

Procedural Digest

No. 63

24 November–4 December 2008

Nov-Dec 2008				
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Bills

63.01 *Bill introduced and passes all stages*

The Guarantee Scheme for Large Deposits and Wholesale Funding Appropriation Bill 2008 was presented, pursuant to notice, on 25 November. An explanatory memorandum was presented, the bill was read a first time, and the second reading was moved. Debate was adjourned and the resumption of debate, by leave, made an order of the day for a later hour.

Debate on the bill was resumed later in the sitting. The bill was read a second time and, following the announcement of a Governor-General's message recommending appropriation, read a third time by leave.

Hansard: 25 November 2008, 11234-9, 11298-335
Votes and Proceedings: 2008/734, 735-6

SOs 178, 179, 180

63.02 *Bill introduced and referred to Committee*

The Resale Royalty Right for Visual Arts Bill 2008 was presented, pursuant to notice, on 27 November. An explanatory memorandum was presented, the bill was read a first time, and the second reading was moved. Debate was adjourned and the Minister moved that the bill be referred to the Standing Committee on Climate Change, Water, Environment and the Arts for consideration and an advisory report by 20 February 2009. The question was carried on the voices.

Hansard: 27 November 2008, 11644-6
Votes and Proceedings: 2008/748

SO 143

63.03 *Consideration of Senate amendments; Amendment amended*

On 1 December, the House considered 16 Senate amendments to the Water Amendment Bill 2008. On a motion by the Minister, three of the amendments were agreed to, following debate. Twelve of the amendments were then disagreed to after debate, on division. Reasons for disagreeing were adopted. The Minister then moved that the remaining Senate amendment be agreed to with a Government amendment, and the question was carried on the voices. An Independent Member then, by leave, moved an amendment to one of the Senate

amendments which had already been dealt with. A division was called on the motion but the question was declared negatived as there were fewer than five Members on one side of the House.

Hansard: 1 December 2008, 11913-35
Votes and Proceedings: 2008/757-60

SOs 123, 124, 158, 160, 161

63.04 *Supplementary explanatory memorandum presented later, after passage of bill*

During the presentation of Government documents following Question Time, the Leader of the House presented a supplementary explanatory memorandum to the COAG Reform Fund Bill 2008, and moved that the House take note of the document. The bill had been passed by the House at a previous sitting with a Government amendment, at which time a supplementary explanatory memorandum was not presented.

Hansard: 3 December 2008, 12382
Votes and Proceedings: 2008/784

SO 141

63.05 *Prime Minister speaks on second reading of bill*

Upon resumption of debate on the Fair Work Bill 2008, the Prime Minister made a second reading speech. Following the Prime Minister's speech, a number of other Members spoke on the bill before debate was adjourned at 2 p.m.

Hansard: 4 December 2008, 12569-73

SO 142

63.06 *Explanatory memoranda to appropriation bills presented later*

Following the presentation of Government documents following Question Time, the Minister for Finance and Deregulation presented two explanatory memoranda for Appropriation Bills Nos. 3 and 4 2008-2009 which he had presented earlier in the sitting.

Note: Explanatory memoranda are not required for appropriation bills under the standing orders.

Votes and Proceedings: 2008/793

SO 141

Business

63.07 *Indulgence not granted*

Following the expiry of debate on a motion by the Leader of the House to alter the hours of sitting for the following day, the Manager of Opposition Business rose and sought indulgence of the Chair to speak further. The Chair refused to grant indulgence and put the question on the motion.

Hansard: 24 November 2008, 11050

SO 65

63.08 *House meets early and sits late*

In accordance with a motion by the Leader of the House agreed to at the previous sitting, the House met at 1.20 p.m. on Tuesday 25 November and Government business was given precedence until Question Time. Also in accordance with the motion, the House did not adjourn until 11 p.m. and standing orders 31 (automatic adjournment of the House) and 33 (limit on business after 10 p.m.) were suspended for the sitting.

Hansard: 25 November 2008, 11189, 11344

Votes and Proceedings: 2008/733, 736

SOs 29, 30, 31, 33, 34, 35

63.09 *Prime Minister's Ministerial statement at 2 p.m.; Leave not granted for referral to Main Committee*

At 2 p.m. the Prime Minister, by leave, made a ministerial statement regarding the economy, and presented a document. The Leader of the House moved that the House take note of the document, and then moved that standing orders be suspended to allow the Leader of the Opposition to speak for an equal period of time. The question was passed on the voices and the Leader of the Opposition addressed the House. Debate was adjourned and the Leader of the House sought leave to move a motion referring the order of the day to the Main Committee, but leave was not granted. Later, on a motion by leave by the Chief Government Whip, the House agreed to refer the matter to the Main Committee on the voices.

