

The Parliament of the Commonwealth of Australia

House of Representatives
Standing Committee on Procedure

The Standing Orders Governing
Disorder and Strangers

Report

October 1992

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Terms of reference of the committee

To inquire into and report on the practices and procedures of the House generally with a view to making recommendations for their improvement or change and for the development of new procedures.

Members of the committee

Chairman: Hon. G G D Scholes, MP

Deputy Chairman: Mr P D Shack, MP (until 3 June 1992)
Mrs K J Sullivan, MP (from 3 June 1992, Deputy Chairman from
13 October 1992)

Members: Mr R E Charles, MP (from 14 September 1992)
Mr R F Edwards, MP
Mr E L Grace, MP
Mr C Hollis, MP
Mr A C Rocher, MP (until 14 September 1992)
Mr W E Truss, MP
Hon. F J Walker, QC, MP

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THE STANDING ORDERS GOVERNING DISORDER AND STRANGERS

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REPORT

BACKGROUND

1. On 7 March 1989 the Standing Committee on Procedure resolved to undertake a comprehensive review of the standing orders of the House of Representatives. The committee was re-appointed in the 36th Parliament and resolved on 31 May 1990 to continue the review.
2. The committee has tabled several reports regarding different groups of related standing orders, the most recent covering questions seeking information, seconding of private Members' notices of motion and the Speaker, Chairman, Deputy Chairman and officers of the House.
3. At its meeting on 2 June 1992 the committee agreed to look at the issue of disorder with a view to reporting to the House. The chapter on disorder relates to the following one on strangers and the committee considered them together.

Scope of the Report

4. The committee reviewed standing orders 303 to 315. A paper covering these standing orders was submitted to the committee by the Clerk of the House suggesting a revised set of those standing orders.

5. Significant changes proposed by the committee include:
- the Speaker should have the authority to order a disruptive Member to withdraw for a time (ie without a motion being passed by the House). The Member would retain the right to vote in divisions during the period of withdrawal (see paragraph 20); and
 - following naming of a Member the question for suspension of the Member pursuant to (current) standing order 304 should be proposed by the Speaker without a motion being moved (see paragraph 31).
6. The committee has also taken this opportunity to remove gender-specific language and to modernise some of the terminology in these standing orders. They have also been renumbered (Throughout this report references to new standing order numbers appear in **bold type**).

INTRODUCTION

7. Where the behaviour of a Member, group of Members or others hinders the dispatch of the business of the Chamber, the Chair must take steps to restore order according to the standing orders and conventions.

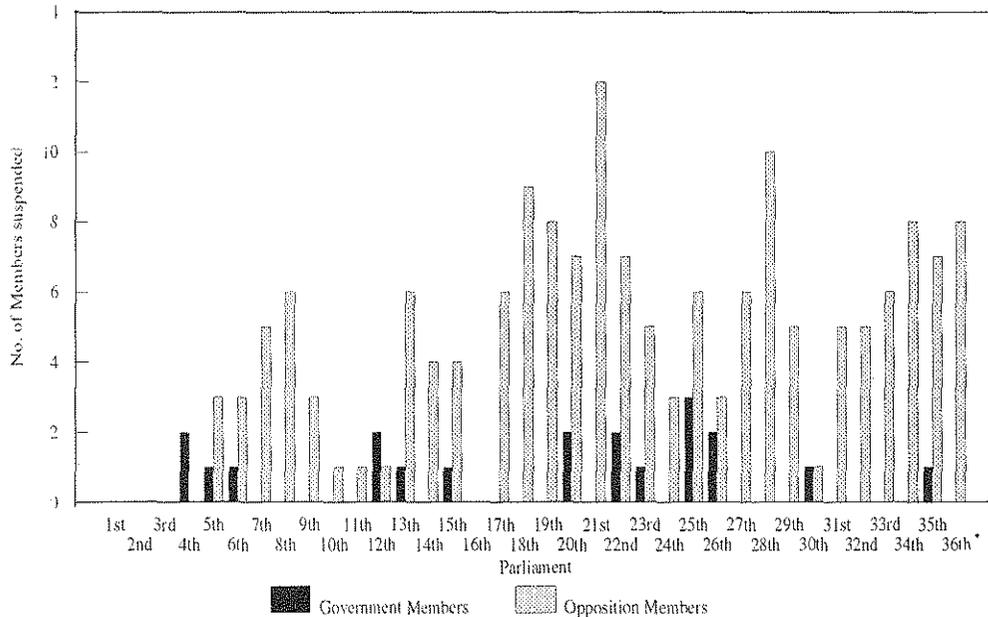
8. The House must have the power to deal immediately with Members attempting to obstruct its business. Members should be aware of their obligations towards the House and the consequences of disruption. Most of the procedures, and the penalties are set out in the standing orders.

