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# Beyond the Pandemic: To What Extent Should Parliament Embrace Remote Participation in the Digital Age?

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**Abstract:** While technological breakthroughs have long enabled virtual business meetings worldwide, Parliaments only recently grappled with the necessity of remote participation prompted by the COVID-19 pandemic. In response to lockdown requirements, Parliaments worldwide adopted remote participation from 2020 to early 2022. Remote participation undeniably facilitated the functioning of Parliaments through unprecedented challenges. However, variations in procedures, the ratio of allowed remote participation, and the scope of members' actions when participating remotely notably varied across jurisdictions. This variation implies significant considerations regarding the tension between maintaining parliamentary functionality and adhering to procedural formality, which are significant to ensure Parliament's constitutionality, integrity, and dignity. This article investigates the approaches to remote participation in Victoria and selected Westminster jurisdictions, examining their implications for parliamentary procedures and formality. By exploring how remote participation aligns with parliamentary principles of constitutionality, integrity, and dignity, it aims to offer insights into the relationship between remote participation and parliamentary procedure, providing clarity on its potential applications and limitations in future events. In doing so, it also contributes to the discussion on the balance between adaptability and tradition in modern parliaments.

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## INTRODUCTION

Parliaments have long utilised remote participation in committees, evolving from teleconferences (audio) to more sophisticated audiovisual platforms overtime.<sup>2</sup> However, it wasn't until the COVID-19 pandemic that the need for remote participation in plenary sessions

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<sup>2</sup> Inter-Parliamentary Union, World e-Parliament Report 2018, p. 50.

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gained critical importance. In response to lockdown requirements, parliaments worldwide adopted remote participation in their sittings.<sup>3</sup>

Westminster Parliaments similarly embraced teleconferencing but initially confined its use to committee meetings. In Australia, the Senate amended its standing orders in early 1997 to allow remote participation in Senate Committees, with the House of Representatives following suit in late 2000.<sup>4</sup> In New Zealand, select committees had accepted submissions via video conferencing for several years.<sup>5</sup> The UK Parliament experimented with and eventually institutionalised virtual committee meetings in the early stages of the pandemic.<sup>6</sup> These virtual committee sessions provided an important test for virtual parliaments in technical terms.

Virtual parliamentary sittings, however, encountered more significant constitutional, procedural, and technical challenges compared to committee meetings. Committees were able to adapt more easily as their procedural arrangements are based on the constitutional authority of the Houses to regulate their own proceedings.<sup>7</sup> In contrast, parliamentary sittings are constitutionally constrained by provisions such as the location of sittings and the requirement for members to be 'present', which traditionally implies physical presence.<sup>8</sup> Additionally, parliamentary sittings follow highly formalised and structured practices designed

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<sup>3</sup> Inter-Parliamentary Union, Country compilation of parliamentary responses to the pandemic. Accessed at <https://www.ipu.org/country-compilation-parliamentary-responses-pandemic#N>

<sup>4</sup> Stephanie Gill, 'Can you hear me? Remote participation in the Commonwealth Parliament', Flagpost, Australian Parliament. Accessed at [https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/8723082/upload\\_binary/8723082.pdf;fileType=application%2Fpdf#search=%22library/prspub/8723082%22](https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/8723082/upload_binary/8723082.pdf;fileType=application%2Fpdf#search=%22library/prspub/8723082%22).

<sup>5</sup> Phil Smith, 'Submission rising: Parliament's feedback flood. *Radio New Zealand*, 17 October 2021. Accessed at <https://www.rnz.co.nz/national/programmes/the-house/audio/2018815908/submission-rising-parliament-s-feedback-flood>.

<sup>6</sup> The UK House of Commons allowed Virtual Select Committee Meetings on 24 March 2020. See Lindsay Hoyle, UK Parliament, *Delegated Legislation*, House of Commons, 24 March 2020. Accessed at <https://hansard.parliament.uk/Commons/2020-03-24/debates/A7CE205E-D980-48A1-8255-B5B6594000A7/DelegatedLegislation#contribution-D59E4D20-55CF-424C-87C7-DC743AA383B4>.

<sup>7</sup> See, for example, *Australian Constitution*, s50

<sup>8</sup> For example, *Australian Constitution* s 125 states that: The seat of Government of the Commonwealth shall be determined by the Parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth, and shall be vested in and belong to the Commonwealth, and shall be in the State of New South Wales, and be distant not less than one hundred miles from Sydney. Such territory shall contain an area of not less than one hundred square miles, and such portion thereof as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor. The Parliament shall sit at Melbourne until it meet at the seat of Government.

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to uphold Parliaments' order, democratic nature, and also symbolic value— many of which are difficult to fully observe when members are not physically in the Chamber.

Technical challenges also arose, including concerns about potential disruptions caused by system failure, as well as the significant costs associated with installing and maintaining technology on a larger scale. Despite these obstacles, parliaments within the Westminster system, to varying degrees, adopted remote participation as a response to the pandemic. This experience offers a valuable opportunity to explore the potential of virtual sittings in the digital age.

This paper investigates the implementation of remote participation in the UK, the Commonwealth of Australia, the State of Victoria, and New Zealand from 2020 to 2022. It first examines how remote participation was deployed in these jurisdictions during the pandemic and identifies the principles that guided this deployment. In doing so, the paper aims to provide insights into the relationship between remote participation and parliamentary proceedings, clarifying its applicability and limitations for future events. Ultimately, it contributes to the discussion on balancing adaptability and tradition in modern parliaments.

