

Procedural Digest

No. 2

45th Parliament

12 – 15 September 2016

September 2016				
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Bills

2.01 Leave not granted for motion for third reading for two bills

On two occasions on Monday 12 September, leave was not granted for the motion for the third reading of bills to be moved immediately after the second reading had been agreed to. This occurred with respect to the Registration of Deaths Abroad Amendment Bill 2016 and the Primary Industries Levies and Charges Collection Amendment Bill 2016.

When leave was not granted to move the third reading of the Registration of Deaths Abroad Amendment Bill 2016, debate was adjourned until a later hour. Later that day, when the bill was called on, a Minister moved a motion to suspend standing orders, pursuant to contingent notice, to enable the third reading to be moved without delay. The motion was carried on division, and the subsequent motion for the third reading was carried on the voices.

When leave was not granted to move the third reading of the Primary Industries Levies and Charges Collection Amendment Bill 2016, a Minister immediately moved a motion to suspend standing orders, pursuant to contingent notice, to enable the third reading to be moved without delay. The motion was carried on division, and the subsequent motion for the third reading was carried on the voices.

After completion of the consideration in detail stage, or following agreement to the second reading if no detail stage has occurred, the House may grant leave for the motion for the third reading to be moved immediately. If leave is not granted, a Minister may move a contingent notice of motion to suspend standing orders to enable the third reading to be moved immediately.

Contingent notices are notices conditional upon an event occurring in the House which in fact may not eventuate. In practice, the significance of the procedure is that a motion to suspend standing orders moved pursuant to a contingent notice only needs to be passed by a simple majority, whereas the same motion moved without notice would require an absolute majority.

Hansard: 12 September 2016, 445-7, 447-9
 Votes and Proceedings: 2016/99-101

SOs 47, 63, 155

2.02 Prime Minister introduces plebiscite bill

On Wednesday 14 September, the Prime Minister, pursuant to notice, presented the Plebiscite (Same-Sex Marriage) Bill 2016 and made a second reading speech. The bill prescribes the date for the vote as Saturday, 11 February 2017, and authorised and provides funding for the Australian Electoral Commission to conduct the plebiscite. The bill also provides for voting to be compulsory and for the outcome to be determined by a simple

national majority of votes. Debate was then adjourned and the resumption of debate was made an order of the day for the next sitting.

*Hansard: 14 September 2016, 845-9
Votes and Proceedings: 2016/147*

SOs 141, 142

2.03 Closure of second reading debate; deferred division on second reading amendment; leave not granted for motions for third reading

On 13 September, debate resumed on the second reading of the Excise Tariff Amendment (Tobacco) Bill 2016 which was debated in cognate with the Customs Tariff Amendment (Tobacco) Bill 2016. The Member for Fenner (Dr Leigh) moved a second reading amendment substituting all words after “That” with other words. The amendment was seconded and debate ensued. After two opposition speakers, the Leader of the House moved a closure of question, which was carried on division. The Chair then put the question on the second reading amendment and a division was called and, in accordance with standing order 133(c), was deferred until after discussion on the matter of public importance.

The order of the day was then read for the resumption of debate on the second reading of the Customs Tariff Amendment (Tobacco) Bill 2016. There being no further speakers, the Chair put the question immediately, which was carried on the voices. Leave was not granted for the motion for the third reading to be moved immediately, so a Minister moved a motion to suspend standing orders, pursuant to contingent notice, to enable the third reading to be moved without delay. The motion was carried on division, and accordingly a Minister moved that the bill be read a third time. An opposition Member sought to speak to the motion and the Leader of the House moved a closure of question which was carried on division. Accordingly, the Chair put the question on the third reading which was carried on the voices.

