



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

OPTIONS FOR IN-PERSON VOTING

Procedural and Practical Considerations

June 30, 2020



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Background and introduction

On June 11, 2020, the Honourable Candice Bergen, House leader of the official opposition, wrote to the Speaker asking for an analysis of options that might allow for in-person voting to be conducted safely, to “ensure that no one wishing to vote is denied” while respecting public health guidelines. Ms. Bergen offered several suggestions, including a queuing system or voting on deferred divisions over a longer period of time (similar to processes used in the House of Commons of the United Kingdom), voting in shifts, proxy voting and an expansion of the pairing system.

This report sets out procedural and practical considerations in relation to these options.

Principles

Changes to the in-person voting system should be developed with the following guiding principles in mind:

- **Safety:** Members must be able to vote in a way that is safe for them and for House staff and that respects advice from health authorities, including physical distancing guidelines.
- **Efficiency:** The process should be as efficient as possible having regard for the time of the House and of members, and it should allow for results to be announced in a timely way.
- **Accuracy and integrity:** It must be clear to members what they are voting on, and the results must be captured accurately, ensuring that each member’s vote is correctly recorded.
- **Transparency:** It must be clear during the voting process how each member’s vote is being cast.

Public health context

As the COVID-19 situation continues to evolve, we are maintaining the various preventative and mitigating measures within the precinct, as recommended by public health officials. Such measures include increased sanitization, adapted workspaces, and availability of personal protective equipment or non-medical masks.

The methods and strategies applied to reduce the risk of spreading the virus are communicated on a regular basis. Among other things, individuals should:

- stay home and not come into the workplace if they feel sick or have symptoms, including coughing, fever, sore throat, chills, shortness of breath, nasal congestion, muscle aches, or fatigue;
- minimize close contact by practising physical distancing and staying two metres (two arm-lengths) away from others;
- wash their hands frequently with soap and water for at least 20 seconds, or use hand sanitizer to maintain good hand hygiene;
- cough or sneeze into their arm or a tissue, not their hands; and
- avoid touching their eyes, nose and mouth with unwashed hands.

In the context of the various options for in-person voting, the assumption is that all 338 members could be physically present on the precinct. Presumably, the presence of these members also means a comparable presence of staff.

Given this prospect, the Administration would implement additional mitigation measures to deal with circulation in the various House buildings. Without being exhaustive, this would include dedicated entry and exit points, a limited number of people in elevators, and the use of physical barriers where appropriate. In addition, during votes, Administration staff would be present in West Block to control the flow of circulation and monitor the application of the various preventative and mitigating measures. The number of mask distribution points would be increased throughout the precinct.

This work was already under way to support members as the level of activity within the precinct increased over time since March 13.

Analysis of options

The options suggested can be grouped into four categories: voting by queuing, voting in shifts, block or proxy voting, and expanded pairing. Each of these options will be examined in order to highlight the procedural and practical considerations that would be associated with their implementation.

The initial decision-making process leading to a recorded division would be the same for all these options. Once debate concludes on a motion, the Speaker begins by asking whether it is the pleasure of the House to adopt a motion. If any dissenting voice is heard, a voice vote is held. If members wish to proceed to a recorded division, five members must rise in the House to signal this request to the Chair. The vote can take place immediately or be deferred, as provided for by the Standing Orders.

In analyzing the various options, it is also useful to consider the different voting scenarios that may exist. These are described in greater detail below, along with some statistical information on the frequency of each scenario. In analyzing each option, the ease with which these options can be adapted to various scenarios will be highlighted.

Votes that require an immediate decision

There are a number of situations where a vote cannot be deferred, because the result has an impact on the subsequent proceedings. This would be the case for dilatory motions and for certain other types of motions (e.g. time allocation, closure, votes on the last supply day). Since January 2018, 25% of all recorded divisions have been on motions where the decision could not be deferred.¹

Votes with dependencies

On occasion, the House must vote successively on an amendment to a substantive motion, then on the main motion itself. Yet before members can vote on the main motion, they need to know whether they are voting on the original motion or on the motion as amended. There are also cases during the study of bills at report stage where the result of one vote may require additional questions to be put. Approximately 14% of all divisions taken since January 2018 have involved dependencies.

