

Procedural Digest

No. 135

2 – 11 February 2016

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Bills

135.01 Closure of debate on building and construction industry bill

On 4 February, debate resumed on the second reading of the Building and Construction Industry (Improving Productivity) Bill 2013 [No. 2] and on a second reading amendment moved at a previous sitting by the Member for Melbourne (Mr Bandt). After a government Member’s contribution, the Minister for Industry, Innovation and Science moved ‘That the question be now put.’ The question was carried on division. Mr Bandt’s second reading amendment was defeated, with a division having been called but no count required as only two Members voted with the ‘ayes’.

The question that the bill be read a second time was then put and carried on division. Following the reporting of a message from the Governor-General recommending an appropriation for the purposes of the bill, the Minister sought leave to move the third reading immediately (in order to bypass the consideration in detail stage). Leave was not granted. The Minister, pursuant to contingent notice, then moved that standing orders be suspended to enable the motion for the third reading to be moved without delay. Debate ensued and the question was carried on division.

The Minister then moved the motion for the third reading. Immediately as an opposition Member began debating the motion, the Minister moved ‘That the question be now put’. The motion was carried on division. The Chair then put the question on the third reading and the motion was carried on division.

Standing order 81 provides that after a question has been proposed from the Chair, a Member may move without notice, and whether or not any Member is speaking –‘That the question be now put’. The question must be put immediately and resolved without amendment or debate.

Contingent notices are notices conditional upon an event occurring in the House which in fact may not eventuate. In practice, the significance of the procedure is that a motion to suspend standing orders moved pursuant to a contingent notice only needs to be passed by a simple majority, whereas the same motion moved without notice would require an absolute majority.

Hansard: 4 February 2016, 506-19
Votes and Proceedings: 2016/1851-6

SOs 47, 63, 81, 126, 127, 142, 145, 147, 148

Business

135.02 Ministerial statement regarding Trans-Pacific Partnership Agreement

After the acknowledgement of country and prayers on 9 February, the Minister for Trade and Investment (Mr Robb), by leave, made a ministerial statement on the Trans-Pacific Partnership Agreement and presented the text of the agreement, together with national interest analysis, regulation impact statement and annexures, as well as a copy of his statement. The Shadow Minister for Foreign Affairs and International Development (Ms Plibersek) addressed the House in reply. The Minister then moved that the House take note of the statement. The order of the day was referred to the Federation Chamber where further debate on the statement took place on 10 and 11 February.

Hansard: 9 February 2016, 1003-12; 10 February 2016, 1337-47; 11 February 2016, 1490-1501

Votes and Proceedings: 2016/1877, 1897, 1906

SOs 63, 63A, 199, 202

135.03 Ministerial statement regarding the Closing the Gap report

During government business time on 10 February, the Prime Minister, by leave, made a ministerial statement regarding the Closing the Gap report and presented a copy of the report. The Prime Minister began his address in the language of Canberra's Indigenous Ngunnawal people. The Leader of the Opposition addressed the House in reply. A Minister then moved that the House take note of the report. The order of the day was referred to the Federation Chamber where further debate on the report took place on 11 February.

Hansard: 10 February 2016, 1171-9; 11 February 2016, 1501-17

Votes and Proceedings: 2016/1887-8, 1906

SOs 63, 63A, 199, 202

135.04 Statements by indulgence regarding Australians murdered in Mexico

After question time on 10 February, the Member for Brand (Mr Gray) sought and was granted indulgence to make a statement regarding Mr Adam Coleman and Mr Dean Lucas, two Australians who were murdered in Sinaloa, Mexico. The Minister for Foreign Affairs also spoke by indulgence on the matter. Both Members acknowledged the presence in the chamber of the Mexican Ambassador to Australia and the Deputy Head of Mission.

Hansard: 10 February 2016, 1252-4

SO 65

135.05 Statement by indulgence regarding death of Mr Michael Tynan

Prior to the presentation of petitions on 10 February, the Treasurer (Mr Morrison) sought and was granted indulgence to make a statement regarding the death on 2 February of Mr Michael Tynan of Sylvania Waters (in the Treasurer's electorate of Cook).

