

Private Members' business

The majority of the time of the House is occupied in the consideration of government business, a situation which is common to most of the Parliaments of the Commonwealth. This has not always been the case, however, for at the beginning of the 19th century in the House of Commons government business had no precedence over other business although in practice 2 days per week were allotted to the former.¹ In those times the greatest debates took place on private Members' motions, that is, motions moved by Members who were not Ministers.²

At the time of Federation a Government's right to reserve a significant part of the time of the House for its own purposes had, because of necessity, already become established. The demand for government time has been naturally at the expense of time allowed for private Members' business. The increasing need for Governments to control House time, assisted by the growth of strong party loyalty, has led to a steady curtailment of opportunities for private Members to initiate bills and motions and even to limit their participation in the consideration of government business.³ Private Members frequently object to the limits placed on opportunities to raise matters in the House, and to the occasional encroachments on their relatively few remaining opportunities to have issues of their own choosing debated.⁴

As a means of analysing how the time of the House is occupied the following categories of business have been adopted:

Government business—government sponsored legislation and motions, and ministerial statements.

Business of the House—petitions, giving notices, question time, presentation of papers, privilege matters, personal explanations, dissent motions, announcements of ministerial arrangements, motions to appoint committees, statements and debate on committee reports, motions for addresses, motions of condolence, motions for leave of absence and special adjournment motions.

Private Members' business—bills and motions sponsored by private Members and statements by Members.

Other opportunities for private Members—adjournment and grievance debates, discussion of matters of public importance, and debate on the Address in Reply.

The private Member has the opportunity, provided by the standing orders, to participate in all House activity, including government business and business of the House. The rights of the private Member are especially preserved in respect of lodging a petition, the giving of a notice and the asking of questions. Other procedures which permit private Members to raise and draw attention to issues which they consider to be important are the adjournment debate, grievance debate (*see* p. 524), discussion of matters of

¹ Jennings, *Parliament*, p. 121.

² Jennings, p. 360. For a definition of private Member *see* Ch. on 'Members'. For the purposes of defining private Members' business, business initiated by the opposition party leaders is included.

³ A feature of changes to the standing orders since Federation has been the adoption of the closure of the question, closure of a Member, the guillotine and

time limits for Members' speeches which have been progressively shortened.

⁴ *See* H.R. Deb. (23.2.78)194,218; H.R. Deb. (24.5.78)2444; H.R. Deb. (7.6.78)3172; H.R. Deb. (23.8.78)632; H.R. Deb. (19.9.78)1162; H.R. Deb. (23.8.79)601,607; H.R. Deb. (24.10.79)2435; H.R. Deb. (25.10.79)2530,2557; H.R. Deb. (4.10.80)402.

public importance and debate on the Address in Reply.⁵ Members also have an opportunity to debate matters of their own choosing during debate on the second reading of the main Appropriation and Supply Bills⁶ and, subject to the relevancy rule, in the consideration of the estimates. While these opportunities are important to private Members none of them enable the Member to obtain a distinct vote of the House on a specific or important issue. As the foregoing procedures indicate, private Members' business has a broader meaning than the more narrow procedural definition of general business.

This chapter focuses on 2 major opportunities for private Members to initiate debate on particular issues, namely, general business, and the grievance debate. Statistics in relation to these procedures are shown in table 12.

TABLE 12 GENERAL BUSINESS AND GRIEVANCE DEBATE

Year	No. of sittings	General business		Grievance debate		
		<i>Days general business would have ordinarily had precedence of government business. (Days government business superseded general business by order of the House shown in brackets)</i>	<i>Actual days general business called on</i>	<i>Number of other days House considered general business. (Additional days notices of a censure or want of confidence motion considered shown in brackets) (a)</i>	<i>Number of sitting days 'grievance debate' was first order of the day, government business (b)</i>	<i>Number of days grievances actually debated</i>
1901	113	27(17)(c)	10	4(11)	9	2
1910	83	19(5)(d)	14	3	6	5
1920	114	30(18)(d)	10(e)	2(5)	9	8
1930	98	8(6)(f)	2	1	8	6
1940 ¹	43	1(f)	1	1	2	1
1950	83	13(g)(4)	2	2(1)	11	1
1960 ²	74	11(6)	4	3	12	6
1970	73	9(4)	4	1	9	4
1971	74	10(4)	6	2(4)	10	4
1972	60	9(5)	4	3(h)(2)	10	5
1973	81	11	11	3(4)	12	11
1974	62	5	5	—(4)	5	5
1975	69	10(2)	8	—(4)	10	7
1976	79	10(3)	7	—(2)	10	10
1977	68	9(6)	3	—(3)	9	9
1978	75	9(5)	4	1(10)	10	9
1979	68	11(4)	5	5(2)	11	9
1980	51	8(1)	4	3	7	6

¹ From March 1950 'grievance debate' was the first order of the day, government business (until 12.45 p.m.) on alternate Thursdays, commencing with the first Thursday after the appointment of the committees of supply and ways and means, general business having precedence of government business (until 12.45 p.m.) on the other Thursdays.

