



Routine of business and the sitting day

This chapter outlines the proceedings on a normal sitting day, from Prayers to adjournment, under the ordinary routine of business provided for in standing order 101. It also details the many interventions which can occur under specific standing orders and by way of tactical moves. The chapter also encompasses the division procedures and quorum provisions, which often play a significant part in the daily routine of the House.

SITTING DAY

Definition

A sitting of the House is the period from the meeting of the House until the time it adjourns by its own resolution or pursuant to standing orders. A sitting commences when the Speaker takes the Chair. If there is no quorum present at that time and the Speaker is compelled to adjourn the House in accordance with standing order 41, a sitting of the House has taken place in the terms of this definition. The only occasion of such a sitting was on 19 September 1913.¹

The term ‘sitting day’ is not defined by the standing orders, although reference is made to ‘the next sitting day’ in a number of standing orders.² However, the practice of the House is that 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. In other words, a sitting day is taken to mean a day on which the House meets to begin a sitting and not any day on which the House sits. Thus a sitting day may continue for one or more calendar days.

Even where one sitting continues over two or more full days, for example, the sitting that commenced on Wednesday, 6 December 1933 and continued on the Thursday and Friday without adjournment, there would be only one sitting day. It is important to note in this context that, as a Notice Paper is only issued for each new sitting and as a notice of motion only becomes effective when it appears on the Notice Paper, a notice of motion to disallow a regulation, for example, which is given on the first day of a three day sitting, would not be effective until the next Notice Paper is issued.

Where two sittings of the House occur on one day ‘this could only be regarded as one sitting day; there would be two sittings but one could hardly say that there were two sitting days’.³

The term ‘sitting day’ has special legal significance because of statutory requirements for the tabling of delegated legislation within a specified number of sitting days of being made, and in relation to the number of sitting days within which a notice of motion may be given for the purpose of disallowing delegated legislation and the number of sitting

1 VP 1913/63.

2 S.O.s 15, 41, 44, 45, 156 and 190. The next sitting day is as laid down in S.O. 40 or as determined by resolution of the House.

3 Advice of Attorney-General’s Department, dated 24 April 1970.

days within which such a notice of motion must be disposed of by the House.⁴ Many statutes also require a Minister to table a report or other document within a certain number of sitting days of its receipt.⁵ There is no statutory definition of what constitutes a sitting day for these purposes.⁶

Two sittings commencing on the one day

On two occasions the House has commenced and concluded two sittings within the one day. The first occasion was on 11 April 1935 when leave was refused at the first sitting to allow a motion to be moved to grant leave of absence to all Members. Notice of such a motion was then given and following the alteration of the day of next meeting the House was adjourned until 5 p.m. A new Notice Paper was issued and, at the next sitting, the motion was moved, pursuant to notice.⁷ Such a motion can now be moved without notice.

On 2 September 1942 the House met at 3 p.m. and agreed to a motion of condolence in respect of the death of the Duke of Kent. Following the alteration of the day of next meeting, the House adjourned as a mark of respect until 7.30 p.m.⁸ Current practice in such circumstances would be for the House to adjourn until the next sitting day or for the sitting to be suspended until a stated time.

There have been occasions when the House has adjourned after a lengthy sitting, only to meet again shortly afterwards but in a new sitting day. For example, the House met at 11.50 a.m. on Monday, 24 May 1965, and the sitting continued until 4.32 a.m. on Wednesday, 26 May. The next sitting commenced at 5 a.m. that day. The purpose of the new sitting was to enable new business to be taken.⁹

Length of sittings

The shortest sitting of the House was on 14 March 1928 when the House adjourned one minute after it met to enable Members to attend functions in honour of the eminent aviator, Captain Hinkler.¹⁰

The longest sitting of the House was from 11 a.m. on Friday, 18 January 1918 until 6.22 p.m. on Friday, 25 January 1918, a period of 175 hours 22 minutes. This period, however, included a suspension of the sitting from 3.09 a.m. on 19 January until 3 p.m. on 25 January.¹¹ In a sitting of the House that lasted from 2.30 p.m. on Thursday, 16 November 1905 until 12.05 p.m. on Monday, 20 November 1905 (the sitting was suspended over the Sunday) the House sat for a continuous period of 57 hours 30 minutes prior to the suspension at midnight on the Saturday.¹²

On the occasion of one lengthy sitting Hansard staff were discharged during the adjournment debate and Members forwarded precis of their remarks for inclusion in

4 For more details see Ch. on 'Legislation'.

5 See Ch. on 'Papers and documents'.

6 *Odgers*, 9th edn, p. 178, notes that when a sitting of the Senate has extended over more than one day, departments responsible for forwarding delegated legislation for tabling have been advised that to avoid doubt they should assume that the days to which the sittings were suspended were separate sitting days for the purposes of statutory tabling requirements.

7 VP 1934–37/253–7; NP 38 (11.4.35); H.R. Deb. (11.4.35) 1270–1.

8 VP 1940–43/377, 379.

9 VP 1964–66/325–39; NP 91 (26.5.65); see also VP 1937/49–55; H.R. Deb. (28–29.6.37) 637; H.R. Deb. (29.6.37) 674; NP 7 (29.6.37).

10 VP 1926–28/509; H.R. Deb. (14.3.28) 3791.

11 VP 1917–19/169–72.

12 VP 1905/167–70.

Hansard.¹³ Modern practice allowing proceedings to be recorded would mean that such action would no longer be necessary.

Joint sittings

The Constitution provides for a joint sitting of members of both Houses for the resolution of disagreements between the Houses over legislation if such disagreements persist following a double dissolution—*see* Chapter on ‘Disagreements between the Houses’. The Commonwealth Electoral Act provides for a joint sitting of members of both Houses to choose a person to fill certain casual vacancies in places of Senators for Territories other than the Australian Capital Territory and the Northern Territory¹⁴—*see* Chapter on ‘Elections and the electoral system’.

Joint meetings

On several occasions ‘conferences’, or alternatively ‘joint meetings’ (as used on these occasions the terms would appear effectively synonymous¹⁵), of all members of both Houses have been proposed. A meeting of this kind (as distinct from a joint sitting—*see above*) is not provided for in the standing orders or the Constitution but would not be prevented should both Houses agree and determine the procedure to be followed.

On 22 September 1903 the Prime Minister moved that a ‘conference’ be held of all Members of both Houses to consider the selection of a site for the seat of Government, and that the Senate be requested to concur with the resolution. The motion was agreed to, after amendment, on 23 September.¹⁶ On 30 September the Senate resolved not to concur with the House’s resolution¹⁷ and the proposal was not further proceeded with.

On 14 May 1931 the Prime Minister made a statement to the House suggesting a ‘conference’ of all Members of Parliament to consider Australia’s economic and financial problems.¹⁸ His suggestion was that such a conference last for a week during which there would be ‘a general frank discussion, devoid of party feeling’. Some days later the Leader of the Opposition made a statement in which he opposed such a conference¹⁹ and the proposal was not further proceeded with.

On three other occasions proposals for a conference or joint meeting of Members of both Houses have been put forward, in each case on the subject of the site for a new and permanent Parliament House. On 28 May 1969 the Leader of the Opposition in the Senate moved that a ‘conference’ of both Houses be convened to express a point of view on the site of the new and permanent Parliament House.²⁰ The motion was debated and negatived by the Senate on 29 May.²¹ On 6 May 1971 a similar motion was again moved and agreed to by the Senate.²² The message from the Senate requesting consideration by the House of the Senate’s resolution was received by the House on 7 May²³ but was never debated. On 23 August 1973 a motion was moved in the House proposing a joint meeting of both Houses to determine the site of the new and permanent Parliament

13 H.R. Deb. (6–8.12.33) 5898.

14 Should any such Territories be represented in the Senate. The provision previously applied in relation to the ACT.

15 For conferences of managers representing the two Houses *see* Ch. on ‘Disagreements between the Houses’.

16 VP 1903/141–2, 146.

17 J 1903/189.

18 VP 1929–31/621; H.R. Deb. (14.5.31) 1935.

19 H.R. Deb. (21.5.31) 2179.

20 J 1968–69/490.

21 J 1968–69/495–6.

22 J 1970–72/574–5.

23 VP 1970–72/631.

House.²⁴ On 24 October the House agreed to the motion which was transmitted to the Senate.²⁵ The House received a message from the Senate not agreeing with the proposal on 20 November 1973.²⁶

On 2 January 1992 and 20 November 1996 the House and the Senate met (concurrently rather than jointly) in the House of Representatives Chamber to hear an address by the President of the United States.²⁷ The Senate met in the House Chamber at the House's invitation; the Speaker presided and the procedures of the House applied so far as they were applicable.²⁸

On 9 May 2001 the House met with the Senate at the Royal Exhibition Building in Melbourne to mark the centenary of the first meetings of the Houses of the Commonwealth Parliament in 1901. At the end of the common proceedings the two Houses were adjourned separately by their respective Presiding Officers.²⁹

Secret sittings and meetings

During war time the House has conducted a portion of a sitting in secret and has also held secret meetings and joint secret meetings with the Senate. These meetings are not regarded as sittings of the House. For the joint meetings a regulation under the National Security Act was gazetted setting out the conditions of secrecy of any such meetings convened by a specific resolution agreed to by both Houses.³⁰

While the estimates for the Department of Defence were being discussed in the Committee of Supply on the morning of 13 December 1940, notice was taken of the presence of strangers who were then ordered to withdraw. The estimates were then discussed in secret and the recording of debates suspended from 12.32 a.m. until 3.30 a.m.³¹ On two occasions in 1941 strangers were ordered to withdraw and the sitting suspended so that the House could meet in secret.³² On such occasions Senators present were not regarded as strangers.

Joint secret meetings were held with the Senate on 20 February, 3 and 4 September and 8 October 1942. The meetings were held in the House of Representatives Chamber, the first during the suspension of a sitting, the others following the adjournment of the House.³³ Certain departmental officers were permitted to be present and the Serjeant-at-Arms remained in the Chamber. During World War I a secret meeting took place informally in the Senate Club Room where Members and Senators were asked to attend by the Prime Minister.

Suspension of sittings

A sitting is suspended by the Speaker leaving the Chair, usually after a direct or indirect declaration of the will of the House, for example to allow a meal break to be taken (*see* p. 242). A suspension of a sitting can occur pursuant to standing orders, pursuant to a resolution of the House, or in accordance with accepted practice.

24 VP 1973–74/289–90.

25 VP 1973–74/476.

26 VP 1973–74/545.

27 VP 1990–92/1305; J 1990–92/1995; VP 1996–98/841; J 1996/1058.

28 VP 1990–92/1220–21, 1233; VP 1996–98/702, 742, 792, 806.

29 VP 1998–2001/2259–60.

30 National Security (Supplementary) Regulations, SR 78 of 1942.

31 VP 1940–43/72; H.R. Deb. (12–13.12.40) 1054.

32 VP 1940–43/123, 166.

33 VP 1940–43/275, 393, 441. The meeting of 4 September was a continuation of that of 3 September.

Pursuant to standing orders

The standing orders make provision for the suspension of a sitting in the following circumstances.

ELECTION OF SPEAKER AND DEPUTIES

If a ballot or special ballot for the election of Speaker is inconclusive because of an equality of votes and the equality continues, the sitting is suspended for 30 minutes.³⁴ If, during a special ballot for the appointment of the Deputy Speaker or Second Deputy Speaker, there is a continued equality of votes for more than two Members and the special ballot is inconclusive, the sitting is suspended for 30 minutes unless a name is withdrawn.³⁵ Neither case has ever occurred.

Once the Speaker has taken the Chair on being elected and has been congratulated, the Prime Minister informs the House of the time that the Governor-General will receive the Speaker and the sitting is suspended until that time.³⁶ The sitting was not formally suspended following the election of Speaker Rosevear in 1946 as the Governor-General received the new Speaker immediately.³⁷

MEETING OF A NEW PARLIAMENT

After the Speaker has presented himself or herself to the Governor-General and reported that fact to the House, the standing orders provide that a Minister shall then inform the House of the time that the Governor-General will declare the causes of the calling of the Parliament together (the 'opening speech') and the House may then suspend its sitting until that time.³⁸ The contemporary practice of the House is that there is no suspension of the sitting at this point, as Members are summoned to hear the opening speech shortly after the presentation.

GRAVE DISORDER

In the case of grave disorder arising in the House, the Speaker may adjourn the House without question put,³⁹ or suspend the sitting until a time to be named.⁴⁰ Sittings have been suspended in these circumstances for a period as short as 15 minutes,⁴¹ until the next day,⁴² and until the ringing of the bells.⁴³ On one occasion the Mace, then normally left in the Chamber during the suspension of a sitting, was removed by the Serjeant-at-Arms at the direction of the Speaker.⁴⁴ On two occasions sittings have been suspended for short periods following grave disorder in the galleries.⁴⁵

WANT OF QUORUM

Standing orders 44 and 45 provide that, if it has been established that a quorum of Members is not present but the Speaker is satisfied that there is likely to be quorum within a reasonable time, the Speaker shall announce that the Chair will be taken at a stated time. The sitting is then suspended until the Speaker resumes the Chair (for occasions *see* p. 268).

34 S.O. 12(*l*).

35 S.O. 13(*i*).

36 S.O. 12(*o*); VP 1978–80/6; *and see* Ch. on 'The parliamentary calendar'.

37 VP 1946–48/5.

38 S.O. 2(*g*); *and see* Ch. on 'The parliamentary calendar'.

39 VP 1985–87/1273.

40 S.O. 308.

41 VP 1917–19/453.

42 VP 1954–55/184.

43 VP 1970–72/76.

44 H.R. Deb. (3.5.55) 362; VP 1954–55/184. Current practice is for the Mace to be left in the Chamber during a short suspension and removed during an overnight suspension.

45 VP 1970–72/209, 691–2.

CONFERENCE WITH SENATE

The standing orders of both the House and the Senate provide for the holding of conferences between the two Houses. The standing orders provide that, during any conference with the Senate, the business of the House shall be suspended.⁴⁶ However, on the two occasions when conferences have been held the relevant standing order was suspended and the House continued to meet while the conference was taking place.⁴⁷

Pursuant to resolution of the House

The House has agreed to a motion, moved pursuant to notice, to suspend the next day's sitting for a stated period.⁴⁸

The sessional orders relating to the meeting of legislation committees adopted in 1978 required that, unless otherwise ordered, legislation committees would meet during a suspension of the sitting of the House arranged for that purpose.⁴⁹ The only occasion that a sitting was suspended for this purpose was on 27 September 1978. On all other occasions the committees were authorised to meet during the sittings of the House.

