The Parliament of the Commonwealth of Australia

House of Representatives
Standing Committee on Procedure

PROCEDURES FOR THE OPENING OF PARLIAMENT

Report

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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.

Membership of the committee

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REPORT

Introduction

1. In 1989 the Standing Committee on Procedure commenced a comprehensive review of the standing orders of the House of Representatives. The second report in the review was presented on 6 June 1991 and covered standing orders 1 to 11A, dealing mainly with proceedings on the meeting of a new Parliament[1]. The House has taken no action in respect of the committee's recommendations.

2. On 21 December 1994 the Speaker wrote to the Chair stating '(a)s the term of the current House of Representatives has reached midpoint, I think it is time that the matter of arrangements for the opening of a new Parliament was reviewed again. It would be helpful if the advice of the Procedure Committee was available and I would be grateful if your Committee would be prepared to conduct a further review of the arrangements for consideration by the House.' The committee agreed to the Speaker's request and has reviewed the recommendations made in the earlier report.

Background

3. The procedures for the opening of Parliament have remained relatively unchanged since the opening of the first federal Parliament in 1901. They are marked by ceremony and traditional practices derived from those of the United Kingdom Parliament.

4. The committee believes that a certain amount of ceremony and tradition is an important part of what is an event of major significance and symbolism in our democratic system and for the individual Members elected to form the new Parliament. However the present procedures are rather complex and can be confusing for both observers and participants. In making its recommendations the committee has attempted to simplify the proceedings while retaining the dignity, ceremony and sense of occasion which the event warrants. Certain key traditions have been retained while the recommended changes reflect the special nature of Australia's parliamentary structure.

5. The committee reviewed the evidence it had received and recommendations made in its previous inquiry into the procedures for the opening of Parliament. It also looked again at related recommendations contained in its 1989 report on the election of Speaker[2] and its 1992 report on the standing orders governing the Speaker, Chairman, Deputy Chairmen and officers[3].

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[1] House of Representatives Standing Committee on Procedure, *The Standing Orders governing: General rule for conduct of business; and procedures for the opening of Parliament*, June 1991. (Parliamentary Paper No. 167 of 1991)

[2] House of Representatives Standing Committee on Procedure, 35th Parliament, Fifth Report, *The election of Speaker*, May 1989. (Parliamentary Paper No. 146 of 1989)

[3] House of Representatives Standing Committee on Procedure, *The Standing Orders Governing the Speaker, Chairman, Deputy Chairmen and Officers*, March 1992. (Parliamentary Paper No. 101 of 1992)

6. With only minor modifications the committee concluded that its earlier recommendations were still appropriate and successfully balanced its objectives of simplicity, dignity and ceremony.

The proposed changes

7. The principal features of the proposed arrangements are:

- the elimination of the procession of Members from the Chamber to hear the Deputy of the Governor-General open the Parliament;
- retention of the current procedures for swearing in of Members;
- Chair to be taken by a senior Member for the election of Speaker;
- election of the Deputy Speaker and Second Deputy Speaker to take place immediately following the election of Speaker;
- elimination of a separate ceremony and procession for the presentation of the Speaker to the Governor-General; and
- consultation be held with the Senate and the Governor-General with a view to the Governor-General's opening speech being delivered in the Great Hall of the Parliament.

