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# *Parliament House and access to proceedings*

## THE PARLIAMENT BUILDINGS

### Meetings in Melbourne and provisional Parliament House in Canberra

The first Commonwealth Parliament was opened in the Exhibition Building, Melbourne, on 9 May 1901 by the Duke of Cornwall and York, later King George V, the Constitution having provided that the Parliament would sit at Melbourne until it met at the seat of Government of the Commonwealth which was to be determined later by the Parliament.<sup>1</sup> The Commonwealth Parliament continued to meet in Melbourne for 26 years using the State's Parliament House.<sup>2</sup> The Parliament of Victoria met in the Exhibition Building during this period.<sup>3</sup>

The seat of Government which, under the Constitution, was to be in New South Wales but not within 100 miles<sup>4</sup> of Sydney, was finally determined in 1908 to be in the Yass-Canberra district<sup>5</sup> and the Federal Capital Territory came into being on 1 January 1911.<sup>6</sup> In that year a competition for the design of the new capital took place and was won by the American architect Walter Burley Griffin. Work on the capital progressed slowly. In July 1923 the House agreed to a motion requesting the Governor-General to summon the first meeting of the 10th (next) Parliament at Canberra.<sup>7</sup> In the same month the House further resolved that a provisional building (with an estimated life of 50 years) be erected, rather than the nucleus of a permanent Parliament House.<sup>8</sup> The first sod was turned on the site on 28 August 1923. The provisional building was the design of John Smith Murdoch, Chief Architect of the Department of Works and Railways and built by that Department. It was opened on 9 May 1927 by the Duke of York, later King George VI.

The Parliament met in the provisional Parliament House for 61 years. To accommodate Ministers and their staff and increases in the numbers of parliamentarians and staff the building was extended and altered over the years but nevertheless by 1988 it had been grossly overcrowded for a long period. A description of the provisional building

1 Constitution, s. 125. VP 1901–02/1–9 (9.5.1901).

2 The two Houses met in Melbourne again on 9 and 10 May 2001 to mark the centenary of the first meetings: resolutions of House, VP 1998–2001/1576 (26.6.2000), 2104 (27.2.2001); joint meeting with Senate in Exhibition Building, VP 1998–2001/2259–60 (9.5.2001); sitting of House in Victorian Legislative Assembly Chamber, VP 1998–2001/2261–2 (10.5.2001).

3 Between December 1902 and April 1903 the State Parliament met in Parliament House while the Commonwealth Parliament was prorogued.

4 Approx. 161 km.

5 *Seat of Government Act 1908*. The Act repealed the *Seat of Government Act 1904* which had determined an area near Dalgety. This choice however proved to be unacceptable to the Government of New South Wales and the matter was reconsidered. The results of the final ballots in each House were influenced by the State Government's indicated willingness to cede land in the Yass–Canberra district. H.R. Deb. (8.10.1908) 936–40; S. Deb. (6.11.1908) 2100–8. The land was ceded by the *Seat of Government Surrender Act 1909* (NSW).

6 By proclamation of the Governor-General pursuant to the *Seat of Government Acceptance Act 1909*. The agreement was later varied (to correct an error and make a survey adjustment) by the *Seat of Government Acceptance Act 1922*.

7 VP 1923–24/74 (12.7.1923); H.R. Deb. (28.6.1923) 460–85, (12.7.1923) 1048–61.

8 VP 1923–24/96 (26.7.1923); H.R. Deb. (26.7.1923) 1668–78.

is given in chapter 6 of the first edition. The last sitting at the provisional Parliament House took place on 3 June 1988.

## The permanent Parliament House

A Joint Standing Committee on the New and Permanent Parliament House, appointed in 1975 to act for and represent the Parliament as the client in the planning, design and construction of a new Parliament House, recommended that stage one of a new building be ready for occupation by the 1988 bicentenary of European settlement in Australia.<sup>9</sup> On 28 August 1980 the House approved the construction on Capital Hill of a new and permanent Parliament House.<sup>10</sup> The new Parliament House was opened on 9 May 1988 by Queen Elizabeth II. The first sittings in the new building took place on 22 August 1988.<sup>11</sup>

### *The layout of the building*

The building occupies 7.5 hectares and has an area of some 240 000 square metres, covering four levels, including one below ground level. An 81 metre high flag mast rises over the centre of the building. The House of Representatives entrance is on the eastern side of the building.

The main public and ceremonial entry to Parliament House is from the forecourt through the Great Verandah and the Foyer. Directly beyond the Foyer is the Great Hall, the venue of parliamentary ceremonies and receptions, occasions of national significance and other functions. Beyond the Great Hall is the Members' Hall, centrally located between the Chambers and at the intersection of the north-south and east-west axes of the building.

Unlike the situation in many Parliaments following the Westminster model, Ministers' main offices are in Parliament House rather than in the principal buildings of the executive departments they administer. Originally an historical accident (a shortage of suitable office accommodation in Canberra when the provisional Parliament House was first occupied) the presence of substantial ministerial offices in Parliament House became the accepted practice over the years and was institutionalised in the new Parliament House, where offices for the Prime Minister, Ministers and ministerial staff and other government employees are consolidated into a clearly defined zone of the building with its own identity and entrance. Accommodation of the Canberra representatives of a number of media organisations within Parliament House has, for similar historical reasons, been accepted by the Parliament, despite the fact that much of the work of these persons and organisations does not relate directly to the proceedings of the Parliament.

Consistent with the concept of the building as a 'people's building' considerable attention has been given to providing facilities and services for visitors and tourists. A large proportion of the first floor is devoted to the public circulation system from which visitors have access to the galleries of the Great Hall, the Members' Hall and the Chambers. From the first floor the public also has access to the committee rooms, and to public facilities at the front of the building, comprising a theatrette, exhibition areas, post office and cafeteria. A book and souvenir shop is situated in the Foyer near the main entrance.

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9 VP 1977/98 (3.5.1977); H.R. Deb. (3.5.1977) 1445-6; PP 69 (1977).

10 VP 1978-80/1604 (28.8.1980); H.R. Deb. (28-29.8.1980) 970-1.

11 More detail on the site, design, construction and layout of the building is given in earlier editions (4th edn, pp. 106-8).

## THE CHAMBER

The Chamber, like the Chamber of the British House of Commons and the Chamber of the provisional Parliament House, is furnished predominantly in green. The derivation of the traditional use of green is uncertain.<sup>12</sup> The shades of green selected for the Chamber in the permanent building were chosen as representing the tones of native eucalypts.

Facing the main Chamber entrance from the Members' Hall is the Speaker's Chair and the Table of the House of Representatives.<sup>13</sup> High on the Chamber wall above the Speaker's Chair is the Australian Coat of Arms. Four Australian national flags are mounted high in each corner of the Chamber, and an additional two flags flank the main entrance.

The Speaker's desk has monitors on it to enable the occupant of the Chair to be connected into the parliamentary computer network and to view a range of online services. Immediately in front of the Speaker's Chair are chairs for the Clerk of the House and the Deputy Clerk. Set into the Clerk's desk is a button which enables the bells to be activated with associated flashing green lights in rooms and lobbies of the building. A similar system operates from the Senate using red lights. The bells are rung for five minutes before the time fixed for the commencement of each sitting<sup>14</sup> and before the time fixed for the resumption of a sitting after a suspension. Before any division or ballot is taken, the Clerk rings the bells for the period specified by the standing orders, as timed by the sandglasses kept on the Table for that purpose.<sup>15</sup> For most divisions a four-minute sandglass is used; a one-minute sandglass is used when successive divisions are taken and there is no intervening debate after the first division.<sup>16</sup> The bells are also rung to summon Members to the Chamber for the purpose of establishing a quorum.<sup>17</sup>

Electronic speech timing clocks are set on the walls below each side gallery. There are two clocks on each side of the Chamber, one analogue and one digital. The hand or digital display is set by remote control by the Deputy Clerk to indicate the number of minutes allowed for a speech.<sup>18</sup> The clocks automatically count down to zero as a Member speaks. A small warning light is illuminated on each clock face one minute before the time for the speech expires. Electronic display screens on stands at each side of the Chamber show the current item of business and question before the Chair.

Microphones in the Chamber are used for the broadcast<sup>19</sup> of the proceedings of the House and for sound reinforcement purposes. The radio broadcast announcements are made from a booth at the rear of the Chamber. Control of the radio broadcast also occurs there with the control of the telecast and webcast taking place in a basement production control room. Amplifiers are provided in the Chamber in order that speeches may be heard by Members. The Chamber floor is equipped with facilities for hearing-impaired persons wearing hearing aids.

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12 J. M. Davies, 'Red and Green', *The Table* XXXVII, 1968, pp. 33–40. The article argues that green appears to have been the predominant colour in the decoration of the Palace of Westminster when it was constructed in the 13th century, including the locations where the House of Commons was to later meet. The choice of red specifically for the chamber where the Lords met was a later development.

13 The original Speaker's Chair, described in detail in the first edition, remained in its place in the provisional building.

