



## *The parliamentary calendar*

The appointment of the times for the holding of sessions of Parliament, the prorogation of the Parliament and the dissolution of the House, is a matter for decision by the Governor-General. The Constitution states:

The Governor-General may appoint such times for holding the sessions of the Parliament as he thinks fit, and may also from time to time, by Proclamation or otherwise, prorogue the Parliament, and may in like manner dissolve the House of Representatives.<sup>1</sup>

In practice however these vice-regal prerogatives are exercised with the advice of the Executive Government.<sup>2</sup>

Once a Parliament (session), or a further session within that Parliament, has commenced, the days and times for the routine meetings and adjournments of the House are a matter for the House to decide, yet in practice, by virtue of its majority, these decisions rest with the Executive Government.

The Constitution also provides that the House of Representatives can continue for no longer than three years from the first meeting of the House.<sup>3</sup> The significance of this to the concept of a representative Parliament and Government is that a Parliament is of limited duration on the democratic principle that the electors must be able to express their opinions at regular general elections. On the other hand a Parliament of short fixed-term duration may be viewed as undesirable in that too frequent elections have disruptive and/or negative effects on the parliamentary and governmental processes.

Of further significance is the principle that Parliament should be neither out of existence nor out of action for any undue length of time. The continuity of the Commonwealth Parliament is assured by several constitutional provisions. Following a dissolution or expiry of a House of Representatives, writs for a general election must be issued within 10 days,<sup>4</sup> and following a general election the Parliament must be summoned to meet not later than 30 days after the day appointed for the return of the writs.<sup>5</sup> Regular meetings are assured as there must be a session of Parliament at least once in every year, in order that 12 months shall not intervene between the last sitting in one session and the first sitting in the next session.<sup>6</sup> 'Session' in this context has in practice been interpreted as 'a sitting period' (*see below*).

Apart from the constitutional framework within which the parliamentary calendar is determined, there are also a number of practical considerations of some importance, for example:

- the necessity for Parliament to meet regularly and at specified times to approve financial measures, particularly appropriations for the ordinary annual services of the Government and for the Parliament itself;

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1 Constitution, s. 5.

2 *See* Ch. on 'The Parliament and the role of the House', particularly on dissolution.

3 Constitution, s. 28.

4 Constitution, s. 32.

5 Constitution, s. 5.

6 Constitution, s. 6. In practice the maximum interval has not been applied and would cause financial problems for a Government if it was applied.

- in keeping with responsible government, the need to ensure a regular forum for continuous scrutiny of executive action; and
- the normal demands to consider new and amending legislation.

## TERMINOLOGY

The following definitions cover some of the parliamentary terms associated with sittings of the House and the intervals between sittings. A diagram illustrating their relationship to the overall ‘parliamentary calendar’ is shown on the following page.

### **Parliament**

A Parliament commences upon the first sitting day following a general election and concludes either at dissolution or at the expiration of three years from the first meeting of the House—whichever occurs first.

### **Session**

A session commences upon the first sitting day following a general election or prorogation and concludes either by prorogation (the formal ending of a session), dissolution or at the expiration of three years from the first meeting of the House.

### **Sitting period**

Sitting periods occur within a session. Sittings of the House in each calendar year are usually divided into distinct periods—the Autumn, Budget and Spring sittings (*see* p. 232).

### **Sitting**

A sitting commences pursuant to the standing or sessional orders, or in accordance with a resolution of the House at a previous sitting, and concludes with the adjournment of the same sitting. The same sitting may extend over more than one day (*and see* Chapter on ‘Order of business and the sitting day’).

### **Recess**

A recess is a period between sessions of the Parliament or the period between the close of a session by prorogation and the dissolution or expiry of the House.

### **Adjournment**

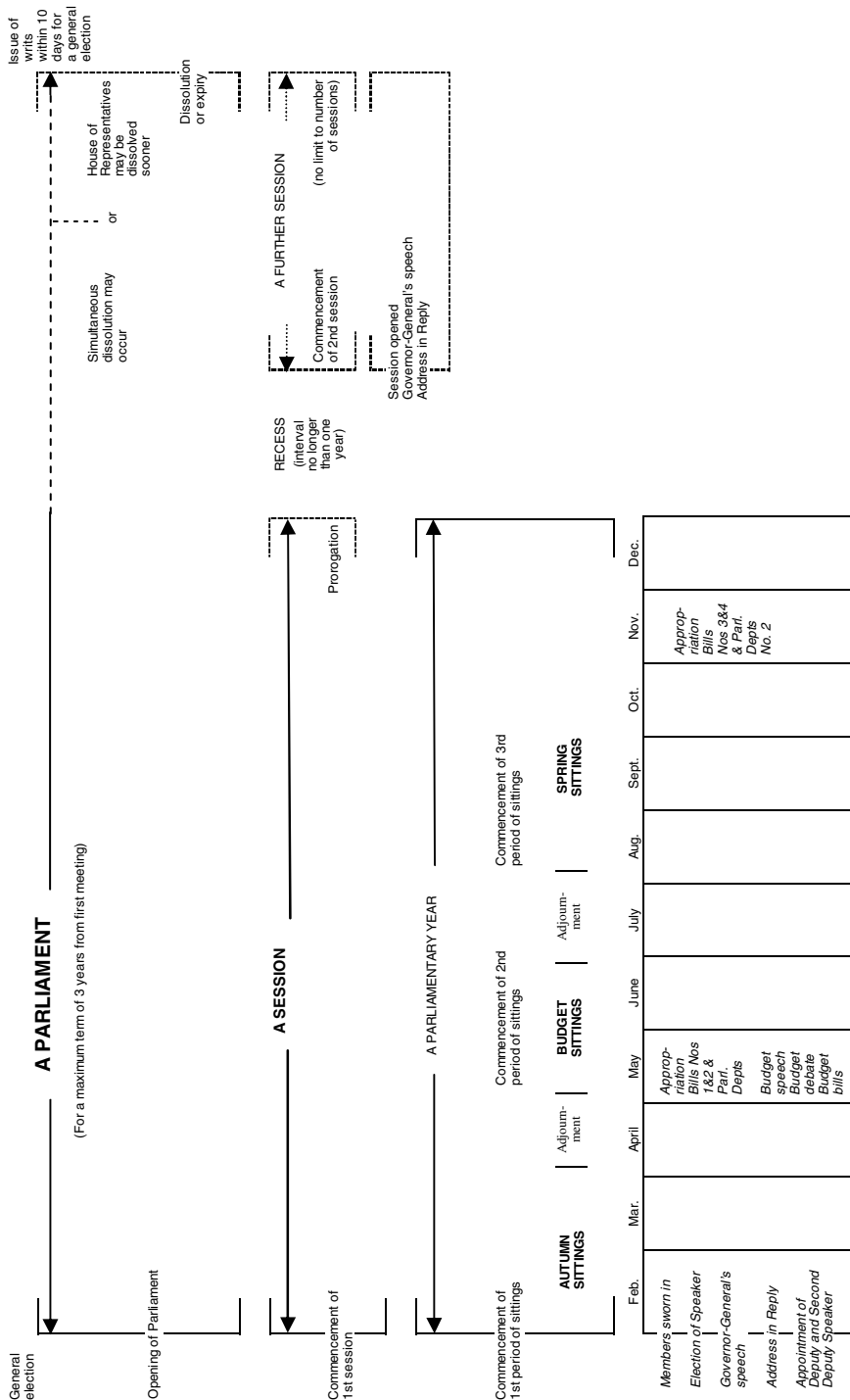
An adjournment is said to occur when the House stands adjourned, by its own resolution or in accordance with the standing orders, for any period of time. Thus the term covers the period between the end of one sitting day and the commencement of the next, the gap (usually of two weeks) between sitting weeks within a sitting period, and also the periods of time between the main sitting periods each year, which are technically not recesses, although they are often colloquially referred to as such.

### **Suspension of sitting**

Sittings are suspended, that is, temporarily interrupted, with the Speaker or Member presiding leaving the Chair, for a variety of reasons.<sup>7</sup>

<sup>7</sup> *See* Ch. on ‘Order of business and the sitting day’.

## The parliamentary calendar in perspective



This calendar is based on a December election and February opening, and on a May Budget. It assumes a prorogation (if occurring) and the commencement of a 2nd session at the end of the first year of the Parliament; in practice a single session has usually run for the life of a Parliament (i.e. up to three years).

## A PARLIAMENT

The duration of a Parliament is directly related to the duration of the House of Representatives. Having met, pursuant to the Governor-General's proclamation, a Parliament continues until the House of Representatives expires by effluxion of time three years from the first meeting of the House, or until the House is sooner dissolved by the Governor-General.<sup>8</sup> The House is dissolved by proclamation of the Governor-General.

It is usual for a Parliament to be terminated by dissolution, and only one House of Representatives has expired by effluxion of time (*see* p. 222). A dissolution may occur near to the three year expiry time or it may occur prematurely for political reasons.<sup>9</sup> On six occasions (1914, 1951, 1974, 1975, 1983 and 1987) the premature termination of the House of Representatives (and hence the Parliament) has coincided with the dissolution of the Senate, that is, the House and the Senate were dissolved simultaneously.<sup>10</sup>

Parliaments are numbered in arithmetical series, the 1st Parliament being from May 1901 to November 1903. The 41st Parliament commenced on 16 November 2004. Appendix 15 lists the significant dates of each Parliament since 1901.

