

Legislative Assembly for the Australian Capital Territory

ASSEMBLY BUSINESS

**Report of the Standing Committee
on Administration and Procedures
May 1992**

RESOLUTION OF APPOINTMENT

On 7 April 1992, the Legislative Assembly for the Australian Capital Territory adopted a temporary order which established the Standing Committee on Administration and Procedures with the following terms of reference:

- 16A (1) A Standing Committee on Administration and Procedures shall be appointed at the commencement of each Assembly to:
- (a) inquire into and report on, as appropriate:
 - (i) the Assembly's annual estimates of expenditure;
 - (ii) matters relating to the privileges of the Assembly which may be referred to it by the Assembly;
 - (iii) the practices and procedures of the Assembly; and
 - (iv) the standing orders of the Assembly;
 - (b) advise the Speaker on:
 - (i) Members' entitlements including facilities and services;
 - (ii) the operation of the transcription service (*Hansard*);
 - (iii) the availability to the public of Assembly documents;
 - (iv) the operation of the Assembly library; and
 - (c) arrange the order of Private Members' business;
- (2) The Committee shall consist of the Speaker and three other members;
- (3) The Speaker shall be the Presiding Member of the Committee;
- (4) The committee shall have the power to consider and make use of the evidence and records of the Standing Committee on Administration and Procedures appointed during the previous Assembly; and
- (5) The foregoing provisions, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders."

Membership

The Speaker (Presiding Member)
Mr T De Domenico, MLA
Mr D Lamont, MLA
Mr M Moore, MLA

Secretary: Mr M Mc Rae

CONSIDERATION OF ASSEMBLY BUSINESS

Background

1. At the first meeting of the Standing Committee on Administration and Procedures on Tuesday, 7 April 1992, the Committee briefly discussed the possibility of establishing formalised procedures for the consideration of Assembly business, notably the consideration of business relating to and arising out of the work of Committees. The Committee's preliminary view was that a block of the Assembly's time each sitting week should be set aside for the consideration of Assembly business.
2. The Committee, at its meeting of 28 April 1992, formally considered a proposal relating to the consideration of Assembly business, and resolved that the Committee report to the Assembly with a recommendation.

Current Practice

3. During the life of the first Assembly a practice developed where orders of the day relating to committee reports and other committee business were listed on the Notice Paper under the heading of Assembly business, although there is no specific provision under standing orders for this. It is understood that the practice was adopted and accepted to facilitate the consideration of committee business. Standing order 275, linking the Assembly to the practice prevailing in the House of Representatives (where certain committee business has its own block of time each week), was therefore utilised. Orders relating to the consideration of matters of privilege were also placed on the Notice Paper as Assembly business.
4. The Executive determines the order of Assembly business on the Notice Paper, with the exception of orders of the Assembly for the presentation of committee reports (which take precedence over other business) or any other specific order of the Assembly.
5. This practice does not relate to the presentation of committee reports. Under standing orders, committee reports may be presented, without notice, between items of business and certain motions in relation thereto may be moved. However, leave of the Assembly is needed for Members to make a statement in relation to a report, if a motion to take note of the report is not moved.

Discussion

6. In examining the proposal, the Committee considered a number of issues, including:
 - (a) what items of business should be included in Assembly business;
 - (b) how should the items of business be ordered on the Notice Paper; and
 - (c) should consideration of these items take precedence over other business and, if so, when and for how long.

(a) What Items should be Assembly Business

7. Assembly business could be loosely defined as those items of business which have a particular significance to the Assembly in its corporate role and to Members in the performance of their duties as Members. However, practice elsewhere has significant inclusions and exclusions. Both the House of Representatives and the Senate have procedures whereby time is set aside for consideration of committee reports. In addition, the Senate's standing orders provide for a category of business as "Business of the Senate". It takes precedence of Government and general business on days set down for consideration and comprises:

- . a motion for leave of absence to a Senator;
- . a motion concerning the qualification of a Senator;
- . a motion to disallow, disapprove, or declare void and of no effect any instrument made under the authority of any Act of Parliament which provides for the instrument to be subject to disallowance or disapproval by either House of the Parliament, or subject to a resolution of either House of the Parliament declaring the instrument to be void and of no effect;
- . an order of the day for the presentation of a report from a committee; and
- . a motion to refer a matter to a standing committee.