Hansard: 8 February 2016, 741

SO 65

Debate

135.06 Debate on motion to make reports parliamentary papers

After question time, the Speaker presented six Auditor-General's reports for 2015-16. As is customary the Leader of the House moved that the reports be made parliamentary papers. The Member for Grayndler sought the call and debate on the motion ensued. The Leader of the House raised a point of order and stated the Member needed to confine his remarks as to why the documents should be made parliamentary papers. The point of order was upheld by the Speaker. Further points of order and interventions by the Speaker on the same matter were made during remainder of the Member's contribution. The question was then put and carried on the voices.

The motion 'That the document be made a parliamentary paper' is moved, pursuant to standing order 202, to enable inclusion of the document in the Parliamentary Papers Series. Debate on this motion is rare. The series was designed to be a comprehensive collection of the documents of a substantial nature presented to the parliament.

Hansard: 2 February 2016, 57-60

Votes and Proceedings: 2016/1829

SO 202

135.07 Reference to royal commissions in debate

During the second reading debate on the Building and Construction Industry (Improving Productivity) Bill 2013 [No. 2], which was debated in cognate with the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 [No. 2], the Shadow Minister for Employment and Workplace Relations made some remarks regarding the Royal Commission into Trade Union Governance and Corruption. A government Member raised as a point of order whether it was 'within the standing orders to reflect on the conduct and character of a member of the judiciary in the way that is being done.' At the conclusion of the Shadow Minister's contribution, the Speaker clarified that royal commissions exercise executive power, not judicial power, and therefore do not attract the protection of standing order 89.

Standing order 89(b) provides that a Member must not use offensive words against a member of the judiciary.

Hansard: 3 February 2016, 217-8
Votes and Proceedings: 2016/1845

SOs 86, 89

135.08 Quorum called; attempted closure of Minister during consideration in detail debate on tax laws bill

On 8 February, after the second reading of the Tax Laws Amendment (Implementation of the Common Reporting Standard) Bill 2015 had been agreed to, the House proceeded to consider the bill in detail. The Shadow Assistant Treasurer (Dr Leigh), by leave, moved two opposition amendments together and debate ensued. The contribution by the Assistant Minister to the Treasurer (Mr Hawke) was interrupted by the Manager of Opposition Business who stated that toward the end of the final sitting for 2015, the Assistant Minister had ‘for no reason at all, gagged the Shadow Assistant Treasurer’. He therefore drew the Chair’s attention to the state of the House. The Chair, having observed that a quorum was not present, ordered that the bells be rung. Once a quorum was formed, debate resumed and the Assistant Minister continued his contribution. He was interrupted once more by the Manager of Opposition Business who moved ‘that the Member be no longer heard.’ A division was called and the question was negated. The House then considered the amendments.

Because of the demands placed on Members, the House regularly conducts its business when less than a quorum of Members (currently 30 Members) is present in the Chamber. Provided that a quorum is present to constitute a meeting of the House and to record a vote of the House when one is called for, the practice of the House has been that it is not necessary to maintain a quorum continuously. However, a quorum must be formed should any Member require it. Any Member is entitled at any time to draw the Chair’s attention to what is termed ‘the state of the House’. When the Chair is counting the Members present, the doors remain unlocked and the bells rung for four minutes.

Hansard: 8 February 2016, 855-6
Votes and Proceedings: 2016/1866-68
SOs 55, 56, 80, 126, 148-150

Federation Chamber

135.09 Deputy Speaker fixes alternative meeting time for Federation Chamber

On 9 February, just prior to proposing the adjournment, the Deputy Speaker advised the House that he had fixed Wednesday 10.45 a.m. for the next meeting of the Federation Chamber, to enable Members to attend the House for the presentation of the Closing the Gap report (*see entry 135.03*).

