

Procedural Digest

No. 88*14 –23 June 2011*

<i>June 2011</i>				
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13	14	15	16	17
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Bills

88.01 *Speaker considers Opposition second reading amendment*

When debate resumed on the second reading stage of the Higher Education Support Amendment (Demand Driven Funding System and Other Measures) Bill 2011, an Opposition Member foreshadowed a second reading amendment. The Speaker made a statement on the proposed second reading amendment and asked that the amendment not be moved until further consideration. The Member did not move the amendment and briefly explained its intention. Following further debate on the bill, the second reading was adjourned and the resumption of the debate made an order of the day for a later hour that day.

On 23 June, the Deputy Speaker reported that the Speaker had approved revised terms of the amendment and that these had been circulated to Members. The Speaker had determined that in the unusual circumstances that applied, he would regard the amendment as having been moved by the Opposition Member.

Following further debate, the question that the revised amendment be agreed to was put and negatived on division.

Hansard: 21 June 2011, 6625-6633; 23 June 2011, 7076-125
Votes and Proceedings: 2010-11/675; 700-1

SOs 122, 123, 145

88.02 *Debate adjourned on Senate bills then immediately resumed cognately*

The order of the day was read for the second reading of the Tertiary Education Quality and Standards Agency Bill 2011, a Senate bill which had been received and read a first time on 20 June. The Minister for School Education, Early Childhood and Youth presented a revised explanatory memorandum, moved that the bill be read a second time and made a second reading speech. Debate was then adjourned and made an order of the day for a later hour. The same process then took place for the Tertiary Education Quality and Standards Agency (Consequential Amendments and Transitional Provisions) Bill 2011, a companion Senate bill.

Debate was then immediately resumed on the two bills cognately, and at the completion of debate, the two bills were each read a second and third time.

Hansard: 22 June 2011, 6845-58
Votes and Proceedings: 2010-11/687-8

SOs 142, 155, 166

Business

88.03 *Arrangements for address by New Zealand Prime Minister and the following day's sitting*

On 14 June, the House agreed to a motion moved by the Leader of the House, by leave, concerning arrangements for an address to be made to the House of Representatives on 20 June by the Right Honourable John Key, Prime Minister of New Zealand. The motion included provision for a message to be sent to the Senate inviting Senators to attend the House as guests, and to extend the powers of the Speaker in respect of visiting Senators from those seated in the Senators' gallery to those in other galleries and on the floor of the House. (For similar arrangements, *see* entries **21.17**, **36.03**, **52.10** and **76.03**.)

A further provision of the motion related to arrangements for the following day's sitting. On Tuesday 21 June, the House would sit at 12 noon, at which time government business would have priority until 2 pm, and divisions and quorums would be deferred until the conclusion of the discussion of a matter of public importance.

Hansard: 14 June 2011, 5856-8
Votes and Proceedings: 2010-11/620

SOs 29, 30, 34, 35, 257

88.04 *Motion to suspend standing orders to allow an explanation by a Minister*

Following the acknowledgement of country and prayers, an Opposition Member moved a suspension of so much of standing and sessional orders as would prevent him from moving a motion requiring an explanation by the Minister for Health and Ageing.

The Leader of the House moved that the 'member be no longer heard', and the question was negatived on division. The Manager of Opposition Business then sought an extension of time to speak, of five minutes, for the Opposition Member sponsoring the motion. The 'ayes' and the 'noes' being equal, the Speaker gave his casting vote with the 'noes' so as to "not stifle further discussion". The question that the sponsoring Member be granted an extension of time to speak was therefore negatived.

The original motion to suspend standing orders was then seconded and debate continued until the Leader of the House moved that the 'member be no longer heard'. The question was negatived on division. The time allotted for the debate under standing order 1 having expired without the question on the suspension of standing orders being put, the motion expired.

Note: House of Representatives Practice notes that in relation to debates, two main principles have emerged guiding the decision of Speakers in giving a casting vote: first, that, where possible, the Speaker vote for further discussion; and second, where further discussion is not possible, that decisions not be taken except by a majority. See pages 182-5.