## **THE EMERGENCE OF REMOTE PARTICIPATION DURING THE PANDEMIC**

### *The UK*

The UK Parliament led the way in adopting remote participation, applying it to varying degrees in the two Houses.

#### **The House of Commons**

After returning from Easter break on 21 April 2020, the House of Commons deployed a hybrid sitting system. This arrangement allowed up to 50 members to be physically present in the Chamber, while up to 120 members could attend remotely via screens placed around the Chamber.<sup>9</sup> Initially, hybrid sittings were allowed only for scrutiny proceedings (questions and statements), but on the following day, they were expanded to substantive proceedings, including debates and legislation. The Speaker published call lists to replace the traditional process of members seeking calls in the Chamber. To facilitate hybrid sitting, on 22 April, the

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<sup>9</sup> UK Parliament, House of Commons takes historic first step towards virtual proceedings. Accessed at <https://www.parliament.uk/business/news/2020/april1/hybrid-house-of-commons/>.

House of Commons agreed to remote voting, with the first remote division being experimented on 12 May about a general debate on COVID-19.<sup>10</sup>

Considering these as temporary arrangements, the House of Commons agreed on 20 May 2020 that hybrid proceedings and remote voting would lapse.<sup>11</sup> After the Whitsun recess, on 2 June, the House passed a motion to return to physical proceedings with social distancing. However, on 4 June, it was agreed that members unable to attend in person could still participate in scrutiny proceedings remotely, resulting in a part-hybrid system. Participation in debates remained restricted to those physically present.<sup>12</sup> A new voting system was introduced, where members lined up in socially-distanced queues to declare their vote at the despatch boxes.<sup>13</sup> From November 2020, members within the Palace could apply for proxy votes to reduce pressure on the division lobbies.<sup>14</sup>

The temporary arrangements allowing members to participate virtually and vote via proxy were extended in March 2021 and again in June 2021 until 22 July 2021.<sup>15</sup> The orders expired on 22 July 2021 when the House rose for the summer recess. The recall of the House of Commons on 18 August 2021 to debate the situation in Afghanistan marked its return to full in-person sessions.<sup>16</sup>

### **The House of Lords**

The UK House of Lords distinguished itself by adopting fully virtual sittings. After returning from the Easter break on 21 April 2020, the House met physically to agree on a motion allowing virtual proceedings. The first virtual proceedings followed on Oral Questions. Virtual sessions were held between physical sittings in the Chamber, where only a limited number of members could attend. On 23 April 2020, all proceedings were conducted virtually, including the first virtual debates.<sup>17</sup>

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<sup>10</sup> S. Priddy, House of Commons Library, Coronavirus timeline: How the Commons virtually went virtual. Accessed at <https://commonslibrary.parliament.uk/coronavirus-timeline-how-the-commons-went-virtual/>.

<sup>11</sup> S. Priddy, Coronavirus timeline: How the Commons virtually went virtual.

<sup>12</sup> S. Priddy, Coronavirus timeline: End of hybrid proceedings in the House of Commons. Accessed at <https://commonslibrary.parliament.uk/coronavirus-timeline-end-of-hybrid-proceedings-in-the-house-of-commons/>.

<sup>13</sup> S. Priddy, Coronavirus timeline: How the Commons virtually went virtual.

<sup>14</sup> S. Priddy, Coronavirus timeline: End of hybrid proceedings in the House of Commons.

<sup>15</sup> S. Priddy, Coronavirus timeline: End of hybrid proceedings in the House of Commons.

<sup>16</sup> S. Priddy, Coronavirus timeline: End of hybrid proceedings in the House of Commons.

<sup>17</sup> E. Scott and N. Newson, House of Lords Library, House of Lords: timeline of response to Covid-19 pandemic. Accessed at <https://lordslibrary.parliament.uk/house-of-lords-timeline-of-response-to-covid-19-pandemic/>.

Initially, virtual proceedings covered oral questions, private notice questions, statements, urgent question repeats, and debates on statutory instruments.<sup>18</sup> The first virtual debate on a statutory instrument took place on 5 May 2020, although formal approval of the instrument still had to take place in the chamber.<sup>19</sup> On 6 May 2020, the House of Lords passed a motion permitting the committee stage of public bills to be held virtually,<sup>20</sup> with Virtual Committees replacing Grand Committee for bills at this stage. However, divisions were not allowed, and decisions to alter the bill could only be made by unanimity.<sup>21</sup>

The House of Lords transitioned to hybrid sittings on 8 June 2020,<sup>22</sup> with a maximum of 30 members permitted to participate from the Chamber at any given time to maintain social distancing. The House ruled that ‘Sittings of the hybrid House have the same status as normal sittings of the House. The Mace will be on the Woolsack, and there will need to be a physical presence in the Chamber of at least three members, the quorum required in the physical House.’<sup>23</sup> Hybrid sitting could take all the decisions typically taken by the House, with remote participants counted towards quorum for divisions on bills and subordinate legislation.<sup>24</sup> Remote voting was introduced for hybrid sittings, with the first remote voting taking place on 15 June 2020.<sup>25</sup>

On 12 July 2021, the House of Lords approved amended procedures for resuming physical sittings after the summer recess. Despite this shift, the House retained hybrid sittings by changing its Standing Orders to allow members who are unable to attend physically due to

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<sup>18</sup> Lord Speaker’s statement on UK Parliament’s response to the spread of COVID-19, UK Parliament. Accessed at <https://www.parliament.uk/business/news/2020/march/lord-speaker-statement-on-covid-19/>.