⁵ These procedures are discussed in the appropriate chapters.

⁶ See Ch. on 'Legislation'.

² From August 1963 grievance debate and general business followed each other on alternate sitting Thursdays after the adoption of the Address in Reply.

- (a) Days on which formal and unopposed motions such as motions for returns (no longer used) have been excluded, as have days on which the House considered general business motions without notice. Days on which the House considered Senate bills sponsored by private Members have been included (even if there was no debate). Censure or want of confidence motions are motions expressing censure of or want of confidence in the government, Ministers or the Speaker and censure of Members. Only those of which notice was given have been included and in many cases the notices were called on immediately after they were given or announced to the House.
- (b) Up until March 1950 'grievance debate' was the first order of the day, government business, every third Thursday unless the committees of supply and ways and means were open. Until 1963 grievances were debated on the question 'That Mr Speaker do now leave the Chair', this question being proposed when the first order of the day, government business (either supply or ways and means) was called on.
- (c) Pursuant to sessional order, general business had precedence every Friday, there being no time limit.
- (d) Pursuant to sessional order, general business had precedence until 6.30 p.m. each Thursday.
- (e) Includes one day government business had precedence and general business was later brought on.
- (f) Pursuant to sessional order, general business had precedence of government business every third Thursday (the same day grievances were debated) until 9 p.m. The sessional order did not operate for the 13 sittings of the 1st session of the 16th Parliament held during 1940 (i.e. there was no general business during that period).
- (g) There was no general business on the Notice Paper on one day it had precedence and on another the only item of general business was postponed.
- (h) Including one day on which both general business and a want of confidence motion were called on.

A comparison of House time spent in the consideration of the categories of business defined above is made in Appendix 30.⁷ In the period 1970-80, the time occupied by government business and business of the House averaged 79.8 per cent of the total time of the House. The time devoted to private Members' business and the other major debating opportunities provided to private Members averaged 20.2 per cent. General business as such occupied an average of 3.7 per cent of the House's time during this period.

GENERAL BUSINESS

General business is not defined by standing orders but has always been interpreted as meaning either a notice of motion or a notice of intention to present a bill initiated by a private Member, or an order of the day for the resumption of debate on a bill or motion initiated by a private Member. Other than a want of confidence or censure motion, if accepted by the government as such, it is only on specific items of general business that the private Member can initiate a specific matter of his own choosing and obtain a distinct vote of the House. Thus, general business falls into 2 main categories:

- substantive motions seeking a resolution of the House on a specific matter, and
- private Members' bills.

Precedence to Address in Reply

No general business other than of a formal character may be entered upon before the Address in Reply to the Governor-General's Speech has been adopted.⁸ In 1970, the Speaker ruled privately that a matter of public importance is not an item of general business for the purposes of the standing order, and may therefore be submitted to the House for discussion before the adoption of the Address in Reply.

Until 1963, standing orders did not permit even government business, except of a formal nature, to be entered upon before the Address in Reply was adopted. However, it had at that time become the practice of the House to suspend standing orders to enable specified items of government business to be considered. This practice led to the amendment of the standing order.⁹

⁷ For more detailed figures see also Appendix 28.

⁸ S.O. 10.

⁹ H of R 1(1962-63)7.

The standing orders qualify the precedence accorded to the Address in Reply, and the following motions may be moved by a private Member before the adoption of the Address in Reply:

- a motion or amendment which expresses a censure of, or want of confidence in, the Government¹⁰;
- a motion of dissent from the Chair's ruling¹¹;
- a motion on a matter of privilege suddenly arising¹²;
- a motion challenging the vote of a Member¹³;
- a motion granting leave of absence to a Member of the House¹⁴, and
- a motion for the suspension of standing orders.¹⁵

A private Member may give a notice of motion or a notice of intention to present a bill before the Address in Reply is adopted but the notice may not be proceeded with in the House until after the Address is disposed of.¹⁶

