

The parliamentary calendar

IN PERSPECTIVE

In the early parliamentary history of England the summoning and closing of Parliament was at the unfettered discretion of the Crown. There were periods lasting several years (for example 1614-21) when the Parliament was never summoned to meet and other periods when the Crown kept the Parliament in existence as long as it pleased (for example 1661-78). With the development of constitutional monarchy and the passing of statutes relating to the duration of Parliaments (first in 1694), parliamentary meetings became more regular. By 1900 representative and responsible government had developed to the extent that regular sessions and limited Parliaments were basic tenets of the unwritten Constitution of the United Kingdom.

The United Kingdom practice in respect of these important principles is made explicit in the Australian Constitution. The House of Representatives can continue for no longer than 3 years from the first meeting of the House.¹ The significance of this to the concept of a representative Parliament and Government is that a Parliament is of limited duration on the democratic theory that the electors must be able to express their opinions at regular general elections. On the other hand a Parliament of short fixed-term duration is viewed by some as undesirable in that too frequent elections have disruptive effects on the parliamentary and government processes.

Of further significance is the principle that Parliament should be neither out of existence nor out of action for any undue length of time. The continuity of Parliament is assured by the fact that, following a dissolution or expiry of a House of Representatives, writs for a general election must be issued within 10 days², and following a general election the Parliament must be summoned to meet not later than 30 days after the day appointed for the return of the writs.³ Regular meetings are assured by the constitutional provision that there must be a session of Parliament at least once in every year, in order that 12 months shall not intervene between the last sitting in one session and the first sitting in the next session.⁴ 'Session' in this context is not interpreted as a session in the true parliamentary sense but as 'a sitting period' (see p. 243).

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

- the necessity for Parliament to meet regularly and at specified times to approve financial measures, particularly appropriations for the ordinary annual services of the government;
- in keeping with responsible government, the need to ensure a regular forum for continuous scrutiny of executive action, and
- the normal demands of new or amending legislation.

It is the decision of the Governor-General, constitutionally, to dissolve or prorogue, and to appoint the times for the holding of sessions of the Parliament. In practice

1 Constitution, s. 28.

2 Constitution, s. 32.

3 Constitution, s. 5.

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

however these vice-regal prerogatives are exercised with the advice of the Executive Government.⁵

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

The components which make up the parliamentary calendar are briefly summarised as follows:

A parliament commences upon the first sitting day following a general election and concludes either at dissolution or at the expiration of 3 years from the first meeting of the House.

A session commences upon the first sitting day following a general election and concludes either by prorogation, dissolution or at the expiration of 3 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.

Sitting periods occur within a session usually at regular periods of the calendar year and conclude when the House adjourns by resolution to a day to be fixed or to a fixed date.

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

Before discussing the meaning and characteristics of these constitutional and parliamentary terms which make up the parliamentary calendar, an understanding of their relationship to each other is illustrated on the following page.

Constitutionally, it is the House of Representatives that is regularly dissolved for electoral purposes and not the Senate. The Senate's existence (coupled with its electoral system) is continuous in character⁶, except in the circumstances of the simultaneous dissolution of both Houses. The Senate therefore, as an independent House, does not officially include itself in the description of what constitutes the life of a **Parliament**. The nomenclature preferred by the Senate, to describe the duration of its sitting periods, is **Sessions**, for example, the 1st Session of the 32nd Parliament constituted the 60th Session of the Senate (and the Parliament).⁷

Despite its continuous character, the Senate, in all essential aspects of the parliamentary calendar, is little different from the House of Representatives, as together with the Governor-General and the House, and only together, is the Parliament constituted. Hence the Governor-General:

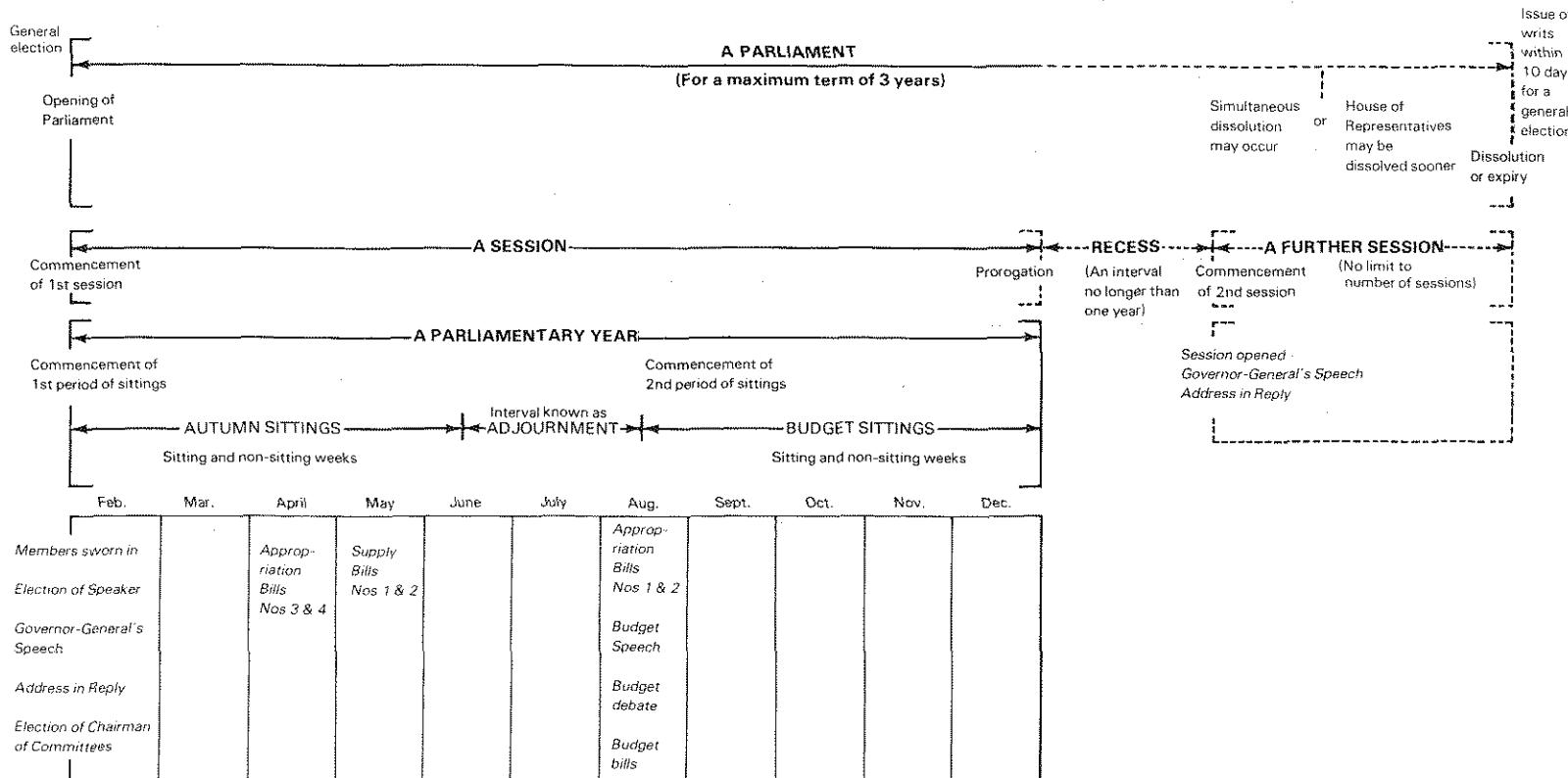
- on dissolution of the House, discharges Senators from attendance;
- on prorogation, prorogues the Parliament and, by definition, the business and activity of both Houses come to an end (*see also* p. 255), and
- in appointing the time for the holding of the next session of the **Parliament** following dissolution or prorogation, requires the attendance of both Senators and Members.

⁵ See Ch. on 'The Parliament', particularly on dissolution.

⁶ In the proclamation dissolving the House of Representatives the Governor-General 'discharges Senators from attendance ... until the day appointed for the holding of the next session of the Parliament'.

⁷ This is based on the words of the Constitution, s. 5, which states that 'the Governor-General may appoint such times for holding the sessions of the Parliament'; *see Odgers* p. 163. This sessional figure equally applies to the House of Representatives as sessions are sessions of the Parliament.

The Parliamentary Calendar in Perspective*



* This calendar is based on a December election and February opening. It assumes a prorogation and the commencement of a 2nd session at the end of the first year of the Parliament. Italics indicate regular parliamentary events in the House of Representatives.

There would be considerable constitutional and legal doubts in respect of any proposal for the meeting of the Senate after dissolution or prorogation unless specific statutory or constitutional provision was made. The Senate regularly meets following the adjournment of the House at the end of a period of sittings for the main purpose of considering bills (or other matters) passed by the House prior to its adjournment. The Senate has not met after a prorogation of the Parliament or after a dissolution of the House of Representatives has occurred.⁸

A PARLIAMENT

The duration of a Parliament is directly related to the duration of the House of Representatives. Having met, pursuant to the Governor-General's proclamation, a Parliament continues until the House of Representatives expires by effluxion of time 3 years from the first meeting of the House, or until the House is sooner dissolved by the Governor-General.⁹ The House is dissolved by proclamation of the Governor-General.