Practice of the House

The practice has been that, in cases not provided for by resolution of the House or by the standing orders, sittings are suspended with the concurrence of the House. Exceptions have been when the Chair has suspended a sitting for the duration of power failures or because of a fault in the House monitoring system.⁵⁰

On three occasions the action of the Chair in suspending a sitting, without ascertaining the wish of Members, has been questioned. On two of these occasions, a motion critical of the Chair's action was rejected by the House. In 1912 the Chair acknowledged responsibility for curtailing the normal luncheon suspension by 15 minutes. A motion that the action of the Chair was a breach of the privileges of Members was negated.⁵¹ In 1917 the action of the Speaker in suspending a sitting without calling on business on the Notice Paper and without ascertaining the wish of the House was questioned. The Speaker replied that it was usual for the Speaker to suspend the sitting of the House temporarily at any time when requested to do so by the Minister in charge of business. He also stated that the Speaker might leave the Chair at any time and this was often done without any vote of the House.⁵² On 17 December 1930 the Speaker, at the suggestion of the Acting Prime Minister, suspended the sitting at 3.38 p.m. The Leader of the Opposition objected. On the resumption of the sitting the Speaker referred to doubts that had been expressed as to his authority to suspend the sitting and ruled that, in vacating the Chair when the House had no business before it and was awaiting a message from the Senate, he had followed the practice of every previous Speaker. The ruling was subject to a motion of dissent which was later debated and negated.⁵³

MEAL BREAKS

In earlier years it was the common practice to suspend a sitting for lunch and dinner.⁵⁴ The (early rising) sitting timetable in effect in 1994 and 1995 did not provide for meal

46 S.O. 376.

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

48 VP 1909/135.

49 VP 1978–80/323.

50 VP 1976–77/598; H.R. Deb. (17.2.77) 245; VP 1985–87/1258; H.R. Deb. (22.10.86) 2538, 2561; H.R. Deb. (25.3.85) 849.

51 VP 1912/227; H.R. Deb. (13.11.12) 5500–8.

52 H.R. Deb. (12.7.17) 133–4.

53 VP 1929–31/477, 492; H.R. Deb. (17.12.30) 1639–40; H.R. Deb. (17.3.31) 276–81.

54 Past practice in regard to meal breaks is described at pages 281–2 of the second edition.

breaks, but meal breaks were taken on some occasions when the normal routine had been departed from, such as to allow the main Budget bills to be presented,⁵⁵ to allow the Leader of the Opposition's reply to the Budget to be made,⁵⁶ or towards the end of sitting periods when the House sat into the evening.⁵⁷

Timetables in effect since 1996 have provided for evening meal breaks (6.30 p.m. to 8 p.m.) on scheduled late sitting days. The Chair is regarded as having some discretion as to the precise timing of the start of these suspensions (to accommodate Members who, for example, may be able to complete a speech shortly after 6.30 or who do not wish to be called to start a speech just before 6.30). The sitting always resumes at 8 p.m.

OTHER OCCASIONS

Sittings of the House have been suspended on other occasions for a variety of reasons. Sittings extending over more than one calendar day are usually suspended overnight.⁵⁸ During all-night sittings of the House the sitting has been suspended for supper⁵⁹ and at breakfast time.⁶⁰ Sittings have also been suspended from the early hours of the morning until a later hour that morning⁶¹ or until the afternoon.⁶² On two occasions the House has suspended its sitting over Sunday⁶³ and on another a sitting was suspended for almost a week as that was the wish of the House.⁶⁴

Sittings are often suspended to allow Members to attend functions. These suspensions are not necessarily recorded in the Votes and Proceedings.⁶⁵ It has been the regular practice of the House to suspend the sitting to allow Members to attend a social function on the opening day of a Parliament,⁶⁶ and to enable Members to accompany the Speaker to present the Address in Reply to the Governor-General.⁶⁷ It has also been the practice that, if the House does not adjourn following a motion of condolence on the death of a sitting Member or a Minister, the sitting is suspended until the time the House would normally meet after the next meal break.⁶⁸

The Speaker has also suspended a sitting for the following reasons:

- because of power failures in Parliament House;⁶⁹
- because of a fault in the House monitoring system;⁷⁰
- (in lieu of adjournment) to avoid the possibility of the House not being able to meet next day through lack of a quorum;⁷¹
- as a mark of respect to a deceased Senator;⁷²
- because of the illness of a Member in the House;⁷³

55 H.R. Deb. (9.5.95) 67.

56 H.R. Deb. (11.5.95) 400.

57 H.R. Deb. (30.3.95) 2614.

58 VP 1996–98/3202.

59 H.R. Deb. (11–12.2.43) 615.

60 H.R. Deb. (16.11.05) 5386.

61 VP 1937–40/128; VP 1993–95/1717.

62 VP 1956–57/359.

63 VP 1905/168; H.R. Deb. (16.11.05) 5425; VP 1925/97; H.R. Deb. (28–29.8.25) 1964.

64 VP 1917–19/171; H.R. Deb. (18.1.18) 3295.

65 *But see* VP 1973–74/458.

66 VP 1978–80/9; VP 1998–2001/12.

67 VP 1993–95/111; VP 1998–2001/216, 220.

68 VP 1977/235; VP 1980–83/78; VP 1998–2001/1531.

69 VP 1976–77/598; H.R. Deb. (17.2.77) 245; VP 1985–87/1258; H.R. Deb. (22.10.86) 2538, 2561.

70 H.R. Deb. (25.3.85) 849.

71 VP 1914–17/417; H.R. Deb. (12.11.15) 7661.

72 VP 1976–77/391.

73 H.R. Deb. (8.6.55) 1513.

- because the House was awaiting a message from the Senate;⁷⁴
- to enable Members to consider statements made by persons judged to be guilty of a breach of privilege;⁷⁵
- to enable the House to hold secret meetings;⁷⁶
- to enable secret meetings to be held jointly with the Senate;⁷⁷
- to allow Ministers to attend a meeting of the Australian Advisory War Council;⁷⁸
- to allow Members to watch or listen to the running of the Melbourne Cup;⁷⁹
- to allow Members to attend such ceremonies as Remembrance Day;⁸⁰
- because of the unveiling of a monument by the Duke of Edinburgh;⁸¹
- because of the swearing in of a Governor-General;⁸² and
- because of the inauguration of a wireless telephone service between Australia and Great Britain.⁸³

On 11 November 1992 the sitting was suspended from 11 a.m. to 11.02 a.m., pursuant to motion, to enable Members present to commemorate Remembrance Day with two minutes silence.⁸⁴ On 8 December 1998 the Speaker suspended the sitting immediately after the meeting of the House, after reading Prayers, when a luncheon for a visiting dignitary had lasted longer than expected.⁸⁵

On 11 November 1975, the House having agreed to a motion expressing its want of confidence in the Prime Minister (Mr Fraser) and requesting the Speaker to forthwith advise the Governor-General to call the Member for Werriwa (Mr Whitlam) to form a Government, the Speaker suspended the sitting at 3.15 p.m. The sitting did not resume as both Houses were dissolved by the Governor-General.⁸⁶

MEETING OF THE HOUSE

The standing orders,⁸⁷ often amended by sessional order, fix the times at which the House shall meet for the despatch of business, unless otherwise ordered. The timetable adopted in 1996 provided that the House would meet as follows:

Monday, at 12.30 p.m.

Tuesday, at 2 p.m.

Wednesday, at 9.30 a.m.

Thursday, at 9.30 a.m.

It is not uncommon for the days and hours of meeting to be changed by the House, especially towards the end of sitting periods. At the rising of the House at the conclusion of each sitting, the Chair states the day and hour of the next meeting.

74 VP 1968–69/317; VP 1987–89/1011; VP 1993–95/662 (suspended overnight).

75 VP 1954–55/269; H.R. Deb. (10.6.55) 1627.

76 VP 1940–43/123.

77 VP 1940–43/275.

78 VP 1940–43/41; H.R. Deb. (5.12.40) 476–7.

79 H.R. Deb. (6.11.73) 2808; VP 1998–2001/1865.

80 VP 1926–28/407.

81 VP 1973–74/52.

82 VP 1974–75/25–6.

83 VP 1929–31/144.

84 VP 1990–92/1877, 1878.

85 VP 1998–2001/191 (suspension from 2.31 p.m. until 3 p.m.—the Speaker announced that the action was taken with the agreement of both the Government and the Opposition).

86 VP 1974–75/1125–7.

87 S.O. 40; and see Ch. on ‘The parliamentary calendar’.

Preliminaries to meeting—the Daily Program

Except for the first sitting day of a session a Notice Paper setting out the order of business to be followed is prepared under the authority of the Clerk of the House and issued prior to each sitting of the House.⁸⁸ The order of government business as it appears on the Notice Paper is determined by the Leader of the House on the evening prior to each issue of the Notice Paper, and the Table Office is informed accordingly.

The Department of the House of Representatives also issues a Daily Program⁸⁹ under the authority of the Clerk of the House. This is compiled by the Table Office using information provided by the Leader of the House, the Manager of Opposition Business, Ministers, whips and other Members who have business to bring forward and reflecting determinations of the Selection Committee. While the Notice Paper lists all unresolved business before the House, including questions on notice, the Daily Program shows only those items of business, including new business, which the House is expected to deal with on that particular day. If variations are expected from the order of business shown on the Notice Paper, the Daily Program includes references to procedural motions necessary to enable these variations to be made. If the Main Committee is sitting on that day, an attachment to the Daily Program lists the proposed Main Committee order of business. Another attachment gives details of public hearings of House and joint committees.

Unlike the Notice Paper the Daily Program is not a formal document and it does not fix the order of business or limit the scope of business. It serves as a useful guide to Ministers and Members in planning their day's work in relation to the business of the House.

Meetings at hour other than pursuant to adjournment

When a delay or other change in the time of the next meeting is foreseen, the House alters the hour of meeting by resolution.⁹⁰ However, the House has sometimes met at a time other than that specified pursuant to adjournment, for the following reasons:

- to enable the presentation of an Address to the Prince of Wales;⁹¹
- to enable Members to attend a reception for a visiting dignitary;⁹²
- because of the running of the Melbourne Cup;⁹³
- because Members have been delayed by fog closing Canberra Airport;⁹⁴
- because of a malfunction of the bells which are customarily rung for five minutes before the time scheduled for the House to meet,⁹⁵ and
- because Members have been delayed by a Commonwealth Parliamentary Association meeting.⁹⁶

A number of delays in the meeting of the House which have not been authorised by resolution of the House have attracted the criticism of individual Members. On

88 For a full description of the Notice Paper *see* Ch. on 'Papers and documents'.

89 The Daily Program was first produced in 1950 and is also commonly known as the 'Blue Program' because of its distinctive colour.

90 VP 1998–2001/1117.

91 VP 1920–21/186–7.

92 VP 1977/321; H.R. Deb. (12.10.77) 1887.

93 VP 1987/169.

94 VP 1964–66/323–5; H.R. Deb. (24.5.63) 1893.

95 VP 1958/12–13.

96 VP 1956–57/322–3.

Melbourne Cup day in 1950, a Member questioned the Deputy Speaker as to why the House had not met at the appointed time (it had met 45 minutes late), and was critical of the procedure by which an informal arrangement had been made between the Government and the Opposition to defer the meeting and of the sense of values demonstrated by such an arrangement. The Prime Minister and the Leader of the Opposition confirmed that there was such an agreement and accepted responsibility for the arrangement. The Leader of the Opposition stated that he had never known the Speaker to refuse a request from a Prime Minister to defer the ringing of the bells for some reason deemed to be sufficient. The Deputy Speaker had been consulted and had met the wishes of the Government but was of the opinion 'that it would have been far better had the House decided last Thursday to alter the hour of meeting to-day'.⁹⁷

On the morning of 24 May 1965 the closure of Canberra Airport because of fog prevented a significant number of Members from reaching the House by the specified time of meeting. The House met 80 minutes late, and the Speaker was asked on what authority the House had not been called together at the appointed time. The Speaker replied that 'The arrangement was made on the basis of common sense, in accordance with practice, and to meet the convenience of honourable members'.⁹⁸

On 12 October 1977 the Acting Speaker was asked under whose authority the meeting of the House had been deferred for 40 minutes. He was also asked if he would have the courtesy to inform Members and the public of the position if a similar situation arose in the future. The Acting Speaker replied that certain circumstances had arisen in relation to a matter which, in his opinion, was important not only to Parliament but also to Australia. In these circumstances the ringing of the bells had been delayed.⁹⁹ The occasion was a parliamentary luncheon for a visiting dignitary.

The House has, by means of a special adjournment resolution, given the Speaker or, if the Speaker is unavailable, the Deputy Speaker, discretionary power to fix an alternative day or hour of meeting.¹⁰⁰ In accordance with this power, but at the request of the Government, the Speaker has delayed meetings of the House to accommodate a parliamentary luncheon for a visiting dignitary¹⁰¹ and to enable Members to watch or listen to the running of the Melbourne Cup.¹⁰² In the first instance letters advising Members of the change were despatched a week prior to the meeting. On the second occasion the Government requested, only a few hours prior to the set time, that the meeting be delayed. The Speaker, having received the agreement of the Leader of the Opposition to the alteration, despatched letters to Members at Parliament House informing them of the later meeting time.

On another occasion, the House having adjourned until a date and hour to be fixed by the Speaker and Members having been informed of the date and hour, the Speaker, at the request of the Prime Minister, delayed the hour of meeting to facilitate a farewell program for the Duke and Duchess of Kent and informed Members accordingly by telegram. A notice of the change was published in the Gazette.¹⁰³

97 H.R. Deb. (7.11.50) 1965, 2016–20.

98 H.R. Deb. (24.5.65) 1893.

99 H.R. Deb. (12.10.77) 1887.

100 VP 1978–80/732; VP 1996–98/359; VP 1998–2000/1175.

101 VP 1978–80/746–7.

102 VP 1978–80/499, 511.

103 Gazette 69 (7.8.69) 4789.

Meeting when House has not adjourned the previous sitting

On the evening of 16 August 1923, the Government having been twice defeated on the motion 'That the House do now adjourn', the Leader of the Opposition moved 'That Mr Speaker do now leave the Chair'. During the division on that question the Speaker, in reply to a question as to when he would resume the Chair if he left it, replied that he would resume at 11 a.m. the next day. The motion was agreed to and the Speaker left the Chair.¹⁰⁴ The House met at 11 a.m. the next day, and a Notice Paper had been issued. After Prayers the Leader of the Opposition contended that the proceedings were irregular as the House had not adjourned the previous evening and the sitting should have resumed from where it had left off. The Speaker ruled that, it being the day fixed by sessional order for the meeting of the House, he had taken the Chair according to the terms of the standing order which provided that 'The Chair shall be taken by the Speaker at the time appointed on every day fixed for the meeting of the House'.

PRAYERS

Upon taking the Chair each day, and a quorum of Members being present (*see* p. 265), the Speaker reads the following Prayers:

Almighty God, we humbly beseech Thee to vouch safe Thy blessing upon this Parliament. Direct and prosper our deliberations to the advancement of Thy glory, and the true welfare of the people of Australia.

