

# HOUSE REVIEW

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## Selected features of House of Representatives business

Sitting period 26-28 March 2018 (no. 10)

This tenth issue, the third for 2018, considers the election of the Deputy Speaker; the arrival of the Member for Batman; a report from the Committee of Privileges and Members' Interests and a subsequent censure by the House of a former Member; as well as the various ways the Constitution affected the House during the week.

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### **Deputy Speaker—election and role**

The House was without a Deputy Speaker when it met on Monday 26 March, because of the appointment of Mr Coulton, the former Deputy Speaker, as Assistant Minister for Trade, Tourism and Investment. From 10am until 12 noon on the 26<sup>th</sup> committee and delegation and private Members' business took priority, as is usual on a Monday. The Speaker then announced that he had received a letter from Mr Coulton tendering his resignation as Deputy Speaker. A member of The Nationals then moved that Mr Hogan, the Member for Page, be elected Deputy Speaker, and the motion was seconded. When no further proposals were made, there was no need for a ballot, and Mr Hogan was declared elected as Deputy Speaker.

Usually, at the commencement of a parliament, the Deputy Speaker and Second Deputy Speaker are elected in a ballot of Members. The Member with the highest number of votes becomes Deputy Speaker and the Member with the next highest number becomes the Second Deputy Speaker. Standing orders provide that the Second Deputy Speaker is to be a non-government Member. The only vacancy on 26 March was for the role of Deputy Speaker.

In this role, the Deputy Speaker has specific responsibility under the standing orders for chairing the Federation Chamber and also assists the Speaker by taking the chair in the Chamber regularly (as do members of the Speaker's panel of Members). Standing orders also provide that the Deputy Speaker is the Acting Speaker in the absence of the Speaker. The Constitution makes no mention of the role but provides that in the absence of the Speaker, Members may choose a Member to perform the Speaker's duties. The title of Deputy Speaker was established by the House in 1994. Before that the position was known as Chairman of Committees, or Deputy Speaker and Chairman of Committees. Mr Hogan is the 34<sup>th</sup> person to fill the role in the history of the House.

### **Affirmation of allegiance to the Member for Batman—Ms Kearney**

Just before Question Time on 26 March, the Speaker announced that he had received a return to the writ he issued on 7 February for an election to fill the vacancy caused by the resignation of Mr Feeney, former Member for Batman. The writ certified that Ms Gerardine Kearney had been elected. The Serjeant-at-Arms announced there was a new Member and, when the Speaker said 'Admit her', Ms Kearney entered the Chamber accompanied by the Members for Jagajaga and Gorton. Ms Kearney made and signed an affirmation of allegiance, was introduced formally to the Speaker, and went to her allocated seat in the Chamber. Standing orders enable Members to swear the oath or make an affirmation of allegiance in accordance with s.42 of the Constitution—orally and in writing.

(House Review no. 8, covering 5-15 February, discusses the impact of section 44(i) of the Constitution on a number of Members, including Mr Feeney.)

## **Report by the Committee of Privileges and Members' Interests and censure**

On 4 September 2017 the House referred to the Committee of Privileges and Members' Interests for inquiry and report: whether the former Member for Dunkley, Mr Billson, by accepting an appointment as, and acting as, a paid director of the Franchise Council of Australia while still a Member of the House, gives rise to any issues that may constitute a contempt of the House or to any issues concerning the appropriate conduct of a Member having regard to their responsibilities to their constituents and to the public interest. (See House Review issue no. 5, covering the period 4-14 September 2017, for a discussion of parliamentary privilege and the raising of the matter by the Manager of Opposition Business.) The Member for Isaacs had also written to the Committee asking it to examine whether the former Member had acted contrary to resolutions of the House regarding registration of Members' interests when he was a Member.

On 26 March, the Chair of the Privileges and Members' Interests presented the Committee's report on the matters referred by the House and the related matter raised by the Member for Isaacs. Whilst the Committee did not conclude that the former Member for Dunkley's actions constituted a contempt of the House, it recommended that the House censure the former Member for failing to discharge his obligations as a Member by taking up paid employment for services representing the interests of an organisation while he was a Member and failing to fulfil his responsibilities by declaring his personal and pecuniary interests appropriately in respect of this paid employment.

On 27 March, the Chair of the Privileges Committee, by leave, moved that the House censure the former Member for Dunkley for failing to discharge his obligations as a Member to the House in taking up paid employment for services to represent the interests of an organisation while he was a Member and failing to fulfil his responsibilities as a Member by appropriately declaring his personal and pecuniary interests in respect of the paid employment. The motion was seconded by the Deputy Chair of the Committee and, after a short debate, was carried on the voices.

## **Legislation**

### *Introductions*

On Wednesday 28 March, 32 bills were introduced by the Ministers responsible. Logistics were made slightly more complicated by a motion to suspend standing orders, without notice, in-between two introductions. The subjects of the bills included consumer credit protection to private health insurance, ASIC, Biosecurity and student loans. In recent times, the highest number of introductions on one day was in 1992, when 41 bills were introduced.

### *Consideration of bills in the Federation Chamber*

Two bills were considered in the Federation Chamber and then finalised in the Chamber.

### *Passing the House*

The Higher Education Support Legislation Amendment (Student Loan Sustainability) Bill 2018; Migration Amendment (Regulation of Migration Agents) Bill 2017; Migration Agents Registration Application Charge Amendment (Rates of Charge) Bill 2017; and Communications Legislation Amendment (Online Content Services and Other Measures) Bill 2017 were passed during the week.