<sup>19</sup> E. Scott and N. Newson, House of Lords: timeline of response to Covid-19 pandemic.

<sup>20</sup> UK Parliament, Hansard, Business of the House (Virtual Proceedings relating to the Committee stage of public bills and to Messages and First Readings), Volume 803: debated on Wednesday 6 May 2020. Accessed at [https://hansard.parliament.uk/Lords/2020-05-06/debates/A5A7F911-4863-4C96-AAD5-C47F183AF425/BusinessOfTheHouse\(VirtualProceedingsRelatingToTheCommitteeStageOfPublicBillsAndToMessagesAndFirstReadings\)](https://hansard.parliament.uk/Lords/2020-05-06/debates/A5A7F911-4863-4C96-AAD5-C47F183AF425/BusinessOfTheHouse(VirtualProceedingsRelatingToTheCommitteeStageOfPublicBillsAndToMessagesAndFirstReadings)).

<sup>21</sup> Procedural Committee, Guidance on Virtual Proceedings, Issue 2, 30 April 2020.

<sup>22</sup> UK Parliament, Hansard, Business of the House Volume 803: debated on Thursday 4 June 2020. Accessed at <https://hansard.parliament.uk/Lords/2020-06-04/debates/6C8AFF53-FAC1-4193-860C-CA0EF977E8D3/BusinessOfTheHouse>.

<sup>23</sup> Procedure and Privileges Committee, Guidance on Hybrid House, Issue 1, 5 June 2020.

<sup>24</sup> Procedure and Privileges Committee, Guidance on Hybrid House, Issue 1, 5 June 2020.

<sup>25</sup> E. Scott and N. Newson, House of Lords: timeline of response to Covid-19 pandemic.

long-term disability to participate remotely.<sup>26</sup> On 22 February 2022, the House agreed to enable members to participate virtually in oral statements and repeated urgent questions.<sup>27</sup>

### *Australian Federal Parliament*

Parliaments in Australia took a more cautious approach to remote participation. To comply with public health advice, alternative solutions were favoured, such as pairing members,<sup>28</sup> reallocating seats to maintain sufficient space between members, cancelling scheduled sittings,<sup>29</sup> and temporarily shutting down.<sup>30</sup> The Senate, on 8 April 2020, established a COVID-19 Select Committee to scrutinise the government's response to the pandemic, in the absence of the parliament.<sup>31</sup>

Remote participation in the Commonwealth Parliament took place for the first time on 24 August 2020. According to a resolution passed by the House on the same day, members could participate remotely if the Speaker was satisfied that the member was unable to physically attend Parliament due to COVID-19-related reasons. Remote participation required the use of the official parliamentary video facility, and members had to be present either at an Electorate Office or a Commonwealth Parliament Office.<sup>32</sup> The scope of remote participation was limited, allowing members to contribute to debates and ask or answer questions at Question Time. Remote participants were recorded in the attendance register, and their contributions would be treated as made in the Chamber.<sup>33</sup>

<sup>26</sup> See Standing Order 24A, Standing Orders of the House of Lords.

<sup>27</sup> E. Scott and N. Newson, House of Lords: timeline of response to Covid-19 pandemic.

<sup>28</sup> Pairing is an unofficial arrangement under which, when a member on one side of the House is absent for any votes when a member from the other side is to be absent at the same time. This arrangement maintains the relative voting strengths of the parties. See Parliament of Australia, The House must go on. Accessed at [https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committees%2Freportrep%2F024511%2F0007;query=Alternateld\\_Phrase%3A%22committees%2Freportrep%2F024511%2F75076%22;rec=0](https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committees%2Freportrep%2F024511%2F0007;query=Alternateld_Phrase%3A%22committees%2Freportrep%2F024511%2F75076%22;rec=0).

<sup>29</sup> Dianne Heriot, Australian Parliament, Australia's Parliament House in 2020: a Chronology of Events. Accessed at [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/rp2021/Chronologies/APH2020-Chronology](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp2021/Chronologies/APH2020-Chronology).

<sup>30</sup> Anne Twomey, A virtual Australian parliament is possible – and may be needed – during the coronavirus pandemic, *The Conversation*, 25 March 2020. Accessed at <https://theconversation.com/a-virtual-australian-parliament-is-possible-and-may-be-needed-during-the-coronavirus-pandemic-134540>.

<sup>31</sup> Dianne Heriot, Australia's Parliament House in 2020: a Chronology of Events.

<sup>32</sup> Votes and Proceedings, No 63, Monday 24 August 2020, p. 1027. The requirement to be attending the Electorate Office or a Commonwealth Parliament Office can be waived for COVID-related reasons. See the Appendix A of the Report 1 of 2021.

<sup>33</sup> Votes and Proceedings, No 63, Monday 24 August 2020, p. 1027.