It is common for a Parliament to be terminated by dissolution, as only one House of Representatives has expired by effluxion of time.¹⁰ A dissolution may occur near to the 3 year expiry time or it may occur prematurely for political reasons.¹¹ On 4 occasions (1914, 1951, 1974 and 1975) the premature termination of the House of Representatives (and hence the Parliament) has coincided with the dissolution of the Senate, that is, both the House and the Senate were dissolved simultaneously.¹²

Parliaments are numbered in arithmetical series, the 1st Parliament being from May 1901 to November 1903. The 31st Parliament concluded on 19 September 1980.

Summoning Parliament

The Constitution provides that Parliament must be summoned to meet not later than 30 days after the day appointed for the return of the writs.¹³ The day for the new Parliament to assemble is fixed by the Governor-General by proclamation. The day fixed may be before the day by which writs are to be returned.¹⁴

In the proclamation summoning Parliament to meet after a general election the constitutional authority, which provides that the Governor-General may appoint such times for holding the sessions of the Parliament as he thinks fit, is cited. The Governor-General appoints a day for the Parliament to assemble for the despatch of business, and Senators and Members are required to give their attendance at Parliament House, Canberra, at a time specified on that day. Usually, the day fixed is a Tuesday and the time is 11 a.m. On 3 occasions in recent years, the time fixed has been 10.30 a.m.¹⁵ The Clerk of the House writes to all Members, as soon as the gazettal of the

8 See also *Odgers*, pp. 619 ff.

9 Constitution, s. 28.

10 The 3rd Parliament expired on 19 February 1910.

11 See chronology of Parliaments since 1901 at Appendix 17. The shortest lived Parliament was the 11th Parliament which was dissolved on 16 September 1929 after 7 months and 11 days; see also Ch. on 'The Parliament', for reasons for dissolution.

12 Constitution, s. 57.

13 Constitution, s. 5. The day fixed for the return of writs for the general election of Members to the 27th Parliament was on or before 24 November 1969 (VP 1968-69/603) which meant that the new Parliament had to be summoned to meet not later than 24

December 1969. The Parliament met on 25 November for only one sitting before the first session was prorogued on 23 February 1970.

14 The 20th Parliament met on 12 June 1951. Dates for return of writs were as follows: General election and a Member for the Australian Capital Territory, on or before 13 June 1951; Member for the Northern Territory on or before 23 June 1951, VP 1950-51/339. The 32nd Parliament met on 25 November 1980; the date fixed for the return of writs was on or before 17 December 1980.

15 17 February 1959 (VP 1959-60/1), 20 February 1962 (VP 1962-63/1), and 9 July 1974 (VP 1974-75/1).

proclamation is made, informing them of the proclamation, the time and date appointed for the assembly of the Parliament and the number and date of the Gazette in which the proclamation appears.¹⁶

Proceedings on opening day

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

These standing orders¹⁷ are based on two principles of parliamentary custom:

- that the House is not properly constituted until it has elected its Speaker which is its first action as a House, and
- that the House does not proceed to the despatch of business until the Speaker has been presented to, and it has heard the Speech of, the Governor-General.¹⁸

The Sovereign may declare in person the causes of the calling together of a new Parliament but this has not occurred to date (*but see* p. 254).¹⁹

House assembles and Parliament opened

On the day appointed for the Parliament to assemble the bells are rung for 5 minutes before the appointed time. Prior to the bells ceasing to ring, the Serjeant-at-Arms places the Mace **below** the Table, as the House at that stage has not elected a Speaker.

When the bells cease ringing, the Clerk of the House reads the proclamation summoning Parliament. The Usher of the Black Rod, having been directed by the Governor-General's Deputy (or the Senior Deputy where 2 Deputies have been appointed) to request the attendance of Members of the House in the Senate Chamber forthwith, is admitted and orally delivers the message from the Bar of the House. Members, preceded by the Serjeant-at-Arms (without the Mace) and the Clerk and Deputy Clerk and led by party leaders, proceed to the Senate Chamber where the Deputy addresses the Members of both Houses as follows:

His Excellency the Governor-General, not thinking fit to be present in person at this time, has been pleased to appoint me as his Deputy to do in his name all that is necessary to be performed in declaring this Parliament open, as will appear more fully from the Commission which will now be read.²⁰

This address is, in effect, the declaration of the opening of Parliament.

The Clerk of the Senate then reads the commission authorising the Deputy to open Parliament. The Deputy informs the Members of both Houses that, after certain Senators²¹ and Members have been sworn and the Members of the House have elected their Speaker²², His Excellency the Governor-General will declare the causes of the calling together of the Parliament.²³ The Deputy then retires and Members return to the House to await the arrival of the Deputy to administer the oath or affirmation.

16 The terms of the proclamation are published in the Gazette and are also reproduced in the Votes and Proceedings. *See* VP 1980-81/1.

20 *See* VP 1980-81/2. In 1976 Members of the opposition party did not attend the Senate Chamber.

17 S.O. 2(a-g) determines the procedure on the meeting of a new Parliament; S.O.s 4-8 determine the procedure on opening day in relation to the Governor-General's Speech.

21 Normally Senators for the Australian Capital Territory and the Northern Territory, or Senators filling casual vacancies.

18 H.R. Deb. (23.10.34) 30-1; S.O. 2(g).

22 In the case of the first meeting of Parliament following a simultaneous dissolution of both Houses it is also necessary for Senators to elect their President.

19 S.O. 11. This may also be carried out by the Administrator (S.O. 11A), VP 1961/1; or Deputies of the Governor-General (S.O. 5).

23 The words of the Deputy vary according to whether he or the 2nd Deputy, if any, will administer the oath or affirmation to Members of the House.

The Deputies appointed by the Governor-General to open Parliament are ordinarily Justices of the High Court. It is usual for the Chief Justice to be appointed the Deputy, or the Senior Deputy, as the case may be. When 2 Deputies are appointed by the Governor-General, the Senior Deputy remains in the Senate Chamber to swear-in any Senators while the second Deputy proceeds to the House to swear-in Members of the House. The appointment of 2 Deputies is necessary where a large number of Senators are to be sworn-in, such as the opening of Parliament following a double dissolution. Should only one Deputy be appointed in such situations, Members of the House would have a lengthy wait to be sworn-in while the Deputy is swearing-in Senators.²⁴ The simultaneous swearing-in of Senators and Members is also regarded as symbolic of the independence of the Houses.

Members sworn

On returning to the House and after an interval of some minutes, the Deputy, who is received standing, is escorted to the Speaker's Chair, and his commission from the Governor-General to administer the oath or affirmation is read by the Clerk. Returns to the writs for the general election (including returns to writs for supplementary elections²⁵ or any copy-writs²⁶), showing the Member elected for each electoral Division, are laid upon the Table by the Clerk. Members then come to the Table, in groups in the order in which they are called, to be sworn-in. After making the oath or affirmation, and signing the oath or affirmation form, Members return to their seats.²⁷ When all Members present have been sworn-in, the Deputy retires, preceded by the Serjeant-at-Arms.

Members not sworn-in at this stage may be sworn-in later in the day's proceedings or on a subsequent sitting day by the Speaker who receives a commission from the Governor-General to administer the oath or affirmation. As the Constitution provides that every Member shall take and subscribe an oath or affirmation of allegiance **before taking his seat**²⁸, a Member may take no part in the proceedings of the House until this occurs.²⁹

Election of Speaker

After Members have been sworn-in, the Clerk of the House acting as chairman, informs the House that the next business is the election of Speaker. The Speaker is then elected in the manner prescribed by the standing orders³⁰, following which the Serjeant-at-Arms places the Mace upon the Table and the party leaders offer their congratulations. The Prime Minister then informs the House of the time, usually 2.40 p.m., when the Governor-General will receive the Speaker in the Parliamentary Library. The Speaker announces that the bells will ring for 3 minutes before the time of

24 S.O. 2 refers specifically to 'Deputies'.

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

26 Where, after the result of the election has been declared, the returning officer has certified by telegram to the Chief Australian Electoral Officer (a) that, by reason of distance, or infrequency of, or interruption to, the postal services, the indorsed writ cannot reach the Governor-General (or the Speaker where appropriate) within 7 days and (b) the name of the candidate elected, the Chief Australian Electoral Officer may indorse upon a copy-writ (a copy of

the writ) a certified copy of the telegram, *Commonwealth Electoral Act* 1918, s. 214.

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

28 Constitution, s. 42.

29 On the opening day of the 21st Parliament a Member who had not been sworn-in entered the House during the election of the Speaker. Having been advised that he could not take his seat until sworn-in he withdrew and was later sworn-in by the Speaker, VP 1954-55/8.

30 S.O. 12; VP 1980-81/6; and see Ch. on 'The Speaker and Officers of the House'.

presentation so that Members may assemble in the Chamber and accompany him to the Library when they may, if they so wish, be introduced to the Governor-General. He then suspends the sitting until the ringing of the bells.

Presentation of Speaker to Governor-General

Members reassemble in the Chamber at the appointed time and the Speaker, wearing ceremonial dress³¹, enters the Chamber unannounced, preceded by the Serjeant-at-Arms, and resumes the Chair. When it is made known to him that the Governor-General has entered the Parliamentary Library, the Speaker states that he would be glad if Members would attend with him to wait upon His Excellency.³² The Speaker, preceded by the Serjeant-at-Arms (carrying the Mace which is left covered within the Parliamentary Library), accompanied by the Clerk and Deputy Clerk, and followed by party leaders and Members, proceeds to the Parliamentary Library.