Note: Ministerial statements are usually made after Question Time.

Hansard: 26 November 2008, 11504-16, 11558

Votes and Proceedings: 2008/740, 741

SOs 34, 47, 63

63.10 *Statements on indulgence regarding distinguished visitors*

Between questions during Question Time, the Speaker informed the House of the presence in the gallery of a parliamentary delegation from Singapore. After the next question had been answered, the Prime Minister and the Leader of the Opposition made brief statements on indulgence welcoming the delegation.

Hansard: 26 November 2008, 11520, 11522

SO 65

63.11 *Debate on bill interrupted for presentation of committee report*

Between speakers, second reading debate on a bill (being debated cognately with two other bills) was adjourned to enable the Chair of the Standing Committee on Economics to present a report of the committee. The Chair and Deputy Chair made statements on the report, and the second reading debate was then resumed.

Hansard: 27 November 2008, 11709-12

Votes and Proceedings: 2008/749

SOs 39, 142

63.12 *Statements on indulgence on the Mumbai terrorist attacks*

Prior to Question Time on 27 November the Prime Minister and the Leader of the Opposition both made statements on indulgence regarding the terrorist attacks overnight in Mumbai, India. Both made further statements on indulgence on 1 December concerning the deaths of two Australians in the attacks.

Hansard: 27 November 2008, 11717-9; 1 December 2008, 11873-5

SO 65

63.13 *Statements on indulgence regarding death of former Chief General Counsel*

After Question Time, a Parliamentary Secretary followed by an Opposition Member made statements on indulgence regarding the death of Mr Dennis Rose AM, QC, a former Chief General Counsel of the Commonwealth.

Hansard: 2 December 2008, 12112-3

SO 65

63.14 *Motion by Prime Minister on Universal Declaration of Human Rights*

Following the MPI on 2 December, pursuant to notice, the Prime Minister moved a motion regarding the sixtieth anniversary of the adoption by the United Nations

General Assembly of the Universal Declaration of Human Rights. The Leader of the Opposition seconded and addressed the House in support of the motion.

Debate on the motion was then adjourned, and the matter was referred to the Main Committee on a motion by a Parliamentary Secretary.

Hansard: 2 December 2008, 12131-9
Votes and Proceedings: 2008/770

SOs 111, 183

63.15 *Extended sitting*

At 8.30 p.m. on 2 December, the Chair proposed 'That the House do now adjourn'. A Minister required the question to be put immediately without debate. The question was negatived on the voices. Debate on legislation continued until 10.30 p.m. at which point a Parliamentary Secretary moved 'That the House do now adjourn'. Debate continued for 30 minutes and the question was carried on the voices.

Hansard: 2 December 2008, 12182-217
Votes and Proceedings: 2008/771

SOs 29, 31, 32

63.16 *Speaker contributes to condolence motion*

Immediately prior to Question Time on 3 December, the Prime Minister moved a motion of condolence regarding the death of the Honourable Frank Crean, former Federal Treasurer and Deputy Prime Minister of the Commonwealth. The Leader of the Opposition addressed the House in support of the Prime Minister's motion.

The Speaker then added to the remarks of the Prime Minister and the Leader of the Opposition before inviting Members to rise in their places as a mark of respect. Debate was adjourned on a motion by the Leader of the House, and the resumption of debate on the condolence motion was then referred to the Main Committee.

Hansard: 3 December 2008, 12361

SO 49

63.17 *Suspension of standing orders 31 and 33; Alteration of meeting time*

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 p.m.) be suspended for this sitting. The motion was agreed to on the voices.

This motion was moved in anticipation of the House sitting later than usual (*see* entry **63.20**).

Hansard: 4 December 2008, 12531-2
Votes and Proceedings: 2008/790

SOs 31, 33, 47

63.18 *Prime Minister's Ministerial statement at 11.30 a.m.; Referred to Main Committee*

At approximately 11.30 a.m. the Prime Minister, by leave, made a ministerial statement regarding national security, and presented a document. The Leader of the House moved that the House take note of the document, and then moved that standing orders be suspended to allow the Leader of the Opposition to speak for an equal period of time. The question was passed on the voices and the Leader of the Opposition addressed the House. Debate was adjourned and the order of the day was referred to the Main Committee on a motion by a Parliamentary Secretary.

