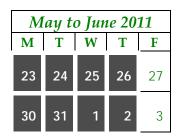
House of Representatives

Procedural Digest

No. 87

23 May – 2 June 2011



Bills

87.01 Opposition consideration in detail amendments negatived on the voices

In the consideration in detail stage of the Migration Amendment (Strengthening the Character Test and Other Provisions) Bill 2011, an Opposition Member moved amendments. Debate on the amendments between the Member and the Minister for Immigration and Citizenship ensued. The question on the Opposition amendments was put and negatived on the voices. The bill was agreed to and then read a third time.

Hansard: 31 May 2011, 5308-15 Votes and Proceedings: 2010-11/585

SOs 148, 150, 151, 155

87.02 'Programming' motion moved on notice

Immediately prior to the resumption of debate on the second reading of the Taxation Alternative Fuels Legislation Amendment Bill 2011, the Assistant Treasurer moved, pursuant to notice, a 'programming' motion. The motion required that so much of standing and sessional orders be suspended as would prevent a cognate debate of the bill with three (related) others and that at the conclusion of proceedings on the first bill, the immediate question on each remaining bill be put without amendment or debate. Further, the motion required that following a consideration in detail stage (where required), question(s) necessary to complete the remaining stages of each bill be put without amendment or debate.

The 'programming' motion was agreed to on division (75 'ayes' to 72 'noes'), and debate on the bills ensued. (Had the motion to suspend standing orders not been moved on notice, it would have required an absolute majority—that is, 76 Members—to pass, in accordance with standing order 47.) At 1.45 pm the debate was interrupted in accordance with standing order 34, and the resumption of debate was made an order of the day for a later hour that day.

Note: In recent years standing orders have been suspended from time to time to enable the introduction and passage of a bill through all stages without delay by a specified time, or to limit the duration of particular stages, without first declaring the bill urgent (as required to effect a 'guillotine'). The suspension of standing orders to 'program' the passage of a bill may, however, be likened to a kind of guillotine (see 5th edition of *House of Representatives Practice* at p. 384 and the forthcoming 6th edition).

Hansard: 2 June 2011, 5741-58 Votes and Proceedings: 2010-11/610-2

SOs 34, 47, 84, 106

Business

87.03 Condolence motion moved prior to question time – Death of former Member announced

At 2 pm on 23 May 2011, the Prime Minister moved a condolence motion in relation to the death of the Hon. Ralph James Dunnet Hunt AO. In accordance with standing order 49, the condolence motion took precedence over other business, including questions without notice. The Prime Minister's remarks were endorsed by the Leader of the Opposition and the Leader of the Nationals. All Members present rose in silence as a mark of respect. Debate was adjourned and the order of the day referred to the Main Committee for further debate.

The Speaker then informed the House of the death of Andrew Murray Thomas, a former senator who represented the state of Western Australia from 1975 to 1983. All Members present rose in silence as a mark of respect.

Hansard: 23 May 2011, 4037-9 Votes and Proceedings: 2010-11/524

SOs 34, 49, 183

87.04 Statements by indulgence on Sergeant Brett Wood – 'formal' condolence motion moved the following day

On 24 May, the Prime Minister and the Leader of the Opposition made statements by indulgence on the death of Sergeant Brett Wood MG. As a mark of respect and to indicate the House's support for these comments, all Members rose in their places.

As foreshadowed in her statement, the Prime Minister moved a formal condolence motion to commemorate Sergeant Wood the following day. The Leader of the Opposition, the Minister for Defence and the Shadow Minister for Defence Science, Technology and Personnel also made statements. All Members rose in their places as a mark of respect, and the Leader of the House moved, by leave, that the matter be referred to the Main Committee for further consideration. The question was agreed to on the voices.

Hansard: 24 May 2011, 4307-8; 25 May 2011, 4554-7 Votes and Proceedings: 2010-11/550

SOs 49, 65, 183

87.05 Motion to suspend standing orders to allow an explanation by the *Treasurer*

The Leader of the Opposition moved, during question time, a suspension of so much of standing and sessional orders as would prevent him from moving a motion requiring an explanation by the Treasurer.

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 Leader of the Opposition. The question was agreed to on division and debate ensued.

The Shadow Treasurer seconded the motion and made further remarks. The Leader of the House rose on a point of order, requesting the remarks be withdrawn. Debate ensued until the time allotted for the debate had expired.

