

Procedural Digest

No. 15

45th Parliament

4 – 7 December 2017

December 2017				
M	T	W	T	F
4	5	6	7	8

Selected entries contain links to video footage via *Parlview*. Please note that the first time you click a [Watch] link, you may need to refresh the page (ctrl+F5) for the correct starting point.

Bills

15.01 Passage of marriage amendment bill

On 4 December a message from the Senate was reported transmitting for the concurrence of the House the Marriage Amendment (Definition and Religious Freedoms) Bill 2017. The bill was read a first time and the Member for Leichhardt (Mr Entsch) presented a revised explanatory memorandum to the bill and moved the second reading. The House granted leave for the second reading debate to take place immediately.

During the Member for Warringah's (Mr Abbott) contribution to the second reading debate, he moved as an amendment that all words after 'That' be omitted with a view to substituting the following words: "whilst not declining to give the bill a second reading, the House notes that it is vital that individuals and entities are not disadvantaged nor suffer any adverse effects as a result of conscientiously holding a particular view of the nature of marriage".

Standing orders were suspended on Tuesday and Wednesday (see entry no. 15.18) to enable the House to sit beyond its usual sitting hours to enable as many Members who wished to, to contribute to the second reading debate on the bill.

On Thursday morning (7 December), Mr Entsch summed up the second reading debate. In total, 125 Members contributed to the second reading debate, which went for over 21 hours.

Mr Abbott's second reading amendment was negated on the voices and the question that the bill be read a second time was carried on the voices. The House then proceeded to consider the bill in detail where the bill, by leave, was taken as a whole.

The Member for Melbourne (Mr Bandt), by leave, moved certain amendments together which were negated on the voices following debate.

The Member for Deakin (Mr Sukkar), by leave, moved certain amendments together and presented a supplementary explanatory memorandum to the bill. Following debate, the amendments were negated on division.

The Member for Canning (Mr Hastie), by leave, moved certain amendments together which were negated on division following debate. During the debate, the Member for Canning was denied leave to table correspondence from various religious organisations and schools.

The Member for Mitchell (Mr Hawke), by leave moved certain amendments together, which were negated on division following debate.

The Treasurer, by leave moved certain amendments together and during the ensuing debate, presented eight items of correspondence from various religious organisations and schools. Mr Entsch was granted leave to table various items of correspondence from the Commissioner of Taxation and the Australian Charities and Not-for-profits Commission which, he noted, confirmed that the proposed changes to the Marriage Act would not impact on the charitable status and deductible gift recipient status of religious charities. The debate was interrupted at the usual time of 1.30 pm for Members' statements followed by Question Time at 2 pm.

Standing orders 31 (automatic adjournment of the House) and 33 (limit on business) were then suspended for the remainder of the sitting to facilitate the finalisation of the marriage amendment bill (see entry no. **15.18**).

The Speaker informed the House that the Manager of Opposition Business had advised that he had withdrawn the matter of public importance which was submitted for discussion for that day. Prior to Members' statements, the Manager of Opposition Business had, on indulgence, informed the House of this proposed course of action 'in the spirit of making sure that we get (the marriage amendment bill) done'.

Just after 3 pm, debate resumed on the Treasurer's amendments and when the question was put, the amendments were negatived on division. The Member for Mallee (Mr Broad), by leave, moved certain amendments together which were negatived on division following debate. During the division, the Speaker reminded persons in the galleries that that it was very important that Members in the House were able to make their contributions without noise or interjections from the public gallery.

Mr Broad then, by leave, moved certain other amendments together. These, too, were defeated on division following debate.

The final set of consideration in detail amendments on the marriage amendment bill were moved by the Member for Corangamite (Ms Henderson). Two amendments were moved together by leave. Prior to summing up debate on the amendments, Ms Henderson was denied leave to put separate questions on each of the amendments. The question on the amendment was negatived on division. The question that the bill be agreed to was carried on the voices.

The Prime Minister was granted leave to move the third reading immediately. He briefly addressed the motion, as did the Leader of the Opposition and the Member for Melbourne (Mr Bandt). The question that the bill be read a third time was put and a division was called. There being only four Members voting with the 'Noes' the Speaker declared the question was carried and the bill was read a third time. [[Watch](#)]

Hansard: 4 December 2017, 12315-60, 12433-51; 5 December 2017, 12539-56, 12604-12705; 6 December 2017, 12769-12823, 12893-12954; 7 December 2017, 12997-13072, 13107-13145
Votes and Proceedings: 2017/1236-7, 1251, 1262-3, 1269, 1275, 1279-88

