

Procedural Digest

No. 26

46th Parliament

22 November – 2 December 2021

Nov–Dec 2021				
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Bills

26.01 Prime Minister presents Religious Discrimination Bill

As the first item of business on 25 November, the Prime Minister presented the Religious Discrimination Bill 2021 and made the second reading speech. A minister then presented two related bills, the Religious Discrimination (Consequential Amendments) Bill 2021 and the Human Rights Legislation Amendment Bill 2021. In each case, the debate was adjourned to a future sitting.

Hansard: 25 November 2021, 10811-4
Votes and Proceedings: 2021/2355

SOs 141, 142

26.02 Free vote on Mitochondrial Donation Bill

Over the sitting fortnight, there was a lengthy second reading debate on the Mitochondrial Donation Law Reform (Maeve's Law) Bill 2021. The bill makes legal the use of certain reproductive technologies to prevent mitochondrial disease being passed from a mother to her child. In summing up the debate, the Minister for Health and Aged Care indicated that questions on the bill would be decided by a free vote. That is, members would vote in accordance with their conscience rather than along party lines.

The question that the bill be read a second time was carried on the voices. The bill then proceeded to the consideration in detail stage. Government amendments to the bill were carried on the voices. A government backbencher, Mr Kevin Andrews, then moved an amendment to the bill and the amendment was negated on the voices. He then, by leave, moved a number of other amendments together. Following debate, the question that the amendments be disagreed to was put and a division called. The question was carried (92:29). Consideration in detail concluded and the bill was read a third time.

The Prime Minister and the former Shadow Minister for Health then spoke by indulgence, commending the House on the way in which it conducted the passage of the bill.

Hansard: 1 December 2021, 11293-304
Votes and Proceedings: 2021/2397-8

SOs 141, 142

Business

26.03 Statements on death of Mr David Dalaithngu AM

Following question time on 30 November, the Prime Minister and the Leader of the Opposition both made statements, by indulgence, regarding the death of Yolngu actor, David Dalaithngu.

Hansard: 30 November 2021, 11137-8

Committees

26.04 New Select Committee on Social Media and Online Safety

On 30 November, a minister moved a motion for the appointment of a House Select Committee on Social Media and Online Safety. The motion provided that the committee present its final report no later than 15 February 2022. The question was debated and carried on the voices.

Hansard: 1 December 2021, 11273-30
Votes and Proceedings: 2021/2390-1

SO 223

26.05 Status of government responses to committee reports

On 2 December, the Speaker presented the *Speaker's schedule of the status of government responses to committee reports*. The report was incorporated into Hansard.

The government is expected to present a response to a House or joint committee report within six months of its presentation in the House, in accordance with a resolution of the House adopted on 29 September 2010.

Hansard: 2 December 2021, 11393-9
Votes and Proceedings: 2021/2409

SO 199

Documents

26.06 Report on review into Commonwealth parliamentary workplaces

During question time on 30 November, the Prime Minister presented the Australian Human Rights Commission report entitled, *Set the standard: Report on the independent review into Commonwealth Parliamentary Workplaces*. The report makes a number of recommendations to ensure that parliamentary workplaces are safe and respectful.

Hansard: 30 November 2021, 11125
Votes and Proceedings: 2021/2383

SO 199

Parliamentary administration

26.07 Members' attendance and remote participation

Members' attendance was high during the sitting fortnight, with around 130 members attending each day. However, there were still a number of members unable to attend due to the COVID-19 pandemic.

In line with recent practice, an agreement for members to contribute remotely during the sitting fortnight, signed by the Leader of the House and the Manager of Opposition Business, was presented on the first Monday. Over the fortnight, eight members participated in proceedings remotely through the official video facility.

*Hansard: 22 November 2021, 10373
Votes and Proceedings: 2021/2315-6*

SO 199

Members

26.08 Valedictory remarks

Three long-serving members not contesting the next election made valedictory statements, reflecting on their parliamentary careers—the Hon Sharon Bird on 30 November, and Mr Chris Hayes and the Hon Greg Hunt on 2 December.

As is tradition, the Prime Minister, the Leader of the Opposition, the Deputy Prime Minister and the Speaker made end-of-year valedictory remarks on the last sitting day of the year, thanking colleagues and wishing Australians a happy Christmas.

