



## *Order of business and the sitting day*

This chapter outlines the proceedings on a normal sitting day, from the meeting of the House to adjournment, under the ordinary order of business provided for in standing order 34. It also details the many interventions which can occur under specific standing orders and by way of tactical moves. The chapter also encompasses the division procedures and quorum provisions, which often play a significant part in the daily routine of the House.

### SITTINGS

#### Definition

A sitting means the period commencing with the meeting of the House and concluding at the adjournment of the House.<sup>1</sup> A sitting commences when the Speaker takes the Chair.<sup>2</sup> If there is no quorum present at that time and the Speaker is compelled to adjourn the House in accordance with standing order 57, a sitting of the House has taken place in the terms of this definition. The only occasion of such a sitting was on 19 September 1913.<sup>3</sup>

The term ‘sitting day’ is not defined by the standing orders. However, the practice of the House is that a sitting day is a day on which the House commences a sitting following an adjournment, and continues until a motion for its adjournment is carried. In other words, a sitting day is taken to mean a day on which the House meets to begin a sitting and not any day on which the House sits. Thus a sitting day may continue for one or more calendar days.

Even where one sitting continues over two or more full days, for example, the sitting that commenced on Wednesday, 6 December 1933 and continued on the Thursday and Friday without adjournment, there would be only one sitting day. It is important to note in this context that, as a Notice Paper is only issued for each new sitting and as a notice of motion only becomes effective when it appears on the Notice Paper, a notice of motion to disallow a regulation, for example, which is given on the first day of a three day sitting, would not be effective until the next Notice Paper is issued.

Where two sittings of the House occur on one day ‘this could only be regarded as one sitting day; there would be two sittings but one could hardly say that there were two sitting days’.<sup>4</sup>

The term ‘sitting day’ has special legal significance because of statutory requirements for the tabling of delegated legislation within a specified number of sitting days of being

1 S.O. 2.

2 Or when the Clerk announces the absence of the Speaker, VP 1920–21/537.

3 VP 1913/63—the record shows that the House met and was declared adjourned after 5 minutes.

4 Advice of Attorney-General’s Department, dated 24 April 1970.

made, and in relation to the number of sitting days within which a notice of motion may be given for the purpose of disallowing delegated legislation and the number of sitting days within which such a notice of motion must be disposed of by the House.<sup>5</sup> Many statutes also require a Minister to table a report or other document within a certain number of sitting days of its receipt.<sup>6</sup> There is no statutory definition of what constitutes a sitting day for these purposes.<sup>7</sup>

### Two sittings commencing on the one day

On two occasions the House has commenced and concluded two sittings within the one day. The first occasion was on 11 April 1935 when leave was refused at the first sitting to allow a motion to be moved to grant leave of absence to all Members. Notice of such a motion was then given and following the alteration of the day of next meeting the House was adjourned until 5 p.m. A new Notice Paper was issued and, at the next sitting, the motion was moved, pursuant to notice.<sup>8</sup> Such a motion can now be moved without notice.

On the second occasion, on 2 September 1942, the House met at 3 p.m. and agreed to a motion of condolence in respect of the death of the Duke of Kent. Following the alteration of the day of next meeting, the House adjourned as a mark of respect until 7.30 p.m.<sup>9</sup>

There have been occasions when the House has adjourned after a lengthy sitting, only to meet again shortly afterwards but in a new sitting day. For example, the House met at 11.50 a.m. on Monday, 24 May 1965, and the sitting continued until 4.32 a.m. on Wednesday, 26 May. The next sitting commenced at 5 a.m. that day. The purpose of the new sitting was to enable new business to be taken.<sup>10</sup>

### Length of sittings

The shortest sitting of the House was on 14 March 1928 when the House adjourned one minute after it met to enable Members to attend functions in honour of the eminent aviator, Captain Hinkler.<sup>11</sup> On 24 October 2002 the House adjourned 2 minutes after it met, to enable Members to attend a national memorial service in the Great Hall for the victims of terrorist attacks in Bali.<sup>12</sup>

The longest sitting of the House was from 11 a.m. on Friday, 18 January 1918 until 6.22 p.m. on Friday, 25 January 1918, a period of 175 hours 22 minutes. This period, however, included a suspension of the sitting from 3.09 a.m. on 19 January until 3 p.m. on 25 January.<sup>13</sup> In a sitting of the House that lasted from 2.30 p.m. on Thursday, 16 November 1905 until 12.05 p.m. on Monday, 20 November 1905 (the sitting was

<sup>5</sup> For more details see Ch. on 'Legislation'.

<sup>6</sup> See Ch. on 'Documents'.

<sup>7</sup> *Odgers*, 13th edn, pp. 190–1, notes in relation to a sitting of the Senate extending over more than one day, departments responsible for forwarding delegated legislation for tabling have been advised that to avoid any doubts they should assume that the days to which sittings are suspended are separate sitting days for the purposes of statutory tabling requirements.

<sup>8</sup> VP 1934–37/253–7; NP 38 (11.4.1935); H.R. Deb. (11.4.1935) 1270–1.

<sup>9</sup> VP 1940–43/377, 379.

<sup>10</sup> VP 1964–66/325–39; NP 91 (26.5.1965); see also VP 1937/49–55; H.R. Deb. (28–29.6.1937) 637; H.R. Deb. (29.6.1937) 674; NP 7 (29.6.1937).

<sup>11</sup> VP 1926–28/509; H.R. Deb. (14.3.1928) 3791.

<sup>12</sup> VP 2002–04/535.

<sup>13</sup> VP 1917–19/169–72.

suspended over the Sunday) the House sat for a continuous period of 57 hours 30 minutes prior to the suspension at midnight on the Saturday.<sup>14</sup>

On the occasion of one lengthy sitting Hansard staff were discharged during the adjournment debate and Members forwarded precis of their remarks for inclusion in Hansard.<sup>15</sup> Modern practice allowing proceedings to be recorded would mean that such action would no longer be necessary.

### Joint sittings

The Constitution provides for a joint sitting of members of both Houses for the resolution of disagreements between the Houses over legislation if such disagreements persist following a double dissolution—*see* Chapter on ‘Disagreements between the Houses’. The Commonwealth Electoral Act provides for a joint sitting of members of both Houses to choose a person to fill certain casual vacancies in places of Senators for Territories other than the Australian Capital Territory and the Northern Territory<sup>16</sup>—*see* Chapter on ‘Elections and the electoral system’.

### Joint meetings

On several occasions ‘conferences’, or alternatively ‘joint meetings’ (as used on these occasions the terms would appear effectively synonymous<sup>17</sup>), of all members of both Houses have been proposed. A meeting of this kind (as distinct from a joint sitting—*see above*) is not provided for in the standing orders or the Constitution but would not be prevented should both Houses agree and determine the procedure to be followed.

On 22 September 1903 the Prime Minister moved that a ‘conference’ be held of all members of both Houses to consider the selection of a site for the seat of Government, and that the Senate be requested to concur with the resolution. The motion was agreed to, after amendment, on 23 September.<sup>18</sup> On 30 September the Senate resolved not to concur with the House’s resolution<sup>19</sup> and the proposal was not further proceeded with.

On 14 May 1931 the Prime Minister made a statement to the House suggesting a ‘conference’ of all Members of Parliament to consider Australia’s economic and financial problems.<sup>20</sup> His suggestion was that such a conference last for a week during which there would be ‘a general frank discussion, devoid of party feeling’. Some days later the Leader of the Opposition made a statement in which he opposed such a conference<sup>21</sup> and the proposal was not further proceeded with.

On three other occasions proposals for a conference or joint meeting of Members of both Houses have been put forward, in each case on the subject of the site for a new and permanent Parliament House. On 28 May 1969 the Leader of the Opposition in the Senate moved that a ‘conference’ of both Houses be convened to express a point of view on the site of the new and permanent Parliament House.<sup>22</sup> The motion was debated and

14 VP 1905/167–70.

15 H.R. Deb. (6–8.12.1933) 5898.

16 Should any such Territories be represented in the Senate. The provision previously applied in relation to the ACT—joint sittings to select Senators for the ACT were held on 5 May 1981 (J 1980–81/227) and 16 February 1988 (J 1987–89/477–8).

17 For conferences of delegates representing the two Houses *see* Ch. on ‘Disagreements between the Houses’.

18 VP 1903/141–2, 146.

19 J 1903/189.

20 VP 1929–31/621; H.R. Deb. (14.5.1931) 1935.

21 H.R. Deb. (21.5.1931) 2179.

22 J 1968–69/490.

negated by the Senate on 29 May.<sup>23</sup> On 6 May 1971 a similar motion was again moved and agreed to by the Senate.<sup>24</sup> The message from the Senate requesting consideration by the House of the Senate's resolution was received by the House on 7 May<sup>25</sup> but was never debated. On 23 August 1973 a motion was moved in the House proposing a joint meeting of both Houses to determine the site of the new and permanent Parliament House.<sup>26</sup> On 24 October the House agreed to the motion which was transmitted to the Senate.<sup>27</sup> The House received a message from the Senate not agreeing with the proposal on 20 November 1973.<sup>28</sup>

On 9 May 2001 the House met with the Senate at the Royal Exhibition Building in Melbourne to mark the centenary of the first meetings of the Houses of the Commonwealth Parliament in 1901. At the end of the common proceedings the two Houses were adjourned separately by their respective Presiding Officers.<sup>29</sup>

### Addresses to both Houses by foreign heads of state

In recent years the Parliament has adopted the practice of assembling to hear addresses from foreign heads of state or government.<sup>30</sup> This development has parallels to the practice of the United States Congress of receiving addresses from foreign leaders and dignitaries at a joint meeting of Congress.<sup>31</sup>

The initial practice on such occasions was that the House and the Senate would meet (concurrently rather than in joint session) in the House of Representatives Chamber to hear the address. The Senate met in the House Chamber at the House's invitation; having agreed that the Speaker would preside and that the procedures of the House would apply so far as they were applicable.<sup>32</sup>

However, at the close of the joint meeting on 23 October 2003, two Senators who had caused disruption to proceedings and who had refused to leave the House when ordered were named and suspended 'from the service of the House' for 24 hours for defying the Chair.<sup>33</sup> Following this incident the Senate endorsed the view of its Procedure Committee that in future such occasions should be conducted as sittings of the House to which Senators were invited.<sup>34</sup> The House Procedure Committee made a recommendation to the same effect.<sup>35</sup> Since then the practice has been that the visiting dignitary has addressed a sitting of the House, which Senators have attended as guests.

23 J 1968–69/495–6.

24 J 1970–72/574–5.

25 VP 1970–72/631.

26 VP 1973–74/289–90.

27 VP 1973–74/476.

28 VP 1973–74/545.

29 VP 1998–2001/2259–60.

30 Joint meetings: President G. Bush, USA, 2 Jan. 1992 (VP 1990–92/1305, J 1990–92/1995); President W. Clinton, USA, 20 Nov. 1996 (VP 1996–98/841, J 1996/1058); President G.W. Bush, USA, 23 Oct. 2003 (VP 2002–04/1275, J 2002–04/2597); President Hu Jintao, China, 24 Oct. 2003 (VP 2002–04/1279, J 2002–04/2599). Sittings of House, Senators invited as guests: Prime Minister T. Blair, UK, 27 Mar. 2006 (VP 2004–07/1015); Prime Minister S. Harper, Canada, 11 Sep. 2007 (VP 2004–07/2093); President S.B. Yudhoyono, Indonesia, 10 Mar. 2010 (VP 2008–10/1674); Prime Minister J. Key, New Zealand, 20 June 2011 (VP 2010–12/663); President B. Obama, USA, 17 Nov. 2011 (VP 2010–12/1057).

31 The first occasion in 1992 reciprocated the address of Prime Minister Hawke to a joint meeting of Congress on 23 June 1988. The US practice is that the two houses of Congress, by resolution or by unanimous consent, declare themselves in recess for a joint gathering in the House Chamber.

32 VP 1990–92/1220–21, 1233; VP 1996–98/702, 742, 792, 806; VP 2002–04/1213–5, 1244.

33 Thus preventing their attendance at the joint meeting the following day. VP 2002–04/1276; J 2002–04/2597.

34 J 2002–04/3377–8, Senate Procedure Committee, *Joint meetings to receive addresses by foreign heads of state*, December 2003. See also Senate Committee of Privileges, *Joint meeting of the Senate and the House of Representatives on 23 and 24 October 2003*, April 2004; and *Odgers*, 13th edn, p. 175.

35 Standing Committee on Procedure, *Arrangements for joint meetings with the Senate*, June 2004.

## Secret sittings and meetings

During war time the House has conducted a portion of a sitting in secret and has also held secret meetings and joint secret meetings with the Senate. These meetings are not regarded as sittings of the House. For the joint meetings a regulation under the National Security Act was gazetted setting out the conditions of secrecy of any such meetings convened by a specific resolution agreed to by both Houses.<sup>36</sup>

While the estimates for the Department of Defence were being discussed in the Committee of Supply on the morning of 13 December 1940, notice was taken of the presence of strangers<sup>37</sup> who were then ordered to withdraw. The estimates were then discussed in secret and the recording of debates suspended from 12.32 a.m. until 3.30 a.m.<sup>38</sup> On two occasions in 1941 strangers were ordered to withdraw and the sitting suspended so that the House could meet in secret.<sup>39</sup> On such occasions Senators present were not regarded as strangers.

Joint secret meetings were held with the Senate on 20 February, 3 and 4 September and 8 October 1942. The meetings were held in the House of Representatives Chamber, the first during the suspension of a sitting, the others following the adjournment of the House.<sup>40</sup> Certain departmental staff were permitted to be present and the Serjeant-at-Arms remained in the Chamber. During World War I a secret meeting took place informally in the Senate Club Room where Members and Senators were asked to attend by the Prime Minister.

## Suspension of sittings

A sitting is suspended by the Speaker leaving the Chair, usually after a direct or indirect declaration of the will of the House, for example to allow a meal break to be taken (*see* page 245). A suspension of a sitting can occur pursuant to standing orders, pursuant to a resolution of the House, or in accordance with accepted practice.

### *Pursuant to standing orders*

The standing orders make provision for the suspension of a sitting in the following circumstances.

#### ELECTION OF SPEAKER AND DEPUTIES

If a special ballot for the election of Speaker, Deputy Speaker or Second Deputy Speaker is inconclusive because of an equality of votes and the equality continues, the sitting is suspended for 30 minutes.<sup>41</sup> No such case has ever occurred.

Once the Speaker has taken the Chair on being elected and has been congratulated, the Prime Minister or another Minister informs the House of the time that the Governor-General will receive the Members of the House and the Speaker<sup>42</sup> and the sitting is suspended until that time. The sitting was not formally suspended following the election of Speaker Rosevear in 1946 as the Governor-General received the new Speaker immediately.<sup>43</sup>

36 National Security (Supplementary) Regulations, SR 78 of 1942.

37 In current standing orders referred to as 'visitors'.

38 VP 1940-43/72; H.R. Deb. (12-13.12.1940) 1054.

39 VP 1940-43/123, 166.

40 VP 1940-43/275, 393, 441. The meeting of 4 September was a continuation of that of 3 September.

41 S.O. 11(l).

42 S.O. 4(h); *and see* Ch. on 'The parliamentary calendar'.

43 VP 1946-48/5.

## MEETING OF A NEW PARLIAMENT

After the Speaker has presented himself or herself to the Governor-General and reported that fact to the House, the standing orders provide that a Minister shall then inform the House of the time that the Governor-General will declare the causes of the calling of the Parliament together (the ‘opening speech’) and the House may then suspend its sitting until that time.<sup>44</sup> The contemporary practice of the House is that there is no suspension of the sitting at this point, as Members are summoned to hear the opening speech shortly after the presentation.

## GRAVE DISORDER

In the case of grave disorder arising in the House, the Speaker may adjourn the House without any question being put,<sup>45</sup> or suspend the sitting until a time to be named.<sup>46</sup> Sittings have been suspended in these circumstances for a period as short as 15 minutes,<sup>47</sup> until the next day,<sup>48</sup> and until the ringing of the bells.<sup>49</sup> On one occasion the Mace, then normally left in the Chamber during the suspension of a sitting, was removed by the Serjeant-at-Arms at the direction of the Speaker.<sup>50</sup> On two occasions sittings have been suspended for short periods following grave disorder in the galleries.<sup>51</sup>

## LACK OF QUORUM

Standing order 57 provides that, if it has been established that a quorum of Members is not present but the Speaker is satisfied that there is likely to be a quorum within a reasonable time, the Speaker may state the time at which he or she will resume the Chair. The sitting is then suspended until the Speaker resumes the Chair (*see* page 271).

*Pursuant to resolution of the House*

The House has agreed to a motion, moved pursuant to notice, to suspend the next day’s sitting for a stated period.<sup>52</sup>

The sessional orders relating to the meeting of legislation committees adopted in 1978 required that, unless otherwise ordered, legislation committees would meet during a suspension of the sitting of the House arranged for that purpose.<sup>53</sup> The only occasion that a sitting was suspended for this purpose was on 27 September 1978. On all other occasions the committees were authorised to meet during the sittings of the House.

*Practice of the House*

The practice has been that, in cases not provided for by resolution of the House or by the standing orders, sittings are suspended with the concurrence of the House. Exceptions have been when the Chair has suspended a sitting for the duration of power failures or because of a fault in the loud speaker system.<sup>54</sup>

On three occasions the action of the Chair in suspending a sitting, without ascertaining the wish of Members, has been questioned. On two of these occasions, a motion critical

44 S.O. 4(j); *and see* Ch. on ‘The parliamentary calendar’.

45 E.g. VP 1985–87/1273.

46 S.O. 95.

47 VP 1917–19/453.

48 VP 1954–55/184.

49 VP 1970–72/76.

50 H.R. Deb. (3.5.1955) 362; VP 1954–55/184. Current practice is for the Mace to be left in the Chamber during a short suspension and removed during an overnight suspension.