SOs 63, 125, 127, 130, 141, 142, 148, 150, 153, 199, 261

Business

15.02 Order of the Court of Disputed Returns regarding the matter of questions concerning the Hon Barnaby Joyce MP

After the acknowledgement of country and prayers on 4 December, the Clerk presented a letter which he had received from the Chief Executive and Principal Registrar of the High Court forwarding, in accordance with section 376 of the *Commonwealth Electoral Act 1918*, a copy of the order made on 27 October 2017 by the High Court of Australia sitting as the Court of Disputed Returns, concerning Mr Barnaby Joyce MP. The order stated, among other things, that, by reason of s 44(i) of the Constitution, the place of the Member for New England, the Hon Barnaby Joyce MP, is vacant, and that there should be a by-election for the election of the Member for New England. [\[Watch\]](#)

Hansard: 4 December 2017, 12281-2
Votes and Proceedings: 2017/1233-4

SO 199

15.03 Issue of writs for by-elections for the electoral divisions of New England and Bennelong

On 4 December, the Speaker announced that on 27 October, he had issued a writ for a new election for the Electoral Division of New England, NSW, the Court of Disputed Returns having declared Mr Barnaby Joyce disqualified. Dates in connection with the new election were announced, with 2 December fixed as the date of polling.

The Speaker also informed the House that on 11 November he had received a letter from John Gilbert Alexander resigning his seat as the Member for the Electoral Division of Bennelong, NSW, and that on Monday, 13 November he had issued a writ for an election to fill that vacancy. Dates in connection with the new election were announced, with 16 December fixed as the date of polling. [\[Watch\]](#)

Hansard: 4 December 2017, 12283
Votes and Proceedings: 2017/1235

15.04 Resolution from the Legislative Assembly of the Northern Territory

After question time on 4 December, the Speaker presented a letter from the Speaker of the Legislative Assembly of the Northern Territory forwarding a resolution of the Assembly agreed to on 19 October 2017 regarding horizontal fiscal equalisation.

Hansard: 4 December 2017, 12388
Votes and Proceedings: 2017/1238

SO 199

15.05 Consideration of Senate message regarding refugees and New Zealand; division recommitted after Speaker requests Members who missed vote to explain their absence

During government business time on 4 December, the Speaker reported a message from the Senate informing the House that the Senate had agreed to a resolution which called on the Government to “accept New Zealand’s offer to resettle 150 refugees and negotiate conditions similar to the United States refugee resettlement agreement.” The Senate requested the concurrence of the House in this resolution.

The House ordered that the message be considered immediately and the Leader of the House moved that the resolution be disagreed to. During the ensuing debate, the Member for Melbourne (Mr Bandt) moved as an amendment, that the resolution of the Senate be agreed to. At the conclusion of debate, the question on the amendment was put and carried on division, with 73 “Ayes” and 72 “Noes”. The Leader of the House moved that, in accordance with standing order 132 (New division in case of error, confusion or misadventure), the House divide again. The Manager of Opposition Business raised a point of order claiming that there had been no confusion, error or misadventure as required by standing order 132. The Speaker stated that he did not concur and the Manager of Opposition Business then addressed the motion to divide again. The Leader of the House interrupted the Member to move a closure of question which was carried on division. The motion that the House divide again was accordingly put and carried on division.

Prior to the House dividing again on Mr Bandt’s amendment, the Speaker stated that the Members who missed the vote “should explain to the House that they missed the vote through one of the reasons in the standing orders, notably misadventure.” The Minister for Trade, Tourism and Investment (Mr Ciobo) and the Member for Leichhardt (Mr Entsch) each apologised to the House for missing the division due to misadventure.

The question on the amendment was accordingly put a second time, and negated on division. The question on the original motion—that the resolution be disagreed to—was then carried on further division. [\[Watch\]](#)

Hansard: 4 December 2017, 12396-12422
Votes and Proceedings: 2017/1243-8

SOs 117, 118, 121, 131, 132, 261

15.06 Consideration of Senate message regarding proposed fair work legislation

During government business time on 4 December a message from the Senate was reported returning the Fair Work Amendment (Repeal of 4 Yearly Reviews and Other Measures) Bill 2017 with amendments. The Leader of the House moved that the amendments be considered at the next sitting. The Manager of Opposition Business moved as an amendment that the amendments be considered immediately. Debate ensued, following which the question on the amendment was put and negated on division. The motion by the Leader of the House—that the amendments be considered at the next sitting—was carried on the voices. [\[Watch\]](#)

Hansard: 4 December 2017, 12422-6
Votes and Proceedings: 2017/1248-9

SOs 117, 118, 121, 261**15.07 Statements by indulgence regarding the 50th Anniversary of the disappearance of Harold Holt**

