

Opportunities for and the success of private Members' business in the House of Representatives

This paper compares opportunities for, and the success of, private Members' business in the Australian House of Representatives, the British House of Commons and the Canadian House of Commons. It demonstrates that, of the three chambers under consideration, private Members' business in the House of Representatives is the most exposed to the influence of political parties and the Executive Government. It also reveals that the procedure and practices governing private Members' business in the House of Representatives restrict Members' ability to use these opportunities to present their constituents' views to the Executive Government and to contribute to responsible or parliamentary government.

Parliamentary versus party government

A core principle of Westminster-based parliaments, and a benchmark against which the 'health' of the Australian Parliament is often assessed, is the concept of responsible or parliamentary government. A parliamentary government is one formed in, and accountable to, the democratically-elected lower house of a bicameral parliament. Parliamentary governments wield executive authority only so long as they have the confidence of the lower house (Hamer, 2004, p. xvii) and may be dismissed by the house for failing to account for decisions or for abuses of power. In this way the house, which represents the people, ensures the government remains accountable for its actions between parliamentary elections when the people may hold them to account directly (Seal-Pollard, 2016, pp. 1-3).

Pundits who assess the 'health' of the Australian Parliament through the prism of responsible government are invariably disappointed (Seal-Pollard, 2016, pp. 2-3). There is general consensus that the House of Representatives' capacity to require the Prime Minister and their Cabinet, also known as the Executive Government, to account for their actions has declined with the rise of highly organised political parties commanding strict party discipline (Bennett, 1992, p. 71). Indeed, former Senate Clerk, Harry Evans suggests political parties' negation of parliamentary government has become such a 'truism' it is even accepted by the Members of the Australian Parliament themselves. In a paper entitled *Party Government: the Australian Disease and Australian Cures* (1992) Evans labels the phenomenon 'party government' and explains its operation:

"The modern political party is designed to ensure that the responsibility mechanism does not operate and that a government formed by the party is never overthrown or seriously threatened by parliament. By binding all Members of the party to support it in parliament, and by ensuring that all Members of the party always vote together on every question, the modern political party removes the responsibility mechanism" (p. 17).

Many years of 'party government' in the Australian Parliament has enabled the Executive Government to shape Standing Orders (procedure) and practices which cement its influence, if not control, over almost all aspects of chamber business. Over the same time period, public confidence in the individual politicians, the Parliament of Australia and the Executive Government also appears to have declined or remained low (Causley, 2004, pp. 1-2).

The Australian Parliament is not alone in this experience. The Westminster parliaments of the United Kingdom and Canada have also experienced increasing Executive Government dominance over their lower chambers (Hamer, 2004, p. 355). Political commentators have labelled the British House of Commons, "a legislature on its knees, an elaborate rubber-stamp or even God's gift to a dictatorship" (Russell, Gover, & Wollter, 2015, p. 1). While the Canadian House of Commons has been characterised as "one in which the Executive is highly dominant" (Blidook, 2010, p. 1).

In an effort to improve the operation of their lower chambers and somewhat restore public confidence in parliament, all three parliaments have reserved specific opportunities for lower chamber Members who are not part of the Executive Government to prioritise and pursue their own business (House of Commons Reform Committee (UK), 2009, p. 7; Keyes, 2007, p. 8; House of Representatives Standing Committee on Procedure, 2011, pp. 2-3). These Members are known as private Members and the chamber time reserved for their business is known as private Members' business, or committee and private Members' business in the case of the House of Representatives.

Private Members' business

The House of Representatives reserves two hours each sitting Monday for the consideration of committee and private Members' business (Dept. of the House of Representatives, 2016, p. 28, Figure 2). This time nominally provides opportunities for private Members to prioritise and pursue business independently of their political party and the Executive Government, should they wish to. However, in practice private Members' business is highly exposed to the influence of the Executive Government and political parties.

Responsibility for programming private Members' business on behalf of private Members lies with the House of Representatives Selection Committee. The Selection Committee is chaired by the Speaker and comprises government, opposition and third party Whips, four government and three non-government Members (Dept. of the House of Representatives, 2016, p. 90, SO 222b). The Standing Orders empower it to determine which private Members' bills and motions will be introduced during committee and private Members' business. They require the committee to prioritise private Members' bills over motions, and permit Members to speak for up to ten minutes when introducing a bill. The order of consideration and speaking times for private Members' motions are allocated completely at the committee's discretion. It also has authority to designate private Members' bills or motions as 'votable' and may refer bills it "regards as controversial or as requiring further consultation or debate" to house standing or joint committees for further consideration and scrutiny (Dept. of the House of Representatives, 2016, p. 90, SO 222). It is established practice that decisions of the committee are taken by consensus. Private Members' motions which are agreed to by the house are not considered binding on the Executive Government (Wright & Fowler, 2012, p. 580).