9. The House's powers to discipline Members derive from section 49 of the Constitution, which gave the House the powers, privileges and immunities of the United Kingdom House of Commons as at 1901. Elements of these powers etc. were codified by the enactment of the *Parliamentary Privileges Act 1987* and the *Parliamentary Precincts Act 1988*. This report only deals with actions taken by the House to discipline Members and others for disorderly behaviour through resort to the provisions of the standing orders and traditional practices.

10. Available statistics relate to overt disruption of proceedings or defiance of the Chair rather than to disorderly behaviour such as clapping and cheering by large numbers of Members, or deliberately holding conversations during another Member's speech. The statistics do not relate to grave disorder resulting in adjournment of the House or suspension of the sitting (standing order 308). This matter is dealt with separately in the report.

11. When transient political influences have been taken into account (for example the mood of the House during debates on bank nationalisation, anti-communist measures and post Second World War petrol rationing and a wave of strikes), it would still appear that there has been a general increase in the numbers of Members suspended over the years, as the following graph shows.

MEMBERS NAMED AND SUSPENDED FROM THE SERVICE OF THE HOUSE
1901--1992*



*To 5 October 1992

STANDING ORDERS RELATING TO DISORDER

12. Most Westminster-style Parliaments define a similar range of offences relating to the protection of the dignity of the Parliament and differential penalties are applied for these offences. In the House of Representatives, standing order 52 gives the Speaker power to maintain order:

Order shall be maintained in the House by the Speaker, and in a committee by the Chairman of Committees; but disorder in a committee can be censured by the House only on receiving a report.

13. This is a significant standing order — by leaving the maintenance of order to the Speaker's discretion it implies that the expectations of the House about appropriate levels of behaviour and order in debate may vary under different circumstances and that each occupant of the Chair must maintain order as he or she sees fit. For example, there will always be background noise in the Chamber on a sitting day, however the level acceptable during, for example, question time may not be acceptable during a newly-elected Member's first speech.

14. The main weapon of the Chair in maintaining order is the power to name a Member (standing order 303). The standing orders make provision for the House to confirm the Speaker's action by passing a motion to suspend the Member.

15. If the Member's behaviour is excessively disorderly, stronger and quicker measures may be taken by the Speaker, the Member may be compelled to withdraw from the House pending naming and subsequent suspension motion (standing order 306). Where proceedings are so disrupted that it is impractical to single out offending Members or other persons, the Speaker may choose to suspend or adjourn the sitting. These matters are dealt with later in the report.

Additional disciplinary measure

16. Some other Parliaments' give to the Presiding Officer the right to ask a Member to withdraw from the Chamber without formal suspension being moved. In this circumstance the Member is expected to remain outside the Chamber environs for the remainder of the sitting day.

17. In the House of Representatives there is no mechanism for removal of an offending Member without a prior decision of the House (except in the case of grossly disorderly behaviour covered by standing order 306). Apart from warning a Member, all discipline is carried out by means of formal motion, generally followed by a division decided along party lines.

18. The committee considered the adoption of an additional procedure, which would give the Speaker the power to deal with a Member offending in a minor way, without resorting to a motion of the House. A lesser sanction than those currently available could be invoked, entailing the Member remaining outside the Chamber for a few hours. The committee considered that this approach was needed for those occasions when the formal naming and suspension with its associated division would be either inappropriate (eg during a motion of condolence or the Treasurer's budget speech) or may be more disruptive of proceedings than the original disorderly behaviour warranted (eg during question time).

19. The committee felt that a Member directed to withdraw from the Chamber without a motion being agreed to by the House should retain the right to take part in divisions held during the exclusion period, provided the Member left the Chamber immediately after the determination of the division.

20. The committee therefore proposes that the Speaker be granted an additional power to that set out in current standing order 303. It proposes that, the provisions of standing order 306 notwithstanding, the Speaker should be able to order the withdrawal of an offending Member on those occasions when it was considered that formal naming and suspension would be inappropriate or excessive. This withdrawal would not be subject to debate or dissent and would not require a decision of the House. The Speaker would have the discretion to set the period for which the Member was required to withdraw, usually until the next suspension of proceedings or a lesser time may be specified. During the period of suspension under this standing order the Member would be allowed to vote in a division. The committee

recommends that upon adoption of this standing order the Speaker should make a statement to the House outlining his or her intended approach to its application.