Precedence on general business Thursdays

To take precedence of government business

Unless otherwise ordered, general business has precedence of government business until 12.45 p.m. on sitting Thursdays alternate to those sitting Thursdays on which grievance debate is the first order of the day under government business.¹⁷ The alternation is determined in relation to sitting Thursdays, not by consecutive calendar weeks.¹⁸ On the first sitting Thursday after the Address in Reply has been adopted grievance debate has precedence and the alternation process commences from that time.¹⁹ On all other sitting days, unless otherwise ordered, government business has precedence of all other business.²⁰

For convenience, numbers are allotted consecutively throughout a session to general business Thursdays. The number of the next general business Thursday on which general business is to take precedence is indicated on the Notice Paper.

Precedence superseded

In practice general business is considered on less than half of the sitting Thursdays each year (*see* table 12, p. 514). In addition to the restriction imposed by the precedence accorded to the Address in Reply, it has become customary for the House, during the Budget sittings each year, to agree to a motion which provides for government business to take precedence of general business on each sitting day until Appropriation Bills (Nos 1 and 2) have passed all stages in the House.²¹ The view advanced in support of this practice is that Members may raise any matter during the Budget debate, and may also raise matters falling within the responsibility of particular departments during consideration in committee of proposed departmental expenditures.²² However, private Members do lose the opportunity, for a significant period of time, to move a motion which admits of a distinct vote of the House or to introduce a bill and have it considered.

10 S.O. 110.

11 S.O.s 100, 281.

12 S.O. 95.

13 S.O. 196.

14 S.O. 35.

15 S.O.s 399, 400.

16 NP 1 (26.11.80) 1-8.

17 S.O. 104.

18 H.R. Deb. (6.5.65) 1110-11.

19 S.O. 106.

20 S.O. 104.

21 VP 1978-80/1591. First moved in 1971, but not moved during period 1973-75.

22 H.R. Deb. (23.8.78) 632.

Opportunities for general business are sometimes further reduced by order of the House, usually to permit the Government to meet its immediate legislative objectives. The order may take the form of a motion agreed to at the Wednesday sitting preceding a general business Thursday in the form 'That government business shall take precedence of general business tomorrow'.²³ Government business has also been given precedence of general business for the remainder of a session.²⁴ Occasionally general business is not called on because other preceding business continues beyond 12.45 p.m., that is, until after the time at which precedence to general business expires.²⁵

The effect of these incursions into time intended for general business is illustrated by the proceedings for 1978 and, although fluctuations occur from year to year, the results may be regarded as representative of recent years. In 1978, after the adoption of the Address in Reply, the House met on 19 Thursdays. It might therefore be expected that general business would have had precedence on 9 Thursdays (grievance debate having precedence on the remaining Thursdays). In fact on only 4 occasions was general business considered on general business Thursdays (*see* table 12, p. 514).

Effects of limitations on general business opportunities

Because of the limited opportunities available, relatively few general business notices of motion are called on. This has affected the approach of Members to general business procedures in several important ways.

Firstly, Members give notices knowing that there is almost no chance of their motions being debated. Therefore, they use the notice procedure to express and have recorded on the Notice Paper their view on particular issues. In order to counter the natural desire to expand a view, it has been necessary for the Chair to frequently warn Members not to include in notices of motion arguments supporting the proposition, and the Chair has required Members to reframe such notices so as to include only sufficient information to make a proposed motion meaningful.²⁶

Secondly, at the commencement of a session, the practice had developed over recent years of Members handing in notices to the Clerk prior to the first sitting day and thereby, in effect, pre-empting general business Thursdays for a considerable period ahead. Following consideration of the problem by the Standing Orders Committee in 1975, the current practice was adopted whereby the Clerk will not receive notices prior to notices being called on by the Speaker at the first sitting of a new session. This rule does not, of course, affect the number of notices given, but it does give both government and opposition private Members equal opportunity to put down notices for particular general business Thursdays. On the first sitting day of the 32nd Parliament in 1980, notices were given for the first 18 general business Thursdays and 9 further notices were given for the next sitting. Regard is had to standing order 135 which provides that 2 notices received from the same Member shall not be placed consecutively in priority of a notice received from another Member during the same sitting.

Thirdly, during the period 1969-80, there has been a significant increase in the frequency with which Members of the Opposition have moved motions for the suspension of standing orders and motions of want of confidence in, or censure of, the Government and Ministers. This could be a reflection of the high level of government business in this period and the relatively little time made available to private Members to raise major issues in a way which would admit of a distinct vote of the House. As a result Members have made use of these procedures for bringing forward issues in a way quite different from former usage.

