



PROCEDURAL DIGEST

Legislative Assembly

FIFTY-FIFTH PARLIAMENT, SECOND SESSION

NO. 10/2014: 4 – 20 NOVEMBER 2014

November 2014				
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3	4	5	6	7
10	11	12	13	14
17	18	19	20	21

This document provides a summary of significant procedural events and precedents in the Legislative Assembly. It is produced at the end of each sitting period. Where applicable the relevant standing orders are noted.

BILLS

Member adjourns debate on their bill

On 13 November 2014, Mr Alex Greenwich spoke in reply to the debate on his *Relationships Register Amendment (Recognition of Same-sex and Gender-diverse Relationships) Bill*. Having concluded his reply, Mr Greenwich then sought the leave of the House to adjourn the debate. This was agreed to and resumption of the debate was set down as an order of the day.

Votes and Proceedings: 13/11/2014, p. 213

Hansard: 13/11/2014, pp. 2741-43

Standing Order 66

Standing Order 96

Standing Orders 188-202

(Procedural note: Normally the member in charge of a bill will speak in reply to the debate and then the question is put that the bill be “now read a second time”. If that motion is agreed to, the bill then moves to the third reading stage, unless consideration in detail has been requested. The third reading is usually a formality, after which the bill has passed by the House.

In this case, because the member in charge of the bill considered that recent administrative changes, introduced by the NSW Government, had directly addressed the aims of his bill, he sought the leave of the House to adjourn the debate.

Leave was required to do this because under the standing orders a motion to adjourn a debate may only be moved by a member who has not already spoken on the matter. Other options would have been to seek leave to move a motion to discharge the order of the day on the bill and withdraw the

bill; or, to move an amendment to the question of the second reading such as the bill be read a second time at a later time (3 months hence).

The effect of opting to adjourn the debate though was that the bill remains on the Business Paper in the members name until it lapses in February 2015.)

Member withdraws their bill

On 19 November 2014, Mr Greg Piper moved a motion to discharge and withdraw his *Newcastle Inner-City Rail Corridor Preservation Bill*. Pursuant to an earlier resolution of the House to suspend standing orders, Mr Piper then gave his reasons for deciding that the bill should be discharged. The House then agreed to the motion.

Votes and Proceedings: 19/11/2014, p. 234-35

Hansard: 19/11/2014, pp. 3127-3129

Standing Order 80(14)

Standing Order 188(11)

Standing Order 365

(Procedural note: Members seeking the discharge and withdrawal of a bill in their name must move a motion to that effect. This is because the bill is in the possession of the House and not the member - unlike a notice of motion which remains in the possession of the member until it is moved.

Under the Standing Orders a motion to discharge and withdraw a bill cannot be debated or amended - hence the need for a suspension of Standing Orders in order to allow Mr Piper to speak.)

Bill originating in the Assembly is split into two bills by the Council

On 20 November 2014, the Speaker reported a message from the Legislative Council. The Council advised that it had considered the *Statute Law (Miscellaneous Provisions) Bill (No. 2) 2014* and had divided the bill into two bills.

The bill which had been passed by the Legislative Assembly on 12 November was divided by the Council into the *Statute Law (Miscellaneous Provisions) Bill (No 2) 2014* and the *Ombudsman and Public Interest Disclosures Legislation Amendment Bill 2014*. The Council also proposed amendments in each of those bills.

On the motion of the Leader of the House, it was resolved that the Legislative Assembly concurred with the division of the bill into two bills; and that the Legislative Assembly agreed to the proposed amendments to the bills. It was further resolved that a message to this effect should be sent to the Legislative Council.

Votes and Proceedings: 20/11/2014, p. 243 & 245-6

Hansard: 20/11/2014, p. 3240 & pp. 3276-3278

Standing Orders 222-227

Standing Order 365

(Procedural note: The division of a Legislative Assembly bill by the Council is not unprecedented. In June 2000, the Legislative Council split the *Industrial Relations Amendment Bill* into two bills. On that occasion the Assembly sent a message to the Council advising it that it considered that “the established rules and practices of the Houses provide ample opportunity for the consideration and amendment of bills by each House” and that “the division of a bill in the House in which the bill did not originate is highly undesirable”.

The “undesirability” referred to, arises from the principle that in a bicameral parliament, each House retains their independence from the other, a concept known as “exclusive cognisance”. This autonomy in managing their own affairs includes the manner in which each house chooses to order and consider its business. Thus if a bill is passed by the first house as a single bill, it is not then desirable for the second house to determine that the first house should now consider it as two bills, because this is dictating to the first house how it should go about scrutinising its own legislation.

