

HOUSE REVIEW



Selected features of House of Representatives business

Sitting period 26 November – 6 December 2018 (no. 17)

This tenth issue covers the final sitting fortnight for 2018. It considers the increase in members of the crossbench; the death of prominent Australians and a former President of the United States; legislation; and action on messages received from the Senate.

Swearing in of Member for Wentworth and first speech

Immediately after the Acknowledgement of country and Prayers on 26 November, the Speaker announced he had received a return to the writ for the election of a Member for Wentworth following the resignation of Mr Turnbull. The incoming Member for Wentworth made and signed an oath of allegiance. After Question Time the same day, a Minister moved that standing orders be suspended to enable the new Member to make a statement without a time limit. The question passed on the voices and Dr Phelps made her first speech to the House. Dr Phelps' arrival meant that the House was composed of 75 members of the Coalition parties, 69 members of the Opposition, and six members of minor parties or Independent Members (the crossbench).

Statement by the Member for Chisholm

After the Acknowledgement of country and Prayers on 27 November, the Member for Chisholm made a statement by indulgence and announced that, effective immediately, she would sit as an Independent member of the House. Ms Banks stated she would support the government in terms of confidence and supply. The crossbench then became seven.

Death of Edward Carrington (Ted) Mack

Before Question Time on 26 November the Speaker informed that House of the death of Mr Ted Mack, the Independent member for North Sydney from 1990 to 1996. All Members stood as a mark of respect. The Leader of the House moved to enable further statements in the Federation Chamber and these were made the following day.

Statements by indulgence—Bourke Street terrorist incident

On 26 November the Prime Minister and Leader of the Opposition each made statements by indulgence about the terrorist incident in Melbourne on 9 November. The Leader of the House moved to enable further statements in the Federation Chamber and these were made the next day.

Death of Bonita Mabo AO

Immediately before Question Time on 27 November, the Prime Minister and Leader of the Opposition made statements by indulgence on the death of Dr Bonita Mabo AO. Both statements referred to Dr Mabo's leadership in education for Indigenous children and recognition of the contribution of South Sea Islander Australians, as well as her role as a matriarch, and wife of the late Eddie Mabo. Further statements were made in the Federation Chamber the next day and on 5 December.

Death of President George W H Bush

On 3 December just before Question Time the Prime Minister made a statement by indulgence on the death of former President George W H Bush. The Leader of the Opposition also made a statement by indulgence. A motion by the Leader of the House enabled further statements to be made in the Federation Chamber on 4 December. The Deputy Prime Minister and other Members spoke that day.

Legislation

Introductions

On 5 December the Treasurer introduced the Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Bill 2018, and moved the second reading. Shortly after he began the Minister was interrupted by a fixed agenda item. Later the Minister finished his speech and a motion by the Leader of the House to suspend standing orders to allow the second reading debate to be made an order of the day for a later hour was carried. The Minister moved the second reading be made an order of the day for a later hour and moved closure of question when an Opposition Member was speaking to a proposed amendment. An Opposition suspension motion relating to the opportunity to scrutinise the bill was moved and defeated. Debate on the second reading of the bill was resumed by the Shadow Treasurer who moved a second reading amendment. Debate continued, including into the time normally allocated to the adjournment debate (after the relevant standing order was suspended by leave). Debate was then adjourned until the following day. On 6 December shortly after debate was resumed the Leader of the House successfully moved closure of question. The question on the amendment was defeated and the question on the second reading was carried. The House proceeded to consider the bill in detail where the opposition refused leave for the bill to be taken as a whole. No amendments were moved before the debate was interrupted for Members' 90-second statements and the debate was not resumed prior to the adjournment of the House.

Passing the House

On 27 November, the Federal Circuit and Family Court of Australia Bill 2018 and Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Bill 2018 passed after government detail amendments on each were agreed to. The House divided on the third reading of the first bill and on the second reading, detail amendments, and third reading of the second bill. These bills join the administrative structure of the Family Court and Federal Circuit Court, to become the Federal Circuit and Family Court of Australia.

On 28 November a division was called for on the question for the second reading of the Social Services Legislation Amendment (Encouraging Self-sufficiency for Newly Arrived Migrants) Bill 2018. When the bells stopped and Members had taken their places on the right of the Speaker's Chair (to vote 'Aye', for the question) and to the left (to vote 'No', against the question), there were five Members on the side for the 'Noes'—each a member of the crossbench. Standing orders provide if there are four or fewer Members on one side, the result can be declared immediately, without a count. The presence of five Members meant that a formal count was necessary. The result was 96:5. Remaining questions on the bill were carried on the voices.

On 4 December, second reading debate on the Fair Work Amendment (Family and Domestic Violence Leave) Bill 2018 was completed. A second reading amendment by the Shadow Minister was defeated on division and the second reading was then carried on the voices. Detail amendments moved by the Member for Melbourne were negatived. The Shadow Minister moved a number of detail amendments that were ruled out of order by the Chair—they related to paid leave whereas the bill's title and content were about unpaid leave. Following points of order the Speaker stated he considered the ruling to be correct. The Minister then moved the third reading immediately, by leave, and the motion passed on the voices.

Private Members' business—private Members' bills presented

During private Members' business time on 26 November, two private Members' bills were introduced: one on an equal pay standard and one on a National Integrity Commission. On 3 December, eight private Members' bills were introduced—an unusually high number. These included a bill that would establish a code of conduct and statement of values for parliamentarians, as well as an office of a Parliamentary Integrity Adviser, and a bill requiring the temporary transfer of all children and their families from offshore detention to Australia for medical or psychiatric assessment.

Motions to suspend standing orders

Suspension motions, if carried, enable actions not usually allowed by the standing orders or House practice. If moved on notice, they require a simple majority of Members present and voting to pass. If moved without notice, they require an absolute majority (76) to pass.

