

# HOUSE REVIEW



## Selected features of House of Representatives business

Sitting period 22 November – 2 December 2021 (no. 45)

The last sitting fortnight for the year featured: the resignation and election of Speaker, several matters relating to parliamentary privilege, the introduction and consideration of legislation and three ministerial statements.

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### Resignation and election of Speaker

Speaker Smith presided over the Chamber for the final time on 22 November, in line with his previously stated intent to return to the backbench. Shortly after Question Time, he made a statement of thanks, which was followed by statements from the Prime Minister, the Leader of the Opposition, the Deputy Prime Minister, the Deputy Leader of the Opposition, the Leader of the House, the Manager of Opposition Business and the Member for Melbourne.

The following day, when the House met, pursuant to standing orders, the Clerk read a communication from the Governor-General informing the House that he had received and accepted Mr Smith's resignation as Speaker. The House then proceeded to elect a new Speaker. The Member for Fisher, Mr Wallace, and the Member for McEwen, Mr R.G. Mitchell, were nominated for the position. Both accepted their nomination and a ballot was held. Mr Wallace received 70 votes to Mr Mitchell's 59 votes and was declared elected and escorted to the Chair. Speaker Wallace thanked the House for the honour of being elected, and took the Chair. As the symbol of the authority of the House and the Speaker, the Mace—which the Serjeant-at-Arms had placed below the Table at the commencement of proceedings—was laid upon the Table, all in accordance with standing orders. The Prime Minister and the Leader of the Opposition each made statements of congratulations. The Prime Minister then advised that the Governor-General would set a time for receiving Speaker Wallace, and the sitting was suspended.

On 29 November the Speaker informed the House that he had met with the Governor-General and received from him an authority to administer the oath or affirmation of allegiance to new Members, which the Speaker presented to the House.

### Matters of privilege

During the previous sitting fortnight, on 27 October, the House agreed to a resolution authorising the Speaker to act to ensure that the interests of the House were represented in a legal matter before the Federal Court of Australia. The matter concerned a court judgment which granted leave to Clubs NSW to obtain correspondence between a former employee and the Member for Clark. On 22 November, the Speaker made a statement to the House advising that, as an initial step, he had instructed a solicitor to write to the parties about the interests of the House and potential issues of parliamentary privilege.

On 23 November, the Manager of Opposition Business again raised as a matter of privilege whether the Member for Pearce had failed to comply with the resolution of the House regarding the registration of Members' interests. He stated that new information had come to light since he had first raised this matter on 18 October and referred to an interview given that morning by the former Speaker, the Member for Casey. The Speaker responded on 25 November. Having considered the statement made by the Manager of Opposition Business and the documents presented, the

Speaker's view was that the interview did not reveal new information relating to the substance of the matter of privilege raised. As the House had recently decided not to refer the matter to the Standing Committee of Privileges and Members' Interests, and in the absence of new information of substance to the matter, he did not support priority being given over other business to a motion for referral of the same matter to the committee.

On 24 November, the Speaker presented a new memorandum of understanding regarding Australian Federal Police (AFP) investigations where parliamentary privilege may be involved, along with a new national guideline issued by the AFP which updates the procedure that the AFP would follow for the collection and quarantining of material that could be subject to parliamentary privilege. The Speaker explained that the MOU and guideline, which replace a 2005 agreement, are designed to ensure that law enforcement investigations are conducted without improperly interfering with the functioning of Parliament, its committees and its members. They also ensure that parliamentarians and their staff are given an opportunity to raise claims of parliamentary privilege in relation to material that is obtained through the execution of a warrant. The Speaker stated that further work to agree on procedures in relation to the exercise of AFP's covert investigative powers will be conducted in the next Parliament.

On 30 November, the Chair of the Standing Committee on Privileges and Members' Interests, Mr Broadbent, presented the committee's report into a complaint concerning an alteration to the statement of registerable interests of the Member for Pearce. Having considered the information provided, the committee concluded that the declaration by the Member was consistent with his obligations under the resolution on the registration of Members' interests. However, the committee considered all Members should seek to provide the greatest level of transparency in the disclosure of the source of gifts received by them. The committee considered that additional detail within the requirements of the register would assist Members in meeting the expectations of the House and has begun work on changes it believes would ensure the requirements more comprehensively reflect the intent and integrity of the register.

After he had presented the report, the Chair raised as a matter of privilege that a news article, referring to the contents of the report and private deliberations of the committee, had appeared online the previous evening. He indicated that the committee would investigate the apparent unauthorised disclosure in the first instance. On 2 December, the Chair reported to the House that the committee had undertaken an initial investigation and concluded that, while the article was the result of an unauthorised disclosure, on this occasion it was considered unlikely to have caused substantial interference to the work of the committee or the House such as would amount to a potential contempt under the *Parliamentary Privileges Act 1987*. He noted the committee's view that the incident was very unfortunate and disappointing, and reminded the House that a potential contempt can be committed in the act of disclosing or publishing material from parliamentary committees that has not been authorised for publication.

