

Private Members' business

For the purposes of private Members' business, a private Member is defined by the standing orders as any Member of the House other than the Speaker, a Minister or a Parliamentary Secretary.¹ This definition serves to clarify the meaning of the term for these important purposes and, indirectly, provides additional opportunities to opposition leaders.

As a means of analysing how the time of the House is occupied the following categorisation may be used:

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, motions to refer business to the Main Committee and the presentation of reports from the Committee, messages from the Senate, 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.

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

Most of the time of the House is occupied in the consideration of government business, a situation which is common to most Westminster-style Parliaments. 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 two days per week were allotted to the former.² In those times the greatest debates took place on private Members' motions, that is, motions moved by Members who were not Ministers.³

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, from necessity, already become established. The demand for government time has been met at the expense of time available for private Members' business. The increasing need for Governments to control House time, assisted by the growth of strong party loyalty, led to a steady curtailment of opportunities for private Members to initiate bills and motions, and procedures to expedite the consideration of government business.⁴ Private Members frequently objected to the

1 S.O. 28D(f). 'Minister' is taken to include Parliamentary Secretary (resolution of the House, VP 1993–95/25). For further discussion of the definition of private Member see Ch. on 'Members'.

2 Jennings, *Parliament*, p. 121.

3 Jennings, p. 360.

4 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.

limits placed on opportunities to raise matters in the House, and to encroachments on their relatively few opportunities to have issues of their own choosing debated.⁵

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 have long been 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, Members' statements, discussion of matters of public importance and debate on the Address in Reply.⁶ Members also have an opportunity to debate matters of their own choosing during debate on the second reading of the main appropriation and supply bills⁷ and, subject to the relevancy rule, in the consideration of the proposed expenditures of government departments. While these opportunities are important to private Members, none of them enable the Member to initiate debate on a topic of his or her own choice and to seek a distinct vote of the House on it. The private Members' business procedures provide such an opportunity.

This chapter focuses on the major opportunities for private Members to initiate debate on particular issues and covers, as well as private Members' business, the grievance debate, Members' statements and the adjournment debate.

PREVIOUS ARRANGEMENTS

The pre-1988 arrangements, under which grievance debate and general business (that is, private Members' business) took place on alternate sitting Thursdays after the Address in Reply had been adopted, are described in detail at pages 513–526 of the first edition. Following recommendations from the Standing Committee on Procedure⁸ sessional orders were adopted in December 1987 giving greatly increased opportunities to private Members.

These changes, effective from March 1988, provided for the regular occurrence of private Members' business on Thursday mornings, as described at pages 544–553 of the second edition (the sessional orders referred to there being adopted as standing orders in October 1992.⁹ Current arrangements date from February 1994 when the routine of business was amended to move private Members' day to Mondays.¹⁰

PRIVATE MEMBERS' MONDAYS

Routine of business on Mondays

Most of the time available on each sitting Monday is reserved for non-government business. The standing orders¹¹ provide for the following routine:

5 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.

6 These procedures are discussed in the appropriate chapters.

7 See Ch. on 'Legislation'.

8 Standing Committee on Procedure, *Days and hours of sitting and the effective use of the time of the House*. PP108 (1986) 17–24.

9 VP 1990–93/1786.

10 Adopted 21.2.94, effective 21.2.94, VP 1993–94/771–2.

11 S.O. 101.

1. Presentation of, and statements on, reports from parliamentary committees and delegations.
2. Orders of the day for the resumption of debate on motions moved in connection with committee and delegation reports (debate concluding no later than 1.15 p.m.).
3. Private Members' business (debate commencing no later than 1.15 p.m., debate to be interrupted at 1.45 p.m.).
4. Members' statements (at approximately 1.45 p.m.).
5. Questions without notice (at 2 p.m.).
6. Presentation of petitions.
7. Private Members' business (in continuation for 1 hour).
8. Grievance debate (debate to continue for 1 hour and 20 minutes.).