Hansard: 15 June 2011, 6049-52
Votes and Proceedings: 2010-11/633-6

SOs 1, 34, 47, 80, 117, 125, 135

88.05 *Attempt to suspend standing orders to allow a censure motion*

During question time on 16 June 2011, the Leader of the Opposition moved, without notice, a suspension of so much of standing and sessional orders as would enable him to move a motion to censure the Prime Minister. Debate continued until the time allotted for the suspension motion expired. The result of the division on the question that the motion be agreed to was 'ayes' 71, 'noes' 70, but in the absence of an absolute majority, the motion was not carried. The Prime Minister then asked that further questions be placed on the *Notice Paper*.

Note: Standing order 47 provides that a motion to suspend standing and sessional orders moved without leave requires the agreement of an absolute majority of the House, that is, 76 Members.

Hansard: 16 June 2011, 6371-77
Votes and Proceedings: 2010-11/656-7

SOs 1, 47, 48

88.06 *Attempt to suspend standing orders to consider immediately a private Member's motion*

Following question time, a non-aligned Member moved, without notice, a suspension of so much of standing and sessional orders as would allow the House to consider immediately his private Member's motion. (That motion sought to establish an inquiry into the decision to suspend the live cattle trade to Indonesia.) Debate continued until the time allotted for the suspension motion expired. The result of the division on the question that the motion to suspend standing orders be agreed to was 'ayes' 72, 'noes' 69, but, in the absence of an absolute majority, the motion was not carried.

Note: Standing order 47 provides that a motion to suspend standing and sessional orders moved without leave requires the agreement of an absolute majority of the House, that is, 76 Members.

Hansard: 16 June 2011, 6377-84
Votes and Proceedings: 2010-11/658-9

SOs 1, 41, 47

88.07 *Address by Prime Minister of New Zealand*

On 20 June, in accordance with the resolution of the previous sitting (*see entry 88.03*), the House resumed upon the ringing of the bells at approximately 2.30 pm. Members, the President of the Senate and Senators having assembled, the Serjeant-at-Arms announced the arrival of the Speaker from the Members' Hall entrance. After taking the Chair and reading the acknowledgement of country and prayers, the Speaker welcomed the President of the Senate and Senators to the sitting of the House.

The Serjeant-at-Arms then escorted the Prime Minister of New Zealand, the Right Honourable John Key MP, to a seat adjacent to the Speaker's Chair. Following welcoming remarks from the Prime Minister and the Leader of the Opposition, Mr Key addressed Members and Senators.

When Prime Minister Key had left the Chamber, the Speaker suspended the sitting until the ringing of the bells. The sitting resumed at 4.35 pm and business proceeded in accordance with the resolution of the previous sitting.

Note: This was a sitting of the House, not a joint meeting of the two Houses. Senators had been invited (by way of a message) to attend as guests.

Hansard: 20 June 2011, 6449-56
Votes and Proceedings: 2010-11/663

SO 257

88.08 *Motion to suspend standing orders to allow a motion on the live cattle export*

On the resumption of sittings following the address by Prime Minister Key, a non-aligned Member moved, without notice, a suspension of so much of standing and sessional orders as would prevent him from moving a motion relating to live cattle exports. The motion was seconded by another non-aligned Member, who spoke for less than his allotted time. Having taken a series of points of order on the question of who would speak last in the debate, the Deputy Speaker gave the call to the Leader of the Opposition. Debate continued until time for the debate expired. The result of the division on the question that the motion to suspend

standing orders be agreed to was 'ayes' 75, 'noes' 74, but, in the absence of an absolute majority, the motion was not carried.

Note: While the non-aligned Member had sought the previous week to suspend standing orders to enable a motion on live cattle exports, the terms of this motion were different, and therefore not subject to standing order 114 ('Same motion').

Hansard: 20 June 2011, 6456-62
Votes and Proceedings: 2010-11/663-5

SOs 1, 41, 47, 114

88.09 *Motion to suspend standing orders lapsed for want of seconder*

Following question time, a non-aligned Member moved, without notice, a suspension of so much of standing and sessional orders as would allow him to move a motion relating to the National Rugby League. The Member not having secured the support of a seconder, the motion lapsed.

Note: Standing order 47 provides that a motion to suspend standing and sessional orders moved without leave must be relevant to any business under discussion and seconded.

Hansard: 22 June 2011, 6909-10

SO 47, 116

88.10 *Suspension of standing orders 31 and 33 – extended sitting*

Shortly after the Speaker took the Chair on 23 June, the Leader of the House, pursuant to notice, moved that standing order 31 (automatic adjournment of the House) and standing order 33 (limit on business after 10 pm) be suspended for that sitting day. The motion was moved in anticipation of the House sitting later than usual to receive the appropriation bills from the Senate, and was agreed to on the voices.

