

## *Parliament and the citizen*

Parliament is the link between the government and the people. On the one hand, it tells the Government what the people want or will stand for; on the other, it informs and teaches the public about the Government's intentions. If it were not for Parliament, the public would only hear the Government's side of things. The information we get through Parliament is more interesting because it is more critical; it contains the Opposition's reaction to Government measures as well as the official line. The cut and thrust of question and debate gives publicity to new proposals, sets the general public thinking and discussing them, sounds out opinion and prepares people for new laws.<sup>1</sup>

### COMMUNICATION IN A DEMOCRACY

The Australian democratic system is to a large extent based on a Parliament elected by universal adult suffrage. The effectiveness of the system depends heavily on the wisdom of the people; firstly, in exercising their right to elect representatives and, secondly, in influencing them once they are elected. Wisdom cannot exist without information. It is crucial therefore that the people know and understand, at least in broad terms, what the Parliament is, what it does, how it works, what happens there and what is said there. The elected representatives must, in turn, be aware of the beliefs, needs, aspirations and circumstances of those whom they represent. They must therefore be accessible to the people, individually and collectively. The elected Parliament is directly accountable to the people and this chapter is concerned with how the Parliament exercises that accountability. The chapter discusses:

- how the proceedings of Parliament are brought to the people;
- the right of the citizen to petition the Parliament and to seek the redress of grievances through their elected representatives, and
- the methods by which the citizen informs and influences individual Members and the House.

### INFORMING THE ELECTORATE

Parliament conducts its business, with the rarest exceptions, in public. This is now taken for granted in modern times but it has not always been the case over the long history of Parliament. In the 18th century the 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 probably reluctance to be held accountable to public opinion.<sup>2</sup> 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>3</sup>

<sup>1</sup> Bernard Crick and Sally Jenkinson, *Parliament and the People*, Hamish Hamilton, London, 1966, p. 111.

<sup>2</sup> May, pp. 78-9.

<sup>3</sup> Campion, p. 96; see also Wright & Smith, pp. 221-30.

Strangers have been ordered to withdraw on special occasions from the House of Representatives, the last occasion being in 1942. The use of the word 'stranger' to describe people within the parliamentary precincts who are not Members or officers 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>4</sup>

People may view the proceedings of the House from the public galleries.<sup>5</sup> In 1980, approximately 33 000 people visited the House of Representatives public galleries during the 51 sittings for that year. By comparison, 45 000 people visited the galleries over 68 sittings in 1979. It is estimated that a large majority of visitors would have been tourists making single visits to the galleries.

Of varying importance in informing the public of events in the House are:

- radio broadcasts of parliamentary proceedings;
- reports by the media, and
- Hansard reports, the Votes and Proceedings, the Notice Paper and other documents of the House.<sup>6</sup>

### Broadcasting of proceedings

The Parliament of Australia was the second Parliament of the Commonwealth to introduce the broadcasting of its proceedings. Proceedings have been broadcast in New Zealand since 1936.

Broadcasting of Parliament can play an important part in the political education of the people, enabling them to be better informed on both sides of those public questions which attract an alternative point of view. It is an aid to the more effective functioning of a democratic system of government. In recommending that the proceedings of the Australian Parliament be broadcast, the Parliamentary Standing Committee on Broadcasting expressed the view that as a result of broadcasting the community would be better able to make informed judgments on matters affecting the common good and the public interest, nationally and internationally.<sup>7</sup>

#### *Authority for broadcasting*

The broadcasting of the proceedings commenced on 10 July 1946 in the House of Representatives. Broadcasts are made and controlled under the *Parliamentary Proceedings Broadcasting Act* 1946. The Act directs the Australian Broadcasting Commission (ABC) to broadcast the proceedings of the House of Representatives or the Senate, or of any joint sitting, from 7 medium wave national stations (located in the 6 State capital cities and Newcastle) and from such other national stations, including short-wave, as are prescribed. A medium wave station in Canberra and a short wave station have been so prescribed. The Act extends to all Australia's external Territories.

#### *Joint Committee on the Broadcasting of Parliamentary Proceedings*

At the beginning of the first session of every Parliament, a Joint Committee on the Broadcasting of Parliamentary Proceedings is appointed pursuant to the Act.<sup>8</sup> The Act

<sup>4</sup> Wilding & Laundry, p. 729.

<sup>5</sup> See Ch. on 'Parliament House and the House of Representatives Chamber'.

<sup>6</sup> See Ch. on 'Papers and documents' for details of these documents as a source of information and their availability.

<sup>7</sup> 'The broadcasting of parliamentary debates', *Parliamentary Standing Committee on Broadcasting*, 8th report, PP 31 (1945-46)4.

<sup>8</sup> See Ch. on 'Parliamentary committees' for details of the committee's powers, procedures, etc.

requires the committee to report to each House on the general principles under which there should be determined the days upon which, and the periods during which, the proceedings of the Houses are to be broadcast; and to determine, in accordance with the general principles adopted by each House, the days upon which, and the periods during which, proceedings of either House or of any joint sitting are to be broadcast.

### *General principles*

Before the first broadcast, the committee, in accordance with its functions under the Act, specified in a report to each House the general principles upon which the broadcast of parliamentary proceedings should be inaugurated. The committee's report was adopted by both Houses, and the committee has subsequently exercised control over the broadcasts in accordance with the principles ratified by Parliament and the determinations the committee has made in conformity with these principles.

The following is a consolidation of general principles specified in the committee's first, second, third, fourth, sixth and seventh reports which together determine current practice<sup>9</sup>:

- (1) *Days upon which proceedings shall be broadcast*  
The proceedings of Parliament shall be broadcast on each day on which either House is sitting.<sup>10</sup>
- (2) *Periods during which proceedings shall be broadcast*  
The broadcast shall commence on each sitting day at the time fixed for the meeting of the House whose opening proceedings are to be broadcast on that day, as determined by the Joint Committee on the Broadcasting of Parliamentary Proceedings, in accordance with section 12 (2) of the *Parliamentary Proceedings Broadcasting Act* 1946, and shall cease when the adjournment is moved in the House which is being broadcast at that time, or at 11.30 p.m., whichever is the earlier.
- (3) *Allocation of broadcasting time between the Senate and the House of Representatives*  
The allocation of broadcasting time between the Senate and the House of Representatives shall be in accordance with the views of the Joint Committee on the Broadcasting of Parliamentary Proceedings, or its sub-committee, on the importance of the impending debate and the public interest attaching thereto. The Committee recognises that, in practice, more time will be allotted to the House of Representatives than to the Senate.
- (4) *Re-broadcast of Governor-General's Speech*  
On the first sitting day of each session of the Parliament the Australian Broadcasting Commission shall re-broadcast at 7.15 p.m. the Speech of the Governor-General.
- (5) *Re-broadcast of questions and answers*
  - (a) Within the limits of time available, the following Parliamentary proceedings shall be re-broadcast by the Australian Broadcasting Commission between 7.15 p.m. and 8 p.m. on each sitting day after the first sitting day of each session:

Senate proceedings . . . . .	Questions without notice and on notice and answers thereto;
------------------------------	---

<sup>9</sup> The 5th and 8th reports (see footnote 11) were not adopted by the House of Representatives. The reports referred to were adopted by both Houses on 5 July, 17 July and 15 November 1946; 30 June 1949;

9 and 12 April 1954; and 7 April 1960, respectively.