51 VP 1970–72/209, 691–2.

52 VP 1909/135.

53 VP 1978–80/323.

54 VP 1976–77/598; H.R. Deb. (17.2.1977) 245; VP 1985–87/1258; H.R. Deb. (22.10.1986) 2538, 2561; H.R. Deb. (25.3.1985) 849.

of the Chair's action was rejected by the House. In 1912 the Chair acknowledged responsibility for curtailing the normal luncheon suspension by 15 minutes. A motion that the action of the Chair was a breach of the privileges of Members was negated.<sup>55</sup> In 1917 the action of the Speaker in suspending a sitting without calling on business on the Notice Paper and without ascertaining the wish of the House was questioned. The Speaker replied that it was usual for the Speaker to suspend the sitting of the House temporarily at any time when requested to do so by the Minister in charge of business. He also stated that the Speaker might leave the Chair at any time and this was often done without any vote of the House.<sup>56</sup> On 17 December 1930 the Speaker, at the suggestion of the Acting Prime Minister, suspended the sitting at 3.38 p.m. The Leader of the Opposition objected. On the resumption of the sitting the Speaker referred to doubts that had been expressed as to his authority to suspend the sitting and ruled that, in vacating the Chair when the House had no business before it and was awaiting a message from the Senate, he had followed the practice of every previous Speaker. The ruling was subject to a motion of dissent which was later debated and negated.<sup>57</sup>

#### MEAL BREAKS

In earlier years it was the common practice to suspend a sitting for lunch and dinner.<sup>58</sup> The (early rising) sitting timetable in effect in 1994 and 1995 did not provide for meal breaks, but meal breaks were taken on some occasions when the normal order of business had been departed from, such as to allow the main Budget bills to be presented,<sup>59</sup> to allow the Leader of the Opposition's reply to the Budget to be made,<sup>60</sup> or towards the end of sitting periods when the House sat into the evening.<sup>61</sup>

The timetables in effect from 1996 provided for evening meal breaks (6.30 p.m. to 8 p.m.) on scheduled late sitting days. The Chair was regarded as having some discretion as to the precise timing of the start of these suspensions (to accommodate Members who, for example, could complete a speech shortly after 6.30 or who did not wish to be called to start a speech just before 6.30). The sitting always resumed at 8 p.m.

When the early rising timetable was adopted in 2003 there was no provision for evening meal breaks, and this situation has continued despite the later sitting hours more recently.<sup>62</sup> However, divisions (unless on a motion moved during that period by a Minister) called between the hours of 6.30 p.m. and 8 p.m. (the former meal break period) on Monday and Tuesday are deferred until after 8 p.m., and in the case of quorum calls during this period, the House is counted at 8 p.m. (if the Member calling the quorum requires).<sup>63</sup>

#### OTHER OCCASIONS

Sittings of the House have been suspended on other occasions for a variety of reasons. Sittings extending over more than one calendar day are usually suspended overnight.<sup>64</sup> During all-night sittings of the House the sitting has been suspended for supper<sup>65</sup> and

<sup>55</sup> VP 1912/227; H.R. Deb. (13.11.1912) 5500–8.

<sup>56</sup> H.R. Deb. (12.7.1917) 133–4.

<sup>57</sup> VP 1929–31/477, 492; H.R. Deb. (17.12.1930) 1639–40; H.R. Deb. (17.3.1931) 276–81.

<sup>58</sup> Past practice in regard to meal breaks is described at pages 281–2 of the second edition.

<sup>59</sup> E.g. H.R. Deb. (9.5.1995) 67; H.R. Deb. (13.5.2008) 2600.

<sup>60</sup> E.g. H.R. Deb. (11.5.1995) 400; H.R. Deb. (15.5.2008) 2997.

<sup>61</sup> E.g. H.R. Deb. (30.3.1995) 2614; H.R. Deb. (23.6.2005) 139.

<sup>62</sup> Later sitting hours (to 10.30 p.m.) were reintroduced in the 43rd Parliament (2010).

<sup>63</sup> S.O.s 55(c), 133(b).

<sup>64</sup> E.g. VP 1996–98/3202; VP 2008–10/981.

<sup>65</sup> H.R. Deb. (11–12.2.1943) 615.

breakfast.<sup>66</sup> Sittings have also been suspended from an early hour of the morning until a later hour that morning<sup>67</sup> or until afternoon.<sup>68</sup> On two occasions the House has suspended sittings over Sunday<sup>69</sup> and on another a sitting was suspended for almost a week.<sup>70</sup>

Sittings are often suspended to allow Members to attend functions. These suspensions are not necessarily recorded in the Votes and Proceedings.<sup>71</sup> It has been the regular practice of the House to suspend the sitting to allow Members to attend a social function on the opening day of a Parliament,<sup>72</sup> and to enable Members to accompany the Speaker to present the Address in Reply to the Governor-General.<sup>73</sup> It has also been the practice that, if the House does not adjourn following a motion of condolence on the death of a sitting Member or a Minister, the sitting is suspended until the time the House would normally meet after the next meal break.<sup>74</sup>

The Speaker has also suspended a sitting for the following reasons:

- because of power failures in Parliament House;<sup>75</sup>
- because of a fault in the loud speaker system;<sup>76</sup>
- (in lieu of adjournment) to avoid the possibility of the House not being able to meet next day through lack of a quorum;<sup>77</sup>
- as a mark of respect to a deceased Senator;<sup>78</sup>
- because of the illness of a Member in the House;<sup>79</sup>
- because the House was awaiting decisions by the Senate;<sup>80</sup>
- because of the inauguration of a wireless telephone service between Australia and Great Britain;<sup>81</sup>
- to enable Members to consider statements made by persons judged to be guilty of a breach of privilege;<sup>82</sup>
- to enable the House to hold secret meetings;<sup>83</sup>
- to enable secret meetings to be held jointly with the Senate;<sup>84</sup>
- to allow Ministers to attend a meeting of the Australian Advisory War Council;<sup>85</sup>
- to allow Members to watch or listen to the running of the Melbourne Cup;<sup>86</sup>
- to allow Members to attend such ceremonies as Remembrance Day;<sup>87</sup>

66 H.R. Deb. (16.11.1905) 5386.

67 VP 1937–40/128; VP 1993–95/1717.

68 VP 1956–57/359.

69 VP 1905/168; H.R. Deb. (16.11.1905) 5425; VP 1925/97; H.R. Deb. (28–29.8.1925) 1964.

70 VP 1917–19/171; H.R. Deb. (18.1.1918) 3295.

71 *But see* VP 1973–74/458.

72 E.g. VP 1978–80/9; VP 1998–2001/12; VP 2008–10/9.

73 E.g. VP 1993–95/111; VP 1998–2001/216, 220; VP 2008–10/389.

74 VP 1977/235; VP 1980–83/78; VP 1998–2001/1531.

75 VP 1976–77/598; H.R. Deb. (17.2.1977) 245; VP 1985–87/1258; H.R. Deb. (22.10.1986) 2538, 2561.

76 H.R. Deb. (25.3.1985) 849.

77 VP 1914–17/417; H.R. Deb. (12.11.1915) 7661.

78 VP 1976–77/391.

79 H.R. Deb. (8.6.1955) 1513.

80 E.g. VP 1968–69/317; VP 1987–89/1011; VP 1993–95/662 (suspended overnight); VP 2010–12/263 (from Thursday until the following Monday).

81 VP 1929–31/144.

82 VP 1954–55/269; H.R. Deb. (10.6.1955) 1627.

83 VP 1940–43/123.

84 VP 1940–43/275.

85 VP 1940–43/41; H.R. Deb. (5.12.1940) 476–7.

86 E.g. H.R. Deb. (6.11.1973) 2808; VP 1998–2001/1865; VP 2004–07/703.

87 VP 1926–28/407; VP 2002–04/1270 (ceremony to commemorate anniversary of bombing tragedy).

- because of the unveiling of a monument by the Duke of Edinburgh;<sup>88</sup>
- because of the swearing in of a Governor-General;<sup>89</sup> and
- when there was agreement to a later meeting, on a Monday, at which a special motion on terrorist attacks (occurring since the adjournment) would be debated.<sup>90</sup>

On 11 November 1992 the sitting was suspended from 11 a.m. to 11.02 a.m., pursuant to motion, to enable Members present to commemorate Remembrance Day with two minutes silence.<sup>91</sup> On 8 December 1998 the Speaker suspended the sitting immediately after the meeting of the House, after reading prayers, when a luncheon for a visiting dignitary had lasted longer than expected.<sup>92</sup>

On 11 November 1975, the House having agreed to a motion expressing its want of confidence in the Prime Minister (Mr Fraser) and requesting the Speaker to forthwith advise the Governor-General to call the Member for Werriwa (Mr Whitlam) to form a Government, the Speaker suspended the sitting at 3.15 p.m. The sitting did not resume as both Houses were dissolved by the Governor-General.<sup>93</sup>

## MEETING OF THE HOUSE

The standing orders,<sup>94</sup> often amended by sessional order, fix the times at which the House shall meet for the despatch of business, unless otherwise ordered. The timetable adopted in 2010 provided that the House would meet as follows:

- Monday, at 10 a.m.
- Tuesday, at 2 p.m.
- Wednesday, at 9 a.m.
- Thursday, at 9 a.m.

It is not uncommon for the days and hours of meeting to be changed by the House, especially towards the end of sitting periods.<sup>95</sup> At the rising of the House at the conclusion of each sitting, the Chair states the day and hour of the next meeting.

## Preliminaries to meeting—the Daily Program

Except for the first sitting day of a session, a Notice Paper setting out the order of business to be followed is prepared under the authority of the Clerk of the House and issued prior to each sitting of the House.<sup>96</sup> The order of government business as it appears on the Notice Paper is determined by the Leader of the House on the evening prior to each issue of the Notice Paper, and the Table Office is informed accordingly.

The Department of the House of Representatives also issues a Daily Program<sup>97</sup> under the authority of the Clerk of the House. This is issued for each calendar day on which the House sits, rather than for each sitting. The Daily Program is compiled by the Table

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88 VP 1973–74/52.

89 VP 1974–75/25–6.

90 VP 1998–2001/2595.

91 VP 1990–92/1877, 1878.

92 VP 1998–2001/191 (suspension from 2.31 p.m. until 3 p.m.—the Speaker announced that the action was taken with the agreement of both the Government and the Opposition).

93 VP 1974–75/1125–7.

94 S.O. 29.

95 S.O. 30; *see* Ch. on ‘The parliamentary calendar’.

96 For a full description of the Notice Paper *see* Ch. on ‘Documents’.

97 The Daily Program was first produced in 1950 and is also commonly known as the ‘Blue Program’ because of its distinctive colour.

Office using information provided by the Leader of the House, the Manager of Opposition Business, Ministers, whips and other Members who have business to bring forward and reflecting Selection Committee determinations in respect of private Members' and committee business. While the Notice Paper lists all unresolved business before the House, including questions in writing, the Daily Program shows only those items of business which the House is expected to deal with on that particular day. This can include business which is not on the Notice Paper—for example, certain types of bills or motions which are permitted to be introduced or moved without notice. If variations are expected from the order of business shown on the Notice Paper, the Daily Program indicates the procedural motions necessary to enable these variations to be made. The Daily Program shows the expected sequence of items of business, but not the timing of the commencement of each item, as this is uncertain in most cases. If the Federation Chamber is sitting on that day, an attachment to the Daily Program lists the proposed Federation Chamber order of business. Another attachment gives details of public hearings of House and joint committees.

Unlike the Notice Paper the Daily Program is not a formal document and it does not fix the order of business or limit the scope of business.<sup>98</sup> It serves as a useful guide to Ministers and Members in planning their day's work in relation to the business of the House.

### Meetings at hour other than pursuant to adjournment

When a delay or other change in the time of the next meeting is foreseen, the House alters the hour of meeting by resolution.<sup>99</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>100</sup>

In earlier Parliaments the Speaker did not have such power to vary the meeting times unless authorised by special adjournment resolution. Past cases of the House meeting at a time other than that specified pursuant to adjournment, including occasions not authorised by resolution of the House and occasions of changes by the Speaker in accordance with special adjournment resolutions, are described in previous editions.<sup>101</sup> A common factor is that in such matters Speakers have had regard to the wishes of the Government.

### Meeting when House has not adjourned the previous sitting

On the evening of 16 August 1923, the Government having been twice defeated on the motion 'That the House do now adjourn', the Leader of the Opposition moved 'That Mr Speaker do now leave the Chair'. During the division on that question the Speaker, in reply to a question as to when he would resume the Chair if he left it, replied that he would resume at 11 a.m. the next day. The motion was agreed to and the Speaker left the Chair.<sup>102</sup> The House met at 11 a.m. the next day, and a Notice Paper had been issued. After Prayers the Leader of the Opposition contended that the proceedings were irregular as the House had not adjourned the previous evening and the sitting should have resumed

<sup>98</sup> For example, bills may be introduced although not listed on the program—e.g. tax bills on 26 May 2008, VP 2008–10/266.

<sup>99</sup> See 'Days and hours of meeting' in Ch. on 'The parliamentary calendar'.

<sup>100</sup> S.O. 30. See also Ch. on 'The parliamentary calendar', and 'Discretionary powers' in the Ch. on 'The Speaker, Deputy Speaker and officers'.

<sup>101</sup> See 4th edn, pp. 245–6.

<sup>102</sup> VP 1923–24/156–7; H.R. Deb. (16.8.1923) 2938–40.

from where it had left off. The Speaker ruled that, it being the day fixed by sessional order for the meeting of the House, he had taken the Chair according to the terms of the standing order which provided that ‘The Chair shall be taken by the Speaker at the time appointed on every day fixed for the meeting of the House’.

## ACKNOWLEDGEMENT OF COUNTRY AND PRAYERS

Upon taking the Chair of the House each day, and a quorum of Members being present (*see* page 270), the Speaker makes an acknowledgement of country<sup>103</sup> in the following terms:

I acknowledge the Ngunnawal and Ngambri peoples who are the traditional custodians of the Canberra area and pay respect to the elders, past and present, of all Australia’s Indigenous peoples.

The Speaker then reads the following prayers:

Almighty God, we humbly beseech Thee to vouch safe Thy blessing upon this Parliament. Direct and prosper our deliberations to the advancement of Thy glory, and the true welfare of the people of Australia.

Our Father, which art in Heaven: Hallowed be Thy Name. Thy Kingdom come. Thy will be done in earth, as it is in Heaven. Give us this day our daily bread. And forgive us our trespasses, as we forgive them that trespass against us. And lead us not into temptation; but deliver us from evil: For Thine is the kingdom, and the power, and the glory, for ever and ever. Amen.<sup>104</sup>

Prayers have not been read on the first day of a new Parliament or on other occasions when, because of death or resignation, the first item of business is the election of a new Speaker.<sup>105</sup> Prayers have not been read at the second sitting on a day when two sittings have been held<sup>106</sup> or when the Chair has been resumed on another day following a suspension of a sitting.<sup>107</sup>

On 7 June 1901 the House agreed to a motion ‘That the Standing Orders should provide that, upon Mr Speaker taking the Chair, he shall read a prayer’. An amendment providing for the appointment of a chaplain for the purpose was withdrawn, as it was agreed that the Speaker was the most appropriate person to read prayers in the House.<sup>108</sup> The standing order was amended in 1918 when the initial prayer or preface was amended and an additional prayer was added before the Lord’s Prayer for the duration of the war.<sup>109</sup> In its report of 21 March 1972 the Standing Orders Committee considered a submission from a Member which suggested a different form of prayer, and that prayers once a week would suffice. The committee agreed that there should be no change either in the frequency of offering prayers or in their content.<sup>110</sup> When the Procedure Committee reviewed the standing orders in 2002–2003, partly with a view to modernising their language, the committee made no recommendation in relation to the prayers, and the revised standing orders adopted in November 2004 retained the original wording.

103 The acknowledgement of country was introduced in 2010 (43rd Parliament).

104 S.O. 38. At the direction of Speaker Makin the Votes and Proceedings entry was altered from ‘read Prayers’ to ‘offered Prayers’ in 1930, VP 1929–31/109, but reverted to the former style at the direction of Speaker Mackay in 1932, VP 1932–34/11.

105 VP 1956–57/259; VP 1985–86/665; VP 1987–89/1417; VP 1996–98/2753.

106 VP 1934–37/257; VP 1940–43/379.

107 VP 1905/169; H.R. Deb. (16.11.1905) 5425; VP 1993–95/1717; H.R. Deb. (8.12.1994) 4449; VP 1996–98/355, 2655; VP 2008–10/981; *but see* case of 17 August 1923 when Speaker Watt read prayers even though the House had not adjourned the previous evening, VP 1923–24/159; H.R. Deb. (17.8.1923) 2964–5.

108 VP 1901–02/41, 59; H.R. Deb. (7.6.1901) 815–21.

109 VP 1917–19/241.

110 Standing Orders Committee, *Report*, PP 20 (1972) 13.

Prayers are not read at the start of proceedings in the Federation Chamber, which is a subsidiary body. However, the timing of its meetings allows sufficient time for Members to attend prayers in the House.