8. The Senate's practice excludes some motions which could be regarded as having particular significance to the Senate in its corporate role. Motions relating to standing and temporary orders and procedural and privilege matters, motions relating to fixing the time of meeting of the Senate, for example, are not included as items of Business of the Senate, and motions which are of little apparent consequence to the functioning of the Senate (such as disallowance motions) are included. The motions that are excluded from the Senate's working definition of Business of the Senate are often given precedence, or can be considered when there is no other item of business before the Senate. Others however, are dealt with according to the status of the sponsor that is under either Government Business or Private Members' Business. It can be argued that the disallowance motions are included as Business of the Senate as the review of subordinate legislation has major significance for the Senate in its role of scrutinising legislation.

9. The Committee gave consideration to the following items being included as Assembly Business:

- . any notice of motion or order of the day relating to the establishment or membership of an Assembly committee or the referral of a matter to an Assembly committee;
- . any order of the day for consideration of a motion moved upon the presentation of a committee report or the Government response to a committee report;
- . any notice of motion to disallow, disapprove or declare void and of no effect any instrument made under any Act of the Assembly which provides for the instrument to be subject to disallowance or disapproval

of the Assembly or subject to resolution of the Assembly declaring the instrument to be void and of no effect;

any order of the Assembly for the presentation of a report from an Assembly committee;

motions for leave of absence of Members;

the presentation of a committee report; and

notices, motions or orders of the day relating to privilege matters.

10. The above list essentially includes all items of business that fall within the loose definition discussed at paragraph 7 and those items of business that also feature in the Senate's definition of Business of the Senate. The Committee considered that to include all these items of business as Assembly Business was very much a broad spectrum approach and it was not always appropriate nor desirable to have some items included in the definition. For example, presentation of committee reports with a fixed reporting date fixed by the Assembly have precedence over all other business on that day and there is therefore no reason to have it considered as an item of Assembly business. Other items such as a motion to give a Member leave of absence and a motion of referral of a privilege matter that has been granted precedence, may be moved without notice, at any time when there is no other business before the Assembly. To consider these items as Assembly business would be to place greater constraints on the Assembly's consideration of them. At present, presentation of committee reports not ordered by the Assembly for a fixed day can also be made at any time when no other item of business is before the Chair. A similar argument can be made to exclude these from consideration as Assembly Business.

11. The Committee, therefore **recommends** that a restricted definition of Assembly business be adopted for the purpose of granting precedence in the time suggested and that, in relation to the matters that already have precedence or are not included in the definition, current practice in relation to sponsorship and placement on the Notice Paper and Daily Program be retained.

(b) Ordering Assembly Business on the Notice Paper

12. The Committee, in addressing how the items of Assembly business should be ordered on the Notice Paper, considered the current practice of the Executive determining the order, and therefore the priority of Assembly business. Although the Committee considers that the Executive has an important role to play in Assembly business, for example, in providing the Government's response to a committee report, it considers it inappropriate that the Executive alone determines the placement of items on the Notice Paper under Assembly business. The Committee considers that Assembly business should be ordered by all interests in the Assembly and therefore **recommends** that the order of Assembly business on the Notice Paper be determined by the Standing Committee on Administration and Procedures. The Committee proposes that this task be undertaken at its regular Tuesday evenings meetings.

(c) Timing

13. The Committee initially considered that Assembly business should be granted precedence over all other business on Thursday mornings. This proposal seemed to offer a ready advantage in that the order of business could be determined by the

Committee on Tuesday evenings and would appear on both Wednesday's and Thursday's Notice Paper. This would give all who were interested in committee issues, such as members of the public who had contributed to an inquiry, advance notice of an item coming on for discussion. However, a problem was perceived in that Thursdays are traditionally the days on which the Government introduces the bulk of its legislation. This practice has general acceptance and has worked well. To change the timing for the presentation of Executive legislation would be likely to cause confusion, at least initially, and any advantage would be lost.