<sup>10</sup> Saturday sittings were excluded by Determination No. 6.

House of Representatives proceedings      Questions without notice  
and answers thereto.

- (b) When a Member makes a personal explanation in rebuttal of misrepresentation contained in a question asked that day or an answer thereto, the question and answer shall, subject to the next succeeding sub-paragraph, be excluded from the re-broadcast.
- (c) The Presiding Officer may, in his discretion, refer any case to the Joint Committee for decision as to whether such question and answer shall be excluded from the re-broadcast.
- (6) *Broadcast and re-broadcast through national stations*  
No broadcast or re-broadcast of the proceedings of either House shall be made except through national broadcasting stations unless the Joint Committee otherwise determines.
- (7) The general principles specified in the First Report of the Joint Committee on the Broadcasting of Parliamentary Proceedings adopted by both Houses on 5 July 1946, shall be observed generally by the Joint Committee in making determinations in accordance with the *Parliamentary Proceedings Broadcasting Act* 1946 but nothing in those general principles shall be taken to prevent the Joint Committee from departing from those general principles in order to meet any unusual or special circumstances.

During consideration of the committee's first report, a member of the committee stated that the committee's reasons for excluding the adjournment debate from the broadcast were because many of the speeches made on the adjournment related to one electorate only, and because the debate came on at a very late hour. In presenting the second report of the committee the Speaker indicated to the House that the reason behind concluding the broadcast at 11.30 p.m. was a financial one only.<sup>11</sup>

The reference in general principle No 2 to 11.30 p.m. normally refers to Eastern Standard Time and because of the time differential may be read as 11 p.m. in South Australia and 9.30 p.m. in Western Australia. However when daylight saving is operating in the Australian Capital Territory the broadcast ceases when the adjournment is moved or at 11.30 p.m. Eastern Summer Time whichever is the earlier and does not continue in any State past 11.30 p.m. local time.

### Standing determinations

Standing determinations are made by resolution of the committee and are notified to Members and parliamentary staff, to the ABC and to the Parliamentary Press Gallery. Determinations made by the committee remain in force on a continuing basis until varied or revoked by a later joint committee. From time to time, the committee issues notifications of the broadcasting arrangements for a particular week or period which are numbered serially and signed by the clerk to the committee who is usually the Serjeant-at-Arms.

The committee has made the following standing determinations in accordance with the general principles:

#### *Transfer of broadcast from one House to another*

- (1) When both Houses are meeting on the one day and the House whose proceedings are being broadcast adjourns for the day prior to a normal meal suspension, the broadcast shall be transferred to the other House as from the time when this other House resumes its sitting after the meal suspension.<sup>12</sup>

<sup>11</sup> H.R. Deb. (5.7.46) 2312; H.R. Deb. (17.7.46) 2616; the 8th report of the Committee, dated 7 April 1978, proposed to amend this general principle to provide for the adjournment debate of the House of Rep-

resentatives to be broadcast. The report was not considered by the House, PP 134 (1978).

<sup>12</sup> Determination of 20 March 1947.

- (2) When on any day on which the broadcast has been allotted to the Senate and, as a result of a Want of Confidence Motion having been moved in the House of Representatives, the Senate adjourns for the day, the broadcast shall be transferred immediately to the House of Representatives.<sup>13</sup>
- (3) On any day when both Houses are meeting and on which the House to which the broadcast for the day has **not** been allocated meets in the forenoon and the House to which the broadcast for the day has been allocated meets in the afternoon, the proceedings of the House first mentioned shall be broadcast from the time of its meeting in the forenoon until its suspension for lunch: Provided that the broadcast of proceedings of the House which meets in the forenoon shall not be continued past the time fixed for the meeting of the other House.<sup>14</sup>

*Re-broadcast of questions and answers—allocation of time between Houses*

- (4) On each sitting day, the re-broadcast by the Australian Broadcasting Commission at 7.15 p.m. of questions and answers as specified in General Principle No. 5 shall commence with the questions and answers of the House to which the broadcast for the day has **not** been allocated. This determination is to have effect irrespective of any broadcast, pursuant to the Committee's determination of 8 May 1947, of the morning proceedings of the House to which the broadcast for the day has **not** been allocated.<sup>15</sup>

*Allocation of broadcast*

- (5) That, unless otherwise ordered, the broadcast be allocated as follows:
 

Monday sittings	. . .	House of Representatives
Tuesday sittings	. . .	House of Representatives
Wednesday sittings	. . .	Senate
Thursday sittings	. . .	House of Representatives
Friday sittings	. . .	Senate <sup>16</sup>

*Saturday sittings*

- (6) That, in the event of either House sitting on Saturday, the proceedings of that House shall not be broadcast.<sup>17</sup>

*Re-broadcast of questions and answers*

- (7) When points of order or other extraneous matter are eliminated from the re-broadcast of questions and answers, this should be indicated by an appropriate announcement.<sup>18</sup>

*Budget Speech and Leader of the Opposition's reply*

- (8) That the Budget Speech and the Leader of the Opposition's reply may be broadcast by the Australian Broadcasting Commission over its regional stations.<sup>19</sup>

*Daylight Saving Time in Tasmania*

- (9) That, during the period of Daylight Saving Time in Tasmania, the broadcast shall cease in that State when the adjournment is moved in the House which is being broadcast at that time, or at 11.30 p.m. Daylight Saving Time, whichever is the earlier.<sup>20</sup>

13 Determination of 20 March 1947. The Senate no longer follows the practice of adjourning under such circumstances; see Ch. on 'Motions'.

14 Determination of 8 May 1947.

15 Determination of 26 November 1947.

16 Determination of 21 June 1951, as amended by Determination of 7 April 1978.

17 Determination of 25 March 1953.

18 Determination of 30 September 1953.

19 Determination of 31 August 1967.

20 Determination of 20 September 1967. This determination now needs to be reconsidered in the light of daylight saving arrangements in States other than Tasmania.

*Announcements from Control Booth*

(10) The following general principles apply to announcements made from the Control Booth:

- (a) Announcements to be confined to a straight description of procedure, and business before the House;
- (b) Political views or forecasts are not to be included;
- (c) The announcement of each Senator or Member receiving the Call includes the following particulars:
  - (i) Name
  - (ii) Parliamentary office or portfolio
  - (iii) Political party
  - (iv) Electorate or State.

Comment on the presence or absence of Senators and Members (including Ministers) is not to be made except that announcers may refer during divisions to the way in which specific Members vote. It is to be understood this reference may be made only in such cases as when a Member is voting away from his usual Party alignment or to show on which side an independent Member is voting.

