

Procedural Digest

No. 60*15 –25 September 2008*

<i>September 2008</i>				
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Bills

60.01 *Presentation of first bill to incoming Governor-General*

The Speaker informed the House that on 15 September he had personally presented the National Greenhouse and Energy Reporting Amendment Bill 2008 to the Governor-General for royal assent.

Note: It is customary for the Speaker, the Clerk of the House and usually the Attorney-General to attend a small ceremony at Government House during which the first bill is presented for assent to a new Governor-General. Her Excellency Ms Quentin Bryce AC was sworn in as Australia's 25th Governor-General on 5 September 2008.

Hansard: 15 September 2008, 7362

Votes and Proceedings: 2008/516

SO 175

60.02 *Leader of the Opposition responds to introduction of bill*

Following the introduction of the Australian Organ and Tissue Donation and Transplantation Authority Bill 2008 by the Prime Minister on behalf of another Minister, the Leader of the Opposition moved that the debate be adjourned, and made some comments on indulgence in strong support of the bill.

Hansard: 18 September 2008, 7852

SOs 65, 141

60.03 *President questioned about House action on bill*

The President of the Senate was asked a question by a Senator regarding reported constitutional issues involving a private Senators' bill which had been transmitted to the House of Representatives for concurrence. The President responded that he understood the House had not yet taken any action on the message from the Senate, and that he could not pre-empt what the House might or might not do in

respect of the bill. In response to a further question he noted that the constitutionality of bills originating in the other Chamber could be considered by the High Court if it was deemed necessary.

Senate Hansard: 23 September 2008, 5321

SOs 179, 180

60.04 *Constitutional issues raised by Senate bill*

Following the reporting of a message from the Senate transmitting the Urgent Relief for Single Age Pensioners Bill 2008 for concurrence, the Speaker made a statement regarding constitutional issues concerning the bill and presented a copy of advice he had received from the Clerk of the House, which he had provided to the Leader of the House and the Leader of the Opposition at an earlier stage. The Speaker noted that the bill would have the effect of increasing expenditure under standing appropriations, and that in line with sections 53 and 56 of the Constitution, such bills would usually originate in the House and require a message from the Governor-General recommending appropriation.

The Leader of the House then moved a motion to note the Speaker's statement and decline to consider the bill transmitted by the Senate. An Opposition Member rose to move an amendment to the motion and the Leader of the House moved that the question be put. The question was agreed to on division, and the original motion was then agreed to on a further division (*And see* entry **60.03**).

Hansard: 23 September 2008, 8273-81

Votes and Proceedings: 2008/553-6

SOs 179, 180

60.05 *Senate requests immediate consideration of bill*

A message was received from the Senate requesting that the House immediately consider the Urgent Relief for Single Age Pensioners Bill 2008, which the House had declined to consider earlier in the week due to constitutional reasons (*see* entry **60.04**). The message was reported but no action was taken.

Hansard: 25 September 2008, 8708

Votes and Proceedings: 2008/586-7

SO 261

Business

60.06 *Standing orders suspension — Private Members' motion moved during Government business time and referred to Main Committee*

During Government business, the House agreed to a motion moved by a Minister, by leave, to suspend standing and sessional orders to allow a private Member to

move a motion immediately, for debate to ensue on the motion and for the motion to then be referred to the Main Committee to be called on and debated during Government business time.

Accordingly, a Government Member moved a motion relating to the International Day of Democracy and spoke for 20 minutes on the motion. An Opposition Member then spoke to the motion for 15 minutes and debate was adjourned. The House then returned to Government business.

Note: It is rare for a private Members' business motion to be debated during Government business time. Being a Monday, private Members' business was scheduled for later in the sitting.

Hansard: 15 September 2008, 7312-21

Votes and Proceedings: 2008/514

SOs 1, 34, 35, 41, 47, 192

60.07 *Revised Ministry presented*

Prior to Question Time, the Prime Minister presented a copy of the Rudd Ministry as at 15 September 2008, which reflected changes to the representation arrangements in the Senate.

