

## CHAPTER 9

# PUBLICATION AND BROADCASTING OF PROCEEDINGS

### PUBLICATION OF PROCEEDINGS

The records of the House include a range of publications such as the Minutes of Proceedings, the Notice Paper, the Questions and Answers Paper and Hansard.

Publication, in written or electronic form, of the proceedings of the Council, is authorised under standing order 49. As proceedings in Parliament, the publication of parliamentary papers, including the Minutes of Proceedings and debates of the House, is protected by Article 9 of the *Bill of Rights 1689*. This absolute privilege has been given statutory recognition in section 27 of the *Defamation Act 2005*, which provides a defence of absolute privilege to anything published by order or under the authority of the Parliament, or given as evidence before or submitted to a Parliamentary body.

### Minutes of Proceedings

All proceedings of the House are recorded by the Clerk and published in the Minutes of Proceedings, and signed by the Clerk (SO 49). The Minutes of Proceedings are the official record of the votes and deliberations of the Council. Amongst other things, the minutes record papers tabled in the House, messages received from the Governor or Legislative Assembly, important rulings of the Chair, details of bills and motions considered and decisions made by the House.<sup>1</sup> The minutes also contain a record of members who do not attend at some time during the sitting day (SO 62).

The Minutes of Proceedings are prepared by the procedure office and published each sitting day as a 'proof' soon after the rising of the House. A printed version is available the following morning. The paper is also available on the Parliament's website. For ease of identification, the minutes are printed on blue paper. Some-

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1 Before 1856, the Legislative Council proceedings were recorded as the Legislative Council *Votes and Proceedings*.

times, if a substantial error occurs, a revised version is prepared and published before the meeting of the House. This version has 'Revised' on the front page and is printed on white paper. After extensive checking and necessary corrections a final version of the Minutes of Proceedings is produced and later bound and published as part of the Journal of the Legislative Council.

From 1856 until the 1982-1983 session, the Minutes of Proceedings contained notices of questions and motions and orders of the day, and contingent notices. Answers to questions received each day were also published in the Minutes.

With the increasing activity of members following the reconstitution of the House in 1978, a separate Questions and Answers Paper was published commencing from 15 August 1984,<sup>2</sup> while a separate Notice Paper has been published since 21 February 1990.<sup>3</sup>

### Notice Paper

The Notice Paper, also referred to as the business paper, contains notices of motions and orders of the day (SO 49).

Notices of motions are new proposed business, that is, business that has not yet come before the House, but of which notice has been given of the intention to bring the matter before the House. Orders of the day are items of business which have already been before the House but are not concluded and which the House has ordered to be taken into consideration at a future time on a particular day (SO 80).

Generally speaking, a member may not initiate a subject for discussion except by notice given at a previous sitting of the House or by leave of the House (SOs 73 and 76). Notices of motions are set down on the Notice Paper in the order in which they are given (SO 71(3)). However, ministers may determine the order in which government business (both notices of motion and orders of the day) is placed on the Notice Paper by indicating as such to the Clerk (SO 43). Notices of motions are discussed in more detail in Chapter 10 (Resolutions, Motions and Amendments).

Although notices of motions and orders of the day may be set down on the Notice Paper for the 'next sitting day', it does not necessarily mean they will be dealt with on that day. In practice, the House has before it more business than may be transacted during a sitting period, with the result that only a small proportion of the business on the Notice Paper is reached on any sitting day. The House may, on motion without notice, postpone an item of business or use other procedures to bring on an item of business on the same day (SO 45(2)).

A notice of motion which has been moved and on which debate is adjourned, or the various stages of the passage of a bill on which debate is adjourned, becomes

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2 *LC Minutes* (15/8/1984) 27.

3 *LC Minutes* (22/2/1990) 27.

an order of the day because the House has ordered that the debate be adjourned. Debate can be adjourned until a later hour of the same day, the next sitting day or to a specified day (SO 101(1)). Debate on a matter which is interrupted is also set down as an order of the day for the next sitting day (SO 46).

The arrangement of business on the Notice Paper reflects the precedence of business in the House and appears under the following headings (although the order in which they appear changes according to the precedence of business on a particular day):

- matters relating to privilege;
- business of the House – notices of motion and orders of the day;
- matters of public interest;
- government business – notices of motion and orders of the day;
- private members’ business – items in the order of precedence and items outside the order of precedence;
- committee reports – orders of the day;
- notices of motion and orders of the day set down for specific days;
- contingent notices of motions.