Names of Members intending to speak during the day or evening may be announced from the Control Booth provided that the announcement is of a provisional nature.<sup>21</sup>

In addition, as a result of decisions by the committee on 19 March 1970:

- maiden speeches of Members are recorded for preservation in the collection of the National Library, and
- speeches made on condolence motions are recorded on tape for presentation to next-of-kin.

Members may, upon request, be presented with a sound recording of their maiden speech.<sup>22</sup>

The times of broadcast have varied over the years with the varying patterns of days and hours of sitting. The allocation of broadcasting days, in Determination No. 5, has occasionally been varied by the committee to allow the broadcast of particular events occurring in the House not scheduled for broadcast that day. For example, on 10 March 1971, the broadcast was transferred from the Senate to the House to cover Prime Minister Gorton's announcement of his resignation as Prime Minister. More recently, the committee agreed to a request from the Attorney-General, after dividing on the question, to transfer the broadcast on 27 March 1973 to the Senate. The purpose was to permit coverage of a statement by the Attorney-General on Croatian terrorism and the ensuing proceedings.<sup>23</sup> In 1971, a suggestion put to the committee that the broadcast be transferred from the Senate to the House to permit the coverage of a motion of want of confidence in the Government was not agreed to. Any imbalance created by the transfer of broadcasting days is normally redressed as soon as possible.

*Re-broadcasts*

The committee has power, under the Act, to determine the conditions under which a re-broadcast may be made of any portion of the proceedings of either House and no re-broadcast may be made otherwise than in accordance with the conditions so determined. 'Re-broadcast' is used in the general principles and standing determinations to

<sup>21</sup> Determination of 10 July 1946, as amended by Determination of 10 February 1949.

<sup>22</sup> Decision of the committee, 14 September 1971.

<sup>23</sup> S. Deb. (27.3.73) 567,569-70.

include broadcasts of Question Time of the House not broadcast live on a particular day. This is not technically a re-broadcast within the meaning of the Act and is more appropriately called a delayed broadcast of proceedings recorded earlier.<sup>24</sup> As any re-broadcast or delayed broadcast of a selected part of proceedings is ordinarily of relatively short duration, the committee is conscious of a possible partisan or partial presentation. Accordingly, re-broadcasting or delayed broadcasting is strictly curbed, except when between 7.15 p.m. and 8 p.m. (during the dinner adjournment) a recording of Question Time is broadcast. The Question Time to be broadcast is, in general, that of the House not broadcast during the day. The principles governing the re-broadcast or delayed broadcast of Question Time require that all business not being questions and answers as defined in the appropriate general principle are to be excluded. Points of order, questions ruled out of order, unanswered questions, and so on, are deleted. An appropriate announcement precedes the re-broadcast or delayed broadcast if it is edited or altered in any way. The only re-broadcasts, as such, which take place are those of the Governor-General's Speech at the opening of each session of the Parliament and, on days when only one House is sitting, a re-broadcast of Question Time originally broadcast earlier in the day.

### *Legal aspects*

Members are covered by absolute privilege in respect of statements made in the House when the House is being broadcast.

Absolute privilege also attaches to those persons authorised to broadcast or re-broadcast the proceedings. The Act provides that:

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

On 21 August 1980, a Member sought, through the Chair, a statement by the Speaker on the rights of Members and the public 'with regard to the recording, access to privileged recordings and the distribution and copying of such recordings of the proceedings of this Parliament'.<sup>25</sup> The matter was raised following a claim that a tape-recording of the radio broadcast, as it is conveyed to Hansard, had been copied. The Member suggested that this action would contravene the Parliamentary Proceedings Broadcasting Act. On 26 August 1980, the request for a statement was made directly to the Speaker who indicated he was examining the matter and would inform the Member and the House of his findings when he was able to do so.<sup>26</sup> A statement has not been made by the Speaker to the House. However, there is no provision in the Act which prevents the recording of parliamentary broadcasts by individuals, but only the ABC may broadcast or re-broadcast proceedings.

### *Historic records*

The Act requires the ABC to record, when so directed, notable occurrences in the proceedings of Parliament. Having regard to timing difficulties, the ABC has been given the initiative of choosing which parliamentary occasions to record, although it makes an appropriate recording when directed to do so. The directions in this regard and the oversight of the procedure involved is the responsibility of the committee, which decides the items to be put into safe keeping and makes the appropriate safe keeping arrangements.

<sup>24</sup> See advice of Attorney-General's Department, dated 5 June 1950. <sup>26</sup> H.R. Deb. (26.8.80)689.

<sup>25</sup> H.R. Deb. (21.8.80)614.

A recording of a typical day's proceedings in both the House of Representatives and the Senate has been lodged with the British Institute of Recorded Sound and various archival authorities in Australia.

### Visual access to proceedings

Approval for the taking of photographs or filming in Parliament House, in the Chambers or elsewhere, rests finally with either or both Presiding Officers. Over recent years restrictions on photographing and filming have to some extent been relaxed by the Presiding Officers. This has occurred on the basis 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.

The provisions of the Parliamentary Proceedings Broadcasting Act must be complied with, which means that no sound recording of the proceedings in Parliament may be made for use with any photograph or film prepared, unless specifically approved by the committee.<sup>27</sup>

### *Televising of proceedings*<sup>28</sup>

The only extensive telecasts of proceedings of the Parliament occurred during the joint sitting of both Houses in 1974. On that occasion the telecast was conducted by the ABC under the direction of the Joint Committee on the Broadcasting of Parliamentary Proceedings. The telecasts were carried out in accordance with the Parliamentary Proceedings Broadcasting Act, which was amended to cover televising (and broadcasting) of the joint sittings, and in accordance with determinations made by the committee under the Act. The amendments to the Act, *inter alia*, extended absolute privilege to any person involved in the televising of proceedings or televising from a recording of proceedings.<sup>29</sup> The amended Act does not deal with the televising of proceedings of either House, only of joint sittings. More than half of each day's proceedings of the joint sitting was telecast 'live' and transmitted to all States. The ABC was directed by the committee to prepare a one-hour composite program consisting of extracts from the entire proceedings of the joint sitting. The extracts were chosen and compiled under the supervision of a parliamentary officer. Copies of the summary program were permitted to be taken for distribution to Australian overseas posts. Guidelines were issued for producers, directors and editors. These guidelines were framed to provide a means, in conformity with acceptable standards of dignity, propriety and decorum, by which the debates could be covered accurately and impartially. The Australian Information Service was authorised to make a cinematographic record of the first 5 minutes of the joint sitting without accompanying sound. The film was made available for use in news programs by television networks in Australia and overseas.

The only other occasion on which televising of proceedings occurs is in respect of the Governor-General's Speech and procedures associated with the opening of a new session of Parliament.

The Speaker has occasionally permitted filming in the Chamber, for television purposes, when the House has not been sitting. On the infrequent occasions when the Speaker has permitted filming of proceedings with accompanying sound, he has exercised strict control over the filming and over any future use of the film and sound record.

