
The Parliament of the Commonwealth of Australia

Options for nursing mothers

House of Representatives
Standing Committee on Procedure

June 2007
Canberra

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Foreword

On 15 February 2007 the Standing Committee on Procedure was asked to consider a proposal to allow nursing mothers a proxy vote. While the committee spent considerable time discussing this proposal, it could not reach a unanimous decision either in support or against proxy voting. A significant obstacle for a number of committee members was the concern that a somewhat dangerous precedent could be established by introducing proxy voting, even on a limited basis, for nursing mothers in the House of Representatives.

Given the level of dissent, the committee resolved to present a report detailing the arguments for and against this proposal. Perhaps most importantly, this report represents an acknowledgement that women in the House of Representatives face a level of difficulty when nursing new born infants. While women themselves are not necessarily calling for any special attention, it is important that the House appreciates women's dual roles in the early months of their children's lives and that some accommodating measures be implemented. This could be in the form of a blanket allowance of three months' maternity leave, or the provision of adequate child care in the House. The committee sincerely hopes this report will encourage greater awareness and discussion of the issue.

Margaret May MP
Chair



Membership of the Committee

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Terms of reference of the committee

To inquire into and report on 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.

Options for nursing mothers

An increasing presence of women in parliament

- 1.1 Women in Australia were granted the right to stand for election to the federal Parliament in 1902, well before many of their counterparts overseas. It would take another 40 years, however, before any were in fact elected – albeit in few numbers.
- 1.2 In 1943, two women took their seats in the federal Parliament: Dorothy Tangney in the Senate and Dame Enid Lyons in the House of Representatives. Senator Tangney would be joined at subsequent elections by an increasing number of women in the Senate; Mrs Lyons on the other hand would be the only woman in the House between 1943 and 1946, and again between 1949 and 1951. The Independent Member, Doris Blackburn, who joined Mrs Lyons in the House in 1946, was defeated in 1949. No women were elected to the House of Representatives between 1951 and 1966, or between 1969 and 1974.
- 1.3 Since the 1980s, however, women’s representation in both chambers has improved significantly. Today, women represent a little over 35 per cent of the Senate, and just fewer than 25 per cent of the House of Representatives.
- 1.4 The extent to which women’s increasing presence in these chambers has had an impact on parliamentary practice and procedure has been a topic of great interest in the community and amongst Members themselves. Some have argued that as women are not a homogenous group and do not necessarily share each others’ views across political party lines, it is difficult – if not unrealistic – to expect women to

collectively change any aspect of the political or parliamentary process.

- 1.5 Others have argued that women share the experience of being a woman, and that this in turn has some impact on their experience of being a woman Member of Parliament.

Challenges for mothers in the House

- 1.6 This debate has recently resurfaced in light of an increasing number of nursing mothers amongst Members of the House of Representatives. Table 1.1 details the number of women who have given birth while Members of Parliament.

Table 1.1 Women Members of Parliament having children while in office

| Name | Chamber | Party | Year |
|-----------------------|--------------------------|-------|------|
| Ros Kelly | House of Representatives | ALP | 1983 |
| * Ros Kelly | House of Representatives | ALP | 1984 |
| Jacinta Collins | Senate | ALP | 1995 |
| Anna Burke | House of Representatives | ALP | 1999 |
| Jackie Kelly | House of Representatives | LP | 2000 |
| * Jacinta Collins | Senate | ALP | 2000 |
| Kate Lundy | Senate | ALP | 2001 |
| Michelle O'Byrne | House of Representatives | ALP | 2001 |
| Tanya Plibersek | House of Representatives | ALP | 2001 |
| * Anna Burke | House of Representatives | ALP | 2002 |
| * Jackie Kelly | House of Representatives | LP | 2002 |
| * Michelle O'Byrne | House of Representatives | ALP | 2002 |
| Kirsten Livermore | House of Representatives | ALP | 2003 |
| * Tanya Plibersek | House of Representatives | ALP | 2005 |
| Natasha Stott Despoja | Senate | AD | 2004 |
| Nicola Roxon | House of Representatives | ALP | 2005 |
| * Kirsten Livermore | House of Representatives | ALP | 2006 |

Source Based on information provided by the Politics and Public Administration Section, Parliamentary Library

Notes * Denotes second child

- 1.7 Many would understand the difficulties inherent in combining the responsibilities associated with being a Member of Parliament and those of caring for a newborn infant. Members of Parliament are expected to work long hours, particularly when the House is sitting; in their first months, infants require constant care and attention at any time of the day or night. On some occasions, women have faced the

difficult choice between prioritising their duties as a Member with those of being a mother.