Hansard: 24 May 2011, 4322-25 Votes and Proceedings: 2010-11/537-9

SOs 1, 34, 47, 48, 80

87.06 Suspension of sitting for lack of quorum

During second reading debate on the Migration Amendment (Complementary Protection) Bill 2011, an Opposition Member drew the Chair's attention to the state of the House. The bells were rung for four minutes, and the House having been counted, a quorum was not present. The Deputy Speaker stated that the Chair would be resumed in eight minutes.

At the appropriate time, the Deputy Speaker resumed the Chair. With a quorum present, debate continued. (And *see* entries **41.05** and **39.04** for previous occurrences.)

Hansard: 25 May 2011, 4504 Votes and Proceedings: 2010-11/549

SOs 55, 56, 57

87.07 *Ministerial statements by indulgence*

Immediately prior to question time, the Prime Minister and the Leader of the Opposition made statements by indulgence on the occasion of National Sorry Day. On the motion, by leave, of the Leader of the House, the matter was referred to the Main Committee for further debate.

Hansard: 26 May 2011, 4838-9 Votes and Proceedings: 2010-11/560

SOs 65, 183

87.08 Statements by indulgence on ADF personnel – 'formal' condolence motion moved the following day

On 31 May 2011, the Prime Minister and the Leader of the Opposition made statements by indulgence on the deaths of two unnamed Australian Defence Force (ADF) Personnel in Afghanistan. As a mark of respect and to indicate the House's support for these comments, all Members rose in their places.

The following day, the Prime Minister moved a formal condolence motion to commemorate the deaths of Lance Corporal Andrew Gordon Jones and Lieutenant Marcus Sean Case. The Leader of the Opposition, the Minister for Defence and the Shadow Minister for Defence Science, Technology and Personnel also made statements. All Members rose in their places as a mark of respect, and the Leader of the House moved, by leave, that the matter be referred to the Main Committee for further consideration. The question was agreed to on the voices.

Hansard: 31 May 2011, 5265-6; 1 June 2011, 5540-3 Votes and Proceedings: 2010-11/592

SOs 49, 65, 183

87.09 Appropriation bills returned to House to conclude second reading debate

Pursuant to the Agreement for a Better Parliament, reached between the major parties and a group of non-aligned Members in 2010, time was allocated in the Chamber for the Assistant Treasurer and Minister for Financial Services to conclude debate on the second reading of the Appropriation bills. On 1 June 2011, the Speaker reported that the Appropriation Bill (No. 1) 2011-12 had been returned from the Main Committee without amendment, and ordered that the bill be considered immediately.

Debate resumed on the motion that the bill be read a second time, to which an Opposition amendment had been moved. Following the Assistant Treasurer's summation, the Chair put the question 'that the words proposed to be omitted stand part of the question', and it was agreed to on the voices. The original question, that the bill be now read a second time, was then agreed to.

The Assistant Treasurer then moved, by leave, that the order of the day be referred to the Main Committee for further consideration, and the question was agreed to on the voices.

Hansard: 1 June 2011, 5525-9 Votes and Proceedings: 2010-11/591

SOs 142, 145, 152, 153, 183

Committees

87.10 Procedure Committee report on the procedural changes implemented in the 43rd parliament

The Chair of the Procedure Committee presented a report entitled *Interim Report: Monitoring and review of procedural changes implemented in the 43rd Parliament.* The report made four recommendations in relation to changes adopted by the House on 29 September 2010. The Chair made a statement in connection with the report, by leave.

Hansard: 23 May 2011, 4012-3 Votes and Proceedings: 2010-11/523-4

SOs 221, 63

87.11 Changes to membership of the Selection Committee

On 23 May, the Speaker reported advice from the Chief Opposition Whip nominating one Member to replace another on the Selection Committee. On the motion, by leave, of the Leader of the House, debate ensued, and the changes were agreed to.

Note: The membership changes were temporary to accommodate the Member's short leave of absence from the House.

Hansard: 23 May 2011, 4060-1 Votes and Proceedings: 2010-11/525

SOs 63, 222

87.12 Bills referred to committee by Minister

On 25 May, Mr Ferguson introduced a package of bills concerning the establishment of a single national regulator for petroleum and greenhouse gas storage. During his second reading speech on the final bill in the package, Mr Ferguson advised the House that he had written to the Speaker, as Chair of the Selection Committee, requesting that four of the bills be referred to the House Standing Committee on Agriculture, Resources, Fisheries and Forestry for inquiry. The Minister advised that he had consulted with the Chair and Deputy Chair of the committee on the referral and the reporting date of 27 June 2011.