The normal daily routine then resumes with notices and orders of the day (i.e. government business). To enable Members to be assured of a significant period free of interruptions, any division called for in the House during the consideration of private Members' business, on a question other than a motion moved by a Minister, is deferred until after the conclusion of the grievance debate.¹²

Since the introduction of the modern form of private Members' business in 1988, only in the most unusual circumstances has other business been given priority at the time for private Members' business—and this has always been by agreement, not merely by government decision.¹³ Sometimes, when the House has not met on a Monday of a sitting week, special arrangements have been made to enable some or all of the items normally dealt with on a Monday to be considered later in the week.¹⁴

Selection Committee

The timetable and order of business for the presentation and consideration of committee and delegation reports and private Members' business is the responsibility of the Selection Committee, appointed at the commencement of each Parliament.¹⁵ The committee has 12 members, including the Deputy Speaker, the Chief Government Whip, the Chief Opposition Whip, the Third Party Whip, four government Members, three opposition Members and one independent Member. The quorum is five, of whom three must be government Members.

Private Members' business to be accorded priority on private Members' Mondays, the order of consideration and the times allotted for debate on each item must be approved by a majority of the members of the Selection Committee present at a meeting of the committee and in accordance with general principles adopted by the House. The committee reports its determinations to the House in sufficient time for its decisions to be published on the Notice Paper of the sitting Wednesday prior to the Monday to which the determinations apply. Such reports of the committee are deemed to be adopted when laid upon the Table, and they are printed in *Hansard*.¹⁶

The Selection Committee must give notices by private Members of their intention to present bills priority over other notices and orders of the day.¹⁷

¹² S.O. 193.

¹³ VP 1993–95/25–6; VP 1996/43 (priority to Address in Reply, Selection Committee not having met to select private Members' business). VP 1993–95/2181–2 (motion on French nuclear testing). VP 1996/239 (motion on helicopter crash, part of private Members' time only).

¹⁴ VP 1993–95/1769, 1777; 1996/375, 563.

¹⁵ S.O. 28D.

¹⁶ S.O. 28D(d).

¹⁷ S.O. 104A.

In its selection and programming of private Members' business the Selection Committee is guided by general principles adopted by the House (after report by the committee)¹⁸ at the start of each Parliament. The guidelines adopted by the 38th Parliament¹⁹ provided that:

- (1) In formulating the priority to be given to items of private Members' business the Selection Committee shall have regard to:
 - (a) the importance of the subject;
 - (b) the current level of interest in the subject;
 - (c) the extent of the current discussion on the subject both in the Parliament and elsewhere;
 - (d) the extent to which the subject comes within the responsibility of the Commonwealth Parliament;
 - (e) the probability of the subject being brought before the House by other means within a reasonable time; and
 - (f) whether the subject is the same, or substantially the same, as another item of business which has been debated or on which the House has already made a decision in the same period of sittings and, if so, whether new circumstances exist.
- (2) The Committee shall accord priority to private Members' business:
 - (a) with regard to the numbers of Members affiliated with each party in the House;
 - (b) in a way which ensures that a particular Member or the Members who comprise the Opposition Executive do not predominate as the movers of the items selected; and
 - (c) in a way which seeks to ensure balance is achieved over each period of sittings.
- (3) When a private Member has the responsibility for the carriage of a Bill transmitted from the Senate for concurrence, the Bill shall be accorded priority following the question for the second reading being put to the House in the same way as a private Member's Bill originating in the House is accorded priority by standing order 104A.
- (4) Priority shall not be accorded to any item of private Members' business if the matter should be dealt with by the House in another, more appropriate, form of proceeding.
- (5) The general principles set out above shall be observed by the Selection Committee but nothing in the general principles shall be taken to prevent the Selection Committee departing from those general principles in order to meet circumstances, which, in its opinion, are unusual or special.