21. Should a Member refuse to comply with the Speaker's order to withdraw he or she may be named in the usual manner and a question put for his or her suspension. The committee considered whether more stringent penalties than usual should apply in this circumstance. On balance, it was decided that no benefit would be gained by imposing additional penalties.

22. The committee recommends the following new standing order be inserted:

303. If the Speaker considers that the conduct of a Member is unduly disrupting the proceedings of the House, the Speaker may order the Member to withdraw from the Chamber for a period specified by the Speaker, which order shall not be open to debate or dissent.

Provided that, during the period of withdrawal, the Member may enter the Chamber in order to vote in a division. The Member may not participate in any other way and must leave the Chamber immediately the result of the division is announced.

If a Member fails to leave the Chamber immediately when ordered to do so by the Speaker, the Speaker may name the Member and then propose a question to suspend the Member from the service of the House, which question shall be put without adjournment, amendment or debate.

23. Suspensions (but not orders to withdraw) imposed under these proposed standing orders would be counted for the purposes of calculating previous offences should a further suspension under this or another standing order occur.

Naming (standing order 303)

24. Naming is the first formal step to disciplining an unruly Member. A Member is usually called to order and warned not to persist in unacceptable behaviour before being named by the Speaker or the Chairman of Committees as appropriate. Standing order 303 provides:

If any Member has—

- (a) persistently and wilfully obstructed the business of the House; or
- (b) been guilty of disorderly conduct; or
- (c) used objectionable words, which he has refused to withdraw; or
- (d) persistently and wilfully refused to conform to any standing order; or
- (e) persistently and wilfully disregarded the authority of the Chair—

he may be named by the Speaker, or, if any of the abovenamed offences has been committed by a Member in committee, by the Chairman.

25. The Chair's decision to name a Member is not subject to appeal. However not all namings proceed to a motion that the Member be suspended from the service of the House. Since 1901 some 100 namings have not proceeded to a suspension motion.¹ The committee notes that Speakers have exercised a discretion to grant a Member an opportunity to apologise for behaviour or withdraw a remark. It may be to the benefit of the House if this was accepted as a more standard practice than currently occurs.

26. The committee considers that standing order 303 works well and recommends including a specific reference to sessional as well as standing orders in part (d) and removal of gender-specific language. The revised standing order after renumbering would become:

304. If a Member has—

- (a) persistently and wilfully obstructed the business of the House; or
- (b) been guilty of disorderly conduct; or
- (c) used objectionable words, which the Member has refused to withdraw; or
- (d) persistently and wilfully refused to conform to any standing or sessional order; or
- (e) persistently and wilfully disregarded the authority of the Chair—

the Member may be named by the Speaker, or, if any of these offences has been committed by a Member in committee, by the Chairman.

Suspension (standing order 304)

27. Following naming (proposed standing order **304**) suspension is the next step in disciplining an unruly Member. Under the present standing orders neither the Speaker nor the Chairman of Committees can suspend a Member — this is the prerogative of the House. If a disruption occurs in the Committee of the Whole, the Chairman of Committees suspends the proceedings and a report of the misconduct is given to the Speaker.

28. Standing order 304 states:

If the offence has been committed in the House, the Speaker shall forthwith put the question, on a motion being made, no amendment, adjournment, or debate being allowed, 'That such Member be suspended from the service of the House'; and, if the offence has been committed in committee, the Chairman shall forthwith suspend the proceedings of the committee and report the circumstances to the House; and the Speaker shall forthwith, on a motion being made, put the same question, without

¹ Source: Department of the House of Representatives Chamber Research Office statistical records as at 5/10/92. For more detail see the table in Appendix 2 to this report.

amendment, adjournment, or debate, as if the offence had been committed in the House itself.

29. It sometimes happens that, at this stage, other Members may intervene and an opportunity is given to the offending Member to apologise or retract remarks. The suspension is not proceeded with if the Speaker is satisfied with the situation. There is no standing order which provides for such a course of action in the House of Representatives, however at the discretion of the Speaker and with the leave of the House such a course can be taken. The committee considers that it should be left to the Speaker's discretion to decide if this approach is appropriate in the circumstances applying at the time the disorderly behaviour occurs.

30. When a Member defies the Chair and is named, the question for the suspension is put and generally proceeds to a division which usually is decided on party lines. Thus the vote may be interpreted as an expression of political support for the Member rather than the upholding of the authority of the Chair. The Leader of the House or any other Member is under no obligation to move that a Member be suspended following a naming by the Speaker and the House does not have to agree to it². Traditionally however, the Government has supported the action of the Chair.