On return to the House in procession, the Speaker formally reports his presentation to the Governor-General and lays on the Table the commission received from the Governor-General to administer the oath or affirmation of allegiance to Members.³³ Oaths or affirmations are then administered to any Members not already sworn-in.³⁴ Unlike Members elected to the House at by-elections, Members sworn-in at this stage are not escorted by sponsors.³⁵

Governor-General's Speech

In the meantime the sitting of the Senate, having earlier been suspended until such time as the Governor-General has appointed (usually 3 p.m.), resumes and the Governor-General enters the Senate Chamber and is escorted by the Usher of the Black Rod to the Vice-Regal Chair on the dais. Black Rod is then directed by the Governor-General to inform the Members of the House that their attendance is required in the Senate Chamber forthwith. Black Rod proceeds to the House of Representatives and, in keeping with tradition, knocks 3 times on the Chamber door. On recognising Black Rod the Serjeant-at-Arms informs the Speaker of his presence. The Speaker directs that Black Rod be admitted when Black Rod then announces the Governor-General's message. The Speaker, preceded by the Serjeant-at-Arms (carrying the Mace which is left covered at the entrance to the Senate Chamber), accompanied by the Clerk and Deputy Clerk, and followed by party leaders and Members, proceeds to the Senate Chamber.³⁶ The Governor-General invites the Speaker to be seated in a chair provided at the Table. Members, after bowing to the Governor-General, take seats in the Senate Chamber.

The Governor-General then declares the causes of the calling together of the Parliament. This is termed the Governor-General's 'Opening Speech', in which the affairs of the nation are reviewed and a forecast given of the Government's proposed program of legislation for the session. The Speech is normally of about 30 minutes duration.³⁷ At the conclusion of the Speech a copy is presented to the Speaker by the

31 Should it be the Speaker's decision to wear the robes of office.

32 In 1976 Members of the opposition party did not attend the presentation; *see also* Ch. on 'The Speaker and Officers of the House'.

33 The terms of the commission are published in the Votes and Proceedings. *See* VP 1980-81/6-7.

34 VP 1978-80/7.

35 *See* Ch. on 'Members'.

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

37 The opening Speech for the 7th Parliament consisted of 5 lines mentioning only the need for the Houses to approve supply, VP 1917/5. The Speech for the 27th Parliament consisted of 4 paragraphs, H.R. Deb. (25.11.69)18-19.

Governor-General's Official Secretary³⁸, and a 19-gun artillery salute is fired. The Governor-General retires from the Senate Chamber, after which the Speaker and Members return to the House in procession.

Formal business

There is a traditional practice in both Houses of the United Kingdom Parliament of reading a bill a first time pro forma before the Queen's Speech is reported, in order to assert the right of both Houses to deliberate without reference to the immediate cause of summons. This practice has been adopted by the House of Representatives.³⁹ The Senate, while free to adopt this tradition if it so desires, has been content not to give it formal expression.⁴⁰ The standing orders of the House of Representatives provide for an assertion of this ancient right of the House to do what business it pleases in the following terms: 'Before the Governor-General's Speech is reported some formal business shall be transacted'.⁴¹ Business which has preceded the reporting of the Speech includes announcements by the Prime Minister of the Ministry and other government party appointments and by the leaders of the other parties informing the House of their party appointments. A non-contentious bill, known as the 'formal' bill or 'privilege' bill, is then presented, usually by the Prime Minister. The bill is read a first time and the second reading made an order of the day for the next sitting.⁴² The order of the day is placed on the Notice Paper, and remains the last item of government business throughout the session, the bill lapsing at prorogation or dissolution. It has been the practice in recent times for the 'privilege' bill not to proceed beyond the first reading stage.⁴³

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

The Speaker then formally reports the Governor-General's Speech after which a committee to prepare an Address in Reply to the Speech is appointed on motion⁴⁴ usually moved by the Prime Minister. The motion for the appointment of the committee names the Members to form the committee, which consists of the Prime Minister and 2 other Members of the government party or parties (usually Members elected for the first time at the preceding general election, or with relatively short periods of service in the House).⁴⁵ The committee is appointed to report at a later hour of the day⁴⁶ or, more usually, at the next sitting.⁴⁷ The motion is normally agreed to without debate.

At this point the formal and regular proceedings of the opening day have been completed and it is then customary for the sitting to be suspended until an appointed time, usually 5 p.m. Alternatively the House may adjourn until the next sitting.

³⁸ Text of the Speech appears in Hansard, H.R. Deb. (25.11.80) 10-14.

³⁹ *May*, p. 273; i.e., the practice is an expression of the House's independence of the Crown and the Executive Government.

⁴⁰ *Odgers*, p. 169.

⁴¹ S.O. 7.

⁴² VP 1980-81/8.

⁴³ On occasions the 'privilege' bill has been passed into law e.g. in 1914 before the Address had been agreed to, VP 1914-17/13.

⁴⁴ S.O. 8; VP 1980-81/8. No committee was appointed

to prepare an Address in Reply following the opening of the 1st Session of the 7th Parliament on 14 June 1917, VP 1917/5.

⁴⁵ The committee has consisted of 4 Members excluding the mover, VP 1909/6; 2 Members excluding the mover, VP 1912/5; and 2 Members, the Prime Minister and Leader of the Opposition, VP 1954/2. A Member has subsequently been discharged from the committee and another Member appointed in his place, VP 1976-77/21.

⁴⁶ VP 1969-70/10. A specific hour (3.30 p.m.) has been included in the resolution for the time of report, VP 1903/3.

⁴⁷ VP 1980-81/8.

Other business

If the House does not then adjourn, it is free to proceed to other business. However the initiation of business generally requires that notice be given which limits what business can be dealt with unless leave of the House is granted⁴⁸ or standing orders are suspended. (There is no Notice Paper for the first day of sitting.⁴⁹) Condolence motions or references to deaths of former Members or Senators or other persons have taken place after which the House may suspend or adjourn as a mark of respect.⁵⁰ The election of the Chairman of Committees has been conducted⁵¹, committees have been appointed and members of committees nominated⁵², and sessional orders agreed to.⁵³ Although not a common practice, the ordinary routine of business has been proceeded with, including the presentation of petitions⁵⁴, the giving of notices, questions without notice⁵⁵, the presentation of papers⁵⁶, and ministerial statements.⁵⁷ A motion of censure of the Government has been moved, following the suspension of standing orders.⁵⁸

Dissolution

The most common way for a Parliament to be terminated is by the dissolution of the House of Representatives, such dissolution being made by proclamation by the Governor-General.⁵⁹ On 4 occasions the Parliament was terminated by the simultaneous dissolution of the House of Representatives and the Senate⁶⁰ and one Parliament expired by effluxion of time (see p. 251).

In the proclamation dissolving the House of Representatives the provision of section 5 of the Constitution, whereby the Governor-General may dissolve the House, is stated, the House is dissolved (date and time of dissolution normally specified), and Senators are discharged from attendance until the day appointed for holding the next session of the Parliament.

The proclamation dissolving the House of Representatives and discharging Senators from attendance is published in the Gazette and, since 1963, has been read from the front steps of Parliament House by the Official Secretary to the Governor-General immediately prior to the hour of dissolution.⁶¹ This practice was adopted following doubts being raised by the Attorney-General as to whether publication of the proclamation in the Gazette would be sufficient to proclaim it for the purposes of section 5 of the Constitution. It was considered that section 17(j) of the *Acts Interpretation Act* 1901 which makes publication in the Gazette sufficient publication for the purposes of Commonwealth Acts, was not applicable as the proclamation is not made under a Commonwealth Act.

Immediately prior to the hour of dissolution (usually 12 noon), the Official Secretary, attended by the Clerk of the House, the Deputy Clerk and the Serjeant-at-Arms, reads the proclamation. The officers then return to King's Hall and the Clerk of the House posts a copy of the proclamation on the King's Hall door of the House of Representatives Chamber. A 19-gun artillery salute is fired at the precise time of dissolution.

48 VP 1968-69/11.

58 VP 1969-70/18.

49 See S.O.s 141, 154.

59 Constitution, s. 5.

50 VP 1943-44/8; VP 1967-68/10.

60 See Ch. on 'Disagreements between the Houses'.

51 VP 1980-81/9.

61 The proclamation dissolving the 25th Parliament on 31 October 1966 was read by the Clerk of the House in the absence of the Official Secretary. An officer of the Governor-General's staff is considered the appropriate person to do so. The proclamation is also published in the bound volumes of the Votes and Proceedings. See VP 1970-72/1312.

52 VP 1969-70/12-18.

53 VP 1920-21/6.

54 VP 1980-81/9-10.

55 VP 1967-68/10.

56 VP 1967-68/10.

57 VP 1964-66/11.

Since 1972 Senate officers have not attended the ceremony dissolving the House of Representatives. They do attend the reading of the proclamation on the occasion of a simultaneous dissolution of both Houses.