Our Father, which art in Heaven: Hallowed be Thy Name. Thy Kingdom come. Thy will be done in earth, as it is in Heaven. Give us this day our daily bread. And forgive us our trespasses, as we forgive them that trespass against us. And lead us not into temptation; but deliver us from evil: For Thine is the kingdom, and the power, and the glory, for ever and ever. Amen.¹⁰⁵

Prayers have not been read on the first day of a new Parliament or on other occasions when, because of death or resignation, the first item of business is the election of a new Speaker.¹⁰⁶ Prayers have not been read at the second sitting on a day when two sittings have been held¹⁰⁷ or when the Chair has been resumed on another day following a suspension of a sitting.¹⁰⁸

On 7 June 1901 the House agreed to a motion 'That the Standing Orders should provide that, upon Mr Speaker taking the Chair, he shall read a prayer'. An amendment providing for the appointment of a chaplain for the purpose was withdrawn, as it was agreed that the Speaker was the most appropriate person to read Prayers in the House.¹⁰⁹ The standing order was amended in 1918 when the initial Prayer or preface was amended and an additional Prayer was added before the Lord's Prayer for the duration of the war.¹¹⁰ In its report of 21 March 1972 the Standing Orders Committee considered a submission from a Member which suggested a different form of Prayer, and that Prayers once a week would suffice. The committee agreed that there should be no change either in the frequency of offering Prayers or in their content.¹¹¹

104 VP 1923–24/156–7; H.R. Deb. (16.8.23) 2938–40.

105 S.O. 43. At the direction of Speaker Makin the Votes and Proceedings entry was altered from 'read Prayers' to 'offered Prayers' in 1930, VP 1929–31/109, but reverted to the former style at the direction of Speaker Mackay in 1932, VP 1932–34/11.

106 VP 1956–57/259; VP 1985–86/665; VP 1987–89/1417; VP 1996–98/2753.

107 VP 1934–37/257; VP 1940–43/379.

108 VP 1905/169; H.R. Deb. (16.11.05) 5425; VP 1993–95/1717; H.R. Deb. (8.12.94) 4449; VP 1996–98/355, 2655; *but see* case of 17 August 1923 when Speaker Watt read Prayers even though the House had not adjourned the previous evening, VP 1923–24/159; H.R. Deb. (17.8.23) 2964–5.

109 VP 1901–02/41, 59; H.R. Deb. (7.6.01) 815–21.

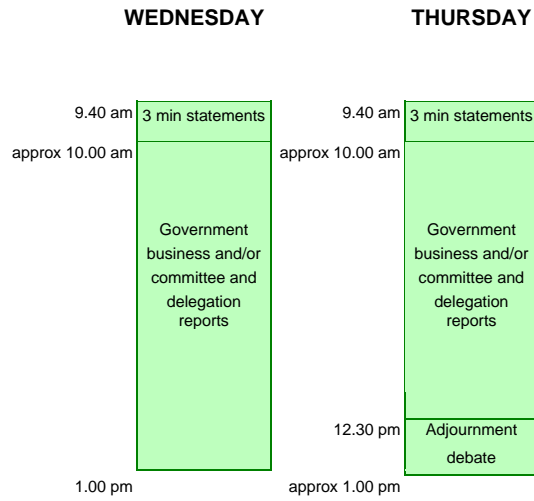
110 VP 1917–19/241.

111 *Standing Orders Committee Report*, PP 20 (1972) 13.

House of Representatives Routine of business (operating from December 1999)

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY
			9.30 am Prayers	9.30 am Prayers
12.30 pm	Prayers Committee & delegation reports		Government business	Government business
1.45 pm	Private Members' business 90 sec statements			
2.00 pm	Question period	2.00 pm Prayers	2.00 pm Question period	2.00 pm Question period
approx 3.30 pm	Petitions	approx 3.30 pm	approx 3.30 pm	approx 3.30 pm
approx 3.35 pm	Private Members' business	Papers, Ministerial statements, MPI	Papers, Ministerial statements, MPI	Papers, Ministerial statements, MPI
approx 4.35 pm	Grievance debate	approx 4.30 pm	approx 4.30 pm	approx 4.30 pm
approx 5.55 pm	Government business	Government business	Government business	Government business
6.30 pm	Dinner suspension	6.30 pm	7.30 pm	5.30 pm
8.00 pm	Government business	8.00 pm	8.00 pm	6.00 pm
10.30 pm	Adjourment debate	10.30 pm	Adjourment debate	Adjourment debate
11.00 pm		11.00 pm		

Main Committee
(Usual sitting times*)



* The sitting times of the Main Committee are set by the Deputy Speaker and are subject to change. Additional sittings may be scheduled if required. The sitting on Thursday may extend until 1.30 p.m.

ROUTINE OF BUSINESS

Following the meeting of the House and the reading of Prayers the House proceeds each day to its ordinary routine of business as set down in standing order 101, as amended from time to time by sessional orders.¹¹² Under standing orders effective from December 1999 the House proceeds with business in the following order:

Monday

- Presentation of, and statements on, reports from parliamentary committees and delegations.
- Orders of the day for the resumption of debate on motions moved in connection with committee and delegation reports.
- Private Members' business (debate to be interrupted at 1.45 p.m.).
- Members' statements (at approximately 1.45 p.m.).
- Questions without notice (at 2 p.m.).
- Presentation of petitions.
- Private Members' business (in continuation for 1 hour).
- Grievance debate (debate to continue for 1 hour and 20 minutes).
- Notices and orders of the day.

Tuesday

- Questions without notice (at 2 p.m.).
- Presentation of papers.
- Ministerial statements, by leave.
- Matter of public importance.
- Notices and orders of the day.

Wednesday and Thursday

- Notices and orders of the day.
- Questions without notice (at 2 p.m.).
- Presentation of papers.
- Ministerial statements, by leave.
- Matter of public importance.
- Notices and orders of the day.

Routine of business on Mondays

The arrangements for the presentation and consideration of reports from committees and delegations, private Members' business, Members' statements and grievance debate are described in detail in the Chapter on 'Non-government business'; the presentation of petitions is covered in the Chapter on 'Papers and documents'.

¹¹² If the House meets for some special purpose the ordinary routine of business may not be commenced. See VP 1920–21/187; H.R. Deb. (27.5.20) 2452.

Ordinary routine

Notices and orders of the day

Most of the time of the House is taken up with these items of business. This period is in effect government business time.

The term ‘notices’ refers to new items of business on the Notice Paper—that is, advice of motions to be moved or bills to be presented. ‘Orders of the day’ are matters the House has ordered to be considered, or further considered, at a future time.¹¹³

Notices and orders of the day have precedence of each other according to the order in which the Government has determined that they should be placed on the Notice Paper.¹¹⁴ As each item is disposed of the Clerk calls on the next item in the order in which it appears on the Notice Paper. Other business may be interspersed between items on the Notice Paper when, for example, appropriation and supply bills, and bills and proposals dealing with taxation, are introduced. These bills and proposals may be brought in by a Minister without notice.¹¹⁵ Although they do not appear on the Notice Paper, they would normally be included in the Daily Program at a point which reflects the wishes of the Government.

After the Speaker calls on the business of the day, the Clerk announces the first notice or order of the day. As each notice is called on, the Minister or Parliamentary Secretary responsible moves the motion for which notice has been given or presents the bill for which notice of presentation has been given. Upon an order of the day being read by the Clerk the Speaker calls the next Member to speak, giving priority to the Member who previously moved the adjournment of the debate or the Member who was speaking when the debate was previously interrupted and who is thus entitled to pre-audience. In most cases debate continues on an item of business until it is finally disposed of by the House, but on some occasions a debate, particularly a lengthy debate, may be interrupted and adjourned to enable other business to be dealt with.

DETERMINATION OF PRECEDENCE

Government business takes precedence over all other business except for those times when, under standing or sessional orders, private Members’ business (before 1988 known as general business) and other non-government business has precedence (*see* Chapter on ‘Non-government business’). In recent years approximately 60 per cent of the time of the House has been taken up by government business.

Ministers may arrange the order of their notices and orders of the day on the Notice Paper as they think fit.¹¹⁶ The Selection Committee determines the order of precedence of private Members’ business.

POSTPONEMENT OF NOTICES AND ORDERS OF THE DAY

The day for moving a notice of motion or a notice of intention to present a bill¹¹⁷ may be changed or the notice postponed:

- by the Member who gave notice moving a motion without notice fixing a future time for moving the motion prior to it being called on;¹¹⁸

113 S.O. 188.

114 S.O.s 105, 155, 189, 211(e). Standing and sessional orders have been suspended to enable several notices to be called on together and one motion being moved that the motions be agreed to; VP 1996–98/125–6.

115 S.O. 291.

116 S.O. 105.

117 S.O. 211(e).

118 S.O. 155.

- by the Member who gave notice changing the day proposed for moving the motion to a day subsequent to that first named by notifying the Clerk in writing; the Clerk then reports the change of day to the House at the first convenient opportunity;¹¹⁹
- by the Member who gave the notice fixing a future time for moving the motion when the notice is called on;¹²⁰ or
- if a Member is absent when his or her notice of motion is called on, by another Member, at the Member's request, fixing a future time for moving the motion.¹²¹

The practice of the House is that one Minister may act for another and, accordingly, a Minister may move the postponement of a notice given by another Minister.

An order of the day may be postponed on motion without notice moved by the Member in charge of the order or, in the Member's absence, by another Member at the Member's request.¹²² The Member in charge is the Member who moved the motion or presented the bill. As with a notice the practice of the House is that one Minister may act for another Minister in moving for the postponement of an order of the day. The motion should be moved before the order is called on.¹²³

A private Member cannot move to vary the order of government business,¹²⁴ nor can he or she move an amendment to a postponement motion which would have the effect of varying the order of government business.¹²⁵ An amendment expressing a want of confidence in the Prime Minister has been moved to a postponement motion.¹²⁶

A Minister may not move for the postponement of any item of private Members' business. The House has, by arrangement, agreed to a government motion to postpone general business until after certain government business.¹²⁷ It was not uncommon, under the arrangements in force until 1988, for the Government to move that government business take precedence of general business until the main appropriation bills had passed all stages in the House.¹²⁸ Standing orders have been suspended on the motion of a Minister to enable a particular private Member's business item to be called on during time when government business would normally be considered,¹²⁹ and to make alternative arrangements for private Members' business.¹³⁰

Postponement of an order of the day may be until a later hour of the day, until the next sitting or until a specified day. Consideration of an order of the day has been postponed until certain bills, which were themselves orders of the day, had become law.¹³¹

MEMBER ABSENT OR FAILING TO RISE WHEN NOTICE CALLED ON

If a Member is not in his or her place when a notice the Member has given is called on, it is withdrawn from the Notice Paper unless another Member, at the Member's request, thereupon fixes a future time for moving the motion.¹³² If a Member fails to rise and move the motion when the notice of motion is called on, it is withdrawn from the

119 S.O. 138.

120 S.O. 159; VP 1974–75/790; VP 1993–95/2636.

121 S.O. 158; VP 1956–57/89; H.R. Deb. (19.4.56) 1479; VP 1974–75/959; H.R. Deb. (9.10.75) 1932; VP 1993–95/2572.

122 S.O. 189.

123 H.R. Deb. (22.7.20) 2951.

124 VP 1968–69/297.

125 VP 1951–53/285.

126 VP 1970–72/609. The relevance of such an amendment would be open to question.

127 VP 1922/79; H.R. Deb. (17.8.22) 1459.

128 VP 1978–80/365.

129 VP 1978–80/133; VP 1990–93/918–9; VP 1993–95/2453; VP 1998–2001/675.

130 VP 1998–2001/1531–2.

131 VP 1907–08/381; NP 114 (22.4.08) 541.

132 S.O. 158. Withdrawal of notice, VP 1974–75/790; Member fixes future time, VP 1974–75/959; VP 1993–95/2572.

Notice Paper unless the Member thereupon fixes (by orally informing the House) a future time for moving the motion.¹³³

DISCHARGE OF ORDERS OF THE DAY

An order of the day remains in the possession of the House and remains on the Notice Paper until the House disposes of it or a motion for its discharge is agreed to. On an order of the day being read, it may, on motion without notice moved by the Member in charge of it, be discharged.¹³⁴ In the case of government orders of the day a motion for discharge may be moved by any Minister.¹³⁵ In 1972 Speaker Aston ruled privately that a motion to discharge an order of the day must be moved immediately the order is read and there can be no debate on the order of the day after the order is read and a motion moved for its discharge.

Orders of the day may also be discharged by motion moved pursuant to notice¹³⁶ or by leave.¹³⁷ Generally, such motions encompass multiple orders of the day, and are moved periodically to clear the Notice Paper of items of government business (mostly motions to take note of papers) on which no further debate is required. Less frequently, an individual item of business may be discharged—for example, when the Government has decided not to proceed with a bill.¹³⁸ Under standing order 104B private Members' notices and orders of the day not called on within eight sitting weeks are automatically dropped from the Notice Paper.

NOTICES AND ORDERS OF THE DAY NOT CALLED ON

At the adjournment of the House each day any notices or orders of the day which have not been called on are set down on the Notice Paper for the next sitting day after any notices or orders of the day set down for that day.¹³⁹ These provisions operate subject to standing order 105 which provides that Ministers may arrange the order of their notices and orders of the day on the Notice Paper as they think fit. Standing order 104A gives a similar power to the Selection Committee in respect of private Members' notices and orders of the day (*see* Chapter on 'Non-government business').

Questions without notice

Although Question Time is scheduled to start at 2 p.m., other matters sometimes intervene before the Speaker calls for questions without notice—for example, ministerial arrangements may be announced, the deaths of former Members may be reported or condolence motions may be moved. Standing orders have been suspended to alter the time.¹⁴⁰

The length of time the House devotes to Question Time is controlled by the Government.¹⁴¹ The Prime Minister or the senior Minister present determines the time for questions to conclude by asking that further questions be placed on the Notice Paper,¹⁴² and may do so even if a Member is in the process of asking a question or has received the call to ask a question.¹⁴³ It has become the established practice for

133 S.O. 159. Withdrawal of notice, VP 1970–72/298; Member fixes future time, VP 1974–75/790.

134 S.O. 191; e.g. VP 1976–77/524.

135 VP 1978–80/1497–8.

136 VP 1978–80/605–7; VP 1993–95/1362; VP 1998–2001/972.

137 VP 1978–80/983; VP 1993–95/2427–8; VP 1998–2001/1167.

138 E.g. VP 1990–93/1798; VP 1993–96/1362; VP 1998–2001/2200.

139 S.O.s 156, 190.

140 VP 1998–2001/1999, 2010.

141 H.R. Deb. (28.10.54) 2410.

142 VP 1973–74/69.

143 H.R. Deb. (4.5.60) 1333; H.R. Deb. (9.10.96) 5061–2.

Governments to allow at least 45 minutes each day for questions without notice.¹⁴⁴ In recent years periods of one hour or longer have been common (the number of questions tending to be the benchmark). After Question Time has concluded, a Minister may wish:

- to provide information which has come to hand in relation to a question asked earlier;¹⁴⁵
- to provide additional information in respect of an answer given earlier; or
- to correct an answer given earlier.

It is within the province of the Chair to grant indulgence for this to be done.

