



# PROCEDURAL DIGEST

Legislative Assembly

FIFTY-SEVENTH PARLIAMENT, FIRST SESSION  
NO. 1/2019: 7 – 9 MAY 2019

May 2019				
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6	7	8	9	10

*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.*

## OPENING OF THE 57<sup>TH</sup> PARLIAMENT

### ***Attendance in the Legislative Council Chamber***

Following the NSW State Election on 23 March 2019 the first session of the 57<sup>th</sup> Parliament of NSW was opened by the Governor, Her Excellency The Honourable Margaret Beazley AO, QC, on 7 May 2019.

Members-elect of the Legislative Assembly were requested to attend the Legislative Council Chamber to hear the Commission for the Opening of Parliament, and again, later in the day to hear the Governor's Opening Speech to both Houses.

*Votes and Proceedings: 7/5/2019, pp. 1-4, pp. 11-9.*

**Standing Orders 2 and 3.**

### ***Pledge of loyalty or oath or affirmation of allegiance***

After having returned from the Legislative Council Chamber to hear the Commission for the Opening of Parliament, the Clerk informed the House that the former Governor, His Excellency General The Honourable David Hurley, AC, DSC, (Ret'd) had commissioned the Premier, the Hon. Gladys Berejiklian MP, the Deputy Premier, the Hon. John Barilaro MP, and the Hon. Dominic Perrottet MP, to administer the pledge of loyalty or oath or affirmation of allegiance to the other Members of the Legislative Assembly.

*Votes and Proceedings: 7/5/2019, p. 4.*

**Standing Order 2.**

(Procedural note: Members must take or make the pledge of loyalty or oath or affirmation of allegiance at the first available opportunity because they are not permitted to sit or vote in the House until they have been sworn in. This requirement is specified by section 12 of the [Constitution Act 1902](#).)

Prior to 2006 Members only had the option of taking or making an oath or affirmation of allegiance to Her Majesty Queen Elizabeth II, her heirs and successors. In 2006 the Constitution Amendment (Pledge of Loyalty) Bill amended the *Constitution Act* to replace the oath or affirmation of allegiance with the pledge of loyalty “to Australia and the people of NSW”.

In 2012 a private Members’ bill from the Hon. Rev’d Fred Nile MLC, the Constitution Amendment (Restoration of Oaths of Allegiance) Bill, amended the *Constitution Act* to restore the oath or affirmation of allegiance as an alternative to taking the pledge of loyalty. In effect, this meant that for the first time Members could either take or make the oath or affirmation of allegiance or the pledge of loyalty during the opening of the 56<sup>th</sup> Parliament.)

### ***Election of the Speaker, Deputy Speaker and Assistant Speaker***

Immediately after Members were sworn in, the Hon. Jonathan O’Dea MP was elected as Speaker of the Legislative Assembly, Mrs Leslie Williams MP was elected as Deputy Speaker, and Mr Mark Coure MP was elected as Assistant Speaker.

*Votes and Proceedings: 7/5/2019, pp. 5-6.*

**Standing Orders 10, 11, 12, 13 and 14.**

### ***Law of Evidence Bill***

Following the election of the Speaker, Deputy Speaker and Assistant Speaker, the Premier introduced the Law of Evidence Bill.

In the NSW Legislative Assembly it is customary for the Law of Evidence Bill to be introduced early on the first sitting day of a new Parliament, though the bill does not appear on the Business Paper and does not pass through any subsequent stage.

*Votes and Proceedings: 7/5/2019, p. 6.*

**Standing Order 3.**

(Procedural note: The Law of Evidence Bill is introduced on the first sitting day of a new session because Standing Order 3(4) provides that “...the House shall conduct some business of a formal nature without notice, in assertion of its rights” before the Governor’s speech or commission is reported.

This formal business is a traditional practice among many Westminster parliaments and is symbolic of the right of a House of Parliament to deliberate and conduct business independently from the Crown and the Executive Government.<sup>1</sup>

Since 1901 the NSW Legislative Assembly has used the Law of Evidence Bill for this symbolic procedure, however, there is no requirement for the formal business to be that particular bill, or a bill at all.)