Effects of dissolution

Dissolution has the following effects on the House of Representatives⁶²:

- All proceedings pending come to an end, that is, all business on the Notice Paper lapses.
- Members of the House cease to be Members although those who renominate continue to receive their allowances up to and including the day prior to the day fixed for the election.⁶³ Ministers and the Speaker, however, continue in office.
- Any sessional or other orders or resolutions cease to have effect.
- All committees cease to exist.
- It is considered necessary for bills passed during a session to be assented to before the dissolution proclamation is signed.⁶⁴

If the House is dissolved or expires, or Parliament is prorogued, before the expiration of 15 sitting days after notice of a motion to disallow any regulation has been given in the House (or the Senate) and that motion has not been disposed of, the regulation is deemed to have been laid before the House on the first sitting day after the dissolution, expiry or prorogation.⁶⁵ Any notice to disallow given in the previous session, or the last session of the previous Parliament, must be given again to have effect.

Expiration

The 3rd Parliament has been the only one to expire by effluxion of time. The Parliament first met on 20 February 1907 and the final meeting was on 8 December 1909, after which Parliament was prorogued until 26 January 1910. On 18 January 1910 Parliament was further prorogued until 19 February 1910 at which time it expired. Writs for the election of Members of the House of Representatives were then issued on 28 February 1910. Expiration affects the House of Representatives (and the Senate) in the same way as a dissolution.

Prolongation

On 2 March 1917 the House agreed to a motion moved by the Prime Minister which requested the Imperial Government to legislate for the extension of the duration of the then House of Representatives until 6 months after the final declaration of peace, or until 8 October 1918, whichever was the shorter period and to enable the next elections for the Senate to be held at the same time as the next general election for the House of Representatives.⁶⁶ A motion in the same terms lapsed in the Senate and the proposition did not proceed further.⁶⁷ Suggestions were made during World War II that the life of the 15th Parliament be extended. In answering a question in the House on the proposition, the Prime Minister stated that, in his opinion, 'the extension of the life of

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

63 *Parliamentary Allowances Act* 1952, s. 5(5).

64 Advice of Attorney-General's Department, dated 29 October 1963 (expressing opinion of Attorney-General). The *Commonwealth Debt Conversion Act* (No. 2) 1931 was assented to on 15 January 1932, the

House of Representatives having been dissolved on 26 November 1931, VP 1929-31/951-3.

65 *Acts Interpretation Act* 1901, s. 48(5A). *See* Ch. on 'Legislation'.

66 VP 1914-17/576.

67 S. Deb. (1.3.17) 10 758-9.

the Parliament would, in certain circumstances, require an authorising act of the Parliament of the United Kingdom . . . [but that] the Government has not yet thought it necessary to consider it'.⁶⁸

A SESSION

The life of a Parliament is divided into sessions. A session of Parliament commences upon the first sitting day following a general election and terminates only when the Parliament is prorogued or the House of Representatives is dissolved or expires by effluxion of time. The Constitution provides that there shall be a session of the Parliament once at least in every year, so that 12 months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.⁶⁹ This is not interpreted to mean that a session cannot continue beyond a year but that there shall not be an interval of 12 months between sitting periods of the Parliament (see p. 242).

When a session is terminated by a prorogation (not being followed by a dissolution see p. 255), after an indeterminate interval⁷⁰ a further session commences pursuant to a proclamation by the Governor-General.

The duration of a Parliament therefore may be composed of more than one session and constitutionally there is no limit to the number of sessions which may occur. In practical terms the number of sessions would rarely exceed 3 in any one Parliament. Likewise there is no constitutional limit to the duration of a session within a Parliament.

Sessions of the Australian Parliament have been characterised by considerable variation in respect of duration:

- Two sessions have contained only one sitting day. The shortest sessions have been:
 - 1st Session—7th Parliament—from 14 June 1917 to 16 June 1917. The only sitting was 14 June.
 - 1st Session—27th Parliament—from 25 November 1969 to 23 February 1970. The only sitting was 25–26 November.
- A number of sessions have continued over a 3 year period. The longest session has been:
 - 1st Session—25th Parliament—from 25 February 1964 to 31 October 1966.
- A number of Parliaments have consisted of one session only, the most recent being:
 - 31st Parliament—from 21 February 1978 to 19 September 1980.
- The 3rd Parliament was unique in having 4 sessions.

In 1957, on the opening day of the 2nd Session of the 22nd Parliament, the Leader of the House outlined details of the arrangements proposed for the parliamentary year.⁷¹ It was proposed that in future there would be a regular session of the Parliament each year with a formal opening in the Autumn preceded by a prorogation of the previous session. The Autumn period of sittings was to be devoted to legislation of a non-financial nature, including amending and consolidating legislation, and this would then allow more time for consideration of the estimates and financial measures arising

68 H.R. Deb. (21.6.40)135.

69 Constitution, s. 6. A list of sessions is included at Appendix 17.

70 The average interval between prorogation and opening of a new session since 1961 has been 12 days in re-

spect of 4 prorogations. The longest recess was of 9 months and 6 days between the 1st and 2nd Sessions of the 4th Parliament.

71 H.R. Deb. (19.3.57)19-22.

out of the Budget in the Budget period of sittings. For the duration of the 22nd and 23rd Parliaments annual sessions were held until the practice fell into disuse after the 1st Session (and only session) of the 24th Parliament continued for over 20 months.

Opening of a new session

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

The House usually meets at 3 p.m. When the bells cease ringing the Serjeant-at-Arms announces the Speaker who takes the Chair and the Mace is placed on the Table.⁷² The Clerk of the House reads the proclamation summoning Parliament⁷³, and Members then rise in their places while the Speaker reads Prayers. The House then awaits the arrival of the Usher of the Black Rod with a message from the Governor-General desiring Members' attendance in the Senate Chamber to hear the Speech.

While awaiting the arrival of Black Rod, the House may attend to other business which has included announcements such as the death of a Member and the issue of and return to the writ to fill the vacancy⁷⁴, the Speaker's receipt of a commission to administer the oath or affirmation of allegiance to Members⁷⁵, and changes in staff of the House.⁷⁶ The opportunity has also been taken to swear in Members.⁷⁷

Upon receipt of the message summoning Members to attend in the Senate, the Speaker, accompanied by Members and officers of the House, proceeds to the Senate Chamber.⁷⁸ On return to the House, and before the Speaker reports the Governor-General's Speech, business transacted has included announcements regarding ministerial arrangements⁷⁹, resignation of Members and issue of writs⁸⁰, and the receipt of the Speaker's commission to administer the oath or affirmation of allegiance to Members.⁸¹ It has also included presentation of papers⁸², the moving of condolence motions⁸³ and, on each occasion, the presentation of the 'privilege' bill.

From time to time the 'privilege' bill introduced at the commencement of a new session of a Parliament has been passed into law⁸⁴, although it has been customary not to proceed beyond the first reading stage before consideration of the Governor-General's Speech.⁸⁵ However in recent times it has been the practice for the 'privilege' bill not to proceed beyond the first reading stage even after consideration of the Governor-General's Speech (*see* p. 249).

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

73 Initial proceedings are governed by S.O. 3. On the opening day of the 2nd Session of the 18th Parliament, the Clerk having informed the House of the unavoidable absence of the Speaker, the Chairman of Committees carried out the Speaker's duties, VP 1948-49/2.

74 VP 1968-69/2.

75 VP 1961/2.

76 VP 1957-58/1.

77 VP 1970-72/1.

78 From this point the procedure is the same as for the

meeting of a new Parliament; S.O.s 4-8 apply. The Governor-General's Speech at the opening of the 2nd Session of the 2nd Parliament consisted of only 12 lines dealing with the Government's intention to submit electoral redistribution proposals to the Parliament, VP 1905/2.

79 VP 1968-69/2-3.

80 VP 1960-61/2-3.

81 VP 1960-61/2-3.

82 VP 1909/2.

83 VP 1958/2.

84 This has happened on 12 occasions, the last being in 1945.

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

Following the report of the Speech and the appointment of the Address in Reply Committee, the House, on recent occasions, has adjourned. Alternatively, condolence motions may then be moved and the sitting may be suspended or the House adjourned as a mark of respect. If the House is not adjourned, or if the sitting is resumed at 8 p.m., the House may proceed with the ordinary routine of business of a day's sitting (petitions, notices, questions without notice, papers, ministerial statements and so on).⁸⁶

On one occasion the Address in Reply was brought up and agreed to, and Customs Tariff Proposals were then introduced.⁸⁷ On 2 other occasions standing orders were suspended to enable steps to be taken to obtain supply and to pass a supply bill through all stages without delay.⁸⁸

'Opening' by the Sovereign

FIRST SESSION

On the meeting of a new Parliament and hence the 1st Session, the actual 'opening' of Parliament is carried out by the Governor-General's Deputy. The Governor-General or the Sovereign may open Parliament in person but neither has done so, nor has the Sovereign delivered the Speech declaring the causes of the calling together of a new Parliament.