A similar arrangement was made in the Senate. According to the Senate resolution, the decision to allow a member to participate remotely was to be made jointly by the President and Deputy President. Senators participating remotely were restricted from moving motions or amendments, proposing or being counted in support of a proposal to discuss a Matter of Public Importance or urgency motion, being counted for quorum formation, raising a point of order, or calling or participating in a division.<sup>34</sup>

Both Houses allowed remote participation on a fortnightly sitting basis, including 24 August to 3 September; 6 to 8 October;<sup>35</sup> 9 to 12 November;<sup>36</sup> and 30 November to 10 December in 2020.<sup>37</sup> Changes to ACT Government restrictions enabled greater attendance by parliamentarians during the 9 to 12 November sittings. Records show that over 130 members and 68 senators attended in person over the sitting fortnight.<sup>38</sup>

Remote participation continued in the Australian Parliament in 2021 and 2022. On 15 February 2021, when Victoria was in lockdown, both Houses allowed members from Victoria to participate and contribute remotely. On 3 August 2021, the House and the Senate revised rules to expand remote participation, leading to 41 members and 25 Senators participating via video link. Remote participation was reinstated from 22 November to 2 December. In 2022, at the surge of the Omicron variant, the two Houses resumed remote participation on 8 February.<sup>39</sup>

### *Victorian Parliament*

Like the Commonwealth Parliament, the Legislative Assembly and Legislative Council of Victoria initially responded to the pandemic by reducing their sittings and enforcing physical distancing in the Chambers. Other measures included shortening sitting hours,<sup>40</sup> allowing

<sup>34</sup> Journal of the Senate No 59—24 August 2020, p. 2065.

<sup>35</sup> Journal of the Senate N. 67—6 October 2020, p. 2328.

<sup>36</sup> Journal of the Senate No 70—9 November 2020, p. 2446.

<sup>37</sup> Journal of the Senate No 74—30 November 2020, p. 2593.

<sup>38</sup> Diane Heriot and Anna Hough, Parliament of Australia, Australia's Parliament House in 2020: a Chronology of Events. Accessed at: [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/rp2021/Chronologies/APH2020-Chronology#\\_ftn260](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp2021/Chronologies/APH2020-Chronology#_ftn260).

<sup>39</sup> Diane Heriot, Stephanie Gill and Pauline Downing, Parliament of Australia, Australia's Parliament House in 2022: a Chronology of Parliament, accessed at [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_departments/Parliamentary\\_Library/pubs/rp/rp2223/Chronologies/Parliamentin2022](https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/pubs/rp/rp2223/Chronologies/Parliamentin2022).

<sup>40</sup> Victorian Legislative Assembly's Votes and Proceedings 2018-22, p. 317, Victorian Legislative Council's Minutes of the Proceedings 2018-22, p. 490;

written submissions for statements, adjournment matters<sup>41</sup> and speeches on bills,<sup>42</sup> immediate moving of second reading,<sup>43</sup> implementing pairing arrangements,<sup>44</sup> and using public galleries as extensions of the Chambers to maintain physical distancing.<sup>45</sup>

The Legislative Assembly was the first to allow remote participation. On 23 April 2020, the House laid the groundwork by resolving that ‘so much of standing and sessional orders be suspended to allow [...] the House [...] to meet in a manner and form not otherwise provided for in the standing and sessional orders’.<sup>46</sup> Remote participation was formally introduced on 3 September 2020. However, the House did not employ remote participation during the March and May sittings of 2021. It resumed on 8 June 2021 and continued for several consecutive sitting weeks until 7 October 2021. The House ceased remote participation from the sitting week beginning 26 October 2021.<sup>47</sup>

The House’s resolutions<sup>48</sup> outlined the conditions for members to attend sittings remotely and the scope of their participation. Remote participation required the Chair’s approval and was permitted only when the member’s inability to attend was beyond their control, provided they had reliable audio or audio/visual links for identity verification and participation. Members participating remotely could debate motions, bills, grievances, and Matter of Public Importance. They were also permitted to ask questions at Question Time, raise adjournment matters, and provide personal explanations. However, they were not counted for quorum purposes and could not vote.

The Victorian Legislative Council started to consider remote participation on 18 August 2020, but the question was adjourned indefinitely.<sup>49</sup> On 7 September 2021, the House resolved to request the President to present a report about the feasibility of remote participation.<sup>50</sup> The

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<sup>41</sup> Victorian Legislative Assembly’s Votes and Proceedings 2018-22, p. 317, Victorian Legislative Council’s Minutes of the Proceedings 2018-22, p. 490;

<sup>42</sup> Victorian Legislative Assembly’s Votes and Proceedings 2018-22, p. 329; Victorian Legislative Council’s Minutes of the Proceedings 2018-22, p. 490;

<sup>43</sup> Victorian Legislative Assembly’s Votes and Proceedings 2018-22, p. 329.

<sup>44</sup> Victorian Legislative Council’s Minutes of the Proceedings 2018-22, p. 489;

<sup>45</sup> Victorian Legislative Assembly’s Votes and Proceedings 2018-22, p. 329; Victorian Legislative Council’s Minutes of the Proceedings 2018-22, p. 421;

<sup>46</sup> Victorian Legislative Assembly’s Votes and Proceedings 2018-22, p. 329-30.

<sup>47</sup> Victorian Legislative Assembly Votes and Proceedings 2018–22, p. 725.

<sup>48</sup> Victorian Legislative Assembly Votes and Proceedings 2018–22 pp. 368, 402, 420, 442, 460, 477, 520, 598, 616, 634.

<sup>49</sup> Victorian Legislative Council Minute of Proceedings 2018-22, p. 503.

<sup>50</sup> Council Minute of Proceedings No. 117 Tuesday 7 September 2021, p. 849.