31. The committee believes that support or otherwise for the Speaker's action in naming a Member should be tested by the formal vote of the House rather than the somewhat indirect test of whether a motion for suspension is moved and by whom it is moved. The committee proposes that following the naming of a Member the Speaker should propose a question for suspension of the Member without a motion being moved. This alteration would also bring this standing order into line with standing order 306 which does not require a motion to be moved.

32. The committee has also proposed some reworking of this standing order to make it more self-contained, remove superfluous and archaic language and remove the exact wording of the motion currently used to suspend a Member.

33. The proposed standing order would read:

305. If a Member has been named by the Speaker, the Speaker shall propose a question to suspend the Member from the service of the House. If the Member has been named in committee, the Chairman shall report the circumstances to the House, and the Speaker shall propose a question to suspend the Member from the service of the House. The question on a motion *to suspend a Member from the service of the House shall be put without adjournment, amendment or debate.*

² In 1975 Speaker Cope named Mr Cameron. As no Minister rose to move for suspension of Mr Cameron, a senior Opposition Member moved the motion, which was lost on party lines. The Speaker believed the House had shown a lack of confidence in him and resigned.

Penalties (standing order 305)

34. The purposes of penalties for misconduct are to:

- punish offending Member/s for disorderly conduct;
- deter other Members;
- strengthen the authority of the Chair; and
- signal the disapproval of the House.

35. In Westminster-style Parliaments, the penalty for a first offence ranges from the remainder of the sitting to 5 sitting days. For a second offence — from 3 sitting days to 20 sitting days and for subsequent offences from 11 sitting days to a month. Some Houses allow the mover to determine the penalty, for the suspension to run until the House otherwise determines or for the remainder of the session.

36. Standing order 305 currently provides for the following differential penalties for a Member suspended from the service of the House:

24 hours	first offence
7 days	second offence
28 days	subsequent offence

37. Each calendar year a Member's 'slate' is wiped clean with respect to penalties for suspension.

38. In all cases a suspended Member must immediately leave the Chamber and not re-enter it or the galleries until the conclusion of the penalty period. However there seems to be an inconsistency with respect to the penalty periods. For the second and subsequent offences the periods are consecutive days and the period commences the day after the offence. (That is, the punishment for a first offence is always exactly 24 hours but for a second offence it may be closer to eight days).

39. Because the current penalties are expressed in calendar days rather than sitting days, a Member offending for a second time at the end of a sitting fortnight or end of a period of sittings in fact suffers a lesser penalty than for a first offence or any offence committed earlier in the sitting.

40. In considering an appropriate range of penalties, the committee wished to ensure that they could be applied fairly in all circumstances. The committee also felt that since a suspension is from the service of the House, penalties should be tied directly to the sitting of the House, as is the case for the current first offence penalty.

41. Under the usual sitting pattern of the House a suspension for a relatively small number of sitting days could extend across a significant period of time. In addition, the committee considered the implication of section 38 of the Constitution which provides that if a Member is absent for two consecutive months without the permission of the House, his or her seat will be declared vacant. A suspension for a relatively small number of sitting days could result in an absence of two months. Although the committee made no attempt to interpret this

section vis-a-vis the operation of the standing orders it took the view that a suspension which may be in effect for two months of a sitting period would be excessive.

42. The committee therefore recommends no change to the first offence penalty and that the penalties for the second and subsequent offences be amended to three and seven consecutive sitting days respectively.

43. The committee recommends that the new standing order read:

306. If a Member is named and suspended from the service of the House, the period of suspension shall be for 24 hours on the first occasion, for 3 consecutive sitting days excluding the day of suspension on the second occasion in the same calendar year and for 7 consecutive sitting days excluding the day of suspension on the third or any subsequent occasion in the same calendar year. For the purposes of this standing order, any suspension in a previous session shall be disregarded.

Gross disorder (standing order 306)

44. During an adjournment debate in 1950³ Mr Rosevear, Mr Ward and the Speaker discussed an occurrence in the House earlier in the day relating to gross disorder and exclusion from the parliamentary precincts. Mr Rosevear stated:

This standing order was originally adopted from the Standing Orders of the British House of Commons. It is designed to deal with very rare cases of grave disorder on the part of a member, when a member might completely lose control of himself and resort to abuse of the Speaker or any other member of the House. It was designed in the House of Commons to deal with such a case because it took a deal longer there to have a division in consequence of a member's conduct. In fact, there were incidents when a member not only lost control of himself but also threatened to attack the Speaker.