<sup>27</sup> *Parliamentary Proceedings Broadcasting Act* 1946, s. 14. For further discussion see Ch. on 'Parliament House and the House of Representatives Chamber'.

<sup>28</sup> See Ch. on 'Parliamentary committees' for televising of committee proceedings.

<sup>29</sup> *Parliamentary Proceedings Broadcasting Act* 1974 (Act No. 32 of 1974).



In 1973, the Houses resolved that the following matter be referred to the Joint Committee on Broadcasting of Parliamentary Proceedings for inquiry and report:

- (a) whether the televising of portion of the Parliamentary debates and proceedings is desirable, and
- (b) if so, to what extent and in what manner the telecasts should be undertaken.<sup>30</sup>

In its report tabled in 1974 the committee concluded that 'conceptually, it is desirable to televise a portion of the debates and proceedings of the Parliament' and recommended that a closed-circuit trial period of televising be undertaken before the Parliament makes a final decision.<sup>31</sup> The committee further recommended that the ABC be obliged to telecast, on a regular basis, 2 programs produced by a Parliamentary Television Unit under the Presiding Officers' control. These programs would involve a telecast of Question Time from one House on each sitting day and a one-hour summary program each weekend. It was also recommended that access to the Parliamentary Television Unit's video tapes be granted to any television network on specified conditions. The major conditions were laid down in guidelines in the committee's report. The guidelines were framed:

'. . . to provide a means, in conformity with acceptable standards of dignity, propriety and decorum, by which the proceedings of the Parliament should be made available to the people of Australia for their knowledge through accurate and impartial coverage of the debates of the Senate and the House of Representatives and public meetings of their Committees'.<sup>32</sup>

The report and its recommendations have not been debated by either House.

However, the issue of the possible televising of the proceedings of the Parliament, and of the House of Representatives in particular, remains, and in the intervening years there have been some significant developments in other Parliaments and considerable public debate in Australia. A development of particular interest so far as Australia is concerned has occurred in the introduction of televising in the Canadian House of Commons. This development occurred after much thought and conjecture as to what the public reaction might be, a situation which concerned the Australian Parliament's joint committee in 1974. On the face of it the highly successful operation of the new Canadian system has served to clear many doubts. Madame Speaker Lapointe of the Canadian Senate, speaking at the Fifth Conference of Speakers and Presiding Officers of Commonwealth Parliaments in Canberra in September 1978, summarised why televising parliamentary proceedings remains a live issue of parliamentary reform:

One of the most effective arguments heard in Canada for televising Parliament's business was that the time had come to take Parliament to the people. For too long its debates and crises had been filtered through the mouths and eyes of others. Not all those others were impartial, detached or objective observers. Program editors, for example, decided which interviewers, commentators, academics or politicians would monopolise the screen to portray their version of events. Program editors, we know, are not responsible to any electorate. Television news bulletins made do with hastily arranged re-enactments of the Question Period, staged outside the Commons . . .

There was another good reason for allowing television into Parliament. Politicians resented being at the mercy of reporters and commentators who interpreted their words, motives and actions to the nation. This, they said, conferred dangerous power on the Press Gallery.<sup>33</sup>

The success of the Canadian arrangements must cause very serious consideration to be given to televising the proceedings of the House of Representatives. It is time that the

30 VP 1973-74/69-70, 137.

31 'Televising of Parliamentary Proceedings', *Report of Joint Committee on Broadcasting of Parliamentary Proceedings*, PP 61 (1974)4.

32 PP 61 (1974)51. These guidelines were used for telecasts of the joint sittings.

33 *Report of 5th Conference of Commonwealth Speakers and Presiding Officers*, 1978, Govt. Printer, Canberra, p. 112.

Australian public had the opportunity to observe the House proceedings, to watch events of special significance such as the annual presentation of the Budget and to observe the performance of Government and Opposition alike. The House itself needs to be directly accountable to the electorate and televised proceedings offer this opportunity. With the knowledge that television is likely to be a normal feature of the proceedings when the Parliament moves to its permanent building in 1988, it is desirable that experience in televising arrangements be gained now so that adequate space and other facilities can be provided in the new building.

## **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 reports by journalists 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 effective reporting.

Since its establishment the Commonwealth Parliament has acknowledged the fundamental importance of the Press. This recognition is exemplified in the setting aside of galleries from which members of the Parliamentary Press Gallery may view parliamentary proceedings and the provision of office space and access to other facilities in Parliament House.<sup>34</sup> Because, with one or two 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 all 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 is constant formal and informal interaction.

## **INFORMING AND INFLUENCING MEMBERS**

There are several avenues by which people may seek to inform and influence individual Members and the House:

- submission of petitions to either or both Houses;
- submission of documentary and/or oral evidence to parliamentary committees, and
- direct oral or written communication with individual Members, including Ministers, or lobbying of Members and Ministers through professional lobbyists, pressure groups or by some organised activity, such as letter campaigns (*see* p. 695).

## **Petitions**

The right of petitioning the Crown and Parliament for redress of grievances dates back to the reign of King Edward I in the 13th century. It was from petitions that legislation by bill was gradually derived. Petitions have indeed been described as 'the oldest of all parliamentary forms, the fertile seed of all the proceedings of the House of Commons'.<sup>35</sup>

The form and purpose of petitions has changed over the centuries, the present form having developed in the 17th century. The rights of petitioners and the power of the

<sup>34</sup> See also Ch. on 'Parliament House and the House of Representatives Chamber'.

<sup>35</sup> Redlich, vol. II, p. 239.

House of Commons to deal with petitions were affirmed by the following resolutions in 1669:

That it is an inherent right of every Commoner of England to prepare and present petitions to the House in case of grievance; and of the House of Commons to receive them.

That it is the undoubted right and privilege of the House of Commons to adjudge and determine, touching the nature and matter of such Petitions, how far they are fit and unfit to be received.<sup>36</sup>

### *Petitions in the House of Representatives*

The right of petitioning Parliament remains a fundamental right of the citizen. It is the only means by which the individual can **directly** place grievances before the Parliament. Petitions received by the House are protected by absolute privilege.

Petitions may be received by the House on public or individual grievances provided that they relate to matters over which the House has jurisdiction. Most petitions concern public issues. It is traditional that a Member to whom a petition is sent for presentation will present it, irrespective of his personal views on its content (*see* p. 692). However, he is not bound to do so.

The practice of accepting petitions has been viewed from time to time as an ineffective anachronism which makes excessive demands on the time of the House. It is true that the importance of petitions has diminished over the centuries. Individual grievances by and large can be dealt with more effectively by more direct non-public action by Members, by the Commonwealth Ombudsman and by such bodies as the Administrative Appeals Tribunal. Public grievances may be more effectively brought to public attention through the media, through other parliamentary forms such as questions, debate and committee inquiries, and through direct communication with private Members and Ministers.

