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PARLIAMENT OF TASMANIA

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TASMANIAN

LEGISLATIVE COUNCIL

**REPORT OF THE
STANDING ORDERS COMMITTEE**

Standing Order No. 148

Brought up by the Minister for Health and ordered by the House of Assembly to be printed.

MEMBERS OF THE COMMITTEE

Hon. Elise Archer MP (Chair)
Hon. Michael Ferguson MP
Hon Bryan Green MP
Hon. David Llewellyn MP
Mr Mark Shelton MP

1. INTRODUCTION

- 1.1 On 12 May 2014, the Honourable Member for Franklin, Mr McKim, wrote to the Chair of the Committee requesting that the Standing Orders Committee consider the provisions of Standing Order 148(1)(v). The relevant submission of Mr McKim was as follows:-

I am advised that this Standing Order has been effective from 15 November 1994, when the House consisted of 35 Members. Obviously the House now consists of 25 Members.

I note that 4 out of 35 Members comprises a ratio of 11.43%, and that four out of 25 Members comprises a ratio of 16%. Given that 3 of 25 Members comprises a ratio of 12%, I request that Standing Order 148(1)(v) be changed by removing the word "four", and inserting instead the word "three".

Given the above ratios it seems entirely reasonable to suggest that such a change would result in Standing Orders that more accurately reflect the intent of the House when Standing Order 148(1)(v) was originally commenced, than does the current wording.

- 1.2 The Committee invited Mr McKim to attend a meeting of the Committee for the purpose of speaking to his correspondence and to enable the Committee to ask him questions. Mr McKim accepted the invitation and attended the meeting of 3 June last. Mr McKim reiterated the argument as cited above and cited examples from other Australian jurisdictions where the practice varied. He noted the provisions of the Parliamentary Salaries Act which prescribed four as being the minimum number of Members required for recognition of party status and by contrast, the provisions of the Integrity Act which prescribed that a party of three be represented on the Parliamentary Standing Committee on Integrity.

- 1.3 The Committee deliberated and ordered the Secretary to contact all other Australian Parliaments to determine what practices and rules apply in those jurisdictions.

2. INQUIRY

- 2.1 According to Order, on 3 June last, the Secretary circulated the following question to other Australian jurisdictions and New Zealand:-

The House of Assembly has a Standing Order regarding members' speaking rights, which principally confers additional rights to members in charge of Bills or motions who are members of the Government, Opposition or a party with 4 or more members in the House. There is a party which had met the requirement of 4 or more members prior to the last election, but since the election has been reduced to 3 and has therefore lost those additional rights. Such party has requested the SOs committee to review the provisions of the relevant SO by reducing the number to 3. Do your Houses have such rule or practice in relation to speaking rights for parties other than the Government and Opposition or individual members and if so, what are the details?

2.2 Responses were received from: Queensland (Legislative Assembly); New South Wales (Legislative Assembly & Legislative Council); A.C.T. (Legislative Assembly); Commonwealth (House of Representatives & Senate); Victoria (Legislative Assembly); Western Australia (Legislative Assembly & Legislative Council); Northern Territory (Legislative Assembly); and New Zealand (House of Representatives).

2.3 On 5 March last the The Committee deliberated upon the responses of other jurisdictions surveyed in respect of similar provisions in their respective Standing Orders.

2.4 The Secretary briefed the Committee on the history of the current provision.

2.5 The Committee noted the following matters:-

- there was no consistency amongst the jurisdictions, except for the predominant provision the Government and Opposition only have additional rights;
- the current provision was made in 1994 when the membership of the House was 35 and despite the reduction of the membership to 25 in 1998, there have been no requests to change the provision until 2014; and
- the Mover of a Bill or motion does have additional speaking rights, including other Members.

2.6 The Committee again met on 25 March last and further considered the matter.

3. STANDING ORDER NO. 148

3.1 The history of this SO well shows the incremental nature of the issue of the limitation of time for speeches in the proceedings of the House. It was not until 1937 that time limits of the kind that are now common in most jurisdictions were adopted. Until then, the length of speeches was limited only by the rules of debate, such as relevance, Previous Question etc. Each iteration of this SO has provided exceptions for the mover of motions and for prescribed Office Holders to the general time limits.

3.2 The basis of the current SO was recommended by the Select Committee on the Reform of Parliament in 1994¹. The Committee recommended that there be official recognition of third parties and that four be the number for activating such status and that the Leader of such a party have the same speaking rights as the Leader of the Opposition². The House adopted a Sessional Order in those terms on 9 November 1994³.

¹ House of Assembly Select Committee: Reform of Parliament, Paper No. 14 of 1994.

² Ibid. p. 36.

³ V&P 36, 9 November 1994, p. 236.

It has been reinstated for each Session thereafter and adopted as a Standing Order in 2009⁴.

4. FINDINGS

4.1 The Committee finds that the maintenance of consistency across statute law and the Standing Orders is of primary importance. With the exception of the Integrity Act 2009, since 1994, four Members is the well-established minimum which has been maintained despite the reduction of the number of Members of the House and across Parliaments with a variety of configurations of party representations.

4.2 The Committee finds that a trial period for additional speaking rights for Members in Committee of the whole House would be appropriate. The recommendation of the Committee, if implemented by the House, will allow Members, other than the prescribed exceptions, to speak to any Question on three occasions for a maximum period of ten minutes.

4.3 The Committee is of the view that this reform will greatly improve the opportunity for scrutiny of Bills by Private Members in Committee of the whole House.

5. RECOMMENDATION

5.1 That until 31 December next, Standing Order 148 (1), paragraph (b), be amended by leaving out “twice” and inserting instead “three times”.

Hon. E. N. ARCHER MP
CHAIR OF THE COMMITTEE
24 March 2015

⁴ V&P 46, 26 February 2009, p. 314.