## ORDER OF BUSINESS

Following the reading of prayers the House proceeds to its ordinary order of business,<sup>111</sup> as follows:

### *Monday*

- Presentation of petitions
- Committee and delegation business and private Members' business
- Government business
- 90 second statements
- Question Time
- Presentation of documents
- Ministerial statements (by leave)
- Government business
- Committee and delegation business and private Members' business
- Adjournment debate

### *Tuesday*

- Question Time
- Presentation of documents
- Matter of public importance
- Ministerial statements (by leave)
- Government business
- Adjournment debate

### *Wednesday*

- Government business
- 90 second statements
- Question Time
- Presentation of documents
- Matter of public importance
- Ministerial statements (by leave)
- Government business
- Adjournment debate

### *Thursday*

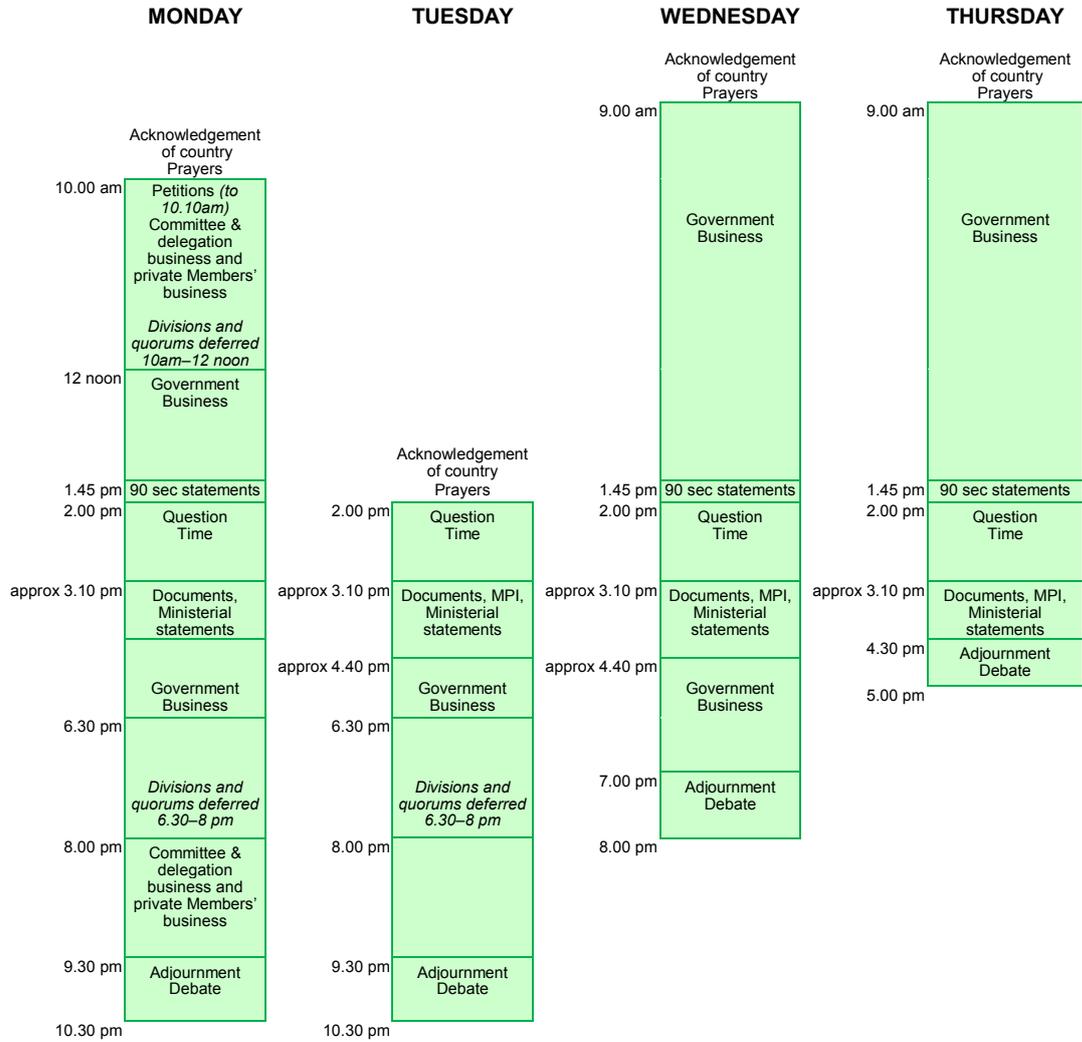
- Government business
- 90 second statements
- Question Time
- Presentation of documents
- Matter of public importance

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<sup>111</sup> S.O. 34. The order of business listed above is that adopted in the 43rd Parliament in force from October 2010. If the House meets for some special purpose the ordinary order of business may not be commenced. See VP 1920–21/187; H.R. Deb. (27.5.1920) 2452.

- Ministerial statements (by leave)
- Adjournment debate

### House of Representatives order of business (Operating from February 2012)



## Business on Mondays

The arrangements for the presentation and consideration of reports from committees and delegations, private Members' business, Members' statements and grievance debate are described in detail in the Chapter on 'Non-government business'; the presentation of petitions is covered in the Chapter on 'Documents'.

## Motions to set or vary the order of business

If, for a particular day, it is desired to vary the order of business provided by standing order 34—for example, to change the sequence or change a specified time—a motion is moved (usually by leave, or on notice) to suspend standing orders to provide for the change.<sup>112</sup>

If the House is to meet on a day not provided for in standing order 34—that is, on a Friday (or possibly on a Saturday), or if for a particular day it is desired to replace completely the normal order of business set down by standing order 34, a motion may be moved to suspend standing orders to set the order for that day.<sup>113</sup> If a change to the time or day of meeting is involved, provision for the new time of meeting and the proposed order of business for the day may be included in the one motion.<sup>114</sup> When such a motion has been agreed to, it is not in order to move a further suspension of standing orders to vary the order of business which has just been agreed to.<sup>115</sup>

To allow for change of mind or circumstance it is common for the phrase 'unless otherwise ordered' to be included in motions to suspend standing orders for such purposes. A further variation can then be achieved by a second motion (on or without notice) without the need to rescind the original motion.

When a sitting continues over more than one day, the business of the initial day continues (i.e. continuation of government business)<sup>116</sup> unless a variation is agreed to.

## Ordinary order of business

### *Government business*

#### NOTICES AND ORDERS OF THE DAY

Most of the time of the House is taken up with government notices and orders of the day. The term 'notices' refers to new items of business on the Notice Paper—that is, advice of motions to be moved or bills to be presented. 'Orders of the day' are items of business the House has ordered to be considered (or further considered) on a particular day.<sup>117</sup>

Notices and orders of the day have precedence of each other according to the order in which the Government has determined that they should be placed on the Notice Paper.<sup>118</sup> As each item is disposed of (or adjourned for future consideration) the Clerk calls on the next item in the order in which it appears on the Notice Paper. Other business may be

112 E.g. VP 1996–98/792; VP 2002–04/1549.

113 E.g. VP 1993–95/649 (Saturday sitting); VP 2002–04/689.

114 E.g. VP 2002–04/623; VP 2010–12/174.

115 VP 2002–04/969; H.R. Deb. (18.6.2003) 16769–70. For an acceptable form of motion later in the sitting see VP 2002–04/973.

116 E.g. VP 2002–04/1390.

117 S.O. 2.

118 S.O.s 37(a), 45, 112. Standing and sessional orders have been suspended to enable several notices to be called on together and one motion being moved that the motions be agreed to; e.g. VP 1996–98/125–6.

interspersed between items on the Notice Paper when, for example, appropriation and supply bills, and bills and proposals dealing with taxation, are introduced. These bills and proposals may be brought in by a Minister without notice.<sup>119</sup> Although they are not listed on the Notice Paper, they would normally be included in the Daily Program at a point which reflects the wishes of the Government.

After the Speaker calls on the business of the day, the Clerk announces the first notice or order of the day. As each notice is called on, the Minister or Parliamentary Secretary responsible moves the motion for which notice has been given or presents the bill for which notice of presentation has been given. Upon an order of the day being read by the Clerk the Speaker calls the next Member to speak, giving priority to the Member who previously moved the adjournment of the debate or the Member who was speaking when the debate was previously interrupted and who is thus entitled to pre-audience. In most cases debate continues on an item of business until it is finally disposed of by the House, but on some occasions a debate, particularly a lengthy debate, may be interrupted and adjourned to enable other business to be dealt with.

If a government notice or order of the day is to be dealt with other than during time for government business leave is required.<sup>120</sup>

#### DETERMINATION OF PRECEDENCE

Government business takes precedence over all other business except for those times when, under standing or sessional orders, private Members' business (before 1988 known as general business) and other non-government business has precedence (*see* Chapter on 'Non-government business'). In recent years (prior to 2011) approximately 60 per cent of the time of the House was taken up by government business; this figure was 50 per cent in 2011.

The Leader of the House can arrange the order of government notices and orders of the day on the Notice Paper as he or she thinks fit.<sup>121</sup> The Selection Committee determines the order of precedence of private Members' business.

#### POSTPONEMENT OF NOTICES AND ORDERS OF THE DAY—RE-ARRANGEMENT OF ITEMS OF BUSINESS

The order in which items of business are taken in the House is determined by the order of the notices and orders of the day on the Notice Paper. Variation of the predetermined order is generally achieved by the selective postponement of items of business. The day for moving a notice of motion or a notice of intention to present a bill may be changed or the notice postponed:

- by the Member who gave notice moving a motion without notice to postpone the motion;<sup>122</sup>
- by the Member who gave notice changing the day proposed for moving the motion to a later day by notifying the Clerk in writing before the motion is called on;<sup>123</sup>
- by the Member who gave the notice setting a future time for moving the motion when the notice is called on;<sup>124</sup> or
- by another Member, at the Member's request, setting a future time.<sup>125</sup>

119 S.O. 178.

120 E.g. VP 2008–10/1706.

121 S.O. 45.

122 S.O. 112.

123 S.O. 110(b).

124 S.O. 113; VP 1974–75/790; VP 1993–95/2636.

125 S.O. 113; VP 1956–57/89; H.R. Deb. (19.4.1956) 1479; VP 1974–75/959; H.R. Deb. (9.10.1975) 1932; VP 1993–95/2572.

The practice of the House is that one Minister may act for another and, accordingly, a Minister may move the postponement of a notice given by another Minister.

An order of the day may be postponed on motion without notice moved by the Member in charge of the order or, in the Member's absence, by another Member at the Member's request.<sup>126</sup> The Member in charge is the Member who moved the motion or presented the bill. As with a notice the practice of the House is that one Minister may act for another Minister in moving for the postponement of an order of the day. The motion should be moved before the order is called on.<sup>127</sup>

A private Member cannot move to vary the order of government business in the House,<sup>128</sup> nor can he or she move an amendment to a postponement motion which would have the effect of varying the order of government business.<sup>129</sup> An amendment expressing lack of confidence in the Prime Minister has been moved to a postponement motion.<sup>130</sup>

A Minister may not move for the postponement of an item of private Members' business. Standing orders have been suspended on the motion of a Minister to enable a particular private Member's business item to be called on during time when government business would normally be considered,<sup>131</sup> and to make alternative arrangements for private Members' business.<sup>132</sup>

Postponement of an order of the day may be until a later hour of the day, until the next sitting or until a specified day. When business has been postponed until a later hour it may be called back on at a convenient time without further action of a procedural nature. Consideration of an order of the day has been postponed until certain bills, which were themselves orders of the day, had become law.<sup>133</sup>

#### MEMBER ABSENT OR FAILING TO RISE WHEN NOTICE CALLED ON

A motion not moved when called on is withdrawn from the Notice Paper unless the Member who gave notice, or another Member at his or her request, sets (by orally informing the House) a future time for moving the motion.<sup>134</sup>

#### DISCHARGE OF ORDERS OF THE DAY

An order of the day remains in the possession of the House and remains on the Notice Paper until the House disposes of it or a motion for its discharge is agreed to. On an order of the day being read, it may, on motion without notice moved by the Member in charge of it, be discharged.<sup>135</sup> In the case of government orders of the day a motion for discharge may be moved by any Minister.<sup>136</sup> In 1972 Speaker Aston ruled privately that a motion to discharge an order of the day must be moved immediately the order is read and there can be no debate on the order of the day after the order is read and a motion moved for its discharge.

126 S.O. 37(b).

127 H.R. Deb. (22.7.1920) 2951.

128 VP 1968–69/297. This is permitted in the Federation Chamber, where private Members (usually committee chairs) may be rostered to have regard to government interests (a seconder is not required on these occasions), e.g. H.R. Deb. (23.6.2010) 6474.

129 VP 1951–53/285.

130 VP 1970–72/609. The relevance of such an amendment would be open to question.

131 E.g. VP 1978–80/133; VP 1990–93/918–9; VP 1993–95/2453; VP 1998–2001/675; VP 2008–10/970.

132 E.g. VP 1998–2001/1531–2.

133 VP 1907–08/381; NP 114 (22.4.1908) 541.

134 S.O. 113. Withdrawal of notice, VP 1974–75/790; Member fixes future time, VP 1974–75/959; VP 1993–95/2572.

135 S.O. 37(c); e.g. VP 1976–77/524.

136 VP 1978–80/1497–8.

Orders of the day may also be discharged by motion moved pursuant to notice<sup>137</sup> or by leave.<sup>138</sup> Generally, such motions encompass multiple orders of the day, and are moved periodically to clear the Notice Paper of items of government business (mostly motions to take note of documents) on which no further debate is required. Less frequently, an individual item of business may be discharged—for example, when the Government has decided not to proceed with a bill.<sup>139</sup> Under standing order 42 private Members' notices and orders of the day not called on within eight sitting weeks are automatically dropped from the Notice Paper.

NOTICES AND ORDERS OF THE DAY NOT CALLED ON

At the adjournment of the House each day any notices or orders of the day which have not been called on are set down on the Notice Paper for the next sitting, after any notices or orders of the day set down for that day.<sup>140</sup> These provisions operate subject to standing order 45 which provides that the Leader of the House can arrange the order of government notices and orders of the day on the Notice Paper as he or she thinks fit. The Selection Committee has a similar power in respect of private Members' notices and orders of the day (*see* Chapter on 'Non-government business').

*90 second statements*

At 1.45 p.m. on Mondays, Wednesdays and Thursdays the Speaker interrupts business and calls on statements by Members. Any Member except a Minister or Parliamentary Secretary may make a statement for no longer than 90 seconds.<sup>141</sup> For further information *see* Chapter on 'Non-government business'.

*Question Time*

Although Question Time is scheduled to start at 2 p.m., other matters sometimes intervene before the Speaker calls for questions without notice—for example, ministerial arrangements may be announced, the deaths of former Members may be reported or condolence motions may be moved, valedictory remarks made,<sup>142</sup> statements may be made by indulgence,<sup>143</sup> motions may be moved by agreement about significant events,<sup>144</sup> or the consideration of a bill completed.<sup>145</sup> Standing orders are from time to time suspended to alter the time<sup>146</sup>—for example, to 2.30 p.m. to permit Members to attend a lunch-time function, or to allow other business to be dealt with at 2 p.m.<sup>147</sup> It has been considered that standing orders should be suspended to allow a ministerial statement to be made at 2 p.m.<sup>148</sup>

The length of time the House devotes to Question Time is controlled by the Government.<sup>149</sup> The Prime Minister or a Minister<sup>150</sup> determines the time for questions to

137 E.g. VP 1978–80/605–7; VP 1993–95/1362; VP 1998–2001/972.

138 E.g. VP 1978–80/983; VP 1993–95/2427–8; VP 1998–2001/1167.

139 E.g. VP 1990–93/1798; VP 1993–95/1362; VP 1998–2001/2200; VP 2004–07/1856.

140 S.O.s 37(d), 115.

141 S.O. 43.

142 E.g. H.R. Deb (27.9.2001) 31683.

143 E.g. VP 2004–07/646.

144 E.g. VP 2004–07/646–7.

145 E.g. H.R. Deb (23.10.2002) 8456.

146 E.g. VP 1998–2001/1999, 2010; VP 2004–07/1712, 1878; VP 2008–10/845.

147 E.g. VP 2008–10/853.

148 E.g. VP 2008–10/1584.

149 H.R. Deb. (28.10.1954) 2410.

150 Generally the senior Minister present or the Leader of the House.

conclude by asking that further questions be placed on the Notice Paper,<sup>151</sup> and may do so even if a Member is in the process of asking a question or has received the call to ask a question.<sup>152</sup> In recent years periods of longer than one hour have been common (the number of questions often being the benchmark).<sup>153</sup> After Question Time has concluded, a Minister may wish:

- to provide information which has come to hand in relation to a question asked earlier;<sup>154</sup>
- to provide additional information in respect of an answer given earlier; or
- to correct an answer given earlier.

It is within the province of the Chair to grant indulgence for this to be done.

Questions without notice, having been called on by the Chair, may not be proceeded with if the Prime Minister or a Minister in charge of arrangements<sup>155</sup> immediately asks that they be placed on notice. This may happen on occasions when the time of the House has been taken up by another matter, for example, when debate on a no confidence or censure motion has been given precedence.<sup>156</sup>

For more detail on Question Time procedures *see* Chapter on ‘Questions’.

### *Presentation of documents*

The presentation of documents follows Question Time. Documents may be presented by the Speaker or Ministers, pursuant to statute or otherwise, or by order of the House.<sup>157</sup> Formerly documents were presented individually, but arrangements introduced in 1988<sup>158</sup> have permitted the presentation of documents together. The arrangements for this are:

- by 12 noon on the day of presentation a schedule of documents to be presented is made available to the Manager of Opposition Business and later circulated to all Members in the Chamber;
- following questions without notice a Minister presents the documents as listed on the schedule;
- documents so listed are recorded in the Votes and Proceedings and Hansard;
- if a schedule has not been circulated, or if documents have not been included on the schedule, the documents in question must be presented individually; and
- if a statement is to be made or a motion moved in relation to a document, a Minister may present the document separately.

There may be other business arising out of the presentation of a document, such as motions to take note of the document or to make it a Parliamentary Paper. The motion ‘That the House take note of the document’ is used as a device to enable a document to be debated, either at the time it is presented or, more usually, at a later sitting. The selection of documents for debate is agreed on between the Opposition and the Government prior to presentation. The practice since May 1993<sup>159</sup> has been for a single

151 *See* ruling VP 1973–74/69.

152 H.R. Deb. (4.5.1960) 1333; H.R. Deb. (9.10.1996) 5061–2.

153 In 2010 on average about 18 questions in 85 minutes. In 2011 on average about 14 questions in 69 minutes. For more detail *see* Chapter on ‘Questions’.

154 E.g. H.R. Deb. (31.5.1973) 2938–9; H.R. Deb. (22.8.1996) 3589–90; H.R. Deb. (30.9.2010) 354.

155 VP 1993–95/814–6.

156 E.g. H.R. Deb. (29.10.1975) 2593; VP 1993–95/2689.

157 S.O.s 199–200.

158 VP 1987–89/302–3.

159 S.O. 202(b).

motion to be moved to take note of (the selected) documents presented. The motion is moved by the Minister presenting the documents listed on the schedule, normally the Leader of the House. The resumption of debate on the motion to take note of each of the documents is then made a separate order of the day on the Notice Paper.

For documents presented at other times *see* page 261, *and see* Chapter on ‘Documents’.

### *Matter of public importance*

If a proposed matter of public importance has been given in a written statement to the Speaker and determined to be in order, the Speaker reads the statement to the House. If the matter is supported by eight Members, discussion ensues.<sup>160</sup> The discussion may be terminated at any stage by the House agreeing to the motion, moved by any Member, ‘That the business of the day be called on’. The time for discussion is limited to one hour and 30 minutes.<sup>161</sup>

For further information *see* Chapter on ‘Non-government business’.

### *Ministerial statements (by leave)*

By leave of the House Ministers may make statements concerning government policy or other matters for which they have ministerial responsibility. Ministerial statements are usually made at the time indicated in the routine of business, following presentation of documents and discussion of matter of public importance, although they may also be made at other times. On occasions leave has not been sought by the Government<sup>162</sup> or has been refused by the Opposition<sup>163</sup> and standing orders have been suspended to enable a statement to be made.