Votes held successively

Whether by deferral, by Standing Order or through agreement, the practice of holding several votes successively is well established. As described above, there are occasionally dependencies between several votes, but it is also common for multiple votes to be held at the same time, even if there is no link between the questions. Since January 2018, 71% of recorded divisions have occurred as part of a series.

Application of results

By unanimous consent, the results of a previous recorded division whose results have been announced can be applied to a recorded division that is about to be taken. As in the current process, to apply the results of a previous decision, a representative of each party and independent members must give their consent to the application of the results and state how they will vote. The division will appear in the Journals as if it had taken place according to the normal process. This approach could be used in combination with certain options to eliminate the need for multiple divisions to be taken successively. Since January 2018, 71% of recorded divisions have occurred as part of a series, while only 21% of divisions were held at a time when no other divisions took place.

¹ In order to avoid skewing the numbers, the hundreds of recorded divisions on opposed items have not been included in these statistics.

Votes in committee of the whole

While rare, votes in committee of the whole may also be conducted at a member's request. The current rules provide for such votes to be held immediately, without bells being rung to call in members. Members' names are not recorded in these situations.

Secret ballots

The Standing Orders set out two situations in which the House must conduct votes by secret ballot: the election of the Speaker and an appeal of a designation of an item of private members' business. These procedures are used only once or twice per Parliament.

Queuing

This option is adapted from the practice in the United Kingdom and would have members walk past table officers to cast their vote rather than having members vote from their seat in the Chamber.

After analysis of the various spaces in the precinct and taking into account the current pandemic and associated public health recommendations, we propose that the vote take place in the courtyard space surrounding the Chamber, as shown in Figure A below.

To respect public health advice, consideration has been given to three activities surrounding such a voting process: queuing, dispersion (after members have voted) and overall circulation in West Block.

The **queue** would begin within both the North-Eastern and Western corridors; individuals would enter the courtyard from the south and move north. Two voting stations staffed by table officers would be located at the north end of the courtyard. Corridor widths would still allow for circulation within the building. Stanchions or tape on the floor would identify the queue path. To respect the two-metre physical distancing requirement, it is estimated that 56 people would be able to line up in each queue, with government members forming one queue and opposition members forming another.

To manage the queue and at the same time reduce the number of persons in the space surrounding the Chamber and the corridors, we would work with the whips' office to "schedule" members by group in a staggered fashion.

Once members have voted, it is expected that they would **disperse**, respecting physical distancing guidelines, by heading either to their lobbies or to the Chamber or by returning to their offices, as large gatherings around the Chamber should be avoided.

With the increased **circulation** of members and staff in West Block during in-person voting, we recommend that the wearing of masks be made mandatory, recognizing that maintaining physical distance at all times will be difficult.