However the 1st Parliament, which assembled at the Exhibition Building in Melbourne on 9 May 1901 pursuant to proclamation of the Governor-General⁸⁹, was opened by His Royal Highness the Duke of Cornwall and York in the name of, and on behalf of, His Majesty King Edward VII.⁹⁰ Some doubt has been expressed as to the legality of a person other than the Sovereign or the Governor-General (or his Deputy) opening Parliament.⁹¹ Members took and subscribed the oath required by law before the Governor-General and then retired to the Legislative Assembly Chamber at Parliament House to choose a Speaker.⁹² The next day the Governor-General delivered a speech to Members of both Houses on the opening of the 1st Session of the 1st Parliament.⁹³

NEW SESSION

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

Her Majesty Queen Elizabeth II has, on 3 occasions, made the Speech to both Houses of Parliament at the commencement of a new session; the 3rd Session of the 20th Parliament on 15 February 1954 and the 2nd Sessions of the 28th Parliament on 28 February 1974 and the 30th Parliament on 8 March 1977. Prior to the first occasion the House adopted a new standing order 'to meet the requirements occasioned by the proposed Opening of the Parliament by Her Majesty'.⁹⁴ The standing order now provides that on any occasion Her Majesty the Queen intends to declare in person the causes of the calling together of the Parliament, references in Chapter II of the standing orders to the Governor-General shall be read as references to Her Majesty.⁹⁵ The proceedings on the opening day when the Speech is made by the Queen are the same as those for the normal meeting for a new session.

86 S.O. 101.

91 See *Odgers*, pp. 167-9.

87 VP 1954/5-11.

92 VP 1901-02/8-9.

88 VP 1911/4,8; the Supply Bill was agreed to and returned from the Senate, without requests, that day, VP 1917-19/5.

93 VP 1901-02/11.

89 VP 1901-02/1.

94 VP 1953-54/66; see also *Royal Powers Act* 1953.

90 VP 1901-02/7-8.

95 S.O. 11.

Prorogation

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

The prorogation of Parliament is a prerogative act of the Crown. Just as Parliament can only commence its deliberations at the time appointed by the Queen, so it cannot continue them any longer than she pleases.⁹⁶

The effect of a prorogation is at once to suspend all business until Parliament shall be summoned again. Not only are the sittings of Parliament at an end, but all proceedings pending at the time are quashed . . . Every Bill must therefore be renewed after a prorogation, as if it were introduced for the first time.⁹⁷

Campion states:

All proceedings which have not been completed—as, e.g. all Bills which have failed to obtain the Royal Assent . . . lapse. In the new session they have to start from the beginning without profiting from the progress made upon them in the previous session . . . Resolutions of the House generally apply only to the session in which they are passed (unless they are expressly passed as 'standing' Orders), and, if not so passed but intended to have continued force, are voted again every session.⁹⁸

The Australian Parliament has no power to transact business following a prorogation as its powers are limited by section 49 of the Constitution to those available to the House of Commons as at 1901. However the Australian Parliament may declare such a power.

Prorogation terminates a session of Parliament, a dissolution terminates a Parliament. The decision to prorogue the Parliament therefore does not attach to it the same significance as a decision to dissolve the House of Representatives. There is little guidance afforded by the constitutional provisions or conventions as to when or how often prorogation should take place or any established criteria regarding the taking of a decision to prorogue. While still nominally attached to the prerogative of the Crown the decision to prorogue, by Australian practice, rests with the Government of the day.

A prorogation does not necessarily precede a dissolution as is commonly the case in the United Kingdom. A number of Parliaments have often consisted of only one session without a prorogation intervening. Since 1928 Parliament has not been expressly prorogued prior to dissolution and the holding of a general election.

Parliament is prorogued by the Governor-General who may do so by proclamation or otherwise.⁹⁹ On 10 October 1902 the Acting Governor-General, in a speech to Members of both Houses in the Senate Chamber, prorogued the 1st Parliament until 14 November 1902¹⁰⁰ and it was then prorogued a further 5 times by proclamation before it met for the 2nd Session on 26 May 1903. The 2nd Session, in turn, was prorogued by the Governor-General in person on 22 October 1903.¹⁰¹ The 2nd Parliament was prorogued in the same manner 3 times¹⁰² and on each occasion there were further prorogations by proclamation.¹⁰³

96 *May*, p. 260. In the United Kingdom a session normally begins at the end of October and continues until the following October, *May*, p. 278.

97 *May*, pp. 260-1; a footnote to this passage states: 'Proposals have been made to provide, either by statute or by standing orders, for the suspension of bills from one session to another, or resuming proceedings upon such bills, notwithstanding a prorogation. These schemes have been discussed in Parliament and carefully considered by committees: but various considerations have restrained the legislature from

disturbing the constitutional law by which parliamentary proceedings are discontinued by prorogation'.

98 Campion, p. 104.

99 Constitution, s. 5.

100 VP 1901-02/565.

101 VP 1903/187.

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

103 See also Appendix 17.

Since 1906 all prorogations have been made by proclamation published in the Gazette and on one such occasion, 28 February 1977, the proclamation was read publicly on the front steps of Parliament House by the Official Secretary to the Governor-General as is the practice with a proclamation of dissolution (see p. 250). The proclamation proroguing Parliament sets down the day for the next meeting and summons all Senators and Members to be present at an hour appointed on that day.¹⁰⁴

Effects of prorogation

Prorogation of the Parliament has the following effects on the House of Representatives¹⁰⁵:

- All proceedings come to an end, that is, all business on the Notice Paper lapses.¹⁰⁶ Provision exists for the resumption in a new session, under certain conditions, of proceedings on bills which lapse by reason of prorogation.¹⁰⁷
- Any sessional orders cease to have effect.
- Resolutions or orders of the House cease to have any force unless they are deemed to continue in a new session by virtue of being passed as standing orders or pursuant to statute.
- The House may not meet until the date nominated in the proclamation.¹⁰⁸
- Bills agreed to by both Houses during a session are in practice assented to prior to the signing of the prorogation proclamation. Bills however have been assented to after Parliament has been prorogued.¹⁰⁹
- The procedure in relation to a notice of motion for the disallowance of a regulation applies to prorogation as to dissolution (see p. 251).
- Committees appointed under the standing orders continue in existence but do not meet. Statutory committees continue in existence and may meet and transact business. Committees appointed by resolution of the House for the life of the Parliament may not meet. Other committees appointed by resolution of the House cease to exist. The privilege which attaches to committee proceedings, unless provided by statute, ceases at prorogation.¹¹⁰

Writs for the election of Members to fill vacancies may be issued by the Speaker, and a Member may resign his seat to the Speaker during a recess in accordance with the Constitution.

Prorogation and committees

A question of some importance is the effect prorogation has on committees and their proceedings. For constitutional reasons committees of the House and joint committees appointed either by standing order or by resolution for the life of the Parliament, continue in existence but may not meet and transact business following prorogation.¹¹¹ Committees whose tenure is on a sessional basis cease to exist which

¹⁰⁴ The proclamation is published in the bound volumes of the Votes and Proceedings. *See* VP 1973-74/664.

¹⁰⁵ *And see* Ch. on 'Parliamentary privilege' in respect of freedom from arrest in civil matters and 'Motions' in respect to resolutions and orders of the House.

¹⁰⁶ Business lapsed at prorogation or dissolution is published in the bound volumes of Votes and Proceedings *see* VP 1974/115-16.

¹⁰⁷ S.O. 264. *See* Ch. on 'Legislation'.

¹⁰⁸ For comment on the power of the Senate to meet *see* *Odgers*, p. 625.

¹⁰⁹ The 4th Parliament having been prorogued on 29 November 1910, 11 Bills were assented to on 1 December 1910, VP 1910/261-3. The view has been taken by the Solicitor-General that bills can be assented to after prorogation (Opinion No. 3 of 1952, dated 23 May 1952).

¹¹⁰ *See also* Ch. on 'Parliamentary committees'.

¹¹¹ *But see* *Odgers*, pp. 620-5. The Senate has taken a different view on the effect of prorogation especially on committees.

necessitates their reappointment, including the appointment of members, in the new session. This practice is reinforced by the following parliamentary authorities:

In the House of Commons committees appointed by standing order for a parliament are terminated by a dissolution. In the case of . . . those committees appointed by the Commons on a sessional basis, orders appointing them cease to have effect at prorogation.¹¹²

. . . a committee only exists, and only has power to act, so far as expressly directed by the order of the House which brings it into being. This order of reference is a firm bond, subjecting the committee to the will of the House; the reference is always treated with exactness and must be strictly interpreted . . . The House may at any time dissolve a committee or recall its mandate, and it follows from the principle laid down that the work of every committee comes to an absolute end with the close of the session.¹¹³

It is a recognised rule of parliamentary procedure that in addition to bringing a session of Parliament to a conclusion, a prorogation puts an end to all business which is under the consideration of either House at the time of such prorogation. In both Houses, therefore, any proceedings either in the House or in any committee of the House, lapse with the session.¹¹⁴

Committees appointed under the standing orders of the House, namely, the Standing Orders Committee, the Committee of Privileges and the Library, House and Publications Committees, are appointed at the commencement of each Parliament, for the life of the Parliament.¹¹⁵ They are therefore correctly known as standing committees (although commonly referred to as domestic committees) and continue in existence, including membership, notwithstanding prorogation. However, in accordance with constitutional and parliamentary theory they are not, as with the House itself, able to meet and transact business in the recess period following a prorogation even though the standing orders appointing the Standing Orders, Library and House Committees have always contained the words 'shall have power to act during recess'. The House alone has no authority to grant such power. Standing committees, appointed by resolution of the House, or both Houses, for the life of the Parliament, likewise may not meet in the recess period after a prorogation. Inquiries commenced in the previous session are resumed without action by the House unless the subject of inquiry was referred to the committee **by the House** in the previous session. In that case the effect of the reference by the House ceases and the subject must be again referred by resolution of the House.

