

HOUSE OF REPRESENTATIVES

GUIDE TO PROCEDURES

AS AT AUGUST 1999

DEPARTMENT OF THE HOUSE OF REPRESENTATIVES
CANBERRA

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Preface

The *Guide to Procedures* is a concise yet comprehensive introduction to the procedures of the House of Representatives, intended for participants in and observers of proceedings in the Chamber of the House and the Main Committee.

House of Representatives Practice is the definitive text on the parliamentary law, procedures, and practice of the House of Representatives. The *Guide to Procedures* does not go into such detail, nor does it include as wide a range of subject matter. Thus, for example, topics such as parliamentary privilege and committees are covered here only in as much as they become involved in proceedings in the Chamber.

This edition reflects the standing orders as they were in August 1999.

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1. THE STANDING ORDERS

Section 50 of the Constitution provides that each House of the Parliament may make rules and orders with respect to the order and conduct of its business and proceedings either separately or jointly with the other House.

The standing orders are the formal rules governing the proceedings of the House. They are rules adopted by resolution (order) of the House which have continuing (standing) effect. Standing orders can be amended or omitted, or new standing orders created, by resolution of the House.

Some rules and conventions observed in the House are not imposed by the standing orders. These reflect the traditional practice of the House.

Although the standing orders and practice of the House have their origins in the traditional parliamentary practice which applied in the United Kingdom House of Commons in the years before Federation, procedures and practices have been varied in many ways to suit the different needs of the House of Representatives.

Standing order 1 requires that, in all cases not provided for by the standing, sessional or other orders or practice of the House, resort shall be had to the practice of the United Kingdom House of Commons in force for the time being, which shall be followed as far as it can be applied. However, the House has developed its own quite distinct body of practice and resort to this standing order has become unnecessary.

Changing the standing orders

Standing orders may be amended or omitted, or new standing orders created, by resolution of the House. Standing orders continue in force until altered, amended, or repealed (S.O.402).

Changes often follow recommendations by the Standing Committee on Procedure, which is appointed to inquire into and report upon the practice and procedures of the House generally with a view to making recommendations for their improvement or change and the development of new procedures (S.O.330).

Sessional orders are temporary standing orders adopted (generally for the remainder of a session) as a means of experimenting with various procedures. If found effective, sessional orders may later be incorporated into the standing orders.

Suspending the standing orders

It is not unusual for the House to want to permit an action which the standing orders would prevent. Common instances are to grant unlimited or extended

time for particular speeches, the introduction of particular bills without notice and their passage without delay, and for the House to sit longer hours than provided for in the standing orders (by suspension of the automatic adjournment). In these cases the House may agree to suspend a particular standing order or standing orders generally for a particular purpose. The standing orders may only be suspended by motion, usually in one of the following forms:

- That so much of the standing [and sessional] orders be suspended as would prevent . . .
- That standing order . . . be suspended for [this sitting] . . .

When a motion for the suspension of any standing or sessional order appears on the Notice Paper, the motion may be carried by a simple majority—i.e. the majority of votes of Members present (S.O. 400).

In cases of necessity a motion for the suspension of any standing or sessional order or orders may be moved without notice. Unless moved by leave of the House (*see below*), this motion must be carried by an absolute majority of Members of the House—75 in a House of 148 (S.O. 399). When the motion is moved by leave a division would not normally be called for, but if it were, it could be carried by a simple majority.

A motion to suspend standing orders may be moved by any Member who has received the call from the Chair, but only if it is relevant to the matter before the House at the time, or if there is no matter before the House.

The suspension of standing orders is limited in its operation to the particular purpose for which such suspension has been sought (S.O. 401).

The standing orders are adopted by the House and cannot be suspended by committees or the Main Committee, which are subsidiary bodies.

Leave of the House

The House or Main Committee may grant leave, that is, its unanimous agreement, for certain things to be done which would otherwise be contrary to the standing orders or practice of the House. A Minister or Member may ask for leave, or the Chair, sensing the feeling of the House or the Committee, may initiate the proposal; in either event, the Chair seeks the agreement of Members.

Leave sought may cover a wide field. Common examples are to enable the next stage of a bill to be taken immediately; to proceed immediately from the second reading of a bill to the third reading (i.e. to omit the consideration in detail stage); during the consideration in detail stage to take a bill as a whole or in parts together; to move a motion without notice; or to enable statements to be made to the House. Leave is often sought to present papers to the House—while there is no provision for private Members to table papers, they

may do so if they obtain leave of the House, and Ministers too require leave in some circumstances.

The limitations of leave have not been defined but, in practice, leave should not be sought to do anything which is too radical a departure from the standing orders. In these cases, it is usual for leave to be sought to move, without notice, a suspension of the standing orders (S.Os 399 and 400).

Leave of the House or Committee must be granted without any dissenting voice (S.O. 111).

2. THE SPEAKER

Functions

Chair of the House

The Speaker chairs or presides over the sittings of the House. In this role his or her principal functions are to keep order and enforce the rules of debate, call Members to speak, propose the question from the Chair for debate, put the question at the conclusion of the debate and declare the decision of the House, rule on points of order, conduct divisions, and exercise a general supervision over notices, questions seeking information and other matters connected with the House and its business.

Representation

The Speaker is the spokesperson for the House in its relations with the other constituent parts of the Parliament—the Senate and the Sovereign (represented by the Governor-General), the other arms of government—the Executive and the Judiciary, and with other outside bodies and persons. On formal occasions the Speaker represents the House and plays a central ceremonial role.

Administration

The Speaker has overall responsibility for the provision of services to Members in Parliament House and for the administration of the Department of the House of Representatives. In conjunction with the President of the Senate, he or she is also responsible for the administration of services provided jointly to both Houses and for the control and management of the parliamentary precincts.

Election

The first duty of a new House following a general election, after Members have been sworn in, is to elect its Speaker (S.O.2(e)). Until a Speaker is elected, the Clerk acts as Chair of the House (S.O.2(f)). The procedure for election of a Speaker is laid down in detail by standing order 12.

A Member of the government party or parties, addressing the Clerk, proposes a Member as Speaker. The motion is seconded and the Member proposed is required to say whether he or she accepts nomination.

If there is no other proposal, no debate is allowed and the Clerk immediately declares the Member to have been elected as Speaker.

If, after the first proposal, another Member is proposed as Speaker, debate relevant to the election may take place, each speech being limited to five minutes duration.

During debate a Minister may move at any time ‘That the question be now put’ (the closure), and the question on the closure is put immediately by the Clerk. If, on division, the numbers are equal, the question is decided in the negative as, until a Speaker is elected, there is no provision for a casting vote.

After debate concludes, whether by closure or not, the House proceeds to a ballot in which Members write on a ballot paper the name of the candidate for whom they wish to vote. The votes are counted by the Clerks at the Table, and if there are only two candidates, the candidate with the greater number of votes is declared by the Clerk to have been elected.

Standing order 12 also provides procedures to meet situations when there are more than two candidates—there has been no instance of this—and when a ballot is inconclusive by reason of an equality of votes. A candidate may, between ballots, withdraw his or her name from the election, which then proceeds as if he or she had not been nominated. If a withdrawal leaves only one candidate, he or she is immediately declared elected.

The elected Member (traditionally with a show of reluctance) is conducted to the Chair by the mover and seconder and, from the upper step, makes acknowledgment of his or her appointment. The Speaker then takes the Chair, at which point the Mace is placed on the Table. At this stage it is usual for party leaders and others to offer their congratulations, for which the new Speaker returns thanks.

Vacancy in office

If a vacancy by death, resignation, or removal from office occurs in the office of Speaker during the life of a Parliament, the Clerk reports the fact to the House and a new Speaker is elected in accordance with the procedures described (S.Os 20–21).

Deputy Speaker and Second Deputy Speaker

During a sitting the Speaker may be relieved in the Chair by the Deputy Speaker, the Second Deputy Speaker, or by one of the members of the Speaker’s panel (*see below*) (S.Os 17–19).

In the unavoidable absence of the Speaker from a meeting of the House, for a day or over a period, the Speaker’s duties in relation to proceedings in the House and under the Constitution are performed by the Deputy Speaker as Acting Speaker or, if the Deputy Speaker is also absent, the Second Deputy Speaker as Acting Speaker. In the unavoidable absence of all three, a Member may be elected to perform the duties of Speaker during that absence, or

alternatively the House stands adjourned until the next sitting day. (S.Os 14–15).

In the absence of the Deputy Speaker, the Second Deputy Speaker acts as Deputy Speaker (S.O. 13B).

In addition to the function of Speaker's deputy, the Deputy Speaker has specific responsibility for chairing the Main Committee (S.O. 13A). In the Committee he or she has powers to regulate the conduct of business similar to those the Speaker has in the House (S.Os 52, 280).

Election

At the beginning of a Parliament the Deputy Speaker and Second Deputy Speaker are elected in the ballot for the Deputy Speakership, with the Member with the highest number of votes becoming the Deputy Speaker and the Member with the next highest number of votes becoming the Second Deputy Speaker (S.O. 13). This method of election ensures in practice that the Member elected Second Deputy Speaker is an opposition nominee.

When a single vacancy in the position of Deputy or Second Deputy Speaker occurs later in a Parliament, or if there is only one nomination for the position of Deputy Speaker at the beginning of a Parliament, separate ballots are taken (S.O. 22B). In a single ballot for Second Deputy Speaker only a non-government Member may be nominated.

The procedure for the election of the Deputy Speaker and Second Deputy Speaker is similar to that for the election of Speaker, except that the Speaker and not the Clerk presides. The Speaker has a casting vote when there is an equality of votes in a ballot between two Members.

Speaker's panel

At the start of every Parliament, the Speaker nominates a panel of not less than four Members to assist the Chair, any one of whom may, on request by the Speaker or Deputy Speaker take the Chair of the House as Deputy Speaker, or on request by the Deputy Speaker take the Chair of the Main Committee (S.O. 18). Nominations may be revoked or added to during the Parliament.

In practice about ten Members are nominated (from both sides of the House, those from the government side being in the majority).

In practice, a roster is maintained for occupants of the Chair. If disorder arises when a member of the Speaker's panel is presiding, the Speaker, Deputy Speaker, or Second Deputy Speaker will often resume the Chair.

3. THE CHAMBER

Seating

The Chamber has a horse-shoe shaped seating arrangement, with Members from the governing party or parties sitting on the right of the Chair and the Members from the opposition parties on the left. The front bench seats on the right hand of the Speaker are reserved for Ministers (S.O.32). Similarly, the front bench seats on the left hand of the Speaker are reserved for the Opposition Executive ('shadow ministers'). The two chairs on the right of the Table are, by practice, reserved for the Prime Minister and the Deputy Prime Minister but are also occupied by other Ministers or Parliamentary Secretaries when they are in charge of the business before the House. Similarly, the two chairs on the left of the Table are reserved for the Leader and Deputy Leader of the Opposition but may be occupied by Members leading for the Opposition in the business before the House.

Other Members have allotted seats. A Member's request for the allocation of a seat should be made to the Serjeant-at-Arms but any question arising regarding the seats to be occupied by Members is determined by the Speaker (S.O.33). A Member is entitled to retain the seat occupied at the end of the previous Parliament (S.O.34).

The Mace

The Mace is present in the Chamber at all times the House is sitting, including during suspensions of sittings, and is placed on the Table whenever the Speaker is in the Chair. Prior to the election of a Speaker the Mace is placed on brackets below the Table (S.O. 12(n)).

Bar of the House

The Bar of the House, between the back row of Members' seats at the main entrance to the Chamber, demarks the area of the Chamber reserved to Members, which non-Members may not enter unless invited by the House. It consists of a cylindrical bronze rail. A witness before the House is examined at the Bar unless the House orders otherwise (S.O.363). The standing orders provide that messages from the Senate are received at the Bar by a Clerk-at-the-Table while the House is sitting (S.O.372); in practice, however, they are received by the Serjeant-at-Arms.

Galleries

There are open galleries on all four sides of the Chamber at first floor level and enclosed soundproof galleries on three sides at second floor level. All galleries come under the authority of the Speaker and are administered and controlled by the Serjeant-at-Arms.

Distinguished visitors

The Speaker may admit distinguished strangers (*see below*) to a seat on the floor of the House (S.O.312).

Speaker's gallery

The Speaker's gallery, the left hand side of the central gallery viewed from the Speaker's Chair, is reserved for guests of the Speaker and Members' guests. The front row of seats in the Speaker's gallery is reserved for diplomats and special visitors. Applications for admission cards should be made to the Speaker's Office. At floor level, at the right and the left of the rear of the Chamber, there are also seats to which access is by invitation of the Speaker only.

Senators' gallery

Six seats in the front row of seats on the right hand side of the central gallery are reserved for Senators. Senators may use these seats at any time while the House is sitting (S.O.312).

Public galleries

The remaining seats in the central gallery and the two side galleries are open to the public, and are generally open at all times the House is sitting. Members of the public are able to obtain admission cards to the public galleries from the booking office in the Members' Hall or by booking through the Serjeant-at-Arms' Office. Members may book seats in the central gallery for their guests.

Press gallery

The rear gallery (behind the Speaker's Chair) is reserved for the press. Press passes are issued by the Serjeant-at-Arms. Passes are subject to withdrawal at any time at the discretion of the Speaker.

Enclosed galleries

The enclosed soundproof galleries at second floor level enable the operations of the Chamber to be described to visitors without disturbing the proceedings. They are mainly used by school groups.

Strangers

Persons in the Chamber who are neither Members nor officials are traditionally referred to as 'strangers'. If a Member takes formal notice of the presence of strangers, the Chair must immediately put the question 'That strangers be ordered to withdraw', which must be decided without amendment or debate (S.O.314). The Speaker or Chair may order strangers to withdraw from any part of the Chamber or the room where the Main Committee is meeting (S.O.314). Members may not bring strangers into the areas of the Chamber or of the Main Committee which are reserved to Members (S.O.315). The Speaker may admit distinguished strangers to a seat on the floor of the House (S.O.312).

Broadcasting of proceedings

Radio

The proceedings of Parliament are broadcast live by the Australian Broadcasting Corporation (ABC) on each day on which either House is sitting. As a general rule, the House of Representatives is broadcast on Monday, Thursday and Friday (if sitting) and the Senate on Tuesday and Wednesday. A recording of the question time of the House which is not being broadcast live is also broadcast later in the day. The Joint Committee on the Broadcasting of Parliamentary Proceedings exercises control over the parliamentary broadcast in accordance with the principles ratified by each House.

Television

A composite vision and sound feed of Chamber proceedings is produced by the Parliament's Sound and Vision Office for the internal House monitoring system, and is made available to the television networks for outside broadcast. The televising of proceedings, including live broadcasting and rebroadcasting of proceedings and excerpts of proceedings, has been authorised (by resolution of the House) since 1991.

Generally only question time and special events, such as the Treasurer's Budget speech and the Leader of the Opposition's reply, are broadcast live (by the ABC). Other television coverage is usually limited to excerpts in news and current affairs programs.

Internet

Trials have taken place of sound and video broadcasts of proceedings over the Internet, and this method of access is planned to start in late 1999.

The Main Committee

The Main Committee is an extension of the House, operating in parallel with it to allow two streams of business to be debated concurrently. All Members of the House are members of the Main Committee and eligible to participate in its meetings, although only a minority of Members are present at any one time.

The Main Committee meets in one of the largest House of Representatives committee rooms which has been dedicated to its Main Committee role and is fitted out in a small-scale chamber setting. Like the Chamber of the House the Main Committee has a horse-shoe shaped seating arrangement, with government and opposition Members sitting on the right and left of the Chair respectively. There are seats for 38 Members, and room for additional seating if required. Members do not have allocated seats. There are galleries (at floor level) for advisers, the media and the public. Proceedings are televised on the House monitoring system.

4. SITTINGS OF THE HOUSE AND ORGANISATION OF BUSINESS

Sittings of the House—Terminology

The following definitions cover some of the parliamentary terms associated with sittings of the House and the intervals between sittings:

A *Parliament* commences upon the first sitting day following a general election. The Constitution provides that Parliament must be summoned to meet not later than 30 days after the day appointed for the return of the election writs. The day for the new Parliament to assemble is fixed by the Governor-General by proclamation, in practice on the advice of the Prime Minister of the day.

A Parliament comes to an end automatically at the expiration of three years from the first meeting of the House, or on the earlier dissolution of the House. A general election for the full membership of a new House is then held.

A *session* commences upon the first sitting day following a general election and concludes either by prorogation, dissolution or at the expiration of three years from the first meeting of the House. A further session commences upon the first sitting day following a prorogation and concludes in the same manner. In recent times Parliaments have consisted of only one session.

Dissolution is the formal action of ending a Parliament or a House of the Parliament. The House is dissolved by proclamation of the Governor-General, in practice on the advice of the Prime Minister of the day. When the House is dissolved or expires the Senate continues to exist, except in specific circumstances set out in the Constitution when both Houses may be dissolved simultaneously ('double dissolution') following legislative deadlock.

Prorogation is the formal ending of a session by proclamation of the Governor-General, in practice on the advice of the Prime Minister of the day.

Sitting periods occur within a session. The sittings of the House in each calendar year are divided into three distinct periods: the Autumn sittings in February/March; the Winter (Budget) sittings in May/June; and the Spring sittings from August to December. In earlier years the practice was to have two sitting periods: Autumn sittings, from February to June, and Budget sittings, from August to December, and this arrangement, with an August Budget, may still occur when a general election interrupts the usual parliamentary calendar.

A *sitting* commences pursuant to the standing or sessional orders, or in accordance with a resolution of the House at a previous sitting, and concludes with the adjournment of the same sitting. The same sitting may extend over more than one day.

Suspension of sitting—a sitting may be suspended, that is, interrupted, with the Speaker or Member presiding leaving the Chair, for a variety of reasons, including scheduled meal breaks.

An *adjournment* is said to occur when the House stands adjourned for any period of time. Thus the term covers the period between the end of one sitting day and the commencement of the next; the gap (usually of two weeks) between sitting weeks within a sitting period; and also the much longer periods of time between the main sitting periods each year, which are technically not recesses although they are often referred to as such.

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

Days and hours of sitting

Unless otherwise ordered, the House sits in a four-weekly cycle of two sitting weeks followed by two non-sitting weeks (S.O.40).

The normal hours of sitting are as follows:

	<i>Time of meeting (S.O.40)</i>	<i>Usual time of adjournment (S.O.48A)</i>
Monday	12.30 p.m.	11 p.m.
Tuesday	2 p.m.	11 p.m.
Wednesday	9.30 a.m.	8 p.m.
Thursday	9.30 a.m.	6 p.m.

On days the House sits into the late evening (i.e. Mondays and Tuesdays) sittings are usually suspended for meal breaks from 6.30 p.m. to 8 p.m.

A motion to vary the time and/or day of the next meeting of the House is needed whenever the House departs from the sitting pattern specified by the standing orders. Such a motion may be moved by a Minister at any time without notice (S.O.51).

Meeting of the House

Before a meeting of the House the bells ring for five minutes to call Members to the Chamber. At the time fixed for the House to meet, the Speaker, preceded by the Serjeant-at-Arms with the Mace, enters the Chamber and takes the Chair (S.O.41). Having ascertained that a quorum is present, the Speaker reads the Prayers specified in S.O.43, with Members standing, then calls on the first item of business.

Adjournment of sitting

The House is adjourned by agreement to the motion ‘That the House do now adjourn’, which may only be moved by a Minister (S.O.50), or in accordance with the automatic adjournment provisions (S.O.48A).

At the times specified by the automatic adjournment rule (S.O.48A) the Speaker interrupts proceedings to propose the question ‘That the House do now adjourn’. If a division is occurring at the time of interruption, the division (and any consequential division) is completed and the result announced.

A Minister may require the question to be put immediately (to allow it to be negated to enable the business before the House to continue). If the question is then negated the House resumes its proceedings at the point they were interrupted. Otherwise the interrupted business is set down on the Notice Paper for the next sitting, and debate may then take place on the question ‘That the House do now adjourn’. This is the adjournment debate during which the rule of relevance does not apply, giving Members the opportunity to speak on matters of their own choosing (*see page 91*).

The adjournment debate is interrupted by the Speaker at the time scheduled for the House to adjourn (i.e. at 11 p.m. on Mondays and Tuesdays, 8 p.m. on Wednesdays and 6 p.m. on Thursdays). At this point a Minister may require the debate to be extended for up to 10 minutes to enable Ministers to speak in reply to matters raised in the debate. If the debate is not extended, or if it is extended after 10 minutes or the earlier ending of debate, the Speaker automatically adjourns the House until the time of its next meeting.

If the adjournment motion is negated when first proposed and the business of the day is not finished within 30 minutes, that is, by the ‘standard’ time for the adjournment of the House, a Minister moves the adjournment motion at the conclusion of ordinary business and debate on the motion (adjournment debate) may then occur without any limitation of time.

If the day’s business finishes before the time at which the motion to adjourn would be automatically proposed, the adjournment motion is moved by a Minister immediately. Debate on the motion may continue until the ‘standard’ time for the adjournment of the House set by standing order 48A.

Quorum

The quorum is the minimum number of Members which must be present to constitute a meeting of the House for the exercise of its powers. The size of the quorum is defined by the *House of Representatives (Quorum) Act 1989* as at least 1/5 of the whole number of the Members of the House. The quorum of the current House of 148 Members is thus 30 Members. The quorum includes the occupant of the Chair and is not reduced by the death or resignation of a Member.

A quorum must be present to constitute a meeting of the House and to record a vote of the House when one is called for, but it is not necessary to maintain a quorum continuously. The House regularly conducts its business when less than a quorum of Members is present in the Chamber. However, any Member is entitled at any time to insist on the presence of a quorum by formally taking notice that a quorum is not present (S.O. 45)—*see below*.

In ascertaining whether or not a quorum is present, all Members within the physical limits of the Chamber (all areas on the floor of the Chamber, including officials' seats) are counted (S.O. 47).

Lack of quorum at time of meeting

If a quorum is not present when the Chair is taken at the time fixed for the meeting of the House, the bells are rung and a period of 5 minutes is allowed for a quorum to form (S.O. 41). During this period no Member is permitted to leave the Chamber unless a quorum is present (S.O. 42). If, after the five minutes have elapsed and a quorum is still not present, the House is suspended or adjourned as described below.