Note: Notwithstanding the Selection Committee process outlined in standing order 222, standing order 215(b) allows a Minister or the House to refer any matter to a committee, including any pre-legislation proposal, bill, motion, petition, vote or expenditure, other financial matter, report or document.

Hansard: 25 May 2011, 4496-7 Votes and Proceedings: 2010-11/547-8

SOs 215, 222

87.13 Advisory report on bill presented

During government business on 1 June 2011, the Chair of the Standing Committee on Economics presented an advisory report on the taxation of alternative fuel bills, incorporating a dissenting report. The Chair and Deputy Chair of the Committee made statements in connection with the report, by leave.

Debate on the bills resumed in the House the following day.

Note: The Selection Committee had determined that the bills be referred to the Committee in its report No. 20 presented on 12 May 2011.

Hansard: 1 June 2011, 5472-5 Votes and Proceedings: 2010-11/589

SOs 143, 215, 222

87.14 Standing Committee on Regional Australia presents its first report

The Chair of the House Standing Committee on Regional Australia presented the committee's first report entitled: *Of drought and flooding rains: Inquiry into the impact of the Guide to the Murray-Darling Basin Plan.* The Chair, Deputy Chair and a committee member each made statements, by leave, in connection with the report. The Chair then moved that the House take note of the report, and the matter was referred to the Main Committee for further debate.

Hansard: 2 June 2011, 5720-4 Votes and Proceedings: 2010-11/607

SOs 39, 63, 183, 215, 247

Debate

87.15 Resumption of 'Budget debate'

Pursuant to a motion moved by the Leader of the House on 10 May, when the order of the day was called for the resumption of debate on the second reading of Appropriation Bill (No. 1) 2011-2012, a cognate debate took place with Appropriation Bill (No. 2) 2011-2012 and Appropriation (Parliamentary Departments) Bill (No. 1) 2011-2012. Later that sitting, an Opposition second reading amendment was moved to Appropriation Bill (No. 1) 2011-2012.

Hansard: 23 May 2011, 4013-32, 4061-121 Votes and Proceedings: 2010-11/524, 525-6

SO 145

87.16 'Wide-ranging' nature of Budget debate

During an Opposition Member's contribution to the budget debate, the Chair indicated that the Member was 'unnecessarily' and 'repetitively' reflecting on the Prime Minister, and asked the Member to relate her remarks to the appropriations. Debate ensued. Following several points of order, the Chair outlined his intentions regarding the potential for unfair reflections and apologised to the Member for having interrupted her speech.

Note: Appropriation bills are excluded from standing order 76 that debate be confined to the question.

Hansard: 24 May 2011, 4347-52 Votes and Proceedings: 2010-11/541

SO 76

Divisions

87.17 Four or fewer Members on call of division

On the question that the Migration Amendment (Strengthening the Character Test and Other Provisions) Bill 2011 be read a second time, and with more than one voice calling for a division, the Deputy Speaker deferred the division until 8 pm in accordance with standing order 133(b). When the question was put and a division called for, fewer than five members were on the side of the 'noes'. The Chair declared that the question was resolved in the affirmative and indicated that the names of those in the minority would be recorded in the *Votes and Proceedings*.

Hansard: 30 May 2011, 5089 Votes and Proceedings: 2010-11/571

SO 127

Documents

87.18 Twenty documents tabled in an answer to a question

During question time on 25 May, a Minister tabled twenty documents while answering a question asked by a Government Member.

Note: A Minister may table a document without leave when there is no other business before the House, as is the case during question time.

Hansard: 25 May 2011, 4571 Votes and Proceedings: 2010-11/550-1

SO 199

87.19 Resolution of territory legislative assembly presented

After question time, the Speaker presented a resolution from the Legislative Assembly of the Northern Territory concerning the Government's proposed carbon emissions tax. (And *see* entries **4.32**, **15.23**, **33.17**, and **53.11**.)

Hansard: 25 May 2011, 4575 Votes and Proceedings: 2010-11/551

SO 199

Main Committee

87.20 Unnecessary suspension of Main Committee

The meeting of the Main Committee on 25 May was suspended between 9.46 am and 9.51 am while a quorum was forming in the Chamber of the House.