Questions without notice, having been called on by the Chair, may not be proceeded with if the Prime Minister or a Minister in charge of arrangements¹⁴⁶ immediately asks that they be placed on notice. This may happen on certain occasions when the time of the House has been taken up by another matter, for example, when debate on a want of confidence or censure motion has been given precedence.¹⁴⁷

Presentation of papers

The presentation of papers follows Question Time. Papers may be presented by Ministers, pursuant to the provisions of statute or at their discretion, by order of the House, or by the Speaker.¹⁴⁸ Formerly papers were presented individually, but arrangements introduced in 1988¹⁴⁹ have permitted the presentation of papers together. The arrangements for this are:

- by 12 noon on the day of presentation a schedule of papers to be presented is made available to the Manager of Opposition Business and later circulated to all Members in the Chamber;
- following questions without notice a Minister presents the papers as listed on the schedule;
- papers so listed are recorded in the Votes and Proceedings and Hansard;
- if a schedule has not been circulated, or if papers have not been included on the schedule, the papers in question must be presented individually; and
- if a statement is to be made or a motion moved in relation to a paper, a Minister may present the paper separately.

There may be other business arising out of the presentation of a paper, such as a motion authorising its publication or a motion to take note of and/or to print the paper. The motion 'That the House take note of the paper' is used as a device to enable a paper to be debated, either at the time it is presented or, more usually, at a later sitting. The selection of papers for debate is agreed on between the Opposition and the Government prior to presentation. The practice since May 1993¹⁵⁰ has been for a single motion to be moved to take note of (the selected) papers presented. The motion is moved by the Minister presenting the papers listed on the schedule, normally the Leader of the House. The resumption of debate on the motion to take note of each of the papers is then made a separate order of the day on the Notice Paper. Papers, including committee reports, may

144 H.R. Deb. (13.3.73) 465–6, *see* Ch. on 'Questions'.

145 H.R. Deb. (31.5.73) 2938–9; H.R. Deb. (22.8.96) 3589–90.

146 VP 1993–95/814–6.

147 H.R. Deb. (29.10.75) 2593; VP 1993–95/2689.

148 S.O.s 316–19.

149 VP 1987–89/302–3.

150 S.O. 322.

also be presented at any time when other business is not before the House.¹⁵¹ For further information *see* Chapter on ‘Papers and documents’.

Ministerial statements, by leave

By leave of the House, Ministers may make statements concerning government policy or other matters for which they have ministerial responsibility. Ministerial statements are usually made at this stage of a day’s proceedings. An opposition spokesperson is usually granted leave to make a statement on the same matter or a motion may be moved ‘That the House take note of the paper’, on which debate may take place either at that time, at a later hour or at a later sitting.¹⁵² On occasions leave has not been sought by the Government¹⁵³ or has been refused by the Opposition¹⁵⁴ and standing orders have been suspended to enable a statement to be made. Ministerial statements are not an everyday occurrence and their frequency has decreased in recent years.

Matter of public importance

If a proposed matter of public importance has been submitted to the Speaker and determined to be in order, the Speaker announces the matter proposed to the House. If it is supported by eight Members, discussion ensues.¹⁵⁵ The discussion may be terminated at any stage by the House agreeing to the motion, moved by any Member, ‘That the business of the day be called on’. The time for discussion is limited to two hours,¹⁵⁶ but the time taken is usually much less, by agreement between the parties. For further information *see* Chapter on ‘Non-government business’.

Matters accorded precedence

The ordinary routine of business may be superseded by matters which are accorded precedence by practice or pursuant to the standing orders, or by other matters which may intervene or interrupt proceedings.

Censure or want of confidence motions and amendments

A motion of which notice has been given or an amendment which expresses a censure of or want of confidence in the Government takes precedence of all other business until disposed of by the House, if it is accepted by a Minister as a censure or want of confidence motion or amendment under standing order 110.¹⁵⁷

This form of motion has been accepted immediately after the notice has been given openly (when notices could be given openly)¹⁵⁸ or immediately after the notice has been reported to the House by the Clerk.¹⁵⁹ In these circumstances it is necessary to suspend standing orders or secure leave to enable the motion to be moved forthwith. A want of confidence amendment has been similarly accepted immediately it has been moved.¹⁶⁰ If it is not accepted by a Minister for the purposes of standing order 110, a notice of a want of confidence motion does not attract any automatic precedence and is placed on the

151 S.O. 102.

152 VP 1978–80/1298; VP 1998–2001/1284.

153 VP 1978–80/40.

154 VP 1978–80/372.

155 S.O. 107.

156 S.O. 91.

157 For a full description of standing order 110 *see* Ch. on ‘Motions’.

158 VP 1985–87/23.

159 VP 1985–87/81.

160 VP 1970–72/445.

Notice Paper under private Members' business. However, even if it is not accepted by a Minister for the purposes of standing order 110, action may still be taken to bring the debate on early (in which case the normal time limits available under standing order 91 apply).¹⁶¹ The notice may also be granted precedence on a later day when accepted by a Minister.¹⁶²

For many years it was the practice of the House to adjourn until the next sitting following notice of a want of confidence motion. This practice has not been followed since 1947.¹⁶³

The House has considered other business before a censure or want of confidence motion or amendment has been finally disposed of. In 1949 standing orders were suspended to enable a censure motion to take precedence of all other business until disposed of. The censure motion was then debated and adjourned to the next sitting. Prior to the resumption of the debate on the next sitting day, several items of business were dealt with including petitions, questions without notice, statements by leave, and the introduction of bills.¹⁶⁴ However, if it is the wish of the House to proceed with some of the normal routine of business, such as questions without notice, petitions and other items of business, as in the above circumstances, it would be preferable to suspend standing orders to enable this to be done. This course was followed in 1961,¹⁶⁵ although the Speaker questioned whether other business should intervene during a want of confidence debate.¹⁶⁶

An amendment censuring the Government¹⁶⁷ and motions censuring or expressing want of confidence in the Government¹⁶⁸ have been granted precedence following suspension of the standing orders, even though they were not accepted by a Minister under standing order 110. In these cases the normal time limits available under standing order 91 apply.

Standing orders have been suspended to allow a motion of censure of a Minister, which does not attract any precedence, to be moved forthwith¹⁶⁹ and to be moved forthwith and to take precedence.¹⁷⁰

Matters of privilege

A Member may rise at any time to speak on a matter of privilege suddenly arising.¹⁷¹ Until a matter of privilege is disposed of (for example, by the Speaker giving a decision forthwith or stating that the matter will be considered), or unless debate on a motion arising from a matter is adjourned, it suspends the consideration and decision of every other question. However, precedence over other business is not given to any motion if, in the opinion of the Speaker, a prima facie case of breach of privilege has not been made out or the matter has not been raised at the earliest opportunity.¹⁷²

161 VP 1987–89/678.

162 NP 114 (11.11.75) 10502; VP 1974–75/1121.

163 VP 1946–48/250; H.R. Deb. (17.9.47) 4; and see Ch. on 'Motions'.

164 VP 1948–49/303–5; see also VP 1904/174; H.R. Deb. (27.9.04) 4918; VP 1962–63/411.

165 VP 1961/11.

166 H.R. Deb. (15.3.61) 221.

167 VP 1978–80/600.

168 VP 1970–72/937; VP 1983–84/533, H.R. Deb. (8.3.84) 733; VP 1987–89/678; VP 1996–98/2975–6.

169 VP 1985–87/1298; VP 1993–95/608.

170 VP 1968–69/301.

171 S.O.s 84, 95.

172 S.O. 96; see also Ch. on 'Parliamentary privilege'.

When consideration of a substantive motion on a matter of privilege or a report from the Committee of Privileges is made an order of the day, the practice is to place it on the Notice Paper with a note 'to take precedence'. If it is not desired to consider the motion or report as the first item of business, a positive motion to postpone the order is necessary.¹⁷³ It has been the practice of the House to proceed with the ordinary routine of business under standing order 101 up to, but not including, 'Notices and orders of the day' (which, under standing order 101 before 1983–84 did not occur until well after questions without notice) before a privilege motion or report is considered.

Votes of thanks or condolence

Precedence is ordinarily given, by courtesy, to a vote of thanks of the House or to a motion of condolence.¹⁷⁴ The practice of the House is that condolence motions or references to the deaths of certain persons are normally dealt with immediately following Prayers¹⁷⁵ after which the ordinary routine of business may be proceeded with. However, following a condolence motion the House may be adjourned, or suspended to a fixed hour, as a mark of respect. If the House has been suspended, the ordinary routine of business may be proceeded with on the resumption of the sitting.¹⁷⁶

Motions for leave of absence to a Member

A motion to grant leave of absence to a Member can be moved without notice and has priority over all other business.¹⁷⁷ The motion is usually moved after presentation of papers.

Announcements of ministerial arrangements

The Prime Minister from time to time informs the House of changes in the Ministry, of the absence or illness of Ministers, of any acting and representational arrangements that are made within the Ministry, and of changes in departmental and administrative arrangements. It is the practice for such an announcement to be made before questions without notice to assist Members in directing their questions. If the Prime Minister is not present the senior Minister present makes the announcement.¹⁷⁸

Swearing-in of Members and announcements of returns to writs

Every Member of the House must make and subscribe an oath or affirmation of allegiance before taking his or her seat.¹⁷⁹ Any Member absent at the opening of a Parliament is sworn in at the first opportunity.¹⁸⁰ On the election of a Member at a by-election the Speaker usually announces the return to the writ immediately after Prayers and the new Member is then introduced and sworn in,¹⁸¹ although on occasions the new Member has been sworn-in just before Question Time.¹⁸²

173 NP 18 (12.4.78) 913; VP 1978–80/142; H.R. Deb. (12.4.78) 1462–7.

174 S.O. 157.

175 See also Ch. on 'Motions'.

176 VP 1976–77/391.

177 S.O. 35; and see Ch. on 'Members'.

178 VP 1993–95/2118.

179 See Ch. on 'Members'.

180 VP 1978–80/75.

181 VP 1993–95/1613. But see also VP 1993–95/2012.

182 VP 1993–95/875; VP 1998–2001/1069.

Other matters that can interrupt the ordinary routine of business*Personal explanations*

With the leave of the Chair, Members may explain matters of a personal nature.¹⁸³ The usual practice is for a Member desiring to make a personal explanation to inform the Speaker and for the Speaker to call on the Member at a convenient time after Question Time. This does not prevent Members making personal explanations at other times, subject to the overall authority of the Speaker, but such a course is not encouraged.¹⁸⁴

Acknowledgment and admission of distinguished visitors

The Speaker may acknowledge the presence of distinguished visitors in the gallery and, with the implied concurrence of the House, distinguished visitors have on occasion been admitted to a seat on the floor of the House.¹⁸⁵ This action has been taken by the Speaker immediately after Prayers but it can occur at any time during a day's proceedings. It is most common for distinguished visitors to be present during questions without notice.

Announcements and statements by the Speaker

The Speaker may be called upon to make a number of announcements during the course of a day's proceedings. These include messages from the Governor-General notifying assent to bills¹⁸⁶ and messages from the Senate.¹⁸⁷ When such details are available prior to the meeting of the House, the announcements may be held until after the presentation of papers. When they become available later during the course of the sitting, they may be announced between items of business. The Speaker also makes statements to the House, for example, on matters of parliamentary administration; these are made between items of business¹⁸⁸ or occasionally at another time convenient to the Speaker.¹⁸⁹

Committee reports and papers

Although the normal routine of business provides for a fixed period each sitting week for the presentation and debate of reports of parliamentary committees,¹⁹⁰ the standing orders also permit committee reports to be presented at any time when other business is not before the House.¹⁹¹ When reports are presented in this way (that is, outside the allocated period), leave of the House must be obtained for a Member to make a statement on the report at the time of presentation, or to move a motion in connection with it (usually 'That the House take note of the paper').

Ministers may table papers at any time when other business is not before the House. Leave is required to table a paper during a speech,¹⁹² although supplementary explanatory memorandums have been presented during the course of speeches. Leave is not required for a Minister to table a paper during Question Time, when making a

183 S.O. 64.

184 See Ch. on 'Control and conduct of debate'; and see H.R. Deb. (7.3.74) 149, 153–4 for ruling and further discussion on this matter in respect of personal explanations arising during the course of a debate.

185 S.O. 312.

186 S.O. 294.

187 S.O. 372.

188 VP 1985–87/977; VP 1996–98/378; VP 1998–2001/26.

189 VP 1985–87/1526; VP 1996–98/360.

190 S.O. 102A. For the procedures applying to this period and the responsibilities of the Selection Committee in the allocation of time see Ch. on 'Non-government business'.

191 S.O. 102.

192 H.R. Deb. (9.4.74) 1223.

personal explanation or when making a ministerial statement (*and see* Chapter on ‘Papers and documents’). An exception is a document relating to public affairs quoted from by a Minister in the course of a speech which must be tabled, if required by any Member, unless it is stated to be of a confidential nature.¹⁹³

Matter of special interest

At any time when other business is not before the House a Minister may indicate to the House that it is proposed to discuss a matter of special interest on which it is not desired to form a motion in express terms.¹⁹⁴ A matter of special interest has been discussed by the House on only one occasion when it was discussed early in the routine of business prior to the giving of notices.¹⁹⁵

Suspension of standing orders

It is not unusual in the functioning of the House for it to be found necessary to suspend standing orders, or a particular standing order, to permit certain action to be taken. Common instances are to grant unlimited or extended time for particular speeches, to permit the introduction of particular bills without notice and their passage without delay, the consideration of certain bills together, to enable censure or other motions to be moved, and to enable the introduction of new business after 11 p.m. The suspension of standing orders may also affect the ordinary routine of business, for example, when it is to enable an item of private Members’ business to be called on in other than the normal order, or to allow a notice of motion to be called on forthwith, the notice having been given for the next sitting.

Having received the call from the Chair, a motion to suspend standing orders may be moved by any Member without notice, but to be passed it must be carried by an absolute majority of all Members (75 votes in a House of 148 Members). If the motion is moved pursuant to notice, pursuant to contingent notice, or with the leave of the House, it may be carried by a simple majority of Members present. A motion for the suspension of standing orders may only be moved if the substance of the motion is relevant to the item of business before the House, or, alternatively, when there is no business before the House, that is, between items of business.¹⁹⁶

Points of order

Any Member may raise a point of order at any time which, until disposed of, suspends the consideration and decision of every other question. A point of order may lead to a ruling being given by the Chair which may be objected to and a motion of dissent moved. A motion of dissent must be debated and determined immediately.¹⁹⁷

For more detailed discussion *see* ‘Speakers rulings’ in the Chapter on ‘The Speaker, Deputy Speakers and Officers’.

Disorder

The proceedings of the House may also be interrupted by disorder arising in the House or in the galleries. In the case of grave disorder arising, the Speaker may adjourn the House or suspend the sitting until a time to be named.¹⁹⁸

193 S.O. 321.

194 S.O. 108.

195 VP 1974–75/815–17; H.R. Deb. (9.7.75) 3556.

196 VP 1983–84/543, H.R. Deb. (27.3.84) 803.

197 S.O.s 98–100.

198 *See* S.O. 308 and Chs on ‘Parliament House and access to proceedings’ and ‘Control and conduct of debate’.