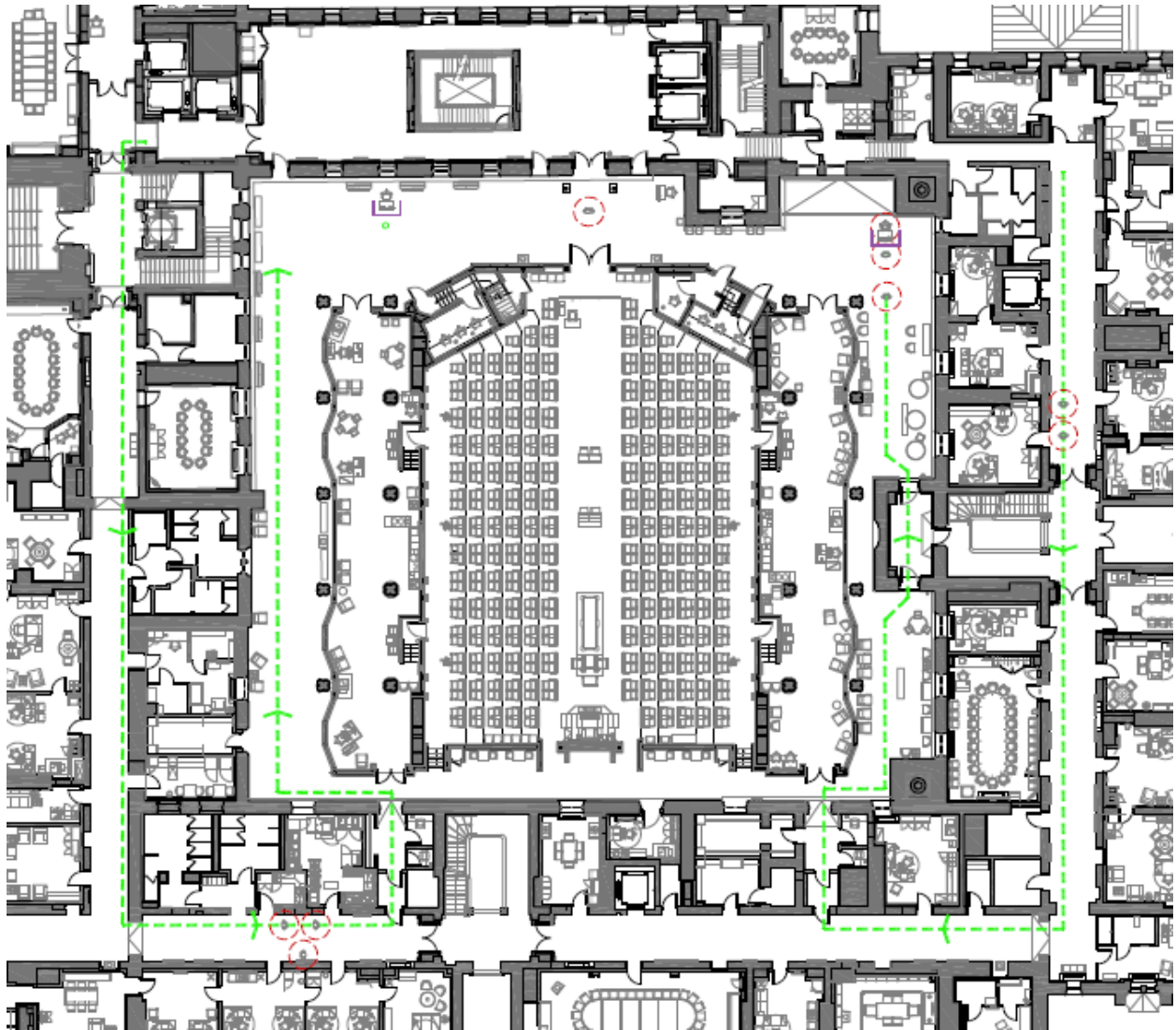


Figure A

Proposed methodology

Before the bells ring to call in the members for a recorded division, the whips will have two minutes to approach the Speaker to ask for the vote to be deferred in accordance with existing procedures. After those two minutes have passed, the Speaker will order that the designated voting areas be vacated, that members be called in for the vote and that the bells be rung. The vote can then begin.

Time allocated for voting (the bells)

Under this proposal, the length of time that the bells ring will correspond to the length of time that members have to get to the designated voting areas; it will no longer correspond to the amount of time they have to get to the Chamber before the recorded vote. Thus, the convention regarding the arrival of the whips to mark the beginning of the vote will no longer apply. The bells will ring throughout the vote. As is currently the case, an electronic timer will be used and the parliamentary broadcasting system will show the reason the bells are ringing.

While it is estimated that it could take between 40 to 60 minutes for all 337 members to vote, we recommend some flexibility with respect to the time allocated for this process until members become familiar with it. With experience, adjustments and improvements could be made, which might reduce the time required for the vote.

Voting process

When they arrive before the table officers, members will vote for or against the motion in question. The text of the motion could be posted on screens in certain places in the queue in order to comply with the convention that members must hear the question in order to be able to vote. Once members have voted, they must disperse in order to comply with public health guidelines.

Members will have until the bells stop ringing to get to the designated voting areas. Members who are not already in line to vote at that time will not be able to vote. A method will have to be developed to close off the queue in these circumstances, either by limiting access to the designated areas or by assigning staff to manage the queue, for example. Contrary to the current practice, the whips will not be able to shorten the time during which the bells ring.