14 S.O. 54.

15 S.O.s 129(a), 136(b).

16 S.O. 131(a).

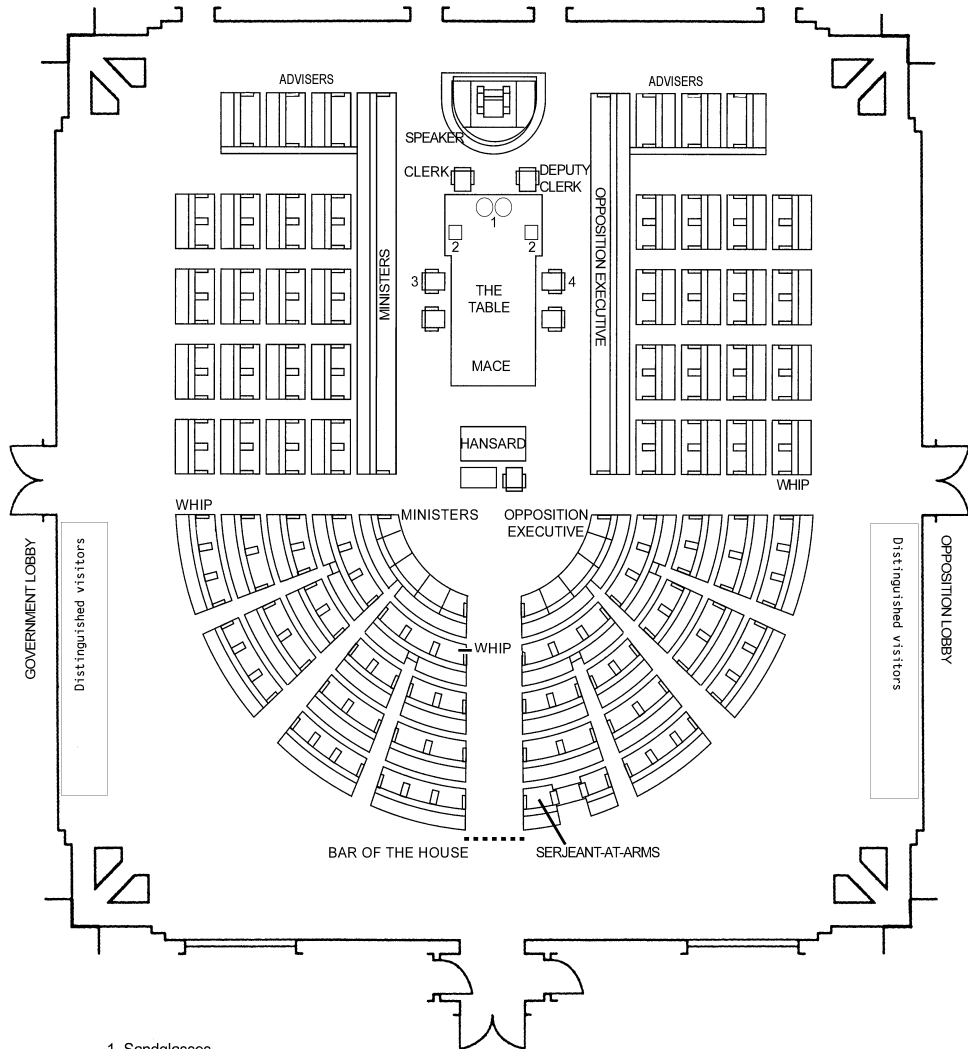
17 S.O. 56(a).

18 S.O. 1 (time limits for speeches).

19 Proceedings are broadcast on radio, television and the internet.

## The House of Representatives Chamber

Plan for the 45th Parliament



- 1. Sandglasses
- 2. Despatch Boxes
- 3. Prime Minister or Minister in charge of business
- 4. Leader of the Opposition or Member of the Opposition Executive

Proceedings of both Houses are relayed to rooms throughout the building. Only the microphone of the Speaker is live all the time. The nearest microphone to a Member is switched on when he or she is making a speech.

Connections to the parliamentary computer network are provided to each desk and at the Table for Members' laptop computers. Wireless connectivity is also available. The Chamber has been designed to accommodate electronic voting.<sup>20</sup>

Two despatch boxes, with elaborate silver and enamel decorations, are situated on the Table in front of the Clerk and Deputy Clerk, respectively. These were a gift from King George V to mark the opening of the provisional Parliament House in Canberra in 1927 and the inauguration of the sittings of the Parliament in the national capital.<sup>21</sup> The despatch boxes, which are purely ornamental, are exact replicas of those which lay on the Table at Westminster prior to their loss when the Commons Chamber was destroyed by bombs in 1941. They are a continuing link between the House of Commons and the House of Representatives. The Prime Minister, Ministers and members of the opposition executive speak 'from the despatch box'. The origin of the boxes is obscure, the most accepted theory being that in early times Ministers, Members and the Clerk of the House of Commons carried their papers in a box and, thus, one or more boxes were generally deposited on the Table.

The Chamber of the House of Representatives is used only by the House itself, for some joint meetings or sittings of the House and Senate, and for the occasional major international parliamentary conference.

## The Mace

A mace was originally a weapon of war similar to a club. During the 12th century the Serjeants-at-Arms of the King's bodyguard were equipped with maces, and over time the Serjeants' maces, stamped on the butt with the Royal Arms, developed from their original function as weapons to being symbols of the King's authority. Towards the end of the 14th century Royal Serjeants-at-Arms were assigned to duties in the House of Commons. The powers of arrest of the Royal Serjeants came to be identified as the powers of arrest of the House of Commons.

This authority is associated with the enforcement of parliamentary privilege, the exercise of which had depended in the first instance on the powers vested in a Royal Serjeant-at-Arms. The Mace, which was the Serjeant's emblem of office, became identified with the growing privileges of the House of Commons and was recognised as the symbol of the authority of the House and hence the authority of the Speaker.

The House of Representatives adopted the House of Commons' practice of using a Mace on the first sitting day of the Commonwealth Parliament on 9 May 1901, and it is now accepted that the Mace should be brought into the Chamber before the House meets.<sup>22</sup> However, there was no such acceptance in respect of the first Mace used by the House of Representatives. It was not considered essential for the Mace to be on the Table for the House to be properly constituted during the period when the Mace lent by the Victorian Legislative Assembly was in use (*see below*), and during this time there were

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<sup>20</sup> See 'Electronic voting' in Chapter on 'Order of business and the sitting day'.

<sup>21</sup> VP 1926-28/349 (9.5.1927).

<sup>22</sup> For a detailed description of the House of Representatives' Mace and the history of its use *see* A. R. Browning, *The Mace*. AGPS, Canberra, 1970.

periods (1911–13, 1914–17, 1929–31) when the Mace was removed from the Chamber completely (on the instructions of the Speaker).<sup>23</sup>

Current standing orders require that, once the newly elected Speaker has taken the Chair, the Mace, which until then remains under the Table, is placed on the Table.<sup>24</sup> This is the only mention of the Mace in the standing orders. In practice the Mace is placed on the Table by the Serjeant-at-Arms when the Speaker takes the Chair at the commencement of each sitting and it remains there until the Speaker leaves the Chair at the adjournment of the sitting. The Mace remains on the Table if the sitting is suspended for a short time, but the current practice is for it to be removed for safekeeping during an overnight suspension.

The Mace used by the House of Representatives from 1901 to 1951 was lent to the House of Representatives by the Victorian Legislative Assembly. The current Mace was presented to the House of Representatives, at the direction of King George VI, by a delegation from the House of Commons on 29 November 1951 to mark the Jubilee of the Commonwealth Parliament,<sup>25</sup> and was, by Australian request, designed to resemble the Mace in use in the House of Commons. It is made from heavily gilded silver and embodies much symbolic ornamentation, including symbols of the Australian Commonwealth and States and numerous representations which illustrate Australian achievement.

The Mace traditionally accompanies the Speaker on formal occasions, such as his or her presentation to the Governor-General after election, when the House goes to hear the Governor-General's speech opening Parliament, and on the presentation of the Address in Reply to the Governor-General at Government House. As the Mace is also a symbol of royal authority, it is not taken into the presence of the Crown's representative on these occasions but is left outside and covered with a green cloth, the symbol being considered unnecessary in the presence of the actual authority. When the Queen arrived to open Parliament in 1954, 1974 and 1977 she was met on the front steps of the provisional Parliament House by the Speaker. The Serjeant-at-Arms, accompanying the Speaker, did not carry the Mace on these occasions.<sup>26</sup>

## Seating

The Chamber is designed to seat up to 172 Members with provision for an ultimate total of 240 to be accommodated. Should additional seats be required, for example, as in the case of a joint sitting or joint meeting of the two Houses, temporary seating can be added around the Chamber perimeter. Seats are also provided on the floor of the Chamber for the Serjeant-at-Arms and for a number of government and opposition officials and advisers.<sup>27</sup> The Chamber has a horseshoe shaped seating arrangement. It therefore differs from many other legislative chambers which provide for their members to sit either on opposite sides of the room directly facing one another or in seats arranged in a fan-shaped design around a central dais or rostrum.