### Summoning Parliament

The Constitution provides that Parliament must be summoned to meet not later than 30 days after the day appointed for the return of the writs.<sup>11</sup> The day for the new Parliament to assemble is fixed by the Governor-General by proclamation. The day fixed may be before the day by which writs are to be returned.

In the proclamation summoning Parliament to meet after a general election the constitutional authority, which provides that the Governor-General may appoint such times for holding the sessions of the Parliament as the Governor-General thinks fit, is cited. The Governor-General appoints a day for the Parliament to assemble for the despatch of business, and Senators and Members are required to give their attendance at Parliament House, Canberra, at a time specified on that day. Usually, the day fixed is a Tuesday and in recent years the time fixed has been 10.30 a.m. The Clerk of the House writes to all Members, as soon as the gazettal of the proclamation is made, informing them of the proclamation and the date and time appointed for the assembly of the Parliament.<sup>12</sup>

### Proceedings on opening day

The proceedings on the meeting of a new Parliament are characterised by a combination of the traditional and ceremonial elements of parliamentary custom and practice which is reflected in part by the standing orders.

<sup>8</sup> Constitution, s. 28.

<sup>9</sup> *See* chronology of Parliaments since 1901 at Appendix 15. The shortest lived Parliament was the 11th Parliament which was dissolved on 16 September 1929 after 7 months and 11 days; *see also* Ch. on 'The Parliament and the role of the House', for reasons for dissolution.

<sup>10</sup> Constitution, s. 57.

<sup>11</sup> Constitution, s. 5. The day fixed for the return of writs for the general election of Members to the 27th Parliament was on or before 24 November 1969 (VP 1968–69/603) which meant that the new Parliament had to be summoned to meet not later than 24 December 1969. The Parliament met on 25 November for only one sitting before the first session was prorogued on 23 February 1970.

<sup>12</sup> The terms of the proclamation are published in the Gazette and are also reproduced in the Votes and Proceedings, e.g. VP 2004–05/1.

These standing orders<sup>13</sup> reflect two principles of parliamentary custom:

- that the House is not properly constituted until it has elected its Speaker, which is its first action as a House; and
- that the House does not proceed to the despatch of business until the Speaker has been presented to, and it has heard the speech of, the Governor-General.<sup>14</sup>

The Sovereign may declare in person the causes of the calling together of a new Parliament but this has not occurred to date (*but see* p. 225).<sup>15</sup>

### *House assembles and Parliament opened*

On the day appointed for the Parliament to assemble, the bells are rung for five minutes before the appointed time. Prior to the bells ceasing to ring, the Serjeant-at-Arms places the Mace below the Table, as the House at that stage has not elected a Speaker.

When the bells cease ringing, the Clerk of the House reads the proclamation summoning Parliament. Traditionally, the Usher of the Black Rod, having been directed by the Governor-General's Deputy (or the Senior Deputy where two Deputies have been appointed) to request the attendance of Members of the House in the Senate Chamber, is admitted and orally delivers the message from the Bar of the House. Members, led by party leaders, preceded by the Serjeant-at-Arms (without the Mace) and the Clerk, Deputy Clerk and a Clerk Assistant, proceed to the Senate Chamber where the Deputy addresses the Members of both Houses.<sup>16</sup> The following form of words was used at the opening of the 41st Parliament:

His Excellency the Governor-General has appointed me as his Deputy to declare open the Parliament of the Commonwealth. The Clerk of the Senate will now read the instrument of appointment.<sup>17</sup>

After the instrument is read the Deputy declares the Parliament open.<sup>18</sup> The Deputy then informs the Members of both Houses that, after certain Senators<sup>19</sup> and Members have been sworn and the Members of the House have elected their Speaker, the Governor-General will declare the causes of the calling together of the Parliament. The Deputy then retires and Members return to the House to await the arrival of the Deputy to administer the oath or affirmation.

### *Deputy appointed by Governor-General*

The Deputy appointed by the Governor-General to declare open the Parliament is ordinarily a Justice of the High Court. It is usual for the Chief Justice to be appointed the Deputy. The Chief Justice (or other judge) is also authorised by the Governor-General to administer the oath or affirmation of allegiance to Members. A second judge<sup>20</sup> would be given the necessary authority when a large number of Senators were to be sworn in, such as

13 S.O. 4 determines the procedure on the meeting of a new Parliament; S.O.s 5–6 determine the procedure on opening day in relation to the Governor-General's speech.

14 H.R. Deb. (23.10.34) 30–1; S.O. 4(h).

15 S.O. 9(a). This may also be carried out by the Administrator (S.O. 2), VP 1961/1; or Deputies of the Governor-General (S.O. 9(b)).

16 In 1976 Members of the opposition party did not attend the Senate Chamber.

17 VP 2004–05/1.

18 Until 2004 the Deputy did not explicitly declare the Parliament open—the Deputy's address was in effect the declaration.

19 Normally Senators for the Australian Capital Territory and the Northern Territory, or Senators filling casual vacancies. In the case of the first meeting of Parliament following a simultaneous dissolution of both Houses it is also necessary for Senators to elect their President.

20 The term 'Deputy' in such cases (although appearing in the Votes and Proceedings in the past, e.g. VP 1987–89/3) is technically a misnomer. In the past the judge commissioned to swear in Members has been described as 'Commissioner' (even when also appointed Deputy), e.g. VP 1950–51/3.

at the opening of Parliament following a double dissolution. Should only one judge be authorised to administer oaths/affirmations in such situations, Members of the House would have a lengthy wait while Senators were sworn in. The simultaneous swearing in of Senators and Members is also regarded as symbolic of the independence of the Houses.

### *Members sworn*

On returning to the House and after an interval of some minutes, the judge, who is received standing, is escorted to the Speaker's Chair, and his or her authority from the Governor-General to administer the oath or affirmation is read by the Clerk. Returns to the writs for the general election<sup>21</sup> (including returns to writs for supplementary elections<sup>22</sup>), showing the Member elected for each electoral division, are presented by the Clerk. For these purposes the names of Members shown on the writs, called by the Clerk and recorded in the Votes and Proceedings, are as given by Members on their nomination forms, so that, for example, sometimes an abbreviated first name is shown, or the name of a person who has married and changed her name since nomination will be shown as it was at the time of nomination.<sup>23</sup> Members then come to the Table, in groups in the order in which they are called, to be sworn in. After making the oath or affirmation, and signing the oath or affirmation form, Members return to their seats.<sup>24</sup> When all Members present have been sworn in, the judge signs the attestation forms and retires, preceded by the Serjeant-at-Arms.

Members not sworn in at this stage may be sworn in later in the day's proceedings or on a subsequent sitting day by the Speaker, who receives an authority from the Governor-General to administer the oath or affirmation. As the Constitution provides that every Member shall take and subscribe an oath or affirmation of allegiance before taking his seat,<sup>25</sup> a Member may take no part in the proceedings of the House until this occurs.<sup>26</sup>

### *Election of Speaker*

After Members have been sworn in, the Clerk of the House, acting as chair, informs the House that the next business is the election of Speaker. The Speaker is then elected in the manner prescribed by the standing orders,<sup>27</sup> following which the Serjeant-at-Arms places the Mace upon the Table and the party leaders offer their congratulations. The Prime Minister then informs the House of the time when the Governor-General will receive the Speaker—for example, 'immediately after the resumption of sitting at 2.30 p.m.'. The Speaker announces that the bells will ring for five minutes before the time of presentation so that Members may assemble in the Chamber and accompany the Speaker, when they may, if they so wish, be introduced to the Governor-General. The sitting is then suspended.

21 A proclamation by the Governor-General rectifying errors in the writs has also been presented, VP 1998–2001/3.

22 Necessary when a person who has nominated for a general election dies after nominations have closed and before polling day, VP 1973–74/4.

23 VP 1996–98/3–8.

24 See Ch. on 'Members', for further discussion and form of oath and affirmation.

25 Constitution, s. 42. Members assembling (and sitting) in the Chamber prior to being sworn in are said to 'assume' their seats. They 'take' their seats after being sworn.

26 On the opening day of the 21st Parliament a Member who had not been sworn in entered the House during the election of the Speaker. Having been advised that he could not take his seat until sworn in he withdrew and was later sworn in by the Speaker, VP 1954–55/8. However, in similar circumstances returning Members re-elected have been permitted to 'assume' their seats immediately prior to being called to the Table to be sworn.

27 S.O. 11; e.g. VP 2004–05/6; and see Ch. on 'The Speaker, Deputy Speakers and officers'.

### *Presentation of Speaker to Governor-General*

Members reassemble in the Chamber at the appointed time and the Speaker enters the Chamber, preceded by the Serjeant-at-Arms, and resumes the Chair. When it is made known to the Speaker that the Governor-General is ready, the Speaker states that he or she would be glad if Members would attend with him or her to wait upon the Governor-General.<sup>28</sup> The Speaker, preceded by the Serjeant-at-Arms (carrying the Mace which is covered in the presence of the Governor-General), accompanied by the Clerk, Deputy Clerk and a Clerk Assistant and followed by party leaders and Members, proceeds to meet the Governor-General.