23 VP 1978-80/313.

24 VP 1920-21/1233.

25 VP 1964-66/711.

26 H.R. Deb. (4.5.77)1510; H.R. Deb. (11.11.79)3055; and *see* Ch. on 'Motions'.

Duration of general business period

On general business Thursdays the routine of business is as follows:

- presentation of petitions;
- giving of notices;
- questions without notice;
- presentation of papers;
- ministerial statements, by leave;
- general business notices and orders of the day;
- discussion of matter of public importance, and
- government notices and orders of the day.²⁷

The duration of general business, which expires at 12.45 p.m., varies according to the time taken up by the prior business of the House indicated above. The duration of general business may also be affected by other business arising during the ordinary routine. For example, responses to ministerial statements can have a significant effect on the duration of the general business period.

Until 1978, a matter of public importance had precedence of general business. Because so much general business time was lost as a result, the standing orders were amended to reverse the order in which the 2 items are called on.²⁸

Occasionally, the House may order consideration of a general business item to be extended for a longer period of time than is normally available under the standing orders. In 1973, the House agreed to a motion to enable a general business debate to extend for a period of 3½ hours. The motion contained the following provisions:

- the debate on the second reading ensuing forthwith and being continued past 12.45 p.m.;
- the time for the debate on the second reading, including the time of the mover, being limited to 3½ hours, and
- on the expiry of that time, such question or questions then being proposed, without further debate or amendment, as would bring the second reading stage to a conclusion.²⁹

The standing orders may also be suspended to permit consideration of general business to extend beyond, or to commence after, 12.45 p.m. An order to extend the time for general business would normally relate only to a specified item of business³⁰ and it may or may not specify a time at which general business ceases to have precedence.³¹ Upon the expiration of a specified extension, standing orders may again be suspended to permit a further extension.³²

When the time for general business is extended, it is usually for the purpose of enabling a debate to be completed and a vote to be taken³³ or to compensate partly or wholly for time lost due to matters arising before the commencement of general business.³⁴ Such compensation is by no means always granted. For example, on 27 May 1976 the general business period lasted some 2 minutes, in which time it was only possible for the motion to be proposed, the mover to speak one sentence in support and the Chair formally to interrupt the debate.³⁵

27 S.O. 101.

28 VP 1978-80/20.

29 VP 1973-74/164-5, 171-3.

30 VP 1976-77/273.

31 Time specified, VP 1976-77/273; time not specified, VP 1973-74/325-8.

32 VP 1967-68/71-2.

33 VP 1976-77/166.

34 VP 1967-68/711; H.R. Deb. (13.4.67) 1225-40.

35 H.R. Deb. (27.5.76) 2552.

Priority to notices

During the consideration of general business on general business Thursdays notices have priority of orders of the day for 2 hours after the meeting of the House. At the expiration of that time orders of the day are called on. If there are no orders of the day, or if the House then so orders, or if the orders of the day are disposed of, consideration of notices is continued until 12.45 p.m.³⁶

As the House normally meets at 10.30 a.m. on Thursdays, notices have priority until 12.30 p.m. leaving only 15 minutes of general business time for orders of the day. Generally the House orders that the time for the discussion of a particular notice, or notices, be extended until 12.45 p.m.³⁷ If it is intended that orders of the day be considered after the 2 hour time limit is reached, the debate on the motion before the House is interrupted and the resumption of the debate is made an order of the day for the next day of sitting.³⁸

Expiration of allotted time

Unless otherwise ordered, at 12.45 p.m. on a general business Thursday debate on general business is interrupted and the resumption of the debate on the question before the House is made an order of the day for the next day of sitting. A Member whose speech is interrupted at this time is granted leave to continue his speech on the resumption of the debate.³⁹ As the interrupted matter is made an order of the day **for the next sitting**, it precedes any other general business orders of the day on the Notice Paper for that sitting day only. If it is not called on at the next sitting, the precedence which it has attracted expires, and it is then placed after any other general business orders of the day on the following Notice Paper. In practice, not only would it be unusual for the debate to be resumed at the next sitting but it would rarely be resumed at all. Almost invariably, therefore, the order of the day lapses on prorogation of the Parliament or dissolution of the House.

The time for general business usually expires before a vote is taken on the question before the House which the mover may regard as an unsatisfactory conclusion. On relatively few occasions the Government may wish a vote to be taken on a general business motion, and on any amendment moved, and special arrangements have been made to permit this to happen.