CONSIDERATION OF COMMITTEE AND DELEGATION REPORTS

The first period following Prayers (at 12.30 p.m.) on Monday is reserved for the presentation of parliamentary committee and delegation reports and for the resumption of debate on orders of the day relating to reports previously presented, the presentation of reports taking priority. Subject to any determination by the Selection Committee, the Member presenting a report and other Members may each speak for a maximum of 10 minutes. The Member presenting the report may then move without notice a specific motion in connection with the report, whereupon the debate on the question is adjourned to a future day to be determined by the Selection Committee.²⁰ Standing orders have been suspended, by leave, to allow the time for the presentation of reports and statements on them to be extended.²¹ In addition, despite determinations by the Selection Committee, Members have been permitted to speak again by leave²² and Members have been given an extension of time.²³

18 S.O. 28D(b).

19 VP 1996/67.

20 S.O. 102B, e.g. VP 1993-95/1343.

21 VP 1987-89/1311; VP 1990-92/1257; VP 1993-95/1615.

22 VP 1990-92/884.

23 VP 1990-92/566.

Following presentation of reports, orders of the day are debated according to the order of priority and times allotted for debate determined by the Selection Committee. Each Member may speak for a maximum of 10 minutes or for any lesser period determined by the Selection Committee.²⁴ If the consideration of any question has not concluded by the time appointed by the Selection Committee or by 1.15 p.m., the debate is interrupted and the resumption of debate made an order of the day for a future day. If debate concludes before the time allocated for the item has expired, and the Selection Committee has determined that consideration is to continue on a future day (the usual practice), the Chair informs the House that the resumption of debate will be made an order of the day for the next sitting Monday.

After presentation of a report in the House and the moving of a motion to take note of the report, the order of the day for the resumption of debate on the motion may be referred to the Main Committee.²⁵

PRIVATE MEMBERS' BUSINESS

During the private Members' business period notices and orders of the day relating to private Members' business are called on by the Clerk in the order in which they appear on the Notice Paper, that is, as previously determined by the Selection Committee. Standing and sessional orders have been suspended to allow other Members to move motions in the absence of the Members who had given notices accorded priority by the Selection Committee.²⁶ Priority must be given to notices of intention to present private Members' bills.²⁷ When the time allotted by the Selection Committee for an item has expired, at the end of the private Members' business period, or when debate concludes, debate is interrupted by the Chair. The question before the Chair may be put. However, the general practice of the committee is to determine that private Members' business should be the subject of further consideration and, therefore, not determined by the House after the initial debate. When the Selection Committee has determined that consideration of a matter should continue on a future day, debate having concluded, or been interrupted by the Chair at the time fixed for interruption, the Chair informs the House that the resumption of debate will be made an order of the day for the next sitting Monday (*and see below*).

Any private Members' business not called on, or any private Members' business the consideration of which has been interrupted and not re-accorded priority by the Selection Committee, on any of the next eight sitting Mondays, is removed from the Notice Paper²⁸ (if a matter has been referred to the Main Committee, this provision does not apply unless the matter is referred back to the House).

Precedence by order of the House

Prior to the arrangements for private Members' business effective from 1988, from time to time and usually through the initiative of the Government, standing orders were suspended to permit specified items of private Members' business to be called on and considered on a day other than a general business Thursday²⁹ or to give precedence to

²⁴ S.O. 102C, e.g. VP 1993–95/1343.

²⁵ S.O. 270, e.g. VP 1993–95/1532, 1588.

²⁶ VP 1990–92/1013; VP 1996/588.

²⁷ S.O. 104A.

²⁸ S.O. 104B.