8. The current and proposed orders of business for opening day are summarised in figures 1 and 2 respectively.

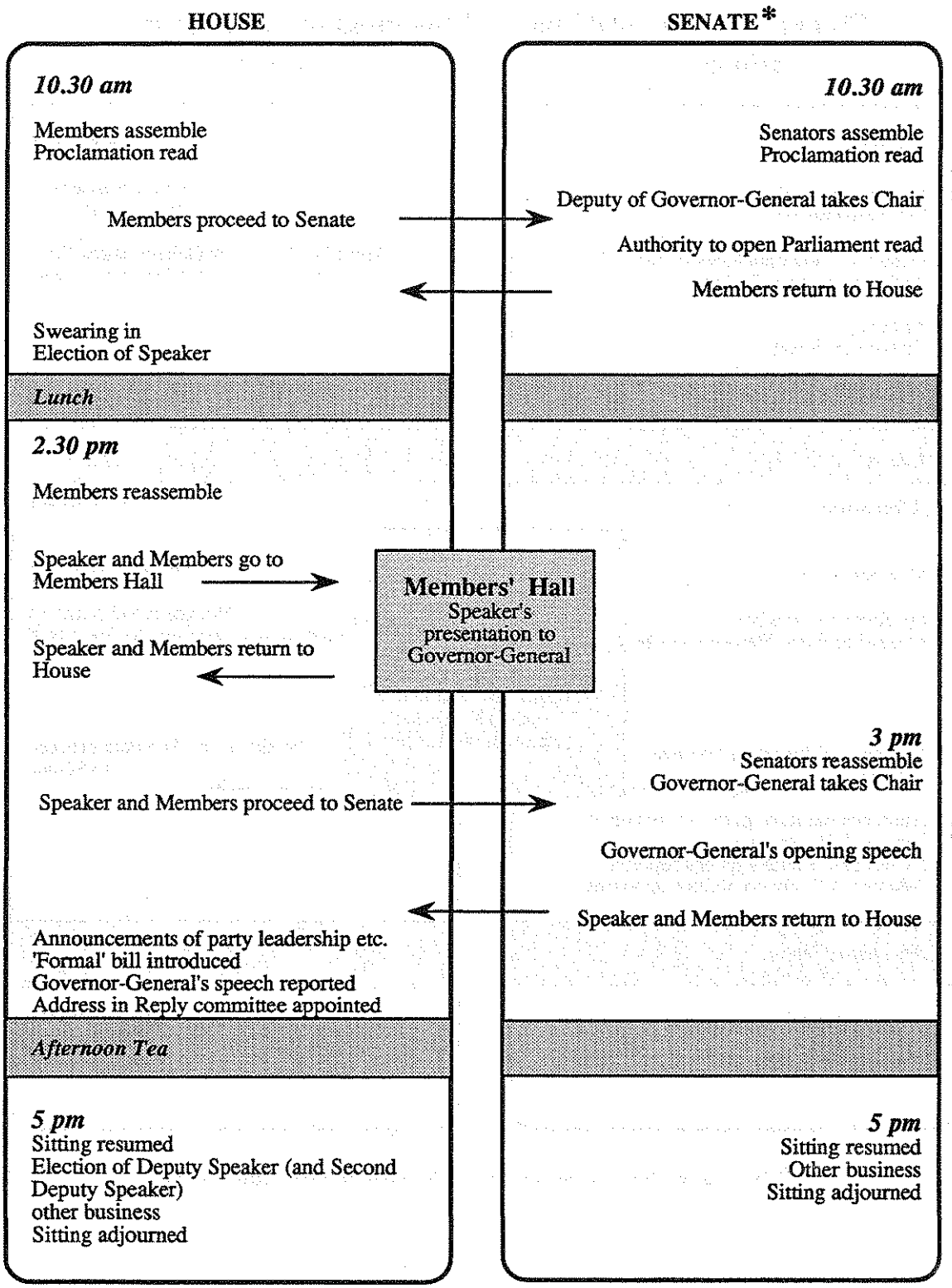
Procession to the Senate to hear the Governor-General's Deputy

9. Under existing arrangements, Members and Senators assemble in their respective Chambers before a Deputy appointed by the Governor-General directs an officer of the Senate (Black Rod) to summon Members to the Senate Chamber. When assembled:

- The Deputy advises that the Governor-General, not thinking fit to be present in person, has appointed him or her as the Governor-General's Deputy to declare open the Parliament. This address is, in effect, the declaration of the opening of the Parliament.
- The instrument appointing the Deputy is read by the Clerk of the Senate.
- The Deputy then—
    - advises that, after Members have been sworn, the Governor-General will declare in person the causes of the calling together of the Parliament (opening speech);
    - directs Members to return to the House and elect a Speaker; and
    - advises that he or she will attend in the House to administer oaths or affirmations.
- The Deputy then retires from the Senate Chamber and Members return to the House in procession to await the arrival of the Deputy for the swearing in.