Note: Ministerial statements are usually made after Question Time.

Hansard: 4 December 2008, 12549-68
Votes and Proceedings: 2008/791

SOs 34, 47, 63

63.19 *Condolence motion returned from Main Committee; Debate resumed at 2 p.m.*

Immediately prior to 2 p.m. on 4 December, the Prime Minister's motion of condolence regarding the death of the Honourable Frank Crean was returned from the Main Committee for further consideration. The Leader of the House moved a suspension of standing orders to allow the motion to be considered at 2 p.m. with two Members speaking to the motion, followed by Question Time.

The question was agreed to, and the Minister for Trade (the son of the deceased) and the Member for Berowra (the Father of the House) spoke to the condolence motion. The motion was then agreed to, with Members standing in their places.

Hansard: 4 December 2008, 12585-9
Votes and Proceedings: 2008/791

SO 49

63.20 *Sitting extends over 2 days—Suspended overnight*

The sitting which commenced on 4 December (the final scheduled sitting for the year) was suspended at 11.07 p.m. (*see* entry **63.17**) and resumed at 9 a.m. on

5 December. The House considered several Senate messages before adjourning at 10 a.m.

Hansard: 4 December 2008, 12726-40
Votes and Proceedings: 2008/805

SOs 29, 31

Chamber

63.21 *Use of enclosed galleries for parents with young children*

The Manager of Opposition Business, on indulgence, noted that a lady had expressed her embarrassment to him regarding her child crying in the public gallery. He stressed that this should be no cause for embarrassment, but asked the Speaker if he could consider whether parents with young children may be able to use the enclosed galleries to view proceedings if they preferred.

The Speaker responded that children crying in the Chamber galleries caused no concern to him, and added that while access to the enclosed galleries was challenging for prams etc, he would look into the proposal. The Leader of the House also made a brief statement endorsing the comments of the Manager of Opposition Business.

Hansard: 4 December 2008, 12739-40

SO 65

Committees

63.22 *Non presentation of report listed for presentation*

During the time allotted for the presentation of committee and delegation reports, the Deputy Speaker informed the House that a report of the Standing Committee on Industry, Science and Innovation listed for presentation would not be presented. The remaining determinations of the Whips as adopted by the House remained unchanged.

Hansard: 24 November 2008, 11130
Votes and Proceedings: 2008/726

SOs 34, 39

63.23 *Statements regarding outstanding Government responses to committee reports*

After the Speaker presented the periodic schedule of government responses outstanding to committee reports, he made a brief statement. He noted that following discussions with the Leader of the House and the Chair of the Liaison Committee of Committee Chairs and Deputy Chairs, he would write to committee

Chairs seeking advice on which reports still required a Government response, and those which didn't would be removed from the schedule.

The Leader of the House then presented the Government response to the previous schedule tabled by the Speaker, and also made a statement noting that the Government would treat as a priority any outstanding responses that were still required, and that the Government was committed to improving response times.

Hansard: 4 December 2008, 12611-23
Votes and Proceedings: 2008/792

Debate

63.24 *Parliamentary Secretary extends adjournment debate*

The first speaker in the adjournment debate on 1 December referred to a Ministerial decision to close the Australian National Academy of Music.

With one minute remaining before the question was to be put on the adjournment, a Parliamentary Secretary obtained the call and began to respond to the comments. At 10 p.m. the debate was interrupted. The Parliamentary Secretary required the debate to be extended and concluded his remarks. The House adjourned at 10.05 p.m.

Hansard: 1 December 2008, 11988-90
Votes and Proceedings: 2008/762

SO 31

Documents

63.25 *Resolution of Norfolk Island legislative assembly presented*

After Question Time on 27 November, the Speaker presented a resolution from the Legislative Assembly of Norfolk Island forwarding the Chief Minister's statement in response to statements made in the Australian Parliament on 23 October 2008. (and *see* entries **33.17** and **53.11**.)

Hansard: 27 November 2008, 11744-5
Votes and Proceedings: 2008/750

SO 199

Main Committee

63.26 *Minister permitted to make 90 second statement*

During Members' 90 second statements in the Main Committee, the Minister for Foreign Affairs was given the call and made a statement.

Note: The standing orders prohibit Ministers and Parliamentary Secretaries from making 90 second statements. They are, however, permitted to speak during Members' three minute constituency statements.

Hansard: 24 November 2008, 11182-3

SOs 192A, 193

63.27 *Meeting suspended then adjourned due to audio failure*

During Members' 90 second statements, the audio system in the Main Committee failed and the Chair suspended the meeting at 6.52 p.m. Upon resumption at approximately 7.17 p.m., the problem had not been resolved and the Main Committee was adjourned until 4 p.m. the following day.