14. The Committee therefore considered a number of other alternatives. However, a Thursday morning time slot continued to be attractive. It presented a readily identifiable time as well as giving two days notice of the business to be considered. The Committee therefore **recommends** that precedence be given to Assembly business for 45 minutes after the consideration of any Government notices to introduce bills. The Committee envisages that if there were an unusual number of bills introduced, the Assembly could continue to sit beyond 12.30 pm suspension for lunch to deal with Assembly business. Alternatively, it could suspend for lunch at the usual time and the matters could stand over until the next sitting Thursday. This proposal is based on the assumption that the Executive will order its Notices to introduce bills in priority of its orders of the day. In the event of a delay in stocks of a bill being available (which happens occasionally) the notice can be postponed.

Conclusion and Recommendation

15. The Committee therefore proposes that the Assembly formally adopt a class of business to be known as Assembly business which would consist of:

- . any notice of motion or order of the day relating to the establishment or membership of an Assembly committee or the referral of a matter to an Assembly committee;
- . any order of the day for consideration of a motion moved upon the presentation of a committee report or the Government response to a committee report; and
- . any notice of motion to disallow, disapprove or declare void and of no effect any instrument made under any Act of the Assembly which provides for the instrument to be subject to disallowance or disapproval of the Assembly or subject to resolution of the Assembly declaring the instrument to be void and of no effect.

The order of Assembly business for the Notice Paper would be determined each sitting week by the Standing Committee on Administration and Procedures and it would take precedence over all other business for 45 minutes on Thursdays, after the presentation of Executive legislation.

16. To establish this proposal, the Committee **recommends** that the following amendments to standing and temporary orders be adopted:

- (1) That temporary order 16A be amended by adding the words "and Assembly business" to paragraph (1)(c).
- (2) That temporary order 77 be suspended and the following temporary order operate:

77. Executive business shall, on each day of sitting, have precedence of all private Members' and Assembly business, except that:

- (a) On sitting Wednesdays private Members' business shall have precedence of executive business until two hours after the time fixed for the meeting of the Assembly;
- (b) On sitting Thursdays, Assembly business shall have precedence of Executive business in the ordinary routine of business for 45 minutes from the conclusion of consideration of any Executive notices of intention to present bills;

provided further that

- (c) if a vote is in progress at the time precedence expires, that vote or any vote consequent upon that vote shall be completed and the result announced;
- (d) at any time during the consideration of Assembly business any Member may move that Executive business be called on and such motion shall be put forthwith without amendment or debate;
- (e) at the time precedence to Assembly business expires any Member may move that the time allotted to Assembly business be extended by 30 minutes and such motion shall be put forthwith without amendment or debate; and
- (f) the Speaker shall fix the next sitting Wednesday for the resumption of the debate on any business under discussion and not disposed of at the expiration of the time allotted to private Members' business and the next sitting Thursday for the resumption of the debate on any business under discussion and not disposed of at the expiration of the time allotted to Assembly business or at the time Assembly business is interrupted.

For the purpose of this standing order and temporary order 16A, Assembly business is

- (g) any notice of a motion or order of the day relating to the establishment or membership of a committee or the referral of a matter to a committee;
- (h) any order of the day for the consideration of a motion moved upon the presentation of a

committee report or the Government response to a committee report; or

- (j) any notice of motion to disallow, disapprove or declare void and of no effect any instrument made under any Act of the Assembly which provides for the instrument to be subject to disallowance or disapproval of the Assembly or subject to a resolution of the Assembly declaring the instrument to be void and of no effect or any order of the day to consider such a motion.

The Operation of the Temporary Order 77

17. The Committee notes that the adoption of such a temporary order would not preclude Members moving without notice motions to discharge and appoint Members to committees. However, if notice was given of this motion it would be placed on the Notice Paper under Assembly business. The adoption of the temporary order also would not prevent a committee presiding member presenting a report and moving a motion in the current manner (that is, at any time), although the resumption of debate on that motion would become an order of the day under Assembly business. Also, any specific order of the Assembly for consideration of an item of business (eg. a select committee report presented on the day fixed for reporting) would always take precedence on the Notice Paper in accordance with the Assembly order.

Roberta McRae
Presiding Member
12 May 1992