45. Where a Member's misconduct is sufficiently disorderly to require more urgent action to protect the dignity of the House, the Chair may order a Member to withdraw immediately from the Chamber. A Member defying the Chair may be removed by the Serjeant-at-Arms acting on the Speaker's instructions. After the Member withdraws, he or she is named immediately and the suspension determined without the need for a motion being put. Subsequent procedures follow the normal pattern under the standing orders.

46. Although standing order 306 is seldom used, the committee considers it to be a necessary buttress to the Chair's authority. After some minor adjustment to the wording the proposed standing order would read:

307. When the conduct of a Member is of such a grossly disorderly nature that immediate action is imperative to ensure the urgent protection of the dignity of the House, the Speaker or the Chairman, as appropriate, shall

³ H. R. Deb. (10/5/50) 2410-2412

order the Member to withdraw from the Chamber immediately and the Serjeant-at-Arms shall act on any orders given by the Chair in this regard. After withdrawal, the Member shall immediately be named by the Chair, and the Speaker shall (after report by the Chairman following gross disorder in committee) put immediately the question to suspend the Member from the service of the House without a motion being necessary. If this question is negatived, the Member may immediately return to the Chamber.

Consequences of exclusion from the Chamber (standing order 307)

47. Like many other Commonwealth Parliaments, suspended Members are not denied access to parliamentary services and buildings. Standing order 307 states:

A Member who has been suspended from the service of the House shall be excluded from the Chamber and all galleries thereof.

The committee does not feel any alteration of this standing order is required. It has been renumbered to become standing order **308**.

Grave disorder (standing order 308)

48. Disorder severe enough to curtail proceedings is rare in the House of Representatives. In such instances the mechanism for the Speaker to adjourn the House or suspend the sitting is provided by standing order 308, which has tended to be used where there are many Members causing disruption sometimes generated initially by the behaviour of persons in the gallery. The standing order provides:

In the case of grave disorder arising in the House, the Speaker may adjourn the House without question put, or suspend any sitting for a time to be named by him.

49. Sittings have been suspended for a few minutes, until the next day and until a time to be decided by the Speaker. The House has also been adjourned twice in recent years without a question being put, following grave disorder during the adjournment debate. This power does not extend to the Chairman of Committees who must report grave disorder to the House before action may be taken.

50. It is recommended that the wording of the standing order be transposed so that the less severe action of suspension of sitting is referred to first, and then adjournment. This transposition would reflect the fact that suspension would normally be the first option. The only other changes recommended relate to the use of gender-neutral language, minor rewording and renumbering. The proposed standing order would read:

309. In the case of grave disorder arising in the House, the Speaker may suspend the sitting until a time to be specified, or may adjourn the House without any question being put.

Members ordered to attend the House (standing order 309)

51. Standing order 309, which has never been invoked provides:

If any Member wilfully disobeys any order of the House, he may be ordered to attend to answer for his conduct; and, if he fails to attend, or if his explanation be deemed unsatisfactory, the House may direct the Serjeant-at-Arms to take such Member into custody.

52. Subsection 7(8) of the *Parliamentary Privileges Act 1987* empowers a House to 'give such directions and authorise the issue of such warrants as are necessary or convenient' for carrying section 7 (empowering penalties) into effect. This provision empowers the House to take a Member into custody and makes that part of the standing order unnecessary and the committee considers it should be omitted. The committee also recommends that this standing order be modified to enable a motion requiring a Member to attend the House to be moved without notice.

53. The proposed standing order would read:

310. A Member who wilfully disobeys any order of the House may be ordered without notice to attend to answer for his or her conduct.

Arrest of Members and other persons (standing orders 310 and 311)

54. Standing orders 310 and 311 refer to the arrest of disruptive persons in the Chamber and galleries by the Serjeant-at-Arms. The standing orders state:

310. The Serjeant-at-Arms shall take or deliver into custody any stranger whom he may see, or who may be reported to him to be, in any part of the Chamber appropriated to the Members of the House; and also any stranger who, having been admitted into any other part of the House or gallery, misconducts himself, or does not withdraw when strangers are directed to withdraw, while the House or any committee of the whole House is sitting.

311. When any Member or other person has been taken into the custody of the Serjeant-at-Arms, such arrest shall be reported to the House by the Speaker without delay; and the House shall fix the time for such Member or other person to be brought to the Bar, to be dealt with by the House.