### **Motion to suspend standing orders**

On 25 November, the Member for Indi moved, without notice, to suspend standing orders to enable consideration of her private Member's bill relating to establishing an integrity commission. Following debate, the question was put in the form 'That the motion be disagreed to', as has been the practice during the COVID-19 pandemic, to reduce the need for Members to move across the Chamber when voting. The House divided and the question was resolved in the negative: 'ayes' 63: 'noes' 66. The Speaker then put the question 'That the motion be agreed to' and the House divided again. While a majority of those Members present voted in favour of the motion 'ayes' 66: 'noes' 64, it was not carried, as standing order 47(c)(ii) stipulates that an absolute majority (currently, 76 Members) is required to carry a suspension motion moved without notice. Later that day, the Speaker made a statement explaining that the second question was necessary because a decision against a proposal to disagree to a motion is not the same as a decision in favour of the motion.

## House arrangements

Members who, for reasons relating to the pandemic, were unable to attend sittings in person continued to be able to participate by video link during the fortnight.

In the second week, the House sat later than scheduled on three days, to progress its consideration of certain bills. On 29 November, this was facilitated by the House agreeing to negative the question 'That the House do now adjourn' to allow debate to continue, while on 30 November and 1 December the House agreed to debate management motions to enable consideration of particular bills before the House adjourned.

Also in the second week, by indulgence, three Members made statements regarding their intention not to recontest the next election: Ms Bird (30 November), Mr Hayes (2 December) and Mr Hunt (2 December).

As is customary on the final sitting before the summer recess, the House agreed that leave of absence be given to all Members from the determination of the sitting to the date of the House's next sitting. Shortly afterwards, the Prime Minister, the Leader of the Opposition and the Deputy Prime Minister made statements reflecting on the past year.

## Ministerial statements

Three ministerial statements were made during the fortnight, with an opposition spokesperson speaking in response on each occasion. The Minister for Agriculture and Northern Australia made a statement on developing northern Australia on 24 November, and the Minister for Trade, Tourism and Investment made a statement on investment on 25 November. The Minister for Veterans' Affairs made a statement on veterans and their families on 29 November. A motion to take note of this statement was then moved and referred to the Federation Chamber, where it was debated the following day.

## Legislation

### *Introductions*

During the fortnight 17 Government bills were presented. This included two electoral legislation bills, relating to candidate eligibility and annual disclosure equality. On 25 November, the Religious Discrimination Bill 2021 was introduced by the Prime Minister. Bills are not often introduced by the Prime Minister of the day, and introduction by the Prime Minister can reflect the importance he or she places on a bill or its subject matter. Another Minister then introduced two related bills, the Religious Discrimination (Consequential Amendments) Bill 2021 and the Human Rights Legislation Amendment Bill 2021. Cognate debate on the second reading of the bills began on 2 December.

Three private Members' bills were introduced, on the subjects of the banning of goods produced by forced labour, illegal detention of Australian journalists and equality of pay.

### *Passing the House*

In total, 16 bills passed the House. This included four electoral legislation bills concerning political campaigners, annual disclosure equality, assurance of Senate counting and contingency measures.

On 25 November, debate resumed on the second reading of the Mitochondrial Donation Law Reform (Maeve's Law) Bill 2021. Named for Maeve Hood, a child who suffers mitochondrial disease, the bill seeks to amend the *Prohibition of Human Cloning for Reproduction Act 2002* and the *Research Involving Human Embryos Act 2002* to make mitochondrial donation legal in Australia. The second reading debate spanned several days. Owing to its subject matter, a vote free from political party guidance (sometimes referred to as a 'conscience vote') took place on the bill. On 1 December, the motion for the second reading was carried on the voices, as were motions to agree to government amendments and to disagree to an amendment moved by Mr Andrews. The House then divided on the question that 10 amendments moved together by Mr Andrews be disagreed to. The motion was

carried (92 ‘ayes’: 29 ‘noes’), meaning the amendments were defeated, before the motion that the bill be read a third time was carried on the voices. The bill is now with the Senate for concurrence.

### **Communication with the Senate**

The message traffic with the Senate increased in the second week of sittings as bills were considered and passed by each house.

Three Senate bills were transmitted for concurrence during the fortnight. On 2 December, the Autonomous Sanctions Amendment (Magnitsky-Style and Other Thematic Sanctions) Bill 2021 was received from the Senate and, leave having been granted for the second reading debate to ensue immediately, the bill was passed by the House on the same day. The two other Senate bills—the Independent National Security Monitor Amendment Bill 2021, introduced on 24 November, and the Crimes Amendment (Remissions of Sentences) Bill 2021, introduced on 29 November—both passed through their second and third readings on 1 December.

Senate amendments to four House bills were also considered; all were agreed to. Other Senate messages returned bills without amendment and informed the House of changes to joint committee membership.

The House and Senate are next scheduled to sit on 8 February 2022.

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### ***Further information on the work of the House***

[Bills and legislation](#)—access bills, explanatory memoranda, amendments, speeches, information about key stages of a bill’s consideration, and a tracking option

[Live Minutes](#)—a real time summary of House decisions and proceedings. When used in conjunction with the [Daily Program](#), the Live Minutes are a simple way to track the House’s work each day

[House of Representatives Practice](#) 7 ed., 2018—the most authoritative guide to House procedure

[House of Representatives Standing Orders](#), as at 19 September 2019, as amended—the House rules of procedure