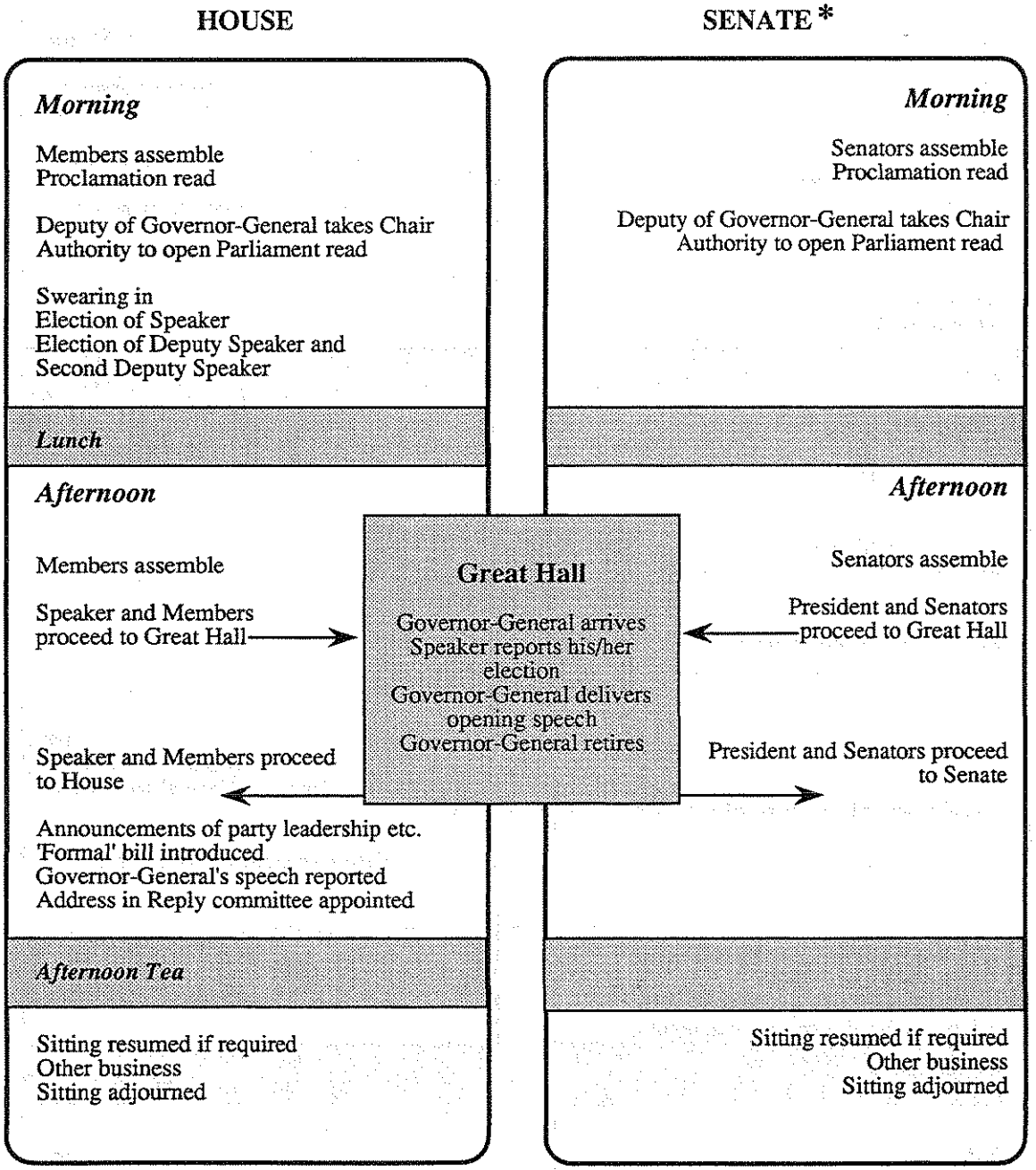
10. The need for this procession to the Senate must be questioned. It is time consuming and its importance is not readily apparent. There is no constitutional requirement for this procession to the Senate to hear the Deputy declare open the Parliament and the committee considers that the arrangement which it recommended in its 1991 report is a simpler, more comprehensible alternative which may even enhance the dignity of this element of the proceedings.

Figure 1: Present order of business on opening day



* Only Senate business relevant to the House of Representatives shown.

Figure 2: Proposed order of business on opening day



* Only Senate business relevant to the House of Representatives shown.

11. The committee recommends that two Deputies be appointed by the Governor-General to open Parliament simultaneously in the House of Representatives and the Senate Chambers. The Deputy appointed to the House of Representatives could then proceed to administer oaths or affirmations to Members immediately the opening is completed.

12. Legal advice obtained by the Clerk of the House following the committee's earlier report indicates that there is no legal impediment to the adoption of this course.

Swearing in of Members

13. The Constitution provides that '(e)very senator and every member of the House of Representatives shall before taking his seat make and subscribe before the Governor-General, or some person authorised by him, an oath or affirmation of allegiance in the form set forth in the schedule to this Constitution'.