Members of the governing party or parties sit on the right of the Chair and the Members of the Opposition on the left. The two chairs on the right of the Table are, by

23 Speakers McDonald and Makin (the latter declaring the Mace 'a relic of barbarism'), see Browning, *The Mace*, pp. 6–7.

24 S.O. 12(c).

25 H.R. Deb. (29.11.1951) 3091.

26 Browning, *The Mace*, p. 12.

27 Senators have been seated in the seats reserved for officials, e.g. H.R. Deb. (16.12.1992) 3919–20.

practice, reserved for the Prime Minister and the Deputy Prime Minister but are also occupied by other Ministers or Parliamentary Secretaries when they are in charge of the business before the House. Similarly, the two chairs on the left of the Table are reserved for the Leader and Deputy Leader of the Opposition but may be occupied by Members leading for the Opposition in the business before the House. The separate small table and two seats at the end of the main Table are used by Hansard reporters. The front benches on the right of the Speaker are reserved for Ministers.<sup>28</sup> Members of the opposition executive sit on the front benches on the Speaker's left. Other Members have allotted seats. Standing order 24 allows Members to retain the seats they occupied at the end of the previous Parliament unless there has been a change of government. Any question arising regarding the seats to be occupied by Members is determined by the Speaker.<sup>29</sup>

At floor level, at the right and the left of the rear of the Chamber, are Distinguished Visitors Galleries to which access is by invitation of the Speaker only. Seats in these galleries are available to Senators, although a number of seats are provided for them in the central first floor gallery (*see* page 114).

The 'area of Members' seats' is defined in the standing orders as the area of seats on the floor of the Chamber reserved for Members only. It does not include seats in the advisers' box or special galleries, but does include the seat where the Serjeant-at-Arms usually sits.<sup>30</sup>

## Bar of the House

Situated at the back row of Members' seats at the point of entry to the Chamber from the main entrance facing the Speaker's Chair is the Bar of the House, consisting of a cylindrical bronze rail which can be lowered across the entrance. It is a point outside which no Member may speak to the House or over which no visitor may cross and enter the Chamber unless invited by the House. In parliamentary history, the Bar is the place to which persons are brought in order that the Speaker may address them on behalf of the House or at which they are orally examined.

A witness before the House is examined at the Bar unless the House otherwise orders.<sup>31</sup> In theory a person may be brought to the Bar of the House to receive thanks, to provide information or documents, to answer charges or to receive punishment. Neither the standing orders nor the practice of the House allow an organisation or a person as of right to be heard at the Bar.

The only occasion when persons have appeared at the Bar of the House of Representatives was in 1955 when Mr Raymond Fitzpatrick and Mr Frank Browne, having been adjudged by the House to be guilty of a serious breach of privilege, were ordered to attend at the Bar. On 10 June 1955 accompanied by the Serjeant-at-Arms each was heard separately at the Bar 'in extenuation of his offence' and later that day, again accompanied by the Serjeant-at-Arms bearing the Mace, appeared and received sentences of imprisonment for three months.<sup>32</sup> During the examination of Mr Browne, who addressed the House at length, the Speaker ordered him to take his hands off the Bar.<sup>33</sup>

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28 S.O. 23.

29 S.O. 24(b), H.R. Deb. (30.8.2000) 19666–7.

30 S.O. 2. The definition is relevant to the location of Members during divisions—Members must be within the defined area for their vote to be counted, and if calling for the division must remain within that area (S.O.s 128, 129).

31 S.O. 255(b).

32 VP 1954–55/269–71 (10.6.1955). For full details of this case *see* Ch. on 'Parliamentary privilege'.

33 H.R. Deb. (10.6.1955) 1625.

In 1921 the Prime Minister put forward a proposal that the House grant leave to a Senate Minister to address the House on the administration of his Department and that he be heard from the floor of the House. The point was then made that, if the proposal was agreed to, the Senator should address the House from the Bar. The Speaker stated:

... I know no authority whatsoever which will permit anyone who is not a member of this Chamber to address honourable members from the floor of the House. It is competent for anyone, with the permission of honourable members, to address the House from the Bar ...<sup>34</sup>

Following debate on the matter the Prime Minister did not proceed with the proposal. On two occasions proposals that persons be brought or called to the Bar have been unsuccessful.<sup>35</sup>

A number of witnesses have appeared before the Senate, some at the Bar and some being admitted into the Chamber.<sup>36</sup>

## Galleries

There are open galleries on all four sides of the Chamber on the first floor from which proceedings can be observed. The gallery facing the Speaker's Chair and the side galleries are visitors' galleries which can seat 528 persons. There is also special provision for disabled persons to be accommodated. The seats in the first row of the central gallery are known as the Special Visitors' Gallery, and are reserved for special visitors and diplomats. The seats in the second and third rows of the central gallery are known as the Speaker's Gallery. Apart from the four seats in the front row on the right hand side (viewed from the Speaker's Chair) which are reserved for Senators, the Speaker alone has the privilege of admitting visitors (although in practice Members make bookings through the Speaker's office for guests in this gallery). The remainder of the seats in the three visitors' galleries form the public galleries. Members of the public are able to obtain admission cards to the public galleries from the booking office in the Members' Hall, booking in advance through the Serjeant-at-Arms' Office. Members may book seats in the galleries for their guests.

Admission to the galleries is a privilege extended by the House and people attending must conform with established forms of behaviour and, for security reasons, are subject to certain conditions of entry (*see* page 128). People visiting the House are presumed to do so to listen to debates, and it is considered discourteous for them not to give their full attention to the proceedings. Thus, visitors are required to be silent and to refrain from attempting to address the House, interjecting, applauding, conversing, reading, eating, and so on.<sup>37</sup> An earlier prohibition on note-taking in the public galleries was lifted in 1992. Visitors are not permitted to take photographs in the Chamber when the House is sitting nor are they allowed to display signs or banners,<sup>38</sup> or wear clothing designed to draw attention.<sup>39</sup> Successive Speakers of the House have upheld these rules.

The Press Gallery, seating 102 persons, is located behind the Speaker's Chair. This gallery may be used only by journalists with Press Gallery passes.

34 H.R. Deb. (2.12.1921) 13585.

35 VP 1967–68/308 (8.11.1967); VP 1970–72/465 (9.3.1971).

36 *See Odgers*, 6th edn, pp. 817–8, 878–9, 850–4.

37 H.R. Deb. (14.5.1952) 324; H.R. Deb. (21.4.1955) 79; H.R. Deb. (14.5.1969) 1748; H.R. Deb. (6.4.2000) 15453; H.R. Deb. (27.5.2003) 15038; H.R. Deb. (1.4.2004) 27990–91; H.R. Deb. (15.9.2005) 80. And see 'Disorder and disturbances' at p. 128.

38 H.R. Deb. (20.5.1975) 2513.

39 H.R. Deb. (15.9.2005) 80–1.



At second floor level on the three sides of the Chamber above the visitors' galleries are enclosed soundproof galleries which can seat some 150 people. These galleries enable the operations of the Chamber to be described to visitors without disturbing the proceedings, and are mainly used by school groups.

### Strangers and visitors

'Stranger' was the term traditionally given to any person present in the Chamber (including the galleries) who was neither a Member nor an employee of the House of Representatives performing official duties. Parliamentary reporting staff, as employees of the Parliament, were not normally regarded as strangers. The use of the word 'stranger' to describe people within the parliamentary precincts who are not Members or staff of the Parliament is commented on by Wilding and Laundry:

The official use of the word 'stranger' is yet another symbol of the ancient privileges of Parliament, implying as it does the distinction between a member and a non-member and the fact that an outsider is permitted within the confines of the Palace of Westminster on tolerance only and not by right.<sup>40</sup>

When the standing orders were revised in 2004 the word 'stranger' was replaced by 'visitor', then defined as 'a person other than a Member or parliamentary official'. In 2016 standing orders were amended to provide that a visitor does not include an infant being cared for by a Member.<sup>41</sup> The Speaker may admit visitors into the lower galleries, and may admit distinguished visitors to a seat on the floor of the Chamber.<sup>42</sup> While the House or the Federation Chamber is sitting no Member may bring a visitor into that part of the Chamber or that part of the room where the Federation Chamber is meeting which is reserved for Members.<sup>43</sup> Officials in the advisers' boxes must behave appropriately. It is highly disorderly for any such person to interject or to otherwise seek to interfere in proceedings,<sup>44</sup> and they must not display items regarded as props.<sup>45</sup> If a visitor or person other than a Member disturbs the operation of the Chamber or the Federation Chamber, the Serjeant-at-Arms can remove the person or take the person into custody.<sup>46</sup> If a visitor or other person is taken into custody by the Serjeant-at-Arms, the Speaker must report this to the House without delay.<sup>47</sup>

### *Strangers ordered to withdraw*

Visitors (then referred to as 'strangers') have been ordered to leave the House of Representatives for special reasons, the last occasion being in 1942. On three occasions the House's power to exclude visitors was used to allow the House to deliberate in private session. This has only happened in wartime—*see below*. Visitors have also been refused access to the galleries to prevent proceedings from being interrupted by potential disturbances. On 28 July 1920 a large number of people gathered outside Parliament House, Melbourne. The Deputy Speaker, in the absence of the Speaker, issued an instruction that, while there was any probability of a disturbance outside, all strangers should be excluded from the galleries of the Chamber.<sup>48</sup>

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40 N. Wilding and P. Laundry, *An encyclopaedia of Parliament*, 4th edn, Cassell, London, 1972, p. 729.

