’ to the Senate Procedure Committee. The resolution included an authorisation to ‘consult with the Procedure Committee of the House of Representatives’.¹¹³ (In the event, the committees only consulted by correspondence.)

¹⁰⁹ Committee minutes.

¹¹⁰ NP (26.5.1993) 179.

¹¹¹ The previous occasion was in 1986—see para 6.11.

¹¹² Committee minutes.

¹¹³ SJ 1993–94–95/357.

- 6.76 The committee met several times in September and October and finalised the report—at its tenth meeting for the Parliament—on 21 October. The Chairman was authorised to provide a confidential background briefing on the report to the Speaker, the Leader of the House and the Manager of Opposition Business.¹¹⁴
- 6.77 In anticipation of the significance of the occasion, the Selection Committee allocated 50 minutes for presentation. The Chairman presented the report, *About time*, on 28 October 1993.¹¹⁵ Five other committee members also made statements. The Chairman identified ‘three major and related issues: the handling of legislation, the structure and conduct of question time and the fortnightly sitting program’. The respective elements of the proposed solutions were the institution of a parallel legislative stream (the Main Committee), rostering of Ministers for Question Time and a four-days-per-week, two-week block of sittings starting and rising earlier each day.
- 6.78 Recommendations included echoes from earlier reports including a minimum of sixteen questions for Question Time and recourse by the Speaker to the sin bin for disorderly behaviour. The Chairman insisted that he did not wish the list of recommendations to be viewed as a menu:
- We believe that honourable members, after they have examined the report, will find the proposals neither particularly radical, original nor overly ambitious. Essentially, we seek to make a series of evolutionary changes. The apparently most radical change, the one I mentioned, the main legislation committee, is a change more in form than in fact when honourable members look at the actualities of the way the House works. Many, if not most of the proposals, are drawn from procedural inquiries over the past 20 years and this, in itself, is a telling indictment on the House’s ability to respond to long identified problems.
- The committee does regard its proposals as a package to be broadly accepted or rejected. If there develops an orgy of choosing and selecting and rejecting significant bits, the whole package will collapse.¹¹⁶
- 6.79 The report attracted rather more media attention than any of the previous Procedure Committee oeuvre. Unfortunately, some of this came before the report had even been tabled. After Question Time on 27 October, the committee’s Deputy Chairman, Mrs Sullivan, was given the call:

¹¹⁴ Committee minutes.

¹¹⁵ VP 1993–94–95–96/442; HR Deb (28.10.1993) 2709–20.

¹¹⁶ HR Deb (28.10.1993) 2711.

Mr Speaker, I also raise a matter of privilege. I draw your attention to the report on the front page of today's Sydney Morning Herald headed 'Sin-bin for MPs in bearpit clean-up', which states:

In a report to be released tomorrow, a parliamentary committee has proposed overhauling Question Time ...

It goes on to talk about aspects other than the sitting times. On the same basis as the matter of privilege that was raised earlier, I ask whether the matter of prereporting of a report which is still confidential; and has not been released can be referred to the Standing Committee of Privileges.¹¹⁷

The next day the Speaker invoked the standard procedure for dealing with complaints about the disclosure of confidential committee material¹¹⁸ and instructed the committee to consider the effect of the publication, attempt to discover the source of any disclosure and report back to the House.¹¹⁹ The committee considered the matter at a meeting on 22 November¹²⁰ and the next day the Chairman reported to the House that the committee had been unable to ascertain the source and had concluded that the publication did not interfere substantially with the work of the committee.¹²¹ The committee recommended no further action be taken and there the matter rested.

- 6.80 The media coverage was mixed, most commentary predictably accentuating the proposed changes to Question Time: 'Blewett unveils radical changes to parliament procedures' (AAP, 28.10.1993); 'MPs seek to kill off gladiator atmosphere' (*Australian*, 29.10.1993); 'Setback to restoring order in the House' (*Sydney Morning Herald*, 29.10.1993); and, 'Sin-bin for unruly parliamentarians?' (*Canberra Times*, 29.10.1993).
- 6.81 Meanwhile, back in the House, the Selection Committee was generous, allocating forty minutes for debate on the motion to take note of the report and four Members spoke on 25 November.¹²² When the House sat additionally on 17 and 18 December (a Saturday) principally to pass the Native Title Bill 1993, the Government allocated time in its modified routine of business for further debate on the report.¹²³ Members spoke for

¹¹⁷ HR Deb (27.10.1993) 2655.

¹¹⁸ Restated by Speaker McLeay in 1992—HR Deb (7.5.1992) 2661–2.

¹¹⁹ HR Deb (28.10.1993) 2774.

¹²⁰ Committee minutes.

¹²¹ HR Deb (23.11.1993) 3401–2.

¹²² HR Deb (25.11.1993) 3636–45.

¹²³ VP 1993–94–95–96/627, 649.

over two hours on 17 December before debate was adjourned.¹²⁴ Debate resumed on 21 December during a further extended sitting convened to pass the bill and continued for another two and a half hours.¹²⁵

- 6.82 The committee ended 1993 having tabled but one report for the year, a report which nevertheless had attracted more debate and media attention than any previously presented by the committee and one destined to be its second notable achievement.
- 6.83 Shortly after sittings resumed in 1994, Prime Minister Keating made a ministerial statement foreshadowing the presentation of a detailed government response a few days later and imparting that the Government intended to ‘accept, in whole or in part, the great majority of the committee’s recommendations’.¹²⁶ In his reply, the Leader of the Opposition, Dr Hewson, like many in the media, concentrated on the proposals affecting Question Time, dismissing the prime ministerial statement as ‘the most fundamental and serious attack on this parliament in the 93 years since Federation’ and the committee as ‘a facade’.¹²⁷
- 6.84 The government response was presented with ministerial papers after Question Time on 10 February.¹²⁸ However, immediately beforehand two Members had spoken by indulgence of the Speaker to inform the House of their impending retirement from the House. The first was the Member for Bonython and Chairman of the Standing Committee on Procedure, Dr Blewett. This was the last occasion on which he spoke in the Chamber and he formally resigned his seat the next day.¹²⁹
- 6.85 Motions to implement the accepted (and partly accepted) recommendations were moved later in the same sitting at which the government response was tabled.¹³⁰ The first motion, to set in place amended standing orders, covered legislative procedures (including the Main Committee), new disciplinary procedures (including the ‘sin bin’) and the sitting program. The motion was agreed to on the voices. A second motion, setting in place sessional orders, covered the controversial alterations to Question Time including rostering of Ministers; this was carried on division. After about three and a half hours of debate *About time*

¹²⁴ HR Deb (17.12.1993) 4402–27.

¹²⁵ HR Deb (21.12.1993) 4496–525.

¹²⁶ HR Deb (8.2.1994) 537.

¹²⁷ The Leader of the Opposition was more generous in his remarks two days later on the impending retirement of the Chairman—HR Deb (10.2.1994) 779.

¹²⁸ VP 1993–94–95–96/752.

¹²⁹ VP 1993–94–95–96/785.

¹³⁰ VP 1993–94–95–96/754–79, 782–3; HR Deb (10.2.1994) 795–830, 833–57.

had delivered substantial results. The new arrangements were to take effect from 21 February 1994.

- 6.86 It had been a tumultuous twelve months for the Procedure Committee, preparing and presenting its second landmark report against the backdrop of a new Prime Minister, friction between the Opposition and the Government over passage of Budget legislation through the Senate and the mounting controversy over the ‘whiteboard affair’. The committee was ready to enter quieter waters.
- 6.87 The committee met for the first time in 1994 on 30 May and welcomed two new members. One of the two, the Hon. R. J. Brown,¹³¹ was elected Chairman in place of the retired Dr Blewett. The committee’s first decision under its newest presiding member was to make a third attempt at removing gender specific language from the standing orders.¹³² This was to be achieved by the Chairman seeking a government response from the Prime Minister on its first recommendation to that end.¹³³
- 6.88 The committee also agreed to undertake an inquiry which had been requested by Speaker Martin into the possible application of modern technology by committees.
- 6.89 On the motion of the Deputy Chairman, Mrs Sullivan, a further inquiry was initiated at the same meeting. A week after the new standing and sessional orders inspired by *About time* came into effect, Mrs Sullivan lodged a notice of motion seeking reference to the Procedure Committee of a review of the operation and effectiveness of the orders.¹³⁴ This notice was still on the Notice Paper when the committee agreed to undertake the review.
- 6.90 The Main Committee, the parallel legislative stream proposed in *About time*, met for the first time on 8 June 1994.¹³⁵ At the end of the first period of sittings in which it had operated, it received a favourable report.¹³⁶

¹³¹ The Hon. R. J. Brown, Member for: Hunter 1980–84, Charlton 1984–98; Minister for: Land Transport and Shipping Support 1988–90, Land Transport 1990–93.

¹³² The first attempt was in 1986: *Conduct of Question Time*, 71; a further attempt was made in *Disorder and strangers*, 2. The Hon. W. F. Fatin, as Chair of the Caucus Status of Women Committee, had written to the Committee previously on the matter and latterly to the Speaker. An additional factor was the ‘neutralisation’ of pronouns in recently changed standing orders leading to inconsistencies between old and new.

¹³³ Committee minutes.

¹³⁴ NP (1.3.1994) 2945.

¹³⁵ VP 1993–94–95–96/1083; HR Deb (8.6.1994) 1725.

¹³⁶ HR Deb (30.6.1994) 2428.