After the MPI, the order of the day was read for further consideration of the Excise Tariff Amendment (Tobacco) Bill 2016. The division on the question that the second reading amendment moved by the Member for Fenner be agreed to which had been deferred earlier that morning was held and the amendment was negatived. The question on the second reading was then put, and carried on the voices. Leave was not granted for the motion for the third reading to be moved immediately, so the Leader of the House moved a motion to suspend standing orders, pursuant to contingent notice, to enable the third reading to be moved without delay. Debate ensued and the Leader of the House moved a closure of question which was carried on division. The motion to suspend standing orders was accordingly put and carried on division. A Minister moved that the bill be read a third time and, an opposition Member rising to speak to the motion, the Leader of the House moved a closure of question, which was carried on division. The question on the third reading was accordingly put, and carried on the voices.

On Tuesdays, in accordance with standing order 133, any division called for prior to 2.00 p.m. is deferred until after the discussion of the matter of public importance, except for a division called on a motion moved by a Minister during this period. This explains why a division took place on the Minister's closure of question (i.e. a motion 'that the question be now put') but the subsequent division on the question that the amendment moved by an opposition Member be agreed to, was deferred.

Hansard: 13 September 2016, 676-86, 744-51
Votes and Proceedings: 2016/114-17, 119-22.

SOs 81, 133, 142, 145, 155

2.04 Unresolved question on second reading of bill in Federation Chamber

During government business time in the Federation Chamber on 15 September, debate resumed on the Treasury Laws Amendment (Income Tax Relief) Bill 2016 and on the second reading amendment moved by the Member for Fenner (Dr Leigh). The amendment was negated on the voices. The Chair then put the question on the second reading and, the question not being resolved, the bill was returned to the House.

A unique feature of Federation Chamber procedure is the provision for unresolved questions. Decisions in the Federation Chamber are taken only 'on the voices'. If any Member dissents from the result announced by the Chair—that is, in situations which would cause a division in the House—the Federation Chamber must report the matter back to the House as 'unresolved'.

Hansard: 15 September 2016, 1170-86
Votes and Proceedings: 2016/163

SOs 141, 142, 195

Business

2.05 Ministerial statement regarding economic security and stability

During government business time on 12 September, the Prime Minister, by leave, made a ministerial statement relating to economic security and stability and presented a copy of his statement. The Leader of the Opposition addressed the House in reply.

Hansard: 12 September 2016, 449-60
Votes and Proceedings: 2016/101

SOs 63, 63A

2.06 Updated shadow ministry list presented

After question time on 13 September, the Leader of the Opposition presented a revised shadow ministry list.

Hansard: 13 September 2016, 725-7
Votes and Proceedings: 2016/118

SO 199

2.07 Fewer than five Members vote on one side during division on budget savings bill

On 14 September, when the question on the second reading of the Budget Savings (Omnibus) Bill 2016 was put, the House divided and four non-aligned Members voted on the side for the 'noes'. The question was therefore carried in accordance with standing order 127 and the names of those Members voting in the minority were recorded in the Votes and Proceedings. The bill was then considered in detail and, by leave, was taken as a whole. Mr Bandt moved a Greens amendment which was negated on division. The Treasurer

presented a supplementary explanatory memorandum and, by leave, moved certain government amendments together. Debate ensued and the Leader of the House moved a closure of question which was carried on the voices, with a non-aligned Member dissenting. The question that the amendments be agreed to was accordingly put and carried on the voices with a non-aligned Member dissenting. The bill as amended was agreed to and consideration in detail concluded. The Treasurer, by leave, moved the third reading and the question was carried on the voices with a non-aligned Member dissenting.

Hansard: 14 September 2016, 813-45
Votes and Proceedings: 2016/146-7

SOs 127, 148, 149, 150

2.08 Arrangements for visit by Prime Minister of Singapore

During government business time on 15 September, an Assistant Minister—on behalf of the Leader of the House, and pursuant to notice—moved a motion inviting His Excellency Lee Hsien Loong, Prime Minister of the Republic of Singapore, to attend and address the House on Wednesday 12 October 2016. The motion provided for welcoming remarks by the Prime Minister and Leader of the Opposition to take place at 10.45 a.m., prior to the address by His Excellency, after which the House would suspend until 1.30 p.m. The motion also provided for a message to be sent to the Senate inviting Senators to attend the House as guests for the welcoming remarks and the address by the Prime Minister of the Republic of Singapore. The motion was carried on the voices.