Announcement of results

The results will be announced a few minutes after the bells stop ringing, after the members in the designated voting areas have had a chance to vote. When the vote is recorded and the “yeas” and “nays” have been counted, the Speaker will bring the House to order, and the Clerk will rise and share the results of the vote with the Speaker. The Speaker will then declare the motion (or amendment) carried or defeated.

Voting scenarios

This is a good option for votes on a single issue, but it could be less effective when a number of votes need to be held at the same time. Members could be allowed to vote on several separate issues at the same time. The existing practice of applying the results of one vote to others could also be used to address this problem, particularly if the votes involve dependencies.

The path members will follow is somewhat similar to the one they already take when the Speaker is elected by secret ballot.

Other locations

Members could vote in the courtyard as described above or in another location outside of the Chamber during a specific period. At any point during this window, members would arrive at the designated location and could vote on as many questions as have been deferred to that moment. It would be up to the House to determine whether to maintain or adjust the current time limits around deferrals set out in the Standing Orders, which provide for many questions to be deferred until no later than the end of the next sitting day that is not a Friday and others to be deferred until Wednesday evenings.

After analysis, it is recommended that votes take place in the Sir John A. Macdonald Building (SJAM), as shown in Figure B. This option would satisfy the guiding principles stated above.

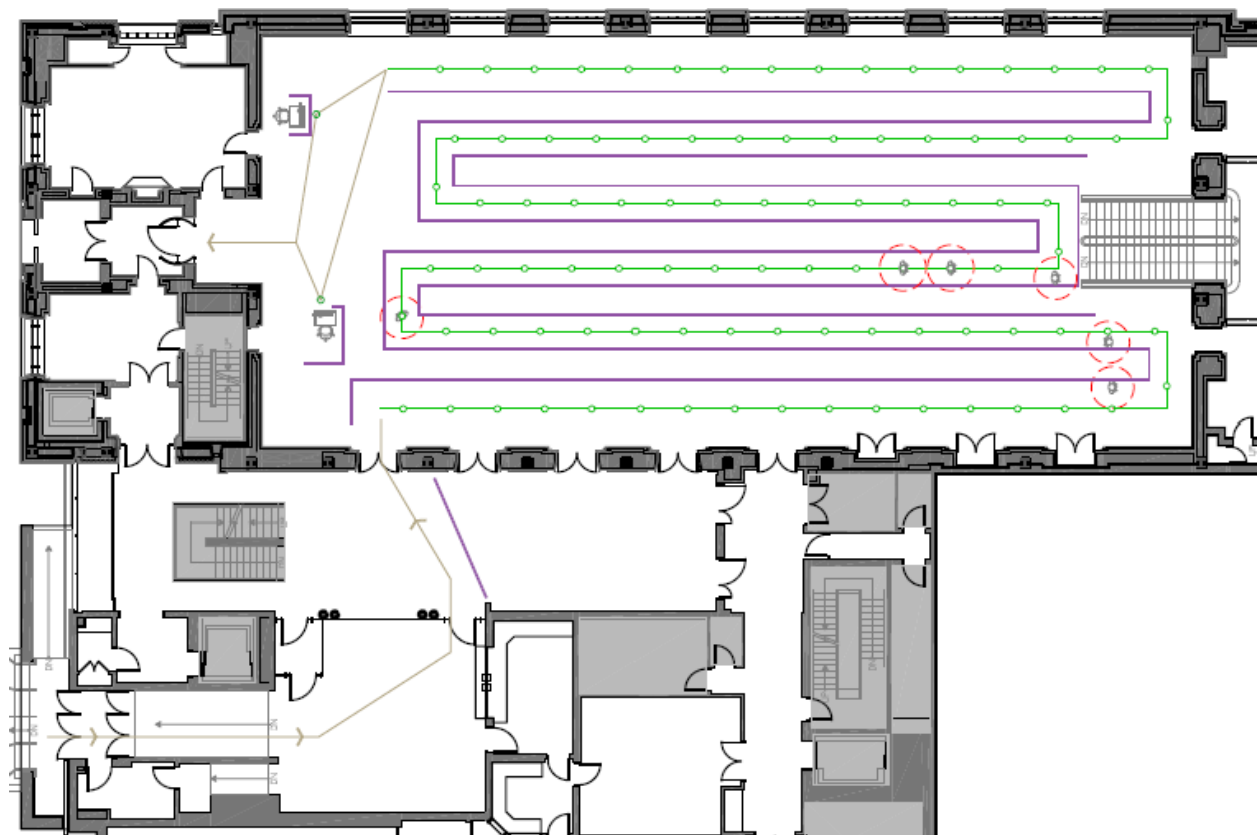


Figure B: SJAM

Having an alternate location for deferred divisions would not be disruptive to the sitting of the House. One could even entertain that the voting period for deferred divisions could be longer and that the “voting period” could be concurrent with the House sitting.

Rather than using a ballot paper, as is the practice in the United Kingdom, in order to limit contact with procedural staff, members could indicate their votes orally; however, the questions on which they are voting would have to be displayed so that it is clear to members what they are voting on.

Once the designated time has elapsed, the results of these deferred divisions would be announced in the Chamber by the Speaker, who would then declare the relevant motions carried or defeated.

Voting scenarios

This scenario would be practical either for single votes or for successive independent votes. It also essentially reflects the current practice of votes by secret ballot for appeals on the votability of an item of private members' business. However, another option would have to be used when a vote cannot be deferred and must be taken immediately. It could also be less efficient for cases where one question depends on the result of another.

Shift voting