Some years later, it would be subjected to a thorough review by the Procedure Committee.¹³⁷

- 6.91 On 30 June, the House agreed to a motion authorising the Speaker to arrange a revision of the standing orders incorporating references to Members in gender-inclusive pronouns and substituting ‘chair’ for ‘chairman’ in relation to parliamentary committees.¹³⁸ This revision was to be presented for consideration by the House. After Question Time on the next day of sitting, 23 August 1994, the Speaker presented the revised standing orders.¹³⁹ The House adopted them, not without a quibble,¹⁴⁰ as well as some technical enhancements to some provisions involving the Main Committee, on 9 November.¹⁴¹
- 6.92 The committee concluded its inquiry into the use of (communications) technology by committees on 17 November—its last meeting for 1994—and presented its report, *Application of technology to committees*, on 5 December.¹⁴² The report was one of many amid the end of year rush and the Selection Committee allocated a mere five minutes for presentation. The Chair summarised the committee’s conclusions as support for the use of modern technology like video conferencing because of its obvious advantages; however the quality of evidence and the dignity of committee proceedings must be maintained—it was therefore appropriate that committees not proceed with the use of modern technology until authorised by the House. The report did not receive any indication of a government response until the next Parliament.
- 6.93 The House agreed at the same sitting first to an amendment to the standing orders to recognise the *Votes and Proceedings* as the record of the House’s proceedings and second to a motion declaring that the *Votes and Proceedings* were the record of proceedings.¹⁴³ The Speaker had written to the committee seeking its support to a proposed means for determining the status of the *Votes and Proceedings* in the light of provisions in the

¹³⁷ The committee presented the report of its review, *Second chamber*, on 14 August 2000.

¹³⁸ VP 1993–94–95–96/1166; HR Deb (30.6.1994) 2468.

¹³⁹ VP 1993–94–95–96/1228.

¹⁴⁰ For example, references to ‘language terrorism’, ‘language vilification legislation’ and ‘feminazis’.

¹⁴¹ VP 1993–94–95–96/1504–6; HR Deb (9.11.1994) 2944–50.

¹⁴² VP 1993–94–95–96/1615; HR Deb (5.12.1994) 3841–2.

¹⁴³ VP 1993–94–95–96/1620.

proposed new Evidence Act.¹⁴⁴ The committee had endorsed the proposed means.¹⁴⁵

- 6.94 The committee ended the year, like the last, having presented only one report. Although it had taken tentative steps to launch other inquiries, it entered 1995 with a single current inquiry listed on the Notice Paper: a review of the procedures operating since 21 February 1994.¹⁴⁶
- 6.95 In late December 1994, the Speaker wrote to the committee requesting it to review procedures for the opening of Parliament (while acknowledging its 1991 report¹⁴⁷). The next month the Speaker wrote again, seeking a review of standing order 43 dealing with the sensitive issue of prayers. The committee agreed at its first meeting in 1995 on 2 March to review opening procedures as soon as it had finished its current inquiry but decided to take no further action on standing order 43.¹⁴⁸
- 6.96 The inquiry occupied the first half of the year and matched its progenitor, *About time*, in workload. The committee finalised the report of the review on 8 June 1995 and also agreed to circulate a discussion paper on Question Time.¹⁴⁹
- 6.97 *Time for review* was presented on 19 June. The Selection Committee allocated ten minutes for presentation but the usual Monday routine of business was overturned by a suspension of standing orders to debate a motion on French nuclear testing.¹⁵⁰ The Chair presented the report during the afternoon without any statement.¹⁵¹ Debate on a motion to take note of the report was referred to the Main Committee.¹⁵²
- 6.98 The Chair looked on the bright side when the matter came up for debate in the Main Committee on 22 June:

The very fact that we now have, within that same week, the opportunity in this chamber to consider some of the elements of that report in greater detail than would have been available to us in the main chamber attests, probably as well as anything, to the

¹⁴⁴ The *Evidence Act 1905* explicitly recognised the *Votes and Proceedings*, the proposed Evidence Act 1993 did not.

¹⁴⁵ Committee minutes; HR Deb (17.11.1994) 3742.

¹⁴⁶ NP (31.1.1995) 5860.

¹⁴⁷ *Conduct of business and opening of Parliament*.

¹⁴⁸ Committee minutes.

¹⁴⁹ Committee minutes.

¹⁵⁰ The French Government had recently decided to resume nuclear testing in the South Pacific.

¹⁵¹ VP 1993–94–95–96/2183.

¹⁵² VP 1993–94–95–96/2206–7.

very effective way in which the Main Committee has operated since its introduction last year. That was one of the main changes which came about in the procedures of the House of Representatives, following the Procedure Committee's *About time* report, which was tabled by Dr Blewett, my predecessor as the chair of this committee, in October 1993.¹⁵³

In essence, the committee found no reason to change the major elements of the new procedures, especially the Main Committee, rostering of Ministers for Question Time and the amended sitting hours. It did propose, however, a number of measures to fine tune the operation of the new procedures.¹⁵⁴ Debate on the report extended for almost three hours on 22 June and a further hour on 28 June.¹⁵⁵ (It was surely not a reflection of the interest in the report that the latter meeting of the Main Committee was delayed for five minutes because of a lack of a quorum.)

- 6.99 The Chair presented the committee's discussion paper, *Question Time in the House of Representatives*, on 26 June and he and the Deputy Chair made brief statements. The Chair alluded to the intractability of the perceived problems and noted that:

Question time has been the subject of two reports of the Procedure Committee in 1986 and 1992, as well as a large part of the *About time* report in 1993. However, few of the committee's recommendations relating to questions without notice have ever been adopted. For this reason, the committee chose not to expend time on the review by revisiting question time in general but thought it might be useful to encourage members themselves to consider and debate what it is that they want and expect of question time. Hopefully the debate will indicate whether there is some consensus among members on the need or possible direction for reform.¹⁵⁶

- 6.100 The government response to *Time for review* was presented as a ministerial paper on 29 November.¹⁵⁷ The Government indicated that it accepted most of the recommendations but there would have been a wry smile here and there at the response to a recommendation concerning Question Time: 'The Government does not accept the recommendation as it considers that current question time arrangements are working well'.

¹⁵³ HR Deb (22.6.1995) MC 2185.

¹⁵⁴ *Time for review*, vii–xi.

¹⁵⁵ HR Deb (22.6.1995) MC 2185–225; (28.6.1995) MC 2571–82.

¹⁵⁶ HR Deb (26.6.1995) 2292–4.

¹⁵⁷ VP 1993–94–95–96/2670.

- 6.101 The inquiry into opening procedures concluded on 21 September 1995 and the report was presented on 16 October.¹⁵⁸ The Selection Committee had allocated twenty minutes for presentation but the Chair and another Member spoke for about fifteen minutes only.¹⁵⁹ There were several significant proposals in *Opening procedures*, including simultaneous opening by a deputy of the Governor-General in each Chamber, the Governor-General's speech being delivered in the Great Hall rather than the Senate Chamber and that a senior backbencher act as chair for the election of Speaker rather than the Clerk. As the Chair noted, some of these were not new proposals.¹⁶⁰
- 6.102 The committee did not meet again in the 37th Parliament. The House sat for the last time on 1 December 1995 before prorogation and dissolution on 29 January 1996.

Thirty-eighth Parliament: 1996–97–98

- 6.103 The 1996 general election delivered a change of government. The party of incoming Prime Minister Howard had included parliamentary reform as an element of its election campaign.¹⁶¹ This was reflected in the Governor-General's speech at the opening of Parliament on 30 April 1996:

Finally, it is particularly appropriate at this time and in this place to mention the government's intention to improve the standing of the national Parliament.

It is a regrettable fact that, for various reasons, increasing numbers in the community have lost respect for the Parliament and its members.

The government will take steps to restore that respect. It will do so without in any way reducing the scope for robust debate which is one of the most valued features of our democratic tradition.¹⁶²

¹⁵⁸ VP 1993–94–95–96/2445; HR Deb (16.10.1995) 2059–61.

¹⁵⁹ A quorum had to be called to muster speakers for the next item, appropriately enough concerning attention deficit disorder.

¹⁶⁰ See footnote 95 in this chapter for earlier attempts to change the process for election of Speaker.

¹⁶¹ Stated, for example, in Mr Howard's address to the National Press Club, Canberra, 28 February 1996.

¹⁶² HR Deb (30.4.1996) 18–9.

- 6.104 The committee's membership was announced on 29 May¹⁶³ and the committee met for the first time on 20 June. Mrs Sullivan,¹⁶⁴ who had been Deputy Chair for part of the previous Parliament, was elected Chair. After the preliminaries an ambitious program of inquiries was agreed: standing order 143 (questions to other Members); review of reports not receiving a government response; conduct of divisions; business and operation of the Main Committee; and supplementary questions.¹⁶⁵
- 6.105 There was an interesting background to the first inquiry. Toward the end of the previous Parliament there were two instances of an Opposition Member asking the Leader of the Opposition, Mr Howard, a question without notice.¹⁶⁶ Apparently sensing the thin end of a wedge, the Leader of the House, Mr Beazley, moved suspension of standing order 143—which allowed questions to 'a Member, not being a Minister or an Assistant Minister, relating to any bill, motion, or other public matter connected with the business of the House, of which the Member has charge'—for the remainder of the period of sittings and undertook to refer the matter to the Procedure Committee.¹⁶⁷ The motion was carried and the Leader of the House fulfilled his undertaking, writing to the committee on 20 November.¹⁶⁸ However, as noted at paragraph 6.102, the committee did not meet again before the end of the 37th Parliament and therefore had not considered the matter before the change of government.
- 6.106 The committee did not linger over this inquiry and having received opinions from the current Leader of the House, Mr Reith, and Manager of Opposition Business, Mr Crean, that the standing order should be retained,¹⁶⁹ presented their report, *SO 143*, on 16 September supporting the status quo.¹⁷⁰ The government response was similarly expeditious, presented as a ministerial paper on 10 October¹⁷¹ and accepting the committee's recommendation.¹⁷²

¹⁶³ VP 1996–97–98/208.

¹⁶⁴ The Hon. K. J. Sullivan, Senator for Queensland 1974–84; Member for Moncrieff 1984–2001; *later* Parliamentary Secretary to the Minister for Foreign Affairs 1997–2000.

¹⁶⁵ Committee minutes.

¹⁶⁶ HR Deb (26.9.1995) 1692–5 & (28.9.1995) 1988–90.

¹⁶⁷ HR Deb (26.10.1995) 3047–59.

¹⁶⁸ Reproduced in the appendix to *SO 143*.

¹⁶⁹ Reproduced in the appendix to *SO 143*.

¹⁷⁰ VP 1996–97–98/489; HR Deb (16.9.1996) 4271–2.