41 S.O. 257(d).

42 S.O. 257(a).

43 S.O. 257(b).

44 E.g. H.R. Deb. (16.2.2012) 1657–8.

45 H.R. Deb. (5.2.2013) 10.

46 S.O. 96(a).

47 S.O. 96(b).

48 H.R. Deb. (29.7.1920) 3078–9.

In the past the motion ‘That strangers be ordered to withdraw’ (without expectation that it would be agreed to) was frequently moved as a delaying or disruptive tactic.<sup>49</sup> The standing orders no longer explicitly provide for such a motion, although there is nothing to prevent an equivalent motion being moved, and there remains provision for a Member to call attention to the unwanted presence of visitors.<sup>50</sup>

#### WARTIME PRIVATE MEETINGS

On three occasions during World War II strangers were ordered to withdraw<sup>51</sup> to enable the House to discuss in private certain matters connected with the war. On the first of these occasions in committee, the Chairman of Committees stated that he did not regard Senators as strangers.<sup>52</sup> However, on the next occasion the Speaker ruled that Senators would be regarded as strangers but that the House could invite them to remain and a motion that Senators be invited to remain was agreed to. The Speaker then informed the House that members of the official reporting staff were not covered by the resolution excluding strangers, whereupon a motion was moved and agreed to ‘That officers of the Parliamentary Reporting Staff withdraw’, and the recording of the debate was suspended.<sup>53</sup>

Also during World War II, joint secret meetings of Members and Senators were held in the House of Representatives Chamber and strangers were not permitted to attend, although certain departmental heads were present. The Clerks and the Serjeant-at-Arms remained in the Chamber.<sup>54</sup>

#### *Senators*

Senators are technically visitors, but recognised as having preferential access to observe the proceedings of the House. On rare occasions they may be present in the advisers’ gallery. Senators have the privilege of being admitted into the Senators’ gallery or the Distinguished Visitors’ Gallery on the floor of the Chamber without invitation. When present in the Chamber or galleries Senators must observe the Speaker’s instructions regarding good order.<sup>55</sup> The same requirement applies when Senators are invited onto the floor of the Chamber as guests on the occasion of an address by a visiting head of state.

In 1920 the Senate proposed a change in the standing orders of both Houses to enable a Minister of either House to attend the other House to explain and pilot through any bill of which he had charge in his own House.<sup>56</sup> The proposal lapsed at prorogation in 1922 without having been considered by the House of Representatives.

In 1974 the Standing Orders Committee recommended that, subject to the concurrence of the Senate, and for a trial period, Ministers of both Houses be rostered to attend the other House for the purpose of answering questions without notice.<sup>57</sup> The House was dissolved without the report having been considered.

49 Pursuant to former S.O. 314.

50 S.O. 66(d).

51 VP 1940–43/72 (12.12.1940), 123 (29.5.1941), 166 (20.8.1941); H.R. Deb. (29.5.1941) 55; H.R. Deb. (20.8.1941) 11–12.

52 VP 1940–43/72 (12.12.1940).

53 VP 1940–43/166 (20.8.1941); H.R. Deb. (20.8.1941) 12–14.

54 VP 1940–43/275 (20.2.1942), 393 (3.9.1942), 441 (8.10.1942).

55 S.O. 257(c).

56 VP 1920–21/163 (13.5.1920).

57 Standing Orders Committee, *Report*, PP 63 (1974) 5–6.

In 1982 the matter of the attendance of Senate Ministers to answer questions in the House was referred to the Standing Orders Committee,<sup>58</sup> but the committee did not report before the 32nd Parliament was dissolved. In 1986 the Standing Committee on Procedure considered the rostering of Ministers between the Houses during its inquiry into the rules and practices which govern the conduct of Question Time. In its report<sup>59</sup> the committee stated that it did not support the proposal, being of the opinion that all Ministers should be Members of and responsible to the House of Representatives. The committee noted that the standing orders and practices of both Houses had complementary provisions for Members and Senators to appear before the other House or its committees as witnesses but stated its belief that, as far as the accountability of Ministers at Question Time was concerned, Ministers who were Members of the House should be responsible to the Parliament and the people through the House of Representatives only.

### *Distinguished visitors invited to the floor of the House*

Distinguished visitors to the House, such as parliamentary delegations, may be invited by the Speaker to be seated at the rear of the Chamber on seats provided for such visitors, in the Distinguished Visitors' Gallery, the first floor Special Visitors' Gallery or the Speaker's Gallery. When such visitors are present Speakers have sometimes adopted the practice of interrupting the proceedings and informing Members of the presence of the visitors, who are then welcomed by the Chair on behalf of the House.

Other distinguished visitors, such as foreign heads of state or government and visiting presiding officers, may be invited by the Speaker to take a seat on the floor of the House.<sup>60</sup> Such an invitation is regarded as a rare honour. It is customary for the Speaker to exercise this right only after formally seeking the concurrence of Members. The practice on these occasions is for the Speaker to inform the House that the visitor was within the precincts and, with the concurrence of Members, to invite the visitor to take a seat on the floor. The Serjeant-at-Arms escorts the visitor to a chair provided immediately to the right of the Speaker's Chair. A private citizen, Captain Herbert Hinkler, a highly distinguished Australian aviator, was accorded the honour in 1928 after his record breaking flight from England to Australia.<sup>61</sup> The only other recorded invitation to a private citizen was in 1973 when the Australian writer, Patrick White, who had been awarded the Nobel Prize for Literature, was invited to take a seat on the floor of the House in recognition of his achievement. Mr White wrote to the Speaker declining the invitation.<sup>62</sup>

Only once<sup>63</sup> have visitors been invited to address the House from the floor. This was on 29 November 1951 when a delegation from the UK House of Commons presented a new Mace to the House to mark the Jubilee of the Commonwealth Parliament. The Speaker, with the concurrence of Members, directed that the delegation, which consisted of three Members and a Clerk, be invited to enter the Chamber and be received at the Table. Members of the delegation were provided with seats on the floor of the House at the foot of the Table. The Speaker welcomed the visitors and invited members of the

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58 VP 1980–83/748 (25.2.1982).

59 PP 354 (1986) 25.

60 S.O. 257(a), e.g. VP 1970–72/31 (11.3.1970); VP 2002–04/1653 (1.6.2004).

61 VP 1926–28/512 (15.3.1928).

62 H.R. Deb. (7.11.1973) 2882; H.R. Deb. (29.11.1973) 4081.

63 General D. MacArthur is sometimes reported as having addressed the House during World War II. However, while he was invited to take a seat on the floor of the House, VP 1940–43/307 (26.3.42), his address to members of the Parliament occurred outside the Chamber (on the same day in the parliamentary dining room).

delegation to address the House. The Mace was presented by the delegation and was laid on the Table. The Speaker acknowledged the gift and the Prime Minister moved a motion of thanks which was supported by the Leader of the Opposition, and agreed to by all Members present rising in their places. The delegation then withdrew from the Chamber.<sup>64</sup>

In recent years foreign heads of state or government have been invited to address the Parliament. Initially such addresses were to formal meetings of both Houses in the House of Representatives Chamber, but more recently to sittings of the House to which Senators have been invited as guests.<sup>65</sup>

## ACCESS TO PROCEEDINGS

Parliament conducts its business, with the rarest exceptions, in public. This is now taken for granted but it has not always been the case over the long history of Parliament. In the 18th century the UK House of Commons declared the publication of any of its debates a breach of privilege and exercised its power to imprison those who committed such breaches. The House of Commons at first was seeking, among other things, to maintain its independence by keeping its debates secret from the monarch. By the 18th century its motive was possibly reluctance to be held accountable to public opinion. It also had cause for concern because of the notorious inaccuracy of reports of its debates which were based on notes taken by reporters, contrary to the orders of the House. However, reports persisted and by the end of the 18th century they were openly tolerated.<sup>66</sup>

In Australia the transcript of proceedings has always been publicly available. The parliamentary debates—generally known as Hansard—are described in the chapter on ‘Documents’. People may view the proceedings of the House from the public galleries (*see* page 114). Many thousands of people visit the House of Representatives public galleries during the sittings each year, although mostly as tourists making single visits. In recent years the House itself has endeavoured to make itself more accessible to the public through its publications and web site (*see* page 124). For most people however, the important sources of information about events in the House are reports by the media; and radio and television coverage of proceedings.

## Relations with the media

Important and useful though they may be, broadcasts and Hansard reports of parliamentary proceedings reach a relatively small proportion of the population. Undoubtedly most people rely on media reports for information about proceedings in the Parliament, and about the actions and policies of the Government. The effectiveness of parliamentary democracy is therefore in large part dependent on fair and accurate reporting.