Absence of a Minister

There is a convention that a Minister (or Parliamentary Secretary) should be present in the Chamber at all times, and in practice Governments maintain a roster of ‘Duty Ministers’. It is of course desirable from the Government’s point of view, and expected by Members, that there should be a Member present able to react with authority on behalf of the Government to any unexpected development. There is obviously a need for a government representative to be ‘in charge of’ items of government business. However, even when other matters are before the House—for example, during private Members’ business, or adjournment or grievance debates—it is expected that a member of the Government will be available to take note of or to respond to matters raised. A short absence of a Minister may go unremarked, but sometimes a point of order will be taken and the Chair’s attention drawn to the situation.¹⁹⁹ In such circumstances the Chair has sometimes intervened on his or her own initiative²⁰⁰—for example, by asking a government whip to fetch a Minister—and on one occasion has even had the bells rung to secure a Minister’s attendance.²⁰¹

There is not a similar requirement for an opposition frontbencher to be present, although this does facilitate the business of the House and is desirable from the Opposition’s point of view. In practice a roster is generally maintained.

ELEVEN O’CLOCK RULE

Standing order 103 provides that no new business may be taken after 11 p.m. unless the House otherwise orders. This standing order replaced one which prohibited the taking of ‘opposed’ business—that is, the taking of business without unanimous consent—after 11 p.m. New business was defined by Speaker Johnson as a proposal relating to a matter not before the House.²⁰²

The following points are relevant to an understanding of the rule:

- as a general rule the only business which the House should proceed with after 11 p.m. is the matter which is immediately before the House or business of a formal nature;
- the rule has a purpose in protecting the minorities in the House from the introduction, perhaps by surprise late in a sitting, of new business upon which a vote may be taken;
- in cases of urgency or necessity the House may determine, prior to 11 p.m., that new business be taken after 11 p.m., by suspending the standing order; and
- since the introduction of the automatic adjournment provisions in 1973 (*see* p. 263) the rule has rarely had to be applied, as sittings of the House after the normal time of adjournment have been comparatively infrequent.

The following business, on which the House does not have to make a decision of substance, may be transacted after 11 p.m. without infringing the rule:

- a message from the Senate agreeing to a bill without amendment or requests may be announced by the Speaker;²⁰³

199 H.R. Deb. (1.5.87) 2458.

200 H.R. Deb. (1.3.50) 219; H.R. Deb. (11.5.50) 2628; H.R. Deb. (12.4.78) 1443; H.R. Deb. (29.6.99) 7701–2.

201 H.R. Deb. (11.5.50) 2497.

202 H.R. Deb. (5.11.13) 2932.

203 VP 1962–63/37.

- a message from the Senate returning a bill with amendments may be reported and an order agreed to to consider the amendments at the next sitting;²⁰⁴
- a message from the Senate forwarding a bill for the concurrence of the House may be announced by the Speaker and the bill read a first time; the second reading must be made an order of the day for the next sitting²⁰⁵ and no debate on that motion is permitted;²⁰⁶
- a Minister may provide information, or additional information, in response to a question;²⁰⁷ and
- a statement may be made by the Speaker.²⁰⁸

A motion to suspend standing orders moved after 11 p.m. in relation to a matter which is before the House, for example, to enable the remaining stages of a bill to be passed without delay, is not regarded as new business.²⁰⁹

The House on occasions suspends standing order 103 (sometimes together with standing order 48A—automatic adjournment) to enable new business to be taken after 11 p.m.²¹⁰ In order that the motion to suspend the standing order is not itself classed as new business, the motion must be moved before 11 p.m. Although the standing order has been suspended after the specified time with the concurrence of an absolute majority²¹¹ and the motion has been moved after the specified time by leave of the House,²¹² Speaker Mackay stated the correct procedure to be followed:

It would be well, however, that the Government, being in charge of the business of the House, should realise that a motion to suspend the Standing Orders is, in itself, ‘new business’ in a strict reading of the Standing Order.²¹³

When a cognate debate is before the House at 11 p.m., bills in respect of which questions have not yet been put from the Chair—that is, the second or subsequent bills of the group—have been treated as constituting new business for the purpose of the standing order (even though debate on them may have already occurred) and standing order 103 has been suspended. This may not be strictly necessary, having regard to Speaker Johnson’s view and bearing in mind that the House has agreed that debate on the second reading of such bills should be taken together, although this is considered the better course.

In 1931 the Speaker was questioned, during a division on a motion to suspend standing order 103, as to whether the vote would be effective if not completed before 11 p.m. The Speaker replied that, as Members had crossed the floor and tellers had been appointed before 11 p.m., the vote was to be regarded as having taken place within the specified time.²¹⁴

Under the standing orders operational in 1994–95 the time specified was 8 p.m. (the normal time of adjournment) and the rule was known as the eight o’clock rule.

204 VP 1996–98/838; H.R. Deb. (19.11.96) 7138.

205 VP 1962–63/37. It is not new business to fix a future day for the second reading of a bill, H.R. Deb. (3.6.30) 2432.

206 H.R. Deb. (16–17.11.33) 4750.

207 H.R. Deb. (3.6.30) 2432–3.

208 H.R. Deb. (29.6.2000) 18718.

209 H.R. Deb. (5.11.13) 2932.

210 VP 1985–87/579; VP 1998–2001/2019.

211 VP 1978–80/153.

212 VP 1968–69/458.

213 H.R. Deb. (25.5.33) 1801.

214 H.R. Deb. (23.7.31) 4332.

ADJOURNMENT

Standing orders provisions

The termination of a sitting is known as the adjournment. With certain exceptions the House can only be adjourned by its own resolution²¹⁵ following either a motion moved by a Minister²¹⁶ or the Speaker automatically proposing the question ‘That the House do now adjourn’ pursuant to standing order 48A. Matters irrelevant to the question may be debated, thus providing a valued opportunity for private Members to raise matters of concern to them.²¹⁷ For discussion of the ‘adjournment debate’ see Chapter on ‘Non-government business’.

The Speaker may adjourn the House to the next sitting day without putting the question under the following circumstances:

- want of a quorum (S.O.s 41, 44, 45); and
- grave disorder²¹⁸ (S.O. 308).

A further exception relates to the situation when the House is informed by the Clerk of the absence of the Speaker, the Deputy Speaker and Second Deputy Speaker. If the House does not proceed immediately to elect a Member to perform the duties of the Speaker, the House stands adjourned until the next sitting day.²¹⁹

Motion moved by a Minister

The motion ‘That the House do now adjourn’ can be moved only by a Minister (or Parliamentary Secretary) and no amendment can be moved to it.²²⁰ The motion cannot be moved while another question is before the Chair.²²¹ The motion may be debated without limitation of time, subject to the closure and the automatic adjournment provisions. Debate on the motion cannot be adjourned.

As with other motions the reply of the mover closes the debate.²²² The mover has again addressed the House, by leave, without closing the debate.²²³ After the mover has spoken in reply, individual Members have addressed the House, by leave,²²⁴ and standing orders have been suspended to enable the debate to continue.²²⁵ Also, during the course of the debate, the mover has made a statement, by leave, and later has spoken in reply.²²⁶

The motion for the adjournment has been withdrawn, by leave, to allow the presentation of a committee report,²²⁷ and to allow a motion for the alteration of the hour of next meeting to be moved.²²⁸ In 1959 the motion was moved immediately after questions without notice and debated while the House awaited certain legislation from the Senate. When the legislation had not arrived some four hours later, the motion was

215 S.O. 49.

216 S.O. 50.

217 S.O. 81.

218 VP 1985–87/1272–3.

219 S.O. 15.

220 S.O. 50.

221 H.R. Deb. (9.4.08) 10451.

222 S.O. 68.

223 VP 1967–68/143.

224 VP 1960–61/252.

225 VP 1960–61/252.

226 VP 1940–43/118; H.R. Deb. (3.4.41) 703–11.

227 VP 1964–66/151.

228 VP 1929–31/803.

withdrawn, by leave, and a motion granting leave of absence to all Members and a special adjournment motion were agreed to. A further adjournment motion was then moved and agreed to.²²⁹ In a similar situation in 1994 the adjournment was moved early and debated for over two hours after standing orders had been suspended, by leave, to enable Members to speak for one period of 10 minutes. This motion was then negated on the receipt of awaited Senate messages. After consideration of the legislation concerned a second adjournment motion was moved and agreed to.²³⁰

Automatic adjournment

Standing order 48A provides that at 10.30 p.m. on Mondays and Tuesdays, at 7.30 p.m. on Wednesdays and at 5.30 p.m. on Thursdays, the Speaker shall propose the question 'That the House do now adjourn'. The question is open to debate but no amendment can be moved to it.

Other provisions relating to the automatic adjournment are:

- If a division is in progress at the time fixed for interruption, that division and any division consequent on that division are completed and the result announced.
- If, on the question 'That the House do now adjourn' being proposed, a Minister requires the question to be put forthwith without debate, the Speaker puts the question immediately. This provision provides the House with an opportunity to negative the adjournment in order to continue with the business before the House.
- If the question 'That the House do now adjourn' is negated, the House resumes its proceedings at the point at which they were interrupted.
- The business under discussion and not disposed of at the time of the automatic adjournment is set down on the Notice Paper for the next sitting.

The question has arisen of the situation of a Member who is making a statement, by leave, at the time of interruption. Leave of the House does not over-ride the provision in the standing orders for the automatic adjournment, and the adjournment motion must be proposed at the specified time. If the motion is negated, the Member can then continue his or her remarks,²³¹ but not otherwise.²³² The same applies if standing orders are suspended to enable a Member to make a statement. Unless standing order 48A has been specifically suspended, the statement is interrupted at the specified time and the Member is only able to continue if the adjournment motion is negated. A Member raising a matter of privilege at the time of interruption has been in a similar situation—his or her speech was interrupted and then resumed on the adjournment question being put forthwith and negated.²³³

The making of a statement by leave does not fall within the meaning of business under standing order 48A. As there is no question before the House, it cannot be set down on the Notice Paper for the next sitting.

If a Member is interrupted under the automatic adjournment provision while moving a motion other than a business motion, and the adjournment motion is not negated, the motion is dropped and cannot appear on the Notice Paper. In this instance, the motion is

229 VP 1959–60/311; H.R. Deb. (27.11.59) 3299, 3316. In 1993 on one sitting day the House twice debated, and negated, adjournment motions while awaiting Senate messages; VP 1993–95/90–92.

230 VP 1993–94/1723, 1754; *see also* VP 1996–98/360–1.

231 VP 1977/72.

232 H.R. Deb. (22.2.79) 334.

233 VP 1996–98/2100.

not in the possession of the House as it has not been seconded (where necessary) and the question has not been proposed from the Chair (*see* Chapter on ‘Motions’).

Standing and sessional orders have been suspended, by leave, to enable the debate to extend beyond the normal time.²³⁴

Adjournment of the House

If, at 11 p.m. (8 p.m. on Wednesdays, 6 p.m. on Thursdays) the question before the House is ‘That the House do now adjourn’, the Speaker interrupts the debate at which time:

- a Minister may require that the debate be extended until 11.10 p.m. (8.10 p.m., 6.10 p.m.) to enable Ministers to speak in reply to matters raised in the preceding adjournment debate; at 11.10 p.m. (8.10 p.m., 6.10 p.m.) or upon the earlier cessation of the debate, the Speaker forthwith adjourns the House until the time of its next meeting; or
- if no action is taken by a Minister to extend the debate, the Speaker forthwith adjourns the House until the time of its next meeting.

This does not prevent a Minister from replying before the Speaker interrupts the debate, provided that no other Member rises to obtain the call.²³⁵ If a Minister starts to reply before that time, the debate is still interrupted at the time of the automatic adjournment when the Minister may require the debate to be extended.

If all the business of the day is concluded before the time at which the motion to adjourn would be automatically proposed, the adjournment motion is moved by a Minister immediately. Debate may continue until the provisions of standing order 48A, relating to the extension of the debate by a Minister or the immediate adjournment of the House, apply.

If the adjournment motion is negatived when first proposed and the business of the day does not conclude within 30 minutes—that is, by the ‘standard’ time for the adjournment of the House—a Minister moves the adjournment motion at the conclusion of ordinary business and debate may ensue without any limitation of time.

When the question ‘That the House do now adjourn’ has been agreed to, or when the time for debate has expired or the debate ceases, the sitting formally concludes and the Speaker adjourns the House until the time of its next meeting, either in accordance with standing order 40 or a resolution of the House agreed to under standing order 51. The Speaker has been prevented from formally announcing the time of next meeting by the disorderly conduct of a Member.²³⁶ Until such time as the Speaker leaves the Chair he or she is still in charge of the House.²³⁷

Adjournment of the House for special reasons

The House has adjourned as a mark of respect on the death of a Prime Minister,²³⁸ a former Prime Minister,²³⁹ a reigning Monarch,²⁴⁰ a Queen,²⁴¹ the Governor-General²⁴²

234 VP 1993–95/2567–8.

235 H.R. Deb. (23.8.79) 613.

236 H.R. Deb. (23.8.74) 1168. The Member concerned was requested to apologise at the next sitting, H.R. Deb. (17.9.74) 1239–40; VP 1974–75/154.

237 VP 1974–75/154–5.

238 VP 1945–46/179.

239 VP 1978–80/227.

240 VP 1951–53/257.

241 VP 1951–53/631.

242 VP 1961/6.

and others. The House has also adjourned following the giving of a notice of a want of confidence motion, the last occasion being in 1947.²⁴³ On four occasions the Chair has adjourned the House until the next sitting when grave disorder has occurred.

QUORUM

Section 39 of the Constitution states:

Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers.

In 1989 the Parliament 'otherwise provided' by enacting the House of Representatives (Quorum) Bill 1988. The bill provided:

The presence of at least one-fifth of the whole number of the members of the House of Representatives is necessary to constitute a meeting of the House for the exercise of its powers.²⁴⁴

Thus in a House of 148 Members the quorum is 30 Members, including the occupant of the Chair, being one-fifth to the next highest whole number of the total number of Members. The quorum is not reduced by any vacancy in the membership of the House.

Standing orders provisions

Quorum at time of meeting

At the commencement of each meeting of the House it has been considered the duty of the Speaker to ensure that a quorum is present before reading Prayers.²⁴⁵ If a quorum is not present when the Chair is taken at the time fixed for the meeting of the House and if within five minutes, the bells having been rung, a quorum is still not present, the Speaker adjourns the House until the next sitting day, subject to the proviso that if the Speaker is satisfied there is likely to be a quorum within a reasonable time the Speaker announces that he or she will take the Chair at a stated time. If at that time there is not a quorum, the Speaker adjourns the House until the next sitting day.²⁴⁶ No Member is permitted to withdraw from the Chamber within five minutes after the time appointed for the meeting of the House unless a House is formed.²⁴⁷

The Speaker has taken the Chair and, finding that a quorum of Members was not present, has ordered the bells to be rung. A quorum was then formed, and the Speaker read Prayers. Following one such occasion a Member raised the possibility of changing the standing orders so that those Members who wished to avoid Prayers could do so.²⁴⁸

In 1913, before the introduction of the proviso in the standing orders which gives the Speaker the discretion to take the Chair at a stated time, the Speaker declared the House adjourned because a quorum was not present either at the time fixed for the meeting of the House or within the prescribed time. The Members present were listed in the Votes and Proceedings and the meeting was recorded as a sitting of the House.²⁴⁹

In 1905, on the last sitting day of a session, when there was no quorum present at the time fixed for the meeting of the House at 2.45 p.m., Speaker Holder took the Chair at 3.07 p.m. in view of the fact that a message from the Governor-General desiring the

243 VP 1946-48/250.

244 *House of Representatives (Quorum) Act 1989* (Act No. 42 of 1989).