President submitted his report two days later, confirming that there were no legal or technical barriers to holding hybrid sittings where some members participate remotely. However, the report raised uncertainty regarding members being counted for the quorum and voting. Based on these concerns, the President suggested some limitations on members participating remotely, such as not chairing the debate or drawing the Chair's attention to the state of the House.<sup>51</sup> As a result, on 15 September 2021, the Council passed a resolution allowing hybrid sittings. The resolution allowed members to participate in debate remotely using an audio-visual link but excluded them from being counted for quorum or voting. Additionally, there were restrictions on their roles, such as not being allowed to chair debate, refuse leave or raise or speak on a point of order. The resolution was applicable until 31 December 2021.<sup>52</sup>

### *New Zealand Parliament*

New Zealand was the last Parliament among those studied to adopt remote participation. Despite the later start, New Zealand implemented broad remote participation, resulting in a relatively high rate of member involvement.

At the onset of the pandemic, New Zealand's initial response included a month-long parliamentary shutdown, aligning with the first national lockdown from 25 March 2020 to 28 April 2020. During this period, the Epidemic Response Committee was established, chaired by the Leader of the Opposition and comprised of representatives from all parties, to scrutinize the government's pandemic management.<sup>53</sup> When transmission rates significantly dropped, the House resumed on 28 April with reduced attendance.<sup>54</sup> Initial reluctance to adopt remote participation was partly due to technical barriers and costs.<sup>55</sup>

The arrival of the Omicron variant in late 2021, which led to high transmission rates, highlighted the need for a sustainable solution. This coincided with efforts to develop a cost-effective model for remote participation.<sup>56</sup> On 17 February 2022, the House passed a sessional order allowing members to participate in proceedings digitally, without needing to be physically present in the Chamber. Under this order, remote participation was considered part of the

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<sup>51</sup> The President's Report to the Legislative Council, September 2021.

<sup>52</sup> Legislative Council Minutes of the Proceedings 2018-22, pp. 874-76.

<sup>53</sup> Journal of the House for the week beginning Wednesday, 25 March 2020.

<sup>54</sup> Interview with a New Zealand parliamentary officer.

<sup>55</sup> Interview with a New Zealand parliamentary officer.

<sup>56</sup> Interview with a New Zealand parliamentary officer; also see New Zealand Parliament Hansard of 17 February 2022.

House's proceedings, and members participating remotely were treated as present within the Chamber. They could submit documents electronically through the Clerk, and proxies were permitted without limits. Additionally, parties with five or fewer members could have votes cast on their behalf even if no members were physically present in the parliamentary precincts.<sup>57</sup>

Remote participation was permitted in New Zealand from 1 March to 31 August 2022. Statistics show that remote attendance peaked early but steadily declined from April onwards, as more Members returned to in-person sessions.

## VARIATIONS IN REMOTE PARTICIPATION IN UK, AUSTRALIA, VICTORIA AND NEW ZEALAND

The table below highlights the key differences in the application of remote participation across these four jurisdictions:

Houses	Start/end	Form	Scope of participation	Voting	Cap
<b>UK House of Commons</b>	21 April 2020 to 22 July 2021	Hybrid	Questions and statements, debates on legislation, then later limited to questions and statements.	Remote voting then proxy voting	120
<b>UK House of Lords</b>	21 April 2020 - Ongoing	Fully virtual in between physical, hybrid from 8 June	Virtual proceedings: Oral questions, private notice questions, statements, urgent question repeats and debates, then expanded to legislation, including the committee stage of debate on bills. Later confined to statements and urgent questions. Hybrid proceedings: No limits Part hybrid: only on scrutiny proceedings.	Remote voting then proxy voting, members counted for quorum	50
<b>Australian</b>	24 August		Contributing to debate,	Not allowed to	No cap but

<sup>57</sup> New Zealand Parliament sessional orders (53rd Parliament) as at 6 April 2022.

<b>House of Representatives</b>	2020 to 2 February 2022	Hybrid	asking/answering questions at Question Time	vote or counted for quorum	presiding officers would determine on a case-by-case basis
<b>Australian Senate</b>			Limitations were similar to the House of Representatives, except for moving amendments and requests to legislation in committee of the whole.		
<b>Victorian Assembly</b>	3 September 2020 to 26 October 2021	Hybrid	Can participate in debate but cannot move a motion, amendment or vote	Not allowed to vote or counted for quorum	No cap but presiding officers would determine on a case-by-case basis
<b>Victorian Council</b>	15 September 2021 to 31 December 2021	Hybrid			
<b>New Zealand</b>	17 February 2022 to 31 August 2022	Hybrid	No limits	Proxy voting; Being counted for quorum	No cap but quorum must be maintained in the Chamber

## KEY CONSIDERATIONS UNDERLYING REMOTE PARTICIPATION

Despite the differences in implementation, the application of remote participation in the UK, Australia, and New Zealand was driven by similar key considerations. These can be summarised into four main themes: functionality, constitutionality, procedure and formality, and practicality.