*Hansard: 30 November 2021, 11147-51
2 December 2021, 11333-7; 11399-407*

Motions

26.09 Government does not win vote on suspension motion

During government business time on 25 November, independent member, Dr Helen Haines, moved that standing orders be suspended to bring on her Australian Federal Integrity Commission Bill 2021 for passage through all stages. When debate concluded, the question that the motion be disagreed to was put. (The question was put in the negative to limit movement across the Chamber, due to the pandemic.)

The question that the motion be disagreed to was negatived (66:63), with all government members but one voting in the minority. The question was then put that the motion be agreed to. The result of the division was ayes, 66 and noes, 64. However, as the requirement for an absolute majority was not met, the motion was not carried.

In response to some confusion over these proceedings, the Speaker made a statement later in the day. He explained that a second vote on the suspension motion was required because a decision against a proposal to disagree to a motion was not the same as a decision in favour of a motion.

A motion to suspend standing orders moved without notice can only be carried by an absolute majority of members (76 members), or by a majority of members present if agreed by the Leader of the House and the Manager of Opposition Business.

*Hansard: 25 November 2021, 10824-31; 10867
Votes and Proceedings: 2021/2357-8*

SO 47

Parliamentary administration

26.10 Safe and Respectful Workplaces training program

On 29 November, the House agreed to a resolution regarding the Safe and Respectful Workplaces training program administered by the Department of Finance. The resolution provided for the Registrar of Members' Interests to maintain a public register of statements by members indicating their completion of the training program.

*Hansard: 29 November 2021, 10949
Votes and Proceedings: 2021/2366-7*

26.11 Program of sittings for 2022

Also on 29 November, the Leader of the House presented the proposed program of sittings for 2022 and, by leave, moved that the program be agreed to. In speaking to the motion, the Manager of Opposition Business suggested that there were too few sitting days scheduled for the first half of 2022. Nevertheless, the program was agreed to on the voices.

*Hansard: 29 November 2021, 10981-2
Votes and Proceedings: 2021/2369*

SOs 29, 199

Privilege

26.12 Statement by Speaker regarding privilege matter raised by the Member for Clark

On 22 November, the Speaker referred to a resolution of the House on 27 October this year which authorised the Speaker to act to ensure that the interests of the House were represented in a matter before the courts, so that parliamentary proceedings were appropriately protected as provided by the *Parliamentary Privileges Act 1987* (see **25.09**). The matter concerned a Federal Court decision granting ClubsNSW access to correspondence between a former employee and the Member for Clark. The Speaker advised 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.

*Hansard: 22 November 2021, 10448-9
Votes and Proceedings: 2021/2319*

SO 51

26.13 Matter of privilege raised a second time concerning the Member for Pearce and the Register of Members' Interests

On 23 November, the Manager of Opposition Business again raised a matter of privilege regarding the Member for Pearce and the Register of Members' Interests, in light of public comments made on the issue by the former Speaker. The matter concerned whether the Member for Pearce had failed to comply with the resolution of the House regarding the registration of members' interests when he declared that a blind trust had paid for his personal legal fees. The Manager of Opposition Business had previously raised the matter on 18 October, the Speaker had given precedence to a motion to refer the matter to the Committee of Privileges and Members' Interests, and the House had voted against the motion (see **25.08**).

In reporting back on 25 November, the Speaker advised that the comments made by the former Speaker did not reveal any new information relating to the substance of the matter. Noting that the House had recently voted against a motion to refer the matter to the Privileges Committee, the Speaker did not give precedence to another such motion.

*Hansard: 23 November 2021, 10616-8
25 November 2021, 10867
Votes and Proceedings: 2021/2340, 2361*
SO 51

26.14 Documents on search warrants and parliamentary privilege

On 24 November, the Speaker advised that the former Speaker, the President of the Senate, the Attorney-General and the Minister for Home Affairs had signed a new memorandum of understanding regarding the execution of search warrants in relation to members of parliament. He presented a copy of the MOU, along with Australian Federal Police guidelines on investigations where parliamentary privilege may be involved.