On return to the House in procession, the Speaker formally reports his or her presentation to the Governor-General and lays on the Table the authority received from the Governor-General to administer the oath or affirmation of allegiance to Members.<sup>29</sup> Oaths or affirmations are then administered to any Members not already sworn in.<sup>30</sup> Unlike Members elected to the House at by-elections, Members sworn in at this stage are not escorted by sponsors.<sup>31</sup>

### *Governor-General's speech*

In the meantime the sitting of the Senate, having earlier been suspended until such time as the Governor-General has appointed (usually 3 p.m.), resumes and the Governor-General is escorted by the Usher of the Black Rod to the Vice-Regal Chair on the dais in the Senate Chamber. Black Rod is then directed by the Governor-General to inform the Members of the House that their attendance is required in the Senate Chamber. Black Rod proceeds to the House of Representatives and, in keeping with tradition, knocks three times on the Chamber door. On recognising Black Rod the Serjeant-at-Arms informs the Speaker of Black Rod's presence. The Speaker directs that Black Rod be admitted and Black Rod then announces the Governor-General's message. The Speaker, preceded by the Serjeant-at-Arms (carrying the Mace which is left covered at the entrance to the Senate Chamber), accompanied by the Clerk, Deputy Clerk and a Clerk Assistant, and followed by party leaders and Members, proceeds to the Senate Chamber.<sup>32</sup> The Governor-General invites the Speaker to be seated in a chair provided at the Table. Members, after bowing to the Governor-General, take seats in the Senate Chamber.

The Governor-General then declares the causes of the calling together of the Parliament. In this speech, termed the Governor-General's 'opening speech', the affairs of the nation are reviewed briefly and a forecast given of the Government's proposed program of legislation for the session. The speech is normally of about 30 minutes duration.<sup>33</sup> At the conclusion of the speech a copy is presented to the Speaker by the Governor-General's Official Secretary,<sup>34</sup> and an artillery salute is fired. The Governor-General retires from the Senate Chamber, after which the Speaker and Members return to the House in procession.

28 In 1976 Members of the opposition party did not attend the presentation; *see also* Ch. on 'The Speaker, Deputy Speakers and officers'.

29 The terms of the authority are published in the Votes and Proceedings, e.g. VP 2004–05/7.

30 E.g. VP 1978–80/7.

31 *See* Ch. on 'Members'.

32 In 1976 Members of the opposition party did not attend the Senate, H.R. Deb. (19.2.76) 166, 169–70.

33 The opening speech for the 7th Parliament consisted of five lines mentioning only the need for the Houses to approve supply, VP 1917/5. The speech for the 27th Parliament consisted of four paragraphs, H.R. Deb. (25.11.69) 18–19.

34 The text of the speech appears in Hansard, e.g. H.R. Deb. (16.11.2004) 16–21.

*Formal business*

There is a traditional practice in both Houses of the United Kingdom Parliament of reading a bill a first time pro forma before the Queen's Speech is reported, in order to assert the right of each House to deliberate without reference to the immediate cause of summons.<sup>35</sup> This practice has been adopted by the House of Representatives, the standing orders providing that 'Before the Governor-General's Speech is reported some formal business shall be transacted and the Prime Minister may announce his or her ministry'.<sup>36</sup> Business which has preceded the reporting of the speech also includes announcements by the Prime Minister of other government party appointments and by the leaders of the other parties informing the House of their party appointments. A non-contentious bill, known as the 'formal' bill or 'privilege' bill, is then presented, usually by the Prime Minister. The bill is read a first time and the second reading made an order of the day for the next sitting.<sup>37</sup> The order of the day is placed on the Notice Paper and nowadays remains the last item of government business throughout the session, the bill lapsing at prorogation or dissolution.

There is no prescribed or traditional form or title for the 'privilege' bill.<sup>38</sup> In earlier times the 'privilege' bill has been passed into law,<sup>39</sup> although it was customary not to proceed beyond the first reading stage before consideration of the Governor-General's speech.<sup>40</sup> However, in recent times it has been the practice for the 'privilege' bill not to proceed beyond the first reading stage even after consideration of the Governor-General's speech. Although the 'privilege' bill is not proceeded with, its provisions may be incorporated in another bill introduced and passed later in the Parliament.<sup>41</sup>

*Report of Governor-General's speech and Address in Reply Committee*

The Speaker then formally reports the Governor-General's speech, after which a committee to prepare an Address in Reply to the speech is appointed on motion<sup>42</sup> usually moved by the Prime Minister. The motion for the appointment of the committee names the Members to form the committee, which traditionally consists of the Prime Minister and two other Members of the government party or parties (usually Members elected for the first time at the preceding general election, or with relatively short periods of service in the House).<sup>43</sup> The motion to appoint the committee is normally agreed to without debate. The committee presents a report in terms of the proposed Address in Reply at a later hour of the day,<sup>44</sup> or, more usually, at the next sitting.<sup>45</sup>

The Address in Reply is a short resolution expressing loyalty to the Queen and thanks to the Governor-General (*see* p. 229). In the United Kingdom House of Commons the Address in Reply was originally an answer, paragraph by paragraph, to the royal speech,

35 *May*, 23rd edn, p. 289. The practice is an expression of the House's independence of the Crown and the Executive Government.

36 S.O. 6(a).

37 *Eg.* VP 2004–05/9.

38 In contrast to the House of Commons where the bill is by ancient custom the Outlawries Bill. *May*, 23rd edn, p. 289.

39 The last occasion was in 1945.

40 H.R. Deb. (26.5.09) 31.

41 *E.g.* provisions of the privilege bill of the 36th Parliament, the Parliamentary Presiding Officers Amendment Bill 1990, were included in the Parliamentary Presiding Officers Amendment Bill 1992.

42 S.O. 6(c); *e.g.* VP 2004–05/9. No committee was appointed to prepare an Address in Reply following the opening of the 1st Session of the 7th Parliament on 14 June 1917, VP 1917/5.

43 The committee has consisted of four Members excluding the mover, VP 1909/6; two Members excluding the mover, VP 1912/5; and two Members, the Prime Minister and Leader of the Opposition, VP 1954/2. A Member has subsequently been discharged from the committee and another Member appointed in his place, VP 1976–77/21.

44 *E.g.* VP 1998–2001/13. A specific hour (3.30 p.m.) has been included in the resolution for the time of report, VP 1903/3.

45 *E.g.* VP 2004–05/20.



prepared by a committee appointed for that purpose. However, the appointment of the committee was discontinued over a century ago. Current United Kingdom practice is that two Members are selected by the Government to move and second the Address, which is moved in the form of a short resolution expressing thanks to the Sovereign.<sup>46</sup>

At this point the formal and regular proceedings of the opening day have been completed and it is then customary for the sitting to be suspended until an appointed time, usually 5 p.m., in order that guests of the Parliament present for the occasion may be offered some light refreshment. Alternatively the House may adjourn until the next sitting.

### *Other business*

If the House does not then adjourn, it is free to proceed to other business. However, the initiation of business generally requires that notice be given, and this limits the business that can be dealt with unless leave of the House is granted<sup>47</sup> or standing orders are suspended (there is no Notice Paper for the first day of sitting). Condolence motions or references to deaths of former Members or Senators or other persons have taken place, after which the House may suspend or adjourn as a mark of respect.<sup>48</sup> The election of the Deputy Speaker and Second Deputy Speaker may be conducted, committees have been appointed and members of committees nominated,<sup>49</sup> and sessional orders agreed to.<sup>50</sup> Appropriation and supply bills have been introduced.<sup>51</sup> Although it is not a common practice, the ordinary order of business has been proceeded with, including the presentation of petitions,<sup>52</sup> questions without notice,<sup>53</sup> the presentation of documents,<sup>54</sup> and ministerial statements.<sup>55</sup> Notices have been given (they can be lodged with the Clerk at any time after the election of Speaker).

A motion of censure of the Government has been moved, following the suspension of standing orders.<sup>56</sup> On one occasion standing orders were suspended to enable steps to be taken to obtain supply and to pass a supply bill through all stages without delay. The supply bill was agreed to and returned from the Senate, without requests, that day.<sup>57</sup>

### *Proposed new arrangements for opening day*

On March 24 1988, before the move to the new Parliament House, the House agreed to a resolution expressing, inter alia, the view that the declaration of future openings, and speeches by the Governor-General on the occasion, should be delivered in the Members' Hall or an appropriate equivalent. The Senate was informed of the resolution and asked to take similar action, although no action was taken by the Senate. The terms were conveyed to the Governor-General.<sup>58</sup>

Successive Standing Committees on Procedure (in June 1991 and September 1995) have recommended that the following traditional practices be discontinued:

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46 *May*, 23rd edn, p. 290.

47 VP 1967–68/11.

48 VP 1943–44/8; VP 1967–68/10; VP 1985–87/11; VP 2002–04/10.

49 VP 1969–70/12–18; VP 2002–04/10.

50 VP 1920–21/6.

51 VP 1993–95/14–16.

52 VP 1980–83/9–10.

53 VP 1967–68/10.

54 VP 1967–68/10.

55 VP 1964–66/11.

56 VP 1969–70/18.

57 VP 1913/7, 12.

58 VP 1987–90/433, 445.

- the procession of Members to the Senate to hear the Governor-General's Deputy declare open the Parliament—the committees proposed instead that two Deputies be appointed to open the Parliament simultaneously in each Chamber;
- the procession of Members to the Members' Hall for the presentation of the Speaker to the Governor-General—the committees proposed instead 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.

Both reports also questioned the necessity for the Governor-General's opening speech to be delivered in the Senate Chamber (the later committee stating its preference for the Great Hall of the Parliament). Other repeated recommendations were that a long-serving Member, rather than the Clerk, take the Chair during the election of the Speaker, and that the election of the Deputy Speaker (and Second Deputy Speaker) take place immediately after the election of the Speaker. The House took no action on the reports.<sup>59</sup> In 2001 the Procedure Committee reported again,<sup>60</sup> recommending more extensive changes, including:

- a new ceremonial element in the Forecourt of Parliament House involving the original indigenous owners of the land where Parliament House now stands;
- simultaneously declaring the Parliament open in both Chambers, with the Governor-General's opening speech occurring in the Great Hall;
- as formal business, the House agreeing to a resolution of commitment to the people of Australia;
- reviewing the form of the oath of allegiance;
- broadcasting the opening ceremony on national television.