²⁹ VP 1973–74/475–6; VP 1968–69/39.

one item of general business over others.³⁰ This course was taken to permit immediate consideration of a matter of which notice had just been given, such as a want of confidence or censure motion³¹, to initiate debate on a matter of particular significance to the Parliament³² or to the community³³ or to bring on a matter when the time factor was significant, such as a motion for the disallowance of delegated legislation (regulations³⁴, ordinances³⁵, and so on). Attempts by private Members to obtain precedence to a particular item of business without government support were invariably unsuccessful.³⁶

With the greater amount of time allotted to private Members' business and with the programming powers of the Selection Committee, such action is less necessary under the arrangements now in force but it still occasionally occurs, for example in connection with motions for the disallowance of delegated legislation or to allow further consideration and determination of a matter.

Private Members' motions

The procedures of the House for private Members' motions are the same as for motions moved by a Minister except that motions are required to be seconded.³⁷ Theoretically, under standing order 91 the speech of the mover of a motion is limited to 20 minutes and of other Members to 15 minutes, but in practice the Selection Committee normally determines the times to be allotted to Members—for example the mover of a motion and the Member next speaking may be allotted 10 minutes each, and other Members five minutes each.³⁸ Amendments are sometimes moved to private Members' motions.³⁹

During the period 1981–88 some 43 per cent of private Members' motions moved were brought to a vote. However, a large proportion of these were brought on with the support, or through the initiative, of the Government on other than general business Thursdays. These statistics include censure or want of confidence motions. Fifteen per cent of those moved were agreed to in their original form, most of these having been moved by government backbenchers. Since 1988 the usual practice has been, by decision of the Selection Committee, that motions considered during the time available under the private Members' business provisions are not voted on at that time, the debate being adjourned and made an order of the day for a subsequent private Members' day. Action has been taken in order to secure a vote on some private Members' motions or bills by having them called on outside of the times reserved for private Members' business.⁴⁰

Some private Members' motions brought before the House involve issues of social and/or moral significance, often referred to as matters of conscience, such as euthanasia, abortion or homosexuality⁴¹, or issues concerning the parliamentary institution. By arrangement within the parties, these have generally been decided by a free vote or

³⁰ VP 1978–80/133.

³¹ VP 1978–80/269.

³² E.g., the reference of a matter to the Court of Disputed Returns, VP 1977/108–11.

³³ VP 1978–80/683; VP 1980–81/139.

³⁴ VP 1970–72/423; *see also* Ch. on 'Legislation'.

³⁵ VP 1970–72/508.

³⁶ VP 1970–72/965, 1176.

³⁷ *See* Ch. on 'Motions'.

³⁸ S.O. 28D; H.R. Deb (31.1.95) 81–2.

³⁹ VP 1996/112.

⁴⁰ VP 1990–93/918; 1490; VP 1993–95/715, 718, 871; *see also* VP 1996/494.

⁴¹ E.g. VP 1978–80/683–4; VP 1973–74/458; VP 1996/399–400.

conscience vote.⁴² Outright government support for a private Member's motion, in its original form, is less common when the motion is put forward by an opposition Member.⁴³

If a private Member's 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.⁴⁴

No action was taken by the Government in the terms of the resolution.⁴⁵

Private Members' bills

The procedures which apply to the processing of private Members' bills are substantially the same as those for government bills. Upon the respective notice being called on by the Clerk, the Member in whose name the notice stands presents the bill and may speak for a period not exceeding five minutes in its support. The bill is then read a first time and the next sitting Monday appointed for the Member to move the bill's second reading.⁴⁶ The occasion for the moving and consideration of the bill's second reading is a matter for the Selection Committee to determine.⁴⁷ Although there is no exemption from the requirement in the standing orders concerning the seconding of motions for a motion for the second or third reading of a bill moved by a private Member, in practice a seconder is called for only on the second reading when the principles of the bill are under consideration. If a private Member's bill passes the second reading stage, a seconder is not called for when motions such as that for the third reading are moved, the House having already affirmed its support for the bill.⁴⁸ Under standing order 91, in theory, the mover of a motion for the second reading of a private Member's bill may speak for 30 minutes, and other Members 'leading' for the Government or the Opposition may also speak for 30 minutes, with any other Member able to speak for 20 minutes. In practice, the Selection Committee would be expected to determine the times available to Members, and has done so.⁴⁹ If the further consideration of a bill were to be referred to the Main Committee, in the absence of any other determination the provisions of standing order 91 would apply.⁵⁰

If the motion for the second reading of any private Member's bill is agreed to by the House, further consideration is accorded precedence of other private Members' business and the Selection Committee may allot times for consideration of the remaining stages of the bill.⁵¹

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

42 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 'Routine of business and the sitting day' for other examples of free votes.