The provisions of the Acts establishing each of the joint statutory committees, namely, the Public Accounts Committee, the Public Works Committee and the Broadcasting of Parliamentary Proceedings Committee, determine that the committees are to be appointed at the commencement of each Parliament, and that their members may hold office until the House of Representatives expires by dissolution or effluxion of time. Provision is also made in the relevant Acts for these committees to meet and transact business notwithstanding any prorogation of the Parliament.¹¹⁶ The granting of these powers by means of legislation is an example of the Parliament (the Crown and the 2 Houses) exercising its authority to declare powers under section 49 of the Constitution.

Select committees which are appointed on a sessional basis, that is, not for the life of the Parliament, cease to exist upon prorogation. If such a committee is to continue its

112 *May*, p. 662. Since 1975 the House of Commons has adopted the practice of **appointing the members** of many of its committees for the life of the Parliament but they may not meet after prorogation. 'Dissolution and Prorogation: Answers to questionnaire' *The Table XLIII*, 1975, p. 76.

113 Josef Redlich, *The Procedure of the House of Commons*, vol. II, Archibald Constable, London, 1908, p. 196.

114 *Halsbury's Laws of England*, 3rd edn, vol. 28, Butterworths, London, 1959, p. 372.

115 S.O.s 25-8.

116 *Public Accounts Committee Act 1951*, ss. 5(5), 6(A); *Public Works Committee Act 1969*, ss. 7(7), 12(4); *Parliamentary Proceedings Broadcasting Act 1946*, ss. 6, 11.

activities in the new session, the committee and its membership must be re-appointed by resolution and its terms of reference renewed. If it wished to use the minutes of evidence and records of the previous committee, it would require to be given that power by the House.¹¹⁷

Australian parliamentary practice on committees in relation to prorogation has been characterised by considerable variation from constitutional and parliamentary law¹¹⁸, and there have been a number of instances where a resolution appointing a committee has improperly empowered the committee to sit during any recess.

On 18 February 1954 the Chairman of the Joint Committee on Foreign Affairs was advised by the Minister for External Affairs by letter:

I have had the matter you raised in your letter of the 2nd February looked into—that is, the status of the Joint Committee on Foreign Affairs following on the prorogation of Parliament.

I find that the Solicitor-General's view is that the Foreign Affairs Committee ceases to exist when Parliament is prorogued.

Despite this view of the Solicitor-General, it was given the power to act during recess when it was appointed for the life of the Parliament in 1959.¹¹⁹

When the Joint Committee on the Australian Capital Territory was first established as a sessional committee in 1956, it was given power to sit during recess¹²⁰, but the power was not included in the terms of the resolution when it was re-appointed in the new session in 1957.¹²¹ It was once again given the power to sit during recess when it was appointed for the life of the Parliament in 1959.¹²²

In 1957 the House agreed to a modification of the Senate, to the resolution re-appointing the Joint Committee on Constitution Review, which empowered the committee to sit during any recess. In speaking to the modification the Leader of the House, while acknowledging the correct constitutional position, made the following observations:

When the resolution was drafted in its original form, we followed the practice which had been established in the House of Commons, for which there are quite obvious and constitutional reasons, that if a session is terminated by prorogation, then it was natural to expect and to provide that committees of Parliament should also come to an end, and there are precedents in the House of Commons which suggest that this has been the regular practice there. But I think that there is some practical merit in the suggestion that has come to us from the Senate . . . We having decided that henceforth we shall have a session of the Parliament annually, and it being the desire, I think, of all members of the Parliament that committees such as the Constitution Review Committee, which has a valuable public service to perform, should continue to function in any period of recess between the prorogation of one session of the Parliament and the formal opening of another, there is sound practical sense in the suggestion that these committees be enabled to continue during any such recess.¹²³

The power to sit during any recess was renewed on the re-appointment of the committee in 1958¹²⁴, but not in 1959.¹²⁵

In considering the question of Senate committees having the power to meet after a dissolution of the House of Representatives a Solicitor-General's opinion of 23 October 1972 states, in part:

During a session each House can control its own proceedings, exercise its powers and privileges and adjourn from time to time. However, once the Parliament is prorogued, I

¹¹⁷ e.g. see Select Committee on Tourism, VP 1977/10-11.

¹²¹ VP 1957-58/12-13.

¹¹⁸ See also Ch. on 'Parliamentary committees'.

¹²² VP 1959-60/27-8.

¹¹⁹ VP 1959-60/25.

¹²³ VP 1957-58/24; H.R. Deb. (28.3.57) 339-40.

¹²⁰ VP 1956-57/368-9.

¹²⁴ VP 1958/9-11.

¹²⁵ VP 1959-60/111-12.

think each House would be effected in the same way as the House of Commons. Section 49 of the Constitution, in my view, has this effect, because it provides (there being no legislation of the Commonwealth Parliament on the subject) that the powers, privileges and immunities of the Senate and the House of Representatives and the members and the committees of each House shall be those of the Commons House of Parliament of the United Kingdom and of its members and committees, at the establishment of the Commonwealth. However, quite apart from s. 49, I think support for this view is found in ss. 1 and 5 of the Constitution and the constitutional theory which underlies them. The Houses are called together to exercise their functions as part of the Federal Parliament. At the discretion of the Crown and subject to certain constitutional safeguards the Crown can terminate the session. With the termination of the session, this power to deliberate and pass bills and their ability to exercise these powers as part of the Parliament ceases until they are called together again. It is consistent with this clear position, that between sessions neither they nor their committees should be able to exercise any powers. This could be found inconvenient to the work of committees but I think it is the effect of the provisions of the Commonwealth Constitution.

The same opinion drew attention to possible consequences of committees meeting without having the constitutional authority to do so:

... witnesses who gave evidence would not be entitled to the protection of the House and their evidence could be actionable at the suit of third parties or could be used to incriminate them. Likewise statements by [committee members] during hearings would lack the protection which the privileges of the House normally afford to [Members]. In camera hearings may be no protection. Witnesses who were summoned to give evidence would, of course, be well advised to refuse to do so. If they did, the [House] clearly could not meet to punish them. When ultimately it did meet there may be little purpose served in committing them for contempt because by then the [House's] authority and protection would be available and they would, no doubt, willingly answer questions.

Prorogation in practice

The history of the Australian Parliament in respect of prorogations is marked by inconsistency. In 1957 the Leader of the House stated that in future annual sessions of Parliament would be held¹²⁶, and this practice continued until the end of 1961. Subsequently, prorogations have been regarded as either inconvenient or unnecessary.

There are few occasions when advantage can be perceived in the act of prorogation in the modern context. This is illustrated by the fact that there have been only 4 prorogations since 1961, and all of these were for a particular reason:

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

From the point of view of the House and its Members, prorogation has the disadvantage of disrupting the business before the House and its committees and may cause a considerable procedural workload in the new session. For example, contingent notices of motion need to be re-instated to the Notice Paper, there is a renewed influx of

¹²⁶ VP 1957-58/6; H.R. Deb. (19.3.57)19.

notices of motion from private Members, Members require their unanswered questions on notice to be placed on the Notice Paper again, and committees may have to be re-appointed and Members appointed to them.

From the point of view of committees of the Parliament, the recent practice of not proroguing, except for special reasons, is desirable in order that they may continue their operations while the House is not sitting with minimal disruption. When prorogation is found to be necessary, it would be to the advantage of committees if this were done as near as possible to the proposed meeting in the new session. This would reduce the 'recess' time and so minimise the difficulties referred to earlier of committees not being able to meet during periods of recess.

THE ADDRESS IN REPLY

Presentation to House

When the order of the day for the presentation of the report of the Address in Reply Committee is read, either on the opening day or at a later sitting, the Speaker calls one of the 2 private Members of the committee to present the Address¹²⁷ and it is then read by the Clerk.¹²⁸ The Address takes the form illustrated on the following page.

The Member who presents the Address then moves that it be agreed to and at the conclusion of the mover's speech the Speaker calls on the other private Member to second the motion. The debate on the motion may continue immediately or be adjourned to the next sitting. The Address has been agreed to on the day it was presented¹²⁹, but debate usually extends over about 7 sitting days.

Following the opening of the 1st Session of the 7th Parliament in 1917 and the report of the Governor-General's Speech, the standing orders in connection with the Address in Reply were suspended and no Address was presented.¹³⁰

In 1913, following a short speech by the Governor-General which dealt with the necessity to obtain supply and mentioned the fact that his present advisers had 'not yet been able to mature the proposals placed by them before the Electors'¹³¹, the House considered a statement of ministerial policy together with the proposed Address in Reply.¹³²

In 1961, following the opening of the 3rd Session of the 23rd Parliament, a committee was appointed to prepare an Address in Reply to the Speech by the Administrator¹³³ and the Address was presented to the Administrator.¹³⁴

127 The Prime Minister has presented the Address and another Member moved that it be agreed to, VP 1917-19/5, VP 1922/11, VP 1923-24/7, VP 1925/9.

The Prime Minister has presented the Address and moved that it be agreed to, VP 1944-45/6, VP 1954/5 (opening by the Queen).

128 In 1945 the Address was varied to include a welcome to the Duke of Gloucester recently appointed as Governor-General (VP 1945-46/12) and there have been variations when Queen Elizabeth II opened sessions; VP 1954/5, VP 1974/36 and VP 1977/22. In 1974 the Address was varied to take cognisance of the

fact that a new Governor-General had been appointed after the session commenced, VP 1974-75/36.