After the statement, it is the usual practice for standing orders to be suspended to permit the opposition spokesperson on the subject to speak in reply for an equal period of time. Alternatively, the opposition spokesperson could be granted leave to make a statement on the same matter or a motion could be moved ‘That the House take note of the document’, on which debate may take place either at that time, at a later hour or at a later sitting.<sup>164</sup>

Ministerial statements are not an everyday occurrence, although their frequency has increased in recent years. For further detail, including comment on the need for leave, *see* ‘Statements by leave’ in Chapter on ‘Control and conduct of debate’.

### *Matters accorded precedence*

The ordinary order of business may be superseded by matters which are accorded precedence by practice or pursuant to the standing orders, or by other matters which may intervene or interrupt proceedings.

### *Censure or no confidence motions and amendments*

A motion of which notice has been given or an amendment which expresses a censure of or no confidence in the Government takes precedence of all other business until

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<sup>160</sup> S.O. 46.

<sup>161</sup> S.O. 1.

<sup>162</sup> E.g. VP 1978–80/40.

<sup>163</sup> E.g. VP 1978–80/372.

<sup>164</sup> E.g. VP 1978–80/1298; VP 1998–2001/1284; VP 2008–10/495 (no copy formally presented; motion moved by leave to take note of the statement).

disposed of by the House, and additional speaking time is provided, if it is accepted by a Minister as a censure or no confidence motion or amendment under standing order 48.

This form of motion has been accepted immediately after the notice has been given openly (when notices could be given openly)<sup>165</sup> or immediately after the notice has been reported to the House by the Clerk.<sup>166</sup> In these circumstances it is necessary to suspend standing orders or secure leave to enable the motion to be moved immediately. A no confidence amendment has been similarly accepted immediately it has been moved.<sup>167</sup> If it is not accepted by a Minister for the purposes of standing order 48, a notice of a no confidence motion does not attract any automatic precedence and is placed on the Notice Paper under private Members' business. However, even if it is not accepted by a Minister for the purposes of standing order 48, action may still be taken to bring the debate on early (in which case the normal time limits for a motion apply).<sup>168</sup> The notice may also be granted precedence on a later day when accepted by a Minister.<sup>169</sup>

For many years it was the practice of the House to adjourn until the next sitting following notice of a no confidence motion. This practice has not been followed since 1947.<sup>170</sup>

The House has considered other business before a censure or no confidence motion or amendment has been finally disposed of. In 1949 standing orders were suspended to enable a censure motion to take precedence of all other business until disposed of. The censure motion was then debated and adjourned to the next sitting. Prior to the resumption of the debate on the next sitting day, several items of business were dealt with including petitions, questions without notice, statements by leave, and the introduction of bills.<sup>171</sup> However, if it is the wish of the House to proceed with some of the normal order of business, such as questions without notice, petitions and other items of business, as in the above circumstances, it would be preferable to suspend standing orders to enable this to be done. This course was followed in 1961,<sup>172</sup> although the Speaker questioned whether other business should intervene during a no confidence debate.<sup>173</sup>

An amendment censuring the Government<sup>174</sup> and motions censuring or expressing no confidence in the Government<sup>175</sup> have been granted precedence following suspension of the standing orders, even though they were not accepted by a Minister under standing order 48. In these cases the normal time limits for a motion apply.

Standing orders have been suspended to allow a motion of censure of a Minister, which does not attract any precedence, to be moved forthwith<sup>176</sup> and to be moved forthwith and to take precedence.<sup>177</sup> Such motions have also been moved without notice and debated immediately by leave.<sup>178</sup>

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165 VP 1985–87/23.

166 VP 1985–87/81.

167 VP 1970–72/445.

168 E.g. VP 1987–89/678.

169 NP 114 (11.11.1975) 10502; VP 1974–75/1121.

170 VP 1946–48/250; H.R. Deb. (17.9.1947) 4; *and see* Ch. on 'Motions'.

171 VP 1948–49/303–5; *see also* VP 1904/174; H.R. Deb. (27.9.1904) 4918; VP 1962–63/411.

172 VP 1961/11.

173 H.R. Deb. (15.3.1961) 221.

174 VP 1978–80/600.

175 E.g. VP 1970–72/937; VP 1983–84/533, H.R. Deb. (8.3.1984) 733; VP 1987–89/678; VP 1996–98/2975–6.

176 E.g. VP 1985–87/1298; VP 1993–95/608.

177 E.g. VP 1968–69/301.

178 E.g. VP 2002–04/1514.

For a more detailed account *see* ‘Motions of no confidence or censure’ in Chapter on ‘Motions’.

### *Matters of privilege*

A Member may rise at any time to speak on a matter of privilege suddenly arising.<sup>179</sup> Until a matter of privilege is disposed of (for example, by the Speaker giving a decision immediately or stating that the matter will be considered), or unless debate on a motion arising from a matter is adjourned, it suspends the consideration and decision of every other question. However, precedence over other business is not given to any motion if, in the opinion of the Speaker, a *prima facie* case of breach of privilege has not been made out or the matter has not been raised at the earliest opportunity.<sup>180</sup>

When consideration of a substantive motion on a matter of privilege or a report from the Committee of Privileges and Members’ Interests is made an order of the day, the practice is to place it on the Notice Paper with a note ‘to take precedence’. If it is not desired to consider the motion or report as the first item of business, a positive motion to postpone the order is necessary.<sup>181</sup> It has been the practice of the House to proceed with the ordinary order of business up to, but not including, ‘Government business’ before a privilege motion or report is considered.

For further information *see* Chapter on ‘Privilege’.

### *Motions of thanks or condolence*

Precedence is ordinarily given, by courtesy, to a motion of thanks of the House or to a motion of condolence.<sup>182</sup> The practice of the House is that condolence motions or references to the deaths of certain persons are normally dealt with immediately following Prayers or at 2 p.m.,<sup>183</sup> after which the ordinary order of business may be proceeded with. Traditionally following a condolence motion the House could be adjourned, or suspended to a fixed hour, as a mark of respect; however, this is now unusual. If the House has been suspended, the ordinary order of business may be proceeded with on the resumption of the sitting.<sup>184</sup>

For further information *see* ‘Motion of condolence’ and ‘Motion of thanks’ in Chapter on ‘Motions’.

### *Motions for leave of absence to a Member*

A motion to grant leave of absence to a Member can be moved without notice and has priority over all other business.<sup>185</sup> For convenience the motion is usually moved after presentation of documents, but it may be moved at other times.

### *Announcements of ministerial arrangements*

The Prime Minister from time to time informs the House of changes in the Ministry, of the absence or illness of Ministers, of any acting and representational arrangements that are made within the Ministry, and of changes in departmental and administrative arrangements. It is the normal practice for such an announcement to be made before

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179 S.O.s 51, 66(b).

180 S.O. 51; *see also* Ch. on ‘Parliamentary privilege’.

181 NP 18 (12.4.1978) 913; VP 1978–80/142; H.R. Deb. (12.4.1978) 1462–7.

182 S.O. 49.

183 Debate may be adjourned and resumed later in the House or be referred to the Federation Chamber. For more detail *see* ‘Motion of condolence’ in Ch. on ‘Motions’.

184 VP 1976–77/391.

185 S.O. 26(a); *and see* Ch. on ‘Members’.

questions without notice to assist Members in directing their questions.<sup>186</sup> If the Prime Minister is not present the senior Minister present makes the announcement.<sup>187</sup> The Leader of the Opposition may make similar announcements in respect of the shadow ministry.<sup>188</sup> Ministry and shadow ministry lists may also be presented.<sup>189</sup>

### *Swearing-in of Members and announcements of returns to writs*

Every Member of the House must make an oath or affirmation of allegiance before taking his or her seat.<sup>190</sup> Any Member absent at the opening of a Parliament is sworn in at the first opportunity.<sup>191</sup> On the election of a Member at a by-election the Speaker may announce the return to the writ immediately after Prayers, the new Member then being introduced and sworn in,<sup>192</sup> although on occasions the new Member has been sworn in just before Question Time.<sup>193</sup>

## Other matters that can interrupt the ordinary order of business

### *Personal explanations*

With the leave of the Chair, a Member may explain how he or she has been misrepresented or raise another matter of a personal nature.<sup>194</sup> The usual practice is for a Member desiring to make a personal explanation to inform the Speaker and for the Speaker to call on the Member at a convenient time after Question Time. This does not prevent Members making personal explanations at other times, subject to the overall authority of the Speaker, but such a course is not encouraged.<sup>195</sup>

For more detail *see* ‘Misrepresentation’ and ‘Personal explanations’ in Chapter on ‘Control and conduct of debate’.

### *Acknowledgment and admission of distinguished visitors*

The Speaker may acknowledge the presence of distinguished visitors in the gallery and, with the implied concurrence of the House, distinguished visitors have on occasion been admitted to a seat on the floor of the House.<sup>196</sup> This action has been taken by the Speaker immediately after Prayers but it can occur at any time during a day’s proceedings. It is most common for distinguished visitors to be present during questions without notice.

### *Announcements and statements by the Speaker*

The Speaker may be called upon to make a number of announcements during the course of a day’s proceedings. These include messages from the Governor-General<sup>197</sup> notifying assent to bills and messages from the Senate. When such details are available prior to the meeting of the House, the announcements may be held until after the

<sup>186</sup> However, the announcement has also been made after Question Time has started, H.R. Deb. (2.6.2008) 3953.

<sup>187</sup> E.g. VP 1993–95/2118; H.R. Deb. (25.6.2008) 5888.

<sup>188</sup> E.g. VP 2004–07/1619.

<sup>189</sup> E.g. VP 2004–07/1657.

<sup>190</sup> *See* Ch. on ‘Members’.

<sup>191</sup> E.g. VP 1978–80/75; VP 2002–04/49; VP 2008–10/26.

<sup>192</sup> E.g. VP 1993–95/1613. *But see also* VP 1993–95/2012.

<sup>193</sup> E.g. VP 1993–95/875; VP 1998–2001/1069; VP 2008–10/576.

<sup>194</sup> S.O. 68.

<sup>195</sup> *See* H.R. Deb. (7.3.1974) 149, 153–4 for ruling and further discussion on this matter in respect of personal explanations arising during the course of a debate.

<sup>196</sup> S.O. 257.

<sup>197</sup> S.O. 182.

presentation of documents. When they become available later during the course of the sitting, they may be announced between items of business. The Speaker also makes statements to the House, for example, on matters of parliamentary administration; such statements are made between items of business<sup>198</sup> or occasionally at another time convenient to the Speaker.<sup>199</sup>

### *Committee reports and documents*

Although the normal order of business provides periods on Mondays of each sitting week for the presentation of reports of parliamentary committees,<sup>200</sup> the standing orders also permit committee reports to be presented at any time when other business is not before the House.<sup>201</sup> When reports are presented in this way (that is, outside the allocated period), leave of the House must be obtained for a Member to make a statement on the report at the time of presentation, or to move a motion in connection with it (usually ‘That the House take note of the document’).

Documents may be presented by the Speaker or Ministers at any time when other business is not before the House.<sup>202</sup> For wider discussion on the presentation of documents *see* Chapter on ‘Documents’.

### *Matter of special interest*

At any time when other business is not before the House a Minister may indicate to the House that it is proposed to discuss a matter of special interest on which it is not desired to move a specific motion.<sup>203</sup> A matter of special interest has been discussed by the House on only one occasion when it was discussed early in the order of business prior to the giving of notices.<sup>204</sup> For more detail *see* ‘Motion to discuss matter of special interest’ in Chapter on ‘Motions’.

### *Suspension of standing orders*

It is not unusual in the functioning of the House for it to be found necessary to suspend standing orders, or a particular standing order, to permit certain action to be taken. Common instances are to grant unlimited or extended time for particular speeches, to permit the introduction of particular bills without notice and their passage without delay, or the consideration of certain bills together, to enable censure or other motions to be moved, and to enable the introduction of new business after the usual time of adjournment. The suspension of standing orders may also affect the ordinary order of business, for example, when it is to enable an item of private Members’ business to be called on in other than the normal order, to allow a notice of motion to be called on immediately, the notice having been given for the next sitting, or to put in place a special routine.<sup>205</sup>

Having received the call from the Chair, a motion to suspend standing orders may be moved by any Member without notice, but to be passed it must be carried by an absolute

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198 E.g. VP 1985–87/977; VP 1996–98/378; VP 1998–2001/26; H.R. Deb. (27.10.2010) 1828.

199 E.g. VP 1985–87/1526; VP 1996–98/360.

200 For the procedures applying to this period and the responsibilities of the Selection Committee in the allocation of time *see* Ch. on ‘Non-government business’.

201 S.O. 39.

202 S.O. 199(b).

203 S.O. 50.

204 VP 1974–75/815–17; H.R. Deb. (9.7.1975) 3556.

205 E.g. VP 2004–07/2009 (motion provided for routine to be in accordance with a document to be presented).

majority of all Members<sup>206</sup> (76 votes in a House of 150 Members). If the motion is moved pursuant to notice, pursuant to contingent notice, or with the leave of the House, it may be carried by a simple majority of Members present. A motion for the suspension of standing orders may only be moved if the substance of the motion is relevant to the item of business before the House, or, alternatively, when there is no business before the House, that is, between items of business.<sup>207</sup>

For further information *see* ‘Motion to suspend standing or sessional orders’ in Chapter on ‘Motions’.

### *Points of order*

Any Member may raise a point of order at any time which, until disposed of, suspends the consideration and decision of every other question. A point of order may lead to a ruling being given by the Chair which may be objected to and a motion of dissent moved. A motion of dissent must be debated and determined immediately.<sup>208</sup>

For more detailed discussion *see* ‘Speaker’s rulings’ in Chapter on ‘The Speaker, Deputy Speakers and officers’.

### *Disorder*

The proceedings of the House may also be interrupted by disorder arising in the House or in the galleries. In the case of grave disorder arising, the Speaker may adjourn the House or suspend the sitting until a time to be named.<sup>209</sup>

### *Absence of a Minister*

There is a convention that a Minister (or Parliamentary Secretary) should be present in the Chamber at all times, and in practice Governments maintain a roster of ‘Duty Ministers’.<sup>210</sup> It is of course desirable from the Government’s point of view, and expected by Members, that there should be a Member present able to react with authority on behalf of the Government to any unexpected development. There is obviously a need for a government representative to be ‘in charge of’ items of government business. However, even when other matters are before the House—for example, during private Members’ business, or adjournment or grievance debates—it is expected that a government representative will be available to take note of or to respond to matters raised. A short absence of a Minister may go unremarked, but sometimes a point of order will be taken and the Chair’s attention drawn to the situation.<sup>211</sup> In such circumstances the Chair has sometimes intervened on his or her own initiative<sup>212</sup>—for example, by asking a government whip to fetch a Minister—and on one occasion has even had the bells rung to secure a Minister’s attendance.<sup>213</sup>

There is not a similar requirement for an opposition frontbencher to be present, although this does facilitate the business of the House and is desirable from the Opposition’s point of view. In practice a roster is maintained.

206 S.O. 47(c), e.g. VP 2010–12/215–6.

207 VP 1983–84/543, H.R. Deb. (27.3.1984) 803.

208 S.O.s 86–87.

209 *See* S.O. 95 and Chs on ‘Parliament House and access to proceedings’ and ‘Control and conduct of debate’.

210 The informal government representative in the Federation Chamber may be a private Member. Usually committee chairs are rostered.

211 E.g. H.R. Deb. (1.5.1987) 2458.

212 E.g. H.R. Deb. (1.3.1950) 219; H.R. Deb. (11.5.1950) 2628; H.R. Deb. (12.4.1978) 1443; H.R. Deb. (29.6.1999) 7701–2; H.R. Deb. (27.2.2006) 40.

213 H.R. Deb. (11.5.1950) 2497.

## NEW BUSINESS RULE

Standing order 33 provides that no new business may be taken after the normal time of adjournment unless the House otherwise orders. The normal time of adjournment is the latest time specified for the House to adjourn on any sitting day—that is, from September 2010, 10.30 p.m.<sup>214</sup> New business was defined by Speaker Johnson as a proposal relating to a matter not before the House.<sup>215</sup>

The following points are relevant to an understanding of the rule:

- as a general rule the only business which the House should proceed with after the normal time of adjournment is the matter which is immediately before the House or business of a formal nature;
- the rule has a purpose in protecting the minorities in the House from the introduction, perhaps by surprise late in a sitting, of new business upon which a vote may be taken;
- in cases of urgency or necessity the House may determine, prior to the normal time of adjournment, that new business be taken after that time, by suspending the standing order.

The following business, on which the House does not have to make a decision of substance, may be transacted after the normal time of adjournment without infringing the rule:

- a message from the Senate agreeing to a bill without amendment or requests may be announced by the Speaker;<sup>216</sup>
- a message from the Senate returning a bill with amendments may be reported and an order agreed to consider the amendments at the next sitting;<sup>217</sup>
- a message from the Senate forwarding a bill for the concurrence of the House may be announced by the Speaker and the bill read a first time; the second reading must be made an order of the day for the next sitting<sup>218</sup> and no debate on that motion is permitted;<sup>219</sup>
- a Minister may provide information, or additional information, in response to a question,<sup>220</sup> and
- a statement may be made by the Speaker.<sup>221</sup>

A motion to suspend standing orders moved after the normal time of adjournment in relation to a matter which is before the House—for example, to enable the remaining stages of a bill to be passed without delay—is not regarded as new business.<sup>222</sup>

The House on occasions suspends the new business rule (sometimes together with standing order 31—automatic adjournment) to enable new business to be taken after the normal time of adjournment.<sup>223</sup> In order that the motion to suspend the standing order is not itself classed as new business, the motion must be moved before the normal time of

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214 Prior to September 2010 specific times were given in successive versions of the standing order. For many years the time was 11 p.m. and the rule was traditionally referred to as 'the eleven o'clock rule'.

215 H.R. Deb. (5.11.1913) 2932.

216 VP 1962–63/37.

217 VP 1996–98/838; H.R. Deb. (19.11.1996) 7138.

218 VP 1962–63/37. It is not new business to fix a future day for the second reading of a bill, H.R. Deb. (3.6.1930) 2432.