43 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.

44 VP 1964-66/251.

45 See also Ch. on 'Motions' on this point.

46 S.O. 104A, VP 1987-89/300.

47 H.R. Deb. (17.3.88) 1055.

48 VP 1974-75/790.

49 H.R. Deb. (9.5.91) 3433 (bill considered in the House).

50 The motion referring the Euthanasia Laws Bill 1996 to the Main Committee for the remainder of the second reading debate allotted 10 minutes for each speaker, VP 1996/551.

51 S.O. 104A.

bill remained in charge of it through all stages in the House.⁵² In the case of the National Measurement (Standard Time) Amendment Bill 1991, the Member who initiated the bill having moved the second reading, a Parliamentary Secretary moved the third reading.⁵³ 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 (consideration in detail) stage on the motion of a Minister.⁵⁴ 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.⁵⁵

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 Senator⁵⁶ or a Minister in the Senate.⁵⁷ Similarly, bills which originated in the Senate have been sponsored in the House by a private Member⁵⁸ or a Minister.⁵⁹ The principles adopted by the House to guide the Selection Committee in respect of private Members' business include a provision that when a private Member has responsibility for the carriage of a bill transmitted from the Senate, the bill is to be accorded priority (following the first reading and after the second reading has been moved) in the same way as a private Member's bill originating in the House is accorded priority by standing order 104A.⁶⁰

The term 'private Member's bill' should not be confused with the term 'private bill'. Private bills, as known in the United Kingdom, conferring powers or benefits on individuals or bodies of persons, do not feature in the Commonwealth Parliament.

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. 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.⁶¹

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 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.

52 VP 1954-55/190, 254.

53 VP 1990-93/919

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

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

56 Parliament Bill 1974.

57 Life Assurance Companies Bill 1904 (passed Senate in 1905); National Measurement (Standard Time) Amendment Bill 1991 (discharged in Senate in 1992).

58 Superannuation Guarantee (Administration) (Exemption of Council Allowances) Amendment Bill 1993.

59 Parliamentary Presiding Offices Amendment Bill 1992.

60 VP 1993-95/68-9.

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

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.

In 1988, following presentation of an Income Tax Assessment Amendment Bill initiated by a private Member, the Chair noted that the bill sought to restore an earlier interpretation of a provision of the Act. The Chair understood that the bill did not seek to increase or alleviate tax, although it could be argued that a reduction would occur in the sum a person might pay because of the restored interpretation. The Chair stated that it was felt appropriate to permit the Member to initiate the proposal, although its validity in procedural terms was not clear.⁶²

Drafting

Officers of the House are the principal source of assistance to private Members in these matters. The assistance of a consultant drafter may be obtained in cases of particular difficulty or technical complexity. Private Members have traditionally also had some access to the Office of Parliamentary Counsel for help in such matters. Any dealings between a Member and a parliamentary drafter are regarded as confidential, if the Member so wishes.⁶³ The Attorney-General has the power to decline to permit Members access to drafters, if it is considered that work on the tasks involved would substantially prejudice the Government's legislative program.⁶⁴ The practical effect of this qualification has varied in significance over the years. In 1975 private Members' access to assistance from drafters 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 two 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.⁶⁵ 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.⁶⁶ Each House stood its ground and the bill was finally laid aside.⁶⁷

In 1905 the Life Assurance Companies Bill, a private Member's bill which had originated in, and had been 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.⁶⁸

62 H.R. Deb. (10.11.88) 2790-1; VP 1987-89/875.

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

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

65 J 1974-75/730.

66 VP 1974-75/774.

67 VP 1974-75/827-8.

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

Impact

Bills initiated by private Members are a small proportion of the legislation dealt with by the House, although the introduction of the new procedures for private Members' business in 1988 has seen a significant increase in their number. Private Members introduced 59 bills between 1901 and 1987 (not including bills originating in the Senate)—by the end of 1996 this figure had risen to 126.