Hansard: 15 September 2016, 1143-4
Votes and Proceedings: 2016/161-2

SOs 30, 111, 117, 125, 257, 259

Committees

2.09 Joint Committee on the National Broadband Network appointed

During government business time on 12 September, the Leader of the House, pursuant to notice, moved a motion to appoint a Joint Standing Committee on the National Broadband Network to report annually to both Houses until the NBN is declared fully built and operational. Debate ensued and the motion was carried on the voices. A message was sent to the Senate acquainting it of the resolution and requesting its concurrence. On 15 September a message from the Senate was reported informing the House that it had considered the message from the House and concurred with the resolution of appointment of the Committee.

Throughout the sitting week a number of other joint committees which operated in the 44th Parliament were appointed pursuant to resolutions of both Houses.

Hansard: 12 September 2016, 497-9; 15 September 2016, 1086
Votes and Proceedings: 2016/102-4, 159

SO 224

Debate

2.10 Adjournment negated to enable three Members to make their first speeches

Just prior to the time for the automatic adjournment, the Leader of the House, by leave, moved that so much of standing orders be suspended as would prevent the question—That the House do now adjourn— being negated immediately. The question was carried on the voices. The order of the day was then read for the resumption of debate on the Address in Reply to the Governor-General's opening of parliament speech. The Members for Braddon (Ms Keay), Maranoa (Mr Littleproud) and Mayo (Ms Sharkie) each made their first speeches in the House. The debate was adjourned and the House then adjourned at 8.00 p.m. on a motion moved by a Minister and carried on the voices.

Hansard: 13 September 2016, 794-809
Votes and Proceedings: 2016/142-3

SO 31, 47, 269

2.11 Debate resumes on Address in Reply

During the week, debate resumed on the Address in Reply to the Governor General's opening address. A number of Members made their first speeches. On 12 September the House agreed to suspend standing order 43 (Members' statements) until the Member for Wills (Mr Khalil) had concluded, so as not to interrupt his first speech. Standing order 43 was similarly suspended the on Tuesday and Wednesday so as not to interrupt the Members for Bruce (Mr Hill) and Calare (Mr Gee) respectively during their first speeches.

Standing order 43 requires that at 1.30 p.m. each sitting day, the Speaker shall interrupt business and call on statements by Members until 2 p.m. During these periods, when called on by the Chair, Members may make a statement for no longer than 90 seconds.

Hansard: 12 September 2016, 461; 13 September 2016, 693; 14 September 2016, 866
Votes and Proceedings: 2016/101, 118, 147

SOs 43, 47, 267

Members

2.12 Member granted leave of absence for parental leave

After question time on 15 September, the Manager of Opposition Business moved that leave of absence be given to the Member for Melbourne (Mr Bandt) until 23 October 2016 for parental leave purposes. The question was carried on the voices.

A Member with leave of absence is excused from the service of the House or on any committee.

Hansard: 15 September 2016, 1126
Votes and Proceedings: 2016/160

SO 26

2.13 Call withdrawn during Member's 90 second statement

During the period for Members' statements on 15 September, shortly after being given the call by the Speaker, an opposition Member had the call withdrawn for not referring to the Prime Minister by his correct title.

Standing order 64 provides that in the House and Federation Chamber, a Member shall not be referred to by name, but by one of the following forms as appropriate:

- (a) the Member's ministerial office (e.g. Prime Minister, Minister for Defence, Attorney-General)*
- (b) the Member's parliamentary office (e.g. Leader of the House, Leader of the Opposition, Chief Government Whip);*
- (c) the Member's electoral division (e.g. Member for Adelaide).*

Hansard: 15 September 2016, 1104-5

SOs 64, 91, 92

Petitions

2.14 Development of House electronic petitions website and system

On 13 September, the Speaker made a statement to inform the House that the e-petitions system and website, foreshadowed in a previous statement by the Speaker in October 2015, had now been developed. The new e-petitions website would enable members of the public to enter and sign petitions online, and track the progress of any petition as it is presented, referred and responded to. The Speaker stated that the system and website had not been activated as the House would need to consider amendments to the standing orders to allow the establishment of an e-petitions system.