Except for the first sitting day of a new session when there is no business before the House, on each subsequent day the Notice Paper contains notices of motions and orders of the day before the House in the order in which the House will proceed with its business. Contingent notices of motion are listed in full on the Notice Paper for the first sitting day of each week. On other days only new contingent notices are published in the Notice Paper.<sup>4</sup>

The Notice Paper is prepared by the procedure office and published each sitting day as a ‘proof’ soon after the rising of the House. A printed version is available the following morning. The paper is also available on the Parliament’s website. For ease of identification, the Notice Paper is printed on pink paper. Sometimes, if a substantial error occurs, a revised version is prepared and published before the meeting of the House. This version has ‘Revised’ on the front page and is printed on white paper. After extensive checking and necessary corrections a final version of the Notice Paper is produced and later bound and published as part of the Journal of the Legislative Council.

### **Questions and Answers Paper**

The Questions and Answers Paper contains written questions, referred to as questions on notice, submitted by members to ministers. Written questions must be signed by the member and handed to one of the clerks at the table while the House is sitting. Answers received by the Clerk are also published in the Questions and Answers Paper (SO 67). The rules for questions without notice (SO 65)

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<sup>4</sup> This commenced from 16 April 1996; see *LC Journals* (1995-1996) Vol 187, p 1203.

apply equally to written questions. These rules are set out in Chapter 8 (Conduct of Proceedings).

As noted previously, following increased activity by members in lodging written questions and to improve the arrangements for publication of questions and answers, in 1984 the House agreed to a sessional order permitting the Clerk to publish a separate Questions and Answers Paper.<sup>5</sup> Until then, notices of questions and answers were published in the daily Minutes of Proceedings.

Under standing order 67, ministers have 35 calendar days in which to provide a written answer. If an answer is not provided within 35 days, the President informs the House on the next sitting day and the minister must explain the reason for non-compliance. If an answer is then not submitted within three days, the minister is again called on to explain. This procedure continues until a written answer is received. This requirement for ministers to answer questions within 35 days was first introduced by sessional order in 1995.<sup>6</sup> To date all answers have been received within 35 days and no minister has been called on to explain for non-compliance.

New questions on notice and answers received that day are published each sitting day. On the first sitting day of each week, the Questions and Answers Paper includes, by number and title, all questions for which answers are outstanding and all new questions and answers received.

The Clerk is also required to publish a Questions and Answers Paper on any prorogation of the House (SO 67(9)). One of the consequences of prorogation is that all business on the Questions and Answers Paper lapses. On 22 November 2006 the House agreed, on division, to a sessional order requiring the Clerk to publish a Questions and Answers Paper on specified dates.<sup>7</sup> This was pending prorogation of the House for the periodic Council election to be held in March 2007.

Questions submitted before prorogation and not answered before the next sitting need to be resubmitted or restored to the Questions and Answers Paper by notice of motion. For example, following the prorogation of Parliament for the sesquicentenary celebrations in May 2006, the Hon Don Harwin, Opposition Whip, successfully moved for the restoration of all unanswered written questions to the Questions and Answers Paper. The resolution of the House also provided that 'answers to the questions on notice be provided within 35 calendar days after the question was first published as if prorogation had not intervened'.<sup>8</sup>

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5 *LC Minutes* (15/8/1984) 27; *LC Debates* (15/8/1984) 88-89. Notices of questions and answers were required by the previous standing order 32A to be published in the Minutes of Proceedings. To reduce publication costs, only new questions and answers received each day are published. On the first sitting day of each week, the Questions and Answers Paper includes all questions for which answers are outstanding and all new questions and answers received. From 1991 outstanding questions were only listed by number and later subject; see *Questions and Answers Papers No 4*, (27/8/1991).

6 *LC Minutes* (24/5/1995) 34.

7 *LC Minutes* (22/11/2006) 397.

8 *LC Minutes* (23/5/2006) 22.

The Questions and Answers Paper is prepared by the procedure office and published each sitting day as a 'proof' soon after the rising of the House. A printed version is available the following morning. The paper is also available on a database on the Parliament's website. The printed version is printed on white paper. After extensive checking and necessary corrections a final version of the Questions and Answers Paper is produced and later bound and published as part of the Journal of the Legislative Council.

Questions on notice and answers received in the Council since 1988 are also available in a database on the Parliament's website. The database allows the user to search for questions and answers by member, portfolio and subject matter.