Since its establishment the Commonwealth Parliament has acknowledged the importance of the media. This recognition is exemplified in the setting aside of galleries from which members of the Federal Parliamentary Press Gallery may view parliamentary

64 VP 1951–53/242 (29.11.1951); H.R. Deb. (29.11.1951) 3088–93.

65 For details *see* ‘Addresses to both Houses by foreign heads of state’ in Ch. on ‘Order of business and the sitting day’.

66 Lord Campion, *An introduction to the procedure of the House of Commons*, 3rd edn, Macmillan, London, 1958, p. 96; *see also* A. Wright and P. Smith, *Parliament past and present*, Hutchinson, London, 1903, pp. 221–30.

proceedings and the provision of office space and access to other facilities in Parliament House. Because, with some exceptions, newspaper and television organisations do not maintain offices in Canberra other than those provided in Parliament House, their staff operate from Parliament House on a full-time basis for the reporting of Canberra and district news, parliamentary or otherwise. Ministers as well as Members also work principally from their Parliament House offices when in Canberra. The result of this proximity, which is unusual in other Parliaments, is a degree of formal and informal interaction.

The Presiding Officers have the right to control access to Parliament House by media representatives. Although the Parliament has facilitated media access, this access is ultimately conditional on the observation of rules or guidelines approved by the Presiding Officers that members of the Press Gallery are expected to observe. As well as covering broadcasting, filming and photography, discussed in more detail later in this chapter, the rules define areas where media related activity such as photography is not permitted and dress standards in the press galleries, among other things.<sup>67</sup>

The Presiding Officers' control of media access was demonstrated in the House in 1980 when members of the Press Gallery, in the context of an industrial dispute involving journalists, declared certain journalists not to be members of the Federal Parliamentary Press Gallery and asked for their passes to be withdrawn. The Speaker stated that he held the view that the democratic process required that the House be available for observation by all who could fit into the public galleries and by all who could come into the media gallery for the purpose of reporting its proceedings: under no circumstances would he take action to prevent any media representative whom he judged to be qualified and competent to report the proceedings of the House from coming there to report them.<sup>68</sup> Misconduct by members of the Press Gallery has resulted in passes being withdrawn.<sup>69</sup> For example, in 1971 a serious disturbance was caused by a journalist who interjected from the Press Gallery with the words 'you liar' while the Prime Minister was speaking. The Leader of the Opposition later moved for the suspension of standing orders to enable him to move a motion to bring the offender before the Bar. The Prime Minister having received an apology, the motion was withdrawn. The Speaker stated that he had ordered the journalist's removal from the Press Gallery and the withdrawal of his pass. The Speaker later reported that he had received a letter from the journalist apologising for his conduct and that his pass had been restored.<sup>70</sup>

Breaches of the rules by media personnel outside the Chamber may also lead to the withdrawal of press passes (*see* page 124).

## Broadcasting of proceedings

### *Radio broadcasts*

The radio broadcasting of proceedings commenced on 10 July 1946 in the House of Representatives. The Parliament of Australia was the second national Parliament of the Commonwealth to introduce the broadcasting of its proceedings, the radio broadcast of proceedings in New Zealand having commenced in 1936.

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<sup>67</sup> *Rules for media related activity in Parliament House and its precincts*, November 2016.

<sup>68</sup> H.R. Deb. (14.5.1980) 2694.

<sup>69</sup> H.R. Deb. (23.4.1931) 1274; J 1940–43/211 (2.6.1942); H.R. Deb. (3.6.1942) 2187; H.R. Deb. (29.5.1973) 2738.

<sup>70</sup> VP 1970–72/465, 467 (9.3.1971); H.R. Deb. (9.3.1971) 687, 689–92, 739.

Compulsory radio broadcasts are made and controlled under the *Parliamentary Proceedings Broadcasting Act 1946*, which directs the Australian Broadcasting Corporation (ABC) to broadcast the proceedings of the House of Representatives or the Senate, or of a joint sitting pursuant to section 57 of the Constitution or to any Act. In November 1988 a network was established to carry the broadcast of proceedings and related material only. In 1994 the content of the network was expanded into a 24 hour news service on which the parliamentary broadcast has priority.<sup>71</sup>

In addition to the official ABC radio broadcast, since November 1988 all radio stations or networks have been permitted to broadcast recorded excerpts from proceedings, subject to conditions determined by the Broadcasting Committee (*see below*).

#### JOINT COMMITTEE ON THE BROADCASTING OF PARLIAMENTARY PROCEEDINGS

A Joint Committee on the Broadcasting of Parliamentary Proceedings is appointed in each Parliament pursuant to the *Parliamentary Proceedings Broadcasting Act 1946*. The Act provides for the committee to:

- consider and specify in a report to each House the general principles upon which there should be determined the days upon which, and the periods during which, the proceedings of the Senate and the House should be broadcast;
- determine the days upon which, and the periods during which, the proceedings of either House should be broadcast, in accordance with the general principles specified by the committee and adopted by each House; and
- determine the days upon which, and the periods during which, the proceedings of a joint sitting should be broadcast.

The committee also determines the conditions under which re-broadcasts may be made of excerpts of proceedings.

The general principles and standing determinations relating to radio broadcasting and the conditions for broadcasting of excerpts are accessible on the committee's website.

The committee has a limited role in relation to the televising of proceedings, as the Act covers televising of joint sittings only.<sup>72</sup> The committee may:

- require the ABC to televise, in whole or in part, the proceedings of a joint sitting; and
- determine the conditions applying to a telecast of a recording of the proceedings of a joint sitting.

The committee has also provided informal advice to the Presiding Officers on rules for media related activity in Parliament House and the precincts.

### *Televising*

Access to the proceedings of the House for televising has been permitted since 1991.<sup>73</sup> The televised proceedings of the House and the Federation Chamber, as well as some of the public hearings of parliamentary committees, are broadcast live on ParlTV<sup>74</sup> within Parliament House (and externally to government departments) and over the internet.<sup>75</sup>

71 Formerly the Parliamentary and News Network (PNN), now called NewsRadio.

72 Although the House in 1991, VP 1990–93/1084–5 (16.10.1991), declared in principle support for the amendment of the *Parliamentary Proceedings Broadcasting Act 1946* to make statutory provision for televising, no legislative action was taken.

73 Access was originally for a trial period, VP 1990–93/491–2 (12.2.1991); continuing approval, VP 1990–93/1084–5 (16.10.1991); conditions amended, VP 1993–96/387–9 (20.10.1993).

74 The in-house television and radio distribution systems previously known as the House Monitoring Service.

75 Accessible through the Parliament's web site <<http://www.aph.gov.au/>>. The ParlView service provides access to archived parliamentary audio-visual records.

This official broadcast is also available for the use of the television networks. The live proceedings are currently broadcast nationally by A-PAC (Australia's Public Affairs Channel).<sup>76</sup> Question Time is televised live by the ABC.<sup>77</sup>

### *Resolution on broadcasting of proceedings*

On 9 December 2013 the House adopted the following resolution authorising and setting conditions for the broadcasting and re-broadcasting of proceedings:<sup>78</sup>

#### **1 Provision of broadcast**

- (a) The House authorises the broadcast and re-broadcast of the proceedings and excerpts of proceedings of the House, its committees and of the Federation Chamber in accordance with this resolution.
- (b) The House authorises the provision of sound and vision coverage of proceedings of the House, its committees, and of the Federation Chamber, including records of past proceedings, through the House Monitoring Service and through the Parliament of Australia website.
- (c) Access to the House Monitoring Service sound and vision coverage of the proceedings of the House, its committees and the Federation Chamber is provided to persons and organisations as determined by the Speaker, on terms and conditions determined by the Speaker which must not be inconsistent with this resolution.
- (d) The Speaker shall report to the House on persons and organisations in receipt of the service and on any terms and conditions determined under paragraph 1(c).
- (e) Use of sound and vision coverage of proceedings of the House, its committees and the Federation Chamber, including records of past proceedings, published on the Parliament of Australia website is subject to conditions of use determined by the Speaker.

#### **2 Broadcast of House of Representatives and Federation Chamber proceedings—House Monitoring Service**

Access to proceedings provided through the House Monitoring Service is subject to compliance with the following conditions:

- (a) Only the following broadcast material shall be used:
  - (i) switched sound and vision feed of the House of Representatives, its committees and the Federation Chamber provided by the Parliament that is produced for broadcast, re-broadcast and archiving; and
  - (ii) official broadcast material supplied by authorised parliamentary staff.
- (b) Broadcast material shall be used only for the purposes of fair and accurate reports of proceedings, and shall not be used for:
  - (i) political party advertising or election campaigns; or
  - (ii) commercial sponsorship or commercial advertising.
- (c) Reports of proceedings shall be such as to provide a balanced presentation of differing views.
- (d) Excerpts of proceedings which are subsequently withdrawn may be broadcast only if the withdrawal is also reported.
- (e) The instructions of the Speaker or his or her delegates, which are not inconsistent with these conditions or the rules applying to the broadcasting of committee proceedings, shall be observed.