Lack of quorum on division

If the result of a division reported to the Chair by the tellers shows that the number of Members voting was less than a quorum, the result of the division is voided (S.O. 44) and the House is suspended or adjourned as described below.

Quorum called for by Member

A Member calls for a quorum to be formed by drawing the Chair's attention to 'the state of the House'. It is out of order to debate the situation or to draw attention while the Speaker is in the process of putting a question. Once a quorum has been called for the call cannot be withdrawn and the House must be counted. The Chair counts the House or has it counted and, if a quorum is not present, has the bells rung for four minutes, as for a division (S.O. 48). No Member may leave the Chamber until a quorum has been formed or four minutes have elapsed (S.O. 47). If there is not a quorum after the bells have rung for four minutes, the House is suspended or adjourned as described below.

A call for a quorum when a quorum is in fact present is regarded as disorderly, and it is normal in these circumstances for the offending Member to be named by the Chair and suspended from the service of the House.

Adjournment or suspension of House because of lack of quorum

In all cases, when a lack of quorum has been established the Speaker may either:

- adjourn the House to the next day of sitting, or
- if satisfied there is likely to be a quorum within a reasonable time, announce that he or she will take the Chair at a stated time, and the sitting is suspended until that time. If, at that time, there is still not a quorum, the Speaker adjourns the House until the next sitting day. (S.Os 41, 44–45)

Quorum in the Main Committee

The quorum in the Main Committee is three, including the occupant of the Chair, one government Member and one non-government Member (S.O.272). This quorum must be present at all times. If the Chair notes that a quorum is not present he or she must suspend the Committee until a stated time or adjourn it until the day of the next sitting of the House (S.O.285).

Attendance of Members

The attendance of Members at each sitting of the House is recorded in the Votes and Proceedings (S.O.31)—in practice the names of Members not present are listed. A Register of Members’ Attendance is maintained by the Serjeant-at-Arms. For a Member’s attendance to be registered he or she must be physically present in the Chamber of the House at some time during the sitting. Members’ attendance is normally registered at question time, and Members who only enter the Chamber outside question time should ensure that their attendance has been recorded.

Leave of absence

A Member’s place becomes vacant if, without permission of the House, he or she does not attend the House for two consecutive months of any session of the Parliament (Constitution, section 38).

Leave of absence is usually granted for reasons such as parliamentary or public business overseas, or ill health. A motion to grant leave of absence does not require notice, states the cause and period of leave, and has priority over all other business (S.O.35). Leave of absence excuses a Member from service in the House or on a committee (S.O.36). If a Member granted leave of absence attends the House before the period of leave expires, the remaining leave is forfeited (S.O.37).

It is the usual practice at the end of a period of sittings for a Minister to move ‘That leave of absence be given to every Member of the House of Representatives from the determination of this sitting of the House to the date of its next sitting’.

Opening of a new Parliament

The opening of a new Parliament is characterised by traditional ceremony:

- Members assemble in the House of Representatives Chamber, and the Clerk of the House reads the proclamation summoning Parliament (S.O.2)
- Members go in procession to the Senate Chamber to hear the Governor-General's Deputy (normally the Chief Justice of the High Court) formally declare the Parliament open.
- Members return to the House to be sworn in by a justice of the High Court. The Clerk tables the returns to the writs showing the Member elected for each electoral division, after which Members are called to the Table in groups to swear an oath or make an affirmation and sign the oath or affirmation form.
- The Speaker is elected, as described at page 4. The sitting is then suspended.
- Members reassemble in the Chamber before accompanying the Speaker as he or she is presented to the Governor-General in the Members' Hall. Members then return to the Chamber.
- Members go in procession to the Senate Chamber where the Governor-General makes the 'opening speech' (S.O.4). This is a formal declaration of the causes of the calling together of the Parliament and contains a brief review of the affairs of the nation and a forecast of the Government's proposed program of legislation.
- Members return to the House of Representatives (S.O.6) where some formal business (the presentation and first reading of a 'formal' or 'privilege' bill) is transacted (S.O.7). This is a symbolic declaration by the House that it is master of its own program of business.
- The Speaker reports the Governor-General's speech to the House and a committee of three Members is appointed to prepare an 'Address in Reply'—*see below* (S.O.8). The sitting is suspended.
- When the sitting resumes the House may proceed to other business. This usually includes the election of the Deputy Speaker and Second Deputy Speaker and condolence motions. The proposed Address in Reply may be presented to the House at this sitting. However, this usually occurs at the next sitting.

Opening of a new session

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

Address in Reply debate

An Address is a formal communication from the House to the sovereign or the Governor-General (S.Os 317–18, 393–98). Such communication is unusual

except for the Address in Reply at the start of each Parliament, thanking the Governor-General for his or her opening speech (S.O. 8).

The appointment of the Address in Reply committee (traditionally comprising the Prime Minister and two newly elected government Members) and the preparation of the Address are formalities—the wording does not change in substance from Parliament to Parliament. The proposed Address is presented to the House by one of the private Members of the committee and is read out by the Clerk. The Member then moves ‘That the Address be agreed to’. The motion is seconded by the other private Member of the committee.

A wide ranging debate on the motion ‘That the Address be agreed to’ takes place, usually spread over several sittings. The debate provides an opportunity for Members to speak on any matter they wish, provided the other rules of debate are observed. Each Member may speak for 20 minutes. This debate is traditionally an opportunity for newly elected Members to make their first speeches in the House. The debate may be referred to the Main Committee. An amendment, in the form of an addition of words, may be moved to the Address.

At the end of the debate the Address is agreed to. It is later presented to the Governor-General at Government House by the Speaker accompanied by other Members (S.O. 9).

Normal routine of business

The normal routine of business (S.O. 101) is as follows:

- Notices and orders of the day, government business.
- Questions without notice , at 2 p.m.—*see p. 84.*
- Presentation of papers—*see p. 81.*
- Ministerial statements—*see p. 81.*
- Matter of public importance—*see p. 93*
- Notices and orders of the day, government business.
- Adjournment debate—*see p. 91.*

The different order of business on Mondays, informally known as Private Members’ Day, is described at page 89.

Notices and orders of the day—government business

The largest proportion of the time of the House is spent considering government business—motions and bills sponsored by Ministers. Most government business is legislation. Notices are items of business being introduced for the first time; orders of the day are items of business which have been introduced previously and listed for further consideration on a later day.

Notices and orders of the day are taken in the order they appear on the Notice Paper. The order of business can be changed by agreement of the House to a motion moved by a Minister, for example, to postpone an item to a later hour or to the next sitting (S.Os 155, 189).

Matters not on the Notice Paper may also be introduced, where permitted by the standing orders (for example, taxation bills or motions for tariff proposals) or by leave of the House.

Other business

As necessary or convenient other business may be taken during the sitting between scheduled items of business. Such matters may include the presentation of papers, the announcement of messages from the Governor-General assenting to bills, messages from the Senate, the presentation of committee reports, and motions relating to the sittings or the business of the House.

5. HOUSE DOCUMENTS—AGENDA AND RECORD

Notice Paper

The Notice Paper is the House's agenda paper, listing all business before the House (S.O.100A). It is published before every sitting of the House apart from the first sitting of a session. The Notice Paper contains the following information:

Business section

The business section lists all items of business that are currently under consideration by the House. Items of business are grouped under the headings 'Government Business', 'Main Committee', 'Committee and Delegation Reports', 'Private Members' Business', or (rarely, when the Speaker has sponsored an item of business) under the heading 'Business of the House'. If business (which may include both committee and delegation reports and items of private Members' business) has been accorded priority by the Selection Committee for the next sitting Monday, it is listed separately as 'Business accorded priority for . . . '.

Items are listed as either 'Notices'—signifying that a Member or Minister has given notice of his or her intention to introduce a matter for consideration, or as 'Orders of the day'—signifying that the matter has already been introduced and that the House has ordered it to be considered, or further considered, on a later day.

Orders of the day on the Notice Paper are regarded as the property of the House and cannot be withdrawn or removed without the permission of the House (S.O.162). A notice may be withdrawn before it is moved by the Member sponsoring it (S.O.140).

Items listed under private Members' business are removed from the Notice Paper automatically if they have not been considered within eight sitting Mondays (S.O.104B). In the case of items of government business on which no further debate is desired, it is customary for the House periodically to agree to a motion to 'discharge' these from the Notice Paper.

At the end of a session all business on the Notice Paper lapses and the next session starts with a clean sheet.

Order of business on Notice Paper

The House is required to consider matters in the order they appear on the day's Notice Paper (S.O.155, 189).

As a general rule, notices are first entered on the Notice Paper in the order they are received by the Clerk, with the provisos that notices from one

Members are not placed consecutively in priority of a notice received from another Member during the same sitting, and private Members' notices given by government and non-government Members are placed alternately (S.O.135).

However, Ministers (in practice, the Leader of the House) may change the order of government business before each issue of the Notice Paper goes to press (S.O.105) and the Selection Committee similarly arranges the order of private Members' business to be considered on Mondays (S.Os 104A, 331).

Notices given for a specified day take priority when that day is reached (S.O.156). If, at the adjournment of the House, any notices have not been called on, they are placed on the Notice Paper for the next sitting after the notices of motion given for that day (S.O.156).

Questions on notice section

Questions on notice are listed on the Notice Paper in the order in which they are received by the Clerk (S.O.149) and remain there, unless withdrawn by the Member asking them, until written replies are received by the Clerk.

The first Notice Paper to be published for each sitting week includes all unanswered questions while Notice Papers for subsequent sittings in a week only include questions which have appeared for the first time that week.

Information section

The final section of the Notice Paper contains general information. It lists members of the Speaker's panel (i.e. Members who can assist the Speaker and his or her deputies in the Chair); House and joint committees, their membership and inquiries being undertaken; and the appointment of Members to statutory bodies by the House.

Daily Program

The Daily Program, or the 'Blue Program' or 'Blue' as it is also called after the colour of the paper it is printed on, provides a guide to each day's expected proceedings. Unlike the Notice Paper, the Daily Program is not a formal document and does not fix the order of business or limit its scope. If circumstances require it a supplementary program may be published.

Some matters appear on the Daily Program which do not appear on the day's Notice Paper, for example: prayers; the listing of a ministerial statement; the subject of a matter of public importance; the presentation of a major government paper or a committee report; and business which may be introduced without notice, such as taxation measures.

Votes and Proceedings

The Clerk is required to record all proceedings of the House in the Votes and Proceedings (S.O. 38). The Votes and Proceedings is the official record of the proceedings of the House of Representatives, in effect the minutes of its meetings. An issue of the Votes and Proceedings is published for each sitting.

The Votes and Proceedings records what is done (or deemed to be done) by the House as a collective body, and not the words of individual Members.

For each item of business the Votes and Proceedings records all action taken by the House, for example the motions and amendments moved and the name of the Member who moved them; whether debate occurred (or was adjourned to a future day or resumed from an earlier occasion); the questions put from the Chair and the decision taken by the House on each question. If a formal vote (division) takes place the record lists the Members voting for and against the question.

A typical day's Votes and Proceedings records:

- that the House met at a certain time and the Speaker took the Chair and read prayers;
- that questions without notice were asked;
- the papers presented;
- motions moved in connection with any of the papers presented;
- any matter of public importance proposed for discussion and the fact that discussion took place;
- each motion and bill considered by the House;
- announcements of various kinds that have been made relating to the operation of the House, for example, details of ministerial arrangements or committee membership;
- messages received from the Senate or the Governor-General;
- the question for the adjournment of the House, the fact that debate took place (the adjournment debate), the time the House adjourned and the date and time of its next meeting;
- a list of papers deemed to have been presented;
- a record of Members' attendance; and
- the minutes of proceedings of the Main Committee (if it met that day).

Hansard

Hansard (official title 'Parliamentary Debates') contains the full report of the debates in the House and the Main Committee—that is, the transcript of Members' speeches. Hansard is not the official record of the proceedings of the House; that is the purpose of the Votes and Proceedings.

Although Hansard is essentially a record of the spoken word, it contains other information relating to the proceedings, including the text of petitions presented and motions and amendments moved (even when not read out), the

titles of papers tabled, and notices given by Members. It also contains answers to questions on notice.

Hansard is issued in two editions. There is a daily proof issue available the day after the proceedings to which it refers, and a weekly final issue from which the bound volumes are compiled. Since 1999 the daily proof Hansard has been combined with the proof issue of the Votes and Proceedings.

The production of Hansard is the responsibility of the Department of the Parliamentary Reporting Staff.

Incorporation of unspoken matter

By leave of the House and the approval of the Chair, material of various kinds may be incorporated into the text. The practice of the House restricts incorporation to documents that cannot easily be read into the record and which need to be seen in visual form for comprehension, such as maps and statistical tables or graphs. Members are not permitted to incorporate the text of speeches they have not delivered in the House.

A Member seeking leave to incorporate material is advised to first show the material to the Minister at the Table or to the Member leading for the Opposition, as the case may be, as leave may be refused if this courtesy is not observed. Even if the House authorises the incorporation of unread matter, the final decision rests with the Speaker.

Editing and corrections

While the Hansard text is edited to some extent—for example, to remove repetitions and to correct grammatical mistakes—the editing is not permitted to affect the meaning of what is said.

Before the edited transcript is printed, each Member is given an opportunity to read what he or she has said and, if necessary, to make minor corrections. Although Members have this right to make corrections to their remarks, changes which alter the sense of words used in debate or introduce new matter are not permitted. In some instances of error or inaccuracy in the Hansard reports, the position is better clarified by a personal explanation.

Access to House documents

The documents described in this chapter are all publicly available via the House of Representatives Internet site at <http://www.aph.gov.au/house/>.

6. RULES OF DEBATE

When Members may speak

A Member may speak:

- to any question upon which debate is not precluded by the standing orders,
- when moving a motion which will be open to debate,
- when moving an amendment,
- when rising to take a point of order,
- on a matter of privilege,
- on a matter of public importance submitted under standing order 107 (S.O. 63);
- to explain words in his or her speech which have been misquoted or misunderstood (S.O. 66);
- when granted leave by the Chair to make a personal explanation (S.O. 64);
- to make a 90 second statement to the House or a 3 minute statement to the Main Committee during the periods provided for that purpose (S.Os 106A, 275A);
- to ask or reply to a question without notice (S.Os 142–3);
- when granted leave of the House to make a statement;
- by indulgence of the Chair.

Reservation of right to speak

A Member who seconds a motion or amendment without speaking to it may reserve the right to address the House on the subject at a later stage of the debate (S.O. 70).

Member not to speak twice

A Member may not speak twice in the House to a question (S.O. 65), *except*:

- in explanation (S.O. 66)—*see p. 24*;
- in reply—a Member who has moved a substantive motion or the second or third reading of a bill may, at the end of the debate, speak in reply to matters raised during the debate (S.O. 67). The reply closes the debate (S.O. 68);
- in the consideration in detail stage of a bill or the consideration of Senate amendments—Members may speak for an unspecified number of periods to each question before the Chair (S.O. 91);
- in the adjournment debate—a Member may speak a second time if no other Member rises (S.O. 91).

The rule does not apply to periods of Members' statements (as there is no question before the House). In practice, as in the adjournment debate,

Members who have not yet spoken are given priority over those wishing to speak again.

Speaking on amendments

When a Member speaks following the moving of an amendment, the Member is deemed to have spoken to both the original question and the amendment. A Member who has spoken to the original question before the moving of an amendment may speak again, but must confine his or her remarks to the amendment.

Speaking after question put

No Member may speak after the Speaker has put the question and the vote has been taken on the voices (S.O. 69).

Matters not open to debate

The following matters are not open to debate, must be moved without argument or opinion being offered, and must be put immediately by the Chair without amendment (S.O. 86):

- question that a Member ‘be now heard’ or ‘do now speak’ (S.O. 61);
- question that a Member be further heard (S.O. 85);
- motion for adjournment of debate (S.O. 87);
- motion for extension of time (S.O. 91);
- question put following declaration of urgency (S.O. 92);
- motion that the question be now put (S.O. 93);
- motion that a Member be not further heard (S.O. 94);
- motion that the business of the day be called on (S.O. 107);
- question that a bill be reported to the House (S.O. 234);
- motion that amendments made by the Main Committee be agreed to (S.O. 236);
- motion that a bill (reported by Main Committee) be agreed to (S.Os 236, 236A);
- motion that further proceedings (on an item of Main Committee business) be conducted in the House (S.O. 270);
- motion that a Member be suspended (S.O. 304); and
- question that strangers be ordered to withdraw (S.O. 314).

In addition a Minister may require the question for the adjournment of the House under the automatic adjournment provisions to be put without debate (S.O. 48A).

Misrepresentation of Member’s speech

A Member who has spoken to a question may again be heard to explain some material part of his or her speech which has been misquoted or misunderstood,

but cannot introduce any new matter, interrupt any Member who has the call nor bring forward any debatable matter, and no debate may arise following such an explanation (S.O.66). The correct procedure to be followed by a Member is to rise after the Member speaking has concluded and to inform the Chair that he or she has been misrepresented. The Chair will then usually permit the Member to proceed with the explanation. It helps in the conduct of the proceedings if Members inform the Chair in advance that they intend to rise to make an explanation.

Personal explanations

A Member, having obtained leave from the Chair, may explain matters of a personal nature, although there is no question before the House (S.O.64). Although in practice such leave is freely given, Members have no right to expect it to be granted automatically. A Member wishing to make a personal explanation should inform the Speaker beforehand. Personal explanations should preferably be made between items of business but may be made at any time with the indulgence of the Chair, provided that no other Member is addressing the House. However, they are usually made at the point in the routine of business following the presentation of papers.

Personal explanations generally claim misrepresentation arising from media reports, the preceding question time, Senate debates, and so on, and it is the practice for the Chair to ask a Member rising to make a personal explanation whether he or she is claiming to be misrepresented.

A personal explanation must be confined to matters affecting the Member personally. It may not deal with party matters or, in the case of a Minister, departmental matters, nor be used to make attacks upon another Member. A Member making a personal explanation must not debate the matter. The indulgence granted by the Chair for a personal explanation may be withdrawn if the Member misuses it.

If the Speaker refuses leave to a Member to make a personal explanation, or directs a Member to resume his or her seat during the course of an explanation, a motion 'That the Member be now heard' is not in order, nor may the Member move a motion of dissent from the Speaker's 'ruling' as there is no ruling.

Indulgence of the Chair

The term 'indulgence' is often used to cover the concept of leave from the Chair as distinct from leave of the House. Although the standing orders make provision for Members to speak with leave of the Chair only in respect of a matter of a personal nature (*see above*), the practice of the House is that, from time to time, the Speaker or Chair grants indulgence for Members to address the House on a variety of other matters, for example, to permit a Minister to correct or add to an answer, or for Members to comment on or seek

information about the conduct of proceedings. On occasion, following a Member's statement by indulgence, the Chair's indulgence may be extended to permit other Members to speak on the same matter.

Statements by leave

A frequently used practice is to seek the leave of the House, that is, permission without any dissenting voice (*see p. 2*), to make a statement when there is no question before the House. This procedure is used in the main by Ministers to announce domestic and foreign policies and other decisions of the Government (ministerial statements, *see p. 81*). The procedure is also used by Members when wishing to speak, at the time of presentation, on a report of a committee or of a parliamentary delegation presented at a time other than that provided by standing order 102A.

Members seeking leave to make statements must indicate the subject matter in order that the House can make a judgment as to whether or not to grant leave. Members must confine their remarks to the subject for which leave has been granted.

Allocation of the call

A Member wishing to speak (unless unable to stand) must rise and address the Speaker (S.O.59). When two or more Members rise together to speak, the Speaker calls on the Member who, in the Speaker's opinion, first rose in his or her place. However, any Member may move that a Member who has risen 'be now heard', or 'do now speak', and that question must be put and decided immediately without amendment or debate (S.O.61).

The allocation of the call to Members rising to speak is a matter for the discretion of the Chair, but it is usual, as a principle, to call Members from each side of the House (government and non-government) alternately. Parties in coalition share the call of their side of the House in proportion to their numbers. Minor parties and independent Members share the call of the non-government side in proportion to their numbers.

Generally speaking, Ministers and the Leader and Deputy Leader of the opposition party or parties are given preference over other Members on their own side of the House, but in the case of consideration in detail debates on bills where there is need for a greater flexibility, a Minister may be granted a preference over all other Members in order to make a reply or explanation. To assist the Chair a list of intending speakers is supplied by the party whips; the Chair usually follows the list, but does not have to do so.

Time limits for debates and speeches

Speech time limits

Time limits for debates and speeches are set out in standing order 91. Time limits apply to all speeches in debate, with the following *exceptions*:

- There is no time limit for the mover of the second reading of the main Appropriation Bill and the Leader of the Opposition or a Member deputed by the Leader of the Opposition when speaking to the second reading (the Budget speech and reply).
- The House may agree to vary the time limits for a specific purpose—for example, for an important debate the standing orders may be suspended to grant unlimited or extended time to the Minister in charge and the leading opposition speaker.
- In relation to committee and private Members' business on Mondays the Selection Committee may allot lesser speaking times than provided by the standing order.
- It is the practice of the House that time limits are not enforced during debate on motions of condolence or on valedictory speeches made at the end of a period of sittings.

Occasions on which a Member may address the House which are not specifically listed in standing order 91, and which, there being no question before the Chair, do not come under the strict definition of 'debate', are not restricted by this standing order, for example:

- Time limits do not apply when statements are made by leave of the House.
- Time limits for Members' statements in the House and Main Committee are set by S.Os 106A and 275A respectively.
- Time limits do not apply to personal explanations or other occasions when Members speak by indulgence of the Chair. However, such speeches are expected to be short and to the point and the Chair may withdraw indulgence if Members attempt to enter into debate.
- There is no time limit on questions without notice or on answers to questions. However, if these are unduly lengthy the Speaker may request or direct that they be brought to a close.

How measured

The period of time allotted for a Member's speech is calculated from the moment the Member is given the call (unless the call is disputed by a motion under standing order 61) and includes time taken up by interruptions such as divisions (but not suspensions of Main Committee proceedings caused by divisions in the House), quorum calls, points of order, motions of dissent from rulings of the Chair, and proceedings on the naming and suspension of a Member.