### **The daily program**

A program of business to be considered by the House is published on the Parliament's website each sitting day. The daily program is a guide only and the precedence of business may change throughout the day.

### **Journal of the Legislative Council**

At the conclusion of each session of Parliament the indexed Minutes of Proceedings and certain other records and documents of the House are bound and published as the official Journal of the Legislative Council. In addition to the Minutes of Proceedings, Notice Papers and Questions and Answers Papers, the Journal contains registers showing the history of the passage of bills during the session, a register of addresses and orders for papers, sessional and select committees appointed, an abstract of petitions presented and a return showing the attendance of members.

From 1856 until 1904 the Journal contained not only the Minutes of Proceedings, notices of motions and orders of the day, and questions and answers, but all printed parliamentary papers. Commencing with the second session in 1904, parliamentary papers were published in separate volumes called 'Joint Volumes of Parliamentary Papers'. The parliamentary papers series continued until 2006, when it was discontinued, largely because of the costs of printing and binding of the volumes and also the availability of many annual reports in electronic format on the internet.

Since 1984 the Questions and Answers Paper has been published in separate volumes for each session, as part of the Journal. This change resulted from the increased activity of members following the reform of the Council to a popularly elected House in 1978. Similarly, the Notice Paper has been published in separate volumes since 1990.

The 'Report of Divisions in Committee of the Whole House', which was published as part of the Journals from 1856, was discontinued from 2004 following the adoption of new standing orders, which no longer required the compilation of the

report by the Clerk.<sup>9</sup> Details of the proceedings in committee of the whole on each bill are still recorded by the Clerk in the committee copy of each bill, as they have been since 1856. These bills are bound for each session. The proceedings in committee of the whole are also recorded in Hansard.

An 'official' Journal, with the Minutes of Proceedings signed by the Clerk, has also been maintained since 1968.

## Hansard

Hansard derives its name from Thomas Curson Hansard, the printer, and later publisher, of the official series of Parliamentary Debates of the UK House of Commons and House of Lords.<sup>10</sup>

From the latter half of the 16th century until the late 18th century, the British Parliament prohibited all reporting and publishing of its proceedings. However, growing public pressure and outspoken attacks in the press eventually led the Parliament to review its position, and in 1803 the House of Commons passed a resolution giving the press the right to enter the public gallery. In the same year, William Corbett, a newspaper publisher, began publishing an extract in his *Weekly Political Register* entitled 'Parliamentary Debates' which was a summary of journalists' reports of speeches extracted from various newspapers.

In 1812, Corbett's assistant, Thomas Hansard, took over the publication of the *Weekly Political Register* and in 1829 renamed the reports as *Hansard's Parliamentary Debates*. The Hansard family continued to produce the parliamentary debates until 1889. It was not until 1901 that the House of Commons took control of the reporting and printing of parliamentary debates.<sup>11</sup>

There was no Hansard record in New South Wales before 1879. The Sydney Gazette published some accounts of proceedings of the early Council between 1828 and 1843. However, between 1843 and 1879 the only record of debates in the Council was reports published in the *Sydney Morning Herald*.

The recording and publication of debates in the New South Wales Parliament by Hansard staff employed by the Parliament commenced on 28 October 1879 at the opening of the third session of the ninth Parliament. New South Wales was somewhat later than other Australian colonies in adopting a Hansard reporting service. Victoria commenced publication of debates from 12 February 1866.

Hansard is the official record of the debates in both Houses of the Parliament. Unlike the Minutes of Proceedings, which is the official record of the votes and

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9 Former standing order 226 required the Clerk to publish at the end of each session a list of divisions in committee of the whole House.

10 McKay W (ed), *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, 23rd edn, LexisNexis, UK, 2004, pp 258-259.

11 Australasian and Pacific Hansard Editors Association, 'History of Hansard', January 2003.

proceedings of the Council, Hansard records what was said by members in debate. It is not a strictly verbatim record, but rather a verified and accurate record. Repetitions and redundancies may be omitted and obvious mistakes corrected. Interjections not responded to by the principal speaker are omitted. Hansard has no editorial policy other than the pursuit of accuracy and consistency.

Hansard is prepared by the Department of the Parliamentary Reporting Staff (Hansard). A proof daily transcript (pink) is published each sitting day, about three hours after the last House rises. Members' correction to transcripts of debates in the chamber are marked on a photocopy of the proof and forwarded to the Editor of Debates. Approximately two weeks after a sitting, a corrected weekly (orange) copy replaces the proof. Hansard is later bound as the official record of the Parliamentary Debates. Copies of Hansard are also available on the Parliament's website.