To concede that petitions have diminished in importance is not to suggest that they have no importance at all. The number of petitions has increased dramatically since 1970. In the period 1960-69, the average number of petitions presented annually was 72; in the period 1970-80, it was 1453.<sup>37</sup> It is obvious from these figures that the many people who organise petitions and the thousands who sign them, consider the results of their efforts to be worthwhile. An important effect of the petition process is that Members and the Government are informed, in a public way, of the views of sections of the Australian community on public issues. Even if no action is immediately taken on a petition, it and others like it may assist in the creation of a climate of opinion which can influence or result in action. The petition usually forms part of a broader attempt by individual groups within the community to draw public attention to grievances through all available avenues. Petitions also provide a focal point for individuals and groups attempting to organise campaigns on various issues, for example, public meetings are sometimes organised around the signing of petitions.

### *Form*

There are a considerable number of rules associated with the format of petitions and their presentation. These rules are designed to ensure that the authenticity of petitions is established and hence provide protection of purpose of the petitioner and the House alike.

<sup>36</sup> Hatsell, vol. III, p. 240.

<sup>37</sup> For statistics of petitions presented since 1901 *see* Appendix 27. In its report of 20 March 1972 the Standing Orders Committee commented: 'More recently it has been noticeable that, rather than present all sheets of a petition as one document, a single sheet

or a group of sheets of a petition has been distributed to a number of Members and presentation has been repeated on many sitting days presumably to have the effect of securing greater publicity', PP 20 (1972)8.

Petitions must be fairly written, typed, printed or reproduced by mechanical process, without interlineation or erasure<sup>38</sup>, and should be inscribed on paper. Petitions consisting of a typed sheet of paper pasted to a bark sheet with surrounds decorated in a traditional Aboriginal manner were presented to the House in 1963 and 1968 on behalf of the Yirrkala Aboriginal community.<sup>39</sup>

Every petition must be in English, or be accompanied by a translation, certified to be correct by the Member who lodges it.<sup>40</sup> A translation was submitted with the Aboriginal bark petitions.

Petitions should:

- be properly addressed to the Speaker and Members of the House of Representatives in Parliament assembled<sup>41</sup>;
- state the facts which the petitioners wish to bring to the notice of the House, and
- conclude with a prayer that the House do, or refrain from doing, something or take some course of action.<sup>42</sup>

A 'prayer' has been defined by the Chair as a request.<sup>43</sup> Petitions stating that the petitioners 'respectfully urge' that a certain course of action be taken, or not taken, rather than the traditional 'humbly pray', have therefore been ruled acceptable.<sup>44</sup> If a petition consists of more than one page, the prayer must appear on every page to which signatures are affixed. If the House has the power to grant the prayer of a petition, the absurdity of the prayer is no objection, in itself, to the reception of the petition.<sup>45</sup>

No letters, affidavits or other documents may be attached to a petition.<sup>46</sup> On rare occasions petitions have been received with attachments to them.<sup>47</sup> While no comment was made in the House on their acceptability and the attachments were not mentioned in the Votes and Proceedings, they were probably kept because they were important for a full understanding of the petition itself. For example, a petitioner requested the House to appoint a select committee to inquire into his plans for altering the law of legal tender and his plans were appended to the petition.<sup>48</sup>

No reference may be made in a petition to any debate in Parliament.<sup>49</sup> Petitions relating to bills before the Senate have been received<sup>50</sup>, as have petitions relating to matters currently on the Notice Paper<sup>51</sup>, and petitions praying for the repeal of Acts.<sup>52</sup>

The recommended form of a petition to the House of Representatives is shown opposite.

It is important that those involved in drawing up petitions follow this format and familiarise themselves with all the rules governing petitions before taking steps to collect signatures. This will avoid the possibility of the petition being ruled out of order and not presented to the House.

The number of signatories to a petition presented to the House is not recorded.

### *Language and content*

Petitions must be respectful, decorous and temperate in their language and must not contain irrelevant statements.<sup>53</sup> In particular, reflections must not be cast upon the

38 S.O. 115.

39 VP 1962-63/515,531; VP 1968-69/223.

40 S.O. 117.

41 H.R. Deb. (23.7.01)2823; H.R. Deb. (10.9.36)18; H.R. Deb. (30.9.53)798-9.

42 S.O. 116; H.R. Deb. (14.7.04)3223.

43 H.R. Deb. (24.9.07)3619-20.

44 H.R. Deb. (24.9.07)3619; VP 1907-08/97; VP 1962-63/259.

45 May, p. 814.

46 S.O. 123.

47 VP 1907-08/41; VP 1909/83; VP 1917-19/197.

48 VP 1907-08/41.

49 S.O. 124; see also Ch. on 'Control and conduct of debate'.

50 VP 1911/107,113.

51 VP 1959-60/239; NP 57(27.10.59)475. This petition prayed that the House delete certain clauses of the Matrimonial Causes Bill.

52 VP 1960-61/139.

53 S.O. 125.

Queen, members of the Royal Family, the Governor-General, members of the judiciary, Members and Senators. For example, the Clerk of the House has declined to certify (*see* p. 692) a petition criticising the conduct of a judge of the Family Court of Australia and praying for the judge's removal from office, and a petition which reflected on a named Senator. In 1979, however, the Clerk certified, and the House received, a petition which asked the House to take action to receive the resignation of certain unnamed Members for not having honoured an election undertaking.<sup>54</sup> It was considered acceptable because it was not disrespectful and, in seeking the resignation of several Members collectively, it did not breach the spirit of the standing orders.

Petitions should not impugn the character or conduct of Parliament, the courts or any other tribunal or constituted authority.<sup>55</sup> However, in 1977, the Clerk certified petitions which were critical of individual members of the Australian Broadcasting Tribunal and the Schools Commission. The petitions were considered acceptable because they criticised individual members of these bodies rather than the bodies themselves.

In 1976, petitions praying that the House call on the Governor-General to resign were certified by the Clerk and received by the House. The petitions complied with standing orders and made no express criticism of the character or conduct of the Governor-General.<sup>56</sup>

TO THE HONOURABLE THE SPEAKER AND MEMBERS OF THE  
HOUSE OF REPRESENTATIVES IN PARLIAMENT ASSEMBLED:

The humble petition of certain.....[citizens of Australia] [electors of  
the Division of.....].....respectfully sheweth—  
...[here circumstances of case stated].....  
Your petitioners therefore humbly pray that  
...[here terms of action petitioned stated].....  
And your petitioners, as in duty bound, will ever pray.  
[Signatures] [Addresses—not a formal requirement]

*Signatures*

A petition:

- Must be signed by at least one person on the sheet on which the petition is inscribed.<sup>57</sup>
- Must be signed by the parties whose names are appended, by their own hand, and by no one else, except in case of incapacity by sickness. A person who is unable to write must affix his mark in the presence of a witness, who is required to affix his signature as the witness.<sup>58</sup>
- Must contain signatures written on the petition or on sheets containing the prayer of the petition and not be pasted on or otherwise transferred, for example, by photocopying.<sup>59</sup>

54 VP 1978-80/662; H.R. Deb. (6.3.79)601.

55 *May*, p. 814.