If at the expiration of time allotted to general business a division is in progress, it is completed before the Chair draws the attention of the House to the fact that the time has expired.

Precedence by order of the House

From time to time and usually through the initiation of the Government, standing orders are suspended to permit specified items of general business to be called on and considered on a day other than a general business Thursday⁴⁰ or to give precedence to one item of general business over others.⁴¹ This course may be taken to permit immediate consideration of a matter of which notice has just been given, such as a want of confidence or censure motion⁴², to initiate debate on a matter which has particular significance to the community⁴³ or to bring on a matter when the time factor is significant,

³⁶ S.O. 109.

³⁷ VP 1977/112; VP 1978-80/118.

³⁸ VP 1962-63/570.

³⁹ VP 1978-80/237; see also Chs on 'Motions' and 'Control and conduct of debate'.

⁴⁰ VP 1973-74/475-6; VP 1968-69/39.

⁴¹ VP 1978-80/133.

⁴² VP 1978-80/269.

⁴³ VP 1978-80/683; VP 1980-81/139.

such as a motion for the disallowance of delegated legislation (regulations⁴⁴, ordinances⁴⁵, and so on).

On 5 May 1977, standing orders were suspended to permit precedence to a general business notice of motion seeking reference of a matter to the Court of Disputed Returns⁴⁶, the notice having been given on 30 March 1977.⁴⁷ Attempts by private Members to obtain precedence to a particular item of general business without government support have been invariably unsuccessful.⁴⁸

General business motions

The procedures of the House for general business motions are the same as for motions moved by a Minister except that they are required to be seconded.⁴⁹ The speech of the mover of a motion is limited to 20 minutes and of other Members to 15 minutes.⁵⁰

On general business Thursdays notices given for that particular day are placed on the Notice Paper in priority of other general business notices.⁵¹ If the first motion is disposed of, further notices are called on in the order that they appear on the Notice Paper.⁵²

Impact

During the period 1970-80, some 63 per cent of the general business motions which were moved were brought to a vote. However, these were mostly motions which were brought on with the support, or through the initiative, of the Government on other than general business Thursdays (*see* p. 519), and included censure motions. Only 5 per cent of those moved were agreed to in their original form.

Some general business motions brought before the House involve issues of moral conscience, such as abortion or homosexuality⁵³, or issues concerning the parliamentary institution. By arrangement within the parties, these are generally decided by a free vote or conscience vote with the result that a number have been agreed to, or amended and agreed to.⁵⁴ Outright government support for a general business motion, in its original form, is rare.⁵⁵

If a general business motion is agreed to, the Government does not necessarily consider itself bound by its terms. For example, in 1965 the House agreed to the following motion:

That as the Canberra Advisory Council is but part elected and believing that the citizens of Canberra have a right to say whether or not they want fluoridation of their water supply this House is of opinion that a referendum on the question should be held.⁵⁶

No action was taken by the Government in the terms of the resolution.⁵⁷

44 VP 1970-72/423; *see also* Ch. on 'Legislation'.

45 VP 1970-72/508.

46 VP 1977/108-11.

47 NP 11(31.3.77)580-3.

48 VP 1970-72/965,1176.

49 *See* Ch. on 'Motions'.

50 S.O. 91.

51 In view of the likelihood of only one notice being dealt with on any general business Thursday it is usual for only one notice to be given for each day, although it is becoming more common for 2 (or more) notices to be given as a contingency against the first notice being withdrawn or not being moved; *see* NP 1(26.11.80)4-8.

52 VP 1974-75/789-90.

53 *See for example*, VP 1978-80/683-4; VP 1973-74/458.

54 e.g., a motion to determine the proposed site for the new and permanent Parliament House, VP 1973-74/289-90,476; *and see* Ch. on 'Business of the House and the sitting day' for other examples of free votes.

55 e.g., a motion for the establishment of the Select Committee on Specific Learning Difficulties initiated by the Leader of the Opposition was agreed to, VP 1976-77/286-7.

56 VP 1964-66/251.

57 *See also* Ch. on 'Motions' on this point.