Again, no action was taken on the report and the 40th and 41st Parliaments opened in 2002 and 2004 in the traditional manner.

## Dissolution

The most common way for a Parliament to be terminated is by the dissolution of the House of Representatives, such dissolution being made by proclamation by the Governor-General.<sup>61</sup> On six occasions the Parliament has been terminated by the simultaneous dissolution of the House of Representatives and the Senate<sup>62</sup> and one Parliament expired by effluxion of time (*see* p. 222).

In the proclamation dissolving the House of Representatives the provision of section 5 of the Constitution, whereby the Governor-General may dissolve the House, is cited, and the House is dissolved (the date and time of dissolution is normally specified). Since 1993 the Parliament has been prorogued (*see* p. 225) immediately prior to the dissolution of the House. This was initially by separate proclamation. Since 1998 the proclamation dissolving the House has also prorogued the Parliament.<sup>63</sup>

The proclamation is published in the Commonwealth Gazette and read from the front of Parliament House by the Official Secretary to the Governor-General immediately prior to

59 Standing Committee on Procedure, *The standing orders governing: General rule for conduct of business; Procedures for the opening of Parliament*. PP 167 (1991); *Procedures for the opening of Parliament*. PP 159 (1995). In February 2001 the committee again resolved to inquire into the opening procedures.

60 Standing Committee on Procedure, *Balancing tradition and progress—Procedures for the opening of Parliament*. PP 165 (2001).

61 Constitution, s. 5.

62 *See* Ch. on 'Disagreements between the Houses'.

63 E.g. Gazette S432 (31.8.98), Gazette S421 (8.10.2001).

the hour of dissolution.<sup>64</sup> This practice was adopted in 1963 following doubts being raised by the Attorney-General as to whether publication of the proclamation in the Gazette would be sufficient to proclaim it for the purposes of section 5 of the Constitution. It was considered that section 17(j) of the *Acts Interpretation Act 1901* which makes publication in the Gazette sufficient publication for the purposes of Commonwealth Acts, was not applicable as the proclamation is not made under a Commonwealth Act.

The modern practice is that the Official Secretary reads the proclamation from the front of Parliament House, accompanied by the Clerk of the House, the Deputy Clerk and the Serjeant-at-Arms. The House staff then return to the entrance to the House of Representatives Chamber and the Clerk of the House posts a copy of the proclamation at the door of the Chamber. Traditionally, an artillery salute is fired at the precise time of dissolution to mark the end of the Parliament.

Staff of the Senate have attended the reading of the proclamation on the occasion of a simultaneous dissolution of both Houses. They have not attended when the Parliament is prorogued and only the House is being dissolved.

### *Effects of dissolution*

Dissolution has the following effects on the House of Representatives:<sup>65</sup>

- All proceedings pending come to an end—that is, all business on the Notice Paper lapses.
- Members of the House cease to be Members, although those who renominate continue to receive their allowances up to and including the day prior to the day fixed for the election.<sup>66</sup> Ministers, however, continue in office<sup>67</sup> and the Speaker is deemed to be Speaker for administrative purposes until a Speaker is chosen in the next Parliament.<sup>68</sup>
- Any sessional or other such non-ongoing orders or resolutions cease to have effect.
- All House committees and joint committees established by Act or resolution cease to exist.

It is considered desirable for bills passed during a session to be assented to before the dissolution proclamation is made.<sup>69</sup>

If the House is dissolved or expires, or Parliament is prorogued, before the end of 15 sitting days of a House of the Parliament after notice of a motion to disallow a legislative instrument has been given in that House, and that motion has not been disposed of, the instrument is deemed to have been laid before that House on the first sitting day after the dissolution, expiry or prorogation.<sup>70</sup> Any notice to disallow given in the previous session, or the last session of the previous Parliament, must be given again to have effect.

64 The proclamation dissolving the 25th Parliament on 31 October 1966 was read by the Clerk of the House in the absence of the Official Secretary. A member of the Governor-General's staff is considered the appropriate person to do so. The proclamation is also published in the bound volumes of the Votes and Proceedings. See VP 1990–93/2009.

65 And see Ch. on 'Motions' in respect of resolutions and orders of the House.

66 *Parliamentary Allowances Act 1952*, s. 5A(2).

67 Ministers can hold office for up to three months without being a Member or Senator (Constitution, s. 64). However, a caretaker convention applies—see Ch on 'House, Government and Opposition'.

68 *Parliamentary Presiding Officers Act 1965*.

69 Advice of Attorney-General's Department, dated 29 October 1963 (expressing opinion of Attorney-General). The *Commonwealth Debt Conversion Act (No. 2) 1931* was assented to on 15 January 1932, the House of Representatives having been dissolved on 26 November 1931, VP 1929–31/951–3. See also opinion by Solicitor-General, dated 9 October 1984, which expressed the view that the Constitution does not require that bills be assented to prior to prorogation or dissolution; and the New Zealand case *Simpson v. Attorney-General* NZLR (1954) 271–86.

70 *Legislative Instruments Act 2003*, s. 42(3). See 'Delegated legislation' in Ch. on 'Legislation'.

Constitutionally, it is the House of Representatives that is regularly dissolved for electoral purposes and not the Senate. The Senate's existence (coupled with its electoral system) is continuous in character, except in the circumstances of the simultaneous dissolution of both Houses.

There would be considerable constitutional and legal doubt in respect of any proposal for the meeting of the Senate after the dissolution of the House unless specific statutory or constitutional provision was made. The Senate has not met after a dissolution of the House has occurred but has passed a resolution which, according to *Odgers*, in effect asserts its right to do.<sup>71</sup> (See also 'Effects of prorogation' at p. 226).

### Expiration

Section 28 of the Constitution provides that a House of Representatives may 'continue for three years from the first meeting of the House, and no longer'. This requirement is interpreted as meaning that a Parliament not earlier dissolved expires at midnight on the day before the third anniversary of the first day of sitting.<sup>72</sup> The 3rd Parliament has been the only one to expire by effluxion of time. This Parliament first met on 20 February 1907 and the final meeting was on 8 December 1909, after which Parliament was prorogued until 26 January 1910. On 18 January 1910 Parliament was further prorogued until 19 February 1910 at which time it expired. Writs for the election of Members of the House of Representatives were then issued on 28 February 1910. Expiration affects the House of Representatives (and the Senate) in the same way as a dissolution.

### Prolongation

On 2 March 1917, during World War I, the House agreed to a motion moved by the Prime Minister which requested the Imperial (United Kingdom) Government to legislate for the extension of the duration of the then House of Representatives until six months after the final declaration of peace, or until 8 October 1918, whichever was the shorter period, and to enable the next elections for the Senate to be held at the same time as the next general election for the House of Representatives.<sup>73</sup> A motion in the same terms lapsed in the Senate and the proposition did not proceed further.<sup>74</sup> Suggestions were made during World War II that the life of the 15th Parliament be extended. In answering a question in the House on the proposition, the Prime Minister stated that, in his opinion, 'the extension of the life of the Parliament would, in certain circumstances, require an authorising act of the Parliament of the United Kingdom . . . [but that] the Government has not yet thought it necessary to consider it'.<sup>75</sup> With the enactment of the respective Australia Acts by the Commonwealth and United Kingdom Parliaments, such a proposed method of prolonging the life of a Parliament is not possible.<sup>76</sup>

<sup>71</sup> J 1983–84/1276, and see *Odgers*, 11th edn, pp. 151–2, 499–501.

<sup>72</sup> Interpretation supported by opinion of Acting Solicitor-General, dated 14 May 1992.

<sup>73</sup> VP 1914–17/576.

<sup>74</sup> S. Deb. (1.3.17) 10758–9.

<sup>75</sup> H.R. Deb. (21.6.40) 135.

<sup>76</sup> Act No. 142 of 1985 (Commonwealth).

## A SESSION

The life of a Parliament may be divided into sessions. A session of Parliament commences upon the first sitting day following a general election and terminates only when the Parliament is prorogued or the House of Representatives is dissolved or expires by effluxion of time. The Constitution provides that there shall be a session of the Parliament once at least in every year, so that 12 months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.<sup>77</sup> This has not been in practice interpreted to mean that a session cannot continue beyond a year but that there shall not be an interval of 12 months between consecutive sittings.

When a session is terminated by a prorogation (not being followed by a dissolution), after an indeterminate interval<sup>78</sup> a further session commences pursuant to a proclamation by the Governor-General.

The duration of a Parliament therefore may be composed of more than one session and constitutionally there is no limit to the number of sessions which may occur. In practical terms the number of sessions would be unlikely to exceed three in any one Parliament. Likewise there is no constitutional limit to the duration of a session within a Parliament.

It is now the usual practice for Parliaments to consist of one session only. However, in the past the number and duration of sessions have varied considerably:

- Two sessions have contained only one sitting day. The shortest sessions have been:
  - 1st Session 7th Parliament from 14 June 1917 to 16 June 1917. The only sitting was 14 June.
  - 1st Session 27th Parliament from 25 November 1969 to 23 February 1970. The only sitting was 25–26 November.
- A number of sessions have continued into their third year, although not being the only session in the Parliament, for example:
  - 2nd Session 7th Parliament, 1917–18–19,
  - 1st Session 15th Parliament, 1937–38–39–40,
  - 2nd Session 27th Parliament, 1970–71–72.
- The longest session has been the 1st (and only) Session of the 39th Parliament, from 10 November 1998 to 8 October 2001.
- The 3rd Parliament was unique in having four sessions.