### ***Speaker's Statement - Acknowledgement and promotion of Aboriginal culture and heritage***

In June 2016 the Legislative Council’s General Purpose Standing Committee No. 3 inquired into, and reported on, Reparations for the Stolen Generations in NSW. The report, *Unfinished Business*, made 35 recommendations that sought to address the enduring effects of past government practices in relation to the Stolen Generations.

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<sup>1</sup> B.C. Wright, [House of Representatives Practice \(6<sup>th</sup> ed.\)](#) (2012), Chapter 7, p. 220.

The Government accepted the majority of the report's recommendations and committed that the Speaker of the Legislative Assembly and the President of the Legislative Council would acknowledge and promote Aboriginal culture and heritage at the commencement of each new Parliament.

The Speaker acknowledged the presence in the gallery of representatives of the Stolen Generations survivors' organisations of NSW and made a statement of acknowledgment and respect to the traditional owners of the land on which the Parliament meets – the Gadigal People of the Eora nation, and to any Aboriginal people present.

The Speaker then made a statement regarding reparations for the Stolen Generations in NSW, recognising the events suffered by Aboriginal people in NSW, the work of the Parliament in response to those events, and acknowledging the work still to be done.

*Votes and Proceedings: 7/5/2019, pp. 9-10.*

*Hansard: 7/5/2019, p. 7.*

### ***Governor's Opening Speech and Address in Reply***

Shortly after the House resumed at 2.30 pm Members of the Legislative Assembly assembled in the Legislative Council Chamber to hear an Opening Speech to both Houses by the Governor. Afterwards, Members of the Assembly returned to the Chamber and the Speaker laid a copy of the Opening Speech on the Table and ordered it to be recorded in the Votes and Proceedings.

Later in the day Mr Mark Coure MP moved that an Address in Reply to the Governor's Opening Speech be adopted by the House. Ms Steph Cooke MP seconded the motion and the debate was adjourned, with resumption of the debate standing as an Order of the Day for the next sitting day.

*Votes and Proceedings: 7/5/2019, pp. 11-9, pp. 61-2.*

### **Standing Orders 4, 5, 6 and 7.**

(Procedural note: The content of the Governor's Opening Speech is couched in general terms and usually summarises the Government's achievements and outlines proposed legislation for the upcoming session. The speech is prepared on advice from the Department of Premier and Cabinet.

The Address in Reply is a motion that is moved and seconded by Government Members and is addressed to the Governor in response to the Governor's Opening Speech. Because the Governor's speech outlines the Government's proposed legislative program for the session, debate on the Address in Reply motion is similarly wide-ranging and may occur over a number of months.

Because any Member may speak on the Address in Reply debate for up to 15 minutes, and because there is wide scope as to what Members can speak about, contributing to the Address in Reply debate gives non-Government Members and Government backbench Members an opportunity to speak at length about issues that concern them and their constituents. For more information on the Address in Reply debate, including its historical significance as a test of confidence in the Government, see Chapter 4 of [NSW Legislative Assembly Practice, Procedure and Privilege.](#))

## **STANDING AND SESSIONAL ORDERS**

On 7 May 2019, the Legislative Assembly resolved to adopt new Sessional Orders. The Sessional Orders had the same terms as those that were in operation at the end of the previous Parliament.

*Votes and Proceedings: 7/5/2019, pp. 40-61.*

### **Standing Order 364.**

(Procedural note: Standing order 364 allows the House to adopt Sessional Orders which have the force of, and may temporarily replace or modify, Standing Orders. Sessional Orders are made by a resolution of the House and do not require approval by the Governor, as Standing Orders do.

Sessional Orders only have effect for the duration of a parliamentary session and therefore need to be re-adopted at the commencement of every new session.)

## MEMBERS

### ***Code of Conduct for Members***

On the first sitting day of the new Parliament the House resolved to adopt a Code of Conduct for Members, for the purposes of section 9 of the [Independent Commission Against Corruption Act 1988](#).