#### **3 Broadcast of committee proceedings**

The following conditions apply to the broadcasting of committee proceedings:

- (a) Recording and broadcasting of proceedings of a committee is subject to the authorisation of the committee;
- (b) A committee may authorise the broadcasting of only its public proceedings;
- (c) Recording and broadcasting of a committee is not permitted during suspensions of proceedings, or following an adjournment of proceedings;

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<sup>76</sup> A-PAC is funded by pay television networks.

<sup>77</sup> Or rebroadcast later at night on those days when Senate Question Time is televised live.

<sup>78</sup> VP 2013–16/182–3 (9.12.2013). The resolution consolidated earlier rules, replacing several related resolutions dating back to 1988.

- (d) A committee may determine conditions, not inconsistent with this resolution, for the recording and broadcasting of its proceedings, may order that any part of its proceedings not be recorded or broadcast, and may give instructions for the observance of conditions so determined and orders so made. A committee shall report to the House any wilful breach of such conditions, orders or instructions;
- (e) Recording and broadcasting of proceedings of a committee shall not interfere with the conduct of those proceedings, shall not encroach into the committee's work area, or capture documents (either in hard copy or electronic form) in the possession of committee members, witnesses or committee staff;
- (f) Broadcasts of proceedings of a committee, including excerpts of committee proceedings, shall be for the purpose only of making fair and accurate reports of those proceedings, and shall not be used for:
  - (i) political party advertising or election campaigns; or
  - (ii) commercial sponsorship or commercial advertising;
- (g) Where a committee intends to permit the broadcasting of its proceedings, a witness who is to appear in those proceedings shall be given reasonable opportunity, before appearing in the proceedings, to object to the broadcasting of the proceedings and to state the ground of the objection. The committee shall consider any such objection, having regard to the proper protection of the witness and the public interest in the proceedings, and if the committee decides to permit broadcasting of the proceedings notwithstanding the witness' objection, the witness shall be so informed before appearing in the proceedings.

#### **4 Radio broadcast of parliamentary proceedings by the Australian Broadcasting Corporation—general principles**

The House adopts the following general principles agreed to by the Joint Committee on the Broadcasting of Parliamentary Proceedings on 19 March 2013:

*(a) Allocation of the broadcast between the Senate and the House of Representatives*

The proceedings of Parliament shall be broadcast live whenever a House is sitting. The allocation of broadcasts between the Senate and the House of Representatives will be in accordance with the standing determinations made by the Joint Committee on the Broadcasting of Parliamentary Proceedings. It is anticipated that over time, the coverage of each House will be approximately equal.

*(b) Re-broadcast of questions and answers*

At the conclusion of the live broadcast of either House, questions without notice and answers thereto from the House not allocated the broadcast shall be re-broadcast.

*(c) Unusual or exceptional circumstances*

Nothing in these general principles shall prevent the Joint Committee on the Broadcasting of Parliamentary Proceedings from departing from them in unusual or exceptional circumstances.

- 5** This resolution shall continue in force unless and until amended or rescinded by the House in this or a subsequent Parliament.

### *Legal aspects*

Members are covered by absolute privilege in respect of statements made in the House, whether or not the House is being broadcast. Absolute privilege also attaches to those persons authorised to broadcast or re-broadcast the proceedings by the *Parliamentary Proceedings Broadcasting Act 1946*, which provides that:

No action or proceeding, civil or criminal, shall lie against any person for broadcasting or re-broadcasting any portion of the proceedings of either House of the Parliament or of a joint sitting.

The Act does not cover television broadcasts, apart from those of joint sittings made pursuant to the Act. However, it is considered that the televising of House proceedings would be protected by section 10 of the *Parliamentary Privileges Act* if the broadcast is a 'fair and accurate report of proceedings'.

Only qualified privilege may be held to attach to the broadcast of excerpts of proceedings, and it may be considered that this situation is appropriate given the fact that those involved in the broadcasting of excerpts act essentially on their own initiative,



whereas those involved in the official radio broadcast and re-broadcast of proceedings have no discretion in the matter, being required to perform these functions by the law.

### Photographs and films of proceedings

Visitors and members of the public are not permitted to take cameras into the galleries during proceedings. Only parliamentary staff are authorised to film proceedings in the Chamber. In 1992, following the decision by the House to authorise the live televising of its proceedings, the Speaker approved access to certain proceedings for still photography. With the establishment of the Main Committee (now Federation Chamber), similar access was given to its proceedings. Access generally is limited to photographers who are members of the Press Gallery or AUSPIC (the Government Photographic Service). Other photographers require special approval to photograph proceedings. Photographers' activities are subject to rules issued by the Speaker<sup>79</sup> and access to the gallery by the photographer and/or the media organisation concerned may be withdrawn for non-compliance with the rules.

In 2000 some photographers were banned for two sittings when they photographed events in the public gallery in defiance of express instructions to the contrary. In 2004 photographers from several newspapers were suspended from the galleries for seven sitting days for a similar breach.<sup>80</sup> In 2016 representatives of a news bureau were also banned from the building for a sitting week. All cases involved photographs of disturbances, which the guidelines or rules expressly prohibited (*see below*).

The use of cameras, including mobile phone cameras,<sup>81</sup> on the floor of the House is not permitted during proceedings.

### Televising, recording and photographs of committee proceedings

Generally speaking, committee proceedings may be recorded for broadcasting or televising, and filmed or photographed, with the permission of the committee concerned. This topic is covered in more detail in the Chapter on 'Committee inquiries'.

Public hearings in Parliament House are regularly televised on ParlTV<sup>82</sup> and webcast on the Parliament's web site. The signal is available to the networks for re-broadcast.<sup>83</sup>

### Photography, filming, etc inside Parliament House

Approval for the taking of photographs or filming in Parliament House rests finally with either or both Presiding Officers. Earlier restrictions on the taking of photographs and filming have been relaxed by the Presiding Officers, the view having been taken that the general viewing, screening, publication and distribution of photographs and films of the Parliament, properly administered and supervised, may lead to a better public understanding of its activities and functioning.

Photography and filming in Parliament House is subject to the rules issued by the Presiding Officers referred to earlier.<sup>84</sup> Visitors to the building are permitted to film in public areas provided the film is for private purposes and is not to be published. However,

<sup>79</sup> *Rules for media related activity in Parliament House and its precincts*, November 2016.

<sup>80</sup> H.R. Deb. (16.2.2004) 24758, VP 2002–04/1432 (16.2.2004).

<sup>81</sup> See 'Use of electronic devices' in Chapter on 'Members'.

<sup>82</sup> ParlTV has audio coverage of those hearings that are not televised.

<sup>83</sup> Currently transmitted nationally by A-PAC.

<sup>84</sup> *Rules for media related activity in Parliament House and its precincts*, November 2016.

filming is not permitted of security arrangements, nor in the Chambers during proceedings.

Any breach of the rules is determined by the Presiding Officers on a case by case basis and may result in the withdrawal of press gallery accreditation. In 1976 the accreditation of a press gallery photographer was withdrawn for two weeks because he photographed the Leader of the Opposition in his office after the Leader of the Opposition had given instructions that no photographs were to be taken.<sup>85</sup>

Approval may be granted by the Speaker for official photographs of the Chamber, or other areas of the building under the Speaker's control, to be used in a publication provided that the source of the photograph is acknowledged. Under no circumstances may photographs or films taken in the Chamber or elsewhere in the building be sold to be used to promote any commercial product through newspaper, television or other advertising media without approval; permission is not normally given.<sup>86</sup>

### Promoting community awareness

The Department of the House of Representatives now devotes significant resources to promoting understanding of the role of the House and public awareness of its activities. Educational and promotional activities include:

- shared funding of the Parliamentary Education Office (*see below*);
- school visits to Parliament House program;
- the House of Representatives web site (*see below*);
- the *About the House* e-newsletter on House activities and committee inquiries;
- an electronic media alert service;
- social media channels, such as a Facebook page, Twitter news feed,<sup>87</sup> and YouTube channel;<sup>88</sup>
- *About the House* video programs;<sup>89</sup>
- publications, including a series of Infosheets<sup>90</sup> and a guide to procedures;<sup>91</sup>
- seminar programs on the work of the House;
- advertising to encourage public input to committee inquiries; and
- employment of media liaison staff.

### Internet access to the House

Modern technology has given members of the public far easier access to the House and its proceedings than was possible in the past, when information about the House, although public, was not so readily available. The House web site<sup>92</sup> provides access to a wide range of information, including:

- information about Members, and links to Members' home pages;

85 VP 1976–77/77–8 (18.3.1976); H.R. Deb. (18.3.1976) 781–2; J 1976–77/74–5 (18.3.1976).

86 *See also* Committee of Privileges, *Advertisement in the Canberra Times and other Australian newspapers on 18th August, 1965*, PP 210 (1964–66).

87 @AboutTheHouse.

88 <<https://www.youtube.com/user/athnews>>.

