Matters of public importance

NATURE OF THE PUBLIC IMPORTANCE DISCUSSION PROCEDURE

On any sitting day after the first day of meeting of a Parliament a Member may propose to the Speaker that a definite matter of public importance be submitted to the House for discussion. The Member proposing the matter is required to present to the Speaker at least 2 hours before the time fixed for the meeting of the House a written statement (see p. 510) of the matter proposed to be discussed. If the Speaker determines that it is in order, he reads it to the House prior to calling on the business of the day. The proposed discussion must be supported by at least 8 Members, including the proposer, rising in their places as indicating approval. The Speaker then calls upon the proposer to open the discussion which may last for up to 2 hours or may be terminated earlier if no further speakers rise to continue the discussion or by the House agreeing to a motion, moved by any Member, 'That the business of the day be called on'. In the event of more than one matter being presented for the same day, priority is given to the matter which, in the opinion of the Speaker, is the most urgent and important, and no other proposed matter may be read to the House that day.¹

This procedure is one of the few avenues available to the Opposition and private Members generally to initiate immediate debate on a matter which is of current concern. Thus, the procedure is used, mainly by the opposition executive, on almost every sitting day.

The public importance procedure is characterised by a number of features which are summarised as follows:

- any Member may initiate a matter for discussion, but it is not a procedure which would be used by Ministers as there are other avenues available to them to initiate debate on a particular subject;
- the matter proposed is expected to contain an element of ministerial responsibility;
- in view of the limited opportunities for private Members to initiate debate in the House, the procedure has assumed considerable importance, particularly for the Opposition which proposed 87 per cent of the matters during the period 1975 to 1980²;
- the procedure may be used on any sitting day after the first day of meeting of a Parliament³;
- the subject matter does not attract a distinct vote of the House as there is no motion before the Chair;
- it is unusual in recent times for a matter to be discussed for the full 2 hours allowed under the standing orders. Usually, by arrangement between the parties, 2 or 3 Members from each side are listed to speak;
- the matter proposed is scrutinised by the Speaker to see that it is in order and in an acceptable form before the matter is proposed in the House (but see p. 511);
- as most matters originate from the Opposition, they are usually critical of government policy or administration,

¹ S.O. 107.
² See Ch. on 'Private Members' business'.
³ S.O. 101: As there is no Speaker prior to the first meeting of a Parliament there is no one to whom a matter could be submitted.
the terms of a matter of public importance selected by the Speaker are made known through the Table Office to the Leader of the House or the Manager of Opposition Business, as the case may be, about 2 hours before the meeting time of the House.

Matters of public importance developed from an earlier provision in the standing orders adopted in 1901 which permitted a Member to formally move the adjournment of the House for the purpose of discussing a definite matter of urgent public importance. This procedure was described by Speaker Johnson as a provision based:

... on the supposition that something of an urgent public nature has suddenly arisen which prevents notice of a motion for its consideration being given in the ordinary way.4

The standing order originally adopted by the House5 was similar to a procedure adopted by the House of Commons in 1882 which actually restricted the rights of private Members, being designed to prevent vexatious or obstructive motions from holding up the business of the House.6 In accordance with the standing order adopted by the House of Representatives, a Member could rise in his place immediately prior to the calling on of the business of the day and 'propose to move the adjournment for the purpose of discussing a definite matter of urgent public importance' which he then stated and handed in writing to the Speaker. Provided that 5 Members indicated approval of the proposed discussion by rising in their places7, the Member then formally moved the motion 'That the House do now adjourn' and addressed the House. The discussion was limited to 2 hours. If more than one Member wished to propose a discussion on a particular day, the Speaker accorded priority in the order in which Members intimated to him that they desired to submit matters to the House.8

The following developments in the procedure have subsequently occurred:

- In 1950 the standing order was amended to provide that a written statement of the matter proposed to be discussed had to be submitted to the Speaker at least one hour before the time fixed for the meeting of the House, 8 Members instead of 5, including the mover, were required to support the motion, and, if more than one motion was submitted for the same day, the Speaker determined priority.9