The Federation Chamber usually meets at 9.30 a.m. on Wednesdays. Standing order 186 provides that the Deputy Speaker must set the meeting times of the Federation Chamber, notify the times to all Members, and take the Chair when the Federation Chamber meets.

Hansard: 9 February 2016, 1133
Votes and Proceedings: 2016/1882

SOs 186, 192

Members

135.10 New Member for North Sydney sworn in

After the acknowledgement of country and prayers on 2 February – the first sitting for 2016 – the Speaker announced that he had received a return to the writ which he had issued on 26 October 2015 for the election of a Member to serve for the electoral division of North Sydney to fill the vacancy caused by the resignation of the Hon. Joe Hockey MP. By the endorsement on the writ, it was certified that Mr Trent Moir Zimmerman had been elected. The Serjeant-at-Arms admitted Mr Zimmerman into the chamber where he made and subscribed the affirmation of allegiance.

The Constitution provides that every Member of the House of Representatives, before taking his or her seat, must make and subscribe an oath or affirmation of allegiance before the Governor-General or some person authorised by the Governor-General. The Governor-General issues to the Speaker, once elected, a commission to administer the oath or affirmation of allegiance to Members during the course of a Parliament.

Hansard: 2 February 2016, 1
Votes and Proceedings: 2016/1821

135.11 Deputy Prime Minister and Minister for Trade and Investment make statements regarding their retirement from parliament

During government business time on 11 February, the Deputy Prime Minister and Leader of the Nationals (Mr Truss) and the Minister for Trade and Investment (Mr Robb) each made statements, by leave, in relation to their retirement. The Prime Minister, Leader of the Opposition, Deputy Leader of the Nationals, and other Members made statements by indulgence on the matter. The Leader of the House, by leave, moved a motion to suspend standing order 43 for the sitting so that, rather than the usual period of Members' 90 second statements from 1.30 p.m. to 2.00 p.m., statements on the retirements of Mr Truss and Mr Robb could continue until question time. The question was carried on the voices.

Hansard: 11 February 2016, 1404-23
Votes and Proceedings: 2016/1902

SOs 34, 43, 47, 63, 65

Privilege

135.12 Speaker's statement regarding matter of privilege

Between items of business on 2 February, the Speaker made a statement regarding a matter of privilege raised at the previous sitting (*see entry 134.13*). The Manager of Opposition Business had raised as a matter of privilege statements in the House by the Special Minister of State in relation to matter concerning James Ashby and the former Speaker, Mr Slipper. The Manager of Opposition Business had asked the Speaker to consider giving precedence to a motion to refer to the Committee of Privileges and Members' Interests whether the Minister's statements in the House from 23 November to 3 December 2015 had deliberately misled the House such as to constitute an offence of improper interference with the free exercise of the House of its authority or functions. The Speaker stated:

... Deliberately misleading the House is one of the matters that can be found to be a contempt. While claims that members have deliberately misled the House have been raised as matters of privilege or contempt on a number of occasions, to date no Speaker of the House has found that a *prima facie* case has been made out. However, the House has agreed to refer to the Committee such a matter in relation to the former Member for Dobell.

I have told the Manager of Opposition Business that on the information available to me, the circumstances of the matters which he has raised would not justify a departure from the position that has been taken by my predecessors.

When a Member raises a matter of privilege the Speaker may reserve the matter for further consideration, or may give the matter precedence and invite the Member to move without notice, a motion declaring that a contempt or breach of privilege has been committed, or referring the matter to the Committee of Privileges and Members' Interests.

Hansard: 2 February 2016, 1826
Votes and Proceedings: 2016/1826

SO 51

Questions

135.13 Member ruled not to have completed question within allotted time; Speaker clarifies practice for setting of the clock during questions

During question time on 8 February, the Deputy Leader of the Opposition (Ms Plibersek) asked the Prime Minister a question regarding the Member for Warringah. The Speaker asked the Member to rephrase the beginning of her question. The Member did so, and the time expired before she completed her question. The Manager of Opposition Business raised a point of order, stating that the clock had not been reset to allow the Deputy Leader of the Opposition to rephrase her question. The Speaker called on the next questioner.