Hansard: 15 September 2008, 7339-41

Votes and Proceedings: 2008/515

60.08 *Confusion regarding motion to suspend standing orders*

During Question Time on 15 September, the Leader of the Opposition sought leave to move a motion censuring the Prime Minister. Leave was not granted. The Leader of the Opposition then moved, without notice, suspension of standing orders to enable him to move a motion against the Prime Minister. The Leader of the House raised points of order querying whether a signed motion for the suspension of standing orders had been provided to the Clerk. The Speaker stated that such a motion had not been provided in writing, and ruled the Leader of the Opposition's motion out of order.

The Manager of Opposition Business then raised a point of order stating that the motion could be read out to the House and then signed and presented. The Leader of the Opposition again rose and moved the suspension of standing orders, and debate ensued. Following the expiry of time for the debate, the suspension motion was negated on division.

Following Question Time, the Manager of Opposition Business asked the Speaker to clarify the point at which a motion to suspend standing orders must be submitted to the House in writing. The Speaker responded that as he understood it, the time at which a Member has put a proposal to the House and read it fully is when it should be presented in written form.

Note: While it is a convention that motions to suspend standing orders without notice are presented in writing, there is no such requirement specified in the standing orders, as there is for other motions such as the moving of amendments or dissent in the Speaker's ruling.

Hansard: 15 September 2008, 7354-62

Votes and Proceedings: 2008/515-6

SOs 47, 87, 121

60.09 *Statements regarding Opposition leadership*

Before Question Time on 16 September, the new Leader of the Opposition, on indulgence, (having been selected in a caucus meeting earlier in the day) announced the change in leadership of the Liberal Party. The Prime Minister then also made a statement on indulgence extending the Government's congratulations and paying tribute to the former Leader of the Opposition.

Hansard: 16 September 2008, 7503

SO 65

60.10 *Statements on indulgence congratulating Paralympic team*

Prior to Question Time the Prime Minister and the Leader of the Opposition both made statements on indulgence congratulating the Australian team on their performance at the Beijing Paralympic Games.

Hansard: 18 September 2008, 7938-9

SO 65

60.11 *Statements on indulgence condemning bombing in Pakistan*

Prior to Question Time the Prime Minister and the Leader of the Opposition both made statements on indulgence condemning the recent bomb attack on the Marriott Hotel in Islamabad, Pakistan.

Hansard: 22 September 2008, 8059-60

SO 65

60.12 *Changes to Shadow Ministry*

Immediately prior to Question Time on 22 September, the Leader of the Opposition presented a revised Shadow Ministry list.

Note: The revised Shadow Ministry follows the new Leader of the Opposition's recent appointment (*see entry 60.09*).

Hansard: 22 September 2008, 8060-3

Votes and Proceedings: 2008/543

60.13 *Opposition motion to suspend standing orders; Three Members closed; Opposition moves closure of question*

During Question Time on 25 September, the Leader of the Opposition moved, without notice, suspension of standing orders to enable him to move a motion condemning the Government. After the terms of the motion had been read out, the Leader of the House moved that the Member be no longer heard which was carried on division. The seconder was similarly closed on division and a third Opposition Member rose to speak and was also closed on division. The Leader of the House then began to speak to the motion and the Manager of Opposition Business moved that the question be put. The question was carried on the voices and the original suspension motion was negated on division.

Note: After the mover and seconder of such motions are closed, a Minister usually moves the closure of question, preventing any further debate on the motion. On this occasion a third Member was closed and the Opposition moved to close the debate on its own motion to prevent the Leader of the House from speaking to it further.

Hansard: 25 September 2008, 8685-90

Votes and Proceedings: 2008/576-80

SOs 47, 80, 81

60.14 *Speaker requested to state full terms of question before the Chair*

During a division on the question that a motion to suspend standing orders moved by the Leader of the Opposition be agreed to (*see* entry **60.13**), the Manager of Opposition Business requested that the Speaker repeat the full motion before the Chair in accordance with standing order 67. The Speaker, noting that the full terms of the motion before the Chair had not been circulated to Members, repeated the Leader of the Opposition's suspension motion in its entirety. The motion called for the suspension of standing orders to enable the Leader of the Opposition to move a motion condemning the Government.