Political parties and the Executive Government are able to influence the programming decisions of the Selection Committee through its membership. Of the eleven Members currently comprising the committee, five are government Whips or deputy government Whips. While these Members are technically 'private Members' in that they are not part of Cabinet, their role requires them to act on behalf of the Executive Government by assisting the Leader of the House to ensure that the Executive Government's legislative program is pursued (Wright & Fowler, 2012, p. 56). This affords the Executive Government direct input into the scheduling of private Members' business and majority input into consensus decisions regarding which items of private Members' business should be deemed votable and which should be referred to a house or joint committee for further consideration. The influence of the Executive Government is evidenced by the complete lack of private Members' bills deemed votable during the 44th Parliament (Dept. of the House of Representatives, 2017a, pp. 24-26). Furthermore, the presence of opposition whips on the Selection Committee and the exclusion of independent Members or Members from micro-political parties, limits the ability of the committee to make decisions which reflect private Members' views more broadly. Private Members are not even afforded formal opportunity to endorse or comment on the committee's decisions through a chamber vote or debate as committee decisions are "treated as having been adopted when they are presented" to the house (Dept. of the House of Representatives, 2016, p. 90, SO 222e). In practice it is more accurate to view the committee as scheduling private Members' business on behalf of the Executive Government with input from the official opposition, rather than on behalf of private Members.

The requirement for the Selection Committee to prioritise the consideration of private Members' bills during chamber time reserved for private Members' business encourages Members to raise matters via the introduction of a bill even when a motion may be more appropriate. Private Members who place a bill on notice are guaranteed ten minutes speaking time in the chamber, whereas the Executive Government influenced Selection Committee may not select a motion for debate or may allocate very short speaking times. In this way private Members' bills provide an avenue for private Members "to signal publically matters they believe need legislative action" (Dept. of the House of Representatives, n.d.b). In so expressing their constituents' views, private Members' bills can help ensure Executive Government policy aligns with public sentiment. However, private Members' bills provide a poor mechanism for seeking to hold the Executive Government to account as they are rarely deemed votable and so do not prompt the Executive Government to adopt and defend a position on the matters addressed by the bill. This represents a lost opportunity for the Executive Government to test its policy position with private Members, to gauge how closely it aligns with constituents' sentiment.

In contrast to the House of Representatives, private Members' business in the British House of Commons is much more independent of political party or Executive Government influence. The British House of Commons reserves 13 sitting Fridays for deliberation on private Members' bills (House of Commons (UK), 2017, p. 19, SO 14 (8)) and 27 days for the consideration of private Members' motions and topical debates, plus an additional eight days in the secondary chamber, Westminster Hall (Hutton et al., 2011, pp. 331-332). Responsibility for programming private Members' motions and general topical debates lies with the House of Commons Backbench Business Committee and a ballot system is used to prioritise private Members' bills for consideration by the chamber.

The Backbench Business Committee's membership comprises entirely of private Members, including a chair elected by vote of the House of Commons. Standing Orders task the committee with prioritising private Members' motions and topical debates for consideration by the chamber and setting time limits for debate (House of Commons (UK), 2017, pp.203-4, SO 152J). All private Members' motions are votable by default, but are not considered binding on the Executive Government even when agreed (Backbench Business Committee, 2015, p.8). The committee may invite private Members not on the committee to participate in meetings (House of Commons (UK), 2017, p. 204, SO 152J(7)) and Members who have proposed a motion or debate may appear before the committee to advocate for the prioritisation of their business. All decisions of the committee are made in public.

The presence of private Members on the Backbench Business Committee and the exclusion of party whips grants it a measure of independence from the influence of political parties and the Executive Government not afforded to the House of Representatives' Selection Committee. The committee's power to consult private Members more broadly and its practice of meeting in public, ensures its decisions reflect private Members' views generally and are justifiable to them. Indeed, the committee has described itself as a "scheduling forum" for backbench colleagues, and has stated that it is guided entirely by their ideas (Backbench Business Committee, 2015, p. 7). The Backbench Business Committee's ability to schedule business which reflects private Members interests more broadly makes it a better mechanism for conveying public sentiment to the Executive Government than the Selection Committee because it is more representative of the chamber as a whole.

