



PARLIAMENT OF AUSTRALIA

**PRESIDENT OF THE SENATE**

SENATOR THE HONOURABLE STEPHEN PARRY

12 April 2016

The Honourable Don Harwin MLC  
 President of the New South Wales Legislative Council  
 Parliament House, Macquarie Street  
 Sydney NSW 2000

Dear Mr President *Don,*

**INQUIRY INTO YOUNG CHILDREN ACCOMPANYING MEMBERS INTO THE HOUSE**

Thank you for your letter of 22 March seeking information about Senate practices in relation to the presence of young children accompanying a parent into the chamber for divisions.

Your Procedure Committee's inquiry is very timely and coincides with the Senate Procedure Committee re-examining a similar proposal. The committee has deferred consideration of the matter until it can devote more time to it.

The Senate already has standing order 175(3) which permits senators to breastfeed infants in the chamber. That standing order was agreed to in May 2003 following a recommendation of the Procedure Committee which examined a proposal initiated by former Australian Democrat Senator Stott Despoja, in the wake of similar changes implemented in the Victorian Parliament and the ACT Legislative Assembly. Following the change, standing order was as follows:

**175 Conduct of visitors**

- (1) Visitors may attend, in the galleries provided, a sitting of the Senate.
- (2) A person other than a senator, a clerk at the table or an officer attending on the Senate may not:
  - (a) attend a meeting of the Senate in private session; or
  - (b) enter any part of the Senate chamber reserved for senators while the Senate is sitting.
- (3) Paragraph (2) does not apply in respect of a senator breastfeeding an infant.
- (4) The Usher of the Black Rod shall, subject to any direction by the Senate or the

President, take into custody any person who enters any part of the chamber reserved for senators while the Senate is sitting, or causes a disturbance in or near the chamber, and a person so taken into custody shall be discharged out of custody in accordance with an order of the Senate.

In 2009, the Procedure Committee re-examined the amendment after the then President requested that a senator take her young child out of the chamber during a division on 18 June. It considered a proposal that paragraph (3) be amended to read:

- (3) Paragraph (2) does not apply in respect of a senator breastfeeding an infant, or, at the discretion of the President, a senator caring for an infant briefly, provided the business of the Senate is not disrupted.

A majority of the committee was of the view that it would be undesirable to extend the existing exemption to senators caring for infants because of the uncertainty of the scope of the proposed amendment and the inroad it would make to the principle that the floor of the Senate is reserved for senators and officers in immediate attendance on the Senate.

The committee has been asked to examine two proposals to broaden the exemption for breastfeeding infants. The first proposal is that the standing order not apply to a senator caring for an infant. The second proposal is that proxy voting arrangements be implemented for senators nursing infants at the time of a division, though such an arrangement would not apply to votes on the third reading of a bill to alter the Constitution which require an absolute majority of the whole number of senators in support.

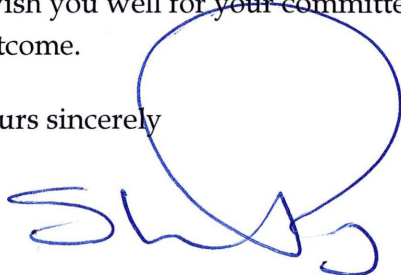
It is reasonably certain that the requirement in section 23 of the Constitution that "each senator shall have one vote" rules out the possibility of proxy voting in the Senate. This position contrasts with that of the House of Representatives, in relation to which section 40 of the Constitution provides only that questions shall be determined by a majority of votes other than the Speaker, who shall have a casting vote only in the event of an equal vote. The House does permit proxy voting by nursing mothers.

Although well-developed, albeit informal, pairing arrangements are used in the Senate, the proposals being advanced at the present time contemplate a greater modification of the existing rules. Issues arise include:

- the definitional challenge- how is the term "infant" to be defined?
- the question of equity - is there sufficient basis to distinguish between senators with different needs to be absent from the chamber for a vote?
- the scope of a chair's discretion not to "see" an infant stranger on the arms of a parent.

I wish you well for your committee's deliberations and will be very interested in the outcome.

Yours sincerely



(STEPHEN PARRY)