- 1.8 To date, there has been no specific set of arrangements agreed to by the House which might provide for women in such circumstances. In an attempt to address this challenge, the three party whips of the House, Mr Kerry Bartlett MP (Chief Government Whip), Mr Roger Price MP (Chief Opposition Whip) and Mrs Kay Hull MP (Chief Nationals Whip) came together to discuss the issue. The whips understood and agreed that mothers in the House faced certain difficulties, particularly in attending divisions when nursing their babies.
- 1.9 The whips further agreed that some kind of arrangement should be put in place before the next federal election, given the possibility of a much closer result in the House of Representatives. It was recognised that the current Government's significant majority has allowed whips to grant their Members leave when it has become too difficult to look after an infant in the House.
- 1.10 The group approached the Clerk of the House of Representatives, Mr Ian Harris, in search of a solution which would effectively allow mothers to prioritise their infants' needs in critical moments of House activity.
- 1.11 On 15 February 2007, the Clerk wrote to the Standing Committee on Procedure about a proposed trial of proxy voting for nursing mothers who, he wrote, might 'not be able to participate fully in the Chamber'.

Proxy voting

- 1.12 One proposed solution was the introduction of proxy voting. In his letter to the committee, the Clerk provided the definition of proxy voting used in the New Zealand House of Representatives, namely as:
- a means by which a Member who is absent from the Chamber and cannot vote in person has his or her vote recorded. A proxy may be of an open nature applying to all business for an indefinite period and leaving it to the proxy holder as to the way in which the vote will be exercised. It can be applied to a specific vote, or be withdrawn at any time.¹
- 1.13 The Clerk considered the extension of a proxy vote to breastfeeding mothers to be 'a significant step in relation to the traditions of the

¹ David McGee, *Parliamentary Practice in New Zealand*, 3rd edition, 2005, pp. 213-4.

House' and cautioned that care would need to be taken 'not to reinforce the perception sometimes expressed that parliamentary members of a political party merely rubber stamp the decisions of their political party'.

- 1.14 This notwithstanding, the Clerk felt this perception could be mitigated if proxy voting were implemented within a strictly defined framework. He suggested this could include:
- a clear indication of the Member casting the proxy vote;
 - the direction of that Member's proxy vote (i.e. an 'aye', 'no' or abstention);
 - who the proxy should physically be given to (e.g., to the Chief Whip on either side or the person performing the duties of the Chief Whip at the time within the Chamber; and in the case of Independent Members, the Chief Opposition Whip);
 - the whereabouts of the mother at the time of the division; and/or
 - the age of the infant.
- 1.15 The Clerk also suggested that a sessional order could provide that proxy votes could not be exercised in voting on issues understood as subject to conscience votes.
- 1.16 Similarly, the Clerk noted that it would be preferable not to extend provisions for proxy voting on votes requiring an absolute majority for the third reading of a Constitution Alteration Bill.

Committee deliberations

- 1.17 At its request, the Clerk provided the committee with a draft resolution to extend nursing mothers a special provision to cast a vote by proxy during certain divisions on 8 May 2007 (see Appendix A).
- 1.18 In considering the proposals outlined in the Clerk's original letter and the subsequent draft resolution, the committee informally canvassed the views of a number of women Members, in addition to those of the Chief Government Whip, the Chief Nationals Whip, and the Clerk himself.
- 1.19 It is important to state at the outset that the committee's deliberations on this issue have not been unanimous. While some Members were keen to acknowledge and respect the agreement reached between the three party whips and thereby endorsed the proposal, other Members were not so convinced.
- 1.20 Challenges for these members principally lay in three areas:

- the precedent that could be set by introducing proxy voting in the House;
- the current lack of demand for the proposal; and
- the practical operation of the proposal.

1.21 The following sections outline the committee's views in these respects.

Creating a precedent for proxy voting?