56 VP 1976-77/315.

57 S.O. 118.

58 S.O. 119.

59 S.O. 120.

- Is received only as a petition of the parties signing it.<sup>60</sup>
- Of a corporation aggregate is required to be made under its common seal.<sup>61</sup> If it is not, but is otherwise in order, it may either be presented simply as the petition of the individual(s) who signed it or be returned to the originator.

Any forgery in the signatures appended to a petition or being privy to, or cognisant of, such forgery, is liable to be punished as a breach of privilege. Subscribing fictitious signatures to a petition may be similarly punished (*see* p. 695). However, in 1907, in voting to receive a petition, Members took the view that a petition should not be invalidated, and the persons who signed the petition should not be disadvantaged, because of some individual's improper conduct. It was also considered that neither Members nor the House can ensure that every signature on every petition is genuine. The petition was referred to the Printing Committee to investigate alleged forgery. The committee concluded that specified signatures were forgeries and that available evidence pointed to an unnamed individual as the perpetrator. The committee recommended that the Crown Law authorities be requested to take action with a view to a criminal prosecution of the offender and that the evidence gathered by the committee be placed at their disposal for that purpose. The House adopted the report and was subsequently informed that the Crown Solicitor had advised that, in his opinion, a prosecution for forgery would be unsuccessful.<sup>62</sup>

### *Presentation*

It is only a Member who may lodge a petition for presentation to the House but he cannot lodge a petition from himself.<sup>63</sup> However, a Member may sign a petition to be lodged by another Member.<sup>64</sup> While it is traditional for a Member to lodge for presentation any petition which is forwarded to him, he is not bound to do so.<sup>65</sup> The fact that a Member lodges a petition for presentation does not mean that he necessarily agrees with its content. It is the practice of the House that the Speaker does not lodge petitions for presentation.<sup>66</sup> If a petition submitted to the Speaker is in order, another Member is asked to sponsor it. Ministers frequently lodge petitions for presentation.

A petition to be presented to the House is lodged with the Clerk by the Member concerned but before doing so the Member is required to:

- affix his name, that is, his signature, at the beginning of the petition<sup>67</sup> but not in such a manner as to confuse him with the petitioners, and
- check the petition to ensure that it conforms with the standing orders.<sup>68</sup>

A petition must be lodged with the Clerk (in practice the Table Office) at least 3 hours before the meeting of the House at which it is proposed that it be presented.<sup>69</sup> Petitions lodged outside a normal sitting week or during a prorogation are kept for presentation at the next sitting. Petitions lodged after dissolution of the House are returned to the Members concerned for lodgment in the new Parliament.

The Clerk is required to check the petition and certify that it is in conformity with the standing orders.<sup>70</sup> When he finds that a petition is not in order, the Clerk returns it to the Member concerned with an explanation as to why it is not in order.

60 S.O. 121.

61 S.O. 122.

62 VP 1907-08/91-2, 165, 267; H.R. Deb. (18.9.07) 3408-19; H.R. Deb. (13.12.07) 7457-8.

63 S.O. 126.

64 *See May*, p. 818.

65 H.R. Deb. (19.9.47) 94; *see also May*, p. 817.

66 *See also May*, p. 817.

67 S.O. 127.

68 S.O. 128.

69 S.O. 112.

70 S.O. 113.

The Speaker calls for petitions at the beginning of each sitting immediately after the reading of Prayers.<sup>71</sup> A petition referring to a motion or an order of the day may be presented when such a motion or order of the day is called on or read for the first time.<sup>72</sup>

Prior to 1972, it was the practice of the House for a Member to present a petition himself, after it had been certified by the Clerk to be in conformity with the standing orders. After stating the identity of the petitioners and the material allegations contained in the prayer, the Member would then move that the petition be received or that it be received and read. In the latter case it was read in full by the Clerk, except for the signatures. With the increasing number of petitions, this practice was found to be absorbing a considerable amount of prime parliamentary time, and the procedures were therefore considered by the Standing Orders Committee. On the recommendation of the committee new procedures were adopted by the House and came into effect on 20 April 1972.<sup>73</sup> The changes provided for less time-consuming procedures in the presentation of petitions but still provided for proper recognition of the petitioning process. When the Speaker calls for petitions, the Clerk announces the petitions lodged with him for presentation, indicating in the case of each petition the Member who lodged it, not by name but by electoral Division, the identity of the petitioners and a brief summation of the action sought by the petition. The full terms of the petitions are printed in Hansard.<sup>74</sup> If petitions in the same terms are lodged by more than one Member, they are grouped together for the purposes of the announcement. Petitioners are usually identified simply as certain citizens of Australia, certain residents of a State, certain electors of an electoral Division or occasionally certain members of a particular group.

Subsequently, other changes in the announcement have been experimented with in order to save time<sup>75</sup>, but the only further change which has been acceptable to Members has been in relation to Ministers who are now referred to in the announcement by their electoral Divisions, instead of by their portfolios. On the question of the use of prime parliamentary time, the Standing Orders Committee recommended in 1979 that the routine of business set down in standing order 101 be amended to provide for petitions to be presented after notices, questions without notice, presentation of papers, ministerial statements, and a matter of public importance, instead of being the first item of business.<sup>76</sup> The recommendation has not been considered by the House.

No discussion upon the subject matter of a petition is allowed<sup>77</sup> at the time of its presentation. For discussion to take place, leave must be granted or standing orders suspended.<sup>78</sup>

Following criticism of the lack of follow-up procedures for the consideration of petitions, the matter was considered by the Standing Orders Committee in 1972.<sup>79</sup> The standing orders now provide that a copy of every petition lodged with the Clerk and received by the House shall be referred by the Clerk to the Minister responsible for the administration of the matter which is the subject of the petition.<sup>80</sup> If more than one Minister is responsible for the matter the subject of the petition, it is referred to the Minister having the greater responsibility. Every petition presented is deemed to have been received by the House unless a motion, moved forthwith, that a particular petition

71 S.O. 101.

72 S.O. 114.

73 *Standing Orders Committee Report*, PP 20(1972)8-11; VP 1970-72/1012-13; H.R. Deb. (18.4.72) 1703-43.

74 S.O. 129.

75 H.R. Deb. (6.11.79) 2591-2; H.R. Deb. (7.11.79) 2684. On 7 November 1979, a Member gave a notice of motion for reverting to the previous method of announcement, NP 36(8.11.79) 7825.

76 *Standing Orders Committee Report*, PP 345(1979)1-2.