Hansard: 13 September 2016, 675-6
Votes and Proceedings: 2016/113

Private Members' business

2.15 Arrangements for private Members' business for Monday 12 September

After the acknowledgement of Country and prayers on 12 September, the Speaker presented a determination of the Selection Committee made pursuant to the resolution of the House on 31 August (*see* entry no. 1.21), relating to private Members' business for 12 September.

The Speaker is Chair of the House Selection Committee.

Hansard: 12 September 2016, 415
Votes and Proceedings: 2016/97

SOs 41, 222

2.16 Presentation of three private Members' bills postponed

During private Members' business on 12 September, upon three notices of private Members' business being called on, relating to the Dairy Produce Amendment (Milk Marketing Board) Bill 2016, the Banking Commission of Inquiry Bill 2016 and the Foreign Acquisitions and Takeovers Amendment (Strategic Assets) Bill 2016, the Member for Denison (Mr Wilkie) in the absence of the Member for Kennedy (Mr Katter), and at his request, fixed the next sitting Monday as the day for presenting the bills.

Standing order 113 provides that a motion not moved when called on shall be removed from the Notice Paper except if the Member who gave notice, or another Member at his or her request, sets a future time for moving the motion.

Hansard: 12 September 2016, 415, 420
Votes and Proceedings: 2016/97-8

SOs 41, 113

2.17 Arrangements for private Members' business for Monday 10 October

During government business time on 13 September, the Leader of the House, pursuant to notice, moved a suspension of standing orders to enable the Selection Committee to meet to determine arrangements for private Members' business and committee and delegation business for Monday 10 October; to communicate its determinations to all Members prior to that day; and to report its determinations to the House following prayers on 10 October. The motion also provided for the Selection Committee's determinations to be shown in the Notice Paper for 10 October. In the absence of a fully constituted Selection Committee, the motion provided for the arrangements for private Members' business on 10 October to be determined by the Speaker, Chief Government Whip and Chief Opposition Whip. In the absence of a Chair having been appointed to the Standing Committee on Petitions, the motion provided for private Members' business to commence at 10.00 a.m. on 10 October. The question was carried on the voices.

The order of business provides for the Chair of the Standing Committee on Petitions to present petitions and make statements concerning petitions between 10.00 a.m. and 10.10 a.m. on Mondays, following which private Members' business commences.

Hansard: 13 September 2016, 793
Votes and Proceedings: 2016/142

SOs 34, 41, 47, 207, 222

Privilege

2.18 Manager of Opposition Business raises matter of privilege

On 12 September, the Manager of Opposition Business (Mr Burke) raised as a matter of privilege whether there had been improper interference with the free performance by Members of their duties in relation to a report by Simon Benson and Daniel Meers in *The Daily Telegraph* that the Leader of the House had ordered that Members be prevented from leaving the House. The Manager of Opposition Business presented a copy of the article in question and the Speaker stated that he would consider the matter and report to the House at a later time. The following morning, the Speaker stated to the House that he did not see any privilege issues were raised by the matter put forward by the Manager of Opposition Business. The Speaker reminded Members that privilege relates to the special rights and immunities of the Houses, their committees and Members to ensure the Parliament is able to operate without improper interference.

Hansard: 12 September 2016, 496; 13 September 2016, 675
Votes and Proceedings: 2016/102, 113

SOs 51, 199

2.19 Speaker's statement regarding seizure of material under a search warrant

On 13 September, the Speaker stated to the House that on 23 August 2016, in accordance with the AFP Guideline for Execution of Search Warrants where parliamentary privilege may be involved, he was notified by the Australian Federal Police that it was intending to execute a search warrant on the Department of Parliamentary Services at Parliament House on 24 August in relation to an investigation into the unauthorised disclosure of Commonwealth information. The Speaker presented a copy of the MOU under which the Guideline was made and the Guideline for the information of the House.