A Member's time is not affected when debate is interrupted by the Chair for a suspension of the sitting (e.g. for a meal break, or in the Main Committee for a division in the House), the automatic adjournment provision (S.O.48A), or question time (S.O.101A). In these cases the Member may continue with no loss of time when the debate is resumed.

Extension of time

On motion, a Member may be granted an extension of time for one period not exceeding 10 minutes, provided that no extension may exceed half of the original period allotted (S.O.91). The granting of a second extension requires a suspension of the standing order.

A Member cannot be granted an extension of time in an adjournment debate. However, if no other Member rises to address the House, a Member who has already spoken may speak for a second time.

Speech-timing clocks

Speech timing clocks are installed in the Chamber on the walls below each of the two side galleries. These clocks have a single hand which is set by the Deputy Clerk at the Table to the number of minutes allowed for each speech. As the time is used up, the hand returns in an anti-clockwise direction to the zero or 12 o'clock position. One minute before the time expires, a small amber warning light appears on each clock face and this continues to glow until the time for the speech expires.

In the Main Committee a digital clock on each side wall is set to the time limit of the speech being made and runs backwards to zero, showing minutes and seconds remaining.

Manner of speech

Members to stand and address Chair

A Member desiring to speak must rise in his or her place and address the Speaker (S.O.59), but a Member unable conveniently to stand, by reason of sickness or infirmity, may speak sitting (S.O.60).

Place of speaking

With the following exceptions all Members should address the House from their own seats. Ministers and shadow ministers speak from the Table. Parliamentary Secretaries may speak from the Table when in charge of the business before the House but at other times are required to speak from their allocated places. The same practice applies in respect of opposition 'parliamentary secretaries', or other Members leading for the Opposition in a particular debate.

Reading of speeches

There is no longer a rule against the reading of speeches.

Decorum

Whenever the Speaker rises during a debate, any Member then speaking, or offering to speak, shall sit down, and the House must be silent, so that the Speaker may be heard in silence (S.O.53). When the Speaker is putting a question Members may not walk out of or across the Chamber (S.O.54).

Members should make a token bow to the Chair in passing to or from their seats in the Chamber (S.O.56) and Members may not pass between the Chair and any Member who is speaking (S.O.57). All Members coming into the Chamber shall take their seats, and shall not at any time stand in any of the passages or gangways (S.O.58).

Members may not converse aloud or make any noise or disturbance to interrupt the Member who is speaking (S.O.55).

First speech

There is a convention in the House that a Member's first speech in the House is heard without interjection or interruption, and the Chair will normally draw the attention of the House to the fact that a Member is making his or her first speech. In return for this courtesy it is expected that the Member should not be unduly provocative. A Member's official 'first speech' may not necessarily be the first time a Member speaks in the House—for example, speeches made on condolence motions or in a Member's capacity as Minister or opposition spokesperson are not counted as 'first speeches'. In a new Parliament a newly elected Member usually makes his or her first speech in the Address in Reply debate (*see p. 16*).

Content of speeches

Relevancy in debate

A Member may not digress from the subject matter of any question under discussion (S.O.81). For the application of the relevancy rule to debate on bills see pages 50 and 56.

The Chair, after having drawn attention to the conduct of a Member who persists in irrelevance or tedious repetition, may direct the Member to discontinue his or her speech. However, the Member has the right to require the question to be put that he or she 'be further heard'. No debate may occur on this question. (S.O.85)

Exceptions to relevancy rule

There are specific exceptions to the requirement for relevance. Members may use these opportunities for general debate to raise matters of their own choosing:

- debate on the Address in Reply (*see p. 16*);
- second reading debates on appropriation and supply bills for the service of the year (*see p. 68*);
- debate on the adjournment of the House (*see p. 91*)
- debate on the adjournment of the Main Committee on Thursdays (*see p. 92*);
- grievance debate (*see p. 91*).

Reference to other Members

A Member, when referring to another Member, should refer to the Member by the name of the electoral division which he or she represents, i.e. the Member for . . . (S.O.80). A Minister is usually referred to by his or her ministerial title, e.g. the Prime Minister, the Minister for Foreign Affairs; and an Opposition Leader or Deputy Leader by the title of his or her position.

Anticipation of discussion

A Member during debate may not anticipate the discussion of any subject which appears on the Notice Paper. In determining whether a discussion is out of order on this ground, the Speaker shall have regard to the probability of the matter anticipated being brought before the House within a reasonable time (S.O.82). In practice this rule is taken to apply only to the business section of the Notice Paper and not to matters listed elsewhere, for example, under questions on notice or as subjects of committee inquiry. The rule does not prevent incidental reference to other items of business.

Allusion to previous debate or proceedings

A Member may not allude to any debate or proceedings of the same session unless the allusion is relevant to the matter under discussion (S.O.71). This rule is not extended to the different stages of a bill.

Allusion to debate or proceedings in Senate

A Member may not allude to any debate or proceedings of the current session of the Senate, or to any measure pending in the Senate, unless the allusion is relevant to the matter under discussion. The exception is that a Member may refer to a ministerial statement made in the Senate (S.O.72).

Offensive or disorderly words

It is the duty of the Chair to intervene when offensive or disorderly words are used either by the Member addressing the House or any Member present (S.O.77). When attention is drawn by a Member to words used, the Chair determines whether or not they are offensive or disorderly (S.O.78). The Chair's judgment in such cases depends on the nature of the words and the context in which they have been used. Once the Chair determines that offensive or disorderly words have been used, the Chair asks that the words be withdrawn. It has been considered that a withdrawal implies an apology.

The Chair has ruled that any request for the withdrawal of a remark considered offensive must come from the Member reflected upon, if present, and that any request for a withdrawal must be made at the time the remark was made.

If a Member refuses to withdraw, the Chair may name the Member for disregarding the authority of the Chair.

Reflections on Members

Offensive words may not be used against any Member (S.O.75) and all imputations of improper motives and all personal reflections on Members are considered to be highly disorderly (S.O.76). It is not in order to use offensive words against another Member by means of a quotation or by putting words in someone else's mouth. Expressions which are considered unparliamentary when applied to individuals must not be applied to groups.

Members can only direct a charge against other Members or reflect upon their character or conduct by moving a substantive motion which may be voted on by the House. However, in expressing that charge or reflection a Member may not use unparliamentary words.

Other persons or bodies specifically protected

Members may not make references to the Queen, the Governor-General, or State Governors which are disrespectful or made for the purpose of influencing debate (S.O.74), or use offensive words against the House or the Senate, or any Member or Senator, or a member of the judiciary (S.O.75). The character or conduct of such persons can only be debated by way of a substantive motion which can be voted on by the House.

The standing orders and practice of the House do not prevent a Member from reflecting on a State Government or Member of a State Parliament, no matter how much such a reference may be deprecated by the Chair.

Reflections upon votes of House and statutes

Members may not reflect upon any vote of the House except on a motion that the vote be rescinded (S.O.73). In practice this rule is not interpreted in such a way as to prevent a reasonable expression of views on matters of public concern.

Members may not use offensive words against any statute unless for the purpose of moving for its repeal (S.O.75). In practice this provision is not enforced and criticism of any Act of Parliament is permitted.

Sub judice convention

The House traditionally imposes a restriction on its own proceedings to avoid prejudicing the course of justice. Briefly stated, the sub judice convention is that, subject to the right of the House to legislate on any matter, matters awaiting adjudication in a court of law should not be brought forward in debate, motions or questions. As a general rule, the restriction is imposed in relation to cases before the criminal courts from the time a person is charged until a sentence, if any, has been announced. In the case of civil matters the convention applies from the time they are set down for trial or otherwise brought before the court. Restrictions again apply if an appeal is lodged and remain until the appeal is decided. Depending on the circumstances, the convention may extend to royal commissions or other similar bodies, especially those concerned with the conduct of individuals.

The application of the sub judice convention is subject to the discretion of the Chair at all times. In exercising the discretion the Chair has regard to the likelihood of prejudice to court proceedings being caused as a result of comment in the House, as well as to the inherent right of the House to inquire into and debate any matter considered to be within the public interest.

Interruption and adjournment of debate

Interruption of Member speaking

A Member may not interrupt another Member who is speaking unless:

- to call attention to a point of order;
 - to raise a matter of privilege suddenly arising;
 - to call attention to the want of a quorum;
 - to call attention to the presence of strangers;
 - to move a closure motion, or
 - to move 'That the business of the day be called on' (in relation to a discussion of a matter of public importance).
- (S.O. 84).

Interjections

Members may not converse aloud or make any noise or disturbance to interrupt a Member who is speaking (S.O.55). However, the Chair does not necessarily intervene in the ordinary course of debate when interjections are made, unless they are frequent or such as to interrupt the flow of a Member's speech. The expressions 'Hear, hear' and the like are permitted to indicate

approval of speeches, provided they are not calculated to interrupt the Member speaking.

Closure of Member

Any Member may move that a Member who is speaking, except a Member giving a notice of motion or formally moving the terms of a motion allowed under the standing orders, 'be not further heard', and this question must be put and decided immediately without amendment or debate. If the motion is agreed to, the Member speaking must immediately resume his or her seat (S.O.94). The motion is not necessarily accepted by the Chair when a Member is taking or speaking to a point of order, or making a personal explanation, as both these matters are within the control of the Chair. The motion applies only to the speech currently in progress.

Closure of question

After a question has been proposed from the Chair, the closure motion 'That the question be now put' may be moved by any Member without notice at any time, whether any other Member is addressing the Chair or not. The question on the closure must be put and decided immediately without amendment or debate. If the closure is agreed to, the question before the Chair is put immediately without any further debate (S.O.93). If debate on an amendment is closed, debate then continues on the original question.

The closure motion cannot be moved before the question has been proposed by the Chair, that is, while a Member is moving or seconding a motion (apart from a motion of amendment, in which case the amendment is superseded and the closure applies to the original question).

The closure cannot be moved in respect of proceedings for which time has been allotted under the guillotine procedure (S.O.92).

Motion to call on business of the day

The motion 'That the business of the day be called on' is used to curtail or preclude a discussion on a matter of public importance, and can only be used in this context. This form of 'closure' is provided because there is no question before the Chair during an MPI. The motion is moved in a similar manner to the closure. If the motion is agreed to, the discussion of the MPI is immediately concluded and the House proceeds to the next item of business (S.O.107).

Adjournment of debate

A Member who has not spoken to a question, or who has the right of reply, may move 'That the debate be now adjourned' (S.O.87). This motion may only be moved by a Member given the call by the Chair, and must not be

moved while another Member is speaking. The motion may not be moved during the debate on the motion that the House do now adjourn (the adjournment debate).

Although the standing order states that if the adjournment motion is agreed to the Speaker shall then put a further question to fix the time for the resumption of the debate, in practice the Speaker combines the two questions in the form 'That the debate be adjourned and the resumption of debate be an order of the day for . . .' (a later hour this day, the next day of sitting, or, rarely, a specific day). The two questions are put separately when the adjournment motion is opposed or if there is disagreement over the time of resumption, and in this case the question on the time of resumption is open to relevant amendment and debate.

If the adjournment motion is negatived the mover may speak later in the debate (S.O. 89), and the Speaker may refuse to receive a further such motion if he or she considers that it has been moved for the purpose of obstructing business (S.O. 86). After an adjournment motion has been agreed to the Member who moved it is entitled to the first call on the resumption of the debate (S.O. 88).

Points of order

The purpose of a point of order is to draw the Chair's attention to a breach of the rules of the House, or to seek the Chair's guidance on a matter of procedure. The order and proceedings in the House or in the Main Committee may be questioned at any time by any Member and, until the question of order is decided by the Chair, the consideration of and decision on every other question is suspended (S.Os 98 and 99).

As a Member speaking may be interrupted only in a few circumstances (S.O. 84), the Member rising should indicate to the Chair at the outset that he or she is interrupting for the purpose of raising a point of order, for example, 'Mr/Madam Speaker, a point of order . . .'. The Member interrupted should immediately resume his or her seat.

During a division, when Members must remain seated while raising a point of order (S.O. 205), Members may adopt the traditional practice of covering their heads with a sheet of paper in order to attract the Chair's attention.

The attention of the Chair must be directed to an alleged breach of order at the time that it occurs. It is not acceptable to raise points of order concerning proceedings earlier in the day or the previous day.

Members misusing the right to raise a point of order to make a debating point are abusing the forms of the House. If Members persist in making spurious points of order they may be disciplined by the Chair.

Ruling

When a question of order is raised, the Chair must give a ruling on it (S.Os 99 and 206). It is for the Chair to decide whether and to what extent a point of order may be discussed. On occasions a discussion may be helpful but discussion is not permissible when the Chair is prepared to rule on a point.

Dissent from ruling

If any objection is taken to the ruling of the Speaker or the Chair, it must be taken at once by way of a motion of dissent, submitted in writing. The motion must be seconded, after which it is proposed and debated immediately (S.O. 100).

Dissent can only be moved in respect of a ruling. Decisions on matters which are at the Speaker's discretion are not rulings and cannot be dissented from. These include the allocation of the call of the Chair to speak, the Speaker's selection of a matter of public importance for discussion, or his or her opinion on whether a prima facie case has been established on a matter of privilege.

7. DISORDER

Order to withdraw from the Chamber

If the Speaker considers a Member's conduct to be disorderly he or she may order the Member to withdraw from the Chamber for one hour (S.O.304A). This action is taken as an alternative to naming the Member—the decision as to whether a naming or an order to withdraw is more appropriate is a matter for the Speaker's discretion. The order to withdraw is not open to debate or dissent. When so ordered, a Member failing to leave the Chamber immediately may be named.

Naming and suspension

A Member may be named if he or she has:

- persistently and wilfully obstructed the business of the House;
- been guilty of disorderly conduct;
- used objectionable words, and refused to withdraw them;
- persistently and wilfully refused to conform to any standing order; or
- persistently and wilfully disregarded the authority of the Chair (S.O.303).

When the Speaker names a Member in accordance with this standing order, he or she uses the words 'I name the Member for (name of electorate)'. The naming of a Member usually occurs immediately an offence has been committed but this is not always possible. If the offence is committed while a vote of the House is being taken, the Member may be named after the vote has been completed.

When a Member has been named the motion may be moved 'That the Member be suspended from the service of the House'. The question on the motion must be put immediately, without amendment, adjournment or debate (S.O.304). The motion would normally be moved by the Leader of the House or another Minister. The motion for suspension is not necessarily moved—for example, a naming may be withdrawn or not proceeded with after other Members have addressed the Chair on the matter and the offending Member has apologised.

On the motion being agreed to, the Member concerned must leave the Chamber immediately. A Member suspended from the service of the House is excluded from the Chamber, all its galleries and any room where the Main Committee is meeting (S.O.307). This exclusion is viewed as preventing participation in Chamber related activities, and petitions, notices of motion, notices of questions and proposals for matters of public importance are not accepted from a Member under suspension. A suspended Member is not otherwise affected in the performance of his or her duties and is not prevented

from serving on a committee. The same restrictions apply to Members required to withdraw from the Chamber for one hour pursuant to S.O. 304A.

A suspension on the first occasion is for 24 hours; on the second occasion in the same calendar year, three consecutive sittings excluding the day of suspension; and on the third or any subsequent occasions in the same calendar year, seven consecutive sittings excluding the day of suspension. Any suspension in a previous session or any order to withdraw pursuant to S.O. 304A is disregarded (S.O. 305).

Gross disorder by a Member needing urgent action

If the conduct of a Member is so disorderly that the procedure provided in standing order 304 is inadequate to ensure ‘the urgent protection of the dignity of the House’, the Speaker may order the Member to withdraw from the Chamber immediately and the Serjeant-at-Arms shall act on such orders as he or she receives (for example, to escort the Member out). After the Member has left the Chamber he or she is immediately named, and the question for suspension is put by the Chair without a motion being necessary (S.O. 306).

Suspension of sitting or adjournment because of grave disorder

In case of grave disorder arising in the House, the Speaker may suspend the sitting for a time to be specified, or adjourn the House without any question being put (S.O. 308).

Disorder in the Main Committee

If sudden disorder arises in the Main Committee, the Chair may, and on motion by any Member is obliged to, immediately suspend the proceedings and report the circumstances to the Speaker in the House (S.O. 282), where the Member causing the disorder may then be named.

Disturbances by strangers

The Serjeant-at-Arms is responsible for removing any ‘stranger’ (a person who is not a Member or an official) who causes a disturbance in any part of the Chamber or the room in which the Main Committee is meeting or any gallery of those places, or who does not leave when strangers are directed to withdraw (S.O. 310).

Member ordered to attend House

A Member who wilfully disobeys any order of the House may be ordered without notice to attend to answer for his or her conduct (S.O. 309).

8. MOTIONS

A motion is a formal proposal made to the House that it take action of some kind, for example, that the House do something, order something to be done or express a particular opinion. The moving of and voting on a motion is the basic building block of parliamentary procedure. Decisions the House makes are made by it agreeing to a motion, including decisions on the management of its own affairs. The passage of legislation, which takes up the largest part of the time of the House, is based on the House agreeing to a series of motions (for example, ‘That the bill be now read a second time’). The proceedings of the House are controlled by machinery or procedural motions (for example, ‘That the debate be adjourned’).

Motions may be classified as substantive motions—self-contained items of business for consideration and decision—or as subsidiary motions—amendments to motions and ancillary or procedural motions.

In summary, the steps in the processing of a motion by the House are:

- a Member gives notice (if necessary)
- the Member moves the motion
- another Member seconds the motion (if necessary)
- the Chair proposes the question
- Members debate the question
- [Members may move amendments, which are debated and voted on]
- the Chair puts the question [as amended]
- the House makes its decision.

When a motion is agreed to, it becomes an order or resolution of the House.

Notice

Notice—that is, advice in advance of what is to be considered—is necessary to avoid decisions being taken without the prior knowledge of Members. A Member may not, except by leave of the House, or unless it is otherwise provided by the standing orders, move any motion unless notice of the motion has first appeared on the Notice Paper (S.O.154). Generally speaking, substantive motions require notice. Procedural motions are usually moved without notice, cannot be amended or debated, and must be voted on immediately.

A notice of motion states the full terms of the motion proposed to be moved. A notice of intention to present a bill specifies the title of the bill (*see p. 52*). The following procedures apply to both.

Giving notice

Notice is given by a copy of the terms of the notice being delivered to the Clerk at the Table during a sitting of the House. Members may hand notices directly to the Clerk, or take them to the Table Office, from where they are forwarded to the Chamber at the earliest opportunity. A Member who prefers to give notice orally may do so by stating its terms to the House during the period reserved for Members' statements, and then handing a copy to the Clerk (S.O.133). Pre-printed notice forms are available on the Table in the Chamber and from House officers.

A notice must be signed by the mover and a seconder. In practice a seconder is not required for notices given by Ministers, as they are assumed to have the backing of the Government. A notice must also show the day proposed for moving the motion (S.O.133). Almost invariably notices are given for 'the next sitting'.

Member absent

If a Member is absent, another Member, at his or her request, may give a notice of motion for the absent Member. The Member giving the notice on another Member's behalf must put his or her own signature and the name of the absent Member on the notice (S.O.134). Notices are not received from a Member suspended from the service of the House.

Notice disallowed

The Speaker may disallow notices which are too lengthy or which do not contain a proposition but give information.

Any motion which is the same in substance as any question which, during the same session, has been resolved in the affirmative or negative, may, at the Speaker's discretion, be disallowed (S.O.169).

A matter on the Notice Paper must not be anticipated by another matter contained in a less effective form of proceeding (S.O.163). Hence, a matter already appointed for consideration by the House, for example, a bill or other order of the day, cannot be anticipated by a notice. One notice cannot block another as, at that stage, they are equally effective forms.

Rules applying to the content of debate also apply to notices and motions, for example, a motion should not contain offensive words (*see p. 31*) or relate to matters which are sub judice (*see p. 32*).

Changes to notices

By notifying the Clerk in writing, a Member may change the day proposed for moving a motion (S.O.138). Similarly, a Member may alter the terms of a notice of motion by notifying the Clerk in writing within such time as will enable the alteration to be made in the Notice Paper (S.O.139). An amended notice must not exceed the scope of the original notice. A Member may also withdraw a notice by notifying the Clerk in writing (S.O.140).

Notices received by the Clerk are entered on the next issue of the Notice Paper and are not effective until they appear on the Notice Paper (S.O. 141).

Moving the motion

Notices are dealt with in the order they appear on the Notice Paper (S.O. 155, *see p. 19*). Any motion before the House must be voted on, or debate on the motion adjourned, before another (substantive) motion can be moved. A Member may move a motion only after notice of the motion has appeared on the Notice Paper, unless he or she does so by leave of the House or as otherwise provided in the standing orders (S.O. 154). A Member cannot move a motion on behalf of another Member, except that a motion standing in the name of a Minister may be moved by any other Minister (or Parliamentary Secretary).

Interruptions

While a Member is formally moving the terms of a motion allowed under the standing orders, the motion ‘That the Member be not further heard’ may not be moved (S.O. 94) but such a motion may be moved after the Member has formally moved the motion and is speaking to it. The motion ‘That the question be now put’ may not be moved until after the question has been proposed from the Chair, that is, not until after the motion has been moved and, where necessary, seconded (S.O. 93).

Seconding

After the Member moving the motion has finished speaking the Chair calls for a seconder. The seconder need not be the Member who signed the notice of motion as seconder. The seconder only has to say that he or she seconds the motion—he or she does not have to speak to it. If not wishing to speak immediately the seconder may state that he or she reserves the right to speak later in the debate (S.O. 70). Motions which are not seconded (when seconding is necessary) are dropped—that is, consideration ceases and the moving of the motion is not recorded in the Votes and Proceedings (S.O. 160).

Technically, all motions not specifically exempted by the standing orders are required to be seconded, but this rule is not enforced in the case of motions moved by Ministers, as they are understood to be backed by the Government, or in respect of most procedural motions. Seconders are specifically required for motions of dissent to a ruling of the Speaker (S.O. 100) and motions without notice to suspend standing orders (S.O. 399).

The Chief Government Whip is empowered by a resolution of the House to move motions relating to the conduct of business and sitting arrangements of the House and the Main Committee without the need for a seconder.