### *Functionality*

The adoption of remote participation across the UK, Australia, and New Zealand was driven by the need to maintain key parliamentary functions - scrutinising the government, authorising spending, and making laws - while adhering to public health measures to hinder virus transmission.<sup>58</sup> This imperative was emphasised in numerous resolutions allowing remote participation, in members' speeches, and in media discussions. For instance, the House of Commons stated it was acting 'to keep democracy going during the coronavirus crisis'.<sup>59</sup> Similarly, the House of Lords Select Committee on the Constitution confirmed that hybrid proceedings were 'a necessary solution to maintaining business continuity while a significant number of members are unable to attend [...] in person'.<sup>60</sup>

In many cases, remote participation was introduced when other avenues, such as long adjournment, temporary shutdown, and reduced physical attendance, proved insufficient. As mentioned above, physical distancing and other measures could not fully address the need for parliamentary oversight and legislative duties. The Leader of the House in New Zealand noted that 'some [...] senior members of Parliament [were] unable to attend and participate in parliamentary proceedings unless we find an alternative way for them to do so'.<sup>61</sup>

The timing of remote participation also corresponded to the COVID stages in each country. Australia and New Zealand, having lower transmission rates, delayed its introduction until later

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<sup>58</sup> Jacob Rees-Mogg, the Leader of the UK House of Commons, as cited by Rajeev Syal, UK to set up virtual parliament during coronavirus shutdown, the Guardian, 2 April 2020. Accessed at <https://www.theguardian.com/politics/2020/apr/01/uk-set-up-virtual-parliament-during-coronavirus-shutdown>.

<sup>59</sup> UK Parliament, House of Commons takes historic first step towards virtual proceedings.

<sup>60</sup> House of Lords, Select Committee on the Constitution, Covid-19 and Parliament, 1<sup>st</sup> Report of Session 2021–22, p. 24.

<sup>61</sup> Trevor Mallard, New Zealand, *Sessional Order—Remote Participation*, House of Representatives, 17 February 2022. Accessed at [https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb\\_20220217\\_20220217\\_20](https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20220217_20220217_20).

stages. New Zealand only adopted remote participation in 2022 when the Omicron variant rendered previous containment efforts insufficient.<sup>62</sup>

Ultimately, remote participation was seen as a temporary, necessary measure that would end once the public health crisis abated.

### *Constitutionality*

Constitutionality refers to the significant concern to ensure that the adoption of remote participation aligned with each country's constitutional framework. This concern greatly influenced the implementation of remote participation across the examined jurisdictions, as all parliaments carefully navigated constitutional rules to avoid questioning the validity of their proceedings and decisions.

In Australia, authorisation of remote participation was grounded in Section 50 of the Constitution, which gives the House the power to make and change its standing orders. To facilitate the effective application of this section, on 23 March 2020, the House amended Order 47(c) (ii) to change the requirement of an absolute majority of the House to a simple majority of members voting when suspending standing orders without notice. This amendment paved the way for the House to permit remote participation without necessitating the large physical presence of members in the Chamber.<sup>63</sup> The requirement for agreement of both the Leader of the House and the Manager of Opposition Business in this aspect underscored their efforts to pre-empt any challenges to the validity of their decisions.

All Parliaments were cautious in interpreting the constitutional stipulations regarding the location of parliamentary proceedings. Consequently, none opted for fully virtual sessions, and the scope of actions available to members participating remotely was limited, except in New Zealand. Maintaining a quorum in the parliamentary precincts was deemed essential for safeguarding the legitimacy of parliamentary proceedings and the validity of the decisions made.

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<sup>62</sup> See, for example, House of Lords: Remote Participation and Hybrid Sitings, Volume 812: debated on Thursday 20 May 2021, <https://hansard.parliament.uk/lords/2021-05-20/debates/1A303224-207C-4131-96B2-4A07DE9CF3D8/HouseOfLordsRemoteParticipationAndHybridSitings>. Also see House of Lords, Select Committee on the Constitution, COVID-19 and Parliament, published on 13 May 2021.

<sup>63</sup> New Zealand Parliament, Votes and Proceedings No. 51, 835 (23 March 2020).

For instance, in New Zealand, after considering the *Constitution Act 1986* (NZ) regarding the meeting place, the Parliament chose hybrid sittings with a quorum on-site.<sup>64</sup> This allowed the Parliament to assert that it continued to meet in the parliamentary precincts in Wellington, while enabling most members to participate remotely.<sup>65</sup> Similarly, the then Leader of the Opposition in the Australian Parliament noted, ‘The parliament is meeting and it is meeting here. [W]hen members want to make a contribution to a debate or discussion in different ways, they’re able to do so via video link. But for all other purposes you have to be here’.<sup>66</sup>

In Victoria, the Clerks of the Assembly and Council jointly sought legal advice on remote participation. They were advised that ‘*The Council and the Assembly may adopt orders or rules that permit Members to participate in proceedings remotely by means of audio-visual communication technology. In my view, such orders or rules may permit such Members to vote and to be counted in a quorum.*’<sup>67</sup> However, uncertainty persisted regarding the interpretation of the term ‘present’ in the *Constitution Act 1975*, particularly in relation to quorum and voting.<sup>68</sup> This ambiguity raised concerns that ‘this may not be a universally held view’, ‘could be contradicted by a court’, and ‘may be in the context of invalidating a law’. To mitigate these potential risks, both Houses opted for hybrid sittings, with members participating remotely were not allowed to vote or counted for quorum.<sup>69</sup>

Despite the absence of a written constitution, the UK Parliament also approached constitutional principles with caution. According to guidance from the Procedure Committee, ‘A Virtual Proceeding is not a sitting of the House. There is no Mace present and the Virtual Proceeding will not be empowered to make decisions’, clarifying that ‘when a decision is needed that must be taken by the House’.<sup>70</sup>

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<sup>64</sup> In New Zealand, the quorum requires a presiding officer, Minister, and Clerk at the Table. During hybrid sitting, three of them must be physically present at all times to ensure that the House met in the Chamber. See *Parliamentary Practice in New Zealand*, 5<sup>th</sup> Ed., p. 128.