Throughout the day, the Leader of the House updated the House on the timing of the adjournment, which was dependent on the Senate's consideration and transmittal of the bills. At 6.20 pm, the Speaker suspended the sitting until the ringing of the bells. The sitting resumed at 9.26 pm.

Upon resumption, the House considered various items of business, including the appropriation bills and a bill which had been returned from the Senate with amendments. The Leader of the House moved that the House do now adjourn, and the question was put and passed at 9.43 pm.

Hansard: 23 June 2011, 7065; 7156; 7190-4
Votes and Proceedings: 2010-11/699, 707

SOs 31, 33, 47, 63, 155, 158, 261

Committees

88.11 *Advisory report on bill presented*

The Chair of the Standing Committee on Social Policy and Legal Affairs presented an advisory report on the Family Assistance and Other Legislation Amendment Bill 2011, incorporating a dissenting report. In addition to its comments on the bill, the report notes the committee's views on the more general process by which bills are referred to committees, including the time frame for reporting. The Chair and Deputy Chair of the Committee made statements by leave.

Note: The Selection Committee had determined that the bill be referred to the Committee in its report No. 23 presented on 2 June 2011.

Hansard: 14 June 2011, 5877-80
Votes and Proceedings: 2011/621

SOs 63, 143, 215, 222

88.12 *Advisory report on bill presented*

During government business on 15 June 2011, the Chair of the Standing Committee on Economics presented an advisory report on the National Consumer Credit Protection Amendment (Home Loans and Credit Cards) Bill 2011. The Chair and Deputy Chair of the Committee made statements in connection with the report, by leave.

During debate, both the Chair and the Deputy Chair remarked on the process by which bills are being referred to committees, and the adequacy of resources available to this committee in carrying out its scrutiny function.

Note: The Selection Committee had determined that the bill be referred to the Committee in its report No. 19 presented on 11 May 2011.

Hansard: 15 June 2011, 6056-9
Votes and Proceedings: 2010-11/636

SOs 143, 215, 222

88.13 *Advisory report on bills presented*

During government business, the Chair of the Standing Committee on Economics presented the committee's report, entitled *Advisory report on the Competition and Consumer (Price Signalling) Amendment Bill 2010 and the Competition and Consumer Amendment Bill (No. 1) 2011*, incorporating a dissenting report. While both bills considered in the report concerned the control of price signalling in Australian markets, one had been introduced by a private Member and the other introduced by the Government. The Chair of the committee made a statement in connection

with the report, by leave, as did the private Member responsible for one of the bills.

Note: The Selection Committee had determined that the bills be referred to the Committee in its report No. 8 presented on 24 November 2010. The private Member sponsoring the bill became a member of the committee for the purposes of the inquiry.

Hansard: 22 June 2011, 6948-51
Votes and Proceedings: 2010-11/692

SOs 41, 63, 143, 215, 222

88.14 *Senate amends resolution on Joint Select Committee*

On 23 June, the Speaker reported a Message from the Senate transmitting to the House an amendment to the resolution of appointment of the Joint Select Committee on Australia's Immigration Detention Network, and requesting the concurrence of the House. A second Message related to the appointment of Senators as members and participating members of the committee.

On the motion of the Leader of the House, the House agreed that consideration of the amendment to the resolution of appointment be made an order of the day for a later hour.

Note: The House had agreed to the establishment of the committee on 2 June 2011 (see entry 87.25) and the Senate had transmitted its concurrence with the resolution on 20 June 2011.

Hansard: 23 June 2011, 7066
Votes and Proceedings: 2010-11/699

SOs 41, 224, 261

88.15 *Bill referred to joint select committee*

In its Report No. 26, presented on 23 June, the Selection Committee determined that the Cybercrime Legislation Amendment Bill 2011 be referred to the Joint Select Committee on Cyber-Safety.

Note: While the Joint Select Committee's resolution of appointment does not specifically provide for the referral of bills, there is provision for the committee to 'report from time to time'.