- In 1951, as an indirect result of views expressed by Speaker Cameron10, it was determined that the primary purpose of the motion was to allow discussion, and the standing order was amended to enable the matter to be initiated by submitting to the House a definite matter of urgent public importance instead of a motion. As a result of there being no motion before the House, the closure could not be moved and it was therefore provided that discussion could be terminated by the House agreeing to a motion 'That the Business of the Day be called on'. If not terminated in this way, the discussion is terminated automatically after 2 hours or when discussion concludes, whichever is the earlier.11

- In 1963 the word 'urgent' was omitted from the expression 'definite matter of urgent public importance' in the standing order as for many years Speakers had not attempted to determine the degree of urgency but had been satisfied if the stipulated number of Members rose in support of the discussion. The standing order was further amended to provide that a motion for the adjournment of the debate and a closure motion were not in order and, in the event of more than one

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5 In 1901, S.O. 38.
6 May, 10th edn, pp. 240-2; and see Select Committee on Procedure, 2nd Report, HC 282(1966-67)38.
7 S.O. 39 dealt with limitation of Members' speaking times.
8 H. R. Deb. (21.7.22)718.
9 S.O. 38 became S.O. 48.
11 VP 1951-53/334-5; S.O. 48 became S.O. 106A.
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matter being presented the same day, no proposed matter, apart from the one
given priority by the Speaker, could be read to the House that day.12

- In 1978 the standing orders were amended to enable grievance debate or general
  business, as the case may be, to take precedence over matters of public import-
  ance on sitting Thursdays (see below).13

- In 1980 standing order 107 was amended by sessional order to provide that a
  Member proposing a matter shall present it to the Speaker at least 2 hours prior to
  the time fixed for the meeting of the House (see Supplement to Standing Orders).

An interesting historical feature of the procedure was that prior to 1952 debate took
place on a motion 'That the House do now adjourn'. In 1921 the Hughes Government
was defeated on this motion but remained in office following a vote of confidence.14 The
Scullin Government was also defeated on such a motion in 1931 and the House was
subsequently dissolved.15 Since 1952 the possibility of the Government being defeated
has been eliminated by the change in the procedure to a form of discussion.

Prior to 1963 a matter of public importance could not be discussed before the Ad-
dress in Reply was agreed to16, as no business, except of a formal character, could be
taken before the Address was adopted. Standing order 10 now provides that no general
business, except of a formal character, shall be entered upon before the Address is
adopted. In 1970 the Speaker, in a private ruling, decided that a matter of public im-
portance is not considered to be an item of general business in the terms of standing
order 10 and may be submitted to the House before the Address is adopted.17

In recent years there have been attempts to have the House record a decision on the
matters discussed. Motions have been moved to suspend standing orders for this pur-
pose, but on each occasion they have been unsuccessful. In 1973 the Standing Orders
Committee considered a proposal that the standing order be amended to enable a vote
to be taken on matters of public importance but the committee did not deem it desirable
to proceed further with the proposal.

There has been a marked increase in the number of matters proposed and discussed
during recent years, with most of them being submitted by members of the opposition
executive. This fact and the fact that discussions tend to be dominated by Members
from the 2 front benches have been criticised in the House.18

In view of the increasing frequency of matters of public importance being proposed
to the House on Thursdays and the fact that they were intruding into the time for pri-
ivate Members' business, the Standing Orders Committee recommended in 1974 that on
Thursdays grievance debate or general business take precedence after questions with-
out notice.19 This recommendation was not adopted by the House and an amendment
made to standing order 101 in 1978 provided for grievance debate or general business to
be given precedence only over matters of public importance.