¹⁷¹ VP 1996–97–98/590.

¹⁷² But reserving 'the right to revisit the issue [in the event of any further abuse]'. An Opposition Member had asked the Leader of the Opposition a question without notice on 19 June.

- 6.107 The committee was becoming very busy. In addition to its active inquiries into previous reports lacking a government response and the conduct of divisions, and another inquiry on standby, it had agreed at its meeting on 22 August to a request from the Speaker to inquire into a matter concerning the consideration in detail stage of bills.¹⁷³
- 6.108 This new inquiry was both narrow and technical in nature. A change in legislative drafting practice had led to a potential restriction of the detail in which proposed amendments to existing statutes could be considered in the House. At issue was the *modus operandi* set out in standing order 226 (order in considering a bill). The committee recommended a necessarily prolix remedy in its report, *SO 226*, which was presented on 28 October.¹⁷⁴ The government response was tabled as a ministerial paper on 5 December.¹⁷⁵ The standing order was amended among others on 6 February 1997.¹⁷⁶
- 6.109 The next inquiry to be completed was on the divisions process. Mr Andrew—later to become a Speaker of the House but then a member of the committee—presented *Conduct of divisions* on 18 November.¹⁷⁷ Back in 1991 the committee had successfully recommended in *Private Members' business* that the Selection Committee should be able to determine the times for individual Members speaking on items which it had accorded priority, including the presentation of committee reports. On this occasion the Selection Committee had determined that two Members should speak for twenty minutes. However, reflecting occasional necessity, a practice had evolved of Members agreeing to share their time differently.¹⁷⁸ The two members of the committee made shorter statements allowing a third Member, not a committee member, to contribute briefly.
- 6.110 The committee had considered electronic voting, an issue which had been in the background for some years, but a majority of members cautiously decided to defer consideration principally on grounds of cost.¹⁷⁹ The committee did, however, recommend a trial of a new divisions process which involved the count beginning before the bells had ceased ringing.

¹⁷³ Committee minutes.

¹⁷⁴ VP 1996–97–98/711; HR Deb (28.10.1996) 5853–4.

¹⁷⁵ VP 1996–97–98/985.

¹⁷⁶ VP 1996–97–98/1086–7.

¹⁷⁷ VP 1996–97–98/817; HR Deb (18.11.1996) 6917–9.

¹⁷⁸ This of course reintroduced the old problem which the Private Members' business recommendation had sought to remedy: what time to put on the speech time clock.

¹⁷⁹ *Conduct of divisions*, 3–5; however the three ALP members submitted a dissenting report which advocated implementation of electronic voting without delay.

There were also proposals for streamlining consecutive divisions and dealing with recording dissent without completing a division.¹⁸⁰

6.111 The Government did not accept the recommendations in toto but through negotiations with the Opposition and an Independent Member arrived at a compromise which, by motion carried on 6 March 1997,¹⁸¹ was to undergo a trial from 18 March.

6.112 There is some confusion about whether there was a government response to *Conduct of divisions*: during his speech to the motion on 6 March, the Leader of the House declared:

In my response to the report, I indicated that, while not disputing the advantages of electronic voting, it appeared the costs of implementation were likely to be very high.¹⁸²

However, no government response had been presented to the House according to the Speaker's biannual schedule presented on 13 December.¹⁸³ The Government's response to that schedule, tabled on 19 June 1997,¹⁸⁴ contained the following entry for *Conduct of divisions*:

Revised arrangements for the conduct of divisions were implemented for a trial period from 18 March 1997 until the end of the 1997 autumn sittings. The trial period was extended on 26 March 1997 to continue until the end of the 1997 winter sittings. A decision regarding the longer term arrangements will be taken in the light of experience during the trial period.

This entry seems to have been deemed to be the government response as *Conduct of divisions* was not listed in the next biannual schedule.¹⁸⁵

6.113 Meanwhile, back in late 1996 shortly after *Conduct of divisions* had been tabled, the committee completed its review of previous reports which had not received a government response.¹⁸⁶ Though this was one of the committee's briefest reports, it represented a major effort in housekeeping.

¹⁸⁰ *Conduct of divisions*, 14–5.

¹⁸¹ VP 1996–97–98/1273–5; HR Deb (6.3.1997) 2234–43.

¹⁸² HR Deb (6.3.1997) 2236.

¹⁸³ HR Deb (12.12.1996) 8601. [Note: the sitting of 12 December was suspended overnight and continued on 13 December.]

¹⁸⁴ VP 1996–97–98/1698.

¹⁸⁵ HR Deb (4.12.1997) 12098–104. The sessional orders effecting the trial were adopted as standing orders on 4 December 1997—VP 1996–97–98/2644; HR Deb (4.12.1997) 12035.

¹⁸⁶ As noted in para 6.104, the review had been launched on 20 June 1996. On 27 June the Leader of the House indicated that the Government had asked the Procedure Committee to undertake such a review—see HR Deb (27.6.1996) 3029.

While the committee did not revisit the original inquiries which had delivered the ten identified reports, it did consider their recommendations. Inevitably with the passage of time and changes in membership the degrees of support for certain propositions had changed. Nevertheless the committee concluded that it agreed with ‘the majority of the recommendations in most reports’.¹⁸⁷

6.114 The Chair presented *Review of reports* on 2 December 1996.¹⁸⁸ The committee had divided the ten outstanding reports into three categories, the first two of which it believed still required a government response:

- Reports endorsed without qualification
 - Publication of tabled papers* (presented 24.11.88)
 - Responses to petitions* (presented 6.12.90)
 - Right of reply* (presented 6.6.91)
 - Seconding notices* (presented 30.4.92)
 - Application of technology to committees* (presented 5.12.94)

- Reports endorsed with some reservations or minor changes
 - Disclosure of in camera evidence* (presented 14.11.91)
 - Disorder and strangers* (presented 15.10.92)
 - Opening procedures* (presented 16.11.95)

- Reports largely superseded and needing no response
 - Dealing with witnesses* (presented 13.4.89)
 - Conduct of committees* (presented 30.11.89)

6.115 The Procedure Committee ended a busy year with no inquiries listed on the Notice Paper.

6.116 The first meeting for 1997 was on 4 June. The committee received a proposal from Mr Brough, a Government backbencher, for the introduction of an adjournment debate in the Main Committee and decided to launch an inquiry into ‘the provision for Members to make short speeches in the Main Committee on matters of interest to them’.¹⁸⁹

6.117 The ministerial papers tabled on 19 June 1997¹⁹⁰ included the Government’s response to the Speaker’s December 1996 schedule of

¹⁸⁷ *Review of reports, 2.*

¹⁸⁸ VP 1996–97–98/930; HR Deb (2.12.1996) 7369–71.

¹⁸⁹ Committee minutes.

¹⁹⁰ VP 1996–97–98/1698.

government responses to committee reports. The ministerial paper incorporated an omnibus response to the ten outstanding reports identified in *Review of reports*.¹⁹¹ In short, the Government's responses to the ten reports were as follows:

- *Opening procedures* (presented 16.11.95): The Government disagreed and did not propose to seek any changes to the traditional proceedings;
- *Application of technology to committees* (presented 5.12.94): The Government supported the recommendations and the House had authorised a trial by a standing committee;¹⁹² the recommendations were implemented on 27 August 1997 as a resolution with continuing effect;¹⁹³
- *Disorder and strangers* (presented 15.10.92): The Government supported most of the recommendations; the standing orders were amended on 27 August 1997;¹⁹⁴
- *Seconding notices* (presented 30.4.92): The Government disagreed, seeing 'no compelling reason to dispense with the requirement' [for seconding of private Members' notices];
- *Disclosure of in camera evidence* (presented 14.11.91), *Dealing with witnesses* (presented 13.4.89) and *Conduct of committees* (presented 30.11.89): The Government expected these to be subsumed in the committee's portended broad inquiry into the committee system;
- *Right of reply* (presented 6.6.91): The Government agreed that the House should provide citizens with a right of reply similar to that operating in the Senate; this was implemented on 27 August 1997 as a resolution with continuing effect;¹⁹⁵
- *Responses to petitions* (presented 6.12.90): The Government disagreed, believing the current standing orders were appropriate for the handling of petitions;
- *Publication of tabled papers* (presented 24.11.88): The Government disagreed and said it intended to harmonise practice in the two Houses; standing order 320 was accordingly amended on 27 August 1997.¹⁹⁶

In keeping with the economy of this approach, the ministerial paper also contained an entry for *Review of reports*, thus providing a de facto

¹⁹¹ The committee had identified two of the ten as not requiring a response—see para 6.114.

¹⁹² VP 1996–97–98/1427–8.

¹⁹³ VP 1996–97–98/1870–1.

¹⁹⁴ VP 1996–97–98/1867–8.

¹⁹⁵ VP 1996–97–98/1868–70.

¹⁹⁶ VP 1996–97–98/1868.

government response to that report as well. Never had a government been more responsive!

- 6.118 For the first time in many years there were no Procedure Committee reports awaiting a government response.
- 6.119 The committee continued at a gentler pace to consider the inquiry it had begun in early June into providing for short speeches in the Main Committee. The report was finalised on 29 September 1997.¹⁹⁷
- 6.120 There was turnover in committee membership before the report could be presented. The first member involved was Mr Cadman, who had been appointed Parliamentary Secretary to the Minister for Workplace Relations and Small Business on 11 July but was not replaced on the committee until 29 September. His replacement, Mr Somlyay, was appointed Minister for Regional Development, Territories and Local Government on 9 October. On the same date, the Chair, Mrs Sullivan, was appointed Parliamentary Secretary to the Minister for Foreign Affairs and another member, Mr Truss, was appointed Minister for Customs and Consumer Affairs and Deputy Leader of the House.
- 6.121 One of the replacement members, Mr Nugent,¹⁹⁸ was elected Chair on 28 October 1997. In the meantime, Mr Reid, a committee member, presented *Short speeches in the Main Committee* to the House on 20 October.¹⁹⁹ This report recommended an extension of the role of the Main Committee. The House's second chamber had started as an alternative legislative stream but had also taken on additional business, debate of motions to take note of papers, including committee reports. Now it was proposed to allow Members' statements and an adjournment debate so that Members could raise matters that concerned them, just as they could in the Chamber proper. The Government responded by sponsoring the adoption of sessional orders on 4 December which put in place a fifteen-minute period for Members' three-minute statements and an adjournment debate of thirty minutes each Thursday in the Main Committee.²⁰⁰ These were made standing orders on 30 June 1998.²⁰¹
- 6.122 At its last meeting for 1997, the committee considered a proposal from the Deputy Speaker to extend the 'sin bin' to the Main Committee, agreed to undertake a major review of the committee system and declined to

¹⁹⁷ Committee minutes.