On the other hand, it can of course be argued that dividing a bill is a just a form of amendment and that the Council has the constitutional right to propose amendments; the only exception being any “money bill” appropriating money for the ordinary services of government as it is the constitutional convention in NSW that the Assembly has control over public revenue and expenditure (see: Anne Twomey, *The Constitution of NSW*, Federation Press, 2004, at pages 555-56).

BUSINESS

Member has their speaking time extended twice in succession

During debate on the Legislative Council Select Committee report on the Sale of the Currawong Property at Pittwater, Mr Gareth Ward requested an extension of time. Under Standing Orders, a member may request that they be allowed to continue their speech for up to 10 minutes and this is put to the House as a question.

The House divided on this question with the result being that Mr Ward was granted an extension. Immediately following that division, the Leader of the House then moved that standing and sessional orders be suspended to provide Mr Ward with a further extension of 30 minutes speaking time. This was agreed to, following a further division, and consequently Mr Ward then had both the initial extension of up to 10 minutes speaking time and then a further period of up to 30 minutes

Votes and Proceedings: 5/11/2014, p. 172-173

Hansard: 5/11/2014, pp. 2140-43

Standing Order 85

Standing Order 173

Standing Order 365

(Procedural note: Whilst frequently held, not all questions before the House are resolved by a division. Speakers in the Legislative Assembly have adopted the practice of putting the question in favour of the side from which the motion originated; and unless there is distinct opposition to that initial opinion the question is resolved "on the voices".)

PROCEEDINGS OF THE LEGISLATIVE ASSEMBLY

General David Hurley appointed Governor of New South Wales

Having been advised by a Governor's message on 14 October 2014 that His Excellency General, the Honourable David Hurley, had been appointed Governor of the State; members proceeded to Government House on 11 November to acknowledge his Excellency's message.

Votes and Proceedings: 14/10/2014, p. 90; 4/11/2014 p.161; 11/11/2014, p. 195

Speaker's statement on the Braund and Larkin Memorial Plaque

On Tuesday 11 November 2014, the Speaker informed members that the memorial plaque in the Legislative Assembly Chamber has been redecorated.

The memorial commemorates the death at Gallipoli of two serving members of the Legislative Assembly, Lieutenant Colonel George Braund and Sergeant Ted Larkin. On 11 August 1915, by resolution of the House, the Speaker was "authorised to place within the Chamber a fitting memorial" to the late members.

Votes and Proceedings: 11/11/2014, p.191

Hansard: 11/11/2014, p.2394

MEMBERS

Charlestown and Newcastle by-elections

On 4 November 2014, the Speaker informed the House that Ms Jodie Harrison and Mr Tim Crakanthorp had been returned as the members for the seats of Charlestown and Newcastle respectively.

Ms Harrison and Mr Crakanthorp were introduced, took the pledge of loyalty, signed the roll of the House and took their seats.

On 13 November 2014, both new members made their inaugural speeches in the House.

Votes and Proceedings: 4/11/2014, p.155-156; 13/11/2014, p.214

Hansard: 4/11/2014, pp. 1951-1952; 13/11/2014, pp. 2745-2751.

Standing Order 63

(Procedural Note: A member's inaugural speech (also known as a first speech or maiden speech) is the first speech a member makes in the Legislative Assembly regardless of prior parliamentary experience in another House of Parliament. The practice of making inaugural or "maiden" speeches in the Legislative Assembly dates back to the 1860's (see: [Inaugural speeches in the NSW Parliament](#) by Gareth Griffith).

Under current Standing Order 63, a motion may be moved to interrupt business at a specified time for the giving of an inaugural speech. Whilst the giving of an inaugural speech may interrupt the business before the House, it may not interrupt a member who is already speaking. Once the inaugural speech has been given, any business which was interrupted is resumed.

It is the general custom that other members extend a greater measure of courtesy to a member making an inaugural speech and refrain from making interjections and other interruptions regardless of whether matters of a controversial nature are raised in that speech. (See: [NSW Legislative Assembly Practice, Procedure and Privilege](#) at p.8.)

Members' valedictory speeches

It being the last scheduled sitting period of the 55th Parliament, a number of retiring members made valedictory speeches. The making of valedictory speeches, for a period of up to 20 minutes, was provided for in a sessional order which was adopted in October 2014.

Similarly to an inaugural speech, the giving of a valedictory speech could interrupt business before the House but it could not interrupt a member who is already speaking.

Votes and Proceedings: 23/10/2014, pp.150-151.

Sessional Order (552) - Valedictory Speeches (Adopted 23 October 2014)