Private Members' bills

The procedures which apply to the processing of private Members' bills are substantially the same as those for government bills. Although there is no exemption in the standing orders for a motion for the second or third reading of a bill moved by a private Member to be seconded, in practice, a seconder is called for only on the second reading when the principles of the bill are determined.⁵⁸ The following time limits apply to speeches on the second reading of a private Member's bill⁵⁹:

Initiated by private government Member

Mover	30 minutes
Prime Minister or one Member deputed by him	30 minutes
Leader of the Opposition or one Member deputed by him	30 minutes
Any other Member	20 minutes

Initiated by opposition Member

Mover	30 minutes
Prime Minister or one Member deputed by him	30 minutes
Any other Member	20 minutes

The extent of government support in respect of successful private Members' bills has varied. In the case of the Matrimonial Causes Bill 1955, the Member who initiated the bill remained in charge of it through all stages in the House.⁶⁰ In the case of the Parliament Bill 1974, the Member who initiated the bill having moved the second reading, another Member moved the third reading. The bill was amended at the committee stage on the motion of a Minister.⁶¹ On the bill being returned from the Senate with amendments, it was taken over by the Government and was listed on the Notice Paper under government business.⁶²

When a private Member's bill has passed the House and been transmitted to the Senate, its sponsorship in the Senate may be by either a private Senator⁶³ or a Minister in the Senate.⁶⁴ Similarly, bills which originated in the Senate have been sponsored in the House by a private Member⁶⁵ or a Minister.⁶⁶

Financial initiative of the Crown

A private Member may not initiate a bill imposing or varying a tax or requiring the appropriation of revenue or moneys as this would be contrary to the constitutional and parliamentary principle of the financial initiative of the Crown, that is, that no public charge can be incurred except on the initiative of the Government.⁶⁷

The financial initiative in regard to appropriation is expressed in section 56 of the Constitution, and is extended in standing order 292 as follows:

No proposal for the appropriation of any public moneys shall be made unless the purpose of the appropriation has in the same session been recommended to the House by message of the

58 VP 1974-75/790.

59 S.O. 91.

60 VP 1954-55/190,254.

61 VP 1974-75/198-200,246-8.

62 NP 30(30.10.74)2840; VP 1974-75/426-8.

63 Parliament Bill 1974.

64 Life Assurance Companies Bill 1904 (passed Senate in 1905).

65 Wireless Telegraphy Amendment Bill 1980.

66 Australian Capital Territory (Temporary Provisions) Bill 1971.

67 This principle and its significance is discussed in the Chs on 'The role of the House of Representatives' and 'Legislation'.

Governor-General, but a bill, except an Appropriation or Supply Bill, which requires the Governor-General's recommendation may be brought in by a Minister and proceeded with before the message is announced. No amendment of such proposal shall be moved which would increase, or extend the objects and purposes or alter the destination of, the appropriation so recommended unless a further message is received.

The financial initiative in regard to taxation, which restricts private Members from initiating taxing bills, is expressed in, and given effect by, standing order 293:

A proposal for the imposition, or for the increase, or alleviation, of a tax or duty, or for the alteration of the incidence of such a charge, shall not be made except by a Minister. No Member, other than a Minister, may move an amendment to increase, or extend the incidence of, the charge defined in that proposal unless the charge so increased or the incidence of the charge so extended shall not exceed that already existing by virtue of any Act of the Parliament.

It would not be possible for a private Member to obtain the Governor-General's recommendation for an appropriation. Furthermore, standing order 292 provides that, of those bills requiring a Governor-General's message, only those brought in by a Minister may be introduced and proceeded with before the message is announced. Therefore, only a Minister may bring in a bill which appropriates public moneys.

Drafting

Private Members have access to the Office of Parliamentary Counsel for assistance in the drafting of bills and amendments. Any dealings between a Member and a parliamentary draftsman are regarded as confidential, if the Member so wishes.⁶⁸ The Attorney-General may decline to permit Members access to draftsmen in specific cases, if it would substantially prejudice the Government's legislative program.⁶⁹ The practical effect of this qualification has varied in significance over the years. In 1975, private Members' access to assistance from draftsmen was an issue on which the House and the Senate could not agree. The Senate amended the Parliamentary Counsel Bill 1975 to provide that a section of not less than 2 professional staff from the Office of Parliamentary Counsel be seconded to draft proposed laws, amendments and instruments at the request of private Members of Parliament in priority to services for Ministers.⁷⁰ The House disagreed to the amendment in view of the fact that the existing arrangements were considered to be more satisfactory to Members and the Government than the arrangements proposed.⁷¹ Each House stood its ground and the bill was finally laid aside.⁷²