<sup>65</sup> New Zealand Parliament, Hansard, 17 February 2022.

<sup>66</sup> T Burke, ‘Statements on Indulgence: COVID-10: Parliamentary Procedure’, House of Representatives, *Debates*, 24 August 2020, p. 5039.

<sup>67</sup> Chris Horan QC, Memorandum of Advice in the matter of the Legislative Assembly and Legislative Council of the Parliament of Victoria: Voting by remote means, 11 September 2020.

<sup>68</sup> Sections 32 and 40 of the *Constitution Act 1975*

<sup>69</sup> Legislative Council, President’s Report, September 2021.

<sup>70</sup> Guidance on Virtual Proceedings from the Procedure Committee. Issue 1, 16 April 2020.

### *Procedure and Formality*

This aspect refers to Parliaments' emphasis on adhering to established parliamentary practices when enabling remote participation.

Westminster Parliaments follow a broad set of rules regulating their proceedings. These rules establish the procedure and formality designed to ensure the effective operation of parliaments while safeguarding the parliamentary principles of democracy and transparency. By adhering to these procedures, parliaments also secure the legitimacy and dignity of the parliament and the merit of the outcomes of their debate.

To maintain adherence to parliamentary practice, all parliaments issued remote participation guidance, ensuring virtual proceedings mirrored in-person procedures as closely as possible. For instance, the House of Lords Procedure Committee stated, 'The procedure in Virtual Proceedings shall follow, so far as practical, procedure in the House', adding that 'Virtual Proceedings, and the members taking part, will attract all the usual protections of parliamentary privilege.'<sup>71</sup> Similarly, guidance across parliaments included rules for maintaining order during hybrid sittings.

In the House of Commons, members participating remotely were explicitly instructed not to display or reference objects to illustrate their contributions.<sup>72</sup> The Australian Senate required that 'the standing orders and other orders of the Senate, including the standing orders relating to the conduct of senators and rules of debate, otherwise apply to senators participating remotely, to the extent they are capable of applying'.<sup>73</sup> In Victoria, the Speaker's guidelines stipulated that 'Members participating remotely must participate with the same formality as though they were in the Chamber, and should wear normal business attire.'<sup>74</sup> In the Commonwealth Parliament, members were required to join remote participation from their electorate offices or a Commonwealth parliamentary office.

### *Practicality*

Practicality acknowledges the fact that the implementation of remote participation was unavoidably constrained by the accommodability of technology and the associated costs. It

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<sup>71</sup> The House of Lords Procedure Committee, Guidance on virtual proceedings.

<sup>72</sup> UK Parliament, House of Commons takes historic first step towards virtual proceedings.

<sup>73</sup> Australian Parliament, Senate Journal No. 59—24 August 2020, pp. 2064-5

<sup>74</sup> Victorian Legislative Assembly, Speaker's guidelines about remote participation.

explains several steps taken towards remote participation<sup>75</sup> and the limitations inherent in its application.

The practice of remote participation exhibited certain drawbacks of Parliaments' virtual and hybrid sittings. Some well-recognized issues include the inability to interject and raise points of order,<sup>76</sup> diminished in-person interaction, and loss of spontaneity during debates, all of which hampered the effectiveness of parliamentary scrutiny.<sup>77</sup> Additionally, the number of members participating remotely was often limited. In the UK House of Lords, members were onboarded individually by specially trained staff who needed to be on-site in a broadcasting hub. This process was time-consuming, capping the number of members participating remotely at 50.<sup>78</sup> However, if technical issues arose on the members' end, it would be nearly impossible to provide support from within the parliament precinct.<sup>79</sup>

Technical errors further compounded the challenges associated with remote participation. Members could be disconnected during their speech, disrupting the order of business in the House.<sup>80</sup> For example, in the UK, Member Kevin Brennan began his question but was cut off, while David Mundell missed his question entirely.<sup>81</sup> In the House of Lords, the online voting system malfunctioned twice, necessitating the rescheduling of divisions, slowing down the House's decision-making process.<sup>82</sup>

The above discussion points out that during the pandemic, parliaments adopted remote participation strictly on a necessary basis, ensuring compliance with constitutional requirements, adhering to parliamentary procedures and formalities, and operating within the constraints of their technical infrastructure and budgets. The following section will use these elements to test the case for continuing with remote participation in the future.

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<sup>75</sup> See the above section on The Emergence of Remote Participation which detailed the steps by the two Houses towards remote participation.

<sup>76</sup> UK Parliament, House of Commons takes historic first step towards virtual proceedings.

<sup>77</sup> House of Lords, Select Committee on the Constitution, Covid-19 and Parliament, 1<sup>st</sup> Report of Session 2021–22

<sup>78</sup> Guidance on Virtual Proceedings from the Procedure Committee: Issue 3, 11 MAY 2020

<sup>79</sup> Interview an IT staff member from the Parliament of Victoria.

<sup>80</sup> The UK House of Commons, Votes and Proceedings, No 63, Monday 24 August 2020, p. 1027.

<sup>81</sup> S. Priddy, Coronavirus timeline: How the Commons virtually went virtual.

<sup>82</sup> E. Scott and N. Newson, House of Lords: timeline of response to Covid-19 pandemic.

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## LOOKING FORWARD: TESTING THE KEY ELEMENTS OF REMOTE PARTICIPATION IN FUTURE CIRCUMSTANCES

This section evaluates the key elements underlying the application of remote participation during the pandemic against future circumstances to bolster the case for its continuation.