245 S.O. 43.

246 S.O. 41.

247 S.O. 42.

248 VP 1974-75/379; H.R. Deb. (28.11.74) 4231-2.

249 VP 1913/63.

immediate attendance of Members in the Senate Chamber had been announced.²⁵⁰ This action was taken in accordance with the practice of the House of Commons that a message from the Crown ‘makes a House’.²⁵¹

Quorum during sitting

WANT OF QUORUM IN DIVISION

If, on a division in the House, it appears on the report of the tellers that the number of Members who voted did not constitute a quorum, the Speaker adjourns the House until the next sitting day and no decision of the House is considered to have been arrived at by the division. As in the case of a want of quorum at the time of meeting, a proviso operates to the effect that, if the Speaker is satisfied there is likely to be a quorum within a reasonable time, the Speaker announces that he or she will take the Chair at a stated time and, if there is not a quorum then present, the Speaker adjourns the House until the next sitting day.²⁵² If a quorum is present, the proceedings are resumed at the point at which they were interrupted.

There have been five occasions when the House has been adjourned following a lack of quorum on division. On four occasions the division was on the question for the adjournment of the House.²⁵³ The other occasion was in 1907 when the Chairman of the Committee of Ways and Means reported that a quorum of Members was not present during a division of the committee and the Deputy Speaker adjourned the House.²⁵⁴

WANT OF QUORUM NOTICED

The fact that a quorum is not always present does not mean that the House cannot continue. The House regularly conducts its business when less than a quorum of Members is present in the Chamber. Because of the demands placed on Members generally, and Ministers and office holders in particular, it is essential that they spend a great proportion of their time on public duties outside the Chamber.²⁵⁵ Provided that a quorum is present to constitute a meeting of the House and to record a vote of the House when one is called for, it is not necessary to maintain a quorum continuously. However, a quorum must be formed should any Member require it. It is the duty of all Members to form a quorum, not just government Members.²⁵⁶

Any Member is entitled at any time to draw the Chair’s attention to what is termed ‘the state of the House’, although it is out of order to debate the situation²⁵⁷ or to draw attention while the Speaker is in the process of putting a question.²⁵⁸ Once a quorum has been called for there can be no withdrawal and the House must be counted.²⁵⁹ It is considered to be highly disorderly for a Member to call attention to the state of the House when a quorum is in fact present. It is normal in these circumstances for the offending Member to be named and suspended from the service of the House.²⁶⁰

250 VP 1905/227; H.R. Deb. (21.12.05) 7461.

251 *May*, 10th edn, p. 224; Josef Redlich, *The Procedure of the House of Commons*, Archibald Constable, London, 1908, vol. II, pp. 68–9.

252 S.O. 44.

253 VP 1901–02/545; VP 1909/70; VP 1934–37/23, 100.

254 VP 1907–08/205, 694.

255 See Ch. on ‘Members’.

256 H.R. Deb. (13.3.73) 497.

257 H.R. Deb. (5.4.73) 1159.

258 H.R. Deb. (10.12.30) 1247.

259 H.R. Deb. (5.12.30) 1092.

260 VP 1974–75/695–6; VP 1993–95/194.

When the Chair is engaged in counting the House the doors are unlocked and the bells rung, as in a division.²⁶¹ The Chair has refused to hear a point of order during the ringing of the bells to form a quorum of Members²⁶² and on one occasion ordered the bells to be rung again after the Chair's attention was drawn to the fact that the bells were not ringing in some parts of the building.²⁶³

There are two general principles to be observed by the Chair in respect of a quorum:

- it is not the duty of the Chair to count the House until attention has been drawn by a Member to the state of the House;²⁶⁴ and
- when attention is drawn, the Chair is obliged to make a count or have a count made.²⁶⁵

The following cases have occurred in conflict with these principles and are included for historical purposes. They are irregular and have no validity as precedents:

- the Speaker has adjourned the House during the adjournment debate without ringing the bells and counting the House;²⁶⁶
- the Speaker warned Members that, as soon as the numbers present fell below 40 (the quorum at the time), he would order the bells to be rung and did so on two occasions;²⁶⁷
- the Speaker stated that if the Members on his left adopted the practice of calling for a quorum as soon as the Members on his right rose to speak, he would take action to have a quorum present whenever Members on his left were speaking;²⁶⁸
- a Member having twice called attention to the state of the House within a short period of time, the Chair stated that it would not again count the House until a reasonable period of time had elapsed, 15 minutes being considered reasonable;²⁶⁹
- the Chair refused to count the House as it saw the quorum call as an attempt to obstruct proceedings and embarrass a Member;²⁷⁰ and
- the Chair, in order that business could be facilitated, asked Members not to cause annoyance by frequent quorum calls.²⁷¹

On an occasion when a quorum call was made two minutes prior to the time for the adjournment of the House, the Speaker did not have the House counted, saying that he thought it would be ill-advised to interrupt the House in this way.²⁷²

When the attention of the Chair is called to the lack of a quorum no Member present may leave the Chamber until a quorum is present or four minutes have elapsed.²⁷³ All Members who are within the physical limits of the Chamber should be counted.²⁷⁴ The Standing Committee on Procedure has expressed the view that the term 'physical limits'

261 S.O. 48.

262 H.R. Deb. (13.3.73) 497.

263 H.R. Deb. (7.8.23) 2240.

264 H.R. Deb. (20.11.51) 2263–4.

265 S.O. 45.

266 VP 1951–53/466; H.R. Deb. (30.9.52) 2313–14.

267 H.R. Deb. (21.10.54) 2241, 2245.

268 H.R. Deb. (20.3.53) 1473–4.

269 VP 1920–21/693; H.R. Deb. (22.7.21) 10505; *see also* H.R. Deb. (21.8.23) 3176; H.R. Deb. (16–17.7.25) 1149, 1151.

270 VP 1934–37/210; H.R. Deb. (9.4.35) 1052–3.

271 H.R. Deb. (13.5.36) 1651.

272 H.R. Deb. (23.6.1999) 7258.

273 S.O. 47.

274 VP 1987–89/571.

includes all areas on the floor of the Chamber, including officials' seats—that is, all floor areas up to the doorway.²⁷⁵

On occasions when Members, including party whips, have sought to leave the Chamber at the time of a quorum call they have been ordered to return to their seats.²⁷⁶ The Chair has directed the Serjeant-at-Arms to bring back Members leaving the Chamber.²⁷⁷ A Member who, in these circumstances, disregards the authority of the Chair by refusing a direction may be named and suspended.

On the occasion of a count out of the House on 26 August 1971 the Chair ordered the doors to be locked after it was found that a quorum was not present after the bells had rung, in order that a precise final count could be made.²⁷⁸

If a quorum is not present, the same procedure is followed by the Chair as for a want of quorum on division—the Speaker adjourns the House to the next sitting day or, at his or her discretion, states that he or she will take the Chair at a specified time, if satisfied that there is likely to be a quorum within that time.²⁷⁹ The latter had happened on 14 occasions up to the end of 2000.²⁸⁰ The House has been adjourned because of the lack of a quorum on 65 occasions. On 54 of these occasions the question before the House was the adjournment motion.²⁸¹

Once the House has been counted out the Speaker is still in control of proceedings until he or she leaves the Chamber. On 22 February 1917 the House suspended a Member who had been named for disobeying the Chair after the House had been counted out at the previous sitting but before the House was formally adjourned by the Deputy Speaker.²⁸²

The time allocated to a Member speaking when a quorum call is made is not adjusted to account for the time taken by the count, but if the next speaker in a debate has not been called when the quorum is called, the timing clock is not set.²⁸³

Resumption of proceedings after count out

If the proceedings of the House have been interrupted by a count out they may, on motion after notice, be resumed at the point where they were interrupted.²⁸⁴ Business interrupted by a count out has been resumed by motion moved pursuant to contingent notice,²⁸⁵ by motion moved by leave,²⁸⁶ and by motion moved pursuant to notice.²⁸⁷

Quorum in the Main Committee

The quorum of the Main Committee is three Members, comprising the occupant of the Chair and one government Member and one non-government Member.²⁸⁸ This

275 'The ringing of bells and the Chamber precincts in the new Parliament House, and certification of petitions not in the English language', *Report of the Standing Committee on Procedure*, PP 149 (1988); H.R. Deb. (14.4.88) 1535–7.

276 H.R. Deb. (30.9.54) 1776.

277 H.R. Deb. (27.11.59) 3314; H.R. Deb. (1.3.73) 168; H.R. Deb. (23.4.80) 2165.

278 PP 242 (1971) 44.

279 S.O. 45.

280 VP 1980–83/1102; VP 1983–84/671; VP 1985–87/699; VP 1987–89/296, 880; VP 1990–92/1425; VP 1993–95/186, 1806, 1919, 2191–2, 2354; VP 1996–98/537, 2763; VP 1998–2001/371.

281 To end 2000. For the most recent precedent on the adjournment of the House see VP 1954–55/126. For precedents during other debates see VP 1904/157; VP 1912/216; VP 1920–21/254; VP 1934–37/252; VP 1970–72/688; VP 1993–95/2354.

282 VP 1914–17/567; H.R. Deb. (15.2.17) 10550.

283 See also 'Time limits for speeches' in Ch. on 'Control and conduct of debate'.

284 S.O. 90.

285 VP 1907–08/207; NP 79 (23.11.07) 357.

286 VP 1970–72/691; VP 1993–95/2360–1.

287 VP 1934–37/305.

288 S.O. 272.

quorum should be present at all times. If at any time the Chair takes note that a quorum is not present he or she is obliged to immediately suspend proceedings until a stated time or adjourn the Committee to the day of the next sitting of the House.²⁸⁹ Standing orders have been suspended to remove the requirement for a Member from both sides of the House during debate on a bill.²⁹⁰

DIVISIONS

Determination of questions arising

All questions arising in the House are determined by a majority of votes other than that of the Speaker. The Speaker does not vote unless the numbers are equal when he or she has a casting vote.²⁹¹ A question may be determined on the voices, by division, or by ballot. The only exception to this general rule is that by practice a vote or address of condolence is carried by all Members present rising in their places, in silence, thereby indicating approval of the motion.²⁹²

When debate upon a motion has concluded or has been interrupted in accordance with the standing orders, the Chair puts the question on the motion and declares whether, in its opinion, the majority of voices is for the 'Ayes' or the 'Noes'. If more than one Member challenges this opinion, the question is decided forthwith by division.²⁹³ The opinion of the Chair cannot be challenged later,²⁹⁴ but the Chair has put the question again when an assurance was given that some misunderstanding had taken place²⁹⁵ and by leave of the House following a protest by the Opposition.²⁹⁶

The highest number of divisions held in any one year was 359 in 1975 and the highest number during one sitting was 83 on 9 and 10 April 1935.²⁹⁷ In recent years there has been an average of about two divisions each sitting day.²⁹⁸

Entitlement of Members to vote

A Member is not entitled to vote in any division upon a question (not being a matter of public policy) in which he or she has a direct pecuniary interest not held in common with the rest of the subjects of the Crown (*see* Chapter on 'Members'). A Member's vote may not be challenged except by substantive motion moved immediately after the division is completed; the vote of a Member determined to be so interested is disallowed.²⁹⁹

No Member is entitled to vote in any division unless, when the tellers are appointed, he or she is within the seats allotted to Members.³⁰⁰ Following a division on 3 September

289 S.O. 285, e.g. VP 1998–2001/1942.

290 VP 1996–98/551–5. The context was the referral to the Main Committee of a bill which many Members wished to debate in the House. Subsequent proceedings in the Committee (suspended because of disorder, VP 1996–98/765) emphasised the extent to which Main Committee operations depend on general co-operation.

291 Constitution, s. 40. For discussion of the casting vote *see* Ch. on 'The Speaker, Deputy Speakers and Officers'. For discussion of the restrictions regarding voting at various times by Members for the Northern Territory and the Australian Capital Territory *see* p. 168 of the second edition.

292 VP 1978–80/959; *and see* Ch. on 'Motions'.

293 S.O.s 165, 167–8, 192–3.

294 H.R. Deb. (27.7.22) 895–6.

295 VP 1923–24/43.

296 VP 1970–72/987; H.R. Deb. (28.3.72) 1239.

297 VP 1934–37/209–40.

298 Average of 2.25 for 1991–2000. However, between 20% and 60% of sittings in these years had no divisions.

299 S.O. 196; *see also* Ch. on 'Members' for discussion of pecuniary interest.

300 S.O. 197.

1975, the Speaker upheld a point of order that the vote of a Member who had been occupying the Chair as Deputy Speaker when the tellers were appointed, and who had then left the Chair and voted in the division, should not be counted.³⁰¹

Divisions not proceeded with

Only one Member calling for division

Under standing order 193 a division is not proceeded with unless more than one Member challenges the Chair's opinion by calling for a division.³⁰² An exception to this rule is a division on the third reading of a constitution alteration bill on which the agreement of an absolute majority of Members is required to be established. In this case the bells are rung as for a division and Members' names recorded, even when there is no opposition to the bill.³⁰³ A further exception has occurred when the Speaker, in accordance with a prior order of the House, has directed that the names of those Members agreeing to a question be recorded.³⁰⁴

Request for division withdrawn

The traditional practice of the House has been that once a division has been called for by at least two Members the division call cannot be withdrawn³⁰⁵ unless by leave of the House.³⁰⁶ However, divisions have sometimes not been further proceeded with at the request of Members who called for the division—on these occasions leave of the House has been implicit.³⁰⁷ This course cannot be taken if other Members object or if leave is formally sought and refused.³⁰⁸ Closure motions have been withdrawn, by leave, as the House was proceeding to a division, and the divisions not further proceeded with.³⁰⁹

Discretion of Chair

In 1933, on a call for a division on the motion that the House, at a later hour, again resolve itself into committee, the Speaker held the view that the division call was obstructive³¹⁰ and, citing House of Commons practice, informed the House that it was within the discretion of the Chair to regard unnecessary calls for divisions on what are termed formal motions as obstructing the business of the House.³¹¹ The Chair has no such discretion in the House of Representatives and the so-called discretion has not been claimed by subsequent Speakers. In fact, the Chair has occasionally dismissed points of order that certain calls for a division were disruptive.³¹²

Recording dissent

In the event of only one Member calling for a division, that Member may inform the Chair that he or she wishes his or her dissent to be recorded in the Votes and Proceedings and in Hansard and the dissent is so recorded.³¹³ More than one Member cannot record

301 VP 1974–75/892.

302 H.R. Deb. (26.2.53) 428.

303 VP 1987–89/531–6.

304 VP 1968–69/165.

305 H.R. Deb. (22–23.6.50) 4824.

306 H.R. Deb. (24.9.36) 501.

307 H.R. Deb. (12.8.99) 8579; VP 1998–2001/761; H.R. Deb. (23.6.97) 6073, VP 1996–98/1745.

308 H.R. Deb. (13.12.96) 8456.

309 VP 1960–61/46; VP 1996–98/235, 1600.

310 H.R. Deb. (30.11.33) 5290.

311 VP 1932–34/839; H.R. Deb. (30.11.33–1.12.33) 5310–12.

312 H.R. Deb. (13.3.56) 714.

313 S.O.s 193, 204.

dissent at this time, as a division would then have to be proceeded with,³¹⁴ although on one occasion the dissent of the Opposition as a whole was recorded, by leave.³¹⁵

Procedure during divisions

Ringling of bells and locking of doors

Once a division has been called for and the call accepted by the Chair, the Clerk causes the division bells to be rung and the relevant sand glass kept on the Table is turned. At the lapse of four minutes as indicated by the sand glass, the doors are locked at the direction of the Chair.³¹⁶ House staff acting on the Chair's instruction to lock the doors will allow Members in the process of passing through the doors to pass before locking them.³¹⁷ When successive divisions are taken and there is no intervening debate, the bells for the ensuing divisions are rung for one minute only.³¹⁸ The period for which the bells are rung was altered from two to three minutes following the increase in the membership of the House in 1985 and the housing of some Members in an annexe to the provisional Parliament House³¹⁹ and increased to four minutes when the new building was occupied in 1988.³²⁰ In 1974, the third reading of a bill to alter the Constitution not having been carried by an absolute majority, the Speaker made a statement explaining that for some inexplicable reason the bells had been rung for only one minute 26 seconds. The vote on the third reading of the bill was later rescinded and taken again.³²¹

Main Committee proceedings are suspended to enable Members to attend divisions in the House.³²² The Chair of the Main Committee is informed by an indicator light when a division has been called.