*Votes and Proceeding: 7/5/2019, p. 58-9.*

(Procedural note: For the full text of the Code of Conduct for Members, go [here](#).)

### ***Inaugural speeches***

On 8 May 2019 new Members Mr Dugald Saunders MP (Dubbo), Mr Gurmeh Singh MP (Coffs Harbour), Ms Helen Dalton MP (Murray), Dr Marjorie O'Neill MP (Coogee) and Ms Lynda Voltz MP (Auburn) each made inaugural speeches in the House.

On 9 May 2019 new Members Ms Janelle Saffin MP (Lismore) and Mr Justin Clancy MP (Albury) made inaugural speeches in the House.

*Votes and Proceedings: 8/5/2019, pp. 64-5, p. 74; 9/5/2019, p. 78, p. 82.*

*Hansard 8/5/2019, pp. 13-25, pp. 57-63; 9/5/2019, pp. 13-8, pp. 50-3.*

### **Standing Order 63.**

(Procedural note: A Member's inaugural speech is the first speech they make 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 1860s.

Members may speak for up to 20 minutes when giving an inaugural speech. It is the custom of the Assembly that Members giving their inaugural speech are extended additional courtesies by other Members of the House in that they will refrain from making interjections and interrupting in other ways for the duration of the speech.

It should be noted that prior to giving an inaugural speech Members are not prevented from participating in parliamentary business, for example, making Private Members' Statements and asking questions.

For more information about inaugural speeches, see Chapter 11 of [NSW Legislative Assembly Practice, Procedure and Privilege](#).)

## VACANCIES

On 8 May 2019 Members of the Legislative Assembly attended the Legislative Council Chamber for a joint sitting to elect persons to fill the seats in the Legislative Council vacated by Mr Ben Franklin and Ms Lynda Voltz, and to elect a person to fill the seat in the Senate rendered vacant by the resignation of Senator David Leyonhjelm.

At the conclusion of the elections the Legislative Assembly Members returned to the Legislative Assembly Chamber and the Deputy Speaker reported that Mr Benjamin Franklin and Ms Rose Jackson had been elected to fill the vacancies in the Legislative Council, and that Mr Duncan Spender had been elected to fill the vacancy in the Senate of the Commonwealth of Australia.

*Votes and Proceedings: 8/5/2019, pp. 71-2.*

(Procedural note: In the NSW Parliament casual vacancies in the Legislative Council are filled by a person elected at a joint sitting of both Houses called by the Governor. If the casual vacancy was previously filled by a member of a political party, only another member of that party may be elected to fill the vacancy. This is specified by section 22D of the [Constitution Act 1902](#).

Similarly, in the Commonwealth Senate, section 15 of the [Commonwealth of Australia Constitution Act 1900](#) provides that casual vacancies are filled by an election conducted during a joint sitting of the Parliament (except in Queensland, which has a unicameral Parliament) of the State that the outgoing Senator represented. As in NSW, Senators elected to fill casual vacancies must be from the same political party as the outgoing Senator. For more information on casual vacancies in the Senate, see Chapter 1 of [Odgers' Australian Senate Practice \(13<sup>th</sup> ed.\)](#).

## TEMPORARY SPEAKERS

On 7 May 2019 the Speaker nominated Mr Lee Evans MP, Ms Sonia Hornery MP, Mr Greg Piper MP, Mr Gurmesh Singh MP and Ms Felicity Wilson MP to act as Temporary Speakers in the absence of the Deputy Speaker and the Assistant Speaker during the current Parliament.

*Votes and Proceedings: 7/5/2019, p. 20.*

**Standing Order 19.**

## COMMITTEES

### ***Standing Orders and Procedure Committee***

On 9 May 2019 the House resolved to establish a Standing Orders and Procedure Committee, and to appoint Members of the Legislative Assembly to that committee.

*Votes and proceedings: 9/5/2019, p. 81.*

**Standing Order 315.**