Note: According to the *Hansard*, the problem with the audio system occurred at 6.45 p.m., preventing the recording and transcription of the 90 second statements of four Members.

Hansard: 24 November 2008, 11182-3

Votes and Proceedings: 2008/731

SOs 190, 196

63.28 *Question regarding audio problem in the Main Committee*

Following Question Time, the Chief Opposition Whip asked the Speaker what the cause of the problem was that resulted in the early adjournment of the Main Committee (*see* entry **63.27**), and queried whether it was likely that the problem would be repeated. The Speaker responded that there was a failure in the computer system supporting the microphones in the Main Committee, which meant that there was no audio recording available for transcription of the *Hansard*. He added that the problem had since been resolved successfully, and advised that a backup system (as is available in the House) would be put in place at the earliest opportunity.

In response to a further question regarding Members whose contributions had not been recorded due to the failure, the Speaker undertook to investigate what could be done to include the contributions in the *Hansard* record of proceedings.

Hansard: 25 November 2008, 11218-9

SO 103

63.29 *Extended Members' constituency statements*

In accordance with the resolution agreed to at the previous sitting, the meeting of the Main Committee on Thursday, 27 November began with a 60-minute period of Members' constituency statements.

Note: The standing orders provide for a 30 minute period of Members' constituency statements if the Main Committee meets on a Tuesday, Wednesday or Thursday.

Hansard: 27 November 2008, 11763-79
Votes and Proceedings: 2008/752

SOs 192, 193

63.30 *Speaker permits incorporation of unrecorded speeches*

Following Question Time, the Speaker referred to questions asked of him at a previous sitting (*see* entry **63.28**) and advised that the statements of the four Members whose 90 second statements had not been recorded in the Main Committee would be incorporated into *Hansard*. He added that this occasion should not be seen as a precedent for the incorporation of unspoken material in *Hansard*.

Hansard: 1 December 2008, 11898-9

SO 103

63.31 *Further meeting of Main Committee following adjournment*

The Main Committee adjourned on 5 December at 12.15 p.m., with the Chair fixing 9.30 a.m. the following day for the next meeting. Later, the House was informed that the Deputy Speaker had fixed 4 p.m. today for the next meeting of the Main Committee. The Main Committee accordingly met again at 4 p.m., referring further proceedings on a motion by the Prime Minister back to the House and debating a bill before adjourning at approximately 6 p.m.

Hansard: 3 December 2008, 12353, 12482-511
Votes and Proceedings: 2008/783, 788

SOs 186, 192, 197

Matters of Public Importance

63.32 *Speaker asked about validity of proposed matter of public importance*

Following Question Time, a Member asked the Speaker if he could assure the House that the letter proposing a matter of public importance for the day was in order considering that it suggested a matter for 27 September 2008 (two months earlier), and was signed by the Shadow Treasurer but was on the letterhead of the Shadow Minister for Employment, Business and Workplace Relations. The Speaker responded that decisions made regarding the choice of an MPI were not rulings but decisions vested in the Speaker. He added that he found the proposed matter in question in order as he was interested in the topic, and noted that the

date above the salutation was correct and the letter was signed by the Deputy Leader of the Opposition.

The proposed MPI was later called on and discussed.

Hansard: 27 November 2008, 11744, 11745

SOs 46, 103

63.33 *Prime Minister responds to matter of public importance*

Following the Leader of the Opposition's speech on the discussion of his matter of public importance, the Prime Minister was the first speaker from the Government in reply. The topic of the discussion as proposed by the Leader of the Opposition was: 'The dismal performance of the Government during its first year in office.'

Hansard: 3 December 2008, 12386-90

SO 46

Privilege

63.34 *Alleged deliberate misleading of the House; Motion to suspend Member*

Following prayers on 27 November, an Opposition Member raised as a matter of privilege comments by the Leader of the House the previous day regarding the former Mayor of Port Macquarie during an answer to a question without notice. The Member noted that the Leader of the House had later added to his answer stating that the Port Macquarie Council had not been sacked for corruption, but had not corrected remarks about the former Mayor. The Speaker stated that he was prepared to allow precedence to a motion on the matter, and the Member moved that the Leader of the House be suspended from the House for a minimum of two days for a contempt of the House in deliberately misleading the House. The question was put and was negatived on division. The House then proceeded with its scheduled business.