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

130 VP 1917/5.

131 VP 1913/5.

132 VP 1913/13.

133 VP 1961/5-6.

134 VP 1961/36.



HOUSE OF REPRESENTATIVES

To His Excellency the Right Honourable SIR ZELMAN COWEN, a member of Her Majesty's Most Honourable Privy Council, Knight of the Order of Australia, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Grand Cross of the Royal Victorian Order, Knight of the Most Venerable Order of the Hospital of Saint John of Jerusalem, one of Her Majesty's Counsel learned in the law, Governor-General of the Commonwealth of Australia and Commander-in-Chief of the Defence Force.

MAY IT PLEASE YOUR EXCELLENCY:

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

Speaker

Clerk of the House of Representatives

Parliament House,

Canberra, 7 April 1981

Precedence to Address

No general business, except of a formal character, shall be entered upon before the Address is adopted.¹³⁵ Prior to 1963 the standing orders precluded **any business**, except of a formal character, being taken before the adoption of the Address. The standing order was amended following a recommendation of the Standing Orders Committee.¹³⁶ The scope of general business is not defined by the standing orders (it is referred to in standing orders 10, 104 and 109) but it can be defined as any motion initiated by a private Member of which it is required that notice be given.

¹³⁵ S.O. 10.

¹³⁶ VP 1962-63/455; *Standing Orders Committee Report, H.R.1 (1962-63)* 7.

Prior to the 1963 amendment a matter of public importance could not be discussed before the Address had been agreed to.¹³⁷ In 1970 the Speaker ruled privately that a discussion of a matter of public importance 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 agreed to.¹³⁸

Standing order 10, as qualified since 1963 by standing order 110, does not prevent a motion or amendment which expresses a censure of, or want of confidence in, the Government from being proceeded with. Prior to 1963 such motions had always been allowed in practice although apparently in conflict with the wording of standing order 10.¹³⁹

'Grievance' debate, although an order of the day under government business, does not take precedence on alternate sitting Thursdays until after the Address has been adopted.¹⁴⁰

Debate

Debate on the Address is practically unlimited in respect to subject matter and usually ranges over a wide field of government policy and administration. The Speaker has stated that it is practically impossible for him to curtail a speech on the motion for the adoption of the Address in Reply to which an amendment of a very broad character had been moved.¹⁴¹ Members may not discuss a specific motion of which notice has been given¹⁴², and a specific allusion to any matter which is an order of the day should be avoided.

Each Member may speak for 20 minutes to the motion 'That the Address be agreed to'.¹⁴³ A Member who has already spoken to the main question may again speak, for 15 minutes only, to an amendment subsequently moved, but he may not move or second such an amendment.

Amendments

Amendments to the Address may be moved in the form of an addition of words to the Address. An amendment is usually critical of the Government and, having regard to its wording, may be considered by the Government to be an amendment of censure for the purposes of standing order 110. In this case the amendment must be disposed of before any business, other than formal business, is proceeded with.¹⁴⁴ After an amendment has been disposed of, a further amendment may be moved. There have been up to 4 amendments moved to a proposed Address.¹⁴⁵

In 1970 an amendment expressing a censure of the Government was not accepted as a censure amendment for the purposes of standing order 110.¹⁴⁶ The House then, on the motion of the Leader of the Opposition, agreed to the suspension of standing orders to enable debate on the proposed Address and the amendment to have precedence until disposed of.¹⁴⁷

137 VP 1956-57/26; VP 1961/29-30.

138 *See Ch. on 'Matters of public importance'.*

139 H.R. Deb. (24.6.09)359; NP 2(9.3.61)5.

140 S.O. 106.

141 H.R. Deb. (11.7.12)668.

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

143 S.O. 91.

144 NP 3(14.8.13)9, NP 3(2.11.34)5; on these occasions the proposed Address and amendments were given

precedence even though prior to 1965 the standing order did not make provision for a Minister to accept an **amendment** as a censure or want of confidence amendment. In other cases, precedence was accorded although no precedence note appeared on the Notice Paper. H.R. Deb. (21.3.57)81, H.R. Deb. (27.2.62)271.

145 VP 1923-24/13-18.

146 H.R. Deb. (18.3.70)557.

147 VP 1970-72/48.

In 1905 an amendment to the Address, which added the words 'but are of opinion that practical measures should be proceeded with', was agreed to and the Address, as amended, presented to the Governor-General. Following the House's agreement to the amendment the Government resigned and a new Ministry was formed.¹⁴⁸

Presentation to Governor-General

The Address in Reply, as agreed to by the House, is presented to the Governor-General by the Speaker¹⁴⁹, accompanied by any Members who may think fit to attend.¹⁵⁰

The Speaker ascertains when the Governor-General is able to receive the Address and announces the time of presentation to the House¹⁵¹, either immediately the Address is agreed to¹⁵² or at a later time.¹⁵³

The sitting having been suspended (if necessary¹⁵⁴), the Speaker, accompanied by the mover, the seconder¹⁵⁵, the Clerk, the Deputy Clerk and the Serjeant-at-Arms¹⁵⁶, together with those Members wishing to attend, proceeds to Government House for the presentation. There, after a short presentation statement, the Speaker reads the Address and presents it to the Governor-General who replies. The Speaker then presents the mover and seconder, other Members and the officers to the Governor-General.

The Speaker¹⁵⁷ in reporting back to the House informs it of the Governor-General's reply¹⁵⁸ which is in the following form:

Mr Speaker

Thank you for your Address-in-Reply which you have just presented to me. It will be my pleasure and my duty to convey to Her Majesty The Queen the message of loyalty from the House of Representatives, to which the Address gives expression.

Her Majesty the Queen's reply may be announced at a later date.¹⁵⁹

An Address has been presented to a Governor-General not being the one who made the opening Speech.¹⁶⁰ The presentation has been delayed by over 3 months¹⁶¹ and deferred due to the absence of the Governor-General.¹⁶²

In July 1907 the Governor-General, through a senior Minister, enquired from Sydney whether it was necessary for him to go to Melbourne to receive the Address in Reply. Speaker Holder replied that the Address must be presented to the Governor-General personally by the Speaker with Members, which practically required it to take place in Melbourne. The Address was presented in Melbourne.¹⁶³

148 VP 1905/7-12.

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

150 S.O. 9. In 1976 opposition Members did not attend the presentation.

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

152 VP 1977/43.

153 VP 1978-80/79.

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

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

156 In full ceremonial dress and bearing the Mace (which is left covered in the foyer of Government House). The Mace was not borne in 1943; *see also* Ch. on 'The Speaker and Officers of the House'.

157 Or Deputy Speaker, VP 1977/43.

158 This was not done in 1910.

159 VP 1973-74/73.

160 VP 1974-75/172.

161 VP 1910/21,193.

162 VP 1922/59.

163 VP 1907-08/35.

However in 1909 the Address was 'forwarded' to the Governor-General who was absent in Queensland.¹⁶⁴

The Address in Reply to the Governor-General's Speech on the opening of the 1st Session of the 3rd Parliament was agreed to on 21 February 1907¹⁶⁵ and the Parliament was prorogued on 22 February 1907.¹⁶⁶ There is no record of the Address having been presented.

The order of the day relating to the Address in Reply to the Speech of Her Majesty the Queen on the commencement of the 2nd Session of the 28th Parliament lapsed upon the simultaneous dissolution of the Senate and House of Representatives on 11 April 1974.¹⁶⁷

In 1950 Speaker Cameron was questioned on his conduct at the presentation of the Address. It was alleged that the Governor-General having invited those present to accept some minor form of hospitality, 'Mr Speaker then abruptly left Government House in his robes of office, accompanied by officers of the House, but left behind the other members of the House'.¹⁶⁸

SITTING AND NON-SITTING PERIODS

Parliamentary terms

A session may consist of one or more periods of sitting. The following table defines some of the parliamentary terms associated with sittings of the House and the intervals between sittings:

Recess

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

Period of sitting

The sittings of the House in each calendar year are normally over 2 distinct periods; one known as the Autumn sittings, usually between February and June, and the other known as the Spring or Budget sittings, usually between August and December.

Adjournment

An adjournment is any period when the House stands adjourned, by its own resolution, for a week or more. This period is not a recess as it is often loosely called. The period between the end of one sitting day and the commencement of the next is also known as an adjournment.

Special adjournment

A sitting period is normally terminated by a special adjournment resolution. A similar resolution is used to terminate a group of sitting weeks within a sitting period, as any adjournment period extending beyond the week following a sitting week is referred to as a special adjournment.

Sitting day

A sitting day is a day on which the House commences a sitting following an adjournment, and continues until a motion for its adjournment is carried. Thus a sitting may continue for one or more days.

¹⁶⁴ VP 1909/89.

¹⁶⁵ VP 1907/30.

¹⁶⁶ VP 1907/37.

¹⁶⁷ VP 1974/115.

¹⁶⁸ VP 1950-51/47-8; H.R. Deb. (28.3.50)1207; H.R. Deb. (30.3.50)1415-22. The incident was later the subject of a motion of censure of the Speaker, VP 1950-51/55-6; H.R. Deb. (20.4.50)1691-1702; see also Ch. on 'The Speaker and Officers of the House'.