### *Functionality*

The application of remote participation in parliamentary sittings suggests its potential for use in future emergencies. Circumstances such as floods, fires, or civil unrest could similarly hinder members from attending the parliamentary precincts. In such cases, the appropriate solution would be to enable remote participation. Additionally, the desire for a modern parliament points to remote participation as a vehicle to accommodate members with babies or care giving responsibilities, disabilities, or those residing far from the parliamentary precinct. This capability has been recognised by parliaments; for example, the Select Committee on the Constitution of the UK said, 'We welcome the benefits remote proceedings have brought for members with disabilities, health concerns or caring responsibilities, or who are geographically distant.'<sup>83</sup> As stated by a staff member at the Victorian Parliament, remote participation facilitates a more accommodating parliament, which 'encourages greater nominations, leading to more competitive elections and providing the electorate more opportunities to select their preferred representatives.'<sup>84</sup> In this context, remote participation supports the development of a more adaptive and inclusive parliament.

While the case for remote participation can be substantiated, the question arises: why shouldn't it be allowed more broadly, enabling members to save time by not traveling to the physical chamber, thus balancing their presence between the legislature and their local communities?<sup>85</sup> In answering this, aside from the drawbacks of remote participation already mentioned, it is important to highlight the significance of the parliamentary workplace for both parliamentarians and staff, as well as the role of the physical environment in embodying the constitutional tradition.<sup>86</sup> Much is at stake if parliaments were to conduct their business virtually under normal circumstances.

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<sup>83</sup> The UK House of Lords, Select Committee on the Constitution, Covid-19 and Parliament, 1<sup>st</sup> Report of Session 2021–22, p. 24.

<sup>84</sup> Interview with a staff member in the Legislative Assembly Department of Victorian Parliament.

<sup>85</sup> P. Evans, P. Silk and H. White, *Parliaments and the Pandemic*, p. 206.

<sup>86</sup> P. Evans, P. Silk and H. White, *Parliaments and the Pandemic*, p. 206.

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Thus, it is essential to maintain the principle that members should attend sittings in person, with remote participation available only as a last resort. The Standing Orders Committee of the New Zealand Parliament stated: ‘We do not endorse remote participation being always available. Members should attend in person. Having all members present in Wellington facilitates cooperation and development for all members.’ It also suggests that ‘The Business Committee apply a reasonably high threshold to its decisions about the use of remote participation.’<sup>87</sup>

### *Constitutionality*

To support the case for continuing remote participation, it is necessary to strengthen its constitutional basis. As previously noted, the adoption of remote participation was partly limited by uncertainties regarding its compliance with constitutional provisions. To facilitate more effective remote participation in the future, it is advisable to clarify and solidify the constitutional framework that underpins it.

### *Procedure And Formality*

The arrangements for remote participation during the pandemic posed challenges to parliamentary procedures and formality. To facilitate smooth running in future circumstances necessitating remote participation, parliaments need to address various aspects of their practices, such as member conduct and interaction, available solutions for the Chair, parliamentary privileges for those participating remotely, dress codes, and the proper setup of their screens to uphold parliamentary standards in a virtual environment. It is advisable to develop comprehensive sets of rules for remote participation in parallel with those for physical sittings.

### *Practicality*

As we consider the why and how of holding remote participation in future parliamentary sittings, we must account for technical issues and costs. Given that parliaments already possess the necessary infrastructure from their pandemic experiences, technical barriers to remote participation are significantly diminished. Furthermore, rapid advancement in technology promises more effective and cost-efficient solutions to apply for virtual meetings in parliaments. Technical teams can monitor these developments and suggest appropriate enhancements.

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<sup>87</sup> Report of the Standing Orders Committee, August 2023 (I.18A), p. 15.

However, the use of video conferencing platforms is not without its challenges. No current application can replicate the full experience of chamber proceedings. For instance, how can a platform simulate a speaker 'being on their feet'? There are certain issues to be considered in practical terms, such as:

- Selecting appropriate technical infrastructure and solutions, which would often need to be on standby.
- Training requirements for staff to support members, the Chair, and the Clerk in facilitating remote participation, including tasks such as logging members in, receiving registrations, managing calls and documents, monitoring the screen, highlighting speakers, and taking appropriate actions in case of incidents.

## **CONCLUSION**

The pandemic accelerated the adoption of remote participation in parliamentary sittings, offering a valuable opportunity to assess its applicability for future events. This research seizes this opportunity by examining how remote participation was implemented during the pandemic by Westminster parliaments in the UK, Australia, New Zealand and Victoria.

Using the four criteria of functionality, constitutionality, procedure and formality, and practicability, this study evaluates how remote participation aligns with parliamentary values of constitutionality, integrity and dignity, while also enhancing adaptability in a modern context.

The research finds that remote participation enables members to contribute meaningfully to parliamentary sittings, even when circumstances prevent their physical presence in the chamber. With careful customisation of procedural rules, remote participation can be extended to members in need without undermining the prestige or dignity of parliaments. Moreover, when technical settings are aligned with procedural frameworks, the constitutional principles of parliaments remain firmly upheld.

Having examined all the above elements, it is clear that remote participation should be integrated into parliamentary practice. With careful design, remote participation can help build a more accommodating, adaptive, inclusive, and technologically advanced parliament that upholds both constitutional and traditional principles.