Just prior to question time on 6 December, the Speaker informed that House that 17 December 2017 will mark the 50th anniversary of the death of Harold Holt, Member for Higgins and Australia's 17th Prime Minister. The Speaker welcomed to the floor of the Chamber Mr Sam Holt, son of the late Prime Minister; his wife, Xenia, and his son, Robert; Mr Tony Eggleton, who was Harold Holt's press secretary and close friend; and Mr Peter Costello, former Member for Higgins and Treasurer, and a friend of the Holt family. The Prime Minister, Leader of the Opposition, the Member for Higgins (Ms O'Dwyer) and the Speaker each made statements in relation the matter. The Leader of the House, by leave, moved that further statements on the matter be permitted in the Federation Chamber and the question was carried on the voices. Further statements were made in the Federation Chamber the following day. [[Watch](#)]

Hansard: 6 December 2017, 12831-6; 7 December 2017, 13195-99
Votes and Proceedings: 2017/1271, 1295

SOs 65, 183

Committees

15.08 Procedure Committee reports on inquiry into disorder in the House

After the MPI discussion on 5 December, the Chair of the Standing Committee on Procedure (Mr Pasin) presented the Committee's report on its inquiry into the provisions relating to disorder in the House of Representatives. Mr Pasin and the Deputy Chair (Mr Dick) each made statements, by leave, in connection with the report. [[Watch](#)]

Hansard: 5 December 2017, 12600-2
Votes and Proceedings: 2017/1263

SOs 63, 247**15.09 Speaker presents schedule of outstanding government responses to committee reports**

On 7 December, the Speaker presented a document entitled 'Speaker's schedule of the status of Government responses to committee reports (as at 7 December 2017)'. A copy of the document is available on the Parliament's [website](#).

Hansard: 7 December 2017, 13098-13106
Votes and Proceedings: 2017/1283

SO 199

Debate

15.10 Leave granted for Member to recommence speech on marriage amendment bill from previous evening

When the second reading debate on the Marriage Amendment (Definition and Religious Freedoms) Bill 2017 resumed on Tuesday 5 December, the Member for Fisher (Mr Wallace) was granted leave to recommence his speech from the previous evening which had been cut off by the automatic adjournment.

*Hansard: 5 December 2017, 12539-41
Votes and Proceedings: 2017/1262*

SOs 31, 63

Divisions

15.11 Government loses vote regarding adjournment of debate

On 6 December, after a government speaker's contribution to the second reading debate on the Marriage Amendment (Definition and Religious Freedoms) Bill 2017, an Opposition Member (Mr O'Connor) moved that the debate be adjourned. A division was called and the question was carried 73 votes to 72, with government Members voting no. It being after 1.30 pm when the result of the division was announced, the House proceeded to Members' statements. [\[Watch\]](#)

*Only a Member who has not spoken to the question or who has the right of reply may move the adjournment of a debate (**standing order 79**). The question must be put immediately and resolved without amendment or debate.*

*In this instance, the government's defeat on the vote had little consequence in practical terms, as the debate would have been interrupted (and automatically adjourned) at 1.30 pm for Members' statements in accordance with **standing order 43**.*

*Hansard: 6 December 2017, 12821-3
Votes and Proceedings: 2017/1269-70*

SOs 43, 79

Documents

15.12 Revised ministry/shadow ministry lists presented

Following the swearing in of Mr Barnaby Joyce as the Member for New England, the Prime Minister presented a revised ministry list reflecting the return of Mr Joyce as Deputy Prime Minister. The Leader of the Opposition presented a revised list of the shadow ministry.

*Hansard: 6 December 2017, 12836-40
Votes and Proceedings: 2017/1271*

SOs 199

Members

15.13 Member proposes to partner during his second reading speech on marriage amendment bill

During his contribution to the second reading debate on the marriage amendment bill, the Member for Goldstein (Mr T. Wilson) proposed to his partner who was present in the public gallery. The Deputy Speaker noted for the *Hansard* record that a 'Yes' response had been received and congratulated the Member. [[Watch](#)]

Hansard: 4 December 2017, 12332

15.14 Member makes personal explanation in Federation Chamber

Between items of business in the Federation Chamber on 5 December, an opposition Member made a personal explanation in relation to citizenship. [[Watch](#)]

Hansard: 5 December 2017, 12731-2

SOs 68

15.15 New England by-election – Mr Barnaby Joyce declared elected

At 2 pm on 6 December, the Speaker informed the House that he had received a return to the writ (see entry no. **15.03**) for the New England by-election and that by endorsement on the writ, it was certified that Mr Barnaby Thomas Joyce had been elected. Mr Joyce was admitted in to the Chamber where he made and subscribed the oath of allegiance. [[Watch](#)]