- 1.22 The introduction of proxy voting in the House of Representatives presented the strongest cause for concern amongst certain members of the committee.
- 1.23 These members noted the fundamental principle by which divisions have been taken traditionally in the House, requiring Members to be physically present in the chamber. This affords Members the opportunity to hear the arguments presented on a given debate and then cast their vote publicly. Some members of the committee were concerned that introducing proxy votes could begin to eradicate this principle.
- 1.24 Members were especially concerned that the proxy vote not be applied in the same (somewhat lenient) circumstances used in the New Zealand Parliament where a proxy vote is allowed if a Member is:
- present in the parliamentary precincts but not available to attend the Chamber for a vote;
 - attending a Committee meeting outside Wellington with permission;
 - absent with permission on official business; or
 - absent with Speaker's permission because of family illness or on other official business (whether in New Zealand or overseas).²
- 1.25 Members in favour of the proposal however argued that subject to the terms of the resolution, a Member would not be allowed a proxy vote unless she were in Parliament House. In this sense, the Member would still be able to follow the debate(s) in the chamber and the Main Committee.
- 1.26 Moreover, the whips noted that those women who had some experience of breastfeeding in Parliament House were acutely aware of their responsibilities as Members and the requirement on them to

2 New Zealand House of Representatives Standing Orders, so 156(4).

cast a vote in the House. The whips suggested that a proxy vote would effectively allow these women to look after their child while still having their voice heard.

- 1.27 There was also some concern that once a provision for proxy voting was established in the standing orders, albeit one limited to nursing mothers, the provision could in the future be extended to those who found it difficult to attend divisions for other reasons. Health reasons were frequently cited.
- 1.28 Again the whips asserted the importance of limiting this proposal strictly to nursing mothers; indeed, the whips were not in favour of extending the provision to women who bottle fed their infants. Nor would a proxy be granted to a Member (male or female) unable to attend a division because they could not leave their child unattended in the office. Those in favour of the proposal agreed that it should not be viewed as any sort of precedent to be extended to others.

Demand for the proposal

- 1.29 There was some debate over the question of demand for this proposal. At this time, there is no demand for such a proposal. As such, the proposed resolution can not be trialled on a sessional basis.
- 1.30 Despite this, those in favour of the proposal have suggested it be implemented before the need arises, and certainly before the next federal election. This would, in part, recognise the possibility of more young women, of all political persuasions, entering parliament.
- 1.31 Calls for this proposal have not necessarily come from the mothers themselves. Conscious of their responsibilities as Members, many of the women informally canvassed by the committee were not in favour of 'different' arrangements for mothers.

Practical concerns

Proving a Member's presence in the House

- 1.32 The draft resolution requires Members to be nursing an infant in Parliament House at the time of the division. Under these arrangements, there would be no requirement to demonstrate the Members' presence in the House or the fact that she was nursing an infant. Members considered it impractical to expect a nursing mother to present herself in the vicinity of the Chamber during a division or call her whip's office to declare her presence in the House. Rather, it was understood that an 'honour system' would apply.

- 1.33 It was suggested that the Member could be required to have her attendance recorded in the Chamber at least once during the sitting day (or week, if a more flexible arrangement were agreed on).

The proxy ballot: signed, dated and directive

- 1.34 Another feature of the draft resolution is that a proxy should be signed by the Member. In New Zealand, for example:
- A proxy must state the name of the member who is giving the authority, the date it is given and the period or business for which the authority is valid. It must be signed by the member giving it and indicate the member who is given authority to exercise it.³
- 1.35 To fulfil the requirement of a proxy being signed, a nursing mother might be asked to sign and date a proxy ballot and have this sent down to her whip's office either at the time of a division, or at the beginning of the day. Alternatively, the whips could have a set of pre-signed proxy ballots ready for use if/when a nursing mother indicates her unavailability for a division.
- 1.36 There was some discussion as to whether a proxy would be required for each division conducted in the House, or whether a single proxy ballot would suffice. If, in this respect, the proposal were to adopt the model of the New Zealand Parliament, a proxy could be valid for 'a period of business' (e.g. government business on a Tuesday).
- 1.37 Members were also concerned that the direction of the Member's vote be clearly indicated on the proxy ballot; that is, if the Member wished to cast a vote with the 'ayes', this should be clearly indicated on the ballot. For the most part, a Member will accept his or her whip's advice as to the direction of their vote. Some level of complexity arises in the case of conscience votes, or in the case of Independent Members giving a proxy vote to the Chief Opposition Whip.
- 1.38 Committee members agreed that each of these issues should be carefully considered and resolved before the proposal is implemented.

3 New Zealand House of Representatives Standing Orders, so 155(2).

Other alternatives for nursing mothers

- 1.39 Members unconvinced by the introduction of proxy votes were more supportive of alternative provisions for nursing mothers.