Hansard: 25 September 2008, 8689

SO 67

60.15 *Leave not granted for Ministerial statement; MPI disposed of*

Following Question Time (during which the Opposition had attempted to suspend standing orders to move a motion condemning the Government), the Minister for the Environment, Heritage and the Arts sought leave to make a Ministerial statement relating to the Caring for our Country program. Leave was not granted.

The Chair then announced a proposed matter of public importance and the Leader of the House moved that the business of the day be called on. The question was carried on division.

Hansard: 25 September 2008, 8701-3

SOs 46, 63

Chamber

60.16 *Reminder about mobile phones*

Following prayers, the Speaker reminded the House that mobile phones should be turned off or left outside the Chamber.

Hansard: 15 September 2008, 7311

SO 60

60.17 *Baby brought into Chamber*

During a division on 25 September, the Manager of Opposition Business noted that there was a stranger in the House (a Member's baby), and while he was most welcome his vote should not be counted. The Chair thanked the Member for bringing the fact to his attention.

Hansard: 25 September 2008, 8622

SO 257

Divisions

60.18 *Division on motion to adjourn*

Following the disposal of the proposed MPI by division (*see* entry **60.15**), the Chair proposed the question that the House do now adjourn. The Leader of the House required the question to be put immediately, which was carried on division. The question that the House do now adjourn was then negatived on further division.

The House proceeded with several items of business, and adjourned without debate shortly after the receipt of a message from the Senate regarding a bill.

Hansard: 25 September 2008, 8703-8

Votes and Proceedings: 2008/583-7

SOs 29, 31, 34

Members

60.19 *Return to writ – New Member elected*

Following prayers on 16 September, the Speaker announced that he had received a return to the writ issued on 4 August for the Lyne by-election, and that by the endorsement on the writ Robert James Murray Oakeshott had been elected.

Note: The newly elected Member was not sworn in during the sitting.

Hansard: 15 September 2008, 7311
Votes and Proceedings: 2008/513

SO 4

60.20 *New Member sworn*

Prior to Question Time on 17 September, the Speaker referred to his announcement earlier in the week of the return of the writ for the Lyne by-election (*see* entry 60.19). The Serjeant-at-Arms announced the presence of a new Member and the Speaker directed that he be admitted. Two Members escorted Mr Oakeshott to the Table where he made and subscribed the affirmation of allegiance.

Hansard: 17 September 2008, 7707
Votes and Proceedings: 2008/532

SO 4

60.21 *Return to writ – New Member sworn*

Prior to Question Time on 25 September, the Speaker announced the return of the writ issued on 4 August for the Mayo by-election, and that by the endorsement on the writ Jamie Edward Briggs had been elected. The Serjeant-at-Arms announced the presence of a new Member and the Speaker directed that he be admitted. Two Members escorted Mr Briggs to the Table where he made and subscribed the oath of allegiance.

Hansard: 25 September 2008, 8668
Votes and Proceedings: 2008/575-6

SO 4

Parliamentary administration

60.22 *Accuracy of Hansard record queried*

Following prayers, the Leader of the House, on indulgence, asked the Speaker if he could investigate why the *Hansard* record of a personal explanation given by

the Deputy Leader of the Opposition the previous day differed from the audio recording of proceedings. The Speaker stated that he would seek advice and report back accordingly.

Later in the sitting following Question Time, the Speaker made a statement regarding the matter. He noted that *House of Representatives Practice* states: 'Control over the published content of the Hansard reports of the House resides in the House itself.' He advised that changes requested by the Deputy Leader of the Opposition to the material in question were considered by *Hansard* to be relatively minor in nature, seeking to clarify meaning without altering the sense of words used. On this basis the changes had been included in the published proof.

The Leader of the House asked the Speaker whether a higher standard of accuracy was expected for personal explanations as opposed to other exchanges across the Chamber, and the Speaker stated that he had nothing further to add to his statement.