Members calling for a division cannot leave the area within the seats allotted to Members and must vote with those who, in the opinion of the Chair, were in the minority when the voices were taken.³²³ On one occasion when no Members passed to the 'Noes' side, the Speaker directed those Members who had called 'No' to vote accordingly.³²⁴ The Speaker ruled in 1944 that it was not within the province of the Chair to direct attention to the fact that those who called for a division did not vote with the minority but that the Chair's attention must be directed to the situation at the time.³²⁵ In 1935 a Member who called for a division and then left the Chamber against the express direction of the Chair was subsequently named and suspended.³²⁶

After the doors are locked no Member may enter or leave the Chamber until the division has been completed.³²⁷ Both the Prime Minister and Leader of the Opposition, however, have been allowed to withdraw when they have found that they should not be

314 H.R. Deb. (25.10.77) 2349–50.

315 VP 1978–80/686.

316 S.O.s 199, 200.

317 Vote of Member entering Chamber after doors had been ordered locked not counted, H.R. Deb. (23.5.2001) 26930; (24.5.2001) 27042.

318 S.O. 203A.

319 VP 1985–87/36.

320 Sessional orders providing for bells to be rung for four minutes were in force during the first several sitting weeks in the new Parliament House. The change was later made permanent—VP 1987–89/799.

321 VP 1974/19, 28; H.R. Deb. (6.3.74) 111–12.

322 S.O. 274(b).

323 S.O. 195.

324 H.R. Deb. (8.5.52) 219–20.

325 H.R. Deb. (15–16.3.44) 1416.

326 H.R. Deb. (20–21.11.35) 1861; H.R. Deb. (21.11.35) 1863–4.

327 S.O. 200.

voting because of pairing arrangements.³²⁸ Other Members have been permitted to withdraw for the same reason.³²⁹ Before a division, Senators and strangers may be ordered to withdraw from the Chamber.³³⁰

When the doors have been locked and all Members present are in their places, the Chair re-states the question to the House and directs the 'Ayes' to pass to the right of the Chair and the 'Noes' to the left.

Four or fewer Members on a side

If there are four or fewer Members on a side at the time the doors are locked, the Chair declares the result of the division immediately and no count is made. The names of the Members in the minority are recorded in the Votes and Proceedings.³³¹

Appointment of tellers

When Members have taken their seats, the Chair appoints tellers for each side to record the names of Members voting.³³² The number of tellers is at the Chair's discretion; recent practice has generally been to appoint two on each side.³³³ The Chair's attention has been drawn to the fact that a teller appointed for the 'Ayes' did not move from his place with the 'Noes' to join Members voting 'Aye' until after his nomination; he was directed to return to his place and the Chair then appointed another teller for the 'Ayes'.³³⁴

The tellers are usually, although not invariably, appointed from the party whips or deputy or assistant whips. A Prime Minister, on the occasion of a free vote, has been appointed as a teller.³³⁵

From time to time those appointed as tellers have refused to act, and the following action has been taken by the Chair:

- when tellers for the 'Noes' refused to act, and all Members of the Opposition took the same position, tellers were appointed from the 'Ayes' to count the 'Noes'; their votes were recorded with the 'Noes';³³⁶
- the Speaker noted that whether a Member so declining could be compelled to do so or was to suffer a penalty was a matter which he would consider;³³⁷
- when tellers for the 'Noes' refused to act, the Chair stated that it was an act of contempt for a Member to refuse to do his duty and appointed tellers from the 'Ayes' to count the 'Noes'; their votes were recorded with the 'Ayes';³³⁸ and
- after a teller for the 'Noes' refused to act, the Speaker stated that any disobedience to the call of the Chair was an offence, and that the Member rendered himself liable to be named.³³⁹

When the tellers for the 'Noes' refused to act in 1918, Speaker Johnson made a statement from which has evolved the modern practice for dealing with this situation.

328 H.R. Deb. (6.5.76) 2073.

329 H.R. Deb. (14.11.74) 3533.

330 S.O. 198.

331 S.O. 204, e.g. VP 1996-98/1523; VP 1998-2001/1745.

332 S.O. 201.

333 Before 1998 S.O. 201 specified two tellers a side.

334 H.R. Deb. (13.12.34) 1253.

335 VP 1970-72/289.

336 H.R. Deb. (12.11.09) 5803-4.

337 H.R. Deb. (24.11.09) 6259.

338 VP 1917-19/244-6; H.R. Deb. (29.5.18) 5246.

339 H.R. Deb. (5.4.33) 869-70.

After drawing attention to the standing order which referred to a Member wilfully disobeying an order of the House, the Speaker stated that a direction by the Chair to any Member to act as a teller is a lawful order of the House through the Speaker as its mouthpiece. He added that, as the House had no special standing order dealing with the refusal of a teller to act, he would draw on the practice of the House of Commons which provides that, if two tellers cannot be found for one of the parties in a division, the division cannot take place and the Chair forthwith announces the decision of the House.³⁴⁰

The current practice, derived from that background, is that if those Members appointed by the Chair, usually a whip and deputy whip, refuse to act as tellers, it is taken to mean that no Members of that party will act as tellers, the division is not proceeded with and the Chair immediately declares the question resolved in the affirmative or the negative as appropriate.³⁴¹ On 30 November 2000 after opposition Members had withdrawn from the Chamber in protest, there being no tellers for the Ayes, the Speaker declared the question resolved in the negative.³⁴²

Voting

Voting does not commence until the tellers are appointed.³⁴³ On the tellers being appointed, every Member within the seats allotted to Members must vote, that is, be counted, and no Member may move from his or her place until the result of the division is announced.³⁴⁴ The Chair has drawn attention to the movement of Members during a division which may confuse the tellers.³⁴⁵ Members not within the seats allotted to Members are not entitled to vote.³⁴⁶ (The restrictions on Members' movements imposed by standing orders 197 and 202 do not apply in the case of a successive division—*see* page 274.)

The Chair, on the suggestion of the whips, has agreed that the vote of an indisposed Member who had left the Chamber be recorded.³⁴⁷ The Chair has also directed that the vote of an infirm Member who wished to vote with the 'Ayes' but was sitting with the 'Noes' be recorded with the 'Ayes'.³⁴⁸ On another occasion, with the concurrence of the former committee of the whole, the Chair directed that the vote of a Member who had tried to enter the Chamber while the bells were ringing but found the doors locked be recorded.³⁴⁹

A Member who has crossed the floor after tellers have been appointed has been directed to return to his place.³⁵⁰ On the understanding that it should not constitute a precedent, a Member was allowed to cross the floor after tellers were appointed as there had been a degree of confusion on a free vote.³⁵¹ On another occasion two Members were named and suspended for disregarding the authority of the Chair in connection with standing order 202. The Members had left their seats after the appointment of

340 VP 1917–19/245; H.R. Deb. (29.5.18) 5247–8.

341 VP 1970–72/518; VP 1974–75/430.

342 VP 1998–2001/1936.

343 H.R. Deb. (5.4.78) 1055.

344 S.O. 202.

345 H.R. Deb. (6.4.76) 1361.

346 S.O. 197.

347 H.R. Deb. (5.6.79) 2934.

348 H.R. Deb. (26.6.31) 3098.

349 VP 1934–37/720.

350 H.R. Deb. (18–19.11.59) 2885.

351 H.R. Deb. (19.8.76) 430.

tellers, moving to the back of the Chamber with the intention of not voting, and disregarded the Chair's direction during the division that they return to the seats they had been occupying when the tellers were appointed.³⁵²

Standing order 203 provides for every Member within the seats allotted to Members to be counted, for his or her name to be taken down by the tellers and for the tellers to calculate the total number of Members voting on each side, sign their list and present it to the Speaker, who will declare the result to the House. In practice the names are marked off on printed division lists which are not signed by the tellers until their count and counts made by the Clerk and Deputy Clerk are in agreement. The signed lists are then handed to the Clerk who passes them to the Speaker for the declaration of the result. In marking the list for each side, a teller for the 'Ayes' operates with a teller for the 'Noes' but the two tellers for the 'Ayes' sign the 'Ayes' list and those telling for the 'Noes', the 'Noes' list.

Every Member must vote in accordance with his or her call, either 'Aye' or 'No'.³⁵³ When no Members have passed to the 'Noes' side, the Speaker has directed those Members who called 'No' to vote accordingly.³⁵⁴ It is in order, however, for a Member to vote against his or her own motion³⁵⁵ or amendment.³⁵⁶

Points of order and Members' remarks during a division

While the House is dividing, any Member may speak, sitting, to a point of order arising out of or during the division.³⁵⁷ Because Members are required to be seated during a division, if a Member wishes to raise or speak to a point of order, it is the traditional practice of the House for the Member to hold a sheet of paper over the top of his or her head while doing so in order to be more easily identified by the Chair. (This tradition has developed from the past practice of the House of Commons of using opera hats kept for this purpose by the Serjeant-at-Arms.) Decorum should prevail during a division, and it is not in order for Members to engage in debate³⁵⁸ or exchange remarks across the Chamber.³⁵⁹ Conversation audible to the Chair has been regarded as disorderly.³⁶⁰ Remarks made during a division are not regarded as part of the proceedings of the House and are not recorded by Hansard.³⁶¹ The Speaker has pointed out to Members that such remarks might not be covered by privilege and that this also has implications for media reports.³⁶²

Successive divisions

When successive divisions are taken, and there is no intervening debate after the first division, the Chair orders the bells to be rung for one minute only.³⁶³ Successive divisions often occur when a closure motion is moved or when a closure of debate motion follows one or two closures of Member (for example, of the mover and seconder

352 VP 1996–98/1002–3.

353 S.O. 194; H.R. Deb. (25.10.33) 3956–7.

354 H.R. Deb. (8.5.52) 219–20.

355 H.R. Deb. (7.5.08) 11010.

356 VP 1978–80/1308 (Mr Simon's amendment).

357 S.O. 205.

358 H.R. Deb. (10.8.23) 2597.

359 H.R. Deb. (7.9.09) 3099.

360 H.R. Deb. (29.3.50) 1325.

361 H.R. Deb. (13.10.83) 1801.

362 H.R. Deb. (8.10.84) 1875.

363 S.O. 203A.

of a motion attempting to suspend standing orders). However, a successive division may relate to a new item of business if no debate occurs on it—amendments can be moved formally without constituting intervening debate.³⁶⁴

With successive divisions Members' votes are recorded as being the same as for the immediately preceding division unless Members report different voting intentions to the tellers—this applies to Members who voted in the preceding division and who then wish not to vote or to vote differently, as well as to Members who did not vote in the preceding division and who then wish to vote. Members who intend to vote the same way as they did previously must remain in their seats until the result of the division is announced. A full count is carried out if it is clear to the Chair that the majority of Members wish to vote differently or if there is any confusion or error in the numbers.³⁶⁵

Deferred divisions

On Mondays, any division called for in the House on a question, other than a motion moved by a Minister, in the period prior to questions without notice being called on or during presentation of petitions or private Members' business, is deferred until the grievance debate has concluded or been postponed.³⁶⁶ The timing of such a division depends on the length of question time, but would normally be about 5.10 p.m. This provision is aimed at preventing unnecessary disruption to the limited time available for committee and private Members' business. It also prevents interruptions to Cabinet meetings, which usually take place on Monday mornings during sitting weeks.

Suggestions have sometimes been made that divisions should take place at a set time each day, in order to save the time of the House and to avoid the disruption that unpredictable divisions can cause to Members and Ministers.³⁶⁷ Although such a procedure has some attractions, the legislative program could be particularly affected, as each subsequent stage of a bill is dependent on a decision having been reached on the previous stage, and each division called could necessitate postponement of further consideration of a bill, perhaps for a significant period. Another consideration is the range of procedural motions which can be moved without notice at any time, which need to be resolved before business can continue and which are often divided on. This is not to say that divisions could not in many cases be arranged to occur at times which suited both Government and Opposition, but this would result from consultation and cooperative timetabling of business rather than from the setting of an arbitrary time for the holding of divisions.³⁶⁸

The use of deferred divisions is possible with respect to private Members' business because in the normal course divisions are not expected during this period. On the rare occasions divisions are called for they have generally been in relation to unscheduled procedural motions, such as an attempt to suspend standing orders.³⁶⁹ Votes on a motion to refer a petition to a committee,³⁷⁰ dissent to a ruling of the Chair³⁷¹ and a motion that a Member now be heard³⁷² have also been deferred under this procedure.

364 H.R. Deb. (29.10.97) 10150–51, (30.10.97) 10374–5; H.R. Deb. (10.12.98) 1850.

365 S.O. 203B.

366 S.O. 193.

367 See A. R. Browning 'The ringing of the bells causes some divisions', *Canberra Times*, 27.9.87, p. 2.

368 E.g. proceedings on the Euthanasia Laws Bill 1996 (a private Member's bill) were postponed by agreement so that divisions would occur at a convenient time. H.R. Deb. (9.12.96) 8037.