Note: The Member who raised the matter and moved the motion was relying on a precedent known as the 'Aldred case' from 1989, in which a Member found guilty of an offence by the Committee of Privileges refused to withdraw the allegation in question and was suspended for two sitting days.

Hansard: 27 November 2008, 11643-4

Votes and Proceedings: 2008/747-8

SO 51

63.35 *Privileges Committee findings on alleged leak of previous report*

The Chair of the Privileges and Members' Interests Committee reported on a matter of privilege raised at a previous sitting regarding the alleged leaking of the committee's report into an exchange between two Members (*see* entry **61.20**).

He advised that the Committee had concluded that an unauthorised disclosure had occurred, but that it had no effect on the Committee's inquiry. He added that the matter would be taken into account in a review of the Committee's procedures.

Hansard: 4 December 2008, 12532-3
Votes and Proceedings: 2008/790

SO 216

Questions

63.36 *Supplementary question attempted and ruled out of order*

After an Independent Member's question had been answered during Question Time, the Member attempted to ask a supplementary question. The Speaker disallowed the supplementary question, noting that he had made his position on supplementary questions known earlier in the year.

Hansard: 25 November 2008, 11211-2

SO 101

Speaker

63.37 *Speaker notes birth of Independent Member's child*

Prior to Question Time, the Speaker informed the House of the birth the previous night of an Independent Member's child, noting that the Member had no party colleagues or a whip in the Chamber to make such an announcement. The Speaker passed on the House's congratulations to the Member.

Hansard: 26 November 2008, 11504

63.38 *Speaker asked to investigate Member's conduct; Member apologises*

During the evening on 3 December, debate on a bill was interrupted and the Manager of Opposition Business raised a matter on indulgence regarding an incident involving a Government Member. He asked the Speaker to urgently investigate reports that the Member had photographed a man threatening to set himself on fire on the grounds of the parliament and attempted to sell the photographs to the media.

The Member in question, on indulgence, referred to the incident and apologised, stating that his actions were highly insensitive and inappropriate and that he would write a letter of apology to the family involved.

The Speaker indicated that he was not sure whether he had the power to inquire into the matter, but he would give it his consideration and report back to the House on what course of action he might be able to take. He added that it was probably time that the House consider a code of conduct.

Hansard: 3 December 2008, 12427-8

SO 103

63.39 *Speaker's response regarding Member's conduct*

Late in the evening on 4 December, the Speaker made a statement in response to a matter raised during the previous sitting regarding conduct by a Member (*see* entry **63.38**). He advised that the Serjeant-at-Arms had investigated whether the Member had interfered with security matters in the authorised assembly area and found that his actions had not caused interference. He added that he did not recommend any further action, but he would refer the incident to the Committee of Privileges and Members' Interests for the purposes of its review into a Members' code of conduct.

The Speaker agreed to a request by the Manager of Opposition Business to be given the opportunity overnight to decide whether to recommend the referral of the matter to the Privileges Committee for further investigation. Upon resumption of the sitting following an overnight suspension, the Manager of Opposition Business made a statement regarding the matter on indulgence and noted that the Opposition would leave the matter where it stood.

Hansard: 4 December 2008, 12725-7

Votes and Proceedings: 2008/805

SO 103

Standing orders

63.40 *Sessional orders to continue for remainder of Parliament*

A Minister, for the Leader of the House, moved that sessional orders 34, 207 and 209, agreed to on 24 June (*see* entry **58.35**), operate for the remainder of the 42nd Parliament. The question was carried on the voices.

Hansard: 1 December 2008, 62-4

Votes and Proceedings: 2008/755-6

SOs 34, 207, 209

Withdrawals

63.41 *Offensive words*

	<i>Hansard</i>	
	<i>Date</i>	<i>Page</i>
'Monumental fool!'	27 November 2008	11723-4
'...Captain Smirk, the Member for Higgins.'	27 November 2008	11727
'You're a fraud from way back, mate.'	27 November 2008	11728
'...hypocrite...'	27 November 2008	11747
'Not bad from an ambulance chaser!'	1 December 2008	11897
<i>unrecorded</i>	1 December 2008	11899
<i>unrecorded</i>	1 December 2008	11899
'You're an idiot.'	1 December 2008	11918
<i>unrecorded</i>	2 December 2008	12101
<i>unrecorded</i>	2 December 2008	12108
'...sit on your arses...'	3 December 2008	12357
<i>unrecorded</i>	4 December 2008	12600
<i>unrecorded</i>	4 December 2008	12731

SOs 89, 90, 92