In 1957, on the opening day of the 2nd Session of the 22nd Parliament, the Leader of the House announced that in future there would be a regular session of the Parliament each year with a formal opening in the Autumn preceded by a prorogation of the previous session.<sup>79</sup> However, this system of annual sessions fell into disuse after the 1st (and only) Session of the 24th Parliament had continued for over 20 months.

The Senate traditionally recorded its proceedings by session rather than by Parliament—for example, the 1st session of the 38th Parliament constituted the 66th session.<sup>80</sup>

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<sup>77</sup> Constitution, s. 6. A list of sessions is included at Appendix 15.

<sup>78</sup> The average interval between prorogation and opening of a new session since 1961 has been 12 days in respect of four prorogations. The longest recess was of nine months and six days between the 1st and 2nd Sessions of the 4th Parliament.

<sup>79</sup> H.R. Deb. (19.3.57) 19–22.

<sup>80</sup> See also *Odgers*, 5th edn, p. 163.

## Opening of a new session

Procedure for the opening day of a new session of the Parliament following a prorogation is similar to that for the opening day of a new Parliament except that, as the session is a continuation of and not the commencement of a Parliament, no Deputies are appointed by the Governor-General to open Parliament, only those Members elected at by-elections since the last meeting are sworn in, and the Speaker, Deputy Speaker and Second Deputy Speaker continue in office without re-election.

The House has usually met at 3 p.m., although it is not to be assumed that this time would be chosen in the future. When the bells cease ringing, the Serjeant-at-Arms announces the Speaker, who takes the Chair as the Mace is placed on the Table.<sup>81</sup> The Clerk of the House reads the proclamation summoning Parliament,<sup>82</sup> and Members then rise in their places while the Speaker reads Prayers. The House then awaits the arrival of the Usher of the Black Rod with a message advising that the Governor-General desires the attendance of Members to hear the speech, traditionally in the Senate Chamber.

While awaiting the arrival of Black Rod, the House may attend to other business, which has included announcements such as the death of a Member and the issue of and return to the writ to fill the vacancy,<sup>83</sup> the Speaker's receipt of an authority to administer the oath or affirmation of allegiance to Members,<sup>84</sup> and changes in staff of the House.<sup>85</sup> The opportunity has also been taken to swear in Members.<sup>86</sup>

Under the traditional arrangement, upon receipt of the message summoning Members to attend in the Senate, the Speaker, accompanied by Members and House staff, has proceeded to the Senate Chamber.<sup>87</sup> On return to the House, and before the Speaker has reported the Governor-General's speech, business transacted has included announcements regarding ministerial arrangements,<sup>88</sup> the resignation of Members and the issue of writs,<sup>89</sup> and the receipt of the Speaker's authority to administer the oath or affirmation of allegiance to Members.<sup>90</sup> It has also included presentation of documents,<sup>91</sup> the moving of condolence motions<sup>92</sup> and, on each occasion, the presentation of a 'privilege' bill (*see* p. 218).

Following the report of the speech and the appointment of the Address in Reply Committee, the House, on the most recent occasions, has adjourned. Alternatively, condolence motions may then be moved and the sitting may be suspended or the House adjourned as a mark of respect. If the House is not adjourned, or if the sitting is resumed, the House may proceed with the ordinary order of business of a day's sitting. On one occasion the Address in Reply was brought up and agreed to, and Customs Tariff Proposals

81 This practice was adopted in 1977, VP 1977/1. Previously the Speaker took a chair near the ministerial bench and the Mace was placed under the Table until the proclamation was read, VP 1974/1.

82 Initial proceedings are governed by S.O. 8. On the opening day of the 2nd Session of the 18th Parliament, the Clerk having informed the House of the unavoidable absence of the Speaker, the Chairman of Committees carried out the Speaker's duties, VP 1948-49/2.

83 VP 1968-69/2.

84 VP 1961/2.

85 VP 1957-58/1.

86 VP 1970-72/1.

87 From this point the procedure is the same as for the meeting of a new Parliament; S.O.s 5-7 apply. The Governor-General's speech at the opening of the 2nd Session of the 2nd Parliament consisted of only 12 lines dealing with the Government's intention to submit electoral redistribution proposals to the Parliament, VP 1905/2.

88 VP 1968-69/2-3.

89 VP 1960-61/2-3.

90 VP 1960-61/2-3.

91 VP 1909/2.

92 VP 1958/2.

were then introduced.<sup>93</sup> On two other occasions standing orders were suspended to enable a supply bill to pass through all stages without delay.<sup>94</sup>

### *'Opening' by the Sovereign*

#### FIRST SESSION

On the meeting of a new Parliament and hence the 1st Session, the actual 'opening' of Parliament is carried out by the Governor-General's Deputy. The Governor-General or the Sovereign may open Parliament in person but neither has done so.

However the 1st Parliament, which assembled at the Exhibition Building in Melbourne on 9 May 1901 pursuant to proclamation of the Governor-General,<sup>95</sup> was opened by His Royal Highness the Duke of Cornwall and York in the name of, and on behalf of, His Majesty King Edward VII.<sup>96</sup> Some doubt has been expressed as to the legality of a person other than the Sovereign or the Governor-General (or the Governor-General's Deputy) opening Parliament.<sup>97</sup> Members took and subscribed the oath required by law before the Governor-General and then retired to the Legislative Assembly Chamber at Parliament House to choose a Speaker.<sup>98</sup> The next day the Governor-General delivered a speech to Members of both Houses on the opening of the 1st Session of the 1st Parliament.<sup>99</sup>

#### NEW SESSION

A new session of the Parliament is opened only in the sense of declaring the causes of the calling together of the Parliament constituted by the 'opening' speech.

Her Majesty Queen Elizabeth II has, on three occasions, made the speech to both Houses of Parliament at the commencement of a new session; the 3rd Session of the 20th Parliament on 15 February 1954, and the 2nd Sessions of the 28th Parliament on 28 February 1974 and the 30th Parliament on 8 March 1977. Prior to the first occasion the House adopted a new standing order 'to meet the requirements occasioned by the proposed Opening of the Parliament by Her Majesty'.<sup>100</sup> The standing order now provides that if the Queen attends a meeting to declare the causes for the calling together of Parliament, references in Chapter 2 of the standing orders to the Governor-General shall be read as references to Her Majesty.<sup>101</sup> The proceedings on the opening day when the speech is made by the Queen are the same as those for the normal meeting for a new session.

## Prorogation

The constitutional and parliamentary nature of prorogation is described in the following passage from *May*:

The prorogation of Parliament is a prerogative act of the Crown. Just as Parliament can commence its deliberations only at the time appointed by the Queen, so it cannot continue them any longer than she pleases.<sup>102</sup>

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93 VP 1954/5–11.

94 VP 1911/4, 8; the supply bill was agreed to and returned from the Senate, without requests, that day; VP 1917–19/5.

95 VP 1901–02/1.

96 VP 1901–02/7–8.

97 See *Odgers*, 6th edn, p. 233.

98 VP 1901–02/8–9.

99 VP 1901–02/11.

100 VP 1953–54/66; see also *Royal Powers Act 1953*.

101 S.O. 9(a).

102 *May*, 23rd edn, p. 274. In the United Kingdom a session normally begins in early November and continues until late in the following October, *May*, 23rd edn, p. 313.

Prorogation terminates a session of Parliament; a dissolution terminates a Parliament and thus there must be a general election. The decision only to prorogue the Parliament therefore does not attach to it the same significance as a decision to dissolve the House of Representatives. There is little guidance afforded by the constitutional provisions or conventions as to when or how often prorogation should take place or any established criteria regarding the taking of a decision to prorogue. While section 5 of the Constitution gives the Governor-General authority to prorogue the Parliament, the decision to prorogue follows the advice of the Government of the day.

Parliaments have often consisted of only one session without a prorogation intervening, and this is now usual. A prorogation does not necessarily precede a dissolution as is commonly the case in the United Kingdom, although this has been the recent practice. Between 1928 and 1990 Parliaments were not expressly prorogued prior to dissolution and the holding of a general election. Since then the Parliament has been prorogued just before the dissolution of the House of Representatives.<sup>103</sup>

Parliament is prorogued by the Governor-General who may do so by proclamation or otherwise.<sup>104</sup> On 10 October 1902 the Acting Governor-General, in a speech to Members of both Houses in the Senate Chamber, prorogued the 1st Parliament until 14 November 1902<sup>105</sup> and it was then prorogued a further five times by proclamation before it met for the 2nd Session on 26 May 1903. The 2nd Session, in turn, was prorogued by the Governor-General in person on 22 October 1903.<sup>106</sup> The 2nd Parliament was prorogued in the same manner three times<sup>107</sup> and on each occasion there were further prorogations by proclamation.<sup>108</sup>

Since 1906 all prorogations have been made by proclamation published in the Commonwealth Gazette and on one such occasion, 28 February 1977, the proclamation was read publicly on the front steps of the provisional Parliament House by the Official Secretary to the Governor-General, consistent with the practice with a proclamation of dissolution. The proclamations proroguing the 36th and 37th Parliaments were read at the front of Parliament House immediately before the proclamations dissolving the House of Representatives. Since 1998, at the end of the 38th Parliament, the Parliament has been prorogued and the House dissolved by a single proclamation. The proclamation proroguing Parliament may set down the day for the next meeting and summon all Senators and Members to be present at an hour appointed on that day.<sup>109</sup>

### *Effects of prorogation*

Prorogation of the Parliament has the following effects on the House of Representatives:<sup>110</sup>

103 Gazette S40 (8.2.93), for comment on this see Denis O'Brien, 'Federal elections—the strange case of the two proclamations', *Public Law Review*, June 1993, v.4 (2) : 81–83. Gazette S32 (29.1.96); S432 (31.8.98).