Question proposed by the Chair—debate

Once a motion has been moved and, if necessary, seconded, the Chair proposes the question—i.e. places the motion before the House for debate (S.O.161). The ‘question’ is the matter before the House for decision; only one question can be considered by the House at a time. When the question is first proposed to the House by the Chair it is the same as the motion moved. In putting the question, instead of reading the motion out in full, the Chair usually announces ‘The question is that the motion be agreed to’.

Unless the motion is one on which, under the standing orders, no debate is allowed (*see p. 24*), it is then in order for any Member to speak to the motion or move an amendment.

The various procedural motions that can be used to adjourn or limit debate are outlined at page 32.

Withdrawal of question

Once proposed from the Chair, the question is deemed to be in possession of the House and cannot be withdrawn without leave (S.O. 162).

End of debate—question put

Debate finishes when:

- the mover of the motion has spoken in reply to matters raised in debate;
- no further Member rises to speak;
- the House agrees to a motion that ‘the question be now put’ (the ‘gag’); or
- the time allotted by the standing orders (or by any ‘guillotine’) expires.

After the debate has concluded the Chair puts the question to the House for decision (S.O.165). The question at this stage may be different from the original motion, depending on whether amendments have been agreed to (S.Os 186, 187). Again, instead of reading out the motion (or the motion as amended) in full the Chair usually states ‘The question is that the motion be agreed to’, or ‘The question is that the motion as amended be agreed to’.

A question once put is immediately voted on—*see p. 46*.

Amendments

An amendment is an alteration proposed or made to a motion or a bill. An amendment starts in the form of a subsidiary motion proposing to alter the wording of the motion or bill under consideration..

An amendment must be worded as a proposal to (a) omit certain words, (b) omit certain words in order to insert or add other words, or (c) insert or add words (S.O.171). It is permissible, by way of amendment, to move to leave out all the words of a motion except the initial word ‘That’ and substitute other

words relevant to the motion. The Clerks are able to assist Members in the drafting of amendments.

Relevance

Every amendment must be relevant to the question which it is proposed to amend (S.O. 173), except that irrelevant amendments may be moved to the second reading of the main appropriation and supply bills (*see p. 69*) and to the grievance debate question (*see p. 91*).

Disallowed amendments

The following types of amendment are out of order:

- an amendment which is inconsistent with a previous decision on the question (S.O. 179);
- an amendment moved to any part of a question after a later part has been amended (S.O. 180);
- an amendment moved to any words which the House has resolved shall stand part of a question, or which have been inserted in, or added to, a question, except when the amendment is for the addition of other words (S.O. 181);
- an amendment which, if carried, would make the motion to which it is moved unintelligible;
- an amendment which is merely a direct negative (for example the insertion of the word 'not' into a proposition).

Rules applying to the content of notices and motions (*see p. 39*) also apply to amendments. Matters which should be raised only by means of a substantive motion (*see p. 31*) may not be raised by way of an amendment.

Circulation of amendment

While the standing orders do not require notice of an amendment, Members desiring to move amendments to bills or to motions should ensure that they are submitted to one of the Clerks in sufficient time to enable them to be checked for compliance with the standing orders and for a stock to be reproduced for circulation in the House or Main Committee at the appropriate time.

A Member proposing to move an amendment may determine the time at which he or she would wish copies of the amendment to be circulated. However, as a working rule, it is desirable for amendments (especially those relating to the text of bills) to be circulated as early as possible so as to enable other Members to study the effect of each amendment before it is put before the House or Main Committee for debate and decision.

Moving and seconding

An amendment may be moved only while the item to be amended is before the House—that is, after it has been moved and, if necessary, seconded, and after the question has been proposed from the Chair. An amendment proposed must be disposed of before another amendment to the original question can be moved (S.O. 182).

The amendment must be submitted to the Chair in writing and be signed by the mover and by the seconder, if a seconder is required (S.O.172). A seconder is not required when an amendment is moved by a Minister, or for amendments moved during consideration in detail of a bill or consideration of Senate amendments to a bill (S.O.232). An amendment moved but not seconded (when seconding is necessary) is dropped—that is, consideration ceases and the moving of the amendment is not recorded in the Votes and Proceedings (S.O 174).

It is common practice during the consideration in detail stage of bills for leave to be granted for amendments (from the same Member) to be moved together.

Withdrawal of amendment

After an amendment has been proposed by the Chair it may be withdrawn, by leave (S.O. 183).

Amendments to amendments

An amendment can be made to a proposed amendment. When an amendment is moved to a proposed amendment, the proposed amendment is treated as an original question (S.O. 184).

An amendment may be moved to words proposed to be inserted or added. When it is moved to omit words in the main question in order to insert or add others, no amendment to the words proposed to be inserted or added can be received until the question that the words proposed to be omitted stand part of the main question has been negatived (S.O. 185).

Question on amendment

When the proposed amendment is to omit certain words, the Chair puts the question in the following manner, ‘That the words proposed to be omitted stand part of the question’ (S.O. 175).

When the proposed amendment is to omit certain words in order to insert or add other words, the Chair puts the question, ‘That the words proposed to be omitted stand part of the question’. If this question is negatived, a second question is put, that the words of the amendment be inserted or added instead of the words which are omitted (S.O. 176).

When the proposed amendment is to insert or add certain words, the Chair puts the question, that the words be inserted or added (S.O. 177).

If it is convenient and if no Member objects, the Chair may put the question on an amendment in the form 'That the amendment be agreed to' (S.O. 178). This is a common practice other than in the case of an amendment to the motion for the second reading of a bill (*see p. 58*).

Debate

A Member who has already spoken before the moving of an amendment can speak again to the amendment. Other Members speaking after the moving of the amendment are deemed to be speaking both to the original question and to the amendment and cannot speak again.

Amendments to bills

Amendments moved at the second and third readings and detail stages of bills are covered at pages 57 and 60.

Special types of motion

Motion to suspend standing orders

Motions to suspend standing orders are covered at page 1.

Condolence motion

By practice of the House a motion of condolence is moved without notice. It is usually moved by the Prime Minister and seconded by the Leader of the Opposition. Condolence motions are normally given precedence over other business (S.O. 157), although recent practice has been for them to be moved at 2 p.m. (i.e. immediately prior to question time) rather than at the beginning of the day. Time limits do not apply, although individual speeches are usually quite brief. Debate may be interrupted and resumed at a later hour the same day. At the conclusion of the speeches the Speaker puts the question and asks Members to signify their approval of the motion by rising in their places for a short period of silence. Depending on the circumstances, a condolence motion has on occasion been followed by a suspension of the sitting to a later hour or by an adjournment to the next sitting. However, this is no longer the usual practice.

Vote of thanks

As with motions of condolence, precedence is normally given to a motion or vote of thanks of the House (S.O. 157). Although formal votes of thanks are not common, motions containing sentiments of congratulation, appreciation or

gratitude, have in practice received similar precedence. Such motions have for the most part been moved by leave, although they have also been moved following the suspension of standing orders.

Censure or want of confidence motion

A motion of which notice has been given, or an amendment, which expresses a censure of or want of confidence in the Government, and is accepted by a Minister as a censure or want of confidence motion or amendment, takes precedence over all other business until disposed of (S.O. 110).

Acceptance of the motion or amendment by a Minister in the terms of standing order 110 is notified either formally in the House or to the Clerk of the House. Such a motion attracts extended speaking times for those participating in the debate.

If such a motion is not accepted by a Minister in the terms of standing order 110, it does not have precedence and is listed on the Notice Paper under Private Members' business. Speaking times are the same as for a normal motion.

Likewise, a motion of censure of a Minister is, at least in theory, treated in the same way as any other private Member's motion, including the speech times applicable to an ordinary motion. However, after a notice of such a motion has been given, standing orders may be suspended to enable the motion to be moved forthwith. It is common for Members, instead of lodging notices of such motions, to move to suspend standing orders to enable them to be moved immediately, or for the substantive motion to be moved by leave.

Motion to discuss 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 form a motion in express terms. The motion moved is 'That the . . . be considered by the House'. The Minister may move a motion allotting time to the debate and may withdraw the motion at the end of the allotted time (S.O. 108). In practice this procedure is rarely used.

9. DIVISIONS

Decision on the voices

After putting the question, the Chair asks those supporting the motion to say ‘aye’ and those against it to say ‘no’. The Chair then announces whether, in his or her opinion, the majority of the voices are for the ‘Ayes’ or ‘Noes’, by saying ‘I think the “Ayes” have it’ or ‘I think the “Noes” have it’. If no Member challenges the Chair’s opinion the matter is decided there and then. Most decisions are made in this manner.

If more than one Member challenges the Chair’s opinion of the vote on the voices in the House the question has to be decided by a formal vote. A formal vote is taken by division—that is, by Members physically dividing themselves into two groups, for and against the question (S.O. 192).

Decision in the Main Committee

Decisions in the Main Committee can only be made on the voices. If agreement cannot be reached the matter for decision becomes an ‘unresolved question’ which is reported back to the House for resolution there (S.O. 276).

Only one Member calling for a division

If only one Member calls for a division the Member may have his or her dissent recorded in the Votes and Proceedings and in the Hansard record, but no vote is held (S.O. 193).

Bells

When a division is called for, the Chair instructs the Clerk ‘to ring the bells’ to summon Members to the Chamber (S.O. 199). The Clerk activates the bells for four minutes, using a sand-glass to measure the time. The bells sound throughout Parliament House, accompanied by flashing green lights to indicate the House of Representatives (red lights indicate the Senate). In the case of successive divisions (*see p. 48*) the Chair orders the bells to be rung for one minute only (S.O. 203A).

The Chair of the Main Committee is informed by an indicator light when a division has been called in the House, and immediately suspends the Committee’s proceedings to enable Members to attend the division (S.O. 274).

Doors locked

When the bells stop ringing the Chair orders the doors of the Chamber to be locked and again states the question, directing the ‘Ayes’ to pass to the right of the Chair and the ‘Noes’ to pass to the left. If they have not done so already, Members take seats on the relevant side of the Chamber. After the doors have been locked no Member may enter or leave the Chamber until the division is concluded (S.O.200). Members must vote in the division according to their vote on the voices (S.O.194). Members who called for the division must remain and vote with those who were declared by the Chair to be in the minority when the voices were taken (S.O.195).

Four or fewer Members on a side

If there are four or fewer Members on a side at the time the doors are locked, the Chair declares the result of the division immediately and no count is made. The names of the Members in the minority are recorded in the Votes and Proceedings (S.O.204).

Appointment of tellers

When Members have taken their places, the Chair appoints Members as tellers on each side to record the names of the Members voting (S.O.201). Tellers are usually, but not necessarily, selected from the whips, or deputy or assistant whips. The number of tellers is at the Chair’s discretion; recent practice has generally been to appoint two on each side. Should the tellers on one side refuse to act, the division is not proceeded with and the Chair declares the question resolved as appropriate—that is, in the negative if the ‘Ayes’ refuse to act, in the affirmative in the case of the ‘Noes’.

Voting

Voting commences on the appointment of the tellers, and no Member may then move from his or her seat until the result of the division has been announced. The tellers count the Members within the area of the seats allotted to Members (S.O.203). All Members within that area must vote (S.O.202).

The tellers, operating in pairs (a teller for the ‘Ayes’ with a teller for the ‘Noes’), carry out the count by marking off Members’ names on printed division lists. At the same time the Clerk and Deputy Clerk also perform a count. When all counts are in agreement the tellers sign the lists (the tellers for the ‘Ayes’ signing the ‘Ayes’ list and the tellers for the ‘Noes’ the ‘Noes’ list) and hand the results to the Clerk, who passes them to the Chair to declare the result. The Chair announces the number of votes on each side and whether the question has been resolved in the affirmative or negated (S.O.203). The

House then carries on with the next stage of the business being considered, or the next item of business.

The division lists are published in the Votes and Proceedings (S.O.207). The Speaker may have the record corrected if the division has been inaccurately reported (S.O.209).

Successive divisions

When successive divisions are taken, and there is no intervening debate after the first division, the Chair orders the bells to be rung for one minute only (S.O.203A).

With successive divisions Members' 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 now wish not to vote or to vote differently, as well as to Members who did not vote in the preceding division and who now wish to vote. Members who intend to vote the same way as they did previously must remain in their seats 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 numbers (S.O.203B).

Repeated division

In the case of confusion or error which cannot be corrected, the division is repeated (S.O.208).

Casting vote of Chair

The Speaker cannot vote in a division unless the numbers are equal and then he or she has a casting vote (section 40 of the Constitution). If the Speaker gives reasons for the way in which his or her vote has been cast, the reasons are recorded in the Votes and Proceedings (S.O.210).

The provision for a casting vote also applies to Members deputising for or acting in the position of Speaker (i.e. Deputy Speaker or Second Deputy Speaker, or another Member as Acting Speaker), but it does not apply to members of the Speaker's panel in the Chair unless specifically appointed by resolution of the House as Acting Speaker.

Deferred divisions

On Mondays, any division called for in the House on a question, other than a motion moved by a Minister, in the period prior to questions without notice

being called on or during presentation of petitions or private Members' business, is deferred until the grievance debate has concluded or been postponed (S.O. 193).

'Pairs'

A Member cannot vote by proxy, but if he or she is to be absent, may arrange a 'pair' with a Member of the opposite party, in which case neither Member votes. Although now recorded in the Votes and Proceedings, 'pairs' are a matter of private arrangement (made in consultation with the whips) and are not recognised by the standing orders.

10. BILLS—GENERAL

A new Commonwealth law can only be made, or an existing one changed or removed, by or under the authority of the Federal Parliament—that is, by or in accordance with an Act of Parliament.

A bill is a proposal for a new law or for a change to one or more existing laws. To become law a bill must be passed in identical form by both Houses of the Parliament and be assented to by the Governor-General. On assent a bill becomes an Act of Parliament.

Bills may be initiated in either House. However, because of the constitutional requirement that certain types of financial legislation shall not originate in the Senate, and because most Ministers are members of the House of Representatives, the majority of bills originate in the House of Representatives.

Although most bills are government bills, introduced by Ministers, any Member of the House may introduce a bill.

Form of a bill—procedurally relevant aspects

A bill is in effect a draft Act, and the content of a bill is prepared in the exact form of the Act it is intended to become. The body of a bill consists of a series of numbered *clauses*. When the bill is enacted, the clauses of the bill become the *sections* of the Act. Clauses may be divided into subclauses, paragraphs and subparagraphs. Large bills may be divided into Parts, Divisions and Subdivisions.

A *schedule* is an attachment or appendix to a bill (or Act). It is given legislative effect by an ‘activating clause’ in the body of the bill. The usual form of an amending bill (a bill to amend an existing Act or Acts) is for the amendments to be listed as numbered items in one or more schedules to the bill.

A bill’s *explanatory memorandum* is a separate document outlining the intention of a bill and summarising its provisions.

The title by which a bill is generally known (for example, ‘Trade Practices Bill 1999’) is referred to as its *short title*. Every bill also has at its head a *long title* which sets out in brief terms the purposes of the bill or may provide a short description of the scope of a bill. The words commencing the long title are usually either ‘A Bill for an Act to . . .’ or ‘A Bill for an Act relating to . . .’. A procedural reference to the ‘title’ of a bill, without being qualified, may be taken to mean the long title.

The long title of a bill is procedurally significant. The long title of the bill to be introduced must agree with the title used in the notice of intention to present it, and no clause may be included in the bill which does not come

within the scope of the long title (S.O.213). A long title which is specific and limited in scope is known as ‘restricted’, and one which is wide in scope as ‘unrestricted’. This distinction has significance to the nature of amendments which can be moved (*see pp. 57 and 60*) and in relation to relevance in debate (*see p.56*).

Printing and availability of bills.

As soon as a bill has been presented to the House copies are circulated to Members in the Chamber, along with copies of the explanatory memorandum. Additional copies are available to Members from the Table Office and Sub-Table Office. A bill is treated as confidential by the officers of the House until it is presented, and no distribution is made until that time.

If a bill is amended at the detail stage it is reprinted incorporating the amendments before it is transmitted to the Senate. This is known as a ‘third reading print’.

Copies of bills and explanatory memorandums may be purchased from Government Info Shops. They are also available in electronic form via the Parliament’s Internet site at <http://www.aph.gov.au/legis.htm>.

The Table Office issues the Daily Bills List, which lists bills currently before the Parliament and the stage reached by each bill. This publication is also available via the Internet.

Presentation of bills for assent

When a bill has passed both Houses, special assent copies of the bill are printed, incorporating any amendments not yet included, and it is presented by the originating House to the Governor-General for assent.

Under section 58 of the Constitution the Governor-General may assent to the bill, withhold assent, reserve the bill ‘for the Queen’s pleasure’, or recommend amendments to the bill.

Before assenting, the Governor-General formally receives written advice from the Attorney-General as to whether there are any amendments that the Governor-General should recommend, and as to whether the Governor-General should, in the Attorney-General’s opinion, reserve the bill for the Queen’s pleasure. This advice, known as the ‘Attorney-General’s Certificate’, is prepared by the Office of Parliamentary Counsel.

It is very rare for amendments to be recommended by the Governor-General. Generally, they would be of a formal nature or for the purpose of correcting a mistake or omission. There is nowadays no constitutional or legal requirement to reserve bills for the Queen’s assent.

11. ORDINARY BILL PROCEDURE

The procedures described here are those applying to ‘ordinary’ government bills originating in the House. Additional or special procedures apply to:

- appropriation and supply bills (*see p. 66*);
- bills containing special appropriations (*see p. 71*);
- bills imposing a tax or charge (*see p. 72*);
- bills to alter the Constitution (*see p. 65*);
- bills received from the Senate (*see p. 64*).
- bills introduced by private Members (*see p. 64*).

Stages of bills—summary

Procedures for the passage of bills provide for the following stages:

- Initiation (S.Os 211–214).
- First reading (S.Os 215–216).
- Possible referral to a committee for advisory report or to the Main Committee for second reading and consideration in detail stages (S.Os 217A–217B).
- Second reading (S.Os 217–220).
- Proceedings following second reading (including possible reference to a select committee) (S.O. 221).
- Consideration in detail (S.Os 222–233).
- Report from Main Committee and adoption (for bills referred to Main Committee) (S.O. 234–236A).
- Reconsideration (possible) (S.O. 236B).
- Third reading (S.Os 237–242).
- Transmission to the Senate for concurrence (S.O. 243).
- Transmission or return of bill from the Senate with or without amendment or request (S.Os 244–251, 254–262).
- Presentation for assent (S.Os 265–269).

Initiation and first reading

Most bills are initiated by the calling on of a notice of intention to present the bill (S.O. 211). The notice follows a standard form—for example, ‘I give notice of my intention, at the next sitting, to present a Bill for an Act [remainder of long title of bill, for example, ‘relating to certain Trade Practices’]’.

The bill is introduced when the Clerk calls on the relevant notice—for example, announcing ‘Notice No. 1, Trade Practices Bill 1999’—upon which the Minister responsible for the bill rises, and says ‘I present the Trade Practices Bill 1999’. The Minister then hands a signed copy to the Clerk who,

without any question being put, formally reads the bill a first time by reading out its long title. No debate occurs at this stage (S.Os 215–216). (However, Members introducing private members' bills are permitted to speak for five minutes at the time of presentation—*see p. 64.*)

On occasions, leave may be granted for a Minister to present a bill without notice. Notice is not required for an appropriation or supply bill or a proposal or bill dealing with taxation (S.O. 291).

The standing orders also provide for introduction by an order of the House, or by a motion for leave to bring in the bill (S.O. 211); however, these procedures are no longer used.

In the majority of cases the Minister presenting a bill moves the second reading (*see p. 55*) immediately the bill has been read a first time. Copies of the bill must be available for circulation for this to happen.

Referral to Main Committee or standing committee

At least seven days after the first reading and before the debate on the motion for the second reading is resumed, a motion may be moved without notice 'That this bill be referred to the Main Committee for the remainder of the second reading and consideration in detail stages' or 'That the bill be referred to the [*committee*] for consideration and an advisory report' (S.O. 217A). In the case of government bills a Minister may present a list of bills proposed to be referred and (if seven days have elapsed since the first readings of all the bills on the list) move a single motion, without notice, that the bills be referred in accordance with the list.

In practice bills are often referred by motion moved by leave of the House or by motion on notice, without reference to the seven day waiting period.

Although referral usually takes place some time after the automatic adjournment of the second reading debate (i.e. after the Minister's second reading speech), referral is possible before the second reading stage when the moving of the second reading does not occur immediately after the first reading.

Proceedings in the Main Committee

The Main Committee is an alternative venue rather than an additional process. Proceedings in the Main Committee in respect of legislation are substantially the same as they are for the same stage in the House (S.O. 280).

Although bills are referred for the 'remainder of the second reading and consideration in detail stages', the complete second reading stage, including the Minister's speech, occurs in the Main Committee in the case of bills referred before the moving of the second reading (usually Senate bills).

Unresolved questions

The most significant difference from procedure in the House is the provision for the ‘unresolved question’. Divisions cannot occur in the Main Committee and if a question cannot be decided on the voices it is reported to the House for later resolution there (S.O.276). An unresolved question arises when any Member dissents from the result announced from the Chair.

Proceedings on a bill may be continued regardless of unresolved questions unless agreement to an unresolved question is necessary to enable further questions to be considered, in which case the bill is returned to the House (S.O.277). An unresolved question on a second reading amendment or on the second reading returns the bill to the House.

Bill reported or returned to House

At the conclusion of the bill’s consideration in detail the question is put, forthwith and without debate, ‘That this bill be reported to the House, without amendment’ or ‘with (an) amendment(s)’ (‘and with (an) unresolved question (s)’), as appropriate (S.O.234). If the Committee does not desire to consider the bill in detail it may grant leave for the question ‘That this bill be reported to the House without amendment’ to be moved forthwith, immediately following the second reading (S.O.222(c)).

A bill may be returned to the House at any time during its consideration by the Main Committee by any Member moving, without notice or the need for a seconder, ‘That further proceedings be conducted in the House’. This motion cannot be amended or debated and, because of the unresolved question procedure, is successful even if opposed (S.O.270). A bill may also be recalled to the House at any time by motion moved in the House.