Pairing arrangements

- 1.40 In addition to the proposal for proxy votes, the Clerk's letter referred to pairing arrangements for nursing mothers. Pairing is an unofficial arrangement between Members, organised by party whips, used to enable a Member on one side of the House to be absent for any votes when a Member from the other side is to be absent at the same time or when, by agreement, a Member abstains from voting.⁴
- 1.41 The advantage of the arrangement is that it allows the voting intentions of absent Members to be recorded without distorting the relative voting strengths of the parties.⁵
- 1.42 Challenges can arise with this system when the majority of the Government in the House is slim. In these cases, disputations are more likely to occur between the parties on the precise nature of the arrangements in place.⁶
- 1.43 In light of the possible constitution of the House in the next Parliament, the whips appeared to be less inclined to rely solely on pairing for nursing mothers.

Maternity leave

- 1.44 In the course of discussions with nursing mothers, it was apparent that they had each benefited from, and been grateful for, some period of maternity leave. Table 1.2 provides some analysis of leave approved by the House for this purpose.

Table 1.2 Leave approved by the House for maternity purposes

| Name | Leave approved | More or less than 3 months |
|--------------|---|----------------------------|
| Ros Kelly | No motion for leave moved (absent from House from 1 to 17 November 1983) | Less |
| * Ros Kelly | No motion for leave moved | Unknown |
| Anna Burke | 3 September to 22 November 1999 | Less |
| Jackie Kelly | 15 February 2000 to 13 March 2000 (later extended to 17 March 2000) | Less |

4 *House of Representatives Practice*, Fifth Edition, p. 278.

5 *House of Representatives Practice*, Fifth Edition, pp. 278-9.

6 See examples cited in *House of Representatives Practice*, Fifth Edition, p. 279.

| Name | Leave approved | More or less than 3 months |
|---------------------|--|----------------------------|
| Michelle O'Byrne | 30 November to 7 December 2000 6 February to 8 March 2001 | Less |
| Tanya Plibersek | 6 February to 5 April 2001 | |
| * Anna Burke | 19 March to 18 August 2002 | More |
| * Jackie Kelly | 20 to 21 March 2002 1 April to 18 August 2002 | More |
| * Michelle O'Byrne | 21 August to 22 November 2002 | More |
| Kirsten Livermore | 11 February to 27 March 2003 | Less |
| * Tanya Plibersek | 8 February to 17 March 2005 | Less |
| Nicola Roxon | 10 May to 23 June 2005 | Less |
| * Kirsten Livermore | 27 March to 7 August 2006 | More |

Source *House of Representatives, Votes and Proceedings*

Notes * Denotes second child

- 1.45 It is clear from this table that leave has been granted to women for differing periods of time. Women canvassed by the committee expressed the view that leave was vital in the first few months after birth, particularly given children's patterns of sleeping. The committee therefore considered that an automatic provision of maternity leave for three months would not be unreasonable.

Committee's conclusion

- 1.46 The committee is fully supportive of working mothers and accepts the difficulties that some Members can experience in nursing their infants in Parliament House. The committee understands that a crèche is expected to be built within Parliament House for the use of Members shortly and expects that this will provide mothers with greater flexibility in caring for their infants.
- 1.47 Given the absence of unanimity amongst members, particularly on the introduction of a proxy vote system in the House of Representatives, the committee suggests that this issue be further discussed and advanced by the Chief Whips of the House.

Margaret May MP
Chair
June 2007



Appendix A

Draft resolution—Special provisions for nursing mothers

- (1) That the House, recognising that Members who are required to nurse infants may not always be able to attend in the Chamber to vote in divisions;
 - (a) agrees that, despite the provisions of the standing orders, a Member may give her vote by proxy for any division except that on the third reading of a bill which proposes an alteration of the Constitution if:
 - (i) the Member is in Parliament House at the time of the division;
and
 - (ii) the Member is nursing an infant at the time of the division;
 - (b) determines that for the purposes of this resolution, a government Member may give her proxy to the Chief Government Whip, and that a non government Member may give her proxy to the Chief Opposition Whip; in each case the proxy to be signed by the Member;
 - (c) determines that for the purposes of standing orders 129, 130 and 131 any proxy vote given in accordance with this resolution is to be treated as if it was a vote given by a Member present in the Chamber; and
 - (d) is of the opinion that the special provisions made by this resolution should not be extended or adapted to apply to Members who are not able to be present in the Chamber for other reasons; and
- (2) That this resolution have effect until ...