104 Constitution, s. 5.

105 VP 1901–02/565.

106 VP 1903/187.

107 VP 1904/268; VP 1905/229; VP 1906/180.

108 See also Appendix 15.

109 The proclamation is published in the bound volumes of the Votes and Proceedings, e.g. VP 1998–2001/2700.

110 And see Chs. on 'Parliamentary privilege' in respect of freedom from arrest in civil matters and 'Motions' in respect to resolutions and orders of the House.



- All proceedings come to an end—that is, all business on the Notice Paper lapses.<sup>111</sup> Provision exists for the resumption in a new session, under certain conditions, of proceedings on bills which lapse by reason of prorogation.<sup>112</sup>
- Any sessional orders cease to have effect.
- Resolutions or orders of the House cease to have any force unless they are deemed to continue in a new session by virtue of being passed as standing orders or pursuant to statute, or unless there are explicit provisions to give them continuing force, or unless it is implicitly understood that they are to have ongoing effect.
- The House may not meet until the date nominated in the proclamation.
- Bills agreed to by both Houses during a session are in practice assented to prior to the signing of the prorogation proclamation. However, bills have been assented to after Parliament has been prorogued.<sup>113</sup>
- The procedure in relation to a notice of motion for the disallowance of a regulation applies to prorogation as to dissolution (*see* p. 221).
- Committees of the House and joint committees appointed by standing order or by resolution for the life of the Parliament continue in existence but may not meet and transact business following prorogation. Committees whose tenure is on a sessional basis cease to exist. Statutory committees continue in existence and may meet and transact business if, as is the normal practice, the Act under which they are appointed so provides. The Senate has taken a different approach to that of the House in relation to the effect of prorogation on its committees, and Senate standing orders and resolutions of appointment give most Senate committees the power to meet during recess.<sup>114</sup> The effect of prorogation on committees is discussed in more detail in the Chapter on ‘Parliamentary committees’.

Writs for the election of Members to fill vacancies may be issued by the Speaker, and a Member may resign his or her seat to the Speaker during a recess in accordance with the Constitution. The Speaker continues to hold all the powers and authority possessed by virtue of the office.

It has been accepted that prorogation of the Parliament prevents either House from meeting. *Odgers* cites Professor Howard’s view that the Senate could in fact meet to transact its own business. However, the Senate has not done this nor asserted its right to do so.<sup>115</sup> The practice of proroguing the Parliament immediately prior to dissolution of the House has been said to be aimed at removing the possibility of the Senate sitting following the dissolution of the House.<sup>116</sup> At the conclusion of the 40th Parliament Prime Minister

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111 Business lapsed at prorogation or dissolution is published in the bound volumes of Votes and Proceedings, e.g. VP 1998–2001/2702–26.

112 S.O. 174. *See* Ch. on ‘Legislation’.

113 The 4th Parliament having been prorogued on 29 November 1910, 11 Bills were assented to on 1 December 1910, VP 1910/261–3. The view has been taken by the Solicitor-General that bills can be assented to after prorogation (Opinion No. 3 of 1952, dated 23 May 1952, *also* Opinion dated 9 October 1984 referred to at p. 221). This view has since been upheld by the High Court, *Attorney General (WA) v. Marquet* [2003] HCA 67.

114 *Odgers*, 11th edn, pp. 501–2.

115 *Odgers*, 11th edn, pp. 151, 501.

116 *See* Denis O’Brien, ‘Federal elections—the strange case of the two proclamations’, *Public Law Review*, June 1993, v.4 (2) : 81–83.

Howard indicated that the timing of the prorogation and dissolution (announced on 29 August for 31 August) was to allow the Senate to sit in the intervening period.<sup>117</sup>

### *Prorogation in practice*

The history of the Australian Parliament in respect of prorogations is marked by inconsistency. In 1957 the Leader of the House stated that in future annual sessions of Parliament would be held,<sup>118</sup> and this practice continued until the end of 1961. Subsequently, the division of a Parliament into more than one session by means of regular prorogations appears to have been regarded as either inconvenient or unnecessary.

There are few occasions when advantage can be perceived in the act of prorogation in the modern context. This is illustrated by the fact that there have been only four prorogations since 1961, apart from prorogation immediately prior to the end of a Parliament, and all of these were for a particular reason:

- the 1968 prorogation followed the death of Prime Minister Holt and the formation of a new Ministry;
- the 1970 prorogation was caused by a general election being held on 25 October 1969, resulting in the Parliament being forced to meet, under section 5 of the Constitution, prior to Christmas; the Parliament met for one sitting day but the Government found that it was not able to have the Governor-General announce fully its proposed program at that time; the program was announced at the opening of the second session; and
- the Parliament was prorogued in 1974 and 1977 to enable the Queen to open the new session in each case.

From the point of view of the House and its Members, prorogation has the disadvantage of disrupting the business before the House and its committees and causes some additional workload in the new session. From the point of view of committees of the Parliament, the recent practice of not proroguing, except for special reasons, is desirable in order that they may continue their operations with minimal disruption while the House is not sitting. When prorogation is found to be necessary, it is to the advantage of committees if this is done as near as possible to the proposed meeting in the new session. This reduces the 'recess' time and so minimises the difficulties referred to earlier of committees not being able to meet during periods of recess. The recess involved need only be very short, for example, over a weekend.

There is also the argument, however, that regular, perhaps annual, prorogations could offer advantages, such as:

- a regular statement of government policies and intentions would be put before the House;
- there would be a regular opportunity for Members to debate the Government's statement; and
- there would be a regular and comprehensive clearing of the Notice Paper.

117 See Transcript of Prime Minister's press conference at Parliament House, 29 August 2004, and S. Deb. (30.8.2004). The delay enabled the establishment of a foreshadowed Senate select committee to inquire into certain matters involving the Prime Minister, which held a public hearing after the prorogation. The House did not sit again before dissolution.

118 VP 1957–58/6; H.R. Deb. (19.3.57) 19.

## THE ADDRESS IN REPLY

### Presentation to House

When the order of the day for the presentation of the report of the Address in Reply Committee is read, either on the opening day or at a later sitting, the Speaker calls one of the two private Members of the committee to present the Address<sup>119</sup> and it is then read by the Clerk.<sup>120</sup> The traditional wording of the Address is:

May it please Your Excellency:

We, the House of Representatives of the Commonwealth of Australia, in Parliament assembled, desire to express our loyalty to our Most Gracious Sovereign, and to thank Your Excellency for the speech which you have been pleased to address to Parliament.<sup>121</sup>

The Member who presents the Address then moves that it be agreed to and at the conclusion of the mover's speech the Speaker calls on the other private Member to second the motion. The debate on the motion may continue immediately or be adjourned to the next sitting. The Address has been agreed to on the day it was presented to the House,<sup>122</sup> but debate usually extends over several sitting days.

Following the opening of the 1st Session of the 7th Parliament in 1917 and the report of the Governor-General's speech, the standing orders in connection with the Address in Reply were suspended and no Address was presented.<sup>123</sup>

In 1913, following a short speech by the Governor-General which dealt with the necessity to obtain supply and mentioned the fact that his present advisers had 'not yet been able to mature the proposals placed by them before the Electors',<sup>124</sup> the House considered a statement of ministerial policy together with the proposed Address in Reply.<sup>125</sup> In 1961, following the opening of the 3rd Session of the 23rd Parliament, a committee was appointed to prepare an Address in Reply to the speech by the Administrator.<sup>126</sup>

### Debate

Standing order 76 exempts debate on the Address from the rule of relevance. The scope of debate is unlimited in subject matter and usually ranges over a wide field of public affairs, including government policy and administration. Members may not discuss a specific motion of which notice has been given,<sup>127</sup> and a specific allusion to any matter which is an order of the day should be avoided.

Each Member may speak for 20 minutes to the motion 'That the Address be agreed to'.<sup>128</sup> A Member who has already spoken to the main question may speak again, for 15 minutes only, to an amendment subsequently moved, but may not move or second such an

119 E.g. VP 2004–05/20. The Prime Minister has presented the Address and another Member moved that it be agreed to, VP 1917–19/5, VP 1922/11, VP 1923–24/7, VP 1925/9. The Prime Minister has presented the Address and moved that it be agreed to, VP 1944–45/6, VP 1954/5 (opening by the Queen).

120 In 1945 the Address was varied to include a welcome to the Duke of Gloucester, recently appointed as Governor-General (VP 1945–46/12) and there have been variations when Queen Elizabeth II opened sessions, VP 1954/5, VP 1974/36 and VP 1977/22. In 1974 the Address was varied to take cognisance of the fact that a new Governor-General had been appointed after the session commenced, VP 1974–75/36.