Suspension of sitting

A suspension of sitting is used for the purpose of meal breaks and there may also be a suspension of sitting for a particular purpose, for example, as a mark of respect to a deceased person or the presentation of the Address in Reply.¹⁶⁹

Days and hours of meeting

After the first meeting of the House, the days and times of commencement of subsequent sittings are provided for in the standing orders:

Unless otherwise ordered, the House shall meet for the despatch of business on each Tuesday and Wednesday at fifteen minutes past two o'clock p.m.; and on each Thursday at half-past ten o'clock a.m.¹⁷⁰

This standing order reached its present form in 1978¹⁷¹ following a trial through 1976 and 1977 as a sessional order.¹⁷²

The day or hour of meeting may be varied and to this end a motion for the purpose of fixing the next meeting of the House may be moved by a Minister without notice¹⁷³, or by a Member after notice.¹⁷⁴

If it is desired that the House not meet on a day laid down in the standing orders¹⁷⁵, or meet on a day other than those laid down in the standing orders, that is, on a Friday¹⁷⁶, Saturday¹⁷⁷ or Monday¹⁷⁸, it is necessary for the House to agree to a motion for the alteration of the day of next meeting. When the House is **not** to meet for a week or longer, a special adjournment motion must be agreed to.¹⁷⁹ The House has frequently changed its hours of meeting by means of sessional orders. For example, the hours of meeting were amended in July 1974 to provide for morning sittings on Tuesdays and Thursdays, and a noon sitting on Wednesdays.¹⁸⁰

The House has varied its hour of meeting to enable Members to attend luncheons for visiting dignitaries¹⁸¹, or public functions such as Remembrance Day¹⁸², and to take account of the running of the Melbourne Cup.¹⁸³

If a sitting continues beyond the hour of meeting set down for the following sitting, no motion for fixing the next meeting of the House for later the same day can then be moved unless by leave of the House or by the suspension of standing (or sessional) orders.¹⁸⁴

An amendment to a motion to alter the day or hour of next meeting may be moved¹⁸⁵ but the terms of the amendment must be confined to the next sitting day¹⁸⁶, (that is, relevant to the motion). An amendment proposing to substitute the normal day

¹⁶⁹ See Ch. on 'The Business of the House and the sitting day' for the program for a sitting day. For the number of sittings each year see Appendix 18.

¹⁷⁰ S.O. 40.

¹⁷¹ Prior to the amendment of the standing order on 22 February 1978, the time of meeting on Tuesday and Wednesday was 2.30 p.m., VP 1978-80/19.

¹⁷² VP 1976-77/21; VP 1977/8-10.

¹⁷³ S.O. 51.

¹⁷⁴ H.R. Deb. (31.1.02)9559.

¹⁷⁵ VP 1978-80/1418.

¹⁷⁶ VP 1978-80/593.

¹⁷⁷ VP 1926-28/594. The House has never sat on a Sunday.

¹⁷⁸ VP 1976-77/536.

¹⁷⁹ VP 1978-80/499.

¹⁸⁰ VP 1974-75/82. The time of meeting on Tuesday was 10.30 a.m. or such time thereafter as Mr Speaker may take the Chair, designed for those sitting mornings when aircraft may have been unable to land at Canberra airport due to winter fog.

¹⁸¹ VP 1978-80/127; H.R. Deb. (11.4.78)1354-5.

¹⁸² VP 1976-77/454.

¹⁸³ VP 1978-80/1140; H.R. Deb. (25.10.79)2490-1.

¹⁸⁴ VP 1914/42; H.R. Deb. (13.5.14)983-7. The Prime Minister submitted that at any time during Wednesday's sitting (which had continued beyond the hour of meeting for Thursday) the House may otherwise order as to the next day's sitting. The Chair took the view that this was so only if done before the appointed time of assembling for the next sitting arrives.

¹⁸⁵ VP 1974-75/540.

¹⁸⁶ H.R. Deb. (31.1.02)9559.

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

Debate on a motion to alter the next sitting day must be confined to that question¹⁸⁷, although in 1940 the Speaker allowed discussion to encompass the possible closing of Parliament as Members, in giving reasons for opposing the motion, feared that it presaged such an event.¹⁸⁸

Two motions altering the hour of next meeting have been agreed to on the one day, the second superseding the first.¹⁸⁹ A motion to alter the hour of next meeting must be moved during the sitting prior to the sitting day in respect of which the hour of meeting is to be changed. However such a motion in respect of a day not being the next sitting day has been moved by leave.¹⁹⁰

Pattern of sittings

Although the periods of sitting normally extend over the months February to June and August to December, not every week in those periods is a week in which the House meets, and there are periods in excess of a week when the House does not meet. Within a sitting period the Government determines the sitting days, sitting weeks and non-sitting weeks which make up the pattern of sittings.¹⁹¹

For those occasions when the House adjourns for more than a week, a special adjournment motion must be agreed to. The motion may take one of the following forms:

That the House, at its rising, adjourn until [day, date, time], unless otherwise called together by Mr Speaker or, in the event of Mr Speaker being unavailable, by the Chairman of Committees.¹⁹²

That the House, at its rising, adjourn until a date and hour to be fixed by Mr Speaker, which time of meeting shall be notified by Mr Speaker to each Member by telegram or letter.¹⁹³

That the House, at its rising, adjourn until [day, date, time], unless Mr Speaker fixes an alternative day or hour of meeting.¹⁹⁴

If the House adjourns to a date and hour to be fixed, a Gazette notice is published when the day of meeting is determined, indicating the date and hour of meeting.¹⁹⁵

In a case of the House having adjourned to a date and hour to be fixed¹⁹⁶, the Speaker, at the request of the Government, notified Members and placed a public notice in the Gazette of the date and hour of meeting¹⁹⁷, and, subsequently, the Government made a further request to change the hour of meeting. Members were notified of the change and a further Gazette notice was issued, revoking the original notice.¹⁹⁸

In a case of the House having adjourned to a fixed date and hour¹⁹⁹, the Government requested the Speaker to change the hour of meeting to '2.45 p.m. or such time

¹⁸⁷ H.R. Deb. (15.11.18)7929.

¹⁸⁸ H.R. Deb. (24.5.40)1261-73.

¹⁸⁹ VP 1945-46/345,351.

¹⁹⁰ VP 1901-02/265.

¹⁹¹ The proposed pattern of sittings is announced some months in advance.

¹⁹² VP 1980-81/388. Most commonly used for a long adjournment.

¹⁹³ VP 1977/433. Sometimes used for a long adjournment.

¹⁹⁴ VP 1980-81/273. Used for short adjournment.

¹⁹⁵ Gazette S136(7.7.75).

¹⁹⁶ VP 1968-69/482.

¹⁹⁷ Gazette 61(18.7.69)4301.

¹⁹⁸ Gazette 69(7.8.69)4789. The change was made because of departure arrangements for the Duke and Duchess of Kent.

¹⁹⁹ VP 1978-80/746.

thereafter as Mr Speaker may take the Chair'. Members were notified of the altered time, and the House met at 2.49 p.m.²⁰⁰

Over recent years some experimentation has taken place in the days and hours of meeting, and sitting and non-sitting weeks, involving consideration by the Standing Orders Committee²⁰¹, changes to standing order 40²⁰² and the use of sessional orders.²⁰³

The pattern of sittings which appears to be most acceptable to a majority of Members is a 4-weekly cycle, with 3 sitting days (Tuesday, Wednesday and Thursday) a week for 3 weeks, and the House adjourning for the 4th week. The 4-weekly cycle is then repeated. This is a general pattern only, as sitting periods for longer than 3 sitting days for 3 sitting weeks may be made necessary by the pressure of business towards the conclusion of a period of sittings.

Special reassemblies of the House

On only 2 occasions has the House reassembled on a day other than that specified in the special adjournment motion. On both these occasions the adjournment resolution enabled the Speaker to set an earlier day of meeting. On 20 June 1940 the House, having adjourned until 2 July 1940, reassembled to consider national security legislation.²⁰⁴ On 9 July 1975 the House reassembled to discuss the Government's overseas loan negotiations, having adjourned until 19 August 1975.²⁰⁵

On other occasions the House, having adjourned until a date and hour to be fixed by the Speaker, has reassembled prematurely for special reasons. These occasions have been the presentation of an Address to the Prince of Wales²⁰⁶, consideration of a constitutional problem relating to the suggested marriage of King Edward VIII²⁰⁷, consideration of the declaration of a state of war with Japan, Finland, Hungary and Rumania²⁰⁸, consideration of the conflict in Korea²⁰⁹ and consideration of Senate amendments to bills.²¹⁰

On 7 February 1942 the Speaker notified Members that the House would meet on 11 March 1942. On 13 February a telegram was sent to all Members changing the date of meeting to 20 February, on which day the House met and went into a secret joint meeting with the Senate to discuss the current war situation.²¹¹

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

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

201 PP 114(1970)1-2.

202 VP 1970-72/287-8.

203 VP 1978-80/86; H.R. Deb. (16.3.78)838-41.

204 VP 1940/97,99.

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

206 VP 1920-21/187.

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

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

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

210 VP 1959-60/314; VP 1974-75/143-9; H.R. Deb. (23.8.74)1126.

211 VP 1940-43/275.