The Backbench Business Committee also provides more meaningful opportunities for private Members to pursue responsible government as bills and motions are votable by default, not by exception as in the case of the House of Representatives. This encourages the Executive Government to adopt a public position on private Members' motions and account for it in the chamber during debate. In addition, the committee's power to schedule general topical debates which do not require a vote of the house provides an opportunity for private Members' to highlight matters they believe the public would like to see the Executive Government address. According to Hamer (2004), the Executive Government pays close heed to outcomes of debates like these:

"Ministers have to consider very carefully any suggested changes in government policy which are supported by large numbers of government backbenchers, and also the levels of support for particular causes, or indications of divisions in the government ranks. With these motions backbenchers are performing Bagehot's informing role, and they force a government to listen [to public sentiment]" (p.247).

The British House of Commons ballot system for scheduling the consideration of private Members' bills is also more independent of interference from political parties and the Executive Government than the House of Representatives' Selection Committee, although it is not without flaws. The Private Members' Bills Ballot is conducted at the beginning of each parliament. Private Members may put forward their name for inclusion in the ballot. Twenty names are drawn and the order in which they are selected constitutes the order of precedence in which they will be considered by the chamber during private Members' business on sitting Fridays. All bills selected by ballot are introduced to the chamber on the same day and then second reading debates are scheduled according to the order of precedence established by the ballot (House of Commons (UK), 2016, p. 1).

Standing Orders ensure that the chamber will complete its consideration of some private Members' bills by prioritising the consideration of private Members' bills which have already been considered by the chamber from the eighth sitting Friday onwards (House of Commons (UK), 2017, p. 19, SO 14(9)). For example, this may result in the prioritisation of private Members' bills which have already progressed to consideration in detail or third reading stages, or bills which have been returned from the House of Lords with amendments (Hutton et al., 2011, p. 333-334). According to Hamer (2004), the British House of Commons usually allows a free vote on private Members' bills which leaves Members who are not part of the Executive Government to take a position on a bill according to their personal views (p. 204).

As already noted, the use of a ballot to prioritise private Members' bills for chamber consideration is much more independent of political party or Executive Government influence than the House of Representatives' use of the Selection Committee. The random nature of the ballot affords no opportunity for the Executive Government or political parties to interfere in the allocation of opportunities to introduce a bill and provides all private Members with equal chance of securing such an opportunity. However, private Members are not required to place a bill on notice before entering the Private Members' Bills Ballot which regularly results in private Members' securing an opportunity to introduce a bill without actually having a bill they wish to pursue. This leaves them open to pressure to take up a bill favoured by their political party or the Executive Government and private Members often succumb to these pressures (House of Commons Information Office, 2010, p. 3). Approximately one third of private Members' bills which pass the British House of Commons are actually Government bills moved by a pliable private Member (Hamer, 2004, p.206). This represents a missed opportunity for the Executive Government to enable private Members to inform them of the issues important to their constituents and take the temperature of public sentiment. Without opportunities like this the Executive Government increases the risk that its policies do not align with public sentiment which may damage the public's confidence in its leadership.

Despite this weakness, the Private Members' Bills Ballot does offer private Members in the British House of Commons more meaningful opportunities to contribute to responsible government than those afforded to private Members in the House of Representatives. Unlike the Selection Committee which must nominate private Members' bills to be votable, all bills introduced to the House of Commons as a result of the ballot will progress to a vote at the conclusion of the second reading and third reading stages. Furthermore, Standing Orders ensure that at least seven bills have a good chance at progressing beyond introduction stage and of potentially passing the house (House of Commons (UK), 2017, p. 19, SO 14(9)). This is a big advantage to private Members seeking to use private Members' business to hold the Executive Government to account as it may prompt the Executive Government to take a public position on the bill and account for it during debate. This is in stark contrast to private Members' bills in the House of Representatives which require the Selection Committee to nominate them as votable and so progress beyond introduction by exception, not by default. Furthermore, the practice of allowing free votes on private Members' bills provides an opportunity for Members not part of the Executive Government to take a position on a matter which may be contrary to their political party. It also enables private Members to demonstrate the independence of parliament from the Executive Government and, in this way can help maintain public confidence in the operation of parliament.

Standing Orders of the British House of Commons also empower private Members to introduce bills during chamber time reserved for general business (House of Commons (UK), pp. 36 & 52-53, SO 23 & 57). However, these bills are rarely granted a second reading as they rely on the good will of the Executive Government to progress (House of Commons, n.d.a).

The procedures for the prioritisation and scheduling of private Members' business in the Canadian House of Commons are similar to those of the British House of Commons. The Canadian House of Commons reserves one hour each sitting day for private Members' business and uses a ballot system to prioritise items of business for consideration. The Canadian Private Members' Ballot establishes an order or precedence for both private Members' bills and motions. Private Members can only enter the ballot using a bill they have already introduced in the chamber or a motion they have already placed on notice. The ballot is drawn twice. The first draw selects 15 private Members' bills and 15 motions to be considered by the chamber and the second draw establishes an order of precedence for the introduction of those bills and motions. All items of private Members' business are votable by default. If the chamber does not vote on a bill or motion the first time it is considered, debate is adjourned and the business item drops to the bottom of the order of precedence. Further consideration occurs when the item of private Members' business has cycled back to the top of the order of precedence. Additional Private Members' Ballots are drawn throughout parliament as the chamber votes on items of private Members' business and the order of precedence is depleted. Members are afforded a free vote on all items of private Members' business (O'Brien & Bosc, 2009, Chapter 21, Sections ii-ix).