121 E.g. VP 2004–05/20.

122 VP 1969–70/11 (on this occasion there was no debate); VP 1954/5.

123 VP 1917/5.

124 VP 1913/5.

125 VP 1913/13.

126 VP 1961/5–6. Presented to the Administrator, VP 1961/36.

127 H.R. Deb. (6.7.22) 238.

128 S.O. 1.

amendment. The Address in Reply debate is traditionally an opportunity for newly elected Members to make their first speeches to the House.

Debate on the Address has been closed.<sup>129</sup> The order of the day for the resumption of debate on the Address has been referred to the Main Committee.<sup>130</sup>

### Amendments

Amendments to the Address may be moved in the form of an addition of words to the Address. An amendment would usually be moved by an opposition Member. It is usually critical of the Government and, having regard to its wording, could be considered by the Government to be an amendment of censure for the purposes of standing order 48. In this case the amendment must be disposed of before any business, other than formal business, is proceeded with.<sup>131</sup> After an amendment has been disposed of, a further amendment may be moved to add or insert words. There have been up to four amendments moved to a proposed Address.<sup>132</sup>

In 1970 an amendment expressing a censure of the Government was not accepted as a censure amendment for the purposes of standing order 48.<sup>133</sup> The House then, on the motion of the Leader of the Opposition, agreed to the suspension of standing orders to enable debate on the proposed Address and the amendment to have precedence until disposed of.<sup>134</sup> In 1905 an amendment to the Address, which added the words ‘but are of opinion that practical measures should be proceeded with’, was agreed to and the Address, as amended, presented to the Governor-General. Following the House’s agreement to the amendment the Government resigned and a new Ministry was formed.<sup>135</sup>

### Presentation to Governor-General

The Address in Reply, as agreed to by the House, is presented to the Governor-General by the Speaker,<sup>136</sup> accompanied by any Members who may think fit to attend.<sup>137</sup> The Speaker ascertains when the Governor-General is able to receive the Address and announces the time of presentation to the House,<sup>138</sup> either immediately the Address is agreed to<sup>139</sup> or at a later time.<sup>140</sup>

The sitting having been suspended (if necessary<sup>141</sup>), the Speaker, the mover and seconder of the Address,<sup>142</sup> the Clerk, the Deputy Clerk and the Serjeant-at-Arms,<sup>143</sup>

129 VP 1951–53/29; VP 1998–2001/214.

130 E.g. VP 1998–2001/129; VP 2002–04/55.

131 NP 3 (14.8.13) 9, NP 3 (2.11.34) 5; on these occasions the proposed Address and amendments were given precedence even though prior to 1965 the standing order did not make provision for a Minister to accept an *amendment* as a censure or no confidence amendment. In other cases, precedence was accorded although no precedence note appeared on the Notice Paper, H.R. Deb. (21.3.57) 81, H.R. Deb. (27.2.62) 271.

132 VP 1923–24/13–18.

133 H.R. Deb. (18.3.70) 557 (then S.O. 110).

134 VP 1970–72/48.

135 VP 1905/7–12.

136 In the absence of the Speaker the Address is presented by the Deputy Speaker, VP 1948–49/35, VP 1956–57/64. In recent years the presentation has been made at Government House, although on occasion in the past it has taken place in the Parliamentary Library, VP 1917–19/18; and elsewhere, VP 1903/32, VP 1906/43.

137 S.O. 7(a). In 1976 opposition Members did not attend the presentation.

138 Since 1937 the Speaker has ascertained the time for presentation and announced it to the House. Prior to this it was often done by the Prime Minister.

139 E.g. VP 1998–2001/216.

140 E.g. VP 2002–04/170.

141 Address presented on non-sitting day, VP 1958/23, 25.

142 Due to the respective absences of the seconder in 1943 and the mover in 1946, other Members took their places.

143 Bearing the Mace (which is left covered in the foyer of Government House). The Mace was not borne in 1943; *see also* Ch. on ‘The Speaker, Deputy Speakers and officers’.

together with those Members wishing to attend, proceed to Government House for the presentation. There, after a short presentation statement, the Speaker reads the Address and presents it to the Governor-General who replies. The Speaker then presents the mover and seconder, the other Members and the Clerk and other staff to the Governor-General.

The Speaker<sup>144</sup> in reporting back to the House informs it of the Governor-General's reply<sup>145</sup> which has taken the following form:

Mr/Madam Speaker

Thank you for your Address in Reply.

It will be my pleasure and my duty to convey to Her Majesty The Queen the message of loyalty from the House of Representatives, to which the Address gives expression.<sup>146</sup>

Her Majesty the Queen's reply may be announced at a later date.<sup>147</sup>

An Address has been presented to a Governor-General not being the one who made the opening speech.<sup>148</sup> The presentation has been delayed by over three months<sup>149</sup> and deferred due to the absence of the Governor-General.<sup>150</sup>

In July 1907 the Governor-General, through a senior Minister, inquired from Sydney whether it was necessary for him to go to Melbourne (where the Parliament was then situated) to receive the Address in Reply. Speaker Holder replied that the Address must be presented to the Governor-General personally by the Speaker with Members, which practically required it to take place in Melbourne. The Address was presented in Melbourne.<sup>151</sup> However in 1909 the Address was forwarded to the Governor-General who was absent in Queensland.<sup>152</sup>

The Address in Reply to the Governor-General's speech on the opening of the 1st Session of the 3rd Parliament was agreed to on 21 February 1907<sup>153</sup> and the Parliament was prorogued on 22 February 1907.<sup>154</sup> There is no record of the Address having been presented.

The order of the day relating to the Address in Reply to the speech of Her Majesty the Queen on the commencement of the 2nd Session of the 28th Parliament lapsed upon the simultaneous dissolution of the Senate and the House of Representatives on 11 April 1974.<sup>155</sup>

In 1950 Speaker Cameron was questioned on his conduct at the presentation of the Address. It was alleged that the Governor-General having invited those present to accept some minor form of hospitality, 'Mr Speaker then abruptly left Government House in his robes of office, accompanied by officers of the House, but left behind the other members of the House'.<sup>156</sup>

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144 Or Deputy Speaker, VP 1977/43.

145 This was not done in 1910.

146 E.g. VP 2002-04/187.

147 VP 1973-74/73.

148 VP 1974-75/172.

149 VP 1910/21, 193.

150 VP 1922/59.

151 VP 1907-08/35.

152 VP 1909/89.

153 VP 1907/30.

154 VP 1907/37.

155 VP 1974/115.

156 VP 1950-51/47-8; H.R. Deb. (28.3.50) 1207; H.R. Deb. (30.3.50) 1415-22. The incident was later the subject of a motion of censure of the Speaker, VP 1950-51/55-6; H.R. Deb. (20.4.50) 1691-1702; *see also* Ch. on 'The Speaker, Deputy Speakers and officers'.

## SITTING AND NON-SITTING PERIODS

### Statistics

Since 1901 the House has sat, on average, 68 days each year spread over 21 sitting weeks for a total of 495 hours per year.<sup>157</sup> Averages for recent years (1995–2004) are 67 days, 18 weeks and 598 hours. The figures for each year since 1901 are given at Appendix 16.

### Sitting periods

The usual practice since 1994 has been to have three sitting periods each year, extending from February to April (Autumn sittings), May to June (Budget sittings) and August to December (Spring sittings). Traditionally there were two sitting periods each year: the Autumn sittings, usually between February and June, and the Budget sittings, usually between August and December. The earlier calendar, with an August Budget, was reverted to in 1996 to accommodate that year's general election and change of government.

### Pattern of sittings

Within a sitting period the Government determines the sitting days, sitting weeks and non-sitting weeks which make up the pattern of sittings.<sup>158</sup> The standing orders provide for a four weekly cycle of meetings, meeting on Mondays to Thursdays for two weeks followed by two weeks without sittings.<sup>159</sup> This pattern is generally kept to, although occasionally either the sitting or non-sitting parts of the cycle may be of one week only.

### *History of sitting pattern*

Sitting patterns have varied considerably over the years. Before 1950 continuous sitting patterns were usual and it was not uncommon for the House to sit for three months or longer without a break of more than two or three days. The most usual sitting week was of four days (Tuesday to Friday) although in some years three-day weeks (usually Wednesday to Friday) predominated. In 1950 the three-day, Tuesday to Thursday, sitting week was instituted, and in the following period the practice of the House rising periodically for short breaks became established. Such breaks increased in frequency until a four-week cycle of three sitting weeks and one non-sitting week became the norm. This pattern continued to operate, with occasional experimental changes (sometimes for extended periods), until 1984. At that time sessional orders came into effect which provided generally for a four-week cycle of two sitting weeks followed by two non-sitting weeks, with the House sitting four days per week from Tuesday to Friday in the first week and from Monday to Thursday in the second week.<sup>160</sup>

Sessional orders in effect from September 1987 provided for Tuesday to Thursday sittings in the first sitting week of each cycle as it was considered that the Friday was in some ways a non-productive sitting day.<sup>161</sup> In 1994 the days of sitting were altered to Monday to Thursday in each sitting week. The change resulted from a recommendation of

157 These figures do not include sittings of the Main Committee and suspensions of sitting for meal breaks, etc.

158 The proposed pattern of sittings for a year is normally announced some months in advance.

159 S.O. 29.

160 VP 1983–84/468–70, sessional orders agreed to 8.12.83 to take effect from first sitting day of 1984.

161 VP 1987–89/89–90. The sessional orders were made standing orders in November 1992.

the Procedure Committee, which saw advantages in providing consistency of timetabling as well as an additional sitting day per four week cycle.<sup>162</sup>

### Days and hours of meeting

The House has a four weekly cycle of meetings. It meets on Mondays to Thursdays for two weeks followed by two weeks without sittings. When the House is sitting its scheduled hours of meeting are:<sup>163</sup>

Monday	12.30 p.m. to 9.30 p.m.
Tuesday	2.00 p.m. to 9.30 p.m.
Wednesday	9.00 a.m. to 8.00 p.m.
Thursday	9.00 a.m. to 5.00 p.m.