Hansard: 23 June 2011, 7157
Votes and Proceedings: 2010-11/705

SO 143

Divisions

88.16 *Member indicates dissent on two bills*

During consideration in detail of the Family Assistance and Other Legislation Amendment Bill 2011, a non-aligned Member moved two amendments regarding the disability support pension. The question that the first amendment be agreed was negatived on the voices, although the Member rose to note that he was the only “voice for the ayes”. He then moved a second amendment to restore the indexation of the family tax benefit, again negatived on the voices. The Member requested that his dissent be recorded. The bill was then read a third time.

Later that day, the Member indicated his opposition to the Government’s consideration in detail amendments (2) to (10) to the National Consumer Credit Protection Amendment (Home Loans and Credit Cards) Bill 2011 without calling for a division.

Hansard: 22 June 2011, 6838-45; 6880

SOs 126, 148-153

Main Committee

88.17 *Main Committee suspended due to lack of quorum*

While in the Main Committee responding to questions during consideration in detail of the Appropriation Bill (No. 1) 2011-12, the Leader of the House noted that a quorum was required in the House and left the Main Committee. On noting the Main Committee was no longer quorate, the Deputy Speaker suspended proceedings. The Chair resumed shortly afterwards and proceedings continued.

Note: The Main Committee need not suspend when a quorum is called in the Chamber but the quorum required is the Deputy Speaker, one Government Member and one non-Government Member (standing order 184(b)).

Hansard: 20 June 2011, 6566

Votes and Proceedings: 2010-11/671

SOs 55, 184, 190

88.18 *Main Committee suspended due to lack of quorum*

During consideration in detail of the Appropriation Bill (No. 1) 2011-12, the Deputy Speaker noted that a quorum was not present, and suspended proceedings at approximately 6.25 pm. A quorum being present at 6.33 pm, the Chair was resumed and proceedings continued.

*Hansard: 21 June 2011, 6799
Votes and Proceedings: 2010-11/682*

SOs 55, 184, 190

88.19 *Main Committee suspended due to lack of quorum*

On three occasions on 22 June, the Deputy Speaker noted that a quorum was not present, and suspended proceedings in the Main Committee. The first occasion was during Constituency Statements, the second during consideration of the Higher Education Support Amendment (No. 1) Bill 2011, and the third during a condolence motion.

As had occurred on the previous two days (*see* entries 88.17 and 88.18) the quorum in the Main Committee was lost when quorums were required in the Chamber.

*Hansard: 22 June 2011, 6988, 7027, 7050
Votes and Proceedings: 2010-11/694, 695*

SOs 55, 184, 190

Members

88.20 *Member named and suspended*

During question time on 15 June, the Speaker warned the Deputy Manager of Opposition Business for interjecting. A short time later, the Speaker asked the Member if he 'recognised that he [had] been warned earlier in question time'. The Member having acknowledged the earlier warning, the Speaker named him for continuing to interject. The Member was suspended from the service of the House for 24 hours on the motion moved by the Leader of the House and carried on division.

*Hansard: 15 June 2011, 6125-6
Votes and Proceedings: 2010-11/641*

SOs 91, 94

Order of Business

88.21 *House meets at 12 noon on Tuesday*

Pursuant to adjournment, the Speaker took the Chair at 12 noon on Tuesday 21 June 2011, made the acknowledgement of country and read prayers.

Note: The House usually meets at 2 pm on Tuesdays. The earlier meeting time was agreed to by the House on the motion of the Leader of the House regarding the visit of the Prime Minister of New Zealand (*see* entry 88.03).

Hansard: 21 June 2011, 6625
Votes and Proceedings: 2010-11/675

SOs 34, 47

Private Members' Business

88.22 *Motion to condemn the Government passed in both Houses*

On 11 May 2011, the Senate agreed to a motion, proposed by the Australian Greens, to condemn the Government's immigration arrangement with Malaysia. The following day, a motion in identical terms was introduced to the House by the Greens Member.

On 16 May 2011, on the motion of the Leader of the House, standing and sessional orders were suspended to enable a number of items of private Members' business to be considered immediately, including that of Mr Bandt. The question that the motion be agreed to was put and agreed to on division.

Note: Shortly after, another private Member's motion that also contained the words 'condemn the Government' was agreed to on the voices.