TABLE 8 PRIVATE MEMBERS' BILLS IN THE HOUSE OF REPRESENTATIVES 1901–1996

	<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.....	57	34
Discharged at second reading stage.....	1	
Withdrawn at second reading stage.....	2	
Second reading negatived by House.....	10	
Second reading negatived by Senate.....	1	
Lapsed at committee stage.....	1	
Lapsed in Senate at consideration of House amendments.....		1
Passed into law.....	5	8 (a)
Removed from Notice Paper (b).....	41	11
Removed from Notice Paper in the Senate.....	1	
Still before House.....	6	
Passed House, still before Senate.....	1	
Total.....	128	55

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

(b) Pursuant to sessional order 104B adopted 9.12.87. Standing order 104B adopted 15.10.92.

Some notable examples of legislation passed by the Parliament have resulted from the actions of private Members or Senators, for example:

- 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 1959.⁶⁹
- In 1974 a private Member introduced the Parliament Bill which was similar to a bill previously introduced by a private Senator which had not proceeded beyond the first reading stage in the Senate before lapsing. The bill's primary purpose was to determine the site of the new 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.

⁶⁹ Act No. 104 of 1959; and see H.R. Deb. (14.5.59) 2223.

- The Government's Industrial Relations Legislation Amendment Bill (No. 2) of 1992 included provisions to amend the *Conciliation and Arbitration Act 1904* in respect of a matter addressed in a private Members' bill introduced three times between 1990 and 1992.⁷⁰
- In 1995 the Parliament passed the Anzac Day Bill 1994. This bill was initiated by the Government, but the Government's actions followed the actions of one private Member in moving a motion on the subject⁷¹ and of another in preparing and giving notice of his intention to introduce a private Member's bill.⁷²
- In 1995 the Parliament passed the Government's Sydney Airport Curfew Bill 1995, which took up in amended form the objects of a private Member's bill, the Sydney Airport Curfew (Air Navigation Amendment) Bill 1995⁷³, after a report on that bill by the Standing Committee on Transport, Communications and Infrastructure.

TABLE 9 PRIVATE MEMBERS' BILLS PASSED INTO LAW 1901–1996

<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
Senate Elections (Queensland) 1982 (Act No. 31 of 1982)	Senator Colston
Income Tax Assessment Amendment 1984 [No. 2] (Act No. 115 of 1984—assented to as Income Tax Assessment Amendment (No. 5) 1984)	Senator Evans*
Smoking and Tobacco Products Advertisements (Prohibition) 1989 (Act No. 181 of 1989)	Senator Powell*
Parliamentary Presiding Officers Amendment 1992 (Act No. 163 of 1992)	Senator Colston*

* sponsored by the Government in the House of Representatives.

Table 9 lists all private Members' bills which have passed into law since Federation. Fourteen non-government bills have passed into law—13 introduced by private Members or private Senators and one by the Speaker and the President. One of the most important non-government bills ever passed was the Parliamentary Privileges Bill which was assented to in 1987, having been sponsored by President McClelland and Speaker Child.

⁷⁰ Act No. 215 of 1992; H.R. Deb. (17.12.92) 4180.

⁷¹ VP 1993–95/1058.

⁷² H.R. Deb (12.5.94) 876. The notice was later withdrawn.

⁷³ Introduced by the Leader of the Opposition, VP 1993–95/2228–9. The second reading debate and referral to the committee occurred during government business time, VP 1993–95/2286–87.

