

# Procedural Digest

No. 25

45<sup>th</sup> Parliament

26 November – 6 December 2018

November/December 2018				
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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

### 25.01 Opposition amendments ruled out of order

During consideration in detail of the Fair Work Amendment (Family and Domestic Violence Leave) Bill 2018, the Shadow Minister for Employment and Workplace Relations, by leave, moved 18 opposition amendments to the bill. The Deputy Speaker ruled that the opposition amendments were out of order as they were not within the title or relevant to the subject matter of the bill. In response to points of order from the Manager of Opposition Business and the Leader of the House, the Speaker, having taken the Chair, made a statement in support of the Deputy Speaker's ruling. Consideration in detail concluded and the bill was passed by the House.

*Hansard*: 4 December 2018, 12465-70  
*Votes and Proceedings*: 2018/2009

**SO 150**

### 25.02 Consideration of the Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Bill 2018

On Wednesday 5 December, the Treasurer presented the Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Bill 2018. The Treasurer's second reading speech was interrupted at 1.30 pm for Members' Statements and he was granted leave to continue his speech at a later hour. Later, the Treasurer completed his speech and, in accordance with standing order 142, the debate was adjourned to a future sitting.

Then, pursuant to contingent notice, the Leader of the House moved to suspend standing orders to allow resumption of debate on the second reading being made an order of the day for a later hour. He advised that it was the government's intention for the bill to be passed by the House at the earliest opportunity. The Shadow Treasurer spoke to the motion and moved, as an amendment, that the resumption of the debate be made an order of the day for the first sitting day of 2019. Before the amendment was seconded, the Leader of the House moved that the question be put and the closure motion was carried on division. The question on the suspension motion was then put and carried on division.

The Shadow Minister for Climate Change and Energy then moved to suspend standing orders to allow him to move that the House call on the government to schedule the bill for debate in the first sitting week of 2019. The mover and seconder were both closed on

division. The Leader of the House then moved that the question be put and the closure motion was carried on division. The suspension motion was then negatived on division.

The order of the day was then read for the resumption of the second reading debate on the bill and the Manager of Opposition Business immediately moved that the debate be adjourned. The question was negatived on division. The second reading debate continued, with the Shadow Treasurer moving a second reading amendment. At 7.21 pm (just prior to the time set for the adjournment debate), the Leader of the House moved that standing order 31 (automatic adjournment of the House) be suspended for the remainder of the sitting. The question was carried on the voices and the second reading debate continued.

The debate was adjourned, a committee report was presented and the House was adjourned at 8 pm (the normal time of adjournment), there having been no adjournment debate.

The following day, the second reading debate resumed. The second reading amendment was negatived on division and the question that the bill be read a second time was carried on division. The House then proceeded to consideration in detail of the bill. In accordance with normal practice, the Speaker asked if leave was granted for the bill to be taken as a whole. The Manager of Opposition Business advised that leave was not granted. The debate was then interrupted at 1.30 pm by Members' Statements and was not resumed for the remainder of the sitting.

*Hansard: 5 December 2018, 12611, 12661-73*

*6 December 2018, 12862-3*

*Votes and Proceedings: 2018/2019, 2021-5; 2036-9*

**SOs 29, 31, 43, 47, 63, 80, 81, 142, 145, 149**

## Business

### 25.03 Statements regarding Bourke Street attack

The Prime Minister and the Leader of the Opposition each made statements, by indulgence, regarding the Bourke Street attack on 9 November 2018. On the motion of the Leader of the House, further statements on the matter were permitted in the Federation Chamber.