Of the three chambers under consideration, the Canadian House of Commons procedures for prioritising and scheduling private Members' business are the most independent from political party and Executive Government influence. The Private Members' Ballot is random and provides all private Members with equal chance of being granted an opportunity to pursue a bill or motion in the chamber; there is no opportunity for the Executive Government to influence the allocation of opportunities. Furthermore, private Members must have already introduced a bill or placed a motion on notice to enter the ballot which limits opportunities for Members' political party or the Executive Government to commandeer their opportunity with their own item of business. Finally, all items of private Members' business are votable by default which prompts the Executive Government to adopt a position on the matters raised and account for it during debate. The practice of holding a free vote on items of private Members' business enables private Members' to influence their political party and Executive Government policies in the same manner it does in the British House of Commons. In fact, Mallory (cited in Hamer, 2004) claims that:

“...in Canada, practically every significant measure of reform in modern times has been introduced by a private Member, usually but not exclusively from the opposition. The ideas which receive public support are often eventually taken up by the government” (p. 205).

In this way, truly independent private Members' business provides an important indication of public sentiment and can help ensure that the Executive Government pursues action in line with constituents' wishes.

Success of private Members' business

The independence of private Members' business from Executive Government influence not only has implications for responsible and accountable government, it also appears to impact the success achieved by private Members' bills and motions.

Table one details the number of private Members' bills introduced and passed in each of the three chambers under consideration across two recent parliaments, one led by a majority government and a second by a minority government. It appears to indicate that in chambers (like the British and Canadian House of Commons), where the Executive Government has more limited influence over opportunities for private Members' to pursue business, private Members' bills are generally more successful. Whereas in chambers (like the House of Representatives), where the Executive Government has greater influence over opportunities for private Members to pursue business, the success of private Members' bills varies dramatically between minority and majority government led parliaments. This is evidenced by the relatively constant success of private Members' bills across majority and minority government led parliaments in the Canadian and British House of Commons compared to the zero-sum success of private Members' bills in the House of Representatives across the minority government led 43rd Parliament versus the majority government led 44th Parliament.

Table one: Private Members' bills to achieve a third reading in the Australian House of Representatives, Canadian House of Commons and British House of Commons

	Parliament (majority or minority government)	Sitting days in Parliament	Government bills initiated in the House	Government bills to achieve a 3 rd reading	Private Members' bills initiated in the House	Private Members' bills to achieve a 3 rd reading
House of Representatives	43 rd (minority)	179	579	559	72	5
	44 th (majority)	184	507	440	38	0
Canadian House of Commons	40 th (minority)	290	128	62	447	14
	41 th (majority)	507	140	107	502	42
British House of Commons	55 th (minority)	735	141	121	701	31
	56 th (majority)	300	55	48	324	14

House of Representatives figures provided by the Department of the House of Representatives Chamber Research Office. Government bills to achieve a third reading during the 44th Parliament includes one Speaker's bill. Figures for the Canadian House of Commons taken from the Status of House Business documents available at www.ourcommons.ca. Figures from the British House of Commons taken from the House of Commons Library research paper, 'Number of Public Bills introduced and gaining Royal Assent Since 1997' (2017b). British House of Commons figures describes private Members' bills which achieved royal assent as statistics on private Members' bills to achieve a third reading in the House of Commons were not available. Actual figure may be higher, however, Hamer (2004, p. 205) notes that the House of Lords "nearly always" passes private Members' bills which have succeeded in the House of Commons, although it occasionally proposes amendments. Figures for government bills initiated in the British House of Commons include bills carried over from a previous session (15 bills in the 55th Parliament and 5 in the 56th Parliament). See bibliography for further details.

A similar trend can be observed in table two which describes the number of private Members' motions moved, debated and agreed to in each of the three chambers under consideration across the same parliaments. The House of Representatives agreed to a large number of private Members' motions during the minority government led 43rd Parliament, but not one private Members' motion during the majority government led 44th Parliament. In contrast, the Canadian House of Commons agreed to 31 private Members' Motions in the minority government led 40th Parliament and a very similar 29 private Members' motions during the majority government led 41st Parliament. Unfortunately data for private Members' motions moved in the British House of Commons during the 56th Parliament was unavailable.