219 H.R. Deb. (16–17.11.1933) 4750.

220 H.R. Deb. (3.6.1930) 2432–3.

221 H.R. Deb. (29.6.2000) 18718.

222 H.R. Deb. (5.11.1913) 2932.

223 E.g. VP 1985–87/579; VP 1998–2001/2019; VP 2008–10/976.

adjournment. Although the standing order has been suspended after the specified time with the concurrence of an absolute majority<sup>224</sup> and the motion has been moved after the specified time by leave of the House,<sup>225</sup> Speaker Mackay stated the correct procedure to be followed:

It would be well, however, that the Government, being in charge of the business of the House, should realise that a motion to suspend the Standing Orders is, in itself, ‘new business’ in a strict reading of the Standing Order.<sup>226</sup>

Earlier practice was that when a cognate debate was before the House at the time the new business rule cut in, bills in respect of which questions had not yet been put from the Chair—that is, the second or subsequent bills of the group—were treated as constituting new business for the purpose of the standing order (even though debate on them may have already occurred) and the new business rule was suspended. More recently, consistent with Speaker Johnson’s view, and bearing in mind that the House has agreed that debate on the second reading of such bills should be taken together, cognate bills have been called on and dealt with without any suspension of standing orders.<sup>227</sup>

In 1931 the Speaker was questioned, during a division on a motion to suspend the new business rule, as to whether the vote would be effective if not completed before the specified time (then 11 p.m.). The Speaker replied that, as Members had crossed the floor and tellers had been appointed before 11 p.m., the vote was to be regarded as having taken place within the specified time.<sup>228</sup>

## ADJOURNMENT

### Standing orders provisions

The termination of a sitting is known as the adjournment. With certain exceptions the House can only be adjourned by its own resolution following either a motion moved by a Minister<sup>229</sup> or the Speaker automatically proposing the question ‘That the House do now adjourn’ pursuant to standing order 31. Matters irrelevant to the question may be debated, thus providing a valued opportunity for private Members to raise matters of concern to them.<sup>230</sup> For discussion of the ‘adjournment debate’ see Chapter on ‘Non-government business’.

The Speaker may adjourn the House to the next sitting without putting the question under the following circumstances:

- lack of a quorum (S.O. 57); and
- grave disorder<sup>231</sup> (S.O. 95).

A further exception relates to the situation when the House is informed by the Clerk of the absence of the Speaker, the Deputy Speaker and Second Deputy Speaker. If the House does not proceed immediately to elect a Member to perform the duties of the Speaker, the House stands adjourned until the next sitting.<sup>232</sup>

224 VP 1978–80/153.

225 VP 1968–69/458.

226 H.R. Deb. (25.5.1933) 1801.

227 E.g. VP 2004–07/2019–2022.

228 H.R. Deb. (23.7.1931) 4332.

229 S.O. 32(a).

230 S.O. 76(a).

231 E.g. VP 1985–87/1272–3.

232 S.O. 18(b).

### *Motion moved by a Minister*

The motion ‘That the House do now adjourn’ can be moved only by a Minister (or Parliamentary Secretary) and no amendment can be moved to it.<sup>233</sup> The motion cannot be moved while another question is before the Chair.<sup>234</sup> The motion may be debated without limitation of time, subject to the closure and the automatic adjournment provisions. Debate on the motion cannot be adjourned.

As with other motions the reply of the mover closes the debate.<sup>235</sup> The mover has again addressed the House, by leave, without closing the debate.<sup>236</sup> After the mover has spoken in reply, individual Members have addressed the House, by leave,<sup>237</sup> and standing orders have been suspended to enable the debate to continue.<sup>238</sup> Also, during the course of the debate, the mover has made a statement, by leave, and later has spoken in reply.<sup>239</sup>

The motion for the adjournment has been withdrawn, by leave, to allow the presentation of a committee report,<sup>240</sup> and to allow a motion for the alteration of the hour of next meeting to be moved.<sup>241</sup> In 1959 the motion was moved immediately after questions without notice and debated while the House awaited certain legislation from the Senate. When the legislation had not arrived some four hours later, the motion was withdrawn, by leave, and a motion granting leave of absence to all Members and a special adjournment motion were agreed to. A further adjournment motion was then moved and agreed to.<sup>242</sup> In a similar situation in more recent years the adjournment was moved early and debated for some time after standing orders had been suspended, by leave, to enable Members to speak for a specified period (one period of 10 minutes). This motion was then negated on the receipt of awaited Senate messages. After consideration of the legislation concerned a second adjournment motion was moved and agreed to.<sup>243</sup>

### *Automatic adjournment*

Standing order 31 provides that at the time set by standing order 29 for the adjournment to be proposed (that is, from October 2010, 9.30 p.m. on Mondays and Tuesdays, 7 p.m. on Wednesdays and at 4.30 p.m. on Thursdays), the Speaker shall propose the question ‘That the House do now adjourn’. The question is open to debate but no amendment can be moved to it.

Other provisions relating to the automatic adjournment are:

- If a division is in progress at the time fixed for interruption, that division and any division consequent on that division are completed and the result announced.
- If, on the question ‘That the House do now adjourn’ being proposed, a Minister requires the question to be put immediately without debate, the Speaker puts the

233 S.O. 32(a). Standing orders have been suspended to enable a private Member to move the motion, VP 1998–2001/2692.

234 H.R. Deb. (9.4.1908) 10451.

235 S.O. 71.

236 VP 1967–68/143.

237 VP 1960–61/252.

238 VP 1960–61/252.

239 VP 1940–43/118; H.R. Deb. (3.4.1941) 703–11.

240 VP 1964–66/151.

241 VP 1929–31/803.

242 VP 1959–60/311; H.R. Deb. (27.11.1959) 3299, 3316. In 1993 on one sitting day the House twice debated, and negated, adjournment motions while awaiting Senate messages; VP 1993–95/90–92.

243 E.g. VP 1993–95/1723, 1754; VP 2002–04/1579.

question immediately. This provision provides the House with an opportunity to negative the adjournment in order to continue with the business before the House.<sup>244</sup>

- If the question ‘That the House do now adjourn’ is negated, the House resumes its proceedings at the point at which they were interrupted.
- The business under discussion and not disposed of at the time of the automatic adjournment is set down on the Notice Paper for the next sitting.

The question has arisen of the situation of a Member who is making a statement, by leave, at the time of interruption. Leave of the House does not over-ride the provision in the standing orders for the automatic adjournment, and the adjournment motion must be proposed at the specified time. If the motion is negated, the Member can then continue his or her remarks,<sup>245</sup> but not otherwise.<sup>246</sup> The same applies if standing orders are suspended to enable a Member to make a statement. Unless standing order 31 has been specifically suspended, the statement is interrupted at the specified time and the Member is only able to continue if the adjournment motion is negated. A Member raising a matter of privilege at the time of interruption has been in a similar situation—his or her speech was interrupted and then resumed on the adjournment question being put immediately and negated.<sup>247</sup>

The making of a statement by leave or a Member speaking to a matter of public importance do not fall within the meaning of business under standing order 31. As there is no question before the House, these items cannot be set down on the Notice Paper for the next sitting.

If a motion, such as a motion to suspend standing orders, is being moved, or has been moved but has not yet been seconded (where necessary) at the time of interruption, the question has not been proposed from the Chair. If the adjournment is not negated at this point, the motion is not in the possession of the House, and it is therefore dropped and cannot appear on the Notice Paper (*see* ‘Motion dropped’ in Chapter on ‘Motions’).

Standing and sessional orders have been suspended, by leave, to enable the debate to extend beyond the normal time,<sup>248</sup> or to or for a specified time.<sup>249</sup>

### *Adjournment of the House*

If, at the time set by standing order 29 for the House to adjourn (that is, from October 2010, 10.30 p.m. on Mondays and Tuesdays, 8 p.m. on Wednesdays and at 5 p.m. on Thursdays) the question before the House is ‘That the House do now adjourn’, the Speaker interrupts the debate, at which time:

- a Minister may require that the debate be extended for 10 minutes to enable Ministers to speak in reply to matters raised in the preceding adjournment debate; after 10 minutes or upon the earlier cessation of the debate, the Speaker immediately adjourns the House until the time of its next meeting; or
- if no action is taken by a Minister to extend the debate, the Speaker immediately adjourns the House until the time of its next meeting.

244 If aware of the wish of the House for business to continue, the Speaker may put the question without the Minister’s intervention, e.g. VP 2004–07/2018.

245 VP 1977/72.

246 H.R. Deb. (22.2.1979) 334.

247 VP 1996–98/2100.

248 E.g. VP 1993–95/2567–8.

249 E.g. VP 2002–04/1508–9; VP 2004–07/2067.

This does not prevent a Minister from replying before the Speaker interrupts the debate, provided that no other Member rises to obtain the call.<sup>250</sup> If a Minister starts to reply before that time, the debate is still interrupted at the time of the automatic adjournment when the Minister may require the debate to be extended.

If all the business of the day is concluded before the time at which the question to adjourn would be automatically proposed, the adjournment motion is moved by a Minister immediately. Debate may continue until the provisions of standing order 31, relating to the extension of the debate by a Minister or the immediate adjournment of the House, apply.

Special arrangements may provide that the House stand adjourned at a specified point in proceedings—for example, at the conclusion of the Leader of the Opposition's speech in reply to the Budget.<sup>251</sup>

If the adjournment motion or question is negatived when first proposed and the business of the day concludes after the time specified for the adjournment of the House, a Minister moves the adjournment motion at the conclusion of ordinary business and debate may ensue without any limitation of time. If business does conclude before the time specified for the adjournment, the time available for the adjournment debate is reduced.

When the question 'That the House do now adjourn' has been agreed to, or when the time for debate has expired or the debate ceases, the sitting formally concludes and the Speaker adjourns the House until the time of its next meeting, either in accordance with standing order 29 or a resolution of the House agreed to under standing order 30.

On 29 August 2004, under the authority of the then standing order permitting the Speaker to fix an alternative day or hour of meeting when the House has adjourned for a routine two week break, the Speaker fixed 'the ringing of the bells' as the time for the next meeting, instead of the regular time of 12.30 p.m. the following day, 30 August. This action was in response to a request from the Prime Minister, who had advised the Speaker that the Governor-General had accepted his recommendation that Parliament be prorogued and the House dissolved on 31 August. Members were advised of the Speaker's decision, the prorogation and dissolution proceeded as stated and the sittings did not resume.

The Speaker has been prevented from formally announcing the time of next meeting by the disorderly conduct of a Member.<sup>252</sup> Until such time as the Speaker leaves the Chamber he or she is still in charge of the House and in control of proceedings.<sup>253</sup>

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250 H.R. Deb. (23.8.1979) 613.

251 E.g. VP 2004-07/1855, 1867; VP 2008-10/243, 259.

252 H.R. Deb. (23.8.1974) 1168. The Member concerned was requested to apologise at the next sitting.  
H.R. Deb. (17.9.1974) 1239-40; VP 1974-75/154.

253 VP 1974-75/154-5. *See also* p. 273 for 1917 case of disobedience to Chair after count out.

### Adjournment of the House for special reasons

The House has adjourned as a mark of respect on the death of a Prime Minister,<sup>254</sup> a former Prime Minister,<sup>255</sup> a reigning Monarch,<sup>256</sup> a Queen,<sup>257</sup> the Governor-General,<sup>258</sup> a former Speaker,<sup>259</sup> and others.<sup>260</sup> The House has also adjourned following the giving of a notice of a no confidence motion, the last occasion being in 1947.<sup>261</sup> On four occasions the Chair has adjourned the House until the next sitting when grave disorder has occurred.<sup>262</sup>

### MEETING AND ADJOURNMENT OF THE FEDERATION CHAMBER

All Members are members of the Federation Chamber.<sup>263</sup> Although the Federation Chamber is permitted to meet at any time during a sitting of the House<sup>264</sup> (including during a suspension of the House), in practice it does not meet during Question Time or at other times when all or most Members' presence might be expected in the House. The standard order of business for the Federation Chamber is shown in the diagram at page 269. However, it is common for the Federation Chamber to sit for additional hours, for example during consideration of the Budget. The Deputy Speaker sets the meeting times for the Federation Chamber,<sup>265</sup> although in practice the Deputy Speaker is informed of the Government's wishes as to meeting times. Even if the Federation Chamber has previously adjourned until a certain day and time, the time fixed may be changed, and Members are notified accordingly.<sup>266</sup> The Deputy Speaker usually takes the chair at the commencement of proceedings, but other members of the Speaker's panel may do so.<sup>267</sup>

The Federation Chamber is adjourned on the completion of the consideration of all matters referred to it by the House, upon the adjournment of the House, or by motion moved without notice by any Member.<sup>268</sup> In case of a lack of quorum the Chair may adjourn the Federation Chamber or suspend proceedings until a stated time.<sup>269</sup> Proceedings are also adjourned or suspended in cases of disorder (at the initiative of the Chair or on motion without notice by any Member)<sup>270</sup> and suspended for the duration of any division occurring in the House.<sup>271</sup> Following any suspension or adjournment of the Federation Chamber, it may resume proceedings at the point at which they were

254 VP 1945–46/179 (Curtin).

255 VP 1978–80/227 (Menzies); VP 2002–04/191 (Gorton).

256 VP 1951–53/257.

257 VP 1951–53/631.

258 VP 1961/6.

259 VP 1987/12 (Speaker Snedden).

260 In earlier times the practice was to adjourn on the death of any sitting Member. In 1957 the practice was changed to suspension of the House for one hour—see statement by Leader of House, H.R. Deb. (19.3.1957) 21. On 9 February 2009 the House adjourned as a mark of respect for victims of the Victorian bushfires, VP 2008–10/849.

261 VP 1946–48/250.

262 VP 1954–55/351; VP 1956–57/169; VP 1973–74/405; VP 1985–87/1273.

263 S.O. 184(a). The Main Committee was renamed the Federation Chamber from 27 February 2012 (VP 2010–12/1179).

264 S.O. 186.

265 S.O. 186.

266 E.g. VP 2004–07/1391, 2092, 2115. On 14 March 2012 the Federation Chamber met a second time on the same day pursuant to the determination of the Deputy Speaker, after having earlier adjourned and the Deputy Speaker having fixed the following day for the next meeting. VP 2010–12/1315–6.

267 E.g. H.R. Deb. (26.2.2007) 133.

268 S.O. 190(c), 190(e).

269 S.O. 190(b), e.g. VP 1998–2001/1942; VP 2008–10/653 (*and see* 'Quorum in the Federation Chamber' at p. 274).

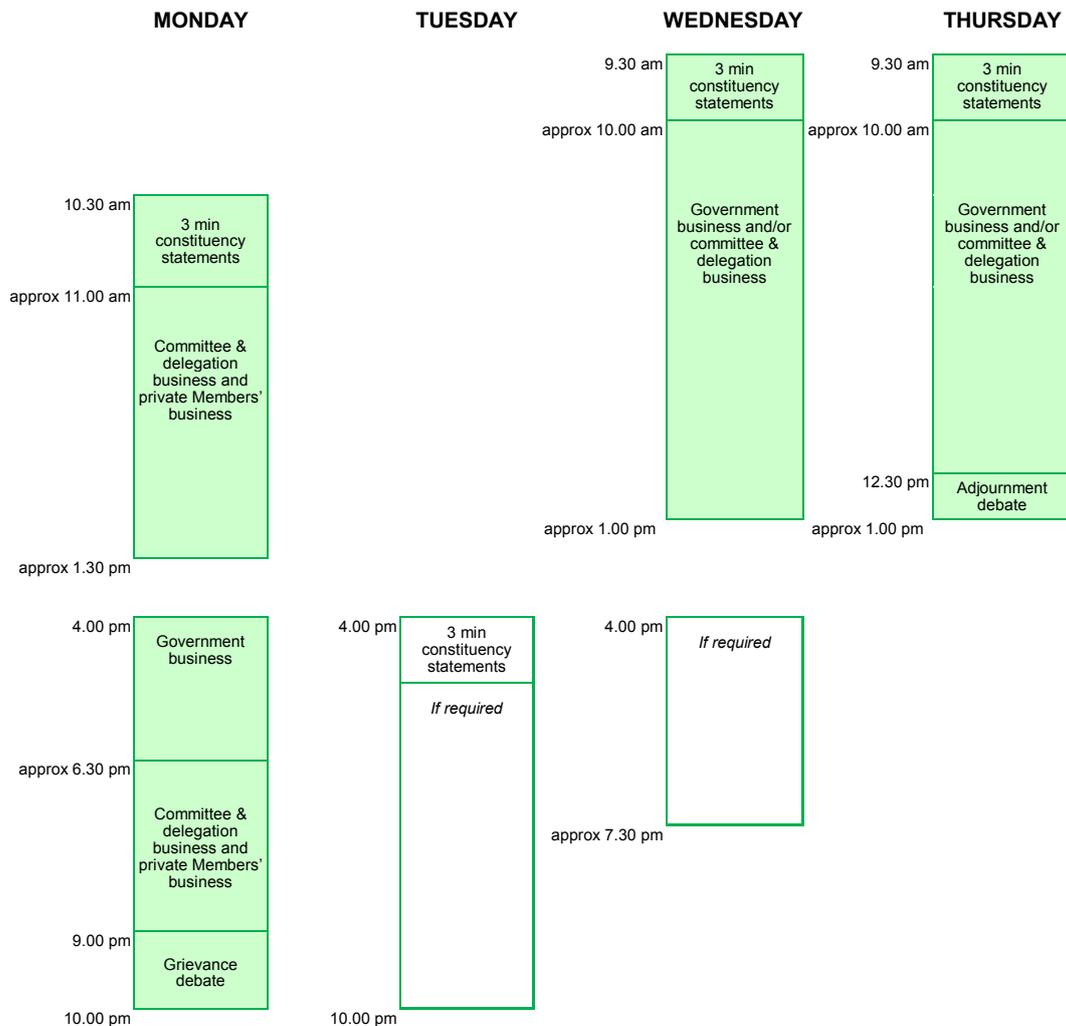
270 S.O. 187(b), *see* 'Disorder in the Federation Chamber' in Ch. on 'Control and conduct of debate'.

271 S.O. 190(a), e.g. VP 1993–95/2477; VP 1996–98/212; VP 1998–2001/1044; VP 2008–10/653.

interrupted.<sup>272</sup> The Federation Chamber continues to meet during a suspension of the House, for example because of the lack of a quorum.<sup>273</sup>

For discussion of the adjournment debate in the Federation Chamber *see* Chapter on ‘Non-government business’. On the adjournment of the Federation Chamber the Deputy Speaker announces that the Federation Chamber is adjourned to a stated day and time, or until a time to be fixed. In the latter case the time of the next meeting fixed by the Deputy Speaker is announced in a statement in the House.