TABLE 10 **BILLS SPONSORED BY THE SPEAKER AND PASSED BY HOUSE**
1901–1996

<i>Bill</i>	<i>Initiator</i>
Parliamentary Privileges 1987*	President McClelland/ Speaker Child
Public Service (Parliamentary Departments) Amendment 1988†	Speaker Child
Public Service (Parliamentary Departments) Amendment 1993†	Speaker Martin

* Passed into law (Act No. 21 of 1987).

† Passed House only.

GRIEVANCE DEBATE

Origins

The grievance debate is derived 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'.

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 private Members' business.

Programming of the debate

The first order of the day, government business, on each sitting Monday, is grievance debate which is called on following private Members' business. The question proposed by the Chair is 'That grievances be noted', to which question any Member may address the Chair or move any amendment. If consideration of the question has not concluded after one hour and twenty minutes the debate is interrupted and the question put by the Chair.⁷⁴ Previously, when there was a fixed time (5.15 p.m.) for the end of the grievance debate, it was not uncommon for the House to extend the time for the conclusion of grievance debate when there had been a delay in its commencement.⁷⁵ In addition, when the House has not met on a Monday, sometimes arrangements have been made to enable a grievance debate to take place on another day.⁷⁶

Scope of the debate

Any Member may address the House on, or move an amendment to⁷⁷, the question 'That grievances be noted' but, in practice, Ministers rarely participate in order to give

⁷⁴ S.O. 106.⁷⁵ VP 1993–95/1789.⁷⁶ VP 1993–95/1769, 1777; VP 1996/375.⁷⁷ VP 1974–75/452.

more private Members the opportunity to speak. A Member's speech is limited to 10 minutes⁷⁸ and it is the traditional practice for the first speaker to be called from the Opposition.⁷⁹ 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 seek a resolution of the House or to focus 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.⁸⁰ The amendment procedure was frequently used in the House until about 1924 but is now rarely used.⁸¹ Only three amendments have been agreed to, two of them involving amendments to proposed amendments.⁸²

MEMBERS' STATEMENTS

During this 15 minute period (from 1.45 until 2 p.m. on Mondays), any Member other than a Minister (or Parliamentary Secretary) may be called by the Chair to make a statement on any topic of concern for a period not exceeding 90 seconds.⁸³ The call is alternated between government and non-government Members, subject to the proviso that Members who have not received the call are given priority over Members who have already spoken. Independent Members have been given the call with the frequency appropriate to their representation in the House. Opposition frontbench Members do not receive precedence. A Member may make up to three 90 second statements each period, if no other Member rises. The calling of quorums, the raising of spurious points of order and other disruptive tactics are not in accord with the spirit of the procedure and have not been tolerated.⁸⁴ The normal speech timing clocks are not used, a stopwatch is used to monitor the time taken by each Member.

When called, as well as being able to make a statement to the House, a Member may give notice of intention to move a motion or present a bill by stating its terms to the House and delivering a fair copy to the Clerk at the Table.⁸⁵ However, the giving of notices openly in this way is rare.

When the House has not met on a Monday (for example, at the commencement of a period of sittings) arrangements have sometimes been made to allow Members' statements to be made on another day.⁸⁶

⁷⁸ S.O. 91.

⁷⁹ H.R. Deb. (20.9.73) 1333.

⁸⁰ NP 111(8.4.08) 527; VP 1907-08/377.

⁸¹ VP 1974-75/452; H.R. Deb. (13.2.75) 276-9.

⁸² VP 1920-21/163, 271-2; VP 1907-08/284-5.

⁸³ S.O. 106A.

⁸⁴ H. R. Deb. (17.3.88) 983; H.R. Deb. (6.5.93) 289.

⁸⁵ H.R. Deb. (7.9.89) 1155.

⁸⁶ VP 1993-95/1769, 1777; 1996/375.