The success rate of private Members’ business across minority versus majority government led parliaments is more variable in chambers (like the House of Representatives) where the Executive Government has greater influence over private Members opportunities, because the power of private Members differs between minority and majority government led parliaments. In a typical majority government led parliament, party government ensures that private Members have limited power of negotiation and cannot compel the Executive Government to provide opportunities for private Members’ bills and motions to be put to a vote. Whereas in minority government led parliaments, where no political party commands a clear majority, the Executive Government may require private Members’ support to secure the passage of its legislative program. Private Members therefore have greater capacity to demand bills and motions are put to a vote and to negotiate Executive Government support for the adoption of private Members’ business. While the bargaining power of private Members also increases during minority governments in chambers where the Executive Government has less influence over private Members’ business (such as in the British and Canadian House of Representatives), the Executive is less able to influence the allocation of opportunities to pursue private Members’ business. Private Members are still better able to negotiate Executive Government support for bills and motions during minority government led parliaments, but the success rate of private Members business is consistently higher so the impact of minority government is less pronounced.

The spike in private Members’ business in the House of Representatives during the minority government led 43rd Parliament may also be taken as indicative of private Members’ interest in independently prioritising and pursuing business when these opportunities are available.

Table two: Private Members’ motions to achieve a third reading in the Australian House of Representatives, Canadian House of Commons and British House of Commons

	Parliament (majority or minority government)	Sitting days in Parliament	Private Members’ motions moved and debated	Private Members’ motions put to a vote	Private Members’ motions negatived	Private Members’ motions agreed
House of Representatives	43 rd (minority)	179	302	132	22	110
	44 th (majority)	184	276	0	0	0
Canadian House of Commons	40 th (minority)	290	35	34	3	31
	41 th (majority)	507	56	53	24	29
British House of Commons	55 th (minority)	735	126	121	8	110
	56 th (majority)	300				

House of Representatives figures taken from the Work of the Session documents available at www.aph.gov.au. Figures for the Canadian House of Commons taken from the Status of House Business documents available at www.ourcommons.ca. Figures for the British House of Commons taken from Annexe 6 of the Backbench Committee Report, Work of the Committee in the 2014-15 Parliament (2015). See bibliography for further details.

Although tables one and two appear to demonstrate a correlation between Executive Government influence over opportunities for private Members’ business, and the success rate of private Members’ motions and bills, longer term data and a more detailed analysis is needed to demonstrate this relationship conclusively. It is likely that other factors are also influencing the success rate of private Members’ business. For example, the large numbers of private Members pursuing Government bills during private Members business in the British House of Commons, or the effect of continually topping up the order of precedence for private Members’ business in the Canadian House of Commons.

Opportunities for private Members during routine business

In addition to time specifically set aside for private Members' business, private Members in the three chambers under consideration may also attempt to pursue business independently of their political parties or the Executive Government during chamber time reserved for routine business, but open to private Members. However, these opportunities do not enable private Members to initiate debate in a form which would require a vote of the house or to initiate legislative proposals and so offer limited opportunities to contribute to responsible and accountable Executive Government. In the House of Representatives opportunities for private Members during routine business include:

- Grievance Debates;
- Adjournment Debates; and
- Debates on Matters of Public Importance (Wright & Fowler, 2012, p. 573).

Grievance Debates have been part of parliamentary proceedings since Australia federated. The practice derives from the British House of Commons which historically insisted on considering Members' grievances before granting supply to the Crown (Wright & Fowler, 2012, p. 587). However, unlike the House of Representatives, the British and Canadian House of Commons no longer reserve time explicitly for the consideration of grievances. Rather, the British House of Commons considers grievances as part of debate on supply bills and resolutions which mean they usually proceed along party lines and afford no opportunity for individual private Members to raise issues of their own choice. Likewise, the Canadian House of Commons has replaced Grievance Debates with Opposition Days which provide an opportunity for the second and third largest political parties in the chamber to prioritise and pursue business in the chamber on specific days. Private Members are generally required to participate in Opposition Days as representatives of their prospective political parties and are not afforded opportunity to raise matters of their choice (O'Brien & Bosc, 2009, Chapter 18, Section vii).

Conversely, the House of Representatives has continued the practice of conducting Grievance Debates, quarantining an hour each sitting Monday in the Federation Chamber for this purpose. Debate is open to all Members, but Members of the Executive Government rarely participate as the debate is recognised as an opportunity primarily for private Members (Wright & Fowler, 2012, p. 587). Debate proceeds on the motion that the grievances be noted; enabling Members to speak for ten minutes on any subject, except those listed on the Notice Paper (the official agenda of the chamber) for consideration the next day (Wright & Fowler, 2012, pp. 587-8). The call alternates between opposition, government and independent members. There is no provision or requirement for the Executive Government to respond to any matters raised.