Hansard: 6 December 2017, 12831
Votes and Proceedings: 2017/1271

Motions

15.16 Motion requiring all Members to provide statements in relation to citizenship

On 4 December, the Leader of the House, by leave, moved a motion requiring all Members to provide statements in relation to citizenship to the Registrar of Members' Interests in terms specified in the motion, by no later than 9 am on 5 December 2017. The motion provided for the Registrar to publish the register and any alterations or additions on the Parliament's website. The motion also provided that, notwithstanding anything contained in the standing orders or any other resolution, referral of Member to the Court of Disputed Returns may be moved without notice by a Minister or the Manager of Opposition Business. After debate, the motion was carried on the voices. [[Watch](#)]

Hansard: 4 December 2017, 12312-5
Votes and Proceedings: 2017/1235-6

SOs 63, 111, 117

15.17 Standing orders suspended to enable House to sit for extended hours to debate marriage amendment bill

On three occasions during the week, standing orders were suspended to enable the House to sit beyond its usual time of adjournment to debate the Marriage Amendment (Definition and Religious Freedoms) Bill 2017 and to provide additional time to consider other business at the conclusion of the debate:

- On Tuesday 5 December, the House agreed to a motion to suspend standing orders moved by the Leader of the House, by leave, to enable the bill (a private Member's bill) to be to be considered during government business time and for the House to sit until 12 midnight.
- On Wednesday 6 December, the House agreed to a motion to suspend standing orders moved by the Leader of the House, by leave, to enable the House to sit until the conclusion of the second reading debate, not including the summing up of the bill by the Member for Leichhardt.
- On Thursday 7 December, the House agreed to a motion to suspend standing orders 31 (automatic adjournment of the House) and 33 (limit on business) for the remainder of the sitting to facilitate the finalisation of the marriage amendment bill and to enable the House to consider other scheduled business prior to adjourning for 2017.

Hansard: 5 December 2017, 12535-6; 6 December 2017, 12891-2; 7 December 2017, 13106
Votes and Proceedings: 2017/1261, 1275, 1284

SOs 63, 111, 117

15.18 Condolence motion for former Governor-General, Sir Ninian Stephen

On 4 December, the Prime Minister referred to the death of the Right Honourable Sir Ninian Stephen, and moved a motion of condolence to place on record the House's gratitude of his service. The Leader of the Opposition seconded the motion and as a mark of respect all Members present stood, in silence. [\[Watch\]](#)

Hansard: 4 December 2017, 12370-72
Votes and Proceedings: 2017/1237

SO 49

15.19 Motion to refer certain questions regarding citizenship to the Court of Disputed Returns; Speaker exercises casting vote

After the MPI discussion on 6 December, the Manager of Opposition Business, pursuant to the resolution agreed to by the House earlier in the week (see entry no. 15.16), moved a motion to refer certain questions regarding citizenship to the Court of Disputed Returns. Debate ensued and when there were no further speakers, the Speaker put the question and the numbers for the 'ayes' and 'noes' being equal, the Speaker gave his casting vote with the 'noes' in accordance with the principle that decisions should not be taken except by a majority. The Manager of Opposition Business, by indulgence, made brief remarks to acknowledge that the Speaker's casting vote had been exercised in accordance with long-standing precedent. [\[Watch\]](#)

The Manager of Opposition Business then moved a motion, pursuant to the earlier resolution of the House, to refer certain questions regarding the place of the Member for Batman (Mr Feeney) to the Court of Disputed Returns. The Member spoke briefly to the motion, which was carried on the voices.

The following day, the Speaker for the information of Members presented a copy of his letter and attachments to the Principal Registrar, High Court of Australia, dated 7 December 2017, relating to the reference to the Court of Disputed Returns the qualification of the Member for Batman, Mr David Feeney.

*Hansard: 6 December 2017, 12870-90; 7 December 2017, 13145
Votes and Proceedings: 2017/1272-5, 1288*

SOs 111, 135, 199

Questions

15.20 Call withdrawn from opposition questioner

During a question without notice on 5 December, an opposition Member did not refer to the Prime Minister by his correct title. The Speaker withdrew the call and called on the next questioner from the government side. [\[Watch\]](#)

Hansard: 5 December 2017, 12574

SOs 64, 91, 92

Offensive words[#]

	Hansard	
	<i>Date</i>	<i>Page</i>
'the Labor Party, who keep coming up with these lies that we're cutting funding...'	4 December 2017	12368
'Some have been rude enough to call him "Szechuan Sam" which I think is very wrong...'	4 December 2017	12379
'But the Prime Minister is too weak, too bruised, too hostage to the Taliban faction in his own party room...'	4 December 2017	12442
'And this Leader of the Opposition is a fraud'	6 December 2017	12850
'...when I first heard about Senator Dastyari's treasonous behaviour'	7 December 2017	13082
'Senator—double agent Sam Dastyari—'	7 December 2017	13093

SOs 89, 90, 92

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