### Federation Chamber order of business



The meeting times of the Federation Chamber are fixed by the Deputy Speaker and are subject to change. Adjournment debates can occur on days other than Thursdays by agreement between the Whips.

272 S.O. 196.

273 E.g. H.R. Deb. (24.5.2006) 94, 196–200.

## QUORUM

Section 39 of the Constitution states:

Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers.

In 1989 the Parliament ‘otherwise provided’ by enacting the House of Representatives (Quorum) Bill 1988. The bill provided:

The presence of at least one-fifth of the whole number of the members of the House of Representatives is necessary to constitute a meeting of the House for the exercise of its powers.<sup>274</sup>

Thus in a House of 150 Members the quorum is 30 Members, including the occupant of the Chair, being one-fifth of the total number of Members. The quorum is not reduced by any vacancy in the membership of the House.

### Standing orders provisions

#### *Quorum at time of meeting*

If a quorum is not present when the Chair is taken at the commencement of each sitting, and if within five minutes, the bells having been rung, a quorum is still not present, the Speaker adjourns the House until the next sitting day. This is subject to the proviso that if the Speaker is satisfied there is likely to be a quorum within a reasonable time the Speaker announces that he or she will take the Chair at a stated time. If at that time there is not a quorum, the Speaker adjourns the House until the next sitting day.<sup>275</sup> No Member may leave the Chamber while the bells are ringing or until a quorum is present.<sup>276</sup>

The only time the Speaker has adjourned the House because of a lack of quorum at the time of meeting was on 19 September 1913, before the introduction of the proviso in the standing orders which gives the Speaker the discretion to take the Chair at a stated time. The Speaker declared the House adjourned because a quorum was not present either at the time fixed for the meeting of the House or within the prescribed time. The Members present were listed in the Votes and Proceedings and the meeting was recorded as a sitting of the House.<sup>277</sup>

In 1905, on the last sitting day of a session, when there was no quorum present at the time fixed for the meeting of the House at 2.45 p.m., Speaker Holder took the Chair at 3.07 p.m. in view of the fact that a message from the Governor-General desiring the immediate attendance of Members in the Senate Chamber had been announced.<sup>278</sup> This action was explained as being taken in accordance with the then practice of the House of Commons that a message from the Crown ‘makes a House’.<sup>279</sup>

Following one occasion when a quorum was not initially present but formed in response to the ringing of the bells, a Member raised the possibility of changing the standing orders so that those Members who wished to avoid Prayers could do so.<sup>280</sup>

<sup>274</sup> *House of Representatives (Quorum) Act 1989*.

<sup>275</sup> S.O. 57.

<sup>276</sup> S.O. 56(d).

<sup>277</sup> VP 1913/63.

<sup>278</sup> VP 1905/227; H.R. Deb. (21.12.1905) 7461.

<sup>279</sup> *May*, 10th edn, p. 224; Josef Redlich, *The procedure of the House of Commons*, Archibald Constable, London, 1908, vol. II, pp. 68–9.

<sup>280</sup> VP 1974–75/379; H.R. Deb. (28.11.1974) 4231–2.

*Quorum during sitting*

## LACK OF QUORUM IN DIVISION

If a quorum of Members has not voted in a division, no decision of the House has been made on the question voted on.<sup>281</sup> As in the case of a lack of quorum at the time of meeting, the Speaker may then adjourn the House, or if satisfied there is likely to be a quorum within a reasonable time, state the time he or she will resume the Chair. If there is not a quorum then present, the Speaker adjourns the House until the next sitting.<sup>282</sup> If a quorum is present, the proceedings are resumed at the point at which they were interrupted.

There have been five occasions when the House has been adjourned following a lack of quorum on division. On four occasions the division was on the question for the adjournment of the House.<sup>283</sup> The other occasion was in 1907 when the Chairman of the Committee of Ways and Means reported that a quorum of Members was not present during a division of the committee and the Deputy Speaker adjourned the House.<sup>284</sup>

## LACK OF QUORUM NOTICED

The fact that a quorum is not always present does not mean that the House cannot continue. The House regularly conducts its business when less than a quorum of Members is present in the Chamber. Because of the demands placed on Members generally, and Ministers and office holders in particular, it is essential that they spend a great proportion of their time on public duties outside the Chamber.<sup>285</sup> Provided that a quorum is present to constitute a meeting of the House and to record a vote of the House when one is called for, the practice of the House has been that it is not necessary to maintain a quorum continuously. However, a quorum must be formed should any Member require it. It is the duty of all Members to form a quorum, not just government Members.<sup>286</sup>

Any Member is entitled at any time to draw the Chair's attention to what is termed 'the state of the House', although it is out of order to debate the situation<sup>287</sup> or to draw attention while the Speaker is in the process of putting a question.<sup>288</sup> It has been ruled that once a quorum has been called for there can be no withdrawal and the House must be counted.<sup>289</sup> It is considered to be highly disorderly for a Member to call attention to the state of the House when a quorum is in fact present. It is normal in these circumstances for the offending Member to be named and suspended from the service of the House.<sup>290</sup>

When the Chair is counting the Members present, the doors remain unlocked and the bells rung for four minutes.<sup>291</sup> The Chair has refused to hear a point of order during the ringing of the bells to form a quorum of Members<sup>292</sup> and on one occasion ordered the

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281 S.O. 58.

282 S.O. 57.

283 VP 1901–02/545; VP 1909/70; VP 1934–37/23, 100.

284 VP 1907–08/205, 694.

285 See Ch. on 'Members'.

286 H.R. Deb. (13.3.1973) 497.

287 H.R. Deb. (5.4.1973) 1159.

288 H.R. Deb. (10.12.1930) 1247.

289 H.R. Deb. (5.12.1930) 1092; H.R. Deb. (1.6.2006) 94. However, this rule is now qualified by the possibility of deferring the count for a quorum called during specified periods under S.O. 55(b) and (c)—see page 273. A quorum call has been withdrawn, by leave, at the request of the Chair, additional Members having entered the Chamber, H.R. Deb. (13.5.2009) 3742.

290 E.g. VP 1974–75/695–6; VP 1993–95/194.

291 S.O. 56.

292 H.R. Deb. (13.3.1973) 497.

bells to be rung again after the Chair's attention was drawn to the fact that the bells were not ringing in some parts of the building.<sup>293</sup>

There are two general principles to be observed by the Chair in respect of a quorum:

- it is not the duty of the Chair to count the House until attention has been drawn by a Member to the state of the House;<sup>294</sup> and
- when attention is drawn, the Chair is obliged to make a count or have a count made.<sup>295</sup>

The following cases have occurred in conflict with these principles and are included for historical purposes. They are irregular and their validity as precedents must be carefully assessed in the context of the particular situation.

- the Speaker has adjourned the House during the adjournment debate without ringing the bells and counting the House;<sup>296</sup>
- the Speaker warned Members that, as soon as the numbers present fell below 40 (the quorum at the time), he would order the bells to be rung and did so on two occasions;<sup>297</sup>
- the Speaker stated that if the Members on his left adopted the practice of calling for a quorum as soon as the Members on his right rose to speak, he would take action to have a quorum present whenever Members on his left were speaking;<sup>298</sup>
- a Member having twice called attention to the state of the House within a short period of time, the Chair refused to count the House again until a reasonable period of time had elapsed, 15 minutes being considered reasonable;<sup>299</sup> on another occasion when a Member had made two quorum calls within a short period the Deputy Speaker refused to give the call to the Member a third time (presuming that the Member wished to call another quorum);<sup>300</sup>
- the Chair refused to count the House, regarding the quorum call as an attempt to obstruct proceedings and embarrass a Member;<sup>301</sup> and
- the Chair, in order that business could be facilitated, asked Members not to cause annoyance by frequent quorum calls.<sup>302</sup>

On an occasion when a quorum call was made two minutes prior to the time for the adjournment of the House, the Speaker did not have the House counted, saying that he thought it would be ill-advised to interrupt the House in this way.<sup>303</sup>

When the attention of the Chair is called to the lack of a quorum no Member present may leave the Chamber while the bells are ringing, or until a quorum is present.<sup>304</sup> Every Member within the physical limits of the Chamber, including the Speaker, is counted.<sup>305</sup>

293 H.R. Deb. (7.8.1923) 2240.

294 H.R. Deb. (20.11.1951) 2263–4.

295 S.O. 55(a), now qualified by the deferring of the count during specified periods under S.O. 55(b) and (c)—see page 273.

296 VP 1951–53/466; H.R. Deb. (30.9.1952) 2313–14.

297 H.R. Deb. (21.10.1954) 2241, 2245.

298 H.R. Deb. (20.3.1953) 1473–4.

299 VP 1920–21/693; H.R. Deb. (22.7.1921) 10505. This practice was followed for some years—see H.R. Deb. (21.8.1923) 3176; H.R. Deb. (16–17.7.1925) 1149, 1151. The precedent has been rejected by the Chair, H.R. Deb. (15.3.2000) 14796–8, but applied on later occasion, H.R. Deb. (13.10.2005) 92.

300 H.R. Deb. (17.2.2005) 102.

301 VP 1934–37/210; H.R. Deb. (9.4.1935) 1052–3.

302 H.R. Deb. (13.5.1936) 1651.

303 H.R. Deb. (23.6.1999) 7258.

304 S.O. 56(d).

305 S.O. 56(e).

The physical limits of the Chamber means the area inside the Chamber walls, on the floor of the Chamber. It does not include the galleries on the upper floors.<sup>306</sup>

On occasions when Members, including party whips, have sought to leave the Chamber at the time of a quorum call they have been ordered to return to their seats.<sup>307</sup> The Chair has directed the Serjeant-at-Arms to bring back Members leaving the Chamber.<sup>308</sup> A Member who, in these circumstances, disregards the authority of the Chair by refusing a direction may be named and suspended.

On the occasion of a count out of the House on 26 August 1971 the Chair ordered the doors to be locked after it was found that a quorum was not present after the bells had rung, in order that a precise final count could be made.<sup>309</sup>

If a quorum is not present, the same procedure is followed by the Chair as for a lack of quorum on division—the Speaker adjourns the House to the next sitting day or, at his or her discretion, states that he or she will take the Chair at a specified time, if satisfied that there is likely to be a quorum within that time.<sup>310</sup> The House has been adjourned because of the lack of a quorum on 65 occasions. On 54 of these occasions the question before the House was the adjournment motion.<sup>311</sup>

Once the House has been counted out the Speaker is still in control of proceedings until leaving the Chamber. On 22 February 1917 the House suspended a Member who had been named for disobeying the Chair after the House had been counted out at the previous sitting but before the House was formally adjourned by the Deputy Speaker.<sup>312</sup>

The time allocated to a Member speaking when a quorum call is made is not adjusted to account for the time taken by the count, but if the next speaker in a debate has not been called when the quorum is called, the timing clock is not set.<sup>313</sup>

#### QUORUM COUNT DEFERRED

On Mondays, if any Member draws the attention of the Speaker to the state of the House between the hours of 10 a.m. and 12 noon, the Speaker shall announce that he or she will count the House at 12 noon, if the Member then so desires. Similarly, quorums called on Mondays and Tuesdays between 6.30 p.m. and 8 p.m. are deferred until 8 p.m.<sup>314</sup>

#### *Resumption of proceedings after count out*

If the proceedings of the House have been interrupted by a count out they may, on motion after notice, be resumed at the point where they were interrupted.<sup>315</sup> Business interrupted by a count out has been resumed by motion moved pursuant to contingent notice,<sup>316</sup> by motion moved by leave,<sup>317</sup> and by motion moved pursuant to notice.<sup>318</sup>

306 S.O. 2.

307 H.R. Deb. (30.9.1954) 1776.

308 H.R. Deb. (27.11.1959) 3314; H.R. Deb. (1.3.1973) 168; H.R. Deb. (23.4.1980) 2165.

309 PP 242 (1971) 44.

310 S.O. 57. E.g. VP 2010–12/549.

311 To July 2011. For the most recent precedent on the adjournment of the House see VP 1954–55/126. For precedents during other debates see VP 1904/157; VP 1912/216; VP 1920–21/254; VP 1934–37/252; VP 1970–72/688; VP 1993–95/2354.

312 VP 1914–17/567; H.R. Deb. (15.2.1917) 10550.

313 See also ‘Time limits for speeches’ in Ch. on ‘Control and conduct of debate’.

314 S.O. 55(b)(c). The matter lapses if the Member concerned is not present at 12 noon or 8 p.m., respectively, e.g. H.R. Deb. (20.6.2006) 83, 101. Standing orders have been suspended to defer quorum counts (and divisions) for a specified period—e.g. for the remainder of a sitting until the following day, VP 2010–12/1218. See also ‘Deferred divisions’ at p. 280.

315 S.O. 59.

316 VP 1907–08/207; NP 79 (23.11.1907) 357.

317 VP 1970–72/691; VP 1993–95/2360–1.

318 VP 1934–37/305.

## Quorum in the Federation Chamber

The quorum of the Federation Chamber is three Members, comprising the Deputy Speaker (that is, the occupant of the Chair), one government Member and one non-government Member.<sup>319</sup> This quorum should be present at all times. In practice each side of the House rosters Members to represent it and to ensure that the quorum is maintained. If a quorum is not present the Chair is obliged to immediately suspend proceedings until a stated time or adjourn the Federation Chamber.<sup>320</sup> Standing orders have been suspended to remove the requirement for a Member from both sides of the House during debate on a bill.<sup>321</sup>

## DIVISIONS

### Determination of questions arising

All questions arising in the House are determined by a majority of votes other than that of the Speaker. The Speaker does not vote unless the numbers are equal when he or she has a casting vote.<sup>322</sup> A question may be determined on the voices, by division, or by ballot. The only exception to this general rule is that by practice a vote or address of condolence is carried by all Members present rising in their places, in silence, thereby indicating approval of the motion.<sup>323</sup>

When debate upon a motion has concluded or has been interrupted in accordance with the standing orders, the Chair puts the question on the motion and states whether, in his or her opinion, the majority of voices is for the ‘Ayes’ or the ‘Noes’. If more than one Member challenges this opinion, the question must be decided by division of the House.<sup>324</sup> The opinion of the Chair cannot be challenged later,<sup>325</sup> but the Chair has put the question again when an assurance was given that some misunderstanding had taken place<sup>326</sup> and by leave of the House following a protest by the Opposition.<sup>327</sup>

### Number of divisions

The highest number of divisions held in any one year was 359 in 1975 and the highest number during one sitting was 83 on 9 and 10 April 1935.<sup>328</sup> In recent years there has been an average of about two divisions each sitting day.<sup>329</sup>

319 S.O. 184(b).

320 S.O. 190(b), e.g. VP 1998–2001/1942; VP 2004–2007/590 (the Opposition announced that it was ‘suspending its cooperation in the [then] Main Committee’, H.R. Deb. (7.9.2005) 151); VP 2008–10/653; VP 2008–10/840 (quorum not present at time of meeting).

321 VP 1996–98/551–5. The context was the referral of a bill which many Members wished to debate in the House. Subsequent proceedings (suspended because of disorder, VP 1996–98/765) emphasised the extent to which Main Committee (now Federation Chamber) operations depended on general co-operation. VP 2002–04/357–8, also for a bill which some Members wished to debate in the House.

322 Constitution, s. 40. For discussion of the casting vote *see* Ch. on ‘The Speaker, Deputy Speakers and officers’. For discussion of the restrictions regarding voting at various times by Members for the Northern Territory and the Australian Capital Territory *see* p. 168 of the second edition.

323 VP 1978–80/959; *and see* Ch. on ‘Motions’.

324 S.O. 125.

325 H.R. Deb. (27.7.1922) 895–6.

326 VP 1923–24/43.

327 VP 1970–72/987; H.R. Deb. (28.3.1972) 1239.

328 VP 1934–37/209–40. In the new Parliament House the most divisions in a sitting was 24 on 1.11. 89, VP 1987–90/1555–73.

329 Average of 2.2 for 1991–2011. However, between 20% and 60% of sittings in these years had no divisions.

## Entitlement of Members to vote

A Member is not entitled to vote in a division on a question about a matter, other than public policy, in which he or she has a particular direct pecuniary interest (*see* Chapter on ‘Members’). A Member’s vote may not be challenged except by substantive motion moved immediately after the division is completed; the vote of a Member determined to be so interested is disallowed.<sup>330</sup>

Members must be within the area of Members’ seats at the commencement of the count (that is, when the tellers are appointed) for their vote to be counted—*see* page 278.

## Divisions not proceeded with

### *Only one Member calling for division*

Under standing order 126 a division may take place only after more than one Member challenges the Chair’s opinion by calling for a division.<sup>331</sup> An exception to this rule is a division on the third reading of a constitution alteration bill, on which the agreement of an absolute majority of Members is required to be established. In this case the bells are rung as for a division and Members’ names recorded, even when there may be no opposition to the bill.<sup>332</sup> A further exception has occurred when the Speaker, in accordance with a prior order of the House, has directed that the names of those Members agreeing to a question be recorded.<sup>333</sup>

### *Request for division withdrawn*

The traditional practice of the House has been that once a division has been called for by at least two Members the division call cannot be withdrawn<sup>334</sup> unless by leave of the House.<sup>335</sup> However, divisions have sometimes not been further proceeded with at the request of Members who called for the division—on these occasions leave of the House has been implicit.<sup>336</sup> This course cannot be taken if other Members object or if leave is formally sought and refused.<sup>337</sup> Closure motions have been withdrawn, by leave, as the House was proceeding to a division, and the divisions not further proceeded with.<sup>338</sup>

A division which has been deferred pursuant to standing order 133 (*see* page 280) is likely not to be proceeded with when it relates to a procedural motion which is no longer relevant at the time the deferred division is due to occur.<sup>339</sup>

If a division call is withdrawn, the question under consideration is regarded as having been disposed of according to the Chair’s declaration on the voices. On an occasion in 2004 when the Chair had declared for the ‘Noes’, the side which did not call for the division (the ‘Noes’) requested that the division not proceed, in effect changing their vote. The Chair put the question again and it was decided on the voices for the ‘Ayes’.<sup>340</sup>

330 S.O. 134; *see also* Ch. on ‘Members’ for discussion of pecuniary interest.

331 H.R. Deb. (26.2.1953) 428.

332 VP 1987–89/531–6. An absolute majority is also required to suspend standing orders without notice under S.O. 47(c). On occasion, division bells have been rung, although the action was unopposed, to bring the necessary number of Members to the Chamber (the count not being proceeded with once sufficient arrived), e.g. H.R. Deb. (4.4.1974) 1071.