55. The committee believes that the archaic language and seemingly heavy-handed measures contained in the standing orders may cause some alienation to be felt by the public towards Parliament. The term 'strangers' should be changed throughout the standing orders to 'visitors' or 'persons' as appropriate.

56. Section 7 of the *Parliamentary Privileges Act 1987* and subsection 6(2) of the *Parliamentary Precincts Act 1988* also confer powers in relation to arrest of disruptive persons and related matters. Any final disciplinary action would be unlikely now to be carried

out before the bar of the House. The committee considers that these statutory provisions are adequate and references to being taken into custody can be omitted from the standing orders.

57. Standing order 310 refers in a cumbersome manner to the places where misconduct will result in being taken into the Serjeant's custody. The committee recommends that the standing order be reworded to refer to the physical limits of the Chamber and its galleries (similar to terms used in standing order 47). This would cover situations such as occurred in 1987 and 1991, where visitors jumped into the Chamber from a gallery.

58. The proposed standing order would read:

311. Any person, not being a Member, who causes a disturbance within the physical limits of the Chamber or in any gallery, or who does not follow instructions issued on behalf of the Serjeant-at-Arms to visitors, may be removed from the Chamber or gallery.

59. The committee believes that the practice of the Speaker reporting arrests and subsequent action to the House should continue and proposes to retain this provision, leaving out references to dealing with offenders at the bar of the House. Current standing order 311 would then become:

312. When any Member or other person has been taken into the custody of the Serjeant-at-Arms, such arrest shall be reported to the House by the Speaker without delay.

STANDING ORDERS RELATING TO STRANGERS (standing orders 312 – 315)

60. Standing orders 312 to 315 relate to strangers. The term 'strangers' refers to persons other than Members of the House of Representatives in the Chamber and its galleries. In uncommon circumstances (for example during debate on the Defence appropriations during the Second World War) the Clerks, Hansard staff and Senators have been held to be strangers and ordered to withdraw from the Chamber⁴. Current usage is that strangers exclude Members of the House and parliamentary staff whose duties require their presence in the Chamber.

61. As with standing orders 303 to 311, the committee proposes that archaic and gender-specific language be removed from the standing orders relating to strangers.

Admission to the galleries

62. Standing order 312 states:

Only the Speaker shall have the privilege of admitting strangers into the lower galleries, but Senators shall have the privilege of admission into the Senators' gallery

⁴ H.R. Deb. (20/8/41) 12-14, (1/8/30) 5159.

without orders. The Speaker may admit distinguished strangers to a seat on the floor of the House.

63. Since there are no lower galleries in the new Parliament House, this term should be removed. Admission to the galleries (apart from the Speaker's and Senators' galleries) is essentially an administrative action and this should be omitted from the standing orders.

64. During the debate on the crisis in the Gulf in 1991, the question arose of the conduct of Senators in the Senators' gallery. Standing order 311 as proposed by the committee gives the Serjeant-at-Arms the power to remove people who cause a disturbance in the galleries, including the Senators' gallery. However the committee believes the rights and obligations of Senators should be specifically mentioned. The committee considers it would be useful to state expressly in the standing orders that Senators should, if they wish to observe the House's proceedings from the gallery, observe the instructions concerning order issued by the Chair. This is reflected in the new standing order:

313A. Senators shall have access to the Senators' gallery, and while there Senators shall observe instructions concerning order issued by the Chair.

A seat on the floor of the House

65. In relation to the provision of a seat on the floor of the House, *House of Representatives Practice* states:

In the provisional building, some distinguished visitors, such as foreign heads of State or Government, and visiting Presiding Officers, were invited by the Speaker to take a seat on the floor of the House. Such an invitation was regarded as a high honour. It was customary for the Speaker to exercise this right only after formally seeking the concurrence of Members. The usual practice was 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 escorted the visitor to a chair provided immediately to the right of the Speaker's Chair.....This practice has fallen into disuse, perhaps as the House has developed a greater consciousness of its own standing and significance.⁵

66. However since this time the Chairman of the Czech and Slovak Federal Republic has been provided with a seat on the floor of the new Chamber.⁶

67. The committee believes that it would be desirable to maintain the flexibility that the standing order provides. It proposes to replace the second part of standing order 312 with a separate new, simpler standing order:

313B. The Speaker may admit distinguished visitors to a seat on the floor of the House.

⁵ A R Browning (ed), *House of Representatives Practice*, 2nd ed, AGPS, Canberra, 1989, pp 153-154.

⁶ *Votes and Proceedings* No. 62, 7/5/1991, p 703.

68. In practice the Speaker always seeks the concurrence of the House for the use of such a seat. The committee recommends that this practice continue but does not believe it should be specifically required by the standing order.