Advisory report by standing committee

Bills may be referred to the standing committee, or to the committee formed of House of Representatives members of a joint standing committee (S.O.361), most appropriate to the subject area of the bill. The participation of Members who are interested in the bill but not on the committee is facilitated by the provision that, for the purpose of consideration of bills referred for advisory reports, one or more members of the committee may be replaced by other Members by motion on notice (S.O.333). In addition the normal provision for the possible appointment of up to two supplementary members to a standing committee for a particular inquiry also applies (S.O.324(c)). The motion of referral may specify a date by which the committee is to report to the House. Standing orders have been suspended to enable a private Member’s bill to be referred to a standing committee for an advisory report, or for bills to be referred to joint committees.

Committee proceedings on a bill are similar to proceedings on other committee inquiries, and the committee may invite submissions and hold public hearings before reporting its recommendations to the House. The report

is presented and statements made by committee members in the same manner as other committee reports (*see p. 102*). However, motions to take note of the report are not moved, as opportunity for debate will occur during subsequent consideration of the bill if it is proceeded with.

After the committee has presented its report, and if the bill is to be proceeded with, the (remainder of the) second reading and the consideration in detail stages follow in the House, or the bill may be referred for these stages to the Main Committee. The Government's response to an advisory report is usually given by the Minister in speaking to the bill. If the Government accepts changes to the bill recommended by the report, these are incorporated into government amendments moved during the consideration in detail stage.

The standing order establishing the general purpose standing committees provides for the referral, by the House or a Minister, of any matter, including a pre-legislation proposal or bill, for standing committee consideration (S.O.324(b)). Occasionally a bill may be referred to a committee by a Minister directly, prior to or even after its introduction to the House, rather than through the advisory report reference mechanism. Reference of a bill to a select committee following the second reading is also possible, but this does not happen in practice (*see p. 59*).

Second reading

Moving and second reading speech

Normally, with copies of the bill available for circulation to Members, immediately after presentation and first reading the Minister moves the second reading, saying 'I move that this bill be now read a second time'. Speaking to this motion the Minister delivers his or her second reading speech and presents the bill's explanatory memorandum. The Minister's speaking time is limited to 30 minutes. The second reading speech is the main speech on the bill and explains the purpose and general principles and effect of the bill. This speech plays an important role in the legislative process and its contents may be taken into account by the courts in the interpretation of an Act. Ministers are expected to deliver a second reading speech even if the speech has already been made in the Senate.

At the conclusion of this speech the debate is automatically adjourned to a future day (S.O.217). Usually an opposition Member formally moves 'That the debate be adjourned' (thereby reserving the right to speak first when the debate is resumed). The further question is then put from the Chair 'That the resumption of the debate be made an order of the day for the next sitting'. On occasion leave may be granted or standing orders suspended to allow the debate to continue directly after the Minister's speech, or at a later hour the same day.

If copies of the bill are not available at the time of presentation the second reading cannot be moved immediately, and, on motion by the Minister, the second reading becomes an order of the day for the next sitting (S.O.217). However, leave of the House may be sought or a motion to suspend standing orders moved in order to permit the Minister to move the second reading immediately.

After the first reading of a Senate bill the usual practice is for the Minister in charge to move that the second reading be made an order of the day for the next sitting instead of moving the second reading immediately.

In the case of an order of the day for the *moving* of the second reading, the Minister makes the second reading speech and the debate may be adjourned as described above. However, debate may also proceed forthwith, as the adjournment provisions of standing order 217 do not apply.

Resumption of debate on second reading

Orders of the day for the next sitting are not necessarily called on at the next sitting, as the standing orders allow the order of business under ‘Government Business’ on the Notice Paper to be determined by the Government (usually after liaison with the Opposition). Debate may not be resumed for some time, depending on the Government’s legislative program, and during this time public and Members’ attitudes to the proposal may be formulated.

When the order of the day for the resumption of debate on the second reading is called on, the Member who had earlier moved the adjournment of debate is entitled to the first call to speak. However, usually it is the opposition spokesperson on the bill’s subject matter who resumes the debate. The main opposition speaker (who is usually, but not necessarily, the first opposition speaker) may speak for up to 30 minutes. Other speakers in the debate are limited to 20 minutes each.

The debate may conclude after the first resumption, or may be further adjourned and resumed as many times as is necessary, depending on the nature of the bill, the number of Members wishing to speak and the time available on each occasion.

Nature of debate—relevance

The second reading debate is primarily an opportunity to consider the principles of the bill and should not extend in detail to matters which can be discussed at the consideration in detail stage. However, it is the practice of the House to permit reference to amendments proposed to be moved at the consideration in detail stage. Debate should be relevant to the bill, although it is not strictly limited to the contents of the bill. What may or may not be relevant is affected by the long title of the bill—for example ‘A Bill for an Act to amend section 10 of the Airports Act’ (restricted title) would allow less

latitude than 'A Bill for an Act about airports' (unrestricted title). Debate may include reasonable reference to:

- the necessity for the proposals;
- alternative means of achieving the bill's objectives;
- the recommendation of objectives of the same or similar nature; and
- reasons why the bill's progress should be supported or opposed.

Second reading amendment

An amendment to the question 'That this bill be now read a second time' may be moved by any Member (but generally would be moved by an opposition Member). Such amendments should be relevant to the bill, and should not anticipate an amendment which may be moved at the detail stage nor propose the addition of words to the question (S.O.220).

Amendments moved in accordance with this standing order are known as 'reasoned amendments' as they enable Members to place on record any special reasons for not agreeing to the second reading or, alternatively, for agreeing with qualification. A reasoned amendment may be declaratory of some principle adverse to, or differing from, the principles, policy or provisions of the bill. It may express opinions as to circumstances connected with the introduction or prosecution of the bill, or may seek further information in relation to the bill.

The usual form of amendment is to move that all words after 'That' be omitted and other words be substituted. Examples of words proposed to be substituted include:

- the bill be withdrawn and redrafted to provide for . . .
- the bill be withdrawn and a select committee be appointed to inquire into . . .
- the House declines to give the bill a second reading as it is of the opinion that . . .
- the House disapproves of the inequitable and disproportionate charges imposed by the bill . . .
- the House is of the opinion that the bill should not be proceeded with until . . .
- whilst not opposing the provisions of the bill, the House is of the opinion that . . .
- whilst not declining to give the bill a second reading, the House is of the opinion that . . .

An amendment should amount to more than a direct negation of the principle of the bill.

In the case of a bill with a *restricted* title an amendment dealing with a matter not contained in the bill, nor within its title, may not be moved. If the bill has an *unrestricted* title an amendment dealing with a matter not in the bill, but

which is relevant to the principal Act or to the objects of the bill as stated in its title may be moved, even though the clauses have a limited purpose.

Moving of the amendment—debate and question put

If the Member moving the amendment has allowed sufficient time, copies are duplicated and circulated in the Chamber.

The amendment must have a seconder, who must not be a Member who has already spoken to the original question. After the amendment has been moved and seconded the question is proposed from the Chair ‘That the words proposed to be omitted stand part of the question’. Debate may then occur on this question.

The second reading motion and the amendment are usually debated together. However, Members who have spoken to the bill before the amendment is moved are entitled to speak again to the amendment.

Determination of question on amendment

If the question ‘That the words proposed to be omitted stand part of the question’ is resolved in the affirmative, the amendment is disposed of (S.O.176). Debate may then continue on the motion for the second reading or the question on the second reading may be put. It is not possible for a further second reading amendment to be moved.

The standing orders are silent on the effect of carrying a reasoned amendment, and, as the House has never agreed to one, there is no guiding precedent. However, such action would probably be regarded as preventing further progress on the bill.

6 months amendment

Standing order 219 provides that an amendment may be moved to the question ‘That this bill be now read a second time’ to omit the word ‘now’ and add ‘this day 6 months’, which, if carried, finally disposes of the bill. No amendment may be moved to this amendment. In practice this kind of amendment is not used.

Determination of question for second reading

When debate on the motion for the second reading has concluded, and any amendment has been disposed of, the House determines the question on the second reading ‘That this bill be now read a second time’. On this question being agreed to, the Clerk reads the long title of the bill.

Proceedings following second reading

Governor-General's message

Immediately after the second reading a message recommending an appropriation in connection with the bill may be announced (S.O.221(a)). This is only relevant to special appropriation bills (*see p. 71*).

Referral to select committee

Immediately after the second reading, a motion, 'That this bill be referred to a select committee', may be moved (S.O.221(b)), but this is not the current practice. A referral to a committee would now be expected to be made at an earlier stage by means of the advisory report procedure (*see p.54*). A bill cannot be referred to a select committee after the completion of its consideration in detail (S.O.224).

Instruction to a committee

Immediately after the second reading an instruction of which notice has been given may be moved (S.O.221(c)). The use of instructions is not current practice.

An instruction empowers a committee to consider matters not otherwise referred to it. An instruction cannot be given to a committee to do that which it is already empowered to do, or, in the case of a bill referred to a select committee, to deal with a question beyond the scope of the bill as read a second time. An instruction to the Main Committee in relation to a bill requires notice, and can only be moved before the Committee has met to consider the bill. (S.Os 299–302)

Leave to move third reading forthwith

At this stage, if the Speaker thinks Members do not desire to consider the bill in detail, he or she asks if it is the wish of the House to proceed to the third reading forthwith. If there is no dissenting voice the detail stage is superseded and the Minister moves the third reading immediately (S.O.222(b)).

Consideration in detail

Following the second reading, if leave is not obtained for the third reading to occur forthwith, the House proceeds to the detailed consideration of the bill. Amendments to the provisions of the bill may be moved and debated at this stage.

The text of the bill is considered in the following order (S.O.226):

- clauses as printed and proposed new clauses, in their numerical order;
- schedules as printed and proposed new schedules, in their numerical order;
- postponed clauses (not having been specially postponed until after certain other clauses);
- preamble (if any);
- title.

In the case of amending bills (i.e. bills which amend existing Acts) which contain amendments listed in schedules, the schedules are considered in their numerical order before the clauses, and items within schedules in their numerical order. Consecutive items which amend the same section of an Act must, unless the House otherwise orders, be taken together.

In many instances leave is granted for the bill to be considered as a whole. The Chair asks 'Is it the wish of the House to consider the bill as a whole'. If there is no dissenting voice, the Chair then proposes the question 'That the bill be agreed to'. If, among circulated amendments, there is an indication that a clause is to be opposed, the bill cannot be taken as a whole. Leave may also be granted for clauses or schedules to be taken together in groups.

Debate

Debate must be relevant to the subject matter of the clause or schedule before the committee, or to an amendment (S.O.228), and cannot extend to other clauses or schedules which have been, or remain to be, dealt with. Members' speeches are limited to five minutes, but there is no limit on the number of times a Member may speak.

Amendments

An amendment may be moved to any part of the bill, provided the amendment is within the title or relevant to the subject matter of the bill and is otherwise in conformity with the standing orders of the House. An amendment may be moved only when the part proposed to be amended is before the House and it must be relevant to that part. Amendments may be moved together, by leave. An amendment which is contrary to a previous decision on a bill cannot be moved unless there has been a reconsideration of the bill (*see p. 61*) (S.O.233).

Questions put

The Chair may propose the question on an amendment in one of the following forms:

- When the amendment is to omit words, the question proposed is 'That the words proposed to be omitted stand part of the question' (S.O. 175).
- When the amendment is to omit words and substitute or add others, the question is also 'That the words proposed to be omitted stand part of the question'. If this question is agreed to, the amendment is disposed of; if

negated, a further question is proposed ‘That the words proposed to be inserted (added) be so inserted (added)’ (S.O. 176).

- When the amendment is to insert or add words, the question proposed is ‘That the words proposed to be inserted (added) be so inserted (added)’ (S.O. 177).

(In these illustrations the word ‘words’ may be replaced by ‘paragraph’, ‘subparagraph’, ‘subclause’, ‘section’, ‘schedule’, and so on.)

If no Member objects, the question may be proposed in the form ‘That the amendment be agreed to’ in any of the above cases (S.O. 178), and this is now common practice.

If a clause (or schedule, and so on) is amended, a further question is proposed ‘That the clause (schedule, etc.) as amended, be agreed to’ (S.O. 229). If the bill is being considered as a whole, the further question proposed is ‘That the bill, as amended, be agreed to’. If the title is amended, the further question proposed is ‘That the title, as amended, be the title of the bill’ (S.O. 231).

Reconsideration

At any time before the moving of the third reading, on motion without notice by any Member, a bill or part of a bill may be reconsidered in detail (S.O. 236B).

Report stage (for bills considered by Main Committee)

A copy of the bill certified by the Clerk of the Main Committee together with schedules of any amendments made by the Committee and any questions which the Committee was unable to resolve are transmitted to the Speaker for report to the House. The Speaker may report the bill to the House at a time when other business is not before the House (S.O. 234)—in practice this is usually after the MPI.

If a bill is reported from the Main Committee without amendment or unresolved question, the question ‘That the bill be agreed to’ may be put immediately. This is the usual practice, although the House may if it wishes appoint a different time for the question to be put (S.O. 236A).

If a bill is reported with amendments, or with questions which the Main Committee had been unable to resolve, the report may be considered immediately if copies of the schedules have already been circulated among Members, and this is the usual practice (S.O. 235). In the event that copies of the schedules have not been circulated the standing order states that a future time shall be appointed for taking the report into consideration and that the schedules of amendments or unresolved questions shall in the meantime be printed. However, the report may still be considered at once by leave of the House, or, if leave is not granted, following the suspension of standing orders.

Questions put

When a bill is reported from the Main Committee without amendment or unresolved question, the question ‘That the bill be agreed to’ is put without debate and no amendment to this question is possible (S.O.236A).

When a bill is reported with amendments or with unresolved questions, the House deals first with any unresolved questions (these are generally proposed amendments to the bill, but unresolved second reading amendments are also possible). Separate questions, open to debate or amendment, are put on each unresolved matter; however, unresolved questions may be taken together by leave. The House then deals with any amendments made by the Main Committee. A single question is put ‘That the amendments made by the Main Committee be agreed to’. No debate or amendment to this question is permitted. No new amendments to the bill may be moved except if necessary as a consequence of the resolution by the House of any question left unresolved by the Main Committee. Finally, the question is put ‘That the bill (or the bill, as amended) be agreed to’. Once again, no debate or amendment of this question is allowed. (S.O.236).

Third reading

The standing orders provide that following agreement to the bill at the detail stage, a future day is to be fixed for the third reading (S.O.237), but it is usual for the House to grant leave for the Minister to move the third reading immediately.

The question ‘That this bill be now read a third time’ may be debated but it is not often that this occurs. If it is debated, the scope of the debate is limited to the contents of the bill—that is, the matters contained in the clauses and schedules of the bill.

The only amendment allowed to the third reading (S.O.239) is to move to omit ‘now’ from the question ‘That this bill be now read a third time’ and add ‘this day 6 months’ which, if carried, would finally dispose of the bill. Few such amendments have been attempted and none agreed to.

When the question for the third reading is agreed to, the Clerk again reads the long title, at which point the bill has been passed by the House (S.O.240).

Procedural variations

Cognate debate and bills taken together

When there are two or more related bills before the House, it frequently suits the House to allow them to be debated together—that is, the debate on the first of the bills covers also the other related bills. A debate of this kind is known as a cognate debate. Although not provided for in the standing orders, this is a

well-established practice. A cognate debate is initiated by a proposal from the Chair seeking the agreement of the House. Agreement to the proposal must be unanimous. Upon the conclusion of the debate separate questions are put as required on each of the bills.

On occasion, to save the time of the House in cases where the passing of a group of closely related bills has been a formality, standing orders have been suspended to enable the bills to be considered and voted on together, with a single question put covering all the bills at each stage.

Limitation of debate ('Guillotine')

Although the speaking time available to each Member to debate a bill is limited, the total length of the debate is not. The movement of the 'gag'—the motion 'That the question be now put'—is one way of cutting short debate. On other occasions the Government may resort to the procedure for the limitation of debate, known as the 'guillotine', to impose a timetable on the debate.

As a preliminary, a Minister declares the bill to be an urgent bill and the question 'That the bill be considered an urgent bill' is immediately put from the Chair, no debate or amendment being allowed. If the question is agreed to, the Minister immediately moves a motion to allot time to the various stages of the bill, for example:

That the time allotted in connection with the bill be as follows:

- (a) For the second reading (or the remainder of the second reading), until . . .
- (b) For the detail stage, until . . . , or
 - (i) to the end of clause . . . , until . . .
 - (ii) remainder of detail stage, until . . .
- (c) For the remaining stages, . .

It is not necessary to cover each stage in detail. The motion could also be in the form 'For the remaining stages, until . . .' or 'For all stages, until . . .'

This motion may be debated for 20 minutes, five minutes being allowed to each Member speaking, and amendments may be moved.

Standing orders must be suspended to allow more than one bill to be included in a single declaration of urgency and motion for the allocation of time.

After an allotment of time has been agreed to, at the time or times specified in the motion the Chair puts the questions necessary to conclude the proceedings to that particular stage, including, if necessary, questions on government amendments which have been circulated to Members at least two hours beforehand but not actually moved (S.O. 92).

When the expiry of time has prevented the Opposition from moving intended amendments which have been circulated, the Chair has allowed the proposed

amendments to be incorporated in Hansard so that the intentions of the Opposition are recorded.

Private Members' bills

A private Member may not initiate a bill imposing or varying a tax or requiring an appropriation. Taxation proposals by private Members are specifically prohibited by S.O.293. Appropriation bills are prevented in practice because of the need for a message from the Governor-General recommending appropriation, and the provision in S.O.292 that only a Minister may introduce such bills before the announcement of the message.

With these exceptions private Members—that is, Members who are not Ministers—are free to introduce bills of any kind during the period reserved for private Members' business (*see p.90*). The introduction of a private Member's bill is given priority over other private Members' business (S.O.104A).

When the notice for a private Member's bill is called on by the Clerk, the Member presents the bill and may speak in support of it for a period not exceeding five minutes. It is then read a first time. The allocation of time for debate on the bill's second reading on a subsequent private Members' day is determined by the Selection Committee. If the second reading is agreed to by the House, further consideration of the bill is given priority over other private Members' business (S.O.104A).

A private Member's bill may be considered during time reserved for government business following the suspension of standing orders.

Senate bills

A bill introduced into and passed by the Senate is transmitted to the House under cover of a message requesting the concurrence of the House. At a convenient time in the day's program, the Speaker announces the message to the House and this action, in effect, presents the bill to the House.

The bill is read a first time and then proceeds in the same manner as an ordinary bill. However, it is usual for the Minister in charge to move that the second reading be made an order of the day for the next sitting instead of moving the second reading immediately.

If the bill is not amended by the House, it is returned to the Senate by message informing the Senate that it has been agreed to. The House, at the consideration in detail stage, may amend any bill received from the Senate, after which the bill is read a third time and returned to the Senate with a schedule of amendments to which the Senate is asked to agree.

A private Senator's bill may be sponsored in the House by a Minister or by a private Member. Such a bill sponsored by a Minister proceeds as an ordinary government bill. In the case of a Senate bill sponsored by a private Member,

proceedings following the first reading are those applying to private Members' bills.

Constitution alteration bills

The passage of a bill proposing an alteration to the Constitution is the same as for an ordinary bill, with the additional requirement, imposed by section 128 of the Constitution, that it must be passed by an absolute majority of Members. To ensure that this requirement is fulfilled and recorded, bells are always rung for a division at the third reading stage, even when this question is carried on the voices. If the third reading is not carried by an absolute majority the bill is laid aside and cannot be revived in the same session of Parliament (S.O.263).

Referendum

Not less than two nor more than six months after its passing by an absolute majority of each House, the bill *shall* be submitted to a referendum of voters in each State and Territory (Constitution, s.128). In certain circumstances the Governor-General *may* also submit to referendum a constitution alteration bill which has been passed by one House only (*see p. 78*).

If, in the majority of States, a majority of electors voting in the State approve the proposed law, and if a majority of all electors voting also approve the proposed law, it is presented to the Governor-General for assent.

12. FINANCIAL LEGISLATION

Parliamentary control of government finances

The Parliament has the ultimate control over government finances. This control is two-fold. First, taxes are imposed and loans to the Government are authorised by legislation which must be agreed to by the Parliament. Secondly, government expenditure must also be authorised by legislation.

Section 83 of the Constitution states that ‘no money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law’. This means that however much money the Government has, whether raised by taxation or by loan or even by sale of government assets, the money cannot be spent unless the Parliament has authorised the expenditure by an Act of Parliament (an appropriation Act).

The financial initiative of the Government and the financial powers of the two Houses

Although Parliament has the ultimate control by way of veto, the Government has what is known as the ‘financial initiative’. Only the Government, through the House of Representatives, can request that an appropriation be made or increased, or propose to impose or increase taxation. The Constitutional provisions (sections 53 and 56) are briefly as follows:

- appropriation bills cannot be initiated in the Senate;
- appropriation bills for ‘the ordinary annual services of the Government’—e.g. Appropriation Bill (No. 1)—cannot be amended by the Senate;
- bills imposing taxation cannot originate in or be amended by the Senate;
- the Senate may not amend any proposed law so as to increase any proposed charge or burden on the people;
- no appropriation bill can be passed unless the purpose of the appropriation has been recommended by a message from the Governor-General.

Appropriation and supply bills

The Parliament appropriates money annually from the Consolidated Revenue Fund to fund government expenditure by means of the following bills:

Main appropriation bills

Appropriation Bill (No. 1) is a key element in the Budget. It appropriates revenue for the provision of ordinary annual government services—that is, continuing expenditure by government agencies on services for existing policies.

Appropriation Bill (No.2), also introduced with the Budget, includes appropriations for new policies, new capital expenditure, and grants to the States.

Appropriation (Parliamentary Departments) Bill, also introduced with the Budget, appropriates funds for the parliamentary departments.

Additional appropriation bills

Appropriation Bills (No.3) and (No.4) and Appropriation (Parliamentary Departments) Bill (No.2) are referred to as the additional or supplementary estimates. Appropriation Bill (No.3) appropriates funds for ordinary annual services, while Appropriation Bill (No.4) provides for other expenditure—that is, they parallel Appropriation Bills (No.1) and (No.2). They are necessary because almost invariably government departments will exhaust some of the funds provided by Appropriation Bills (No.1) and (No.2). The Appropriation (Parliamentary Departments) Bill (No.2) performs the same function in respect of the parliamentary departments.