[\[Watch\]](#)

*Hansard: 26 November 2018, 11364-7*

*Votes and Proceedings: 2018/1943*

### 25.04 Statements regarding the death of Bonita Mabo AO

The Prime Minister and the Leader of the Opposition each made statements by indulgence in relation to the death of Bonita Mabo. As a mark of respect, all Members present stood, in silence. On the motion of the Leader of the House, further statements were permitted in the Federation Chamber. [\[Watch\]](#)

*Hansard: 27 November 2018, 11604-5*

*Votes and Proceedings: 2018/1960*

## 25.05 Statements regarding bushfires and storms

Prior to question time on 28 and 29 November, the Prime Minister and the Leader of the Opposition each made statements by indulgence regarding bushfires in Queensland and severe storms in New South Wales.

*Hansard: 28 November 2018, 11843-4  
29 November 2018, 12037-40*

## 25.06 Statements regarding the death of George H W Bush

The Prime Minister and the Leader of the Opposition each made statements by indulgence in relation to the death of former President of the United States of America, George H W Bush. As a mark of respect, all Members present stood, in silence. On the motion of the Leader of the House, further statements were permitted in the Federation Chamber.

[\[Watch\]](#)

*Hansard: 3 December 2018, 12213-6  
Votes and Proceedings: 2018/1995-6*

## 25.07 Sitting suspended for official photograph of Members of the 45<sup>th</sup> Parliament

On 4 December, the sitting was suspended from 1.52 pm to 1.56 pm to allow for an official photograph of Members of the 45<sup>th</sup> Parliament to be taken in the House of Representatives Chamber.

*Hansard: 4 December 2018, 12418  
Votes and Proceedings: 2018/2006*

## 25.08 Message from Senate regarding live sheep exports; Speaker exercises casting vote

A message from the Senate was reported informing the House that the Senate had agreed to a resolution calling on the government to legislate to phase out long-haul live sheep exports and requesting the concurrence of the House. The Leader of the House moved that consideration of the message be made an order of the day for the next sitting. The Centre Alliance Member (Ms Sharkie) moved, as an amendment, that the message be considered immediately.

Several Members spoke before the Manager of Opposition Business moved that the question be put. The House divided on the closure motion and, the numbers for the 'Ayes' and the 'Noes' being equal, the Speaker gave his casting vote with the 'Noes' in accordance with the principle that he should allow debate to continue where possible. The closure motion was therefore negated and debate continued.

When the debate concluded, Ms Sharkie's amendment was negated on division and the question, that consideration of the Senate message be made an order of the day for the next sitting, was put and carried on division.

*Hansard: 5 December 2018, 12558-96  
Votes and Proceedings: 2018/2014-7*

**SO 261**

## 25.09 Statements by leave regarding remote Indigenous education

During government business time, the Prime Minister's special envoy for Indigenous affairs (Mr Tony Abbott) made a statement, by leave, in relation to remote Indigenous education and made a number of recommendations to the government. Opposition Member, Ms Linda Burney, made a statement in response, by leave. [\[Watch\]](#)

*Hansard: 6 December 2018, 12848-56  
Votes and Proceedings: 2018/2035*

**SO 63**

## 25.10 Prime Minister, Leader of the Opposition and Speaker make valedictory remarks

On the last sitting day of the year, the Prime Minister, Leader of the Opposition and the Speaker each made statements in the House, thanking colleagues and staff and wishing them a happy holiday.

*Hansard: 6 December 2018, 12907-14*

# Committees

## 25.11 Report of the Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples presented

During government business time on 29 November, the Chair of the Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples presented the Committee's final report. The Chair and another committee member each made statements, by leave, in connection with the report.

The Chair then moved that the House take note of the report. Debate was adjourned and the order of the day was referred to the Federation Chamber. [\[Watch\]](#)

*Hansard: 29 November 2018, 12076-7  
Votes and Proceedings: 2018/1988*

**SOs, 223, 247**

## Documents

### 25.12 Program of sittings for 2019

On 27 November, the Leader of the House presented the proposed program of sittings for 2019 and moved that the program be agreed to. The Manager of Opposition Business moved, as an amendment, that a number of additional sitting days be added to the program and debate ensued. The amendment was negatived on division and the question that the program be agreed to was carried on the voices.