Grievance Debates provide private Members in the House of Representatives with a valuable opportunity to air matters of their choice but offer limited prospect for seeking Executive Government accountability. Standing Orders make no provision for the Executive Government to respond to matters raised during a Grievance Debate and, as Laski (cited in Wiseman 1966) notes, the power to compel the Executive Government to respond to grievances raised is critical to enforcing accountability:

“A government that is compelled to explain itself under cross-examination will do its best to avoid grounds of complaint. Nothing makes responsible government so sure. Where this power is absent, the room for tyranny is always wide; for nothing so develops inertia in a people as the inability to formulate grievance, and to see its redress is pressed upon the central source of power” (p. 129).

House of Representatives Grievance Debates are therefore best thought of as an opportunity for private Members to draw attention to constituency matters with the protection of parliamentary privilege. In this way Grievance Debates communicate public sentiment to the Executive Government and help to ensure parliament is relevant to constituents. Even with these limitations, the debate offers better opportunities for private Members to act independently of the Executive Government and their political party than Grievance Debates in the British House of Commons or Opposition Days in the Canadian House of Commons.

Unlike Grievance Debates, the practice of conducting an Adjournment Debate remains strong in each of the three chambers under consideration. Adjournment Debates in the House of Representatives comprise half an hour at the end of each sitting day and an hour in the Federation Chamber each sitting Thursday. Any Member may participate in the debate. However, it is generally understood that the Executive Government should not participate except to respond to a private Member’s statement. Private Members may speak for five minutes on any topic, except those listed on the Notice Paper for consideration the next day (Wright & Fowler, 2012, pp. 589-92). The call alternates between opposition, government and independent Members and, at the end of the Adjournment Debate, a Member of the Executive Government may move to extend debate for ten minutes to enable an Executive Government response to any matter raised.

Executive Government replies during Adjournment Debates are relatively rare in the House of Representatives, but are a well established practice in the Adjournment Debates of the British and Canadian House of Commons. The Canadian House of Commons reserves half hour for Adjournment Debates on sitting Mondays, Tuesday and Wednesdays. Debate consists of three, ten minute micro-debates on topics placed on notice by private Members and scheduled by the Private Members’ Business Office on behalf of the Speaker (House of Commons (CA), n.d., Chapter 7, Section i). Debate typically focuses on matters already raised by private Members through oral or written questions, but to which they feel the Executive Government has failed to adequately respond to (O’Brien & Bosc, 2009, Chapter 10, Section vi). Debate is highly structured. Private Members may introduce a matter for four minutes, before a four minute response from the Minister or Parliamentary Secretary responsible for the relevant portfolio. Debate concludes with one minute of additional comments from the raising Member and responding Minister (O’Brien & Bosc, 2009, Chapter 10, Section vi). Adjournment Debates are protected from interruption as points of order and questions of privilege are not permitted and consideration of matters arising from the conduct of the proceedings are deferred until the next witting day (House of Commons (CA), n.d., Chapter 7, Section i).

The British House of Commons reserves half an hour for an Adjournment Debate at the end of each sitting day. Private Members propose matters for debate and topics are selected via ballot every day except Thursdays when the Speaker may select the topic. Topics proposed for debate may concern administrative matters but may only incidentally refer to “matters requiring legislative remedy”

(House of Commons (UK), 2017, p. 37, SO 30). The proposing private Member may speak once to open the debate before the Executive Government is called upon to reply. Other Members may speak only if they are recognised by the Speaker (House of Commons (UK), n.d.b).

Of the three unique approaches to Adjournment Debates, the House of Representatives format enables the broadest private Members' participation with six, five minute speaking slots available. It provides the best opportunity for private Members to educate the Executive Government about the issues important to constituents. However, Executive Government responses to matters raised are not routinely provided and this limits the usefulness of this opportunity for Members seeking to hold the Executive Government to account. In contrast, Executive Government responses are customary in the Adjournment Debates of the British House of Commons, but only one private Member is guaranteed the call and may only speak once. This limitation combined with the comparatively large number of Members in the British House of Commons significantly reduces private Members' ability to access to this opportunity. Then again, Members who do manage to access this opportunity make speak for longer and may receive a longer response from the Executive Government. It may be that this affords better prospect of a satisfactory Executive Government response than the limited speaking times provided in the House of Representatives. The Canadian House of Commons strikes the best balance between providing opportunities for multiple private Members and offering an effective mechanism for seeking Executive Government accountability. The division of the debate into three micro-debates and the opportunity for private Members to comment on Executive Government responses enables broad participation while offering meaningful prospects for pursuing Executive Government scrutiny. By reflecting public sentiment to the Executive Government and contributing to responsible government, Adjournment Debates in the Canadian House of Commons safeguard public support for the Executive Government and confidence in parliament.