The following table illustrates the increasing frequency of discussions of matters of
public importance:

14 VP 1920-21/489,491; see also Ch. on 'Motions' and
Sawer, Australian Federal Politics and Law,
1901-1929, pp. 208-09 for comment.
15 VP 1929-31/945,947-8; see also Ch. on 'Motions'.
17 See also Ch. on 'The parliamentary calendar'.
18 H.R. Deb. (23.8.79)607.
Further trends have also been noticeable during the period 1970-1980:

- the percentage of the time of the House taken up in discussions of matters of public importance has increased from an average of 4.4 per cent for the period from 1971 to 1975 to 7.7 per cent for the period from 1976 to 1980;20
- during the period from 1974 to 1980 a consistent pattern of matters being proposed to the House but not proceeding to discussion is evident, and
- there is an increasing frequency of 2 or more matters being submitted on the same day requiring the Speaker to determine priority. Of the 110 days on which matters were submitted during 1979 and 1980, 2 or more matters were submitted on 41 days.

DISCRETIONARY RESPONSIBILITY OF THE SPEAKER

Standing order 107 invests the Speaker with the power to determine whether a matter of public importance is in order. A Member must present to the Speaker a written statement of the matter proposed to be discussed at least 2 hours before the time fixed for the meeting of the House. In the absence of the Speaker the practice of the House is that the Chairman of Committees determines whether matters are in order and determines priority, if necessary, before the House meets. The Chairman of Committees performs this function even though, on a particular day, he is not empowered to perform the duties of Speaker until the House, pursuant to standing order 14, is informed by the Clerk of the Speaker's absence.21

In the event of the absence of both the Speaker and Chairman of Committees the position would be somewhat different. As no assumption can be made that any particular Member will be elected to perform the duties of Speaker pursuant to standing order 15, there would be no person to whom a matter could be submitted 'at least 2 hours before the time fixed for the meeting of the House', or who could determine priority if more than one matter is proposed for that day. In these circumstances it would appear to be necessary to move an appropriate motion to suspend the standing orders in order to allow the discussion to take place.

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20 See Appendix 28. For statistics of matters of public importance since 1901 see Appendix 27.
A matter is put before the House only if the Speaker has determined that it is in order and he is not obliged to inform the House of matters he has decided are out of order. The decision of the Speaker cannot be challenged by a motion of dissent as the Speaker does not make a ruling but exercises the authority vested in him by the standing order. Members cannot read to the House (or table) matters determined to be out of order or not selected for discussion.

Prior to 1950 a matter could be brought before the House even though it may have been out of order as Members were not required to give the Speaker notice of formal adjournment motions, although this was usually done as a matter of courtesy.

Prior to the meeting of the House, Members are sometimes requested by the Speaker to amend the wording of their proposed matter in order to make it accord with the standing orders. A proposed matter determined to be in order and granted priority appears on the Daily Program issued prior to the meeting of the House.

More than one matter submitted

In the event of more than one matter being submitted for discussion on the same day (up to 5 have been so submitted), the Speaker gives priority to the matter which, in his opinion, is the most urgent and important. No other proposed matter may be read to the House that day, not even as part of a motion. A matter determined to be in order but not accorded priority has been accepted and accorded priority on a later occasion.

The Speaker, in judging which is the most urgent and important matter for submission to the House, does so against the background that a principal function of a modern House is to monitor and publicise the actions and administration of the Executive Government.

Criteria for determining a matter in order

In deciding whether a matter is in order the following aspects of the proposed matter must be considered.

Matter must be definite

The requirements of the House are that a proposed matter must be definite, that is, single and specific. Prior to 1952 formal adjournment motions had been ruled out of order on the grounds that they were not definite. Now a Member would be asked to amend his proposed matter before acceptance by the Speaker. The modern view is that the intent and spirit of the standing order is contravened by including diverse topics in the matter, the underlying reasons being:

- that notice of the discussion is limited and, therefore, it is impracticable to prepare for wide-ranging debate, and
- the time limit for discussion is strictly limited and does not thereby allow for an adequate discussion of several disparate matters.