77 S.O. 129; H.R. Deb. (15.8.62) 343.

78 H.R. Deb. (30.8.79) 830-34.

79 VP 1970-72/1012-13; H.R. Deb. (18.4.72) 1703-41; PP 20 (1972) 4, 8-11.

80 S.O. 132.

be not received, is agreed to.<sup>81</sup> As petitions which do not conform with standing orders are not presented to the House<sup>82</sup>, it is unlikely that a motion that a petition be not received would be moved on procedural grounds.<sup>83</sup> The only other motions which may be moved on the presentation of a petition are:

- that a particular petition be printed, or
- that a petition concerning a subject then under consideration by a select committee be referred to that committee.<sup>84</sup>

No Member may move that a petition be printed unless he intends to take action upon it and informs the House accordingly.<sup>85</sup> Motions for the printing of petitions are relatively uncommon. In speaking to such a motion a Member may not discuss the contents of the petition, but must relate his remarks to the need to have it printed.<sup>86</sup> Two cases are of special interest because of their relevance to the question of the effectiveness of petitions. In 1963, a Member presented a petition from the Aboriginal people of Yirrkala praying that the House, inter alia, appoint a committee to hear their views before permitting the excision of any land from the Aboriginal Reserve in Arnhem Land. The Member indicated his intention to submit a notice of motion in connection with the petition and moved that the petition be printed. The motion for printing was agreed to.<sup>87</sup> The Member's subsequent motion for the appointment of a select committee was also agreed to.<sup>88</sup> In 1970, a similar sequence of events followed the presentation of a petition praying that the export of all kangaroo products be banned. The House subsequently agreed to a motion, which had been foreshadowed by the Member presenting the petition, appointing the Select Committee on Wildlife Conservation to examine, inter alia, the issues raised in the petition.<sup>89</sup>

In 1977, a Member was not permitted to proceed with his motion to print a petition when the Speaker ruled that the form of action proposed to be taken by the Member on the petition was not available to him under the standing orders.<sup>90</sup>

All petitions presented, which have not been ordered by the House to be printed, automatically stand referred to the Publications Committee which recommends to the House what petitions ought to be printed. In 1909, the House agreed to a motion, moved by leave, that a petition be printed, even though the then Printing Committee had considered it and had not recommended its printing.<sup>91</sup>

### *Petitions from unusual sources*

Petitions from individual citizens<sup>92</sup> and from minors<sup>93</sup> may be received.

In 1962, a Member presented a petition from certain Members of the Northern Territory Legislative Council praying that the House debate and redress the grievances set out in a remonstrance earlier made by the Council.<sup>94</sup> In 1975, a petition was presented from the Northern Territory Legislative Assembly praying that the recommendations

81 S.O. 130.

82 S.O.s 113, 128.

83 The House has only once debated the question that a petition be received. Doubts had been expressed about the authenticity of certain signatures attached to the petition, VP 1907-08/91.

84 S.O. 130.

85 S.O. 131.

86 H.R. Deb. (1.11.77)2583-4.

87 VP 1962-63/531; H.R. Deb. (28.8.63)561.

88 VP 1962-63/549; and see 'Grievances of Yirrkala Aborigines, Arnhem Land Reserve', *Report from Select Committee*, PP 311 (1963).

89 VP 1970-72/133, 147-8; and see 'Conservation and

commercial exploitation of kangaroos', *Interim Report of Select Committee on Wildlife Conservation*, PP 219 (1971).

90 VP 1977/430; H.R. Deb. (8.11.77)3022-3.

91 VP 1909/39; H.R. Deb. (8.7.09)983; H.R. Deb. (9.7.09)1058-61.

92 VP 1970-72/475.

93 VP 1970-72/681; see also S. Deb. (14.5.68)943.

94 VP 1962-63/203. A remonstrance is a document in which grievances are stated and remedial action is sought. The Speaker later announced that he had received the remonstrance and that it had been placed in the Parliamentary Library for the information of Members, H.R. Deb. (29.8.62) 793; and see H.R. Deb. (23.8.62)656-7.



of the Parliament's Joint Committee on the Northern Territory on the transfer of executive powers and administrative functions to the Territory be implemented.<sup>95</sup>

The House does not normally receive petitions from foreign citizens abroad.<sup>96</sup> An exception was a petition signed by citizens of the United States of America which was presented by a Member, by leave of the House.<sup>97</sup> Petitions sent directly to the Speaker from foreign citizens abroad have normally been referred to the relevant Minister for his information and the petitioners have been informed. Receipt by the House of petitions from Australian citizens abroad is permitted.<sup>98</sup>

### *Abuse of the right of petition*

Any abuse of the right of petition may be treated by the House as a breach of privilege. The following are some examples cited by *May*<sup>99</sup>:

- frivolously, vexatiously, or maliciously submitting to either House a petition containing false, scandalous or groundless allegations against any person, whether a Member of the House or not, or contriving, promoting and prosecuting such petitions;
- presenting a petition containing gross misrepresentations;
- inducing parties to sign a petition by false representations;
- threatening a Member that a petition will be submitted to the House charging him with misconduct unless he takes specified action;
- forging signatures or subscribing fictitious signatures to petitions;
- tampering with a petition;
- causing a petition to be presented to the House well knowing, or having good reason to believe, that numerous fictitious signatures are attached to the petition and that the names of persons have been subscribed to the petition without their authority;
- bringing an action against petitioners for a libel alleged to be contained in a petition presented by them to the House, and
- casting aspersions on persons for having petitioned the House.

The House of Representatives has only once taken action on an alleged abuse of the right to petition. The case concerned allegations that signatures had been forged (*see* p. 691).

### **Parliamentary committees**

The citizen has many opportunities to inform and influence Members, the Parliament, and ultimately the Government on particular issues through the activities of parliamentary committees. Most investigatory committees advertise their terms of reference widely and seek submissions from the general public. Committees not only receive written submissions but also invite people to appear as witnesses to expand on, and answer questions about, their submissions. In order to facilitate this process, committees frequently hold hearings, open to the public, outside Canberra. Committee inquiries and reports not only have an influence on Members and the Government but also assist in educating sections of the electorate on issues of national importance.<sup>100</sup>

95. VP 1974-75/1085.

96. This practice reflects House of Commons practice *see May*, pp. 815-16.

97. VP 1970-72/357.

98. *May*, p. 815.

99. *May*, pp. 140-1, 159.

100. *See* Ch. on 'Parliamentary committees' for a detailed account of the operations of committees.

**THE MEMBER AND THE HOUSE IN THE DEMOCRATIC PROCESS**

Members of the House of Representatives are elected by universal adult suffrage. They therefore hold office only with the support of the electorate and must retain its confidence to remain in office. As a result the influence which citizens exert over individual Members and their parties is a fundamental strength of the democratic system.

Members are influenced by what they perceive to be public opinion as expressed by the media, by other parliamentarians and by the people they meet in performing their parliamentary and electorate duties. They are also informed and influenced by specific representations made to them by way of requests by groups and individuals for support of particular causes, expressed points of view or expressions of interest in some Government activity, or requests for assistance in dealings with government departments and instrumentalities.

Representations may be made by individuals acting on their own account or as part of an organised campaign. Major letter campaigns, for example, have been launched on such issues as abortion law reform and family law legislation. These campaigns may be supplemented by telephone campaigns and by the sending of delegations to speak to Members personally.