*Hansard: 27 November 2018, 11676-83  
Votes and Proceedings: 2018/1966-7*

**SOs 29, 199**

## Members

### 25.13 New Member for Wentworth sworn in and makes first speech

On Monday 26 November, the Speaker announced that he had received a return to the writ which he had issued for the election of a Member for the division of Wentworth, to fill the vacancy caused by the resignation of Malcolm Turnbull. By the endorsement on the writ, it was certified that Kerryn Phelps had been elected.

The Serjeant-at-Arms admitted Dr Phelps into the chamber, where she made and subscribed the oath of allegiance. [\[Watch\]](#)

Later that day, the House agreed to suspend standing orders to allow the Member for Wentworth to make a statement without limitation of time. The Member then delivered her first speech. [\[Watch\]](#)

*Hansard: 26 November 2018, 11275; 11383-90  
Votes and Proceedings: 2018/1939; 1945*

**SO 47**

### 25.14 Statement by Member for Chisholm announcing move to crossbench

Following prayers on 27 November, the Member for Chisholm (Ms Julia Banks) made a personal statement by indulgence. Ms Banks (a government Member) announced that, effective immediately, she would serve as an independent Member. [\[Watch\]](#)

*Hansard: 27 November 2018, 11571-2*

**SO 68**

## 25.15 Leave of absence granted to all Members

As is customary on the last sitting of a calendar year, the Leader of the House moved that leave of absence be given to all Members from the determination of the sitting until the date of the next sitting of the House. The question was carried on the voices.

*A Member's place becomes vacant if, without permission of the House, he or she does not attend the House for two consecutive months of any session of the Parliament (s. 38, The Constitution).*

*Hansard: 6 December 2018, 12905*

*Votes and Proceedings: 2018/2041*

**SO 26**

## Motions

### 25.16 House agrees to Senate resolution regarding national anti-corruption commission

A message from the Senate was 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. The Leader of the Opposition moved that the Senate resolution be agreed to and the Australian Greens Member seconded the motion. Debate ensued and the question was carried on the voices. [\[Watch\]](#)

*Hansard: 26 November 2018, 11333-48*

*Votes and Proceedings: 2018/1942*

**SO 201**

## Private Members' business

### 25.17 Eight private Members' bills presented in one sitting

During private Members' business on 3 December, eight bills were presented by opposition, independent and minor party Members. This is the most private Members' bills ever presented in a single sitting.

*Hansard: 3 December 2018, 12151-73*

*Votes and Proceedings: 2018/1991-2*

**SO 41**

### 25.18 Motion to suspend standing orders to bring on private Member's bill

During government business time on 4 December, the Shadow Minister for Infrastructure, Transport, Cities and Regional Development moved a motion to suspend standing orders to allow the High Speed Rail Planning Authority Bill 2018 (standing in his name on the Notice Paper) to be called on immediately and given priority over all other business for passage through all stages by 1.30 pm that day. Debate ensued.

When the time allowed for the debate expired, a division was called for and deferred until after the matter of public importance discussion, in accordance with standing order 133.

When the House proceeded to the division, the motion was supported (73:72). However, the requirement for an absolute majority having not been satisfied, the motion was not carried.

*A motion to suspend standing orders moved without notice can only be carried by an absolute majority of Members (at least 76 Members).*

*Hansard: 4 December 2018, 12391-7; 12456-7  
Votes and Proceedings: 2018/2005-7*

**SOs 47, 133**

## 25.19 Motion to suspend standing orders to bring on three private Members' bills

During government business time on 5 December, the Australian Greens Member (Mr Bandt) moved to suspend standing orders to allow for the following private Members' bills to be called on for debate, in the order listed below, and given priority over all other business, except for question time, for final determination by the House:

- National Integrity Commission Bill 2018 (*Ms McGowan*)
- Coal-fired Power Funding Prohibition Bill 2018 (*Mr Bandt*)
- Migration Amendment (Urgent Medical Treatment) Bill 2018 (*Dr Phelps*)

The motion also provided that, if the Leader of the House and the Manager of Opposition Business agreed, the Telecommunications and Other Legislation Amendment (Assistance and Access) Bill 2018 (a government bill) be given priority over all other business.