One type of routine business that is broadly accessible to all private Members across the three chambers under consideration is topical debates; known as Debates on Matters of Public Importance in the House of Representatives, and Emergency Debates in the Canadian and British House of Commons.

The House of Representatives reserves 90 minutes for Debates on Matters of Public Importance on sitting Tuesdays, Wednesdays and Thursdays. According to Standing Orders, any Member may propose a matter for debate by writing to the Speaker who selects a topic for chamber consideration (Dept. of the House of Representatives, 2016, pp. 32-33, SO 46). However, in practice a topic is informally selected by the leadership of the major opposition party and provided to the Speaker for endorsement. Matters debated are "invariably critical of some aspect of government administration or policy" (Speaker of the House of Representatives, 1993, p. 4). At the time allocated for debate, the Speaker calls on the proposing private Member to move the debate. Debate cannot proceed unless seven other Members rise to demonstrate their support for the proposed topic. The proposing Member and a responding Member from the governing political party begin the debate by speaking for 15 minutes each, before other Members are called upon to speak for up to ten minutes. Debate typically lasts up to an hour and 30 minutes and concludes without a vote or resolution. Any Member may terminate the debate early by calling on the business of the day (Wright & Fowler, 2012, pp. 592-600).

Despite Wright & Fowler's (2012, p. 573) characterisation of Debates on Matters of Public Importance as an opportunity for private Members, the debate is better thought of as 'opposition time' as it is primarily a vehicle for the major opposition party. The opposition leadership's practical control over matters proposed for debate inhibits independent private Members or Members from the governing and micro-political parties from suggesting matters for debate. It also ensures that topics selected are highly partisan in nature and as a result private Members generally participate as a representative of their political party, espousing the party's agreed view and not necessarily their understanding of constituents' views. It is not in private Members or the Executive Government's long-term interest to limit opportunities for private Members to freely represent their constituents' views in policy debates in this manner. If Members are able to represent their constituents' views, the Executive Government can ensure its policies reflect constituents' needs (Egan, 2011, p. 30). This can foster public support for Members and confidence in the Executive Government and Parliament. The highly partisan nature of Debates on Matters of Public Importance limits its usefulness as an expression of public sentiment. These limitations aside, Debates on Matters of Public Importance do provide a good opportunity for private Members from the major opposition party to seek to hold the Executive Government to account on a particular issue. The reasonable speaking times and length of the debate provides realistic prospects of exploring Executive Government actions in some depth.

The Canadian House of Commons conducts similar topical debates on significant matters known as Emergency Debates. Emergency Debates can occur at the end of any sitting day in lieu of an Adjournment Debate (except on sitting Fridays when an Emergency Debate can occur at any time). There is no time limit to debate and any Member, including Members of the Executive Government, may propose a matter for discussion. Standing Orders authorise the Speaker to approve the instigation of an Emergency Debate as long as the topic proposed is urgent and definite. If more than one debate is proposed, the first deemed 'in order' by the Speaker is conducted. Members may speak for 20 minutes followed by ten minutes of comments or questions from other Members. Like the House of Representatives' Debates on Matters of Public Importance, a vote or resolution of the house is not needed to conclude the debate (O'Brien & Bosc, 2009, Chapter 15, Section iv).

Emergency Debates in the Canadian House of Commons represent a better opportunity for private Members than Debates on Matters of Public Importance in the House of Representatives because any Member of any political party may propose a topic and debates are awarded on a first deemed 'in order', first debated basis. Whereas Debates on Matters of Public Importance are, in practice, only open to private Members of the opposition. Emergency Debates are also more flexible as they provide for both partisan and non-partisan discussion. Indeed, matters regarded as "highly partisan" in nature are not always readily approved by the Speaker. For example, between 1984 and 1988 there were 21 proposals to debate the Canadian-United States Free Trade Agreement, but none were granted (O'Brien & Bosc, 2009, Chapter 15, Section iv). Non-partisan debates provide greater freedom to private Members to reflect their interpretation of constituents' views on a particular matter as opposed to representing the view of their political party. In this way they ensure public sentiment informs Executive Government policy and contribute to public confidence in the operation of parliament as relevant and more than just a rubber stamp for Executive Government legislation.