14. In the House of Representatives oaths or affirmations are administered by the Deputy of the Governor-General after the authority to do so has been read by the Clerk, with Members making an oath or affirmation at the Table in groups. This process is different to that used in the United Kingdom and Canadian Houses of Commons where the oath or affirmation is administered by the Clerk. In the UK the swearing in occurs in the Chamber over several days and in Canada takes place outside the Chamber in the office of the Clerk. The smaller number of Members in the House of Representatives makes it possible to have the existing single ceremony in the Chamber which may be witnessed by the families of Members. For the individual Members involved this is regarded as one of the more significant features of the opening proceedings. The committee does not recommend any change to this process.

Election of Speaker

15. Section 35 of the Constitution provides that '(t)he House of Representatives shall, before proceeding to the despatch of any other business, choose a member to be the Speaker of the House ...' Standing orders 2 and 12 make provision for the election of the Speaker at the opening of a Parliament.

16. The procedure for the election of Speaker has been reviewed by the Procedure Committee in each of its three earlier reports relating to the subject of this inquiry and referred to in paragraph 5. The principal recommendation (with minor variations) in each of those reports was that until a Speaker has been elected, the Chair should be taken by the Member, not a Minister or Assistant Minister or a party leader, deputy party leader or a party whip, who has served for the longest period as a Member of the House. Under existing arrangements the Clerk acts as Chair of the House during the election of Speaker.

17. There is some doubt as to the powers and role of the Clerk in this situation and the committee concurs with previous committees that circumstances may arise which could place the Clerk in a difficult position and the House in a potentially vulnerable situation. By allowing a Member to preside and specifying the range of his or her powers this potential problem is avoided. In addition the long service of the Member is recognised and the Clerk is free to conduct any ballots required.

18. The committee supports the definitions set out in its most recent review of this subject (the 1992 report) and recommends that, during the election of Speaker, the Chair of the House be taken by the Member, not being a Minister, Assistant Minister or Parliamentary Secretary, party leader or deputy party leader, or a party whip, who has the longest continuous service in the House. Service in the Senate by the Member should not be considered as part of service, nor should previous time spent in the House preceding a break in service. If two or more Members have equal seniority the presiding Member should be chosen by lot. The Member so designated should assume all the powers of the Speaker for the duration of the election process except that he or she should be entitled to vote in the election of Speaker but not have a casting vote and, in all other cases, should have a deliberative vote only (to be exercised by stating to the House whether he or she is voting with the 'Ayes' or the 'Noes').

19. The committee has not reviewed other recommendations contained in the 1992 report.

Election of Deputy Speaker and Second Deputy Speaker

20. The standing orders do not specify when the election of Deputy Speaker and Second Deputy Speaker should take place. Past practice has been that the Deputy Speaker (formerly Chairman of Committees) is elected later on the day of the opening, usually after the completion of other formalities. The positions of Deputy Speaker and Second Deputy Speaker are important offices of the House and the committee believes that it is appropriate that they be elected immediately after the election of Speaker.

21. The standing orders require a single ballot to elect both the Deputy Speaker and the Second Deputy Speaker. Although this process would add some time to the morning proceedings this should, at least in part, be compensated by savings in time if the recommendation to eliminate the procession to the Senate to hear the Deputy open Parliament is adopted.

Presentation of the Speaker to the Governor-General

22. It has been the practice of the House after the election of Speaker for the Speaker, accompanied by Members, to go in procession to the Members' Hall to present himself or herself to the Governor-General and then to introduce Members and officers. Normally there is a suspension of sittings immediately after the election of Speaker following which Members reassemble in the House, then go in procession to the Members' Hall for the presentation and return to the House in procession to await Black Rod with a message requesting Members to attend the Senate Chamber to hear the Governor-General's opening speech.

23. There is no constitutional requirement for the presentation of the Speaker to the Governor-General and the committee concurs with the view expressed in the 1991 report that the procession to the Members' Hall to meet the Governor-General at a separate ceremony prior to the delivery of the opening speech is unnecessary and disruptive to the flow of the opening proceedings. Its elimination would simplify proceedings and save time without detracting from the ceremony of the opening day. The presentation does provide an opportunity for Members to meet the Governor-General in an informal way but a further opportunity occurs later when the Address in Reply is presented at Government House.

24. The committee endorses the recommendation of the previous Procedure Committee that the procession to the Members' Hall be discontinued and that the Speaker advise the Governor-General of the House's choice of Speaker when attending at the place appointed by the Governor-General to hear the opening speech.