Finally, the motion provided that if consideration of the bills had not been completed by 7.30 pm that day, any questions necessary for the passage of the bills be put to the House immediately without delay or debate. The House divided and the requirement for an absolute majority having not been satisfied, the suspension motion was not carried.

*Hansard: 5 December 2018, 12598-606  
Votes and Proceedings: 2018/2017-8*

**SO 47**

## Privilege

### 25.20 Privilege matter raised

On behalf of the Joint Standing Committee on Electoral Matters, Mr Ben Morton MP raised, as a matter of privilege, whether the Committee had been provided with false and misleading information by GetUp during its inquiry into the 2016 election such as to substantially obstruct the Committee in the performance of its functions. Mr Morton asked the Speaker to consider giving precedence to a motion to refer the matter to the Privileges and Members' Interests Committee. The Speaker advised that he would consider the matter and report back to the House.

The following week, the Speaker made a statement to the House on the matter. He advised that, in order to constitute a contempt, the conduct would need to amount to an improper

interference with the free exercise by the committee of its authority or functions. He noted that while the conduct of GetUp in response to queries from the Committee was unhelpful and at times misleading, it was not clear that the conduct was done intentionally to interfere with the Committee in a way that was improper. He added that while the Committee's work was impeded, it did not appear to have been prevented from being able to freely perform its functions and exercise its authority. For these reasons, the Speaker did not give precedence to a motion to refer the matter to the Privileges and Members' Interests Committee.

*Hansard: 29 November 2018, 11969-70  
5 December 2018, 12557-8  
Votes and Proceedings: 2018/1983; 2013-4*

**SO 51**

## Questions

### 25.21 Question without notice addressed to private Member

During question time, the Manager of Opposition Business asked a private government Member (Mr C. Kelly) a question regarding a motion in his name on the Notice Paper concerning the National Energy Guarantee. Following points of order, the Speaker ruled the question in order, and Mr Kelly answered the question.

*An oral question of a strictly limited nature may be asked of a Member who is not a minister. The question must relate to a bill, motion, or other business of the House or of a committee, for which the Member asked is responsible. Questions of this kind are uncommon.*

*Hansard: 3 December 2018, 12230*

**SO 99**

### 25.22 Two questions by independent and minor party Members during question time

From Monday 3 December, two independent or minor party Members were given the call to ask a question each question time. Previously, there had been only one independent or minor party question during question time. This change followed an increase in the number of Members sitting on the crossbench, from five to seven.

## Speaker

### 25.23 Question to Speaker regarding dress standards

Following question time, the Manager of Opposition Business asked the Speaker to investigate reports that a journalist had been asked to leave the press gallery on the basis of dress standard rules.

The next day, the Speaker responded that, according to the media rules for journalists attending the chambers, press gallery members should maintain the standard of dress adopted by the majority of senators and members. He added that the standard of dress for members in the chamber is a matter for the individual judgement of each member, although



ultimate discretion rests with the Speaker. The Speaker noted that the journalist was dressed in professional business attire and, in hindsight, should not have been asked to leave. The Leader of the House thanked the Speaker for his remarks and apologised to the journalist on behalf of the government.

*Hansard*: 3 December 2018, 12233-4  
4 December 2018, 12439-40

**SO 103**

## Offensive words

	<b>Hansard</b>	
	<i>Date</i>	<i>Page</i>
'Why does the leader of the Labor Party lie all the time?'	29 November 2018	12043
'...the biggest boofhead on that side of the parliament.'	3 December 2018	12212
'...Neanderthal...'	5 December 2018	12567

**SOs 89, 90, 92**