Note: While the Main Committee suspends proceedings during a division in the House it normally does not do so for a quorum call. It is understood on this occasion that the cause of the ringing of the bells was not clearly conveyed through the signalling system from the Chamber to the Main Committee. (And *see* entry 7.21 for a previous occurrence.)

Hansard: 25 May 2011, 4655 Votes and Proceedings: 2010–11/554

SOs 190, 196

Order of Business

87.21 Early adjournment following succession of quorum calls

At 9.32 pm on Tuesday 24 May, following five quorum calls, the Leader of the House moved that the 'House do now adjourn'. The question was put and passed on division, and the House adjourned at 9.39 pm.

Note: The House usually sits until 10.30 pm on Tuesdays. A Minister may move this motion without notice, and no amendment may be moved to the motion.

Hansard: 24 May 2011, 4406-7 Votes and Proceedings: 2010-11/541-2

SOs 29, 32, 34

Parliamentary staff

87.22 Death of long-serving member of staff commemorated

Following question time on 31 May, the Speaker informed the House of the death of Mr Peter Buckley, the longest-serving member of staff of the Department of the House of Representatives. As a mark of respect, the Speaker asked Members to rise in their places.

Hansard: 31 May 2011, 5286

Private Members' Business

87.23 Suspension of standing orders to consider private Member's bill immediately

During Government business time, the Leader of the House moved, by leave, a suspension of standing orders to enable a private Member's bill (the Abolition of Age Limit on Payment of the Superannuation Guarantee Charge Bill 2011) to be brought on and considered immediately. Following a determination by the Speaker that the motion was 'open to debate', the Attorney-General made a statement and debate ensued on the question of whether the bill was in contravention of standing order 179 and in conflict with section 56 of the Constitution.

The question on the suspension was put and agreed to on the voices. Before calling on the order of the day, the Speaker made a brief statement, seeking the House's concurrence that he consider the matter and report back to the House at a later sitting. Debate on the second reading of the bill was adjourned.

Hansard: 26 May 2011, 4783-93 Votes and Proceedings: 2010-11/559

SOs 35, 41, 47, 63, 179, 180

87.24 Speaker's statement on private Member's bill – dissent from Speaker's ruling negatived

Following the acknowledgement of country and prayers, the Speaker made a statement regarding the constitutional and House practice issues relevant to the Abolition of Age Limit on Payment of the Superannuation Guarantee Charge Bill 2011 (see entry 87.23). Having been asked to consider and clarify the definition of a money or appropriation bill, and the roles and rights of each of the two houses and private Members in relation to such bills, the Speaker presented two documents prepared by the Clerk's Office: 'Private Member's bill—Abolition of Age Limit on Payment of the Superannuation Guarantee Charge Bill 2011'; and 'The law making powers of the Houses—Three aspects of the financial initiative: notes for Members'. The Speaker concluded that, on the basis of past precedent, the Abolition of Age Limit on Payment of the Superannuation Guarantee Charge Bill 2011 could be categorised as a bill subject to standing orders 179(a) and 180(c), and, therefore, could not be proceeded with in its current form.

On the understanding that the bill would not be brought forward for further consideration, the Manager of Opposition Business moved that the Speaker's ruling be dissented from. The Speaker agreed that his statement could be taken as a ruling, and debate on the motion ensued. By leave, the Leader of the House moved to suspend standing orders to permit the Attorney-General and two other Members to address the question of dissent. At the conclusion of the debate, the question that the Speaker's ruling be dissented from was put and negatived on division.

Hansard: 2 June 2011, 5699-711 Votes and Proceedings: 2010-11/597-9

SOs 41, 47, 87, 179, 180

87.25 Six items of private Members' business considered during government business, including the appointment of a Joint Select Committee

On the motion of the Leader of the House, standing and sessional orders were suspended to enable six items of private Members' business to be reported from the Main Committee and considered immediately (in government business time):

- the question that the first order of the day—concerning the indexation of military pensions—be agreed to was put and passed on the voices;
- to the second order of the day—concerning Israel—an amendment was proposed. The amendment, that the second paragraph be deleted, was agreed to on division;
- when the third order of the day—concerning the centenary of the choice of the Griffin design for the National Capital—was called on, the sponsoring Member obtained leave to amend the terms of his motion, and briefly spoke to it. With the amendment agreed to, the motion, as amended, was agreed to;
- the fourth order of the day sought to appoint a Select Committee on Australia's Immigration Detention Network. A non-aligned Member moved, as an amendment, that the committee be a joint committee, and the amendment was agreed to on the voices. To this, the sponsoring Member made further amendments, which were also agreed to on the voices;
- the fifth order of the day, the second reading of a private Member's bill, was negatived on division; and
- the sixth order of the day, a motion concerning science curriculum, was agreed to on the voices.