¹⁹⁸ Mr P. E. Nugent, Member for Aston 1990-2001.

¹⁹⁹ VP 1996-97-98/2119-20; HR Deb (20.10.1997) 9177-9.

²⁰⁰ VP 1996-97-98/2641-4.

²⁰¹ VP 1996-97-98/3170-1.

support a proposal by the Clerk that a circulated list of petitions replace the announcement made in the Chamber.²⁰²

- 6.123 The committee requested comments from members of the Speaker's Panel about the Deputy Speaker's proposal to extend the sin bin and in the light of their responses decided at the first meeting in 1998 not to proceed with the matter. By now the inquiry into the House's committee system had received twenty-five submissions and these were also considered. It was agreed that a round table discussion be held with committee chairs and deputy chairs.²⁰³
- 6.124 The round table discussion was held on 6 April. This was the first occasion on which the committee had used this particular form of information gathering although it had often held smaller informal discussions with individual Members and officials in past inquiries.
- 6.125 The committee began considering a draft report on 14 May. At the same meeting the committee agreed to support proposals from the Leader of the House to remove an anomaly in the deferral of divisions on Mondays and to supersede the committee of reasons appointed when disagreeing to Senate amendments.²⁰⁴ A third topic at the meeting was the Speaker's changes to seating for distinguished visitors and Hansard reporters²⁰⁵—it was agreed that the Chair should write to the Speaker expressing disappointment that there had been no consultation with Members before the changes were made.²⁰⁶
- 6.126 The report was finalised at the committee's last meeting for the 38th Parliament on 25 May 1998. The Chair presented *Ten years on* on 1 June,²⁰⁷ indicating in his tabling speech that the committee had hastened the completion of the inquiry so the report could be presented before the end of the Parliament. Unfortunately the Selection Committee had allocated a mere ten minutes for presentation despite the range and breadth of the twenty-seven recommendations. A returned Howard Government

²⁰² Committee minutes.

²⁰³ Committee minutes.

²⁰⁴ The standing orders provided for the deferral of divisions during private Members' business so as not to disrupt the program determined by the Selection Committee; the proposal sought to extend deferral to divisions which might arise during the time allotted for committee and delegation reports, which was also subject to Selection Committee determination. The committee of reasons 'anachronism' is explained at page 425 of HR Practice (3rd edn). Both proposals were implemented by amendments to the standing orders on 30 June 1998—VP 1996–97–98/3170–1.

²⁰⁵ HR Deb (25.5.1998) 3529.

²⁰⁶ Committee minutes.

²⁰⁷ VP 1996–97–98/3062; HR Deb (1.6.1998) 4248–51.

responded by adopting many of the recommendations, including rationalised standing orders for committees, on 3 December 1998.

Thirty-ninth Parliament: 1998–1999–2000–2001

- 6.127 The 39th Parliament opened on 10 November 1998. Technically, the committee was established at the opening of the Parliament by virtue of standing order 28C. However, as noted in the previous paragraph, the re-elected Government implemented many of the committee's recommendations in *Ten years on*, including a reorganisation of the standing orders governing committees, on 3 December, before the committee had formed.
- 6.128 Under the new arrangement, the committee was established by standing order 330 which, while retaining the standing reference the committee had held since its inception,²⁰⁸ changed the numerical composition from eight (five Government and three Opposition or independent Members) to seven (four Government and three non-Government Members). Another change was that henceforth members would no longer be nominated by the whips but, in common with all other House committees, appointed by resolution of the House.²⁰⁹ The seven members were appointed on 8 December.²¹⁰
- 6.129 The committee met briefly on 10 December to elect its presiding officers. Mr Pyne was elected Chair.²¹¹ The committee adjourned until the new year.²¹²
- 6.130 When the committee met for the first time in 1999 it considered a proposal from the Speaker for a Questions Paper²¹³ and at its next meeting decided it would not support the proposal at that stage. It also resolved to undertake an inquiry into 'the opportunities for individuals and community groups

²⁰⁸ Namely, 'to inquire into and report upon the practices and procedures of the House generally with a view to making recommendations for their improvement or change and for the development of new procedures'.

²⁰⁹ Then new standing order 333.

²¹⁰ VP 1998–1999–2000–2001/197–9.

²¹¹ Mr C. M. Pyne, Member for Sturt 1993–; *later* Parliamentary Secretary to the Minister for: Family and Community Services 2003–4; Health and Ageing 2004–.

²¹² Committee minutes.

²¹³ It was proposed that the section of the Notice Paper containing questions on notice (written questions) be published as a separate document which would also contain the eventual answers instead of the latter being printed in *Hansard*. The proposal had originated in the Clerk's Office.

to become involved in the procedures and practices of the House and its committees'.²¹⁴

- 6.131 The committee was entering new territory: over the years, it had extended its purview from the narrow, technical domain of standing orders which it had inherited from the Standing Orders Committee to encompass less specific aspects of institutional culture. Now it was reaching even further, into engagement with the world outside Parliament. As the Chair was later to say when the report was presented:

[T]he committee has ventured beyond the parameters of its normal, dry, procedural field of activity to look at the interaction between the House and the community.²¹⁵

- 6.132 The inquiry occupied the committee for most of the year. Its conduct bore many similarities with the last (*Ten years on*): the inquiry was advertised in the national press, the committee received a considerable number of external submissions and evidence gathering was augmented by round table discussions. By the end of September the committee was ready to consider a draft report.

- 6.133 The report, *It's your House*, was finalised on 18 October²¹⁶ and presented by the Chair on 22 November 1999.²¹⁷ This time the Selection Committee had been a little more generous, allocating twenty minutes for presentation. In his tabling speech, the Chair outlined the scope of *It's your House*: '[t]he committee's inquiry covered five main areas: petitioning the House; the process whereby people can reply to adverse comments made about them in the House; whether the procedures of the House are themselves a barrier to understanding what is happening; access to proceedings of the House; and getting people involved in the important work of parliamentary committees'.

- 6.134 The report contained thirty-one recommendations, with an emphasis on the operations of committees but also including a redrafting of the standing orders governing petitions and indeed a proposal for the eventual wholesale redrafting of the standing orders in their entirety to make them more 'logical, intelligible and readable'.²¹⁸

²¹⁴ Committee minutes.

²¹⁵ HR Deb (22.11.1999) 12237.

²¹⁶ Committee minutes.

²¹⁷ VP 1998–1999–2000–2001/1067; HR Deb (22.11.1999) 12237–41.

²¹⁸ *It's your House*, xi–xviii.

- 6.135 Debate on a motion to take note of the report was referred to the Main Committee on 7 December.²¹⁹ Six Members spoke during debate on 8 December.²²⁰ The committee had met in the meantime and, in keeping with the spirit of innovation, decided to meet with committee chairs, deputy chairs and secretaries in the new year to review the aftermath of *It's your House*. The committee also decided to undertake two new inquiries: the first, relating to a miscellany of related matters centring on questions on notice and notices of motion; and second, a review of the Main Committee.²²¹
- 6.136 At its last meeting for the year on 8 December 1999, the committee devised a strategy for its review of the Main Committee—including something old (a questionnaire to Members) and something new (another round table discussion)—and agreed to reconsider whether it should proceed after the review with an inquiry that had been lurking in the wings for at least two Parliaments, into the independence of the Speaker.²²²
- 6.137 By the time the committee met for the first time in the year 2000, the 'miscellaneous' inquiry had found a focus, electronic transaction of certain House business. The other inquiry, the review of the Main Committee, proceeded apace. A healthy number of responses had been received to the questionnaire. The round table discussion was held on 6 March and included the Deputy and Second Deputy Speaker, members of the Speaker's Panel, whips and several officials. In addition the committee inspected sites for a potential permanent home for the Main Committee.
- 6.138 The committee concluded its 'electronic transactions' inquiry on 5 April and the Chair presented the report during government business time²²³ on 12 April 2000.²²⁴ After the broad sweep of *Ten years on* and *It's your House*, *e-motions* marked a return to the narrow and technical. As the Chair explained in his tabling speech, its objectives were modest:

The committee has proposed some minor changes to the standing orders so that, in respect of questions, answers and notices, the terms 'in writing' and 'signed' may be used in the same sense in which they are used in the Electronic Transactions Act.

²¹⁹ VP 1998–1999–2000–2001/1128.

²²⁰ VP 1998–1999–2000–2001/1145–6; HR Deb (8.12.1999) 13172–91.

²²¹ Committee minutes.

²²² Committee minutes.

²²³ After the *Days and hours* reforms the committee's reports were usually presented—subject to the determinations of the Selection Committee—during the time allocated for committee and delegation reports.

²²⁴ VP 1998–1999–2000–2001/1403; HR Deb (12.4.2000) 15831–3.