The Speaker stated that he understood the search warrant was executed on 24 August and a range of material was seized. The Member for Blaxland had made a claim that material that had been seized was protected by parliamentary privilege. This material was therefore being held securely in the office of the Clerk of the House. The Speaker stated that the Member for Blaxland was seeking a ruling from the House in relation to his claim for parliamentary privilege as provided under the Guideline, and it would now be a matter for the House as to how it will determine its position on the documents.

The Speaker stated that he would undertake consultations to determine the way in which the matter would be dealt with.

This is the first occasion on which a ruling has been sought from the House under the AFP Guideline for Execution of Search Warrants.

*Hansard: 13 September 2016, 675;
Votes and Proceedings: 2016/113*

Questions

2.20 Leader of the Opposition, by indulgence, supports Prime Minister's answer to question without notice

During question time on 12 September, the Member for Groom (Dr McVeigh) asked a question without notice to the Prime Minister regarding an alleged incident that occurred in Sydney on Saturday 10 September. In his response, the Prime Minister also addressed the 15 year anniversary of the September 11 terrorist attacks. When he had concluded, the Leader of the Opposition, by indulgence, associated the opposition with the remarks of the Prime Minister.

Hansard: 12 September 2016, 478-9

SO 65

2.21 Question without notice addressed to Leader of the Opposition

During question time on 13 September, the Member for Griffith (Ms Butler) asked a question without notice to the Leader of the Opposition regarding the progress through the parliament of his private Member's bill, the Marriage Legislation Amendment Bill 2016.

An oral question of a strictly limited nature may be asked of a Member who is not a Minister. Questions must relate to a bill, motion, or other business of the House or of a committee, for which the Member asked is responsible. Questions of this kind are rare. More commonly, and usually at the

end of Question Time, questions may also be put to the Speaker on matters of parliamentary administration.

Hansard: 13 September 2016, 720-1

SO 99

2.22 Questions ruled out of order

During question time on 13 September, the Deputy Leader of the Opposition asked the Minister for Foreign Affairs a question regarding recent comments by former UK Prime Minister, David Cameron. The Speaker ruled the question out of order and called on the next questioner.

On 15 September, a question without notice by an opposition Member (Mr Gosling) was ruled out of order by the Speaker. The question, directed at the Prime Minister, related to an arrangement between a private citizen and the previous Chief Minister of the Northern Territory regarding funding for a cancer centre. The Manager of Opposition Business and another opposition Member each raised points of order, but the Speaker maintained his ruling.

Hansard: 13 September 2016, 722; 15 September 2016, 1124

SO 98

2.23 Prime Minister adds to an answer

At the conclusion of question time on 14 September, the Prime Minister, by indulgence, added to an answer he had given during question time regarding the Haymarket Foundation.

Hansard: 14 September 2016, 896

SO 65

Speaker

2.24 Statements by opposition occupants of the chair

During private Members' business on 12 September, the Second Deputy Speaker (Mr Mitchell) and the Member for Calwell (Ms Vamvakinou) each made brief statements to the House while occupying the chair. Mr Mitchell thanked Members for the honour of his being elected as Second Deputy Speaker, while Ms Vamvakinou thanked the Speaker for nominating her to the Speaker's panel. Both Members informed the House that, so that they can properly represent their constituents and advocate for their communities, they would continue to exercise their deliberative vote. They therefore stated their intention to leave the chair before any division takes place.

Hansard: 12 September 2016, 423, 427

SOs 16, 17

2.25 Appointment to Speaker's panel

Between items of business on 12 September, the Speaker presented a warrant appointing Mr Buchholz (Wright) to the Speaker's panel.