333 VP 1968–69/165.

334 H.R. Deb. (22–23.6.1950) 4824.

335 E.g. H.R. Deb. (24.9.1936) 501; VP 2008–10/620.

336 H.R. Deb. (12.8.1999) 8579; VP 1998–2001/761; H.R. Deb. (23.6.1997) 6073, VP 1996–98/1745; H.R. Deb. (12.10.2005) 8.

337 H.R. Deb. (13.12.1996) 8456.

338 VP 1960–61/46; VP 1996–98/235, 1600.

339 E.g. VP 1998–2001/2555; H.R. Deb. (22.11.2010) 3253–4.

340 The question was on an opposition motion to suspend standing orders which the Government had initially opposed. VP 2002–04/1550, H. R. Deb. (30.3.2004) 27592–3.

*Discretion of Chair*

In 1933, on a call for a division on the motion that the House, at a later hour, again resolve itself into committee, the Speaker held the view that the division call was obstructive<sup>341</sup> and, citing House of Commons practice, informed the House that it was within the discretion of the Chair to regard unnecessary calls for divisions on what are termed formal motions as obstructing the business of the House.<sup>342</sup> The Chair has no such discretion in the House of Representatives and the so-called discretion has not been claimed by subsequent Speakers. In fact, the Chair has dismissed points of order that certain calls for a division were disruptive.<sup>343</sup>

*Recording dissent*

In the event of only one Member calling for a division, that Member may tell the Chair that he or she wishes his or her dissent to be recorded, and the dissent is recorded in the Votes and Proceedings<sup>344</sup> and in Hansard. More than one Member cannot record dissent at this time, as a division would then have to be proceeded with,<sup>345</sup> although on one occasion the dissent of the Opposition as a whole was recorded, by leave.<sup>346</sup>

Members cannot have their dissent recorded under this provision if they have in fact not called for a division—a request to have dissent recorded made after the question has been resolved is not effective (although the words of the Member making the request would be recorded in Hansard).<sup>347</sup>

*Procedure during divisions**Ringling of bells and locking of doors*

Once a division has been called for and the call accepted by the Chair, the Clerk causes the division bells to be rung and the relevant sand glass kept on the Table is turned. At the lapse of four minutes as indicated by the sand glass, the doors are locked at the direction of the Chair.<sup>348</sup> House staff act immediately on the Chair's instruction to lock the doors. So as not to injure Members who are in the process of passing through the doors, staff will allow those Members to enter before locking the doors. However, they do not continue to hold the doors open for approaching Members.<sup>349</sup> When successive divisions are taken and there is no intervening debate, tellers are appointed immediately and the bells for the ensuing divisions are rung for one minute only.<sup>350</sup> The period for which the bells are rung was increased to four minutes when the new building was occupied in 1988.<sup>351</sup>

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341 H.R. Deb. (30.11.1933) 5290.

342 VP 1932–34/839; H.R. Deb. (30.11.–1.12.1933) 5310–12.

343 H.R. Deb. (13.3.1956) 714.

344 S.O. 126.

345 H.R. Deb. (25.10.1977) 2349–50.

346 VP 1978–80/686.

347 E.g. H.R. Deb. (29.11.2005) 107.

348 S.O. 129(a)(b).

349 Votes of Members entering the Chamber after the doors have been ordered locked have not been counted, H.R. Deb. (23.5.2001) 26930; (24.5.2001) 27042; H.R. Deb. (12.5.2004) 28443; (13.5.2004) 28668; H.R. Deb. (13.10.2005) 94–6; H.R. Deb. (1.11.2005) 11. When the Deputy Speaker believed there had been a delay in the response to his direction that the doors be locked, he drew attention to the fact that a Member had entered the Chamber later and the Member left the Chamber, H.R. Deb. (28.3.2007) 130.

350 S.O. 131(a).

351 VP 1987–89/799. Originally 2 minutes; increased to 3 minutes in 1985 following the housing of some Members in an annexe to the provisional Parliament House.

Members calling for a division must not leave the area of Members' seats.<sup>352</sup> In 1935 a Member who called for a division and then left the Chamber against the express direction of the Chair was subsequently named and suspended.<sup>353</sup>

After the doors are locked no Member may enter or leave the Chamber until after the division.<sup>354</sup> Both the Prime Minister and Leader of the Opposition, however, have been allowed to leave when they have found that they should not be voting because of pairing arrangements.<sup>355</sup> Other Members have been permitted to leave for the same reason.<sup>356</sup> When the doors have been locked and all Members present are in their places, the Chair re-states the question to the House and directs the 'Ayes' to pass to the right of the Chair and the 'Noes' to the left.

Federation Chamber proceedings are suspended to enable Members to attend divisions in the House.<sup>357</sup> The Chair of the Federation Chamber is informed by an indicator light when a division has been called.

#### *Four or fewer Members on a side*

If there are four or fewer Members on one side after the doors are locked, the Chair declares the decision of the House immediately without completing the count. The names of the Members in the minority are recorded in the Votes and Proceedings.<sup>358</sup>

#### *Appointment of tellers*

Voting does not commence until the tellers are appointed.<sup>359</sup> When Members have taken their seats, the Chair appoints tellers for each side to record the names of Members voting.<sup>360</sup> The number of tellers is at the Chair's discretion; recent practice has generally been to appoint two on each side.<sup>361</sup> The Chair's attention has been drawn to the fact that a teller appointed for the 'Ayes' did not move from his place with the 'Noes' to join Members voting 'Aye' until after his nomination; he was directed to return to his place and the Chair then appointed another teller for the 'Ayes'.<sup>362</sup> The tellers are usually, although not invariably, appointed from the party whips or deputy or assistant whips. A Prime Minister, on the occasion of a free vote, has been appointed as a teller.<sup>363</sup>

From time to time those appointed as tellers have refused to act, and the following action has been taken by the Chair:

- when tellers for the 'Noes' refused to act, and all Members of the Opposition took the same position, tellers were appointed from the 'Ayes' to count the 'Noes'; their votes were recorded with the 'Noes';<sup>364</sup>
- the Speaker noted that whether a Member so declining could be compelled to do so or was to suffer a penalty was a matter which he would consider;<sup>365</sup>

352 S.O. 128. S.O. 129(a) permits Members who did not call for the division to leave the area (and thus not vote).

353 H.R. Deb. (20–21.11.1935) 1861; H.R. Deb. (21.11.1935) 1863–4.

354 S.O. 129(b).

355 H.R. Deb. (6.5.1976) 2073.

356 H.R. Deb. (14.11.1974) 3533.

357 S.O. 190(a).

358 S.O. 127, e.g. VP 1996–98/1523; VP 1998–2001/1745.

359 H.R. Deb. (5.4.1978) 1055.

360 S.O. 129(c).

361 Before 1998 two tellers a side were specified. Additional tellers have been appointed in the case of a free vote, H.R. Deb. (25.9.1902) 7166. In 2003 a trial was held using additional tellers, *see* p. 285.

362 H.R. Deb. (13.12.1934) 1253.

363 VP 1970–72/289.

364 H.R. Deb. (12.11.1909) 5803–4.

365 H.R. Deb. (24.11.1909) 6259.

- when tellers for the ‘Noes’ refused to act, the Chair stated that it was an act of contempt for a Member to refuse to do his duty and appointed tellers from the ‘Ayes’ to count the ‘Noes’; their votes were recorded with the ‘Ayes’;<sup>366</sup> and
- after a teller for the ‘Noes’ refused to act, the Speaker stated that any disobedience to the call of the Chair was an offence, and that the Member rendered himself liable to be named.<sup>367</sup>

When the tellers for the ‘Noes’ refused to act in 1918, Speaker Johnson made a statement from which has evolved the modern practice for dealing with this situation. After drawing attention to the standing order which referred to a Member wilfully disobeying an order of the House, the Speaker stated that a direction by the Chair to any Member to act as a teller is a lawful order of the House through the Speaker as its mouthpiece. He added that, as the House had no special standing order dealing with the refusal of a teller to act, he would draw on the practice of the House of Commons which provides that, if two tellers cannot be found for one of the parties in a division, the division cannot take place and the Chair immediately announces the decision of the House.<sup>368</sup>

The current practice, derived from that background, is that if those Members appointed by the Chair, usually a whip and deputy whip, refuse to act as tellers, it is taken to mean that no Members of that party will act as tellers, the division is not proceeded with and the Chair immediately declares the question resolved in the affirmative or the negative as appropriate.<sup>369</sup> On 30 November 2000 after opposition Members had left the Chamber in protest, there being no tellers for the Ayes, the Speaker declared the question resolved in the negative.<sup>370</sup>

#### *Members to be within area of Members’ seats to vote*

Members not within the area of Members’ seats are not counted.<sup>371</sup> However, the Chair, on the suggestion of the whips, has agreed that the vote of an indisposed Member who had left the Chamber be recorded.<sup>372</sup> On another occasion, with the concurrence of the former committee of the whole, the Chair directed that the vote of a Member who had tried to enter the Chamber while the bells were ringing but found the doors locked be recorded.<sup>373</sup>

#### *Members not to move places during vote*

On the tellers being appointed no Member may move from his or her place until the result of the division is announced.<sup>374</sup> (These restrictions on Members’ movements do not apply in the case of a successive division—*see* page 280.) The Chair has drawn attention to the movement of Members during a division which may confuse the tellers.<sup>375</sup>

366 VP 1917–19/244–6; H.R. Deb. (29.5.1918) 5246.

367 H.R. Deb. (5.4.1933) 869–70.

368 VP 1917–19/245; H.R. Deb. (29.5.1918) 5247–8.

369 VP 1970–72/518; VP 1974–75/430.

370 VP 1998–2001/1936. In similar circumstances in 2008 when opposition Members left the Chamber while the bells were ringing the Chair ruled that there was no need to proceed with the division, H.R. Deb. (19.3.2008) 2251; VP 2008–10/193.

371 S.O. 2 stipulates that the advisers’ box and the special galleries are not included in this area, but that the seat where the Serjeant usually sits is included.

372 H.R. Deb. (5.6.1979) 2934.

373 VP 1934–37/720.

374 S.O. 129(d).

375 H.R. Deb. (6.4.1976) 1361.

The rule against Members moving after tellers have been appointed can mean that a Member may be recorded as voting other than in accordance with his or her wish. Members realising that they have been sitting on the wrong side after tellers have been appointed have been obliged to remain in their seats and have their votes recorded for the side where they were sitting.<sup>376</sup> A Member who has crossed the floor after tellers have been appointed has been directed to return to his place.<sup>377</sup> On another occasion two Members were named and suspended for disregarding the authority of the Chair in connection with the rule. The Members had left their seats after the appointment of tellers, moving to the back of the Chamber with the intention of not voting, and disregarded the Chair's direction during the division that they return to the seats they had been occupying when the tellers were appointed.<sup>378</sup>

However, the Chair has directed that the vote of an infirm Member who wished to vote with the 'Ayes' but was sitting with the 'Noes' be recorded with the 'Ayes'.<sup>379</sup> On another occasion, on the understanding that it should not constitute a precedent, a Member was allowed to cross the floor after tellers were appointed as there had been a degree of confusion on a free vote.<sup>380</sup>

Following a division on 3 September 1975, the Speaker upheld a point of order that the vote of a Member who had been occupying the Chair as Deputy Speaker when the tellers were appointed, and who had then left the Chair and voted in the division, should not be counted.<sup>381</sup>

### *Recording the vote*

Standing order 130 requires the tellers to record the name of each Member voting, count the total number of Members voting, sign their records, and present their records to the Speaker, who declares the result to the House. In practice the names are marked off on printed division lists which are not signed by the tellers until their count and counts made by the Clerk and Deputy Clerk are in agreement. The signed lists are then handed to the Clerk who passes them to the Speaker for the declaration of the result. In marking the list for each side, a teller for the 'Ayes' operates with a teller for the 'Noes' but the two tellers for the 'Ayes' sign the 'Ayes' list and those telling for the 'Noes', the 'Noes' list.

### *Requirement to vote a certain way*

Members calling for a division must not leave the area of Members' seats and must vote with those Members who, in the Speaker's opinion, were in a minority when the Members called 'Aye' or 'No'.<sup>382</sup> When no Members have passed to the 'Noes' side, the Speaker has directed those Members who called 'No' to vote accordingly.<sup>383</sup> The Speaker ruled in 1944 that it was not within the province of the Chair to direct attention to the fact that those who called for a division did not vote with the minority but that the Chair's attention must be directed to the situation at the time.<sup>384</sup>

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376 E.g. H.R. Deb. (2.6.2004) 29924.

377 H.R. Deb. (18–19.11.1959) 2885.

378 VP 1996–98/1002–3.

379 H.R. Deb. (26.6.1931) 3098.

380 H.R. Deb. (19.8.1976) 430.

381 VP 1974–75/892. The Member had left the Chair on the Speaker entering the Chamber and taking the Chair. After ruling, the Speaker commented that the objectors had 'just gained a technical point which lowers the dignity of the House'. H.R. Deb. (3.9.1975) 961–3.

382 S.O. 128.

383 H.R. Deb. (8.5.1952) 219–20.

384 H.R. Deb. (15–16.3.1944) 1416.

It is in order for a Member to vote against his or her own motion<sup>385</sup> or amendment,<sup>386</sup> or against a motion or amendment he or she has seconded.

### *Points of order and Members' remarks during a division*

While the House is dividing, Members may speak, while seated, to a point of order arising out of or during the division.<sup>387</sup> Because Members are required to be seated during a division, if a Member wishes to raise or speak to a point of order, it is the traditional practice of the House for the Member to hold a sheet of paper over the top of his or her head in order to be more easily identified by the Chair.<sup>388</sup> Decorum should prevail during a division, and it is not in order for Members to engage in debate<sup>389</sup> or exchange remarks across the Chamber.<sup>390</sup> Conversation audible to the Chair has been regarded as disorderly.<sup>391</sup> Remarks made during a division are not regarded as part of the proceedings of the House and are not recorded by Hansard.<sup>392</sup> The Speaker has pointed out to Members that such remarks might not be covered by privilege and that this also has implications for media reports.<sup>393</sup>

### *Successive divisions*

When successive divisions are taken, and there is no intervening debate after the first division, the Chair appoints tellers immediately and the bells are rung for one minute only.<sup>394</sup> Successive divisions often occur when a closure motion is moved or when a closure of debate motion follows one or two closures of Member (for example, of the mover and seconder of a motion attempting to suspend standing orders). However, a successive division may relate to a new item of business if no debate occurs on it,<sup>395</sup> and amendments can be moved formally without constituting intervening debate.<sup>396</sup>

With successive divisions votes are recorded as being the same as for the immediately preceding division unless Members report different voting intentions to the tellers—this applies to Members who voted in the preceding division and who then wish not to vote or to vote differently, as well as to Members who did not vote in the preceding division and who then wish to vote. Members who intend to vote the same way as they did previously must remain seated until the result of the division is announced. A full count is carried out if it is clear to the Chair that the majority of Members wish to vote differently or if there is any confusion or error in the count by the tellers.<sup>397</sup>

### *Deferred divisions*

On Mondays, any division called for in the House between the hours of 10 a.m. and 12 noon, on a question other than on a motion moved by a Minister during that period,

385 E.g. H.R. Deb. (7.5.1908) 11010. *And see May*, 23rd edn, p. 404.

386 E.g. VP 1978–80/1308 (Mr Simon's amendment).

387 S.O. 86(c).

388 This tradition has developed from past practice of the UK House of Commons—see John Hatsell, *Precedents of proceedings in the House of Commons* (1818) Vol 2, p. 199.

389 H.R. Deb. (10.8.1923) 2597.

390 H.R. Deb. (7.9.1909) 3099.

391 H.R. Deb. (29.3.1950) 1325.

392 H.R. Deb. (13.10.1983) 1801.

393 H.R. Deb. (8.10.1984) 1875.

394 S.O. 131(a).

395 E.g. H.R. Deb. (10.12.1998) 1850 (new bill).

396 H.R. Deb. (29.10.1997) 10150–51; (30.10.1997) 10374–5.

397 S.O. 131(b)(c).

stands deferred until 12 noon. Similarly, such divisions called on Mondays and Tuesdays between 6.30 p.m. and 8 p.m. are deferred until 8 p.m.<sup>398</sup> Debate under way at 12 noon or 8 p.m., respectively, is adjourned to allow the deferred division to occur. However, if a Member is speaking at that time, the adjournment of the debate and thus the division is postponed until the end of the Member's speech.<sup>399</sup>

Suggestions have sometimes been made that divisions should take place at a set time each day, in order to save the time of the House and to avoid the disruption that unpredictable divisions can cause to Members and Ministers.<sup>400</sup> Although such a procedure has some attractions, the legislative program could be affected, as each subsequent stage of a bill is dependent on a decision having been reached on the previous stage, and each division called could necessitate postponement of further consideration of a bill, perhaps for a significant period. Another consideration is the range of procedural motions which can be moved without notice at any time, which need to be resolved before business can continue and which are often divided on. During the short-lived experiment with Friday sittings at the start of the 42nd Parliament, standing orders provided for divisions on Friday to be postponed until the next sitting. The resulting situation in which procedural motions could not be resolved contributed to making the experiment unworkable.<sup>401</sup>

This is not to say that divisions could not in many cases be arranged to occur at times which suited Members generally, but this would result from consultation and cooperative timetabling of business (such as usually occurs during the evening meal times when divisions tend to be avoided by timing of business rather than by deferral<sup>402</sup>) rather than from the setting of an arbitrary time for the holding of all divisions.<sup>403</sup>

### Record of divisions

Lists of divisions are recorded in the Votes and Proceedings<sup>404</sup> and in Hansard. The Speaker may direct the record to be corrected if a Member complains to the House that a division has been wrongly recorded.<sup>405</sup> The Chair has directed that the Leader of the Opposition's vote be deleted as he was paired with the Prime Minister who was not in the Chamber.<sup>406</sup> In practice, discrepancies are corrected prior to publication by agreement between the tellers or by consultation between the relevant whip and staff of the House after a division when a name has been recorded incorrectly in the tellers' sheets. The Speaker has directed that the official record be corrected when a Member's name has been recorded incorrectly<sup>407</sup> and the name of a Member has been omitted.<sup>408</sup> Similarly,

398 S.O. 133.

399 E.g. H.R. Deb. (13.10.2003) 21260; H.R. Deb. (1.9.2008) 6760. The Member speaking may initiate an early adjournment of the debate by seeking leave to continue his or her remarks, e.g. H.R. Deb. (16.9.2010) 2574.