369 VP 1990–93/1253, 1257, 1261–2.

370 VP 1987–90/1119–20, 1122–3.

371 VP 1990–93/1261–3.

372 VP 1996–98/399, 407 (however, instead of a division being held, the motion was withdrawn, by leave).

Record of divisions

Lists of divisions are recorded in the Votes and Proceedings³⁷³ and in Hansard. The Speaker may cause the record to be corrected if a complaint is made to the House that a division has been inaccurately reported.³⁷⁴ The Chair has directed that the Leader of the Opposition's vote be deleted as he was paired with the Prime Minister who was not in the Chamber.³⁷⁵ In practice, many errors are corrected by agreement between the tellers or by consultation between the whip and officers of the House after a division when a name has been recorded incorrectly. The Speaker has directed that the official record be corrected when a Member's name has been recorded incorrectly³⁷⁶ and the name of a Member has been omitted.³⁷⁷ Similarly, corrections have been made when Members not present have been recorded as having voted.³⁷⁸

Division repeated

If any confusion or error concerning the numbers reported cannot be otherwise corrected, the House proceeds to another division.³⁷⁹

Pairs

The pairs system, a practice of some antiquity,³⁸⁰ is an unofficial arrangement between Members, organised by party whips, which enables a Member on one side of the House to be absent for any votes when a Member from the other side is to be absent at the same time or when, by agreement, a Member abstains from voting. By this arrangement a potential vote on each side of a question is lost and the relative voting strengths of the parties are maintained. The system also allows the voting intentions of absent Members to be recorded.³⁸¹

From time to time difficulties have been encountered with the system because:

- Members forget they have made pairing arrangements and vote in divisions,³⁸²
- the voting intentions of a Member have been misrepresented in the pair book,³⁸³
- there have been allegations of tampering with the pair book after a division;³⁸⁴ and
- of accusations that parties refused to enter into pairing arrangements.³⁸⁵

These were earlier cases when the House was not always divided into distinct political parties. With the development of the modern party system pairing arrangements were facilitated and Members are now paired not only on particular questions or for one sitting of the House, but sometimes for extended periods. It is usual for the Prime Minister and the Leader of the Opposition to be automatically paired unless one indicates that he or she wishes to vote on a particular issue.

373 S.O. 207.

374 S.O. 209.

375 H.R. Deb. (7.4.78) 1239–40.

376 VP 1932–34/121.

377 VP 1940/105.

378 VP 1990–92/1093.

379 S.O. 208; VP 1977/145; VP 1998–2001/1687–92 (on a motion of dissent from a ruling of the Speaker the initial result was a tied vote, but the Speaker said that, as the matter of the ringing of the bells had been raised—they had rung for 1 minute, not 4, although there had been intervening debate—there was the possibility of confusion, and so he put the question again; further dispute arose, and a motion of want of confidence in the Speaker was moved, but defeated).

380 N. Wilding & P. Laundy, *An Encyclopaedia of Parliament*, 4th edn, Cassell, London, 1972, p. 515.

381 VP 1998–2001/372. Prior to 1999 pairs were recorded only in Hansard. Since then pairs have also been recorded in the Votes and Proceedings.

382 H.R. Deb. (12.7.06) 1264.

383 H.R. Deb. (23.11.07) 6506. Until 1966 pairing arrangements were recorded in a pair book kept on the Table.

384 H.R. Deb. (30.10.13) 2715.

385 H.R. Deb. (23.4.08) 10544–6; H.R. Deb. (30.4.08) 10703–6.

The closer the relative strength of the parties the more crucial the pairing arrangements become. In these circumstances disputations on pairing arrangements are more likely to occur, especially on vital votes, and have been the cause of protracted disorderly proceedings. Statements have been made to the House on guidelines for the granting of pairs.³⁸⁶ Pairs have been cancelled by the Government because of the need for an absolute majority to pass a bill to alter the Constitution.³⁸⁷ The Opposition has cancelled the arrangements for the remainder of the session as a consequence of its view on the manner in which the proceedings of the House were being conducted.³⁸⁸

Although there is no rule or order of the House requiring a Member to observe a pair, there is a considerable moral and political obligation on his or her part to adhere to such an agreement. The consistent attitude of the Chair on this question was summed up by Speaker Watt when, in reply to a question as to whether it would be a breach of honour if a Member did not observe a pair, he observed that the Chair knew nothing of pairs, the question of honour being a matter for the Members and not the Chair to decide.³⁸⁹

During a division, it is the practice that Members who are paired leave the Chamber before the doors are locked so as to avoid voting. However, if a paired Member calls for a division, he or she is bound not to leave the area within the seats allotted to Members, and to vote.³⁹⁰ Both the Prime Minister and Leader of the Opposition have been allowed to withdraw from the area within the seats allotted to Members after the doors have been locked when they have found that they should not be voting because of pairing arrangements.³⁹¹ Other Members have been permitted to withdraw for the same reason.³⁹²

Free votes

Most decisions of the House are determined on party lines, but occasionally a question before the House is decided by what is termed a 'free vote'. A free vote may occur when a party has no particular policy on a matter or when a party feels that Members should be permitted to exercise their responsibility in accordance with conscience.³⁹³ Within the committees of the House party lines are less rigid and questions are often decided by what is, in effect, a free vote.

A free vote is a political rather than a procedural matter and is not specifically identified as such in the Votes and Proceedings nor, apart from any comments by Members during debate, in Hansard. Items of business described in debate as being subject to a free vote may not necessarily be formally voted on at all, perhaps being carried without division.³⁹⁴ Even though a party may allow a free vote of its Members on a particular issue the vote may, in fact, follow party lines substantially or completely.³⁹⁵

Free votes have been held on questions pertaining to the Parliament itself, such as questions arising out of reports of the Privileges Committee and the Procedure

386 VP 1974–75/596; H.R. Deb. (17.4.75) 1760–2.

387 VP 1974–75/789; H.R. Deb. (5.6.75) 3405–6.

388 H.R. Deb. (15.8.23) 2783.

389 H.R. Deb. (14.7.25) 1007.

390 S.O. 195.

391 H.R. Deb. (6.5.76) 2073.

392 H.R. Deb. (14.11.74) 3533.

393 See H.R. Deb. (19.8.70) 172.

394 E.g. VP 1985–87/1627 (Parliamentary Privileges Bill 1987); VP 1987–89/1732 (Family Law Amendment Bill 1989).

395 VP 1970–72/901–2.

Committee. They are also occasionally held on social issues where the vote is governed by conscience.

More recent examples of a free vote have been:

- *Privileges Committee report*
1955—Browne and Fitzpatrick case.³⁹⁶
- *New and Permanent Parliament House*
Motions as to site—1968,³⁹⁷ 1973,³⁹⁸
Parliament Bill 1974 (private Member's bill).³⁹⁹
- *Standing Orders Committee or Procedure Committee reports and related matters*
Reports dated: 10 June 1971,⁴⁰⁰ 19 August 1971,⁴⁰¹ 20 March 1972;⁴⁰²
House of Representatives (Quorum of Members) Bill 1970;⁴⁰³
Motion endorsing Procedure Committee recommendation to alter quorum of the House, 1987.⁴⁰⁴
- *Private Members' bills and motions*
Medical Practice Clarification Bill 1973;⁴⁰⁵
Euthanasia Laws Bill 1996;⁴⁰⁶
Sexual relationships—Social educational and legal aspects—Proposed Royal Commission (motion);⁴⁰⁷
Homosexual acts and the criminal law (motion);⁴⁰⁸
Termination of pregnancy—Medical benefits (motion);⁴⁰⁹
Fluoridation of Canberra water supply (motion).⁴¹⁰
- *Others*
Matrimonial Causes Bill 1959;⁴¹¹
Death Penalty Abolition Bill 1973 (Senate bill);⁴¹²
Family Law Bill 1974 (Senate bill);⁴¹³
Family Law Amendment Bill 1983 (Senate bill);⁴¹⁴
Sex Discrimination Bill 1984 (Senate bill);⁴¹⁵
Constitution Alteration (Establishment of Republic) Bill 1999.⁴¹⁶

396 VP 1954–55/270–1. Leader of the Opposition Evatt informed the House that the matter of privilege in the Browne and Fitzpatrick case did not involve party consideration and that on no occasion had a question of privilege been discussed at a party meeting by Australian Labor Party Members, H.R. Deb. (10.6.55) 1630.

397 VP 1968–69/242.

398 VP 1973–74/476.

399 VP 1974–75/198, 199, 199–200, 200.

400 VP 1970–72/243, 252–3.

401 VP 1970–72/686, 687.

402 VP 1970–72/1009, 1010.

403 VP 1970–72/294, 295.

404 VP 1987–89/303–4.

405 VP 1973–74/172, 172–3.

406 VP 1996–98/998–1003.

407 VP 1973–74/327, 327–8, 328.

408 VP 1973–74/458.

409 VP 1978–80/692, 692–3.

410 VP 1964–66/251.

411 VP 1959–60/261 (2), 264–5, 265, 265–6.

412 VP 1973–74/329, 330 (2).

413 VP 1974–75/384 (and on subsequent divisions during proceedings on the bill).

414 VP 1983–84/305–10.

415 VP 1983–84/528–30.

416 VP 1998–2001/733.

Proposals for change in division procedure

There have been a number of proposals for changing the procedure used by the House during divisions. Most proposals have been aimed at either avoiding problems of overcrowding or reducing the time taken by divisions. Both these problems are especially noticeable during periods when the Government has a large majority. In the 37th Parliament the time taken to record and tally a division (not including the time of the ringing of the bells) was about five or six minutes. In the 38th Parliament, when there was a very large government majority, this time increased to approximately eight minutes.

This situation gave rise to the 1996 Procedure Committee inquiry into the conduct of divisions.⁴¹⁷ Measures introduced following this review included:

- the number of tellers left to the Speaker's discretion (previously two per side);
- Members presumed to vote the same way in successive divisions unless tellers notified otherwise (*see* p. 274);
- count not proceeded with when there are four or fewer Members on a side (*see* p. 272).

After the introduction of these streamlining procedures, and with a reduced government majority, in the following Parliament the average time taken to record a division dropped to about four minutes.⁴¹⁸

Proposals put forward over the years which have not been adopted include:

- the adoption of systems whereby Members file past the Chair or tellers and have their votes counted while the bells are ringing;⁴¹⁹
- that certain government Members (National Party) seated on the opposition side remain in their places during the counting of a division in order to alleviate crowding and difficulty of counting on the right of the Chair;
- that the Chair should have discretionary power, as in the House of Commons, to reject the call for a division, thus minimising 'unnecessary' divisions called primarily as a tactical measure;⁴²⁰ and
- the introduction of electronic voting as a time-saving device and to enable Members to vote without leaving their seats and obviating the need to appoint tellers.⁴²¹

Electronic voting

Of all these proposals the question of electronic voting has received the most attention. In 1970 the Joint Select Committee on the New and Permanent Parliament House agreed that, although the installation of electronic voting was not desirable at that time, the Chambers in the new Parliament House should be provided with all necessary conduits and ducts in preparation for the possible installation of electronic voting cabling at a later date.⁴²² In 1993 the Speaker and a small group of parliamentary staff members inspected electronic voting facilities in operation in various overseas Parliaments. In its

417 Standing Committee on Procedure, *Conduct of Divisions*, PP 290 (1996).

418 The average time for a division including the time taken for the ringing of the bells was about six and a half minutes.

419 H.R. Deb. (10.9.75) 1214. Standing Committee on Procedure, *Conduct of Divisions*, PP 290 (1996) 5.

420 H.R. Deb. (14.10.76) 1926; *see also* the address to the National Press Club on 8 June 1978 by Speaker Snedden (unpublished) and Selwyn Lloyd, *Mr Speaker, Sir*, Jonathan Cape, London, 1976, pp. 96–8; *but see also* comments by Speaker Snedden, *Report of 4th Conference of Commonwealth Speakers and Presiding Officers, 1976, London*, p. 9.

421 *See* H.R. Deb. (19.4.66) 955.

422 'Proposed New and Permanent Parliament House for the Parliament of the Commonwealth of Australia', *Report of Joint Select Committee*, PP 32 (1970) 30.

report to the House⁴²³ the inspection team stated that it was impressed with the equipment inspected, its speed of operation, accuracy and stated reliability. The report recommended that the Government, Opposition and other non-government Members should confer to seek in-principle agreement to the installation of electronic voting equipment in the House of Representatives Chamber. The voting system proposed was to retain the traditional voting method of Members dividing to the right or left of the Chair, with Members recording their votes, irrespective of where they actually sit for the division, by means of personal electronic cards.

In 1996 the Procedure Committee looked at electronic voting as part of its wider review of the conduct of divisions, but decided to defer consideration of the option in the belief that the costs involved precluded it at that time. However, the committee's report included a dissenting report which recommended the implementation of electronic voting. The dissenting committee members argued that the benefits of the system would outweigh the costs and noted that the cost of technology was falling.⁴²⁴

BALLOTING

Apart from ballots for the election of the Speaker, the Deputy Speaker and the Second Deputy Speaker,⁴²⁵ the standing orders make provision for the taking of a ballot whenever the House thinks fit, but the system has not been used for many years. Before the House proceeds to a ballot, the bells are to be rung as in a division.⁴²⁶ The manner of taking a ballot, unless otherwise expressly provided, is also detailed.⁴²⁷ A ballot could be used to elect Members to perform a function or to serve on a committee, statutory body or delegation.

In 1905 the House agreed to appoint Members to a proposed select committee by ballot.⁴²⁸ The ballot did not eventuate as the motion to appoint the committee was negated.⁴²⁹ On three occasions, in 1903, 1904 and 1908, the House resolved to hold open exhaustive ballots to determine the opinion of Members as to the site of the seat of government of the Commonwealth.⁴³⁰ On each occasion the House agreed to specific resolutions determining the method of taking the ballot.

Consideration has been given to the possible use of secret ballots on certain conscience issues which were to be decided by free vote, but no such procedure has been proposed to the House.

423 *Electronic Voting: Report of Inspection of Equipment Used in the Parliaments of Belgium, Finland, Sweden and the United States of America and in the European Parliament Building in Brussels, October/November 1993*. Misc. Paper 7743.

424 Standing Committee on Procedure, *Conduct of Divisions*, PP 290 (1996) 5, 16.

425 See Ch. on 'The Speaker, Deputy Speakers and Officers'.

426 S.O.s 390, 391.

427 S.O. 392.

428 Members to serve on parliamentary committees are regularly elected by ballot in the party rooms.

429 VP 1905/135-6; H.R. Deb. (26.10.05) 4169. The method of appointment of Members was agreed to pursuant to old S.O. 324 (no longer operative) which provided that, if six Members so required, a committee was to be appointed by ballot.

430 VP 1903/161-2; VP 1904/129; VP 1908/29-30. The 1904 ballot was to determine the opinion of Members as to the district in N.S.W. in which the seat of government should be; the other two were for actual sites.