In 1905, the Life Assurance Companies Bill, a private Member's bill which had originated in, and was passed by, the House in 1904, was passed by the Senate and sent to the Governor-General for assent. The Governor-General returned the bill recommending amendments. Commenting on the proposed amendments the Minister indicated that they were 'purely verbal' and did not affect the purpose of the bill. He pointed out that the initiator of the bill had not had the Parliamentary Draftsman's assistance in drafting it and had not understood the full significance of certain words he had used in the bill.⁷³

68 H.R. Deb. (9.4.75)1367.

69 H.R. Deb. (3.6.75)3251.

70 J 1974-75/730.

71 VP 1974-75/774.

72 VP 1974-75/827-8.

73 H.R. Deb. (25.10.05)4048.

Impact

Bills initiated by private Members represent a minute proportion of legislation dealt with by the House. Eighty private Members' bills have been introduced into the House since 1901. Table 13 indicates how these bills have been dealt with by the Houses:

TABLE 13 PRIVATE MEMBERS' BILLS INTRODUCED INTO THE HOUSE OF REPRESENTATIVES 1901-80

	<i>Originated in the House of Representatives</i>	<i>Transmitted from Senate for concurrence of House</i>
Leave granted to bring bill in, bill not brought in	1	
Motion for leave to bring bill in lapsed	1	
First reading negatived by House		1
Lapsed at second reading stage in House	34	19
Discharged at second reading stage	1	
Withdrawn at second reading stage	2	
Second reading negatived by House	9	
Second reading negatived by Senate	1	
Lapsed at committee stage	1	
Lapsed in Senate at consideration of House of Representatives amendments		1
Passed into law	5	4(a)
Total	55	25

Summary: A total of 80 private Members' bills have been introduced into the House of Representatives, 9 of which have been passed into law (see table 14).

(a) Includes 2 bills which were sponsored by the Government when transmitted to the House for its concurrence.

Three notable examples of legislation passed by the Parliament have resulted from the actions of private Members or Senators:

- In 1924, the Electoral (Compulsory Voting) Bill, which introduced compulsory voting at Federal elections, was initiated in the Senate by a private Senator, and when transmitted to the House was sponsored by a private Member.
- In 1957, a private Member initiated in the House the Matrimonial Bill to provide for uniform divorce laws. The bill passed the second reading but then lapsed. The objects of the measure were incorporated in the Government's Matrimonial Causes Bill which was passed in 1959.⁷⁴
- In 1974, a private Member introduced the Parliament Bill which was similar to a bill previously introduced by a private Senator but which did not proceed beyond the first reading stage in the Senate before lapsing. The bill's primary purpose was to determine the site of the new and permanent Parliament House, an issue which had defied final resolution for many years. The 1974 bill ultimately passed both Houses, in an amended form, and became law.

⁷⁴ Act No. 104 of 1959; and see H.R. Deb. (14.5.59)2223.

Table 14 lists all private Members' bills which have passed into law since Federation:

TABLE 14 PRIVATE MEMBERS' BILLS PASSED INTO LAW 1901-80

<i>Bill</i>	<i>Initiator</i>
Life Assurance Companies 1904 (Lapsed in Senate at second reading stage; proceedings resumed in Senate in 1905—Act No. 12 of 1905)	Mr L. E. Groom
Conciliation and Arbitration 1908 (Lapsed in Senate at committee stage; proceedings resumed in Senate in 1909—Act No. 28 of 1909)	Senator Needham
Electoral (Compulsory Voting) 1924 (Act No. 10 of 1924)	Senator Payne
Defence (No. 2) 1939 (Act No. 38 of 1939)	Mr Curtin
Supply and Development (No. 2) 1939 (Act No. 40 of 1939)	Mr Curtin
Matrimonial Causes 1955 (Act No. 29 of 1955)	Mr Joske
Australian Capital Territory Evidence (Temporary Provisions) 1971 (Act No. 66 of 1971)	Senator Murphy
Parliament 1974 (Act No. 165 of 1974)	Mr L. K. Johnson
Wireless Telegraphy Amendment 1980 (Act No. 91 of 1980)	Senator Rae

GRIEVANCE DEBATE

Origins

The grievance debate, which takes place on what is now generally referred to as 'grievance day', derives from the centuries old financial procedures of the House of Commons. The traditional insistence of the Commons on considering grievances before granting supply to the Crown found expression in the practice of prefacing consideration in Committee of Supply by the motion 'That Mr Speaker do now leave the Chair'. This provided an opportunity for the discussion and criticism of administrative policy.