This option has members voting in shifts so as to allow them to cast their votes in the Chamber using the method with which they are already familiar: standing and being called by one of the clerks-at-the-table. Several adjustments would have to be made to current practices to implement this.

Given the requirement for physical distancing, attendance in the Chamber would be limited to a maximum of 86 members at any one time (see Figure C below). They would take their places at designated desks, laid out so as to ensure a safe distance from other members. With the bells still ringing, the whips could signal the readiness of members to vote by walking down the aisle for each shift. The bells would stop and the Speaker would read the question for each group and ask those who are in favour to stand, followed by those who are opposed. Once a group has finished voting, the Speaker would ask members who are present to leave the Chamber and, once the Chamber is empty, the bells would begin to sound again to call in the second group of members.

In this scenario, the length of time that the bells would ring between groups would depend on the time it takes for a group of 86 members to be in their assigned seats. As with the queuing option, a time frame could also be identified after which no additional members could join a group to vote. For efficiency's sake, it would be preferable to have each shift formed on a first-come, first-served basis, with a subsequent group of 86 members formed in a designated waiting area.

This approach presents some challenges:

Assuming 337 members will be voting, this would require four groups to move through the Chamber. The **time** required to complete this process is estimated to be over three hours. This is in part because of the need to clean desks between each group. Also, each member would need to be ushered to a seat in a sequential manner to avoid crossing paths. For their safety, members should sanitize their hands before entering the Chamber and after leaving it, and they should also avoid touching surfaces at their designated desks.

Another element that complicates this process would be the challenge of having groups of up to 86 coming and leaving at the same time without having an effective holding room for the next group to ensure physical distancing. While recognizing that people could wear masks where physical distancing is not possible, we believe that this situation would not provide an adequate sense of safety for some.

For these reasons, we do not recommend the use of this method except possibly for a significant single vote.

Voting scenarios

Shift voting could be well suited to votes on a single question, but it is less efficient if several divisions are to be taken. The possibility of having the whips apply votes or allowing shifts to vote on several questions successively before switching could alleviate some of those challenges. It would be more difficult to apply this option to votes in committee of the whole where the practice is for the vote to be taken immediately, with only those present voting. It would likely be unnecessary for votes involving a secret ballot.