Two bills passed the House with more speed than usual. On the evening of 28 March a message from the Senate was reported, transmitting for the concurrence of the House, the Security of Critical

Infrastructure Bill 2017. The bill provides for the management of national security risks of espionage, sabotage and coercion arising from foreign involvement in Australia's critical infrastructure.

The bill was read a first time, a Minister presented a revised explanatory memorandum and moved that the bill be read a second time. After the Minister's second reading speech, the House gave leave for debate to continue. Normally at this stage debate would have been adjourned to the next sitting. The Shadow Attorney-General and Shadow Minister for National Security responded, referring to the bill's earlier scrutiny by the Parliamentary Joint Committee on Intelligence and Security and improvements made to the bill as a result of the Committee's bipartisan work. After further debate, the questions on the second and third readings were carried on the voices.

A message from the Senate was then reported, transmitting a related bill, the Security of Critical Infrastructure (Consequential and Transitional Provisions) Bill 2017, for the concurrence of the House. A Minister presented a revised explanatory memorandum and moved the second reading. The bill was finalised after a brief debate.

Finalisation of two other bills was more protracted. On 11 September 2017 the House passed the Social Services Legislation Amendment (Welfare Reform) Bill 2017 and its consideration in the Senate began the following day. The Treasury Laws Amendment (Junior Minerals Exploration Incentive) Bill 2017 passed the House on 13 February 2018 and the Senate began its consideration on 15 February. Finalisation of the bills so that each House agreed to them in exactly the same form, and so that Constitutional provisions were met, involved a number of trips for the bills, to and from the Senate during the week. This is discussed below in the section on interaction with the Senate.

### **Committees—establishment and reports**

On 1 March the House agreed to establish a Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples. The resolution provided that a message be sent to the Senate informing it of the resolution and inviting it to concur. On 26 March a message from the Senate was reported, informing the House that it had considered the House's message and concurred. Senate messages were also reported informing the House of the appointment of certain Senators to the Committee. That day and following, the House was informed of nominations for Members to be members of the Committee. Each time, a Minister's motion that the Members be appointed was carried.

In the course of the week 14 reports by parliamentary committees were presented to the House.

### **Interaction with the Senate—impact of Constitutional provisions**

The Senate (only) met from 19 to 22 March. As a consequence, on Monday 26 March, a large number of messages from the Senate was reported to the House. Most messages returned bills that had been passed by the Senate without any amendments or requests for amendments. Two messages were unusual in that they were each preceded by the report of a message from the Governor-General recommending an appropriation for the purpose of amendments to be made. First a message from the Governor-General recommending an appropriation for amendments to be made to the Social Services Legislation Amendment (Welfare Reform) Bill 2017 was reported. Then, a message from the Senate was reported, returning the Social Services Legislation Amendment (Welfare Reform) Bill 2017 with requests for amendments. A Minister moved that the requested amendments be considered immediately and then that the requested amendments be made. Following debate, the amendments were made.

The same process was then followed with respect to the Treasury Laws Amendment (Junior Minerals Exploration Incentive) Bill 2017 that was returned with a request for amendment. First, the message

from the Governor-General recommending an appropriation for the purpose of an amendment to be made was reported, and then the message from the Senate. The House agreed to a Minister's motion that the request be considered immediately and then agreed immediately to the Minister's motion that the amendment requested by the Senate be made.

The Senate had also made amendments to each bill but, at this stage, the House only considered the requests. Later on Monday 26<sup>th</sup> messages from the House were reported to the Senate in turn—informing the Senate that the House had made the amendments requested to the first bill and the amendment requested to the second bill. Each bill was read a third time after the report.

On 27 March, in the House, messages from the Senate returning the two bills, with amendments, were reported. In each case a Minister moved that the amendments be considered immediately and then that the amendments be agreed to. In each case, after debate, the amendments were agreed.

The cause of this traffic between the House and Senate is the Constitution and the powers it gives the House and Senate in respect of legislation. Among other things, section 53 prevents the Senate from amending taxation or appropriation bills for the ordinary annual services of the government or from amending a bill so as to increase any proposed charge or burden on the people. But the Senate may request that the House make such an amendment. In these cases, before the third reading stage, the Senate returns the bill to the House with requests. The third reading occurs when the bill is received back from the House. If the Senate has made amendments as well as requests (as in this instance), only the requests are considered by the House at the earlier stage and the amendments are considered by the House later, when the Senate has completed the third reading and returned the bill to the House.

Section 56 of the Constitution provides that a bill for the appropriation of revenue or moneys must not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Governor-General to the House in which the proposal originated—hence the reports of receipt of a message from the Governor-General recommending an appropriation for the amendments.

The next issue of House Review will be published after the House sits next: 8-10 May (Budget week).

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

[Guide to Procedures](#), 6 ed., 2017, a concise and current guide to the operations of the House

[Last week in the House](#), a collection of items (with hyperlinks) considered by the House during the week

[Bills and legislation](#) for bills, explanatory memoranda, amendments, speeches, and tracking facility

[Citizenship Register](#) for Members' statements on citizenship

[Live Minutes](#) for 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

[Votes and Proceedings](#) for all the decisions of the House, available the next business day

[House of Representatives Practice](#) 6 ed, 2012, for the most authoritative guide to House procedure