The British House of Commons also conducts Emergency Debates. Any Member may rise in their seat after question time and move a motion (already placed on notice and deemed in order by the

Speaker) that the house debate a “specific and important matter” requiring “urgent consideration”. If the Speaker agrees, or if more than 40 Members rise to support the motion, an Emergency Debate is scheduled for up to three hours on a sitting Monday, Tuesday or Wednesday. If the Speaker disagrees, but less than 40 Members and more than ten Members rise in support of the motion, a division is used to settle the question. Like the topical debates conducted in the two other chambers under consideration, the Member proposing the debate speaks first and then the call generally alternatives between government and opposition parties. Debate concludes at the end of time allocated to the debate (up to the three hours) without a vote or resolution as the motion lapses (House of Commons (UK), 2017a, pp. 33-5, SO 24)

Emergency Debates in the British House of Commons possess similar strengths as Emergency Debates in the Canadian House of Commons. They enable non-partisan discussion and represent an opportunity for all private Members regardless of whether or not they belong to the governing political party. In discussing the importance of engaging private Members in debates, the British Select Committee on Modernisation of the House of Commons notes that debate contributes to both responsible government and highlights public sentiment:

“The exchange of views in an orderly manner, and the ability to intervene and follow up a point are vital in holding the Government to account and representing the interests of the constituency” (2007, Para 72).

For all these strengths, the British House of Commons conducts Emergency debates much less frequently than the House of Representatives holds Debates on Matters of Public Importance. During the 55th Parliament, the British House of Commons held just four Emergency Debates. This was followed by eight during the 56th Parliament (House of Commons Library, 2017, p. 1). In contrast the House of Representatives conducted 274 Debates on Matters of Public Importance across the 43rd and 44th Parliaments (Department of the House of Representatives, n.d). Although the British House of Commons Emergency Debates provides better opportunities to private Members from government or micro-political parties than the House of Representatives Debates on Matters of Public Importance, their infrequency combined with the large number of Members in the House of Commons limits private Members’ ability to access these opportunities. It also limits their usefulness as a mechanism to inform Executive Government policy and contribute to responsible government.

Conclusion

A comparison of the procedure and practices surrounding private Members’ business in the House of Representatives, the British House of Commons and the Canadian House of Commons reveals that, of the three chambers, private Members’ business in the House of Representatives is the most exposed to the influence of political parties and the Executive Government. The Selection Committee’s exposure to Executive Government influence via its membership impacts the provision of opportunities for private Members to independently pursue business, and their prospects for using these opportunities to air the views of their constituents or to contribute to responsible government.

The Executive Government’s influence over private Members’ business in the House of Representatives also appears to impact the success rate of private Members’ bills and motions,

increasing their sensitivity to changes between majority and minority government led parliaments. However, a longer term, more detailed analysis is required to demonstrate this conclusively.

Close consideration of opportunities for private Members within the routine business of the House of Representatives reveals that these opportunities are either, not truly an opportunity for private Members, or an opportunity to represent constituents' views without any meaningful prospect of seeking Executive Government accountability. In comparison, private Members in the British and Canadian House of Commons have more limited opportunities to raise matters in the chamber during routine business but better prospects for contributing to responsible government.

Given the increase in Executive Government dominance arising from modern political parties, the decline of public confidence in parliament and private Members' important role in contributing to responsible government between elections, the House of Representatives may like to consider refining opportunities available to private Members. In particular it may like to consider reforming how opportunities to pursue private Members' business are allocated to private Members and the designation of bills and motions as votable. The membership of the Selection Committee could be reformed based on the Backbench Business Committee model to limit Executive Government input into the scheduling of private Members' business and make it more representative of private Members more broadly. Alternatively, a ballot system modelled on the Canadian Private Members' Ballot could be adopted. Furthermore, all items of private Members' business should be deemed votable by default. Increasing the independence of the procedural mechanism used to allocate opportunities to private Members to pursue business would improve prospects for Members' to express constituents' views and contribute to responsible government. It would also increase opportunities for the Executive Government to ensure its policies align with public sentiment and, in so doing, may help maintain support for its leadership. Designating all items of private Members' business as votable by default would enhance opportunities for private Members to pursue responsible government.

Opportunities for private Members during routine business could also be refined by introducing a mechanism to facilitate non-partisan topical debates and by requiring an Executive Government response to issues raised during Adjournment and Grievance Debates. The introduction of non-partisan topical debates may help maintain public confidence in the parliament as a place of policy deliberation and not merely a rubber stamp for government legislation. Similarly, requiring Executive Government responses to matters raised in Adjournment of Grievance Debates would better enable scrutiny and accountability.

Ensuring private Members' have access to meaningful opportunities to contribute to responsible and accountable government may help maintain the 'health' of the Australian Parliament and preserve public confidence in Parliament. As noted by Wright & Fowler, "it is essential that there be no erosion of parliament's role in scrutinising the actions of government, such as might cause the parliament to become a mere 'rubber stamp' in respect of government policy" (2012, p. 45).

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