Hansard: 16 June 2011, 6307-8
Votes and Proceedings: 2010-11/649
Senate Hansard: 11 May 2011, 2307-8
Journal: 2010-11/900

SOs 41, 47

88.23 *Motion to return items of private Member's business to the House*

To facilitate the further consideration of items of private Members' business in the House that had not yet been returned from the Main Committee, the Leader of the House moved that certain Main Committee orders of the day be returned to the House. He then moved that so much of standing and sessional orders be suspended as would prevent orders of the day relating to private Members' business being called on and considered immediately.

Note: Standing order 197(b) allows any Member to move that a matter be returned from the Main Committee to the House, and that the matter be 'set down for consideration at a later hour that day'.

Hansard: 23 June 2011, 7064
Votes and Proceedings: 2010-11/697

SOs 1, 34, 35, 41, 47, 125, 197

Privilege

88.24 *Alleged unauthorised disclosure of committee proceedings*

On 16 June, the Leader of the House raised as a matter of privilege an alleged unauthorised disclosure of a joint parliamentary committee's proceedings. In accordance with standing order 53, he tabled copies of articles from the *Sydney Morning Herald*, the *Herald Sun*, the *Daily Telegraph*, the *Canberra Times*, the *Western Australian* and the *Australian Financial Review* which allegedly cited 'direct quotes' from the committee's report that had yet to be tabled. The Speaker stated that in line with the traditional practice of the House, he would ask the committee to consider the matter and report back to him.

On 22 June, the Speaker presented a letter from the Chair of the Parliamentary Joint Committee on Law Enforcement, advising of the committee's consideration of the matter. The Leader of the House tabled a newspaper article, citing extracts from the letter tabled by the Speaker.

Hansard: 16 June 2011, 6310-1; 22 June 2011, 6821
Votes and Proceedings: 2010-11/652; 685

SOs 51, 53, 242

Questions

88.25 *Question to committee chair ruled out of order*

During question time on 21 June, an Opposition Member asked the Chair of the Standing Committee on Infrastructure and Communications a question about the committee's intention to inquire into the impact of a carbon tax on infrastructure.

Following the raising of points of order, the Speaker ruled the question out of order, noting that it was not related to a matter before the committee, and contained argument.

Note: In raising points of order, the Opposition relied on the precedent set in 1957 when a Member was allowed a question to a committee chair. The Speaker did not offer the Member an opportunity to rephrase the question.

Hansard: 21 June 2011, 6661-2

SOs 99, 100, 101

88.26 *Question to committee chair ruled out of order*

During question time on 22 June, an Opposition Member asked the Chair of the Standing Committee on Climate Change, Environment and the Arts a question about the committee's intention to inquire into the impact of a carbon tax on regional employment.

Referring to his ruling the day before, the Speaker again ruled the question out of order, adding that a chair is unable to report matters not previously reported to the House without discussion first with the committee.

Hansard: 22 June 2011, 6895-6

SO 99

88.27 *Additional response to an answer to a question*

After question time on 22 June, the Prime Minister added to an answer she had given earlier on occupational health and safety.

Hansard: 22 June 2011, 6908-9

SO 103

Speaker

88.28 *'Question to Speaker' on Register of Members' Interests*

At the end of question time, an Opposition Member referred to a newspaper article concerning the Minister for Health and Ageing and asked the Speaker whether matters of pecuniary interest cited in the article should be registered on the Register of Members' Interests. The Speaker referred the matter to the Committee of Privileges and Members' Interests for consideration.

Hansard: 16 June 2011, 6384

SOs 103, 216

88.29 *Speaker's statement on disorderly conduct*

On 21 June 2011, twelve quorums were called in the House. Six of these were called during the adjournment debate when an Opposition Member rose to speak four times, there being no other Member standing. Before the House rose, the Speaker made a statement calling for both sides of the Chamber to reflect on their behaviour and for an end to the disruptive tactics.

Hansard: 21 June 2011, 6762

SOs 31, 55

Withdrawals

88.30 *Offensive words*

	<i>Hansard</i>	
	<i>Date</i>	<i>Page</i>
'Thank you, Stanley.'	14 June 2011	5855
'...and the shadow minister tells a blatant lie when he says—'	14 June 2011	6030
'What a coward!'	22 June 2011	6902
<i>unrecorded</i>	23 June 2011	7143
<i>unrecorded</i>	23 June 2011	7143
'...we saw a complete miasma of lies—'	23 June 2011	7178

SOs 89, 90, 92