Members' guests

69. Standing order 313 provides:

Every Member may each day, by written orders of the Serjeant-at-Arms, admit 2 strangers to the gallery.

70. The galleries in the new House have more seating than in the provisional House. The committee has been advised that, except during delivery of the Budget Speech and on ceremonial occasions, there is sufficient seating for all visitors. The committee feels that this does not need to be stated in the standing orders and therefore recommends that standing order 313 could be omitted.

Withdrawal of strangers

71. Standing order 314 states:

If at any sitting of the House, or in committee, any Member takes notice that strangers are present, the Speaker or the Chairman (as the case may be) shall forthwith put the question 'That strangers be ordered to withdraw', which shall be decided without debate: Provided that the Speaker or the Chairman may, whenever he thinks fit, order the withdrawal of strangers from any part of the Chamber.

72. The committee believes that it would be useful to retain this standing order with minor rewording. In keeping with the earlier comment on possible alienation of the public (see paragraph 55), the committee recommends amending the exclusion clause to refer to 'in camera' meetings. The new standing order would read:

314. At any time during a sitting of the House or in committee, a Member may move a motion without notice for the House or committee, as appropriate, to meet in camera. This question shall be decided immediately, without amendment or debate.

The Speaker or the Chairman, as appropriate, may order a visitor to withdraw from any part of the Chamber or gallery.

Strangers on the floor of the Chamber

73. Standing order 315 deals with the part of the Chamber floor belonging exclusively to Members:

While the House or a committee of the whole is sitting, no Member may bring any stranger into any part of the Chamber appropriated to the Members of the House.

74. Various standing orders refer to the floor of the Chamber. In its April 1988 report, the Procedure Committee considered that, for the purposes of counting Members during divisions, Members could not be counted if they were in the Chamber but withdrew 'from the area within the seats allotted to Members'.⁷ However for the purposes of determining a quorum, standing order 47 uses the term 'physical limits of the Chamber', which the Procedure Committee, in the same report, defined as including 'all areas on the floor of the Chamber, including officials' seats, i.e. all floor areas up to the doorways'.⁸

75. It is inappropriate for visitors, including Members' advisers, to be able to wander around the area of the Chamber reserved for Members. The committee recommends that, to be consistent, the area referred to in this standing order should be described in a similar way to that used in standing order 47 (ie the physical limits of the Chamber).

76. The convention relating to parliamentary staff should not need to be included expressly in the standing order. Some rewording would also be desirable to modernise the language of the standing order, which would then read:

315. When the House or a committee of the whole is sitting, a visitor, other than a person entitled to occupy a seat allocated to advisers, shall not enter the physical limits of the Chamber.

⁷ *The ringing of the bells and the Chamber precincts in the new Parliament House; Certification of petitions not in the English language*, House of Representatives Standing Committee on Procedure, PP 149 (1988), p 6. A diagram of this area is shown at Attachment A of this report. The area is roughly: the floor bounded by the back of the Speaker's chair to the bar of the House in one direction and the Government to Opposition Members seats in the other direction, but excluding the officials' seats.

⁸ *The ringing of the bells and the Chamber precincts in the new Parliament House; Certification of petitions not in the English language*, House of Representatives Standing Committee on Procedure, PP 149 (1988), p 5.

77. The committee recommends that standing orders 303 to 315 be omitted and new standing orders 303 to 315 as set out in Appendix 1 to this report be substituted.

GORDON SCHOLES, MP

Chairman

13 October 1992

PROPOSED STANDING ORDERS

303. If the Speaker considers that the conduct of a Member is unduly disrupting the proceedings of the House, the Speaker may order the Member to withdraw from the Chamber for a period specified by the Speaker, which order shall not be open to debate or dissent.

Provided that, during the period of withdrawal, the Member may enter the Chamber in order to vote in a division. The Member may not participate in any other way and must leave the Chamber immediately the result of the division is announced.

If a Member fails to leave the Chamber immediately when ordered to do so by the Speaker, the Speaker may name the Member and then propose a question to suspend the Member from the service of the House, which question shall be put without adjournment, amendment or debate.

304. If a Member has—
- (a) persistently and wilfully obstructed the business of the House; or
 - (b) been guilty of disorderly conduct; or
 - (c) used objectionable words, which the Member has refused to withdraw; or
 - (d) persistently and wilfully refused to conform to any standing or sessional order; or
 - (e) persistently and wilfully disregarded the authority of the Chair—

the Member may be named by the Speaker, or, if any of these offences has been committed by a Member in committee, by the Chairman.