When the House is sitting its meeting times can be changed by a motion moved by a Minister without notice,<sup>164</sup> or by a Member after notice.<sup>165</sup> When the House is not sitting the Speaker may set an alternative day or hour for the next meeting, and must notify each Member of any change.<sup>166</sup>

A motion for the alteration of the day of next meeting may provide that the House not meet on a day laid down in the standing orders,<sup>167</sup> or meet on a day other than those laid down in the standing orders. It is not uncommon for the days and hours of meeting to be changed, especially towards the end of a sitting period when the business in hand may require an extra sitting day (or two). Such additional sittings have occurred on a Saturday, although this is infrequent.<sup>168</sup> The House has varied its hour of meeting to enable Members to attend luncheons for visiting dignitaries,<sup>169</sup> or public functions such as Remembrance Day,<sup>170</sup> and to take account of the running of the Melbourne Cup.<sup>171</sup> In the past the House has frequently changed its hours of meeting by means of sessional order.

On one occasion when a sitting continued beyond the hour of meeting set down for the following sitting, it was considered that a motion for fixing the next meeting of the House for later the same day could not be moved unless by leave of the House or by the suspension of standing (or sessional) orders,<sup>172</sup> but it is not clear whether this view would be taken if the situation arose again.

An amendment to a motion to alter the day or hour of next meeting may be moved<sup>173</sup> but the terms of the amendment must be confined to the next sitting day,<sup>174</sup> (that is, be relevant to the motion). An amendment proposing to substitute the normal day and hour of next

162 Standing Committee on Procedure, *About time: Bills, questions and working hours*. PP 194 (1993).

163 S.O. 29 (subject to S.O. 30, changes to meeting times, and S.O. 31, which enables the time of adjournment to be altered).

164 S.O. 30(a).

165 H.R. Deb. (31.1.02) 9559.

166 S.O. 30(b). *See also* comment on actions by the Speaker under this provision under 'Discretionary powers' in the Ch. on 'The Speaker, Deputy Speaker and officers'.

167 E.g. VP 1978–80/1418.

168 The additional sitting day on Saturday 18 December 1993 was the first Saturday sitting since 1929 (VP 1993–95/651). Since then the House has met on Saturday 6 December 1997 (VP 1996–98/2682) and Saturday 26 June 2004 (VP 2002–04/1758)—both of these were resumptions of the previous day's sitting.

169 E.g. VP 2002–04/623.

170 VP 1976–77/454.

171 VP 1978–80/1140; H.R. Deb. (25.10.79) 2490–1.

172 VP 1914/42; H.R. Deb. (13.5.14) 983–7. The Prime Minister submitted that at any time during Wednesday's sitting (which had continued beyond the hour of meeting for Thursday) the House may otherwise order as to the next day's sitting. The Chair took the view that this was so only if done before the appointed time of assembling for the next sitting arrives. *See also May*, 23rd edn, pp. 295.

173 VP 1974–75/540.

174 H.R. Deb. (31.1.02) 9559.

meeting for the one proposed would be inadmissible as the same end may be achieved by voting against the motion.

Debate on a motion to alter the next sitting day must be confined to that question,<sup>175</sup> although in 1940 the Speaker allowed discussion to encompass the possible closing of Parliament as Members, in giving reasons for opposing the motion, feared that it presaged such an event.<sup>176</sup>

Two motions altering the hour of next meeting have been agreed to on the one day, the second superseding the first.<sup>177</sup> A motion to alter the hour of next meeting must be moved during the sitting prior to the sitting day in respect of which the hour of meeting is to be changed. However, such a motion in respect of a day not being the next sitting day has been moved by leave.<sup>178</sup>

### Special adjournments

For those occasions when the House adjourns other than as provided by standing order 29 (that is, from the Thursday of the second sitting week of a four week cycle until the third subsequent Monday), a special adjournment motion must be agreed to. Typically, the motion has taken one of the following forms:

That the House, at its rising, adjourn until [day, date, time], unless otherwise called together by the Speaker or, in the event of the Speaker being unavailable, by the Deputy Speaker.<sup>179</sup>

That the House, at its rising, adjourn until a date and hour to be fixed by the Speaker, . . . which time of meeting shall be notified to each Member.<sup>180</sup>

That the House, at its rising, adjourn until [day, date, time], unless the Speaker or, in the event of the Speaker being unavailable, the Deputy Speaker, fixes an alternative day or hour of meeting.<sup>181</sup>

If the House adjourns to a date and hour to be fixed, a Gazette notice is published when the day of meeting is determined, indicating the date and hour of meeting.<sup>182</sup>

In a case of the House having adjourned to a date and hour to be fixed,<sup>183</sup> the Speaker, at the request of the Government, notified Members and placed a public notice in the Gazette of the date and hour of meeting,<sup>184</sup> and, subsequently, the Government made a further request to change the hour of meeting. Members were notified of the change and a further Gazette notice was issued, revoking the original notice.<sup>185</sup>

In a case of the House having adjourned to a fixed date and hour,<sup>186</sup> the Government requested the Speaker to change the hour of meeting to '2.45 p.m. or such time thereafter as Mr Speaker may take the Chair'. Members were notified of the altered time, and the House met at 2.49 p.m.<sup>187</sup>

175 H.R. Deb. (15.11.18) 7929.

176 H.R. Deb. (24.5.40) 1261–73.

177 VP 1945–46/345, 351.

178 VP 1901–02/265.

179 E.g. VP 1996–98/3199. Most commonly used for a long adjournment.

180 E.g. VP 1987–89/1682. Sometimes used for a long adjournment.

181 E.g. VP 1998–2001/1414. Used for short adjournment.

182 E.g. Gazette S136 (7.7.75).

183 VP 1968–69/482.

184 Gazette 61 (18.7.69) 4301.

185 Gazette 69 (7.8.69) 4789. The change was made because of departure arrangements for the Duke and Duchess of Kent.

186 VP 1978–80/746.

187 VP 1978–80/747. The change was made to allow Members to attend a luncheon for the Prime Minister of Korea.



## Special reassemblies of the House

On eight occasions the House has reassembled on a day other than that specified in the special adjournment motion. On 20 June 1940 the House, having adjourned until 2 July 1940, reassembled to consider national security legislation.<sup>188</sup> On 9 July 1975 the House reassembled to discuss the Government's overseas loan negotiations, having adjourned until 19 August 1975.<sup>189</sup> On 21 and 22 January 1991 the House reassembled to consider the Gulf War, having adjourned until 12 February 1991.<sup>190</sup> On the other occasions the House reassembled prior to the date specified in the special adjournment motion to consider Senate amendments and requests to bills.<sup>191</sup> On each of these occasions the adjournment resolution enabled the Speaker to set an earlier day of meeting. Note that standing order 30(b) now gives standing authorisation for the Speaker when the House is not sitting to set an alternative day or hour for the next meeting.

On other occasions the House, having adjourned until a date and hour to be fixed by the Speaker, has reassembled prematurely for special reasons. These occasions have been the presentation of an Address to the Prince of Wales,<sup>192</sup> consideration of a constitutional problem relating to the suggested marriage of King Edward VIII,<sup>193</sup> consideration of the declaration of a state of war with Japan, Finland, Hungary and Rumania,<sup>194</sup> consideration of the conflict in Korea<sup>195</sup> and consideration of Senate amendments to bills.<sup>196</sup>

On 7 February 1942 the Speaker notified Members that the House would meet on 11 March 1942. On 13 February a telegram was sent to all Members changing the date of meeting to 20 February, on which day the House met and went into a secret joint meeting with the Senate to discuss the current war situation.<sup>197</sup>

On 31 May 1972 the House adjourned until a date and hour to be fixed and all Members were advised on 12 July that the House would meet on 15 August. Because of a dispute in the oil industry, the Government requested the Speaker to put all Members on 'provisional notice' for a meeting on 4 August. All Members were advised on 2 August confirming the meeting and, after settlement of the dispute, further advice was sent on 3 August informing Members that the meeting was not to be held.

A special adjournment motion may specify more than one date—for example, 'That the House: (1) at its rising, adjourn until 2 January 1992 . . . and (2) at its rising on 2 January, adjourn until Tuesday, 25 February 1992 . . .'.<sup>198</sup>

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188 VP 1940/97, 99.

189 VP 1974-75/811, 813; H.R. Deb. (9.7.75) 3556.

190 VP 1990-92/ 478, 481.

191 VP 1985-87/ 334, 337; VP 1987-89/ 987, 989; 1320, 1323; VP 1990-92/ 109, 111; 1231, 1249, 1251.

192 VP 1920-21/187.

193 VP 1934-37/801; H.R. Deb. (9.12.36) 2884.

194 VP 1940-43/267; H.R. Deb. (16.12.41) 1068.

195 VP 1950-51/177; H.R. Deb. (6.7.50) 4836.

196 VP 1959-60/314; VP 1974-75/143-9; H.R. Deb. (23.8.74) 1126; VP 1987-89/1682, 1695.

197 VP 1940-43/275.

198 VP 1990-92/1231 (the one day meeting was for the occasion of an address to both Houses by the President of the United States of America).