400 See A. R. Browning 'The ringing of the bells causes some divisions', *Canberra Times*, 27.9.87, p. 2.

401 See Friday sitting proceedings H.R. Deb. (22.2.2008) 1238–43, 1282–5; VP 2008–10/119–22. For deferred division proceedings see H.R. Deb. (11.3.2008) 1287–92; VP 2008–10/125–30.

402 E.g. VP 2002–04/1206–8 (debate on bill adjourned and resumed later to allow the expected division to occur at a convenient time).

403 E.g. proceedings on the Euthanasia Laws Bill 1996 (a private Member's bill) were postponed by agreement so that divisions would occur at a convenient time. H.R. Deb. (9.12.1996) 8037. E.g. to allow uninterrupted debate on a bill for the remainder of a late sitting, standing orders were suspended by leave to give precedence to government business, and to defer divisions and quorum counts until the next day, VP 2010–12/1218.

404 S.O. 135(a).

405 S.O. 135(b).

406 H.R. Deb. (7.4.1978) 1239–40.

407 VP 1932–34/121.

408 VP 1940/105.

corrections have been made when Members not present have been recorded as having voted.<sup>409</sup>

### Division repeated

If any confusion, or error concerning the numbers reported by the tellers, occurs and cannot be corrected, the House divides again.<sup>410</sup>

In 1974, the third reading of a bill to alter the Constitution not having been carried by an absolute majority, the Speaker made a statement explaining that for some inexplicable reason the bells had been rung for only one minute 26 seconds (instead of 2 minutes). The vote on the third reading of the bill was later rescinded and taken again.<sup>411</sup>

Since October 2010 standing orders have provided that if a division has miscarried through misadventure caused by a Member being accidentally absent or some similar incident, any Member may move without notice and without the need for a seconder 'That standing orders be suspended to enable the House to divide again'. If this matter is agreed to the question is put again and the result of the subsequent division is the decision of the House.<sup>412</sup>

### Pairs

The pairs system, a practice of some antiquity,<sup>413</sup> is an unofficial arrangement between Members, organised by party whips, which can be used to enable a Member on one side of the House to be absent for any votes when a Member from the other side is to be absent at the same time or when, by agreement, a Member abstains from voting. By this arrangement a potential vote on each side of a question is lost and the relative voting strengths of the parties are maintained. The system also allows the voting intentions of absent Members to be recorded.<sup>414</sup>

With the development of the modern party system pairing arrangements were facilitated and Members have been paired not only on particular questions or for one sitting of the House, but sometimes for extended periods. In some periods the Prime Minister and the Leader of the Opposition have been automatically paired unless one indicated that he or she wished to vote on a particular issue.

The closer the relative strength of the parties the more crucial the pairing arrangements have become. In these circumstances disputations on pairing arrangements are more likely to occur, especially on vital votes, and have been the cause of protracted disorderly proceedings. Statements have been made to the House on guidelines for the granting of pairs.<sup>415</sup> Pairs have been cancelled by the Government because of the need for an absolute majority to pass a bill to alter the Constitution.<sup>416</sup> The Opposition has cancelled

409 VP 1990–92/1093.

410 S.O. 132(a); VP 1977/145 (because of a dispute between the tellers over the numbers recorded); VP 1998–2001/1935–7 (on a motion of dissent from a ruling of the Speaker the initial result was a tied vote, but the Speaker said that, as the matter of the ringing of the bells had been raised—they had rung for 1 minute, not 4, although there had been intervening debate—there was the possibility of confusion, and so he put the question again; further dispute arose, and a motion of no confidence in the Speaker was moved, but defeated).

411 VP 1974/19, 28; H.R. Deb. (6.3.1974) 111–12.

412 S.O. 132(b)—unless this motion is moved by leave, the suspension of standing orders requires an absolute majority. VP 2010–12/299, H.R. Deb. (10.2.2011) 397–9 (due to a Member's sickness—if this had been known he would have been paired).

413 N. Wilding & P. Laundy, *An encyclopaedia of Parliament*, 4th edn, Cassell, London, 1972, p. 515.

414 VP 1998–2001/372. Prior to 1999 pairs were recorded only in Hansard. Since then pairs have also been recorded in the Votes and Proceedings.

415 VP 1974–75/596; H.R. Deb. (17.4.1975) 1760–2.

416 VP 1974–75/789; H.R. Deb. (5.6.1975) 3405–6.

the arrangements for the remainder of the session as a consequence of its view on the manner in which the proceedings of the House were being conducted.<sup>417</sup> Pairing may be suspended if mutually agreeable arrangements between the two sides of the House are not possible—for example, there were no pairs recorded between 2004 and 2007. The practice recommenced in the 42nd Parliament.

Although there is no rule or order of the House requiring a Member to observe a pair, there is a considerable moral and political obligation on his or her part to adhere to such an agreement. The consistent attitude of the Chair on this question was summed up by Speaker Watt when, in reply to a question as to whether it would be a breach of honour if a Member did not observe a pair, he observed that the Chair knew nothing of pairs, the question of honour being a matter for the Members and not the Chair to decide.<sup>418</sup>

During a division, it is the practice that Members who are paired leave the Chamber before the doors are locked so as to avoid voting. However, if a paired Member calls for a division, he or she is bound not to leave the area of Members' seats, and to vote.<sup>419</sup> Both the Prime Minister and Leader of the Opposition have been allowed to leave the area of Members' seats after the doors have been locked when they have found that they should not be voting because of pairing arrangements.<sup>420</sup> Other Members have been permitted to leave for the same reason.<sup>421</sup>

### Proxy voting

In 2008 the House agreed to a resolution making special provisions for nursing mothers, recognising that Members required to nurse infants may not always be able to attend the Chamber to vote in divisions. A Member nursing an infant at the time of any division (except that on the third reading of a bill to alter the Constitution) may give her vote by proxy—to the Chief Government Whip in the case of a government Member and to the Chief Opposition Whip in the case of a non-government Member. The proxy vote is treated as if the Member were present in the Chamber.

The resolution also expressed the opinion that the special provisions should not be extended or adapted to apply to Members not able to be present in the Chamber for other reasons.<sup>422</sup>

### Free votes

Most decisions of the House are determined on party lines, but occasionally a question before the House is decided by what is termed a 'free vote'. A free vote may occur when a party has no particular policy on a matter or when a party considers that Members should be permitted to exercise their responsibility in accordance with conscience.<sup>423</sup> Within the committees of the House party lines are less rigid and questions are often decided by what is, in effect, a free vote.

A free vote is a political rather than a procedural matter and is not specifically identified as such in the Votes and Proceedings nor, apart from any comments by Members during debate, in Hansard. Items of business described in debate as being

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417 H.R. Deb. (15.8.1923) 2783.

418 H.R. Deb. (14.7.1925) 1007.

419 S.O. 128.

420 H.R. Deb. (6.5.1976) 2073.

421 H.R. Deb. (14.11.1974) 3533.

422 H.R. Deb. (12.2.2008) 150–2. The terms of the resolution are reproduced as an attachment to the Standing Orders.

423 *See* H.R. Deb. (19.8.1970) 172.

subject to a free vote may not necessarily be formally voted on at all, perhaps being carried without division.<sup>424</sup> Even though a party may allow a free vote of its Members on a particular issue the vote may, in fact, follow party lines substantially or completely.<sup>425</sup>

Free votes have been held on questions pertaining to the Parliament itself, such as questions arising out of reports of the Privileges Committee and the Procedure Committee. They are also occasionally held on social issues where the vote is governed by conscience.

Examples of a free vote have included:

- *New and Permanent Parliament House*  
Motions as to site—1968,<sup>426</sup> 1973,<sup>427</sup>  
Parliament Bill 1974 (private Member's bill).<sup>428</sup>
- *Privileges Committee report*  
1955—Browne and Fitzpatrick case.<sup>429</sup>
- *Standing Orders Committee or Procedure Committee reports and related matters*  
Reports dated: 10 June 1970,<sup>430</sup> 19 August 1971,<sup>431</sup> 20 March 1972;<sup>432</sup>  
House of Representatives (Quorum of Members) Bill 1970;<sup>433</sup>  
Motion endorsing Procedure Committee recommendation to alter quorum of the House, 1987.<sup>434</sup>
- *Private Members' bills and motions*  
Medical Practice Clarification Bill 1973;<sup>435</sup>  
Euthanasia Laws Bill 1996;<sup>436</sup>  
Sexual relationships—Social educational and legal aspects—Proposed Royal Commission (motion);<sup>437</sup>  
Homosexual acts and the criminal law (motion);<sup>438</sup>  
Termination of pregnancy—Medical benefits (motion);<sup>439</sup>  
Fluoridation of Canberra water supply (motion).<sup>440</sup>
- *Others*  
Matrimonial Causes Bill 1959;<sup>441</sup>  
Death Penalty Abolition Bill 1973 (Senate bill);<sup>442</sup>  
Family Law Bill 1974 (Senate bill);<sup>443</sup>

424 E.g. VP 1985–87/1627 (Parliamentary Privileges Bill 1987); VP 1987–89/1732 (Family Law Amendment Bill 1989).

425 VP 1970–72/901–2.

426 VP 1968–69/242.

427 VP 1973–74/476.

428 VP 1974–75/198, 199, 199–200, 200.

429 VP 1954–55/270–1. Leader of the Opposition Evatt informed the House that the matter of privilege in the Browne and Fitzpatrick case did not involve party consideration and that on no occasion had a question of privilege been discussed at a party meeting by Australian Labor Party Members, H.R. Deb. (10.6.1955) 1630.

430 VP 1970–72/243, 252–3.

431 VP 1970–72/686, 687.

432 VP 1970–72/1009, 1010.

433 VP 1970–72/294, 295.

434 VP 1987–89/303–4.

435 VP 1973–74/172, 172–3.

436 VP 1996–98/998–1003 (on the subject of the bill, not on the procedural questions relating to it).

437 VP 1973–74/327, 327–8, 328.

438 VP 1973–74/458.

439 VP 1978–80/692, 692–3.

440 VP 1964–66/251.

441 VP 1959–60/261 (2), 264–5, 265, 265–6.

442 VP 1973–74/329, 330 (2).

443 VP 1974–75/384 (and on subsequent divisions during proceedings on the bill).

Family Law Amendment Bill 1983 (Senate bill),<sup>444</sup>  
 Sex Discrimination Bill 1984 (Senate bill);<sup>445</sup>  
 Constitution Alteration (Establishment of Republic ) Bill 1999;<sup>446</sup>  
 Research Involving Embryos and Prohibition of Human Cloning Bill 2002;<sup>447</sup>  
 Therapeutic Goods Amendment (Repeal of Ministerial Responsibility for Approval of RU486) Bill 2005 (Senate bill);<sup>448</sup>  
 Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006 (Senate bill).<sup>449</sup>

### Proposals for change in division procedure

There have been a number of proposals for changing the procedure used by the House during divisions. Most proposals have been aimed at either avoiding problems of overcrowding or reducing the time taken by divisions. Both these problems are especially noticeable during periods when the Government has a large majority.<sup>450</sup> In the 37th Parliament the time taken to record and tally a division (not including the time of the ringing of the bells) was about five or six minutes. In the 38th Parliament, when there was a very large government majority, this time increased to approximately eight minutes. This situation gave rise to the 1996 Procedure Committee inquiry into the conduct of divisions.<sup>451</sup> Measures introduced following this review included:

- the number of tellers left to the Speaker's discretion (previously two per side);
- Members presumed to vote the same way in successive divisions unless tellers notified otherwise (*see* page 280);
- count not completed when four or fewer Members on a side (*see* page 277).

After the introduction of these streamlining procedures, and with a reduced government majority, in the following Parliament the average time taken to record a division dropped to about four minutes.

In 2003 a trial was conducted involving doubling the number of tellers to eight, with two pairs of tellers (each pair counting a specific block of seats) to count each side. Evaluating the trial the Procedure Committee concluded that while the trial had been successful in saving time, there was a systemic problem (the use of four tellers sheets) which had caused an unacceptable level of errors.<sup>452</sup>

Proposals put forward over the years which have not been adopted include:

- that the Chair should have discretionary power, as in the House of Commons, to reject the call for a division, thus minimising 'unnecessary' divisions called primarily as a tactical measure,<sup>453</sup>

444 VP 1983–84/305–10.

445 VP 1983–84/528–30.

446 VP 1998–2001/733.

447 H.R. Deb. (27.6.2002) 4541–4; VP 2002–04/305. Free votes also on the division of the bill and subsequent proceedings on the resultant bills, Prohibition of Human Cloning Bill 2002 and the Research Involving Embryos Bill 2002.

448 VP 2004–07/954–7.

449 VP 2004–07/1635–7.

450 The time taken for a division also increased in the 43rd Parliament when numbers were close, due to the need for extreme care in the count.

451 Standing Committee on Procedure, *Conduct of divisions*, PP 290 (1996).

452 Standing Committee on Procedure, *Trial of additional tellers*. PP 408 (2003). The time taken to record normal (4 minute bell) divisions had been reduced by about 2 minutes per division. However, for 31% of divisions the initial record contained errors. Statement by Speaker, H.R. Deb. (10.2.2004) 24090.

453 H.R. Deb. (14.10.1976) 1926; *see also* the address to the National Press Club on 8 June 1978 by Speaker Snedden (unpublished) and Selwyn Lloyd, *Mr Speaker, Sir*, Jonathan Cape, London, 1976, pp. 96–8; *but see also* comments by Speaker Snedden, *Report of 4th Conference of Commonwealth Speakers and Presiding Officers, 1976, London*, p. 9.

- the adoption of systems whereby Members file past the Chair or tellers and have their votes counted while the bells are ringing;<sup>454</sup>
- the introduction of electronic voting as a time-saving device and to enable Members to vote without leaving their seats and obviating the need to appoint tellers.<sup>455</sup>

### *Electronic voting*

Of all these proposals the question of electronic voting has received the most attention. In 1970 the Joint Select Committee on the New and Permanent Parliament House agreed that, although the installation of electronic voting was not desirable at that time, the Chambers in the new Parliament House should be provided with all necessary conduits and ducts in preparation for the possible installation of electronic voting cabling at a later date.<sup>456</sup> In 1993 the Speaker and a small group of parliamentary staff members inspected electronic voting facilities in operation in various overseas Parliaments. In its report to the House<sup>457</sup> the inspection team stated that it was impressed with the equipment inspected, its speed of operation, accuracy and stated reliability. The report recommended that the Government, Opposition and other non-government Members should confer to seek in-principle agreement to the installation of electronic voting equipment in the House of Representatives Chamber. The voting system proposed was to retain the traditional voting method of Members dividing to the right or left of the Chair, with Members recording their votes, irrespective of where they actually sat for the division, by means of personal electronic cards.

In 1996 the Procedure Committee looked at electronic voting as part of its wider review of the conduct of divisions, but decided to defer consideration of the option in the belief that the costs involved precluded it at that time. However, the committee's report included a dissenting report which recommended the implementation of electronic voting. The dissenting committee members argued that the benefits of the system would outweigh the costs and noted that the cost of technology was falling.<sup>458</sup>

In 2003 the Procedure Committee, in declining to recommend the introduction of electronic voting at that time, reported its belief that the general principles of electronic voting should be considered by and debated in the House before the technological alternatives and costs were examined in detail.<sup>459</sup>

## BALLOTING

Apart from ballots for the election of the Speaker, the Deputy Speaker and the Second Deputy Speaker,<sup>460</sup> the standing orders make provision for the taking of a ballot to elect a Member to a position or to perform a function—for example, to serve on a committee, statutory body or delegation—whenever the House thinks fit. However, the system has not been used for many years. Before the House proceeds to a ballot, the bells are to be

454 H.R. Deb. (10.9.1975) 1214. Standing Committee on Procedure, *Conduct of divisions*, PP 290 (1996) 5. Also examined in the Committee's 2003 report *Review of the conduct of divisions*, PP 163 (2003) 4–5.

455 See H.R. Deb. (19.4.1966) 955.

456 'Proposed New and Permanent Parliament House for the Parliament of the Commonwealth of Australia', *Report of Joint Select Committee*, PP 32 (1970) 30.

457 *Electronic voting: report of inspection of equipment used in the Parliaments of Belgium, Finland, Sweden and the United States of America and in the European Parliament building in Brussels, October/November 1993*. Misc. Paper 7743.

458 Standing Committee on Procedure, *Conduct of divisions*, PP 290 (1996) 5, 16.

459 Standing Committee on Procedure, *Review of the conduct of divisions*. PP 163 (2003) 6–9.

460 See Ch. on 'The Speaker, Deputy Speakers and officers'.

rung for four minutes, as in a division.<sup>461</sup> The manner of taking a ballot, unless otherwise expressly provided, is also detailed.<sup>462</sup>

In 1905 the House agreed to appoint Members to a proposed select committee by ballot.<sup>463</sup> The ballot did not eventuate as the motion to appoint the committee was negated.<sup>464</sup> On three occasions, in 1903, 1904 and 1908, the House resolved to hold open exhaustive ballots to determine the opinion of Members as to the site of the seat of government of the Commonwealth.<sup>465</sup> On each occasion the House agreed to specific resolutions determining the method of taking the ballot.

Consideration has been given to the possible use of secret ballots on certain conscience issues which were to be decided by free vote, but no such procedure has been proposed to the House.

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461 S.O. 136.

462 S.O. 137.

463 Members to serve on parliamentary committees are regularly elected by ballot in the party rooms.

464 VP 1905/135-6; H.R. Deb. (26.10.1905) 4169. The method of appointment of Members was agreed to pursuant to a standing order (no longer operative) which provided that, if six Members so required, a committee was to be appointed by ballot.

465 VP 1903/161-2; VP 1904/129; VP 1908/29-30. The 1904 ballot was to determine the opinion of Members as to the district in New South Wales in which the seat of government should be; the other two were for actual sites.