305. If a Member has been named by the Speaker, the Speaker shall propose a question to suspend the Member from the service of the House. If the Member has been named in committee, the Chairman shall report the circumstances to the House, and the Speaker shall propose a question to suspend the Member from the service of the House. The question on a motion to suspend a Member from the service of the House shall be put without adjournment, amendment or debate.

306. If a Member is named and suspended from the service of the House, the period of suspension shall be for 24 hours on the first occasion, for 3 consecutive sitting days excluding the day of suspension on the second occasion in the same calendar year and for 7 consecutive sitting days excluding the day of suspension on the third or any subsequent occasion in the same calendar year. For the purposes of this standing order, any suspension in a previous session shall be disregarded.

307. When the conduct of a Member is of such a grossly disorderly nature that immediate action is imperative to ensure the urgent protection of the dignity of the House, the Speaker or the Chairman, as appropriate, shall order the Member to

withdraw from the Chamber immediately and the Serjeant-at-Arms shall act on any orders given by the Chair in this regard. After withdrawal, the Member shall immediately be named by the Chair, and the Speaker shall (after report by the Chairman following gross disorder in committee) put immediately the question to suspend the Member from the service of the House without a motion being necessary. If this question is negatived, the Member may immediately return to the Chamber.

308. A Member who has been suspended from the service of the House shall be excluded from the Chamber and all galleries thereof.

309. In the case of grave disorder arising in the House, the Speaker may suspend the sitting until a time to be specified, or may adjourn the House without any question being put.

310. A Member who wilfully disobeys any order of the House may be ordered without notice to attend to answer for his or her conduct.

311. Any person, not being a Member, who causes a disturbance within the physical limits of the Chamber or in any gallery, or who does not follow instructions issued on behalf of the Serjeant-at-Arms to visitors, may be removed from the Chamber or gallery.

312. When any Member or other person has been taken into the custody of the Serjeant-at-Arms, such arrest shall be reported to the House by the Speaker without delay.

313A. Senators shall have access to the Senators' gallery, and while there Senators shall observe instructions concerning order issued by the Chair.

313B. The Speaker may admit distinguished visitors to a seat on the floor of the House.

314. At any time during a sitting of the House or in committee, a Member may move a motion without notice for the House or committee, as appropriate, to meet in camera. This question shall be decided immediately, without amendment or debate.

315. When the House or a committee of the whole is sitting, a visitor, other than a person entitled to occupy a seat allocated to advisers, shall not enter the physical limits of the Chamber.

The Speaker or the Chairman, as appropriate, may order a visitor to withdraw from any part of the Chamber or gallery.

APPENDIX 2

MEMBERS NAMED AND SUSPENDED FROM
THE SERVICE OF THE HOUSE
1901-1992*

SESSION	GOVT. MEMBERS	OPPN. MEMBERS	TOTAL NO. OF SUSPENSIONS (d)	NO. NAMED ONLY
1st	1901-3	0	0	0
2nd	1904-6	0	0	0
3rd	1907-9	0	0	2
4th	1910-12	2	0	4
5th	1913-14	1	3	4(a)
6th	1914-16	1	3	4
7th	1917-19	0	5	7
8th	1920-22	0	6	7
9th	1923-25	0	3	3
10th	1926-28	0	1	1
11th	1929	0	1	1
12th	1929-31	2	1	3
13th	1932-34	1	6	7
14th	1934-37	0	4	8
15th	1937-40	1	4	5
16th	1940-43	0	0	0
17th	1943-46	0	6	9
18th	1946-49	0	9	13
19th	1950-51	0	8	8
20th	1951-54	2	7	11(b)
21st	1954-55	0	7	13
22nd	1956-58	2	7	11
23rd	1959-61	1	5	10
24th	1962-63	0	3	3
25th	1964-66	3	6	11
26th	1967-69	2	3	5
27th	1969-72	0	6	7
28th	1973-74	0	10	12
29th	1974-75	0	5	8
30th	1976-77	1	1	2
31st	1978-80	0	5	6
32nd	1980-82	0	5	5
33rd	1983-84	0	6	7
34th	1985-87	0	8	14
35th	1987-89	1	7	10
36th*	1990-92	0	8	9

Notes:

- (a) Includes one suspension subsequently expunged from the record.
 - (b) Includes one Member ordered to withdraw from the Chamber without a motion being passed.
 - (c) Includes one motion for suspension negated on division.
 - (d) Includes Members suspended more than once.
- * To 5 October 1992.