Other appropriation bills may be introduced to cover special expenditure—for example, Appropriation Bill (No.3) 1971–72 was passed to fund the activities of the Australian Wool Commission. (The bills containing the additional estimates in that year were therefore numbered (No.4) and (No.5).)

Supply bills

Supply Bills (No.1) and (No.2) and Supply (Parliamentary Departments) Bill are no longer part of the regular annual routine. Their function is to provide funds in the interim period when the main appropriation bills are not scheduled to pass before the commencement of the financial year on 1 July. This was the usual practice when the Budget was presented in August.

Supply bills were generally introduced in April or May. The amounts appropriated were usually sufficient to cover the first five months of the following financial year—that is, from 1 July to 30 November. As with the appropriation bills, (No.1) provided for ordinary annual services, while (No.2) provided for other expenditure. The Supply (Parliamentary Departments) Bill provided funds for parliamentary expenditure.

Advances to the Minister for Finance and Administration and Presiding Officers

Appropriations are made in the main appropriation bills No.1 and No.2, the parliamentary appropriation bill and supply bills for an allocation of funds for an Advance to the Minister for Finance and Administration, or Advances to the Presiding Officers, in order to meet emergency or unforeseen expenditure during the course of the financial year.

Appropriation and supply bill procedure

Appropriation bills and supply bills in their essentials follow the same stages as any other bill. Only the differences are described here.

The Budget

In the House of Representatives there is no special Budget procedure as such. The Budget depends upon the passage of the main appropriation bills for the year, the Treasurer's Budget speech being the second reading speech on Appropriation Bill (No. 1). As well as the main appropriation bills, the Budget includes other legislation to give effect to the financial proposals announced in the Budget speech, and the Budget papers—documents presented to Parliament containing information on government finances and related matters.

It is now the general practice for the Budget to take place in May. However, the traditional August Budget may still occur when a general election interrupts the usual parliamentary calendar.

Appropriation Bill (No. 1)

Message recommending appropriation

The introduction of the Appropriation Bill (No.1) is preceded by the announcement by the Speaker of a Governor-General's message which transmits particulars (contained in a schedule of the bill) of proposed expenditure for the service of the year and recommends an appropriation of revenue accordingly (S.O. 292).

Introduction

Standing order 291 allows the bill to be introduced without notice by a Minister, in this instance the Treasurer.

Second reading—Budget speech and debate

In moving the second reading, the Treasurer delivers the Budget speech, in which he or she compares the estimates of the previous financial year with actual expenditure, reviews the economic condition of the nation, and states the anticipated income and expenditure for the current financial year, including the taxation measures proposed to meet the expenditure. In making the Budget speech the Treasurer may speak without limitation of time (S.O. 91); however, 30 minutes has become the practice. At the conclusion of the speech debate is adjourned on the motion of an opposition Member, usually the Leader of the Opposition.

The debate on the second reading of the Appropriation Bill (No.1) is known as the 'Budget debate'. It is traditionally resumed by the Leader of the Opposition. In the response to the Government's Budget proposals, the Leader

of the Opposition (or a Member deputed by the Leader) may speak without limitation of time (S.O.91); however, as with the Treasurer's speech, 30 minutes has become the practice. Normal time limits apply to other speakers in the debate.

The Budget debate has traditionally continued over a period of several weeks. However, when the Budget is presented in May less time may be spent in considering it in order that the appropriation bills can be passed by the Parliament before the start of the financial year on 1 July (interim funding not being provided by supply bills).

The scope of discussion in the Budget debate is almost unlimited, as the second reading of the main appropriation bill is specifically excepted from the rule of relevancy (S.O.81).

The appropriation bills have been subject to a declaration of urgency, and have been referred to the Main Committee.

Second reading amendment

An amendment of the widest scope in relation to public affairs may be moved to the motion for the second reading of the main appropriation bill (S.O.220). Such an amendment, usually moved by the Leader of the Opposition, would be expected to refer to aspects of the Budget with which the Opposition was dissatisfied. The amendment takes the form 'That all words after "That" be omitted with a view to substituting the following words: . . .' (e.g. 'this House condemns the Budget because . . .').

Consideration in detail

The House first considers the schedule of the bill which lists by government department the services for which the appropriation is to be made and the amounts appropriated. After completing consideration of the schedule, the House then considers the remainder of the bill in the same way as an ordinary bill. It is usual, however, for the remainder of the bill to be taken as a whole and agreed to formally without further debate.

The order for considering the proposed expenditures (referred to as 'estimates') is the order in which they appear in the schedule (S.O.226(a)), traditionally in alphabetical order of government departments. However, it is the usual practice for the House to agree, at a Minister's suggestion, to a different order of consideration, with departments grouped together for convenience of debate. The agreed order may be varied by further resolution to meet the convenience of the House.

The question put from the Chair in respect of each department or group of departments is 'That the proposed expenditure (or expenditures) be agreed to'. Debate may cover any aspect of administration or other matter which comes under the control of the department or departments under consideration.

Amendments to estimates

An amendment to an appropriation bill to increase, or extend the objects and purposes or alter the destination of, the appropriation recommended by the Governor-General must be preceded by a further message which must be announced before the amendment is moved. This requirement in effect prevents private Members from moving such amendments.

A private Member may move to reduce the amount of the proposed expenditure or may move to omit items. The traditional form of the amendment is 'That the proposed expenditure for the Department of . . . be reduced by \$10' (or a similar token amount). The Member may then state the reason for moving the amendment—for example, 'as an instruction to the Government to . . .', 'because the Government has failed to . . .'. The reason is not recorded in the Votes and Proceedings.

Appropriation Bill (No. 2) and Appropriation (Parliamentary Departments) Bill

Appropriation Bill (No.2) and the Appropriation (Parliamentary Departments) Bill are also introduced without notice following a message from the Governor-General recommending appropriation.

The procedure for the passage of these bills is similar to that for the Appropriation Bill (No.1) except that the wide range of debate and amendment allowed on the second reading of the main bill is not permitted and normal relevancy rules apply. It is not usual for the bills to be considered in detail.

Budget documents and related legislation

Associated with the Budget are other related documents and bills. After debate on Appropriation Bill (No.1) has been adjourned, Budget-associated documents, referred to as Budget papers or Budget related papers, are normally presented. The nature and titles of these documents vary. After the presentation of the papers a motion may be moved that the papers be printed. This motion may be debated but this is rare. If debate occurs it must be relevant to the motion to print and thus may not cover the subject matter of the papers, or for example, the state of the economy or events in the preceding financial year.

Other Budget related business may include the introduction of Budget related bills, ministerial statements explaining Budget decisions in detail, and customs and excise tariff proposals connected with the Budget. The term 'Budget measure' is used to describe bills introduced to implement the financial proposals announced in the Treasurer's Budget speech. That a bill is described as a Budget measure does not in itself bestow on it any special procedural status or immunity from amendment, as is sometimes assumed.

Additional appropriation bills and supply bills

Procedures for additional appropriation bills and supply bills, including the limitations on amendment, are the same as those for Appropriation Bills Nos 1 and 2, except that there is no special Budget speech or Budget debate as such—that is, the second reading speeches and debate are routine events. As in the case with Appropriation Bill (No.1), there is a wide scope of amendment and debate allowed on the second reading of the bills for ordinary services of the Government—that is, (usually) Appropriation Bill (No. 3) and Supply Bill (No. 1).

Special appropriation bills

Only about a quarter of government agency expenses are authorised by the annual appropriations. Other government expenditure is authorised by special appropriation bills which appropriate funds for a specified purpose—for example, to finance a particular project or program. Special appropriation bills are often not specific in amount or duration. Those providing funds for an indefinite period are said to give ‘standing appropriation’.

Special appropriation bills are distinguishable from ordinary bills in that they:

- contain words which appropriate revenue to the extent necessary to meet expenditure under the bill; or
- while not in themselves containing words of appropriation, would have the effect of increasing, extending the objects or purposes of, or altering the destination of, the amount that may be paid out of revenue under existing words of appropriation in an Act.

Special appropriation bills have no distinguishing title, format, or content, apart from the words of appropriation. In most cases the appropriation is incidental to the bill’s main intention, and in some cases not immediately obvious.

Special appropriation bill procedure

With the following exceptions, procedures for introduction (including the requirement for notice to be given) and passage through later stages of these bills are identical to those described for ordinary bills.

Proceedings following second reading—Governor-General’s message

In accordance with section 56 of the Constitution and S.O.292 appropriations must be recommended by a message from the Governor-General. However, unlike the situation with appropriation and supply bills, the message recommending the appropriation is announced after the second reading (S.O.296). It is standard practice for the message to be announced immediately after the second reading (S.O.221(a)), although later announcement may occur in exceptional circumstances.

The Chair announces the receipt of the message. The terms of the message state that the Governor-General recommends to the House that an appropriation be made for the purposes of the bill.

Consideration in detail—amendments

An amendment to increase, or extend the objects and purposes or alter the destination of the appropriation recommended by the Governor-General must be preceded by a further message which must be announced before the amendment is moved (S.Os 292, 297). The message in this instance recommends that an appropriation be made for the purpose of an amendment to the bill.

This requirement in effect prevents private Members from moving such amendments. A Member unable to move such an amendment may choose to put his or her view on the matter to the House in an appropriate second reading amendment—that is, present it as a declaration of opinion rather than as a proposed amendment to the bill.

Taxation bills

Taxation bills impose a tax. Examples of taxation bills are income tax bills, customs tariff bills and excise tariff bills. Bills imposing ‘a charge in the nature of a tax’ (that is, where the charge is a revenue raising measure as distinct from a fee for a service) are also considered to be taxation bills. Section 55 of the Constitution states that laws imposing taxation shall deal only with the imposition of taxation and, except in the case of customs and excise laws, with one subject of taxation only.

Taxation assessment bills lay down the administrative procedures for assessing and collecting tax. As bills *dealing with taxation* they may be introduced without notice (S.O.291) but in all other respects they are treated as ordinary bills.

Taxation bill procedure

Introduction

Taxation bills and any proposal to impose, increase, alleviate, or alter the incidence of a tax or duty must be introduced by a Minister (S.O.293). Taxation bills (and any other proposal dealing with taxation) may be (and, to protect the revenue, inevitably are) introduced without notice (S.O.291).

Consideration in detail—amendments

When the bill is considered clause by clause, any schedule, which may declare rates of tax or duty, is considered before the authorising clauses.

Only a Minister may move an amendment to increase, or extend the incidence of, the charge defined in a proposal, unless the effect of the amendment to

increase the charge or extend its incidence would not exceed that already existing under an Act of Parliament (S.O.293). A private Member may move an amendment to reduce a proposed tax, or to increase a proposed reduction back to its existing level.

A Member unable to move an amendment may choose to put his or her view on the matter to the House in an appropriate second reading amendment—that is, present it as a declaration of opinion rather than as a proposed amendment to the bill.

Tariff proposals and tariff amendment bills

Customs (duties levied on imports and exports) and excise (duties charged on goods produced in Australia) tariff proposals are usually initiated by a motion, and not by a bill.

The restrictions applying to taxation bills apply equally to tariff proposals; they must be introduced by a Minister and may be introduced without notice.

The moving of a tariff proposal is normally treated as a formal procedure for the purpose of initiating the collection of the duty. The motion may be debated and amended, although only a Minister may move an amendment to increase, or extend the incidence of, the charge defined in a proposal, unless the effect of the amendment to increase the charge or extend its incidence would not exceed that already existing under an Act of Parliament (S.O.293).

It is usual for the debate to be adjourned by an opposition Member. Tariff proposals are listed together on the Notice Paper under the one order of the day for the resumption of debate on the motions. Debate on a proposal may be resumed on a later day but this is a rare occurrence.

Periodically, tariff proposals are consolidated by a customs tariff or excise tariff amendment bill, which incorporates the provisions of the motions previously moved into the appropriate Tariff Act. These bills are retrospective in operation to the date on which collection commenced. After the tariff amendment bill has been assented to, a motion is moved to discharge the superseded orders of the day from the Notice Paper.

In the absence of a tariff amendment bill, tariff proposals before the House towards the end of a period of sittings may be affirmed by means of a tariff validation bill. In this case the proposals are not discharged from the Notice Paper as they have not yet been incorporated in the tariff schedule by means of a tariff amendment bill.

13. BILLS—SENATE CONSIDERATION

Passage by Senate and Senate amendments

Transmission to Senate

As soon as administratively possible after the third reading, the bill, certified by the Clerk, is sent to the Senate with a message, signed by the Speaker, requesting the Senate's concurrence.

The bill again goes through three readings in the Senate. Although varying in detail, the procedures of the two Houses have a basic similarity, the main difference being that a bill is more likely to be referred to a committee in the Senate.

Return to House—consideration of Senate amendments

When the bill has passed the Senate, the Senate returns it to the House under cover of a message. If the Senate has not amended the bill, the message is announced to the House by the Chair at a convenient time in proceedings, between items of business, and the bill is prepared for assent.

If the bill has been amended by the Senate, the amendments are listed in a schedule accompanying the bill. When the receipt of the Senate message is announced by the Chair, a Minister moves a motion to fix the time for the House to consider the amendments—'That the amendments be considered at the next sitting' or 'at a later hour', or (if printed copies are available for circulation to Members) 'That the amendments be considered forthwith' (S.O.244).

On the latter motion being agreed to, or on the order of the day for the consideration of the amendments being called on, the Minister moves a motion or series of motions in relation to the amendments. The amendments are considered together, in groups, or individually, according to the motions moved. These are generally 'That the amendment(s) (or specified amendments) be agreed to' and "That the amendment(s) (or specified amendments) be disagreed to'. An amendment may also be amended and agreed to, or disagreed to but an amendment made in its place (S.O. 245).

Debate on Senate amendments follows procedures similar to those used in the consideration in detail stage—each Member may speak for five minutes at a time with no limit on the number of times.

Reasons

When the House disagrees to a Senate amendment to a bill, the Member who moved the motion 'That the amendment(s) be disagreed to' must present to

the House written reasons for the House not agreeing to the amendments. The reasons are included in the message returning the bill to the Senate (S.O. 248). The same requirement for reasons applies in the case of bills originating in the Senate if the House disagrees to any amendments made by the Senate to amendments of the House (S.O. 258).

Negotiation by message

The process of negotiation by message between the Houses continues until agreement is reached on the bill's final form. The House may request the Senate to reconsider amendments which the House has disagreed to, or to consider amended or replacement amendments. In turn the Senate may insist on its original amendments, disagree to the House amendments or agree to them with further amendment (S.O. 250).

If agreement cannot be reached by an exchange of messages the House may request a conference of Members and Senators representing their respective Houses (S.Os 373–384). However, in practice the conference procedure is not used, and if it is recognised that further negotiation by message would be pointless it is usual for the House to order the bill to be 'laid aside'—that is, abandoned and removed from the Notice Paper (S.O. 257).

Requested amendments

The Senate is prevented by section 53 of the Constitution from making amendments to appropriation or taxation bills, or from making an amendment to any bill 'so as to increase any proposed charge or burden on the people'. However, it may request the House to make such an amendment. In these cases the Senate returns the bill to the House with the request before the Senate third reading stage (which is proceeded with when the bill is received back from the House).

If the Senate has made both amendments and requests to a bill, only the requests are considered by the House at this stage, the amendments being considered after the third reading in the Senate. The House may make the amendments requested, not make them, or make them in modified form. The House then returns the bill with a message stating the manner in which the requested amendment has been dealt with (S.O. 262). However, if completely unwilling to comply with a Senate request, instead of responding the House may simply lay the bill aside.

The House may make amendments requested by the Senate involving appropriation only if a further message from the Governor-General recommending an appropriation for the purpose of the requested amendment has been announced to the House (S.O. 298).

Pressed requests

If the House declines to make the amendments requested and returns the bill, the Senate may pass it without the requested amendment having been made or may refuse to pass the bill. On occasions the Senate has returned the bill with a message pressing or insisting upon its request.

The House has never recognised the power of the Senate to insist on or press a request and may decline to consider a Senate message purporting to do so. However, the House has on most occasions taken the Senate's message into consideration after passing a preliminary resolution refraining from determining its constitutional rights. In recent years, when a message has been received from the Senate purporting to press requests for amendments, it has been the practice of successive Speakers to make a statement referring to the principles involved and which the House has endorsed, whether declining to consider the message or not.

Senate amendments which, in the view of the House, should have been made as requests

The precise meaning of paragraph 3 of section 53 of the Constitution (preventing the Senate from making an amendment to any bill 'so as to increase any proposed charge or burden on the people') has not been conclusively determined, nor agreed between the Houses. Occasionally the Senate makes an 'amendment' to a bill, when in the opinion of the House, the Senate proposal should have been sent to the House as a request for an amendment.

In such cases, prior to the consideration of the Senate message, the Chair may make a statement drawing the House's attention to the constitutional significance of the purported amendment. The House may then agree to a resolution stating its attitude to the matter. In some such cases the House has resolved to refrain from the determination of its constitutional rights, and has considered the amendment.

When the House has regarded a purported Senate amendment as having the effect of increasing expenditure under an appropriation, the House has disagreed to the amendment but, after the reporting of a Governor-General's message recommending appropriation, itself made an amendment in the same terms, and then sought the Senate's concurrence.

On other occasions the House has declined to consider the purported amendment and has informed the Senate that it would consider a request for the amendment. Alternatively the House may lay the bill aside.

Continued disagreement between the Houses

When the two Houses disagree over proposed legislation in most cases compromises are reached and amendments are made by one or the other House until the bill concerned is in a state acceptable to both.

In the case of continued disagreement, section 57 of the Constitution sets out the steps for resolving a disagreement involving a proposed law originating in the House. The procedure does not apply to a bill originating in the Senate.

Double dissolution

- The House of Representatives passes a bill and sends it to the Senate.
- The Senate rejects the bill, or fails to pass it, or passes it with amendments to which the House of Representatives will not agree.
(Although the term 'fails to pass' has not been strictly defined, the High Court has stated that a 'reasonable time' must be allowed.)
- After an interval of three months (but in the same or the next session of Parliament), the House of Representatives passes the bill a second time and sends it to the Senate again. The bill reintroduced must be the original bill, except that it may be modified by amendments made, requested or agreed to by the Senate.
- The Senate again rejects the bill, or fails to pass it, or passes it with amendments to which the House of Representatives will not agree.
The Prime Minister may now advise the Governor-General to dissolve both Houses. However, a double dissolution cannot take place within six months of the end of a three year term of the House of Representatives (i.e. three years from the date of its first meeting).
(Once the preceding conditions have occurred, whether and when to advise a double dissolution is a matter for the Prime Minister. There is no constitutional necessity to do so, or to do so within any period of time.)
- Elections are held for both Houses.

Joint sitting

- In the new Parliament the House of Representatives passes the bill again and sends it to the Senate. The bill may be reintroduced with or without amendments made, requested or agreed to by the Senate.
(There is no constitutional necessity to reintroduce a bill that was the cause of the double dissolution.)
- The Senate again rejects the bill, or fails to pass it, or passes it with amendments to which the House of Representatives will not agree.
- The Prime Minister may now advise the Governor-General to convene a joint sitting of the members of both Houses.
- The joint sitting votes on the bill as last proposed by the House of Representatives and on any amendments made by one House and not agreed to by the other. To be passed, amendments and the bill (as and if so

amended) must be agreed to by an absolute majority—i.e. more than half of the total number of the members of both Houses.

Procedures for joint sittings

Rules for joint sittings pursuant to section 57 of the Constitution were adopted by both Houses on 1 August 1974, prior to the first, and to date the only, such sitting on 6 August 1974. Among other matters the rules provided for:

- Senate standing orders to be followed as far as applicable in any matter of procedure not provided for;
- detailed provisions for the election of Chairman;
- the Clerks of the two Houses to serve as joint clerks;
- maximum speech times of 20 minutes;
- at least 4 hours of debate or 12 speakers on each question ‘That the proposed law be affirmed’;
- detailed provisions for divisions.

Disagreements over constitution alteration bills

Similar provisions apply in the case of either House refusing to pass a constitution alteration bill passed by the other House. However, in this situation the deadlock is resolved by the Governor-General being able to put the matter to a referendum.

Section 128 of the Constitution provides that if either House passes a bill proposing to alter the Constitution by an absolute majority and the other House rejects or fails to pass it, or passes it with an amendment to which the originating House will not agree, and if, after an interval of three months, the originating House again passes the proposed law by an absolute majority with or without any amendment made or agreed to by the other House and the other House again rejects or fails to pass it, etc., the Governor-General may submit to referendum the proposed law as last proposed by the originating House, with or without amendments agreed to by both Houses.

14. DELEGATED LEGISLATION—DISALLOWANCE AND APPROVAL

Delegated (also known as subordinate) legislation is legislation not made directly by an Act of the Parliament, but made under the authority of an Act which has delegated limited law-making powers to the Executive Government. Examples of delegated legislative authority, referred to collectively as legislative instruments, include regulations, orders, rules, determinations, principles, declarations, by-laws, notices and plans of management.

Delegated legislation must be tabled in each House of Parliament, where it can be disallowed by either House. In addition some forms of delegated legislation must be actively approved by the Parliament before coming into effect.

Disallowance

The requirements for tabling and disallowance vary and it is necessary to consult the authorising Act to be certain of the conditions operating in relation to any particular form of delegated legislation or type of instrument. If there is no requirement in the parent Act, the general requirement¹ is that regulations must be tabled within 15 sitting days of being made. They are void and of no effect if not tabled within the specified period.

Within 15 sitting days of a regulation being tabled, any Member may give notice of a motion to disallow it. If the motion has not been withdrawn or otherwise disposed of—that is, passed or rejected—at the end of 15 sitting days after the notice was given, the regulation is deemed to have been disallowed.

In practice the tabling and disallowance periods may extend for some time, as a long adjournment or even dissolution and election could intervene between sitting days. Note also that the tabling day and the sitting days may be different in the two Houses.

Where a regulation has been disallowed or is deemed to have been disallowed, no regulation which is the same in substance may be made within six months after the date of disallowance unless the House concerned has rescinded its resolution of disallowance or approved the re-making of the regulation.

¹ *Acts Interpretation Act 1901*. The provisions of the Acts Interpretation Act will be superseded by the Legislative Instruments Bill, when enacted. The bill requires legislative instruments to be tabled within six sitting days of being registered in the Register of Legislative Instruments. A provision of the bill affecting procedure in the Parliament is that a House may resolve to defer consideration of a disallowance motion for up to six months to enable an instrument to be remade or amended.