89 Broadcast on A-PAC (Australia's Public Affairs Channel).

90 *House of Representatives Infosheets* <<http://www.aph.gov.au/infosheets>>.

91 *House of Representatives—Guide to procedures*, 6th edn, Canberra, Department of the House of Representatives, 2017. <<http://www.aph.gov.au/gtp>>.

92 <<http://www.aph.gov.au/house>>

- the program of business and details of bills before the House;
- information about committee inquiries and reports;
- the Hansard record of debates, and the official documents of the House—Votes and Proceedings and Notice Paper;
- the ‘Live Minutes’ of proceedings;<sup>93</sup>
- the full range of Department of the House of Representatives publications, such as those noted above, and procedural texts including *House of Representatives Practice* and the Standing Orders;
- the live video broadcast of House and Federation Chamber proceedings, and selected public committee hearings; and
- video and audio recordings of recent proceedings.

### Parliamentary Education Office

The Parliamentary Education Office (PEO) was established in 1988 with the objective of increasing the awareness, understanding and appreciation of the significance, functions and procedures of the Australian Parliament. The PEO is administered by the Department of the Senate, with the Department of the House of Representatives making a contribution to its funding.

Through the Education Centre in Parliament House (which includes a committee room modified to represent a parliamentary chamber), the PEO runs a role-play program for visiting students based on simulations of House and Senate chamber and committee proceedings.

The PEO also manages a comprehensive website;<sup>94</sup> produces an extensive range of resources for teachers; undertakes outreach activities around Australia; and supports Senators and Members through the provision of education materials and advice.

## PARLIAMENTARY PRECINCTS AND THE EXERCISE OF AUTHORITY

### The parliamentary precincts

The question of the extent of the precincts of the permanent Parliament House was resolved definitively with the passage of the *Parliamentary Precincts Act 1988*<sup>95</sup> which provides as follows:

- The boundary of the parliamentary precincts is the approximately circular line comprising the arcs formed by the outer edge of the top of the retaining wall near the inner kerb of Capital Circle, and in places where there is no retaining wall, arcs completing the circle. [Where there is no retaining wall, the circle is indicated by markers—see map at Schedule 1 of the Act.]
- The parliamentary precincts consist of the land on the inner side of the boundary, and all buildings, structures and works, and parts of buildings, structures and works, on, above or under that land.

<sup>93</sup> The draft record of the proceedings of the House of Representatives as they occur (subject to revision).

<sup>94</sup> <<http://www.peo.gov.au>>

<sup>95</sup> The main provisions commenced, by proclamation, on 1 August 1988.

- If the Presiding Officers certify in writing that specified property is required for purposes of the Parliament, regulations may declare that the property shall be treated as part of the parliamentary precincts for the purposes of the Act.<sup>96</sup>
- The precincts are under the control and management of the Presiding Officers who may, subject to any order of either House, take any action they consider necessary for the control and management of the precincts.
- In respect of the ministerial wing in Parliament House, the powers and functions given to the Presiding Officers are subject to any limitations and conditions agreed between the Presiding Officers and the responsible Minister.

### The parliamentary zone

A parliamentary zone was declared by the Parliament when it passed the *Parliament Act 1974*, which not only determined Capital Hill as the site for the permanent Parliament House but also defined the parliamentary zone within which no building or other work could be erected without the approval of both Houses of Parliament.<sup>97</sup> The zone comprises the area bounded by State Circle, Commonwealth and Kings Avenues and the southern edge of Lake Burley Griffin.<sup>98</sup> The parliamentary zone is also a designated area for which land use planning, development and construction proposals must be approved by the National Capital Authority.<sup>99</sup> The Authority briefs the Joint Standing Committee on the National Capital and External Territories on work which needs parliamentary approval.<sup>100</sup>

The Parliament does not claim authority over the streets surrounding the parliamentary precincts although it does claim the right of access for its Members to attend the Parliament. In 1975 a judgment in the Supreme Court of the Australian Capital Territory on an appeal against a conviction for a parking offence held that:

Parliament enjoys certain privileges designed to ensure that it can effectively perform its function and there are some aspects of conduct concerning the operation of Parliament into which the courts will not inquire. Certain courtesies are customarily observed. Parliament, through the President of the Senate and the Speaker of the House of Representatives, and the officers of the Parliament, controls the use of the buildings which it has for its purposes. Doubtless, it can also control the use of the immediate precincts of those buildings, but arrangements about such matters are made in a sensible and practical way, bearing in mind the reasonable requirements of Parliament. The fact is that there is no general abrogation of the ordinary law. It is not necessary for the effective performance by Parliament of its functions that there be any such abrogation. On the contrary, it must be very much in the interests of members, in their corporate and individual capacities, that the ordinary law should operate.

. . . The fact is that the law respecting the privileges of Parliament is itself part of the ordinary law. Part of that law is found in the Bill of Rights 1688. In a well-known passage, Stephen J. said (in *Bradlaugh v. Gossett* (1884) 12 QBD271 at 283): “I know of no authority for the proposition that an ordinary crime committed in the House of Commons would be withdrawn from the ordinary course of criminal justice”.<sup>101</sup>

96 The Parliamentary Precincts Regulations 2011 provide the mechanism for this, allowing the legal framework for the control and management of the parliamentary precincts to be quickly applied to an alternative location in the event that Parliament House is unavailable.

97 *Parliament Act 1974*, s. 5. E.g. VP 2002–04/420 (19.9.2002). Within the zone, the Presiding Officers are responsible for works inside the parliamentary precincts, and in these cases the relevant approval motion is moved in the House by the Speaker, VP 2013–16/1243 (26.3.2015); VP 2016–18/428 (1.12.2016), or by a Minister on the Speaker’s behalf, e.g. see H.R. Deb. (13.8.2009) 7765; H.R. Deb. (24.6.2015) 7384.

98 See map at Schedule 3 of the Parliamentary Precincts Act.

99 *Australian Capital Territory (Planning and Land Management) Act 1988*, s. 12.

100 For discussion of the respective roles of the Authority and the committee see Joint Standing Committee on the National Capital and External Territories, *The way forward: inquiry into the role of the National Capital Authority*, 2008.

101 See *Rees v. McCay* [1975] 7 ACT R7.

Within the building, the Presiding Officers determine matters in relation to the overall allocation and use of space.<sup>102</sup> The Speaker alone has the authority to determine such matters as the allocation of seats in the Chamber and office suites to Members and the order of priority for the acceptance of bookings for House of Representatives committee rooms.

### The security of the parliamentary precincts

Responsibility for security in the parliamentary precincts is vested by the Parliamentary Precincts Act in the Presiding Officers. Before the passage of the Act this jurisdiction was based on custom and practice and the inherent powers of the Presiding Officers to maintain proper arrangements for the functioning of Parliament.

Security brings into conflict two principles basic to Parliament's traditions and usage. On the one hand, there is the undeniable right of people in a parliamentary democracy to observe their Parliament at work and to have reasonable access to their representatives. On the other hand, Members and Senators must be provided with conditions which will enable them to perform their duties in safety and without interference. This is basic to the operation of Parliament and a balance must be struck between these two important principles.

In 1978 some Members and Senators expressed concern that the security arrangements might become excessively elaborate and that the rights of Members, Senators and the public to gain access to, and to move freely within, Parliament House might be unnecessarily restricted. In a report later that year the Senate Committee of Privileges emphasised the view that an effective protection system was necessary for Parliament House and its occupants. It stressed that security measures implemented earlier in 1978 provided the basis for an effective system and were not, in the committee's opinion, in any way inconsistent with the privileges of Members of the Senate.<sup>103</sup>

The safety of people who work in Parliament House, or who visit it on legitimate business or simply to see it in operation, is an important consideration. Some Members and Senators are prepared to accept that public office brings with it increased personal risk and perhaps are not easily convinced of the need for special arrangements for their own security. However, the need to ensure the safety of others in the parliamentary precincts is recognised and this consideration has been important to successive Presiding Officers.

A Security Management Board, consisting of the Serjeant-at-Arms, the Usher of the Black Rod, the Secretary of the Department of Parliamentary Services, and a Deputy Commissioner of the Australian Federal Police (AFP),<sup>104</sup> is the high level advisory and oversight body responsible for the security of the precincts. In 2014 the Presiding Officers authorised the AFP to be the lead agency for operational security at Parliament House. A consequential Memorandum of Understanding (MOU) was signed between the AFP and the Department of Parliamentary Services in that year which established the operational security and response arrangements for Parliament House.

The AFP Manager, Parliament House is responsible for overall operational security and, in accordance with the MOU, day to day security is overseen by the AFP Security

<sup>102</sup> H.R. Deb. (28.8.1952) 692; *see also* Ch. on 'The Speaker, Deputy Speakers and officers'.

<sup>103</sup> PP 22 (1978).

<sup>104</sup> Established pursuant to s. 65A of the *Parliamentary Service Act 1999*.

Controller. The AFP Security Controller also has command, control and coordination of all operational security and response activity within the precincts. The MOU gives the AFP Security Controller responsibility for the control and coordination of Department of Parliamentary Services security staff and AFP personnel during both day to day security and security response operations.