After question time, the Manager of Opposition Business asked that the Speaker review the tapes to check whether, consistent with normal practice, the clock had been reset when the Deputy Leader of the Opposition was asked to rephrase her question. The Speaker stated that he would examine the matter and report back. The next day, the Speaker made the following statement to the House:

After question time yesterday, the Manager of Opposition Business asked me about the setting of the clock during questions. Members have 30 seconds to ask questions. The clock is paused if there is an interruption to a question. It is reset if I ask a member to repeat or rephrase the question. I have asked the Clerk to ensure staff who serve as Deputy Clerk are aware of those arrangements, as the member for Sydney was not given the full 30 seconds to ask her question when I asked her to rephrase the first part of the question.

Hansard: 8 February 2016, 8, 834; 9 February 2016, 1003
SOs 1, 86, 100, 103

135.14 Question ruled out of order following multiple points of order

During question time on 8 February, an opposition Member asked the Minister for Veterans' Affairs whether he had complied with the Prime Minister's *Statement of ministerial standards* and what reason he had declared as the purpose of his visit to China. The Speaker described the question as 'problematic', noting that standing orders make it clear that Ministers can only be asked questions about matters for which they are responsible. The Speaker also stated that the Minister responsible for the ministerial code is the Prime Minister. Following several points of order from both the Manager of Opposition Business and the Leader of the House, the Speaker ruled the question out of order and called on the next questioner.

Standing order 98(c) provides that a Minister can only be questioned on matters for which he or she is responsible or officially connected.

Hansard: 8 February 2016, 829-31
SOs 98, 101

Speaker

135.15 Speaker presents annual Presiding Officers' statement on the Pacific Parliamentary Partnerships program

After question time on 11 February, the Speaker presented the annual Presiding Officers' statement on the Pacific Parliamentary Partnerships program.

The Pacific Parliamentary Partnerships program is a joint initiative of Australia's federal, state and territory parliaments in partnership with the United Nations Development Programme which supports the ongoing development of Pacific parliaments. Principally funded by the Department of Foreign Affairs and Trade, the program focuses on professional development of parliamentarians, capacity building of parliamentary secretariats and development of community outreach initiatives.

Hansard: 11 February 2016, 1447
 Votes and Proceedings: 2016/1904
SO 199

135.16 Death of former Speaker announced

Just prior to question time on 11 February, the Speaker informed the House of the death, on 9 February 2016, of the Honourable Robert George (Bob) Halverson OBE, a Member for the Division of Casey from 1984 to 1998 and Speaker from 1996 to 1998. The Leader of the House stated that, following discussions between the Member for Murray and the Halverson family, a condolence motion in respect of Mr Halverson would be moved when the House meets on Monday, 22 February 2016. As a mark of respect, all Members presence stood in silence.

Hansard: 11 February 2016, 1424
 Votes and Proceedings: 2016/1902

Standing orders

135.17 House amends standing orders to allow infants being cared for by Members into chamber

On 2 February, the Leader of the House presented the Government's response to the Procedure Committee's report, *Provisions for a more family-friendly Chamber*, which was presented on 2 December 2015. The response stated that the Government supported the Committee's recommendation to amend standing order 257. Accordingly, the Leader of the House, by leave, moved that standing order 257 be amended to provide that 'a visitor does not include an infant being cared for by a Member.' In moving the amendment, the Leader of the House stated that 'the House of Representatives will now become the most family-friendly chamber of any parliament in Australia.' During the ensuing debate the Manager of Opposition Business expressed the opposition's support for the motion, which was put and carried on the voices.

Hansard: 2 February 2016, 10-11
 Votes and Proceedings: 2016/1825
SOs 63, 111, 257

Offensive words¹

<i>Hansard</i>		
Date	Page	
'He allegedly referred to a subcontractor who was performing painting work as an "effing dog Turkish effing painting piece of shit."'	3 February 2016	333-4

SOs 89, 90, 92

¹ List of unparliamentary expressions recorded in *Hansard*.