Disallowance procedures in the House

Items of delegated legislation are usually ‘deemed papers’—that is, deemed to have been tabled in the House on the day on which their receipt is recorded in the Votes and Proceedings (*see p. 82*). Occasionally a regulation, etc. may be tabled by a Minister. A motion to take note of the paper may be moved to enable debate to take place, but this is unusual.

Disallowance notices given by private Members are listed on the Notice Paper with other items of private Members’ business and are subject to the same procedures for debate. However, in view of the fact that disallowance will occur unless the notice is called on and dealt with within the specified time, the general practice is for standing orders to be suspended to permit them to be moved and debated during government business time. Notices appear in the Notice Paper with a note showing the number of sitting days remaining before the regulation concerned is deemed to be disallowed.

Disallowable Instruments List

Each sitting day the Table Office produces a Disallowable Instruments List. This is a listing of instruments which have been tabled and which are subject to possible disallowance, showing the number of sitting days remaining for Members to give notice of disallowance. The list is publicly available via the House of Representatives Internet site (<http://www.aph.gov.au/house/>).

Approval

Some Acts provide for the Houses of Parliament to approve, and possibly amend, certain legislative instruments (variously described as statements, charters, agreements, etc.). The conditions for approval and amendment depend on the provisions of the particular Act.

If one House amends such an instrument the other House is informed by message, and when the message is considered, the motion put—for example, ‘That the House approves the form of agreement . . . as amended by the Senate and conveyed in Senate Message No. . . .’. The motion can be amended to amend the amendments or make further amendments.

While notices of motions of approval, moved by Ministers, are taken as government business, motions of amendment would normally be moved by opposition Members and be subject to the usual private Members’ business procedures.

15. PROVIDING INFORMATION TO THE HOUSE

Ministerial statements

By leave of the House, Ministers may make statements concerning government policy or other matters for which they bear a responsibility.

Although the routine of business provides a specific time for ministerial statements, prior to the matter of public importance (S.O.101), ministerial statements may also be made at other times.

It is accepted practice for a copy of a proposed ministerial statement to be supplied to the Leader of the Opposition or the relevant shadow minister prior to the statement being delivered, in good time for an opposition response to be considered.

Having delivered the statement the Minister generally tables a copy and a motion is moved 'That the House take note of the paper'. This provides the opposition spokesperson the opportunity to respond to the statement by speaking to the motion and enables the House to debate the subject matter. Often standing orders are suspended to give the opposition spokesperson the same speaking time as the Minister. The debate on the motion may be adjourned and resumed at some later time.

If a motion to take note is not moved, the opportunity for the opposition response to a ministerial statement may be provided by the opposition spokesperson being given leave to speak on the same subject. A motion to take note may be moved subsequently.

Papers

Many documents are presented to the House, or 'tabled', for the information of Members of Parliament and the public. These documents include reports, returns and statements of all kinds from government departments and authorities, parliamentary committee reports, reports of royal commissions and other government inquiries and a wide variety of other papers.

Presentation to House

Papers and documents may be presented at government initiative, or in many cases their presentation may be required by statute, standing order (S.Os 316–319, 321), or order of the House.

Papers may be presented by the Speaker (S.Os 316 and 319), by Ministers and, in restricted circumstances, by private Members. There are special provisions for the presentation of petitions and committee and delegation reports. Various documents are tabled by the Clerk.

The more important government papers are usually tabled during the period set aside in the routine of business following question time on Tuesdays, Wednesdays and Thursdays. However, a Minister may present a paper at any time when other business is not before the House (S.O. 102).

Papers presented at the time provided in the routine of business are generally presented together according to a previously circulated list. A schedule of papers to be presented is made available to the Manager of Opposition Business by 12 noon on the day of presentation, and circulated to Members in the Chamber. Following question time, a Minister presents the papers together as listed. A paper may be presented individually—for example, if a statement is to be made in relation to it—and must be presented individually if it does not appear on the schedule or if a schedule has not been circulated.

Deemed papers

As well as being presented by Ministers, government papers may be delivered to the Clerk (in practice the Table Office) and are deemed to be presented on the day on which they are recorded in the Votes and Proceedings (S.O. 319).

Papers received on a sitting day before 5 p.m. are recorded in the Votes and Proceedings of the day of receipt. In other circumstances they are recorded in the Votes and Proceedings of the next sitting day.

Presentation by leave

Other than providing for the tabling of committee and delegation reports, the standing orders make no provision for private Members to table papers and documents. Any private Member (unless presenting a parliamentary committee report, or a delegation report during the time allotted on Mondays) wishing to table a paper must obtain leave of the House to do so.

The requirement for leave also applies to Ministers when other business is before the House (S.O. 102)—that is, when there is a question before the House for debate. Other business does not include question time, a personal explanation or the making of a ministerial statement. Leave is not required to present an explanatory memorandum to a bill.

It is expected that a Member or Minister seeking leave to table a document will first show it to the Minister at the Table or to the Member leading for the Opposition, as the case may be, and leave may be refused if this courtesy is not observed.

Standing order 321

A public document quoted from by a Minister shall, if required by a Member, be tabled, unless it is a confidential document (S.O. 321). When such a request is made the Speaker inquires of the Minister whether the Minister read from the document and if the reply is in the affirmative then the Speaker inquires whether the document is confidential. If the document is not confidential, the

Minister is required to table it. The standing order does not apply to personal letters, private documents, or to notes quoted from by a Minister.

Motions on presentation

On a paper being presented in the House, a Minister may move immediately, without notice, ‘That the paper be printed’ and/or ‘That the House take note of the paper’. Any Member, after giving notice, may move either or both of these motions on a subsequent day (S.O. 322).

The motion ‘That the paper be printed’ is moved to enable the House to print the paper as a Parliamentary Paper—that is, printed separately for the Parliamentary Papers Series (*see below*).

The motion ‘That the House take note of the paper’ enables a debate on the subject matter of the paper to take place.

Debate of papers presented

It is often the case that motions to take note of ministerial statements are debated immediately, shadow ministers having received advance copies of the statements. However, in the case of the majority of motions to take note of a tabled paper, debate is immediately adjourned (customarily on the motion of an opposition Member) and the adjourned debate made an order of the day for the next sitting. The timing of the resumption of debate (possibly in the Main Committee) is a matter for negotiation between the parties.

When papers are tabled together according to a previously circulated list, a single motion may be moved that the House take note of specified papers, with the resumption of debate on the motion to take note of each of the papers made a separate order of the day on the Notice Paper (S.O. 322).

Distribution and publication

Copies of all papers tabled are available to Members from the Table Office. Publications tabled in the Parliament are usually available for sale to the public through Government Infoshops.

All papers and documents presented to the House are considered to be public, and (since 1997) are automatically authorised for publication (S.O. 320).

Parliamentary Papers Series

The Parliamentary Papers Series provides a comprehensive collection of the papers of a substantial nature presented to the Parliament. The series is an annual, numerical series containing all documents ordered to be printed by either House.

Consideration by Publications Committee

Documents presented to the House which have not been ordered to be printed are referred to the Publications Committee, which reports back to the House recommending which of them should be printed as Parliamentary Papers. The committee has power to confer with a similar committee of the Senate, and in practice the two committees usually sit jointly to consider the papers which have been presented to both Houses (S.O. 328).

Custody of original documents

The custody of all documents laid before the House is the responsibility of the Clerk. Original documents may not be removed from the Chamber or offices without the permission of the Speaker. Departments may apply to the Speaker for the return of original documents not likely to be further required by Members (S.O. 39).

Privilege

The Parliamentary Papers Act provides protection against civil or criminal proceedings to any person who publishes any paper the publication of which has been authorised by either House of the Parliament. Since 1997 papers presented to the House have been automatically authorised for publication (S.O. 320). Previously, to be certain of the protection of privilege, motions to authorise publication were sometimes moved in respect of individual papers.

Questions seeking information

Rules applying to questions

The following rules apply, where relevant, to all questions, whether without notice or on notice. However, given the pace at which question time proceeds, they are often applied less rigorously to questions without notice.

- The purpose of a question is to obtain information or to press for action. Questions may not be debated (S.O. 144)—that is, may not be used as vehicles for the discussion of issues. A question should not be in effect a short speech, or limited to giving information, or framed so as to suggest its own answer or convey a particular point of view.
- Questions of excessive length are not permitted. Questions seeking extensive or very detailed answers or which call for the quotation of figures should be placed on the Notice Paper.
- Questions should not contain statements of fact or names of persons unless they are strictly necessary to make the question intelligible and can be authenticated (S.O. 144). The facts on which a question is based may be stated briefly; however, the Member asking the question is responsible for their accuracy. Subject to this condition, a Member may direct attention to

a statement (e.g. in a newspaper, news report, etc.) but may not ask whether the statement is true and may not quote extracts.

- Questions may not contain arguments, inferences, imputations, epithets, ironical expressions or hypothetical matter, and may not ask for an expression of opinion or for legal opinion. In addition, a question may not ask a Minister to announce the Government's policy, but may seek an explanation regarding the policy of the Government and its application and may ask the Prime Minister whether a Minister's statement in the House represents government policy (S.O. 144).
- Questions should not refer to debates in the current session (S.O. 144). The subject matter of a debate may be referred to but not the debate itself and statements made in it.
- Questions should not refer to committee proceedings not reported to the House (S.O. 144). Exception is not taken to questions merely coinciding in subject matter with a current committee inquiry.
- Questions should not anticipate the discussion of an order of the day or other matter before the House (S.O. 144). However, they may refer to and seek information about pending proceedings.
- A question fully answered cannot be renewed (S.O. 146). However, a question may refer to an earlier answer, for example to seek updated information.
- Questions should not be asked which reflect on or are critical of the character or conduct of those persons whose conduct may only be challenged on a substantive motion (*see p. 31*). Questions which are critical of the character or conduct of other persons should only be asked on notice (S.O. 153).
- It has been the practice that a question without notice which is substantially the same as a question already on the Notice Paper is not permissible. However, the Chair has allowed this in the case of both questions being from the same Member.

In addition to the rules specifically applying to questions, the general rules of debate apply, including the sub judice convention (*see p. 32*).

Rules applying to answers

The detailed rules applying to questions do not apply to answers. A Minister cannot be required to answer a question and, within reasonable limits, is entitled to answer a question in such a way as he or she thinks fit. However, an answer should be relevant to the question (S.O. 145).

There are no time limits on answers to questions without notice. However, an answer should not develop into a statement. If it is necessary for a long answer to be given, the proper procedure is for the Minister to indicate that at the end of question time he or she will seek leave to make a statement.

Questions without notice

Time and duration of question time

In the normal routine of business a period for questions without notice, commonly referred to as question time, is scheduled to commence on every sitting day at 2 p.m., or on days when the House meets at 2 p.m., as the first item of business following prayers (S.O. 101).

Question time is ended by the Prime Minister asking that questions, or further questions, be placed on the Notice Paper. The duration of question time is at the discretion of the Prime Minister, who may terminate proceedings at any time, even prior to the first question being asked. In practice question time occurs on almost every sitting day for at least 45 minutes and in recent times it has usually continued for over an hour. When, rarely, question time has not proceeded, this has usually followed instances of substantial time being spent on a matter such as a want of confidence motion prior to questions without notice being called on.

Ministers' presence at question time

Although there is no rule to this effect, all Ministers are expected by the Prime Minister to be present. If a Minister is otherwise engaged on urgent public business, sick, or overseas, the Prime Minister will explain this before questions are called on, and indicate which Minister will answer questions in place of the absentee.

Questioners

Although the standing orders place no restrictions on who may ask questions, the following is accepted practice. Any private Member may ask a question. Ministers and Parliamentary Secretaries do not ask questions, either of other Ministers, or where permitted, of private Members. However, Parliamentary Secretaries have on several occasions asked questions of the Speaker. It is not the practice for questions to be asked by the Speaker.

Questions to Ministers

Questions may be put to a Minister relating to public affairs with which he or she is officially connected, to proceedings pending in the House, or to any matter of administration for which the Minister is responsible (S.O. 142). The underlying principle is that Ministers should answer questions only on matters for which they are responsible to the House. Consequently, Speakers have ruled out of order questions to Ministers which concern, for example, private, party or State matters.

Questions relating to the responsibilities of a Minister who is a Senator are addressed to the Minister in the House representing the Senate Minister. With that exception and the further exception of questions to the Prime Minister, questions may not be put to one Minister about the ministerial responsibilities of another. The Prime Minister has of course overall responsibility for the

Government, but it is not unusual for the Prime Minister to refer questions to the Minister directly responsible.

Questions to the Speaker

At the conclusion of the question period, questions without notice may be put to the Speaker relating to any matter of administration for which he or she is responsible (S.O. 152). Requests for detailed information should be lodged in writing in the same manner as a question on notice.

Questions to private Members

A question of a strictly limited nature may be addressed to a private Member. The question must relate to an item of business of which the Member has charge (S.O. 143), but should not anticipate debate on the matter—for example, a Member in charge of a private Member's bill may be asked when the bill is to be introduced or when copies will be available; a committee Chair may be asked when a report will be tabled. Questions of this kind are rare.

Allocation of the call

Members wishing to ask a question stand in their places (or if unable to stand otherwise gain the Speaker's attention). While the call is at the Chair's discretion, Speakers have traditionally observed the practice that the call goes first to an opposition Member (usually the Leader of the Opposition) and then alternates between government and non-government Members. Independent Members or minor parties receive the non-government call in proportion to their numbers. When the Opposition has the call priority is given to the party leaders, otherwise the call is allocated to each Member as evenly as possible.

Supplementary questions

Following a question and answer, the Speaker may, at his or her discretion, permit supplementary questions to be asked to elucidate an answer (S.O. 151). This standing order permits subsequent questions to refer back to or follow up an earlier answer. However, most Speakers have chosen not to exercise this discretion to allow immediate supplementaries by the original questioner.

Questions on notice

Questions may be asked on notice for a written reply. Questions on notice should be clearly written or typed, signed by the Member, and delivered to the Clerk or the Table Office within such time as will enable them to be printed on the Notice Paper (S.O. 148). Questions may be delivered by email but a signed copy must also be provided. The Speaker has determined that questions for the next day's Notice Paper should, in normal circumstances, be lodged by 4 p.m.

There is no restriction on the number of questions on notice a Member may ask, either each day or in total.

Application of the rules

The rules governing the form and content of questions are applied more strictly to questions on notice because of the opportunity to examine them closely. The Speaker is responsible for ensuring that questions conform to the standing orders, but in practice this task is performed by authority of the Speaker by House officers. Questions are checked to ensure that they are addressed to the correct Ministers and that they do not infringe the standing orders. If necessary they are also edited to eliminate unnecessary wording and to put them into a standard interrogative style. Should it be necessary, the Clerks will consult the Member regarding the content of a question and, where required, matters may be referred to the Speaker for decision.

Answers to questions on notice

Officials in government departments check each day's Notice Paper for questions and arrange for answers to be drafted for their Minister to consider. When the Minister approves an answer it is forwarded to the Table Office which sends a copy to the Member who asked the question and arranges for the question and answer to be printed in Hansard (S.O.150). In addition copies are supplied to the press.

There is no time limit by which questions must be answered. Where a reply had not been received after 60 days, the Member concerned can rise in the House and ask the Speaker to write to the Minister involved, seeking reasons for the delay (S.O. 150).

Questions remain listed on the Notice Paper until answered (and reprinted in full on the first sitting day of each week), unless the Member asking the question becomes a Minister or ceases to be a Member. A question may also be withdrawn by the Member at any time. Any questions remaining on the Notice Paper lapse when the Parliament is prorogued or the House is dissolved.

Questions to the Speaker—Requests for detailed information

Requests for detailed information relating to the administration of the parliamentary departments are lodged with the Clerk or the Table Office in the same way as questions on notice addressed to Ministers. However, if they are in order, they are printed in the Hansard for that day rather than the Notice Paper. The Speaker, in due course, provides a written answer which is also printed in Hansard.

16. NON-GOVERNMENT BUSINESS

Routine of business on Mondays

Most of each sitting Monday is reserved for non-government business. The sequence of business after the meeting of the House at 12.30 p.m. is as follows (S.O. 101):

- Committee and delegation reports
- Private Members' business (motions and bills)
- Members' statements (at 1.45 p.m.)
- Question time (at 2 p.m.)
- Presentation of petitions
- Private Members' business continued (for one hour)
- Grievance debate (for 1 hour 20 minutes).

The normal daily routine resumes (at approximately 5.20 p.m.) with notices and orders of the day (i.e. government business).

To enable Members to be assured of a significant period free of interruption, divisions called for during the non-government business periods on Monday (that is, excluding question time and associated business), except on a motion moved by a Minister, are deferred until after the grievance debate (S.O. 193).

Committee reports

The first part of this period is reserved for the presentation of reports of parliamentary committees and delegations. The Member presenting a report and other Members may make statements in connection with the report. The Member presenting the report may also move a motion, for example, 'that the House take note of the report'. Debate on the motion is normally then adjourned until a future day. Following the presentation of reports, the remainder of the period until the start of private Members' business is reserved for the resumption of debate on reports presented previously. (S.Os 102A–102C).

The Selection Committee decides the order of presentation, time limits for statements and total time for consideration of each committee and delegation report during this period.

After presentation in the House committee reports may be referred to the Main Committee for further consideration. Main Committee consideration is not subject to Selection Committee determination.

Private Members' business

Following the presentation and debate of committee reports, and continuing until 1.45 p.m., and again for another hour following the presentation of petitions, debate takes place on private Members' business—that is, bills and motions sponsored by private Members.

A private Member wishing to move a motion or introduce a bill must give notice (*see p. 39*). Notices are listed on the Notice Paper under the heading 'Private Members' Business'. Private Members' notices and orders of the day not selected by the Selection Committee for debate within eight sitting Mondays are removed from the Notice Paper (S.O.104B). Entries in the Notice Paper show the number of sitting Mondays remaining.

Private Members' motions

By decision of the Selection Committee, the majority of motions considered as private Members' business are not voted on, the debate being adjourned and made an order of the day for a subsequent private Members' Monday.

Private Members' bills

The introduction of a private Members' bill is given priority over other private Members' business. When the notice for a private Member's bill is called on by the Clerk, the Member presents the bill and may speak in support of it for up to five minutes. It is then read a first time, the second reading of the bill automatically becoming an order of the day for the next sitting. The allocation of time for the debate on the second reading is determined by the Selection Committee. If the second reading is agreed to by the House, further consideration of the bill is given priority over other private Members' business (S.O.104A).

Private Members may not initiate a bill imposing or varying a tax (S.O.293) or requiring the appropriation of money (S.O.292).

Selection Committee

The arrangement of private Members' business and the order of presentation and consideration of committee and delegation reports on Mondays, and the allocation of time for their debate, is the responsibility of the Selection Committee (S.O.331). When the House is sitting the committee meets weekly. It normally reports on Tuesdays, listing the matters for debate on the Monday of the next sitting week.

The committee usually selects three or four items for each private Members' business period. In choosing items for debate the committee pays regard to selection guidelines agreed to by the House. The guidelines ensure that all Members have a fair chance of having matters debated and also take into

account the nature of the subject, for example, its importance and the extent to which it comes within the responsibility of the Commonwealth Parliament.

Members' statements

During this 15 minute period (1.45 to 2 p.m. on Mondays) any Member other than a Minister or a Parliamentary Secretary may be called by the Chair to make a statement of up to 90 seconds in duration (S.O.106A). The call is alternated between non-government and government Members. If no other Member seeks to speak, a Member who has already spoken may speak again. Members may make statements on any topic of concern to them. They may also use the occasion to give an oral notice of intention to move a motion or present a bill (S.O. 133), although this opportunity is rarely used.

Grievance debate

At approximately 4 p.m. each Monday, after the conclusion of private Members' business, the Chair proposes the question 'That grievances be noted' (S.O.106). Debate on the question is practically unlimited in scope, giving Members the opportunity to raise matters in which they have a particular interest or to ventilate complaints of constituents. Any amendment may be moved to this question, although amendments are rare. The name of the debate and its technical status as government business have no significance. In practice it is no more than an opportunity for wide debate, similar to that provided by the motion for the adjournment of the House.

The debate lasts for a maximum of 1 hour 20 minutes. Members may speak for 10 minutes. The distribution of the call is similar to that of the adjournment debate, the first call going to an opposition Member, then alternating. Although, technically, Ministers and Parliamentary Secretaries are permitted to participate, in practice they rarely do.

Adjournment debate

A standard half-hour adjournment debate is scheduled at the end of every sitting day (S.O.48A). However, depending on the pressure of business, it may sometimes commence earlier or later than the specified time, or not take place at all. The procedures for the moving of the adjournment are outlined at page 13.

Debate on the motion 'That the House do now adjourn' is specifically exempted from the rule that debate must be relevant to the question before the House, and in effect the scope of debate is practically unlimited. Members may speak for five minutes each. An opposition Member traditionally receives the first call and the call then alternates in the normal way. If no other Member wishes to speak, a Member who has already spoken may speak a second time.

The general rules of debate, other than relevancy, apply, and a Member should not attempt to revive earlier debates of the session unless the allusion is relevant to a new aspect or matter which the Member is raising. This restriction does not prevent reference to previous adjournment debates. No amendment may be moved to the question for the adjournment.

A Member wishing to raise a matter in the adjournment debate falling within the responsibilities of a particular Minister or concerning a particular Member usually alerts that Minister or Member beforehand. As well as being courteous, this practice allows the Minister or Member to arrange to be present during the debate if he or she so wishes and, in the case of a Minister, to make a response.

The debate may be extended by up to 10 minutes to permit a Minister to respond to matters raised in the debate. However, a Minister may speak in reply prior to this time if no other Member rises to speak. If the debate is not extended, or if it is extended, after 10 minutes or the earlier ending of debate, the Speaker automatically adjourns the House until the time of its next meeting.

Adjournment debate in Main Committee

Since 1998 a half hour adjournment debate has also taken place on Thursdays in the Main Committee, from 12.30 p.m. or from the earlier completion of business (S.O. 274A).