As well as recording proceedings in the Council and Assembly, including debates in committee of the whole,<sup>12</sup> Hansard also records proceedings of some parliamentary committees and, on occasion, conferences, meetings and seminars.

Publication, in written or electronic form, of the record of debate in the House or any committee, including publication of Hansard proofs, is authorised under standing order 51.

### **Statutory rules and instruments paper**

Although not required by standing orders, the Clerk also publishes for the information of members a statutory rules and instruments paper which lists all statutory instruments (regulations, rules, by-laws etc) published in the Government Gazette and which are subject to disallowance by the House. The paper shows the date on which each statutory instrument was tabled in the House and the last sitting date on which notice of disallowance can be given.

The paper is prepared by the procedure office on Tuesday of each sitting week and on the first Tuesday of every month during non-sitting periods. Copies are available on the Parliament's website.

### **List of members**

A list of members of the Council is prepared and distributed at the beginning of each Parliament and again whenever changes occur. It contains members' full names and titles, party affiliation, date of election and term of service and the party representation in the House.

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12 The Clerk also records the proceedings in committee of the whole, including amendments moved to bills, in the official 'committee bill'. Committee bills are bound by session, but are not published.

## BROADCASTING OF PROCEEDINGS

In 1984 the Council authorised the sound and video broadcasting of its proceedings within the precincts of Parliament House and to persons and organisations approved by the President, on certain terms and conditions.<sup>13</sup> In 1994 this resolution was replaced with a new resolution of the House which authorised the broadcasting and re-broadcasting on radio and television stations of sound recordings of excerpts of proceedings, and the broadcasting and re-broadcasting by television stations of proceedings and excerpts of proceedings, on specified terms and conditions.<sup>14</sup> In 2007, a further broadcasting resolution was adopted to address additional issues in relation to webcasting and still photography of proceedings.<sup>15</sup>

The key conditions under which proceedings can be broadcast are:

- broadcasts of excerpts must be used only for the purposes of fair and accurate reports of proceedings and must provide a balanced presentation of differing views;
- excerpts must not be used for political party advertising or election campaigns, or for the purpose of satire or ridicule or commercial sponsorship or commercial advertising;
- excerpts of proceedings which are subsequently withdrawn may be broadcast if the withdrawal is also broadcast;
- excerpts must be placed in context;
- commentators must identify members by name;
- where audio excerpts of proceedings are used on television, their use may be that of audio over still frames, or overlay material;
- where the excerpts are used on commercial stations, the station must ensure that advertising before and after excerpts is of an appropriate nature;
- events in the galleries are not part of the proceedings and excerpts of those events must not be used.

Access to proceedings for the purpose of recording is on the basis of an undertaking to observe these conditions. A breach of these conditions by a broadcaster may result in the suspension or withdrawal of permission by the President for the offender to broadcast excerpts of the proceedings of the House.

A committee may, by vote of the committee, authorise the broadcast of its proceedings and determine terms and conditions, not inconsistent with those outlined above.

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13 *LC Minutes* (11/10/1994) 279-281. An earlier resolution authorised broadcasting to the Premier's Department and State Office Block, *LC Minutes* (19/11/1991) 280.

14 *LC Minutes* (11/10/1994) 279-281.

15 *LC Minutes* (18/10/2007) 279-281.



The broadcast of proceedings by the Council is covered by absolute privilege, as discussed in Chapter 3 (Privilege).

The chamber is equipped with a televising system consisting of four remote controlled cameras and a control system, operated from a room in the upper public gallery. The system is operated from the commencement of proceedings each sitting day until the dinner adjournment. After dinner, it reverts to a single fixed camera at the western end of the chamber unless there is a requirement by the President or the Clerk for an operator to be on duty to cover a particular debate. Sound and video from the system are broadcast on monitors throughout Parliament House, to certain government offices, and via live webcast on the Parliament's internet site. A direct feed is cabled to media rooms on level 6 of Parliament House where it can be accessed by television networks.

Aside from use of the in-house system, the President may approve filming by the media and external parties on request, from the commencement of proceedings to the adjournment of the House.<sup>16</sup> The media must request permission from the President to have a camera in the House to record footage for broadcasts.

On occasion, still photography in the chamber is permitted by the President on terms and conditions determined by the President.

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16 *LC Minutes* (18/10/2007) 279-281.