Public importance

In 1967 the Speaker directed that a matter be amended before presentation to the House partly because it dealt with procedure and proceedings of the House which were

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22 VP 1964-66/547.
23 H.R. Deb. (30.9.54)1767.
26 H.R. Deb. (3.3.49)961.
28 S.O. 107.
30 Matter not accorded priority on 22 May 1979 was accorded priority the next day, VP 1978/80/792806.
31 VP 1932-34/938 (the motion also anticipated an order of the day); VP 1943-44/101; H.R. Deb. (17.3.44)1562.
of domestic concern and could not be considered as appropriate for discussion as 'a definite matter of public importance'. However current interpretation would allow any matter relating to or concerning any subject in respect of which the House has an authority to act or a right to discuss.

**Ministerial responsibility**

The Speaker of the House of Commons, in determining whether a matter of urgency is proper to be discussed, is expected to have regard to the extent to which the matter concerns the administrative responsibilities of Ministers or could come within the scope of ministerial action. The Speaker of the House of Representatives will pay regard to these factors in determining whether a matter of public importance is in order. As a reflection of this, standing order 91 (time limits for speeches), prior to 1972, presupposed that a matter would fall within areas of ministerial responsibility by providing that a Minister was given the same speaking time as the proposer in order to reply to the proposer's speech. The standing order was subsequently amended to take account of those cases where a matter is proposed by a government Member, and now provides for equal speaking time to the Member next speaking after the proposer whether he be a Minister or a Member of the Opposition.

**Anticipation**

The rule relating to anticipation provides that no Member may anticipate the discussion of any subject which appears on the Notice Paper and a matter on the Notice Paper must not be anticipated by another matter contained in a less effective form of proceeding, although the Speaker must have regard to the probability of the matter anticipated being brought before the House within a reasonable time. A notice of motion has been withdrawn prior to discussion of a matter of public importance on the same subject.

This rule has only limited application in judging whether a matter submitted is in order. After a long period of sittings the Notice Paper will contain notices and orders of the day on almost every phase of government responsibility so that strict application of the rule could rule out a very large proportion of matters submitted. Furthermore, in practice, if the Government knows that it will shortly be bringing before the House a matter which will allow debate on the same subject as that submitted, it has the option provided in standing order 107 of curtailing debate on the matter of public importance.

**Sub judice**

There is no specific difference between the application of the sub judice rule to matters of public importance and that which applies to debate generally. The Chair has ruled that part of a proposed matter was sub judice but allowed discussion to take place on the remainder of the subject. The Speaker has also upheld a point of order that the latter part of a matter was sub judice. Dissent from the ruling was negatived and the House then proceeded to discuss the matter with the latter part omitted. In 1969 discussion of a matter before the Commonwealth Conciliation and Arbitration Commission was ruled to be in order on the ground that it was not before the Commonwealth Industrial Court.

32 But see VP 1970-72/172; VP 1974-75/571-2,1044,1066,1086,1096 for discussions of matters relating to the procedure and practice of the House.

33 May, p. 339.

34 VP 1970-72/1018-20,1375.

35 S.O.s 82, 163; and see Chs on 'Motions' and 'Control and conduct of debate'.

36 VP 1962-63/483; NP 85(16.5.63)1467.

37 See Ch. on 'Control and conduct of debate'.

38 VP 1974-75/169-70; H.R. Deb. (18.9.74)1460.


40 H.R. Deb. (16.4.69)1145.
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Matter presented, or subject debated, previously

The Speaker has the discretion to disallow any motion or amendment which is the same in substance as any question which has been resolved during the same session. The same principle may be applied to matters of public importance and the Speaker has privately disallowed a matter that was substantially the same as one submitted earlier in the session. However, matters have been submitted and discussed on the same subject as ones previously discussed, the Chair having ruled privately that new circumstances existed. It has also been ruled that the scope of a matter was wider than the previous one, debate thus being permitted provided it did not traverse ground covered in the previous matter.

A Member has withdrawn a matter before it was announced to the House as it had already been covered in debate earlier that day.

It is normal practice that matters on which no effective discussion has taken place may be resubmitted and allowed during the same session.

Matters involving legislation

It has been the practice of the House to allow matters involving legislation to be discussed, provided that no other criterion is transgressed. In 1967, however, the Speaker privately ruled that certain words in a proposed matter were out of order. The matter proposed was:

The Government’s failure to maintain the purchasing power of repatriation payments and general benefits and its abuse of legislative processes to prevent debate and voting on the adequacy of Repatriation entitlements.