*Hansard: 24 November 2021, 10675
Votes and Proceedings: 2021/2347*
SO 199

26.15 Privileges Committee report on complaint concerning the Member for Pearce; unauthorised disclosure of report

On 30 November, the chair of the Committee of Privileges and Members' Interests presented a report on a complaint regarding the Member for Pearce and the Register of Members' Interests. The committee had adopted the inquiry, having received a complaint from the Shadow Attorney-General. As described above, the matter concerned a declaration made by the Member for Pearce that a blind trust had paid for his personal legal fees, and was previously raised in the House by the Manager of Opposition Business (see **26.13**).

In its report, the committee found that the Member for Pearce had acted in line with his obligations under the resolution of the House regarding the registration of members' interests. However, the committee described the current arrangements as 'inadequate' and indicated that changes would be made to the requirements for the Register of Members' Interests to better reflect the intent and integrity of the Register.

The committee chair then raised a matter of privilege regarding the unauthorised disclosure of the report and presented a news article published the previous day containing details of

the report and of the committee's deliberations. In line with practice, the chair advised that the committee would investigate the apparent breach in the first instance and report back to the House.

The chair then advised that, given the seriousness of the matter, he would offer his resignation as chair at the first committee meeting of the new year. Three other committee members, on indulgence, asked the chair to reconsider.

The chair reported back to the House on the unauthorised disclosure on 2 December. He advised that the committee had been unable to determine the source of the disclosure. Further, the committee had concluded that the disclosure was unlikely to have caused substantial interference to the work of the committee or the House such as would amount to potential contempt. However, the committee considered the incident as unfortunate and potentially damaging to the ongoing operations of the committee. Finally, the chair warned journalists and publishers that publishing committee materials not authorised for publication could amount to a contempt.

Hansard: 30 November 2021, 11105-6
2 December 2021, 11337-8
Votes and Proceedings: 2021/2405
SOs 39, 51, 216, 242, 247

Speaker

26.16 Resignation of Speaker and election of new Speaker

Having recently announced his decision to end his parliamentary career as a backbench member, the Hon Tony Smith made a statement of thanks on his last day as Speaker, on 22 November. The Prime Minister, Leader of the Opposition, Deputy Prime Minister, Deputy Leader of the Opposition, Leader of the House, Manager of Opposition Business and Leader of the Australian Greens also spoke, commending the Speaker for his service.

The next morning, a message from the Governor-General was received announcing the Speaker's resignation and inviting the House to elect a new Speaker. The Clerk then called for nominations. A government member proposed Mr Andrew Wallace and moved that he take the Chair as Speaker. An opposition member proposed Mr Rob Mitchell and moved that he take the Chair.

The House proceeded to a ballot and Mr Wallace was elected, with 70 votes to 59. Mr Wallace was escorted to the Chair, where he thanked the House for the honour before taking the Chair as Speaker. The Prime Minister and Leader of the Opposition offered their congratulations. The Prime Minister then announced that the Governor-General would set a time to receive the Speaker and the sitting was suspended from 12.52 pm to 1.30 pm.

Hansard: 22 November 2021, 10479-85
23 November 2021, 10589-93
Votes and Proceedings: 2021/2339-40
SOs 10, 11, 12

Offensive words[#]

	<i>Hansard</i>	
	<i>Date</i>	<i>Page</i>
'...the policies we have pursued through the pandemic were not to pay people cash bribes, as the Labor leader wished to do...'	23 November 2021	10600-1
'...each-way Albo...'	23 November 2021	10607
'...the member for 'Rankin hypocrisy'...'	25 November 2021	10872
'...I do accept that you can't call the Prime Minister a liar.'	25 November 2021	10892
'...more of their members are in the Silverwater branch of the Labor Party than they care to admit.'	30 November 2021	11136
'We're choosing to go and rape some other forest in Malaysia, Indonesia or Brazil—'	30 November 2021	11195
'You're a fraud!'	1 December 2021	11274
'Of course, we know the real reason that this weak Prime Minister doesn't want an anticorruption commission: because in the witness box you have got to tell the truth.'	2 December 2021	11378
'corruption'	2 December 2021	11386-7
'The Prime Minister has been a very naughty boy this year—telling lies...'	2 December 2021	11419
'We've seen a minister forge a document in order to attack a local mayor.'	2 December 2021	11435

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