On 29 November during Question Time the Leader of the Opposition moved a suspension motion criticising the government. It was defeated 66:68. On 3 December at the conclusion of the period allocated to committee and delegation and private Members' business, the Deputy Leader of the Opposition moved to suspend standing orders to criticise the Government and reprimand the Prime Minister. The motion was defeated on division. On 4 December the Member for Grayndler moved a suspension motion to enable a private Member's bill sponsored by him to be brought on for debate and finalised before 1.30pm that day. The motion was ultimately lost. Even though there was a simple majority (73:72), the absolute majority necessary for a suspension motion without notice was not achieved. On 5 December the Member for Melbourne moved to suspend standing orders to enable a number of items of private Members' business to be brought on for debate and completed. The motion failed to secure an absolute majority (73:72). The Member for Port Adelaide unsuccessfully moved a suspension motion on 5 December regarding the resolution to enable debate on the Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Bill 2018 to continue following its introduction earlier in the day.

Question Time

On 3 December, the Manager of Opposition Business asked a question of a backbencher—the Member for Hughes—about an item of private Members' business he had sponsored. Standing orders allow for questions on private Members', House, or Committee business, to Members who are not Ministers but are responsible for the business under the question.

Committees

A large number of reports by parliamentary committees was presented during the fortnight, indicative of the time of the year and stage of the parliament. Reports included the final report of the Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples; the Standing Committee on Social Policy and Legal Affairs report on a national adoption framework, the Joint Standing Committee on the National Broadband Network's report on the rollout of the NBN in rural and regional areas, the Joint Standing Committee on Foreign Affairs, Defence and Trade report on the management of PFAS contamination in and around Defence bases, the Parliamentary Joint Committee on Intelligence and Security's report on the Intelligence Services Amendment Bill 2018. Late on 6 December the Joint Standing Committee on Intelligence and Security's report on the Telecommunications and Other Legislation Amendment (Assistance and Access) Bill 2018, incorporating a dissenting report, was presented. The second reading debate on this bill was resumed the next day and the bill passed all stages.

Matters of public importance discussions—following Question Time, Tuesday to Thursday

Discussion topics included schools, health and infrastructure; energy policy; pension applications; climate change; energy policy; and low wages growth.

Matter of privilege raised and response by the Speaker

On 29 November the Member for Tangney raised as a matter of privilege whether the Joint Standing Committee on Electoral Matters had been provided with false and misleading information by GetUp during the inquiry into the 2016 election, such as to substantially obstruct the Committee in the performance of its functions. On 5 December the Speaker responded. He found that the matter had been raised at the earliest opportunity—one of the requirements of standing orders if he is to allow precedence to a motion to refer a matter to the Committee of Privileges and Members' Interests. The second requirement is for the Speaker to consider a prima facie case of contempt or breach of privilege had been made out. The Speaker stated that although GetUp had been unhelpful and misleading in its interaction with the Electoral Matters Committee, he did not see that the conduct was intended to interfere improperly with the work of the Committee. Precedence would allow a motion to refer a matter to the Committee of Privileges and Members' Interests to take priority over all other business. If precedence is not granted it is still possible for a referral motion to be moved although it would not take priority.

Program of sittings for 2019

On 27 November the Leader of the House presented the proposed Parliamentary sitting pattern for 2019. The Manager of Opposition Business proposed an amendment to add several sitting days to the calendar. The amendment was defeated on division and the original program was agreed to by the House.

Interaction with the Senate

On 26 November a number of messages from the Senate were reported, some prompting more action than others. Eight bills were returned without amendment. The My Health Records Amendment (Strengthening Privacy) Bill 2018 was returned with amendments. The Health Minister moved that these amendments be considered immediately and then that they be agreed to. This was agreed to without debate. Two messages were then reported, transmitting for the concurrence of the House, the Productivity Commission Amendment (Addressing Inequality) Bill 2017 (a private Senator's bill) and the Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill 2018. Each bill was read a first time and then the House agreed to the Minister's motions 'That the second reading be made an order of the day for the next sitting', placing each bill in the government business section of the House's agenda, the Notice Paper.

On 26 November a message that received considerable attention was then reported, informing the House that the Senate had agreed to a resolution calling on the Government to establish a national anti-corruption commission and requesting the concurrence of the House in the resolution. The House agreed that the message be considered immediately. The Leader of the Opposition moved that the Senate resolution be agreed to. The motion was seconded and after debate lasting more than an hour, the question was carried on the voices. The resulting resolution is an expression of the opinion of the House.

On 5 December the Speaker reported a message from the Senate transmitting a resolution calling on the Government to phase out long-haul live sheep exports and requesting the concurrence of the House. After the Leader of the House moved that consideration of the message be made an order of the day for the next sitting, the Member for Mayo moved to amend the motion to enable its immediate consideration. After a long debate—on the time for consideration of the message—the Manager of Opposition Business moved that the question be put, so as to close debate on the question on the amendment. The House divided and, as there were equal numbers 71:71, the Speaker had a casting vote. In accordance with the principle that debate should continue where possible, he cast his vote with the 'Noes'. After further debate the question on the amendment was put and defeated: 71:72. The question on the Leader of the House's motion was put and carried: 72:71.

On 5 December the House considered amendments made by the Senate to the Fair Work Amendment (Repeal of 4 Yearly Reviews and other Measures) Bill 2017 which had been returned with a message the previous day. A Minister moved successfully that the Senate's amendments be disagreed to and presented a statement of reasons that was adopted. On 6 December a message from the Senate was reported informing the House that it did not insist on the amendments.

This was the last sitting fortnight for 2018. The next issue of House Review will be published after the House sits next, from 12 to 21 February 2019.

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

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