The role of the Speaker's panel is to take the Chair of the Federation Chamber (as Deputy Speaker) when requested to do so by the Deputy Speaker or, in his or her absence, by the Second Deputy

Speaker, and to take the Chair of the House as Deputy Speaker when requested to do so by the Speaker or, more usually, by the Deputy Speaker.

*Hansard: 12 September 2016, 499
Votes and Proceedings: 2016/104*

SO 17

2.26 Speaker presents reports on access to committee documents

After the acknowledgement of Country and prayers on 15 September, the Speaker presented two reports relating to access to committee documents.

Under a resolution of the House adopted in 1984, the Speaker is authorised to permit any person access to particular historic records of House committees. The Speaker is required to report to the House the details of any such disclosures. Similarly, the President of the Senate and the Speaker are authorised to permit any person access to particular historic records of joint committees.

*Hansard: 15 September 2016, 1007-40
Votes and Proceedings: 2016/157*

SO 199

Standing orders

2.27 Amendments to standing orders debated and agreed to

During government business time on 13 September, the Leader of the House, pursuant to notice, moved amendments to certain standing orders in two groupings. The changes proposed by the first group of amendments included:

- The establishment of an e-petitioning system for the House of Representatives;
- the establishment of House general purpose standing committees for the 45th Parliament and membership arrangements;
- the implementation of a number of technical amendments suggested by the Procedure Committee; and
- removal of the requirement for standing orders to be suspended for a division to be retaken in the event of confusion, error or misadventure.

The Manager of Opposition Business moved an amendment to the motion to omit certain proposed standing orders and to substitute others. The amendment was seconded by an opposition Member (Mr Albanese). Debate ensued and the amendment was negated on division.

A non-aligned Member (Mr Katter) moved an amendment to increase the time limit on questions asked by non-aligned Members during question time from 30 seconds to 45 seconds. The motion was seconded by a non-aligned Member (Mr Wilkie) and debate ensued. The amendment was carried on the voices. The question that the motion moved by the Leader of the House, as amended, be agreed to, was then carried on division.

The Leader of the House, pursuant to notice, moved a second group of amendments to standing orders. The changes proposed by the second grouping of amendments included:

- amending the adjournment times on Monday and Tuesday from 10.00 p.m. to 8.00 p.m.;
- amending the provisions for the automatic adjournment of the House;

- amending the Federation Chamber’s indicative order of business to reflect the earlier adjournment time of the House and to provide for additional government business and/or committee and delegation business time; and
- moving the grievance debate in the Federation Chamber from Monday to Tuesday.

The Manager of Opposition Business moved an amendment to establish a 10-minute period of responses to answers given during question time. The amendment was seconded by an opposition Member (Mr Albanese) and debate ensued. A non-aligned Member (Ms McGowan) moved a closure of question which was negated on division. A Minister, on behalf of the Leader of the House tabled a list of votes lost by the government in the House in the 43rd Parliament. The Chair then put the question on the amendment, which was negated on division.

A non-aligned Member (Mr Bandt) moved an amendment to the Leader of the House’s motion which sought to reinstate a number of procedures that were in place in the 43rd Parliament, including provision for items of private Members’ business to be voted on. The motion was seconded by a non-aligned Member (Mr Wilkie) and debate ensued. The amendment was negated on division. The Leader of the House’s motion to amend standing orders was then carried on division.

Hansard: 13 September 2016, 752-93
Votes and Proceedings: 2016/122-42

SOs 111, 116, 117, 117, 122

Offensive words[#]

	<i>Hansard</i>	
	<i>Date</i>	<i>Page</i>
‘The Leader of the Opposition is a Medicare fraud, a complete Medicare fraud.’	13 September 2016	718-9
‘Doofus’ is speaking again. You should stop him.’	13 September 2016	741
‘I have seen an absolute lack of leadership from ‘Brown Paper Bill’. Sam Dastyari—‘Senator Dim Sum’, or ‘Shanghai Sam’ as he is known by some...’	13 September 2016	741

SOs 89, 90, 92

[#] List of unparliamentary expressions recorded in *Hansard*.