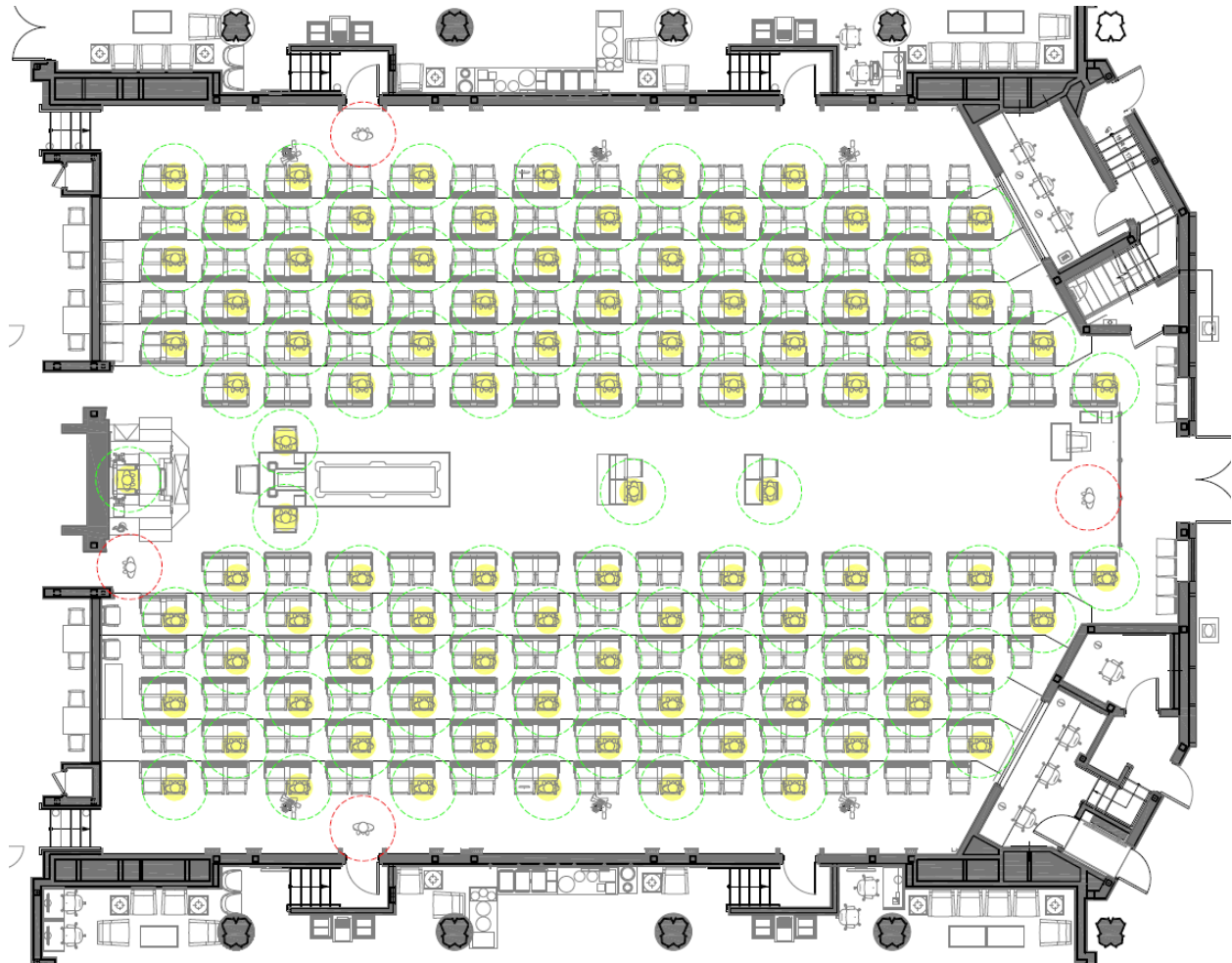


Figure C: 86 members

Block voting

Block voting, or the practice of having one representative of each political party vote on behalf of their membership, would require limited changes to the procedures for recorded divisions.

Given that not all members need to be present to cast their vote, the length of bells could be shortened to a period of 15 minutes for all types of recorded divisions. After 15 minutes, the Speaker would rise, repeat the question to the House and ask the parties to indicate how they would vote. Similar to what is done currently for applied votes, the whip of each recognized party or their designate would state how the party will be voting. Independent members must also indicate how they are voting on the motion, though unrecognized parties could also use block voting.