The parliamentary security staff are responsible primarily for security within the building—that is, the operation of electronic security screening devices, the physical checking of people entering the building and general corridor surveillance. The AFP has exclusive responsibility for physical security of the external precincts. The Serjeant-at-Arms and the Usher of the Black Rod are involved in operational matters if they impact on the House wing and Members or the Senate wing and Senators respectively.

A pass system controls entry into the non-public areas of Parliament House. Members and Senators are not required to wear a pass. Other persons are not permitted to enter the non-public areas without a pass. People permanently employed in the building and others who need to enter Parliament House regularly are issued with photographic identity passes. Visitors granted entry to the non-public areas must be accompanied and must present photo identification to be issued with day passes, or passes covering specified periods, as the need arises. Passes must be worn by the pass holders. At times the main doors, or parts of the building that are normally open to the public, may be closed for security reasons.

### *Entry to Parliament House and galleries*

Goods, mail and baggage brought into the building are checked by electronic means. On entering Parliament House all persons, including Members and Senators, must pass through electronic detection equipment similar to that used at airports and further screening is carried out of people seeking to enter the public galleries of the two chambers. It is a condition of entry to the building and the public galleries that any person desiring to enter shall submit to a search of his or her person or effects if so required.

Visitors displaying political slogans on their clothing may be denied entry to the galleries on the basis that the galleries should not be used as a place for protest action<sup>105</sup>—there are other areas set aside for such activities (*see* page 131).

### *Disorder and disturbances*

To perform its functions the House must be protected from physical disruption, disturbance and obstruction and there is no doubt that the House has the power to protect itself from such actions. However, such actions, although they may technically constitute contempt, are in practice usually dealt with either through administrative action under the authority of the Presiding Officers or by remitting the matter to the authorities for criminal proceedings.

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105 H.R. Deb. (11.2.2003) 11432–3.

Visitors who misconduct themselves in that part of Parliament House controlled by the Speaker may be taken into custody by the Serjeant-at-Arms.<sup>106</sup> In the Chamber visitors are under the control of the Serjeant-at-Arms. If a visitor or person other than a Member disturbs the operation of the Chamber or the Federation Chamber, the Serjeant-at-Arms can remove the person or take the person into custody.<sup>107</sup> Such disturbances have included persons standing up, interjecting, applauding, holding up signs or placards, dropping or throwing objects into the Chamber, chaining or gluing themselves to railings and jumping onto the floor of the Chamber.<sup>108</sup>

On the authority of the Serjeant-at-Arms, Usher of the Black Rod or authorised persons, persons creating a disturbance may be detained and interviewed, or ejected from Parliament House. Persons considered to pose a threat to the Parliament, for example, because of a history of attempts to disrupt proceedings, have been barred from entry to the Chamber or the building for a period of time by order of the Speaker or both Presiding Officers.

### Application of the law in Parliament House

Although the ordinary criminal law applies within Parliament House, the actual charging of people creating a disturbance inside the building has in the past been difficult. For example, doubt had existed as to whether the Chambers were Commonwealth premises for the purposes of the *Public Order (Protection of Persons and Property) Act 1971* and therefore protected against disturbances that caused no damage or injury. In 1965 a police constable arrested a person in King's Hall (of the provisional Parliament House) and a conviction was recorded against the person for using insulting words in a public place. Although it seemed doubtful that King's Hall was in fact a public place for the purposes of the Police Offences Ordinance, the Speaker stated that 'the constable acted properly, and with authority, in protection of the Parliament and its members'.<sup>109</sup> A person who jumped from the main public gallery onto the floor of the Chamber in September 1987 was not charged. In 2004 a person who jumped from the first floor northern gallery onto the floor of the Chamber was subsequently charged and convicted of related offences.

The *Parliamentary Privileges Act 1987* made the legal position clearer by declaring 'for the avoidance of doubt' that a law in force in the Australian Capital Territory applies, subject to section 49 of the Constitution, 'according to its tenor in and in relation to any building in the Territory in which a House meets, except as otherwise provided by that law or by any other law'.

The *Parliamentary Precincts Act 1988* further clarified the situation by providing that the Public Order (Protection of Persons and Property) Act applies to the precincts as if they were Commonwealth premises within the meaning of that Act. The Parliamentary Precincts Act also provides that the functions of the Director of Public Prosecutions in respect of offences committed in the precincts shall be performed in accordance with

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106 S.O. 96.

107 S.O. 96(a). In practice parliamentary security staff perform this function under the overall direction of the Serjeant-at-Arms.

108 On occasion, proceedings have been suspended while demonstrators have been removed from the public galleries: H.R. Deb. (14.7.1920) 2683; H.R. Deb. (11.6.1970) 3361; H.R. Deb. (7.9.1971) 853; H.R. Deb. (30.11.2016) 4945. Other significant or unusual recorded incidents when the House has been disturbed, and the action taken by the Chair, were summarised at page 128 of the 4th edition.

109 H.R. Deb. (19.11.1965) 2989.

general arrangements agreed between the Presiding Officers and the Director of Public Prosecutions.

The *Australian Capital Territory (Self Government) Act 1988* provides that either House may declare by resolution that an ACT law enacted following self government does not apply to that House or its members, or in the parliamentary precincts.

### Powers of police in Parliament

For most practical purposes, Parliament House is regarded as the only place of its kind and one in which the two Houses through their Presiding Officers have exclusive jurisdiction. Thus in Parliament House the police are subject to the authority of the Speaker and President and their powers are limited by the powers and privileges of the respective Houses.<sup>110</sup> Such limitations are not based on any presumed sanctity attached to the building as such, but on the principle that the Parliament should be able to conduct its business without interference or pressure from any outside source.<sup>111</sup> At the same time, the public interest in the administration of justice is given due weight.

It is established practice that police do not conduct investigations, make arrests, or execute any process in the precincts without consultation with and the consent of the Presiding Officers, which is in practice conveyed through the Serjeant-at-Arms or the Usher of the Black Rod to the Australian Federal Police Security Controller. An exemption to this is the standing approval for the police to perform traffic operations in the precincts which may result in arrest or investigation or, more usually, issuance of infringement notices.

There are a number of precedents of consent being granted in the case of police wishing to interview Members. In commenting on one such incident the Speaker stated:

To avoid any misunderstanding as to the powers of the police in this building, I draw to the attention of the House that it is accepted as part of the Parliament's privileges and immunities that the police do not have a right to enter the Parliament building without the prior knowledge and consent of the President and/or the Speaker. The police officers who visited the honourable member yesterday sought my permission to do so before coming to the building. I gave that approval on two bases: First, yesterday was not a sitting day; and second, the honourable member . . . had indicated agreement to receiving the police officers.<sup>112</sup>

The Parliament House offices of a Member and a Senator have been searched under the authority of a warrant.<sup>113</sup> In 2005 a Memorandum of Understanding between the Presiding Officers and the Attorney-General and Minister for Justice set out guidelines to be followed in the execution of search warrants in relation to premises used or occupied by Members and Senators, including their offices in Parliament House. In the cases of offices in Parliament House the agreement requires that the relevant Presiding Officer be contacted before the search is executed. Material has been seized under a search warrant executed on the Department of Parliamentary Services at Parliament House.<sup>114</sup>

Police officers with protection duties at Parliament House carry arms.

The Parliamentary Precincts Act provides that where, under an order of either House relating to the powers, privileges and immunities of that House, a person is required to be

110 Advice of Attorney-General's Department, concerning powers of police within the precincts of Parliament House, 1967; and opinion of Solicitor-General, dated 30 September 1926.

111 Advice of Attorney-General's Department, concerning powers of police within the precincts of Parliament House, 1967. *And see Parliamentary Precincts Act 1988.*

112 VP 1978-80/1662 (16.9.1980); H.R. Deb. (16.9.1980) 1293.

113 *And see Crane v. Gething* (2000) FCA 4.

114 See 'Execution of search warrants where parliamentary privilege may be involved' in Chapter on 'Parliamentary Privilege'.



arrested or held in custody, the person may be arrested or held by a member or special member of the Australian Federal Police in accordance with general arrangements agreed between the Presiding Officers and the Minister administering the *Australian Federal Police Act 1979*.

## Demonstrations

In 1988 the Presiding Officers approved guidelines to be observed by the Australian Federal Police in managing demonstrations. The guidelines, incorporated in Hansard, include the provision that demonstrations by groups and persons shall not be permitted within the area of the parliamentary precincts bounded by and including Parliament Drive, provisions circumscribing the behaviour of demonstrators, the provision that any breach of the guidelines may be subject to police intervention and a map showing the 'authorised protest area'.<sup>115</sup> The guidelines have since been amended to cover the use of sound amplification by participants in any gathering within the precincts and to limit further the area where demonstrations may be held within the precincts to the area bounded by Parliament Drive and Federation Mall. The Parliament Act empowers the Australian Federal Police to remove structures erected by demonstrators without a permit in the parliamentary zone, including the area in front of Parliament House outside the precincts.

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115 H.R. Deb. (2.3.1989) 328–9.