The intention was to remove impediments to the greater use of computer-based technology in conducting everyday House business. The committee also took the opportunity to recommend that Members be allowed to ask Ministers directly to explain delays in providing responses to questions on notice.²²⁵ It also tried again to remove the discriminatory requirement for private Members' notices to be seconded.²²⁶

- 6.139 Before concluding its review of the Main Committee, the committee held informal discussions with Sir Alistair Goodlad, the British High Commissioner and a former Member of the House of Commons, about debating practices in the UK Parliament.²²⁷
- 6.140 Before the House rose for the winter adjournment, the committee concluded the review. The Deputy Chair, Mr Price, presented *Second chamber* as the very first item of business when the House resumed for the spring sittings on 14 August 2000.²²⁸ The Selection Committee had allocated twenty minutes for statements and four committee members spoke.
- 6.141 As a review, the main purpose of the inquiry had been to evaluate performance. It was found that the Main Committee had met the objectives for which it had been established and, over time, had been entrusted with a wider role than originally envisaged. In others words it was an undoubted success. The eight recommendations were each intended to enhance that success.
- 6.142 Some were matters of fine tuning existing procedures like Members' statements, the adjournment debate and terminating a meeting when disorder arose. Others related to relocation, facilities and fittings. A more problematical issue was the name: there was a case for renaming the Main Committee to remove confusion with the similarly named main committee room; the title of the report was based on a solution. Two innovative proposals, which were meant to foster greater interaction in debate, were the introduction of interventions²²⁹ and allowing Members to sit on either side of the chamber.²³⁰ Appropriately, debate on a motion to take note of

²²⁵ An outcome of *About time* was an amendment to standing order 150 which allowed a Member to ask the Speaker to write to the Minister concerned if a question on notice had not received an answer within 90 days (later reduced on the recommendation of the committee to 60 days).

²²⁶ See footnote 96 in this chapter.

²²⁷ Committee minutes.

²²⁸ VP 1998–1999–2000–2001/1625; HR Deb (14.8.2000) 18817–21.

²²⁹ Based on the UK House of Commons practice by which Members may intervene during a Member's speech to ask germane questions.

²³⁰ *Second chamber*, xiii–xv.

the report was referred to the Main Committee where it continued on 16 August.²³¹

- 6.143 While awaiting responses to the three reports—two of them major—it had presented within the last twelve months, the committee took stock. At its meeting on 6 September 2000 it decided to gauge support among Members for its *Second chamber* recommendations. It agreed to ascertain progress from the Speaker and the Leader of the House on responses to *It's your House*, *e-motions* and *Second chamber*. In addition, it agreed to seek suggestions for possible inquiries from the Speaker, Leader of the House and Manager of Opposition Business.²³²
- 6.144 After the committee had evaluated the survey of Members²³³ on their support of the *Second chamber* recommendations, the Chair wrote to the Leader of the House on 10 October conveying the strong support among respondents to most of the recommendations and advocated a trial of the interventions procedure.²³⁴ On that same day, both the Speaker and the Leader of the House tabled their respective responses to *It's your House* as papers.²³⁵
- 6.145 The Speaker agreed to the eighteen of the thirty-one recommendations for which he felt some responsibility, indicating in most cases that action had already been undertaken or was being undertaken to put them into effect. The remaining thirteen recommendations he believed were for the House to decide. The Government supported twenty recommendations. Given that many of the recommendations could be implemented without determination by the House, the Government's position on some recommendations disappointed the committee.
- 6.146 The committee considered the government response on 1 November at the last meeting over which Mr Pyne presided. On 6 November the House agreed to a motion which, by discharging and appointing respective memberships, effectively swapped the chairs of the Joint Standing Committee on Electoral Matters and the Standing Committee on

²³¹ VP 1998–1999–2000–2001/1654; HR Deb (16.8.2000) 19197–208.

²³² Committee minutes.

²³³ The survey was conducted by sending a questionnaire to all Members seeking their views on each of the eight recommendations in *Second chamber*. The committee evaluated the thirty-three responses it had received to 10 October.

²³⁴ Committee minutes.

²³⁵ VP 1998–1999–2000–2001/1793–5. Both responses are reproduced as appendices to *Promoting community involvement*.

Procedure.²³⁶ When the committee met again on 29 November, it elected its newest member, Mr Nairn,²³⁷ as Chair.

- 6.147 Now that *It's your House* had received responses the committee could proceed with its earlier decision to review the report's aftermath.²³⁸ At the same meeting, its last for the year 2000, it planned a conference to pursue the promotion of committee activities on the basis of the recommendations in *It's your House*.²³⁹
- 6.148 The Leader of the House tabled the government response to *e-motions* as a ministerial paper on 6 December.²⁴⁰ The core objective of the report had been met: the recommendations to remove impediments to transacting certain House business electronically were supported. However, the proposals to allow Members to ask Ministers directly about delayed answers to questions on notice and to dispense with the requirement for private Members' notices to be seconded were not. On 7 December 2000, the final sitting for the year, the House agreed to amendments to standing orders 133, 142, 148 and 211 as proposed in *e-motions*.²⁴¹
- 6.149 When the Speaker presented the biannual schedule of government responses to committee reports on 7 December,²⁴² only one report of the Procedure Committee, *Second chamber*, awaited a response.
- 6.150 The new year was significant not only for being the first of a new millennium but also because it marked the centenary of the Parliament of the Commonwealth of Australia. It was an auspicious year in which to embark upon its next field of inquiry. Having met for the first time in the new year on 7 February 2001, the committee at its next meeting three weeks later agreed to inquire into 'the procedures of the House on the opening of a new Parliament'.²⁴³
- 6.151 The sequel to *It's your House* was another report, *Promoting community involvement*, arising from the conference of committee chairs, deputy chairs, secretaries and other officials which the committee had planned for 6 March. The report offered a further five recommendations which specifically related to committee interaction with the community. The

²³⁶ VP 1998–1999–2000–2001/1858–9.

²³⁷ Mr G. R. Nairn, Member for Eden-Monaro 1996–; later Parliamentary Secretary to the Prime Minister 2004–.

²³⁸ See para 6.135.

²³⁹ Committee minutes.

²⁴⁰ VP 1998–1999–2000–2001/1979–80.

²⁴¹ VP 1998–1999–2000–2001/2020–1.

²⁴² VP 1998–1999–2000–2001/2018; HR Deb (7.12.2000) 23670–6.

²⁴³ Committee minutes.

committee finalised the report on 23 May²⁴⁴ and it was presented on 18 June.²⁴⁵ Given the competition for time with other committees, it was not surprising that the Selection Committee allocated but ten minutes for presentation.

- 6.152 The committee followed a familiar course in the conduct of its inquiry into procedures for opening Parliament. The inquiry was advertised nationally and a questionnaire sent to all Members and Senators. However for this inquiry the committee did not hold a round table discussion.
- 6.153 Some interesting byplay to the inquiry occurred on the very day *Promoting community involvement* was tabled. During Private Members' Business the House debated a motion to appoint a Select Committee on Reform of the Opening of Parliament which had been proposed by Mr McLeay.²⁴⁶ The Chair of the Procedure Committee spoke during the debate expressing puzzlement at a Member 'putting forward a motion which almost entirely—not totally but fairly comprehensively—overlaps the work that the Procedure Committee is currently doing'. In anticipation of the debate, the committee had resolved at a meeting on 6 June:

That, pursuant to standing order 346, the committee authorises any member of the committee to participate in the debate scheduled for 18 June in the House on Mr McLeay's notice of motion concerning procedures for the opening of Parliament and to refer to published submissions and the results of the survey of Members and Senators.²⁴⁷

Both the Chair and another member of the committee spoke during the debate and both referred to committee proceedings.

²⁴⁴ Committee minutes.

²⁴⁵ VP 1998–1999–2000–2001/2350; HR Deb (18.6.2001) 27687–9. In an interesting case of synchronicity, four committee reports were presented consecutively: the first by the Chair of the Joint Standing Committee on Electoral Matters who it will be recalled was the immediate predecessor of Mr Nairn as Chair of the Procedure Committee; the second by the Chair of the Joint Standing Committee on Migration who would turn out to be the immediate successor to Mr Nairn as Chair of the Procedure Committee in the next Parliament; and the fourth by Mr Nairn as Chair of the Procedure Committee—incidentally, the presenter of the third report was a former Member of the Procedure Committee. Also of note were comments during the tabling of the first report on the swapping of the two chairs described in para 6.146—HR Deb (18.6.2001) 27678.

²⁴⁶ VP 1998–1999–2000–2001/2353; HR Deb (18.6.2001) 27724–31.

²⁴⁷ Committee minutes. The provision in standing order 346 to which the committee resorted was the result of recommendation 23 in *It's your House*.

- 6.154 The inquiry into opening procedures was completed on 8 August 2001.²⁴⁸ The Selection Committee allocated twenty minutes for presentation of *Balancing tradition and progress* on 27 August. However, an Opposition motion to suspend standing orders consumed about half an hour of the time available for the presentation of committee and delegation reports and the time allowed for presentation had expired before the Chair was given the call. Leave was granted for the report to be tabled without a statement.²⁴⁹ Later in the sitting, the Government yielded some twelve minutes of government business time to enable the Chair to move, and speak to, a motion to take note of the report. The Deputy Chair also spoke.²⁵⁰
- 6.155 *Balancing tradition and progress* revisited two earlier inquiries²⁵¹ but took a more holistic approach, advocating a wholesale streamlining of opening day ceremonial—with an emphasis on reducing the processions to the Senate Chamber and incorporating Australian elements—which would require consultation among the three components of the Parliament: the Governor-General, the Senate and the House of Representatives. Included in the eight recommendations was another attempt to remove an anomaly in the election of Speaker.²⁵²
- 6.156 The committee did not meet again before the Parliament was prorogued and the House dissolved on 8 October 2001. At the end of the 39th Parliament the committee awaited responses to three reports: *Second chamber*, *Promoting community involvement* and *Balancing tradition and progress*.

Fortieth Parliament: 2002–03–04

- 6.157 The opening ceremony for the 40th Parliament on 12 February 2002 followed the traditional pattern. The House made the three customary processions. On the same day, a Senator lodged a notice of motion²⁵³ which, among other things, called on the Government:

²⁴⁸ Committee minutes.

²⁴⁹ VP 1998–1999–2000–2001/2547–50; HR Deb (27.8.2001) 30215–21.

²⁵⁰ VP 1998–1999–2000–2001/2555; HR Deb (27.8.2001) 30305–7.

²⁵¹ *Conduct of business and opening of Parliament* and *Opening procedures*.

²⁵² The committee has mounted an ongoing campaign to remove the anomalous situation in which the Clerk is placed by virtually presiding before the Speaker is elected and takes the Chair; see para 6.101 and footnote 95 in this chapter.