To ensure that the right of all members to vote is respected, the Speaker would then ask if any member wishes to have their vote recorded differently and could recognize members in the Chamber. A method could also be devised by which members not present in the Chamber could indicate their desire not to be included in a block vote, though this would not allow their vote to be cast differently unless a proxy system also existed.

Once announced, the results of a recorded division would stand as a decision of the House. If members wish to change their vote, they must seek unanimous consent. The division will appear in the Journals as if it has taken place according to the normal process, with the names of all members having voted yea, nay or paired appearing in accordance with the block or individual vote.

Voting scenarios

The efficiency of block voting would lend itself well to situations of single or multiple votes, including cases where there are dependencies between questions. It would, however, not be well suited to cases where votes do not occur along party lines, such as on items of private members' business. Also, it would not be a suitable replacement for votes that occur by secret ballot.

Proxy voting

While similar to block voting insofar as one member may cast a vote on behalf of another, proxy voting supposes that individual members designate one of their colleagues to vote in their name. It would not necessarily have to be the party whip, though it should be a member who will be present in the Chamber for the vote in question.

The House would have to determine if there should be limits as to which members are eligible to avail themselves of proxy voting and how this eligibility is to be evaluated. In many other legislatures where this practice exists, it is normally limited to members who are on parental leave or have had a miscarriage. In the United Kingdom, proxy voting has now been extended to those who are unable to attend in person for medical or public health reasons related to the pandemic. The House may also wish to consider whether to limit the number of proxy votes that a single member can hold.

Eligible members would have to designate their proxy using an electronic form developed for this purpose, which would spell out the period of time for which the proxy was valid. A similar process could be followed to allow members to revoke a proxy.

After a recorded division is completed, but before the results are announced, the proxies could then rise on points of order to indicate for whom they are voting and which way they cast those votes. Alternatively, there could be a public registry identifying who holds proxies, and the vote of a member who designated a proxy could simply be applied to align with the member holding that proxy. Practical consideration would have to be given to the number of proxies a member could hold and to how long this process of announcing votes by proxy would take. Implicit in this system is the idea that members trust their proxies to vote in accordance with their wishes. Therefore, unanimous consent would be required to change a vote cast by proxy, just as it is required for in-person voting.

Members whose votes were cast by proxies would appear in the list of yeas and nays published in the Journals and in the Debates in the same manner as those who voted in person.

Voting scenarios

Like block voting, the relative efficiency of proxy voting would lend itself well to a variety of voting scenarios, though this efficiency would depend on the number of members acting as proxies. It may not, however, be advisable to conduct votes by secret ballot where there is no method by which a member could ensure that a proxy voted according to his or her wishes.

Pairing of Members

House of Commons practice allows members who are unable to be present for a recorded division to be paired, with a member from the government and a member from the opposition both abstaining in order to neutralize the effect of their respective absences. Though pairs have been recorded in the Journals since 1991, pairing has continued to be viewed as a private agreement between members, and there is no consequence to breaking a pairing arrangement. While there is technically no limit to the number of members who can be paired, the practice has been for only a handful of members to be paired for any division. The current process could be expanded and refined to put in additional safeguards.

At present, only the government whip and an opposition whip are permitted to register pairs on behalf of their respective caucuses. There is no requirement for members to indicate their willingness to be paired, nor can they make this arrangement independent of their whip. According to the Standing Orders, members who do not belong to a recognized party are paired by the chief opposition whip, though in practice, non-recognized groups may designate a person who is empowered to pair members of that group.

Members should be required to confirm their desire to be paired. They could do so by email from their personal account, attaching a form bearing their signature.

Pairs must be registered before a vote begins for the pairing to be valid.

To ensure that broken pairs do not tilt the balance of a vote, the Standing Orders could be amended to invalidate the vote of any member who was paired at the time of the division.

Voting scenarios

As this system varies little from current practice, it would be easy to implement for just about any voting scenario. However, it would not lend itself well to votes by secret ballot, nor to votes in committee of the whole where names are not recorded.