Hansard: 2 June 2011, 5711-20 Votes and Proceedings: 2010-11/599-607

SOs 41, 47, 63, 110, 117, 118

Privilege

87.26 Alleged deliberate misleading of the House

Following question time on 23 May, an Opposition Member raised as a possible matter of privilege whether the Minister for Mental Health and Ageing had deliberately misled the House in responding to a question from the Member for Banks on 12 May 2011. The Member submitted to the Speaker the *Hansard* of the Minister's remarks and an extract from the Budget Related Paper "Delivering better hospitals, mental health and health services".

The Speaker stated that he was prepared to read the material provided by the Opposition Member and report back to the House at the earliest opportunity.

On 26 May 2011, the Speaker made a statement to the House on the matter, concluding that it was not clear that a *prima facie* case had been made such as would cause him to give precedence to a motion to refer the matter to the Committee of Privileges and Members' Interests.

Hansard: 23 May 2011, 4085-9; 26 May 2011, 4767 Votes and Proceedings: 2010-11/525, 557

SO 51

Speaker

87.27 Member named but not suspended from the House

During question time on 31 May 2011, and following a 'general warning', the Speaker named an Opposition Member for continuing to interject after having been warned by the Chair.

The Leader of the House moved that the Member be suspended from the service of the House and the motion was negatived on division. The Speaker, having declared the result of the division, stated that it was his intention, at the conclusion of question time, to consider his position.

The Leader of the Opposition then moved, by leave, a motion of confidence in the Member for Scullin's Speakership. The Prime Minister seconded and spoke to the motion. A non-aligned Member also made some remarks. The motion was agreed to on the voices, and question time was concluded.

Note: House of Representatives Practice (p. 520) states that the naming of a Member is, 'in effect, an appeal to the House to support the Chair in maintaining order'.

Hansard: 31 May 2011, 5283-4 Votes and Proceedings: 2010-11/583-4

SOs 60, 63, 91, 92, 94, 111, 116

87.28 Speaker's statement regarding the putting of questions

Following question time, the Speaker made a statement concerning the operation of standing order 122: 'Questions put on proposed amendments'. The Speaker referred to the comments of the Standing Committee on Procedure in its recent report that there was merit in trialling a shortened form of the question on amendments, namely 'that the amendment be agreed to' (*see* pp. 56-7 of the *Interim Report: Monitoring and review of procedural changes implemented in the* 43rd *Parliament*).

Accordingly, the Speaker noted that he intended to use the simplified form for the remainder of the Parliament, and that he would encourage other occupants of the Chair to do the same. The Speaker further noted that any Member could object and require the traditional form to be used in a particular case (see standing order 122).

The Leader of the House also made some remarks in support of the trial.

Hansard: 2 June 2011, 5790-1 Votes and Proceedings: 2010-11/614

SOs 3, 122

Withdrawals

87.29 Offensive words

	Hansard	
	Date	Page
'they should be honest'	23 May 2011	4051
unrecorded	24 May 2011	4312
'you idiot.'	24 May 2011	4316
' a Treasurer who lies to the Australian people and does it in parliament.'	24 May 2011	4326-7
'He's a thug.'	24 May 2011	4326
'You're still a liar'	24 May 2011	4327
' a liar'	24 May 2011	4327
'His statement that this came suddenly out of the blue is a lie. His statement that he knew nothing about this and that they did not communicate to him is a lie.'	24 May 2011	4331
' a pathetic liar.'	25 May 2011	4560
unrecorded	25 May 2011	4562
' it is about time the Leader of the Opposition showed that he was not able to be bought by big tobacco and stood up for those who are fighting cancer.'	26 May 2011	4842-3
unrecorded	26 May 2011	4849
unrecorded	26 May 2011	4858
'The fact that this minister has told a lie to this parliament—'	30 May 2011	4987
'Yet this Prime Minister, having lied to them'	31 May 2011	5418
'He has completely misrepresented, deliberately and wilfully'	1 June 2011	5560

SOs 89, 90, 92