²⁵³ SJ 2002–03–04/16.

... to consider and respond as soon as practicable to the recommendations of the House of Representatives Standing Committee on Procedure report, *Balancing tradition and progress: Procedures for the opening of Parliament*, which constructively seeks to modernise the Parliament and open it up to participation by all Australians.

The notice was called on two days later and the motion was agreed to by the Senate on the voices and without debate.²⁵⁴

- 6.158 The House appointed committee members on 20 March²⁵⁵ and the committee met for the first time the next day. Mrs May²⁵⁶ was elected Chair. The committee's next decision was to invite the Leader of the House, Mr Abbott, and the Manager of Opposition Business, Mr Swan, to meet with the committee to offer their views 'on potential areas for procedural reform'.²⁵⁷
- 6.159 In his response to *It's your House*,²⁵⁸ the Speaker indicated that the Clerk had commenced a revision of the standing orders as recommended by the committee and that a draft would be provided to the committee later in the year.²⁵⁹ One of the Clerk's staff appeared at the second meeting to brief the committee on progress. The Manager of Opposition Business also attended the meeting and discussed reform of House procedures. Unfortunately the Leader of the House had Chamber commitments and a fuller discussion was postponed.²⁶⁰
- 6.160 Both the Leader of the House and the Manager of Opposition Business attended the third meeting on 4 June and a lengthy discussion on procedural reform ensued. After they had left the committee agreed to consider an inquiry into the adequacy of the House procedures for examining Budget estimates. The committee agreed on 20 June to undertake such an inquiry.²⁶¹
- 6.161 The Leader of the House presented government responses to reports from the previous Parliament as ministerial papers on 27 June 2002: the first

²⁵⁴ SJ 2002-03-04/86-7.

²⁵⁵ VP 2002-03-04/128-9.

²⁵⁶ Mrs M. A. May, Member for McPherson 1998-.

²⁵⁷ Committee minutes.

²⁵⁸ See para 6.145.

²⁵⁹ Recommendation 8 of *It's your House*—The Speaker's response is reproduced at pages 46-7 of *Promoting community involvement*.

²⁶⁰ Committee minutes.

²⁶¹ Committee minutes.

was a response to *Second chamber* and the other to *Promoting community involvement*.²⁶²

- 6.162 The committee had mixed results with its *Second chamber* recommendations. To begin with, the proposed new title for the Main Committee was not supported because the term ‘second chamber’ was often used as a synonym for the ‘upper’ House in bicameral parliaments.²⁶³ Neither did the Government support relocation of the venue or allowing the Selection Committee to program private Members’ business and committee and delegation reports in the Main Committee. The Government did, however, support a trial of the interventions procedure and, with some qualifications, the other fine tuning measures.
- 6.163 The results for *Promoting community involvement* were similarly mixed. The Government was not inclined to cede any ground on the provision of government responses although it did make some apparent concessions on their publication.
- 6.164 The committee received the Clerk’s redraft of the standing orders on 27 June and at its next meeting, on 22 August, decided to table the document in September as a discussion paper for comment by the end of October. The committee hoped the new version would be adopted by the House at some time in 2003.²⁶⁴
- 6.165 Also on 22 August, the House adopted amendments to the standing orders to give effect to recommendations the Government supported in *Second chamber*. A sessional order to enable a trial of the interventions procedure in the Main Committee was also adopted.²⁶⁵ The trial would proceed for the remainder of 2002. The Deputy Speaker made a brief statement outlining how the new procedures would work in practice when the Main Committee met on 17 September.²⁶⁶
- 6.166 The Acting Chair, Mr Price, presented the discussion paper encapsulating the revised standing orders on 16 September.²⁶⁷ He noted that the *Proposed*

²⁶² VP 2002–03–04/309–10.

²⁶³ This is not an issue in a Parliament where the two Houses are co-equal and the terms ‘upper’ and ‘lower’ are not part of the institutional vocabulary; however it may well be argued that the term ‘second chamber’ might be misleading to others, particularly in parliaments overseas.

²⁶⁴ Committee minutes.

²⁶⁵ VP 2002–03–04/349–51; HR Deb (22.8.2002) 5439–43. It was apparent in some of the extravagant remarks made in debate that there was still contention between the Government and Opposition on the issue of procedural reform.

²⁶⁶ VP 2002–03–04/402; HR Deb (17.9.2002) 6471.

²⁶⁷ VP 2002–03–04/391; HR Deb (16.9.2002) 6221–4.

revised standing orders represented ‘the most far-reaching reorganisation of the rules of the House since 1963’. Three other members of the committee spoke. A common theme was that the discussion paper was a start but that there was still much work to be done before a final version was accepted by the House. Members’ comments on the discussion paper were invited.

- 6.167 The committee continued work on the estimates inquiry and, notwithstanding the Government’s lack of support for this recommendation in *Second chamber*, continued to explore options for the relocation of the Main Committee. Mr Romaldo Giurgola, architect of the new Parliament House, attended a meeting on 19 September at which conceptual and practical issues were discussed.²⁶⁸
- 6.168 It is worth observing at this point that the committee had become considerably more active in pursuing its recommendations. In its early years it had often maintained a watching brief, sending occasional reminders to the Government about outstanding responses or desired outcomes. However, in recent times it had taken to overseeing the implementation of recommendations and acting in anticipation of eventual adoption. An example of the former was the instigation of a number of practical measures to maintain awareness among Members of the interventions trial; an example of the latter was the committee’s close involvement in work by parliamentary departments on relocation options for the Main Committee.
- 6.169 The estimates inquiry continued with round table discussions on 22 October attended by committee chairs and deputies and on 12 November by committee secretaries.²⁶⁹ Toward the end of the sitting year, the committee had several active inquiries: consideration of estimates, redrafting standing orders and the conduct of divisions.²⁷⁰ In addition, it was conducting an oversight of the interventions trial and exploring options for the relocation of the Main Committee. At its last meeting for the year on 12 December 2002, Mrs Bishop, drew the committee’s attention to an issue involving standing order 344.²⁷¹
- 6.170 The first meeting for 2003 was held in Sydney on 29 January to begin the exacting process of working through the proposed revised standing

²⁶⁸ Committee minutes.

²⁶⁹ Committee minutes.

²⁷⁰ The last of these was launched on 14 November at the request of the Leader of the House.

²⁷¹ This hinged on the use, for the first known time, of a provision to exclude visitors (in this case the media) from a hearing of the Standing Committee on Legal and Constitutional Affairs on the initiative of one member. Mrs Bishop, a member of the Procedure Committee and also chair of the committee concerned, raised the matter at the meeting on 12 December.

orders. This was only the third inquiry in which the committee had moved from place to place.²⁷²

6.171 Not all the committee's influence was exerted through its reports. The committee had often lent its support to proposals which were put into effect through negotiations behind the scenes rather than by resolution on the floor of the House. On the other hand it had also signalled a lack of support for proposals by letter, not report. In late 2002 a Government backbencher, Dr Washer, had written to the committee requesting that it 'urgently address the issue of restructuring of sitting hours'. At its last meeting for 2002 the committee agreed to write to the Leader of the House and the Manager of Opposition Business proposing a scheme of sittings under which the House would rise earlier but not sacrifice sitting time by virtue of not suspending for dinner breaks. Early in 2003 the Leader of the House, in moving a motion to put the scheme into effect, noted that the Government had 'decided to accept the recommendation of the Procedure Committee relating to sitting hours'.²⁷³

6.172 In the meantime, the issues surrounding the interpretation of standing order 344 had taken another turn. On 5 February the House agreed, not without a deal of contention, to adopt a sessional order replacing the existing standing order.²⁷⁴ The Leader of the House explained the objective:

The government wants to change standing order 344 to provide that individual committee members will no longer be able to force committee proceedings into camera. I believe this change is necessary because, late last year, for the first time, standing order 344 was invoked by a member of a committee against the wishes of the majority of that committee to, in the view of the chairman and the majority of that committee, stymie the workings of the committee.

6.173 Mr Melham, the Member who had invoked standing order 344 at the hearing chaired by Mrs Bishop, spoke during the debate, moving an amendment to refer the matter to the Procedure Committee before any decision was made by the House. The proposed amendment was negatived but, in summing up, the Leader of the House undertook to request the committee to review the operation of the sessional order.

²⁷² And the fourth occasion, and the fifth meeting—see paras 6.11, 6.73 and 6.74.

²⁷³ VP 2002-03-04/707-8; HR Deb (6.2.2003) 11071-4.

²⁷⁴ VP 2002-03-04/698-9; HR Deb (5.2.2003) 10898-905.

- 6.174 At its meeting on 13 February 2003, the committee reorganised its workload: it would seek opinions from committee chairs and deputy chairs on the efficacy of sessional order 344; it would ask for sessional order 84A to be reactivated;²⁷⁵ it would continue lobbying for the renaming of the Main Committee; and it would continue redrafting the standing orders and its inquiry into divisions.²⁷⁶
- 6.175 The committee held discussions on 6 March with the visiting members of the Canadian House of Commons Special Committee on Modernisation, a committee with similar responsibilities. The Procedure Committee had often looked to Canadian practices and procedures for inspiration.
- 6.176 The committee continued redrafting the standing orders. The magnitude of the task was manifest in the periodic need to reconsider basic drafting principles—for example, reconciling the argument between description and prescription—all the while inching through the minutia of specific provisions. The committee preferred a more prescriptive approach than adopted in the Clerk’s draft and the transition could not always be seamless.
- 6.177 The divisions inquiry made faster progress. The committee held discussions with Mr Evans, Clerk of the Senate; Mr Tuckey (a proponent of a novel way of conducting divisions) and the party whips. The committee also received submissions to its review of sessional order 344.²⁷⁷
- 6.178 The review of the operation of sessional order 344 concluded on 17 June 2003 and the report was presented two days later during government business time.²⁷⁸ The committee had concluded that committees by their very nature, supported by established practice, operated on the basis of agreement, not individual initiative except in extreme situations where the Chair might need to act unilaterally. It therefore supported the replacement of the standing order by the sessional order. Further, it recommended that the new standing order ‘should be interpreted and applied in a manner consistent with the presumption that proceedings of committees should be by agreement’.²⁷⁹

²⁷⁵ The provision for making interventions in the Main Committee had expired at the end of the 2002 sittings.