Members' statements in the Main Committee

Since 1998 there has been a period reserved for statements by Members in the Main Committee on Thursdays, and this has now been extended to Wednesday sittings as well (S.O. 275A). Any Member other than a Minister, and including Parliamentary Secretaries, may speak for up to 3 minutes. This opportunity only occurs if the Committee meets before 10 a.m. and lasts for 18 minutes or until 10 a.m. (The Committee usually meets at 9.40 a.m. on Wednesdays and Thursdays.)

Budget debate

The standing orders exempt the debate on the second reading of Appropriation Bill (No. 1)—*see p. 68*—from the usual rule of relevance by allowing 'matters relating to public affairs' to be debated. The Budget debate thus provides a significant opportunity, often extending over several weeks, for Members to speak on matters of their own choice.

The same exemption applies to the second reading debate of other appropriation bills for ordinary services of the Government—that is, (usually)

Appropriation Bill (No.3) and Supply Bill (No.1). However, these bills are not usually debated extensively.

Address in Reply debate

The wide ranging Address in Reply debate at the beginning of each session of Parliament provides an opportunity for Members to speak on any matter they wish, provided the other rules of debate are observed. Each Member may speak for 20 minutes (*see p. 15*).

Matter of public importance

A discussion of a matter of public importance (MPI) is scheduled for every sitting day except Monday, following question time, the presentation of papers, and any ministerial statements. An MPI is a discussion, on which no vote is taken, on a topical issue (S.O. 107).

Although any Member may propose a matter for discussion, in practice the matter discussed is usually one proposed by the Opposition.

Matters for discussion must be proposed to the Speaker in writing no later than 12 noon on the day of the discussion. The letter takes the following form:

[Date]

Dear Mr/Madam Speaker,

In accordance with standing order 107, I desire to propose that [today] [tomorrow] [on Tuesday, . . .] the following definite matter of public importance be submitted to the House for discussion, namely: . . .

Yours sincerely,

[Signature of Member]

In the event of more than one matter being proposed for the same day, the Speaker gives priority to the matter which, in his or her opinion, is the most urgent and important.

The Speaker determines whether or not the proposal is in order. The proposed matter must be 'definite', that is, single, specific and precise in its wording, and is expected to contain an element of ministerial responsibility or come within the scope of ministerial action.

At the time for the discussion, the Speaker announces the receipt of the letter, reads the matter to the House, and calls on Members approving of the proposed discussion to rise in their places. The discussion may proceed only if supported by eight Members, including the proposer. The Speaker then calls upon the proposer to open the discussion.

The discussion may last for up to two hours but usually lasts for 50 minutes, by agreement between the parties; 15 minutes each being allowed to the

proposer and the Member next speaking and 10 minutes each for other Members. The discussion may be terminated earlier by the carrying of a motion moved by any Member 'That the business of the day be called on'.

(For discussion of matter of special interest initiated by a Minister see p.45.)

17. PETITIONS

A petition is basically a request for action. Any citizen or resident, or group of citizens or residents, may petition the House of Representatives to take action. For example, petitions may ask the House to introduce legislation, or to repeal or change existing legislation, or to take action for a certain purpose or for the benefit of particular persons. Rarely, a petition from an individual citizen may seek the redress of a personal grievance—for example, the correction of an administrative error.

The subject of a petition must be a matter on which the House has power to act—that is, it must be a Federal rather than a State matter and one involving legislation or government administration in some way.

A petition may be presented to the House only by a Member of the House (S.O. 126). This can be any Member, including a Minister, and does not have to be the petitioners' local Member. It is the practice of the House that the Speaker does not present petitions but rather arranges for another Member to do so on his or her behalf. A Member cannot present a petition from him or herself.

Although a Member is not bound to present a petition sent for presentation, it is traditionally accepted that he or she will present it, irrespective of personal views. Presentation of a petition by a Member does not mean that the Member necessarily agrees with its content.

A Member intending to present a petition must write his or her name and electoral division and the number of signatories at the beginning of the petition (S.O. 127), and lodge it with the Clerk of the House by 12 noon on the Friday before the proposed day of presentation (S.O. 112). It is the responsibility of the Member to ensure that the petition complies with the standing orders (S.O. 128). Before a petition can be presented the Clerk or Deputy Clerk must certify that it is in conformity with the standing orders (S.O. 113). Petitions are checked before certification and a petition that is not in order is returned to the Member who lodged it.

Presentation

Petitions are announced in the House by the Clerk of the House following question time on Mondays. For each petition the Clerk announces the name of the Member presenting it, who the petition is from, the number of signatures and a short summary of the action requested by the petition (S.O. 129).

At the time of presentation no discussion of the subject matter of a petition is allowed (S.O. 129), although a Member may move one of the following motions: 'That the petition be not received'; 'That the petition be printed', or 'That the petition be referred to a committee'. A petition is deemed to be received unless the motion that it be not received is agreed to by the House

(S.O.130). A Member may not move that a petition be printed unless he or she intends to take some action on it and informs the House of the action he or she proposes to take (S.O.131). The moving of any of these motions is rare.

Subsequent action by House

After a petition has been announced in the House the full text of the petition is printed in the Hansard for that day (S.O.129).

Every petition presented is referred by the Clerk to the Minister responsible for the matter which is the subject of the petition (S.O.132).

Each of the general purpose standing committees has the power to consider and report on petitions referred to it by the House (S.O.324); however, to date none have been referred. In earlier years there were cases of petitions being referred to select committees specifically formed for the purpose.

Responses by Ministers

Ministers may respond formally to a petition by lodging a response with the Clerk for announcement at the end of the petitions announcement (S.O.132). The terms of the responses are printed in Hansard (S.O.129).

Rules on form and content

There are detailed rules relating to the form and content of petitions (S.Os 115–125). Although at first glance these requirements might seem tedious, their purpose is to protect the interests of both the petitioner and the House by ensuring that the authenticity of petitions can be established.

Form

- The text of petitions must be clearly written, typed, printed or reproduced by mechanical process, such as photocopying. They should not have any additions or alterations and they should be on paper.
- A petition must:
 - be addressed to the ‘Speaker and Members of the House of Representatives assembled in Parliament’;
 - state the facts which the petitioners wish to bring to the notice of the House; and
 - conclude with a request (traditionally called a ‘prayer’) that the House take, or not take, some course of action. Petitions stating that the petitioners ‘ask’, ‘request’, or ‘respectfully urge’, that certain action be taken, or not taken, by the House are acceptable. It is not necessary to use the traditional form of words ‘humbly pray’.
- No letters, affidavits or other documents may be attached to a petition.

- Any petition not in English must be accompanied by a translation certified to be correct, with the name and address of the certifying person shown on the translation.
- Petitions must be free of any indication that they may have been sponsored or distributed by a Member of the House; petitions which include a Member's photograph or name or address on the page on which the petition is written are not in order.

Language and content

- No reference may be made in a petition to any debate in Parliament; however, petitions relating to matters currently on the Notice Paper, bills before the Senate and the repeal or amendment of Acts are generally acceptable.
- The standing orders require petitions to be respectful and temperate in their language. The practice of the House is that petitions must not be critical of the Queen, members of the Royal Family, the Governor-General, members of the judiciary, or Members and Senators.
- Petitions must not contain irrelevant statements.

Signatures

- A petition must contain the signature and address of at least one person on the sheet on which it is written.
- A petition must be signed in their own handwriting by the persons whose names and addresses appear. A person who is unable to write must put his or her mark in the presence of a witness, who must sign as the witness.
- A petition must have the signatures and addresses written on the same page as the petition or on sheets containing the request or 'prayer' of the petition. Signatures which appear on an otherwise blank page or on the reverse side of a valid page are not recognised and should not be counted. Signatures must not be pasted on or transferred, for example, by photocopying.
- A petition of a corporation must be made under its common seal. If it is not, but is otherwise in order, it may be presented simply as the petition of the individual(s) who have signed it.

Example format of a petition

PETITION

TO THE HONOURABLE THE SPEAKER AND MEMBERS OF THE
HOUSE OF REPRESENTATIVES ASSEMBLED IN PARLIAMENT:

The petition of certain

(Here identify, in general terms, who the petitioners are, e.g.

citizens of Australia,

or

residents of the State of

or

electors of the Division of

draws to the attention of the House

or

points out to the House

.....

(Here give the circumstances of the case)

Your petitioners therefore request the House

or

ask the House

or

pray that the House

.....

(Here outline the action that the House should, or should not, take)

(Signatures)

(Addresses)

18. COMMITTEES

Committees of the House of Representatives are established by the standing orders or by resolution of the House. Joint committees, which draw their memberships from and report to both Houses, are established by legislation (statutory committees) or by resolution of both Houses. Standing committees are appointed for the life of a Parliament and have a continuing role. Select committees are formed for a specific purpose and cease to exist when they have presented their final reports.

House of Representatives committees

General purpose standing committees

General purpose standing committees are established by the standing orders at the start of each Parliament (S.O.324(a)). These are investigatory or scrutiny committees. Their function is to inquire into and report on any matters referred to them by the House or a Minister, including any pre-legislation proposal, bill, motion, petition, vote or expenditure, other financial matter, report or paper. Annual reports of government departments and authorities and reports of the Auditor-General are automatically referred to the relevant committee for any inquiry the committee may wish to make, in accordance with a schedule tabled by the Speaker showing the areas of responsibility of each committee (S.O.324).

The names of the committees and the division of responsibilities between them may vary from Parliament to Parliament. Between them they cover most government activity, with each committee covering a particular spread of subjects and thus a number of related government departments and authorities. Because of the role of the Joint Committee on Foreign Affairs, Defence and Trade there is no general purpose standing committee covering these subject areas.

The general purpose standing committees appointed at the start of the 39th Parliament in 1998 were:

- Aboriginal and Torres Strait Islander Affairs
- Communications, Transport and the Arts
- Economics, Finance and Public Administration
- Employment, Education and Workplace Relations
- Environment and Heritage
- Family and Community Affairs
- Industry, Science and Resources
- Legal and Constitutional Affairs
- Primary Industries and Regional Services.

Domestic or internal committees

The following standing committees are established by the standing orders at the start of each Parliament:

Committee of Privileges (S.O.325). The committee inquires into and reports on complaints of breach of privilege which may be referred to it by the House (S.O.95) or, during a non-sitting period, by the Speaker (S.O.97A) (*see p. 106*) or any other matter that may be referred by resolution of the House.

Library Committee (S.O.326). The committee's functions relate to the operation of the Parliamentary Library. It usually meets jointly with the equivalent Senate committee.

House Committee (S.O.327). The committee's functions are concerned with facilities for Members in Parliament House. It usually meets jointly with the equivalent Senate committee.

Publications Committee (S.O.328). Documents presented to the House which are not ordered to be printed stand referred to this committee which recommends which of them should be printed as Parliamentary Papers (*see p. 84*). In addition, when conferring with a similar committee of the Senate, the committee may inquire into and report on the printing, publication and distribution of parliamentary and government publications and on other matters referred to it by the relevant Minister. It usually meets jointly with the equivalent Senate committee.

Committee of Members' Interests (S.O.329). The committee inquires into and reports on arrangements made for the compilation, maintenance and accessibility of the Register of Members' Interests.

Standing Committee on Procedure (S.O.330). The committee inquires into and reports on the practices and the procedures of the House generally, with a view to making recommendations for their improvement or change and for the development of new procedures.

Selection Committee (S.O.331). The committee arranges the timetable and order of business for private Members' business and presentation and debate of committee and delegation reports on Mondays (*see p. 90*).

Select committees

Select committees may be set up by resolution of the House to inquire into and report on particular matters (S.Os 355–356). A select committee may be required to report by a definite date, or as soon as possible, and upon completing its report it ceases to function. However, it is also possible for a select committee to be given power to report from time to time, in which case it may report at convenient intervals and may also report on additional matters referred to it.

Joint statutory committees

The following standing committees are required by Acts of Parliament to be appointed at the commencement of each Parliament:

- Joint Committee on the Broadcasting of Parliamentary Proceedings
- Parliamentary Standing Committee on Public Works
- Joint Committee of Public Accounts and Audit
- Parliamentary Joint Committee on the National Crime Authority
- Parliamentary Joint Committee on the Australian Security Intelligence Organization
- Parliamentary Joint Committee on Corporations and Securities
- Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund.

The functions of these committees are prescribed in the Acts which establish them. However, in some cases the establishing Acts leave the detail of the membership, powers and procedures of the committees to the Parliament to determine. This is done by resolution of each House at the start of every Parliament. Like other joint committees, by convention these committees operate under Senate standing orders.

Other joint committees

The number and names of joint standing committees appointed by resolutions of both Houses can vary from Parliament to Parliament. The following joint standing committees were appointed at the start of the 39th Parliament in 1998:

- Joint Committee on the National Capital and External Territories
- Joint Committee on Foreign Affairs, Defence and Trade
- Joint Committee on Electoral Matters
- Joint Committee on Migration
- Joint Committee on Treaties.

Joint select committees may also be appointed for a specific purpose by resolutions of both Houses—for example, the Joint Select Committee on the Republic Referendum established in 1999.

The functions, membership, powers and procedures of these committees are determined by the resolutions establishing them. Like other joint committees, by convention these committees operate under Senate standing orders.

Motions relating to committees

Parliamentary committees are subsidiary bodies of a House or both Houses of the Parliament. Their procedures are prescribed by the Houses appointing them, and their powers are delegated from those Houses. A committee can do

nothing that the House (or Houses) has not instructed it or empowered it to do—that is, by resolution, standing order, or, in the case of statutory committees, by legislation. Therefore, as well as resolutions establishing committees, resolutions of the House are also necessary for a range of other reasons—for example, to alter terms of reference, extend a reporting date, or vary the number or composition of members. Motions are also moved to refer matters for investigation and report, although in many cases committees are given the ability to accept references directly from Ministers, and in some cases to initiate their own inquiries.

In the case of a motion relating to a joint committee, the initiating House sends a copy of the resolution with a message to the other House requesting its concurrence. The other House generally accepts the proposal or accepts it with modifications. In this case messages pass between the Houses until both have agreed to the same resolution. On occasion the other House may reject a proposal, or fail to respond.

Appointment of Members

Members are appointed to or discharged from a committee on motion moved without notice. When the House is not sitting and not expected to meet for at least two weeks party whips may write to the Speaker nominating the appointment or discharge of a member. The change operates from the time the nomination is received by the Speaker. The Speaker reports the change to the House at the next sitting when it is confirmed by resolution (S.O. 333).

Presentation of committee reports

A period is reserved on Mondays for the presentation and debate of committee reports (*see p. 89*). However, committee reports may be presented at any time other business is not before the House (S.O. 102).

A copy of the report, signed by the Chair, and the committee's minutes of proceedings are tabled in the House by the Chair or a member of the committee (S.O. 353). A copy of the transcript of evidence, other than confidential evidence, should also be tabled. Joint committee reports (S.O. 360) are tabled in both Houses, usually on the same day. Occasionally reports are tabled in one House some time before being tabled in the other, especially when the Houses follow different sitting patterns.

It is normal practice for the Member who presents a report to move that the report, with or without the accompanying documents, be printed (S.O. 354). If a Member presents a report from a committee during the period allocated on Monday, then, subject to any determination of the Selection Committee, he or she and other members of the committee can each be accorded priority in making a statement to the House for a period not exceeding 10 minutes. After the statements a specific motion in connection with the report (usually 'That the House take note of the paper') can be moved without notice by the

Member presenting it, and the debate on the question is then adjourned until a future day to be determined by the Selection Committee (S.O. 102B). The order of the day for resumption of debate on a report may be referred to the Main Committee.

A Member presenting a committee report at times other than the period allocated on Monday may be granted leave to make a brief statement on the report and this may be followed by statements, by leave, from other Members. The consideration of the report may be set down for a subsequent sitting when a specific motion without notice in connection with it may be moved (S.O. 354). Leave is required to move such a motion (e.g. to take note) at the time of presentation.

Publishing of report when House not sitting

If the House is not sitting when the committee finishes a report (but normally only during longer adjournments), the committee may send the report to the Speaker (or if he or she is unavailable, the Deputy Speaker) who may give directions for its printing and circulation (S.Os 353, 360). Publication of the report is authorised on its receipt by the Speaker. The report must be presented to the House as soon as possible.

Standing orders relating to the operation of committees

S.Os 332–354 govern the operation of committees generally. They apply to all committees of the House unless superseded by another standing order or resolution of the House. Joint committees operate under Senate standing orders.

Witnesses

S.Os 362–368B contain rules relating to the appearance of witnesses before the House or House committees.

19. PRIVILEGE

The term parliamentary privilege refers in general to the special legal rights and immunities (exemptions from the ordinary law) which apply to each House of the Parliament, its committees and Members, and to other participants in its proceedings, and to the power that each House has to deal with offences—contempts—which interfere with its functioning. These powers derive from section 49 of the Constitution and the *Parliamentary Privileges Act 1987*.

The following is a limited introduction to parliamentary privilege, provided so that procedures in the House relating to privilege matters can be better understood.

The privilege of freedom of speech

The most important privilege is that of freedom of speech. It is important because it enables the Parliament to debate and investigate any matter without legal restriction.

Members taking part in proceedings in Parliament enjoy absolute privilege. They are protected from what might otherwise be successful court action if when taking part in debates in the House they make defamatory statements, or if in a debate they make a statement that would otherwise be a criminal offence. The privilege of freedom of speech is not confined to Members. It also applies to others taking part in ‘proceedings in Parliament’, for example, to witnesses giving evidence to parliamentary committees. The Hansard record of proceedings and the official broadcast are absolutely privileged. However, only qualified privilege applies to reports other than the official Hansard record and to the broadcast of excerpts of proceedings.

Documents forming part of parliamentary proceedings—papers presented to the House and documents received and accepted as evidence by a committee—are also absolutely privileged. Their wider publication is also privileged if authorised for publication by the House or a committee. Nowadays, all documents presented to the House are authorised for publication (S.O.320), but publication of committee evidence must be authorised by a motion of the committee (S.O.346).

Right of reply

The privilege of freedom of speech is a very significant one, and it is recognised that it carries with it a corresponding obligation that it should always be used responsibly. Nevertheless, sometimes individuals are offended by remarks Members of the House have made about them during parliamentary debate. The right of reply procedure, established by resolution of the House on 27 August 1997, gives people an opportunity to respond to

such remarks and to have their responses published in the parliamentary record. The resolution is reproduced in full as an appendix to the standing orders.

The process commences by the aggrieved person making a written submission to the Speaker, who, if satisfied that the matter is not frivolous, refers the matter to the Committee of Privileges. The committee may discuss the matter with the person who made the submission, or with the Member who made the statement in the House. After considering the matter, the committee reports to the House either that no further action be taken by the House, or that a response by the person, in terms specified in the report and agreed by the person and the committee, be published by the House or incorporated in Hansard. The committee's role is merely to recommend whether the response should be published. It does not make any judgment on the merits of the original statement or of the proposed response.

Other privileges

Members may not be summonsed to attend before courts or tribunals as witnesses or arrested or detained in civil matters on sitting days and for five days before and after sitting days. This protection also applies to witnesses to parliamentary committees on days they are required to give evidence to the committee. Members (and certain officers) are also exempt from jury service (some State legislation specifically excludes them). These immunities are justified on the ground that the first duty of Members, and others involved, is to Parliament and that this overrides other obligations.

Contempt

Contempts are actions which obstruct or impede the House in the performance of its functions, or Members or officers in the discharge of their duties, including misleading committees or interfering with witnesses.

While contempts are often loosely referred to as 'breaches of privilege', they are not confined to breaches of privilege. An action which obstructs the House may be a contempt even though it does not breach any established privilege.

Raising a matter of privilege in the House

Complaints of breach of privilege or contempt may only be raised by Members. Other people who believe that there has been an offence must ask a Member to raise it in the House.

Any Member may rise at any time to speak on a matter of privilege suddenly arising. In doing so he or she must be prepared to move (without notice) a motion declaring that a contempt or breach of privilege has been committed, or referring the matter to the Committee of Privileges (S.O.95). A matter of

privilege takes precedence over and suspends other business being considered by the House, but only if in the Speaker's opinion a prima facie case has been made out and the matter has been raised at the earliest opportunity (S.O. 96).

The normal practice is for a Member to seek the call 'on a matter of privilege' and to outline the complaint briefly. The Speaker then responds that he or she will consider the matter and report back to the House. Later, possibly on the same day, the Speaker makes a statement to the House on the matter. If satisfied that the matter has been raised at the first available opportunity, and that there is sufficient substance to it (a prima facie case), the Speaker states that he or she will allow priority to a motion on the matter. Usually the Member concerned then moves that the matter be referred to the Committee of Privileges, although other motions are possible. Alternatively the Member might advise the House that he or she does not wish to take the matter further. Debate on any motion moved may take place immediately, or may be adjourned.

If the complaint of a breach of privilege relates to a statement in a newspaper, book, or other publication, the Member is required to produce and hand in at the Table a copy of the publication, and give the name of the printer or publisher (S.O. 97).

Matter raised when House not sitting

If a matter of privilege arises while the House is not sitting and is not expected to meet for at least two weeks, a Member proposing that the matter should be referred to the Committee of Privileges may bring it to the Speaker's attention. If satisfied that a prima facie case of breach of privilege has been made out and the matter is one upon which urgent action should be taken, the Speaker then refers the matter directly to the Committee of Privileges and reports the referral to the House at its next sitting. The Member who raised the matter must then move immediately, without notice, that the referral be endorsed by the House. If the motion is negatived, the Committee of Privileges can take no further action on the matter (S.O. 97A).

Report by the Committee of Privileges

The Committee of Privileges is established at the start of each Parliament to inquire into and report on complaints of breach of privilege referred to it by the House or by the Speaker (S.O. 325). The committee itself cannot impose penalties—its role is investigatory and advisory. In its report to the House the committee usually makes a finding as to whether or not a breach of privilege or contempt has been committed, and it usually recommends to the House what action, if any, should be taken.

Normally when a report from the Committee of Privileges is presented, and especially if there is the possibility of further action, the practice is to consider the report at a future time so that Members may study the report and the issues

involved before making decisions on it. The House is not bound to follow the committee's recommendations, and any motion moved in relation to the matter is subject to amendment.

The House for various reasons may decide not to proceed against the offenders or it may take punitive action. Punishment may be by way of imprisonment or fine, public reprimand, requirement of an apology or exclusion from the parliamentary precincts.

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