ADJOURNMENT DEBATE

The standing orders provide for a half hour adjournment debate to take place at the end of every sitting day. The detailed arrangements for the moving of the motion or the proposing of the question for the adjournment of the House are described in the Chapter on 'Routine of business and the sitting day'.

The opportunities provided in adjournment debates in terms of the total time available to private Members are not inconsiderable. Because of this, and because an adjournment debate, even if abbreviated, takes place on a majority of sitting days, the adjournment debate is particularly valued by Members.

Time limits

Except for the limitation imposed by standing order 48A for an interruption at 11 p.m. on Mondays and Tuesdays, 8 p.m. on Wednesdays and 6 p.m. on Thursdays, or such other times in special circumstances as may be specified, each Member receiving the call on the adjournment motion may speak for five minutes.⁸⁷ No extension of time may be granted. If no other Member from any part of the House rises, a Member who has already spoken to the motion may speak a second time for a period not exceeding five minutes.⁸⁸ Similar time limits apply to Ministers, with the exception that when a Minister's speech commences just prior to the interruption the Minister may conclude his or her five minutes after the interruption by requiring the debate to be extended. The Minister may then speak for a second period of five minutes, if no other Minister rises.

Debate

On approximately 85 per cent⁸⁹ of sitting days the motion for the adjournment is debated. Subject to the general rules of debate⁹⁰, matters irrelevant to the motion may be debated.⁹¹ This means that the scope of debate is practically unlimited and provides the private Member with an opportunity to raise matters of his or her choosing.

Through the application of the general rules of debate a Member may not anticipate discussion of any notice or order of the day on the Notice Paper, but the Speaker has regard to the probability of a matter coming before the House within a reasonable time.⁹² Debates of the current session may not be revived unless the allusion is relevant to a new aspect or matter which the Member is raising. A passing reference may be made to a previous debate.⁹³ A Member may reply to matters raised in a previous debate to correct a misrepresentation by way of a personal explanation.⁹⁴ Remarks cannot be based on a question asked earlier in the day, but the facts may be stated without dealing with the question.⁹⁵ Provided that no other rules of debate are contravened, matters before State Parliaments may be discussed⁹⁶, as may be activities of another Member of the Parliament.⁹⁷ Members have customarily advised other Members if they proposed to

⁸⁷ Standing orders have been suspended to enable Members speaking in the debate to speak for one period of 10 minutes, VP 1993-5/1723; VP 1996/1054.

⁸⁸ S.O. 91.

⁸⁹ Following the new sitting hours introduced on 21.2.94—the average over the previous 10 years had been about 70 per cent.

⁹⁰ See Ch. on 'Control and conduct of debate'.

⁹¹ S.O. 81.

⁹² S.O. 82. See also Ch. on 'Control and conduct of debate'.

⁹³ H.R. Deb. (23.3.72) 1196.

⁹⁴ H.R. Deb. (26.5.55) 1201.

⁹⁵ H.R. Deb. (21.2.52) 256.

⁹⁶ H.R. Deb. (25.11.53) 529-30.

⁹⁷ H.R. Deb. (25.10.50) 1395.

make remarks concerning them in the adjournment debate, although there is no formal requirement for them to do so.

Call of the Chair

The practice of the House is that an opposition Member receives the first call on the motion to adjourn the House.⁹⁸ Subsequently, if Members are rising on both sides, the Chair alternates the call in the normal way⁹⁹, calling the Member who, in the Chair's opinion, first rose.

On one occasion in 1952, the Speaker gave preference to Members desiring to speak on a particular subject and on a later occasion stated that, although Members were at liberty to debate their chosen subjects, as he had been warned of two subjects he would hear them first.¹⁰⁰ On a later occasion the Speaker required assurances from Members that they proposed to debate certain matters already raised before he gave them the call.¹⁰¹ These practices have not been continued.

98 H.R. Deb. (10.5.73) 2041.

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

100 H.R. Deb. (14.5.52) 342.

101 H.R. Deb. (11.3.53) 871-5.