²⁷⁶ Committee minutes.

²⁷⁷ Including one from the member of the Procedure Committee who was also the chair of the committee at the heart of the standing order 344 episode.

²⁷⁸ VP 2002–03–04/991; HR Deb (19.6.2003) 16979–84.

²⁷⁹ SO 344, 16.

- 6.179 No formal government response was needed in this case because in redrafting the standing orders the committee incorporated the intention of the sessional order, rather than retaining the pre-existing standing order.²⁸⁰ The House implicitly signified its approval of this course by adopting the redrafted standing orders on 24 June 2004.²⁸¹
- 6.180 To an already full inquiry program, the committee added, in late June 2003, a matter the Speaker had requested be considered: arrangements for second reading speeches. This entailed curtailing the time for a Member's second reading speech to allow a brief period for other Members to ask questions at the end of the speech.
- 6.181 The divisions inquiry was finalised on 26 June and the report, *Review of conduct of divisions*, presented on 18 August 2003.²⁸² The Selection Committee allocated ten minutes for presentation.²⁸³ In her tabling speech the Chair noted that this was not the first time the committee had looked at divisions and referred to similar ground covered in *Conduct of divisions*. The latest report had three recommendations, including the installation of a display device in the Chamber, a trial of additional tellers and opening the issue of electronic voting to debate in the House.²⁸⁴
- 6.182 Because the standing orders since 1997 had given the Speaker the discretion to appoint additional tellers,²⁸⁵ no formal decision was required by the House to implement the second recommendation. The Speaker made a statement after Question Time on 9 September 2003:

I inform the House that for a trial period and with effect from the first division today, additional tellers are to be appointed for

²⁸⁰ Compare standing order 240 as at 16 November 2004 with sessional order 344 as at 5 February 2003 and standing order 344 as at 16 September 2002.

²⁸¹ Discussed later at para 6.199.

²⁸² VP 2002-03-04/1085; HR Deb (18.8.2003) 18669-71.

²⁸³ According to recent practice, the Selection Committee allocates 10 minutes as a de facto standard for the presentation of committee and delegation reports. While this has the virtue of being equitable in sharing scarce time between committees it sometimes fails to recognise particularly significant reports.

²⁸⁴ *Review of conduct of divisions*, ix.

²⁸⁵ The House adopted amendments to the standing orders to implement some of the recommendations in *Conduct of divisions* on 6 March 1997. A committee proposal to streamline divisions was not adopted at the time but an alternative proposal negotiated between the Leader of the House and the Opposition was adopted instead: this entailed removing the existing requirement that two tellers be appointed per side and leaving it open to the Speaker to appoint as many tellers as were felt to be required. This provision was used to advantage for the remainder of the 38th Parliament—in which counting was slowed because of a large Government majority—but in subsequent Parliaments the Chair reverted to appointing two tellers per side.

divisions. Eight tellers will be appointed for a division: two pairs of tellers to count each side. In the case of successive divisions, members changing their vote, leaving the chamber or entering the chamber should report to the tellers who have counted the block in which they have voted or who will count the block in which they will vote. These changes reflect a recommendation of the Procedure Committee in its recent report *Review of the conduct of divisions*. The purpose is to reduce the time taken for divisions. The changes are introduced with the agreement of the chief whips. The Procedure Committee will monitor the success of the trial.²⁸⁶

- 6.183 The next inquiry to be completed was the consideration of estimates. The committee agreed to the report on 18 September 2003.²⁸⁷ Five other reports were to be tabled on the same Monday as *House estimates* and the Selection Committee allocated the usual ten minutes for a report containing some highly detailed and far-reaching recommendations. The Chair presented *House estimates* on 13 October.²⁸⁸ In essence the committee advocated a truncated second reading debate on the main Appropriation bills followed by a motion ‘to approve the Budget’ thus allowing the traditional Budget debate to proceed at the same time as the consideration in detail stage. This would enable greater scrutiny of the budget estimates in the House. Other recommendations related to greater House committee involvement in the Budget process with the general purpose standing committees.²⁸⁹ The report was debated in the Main Committee on 25 November.²⁹⁰
- 6.184 On 6 November the committee held a round table discussion on the Speaker’s proposal for a brief question period after speeches during the second reading stage. The Speaker, Deputy Speaker, Leader of the House, Manager of Opposition Business, whips and others attended.²⁹¹
- 6.185 Four years after the committee had first proposed that the standing orders be ‘restructured and rewritten to make them more logical, intelligible and readable’,²⁹² it concluded its reworking of the draft submitted by the Clerk and tabled by the committee as a discussion paper.²⁹³ Again the Selection Committee allocated ten minutes for presentation of *Revised standing*

²⁸⁶ VP 2002–03–04/1141; HR Deb (9.9.2003) 19533–4.

²⁸⁷ Committee minutes.

²⁸⁸ VP 2002–03–04/1239; HR Deb (13.10.2003) 21144–7.

²⁸⁹ *House estimates*, xi–xiv.

²⁹⁰ VP 2002–03–04/1321; HR Deb (25.11.2003) 22840–8.

²⁹¹ Committee minutes.

²⁹² *It’s your House*, 29 (Recommendation 8).

²⁹³ See para 6.166.

orders. The report was presented on 24 November 2003.²⁹⁴ This time the fates smiled and the time for presentation was augmented by spare time when another committee failed to table a scheduled report. Moreover, the House agreed to a suspension of standing orders to allow debate on a motion to take note of the report later in the same sitting.

- 6.186 In her tabling speech the Chair stressed the housekeeping nature of the task, implicitly noting the temptations which the committee had resisted:

However, while there are omissions, there are no additions. I must stress this point: the purpose of this revision was to make the existing rules easier to read and comprehend. This report does not alter the effect of the current standing orders or change existing practice. While this revision does not change existing practice, there are several provisions of the existing orders that individual members of the committee have concerns about and suggestions for change. However, we decided that such matters should be addressed separately and not as part of this report.

The Deputy Chair also spoke on the presentation of the report and later in the day, after the grievance debate, three other committee members spoke to the motion ‘That the House take note of the report’.²⁹⁵

- 6.187 To round off a productive year,²⁹⁶ the committee concluded its review of the additional tellers trial²⁹⁷ and the inquiry into arrangements for second reading speeches.²⁹⁸ The reports were presented on the last sitting Monday for the year and the committee was allocated the usual ten minutes. The Chair presented *Second reading speeches* and *Additional tellers* together.²⁹⁹
- 6.188 The committee supported the Speaker’s proposal for injecting more interaction into second reading debate and recommended that a trial commence in 2004.³⁰⁰ On the other hand, the committee found that the trial of additional tellers, while demonstrating time savings for four-minute divisions, had not been an unqualified success for a number of reasons and recommended a return to the status quo ante.³⁰¹ The Speaker informed

²⁹⁴ VP 2002–03–04/1311–2; HR Deb (24.11.2003) 22456–61.

²⁹⁵ VP 2002–03–04/1313; HR Deb (24.11.2003) 22532–5.

²⁹⁶ The committee presented 6 reports in 2003, the most in any year to date.

²⁹⁷ See para 6.182.

²⁹⁸ See para 6.180.

²⁹⁹ VP 2002–03–04/1342; HR Deb (1.12.2003) 23283–6.

³⁰⁰ *Second reading speeches*, ix.

³⁰¹ *Additional tellers*, xi.

the House at the first sitting in 2004 that he would revert to the original practice.³⁰²

- 6.189 There was a brief debate in the Main Committee in connection with *Second reading speeches* on 3 and 4 December 2003.³⁰³ During the debate, the Deputy Chair, Mr Price, revealed that his party had a vision for the committee:

It is for this reason that the Australian Labor Party have adopted as policy that we should change the name of the Procedure Committee to the Procedure and Modernisation of Parliament Committee and have as members of that committee the Speaker, the Leader of the House and the Manager of Opposition Business. With such a committee bringing down reports, I think you would see that a government would be, in the main, totally committed to it. Notwithstanding the good work of the Procedure Committee over the years, I think too many reports have languished and gathered dust in the bowels of the parliament.

- 6.190 The Speaker's biannual schedule of government responses—tabled at the last sitting for 2003, 4 December—showed that in addition to the three reports tabled in the last month (*Revised standing orders*, *Second reading speeches* and *Additional tellers*), two reports had not yet received a formal government response: *Balancing tradition and progress* and *SO 344*.³⁰⁴
- 6.191 The Procedure Committee began its twentieth year with no current inquiries listed on the Notice Paper. At its first meeting for 2004 on 12 February it agreed to launch three inquiries: procedures for joint meetings with the Senate; three-minute statements in the Main Committee; and, an alternative name for the Main Committee. Each was a legacy of earlier inquiries. The committee took on an additional inquiry, subsuming requests from the Manager of Opposition Business and the Press Gallery Committee, respectively, about liberalising guidelines for still photography in the Chamber, into a broad-ranging inquiry into enhancing public knowledge of Parliament's operations through extended broadcasting.³⁰⁵

³⁰² VP 2002–03–04/1401; HR Deb (10.2.2004) 24090.

³⁰³ VP 2002–03–04/1372, 1400; HR Deb (3.12.2003) 23735–40, (4.12.2003) 24047–50.

³⁰⁴ There had been little time to respond to the three first mentioned. The Government had indicated its support for SO 344 and indeed the sessional order was still in force. Officially, that effectively left *Balancing tradition and progress* as the only outstanding report however for reasons unknown *House estimates* was omitted from that and subsequent Speaker's schedules.

³⁰⁵ Committee minutes.