The italicised words were ruled out of order on the grounds that their primary purpose was to draw attention to the way in which the Repatriation Bill 1967 had been drafted with a restricted title which limited debate to pensions payable to children of a deceased member of the Forces. When the bill was debated at the second reading, an amendment dealing with a wider range of repatriation matters had been ruled out of order as not being relevant to the bill. A motion of dissent from the ruling was negatived. The words were also ruled out of order as, by inference, there was a criticism of the Chair, and a reflection upon the vote (S.O. 73) which negatived the motion of dissent. It might also be noted that the wording proposed was deficient in that it tended to raise more than one matter. The matter was submitted and discussed in its amended form.

Subject that can only be debated upon a substantive motion

A matter of public importance is similar to a motion in that words critical of the character or conduct of a person, whose actions can only be challenged by means of a substantive motion, may not be included in the matter proposed. A formal adjournment motion was ruled out of order as it reflected on the conduct of the Speaker which could only be questioned by means of a substantive motion. In 1972 the Speaker ruled privately that a matter of public importance should not be the vehicle for the use of words critical of the conduct of a Member of the House. It was ruled privately in 1955.
that the committal to prison of Messrs Fitzpatrick and Browne, after being found guilty of a breach of privilege, could not be discussed as an urgency matter.

In 1922 the Speaker allowed a formal adjournment motion criticising the judgment and award of a judge in the Commonwealth Court of Conciliation and Arbitration. He ruled that discussion must be confined to the award and such matters as did not involve criticism and reflection on the judge. In giving reasons for his ruling the Speaker saw the matter as one of some doubt which 'must depend largely on the tone and scope of the discussion'. He had regard to the fact that the Member was debarred from moving a substantive motion because precedence had been given to government business and he did not feel justified in ruling the motion out of order 'provided it is clearly understood that, under cover of this motion, no attack or personal reflection can be made upon the Judge or the Court, nor can the conduct of the Judge be debated'.

READING OF MATTER TO THE HOUSE

If a matter has been submitted at least 2 hours prior to the time fixed for the meeting of the House, accepted as in order, and accorded priority if more than one matter has been submitted, the Speaker reads it to the House before the calling on of notices and orders of the day. Only one proposed matter may be read to the House each day. Matters are usually proposed to the Speaker by letter in the following form:

[date]

Dear Mr 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:

[terms of matter]

Yours sincerely,

[signature of Member]

On those sitting Thursdays when grievance debate is the first order of the day or when general business has precedence on the Notice Paper, matters are read to the House after grievance debate or general business, as the case may be.

Standing orders have been suspended to enable a matter to be discussed at a later hour and standing order 107 itself has been suspended until a certain bill has been disposed of.

After reading the matter to the House the Speaker calls on those Members who approve of the proposed discussion to rise in their places. The proposed discussion must be supported by at least 8 Members, including the proposer, rising in their places as indicating approval. The Speaker then calls upon the proposer to open the discussion.

On occasions matters have not been further proceeded with because they lacked the necessary support. The Member who submits a matter for discussion must, under the standing orders, open the discussion in the House. However, on one occasion standing orders were suspended to enable another Member to act for the Member who had proposed a matter for discussion.

The action of Members rising in their places does not indicate approval of the subject matter in any way, but simply indicates approval to a proposed discussion taking place. Once a proposed discussion commences the only relevant provision concerning

52 H.R. Deb. (20.9.22)2443-4.
54 VP 1974-75/439-40.
55 VP 1920-21/799 (including the proposer); VP 1929-30/941; VP 1934-35/356,365.
56 VP 1962-63/463.
the number of Members present in the House is that relating to a quorum, and there is
no requirement that all or any of the supporting Members remain.\textsuperscript{57}