Hansard: 24 September 2008, 8353, 8448

SO 63

60.23 *Statements of appreciation on retirement of library officer*

After Question Time on 25 September, the Speaker, Acting Prime Minister, and Leader of the Opposition referred to the retirement of a long serving staff member of the Parliamentary Library, Mr Andrew Chin, thanking him for his service and wishing him well in his retirement.

Hansard: 25 September 2008, 8696-7

Privilege

60.24 *Speaker urges care regarding sub judice convention*

Following points of order during an answer to a question in Question Time regarding a terrorist trial, the Speaker indicated that Members should be careful about transgressing the sub judice conventions of the House.

Hansard: 17 September 2008, 7717

Questions

60.25 *Minister adds to an answer given the previous day*

Following prayers, a Minister sought indulgence to add to an answer given during Question Time the previous day. Indulgence was granted and the Minister made further comments in relation to a question he had been asked regarding drought assistance.

Hansard: 18 September 2008, 7843

SO 104

60.26 *Allocation of call questioned during Question Time*

Following the answer to a question asked by him during Question Time, the Leader of the Opposition rose and attempted to move a motion to suspend standing and sessional orders. The Speaker interrupted, noting that the Leader of the Opposition had not been given the call, and he had intended to give the call to a Government Member who was on her feet to ask a question.

Following points of order from the Opposition regarding the allocation of the call, the Speaker called the Government Member to ask her question which was answered by the Treasurer. The Leader of the Opposition then received the call and moved his motion to suspend standing orders. In response to a question following Question Time regarding the incident, the Speaker stated that it was his intention to rotate the call on questions, while being conscious of not denying Members the ability to raise legitimate points of order. He added that having ascertained that the Leader of the Opposition did not intend to raise a point of order, he had been inclined to rotate the call to the other side for a question.

In response to further questions, the Speaker agreed that it would assist the Chair if motions were moved in accordance with the rotation of the call, and indicated that he intended to continue giving precedence to position holders such as the Prime Minister and Leader of the Opposition when it did not interfere with the rotation of the call (And *see* entry **35.22**).

Hansard: 23 September 2008, 8234-7, 8245-6

SOs 65, 66, 86

Speaker

60.27 *Speaker presents authorisation to swear new Members*

After Question Time on 15 September, the Speaker presented an authority to administer the oath or affirmation of allegiance which had been issued by the Governor-General.

Note: At the opening of a new Parliament the Governor-General authorises a Deputy—usually a Justice of the High Court—to conduct the swearing-in of all Members present. The Governor-General subsequently issues an instrument authorising the Speaker to administer the oath or affirmation of allegiance to other Members (including those later returned at by-elections). It is customary for a newly appointed Governor-General to reissue the instrument provided by his or her predecessor.

Hansard: 15 September 2008, 7362
Votes and Proceedings: 2008/517

SO 4

60.28 *Speaker asked about catering in Parliament House*

Following Question Time, two Members asked the Speaker questions regarding concerns with the new caterers at Parliament House. The Speaker responded that the House Committee would be investigating complaints that have been made and that he would ensure that there was appropriate consultation.

Hansard: 16 September 2008, 7521, 7522

SO 103

60.29 *Speaker asked about water use in Parliamentary precinct*

Following Question Time, a Member asked the Speaker about water use for gardening purposes in the Parliamentary precinct. The Speaker responded that he would seek advice from the Department of Parliamentary Services, and that he hoped the Parliamentary precinct could be seen as an exemplar in the use of resources in appropriate and sustainable ways.

Hansard: 16 September 2008, 7521-2

SO 103

60.30 *Cricketers recognised as distinguished visitors*

During Question Time on 17 September, the Speaker noted the presence in the gallery of members of Australia's men's and women's cricket teams.

Hansard: 17 September 2008, 7722

60.31 *Speaker asked to investigate security matter*

Prior to adjournment of the House, the Manager of Opposition Business, on indulgence, advised the Deputy Speaker that two individuals signed into the building on unaccompanied passes by another Member had been harassing staff in his office. He asked that the matter be investigated. The Deputy Speaker replied that the matter would be investigated.

Hansard: 25 September 2008, 8708

SOs 65, 103

Withdrawals**60.32** *Offensive words*

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SOs 89, 90, 92