Representations may also be made to Members, especially Ministers, by professional lobbyists and highly organised pressure groups, such as industry associations and trade unions, which have significant staff and financial resources.

Accessibility of Members to citizens in the electorate is important for the proper operation of the democratic process. Members are conscious of the importance of being accessible to their constituents and of identifying and promoting the interests of their electorates. This has been summarised as follows:

They accept that generally the seats of all MPs will depend on the overall performance of the party, but they believe that they themselves are in a slightly better position because of the work they do in their electorates. Most of them certainly behave as if they were firmly convinced that their future was dependent on the contribution they make to the condition of their electorates and its residents, rather than anything they might do in the parliament.<sup>101</sup>

In short, the democratic system makes Members responsible and responsive to the constituents they represent and to the Australian electorate generally. This is not to ignore the fine balance which must at times be struck between leading and responding to the people. Edmund Burke's view of this still carries weight:

Your representative owes you not his industry only, but his judgement, and he betrays instead of serving you, if he sacrifices it to your opinion.<sup>102</sup>

In turn, the House must be responsive to the views of its Members and, through them, to the electorate at large, if it is to be effective as a democratic institution.

**House of Representatives practice and reform**

This chapter has focussed on the avenues through which communication takes place between the citizens of Australia and their elected representatives, individually and collectively, that is, through petitions, committees, Members' constituency activities, use of the media and publication of official records. Other chapters have described how this interaction is translated into procedural forms such as questions directed to Ministers, the production of papers, and debate, all of which are designed to influence government. These and other processes, some of which are external to the parliamentary process itself, may ultimately produce legislation for consideration of both Houses of Parliament.

<sup>101</sup> David Solomon, *Inside the Australian Parliament*, George Allen & Unwin, Sydney, 1978, p. 126.

<sup>102</sup> 'Speech to the Electors of Bristol, 1774', quoted in Michael Rush, *Parliament and the Public*, Longman, London, 1976, p. 55.

The effectiveness of Parliament in Australia and elsewhere has been the subject of a continuing debate, sometimes ill-informed, as to its present failings and past effectiveness. Parliament is, and ever has been, an imperfect institution, but it has a flexibility which enables it to change and so remain relevant and responsive to the changing aspirations and demands of the society it serves. Therefore, to advocate reform of the Parliament is not necessarily to question its worth or significance but rather to seek to ensure its continuing resilience and enhance its effectiveness as a democratic institution.

Experience suggests that the machinery by which the House reviews its procedures and practices, and develops and brings forward proposals for change have been inadequate for the task. Speaker Snedden emphasised the neglect of reform in the following statement to the House in 1979:

There is much debate on how this Parliament can become more effective and how the practices and procedures of the two Houses, and of this House in particular, might be made more responsive to the demands made upon a modern legislature. I have been aware of the deepening interest of members in these matters and their belief that reform must ultimately come from the House itself. The past was a history of neglect of reform of the House's practices and procedures. Rarely had reform been an important issue for government or for the majority of members. For 49 years the House operated under provisional Standing Orders based on those of the State Houses of Parliament whose own standing orders were in turn substantially based upon those of the House of Commons at Westminster in the 19th century. Apart from increasing controls over the time allowed to members to speak, the only wide-ranging and fundamental reforms which had taken place in this House in the previous 77 years were the reforms adopted in 1963 to modernise and streamline financial procedures.

Accordingly, a large backlog of issues has built up at the heart of the parliamentary institution and for which reform is now overdue. My own list includes the role of committees, research and administrative support for members, the organisation and functions of the parliamentary departments, a parliamentary budget, the financial procedures of the House, especially in relation to the Budget, programming of business, debating time for the Opposition and private members, parliamentary privilege, televising of Parliament and the independence, authority and powers of the Speakership. Each of these items is complex. Some could not be resolved quickly or easily. Parliamentary reform must not ignore the proper relationship between the three arms of government in the Westminster system. I wish to see a patient and careful review with full, deliberate and informed debate leading towards the adoption of a range of reforms. To do that the debate needs to be more structured and to find direction . . . concentrated attention could be given to determination of a reform agenda and the priorities within it, identification of reforms which warrant immediate implementation and the establishment of an appropriate method to undertake long term reviews and to bring forward proposals to the House.<sup>103</sup>

In 1976, the Joint Committee on the Parliamentary Committee System considered, *inter alia*, the effectiveness of the Standing Orders Committee. It concluded:

There is little doubt that the Standing Orders Committee of the House of Representatives is a top-heavy body unable to function as an instrument of reform. It has met 11 times in the past 10 years. Its procedures do not allow for the taking of evidence or the hearing of views of persons other than members of the committee.

Although the Standing Orders Committees of the House of Representatives and Senate have, from time to time, recommended valuable reforms to the procedures of the Houses there has not been any effective ongoing consideration of procedure and practice. The House of Representatives Standing Orders Committee report of 1962, which led to the revision of the House's financial procedures, has not been followed up at all. There have been few notable achievements made by either Standing Orders Committee.<sup>104</sup>

103 H.R. Deb. (5.4.79)1591; see also Bibliography.

104 'A new parliamentary committee system', *Report of*

*Joint Committee on the Parliamentary Committee System*, PP 128 (1976) 72.

The joint committee recommended that the Senate and the House each establish a *Committee on Procedure*, that is, a parliamentary means of initiating, examining and recommending reform proposals and procedural change on a continuing basis. The terms of reference suggested were:

To maintain a continuing surveillance of the practices and procedures of the Senate (House) with a view to making recommendations for their improvement or change and for the development of new procedures; such recommendations being made normally by report to the Senate (House) but, on certain occasions, being made directly to the Presiding Officer when the recommendations relate to the exercise of existing powers.<sup>105</sup>

The House has neither debated nor taken any formal decision on the future of the Standing Orders Committee or the provision of an alternative vehicle for procedural review.

---

Democracy means that the executive government is responsible to the people. From that the executive cannot escape and continue to be democratic. Hence the parliament has become the institution by which the executive government is responsible to the people. Responsible government cannot be guaranteed without representative parliament. Parliament is the all important link between government and the people. It is indispensable to democracy.

That the parliament should be allowed to atrophy and be threatened with irrelevancy because it has not adapted to change would be a tragedy. But unless it is reformed that will happen . . .

National sovereignty lies in the people. The elected parliament is the manifestation of that sovereignty to which the executive arm of government must be accountable . . .

In order that a parliament might influence, advise, criticise, or scrutinise efficiently and effectively it must, firstly, be better equipped with knowledge and information and, secondly, its procedural arrangements must be seen as to allow the full flow and exchange of views, ideas and information. It is these means by which the executive can be made accountable and where the balance has been gradually tilted away from parliament.<sup>106</sup>

---

<sup>105</sup> PP 128(1976)71.

<sup>106</sup> Sir Billy M. Snedden, 'Ministers in Parliament—A Speaker's Eye View', in *Responsible Government in Australia*, Weller & Jaensch (eds), Drummond Publishing, Richmond, 1980, p. 71.