Matter proposed amended

No amendment can be moved to a matter being discussed as it is not a motion before
the House, although, as mentioned earlier, matters proposed are often amended on the
suggestion of the Speaker before the meeting of the House. In addition, the Speaker
may not be aware when he approves a matter for discussion that the matter, or part of
the matter, is sub judice. Part of a matter has been ruled out of order in the House on
this ground on several occasions.\textsuperscript{58}

Matter proposed withdrawn

Matters proposed which have been accepted and included on the Daily Program
have been withdrawn, by the proposer notifying the Speaker in writing. The Speaker
has informed the House of this fact when the time for discussion was reached. A matter
has been withdrawn as the subject had already been covered in matters debated earlier
that day.\textsuperscript{59} On another occasion, 2 matters having been submitted, the matter accorded
priority was withdrawn and no mention was made of the other matter.\textsuperscript{60}

DISCUSSION

The time allowed for discussion of a matter is limited to 2 hours. The proposer and
the Member next speaking are each allowed 15 minutes to speak and any other
Member 10 minutes.\textsuperscript{61} A Member may be granted an extension of time by the House. A
motion that a Member speaking 'be not further heard' is in order.

Discussion has been interrupted temporarily, following suspension of standing
orders, to enable the Budget and associated bills to be introduced\textsuperscript{62} and, by leave, to
allow a ministerial statement to be made.\textsuperscript{63} A discussion has been interrupted by a
motion to suspend standing orders to enable a motion to be moved relating to the sub-
ject matter under discussion. No such motion has been successful, discussion often con-
tinuing after the motion to suspend standing orders has been negatived.\textsuperscript{64} A motion to
suspend the standing orders temporarily supersedes discussion of a matter of public im-
portance but the discussion remains as a proceeding still before the House and, as a re-
result, the time taken up by the motion, or any other form of interruption, forms part of a
Member's speech time and part of the period of 2 hours allotted for the discussion.\textsuperscript{65}

The proposer of a matter of public importance has no right of reply although he has
spoken again by leave\textsuperscript{66} and following the suspension of standing orders.\textsuperscript{67}

At the expiration of the allotted 2 hours the discussion is automatically concluded.
The House has extended the time for discussion\textsuperscript{68} and further extended the time\textsuperscript{69}, by
suspending standing orders. The discussion cannot be adjourned and a motion ‘That the
question be now put’ is not in order.\textsuperscript{70} At any time during the discussion, however, any

\textsuperscript{57} H.R. Deb. (20.9.77)1297-8.
\textsuperscript{58} VP 1962-63/297-8; H.R. Deb. (15.11.62)2460-74;
VP 1974-75/169; H.R. Deb. (18.9.74)1460.
\textsuperscript{59} H.R. Deb. (4.11.77)2901.
\textsuperscript{60} H.R. Deb. (10.10.76)1641.
\textsuperscript{61} S.O. 91.
\textsuperscript{62} VP 1968-69/489-90,491.
\textsuperscript{63} VP 1970-72/988; VP 1978-80/671.
\textsuperscript{64} VP 1974-75/528-30.
\textsuperscript{65} VP 1970-72/920-2; and see Ch. on 'Control and con-
duct of debate'.
\textsuperscript{66} VP 1964-66/139.
\textsuperscript{67} VP 1962-63/297-8.
\textsuperscript{68} VP 1968-69/416.
\textsuperscript{69} VP 1968-69/417.
\textsuperscript{70} S.O. 107 (there being no question before the House).
Member may move a motion ‘That the business of the day be called on’ which question is put forthwith and decided without amendment or debate. Such motions have, from time to time, been moved immediately the proposer has been called by the Chair to open the discussion. The term ‘business of the day’ has been given a wide interpretation to include ministerial statements, announcements of messages from the Senate and the Governor-General, and so on. Alternatively discussion may be concluded prior to the 2 hour time limit if no Member rises in his place to speak on the matter. It has become the practice in recent times to limit the number of Members participating in a discussion, by arrangement between the parties, to 2 or 3 Members from each side which means that the discussion is concluded well before the expiration of the allotted 2 hours.

71 S.O. 107.