- 6.192 The inquiry on joint meetings could trace its origins to the presidential addresses to the Parliament in October 2003.³⁰⁶ Two Senators disregarded the authority of the Speaker during a meeting of Senators and Members in the House of Representatives Chamber, authorised by joint resolution, to hear an address by US President George W. Bush. The resulting disorder raised a number of procedural and indeed constitutional issues. The Senate had already referred different aspects of the proceedings to its Procedure Committee and Committee of Privileges, respectively.³⁰⁷
- 6.193 The inquiry on media coverage also arose from an incident in the Chamber.³⁰⁸ Several newspapers published photographs of a protester after he had jumped onto the floor of the Chamber from a public gallery. The Speaker imposed penalties on the newspapers concerned for violating well-known prohibitions on still photography of such events.
- 6.194 The round table discussion had become a standard tool for Procedure Committee inquiries. This was taken to a new level when on 25 March the committee convened a round table discussion touching all its current inquiries.³⁰⁹
- 6.195 The Main Committee would celebrate the 10th anniversary of its first meeting on 8 June 2004, not a sitting day. It was apposite, then, that the committee should complete its follow-up inquiry into the identity of the Main Committee in time to commemorate this milestone. The Chair presented *Renaming the Main Committee* on 3 June—the last sitting before 8 June—during government business time.³¹⁰ The Speaker attended a small birthday celebration which the committee held in honour of the occasion.
- 6.196 The committee accepted that the term ‘Second Chamber’ was used in some parliamentary environments to signify the ‘upper’ House of a bicameral legislature. Nevertheless, as mentioned in para 6.142, the original argument for changing the name remained valid. The committee proposed a formal title, ‘The Federation Chamber of the House of Representatives’, to be known by the short title of ‘Federation Chamber’.³¹¹

³⁰⁶ VP 2002–03–04/1275; HR Deb (23.10.2003) 21687–93.

³⁰⁷ SJ 2002–03–04/2630–1 and 2645–7.

³⁰⁸ HR Deb (12.2.2004) 24647.

³⁰⁹ Committee minutes.

³¹⁰ VP 2002–03–04/1675; HR Deb (3.6.2004) 30065–7.

³¹¹ *Renaming the Main Committee*, vii.

- 6.197 The committee held yet another round table discussion on 15 June. On this occasion those attending included representatives from the media and press gallery and the discussion was confined to the inquiry on media coverage.
- 6.198 The Chair presented the report *Joint meetings* on 21 June.³¹² Again the report was caught in an ‘end of sittings’ rush and was allocated ten minutes for presentation. In this case, little more time was needed. The committee recommended a similar solution to the procedural and constitutional problems of convening the two Houses together to hear addresses by distinguished persons as had the Senate Procedure Committee. Future addresses should be ‘in the form of a meeting of the House of Representatives to which all Senators are invited as guests’.³¹³
- 6.199 On 24 June 2004 perhaps the most significant of the Procedure Committee’s achievements was realised: the revised standing orders were adopted to come into effect from the first day of sitting in the 41st Parliament.³¹⁴ In moving their adoption, the Leader of the House, Mr Abbott, reminded the House of the scope of the first major revision since 1963:

The standing orders have been renumbered, reordered and rewritten—not to alter their meaning but to make them clearer and more intelligible. It is of course a unanimous recommendation of the Procedure Committee that these new standing orders be adopted by the House.

While the Deputy Chair, in supporting the motion, thanked the Leader of the House for not following the precedents established in 1903, 1905, 1937, 1943 and 1949—when the Standing Orders Committee presented revisions that were never implemented—he also took the opportunity to observe that government responses were still awaited on a number of reports of the Procedure Committee. The Chair also spoke in support of the motion, concluding that the committee ‘was delighted that the revised standing orders have been adopted and we look forward to working with them in the next parliament’.

- 6.200 With speculation of an imminent election mounting, the committee decided it would present an interim report on its inquiry into media coverage. This was released ‘out of session’ by delivering a copy to the Speaker on 29 June. The Deputy Chair, Mr Price, formally presented the

³¹² VP 2002–03–04/1712; HR Deb (21.6.2004) 30873–5.

³¹³ *Joint meetings*, vii.

³¹⁴ VP 2002–03–04/1744; HR Deb (24.6.2004) 31486–8.

interim report, *Media coverage*, to the House on 9 August³¹⁵ noting that the committee was yet to finalise its views on a number of issues. However it was prepared to make some preliminary recommendations and expected the report to trigger further feedback from the media.

- 6.201 On 13 August 2004, during an extension of the last sitting for the 40th Parliament, the clean sequence of renumbered standing orders which the House had resolved should come into effect from the opening of the next Parliament was marred by the adoption, on motion of the Leader of the House, of standing order 66A. This gave permanence to the interventions experiment in the Main Committee which had been recommended in *Second Chamber*. In moving its adoption, Mr Abbott alluded to ‘the strong desire of the committee’ that the sessional order be absorbed into the new standing orders.³¹⁶
- 6.202 Two minutes later, the House adjourned its final sitting for the 40th Parliament. Parliament was prorogued and the House dissolved on 31 August 2004.

Forty-first Parliament: 2004—³¹⁷

- 6.203 The 41st Parliament met for the first time on 16 November 2004. The Procedure Committee was established pursuant to standing order 221, the successor to old standing order 330 in the revised standing orders which had just come into effect. The committee’s standing terms of reference had been simplified ‘to inquire into and report on the practices and procedures of the House and its committees’. That it would do so for their improvement was taken for granted.
- 6.204 Immediately before the first Question Time in the new Parliament, the Speaker referred to the Procedure Committee’s most recent notable achievement:

I remind members that with the first sitting of the new parliament yesterday a new set of standing orders has come into operation. The terms of the new standing orders were recommended by the Procedure Committee. The committee’s objective was to make the standing orders clearer and more intelligible. The revised standing orders are expressed with greater clarity and have a new structure

³¹⁵ VP 2002–03–04/1787; HR Deb (9.8.2004) 32411–3.

³¹⁶ VP 2002–03–04/1822; HR Deb (13.8.2004) 33054.

³¹⁷ To the end of March 2005.

and sequence, but I remind members that the Procedure Committee's intention was not to change the practices and rules by which the House operates. In applying the new standing orders, occupants of the chair will have regard to the practices of the House and to previous rulings.³¹⁸

- 6.205 While making a statement to the House on 6 December about certain procedural matters, the Speaker indicated that he had decided to seek the views of the Procedure Committee on the application of the anticipation rule, particularly during Question Time.³¹⁹
- 6.206 In the meantime, the House had appointed members to the committee in separate motions on 1 and 2 December.³²⁰ The committee met for the first time on 2 December and elected Mrs May in absentia to take the Chair.³²¹ The committee then elected Mr Melham as Deputy Chair and he presided for the remainder of the meeting.
- 6.207 The committee agreed at its second meeting on 9 December, again chaired by Mr Melham, to undertake an inquiry into the anticipation rule, as requested by the Speaker. As had been so often the case with immediate problems brought to its attention, the committee was to deal promptly with this matter and would report early in the new year. The committee was also briefed at its last meeting for 2004 on the matter of relocating the Main Committee.³²²
- 6.208 Also on 9 December, the Speaker presented his biannual schedule of outstanding government responses³²³ which showed that the following Procedure Committee reports were awaiting a response:

Balancing tradition and progress (presented 27.8.01)

Second reading speeches (presented 1.12.03)

Renaming the Main Committee (presented 3.6.04)

Joint meetings (presented 21.06.04)

Media coverage (presented 9.8.04).

³¹⁸ HR Deb (17.11.2004) 73.

³¹⁹ VP 2004–05/88; HR Deb (6.12.2004) 36–7.

³²⁰ VP 2004–05/67, 77.

³²¹ Committee minutes. Mrs May, who was absent from the House, had written to committee members indicating that should she be nominated she would be willing to serve as Chair. This was the first occasion on which a Procedure Committee Chair had been re-elected for a second term. As far as is known, it was also the first time an absent member had been elected Chair of a House standing committee.

³²² Committee minutes.

³²³ VP 2004–05/128.

Because *Media coverage* was an interim report, the committee was not expecting a response to it. However, it did expect formal responses to the remainder as well as to *House estimates* (which still was not listed).³²⁴ The schedule noted that the Government had indicated responses to the first two listed reports would be ‘tabled in due course’ but that it did not support the proposed new name for the Main Committee and that it considered the existing arrangements for joint meetings continued to be appropriate.

6.209 The Chair was back at the helm when the committee met on 10 February 2005 for the first time in the new year. After further work on the anticipation rule inquiry, the committee agreed to proceed with the preparation of a report to mark the 20th anniversary of the committee’s establishment.³²⁵

6.210 The committee completed its inquiry at a meeting on 7 March and the Chair presented the report, *Anticipation rule*, on 14 March 2005.³²⁶ Both the Chair and Deputy Chair spoke on presentation, the former outlining the recommendations:

Some proceedings, including question time, members’ statements, ministerial statements and matters of public importance take the same amount of time regardless of the subject matter. It cannot be argued that applying the anticipation rule to these proceedings saves the time of the House. The committee considers that nothing is gained by applying the anticipation rule to these periods. The general rule, standing order 77, should therefore be restricted to debates when there is a question before the House. If this recommendation is adopted by the House, standing order 100(f) relating to questions would be omitted for the rest of the session. This change would go a considerable way to promoting the usefulness of question time as a time of scrutiny. In this context, the committee notes that a complementary improvement would be to avoid referring to new policies during question time and ensuring that ministerial statements are used for this purpose.

6.211 Action was not slow in coming. After considerable liaison behind the scenes, the House on 17 March adopted for the remainder of the session an amendment of standing order 77 more precisely prescribing the

³²⁴ See footnote 304 in this chapter.

³²⁵ Committee minutes.

³²⁶ VP 2004–05/237; HR Deb (14.3.2005) 3–6.

application of the anticipation rule in debate and suspending the provision in standing order 100 for its application to Question Time.³²⁷

Conclusion

6.212 This chapter has examined the work of the committee in detail. The next chapter shall add the recollections of former Chairs to the evidence available on the public record. Then, in the following chapter, we will attempt to assess the contribution of the Procedure Committee to twenty years of procedural reform in the House of Representatives.

³²⁷ VP 2004–05/278; HR Deb (17.3.2005) 7–13.