Venue for the Governor-General's opening speech

25. There is nothing in the Constitution or the standing orders of the House which prescribes the location for the Governor-General to deliver the opening speech. Standing order 4 provides that Members attend to hear the Governor-General's speech 'at the place appointed by the Governor-General' and the practice has been for Members to attend the Senate Chamber to hear the speech. From the House's point of view this is considered a meeting rather than a sitting and no record of the meeting is recorded in the *Votes and Proceedings* (the fact that Members attended to hear the speech is reported to the House later) — there is no reason why the meeting could not be held in another location. The Senate standing orders refer specifically to the opening speech being delivered in the Senate Chamber and proceedings are recorded in the *Journals of the Senate*.

26. The practice in this Parliament has developed from the United Kingdom Parliament where the King or Queen opens Parliament in the House of Lords. It has been a tradition in the United Kingdom since 1642, when King Charles I attempted to arrest five Members in the House of Commons, that the Sovereign does not enter the House of Commons Chamber. This tradition has been built into the opening procedures in Australia.

27. Any alteration to the venue for the opening speech would need to be agreed by consultation among the House, the Senate and the Governor-General. The committee believes, however, that the Great Hall of the Parliament would be a more suitable venue for the speech. It would respect the tradition of the Sovereign not entering the Chamber of the 'lower' House and would more truly reflect the equal status of the two Houses and their Presiding Officers as established by the Constitution.

28. The committee recommends that consultations take place to agree upon an alternative venue for the delivery of the opening speech by the Governor-General and that preferably that venue should be the Great Hall of the Parliament.

29. If the opening speech is to be delivered somewhere other than the Senate Chamber, Members and Senators should assemble in their respective Chambers and await a summons from the Governor-General to attend at the nominated place. The Governor-General would make a ceremonial entry to the nominated place, where dignitaries and invited guests would be assembled, and summon Members and Senators who would enter the venue in procession and would also go in procession back to their respective Chambers at the completion of the speech. The recommended announcement by the Speaker of his or her election by the House prior to the Governor-General commencing the opening speech would add a further element of ceremony.

30. The committee recommends that, if the opening speech is to be delivered in a place other than the Senate Chamber, Members and Senators assemble in their respective Chambers and await a summons from the Governor-General to attend at the nominated place.

Other matters

31. The committee does not propose any changes to the other formal parts of the opening day ceremonies, viz., the announcements of party leaderships, the introduction of a 'formal' bill, the report of the Governor-General's speech and the appointment of the Address in Reply committee.

32. The proposals made in this report and in reports of earlier Procedure Committees are intended to create a set of procedures for the opening of Parliament which is relevant and meaningful to participants and observers and retains the ceremony, tradition and dignity suitable to such an occasion.

Recommendations

It is recommended that the standing orders be amended as necessary and other action be taken to put in place the following changes to the procedures for the opening of Parliament:

Two Deputies be appointed by the Governor-General to open Parliament *simultaneously in the House of Representatives and the Senate Chambers.*

During the election of a Speaker, the Chair be taken by that Member present in the House, not being a Minister, Assistant Minister or Parliamentary Secretary, party leader or deputy party leader, or a party whip, who has the longest continuous service in the House. In the case of Members with equal service the presiding Member shall be chosen by lot.

The Member presiding during the election of Speaker shall exercise all those powers which are vested in the Speaker during proceedings except that he or she:

(a)shall be entitled to vote in the election of Speaker but shall not have a casting vote in the event of there being an equality of votes cast for two candidates; and

(b)in all other cases shall have a deliberative vote only and shall vote by stating to the House whether he or she is voting with the 'Ayes' or 'Noes'.

The House adopt the practice of electing the Deputy Speaker and the Second Deputy Speaker *immediately after the election of Speaker.*

The procession to the Members' Hall for the presentation of the Speaker to the Governor-General be discontinued.

The Speaker advise the Governor-General of the House's choice of Speaker when attending at the place appointed by the Governor-General to hear the opening speech.

Consultations take place to agree upon an alternative venue for the delivery of the opening speech by the Governor-General, preferably the Great Hall of the Parliament.

If the opening speech is to be delivered somewhere other than the Senate Chamber, Members and Senators should assemble in their respective Chambers and await a summons from the Governor-General to attend at the nominated place.

BOB BROWN
Chair
21 September 1995