Until 1963, the grievance debate in the House of Representatives also took place on this question on the order of the day being called on for the House to resolve itself into either the Committee of Supply or the Committee of Ways and Means. However, with the revision of the standing orders which saw the elimination of the Committees of Supply and Ways and Means from the procedures of the House, it became necessary to substitute a new question on which to hinge the debate. The question now proposed is 'That grievances be noted'. It is because of the procedural origins of the grievance debate that it is listed on the Notice Paper as an order of the day under government business, rather than general business.

Programming of the debate

Pursuant to standing orders the first order of the day, government business, on each alternate sitting Thursday commencing with the first sitting Thursday after the Address in Reply has been agreed to, is grievance debate which follows on the question proposed by the Chair 'That grievances be noted'.⁷⁵ It is placed as the first item on the Notice

⁷⁵ S.O. 106.

Paper notwithstanding the right of Ministers to arrange the order of government notices and orders of the day on the Notice Paper as they think fit.⁷⁶ Debate on the question may continue until 12.45 p.m. and, if not then concluded, the debate is interrupted and the question put by the Chair.⁷⁷ On grievance days the ordinary routine of business is varied in that the grievance debate precedes discussion of a matter of public importance.⁷⁸ This procedure was adopted in 1978, together with similar arrangements for the consideration of general business, to ensure that, in normal circumstances, a reasonable time is available for the grievance debate (*see* p. 518).

From time to time the Government may move for the postponement of the grievance debate to enable other government business to take precedence.⁷⁹ If the order of the day for grievance debate is not called on prior to 12.45 p.m., it lapses for that day⁸⁰ (for statistics relating to grievance debate *see* table 12, p. 514). In order to permit the debate to proceed after 12.45 p.m. when, for example, preceding business has absorbed a significant proportion of the time which would normally be available for grievance debate, standing orders have been suspended to enable the debate to continue until a specified time⁸¹, to further continue until a specified time⁸², to continue for a specified period⁸³ or to enable the debate to take place for a specified period later in the day.⁸⁴ Standing orders have also been suspended to enable grievance debate to take place on a day other than a Thursday so as to avoid losing the debate when the House is not to meet on a particular Thursday.⁸⁵ The standing order relating to grievance debate has been suspended for the remainder of a session⁸⁶, thus preventing grievance debate being called on for an extended period. The debate has also been restricted by moving the closure prior to 12.45 p.m.⁸⁷ If a sitting commences after 12.45 p.m., no order of the day for grievance debate appears on the Notice Paper as the time allotted by the standing order will have expired before the House meets.⁸⁸

Scope of the debate

Any Member may address the House on, or move an amendment to⁸⁹, the question 'That grievances be noted' but, in practice, Ministers rarely participate in order to give more private Members the opportunity to speak. A Member's speech is limited to 10 minutes⁹⁰ and it is the traditional practice for the first speaker to be called from the Opposition.⁹¹ Grievance day is regarded by private Members as a most useful opportunity to raise matters in which they have a particular interest or to ventilate complaints of constituents. A wide-ranging debate, similar in scope to that which may occur on the motion for the adjournment of the House, may take place. A matter which has been the subject of a debate earlier in the session may be referred to but the earlier debate itself may not be revived unless the allusion is relevant to a new aspect or matter which the Member is raising. This restriction does not prevent reference to previous grievance or adjournment debates.

The scope of an amendment to the question 'That grievances be noted' is practically unlimited and debate may then cover both the main question and the amendment. The purpose of an amendment is primarily to obtain a resolution of the House or focus

76 S.O.s 105, 106.

77 S.O. 106.

78 S.O. 101.

79 VP 1974-75/1079.

80 VP 1978-80/1291.

81 VP 1978-80/1566.

82 VP 1978-80/989.

83 VP 1968-69/78.

84 VP 1978-80/1378.

85 VP 1978-80/1414, 1418.

86 VP 1906/73.

87 VP 1976-77/336.

88 NP 19(27.9.51)61.

89 VP 1974-75/452.

90 S.O. 91.

91 H.R. Deb. (20.9.73)1333.

attention on a particular subject. In 1908, a Member who had placed a notice of motion under general business on the Notice Paper subsequently withdrew the notice and moved it in the form of an amendment to the grievance motion.⁹² The amendment procedure was frequently used in the House until about 1924 but is now rarely used.⁹³ Only 3 amendments have been agreed to, 2 of them involving amendments to proposed amendments.⁹⁴

92 NP 111(8.4.08)527; VP 1907-08/377.

93 VP 1974-75/452; H.R. Deb. (13.2.75)276-9.

94 VP 1920-21/163, 271-2; VP 1907-08/284-5.